

MINUTES OF THE CITIZENS CODE ENFORCEMENT BOARD
HEARING
HELD AT 4:30 P.M. - JANUARY 20, 2009
UTILITIES COMMISSION, DEBERRY ROOM, 3RD FLOOR, 200 CANAL STREET,
NEW SMYRNA BEACH, FLORIDA

The Hearing of January 20, 2009 was called to order at 4:30 p.m. Answering to roll call:

Carol Kerrigan (Chair)
John Shelby (Vice Chair)
Michael Slayton
Ken Taylor
Katharine Cooley

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 Keith Gerhartz arrived at 4:35 pm and Board member Pat Arvidson was absent.

DISCLOSURE OF EX PARTE COMMUNICATIONS:

Ms. Cooley, Realtor and new member to the Code Board, stated that she had stopped by Gib Dannehower's property to inquire about potential properties for sale on Cunningham.

Mr. McDole, Assistant City Attorney informed that, unless the conversation pertained to an agenda item, it would not be relevant.

APPROVAL OF MINUTES:

Mr. Shelby made a motion to approve the minutes of the November 18, 2008 hearing as written; seconded by Mr. Taylor. Motion carried unanimously 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.

CASES IN COMPLIANCE WITH THE BOARD'S ORDER:

N/A

OLD BUSINESS:

**C2007-0829: Gilbert L. Dannehower
 137 Cunningham Dr.**

Permitting or causing to be permitted tree removal without the required tree removal permit in violation of §604.051 A. of the Land Development Regulations.

Review of the first quarterly report per the Board's Order dated the 16th day of September 2008.

July 15, 2008: The Board found Gilbert L. Dannehower in violation and gave Mr. Dannehower 30 days to bring the property into compliance. Mr. Dannehower failed to comply with the Board's Order and the fine of \$250.00 per day started on the 18th day of August, 2008.

August 19, 2008: The Code Enforcement Board's Hearing was cancelled due to Tropical Storm Fay.

September 16, 2008: Gilbert L. Dannehower requested a modification to the Board's Order dated July 15, 2008. The Board modified the Order giving Mr. Dannehower until September 15, 2009 to come into compliance. Mr. Dannehower is to provide the Board with quarterly reports with the first report due on December 16, 2008.

No one was present on behalf of this case.

Ms. Kunkle asked if the Board Members had a chance to review Mr. Dannehower's December report included in the agenda package.

A brief discussion ensued between staff and the Code Board members if the report was satisfactory and how many replacement trees were required and had been planted already. Ms. Kunkle stated that, per the City's Development Services Director, Mangroves might not be an acceptable replacement in lieu of the trees.

Ms. Kerrigan inquired about Mr. Dannehower's reference of needing a permit from the Department of Environmental Protection (DEP) and felt that more information was needed. Ms. Kunkle offered to contact DEP.

Mr. Gerhartz suggested that staff send Mr. Dannehower a formal letter requesting copies of any correspondence that occurs between Mr. Dannehower and DEP and that staff be kept informed. Mr. Gerhartz also asked to see the staff report that indicated how many trees have to be planted to remediate.

Mr. Shelby felt that it would be best to reject this report, based on the lack of submitted correspondence between Mr. Dannhower and DEP.

Ms. Kunkle asked if that required a modification to the Board's Order and Mr. McDole stated it did not, as Mr. Dannehower had until September 15, 2009 to come into compliance.

Ms. Kunkle further inquired if that letter had to be in the format of a Board's Order and Mr. McDole stated that a regular letter would suffice.

Ms. Kerrigan was doubtful about Mr. Dannehower's effort in trying to come into compliance.

Mr. Shelby made a motion to reject the December report for case C2007-0829 and to request Mr. Dannehower forward any correspondence between he and DEP to Code Enforcement staff; seconded by Mr. Slayton. Motion carried unanimously on roll call vote 5-0.

VII. NEW BUSINESS:

C2008-1066: Harbor View Development, LLC 1216 S. Riverside Dr.

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

Case withdrawn by Code Enforcement Staff.

Ms. Cooley inquired about the Code Enforcement Department's authority for properties in foreclosure. Ms. Kunkle stated that once a property was in foreclosure, staff's authority was limited.

VIII. REPEAT BUSINESS:

N/A

IX. DISCUSSION

Ms. Kerrigan informed her fellow Code Board members that January 20, 2009 would be her last Code Board hearing and thanked everyone for their hard work and efforts.

Ms. Kunkle stated that Mr. Shelby would chair February's meeting.

Ms. Kerrigan formally introduced Katharine Cooley as the new Code Board member.

Ms Kunkle addressed Mr. Slayton and Ms. Cooley (she took over Mr. Crocker's term) and informed them that their terms would be coming up for re-appointment.

Mr. Gerhartz asked for an update on a previous case (old Brown Fox). Ms. Kunkle stated that this case was in the hands of the Building Department and that she was not able to go into detail, as this case may be re-presented to the Board in the future.

Mr. Gerhartz questioned the fact that the Code Board agenda had so few cases on it, and asked staff for a monthly report on their daily activity. Mr. Gerhartz made a motion to receive a monthly report.

Motion died for lack of a second.

Ms. Kunkle stated that she provided a monthly report to the City Manager, but that report did not contain any addresses. Mr. Gerhartz stated whatever staff sent to management would suffice.

ADJOURNMENT:

Mr. Gerhartz moved to adjourn at 5:00 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