

**THE CITIZEN CODE ENFORCEMENT BOARD
NOTICE OF HEARING
TO BE HELD AT 4:30 P.M.
FEBRUARY 15, 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, FEBRUARY 15, 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:**

January 18, 2011

IV. **SWEARING OF CITY STAFF:**

V. **OLD BUSINESS:** **NONE**

VI. **NEW BUSINESS:**

C2011-0023: **John Burke** **506 Old Minorcan Trail** **POSTED**

Permitting or causing to be permitted weeds and undergrowth upon the subject property in violation of §38-112. of the City Code of Ordinances.

C2011-0026: **Tarpon IV, LLC** **513 Josie Street** **SERVED**

Permitting or causing to be permitted weeds and undergrowth upon the subject property in violation of §38-111. of the City Code of Ordinances.

C2011-0027: **Tarpon IV, LLC** **545 Charlovix St.** **SERVED**

Permitting or causing to be permitted weeds and undergrowth upon the subject property in violation of §38-111. of the City Code of Ordinances.

C2011-0032: **Robert V. Lasic & 2514 N. Dixie Freeway**
Marlene Djusic

- A) 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.
- B) Permitting or causing to be permitted prohibited banner sign upon the subject property in violation of §604.14. B. of the Land Development Regulations.
- C) Permitting or causing to be permitted major recreational equipment to be used for living, sleeping, or housekeeping purposes in violation of §802.06. of the Land Development Regulations.

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. – JANUARY 18, 2011
CITY COMMISSION CHAMBERS, CITY HALL,
210 SAMS AVE, NEW SMYRNA BEACH, FLORIDA

- I. The Hearing of January 18, 2011, was called to order at 4:30 p.m. Answering to roll call were:

John Shelby (Chairman)
Michael Slayton (Vice Chair)
Pat Arvidson
Beverly Palmer

Also present were Code Enforcement Officer Barbara Bobelak, Assistant City Attorney Greg McDole. Chief Building Official Michael Knotek and Permit & License Technician Dorlisa Pogany. Ken Taylor and Megan Badgley were absent. Katherine Cooley arrived at 4:35 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**

November 16, 2010

Mr. Slayton made a motion to approve the minutes of the November 16, 2010 hearing as written; seconded by Ms. Arvidson. Motion passed on roll call vote 4-0.

IV. **SWEARING OF CITY STAFF**

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

V. **OLD BUSINESS:**

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

Mr. Shelby asked staff for a recommendation.

Officer Bobelak stated the property is under new ownership and all the items have been addressed. She recommends the Board find the property in compliance.

Ms. Arvidson made the motion to find case C2010-1094 in compliance; seconded by Mr. Slayton. Motion carried unanimously upon roll call 5-0.

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

Mr. Shelby asked staff for a recommendation.

Officer Bobelak testified that the property is not in compliance and recommends imposing the fine as there are still some outstanding items that have not been corrected. Officer Bobelak further stated the block wall had not been repaired as Mr. Hautz would need permission of the neighbor for access and has not made any attempt to contact the neighbor.

Discussion ensued among the Board Members and Staff regarding the fine, if the fine would continue to accrue if a fine was imposed and the City could assess a lien. Mr. McDole stated the fine would continue to accrue until the property is found in compliance and he would automatically assess a lien.

Mr. Slayton made a motion to impose a fine for \$25 per day on case C2010-1105 for 49 days totaling \$1,225.00 and each day thereafter until the property is brought into compliance; seconded by Ms. Palmer. Motion carried unanimously upon roll call 5-0.

C2010-1190

Ocean Palms Beach Club, Inc

2601 S. Atlantic Avenue

- 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.

Richard McFadden, a local representative for Reed Boardman was present and sworn in for testimony.

Mr. Shelby asked Staff for a recommendation.

Officer Bobelak testified the property has been in and out of compliance but as of December 1, 2010 it was in compliance except for the scaffolding. She further testified the scaffolding was in compliance on December 23, 2010 when the building permit was reinstated by Chief Building Official Mike Knotek as per his December 23, 2010 letter. Officer Bobelak recommends reducing the fine from 49 days to 23 days and the amount from \$4,900.00 to \$2,200.00.

Discussion ensued among the Board Members and Staff regarding the number of days the property was in violation, how the days of non-compliance calculated and why scaffolding was in compliance when still erected.

Mr. Knotek, Chief Building Official was sworn in for testimony. Mr. Knotek testified a Letter of Revocation for the building permit was issued in April 2010. However, Senate Bill 1752 signed by the Governor granted extension of permits for two (2) years provided the owner gives a written request with a timetable for construction. Mr. Knotek further testified Mr. Boardman submitted a construction timetable in mid-December resulting in the permit being reinstated on December 23, 2010. Mr. Knotek stated that the property must be maintained even though it is a construction site and this information was relayed to Mr. Boardman.

Discussion ensued among Board Members, Staff and Mr. McFadden regarding the condition of the property, lack of maintenance of the property, who maintains the property and hardship on neighbors selling homes.

Mr. McFadden stated he was hired by Mr. Boardman as a local representative and he maintained the property. Mr. McFadden further stated that when the fencing needs to be reinforced or opened windows/screens in buildings need to be resealed, he obtains the necessary people to make the repairs.

Linda Hoffmeister, 2607 Hill Street, New Smyrna Beach, FL was present and sworn in for testimony. Ms. Hoffmeister stated for the record that the property was not in compliance over the Christmas Holidays. Ms. Hoffmeister further stated she met with Mr. Knotek on January 5, 2011 and the front gate and windows were open. Ms. Hoffmeister stated that on January 10, 2011 she contact Officer Bobelak to inform her there were windows open.

Ms. Arvidson made a motion to impose and reduce the fine for case C2010-1190 from \$4,900.00 to \$2,200.00 for non-compliance from December 1, 2010 to December 23, 2010; seconded by Ms. Cooley. Motion carried unanimously upon roll call 5-0.

VI. NEW BUSINESS:

NONE

VII. REPEAT BUSINESS:

NONE

VIII. COMMENTS FROM BOARD MEMBERS AND STAFF:

VIII. ADJOURNMENT:

Ms. Cooley made the motion to adjourn; seconded by Mr. Slayton. All agreed and the hearing adjourned at 5:00 p.m.