

MINUTES OF THE BUILDING TRADES BOARD  
HEARING  
HELD AT 6:30 P.M. – JANUARY 20, 2011  
CITY COMMISSION CHAMBERS, CITY HALL,  
210 SAMS AVE, NEW SMYRNA BEACH, FLORIDA

- I. The Hearing of January 20, 2011, was called to order at 6:30 p.m. Answering to roll call were:

William Cowherd (Chairman)

Paul Heer (Vice Chair)

Joseph Blanchette

Grant Clark

Also present were Chief Building Official Michael Knotek, Asst. City Attorney Greg McDole and Permit & License Technician Dorlisa Pogany. Board member Terry Harrison arrived at 6:33 PM and Randy Beach arrived at 6:42 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. Cowherd stated that there were none.

III. **APPROVAL OF MINUTES**

November 18, 2010

**Mr. Clark made a motion to approve the minutes of the November 18, 2010 as written; seconded by Mr. Heer. Motion passed up roll call vote 4-0.**

IV. **SWEARING OF CITY STAFF**

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

V. **OLD BUSINESS:**

**C2010-1046:            Han Xiao Jun & Xiao Jun Chan                            545 Washington St**

Consideration from Building Department to demolish a residential structure at 545 Wahsington Street due to unsafe or dilapidated condition as per Article X, §26-796 of the New Smyrna Beach City Code of Ordinances.

Mr. Shui Kung was present and sworn in for testimony.

Mr. Cowherd asked staff for a recommendation.

Mr. Knotek testified that the owner had contacted Charles Adams, Engineer to design plans for the structure and submitted a construction cost estimate to repair the buildings. Mr. Knotek further testified that a permit was issued today for an interior exploratory demolition to see if there are any hidden structural damages. Mr. Kung will then determine whether to repair or demolish the structures. Mr. Knotek stated staff's recommendation is to condemn the structures and under Section 26-799 of the City Code of Ordinances, which allows the owner to repair the structures provided a written agreement is submitted specifying the nature of the repairs and the date on which repairs shall be completed. The owner shall obtain a building permit for repairs or demolish the structures within 30 days. Failure to do so authorizes the City to take remedial action including demolishing the structures and assessing a lien.

Mr. Kung stated that the exploratory demolition will begin on Friday and expect results by Wednesday and it is his intentions to repair the structures unless they find major structural damage.

Discussion ensued among the Board Members, Staff and Mr. Kung if 30 days timeframe was sufficient, repairs to structures to be completed by end of March, provide a written statement of work to be done to Building Department, whether to condemn property and content of Section 26-799 of City Code of Ordinances.

**Mr. Clark made a motion to condemn 545 Washington Street with the intent to demolish the structures in 30 days and authorize City to assess a lien; as per Section 26-799 of the City Code of Ordinances, the owner may repair the structures providing all requirements of the ordinance are met; seconded by Mr. Blanchette. Motion passed unanimously upon roll call 6-0.**

**C2010-0623:                      Frederick Klein    500 Wayne Ave**

Consideration from Building Department to demolish a residential structure at 500 Wayne Avenue due to unsafe or dilapidated condition as per Article X, §26-796 of the New Smyrna Beach City Code of Ordinances.

Mr. Frederick Klein was present and sworn in for testimony.

Mr. Cowherd asked staff for a recommendation.

Mr. Knotek testified that Mr. Klein has obtained a partial demolition permit and partially cleaned up the property. Mr. Knotek stated staff's recommendation is to condemn the structures and under Section 26-799 of the City Code of Ordinances, which allows the owner to repair the structures provided a written agreement is submitted specifying the nature of the repairs and the date on which repairs shall be completed. The owner shall obtain a building permit for repairs or demolish the structures within 30 days. Failure to do so authorizes the City to take remedial action including demolishing the structures and assessing a lien.

Mr. Klein stated he has completed substantial repairs and cleaning. Mr. Klein stated the Zoning Department informed him that current setback requirements listed in the City's Land Development Regulations would apply to any new structures. The new structures could not be constructed in the same footprint as the demolished structures. Mr. Klein further stated it is his intentions to repair the structures unless it is determined it is not feasible. Mr. Klein stated there are contents valuable to him in the structures and considered constructing a detached garage. However, the garage is to be built on a separate lot which requires a clear title. Once the clear title has been issued, the lot can be combined with the property at 500 Wayne Avenue.

Discussions ensued among Staff, the Board Members and Mr. Klein on setback laws and variance process, clarification on 30 day process and submit a plan of action to Building Department.

**Mr. Harrison made a motion to condemn 500 Wayne Avenue and for the owner to provide a written statement specifying the nature of the repairs and the date the repairs will be completed within 30 days to the Building Department; seconded by Mr. Beach. Motion passed unanimously upon roll call 6-0.**

**C2010-1176:            Steve's Furniture Emporium LLC                            1401 Canal Street**

Consideration from Building Department to demolish a commercial structure at 1401 Canal Street due to unsafe or dilapidated condition as per Article X, §26-796 of the New Smyrna Beach City Code of Ordinances.

Steve Thomas, Owner and Brett Bannister, Contractor were present and sworn in for testimony.

Mr. Cowherd asked staff for a recommendation.

Mr. Knotek testified that Mr. Thomas corrected items stated in his letter. Mr. Knotek further testified that Mr. Thomas had previously obtained a permit in 2008 for repairs. Under Senate Bill 1752, Mr. Thomas requested a two (2) year extension which the City granted on December 23, 2010. Mr. Knotek stated staff's recommendation is to condemn the property, submit to the Building Department a written statement specifying the nature of the repairs and the date on which repairs shall be completed. Failure to do so authorizes the City to take remedial action to demolition the structure and assess a lien.

Discussion ensued among staff, the Board Members, Mr. Thomas and Mr. Bannister regarding the maintenance of building, Senate Bill 1752 requirements and exceptions, requirements under Section 26-799 of City Code of Ordinances, clarification on condemning building with active permit, construction schedule timeframe, required inspections, parts of building to remain when process completed and whether to condemn building or continue case.

**Mr. Blanchette made a motion to continue case C2010-1176 until the February 17, 2011 and require a construction schedule timeframe submitted to the Building Department within 30 days; seconded by Mr. Harrison. Motion passed unanimously upon roll call 6-0.**

**C2010-1182:            Ocean Palms Beach Club, Inc            2601 S Atlantic Ave**

Consideration from Building Department to demolish residential structures at 2601 S Atlantic Avenue due to unsafe or dilapidated condition as per Article X, §26-796 of the New Smyrna Beach City Code of Ordinances.

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

Mr. Cowherd asked for staff's recommendation.

Mr. Knotek testified a permit was issued in 2007 for damages caused by the 2004 hurricanes and repairs had been going very slowly. Mr. Knotek further testified that in February 2010 he revoked the building permit because repairs ceased and it was a detriment to the neighborhood. Mr. Knotek testified the permit was reinstated on December 23, 2010 under Senate Bill 1752 as Mr. Boardman submitted a written request for a two (2) year extension on the building permit. Mr. Knotek stated it is staff's desire to eliminate problem areas in the City. Mr. Knotek stated staff's recommendation is to condemn the property, submit to the Building Department a written statement specifying the nature of the repairs, the date on which repairs shall be completed, properly maintain the construction site and allow the owner to continue repairs. Failure to do so authorizes the City to take remedial action to demolition the structure and assess a lien.

Mr. McFadden stated Mr. Boardman was out of town and had the construction schedule with him. Mr. McFadden further stated that Mr. Boardman would provide the schedule to the Building Department next week. Mr. McFadden stated Mr. Boardman has retained him to notify him weekly on the condition of the site and that Mr. Boardman is trying to make contact with the contractor of record. He stated the current contractor is out of the country and Mr. Boardman has contacted J Brendel Enterprises as a backup contractor to continue the repair work. Mr. McFadden further stated it is Mr. Boardman's intent to first repair the lesser damaged structures for rental.

Discussion ensued among staff, the Board Members and Mr. McFadden regarding the flexibility of the construction schedule, if foreclosures resolved and financing in place, provide a contract for permit, types of repairs completed to date, why stop work order posted, when inspection completed prior to stop work order, removal of scaffolding, clarification on definition of condemnation and status of swimming pool.

Mr. Keith Gerhartz, resident of 2828 Hill Street and President of South Beach NSB Neighborhood Association was present and sworn in for testimony.

Mr. Gerhartz stated there is a lot of history regarding this property and that Mr. Boardman has presented multiple plans, time schedules and promises which have failed. Mr. Gerhartz questioned if Mr. Boardman has current insurance on the property, legal ownership of the property and/or who does own the property. Mr. Gerhartz stated the property is broken into on a regular basis and asks if the City has put themselves in a liability situation if someone is injured on the property. He further stated the exterior of the buildings are in worse shape than five years ago and the interior is probably just as bad due to the weather element of the ocean. Mr. Gerhartz asks the Board to condemn the building, accept Mr. Boardman's timeframe schedule and empower the Building Official to demolish the buildings if the timeframe schedule is not kept.

Ms. Linda Hoffmeister, 2607 Hill Street, was present and sworn in for testimony.

Ms. Hoffmeister stated she can testify that very, very little work has been completed and has documented dates and times. Ms. Hoffmeister questioned if DEP and EPA will be involved in the construction repairs and who did evaluation that buildings are sound. Ms. Hoffmeister asks the Board to condemn the structures and demolish them.

Discussion ensued among staff and the Board Members regarding any structures east of coastal construction line and if DEP permits issued, seawall permit expired and if required to continue construction, submittal of asbestos survey and increase in structure size or addition of balconies requires DEP permit.

Mr. William Hoffmeister, 2607 Hill street was present and sworn in for testimony.

Mr. Hoffmeister stated the structures are falling apart and rodent infested. Mr. Hoffmeister further stated the repairs are very minimal and work crews appear once in awhile for a short period during the day. Mr. Hoffmeister asks the Board to condemn the structures and demolish them and make Mr. Boardman stick to the construction schedule submitted.

Discussion ensued among the staff and the Board Members regarding the status of remaining foreclosures and if clear title, if any financial investors or financing obtained, make reasonable effort to clean property, put fence around top of building, possibly replace with new fencing, remove scaffolding until repairs begin or secure scaffolding for safety purposes.

Mr. Heer asked staff for their recommendation.

Mr. Knotek stated staff's recommendation is to condemn the buildings and pursuant to Senate Bill 1754 allow Mr. Boardman to continue repairs. Mr. Boardman must submit to the Building Department within 30 days a written statement specifying the nature of the repairs, the date on which repairs shall be completed and properly maintain the construction site. Failure to do so authorizes the City to take remedial action to demolition the structure and assess a lien.

**Mr. Heer made a motion to condemn 2601 S Atlantic Avenue, secure the property in a better manner, remove scaffolding, address fence issues to make more secure to prevent entry, the owner to provide a written statement specifying the nature of the repairs and the date the repairs will be completed within 30 days to the Building Department; seconded by Mr. Blanchette. Motion passed unanimously upon roll call 6-0.**

**VI. NEW BUSINESS**

**C2010-1338: Chris Pappas & Soula Pappas 101C Tanglewood Ave**

Consideration from Building Department to demolish a residential structure at 101C Tanglewood Avenue due to unsafe or dilapidated condition as per Article X, §26-796 of the New Smyrna Beach City Code of Ordinances.

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

Mr. Knotek testified he spoke to Mr. Pappas who is willing to demolish the structure. Mr. Knotek further testified that Mr. Pappas is determining whether he will demolish the structure or allow the City and all the utilities have been disconnected. Mr. Knotek stated staff's recommendation condemn the property and for the structure to be demolished within 30 days by the owner or the City.

**Mr. Harrison made a motion to condemn 101C Tanglewood Avenue and give the owner 30 days to apply for a demolition permit; seconded by Mr. Heer. Motion passed unanimously 6-0.**

**C2010-1340: Field C. Marshall 707 Cheston St**

Consideration from Building Department to demolish a residential structure at 707 Cheston Street due to unsafe or dilapidated condition as per Article X, §26-796 of the New Smyrna Beach City Code of Ordinances.

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

Mr. Knotek stated staff's recommendation is to condemn the structure and give the owners 30days to apply for a permit. Failure to do so authorizes the City to take remedial action to demolition the structure and assess a lien.

Discussion ensued among staff and the Board Members regarding stability of the structure, if repairable and extent of interior damage.

**Mr. Blanchette made a motion to condemn 707 Cheston Street, give the owner 30 days to apply for a permit to repair or demolish the structure or authorize the City**

**to demolish the structure and assess a lien; seconded by Mr. Clark. Motion passed unanimously 6-0.**

**C2010-1341: Carol Maxine Baker 425 Palm St**

Consideration from Building Department to demolish a residential structure at 425 Palm Street due to unsafe or dilapidated condition as per Article X, §26-796 of the New Smyrna Beach City Code of Ordinances.

Ms. Carol Baker was present and sworn in for testimony

Mr. Cowherd asked staff for a recommendation.

Mr. Knotek stated staff's recommendation is to condemn the structure and give the owner 30 days to submit a plan for repairs or demolition.

Ms. Baker requests 60 days to evaluate the structure to determine whether to repair or demolish. Ms. Baker stated she will provide the City with the information as soon as she has determined the course of action.

**Mr. Heer made a motion to continue case C2010-1341 to the March 17, 2011 meeting; seconded by Mr. Harrison. Motion passed unanimously 6-0.**

## **VII. COMMENTS FROM BOARD MEMBERS AND STAFF**

Mr. Cowherd asked Staff for an update to cases from the November 16, 2010 meeting.

Mr. Knotek provided an update on the following cases:

**C2008-1135: 2105 Saxon Drive** – There are new owners who provided plans to repair the structure. Permits have been applied for by a license contractor to complete interior and exterior repairs.

**C2010-0625: 1907 S Atlantic Avenue** – The structure has been demolished.

**C2010-0624: 640 Dora Street** – The structure has been demolished.

**C2010-0619: 331 Canal Street** – The structure has been demolished

**C2010-0618: 541 Charlovix Street** – The structure has been demolished

**C2010-1045: 122 ½ Railroad Street** – The structure has been demolished.

**C2010-1047: 512 Ronnoc Lane** – The structure has been demolished.

**C2010-1180: 428 N Myrtle Avenue** – The structure has been demolished.

**C2010-1004: 4312 Saxon Drive** – No action of this date.

**C2010-0620: 551 Julia Street** – The contractor stated the windows have been covered, painted buildings and completed items requested by the Board. Mr. Knotek stated he will do an inspection to make sure all items corrected.

**C2010-0621: 553 Julia Street** – The contractor stated the windows have been covered, painted buildings and completed items requested by the Board. Mr. Knotek stated he will do an inspection to make sure all items corrected.

**C2010-1043: 312 N Myrtle Avenue** – One of the property owners is trying to collect finances to have the City demolish structure. Mr. Knotek stated the owner hired a contractor to demolish the structure but has not applied for the permit.

**C2010-1042: 353 Palm Street** – The structure has been demolished.

**C2010-1181: 501 Brooks Street** – A For Sale sign erected by a realtor. Mr. Knotek stated he contacted the Real Estate Agent and informed her the structure must be demolished. He stated very clearly that due to the condition of the structure repairs cannot be made and any advertisement indicating a structure on the property is in violation.

**C2010-1139: 144 S Timberlane Drive** – Mr. Knotek stated the information for the owner is not valid now. He is trying to obtain the new location of the property owner.

**C2010-1177: 2275 Eslinger Drive** – Waiting for a check from the property owner to demolish the structure.

**C2010-1178: 1118 Live Oak Street** – Mr. Knotek contacted DBI Demolition to remove the garage and front porch, which should be down now. Mr. Knotek will inspect the site to verify the demolition has been completed.

#### **VIII. ADJOURNMENT:**

**Mr. Heer made the motion to adjourn; seconded by Mr. Blanchette. All agreed and the hearing adjourned at 8:50 pm.**