

MINUTES OF THE CITIZENS CODE ENFORCEMENT BOARD  
HEARING HELD AT 4:30 P.M.  
MARCH 18, 2008  
UTILITIES COMMISSION, DEBERRY ROOM, 3<sup>RD</sup> FLOOR, 200 CANAL STREET,  
NEW SMYRNA BEACH, FLORIDA

The Hearing of March 18<sup>th</sup>, 2008 was called to order at 4:30 p.m. Answering to roll call:

Michael E. Slayton, Chairperson

John Shelby, Vice Chairperson

Jay Crocker

Carol Kerrigan

Keith Gerhartz

Ken Taylor

Also present were Code Enforcement Supervisor Lynne Kunkle, Code Enforcement Officer Barbara Bobelak, Assistant City Attorney Greg McDole and Administrative Specialist Claudia Soulie. Board Member Pat Arvidson was absent.

### **ELECTIONS**

**Chairperson Michael Slayton made the motion to nominate Carol Kerrigan for the position of Chairperson; seconded by John Shelby. Mr. Crocker closed the nominations. Motion carried on roll call vote 6-0.**

**Jay Crocker made the motion to nominate John Shelby to continue in his position of Vice-chair; seconded by Carol Kerrigan. Mr. Gerhartz closed the nominations. Motion carried on roll call vote 6-0.**

Mr. Slayton handed over the gavel to the new Chairperson Carol Kerrigan.

### **DISCLOSURE OF EX PARTE COMMUNICATIONS:**

None

### **APPROVAL OF MINUTES**

**Mr. Crocker made the motion to approve the minutes of the February 19<sup>th</sup>, 2008 hearing; seconded by Mr. Gerhartz. Motion carried on roll call vote 6-0.**

**SWEARING OF CITY STAFF:**

Regina Lynne Kunkle, Code Enforcement Supervisor and Barbara Jo Bobelak, Code Enforcement Officer were sworn for testimony.

**OLD BUSINESS:**

**C2007-0813: Carol Lukban 213 Crawford Rd. [SERVED]**

- (A) Permitting or causing to be permitted construction without the required permits in violation of §26-171. of the City Code of Ordinances.
- (B) Permitting or causing to be permitted a business operation (2 or more rental units) without having paid the business license tax in violation of §74-146 of the City Code of Ordinances.
- (C) Permitting or causing to be permitted an accessory structure to exist that has not been maintained in good repair in violation of §302.7 of the International Property Maintenance Code, 1998 Edition.

February 19, 2008: Board made the motion to continue this case until the 18<sup>th</sup> day of March, 2008.

Ms. Carol Colette Lukban, owner of 213 Crawford and Roy Whitehorn, contractor/builder were sworn for testimony. Ms. Lukban asked that all questions be directed to Mr. Whitehorn and staff agreed.

Ms. Kerrigan asked if they wished to contest the violations or supply the Board with information. Mr. Whitehorn stated that he had been in touch with Ms. Bobelak and informed the Board that the issues with the accessory structure had been corrected and continued that he was in the process of getting the appropriate permits as described in items A and B above.

Ms. Kerrigan asked for the City's recommendation. Ms. Bobelak confirmed Mr. Whitehorn's testimony and recommended the Board give them fifteen (15) days to obtain the necessary permit(s).

**Mr. Crocker made the motion to find item C in compliance, items A and B in violation and gave Carol Lukban until the April 15<sup>th</sup>, 2008 hearing to come into full compliance with items A and B or face a fine of \$100 per day for each and every day the violations continued to exist; seconded by Mr. Shelby. Motion carried on roll call vote 6-0.**



Ms. Soulie informed the Board that the above case was in compliance and would not need to be heard.

**C2008-0065:      Jacquelyn Pedrosa      428 N. Myrtle Ave.      [POSTED 2.22.08]**

Permitting or causing to be permitted a vacant structure to exist, which has not been maintained in a clean, safe, secure, and sanitary condition thereby adversely affecting the public health and safety, in violation of §301.3 of the International Property Maintenance Code, 1998 Edition.

Ms. Kerrigan stated that nobody was present on behalf of this case.

Ms. Bobelak informed the Board that she posted the property on February 6, and February 22, 2008. The property had been mowed, but nothing had been done to the vacant structure. Ms. Bobelak submitted pictures of the property to the Board. Repeated attempts to contact the property owner have failed. Ms. Bobelak felt that the property owner might be deceased and stated that taxes on this property were being paid.

Board and staff discussed the regulations and handling process for these types of cases, which were enforced by the Building Department through the Building Trades Board; for the Code Board to take action concurrently with the Building Department to get this case resolved as soon as possible; and what could be the Board's recourse should nothing be done.

Ms. Kunkle recommended the Board find this property in violation and impose a fine should the property not come into compliance by a specified time.

**Mr. Gerhartz made the motion to find the property in violation and give the respondent fifteen (15) days to apply for the necessary building permit(s) or face a fine of \$250 per day for each and every day the permit(s) were not obtained and three (3) months to come into full compliance or face a fine of \$250 per day for each and every day the violation continued to exist; as well as referring this case over to the Building Department for presentation to the Building Trades Board for possible condemnation; seconded by Mr. Crocker. Motion carried on roll call vote 6-0.**

**C2008-0111:      Antoinette M. Granieri      309 Buenos Ayres St.      [SERVED]  
(Toni and Joe)**

Permitting or causing to be permitted the use of musical instruments, inside or outside a bar in such a manner that the sound produced by such devices is plainly audible while standing within the boundary limits of an adjacent or neighboring property zoned for residential use.

Ms. Soulie informed the Board that the above case was in compliance and would not need to be heard.

**REPEAT BUSINESS:**

**C2008-0113:            Michael S. & Tammy B. Chisholm            104 Inlet Shores  
[SERVED]**

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.

David Owens and Fred Heise, representing Inlet Shores as well as Wayne Murphy, owner of the vacant lot next to 104 Inlet Shores, were sworn for testimony. Mr. Heise felt that Mr. Chisholm was cleaning up his property just to let it get run down again. This had been an ongoing situation and he asked the Board what kind of assurance his community could get that this problem would be rectified. Mr. Heise had been in touch with the City Manager and the Mayor and he was still waiting for results.

Mr. Murphy informed the Board that Mr. Chisholm used his lot to store various items including hazardous materials.

Staff gave a brief history of the respondent running a recycling business from his property and concurred with Mr. Heise and Mr. Owens that this was an ongoing problem.

The Board and staff discussed current fines and liens running on the property; the difference between homesteaded property and homestead tax exemption; what constituted a repeat violation; for the neighbors to possibly contact a lawyer; and for City staff to do research as to the status of the *Lot Maintenance or nuisance abatement ordinance*.

**Mr. Taylor made the motion to find the property in repeat violation and fine the respondent \$500 a day starting immediately for each and every day the violation was allowed to continue; seconded by Mr. Gerhartz. Motion carried on roll call vote 5-1 with Mr. Crocker casting the dissenting vote.**

Mr. Taylor suggested for Ms. Kerrigan to attend the next City Commission meeting and make a presentation in regards to passing the lot ordinance, so the Code Board could be more effective.

**Mr. Crocker made the motion to authorize Chairperson Carol Kerrigan to represent the Code Board at the next Commission Meeting and to request the City Commission expedite the *lot maintenance/nuisance abatement* ordinance; seconded by Mr. Shelby. Motion carried on roll call vote 6-0.**

**ADJOURNMENT:**

**Mr. Slayton made the motion to adjourn at 5:40 pm and all agreed.**

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:

Claudia Soulie  
Administrative Specialist  
% City Hall  
210 Sams Avenue  
New Smyrna Beach, FL 32168-9985  
Telephone: 386.424.2265  
Fax: 386.424.2148