

**THE CITIZEN CODE ENFORCEMENT BOARD
NOTICE OF HEARING
TO BE HELD AT 4:30 P.M.
NOVEMBER 16, 2010
CITY COMMISSION CHAMBERS, 210 SAMS AVENUE
NEW SMYRNA BEACH, FLORIDA**

Members:

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

THIS SHALL SERVE AS YOUR OFFICIAL NOTIFICATION of a hearing of the Citizens Code Enforcement Board, to be held on TUESDAY, NOVEMBER 16, 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:


John Shelby, 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:

October 19, 2010

IV. SWEARING OF CITY STAFF

V. OLD BUSINESS: NONE

VI. NEW BUSINESS:

C2010-0851 Randy M. Hartwigh 709 Francis Avenue (POSTED)

- A) Permitting or causing to be permitted weeds and undergrowth upon the subject property in violation of §38.111. of the City Code of Ordinances.
- B) Permitting or causing to be permitted discarded and abandoned waste material upon the subject property in violation §38.113. of the City Code of Ordinances.

C2010-1094 Mr. Sandman Motel 835 N. Dixie Freeway (POSTED)

- A) Permitting or causing to be permitted weed and undergrowth upon the subject property in violation of §38.111. of the City Code of Ordinances.
- B) Permitting or causing to be permitted discarded and abandoned waste material upon the subject property in violation of §38.113 of the City Code of Ordinances.
- C) Permitting or causing to be permitted placement of garbage at curbside or roadside that has not be placed in containers and placed at curbside or roadside prior to sundown on the day preceding your scheduled pick up day or 7 a.m. on the day of your scheduled pickup in violation of §66.32 of the City Code of Ordinances.
- D) Permitting or causing to be permitted the placement of yard trash at curbside for pickup that has not been stacked neatly or in a manner that allows the yard trash to be loaded directly into the collection vehicle in violation of §66.33. of the City Code of Ordinances.
- E) Permitting or causing to be permitted a business operation (Mr. Sandman Motel) without a business license tax receipt in violation of §74-146. of the City Code of Ordinances.

- F) Permitting or causing to be permitted storage of unlicensed trailers upon the subject property in violation of §802.02. of the Land Development Regulations.

C2010-1105
(SERVED)

Douglas C. & Karen L. Hautz 311 Granada Street

- A) Permitting or causing to be permitted discarded and abandoned waste material upon the subject property in violation of §38-111. of the City Code of Ordinances.
- B) Permitting or causing to be permitted weeds and undergrowth upon the subject property in violation of §38-112. of the City Code of Ordinances.
- C) Permitting or causing to be permitted an accessory structure (block wall and dilapidated fence) to exist that has not been properly maintained in good repair and structurally sound in violation of §302.7 of the International Property Maintenance Code, 2006 Edition.

C2010-1190
(SERVED)

Ocean Palms Beach Club, Inc. 2601 S. Atlantic Ave.

- A) Permitting or causing to be permitted vacant structures and land to exist that has not been properly maintained in a clean, safe, secure and sanitary condition and poses a threat to the public health and welfare in violation of §301.3 of the Property Maintenance Code, 2006 Edition.
- B) Permitting or causing to be permitted weeds and undergrowth upon the subject property in violation of §302.4 of the International Property Maintenance Code, 2006 Edition.
- C) Permitting or causing to be permitted accessory structures to exist that have not been properly maintained to be structurally sound and in good repair in violation of §302.7 of the International Property Maintenance Code, 2006 Edition.
- D) Permitting or causing to be permitted defacement of property (graffiti) in violation of §302.9 of the International Property Maintenance Code, 2006 Edition.
- E) Permitting or causing to be permitted a swimming pool to exist that has not been maintained in a clean and sanitary condition, and in good repair in violation of §303.1 of the International Property Maintenance Code, 2006 Edition.
- F) Permitting or causing to be permitted exterior surfaces on a structure to exist that have not been properly maintained with a protective treatment to protect the exterior surfaces from the elements in violation of §304.2 of the International Property Maintenance Code, 2006 Edition.
- G) Permitting or causing to be permitted exterior surfaces to exist that have not been kept free from holes, breaks and loose or rotting materials; and maintained weatherproof and properly surface coated to prevent deterioration in violation of §304.6 of the International Property Maintenance Code, 2006 Edition.

VII. REPEAT BUSINESS:

C2010-1187 All Phases LLC 310-312 Julia Street (SERVED)

Permitting or causing to be permitted construction (fence) without first obtaining the required permit in violation of §26-171. of City Code of Ordinances.

October 19, 2010: The Board entered an order finding Michael Shane Miller, All Phases LLC was in violation of §26-172. Of the City Code of Ordinances that occurred between the 7th day of October, 2010 and the 19th day of October, 2010.

**C2010-1261 Fences & Pavers By Design, Inc. 824 E. 19th Avenue
(SERVED) Vadim S. Abuzov**

Permitted or causing to be permitted construction without first obtaining the required permit in violation of §26-172. of the City Code of Ordinances.

February 16, 2010: The Board entered an order finding Vadim S. Abuzov, Fences & Pavers By Design, Inc. was in violation of §26.172. of the City Code of Ordinances.

July 20, 2010: The Board entered an order finding Vadim S. Abuzov, Fences & Pavers By Design, Inc. was in violation of §26.172. of the City Code of Ordinances and to pay a fine of \$250.00 for the repeat violation that occurred between the 18th day of May 2010 and the 20th day of July 2010.

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: 386.424.2143

MINUTES OF THE CITIZENS CODE ENFORCEMENT BOARD
HEARING
HELD AT 4:30 P.M. – OCTOBER 19, 2010
CITY COMMISSION CHAMBERS, CITY HALL,
210 SAMS AVE, NEW SMYRNA BEACH, FLORIDA

- I. The Hearing of October 19, 2010, was called to order at 4:30 p.m. Answering to roll call were:

John Shelby (Chair)
Michael Slayton (Vice Chair)
Megan Badgley
Beverly Palmer
Pat Arvidson
Ken Taylor

Also present were Code Enforcement Officer Barbara Bobelak, Assistant City Attorney Greg McDole, Michael Knotek, Chief Building Official and Permit & License Technician Dorlisa Pogany. Katharine Cooley arrived at 4:32 PM.

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

August 17, 2010

Ms. Arvidson made a motion to approve the minutes of the August 17, 2010 hearing as written; seconded by Mr. Taylor. Motion passed up roll call vote 6-0.

IV. SWEARING OF CITY STAFF

Barbara Jo Bobelak, Code Enforcement Officer, was sworn in for testimony.

V. OLD BUSINESS:

C2007-0829:

Gilbert 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. Shelby noted for the record that no one was present to represent this case.

Mr. Shelby asked staff for a recommendation.

Ms. Bobelak informed the Board that this case has been brought into compliance.

Mr. Slayton made a motion to find case C2007-0829 in compliance; seconded by Mr. Taylor. Motion passed unanimously upon roll call 7-0.

VI. NEW BUSINESS:

C2010-0961

All Phases LLC (Michael Shane Miller)

387 14th Avenue

- A) Permitting or causing to be permitted construction (pavers) without first obtaining the required permit in violation of §26-171. of the City Code of Ordinances.
- B) Permitting or causing to be permitted land clearing without first obtaining the required permit in violation of §604.02 B. (1) a of the Land Development Regulations.

Mr. Michael Miller was present and sworn in for testimony.

Mr. Miller stipulated to the violation and stated the permit was submitted to the City before receiving the violation in the mail.

Mr. Shelby asked staff for a recommendation.

Ms. Bobelak recommended the Board find Mr. Miller of All Phases LLC in violation of §26-171. of the City Code of Ordinances for construction without a permit, §604.02 B.(1) a of the Land Development Regulations for landing clearing without a permit and find the property in compliance.

Discussion ensued among Board members and Staff regarding the issuance of the permits, verbal stop work order placed and if land clearing was in conjunction with the pavers.

Mr. Taylor made the motion that case C2010-0961 was in violation and to find items A and B in compliance; seconded by Mr. Slayton. Motion carried unanimously on roll call vote 7-0.

C2010-1160

Cypress Stone & Landscape LLLC

302 Buenos Aires

- A) Permitting of causing to be permitted construction without first obtaining the required permits in violation of §26-172. of the City Code of Ordinances.

Dennis Brooks was present and sworn in for testimony.

Mr. Brooks stipulated to the violation.

Mr. Brooks stated a variance was issued to the property owner by the City for the property and thought all the proper permits had been acquired by the parties involved with the development of the site.

Mr. Shelby asked staff for a recommendation.

Mr. Knotek was sworn in for testimony.

Mr. Knotek testified the property owner presented a site plan to the Board of Adjustments for the variance which included a pool, pavers, decking, stairs, summer kitchen and fence. Mr. Knotek further testified that permits were issued for the fence and columns, gas permit and swimming pool but no permits issued for the stairs, summer kitchen and hand rails.

Discussion ensued among Board members and Staff regarding the work completed without permits, no inspections for work completed, work continued after stop work order posted, if general contractor oversaw the work, when case was in compliance, issuance of a fine and permits issued after the fact.

Mr. Shelby asked Ms. Bobelak for a recommendation.

Ms. Bobelak recommends the Board find Mr. Brooks of Cypress Stone & Landscapes in violation of §26-172. of the City Code of Ordinances for construction without a permit, issue a fine for \$50 per day for eleven (11) days for a total amount of \$550 and find the property in compliance.

Discussion ensued among staff, board members and Mr. Brooks regarding the fine, amount of fine, who was the general contractor, work performed after stop work order, construction of stairs/hand rails, and work covered under pool permit.

Ms. Arvidson made the motion that case C2010-1160 was in violation and currently is in compliance with no fine; seconded by Ms. Cooley. Motion passed on roll call vote 6-0 with Mr. Slayton dissenting.

VII. REPEAT BUSINESS:

VIII. COMMENTS FROM BOARD MEMBERS AND STAFF:

Mr. Shelby asked if there were any comments from Board Members and Staff.

Discussion ensued among board members and staff regarding how to cite and penalize individuals working as unlicensed contractors, which Board is responsible for penalizing these individuals, ways to deter contractors who continually appear for violations before this Board, cite property owners in addition to contractors and the Board's actions need to find contractors in violation so that the City can assess fines for future violations.

With no further discussion or comments, Mr. Shelby closed this portion of the meeting.

VIII. ADJOURNMENT:

Mr. Slayton made the motion to adjourn; seconded by Ms. Arvidson. All agreed and the hearing adjourned at 5:18 pm.