

MINUTES OF THE CITIZENS CODE ENFORCEMENT BOARD
HEARING HELD AT 4:30 P.M.
August 15TH, 2006
UTILITIES COMMISSION, 3RD FLOOR, DEBERRY ROOM, 200 CANAL STREET
NEW SMYRNA BEACH, FLORIDA

The Hearing of August 15, 2006 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

Vacant Seat

Also present were Code Enforcement Supervisor Lynne Kunkle, Code Enforcement Officer Barbara Bobelak, City Attorney Frank Gummey and Kim Terwilliger, Community Redevelopment Supervisor.

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.

Mr. Crocker said that he had received a package last month, concerning Ocean Palms Beach Club, which he had given to Mr. Gummey.

APPROVAL OF MINUTES

SWEARING OF CITY STAFF:

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

ADDENDUM:

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.

July 18, 2006: The Board continued this case until August 15, 2006.

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

Chris Riley was sworn for testimony.

Mr. Riley testified that the trees have been replaced.

Ms. Kunkle told the Board that this case is in compliance.

Carol Kerrigan made a motion finding this case in compliance; seconded by John Shelby. Motion carried unanimously on roll call vote 6-0.

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.
July 18, 2006: The Board found Mr. Sullivan in violation of §38-113 and §70-38 of the City Code of Ordinances and §802.03 D. of the Land Development Regulations and gave him until August 15, 2006 to bring the property into compliance or face a fine of \$50.00 per day for each and every day the violations continue.

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

Ms. Kunkle testified that she has not spoken with Mr. Sullivan since the July Hearing and Mr. Sullivan, to her knowledge, has not contacted her office. Further, Ms. Kunkle testified that Mr. Sullivan failed to comply with the Board's Order and the truck and waste material has not been removed from the property.

Discussion continued between Board Members and Ms. Kunkle regarding the compliance date and the fine.

John Shelby made a motion to continue this case until September 19, 2006; seconded by Jay Crocker. Motion carried unanimously on roll call vote 6-0.

C2006-0107: Keith G. Schultz [Served]

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.

July 18, 2006: The Board continued this case until August 15, 2006. The fine calculated to date totals \$5,200.00 for a total of one hundred four (104) days.

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

Officer Bobelak testified that she attempted to meet with Mr. Schultz as discussed at the July 18, 2006 Hearing, and that Mr. Schultz failed to comply with the Board's Order of April 18, 2006.

Officer Bobelak recommended the Board authorize the City Attorney to record a lien.

John Shelby made a motion to authorize the City Attorney to record a lien; seconded by Carol Kerrigan. Motion carried unanimously on roll call vote 6-0

C2006-0139: Ocean Palms Beach Club, Inc. [Served]

Violation of §303.1 of the International Property Maintenance Code, 1998 Edition by permitting or causing to be permitted the exterior of the buildings to deteriorate to such an extent that they are no longer in good repair, no longer structurally sound and sanitary and poses a threat to 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 exterior wood surfaces of the buildings that 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 structures to exist with structural members that 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 structures to exist with foundation walls that 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 structures to exist with exterior walls that 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 structures to exist with roofs that 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 structures to exist with exterior stairs and landing that 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 structures to exist with the interior of the buildings that 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 structures to exist with interior surfaces, including windows and doors, that are no longer in good, clean and sanitary condition located at 2601 S Atlantic Avenue.

July 18, 2006: The board found Ocean Palms Beach Club, Inc. in violation of all charges and gave them thirty (30) days to secure the buildings and grounds including but not limited to: roofs, decks, windows, fencing and balconies and continued the case to August 15, 2006.

Jeff Bledsoe was present and sworn for testimony.

Mr. Bledsoe testified that a permit from the Department of Environmental Protection (DEP) is needed to bring sand in and that a sample of the sand has to be tested for compatibility.

Mr. Bledsoe confirmed that the buildings have been secured and that an additional two hundred forty feet of fencing had been erected. Further, Mr. Bledsoe testified that he had met the intent of the Board's Order with the exception of one balcony and two areas of roofing above the washed out areas which will be addressed as soon as he receives the DEP permit to fill those areas.

Officer Bobelak confirmed Mr. Bledsoe's testimony and introduced pictures she had taken that morning for the Board's review.

Carol Kerrigan made a motion to continue this case until October 17, 2006; seconded by John Shelby. Motion carried on roll call vote 5-1 with Jay Crocker 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 a business operation (Diana Williams, Real Estate Agent) without having paid the occupational license tax located at Weichert Realtor®, 301 Flagler Avenue.

July 18, 2006: The Board continued this case until August 15, 2006.

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

Officer Bobelak informed the Board this case is in compliance.

John Shelby made a motion to find this case in compliance; seconded by Jay Crocker. Motion carried unanimously on roll call vote 6-0.

NEW BUSINESS:

C2006-0518: Robert O. Cory

[Served]

Violation of §90-149 of the City Code Of Ordinances by permitting or causing to be permitted an abandoned vessel in the waterway located at the Intracoastal Waterway (Indian River) South of the South Causeway.

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

Ms. Kunkle submitted pictures for the Board's review and testified that Mr. Cory had received both the Notice of Violation and Notice of Hearing by certified mail, return receipt requested, at his post office box, but there had been no contact made with her or her office.

In further discussion with the Board, Ms. Kunkle testified that the boat is sunken and during low tide a portion of the bow can be seen.

John Shelby made a motion giving Robert Cory thirty (30) days to remove the boat or face a fine of \$250.00 per day; seconded by Carol Kerrigan. Motion carried unanimously on roll call vote 6-0.

REPEAT BUSINESS:

DISCUSSION:

ADJOURNMENT:

Jay Crocker made a motion to adjourn; seconded by John Shelby. All agreed and the Board adjourned at 4:53 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