

MINUTES OF THE CITIZENS CODE ENFORCEMENT BOARD  
HEARING  
HELD AT 4:30 P.M. – MARCH 15, 2011  
CITY COMMISSION CHAMBERS, CITY HALL,  
210 SAMS AVE, NEW SMYRNA BEACH, FLORIDA

- I. The Hearing of March 15, 2011, was called to order at 4:30 p.m. Answering to roll call were:

John Shelby (Chairman)  
Michael Slayton (Vice Chair)  
Beverly Palmer  
Megan Badgley

Also present were Code Enforcement Officer Barbara Bobelak, Assistant City Attorney Greg McDole. Chief Building Official Michael Knotek and Permit & License Technician Dorlisa Pogany. Pat Arvidson and Katharine Cooley 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 15, 2011

**Ms. Badgley made a motion to approve the minutes of the February 15, 2011 hearing as written; seconded by Ms. Palmer. 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. IMPOSING FINES:**

**C2011-0023**

**John Burke**

**506 Old Minorcan Trail**

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

**February 15, 2011:** The gave Mr. Burke until the 28<sup>th</sup> day of February, 2011 to bring the property into compliance or face a fine of \$25 per day for each and every day the violation exists. Fine totaling \$325.00 as of today.

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

Mr. Shelby asked staff for a recommendation.

Officer Bobelak presented pictures dated February 11, 2011 showing the property posted and pictures dated March 15, 2011 showing the property has not been brought into compliance. Officer Bobelak recommends the Board find the property in non-compliance and impose a fine for \$25 per day.

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

Mr. Knotek stated he would like to recommend the Board to direct staff to clean up the lot, impose the fine and propose a lien on the property for the amount of the clean up and the fine.

Mr. McDole stated the Board cannot order a lot to be cleaned up unless it is a life safety issue or hazardous situation. Mr. McDole further stated to clean up the lot would require a different ordinance. The fine imposed will continue to accumulate for each day the property is in violation and the lien can automatically be recorded.

Discussion ensued among Staff and the Board requiring the process to foreclose a lien, complete a title search on properties and if a case can be returned to the Board in three months.

**Ms. Badgley made a motion to impose a fine for \$25 per day for non-compliance retroactive from February 28, 2011; seconded by Ms. Palmer. Motion carried unanimously upon roll call 4-0.**

Discussion ensued among the Board regarding the case being brought back in 90 days to consider foreclosure on the lien.

**Ms. Badgley made a motion to bring case C2011-0023 back to the Board in 90 days; second by Mr. Slayton. Motion carried unanimously upon roll call 4-0.**

**C2011-0026**

**Tarpon IV, LLC**

**513 Josie Street**

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

**February 15, 2011:** The Board gave Tarpon IV, LLC until the 28<sup>th</sup> day of February 2011 to bring the property into compliance or face a fine of \$25 per day for each and every day the violation exists. Fine totaling \$325.00 as of today.

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

Officer Bobelak stated Richie Lichberg signed for the certified mail and presented pictures dated March 15, 2011 showing the property has not been brought into

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compliance. Officer Bobelak recommends the Board find the property in non-compliance and impose a fine for \$25 per day.

Discussion ensued among Staff and the Board regarding increasing the fine and if there has been any communication from anyone on the property.

**Mr. Slayton made a motion to impose a fine for \$25 per day for non-compliance retroactive from February 28, 2011 and to bring case C2011-0026 back to the Board in 90 days; seconded by Ms. Badgley. Motion carried unanimously upon roll call 4-0.**

**C2011-0027                      Tarpon IV, LLC    545 Charlovix Street**

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

February 15, 2011: The Board gave Tarpon IV, LLC until the 28<sup>th</sup> day of February 2011 to bring the property into compliance or face a fine of \$25 per day for each and every day the violation exists. Fine totaling \$325.00 as of today.

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

Officer Bobelak stated Richie Lichberg signed for the certified mail and presented pictures dated March 15, 2011 showing the property has not been brought into compliance. Officer Bobelak recommends the Board find the property in non-compliance and impose a fine for \$25 per day.

**Ms. Palmer made a motion to impose a fine for \$25 per day for non-compliance retroactive from February 28, 2011 and to bring case C2011-0027 back to the Board in 90 days; seconded by Ms. Badgley. Motion carried unanimously upon roll call 4-0.**

**VI.     NEW BUSINESS:**

**C2011-0029                      Lost Lagoon Wings & Grill    SERVED  
515 N Dixie Freeway**

Violation of §74-146. Of the City Code of Ordinances operation of a business with an expired Business License Tax Receipt (Account #5886).

Violation of §604.10 G. of the Land Development Regulations exceeding the required number of parking spaces required by adding outdoor seating.

Officer Bobelak stated this case was brought into compliance prior to the March 15, 2011 meeting. No action required by the Board.

**VII. REPEAT BUSINESS:**

**C2011-0055:                      KB Homes Gold Coast, LLC                      SERVED**

**Violation Locations:              SR 44 west of Jungle Rd.  
   SR 44 east of N. Glencoe Rd.  
   SR 44 east of Sugar Mill Dr.  
   Sugar Mill Drive  
   Pioneer Trail  
   W. Canal Street**

Violation of §604.14 B. of the Land Development Regulations placement of prohibited signs in the right-of-way.

On the 17<sup>th</sup> day of April, 2007, the Citizens Code Enforcement Board entered an Order finding that KB Homes Gold Coast, LLC, was in violation of §604.14 B. of the Land Development Regulations. It is further the Order of this Board that KB Homes Gold Coast, LLC pay a fine of Five Hundred Dollars (\$500.00) per sign for each and every day the repeat violation that occurs.

Officer Bobelak stated Rena Farela signed for the certified mail. Officer Bobelak further stated she spoke to Leo Velez on March 1, 2011 who indicated KB Homes has gone through a re-organization and was not aware of the violation. Officer Bobelak presented the Board pictures showing the dates the signs were erected.

Discussion ensued among Staff and the Board regarding the number of occurrences, dates of occurrences, location of occurrences and what communication had been exchanged with KB Homes.

Mr. Slayton asked staff for a recommendation.

Officer Bobelak recommends to find KB Homes Gold Coast, LLC in non-compliance for repeat violation of Board Order dated 17<sup>th</sup> day of April, 2007.

Discussion ensued among Staff and the Board on the amount of fine since a repeat violation and lien will be assessed to any property in KB Homes Gold Coast, LLC name in Volusia County.

Mr. Shelby asked staff for a recommendation on the fine amount.

Officer Bobelak recommends \$50 per sign for each day in non-compliance.

**Mr. Slayton made a motion to find case C2011-0055 in non-compliance and a fine of \$500 for all signs; seconded by Ms. Palmer. Motion failed for official action upon roll call, 3-1 with Mr. Shelby dissenting.**

Discussion ensued among the Board regarding the lack of action from KB Homes in the past, continual problem with their signs and the amount of the fine.

**Ms. Badgley made a motion to find case C2011-055 in non-compliance and impose a fine for \$200 per occurrence for a total of \$1600; seconded by Mr. Slayton. Motion carried unanimously upon roll call 4-0.**

**VIII. ELECTION OF OFFICERS:**

**Mr. Slayton nominated Mr. Shelby as Chairman; seconded by Ms. Badgley. Motion carried unanimously upon roll call 4-0.**

**Ms. Badgley nominated Mr. Slayton as Vice Chairman; seconded by Ms. Palmer. Motion carried unanimously 4-0.**

**VIII. ADJOURNMENT:**

**Mr. Slayton made the motion to adjourn; seconded by Ms. Badgley. All agreed and the hearing adjourned at 5:00 P.M.**