

**MINUTES OF THE BUILDING TRADES BOARD HEARING  
HELD AT 6:30 P.M. – MARCH 17, 2016  
PLANNING & ENGINEER CONFERENCE ROOM,  
2650 N DIXIE FREEWAY, NEW SMYRNA BEACH, FLORIDA**

- I. The Hearing of MARCH 17, 2016 was called to order at 6:30 p.m. Answering to roll call were:

William Cowherd, Chairman

Paul Heer, Vice Chairman

Terry Harrison

Charles Hoffman

Randy Beach

Also present were Chief Building Official Michael Knotek, Asst. City Attorney Greg McDole, and Permit & License Technician Dorlisa Pogany. Absent was Board Member Grant Clark and Board Member Joseph Blanchette arrived at 6:32 PM.

**II. DISCLOSURE OF EX PARTE COMMUNICATIONS:**

Members of the Building Trades Board are asked to please disclose, for the record, the substance of any ex parte communications that have occurred prior to this public hearing for any cases on this Agenda.

Mr. Cowherd stated for the record there were none.

**It was noted for the record that Board Member Joseph Blanchette arrived at 6:31 P.M.**

**III. APPROVAL OF MINUTES:**

August 20, 2015

**Mr. Heer made a motion to approve the minutes of August 20, 2015 meeting as written; seconded by Mr. Harrison. Motion passed unanimously 6-0.**

**IV. SWEARING OF CITY STAFF**

Michael Knotek, Chief Building Official, was sworn for testimony.

**V. OLD BUSINESS:**

**VI. NEW BUSINESS:**

**CI2015-13291:                    G.L. Martin Construction & Assoc    1214 Commodore Dr**

Consideration from G.L. Martin & Associates for a code interpretation on whether the contractor is in violation of the City Code of Ordinances for the property located at 1214 Commodore Drive.

Mr. Cowherd asked if anyone present to represent this case.

Dwayne McDuffie, contractor, was present and sworn in for testimony.

Mr. Knotek testified that the contractor, Dwayne McDuffie has filed an appeal of the Building Official's Interpretation that a new concrete block wall does not meet the details shown on the approved permit plan. Mr. Knotek further testified that he was going to read the Staff report which contained the details and answer any questions.

Mr. McDuffie testified that he feels the work is completed. Mr. McDuffie further testified that the adjoining property (1216 Commodore) had an existing retaining wall that was removed at the request of the property owners, Mr. & Mrs. Appleton. Mr. McDuffie testified that the removal of the wall caused the grade to change on the Appleton's property. Mr. McDuffie further testified that if the retaining wall at 1216 Commodore had not been removed, the new concrete block wall at 1214 Commodore would have been the same height as it currently is which is six (6) feet on his client side.

Eric Preston, Attorney for Mr. & Mrs. Gerry Appleton of 1216 Commodore Drive, was present and request to address the Board. Mr. Preston stated that his client's complaint is that the maximum height should be measured from the adjacent properties and not on the property where the construction is taking place. Mr. Preston further stated that by measuring it from the adjoining property it protects the neighbors since that is who you are trying to protect with codes. Mr. Preston stated that the wall should be 6 feet high on his client's side and not 7 – 9 feet high.

Mr. Gerry Appleton, owner of 1216 Commodore Drive, was present and sworn in for testimony.

Mr. Appleton presented photographs of the wall to the Board and explained the photographs. Mr. Appleton testified that he requests the Board make a decision based on the photographs as they clearly show the concrete block wall is well above 6 feet on his side.

Mrs. Patricia Appleton, owner of 1216 Commodore Drive, was present and sworn in for testimony.

Mrs. Appleton testified that the contractor did not clean up the trash on their property and a rebar is sticking out which is a safety hazard. Mrs. Appleton further testified that

they had contacted the contractor and requested he remove the rebar and trash but the contractor never followed through with it.

Mr. Knotek stated it is staff's recommendation to uphold the interpretation of the plan details since it is the architects responsibility to draw plan details that show what is existing. Mr. Knotek stated that according to the plans, the intent was to have 6 feet on the side of 1216 Commodore Drive.

**Mr. Heer made a motion to uphold the interpretation of the Building Official with the stipulation that it be noted the wall is built structurally correct and the plans by Bret Cohen, Architect, had incorrect measurements; seconded by Mr. Blanchette. Motion carried unanimously, 6-0.**

**C2014-10987:                      Thomas Ben Mikolas                      903 N Dixie Freeway**

Consideration from Building Department to demolish a residential structure at 903 N Dixie Freeway due to unsafe or dilapidated condition as per Article X, Section 26-796 of the New Smyrna Beach Code of Ordinances.

Mr. Cowherd stated for the record that there was no one present to represent this case.

Mr. Knotek testified that there have been problems for several years on this property. Mr. Knotek further testified that the owner does not live on the property, it has been vacant and people are occupying the structure. Mr. Knotek testified that this was brought to the Board about 1 ½ - 2 years ago but the property owner was under a doctor's care. Mr. Knotek further testified that the Doctor wrote a letter requesting the case be postpone due to Mr. Mikolas' health and the case was withdrawn from the meeting.

Mr. Knotek stated it is staff's recommendation to condemn the property and give the property owner 30 days to demolish the structure or the City will demolish and assess a lien.

**Mr. Harrison made a motion to condemn the property at 903 N Dixie Freeway and give the property owner 30 days to demolish structure or authorize the City to demolish and assess a lien; seconded by Mr. Heer. Motion carried unanimously, 6-0.**

**C2016-13432:                      Ted Brousseau Jr                      323 Palm Street**

Consideration from Building Department to demolish a residential structure at 323 Palm Street due to unsafe or dilapidated condition as per Article X, Section 26-796 of the New Smyrna Beach Code of Ordinances.

Mr. Cowherd asked if anyone present to represent this case.

Delbert Gayle, property owner, was present and sworn in for testimony.

Mr. Knotek testified that the property has been a problem with code enforcement for a long time. Mr. Knotek further testified that the property owner has been cited several times due to debris on the property and the condition of the building. Mr. Knotek testified that there is a problem with vagrants occupying the structure since it is not maintained or secured.

Mr. Knotek stated it is staff's recommendation to condemn the structure and allow Mr. Gayle to make repairs. Mr. Knotek further stated that staff would request that a time limit be required for the repairs.

Mr. Gayle testified that he was not aware of the condition of the property until recently. Mr. Gayle further testified that his Brother, Ted Brousseau, gave him the property so he wants to make the necessary repairs and move in when completed. Mr. Gayle testified that he has already removed approximately five (5) trailer loads of trash and debris. Mr. Gayle further testified that he is working to remove the remainder but it will take time and is requesting at least six (6) months to make the repairs and clean up the property.

Mr. Knotek stated for the record that to Mr. Gayle's credit, he has cleaned up the property substantially but there is much more that needs to be done.

**Mr. Blanchette made a motion to condemn 323 Palm Street, require the property owner to submit a written agreement with a timeline specifying repairs to the Chief Building Official, obtain a building permit within 30 days, repair and secure the structure in 180 days or demolish and failure to do so authorize the City to demolition and assess a lien; seconded by Mr. Beach. Motion carried unanimously, 6-0.**

## **VII. COMMENTS FROM BOARD MEMBERS AND STAFF**

### **Election of Chair**

Mr. Cowherd was nominated as the Chair. With no other nominations, the floor was closed.

**Mr. Hoffman made a motion to elect Mr. Cowherd as Chair; seconded by Mr. Beach. Motion carried unanimously, 6-0.**

### **Election of Vice Chair**

Mr. Heer was nominated as the Vice Chair. With no other nominations, the floor was closed.

**Mr. Blanchette made a motion to elect Mr. Heer as Vice Chair; seconded by Mr. Harrison, Motion carried unanimously, 6-0.**

### **VIII. ADJOURNMENT**

**Mr. Heer made a motion for the meeting to be adjourned; seconded by Mr. Harrison. All agreed and the meeting adjourned at 8:20 PM.**

Pursuant to Florida Statutes 286.0160, if an individual decides to appeal any decision made by the City Commission with respect to any matter considered at this meeting, a record of the proceedings will be required and the individual will need to ensure that a verbatim transcript of the proceedings is made, which record includes the testimony and evidence upon which the appeal is based. Such person must provide a method for recording the proceedings.

In accordance with the Americans with Disabilities Act, persons needing assistance to participate in any of these proceedings should contact the City Clerk's Office in person or by mail at 210 Sams Avenue, New Smyrna Beach, FL 32168, (386) 424-2112, prior to the meeting.