

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

The Hearing of November 18, 2008 was called to order at 4:30 p.m. Answering to roll call:

Carol Kerrigan (Chair)
John Shelby (Vice Chair)
Michael Slayton
P.J. (Pat) Arvidson
Keith Gerhartz

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 Ken Taylor was absent and one seat remained vacant.

DISCLOSURE OF EX PARTE COMMUNICATIONS:

None

APPROVAL OF MINUTES:

Mr. Slayton made a motion to approve the minutes of the October 21, 2008 hearing; seconded by Mr. Shelby. Motion carried unanimously on roll call vote 5-0.

SWEARING OF CITY STAFF

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

CASES IN COMPLIANCE WITH THE BOARD'S ORDER:

None

OLD BUSINESS:

**C2008-0387: John H. Simmons
545 Charlovix St.**

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

October 21, 2008: The Board gave John H. Simmons until the 31st day of October, 2008 to come into full compliance or face a fine of \$25.00 per day. Fine totals \$450.00 for a total of 18 days.

No one was present on behalf of this case.

Ms. Bobelak stated that she posted a Notice of Hearing with an attached Board's order at the subject property on November 4, 2008. Ms. Bobelak continued that the property remained in the same condition and recommended the Code Board continue to find this subject property in non-compliance and to authorize the City attorney to record a lien.

Mr. Gerhartz asked staff to include a brief summary under each case on the agenda, which staff duly noted.

Mr. Slayton made a motion to find case C2008-0387 still in non-compliance and to authorize the City attorney to record a lien against the subject property; seconded by Mr. Shelby. Motion carried unanimously on roll call vote 5-0.

**C2008-0833: Odyssey (III) DP VII LLC
144 S. Timberlane Drive**

Permitting or causing to be permitted the installation of real estate signs in excess of five and one-half (5-1/2) square feet without a permit in violation of §604.14 C. of the Land Development Regulations.

October 21, 2008: The Board gave Odyssey (III) DP VII LLC until the 26th day of October, 2008 to come into full compliance or face a fine of \$75.00 per day. Fine totals \$1,725.00 for a total of 23 days.

No one was present on behalf of this case.

Ms. Bobelak stated that the company had applied for a sign permit, had been in touch with City staff and upon encountering non-city related obstacles, decided to remove the

signs. Ms. Bobelak recommended the Board find the subject property in full compliance and to reduce the fine to zero dollars.

The Board asked a few questions about the amount of the fine and a brief discussion ensued between the Board and Staff about the ease of removing the signs.

Ms. Arvidson made a motion to find case C2008-0833 in full compliance and to reduce the fine to zero (0) dollars; seconded by Mr. Gerhartz. Motion carried unanimously on roll call vote 5-0.

**C2008-0893: CRF-NSB, LLC
1851 SR 44**

Permitting or causing to be permitted more than the allowable number of real estate signs upon the subject property in violation of §604.14 C. of the Land Development Regulations.

October 21, 2008: The Board gave CRF-NSB, LLC until the 26th day of October, 2008 to come into full compliance or face a fine of \$75.00 per day. Fine totals \$1,725.00 for a total of 23 days.

No one was present on behalf of this case.

Ms. Bobelak stated that the company had removed one sign and left the other one. Ms. Bobelak continued that the company never applied for a sign permit, and presented the Board with a photo she had taken the day of the hearing, that depicted the remaining sign. Ms. Bobelak recommended that the Board find the subject property in continued non-compliance and to authorize the City attorney to record a lien.

Ms. Arvidson asked if anyone from this company had been in contact with city staff. Ms. Bobelak stated that the last contact had been made in September 2008.

Mr. Slayton made a motion to find case C2008-0893 in continued non-compliance and to authorize the City attorney to record a lien against the subject property; seconded by Mr. Shelby. Motion carried unanimously on roll call vote 5-0.

NEW BUSINESS:

**C2008-0801: Island Town Center, LLC
103 N. Causeway**

- (A) Permitting or causing to be permitted weeds and undergrowth upon the subject property in violation of Article IV Nuisances, §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 Article IV Nuisances, §38-113. of the City Code of Ordinances.

No one was present on behalf of this case.

Ms. Soulie informed the Code Board that this case had come into full compliance and did not need to be heard.

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Mr. Gerhartz suggested a standard period at the end of each meeting for the Board members to discuss topics. Ms. Kerrigan agreed and staff made note of this request.

Mr. Gerhartz inquired about the compliance date for the Brown Fox case and that he would like to be kept informed about its progress. Ms. Kunkle stated that staff had withdrawn the case, as it was based on a standard housing code, which had been repealed. Ms. Kunkle continued that the code would have to be reviewed and the case represented to the Board.

Mr. Gerhartz wanted to confirm that there would be no Code Board Hearing in December, which Ms. Kunkle affirmed.

ADJOURNMENT:

Mr. Slayton moved to adjourn at 4:45 p.m. 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