

**THE CITIZEN CODE ENFORCEMENT BOARD  
NOTICE OF HEARING  
TO BE HELD AT 4:30 P.M.  
JANUARY 18, 2011  
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, January 18, 2011 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:**

November 16, 2010

**IV. SWEARING OF CITY STAFF**

**V. OLD BUSINESS:**

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

In Compliance

- 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.

November 16, 2010: The Board entered an order finding Mr. Sandman Motel in compliance of §74-146. of the City Code of Ordinance and to find Mr. Sandman Motel in violation of §38.111, §38.113, §66.32, §66.33 of the City Code of Ordinances and §802.02 of the Land Development Regulations giving Mr. Sandman Motel until the 30<sup>th</sup> day of November to bring the property into compliance or face a fine of \$50 per day for each and every day the violation exists.

**C2010-1105****Douglas C. & Karen L. Hautz 311 Granada St. (SERVED)**

- 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.

November 16, 2010: The Board entered an order finding Douglas C. & Karen L. Hautz in violation of §38-111., §38-112. Of the City Code of Ordinances and §302.7 of the International Property Maintenance Code, 2006 Edition, giving Douglas C. & Karen L. Hautz until the 30<sup>th</sup> day of November, 2010 to bring the property into compliance or face a fine of \$25 per day for each and every day the property remains in violation. Fine totaling \$1,225.00 for a total of 49 days.

**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.

November 16, 2010: The Board entered an order finding Ocean Palms Beach Club, Inc., in violation of §301.3, §302.4, §302.7, §302.9, §303.1, §304.2 and §304.6 of the International Property Maintenance Code, 2006 Edition, giving Ocean Palms Beach Club, Inc. until the 30<sup>th</sup> day of November, 2010 to bring the property into compliance or face a fine of \$100 per day for each and every day the property is brought into compliance. Fine totaling \$4,900.00 for a total of 49 days.

**VI. NEW BUSINESS:**

**NONE**

**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: 386.424.2143

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

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

Michael Slayton (Vice Chair)

Megan Badgley

Pat Arvidson

Katharine Cooley

Also present were Code Enforcement Officer Barbara Bobelak, Assistant City Attorney Greg McDole. Chief Building Official Michael Knotek and Permit & License Technician Dorlisa Pogany. John Shelby, Beverly Palmer and Ken Taylor 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. Slayton stated that there were none.

III. **APPROVAL OF MINUTES**

October 19, 2010

**Ms. Arvidson made a motion to approve the minutes of the October 19, 2010 hearing as written; seconded by Ms. Cooley. Motion passed up roll call vote 4-0.**

IV. **SWEARING OF CITY STAFF**

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

V. **OLD BUSINESS:**

None

**VI. NEW BUSINESS:**

**C2010-0851:**

**Randy Hartwich**

**709 Francis Avenue**

- 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 of §38.113. of the City Code of Ordinances.

Mr. Slayton noted for the record that no one was present to represent this case.

Mr. Slayton asked staff for a recommendation.

Officer Bobelak informed the Board that this case is being withdrawn for further investigation.

**C2010-1094**

**Mr. Sandman Motel**

**835 N. Dixie Freeway**

- 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 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 been 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 of 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 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.

Mr. Slayton noted for the record that no one was present to represent this case.

Mr. Slayton asked staff for a recommendation.

Mr. Slayton asked staff if they have had any communications with the owners. Ms. Bobelak testified that she spoke to one of the owners who stated the business is closed temporarily and is going through re-organization. Ms Bobelak further stated some of the violations have been corrected and vehicles have been removed. Ms. Bobelak further testified that Item E is in compliance since the business is closed.

Officer Bobelak recommended the Board find 835 N. Dixie Freeway in violation of §38.111, §38.113 of the City Code of Ordinances, §802.02. of the Land Development Regulations, §66.32 and §66.33 of the City Code of Ordinances and give the property owners until November 30, 2010 come into compliance or issue a fine of \$50 per day until property comes into compliance.

**Ms. Cooley made the motion to find case C2010-1094 in violation and to give the property owners until November 30, 2010 to come into compliance or face a fine of fifty dollars (\$50.00) per day until the property is in compliance; seconded by Ms. Badgley. Motion carried unanimously on roll call vote 4-0.**

**C2010-1105**

**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.

Mr. Slayton noted for the record that no one was present to represent this case.

Mr. Slayton asked staff for a recommendation.

Officer Bobelak testified she met with Mr. Hautz today and some progress has been made to bring the property into compliance. Officer Bobelak stated Mr. Hautz feels he can bring the property into compliance by November 30, 2010. Officer Bobelak recommended to find Item A in compliance; find Item B and Item C in violation and give the owner until November 30, 2010 to bring the property into compliance or face a fine of \$25 per day until property is in compliance.

**Ms. Cooley made the motion to find Item A in compliance, find Item B and Item C in violation, give property owner until November 30, 2010 to bring property into compliance or face a fine of \$25 per day until property is in compliance; seconded by Ms. Badgley. Motion carried unanimously on roll call vote 4-0.**

- 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.

Reed Boardman was present and sworn in for testimony.

Mr. Slayton asked Mr. Boardman if he read the violations and was in agreement with them.

Mr. Boardman stated he read the violations but did not agree with them.

Officer Bobelak presented pictures to the Board showing the condition of the property and Mr. Boardman validated the pictures.

Mr. Slayton asked if the property was condemned.

Michael Knotek, Chief Building Official was sworn in for testimony. Mr. Knotek testified the property has been posted but is going through the Building Trades Board. The Building Trades Board gave Ocean Palms until January 20, 2011 to provide a plan for

renovations or address the concerns of the Board as to why Ocean Palms should not be condemned for demolition.

Officer Bobelak testified that the property has not been maintained and all the violations still exist since the date of the violation notice.

Mr. Boardman stated the property is not in violation. Mr. Boardman further stated he cannot access property according to the Building Trades Board and Building Official. Mr. Boardman stated he has not received authorization to access the property since the building permit was revoked by the Building Official. Mr. Boardman further stated he is currently going through an appeal process for the revocation of the permit.

Mr. Boardman stated that he would remove scaffolding and soffit that is hanging. Mr. Boardman further stated he has contacted a contractor to make the fence secure and install screens back on the fence which will be completed by the end of the week.

Discussion ensued among staff and the Board regarding the maintenance of exterior surfaces, whether work can be completed with revocation of building permit and to what extent the exterior surfaces can be maintained, who can access the property and how it can be maintained if property is posted.

Linda Hoffmeister, 2607 Hill Street, New Smyrna Beach, FL was sworn in for testimony. Ms. Hoffmeister stated she has notified all the City Officials via e-mail regarding the doors, windows, scaffolding, soffit, the green netting is loose and the property has deteriorated worse over the last 6 years. Ms. Hoffmeister submitted pictures she obtained from Mr. Knotek for the Board's review.

Officer Bobelak testified that some of the violations in the pictures have been resolved.

Mr. Knotek testified the photos were taken in January 2010.

William E. Hoffmeister, 2607 Hill Street, New Smyrna Beach, FL was sworn in for testimony. Mr. Hoffmeister stated the property has deteriorated over 6 years, vagrants come out of the property and rats coming from this property onto their property. Mr. Hoffmeister asked the Board to take action to resolve the issues and require maintenance of the property.

Mr. Slayton asked staff for a recommendation.

Officer Bobelak recommended the Board to find the property in violation, give Ocean Palms until November 30, 2010 to bring property into compliance or issue a \$100 per day fine until property comes into compliance.

**Ms. Cooley motioned to find case C2010-1190 in violation, give Ocean Palms until November 30, 2010 to complete maintenance on the property or issue a \$100 per**

day fine until property comes into compliance; seconded by Ms. Badgley. Motion passed unanimously up on roll call 4-0.

**VII. REPEAT BUSINESS:**

**C2010-1187**

**All Phases LLC**

**310-312 Julia Street**

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

Mr. Slayton noted for the record that no one was present to represent this case.

Mr. Slayton asked staff for a recommendation.

Discussion ensued among staff and the Board regarding the location of violation, if it was the same location as last month, when notice of violation and permit issued, if in the process during last month's meeting, and established it is a repeat offense.

Officer Bobelak testified the fence had been installed without a permit and a notice of violation was sent to All Phases LLC. Officer Bobelak further testified the permit was applied for the day after receiving the notice of violation and permit issued 6 days later. Officer Bobelak recommended the Board find All Phases LLC in violation for construction without a permit and issue a fine for up to \$250 per day until the property is in compliance.

**Ms. Arvidson made the motion to find case C2010-1187 in violation and fine Michael Shane Miller \$100 for this repeat violation; seconded by Ms. Badgley. Motion passed unanimously upon roll call 4-0.**

**C2010-1261**

**Fences & Pavers By Design Inc  
Vadim S. Abuzov**

**824 19<sup>th</sup> Avenue**

- 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.

Vadim S. Abuzov was present and sworn in for testimony.

Mr. Slayton asked Mr. Abuzov if he read the violations and was in agreement.

Mr. Abuzov stated he agreed that he was in violation of construction without first obtaining the permit.

Mr. Slayton asked staff for a recommendation.

Officer Bobelak recommended finding Mr. Abuzov in violation and issuing a fine of \$250 per day.

Discussion ensued among staff and the Board regarding the length of time the property in violation; the number of days to set for the fine; number of times previously found in violation for same offense and length of time to obtain permit.

**Ms. Arvidson made a motion to find case C2010-1261 in violation and fine Vadim Abuzov, Fences and Pavers By Design, Inc \$250 for the repeat violation; seconded by Ms. Badgley. Motion passed unanimously upon roll call 4-0.**

**VIII. COMMENTS FROM BOARD MEMBERS AND STAFF:**

**VIII. ADJOURNMENT:**

**Ms. Cooley made the motion to adjourn; seconded by Ms. Arvidson. All agreed and the hearing adjourned at 5:30 p.m.**