

MINUTES OF THE CITIZENS CODE ENFORCEMENT BOARD  
HEARING HELD AT 4:30 P.M.  
JULY 18<sup>TH</sup>, 2006  
UTILITIES COMMISSION, 3<sup>RD</sup> FLOOR, DEBERRY ROOM, 200 CANAL STREET  
NEW SMYRNA BEACH, FLORIDA

The Hearing of July 18<sup>th</sup>, 2006 was called to order at 4:32 p.m. Answering to roll call:

Michael E. Slayton (Chairperson)

John Shelby (Vice Chairperson)

Maggie Hawk

Jay Crocker (Absent)

Elliott Hoffman

Carol Kerrigan

Vacant Seat

Also present were Code Enforcement Supervisor Lynne Kunkle, Code Enforcement Officer Barbara Bobelak, City Attorney Frank Gummey and Administrative Specialist Inga Campbell.

**Mr. Gummey stated Mr. Crocker had informed him he would not be present at this meeting.**

**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.

**Chairperson Slayton stated he received a package, by mail, regarding Ocean Palms Beach Club. Further Mr. Slayton said that he opened it, but when he realized what it was, did not read the information and has given the package to Ms. Campbell.**

**Mr. Gummey said he also received a package from Mr. Crocker regarding Ocean Palms Beach Club, and that the documents were available to anyone who wished to inspect them. Mr. Gummey asked if it was safe to say each person on this Board received the same package of information and all Board members agreed.**

**Ms. Kerrigan stated she opened her package and looked at the documentation because she believed it was from the City of New Smyrna Beach and had no idea someone was sending evidence to the Board members outside of this meeting.**

**Ms. Kunkle stated this issue had since been corrected and that she was in possession of Mr. Shelby and Ms. Hawk's packages.**

**Mr. Gummey stated these packages being received by the Board members do not prohibit any party or person from attempting to introduce any of this package into evidence, but that he would counsel this Board not to consider this information in deliberations.**

**Ms. Hawk stated she too received and opened this package because there was no indication of what was enclosed. Ms. Hawk stated she closed the package without review and submitted the package to Ms. Bobelak first thing Monday morning.**

**Ms. Kerrigan stated she also received two phone calls from one of the neighboring property owners. Ms. Kerrigan stated the first time she believed it was regarding a property in the County and heard a lot before she knew it was in the city. Ms. Kerrigan stated the second time a call was received she directed those calls to the City of New Smyrna Beach.**

### **APPROVAL OF MINUTES**

May 16<sup>th</sup>, 2006

**John Shelby made a motion to approve the minutes as written; seconded by Elliott Hoffman. 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:**

**C2005-0571: TT of NSB, Inc. C/O New Smyrna Chrysler Jeep Dodge [Served]**

Violation of §604.05 I. by failing to maintain the landscaped areas and irrigation systems in perpetuity and by permitting nine (9) replacement trees to die within the first year of planting at 1300 N. Dixie Freeway.

**November 15, 2005:** The Board found this case in violation and continued this case until

January 17, 2006.

January 17, 2006: The Board continued this case until April 18, 2006.

April 18, 2006: The Board continued this case until July 18, 2006.

**Chairperson Slayton asked if anyone was present to speak on behalf of this case.**

**Chris Riley was present and sworn for testimony.**

**Mr. Riley stated he had replaced eight (8) of the nine (9) trees and is waiting delivery of one (1) more.**

**Ms. Kunkle stated the City had no new evidence to present. *Ms. Kunkle recommended the Board continue this case until August 15<sup>th</sup>, 2006.***

**Maggie Hawk made a motion to continue this case until the August 15<sup>th</sup>, 2006 hearing; seconded by Carol Kerrigan. Motion passed unanimously on roll call vote 5-0.**

**C2006-0037: Kathy Kerrigan Dowall**

**[Served]**

Violation of §26-171 of the City Code of Ordinances permitting or causing to be permitted construction (exterior stairs) without the required permits located at 321 Faulkner Street.

May 16, 2006: The Board found this case in violation giving Ms. Dowall five (5) days from receipt of this order to start the permitting process with the Building Department or shall pay a fine of \$20.00 per day for each and every day the said violation continues past the fifth day from receipt of this order with completion of the project on or before the 18<sup>th</sup> day of July, 2006 or until further order of this Board.

**Chairperson Slayton asked if anyone was present to speak on behalf of this case.**

**Ms. Bobelak stated this case was in compliance.**

**Chairperson Slayton asked if there was a fine regarding this case and Ms. Bobelak explained that there is no fine since Ms. Dowall submitted the permit package on May 25<sup>th</sup>, 2006 that was within the five (5) days specified by the Board.**

**John Shelby made a motion to find this case in compliance; seconded by Elliott Hoffman. Motion passed unanimously on roll call vote 5-0.**

**C2006-0094: Jimmie Kaye Walker**

**[Served]**

Violation of §74-146 of the City Code of Ordinances by permitting or causing to be permitted a business operation (Courtyard) without having paid the occupational license tax located at 501 S. Dixie Freeway.

Violation of Ordinance 1-91 of the Land Development Regulations by permitting or causing to be permitted the prohibited outdoor display and storage in a B-3 Zoning District located at 501 S. Dixie Freeway.

May 16, 2006: The Board continued this case until July 18, 2006.

**Chairperson Slayton asked if anyone was present to speak on behalf of this case and noted for the record there was no one present.**

**Ms. Bobelak testified that Ms. Walker had called and requested an extension until the September hearing and that she had applied for the occupational license.**

***Ms. Bobelak recommended the Board continue this case until September 19<sup>th</sup>, 2006.***

**Elliott Hoffman made a motion to continue this case until September 19<sup>th</sup>, 2006; seconded by John Shelby. Motion passed unanimously on roll call vote 5-0.**

**C2006-0098: Arthur J. Sullivan, Jr.**

**[Served]**

Violation of §38-113 of the City Code of Ordinances by permitting or causing to be permitted discarded and abandoned building materials, boat motors, machinery, waste material and trailers upon the subject property located at 306 Winefred Avenue.

Violation of §70-38 of the City Code of Ordinances by permitting or causing to be permitted discarded and abandoned building materials, boat motors, machinery, waste material, trailers, recreational equipment and a vehicle in excess of one (1) ton rated capacity obstructing and encroaching upon a public street located at 306 Winefred Avenue.

Violation of §802.03 D. of the Land Development Regulations by permitting or causing to be permitted a truck in excess of one (1) ton rated capacity to be parked in a residentially zoned district (R2) located at 306 Winefred Avenue.

Violation of §802.04 of the Land Development Regulations by permitting or causing to be permitted the storage of more than two (2) pieces of recreational vehicles upon the subject property located at 306 Winefred Avenue.

March 21, 2006: The Board continued this case until April 18, 2006.

April 18, 2006: The Board found Mr. Sullivan in violation of §38-113 of the City Code of Ordinances and §70-38 of the City Code of Ordinances. The Board continued the case regarding §802.03 D. of the Land Development Regulations until July 18, 2006. The Board found Mr. Sullivan in compliance with §802.04 of the Land Development Regulations.

**Chairperson Slayton asked if anyone was present to speak on behalf of this case and noted for the record there was no one present.**

**Ms. Bobelak stated Mr. Sullivan telephoned her stating he would be out of town.**

**Ms. Kunkle stated Mr. Sullivan had requested a continuance; however, she was unsure if the Board wished to entertain that request.**

**Chairperson Slayton asked if this case was the one concerning the cars.**

**Ms. Kunkle stated this case involved the truck.**

**Chairperson Slayton asked if Mr. Sullivan met with Staff concerning the registration of the truck showing the weight of the truck.**

**Ms. Kunkle testified that Mr. Sullivan has not registered the truck in his name and it does not have a current tag. Further, Ms. Kunkle testified that the cab and the trailer exceeds the rated capacity is allowed by the Land Development Regulations.**

**Carol Kerrigan made a motion to find Mr. Sullivan in violation and to give him until August 15<sup>th</sup>, 2006 to come into compliance or face a fine of \$50.00 per day.**

**Chairperson Slayton questioned whether or not the motion included any other violations.**

**Ms. Bobelak testified that she had taken photos earlier that day and submitted them for the Board's review. Ms. Bobelak further testified that the discarded and abandoned building materials were still present.**

**Mr. Gummey asked if Ms. Kerrigan's vote was to find Mr. Sullivan in violation and enter a fine of \$50.00 a day starting August 16<sup>th</sup>, 2006 for §802.04, §38-113, and §70-38 of the City Code of Ordinances.**

**Ms. Kerrigan stated that was her motion.**

**John Shelby seconded the motion. Motion passed unanimously on roll call vote 5-0.**

**C2006-0107: Keith G. Schultz**

**□**

Violation of §38-31 of the City Code of Ordinances by permitting or causing to be permitted storage of inoperable vehicles upon the subject property located at 2549 Crestwood Avenue.

Violation of §38-111 of the City Code of Ordinances by permitting or causing to be permitted discarded and abandoned waste material and weeds and undergrowth upon the subject property located at 2549 Crestwood Avenue.

April 18, 2006: The Board found this case in violation and gave Mr. Schultz fifteen (15) days to come into compliance or face a fine of \$50.00 per day for each and every day this case is not in compliance after May 3, 2006. The fine calculated to date totals \$650.00 for a total of thirteen (13) days.

May 16, 2006: The Board continued this case until July 18, 2006. The fine calculated to date totals \$3,150.00 for a total of seventy-six (76) days.

**Chairperson Slayton asked if anyone was present to speak on behalf of this case and noted for the record that no one was present.**

**Ms. Bobelak testified that she has spoken with Mr. Schultz since the last hearing and explained the code enforcement process to him. Further, Ms. Bobelak testified that Mr. Schult's lawn mower is broken, and that the vehicles have all been removed with the exception of one (1) under the carport.**

**Ms. Bobelak testified that she had taken pictures of the property earlier that day and submitted them fro the Board's review.**

***Ms. Kunkle recommended the Board continue the case until August 15<sup>th</sup>, 2006 to allow Officer Bobelak additional time to work with this property owner.***

**John Shelby made a motion to continue this case until August 15<sup>th</sup>, 2006; seconded by Maggie Hawk. Motion passed unanimously on roll call vote 5-0.**

**C2006-0190: Michael Scott Wood**

**[Served]**

Violation of §102.2 of the International Property Maintenance Code, 1998 Edition by permitting or causing to be permitted a structure to exist with the equipment, systems, devices and safeguards required by the International Property Maintenance Code, a previous regulation, or the code under which the structure was constructed, altered or repaired, to no longer be maintained in good working order located at 2506 Hill Street.



maintained in good repair, is no longer structurally sound and sanitary and poses a threat to the public health, safety and welfare located at 2601 S Atlantic Avenue.

Violation of §303.2 of the International Property Maintenance Code, 1998 Edition by permitting or causing to be permitted the exterior wood surfaces of the buildings have not been protected from the elements and decay by painting or other protective covering or treatment located at 2601 S Atlantic Avenue.

Violation of §303.4 of the International Property Maintenance Code, 1998 Edition by permitting or causing to be permitted structural members have deteriorated and are no longer capable of supporting the imposed dead and live loads located at 2601 S Atlantic Avenue.

Violation of §303.5 of the International Property Maintenance Code, 1998 Edition by permitting or causing to be permitted the foundation walls are no longer plumb and have open cracks located at 2601 S Atlantic Avenue.

Violation of §303.6 of the International Property Maintenance Code, 1998 Edition by permitting or causing to be permitted the exterior walls have not been kept free from holes, breaks, loose or rotting materials and maintained weatherproof and properly coated to prevent deterioration located at 2601 S Atlantic Avenue.

Violation of §303.7 of the International Property Maintenance Code, 1998 Edition by permitting or causing to be permitted the roofs have not been maintained which causes the interior to be exposed to the elements including rain that is causing deterioration to the interior of the building located at 2601 S Atlantic Avenue.

Violation of §303.11 of the International Property Maintenance Code, 1998 Edition by permitting or causing to be permitted the exterior stairs and landing are no longer structurally sound located at 2601 S Atlantic Avenue.

Violation of §304.1 of the International Property Maintenance Code, 1998 Edition by permitting or causing to be permitted the interior of the building is no longer structurally sound and unsanitary located at 2601 S Atlantic Avenue.

Violation of §304.3 of the International Property Maintenance Code, 1998 Edition by permitting or causing to be permitted the interior surfaces, including windows and doors, are no longer in good, clean and sanitary condition located at 2601 S Atlantic Avenue.

**Jeff Bledsoe was present and sworn for testimony.**

**Chairperson Slayton asked Mr. Bledsoe if he understood the violations filed against Ocean Palms Beach Club, Inc.**

**Mr. Bledsoe stated he did understand the violations and apologized for the length of time it has taken in finding a resolution. Further Mr. Bledsoe gave the Board a summary of the past two (2) years focusing on the previous management, ownership, insurance, financial records, funding, the contract agreement with Reed Boardman of Boardman Properties, and the three (3)-step plan that Mr. Boardman and his company put together.**

**Mr. Bledsoe testified that he has been on the property the last two weekends and has secured the structure and property by boarding the windows, fencing the property, removing exterior stairs and filled up four (4) 20 cubic yard dumpsters with trash and debris.**

**Chairperson Slayton asked Mr. Bledsoe if he found exception to any of these charges or if he agreed to the charges brought forth today.**

**Mr. Bledsoe stated he agreed with all the charges.**

**Mr. Gummey stated there had been a stipulation to violation and the Board could dispose of that matter and then move forward to the issue of remedy.**

**Maggie Hawk made a motion to find this case in violation; seconded by Elliott Hoffman. Motion passed unanimously on roll call vote 5-0.**

**Reed Boardman was sworn for testimony.**

**Mr. Boardman testified that he and Mr. Bledsoe were aware of all the deficiencies on the property and had met with Mr. McFadden, Chief Building Official, to review the preliminary scope of work. Mr. Boardman assured the Board that they have had their engineers and the building contractor review the deficiencies and would now proceed with getting the drawings and engineering requirements met for the permitting process.**

**Mr. Boardman said they could come into compliance with Code Enforcement once the permits have been received, but the timetable for obtaining the permits is unknown due to the many variables.**

**Mr. Gummey asked Mr. Boardman what his role was with the Ocean Palms Beach Club, Inc.**

**Mr. Boardman stated he is a consultant who is helping to secure a contract with a contractor, was involved in the identification of the membership, assisted with the structuring of a database of valid ownership by doing the title work.**

**Mr. Gummey asked Mr. Boardman if he had entered into a contract with a general contractor.**

**Mr. Boardman responded that the contractor has submitted a contract.**

**Mr. Gummey asked Mr. Boardman the name of the contractor.**

**Mr. Boardman said the contractor was Premier Construction of Orlando, Florida.**

**Mr. Gummey asked Mr. Boardman if design professionals had been contracted.**

**Mr. Boardman stated that this project would be a design-build through Premier Construction.**

**Ms. Kerrigan asked Mr. Boardman about the timeline of the project.**

**Mr. Boardman testified that on a realistic basis and assuming everything moves forward as hoped, approximately 30 to 60 days to get the plans back from the engineer and architect and then move forward with financing and submit the plans to the City no later than October.**

**Ms. Kerrigan stated this is hurricane season, which should start heating up within the next month or so, and this building is compromised.**

**Mr. Boardman stated he and Mr. Bledsoe are having another meeting today at the property, to see what it would take to seal up all of the exposed areas and to secure the buildings. Mr. Boardman stated they do not want to lose their buildings any more than this Board wants their buildings blowing into a neighbor's yard. Mr. Boardman stated they are very concerned about those issues and are taking steps to ensure this takes place.**

**Mr. Gummey stated he would like to hear from Staff as to their observations regarding the issue of securing and cleaning of the property.**

**Ms. Bobelak stated she would submit a copy of the three (3)-step plan, pictures that were taken on February 2<sup>nd</sup>, 2006, and pictures she had taken this morning for the Board's review and listed as Exhibit (A).**

**Discussion continued between Mr. Hoffman, Mr. Boardman, and Mr. Bledsoe regarding the number of buildings on the site, storm damage, and the deterioration caused due to a lack of maintenance, which was exposed by the storms. Further discussion pertained to the structural components of the buildings, and meeting and/or exceeding codes through reconstruction of the buildings.**

**John Shelby made a motion that this case be reviewed each month by the City's staff to make sure the area is acceptable and that vagrants cannot enter the premises and that the Board review the case in October 2006, to see where they are in the permitting process.**

**Conversation continued between the Board Members and Mr. Bledsoe and Mr. Boardman regarding ownership, the payment of taxes and assessments, and that there are legal issues concerning the property.**

**Mr. Shelby's motion died due a lack of a second.**

**Susan Latshaw was sworn for testimony.**

**Ms. Latshaw, a close neighbor to Ocean Palms, testified that the buildings have basically been destroyed and introduced a package containing photos and correspondence as evidence.**

**Ms. Latshaw confirmed that she took the photos on the weekend, a week prior to the Board's hearing.**

**Ms. Latshaw testified, to the current condition of the buildings and the potential hazards the buildings pose, as well as the erosion around the seawall.**

**Carol Kerrigan stated that she felt the owners are on the right track. They have assured the Board that they will secure any loose pieces or remove them, since this is the biggest danger and that the code does not mandate demolition of the buildings but that the owners bring the buildings into a useable state or demolish the buildings.**

**The City submitted pictures to the Board to support Ms. Latshaw's concerns regarding the beach erosion and the breaching of the seawall.**

**Conversation continued between Ms. Latshaw and the Board regarding repair or the rebuilding of the seawall, the sea turtle nesting season, and that these conditions cannot be corrected until November 1<sup>st</sup>, when the nesting season ends.**

**Ms. Kunkle made the recommendation that the owners start the permitting process now so that the permit will be in place at the end of the nesting season.**

**Chairman Slayton asked the audience if anyone has any new evidence to present.**

**Linda Hoffmeister was sworn for testimony.**

**Ms. Hoffmeister expressed her concerns regarding the condition of the property and the length of time the property has been in this condition.**

**Ms. Kerrigan made a motion to secure the buildings within thirty (30) days which includes the roofs, decks, windows, fencing and any exterior part that might be a problem and bring the case back on August 15, 2006; seconded by John Shelby. Motion passed on roll call vote 4-1 with Elliot Hoffman casting the dissenting vote.**

**C2006-0276: Diana Williams**

**[Served]**

Violation of §74-146 of the City Code of Ordinances by permitting or causing to be permitted construction of a business operation (Diana Williams, Real Estate Agent) without having paid the occupational license tax located at Weichert Realtor®, 301 Flagler Avenue.

**Ms. Bobelak testified that Ms. Williams has applied for the occupational license and recommended the Board continue this case to August 15, 2006.**

**John Shelby made a motion to continue the case to August 15, 2006; seconded by Carol Kerrigan. Motion passed unanimously on roll call vote 5-0**

**C2006-0294: Robert & Irena Lasic**

**[Served]**

Violation of §26-171 of the City Code of Ordinances by permitting or causing to be permitted construction (re-roof and addition) without the required permit located at 506 Ball Street.

Violation of §66.32 of the City Code of Ordinances by permitting or causing to be permitted trash receptacles to be in public view location at 506 Ball Street.

**In compliance.**

**C2006-0342: SE Conference Association**

**[Served]**

Violation of §108.1.3 of the International Property Maintenance Code, 1998 Edition by permitting or causing to be permitted a structure to exist that is unfit for human occupancy because of the degree to which the structure is in disrepair, is unsanitary, lacks ventilation, illumination, sanitary facilities, heating facilities and other essential equipment required by the International Property Maintenance Code located at 608 Washington Street.

**In compliance.**

**C2006-0370: Nancy W. Breiner & Anna Kay Caulfield Co/Tr**

**[Served]**

Violation of §102.2 of the International Property Maintenance Code, 1998 Edition by permitting or causing to be permitted a structure to exist with the equipment, systems, devices and safeguards required by the International Property Maintenance Code, or the code under which the structure was constructed, altered or repaired, to no longer be maintained in good working order located at 3400 S. Atlantic Avenue.

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 3400 S. Atlantic Avenue.

Violation of §74-146. of the City Code of Ordinances by permitting or causing to be permitted the operation of a business (Chance's Valet Service) without having paid the occupational license tax located at 3400 S. Atlantic Avenue.

Violation of §604.14. B. of the City Code of Ordinances by permitting or causing to be permitted private signs placed upon public property located at 3400 S. Atlantic Avenue.

**In compliance.**

**DISCUSSION:**

**ADJOURNMENT:**

**John Shelby made a motion to adjourn; seconded by Maggie Hawk. All agreed and the Board adjourned at 5:55 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:

Inga Campbell  
Administrative Specialist  
% City Hall  
210 Sams Avenue  
New Smyrna Beach, FL 32168-9985  
Telephone: 386.424.2242  
Fax: 386.424.2143