

MINUTES OF THE CITIZENS CODE ENFORCEMENT BOARD
HEARING HELD AT 4:30 P.M.
MARCH 20TH, 2007
UTILITIES COMMISSION, DEBERRY ROOM, 3RD FLOOR, 200 CANAL STREET,
NEW SMYRNA BEACH, FLORIDA

The Hearing of March 20th, 2007 was called to order at 4:34 p.m. Answering to roll call:

Michael E. Slayton, Chairperson

John Shelby, Vice Chairperson

Maggie Hawk (Absent)

Jay Crocker

Elliott Hoffman

Carol Kerrigan

Also present were Code Enforcement Supervisor Lynne Kunkle, Code Enforcement Officer Barbara Bobelak, Assistant City Attorney Greg McDole, Administrative Specialist Jennifer Gill and Administrative Specialist Inga Fegley.

ELECTION OF OFFICERS

Carol Kerrigan made a motion to nominate Michael Slayton Chairperson; seconded by John Shelby. Motion carried unanimously on roll call vote 5-0.

Carol Kerrigan made a motion to nominate John Shelby Vice-Chairperson; seconded by Jay Crocker. Motion carried unanimously on roll call vote 5-0.

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.

None.

APPROVAL OF MINUTES

February 20th, 2007

Jay Crocker made a motion to approve the minutes as written; seconded by John Shelby. Motion passed 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.

OLD BUSINESS:

C2006-0515: Albert I. Bauer, ETAL

[served]

Violation of §301.3 of the International Property Maintenance Code, 1998 Edition by 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 located at 214 Flagler Avenue.

February 20, 2007: The Board continued this case until March 20, 2007.

Chairperson Slayton noted for the record there was no one present to speak on behalf of this case.

Ms. Bobelak stated the permit for the demolition was issued on 3/19/07 and Mr. Bauer plans to begin demolition next week. *Staff recommended to continue this case to ensure the demolition was complete.*

Mr. Shelby asked Staff if Mr. Bauer had obtained permission from the City Commission to use the back lot in order to get the trucks in and out.

Ms. Bobelak stated the equipment was too large to use in the back lot; therefore, they would need to obtain permission to use and possibly close Flagler Avenue during the demolition.

Mr. Crocker asked Staff if this Board had found this case in violation.

Ms. Kunkle stated this case had only been continued and the demolition permits were valid for six (6) months.

Carol Kerrigan made a motion to continue this case until April 17th, 2007; seconded by Elliott Hoffman. Motion carried on roll call vote 4-1 with Jay Crocker casting the dissenting vote.

C2006-0577: Richard S. Capolupo

[served]

Violation of §304.00 I. of the Land Development Regulations by permitting or causing to be permitted a building to be occupied without completing the improvements as approved on the site plan and obtaining a certificate of occupancy for 521 Flagler Avenue.

February 20, 2007: The Board gave Richard Capolupo until March 19, 2007 to come into compliance or face a fine of \$250.00 per day for each and every day the property remained in violation.

John Smith was sworn for testimony.

Mr. Smith stated he had been working with the contractor and should receive a full quote next week. Mr. Smith further stated once the contract was signed, permits could then be obtained; however, they wanted to wait until May to begin this work since this was the busy season for the business.

Mr. Crocker asked Mr. Smith if he was aware there was a \$250.00 per day fine accruing.

Mr. Smith stated he was aware of the fine and he was informed by the City that once the contract was signed and permits had been obtained that fine no longer existed.

Mr. Crocker stated the fine accrues by \$250.00 per day until the day this case was in compliance.

Ms. Bobelak recommended continuing this case until May 2007 giving them time to get the contract together and obtain the permits.

Mr. Crocker asked Ms. Bobelak what the purpose was to bring this case back in May.

Ms. Bobelak stated the fine was running and could continue to run. Mr. Smith would need to contact Staff for an inspection once the work had been completed and the continuing fine could be stopped at that time.

Mr. Crocker suggested the Board take no action on this case.

C2006-0724: Michael & Tammy Chisholm

[served]

Violation of §38-111 of the Land Development Regulations by permitting or causing to be permitted weeds and undergrowth upon the subject property located at 104 Inlet Shores Drive.

Violation of §38-113. of the Land Development Regulations by permitting or causing to be permitted discarded and abandoned waste material upon the subject property located at 104 Inlet Shores Drive.

October 17, 2006: The Board found Michael & Tammy Chisholm in violation of §38-111 and §38-113. of the Land Development Regulations and gave them until October 27th, 2006 to bring the property into compliance or face a fine of \$100.00 per day for each and every day the subject property remains in violation. A fine of \$100.00 per day started on October 28th, 2006 and totals \$2,500.00 to date (25 days).

November 21, 2006: **The Board found Michael & Tammy Chisholm in compliance of §38-111 of the Land Development Regulations. The Board further requested the City Attorney to record a lien on this property with fines continuing to accrue until the property is in compliance of §38-113. of the Land Development Regulations. A fine of \$100.00 per day started on October 28th, 2006 and totals \$14,400.00 to date (144 days).**

Chairperson Slayton noted for the record there was no one present to speak on behalf of this case.

Ms. Bobelak stated on December 4, 2006 the City recorded a lien on the property and *Staff is recommending that the Board authorize the City Attorney to foreclose on the property.*

Carol Kerrigan made a motion to authorize the City Attorney to start foreclosure on this proper. Seconded by John Shelby.

Mr. Crocker asked if it was really necessary for the Code Board to authorize the Assistant City Attorney to foreclose on this property. Mr. McDole stated that after three months the City has the right to start foreclosure proceedings. Mr. McDole stated that he would have to research this case due to the fact that the family is living in the home and can file a homestead exemption.

NEW BUSINESS:

C2007-0022: John H. Simmons

[posted 3/3/07]

Violation of §38-111 of the City Code of Ordinances by permitting or causing to be permitted weeds and undergrowth upon the subject property located 545 Charlovix Street.

Chairperson Slayton noted for the record there was no one present to speak on behalf of this case.

Ms. Bobelak stated that the owner of this property was deceased and the property had not been taken care of in over two years.

Chairperson Slayton asked if there had been any communication with anyone.

Ms. Bobelak stated that there had not been any communication with anyone but that the property had been posted on March 3, 2007.

Ms. Kerrigan asked Ms. Bobelak if there had been an amendment to the Lot Maintenance Ordinance. Ms. Bobelak stated that she thought it had been discussed but was not sure what the status was on the amendment.

Mr. McDole stated that he had it on his desk to review.

Mr. Crocker stated that he needed evidence. Ms. Bobelak had pictures that Ms. Kunkle had taken on March 20, 2007. Chairperson Slayton asked if there was a structure on the property, Ms. Bobelak stated that the property was a vacant lot.

Chairperson Slayton asked what the staff was recommending, Ms. Bobelak stated to find the property in violation with so many days to clean the property.

Staff recommended the Board give Mr. Simmons ten days to mow the property or face a fine of \$25.00 per day.

John Shelby made a motion to find this case in violation and give the property owner ten days to mow the lot or face a fine of \$25.00 per day; seconded by Carol Kerrigan. Motion carried on roll call vote 4-1 with Jay Crocker casting the dissenting vote.

C2007-0074: Michael Scott Wood

[served]

Violation of §38-113. (a) of the City Code of Ordinances by permitting or causing to be permitted discarded and abandoned waste material upon the subject property located at 2506 Hill Street.

Chairperson Slayton noted for the record there was no one present to speak on behalf of this case.

Ms. Kunkle withdrew the case.

Mr. Crocker made a motion to have the City Commission look at creating an ordinance to abate nuisances such as overgrown lots; Seconded by Carol Kerrigan. Ms. Kunkle stated that she would draft a letter for Chairperson Slayton to sign to present to the City Commission. Motion passed unanimously 5-0.

REPEAT BUSINESS:

No repeat business.

DISCUSSION:

The Board members introduced themselves to Tom Wheeler the new board member.

ADJOURNMENT:

Chairperson Slayton made a motion to adjourn; seconded by John Shelby. All agreed and the Board adjourned at 5:00 pm.

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:

Jennifer Gill
Administrative Specialist
% City Hall
210 Sams Avenue
New Smyrna Beach, FL 32168-9985
Telephone: 386.424.2265
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