

**THE CITIZEN CODE ENFORCEMENT BOARD
NOTICE OF HEARING
TO BE HELD AT 4:30 P.M.
MAY 18, 2010
CITY COMMISSION CHAMBERS, 210 SAMS AVENUE
NEW SMYRNA BEACH, FLORIDA**

Members:

John Shelby (Chair)
Michael Slayton (Vice Chair)
P.J. (Pat) Arvidson
Keith Gerhartz
Ken Taylor
Katharine (Kathy) L. Cooley
Megan Badgley

THIS SHALL SERVE AS YOUR OFFICIAL NOTIFICATION of a hearing of the Citizens Code Enforcement Board, to be held on TUESDAY, MAY 18, 2010 at 4:30 P.M. in the City Commission Chamber, City Hall, 210 Sams Avenue, New Smyrna Beach, Florida, for consideration of the following:



Michael Slayton, Vice Chairperson
Citizens Code Enforcement Board

I. **ROLL CALL:**

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

Members of the Citizens Code Enforcement Board are asked to please disclose, for the record, the substance of any ex parte communications that have occurred prior to this public hearing.

III. **APPROVAL OF MINUTES:**

March 16, 2010

IV. **SWEARING OF CITY STAFF**

V. **OLD BUSINESS:**

C2009-0575:

**Carol Baker
423 Palm Street**

(POSTED)

Permitting or causing to be permitted a residential structure to exist that has not been properly maintained in a safe and sanitary condition in violation of §101.6 of the Standard Housing Code 1997 Edition.

- Hole in roof admitting rain
- Hole in floor
- Electric wiring in electric panel box
- Heat/air unit
- Protective coating

November 19, 2009: The Board continued this case until the hearing on the 16th day of February 2010.

February 16, 2010: The Board continued this case until the hearing on the 16th day of March 2010.

March 16, 2010: The Board found Ms. Baker in violation and her until the 21st day of April 2010, to bring the subject property into compliance, and continued this case until the hearing on the 18th day of May 2010 for review.

C2009-0729:

**Upper Deck Bar & Grill
1414 S. Atlantic Avenue**

(HAND DELIVERED)

- A) Permitting or causing to be permitted the operation of a business (Upper Deck Bar & Grill) without a business license tax receipt in violation of the City Code of Ordinance Chapter 74 Taxation* §74-141. Duration and expiration of licenses and delinquent licenses.
- B) Permitting or causing to be permitted the placement of signs on public property in violation of the Land Development Regulations §604.14 B. Prohibited signs.

- C) Permitting or causing to be permitted the installation of a sign without first obtaining the required permit in violation of the Land Development Regulations §604.14 D. Permits.

February 16, 2010: The Board found violation (A) in compliance; the violation of (B) was to cease and desist immediately upon receipt of the Board's Order or face a fine of \$50.00 per day for each and every day the violation exists; and the violation of (C) was to be brought into compliance by the 16th day of March 2010.

VI. NEW BUSINESS:

**C2010-0087: Helen Elaine & Martin Pell (SERVED)
607 Downing Street**

Permitting or causing to be permitted construction without first obtaining the required permit in violation of Chapter 26 BUILDINGS AND BUILDING REGULATIONS, §26-172. of the City Code of Ordinances.

**C2010-0320: Michael & Lisa Moody (SERVED)
800 Conrad Drive**

Permitting or causing to be permitted storage of two (2) or more pieces of major recreational equipment upon the subject property in violation of the Land Development Regulations §802.00 Storage on Residential Lots.

VII. REPEAT BUSINESS:

VIII. ADJOURNMENT:

Pursuant to Florida statute 286.0105, if an individual decides to appeal any decision made by the Citizens Code Enforcement Board with respect to any matter considered at this hearing, 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 (ADA), persons needing assistance to participate in any of these proceedings should contact the Administrative Specialist of the Citizens Code Enforcement Board listed below prior to the hearing:

Administrative Specialist
% City Hall
210 Sams Avenue
New Smyrna Beach, FL 32168-9985
Telephone: 386.424.2137
Fax: 386.424.2206

MINUTES OF THE CITIZENS CODE ENFORCEMENT BOARD
HEARING
HELD AT 4:30 P.M. – MARCH 16, 2010
COMMISSION CHAMBERS, 210 SAMS AVENUE, NEW SMYRNA BEACH, FLORIDA

- I. The Hearing of March 16, 2010, was called to order at 4:30 p.m. Answering to roll call were:

John Shelby (Chair)

Michael Slayton (Vice Chair)

Keith Gerhartz

Ken Taylor

Megan Badgley

Also present were Code Enforcement Supervisor Lynne Kunkle, Code Enforcement Officer Barbara Bobelak, Assistant City Attorney Greg McDole and Permit & License Technician Dorlisa Pogany. Katharine Cooley and Pat Arvidson were absent.

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

Members of the Citizens Code Enforcement Board were asked to please disclose, for the record, the substance of any ex parte communications that occurred prior to this public hearing.

Mr. Shelby stated that there were none

III. **APPROVAL OF MINUTES**

February 16, 2010

Mr. Slayton made a motion to approve the minutes of the February 16, 2010 hearing as written; seconded by Mr. Taylor. Motion carried unanimously on roll call vote 5-0.

IV. **SWEARING OF CITY STAFF**

Regina Lynne Kunkle, Code Enforcement Supervisor, and Barbara Jo Bobelak, Code Enforcement Officer, were sworn for testimony.

V. OLD BUSINESS:

C2007-0829: Gilbert L. Dannehower 137 Cunningham Dr

Permitting or causing to be permitted tree removal without the required tree removal permit in violation of §604.051 A. of the Land Development Regulations.

Mr. Dannehower was present and sworn for testimony.

Mr. Dannehower provided a photograph showing progress on the seawall. Mr. Dannehower testified that he needed approximately 30 days for completion on the seawall and an additional 30 days for the pool.

Mr. Gerhartz questioned if there was a requirement for replacement of trees for trees originally removed. Ms. Kunkle testified that the number of replacement trees was determined initially.

Mr. Shelby asked staff for a recommendation.

Ms. Kunkle recommended to extend the case for 90 days and modify the board's order.

Mr. Gerhartz made a motion to modify the board's order by extending the compliance date for ninety (90) days or until the July 20, 2010 hearing; seconded by Mr. Slayton. Motion passed upon roll call 4-1 with Mr. Taylor dissenting.

C2009-0575: Carol Baker 423 Palm Street

Permitting or causing to be permitted a residential structure to exist that has not been properly maintained in a safe and sanitary condition in violation of §101.6 of the Standard Housing Code 1997 Edition.

- Hole in roof admitting rain
- Hole in floor
- Electric wiring in electric panel box
- Heat/air unit
- Protective coating

Ms. Baker was present and sworn for testimony.

Ms. Baker stated the electrical work was not completed but will be completed by April 21, 2010 as per faxed letter from Mr. Leon Michaux, D G Meyer. Ms. Baker further

stated she has completed some work on the interior but cannot complete the remainder of work until the electrical work is completed.

Mr. Shelby asked staff for a recommendation.

Officer Bobelak recommended continuing the case until April 21, 2010 to complete the work.

Mr. Taylor made a motion to find in case C2009-0575 in non-compliance and to come into compliance by April 21, 2010 and for staff to bring the case back to the board on at the May hearing; seconded by Mr. Slayton. Motion carried unanimously upon roll call vote 5-0.

**C2009-0729: Upper Deck Bar & Grill 1414 S. Atlantic Avenue
(HAND DELIVERED)**

- A) Permitting or causing to be permitted the operation of a business (Upper Deck Bar & Grill) without a business license tax receipt in violation of the City Code of Ordinance Chapter 74 Taxation* §74-141. Duration and expiration of licenses and delinquent licenses.
- B) Permitting or causing to be permitted the placement of signs on public property in violation of the Land Development Regulations §604.14 B. Prohibited signs.
- C) Permitting or causing to be permitted the installation of a sign without first obtaining the required permit in violation of the Land Development Regulations §604.14 D. Permits.

Mr. Shelby asked for the record to reflect that no one was present to represent this case and asked staff for their recommendation.

Officer Bobelak testified a Notice of Hearing was hand delivered on March 9th and certified mail accepted on March 9, 2010. Officer Bobelak further testified Item B is not in compliance as the sign continues to be placed in the right-of-way and recommends a fine be imposed at today's hearing. Further, Officer Bobelak stated Item C is not in compliance as the sign permit application was submitted on March 9, 2010, approved today, but not issued at this time.

Discussion ensued on the number of days of non-compliance, documentation of the days and the lack of response from the business owner.

Mr. Slayton made a motion to impose a fine of \$250 as of today plus a fine of \$50 per day for each day that the property is in violation after today for Item B and to continue Item C to the April 20, 2010 hearing; seconded by Mr. Taylor. Motion carried unanimously upon roll call vote 5-0.

C2009-0831:

Fences By Design

574 Aeolian Drive

Permitting or causing to be permitted the installation of fencing without first obtaining the required permit in violation the City Code of Ordinances Chapter 26 BUILDINGS AND BUILDING REGULATIONS* §26.172. Penalties for work commencing before permit issuance.

Mr. Shelby asked for the record to reflect that no one was present to represent this case and asked staff for their recommendation.

Officer Bobelak testified that this case has been brought into compliance.

Mr. Slayton made a motion to find C2009-0831 in compliance; seconded by Ms. Badgley. Motion carried unanimously upon roll call vote 5-0.

VI. NEW BUSINESS:

VII. REPEAT BUSINESS:

VIII. ELECTION OF OFFICERS:

Chair

Vice Chair

Mr. Gerhartz nominated John Selby as Chairman. Mr. Taylor moved to close the nominations. The vote was unanimous (5-0).

Mr. Gerhartz nominated Mike Slayton as Vice Chairman. Mr. Taylor moved to close the nominations. The vote was unanimous (5-0).

IX. ADJOURNMENT:

Mr. Gerhartz made the motion to adjourn; seconded by Mr. Slayton. All agreed and the hearing adjourned at 4:53 pm.