

**THE CITIZEN CODE ENFORCEMENT BOARD
NOTICE OF HEARING
TO BE HELD AT 4:30 P.M.
JANUARY 17, 2012
CITY COMMISSION CHAMBERS, 210 SAMS AVENUE
NEW SMYRNA BEACH, FLORIDA**

Members:

John Shelby (Chair)

Michael Slayton (Vice Chair)

P.J. (Pat) Arvidson

Katharine (Kathy) L. Cooley

Megan Badgley

Beverly Palmer

Sylvan McElroy

THIS SHALL SERVE AS YOUR OFFICIAL NOTIFICATION of a hearing of the Citizens Code Enforcement Board, to be held on TUESDAY, January 17, 2012 at 4:30 P.M. in the City Commission Chamber, City Hall, 210 Sams Avenue, New Smyrna Beach, Florida, for consideration of the following:



Michael Slayton, Vice 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 15, 2011

IV. SWEARING OF CITY STAFF

V. OLD BUSINESS:

C2011-0629: That's Amore 103 S. Pine Street Served

- A) Obstructing, restricting or preventing the use of portions of the City sidewalk in violation of §70-2. (a) of the City Code of Ordinances.
- B) Operation of a business with an expired Business License Tax Receipt (Acct #: 5825) in violation of §74-146. of the City Code of Ordinances.

November 15, 2011: The Board found That's Amore in violation of §70-2. (a) of the City Code of Ordinances giving That's Amore until the 19th day of January, 2012, to bring the property into full compliance. The Board found That's Amore in compliance with §74-146. of the City Code of Ordinances.

VI. NEW BUSINESS:

C2011-0463: J & B Property Group 549 Charlovix St. Served

Weeds and undergrowth upon the subject property in violation of Article IV Nuisances §38-111. of the City Code of Ordinances.

C2011-0481: Marlene Djusic 2612 N. Dixie Freeway Served

- A) Enclosed carport and installation of an air handler before obtaining a permit in violation of §26-172. of the City Code of Ordinances.
- B) Converted single family home to a multi-family home without site plan review and approval in violation of §303.1 of the Land Development Regulations.
- C) Inoperative and/or unlicensed vehicles upon the subject property in violation of §302.8 of the International Property Maintenance Code, 2006 Edition.
- D) Exterior door has not been maintained in violation of §304.15 of the International Property Maintenance Code, 2006 Edition.

- E) Interior surfaces have not been maintained in violation of §305.3 of the International Property Maintenance Code, 2006 Edition.
- F) Property has not been maintained to prevent insect and rodent infestation in violation of §308.1 of the International Property Maintenance Code, 2006 Edition.

C2011-0738: John Perry 721 Dougherty St. Served

- A) Trash and debris upon the subject property in violation of §26-914 (9) of the City Code of Ordinances. **(In compliance)**
- B) Operation of a business (Firewood Sales, Tree Removal and Trimming) without a business license tax receipt in violation of §74-146. of the City Code of Ordinances. **(In compliance)**
- C) Storing trailers without current license plates in violation of §802.02 of the Land Development Regulations.

VII. IMPOSE FINES:

C2011-0567: Island Town Center 103 N. Causeway Served

Weeds and undergrowth upon the subject property in violation of Article IV Nuisances §38-111 of the City Code of Ordinances.

On the 20th day of October 2009 the Code Enforcement Board found the above captioned individual and/or entity in violation of Article IV Nuisances §38-111 of the City Code of Ordinances.

November 15, 2011: The Board found Island Town Center in violation of a repeat offense of §38-111. of the City Code of Ordinances and face a fine of \$100.00 per day for each and every day the property remains in violation beginning two (2) days after the certified mail return receipt is returned to the Code Enforcement Office. Fine totals \$5100 dollars for a total of 51 days (11/27/2011 – 01/16/2012).

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 15, 2011
CITY COMMISSION CHAMBERS, CITY HALL,
210 SAMS AVE, NEW SMYRNA BEACH, FLORIDA

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

Michael Slayton (Vice Chair)

Beverly Palmer

Megan Badgley

Katharine Cooley

Pat Arvidson

Sylvan McElroy

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 was 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**

September 20, 2011

Ms. Arvidson made a motion to approve the minutes of the September 20, 2011 hearing as written; seconded by Ms. Badgley. Motion passed on roll call vote 6-0.

IV. **SWEARING OF CITY STAFF**

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

V. **OLD BUSINESS:**

VI. NEW BUSINESS:

C2011-0629: That's Amore

103 S Pine St

- A) Obstructing, restricting or preventing the use of portions of the City sidewalk in violation of §70-2. (a) of the City Code of Ordinances.
- B) Operation of a business with an expired Business License Tax Receipt (Acct #:5825) in violation of §74-146 of the City Code of Ordinances.

Chad Schilsky, Owner was present and sworn in for testimony.

Mr. Schilsky stated for the record that he agrees to the violations.

Officer Bobelak stated for the record that Item B is in compliance so Item A is the only consideration for this meeting.

Mr. Schilsky stated for the record that the potted palm trees which are used as boundary markers create the obstruction of the sidewalk when they are moved by the customers. Mr. Schilsky further stated an awning extension has been added and he is at the mercy of the contractor, Sunstate Awning, to complete the work. Mr. Schilsky stated that a railing will be erected when the awning is completed which will establish the boundary area. Mr. Schilsky further stated that he will either permanently secure the potted palm trees into brick pavers or connect them to the railing in some manner to prevent them from being moved.

Officer Bobelak submitted photographs showing the designated area of sidewalk and the placement of the plants. Discussion ensued among the Board, Staff and Mr. Schilsky regarding reason to establish a boundary area, if obstruction is caused by just plants, approximate time for completion of awning and if there would be any problems with palms being permanently installed.

Mr. Slayton asked staff for a recommendation.

Officer Bobelak stated staff's recommendation is to find the property in violation of plants obstructing pedestrian traffic, give him until January 17, 2012 to bring into full compliance and to keep plants out of the right-of-way.

Discussion ensued among the Board, Staff and Mr. Schilsky regarding the required amount of sidewalk clearance, stipulations of license agreement with the City for addition, railing versus fencing and usage of other material to establish boundary.

Ms. Cooley made a motion to find case C2011-0629 in violation and give Mr. Schilsky until January 12, 2012 to come into compliance; seconded by Ms. Badgley. Motion carried unanimously upon roll call, 6-0.

VII. REPEAT BUSINESS:

C2011-0567:

Island Town Center

103 N Causeway

Weeds and undergrowth upon the subject property in violation of Article IV Nuisances §38-111 of the City Code of Ordinances.

On the 20th day of October 2009 the Code Enforcement Board found the above captioned individual and/or entity in violation of Article IV Nuisances §38-111 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 testified the certified mail was received and signed for by Alice Mendez on October 26, 2011, so the property owners are aware of today's hearing. Officer Bobelak further testified that to date no representative of the property has contacted her. Officer Bobelak submitted photographs showing the condition of the property. Officer Bobelak stated it is staff's recommendation to find Island Town Center in violation of a repeat violation and to face a fine of \$100 per day starting immediately until property comes into compliance.

Ms. Cooley made a motion to impose a fine of \$100.00 per day starting two (2) days after Code Enforcement receives the signed receipt until property comes into compliance; seconded by Ms. Arvidson. Motion carried unanimously upon roll call, 6-0.

VIII. ADJOURNMENT:

Ms. Cooley made the motion to adjourn; seconded by Ms. Badgley. All agreed and the hearing adjourned at 4:50 P.M.