

MINUTES OF THE CITIZENS CODE ENFORCEMENT BOARD
HEARING HELD AT 4:30 P.M.
APRIL 17TH, 2007
UTILITIES COMMISSION, DEBERRY ROOM, 3RD FLOOR, 200 CANAL STREET,
NEW SMYRNA BEACH, FLORIDA

The Hearing of April 17th, 2007 was called to order at 4:30 p.m. Answering to roll call:

Michael E. Slayton, Chairperson

John Shelby, Vice Chairperson

Maggie Hawk

Jay Crocker

Elliott Hoffman

Carol Kerrigan

Tom Wheeler

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

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

April 17th, 2007

Jay Crocker made a motion to approve the minutes as written; seconded by Carol Kerrigan. Motion passed unanimously on roll call vote 7-0.

SWEARING OF CITY STAFF:

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

OLD BUSINESS:

None.

NEW BUSINESS:

C2007-0067: KB Home Gold Coast, LLC

[served]

Violation of §604.051 of the Land Development Regulations by permitting or causing to be permitted the removal of a Live Oak tree without first obtaining a tree removal permit from the property located at Aeolian Drive, Isles of Sugar Mill-Tract B.

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

Ms. Kunkle stated that KB Home had accidentally removed a sixty-inch historic oak tree with a piece of heavy equipment, and that they are required to plant ten trees, six inches in diameter, as replacement trees. Ms. Kunkle stated that Staff is recommending that the Board find that KB Home has violated the City Ordinance.

Chairperson Slayton asked Ms. Kunkle if the trees would be replaced with the same species. Ms. Kunkle stated that was correct and the trees would be Live Oak trees.

Mr. Crocker asked Ms. Kunkle if there was evidence to support the finding of a violation. Ms. Kunkle stated that she had not seen the tree before it had been removed but did see the hole where it once stood. Ms. Kunkle stated that Staff would bring in sufficient evidence.

Mr. McDole stated that the attorney for KB Homes, Dan Webster had admitted that KB Homes had removed the historic tree and through correspondence Mr. McDole and Mr. Webster had agreed to a settlement to have KB Homes replace the trees.

Mr. Crocker moved to continue this case until the May 15, 2007 Code Board Hearing; seconded by John Shelby. Motion carried on roll call vote 5-1 with Carol Kerrigan casting the dissenting vote. Mr. McDole stated that he would like to have all parties re-notified.

C2007-0074: Michael Scott Wood

[served]

Violation of §38-113. 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.

Mr. Keith Gerhartz of 2808 Hill Street was sworn for testimony.

Chairperson Slayton asked Mr. Gerhartz if he was a part of this case and Mr. Gerhartz stated no he was only at this meeting to testify to the condition of this property.

Ms. Kunkle stated that there was remaining debris from the demolition, and she submitted photographs for the Board's review.

Mr. Crocker asked Ms. Kunkle if §38-113 of the Code of Ordinances was part of any previous violations that had occurred at 2506 Hill Street. Ms. Kunkle stated this was not a previous offense.

Mr. Wheeler asked Ms. Kunkle if there had been any fines in the past two years. Ms. Kunkle and Mr. Crocker responded that they did not recall any fines.

Ms. Kunkle recommends the Board give the owner ten days to remove the debris or face a fine of two hundred fifty dollars per day.

Carol Kerrigan made a motion to find C2007-0074, Michael Scott Wood in non-compliance of the stated ordinance and to give the owner 10 days to bring the property into compliance or face a fine of \$250.00 per day for each and every day the property remains in non-compliance; seconded by Jay Crocker. Motion passed unanimously on roll call vote 7-0.

C2007-0100: Bouchelle Island Community Svc. Assoc. Inc [served]

Violation of §304.00. A. of the Land Development Regulations by permitting or causing to be permitted construction (docks, electrical, plumbing and sewer pump-out system) without the required permits located at 301 Harbour Boulevard

Steven K. Hornby, Property Manager, Bouchelle Island was sworn for testimony.

Chairperson Slayton asked Mr. Hornby if he is in agreement with the charges that have been brought against Bouchelle Island. Mr. Hornby stated that he is in agreement.

Mr. Crocker stated that Staff did not have to present this case because Mr. Hornby had stipulated that Bouchelle Island is in violation.

Ms. Kunkle recommended that the Board find Bouchelle Island Community Association in non-compliance and continue this case until such time as Staff decides to bring this case back.

Ms. Kerrigan made a motion to find C2007-0100; Bouchelle Island Community Service Association, Inc. in non-compliance; seconded by John Shelby. Motion passed unanimously on roll call vote 7-0.

C2007-0208: KB Home Gold Coast, LLC

[served]

Violation of §604.14 B of the Land Development Regulations by permitting or causing to be permitted prohibited signs in the right-of-way located on State Road 44, and Pioneer Trail.

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

Officer Bobelak submitted a picture of a sign to the Board for their review.

Ms. Kunkle recommended the Board find that KB Homes had violated the ordinance and that a repeat offense would be five hundred dollars per sign, per day.

Mr. Shelby made a motion to find C2007-0208 KB Home Gold Coast, LLC. in violation of §604.14 of the Land Development Regulations and if the sign is not removed within ten days there will be a two hundred fifty dollar fine per day and if there are any further violations there will be a fine of five hundred dollars per sign, per day; seconded by Ms. Kerrigan. Motion passed unanimously on roll call vote 7-0.

C2007-0209: Engle Homes- In compliance.

REPEAT BUSINESS:

No repeat business.

DISCUSSION:

Mr. Crocker stated that he would like to have the Board request a workshop with the City Commission.

After discussion, Mr. Crocker made a motion to request to the City Commission to schedule a workshop with the Code Enforcement Board; seconded by Ms. Kerrigan.

Mr. McDole stated that an ordinance was being put into place to allow the City to take care of vacant lots that had been overgrown. He also stated with regards to signs being in the public right-of-way the City has the right to pick up the signs.

ADJOURNMENT:

Mr. Crocker made a motion to adjourn; seconded by Chairperson Slayton. All agreed and the Board adjourned at 5:35 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
Fax: 386.424.2148