

MINUTES OF THE CITIZENS CODE ENFORCEMENT BOARD
HEARING HELD AT 4:30 P.M.
OCTOBER 17TH, 2006
UTILITIES COMMISSION, 3RD FLOOR, DEBERRY ROOM, 200 CANAL STREET
NEW SMYRNA BEACH, FLORIDA

The Hearing of October 17th, 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 Administrative Specialist Inga Fegley.

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

September 19th, 2006

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

OLD BUSINESS:

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 have not been 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.

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 appear back before the Board August 15, 2006.

August 15, 2006: **The Board continued this case to October 17, 2006 for review.**

Gene Verano was sworn for testimony.

Mr. Verano stated he was called by the Ocean Palms Beach Club Property Owner's Association to restore the washed out areas behind the seawall from the 2004 hurricanes. Mr. Verano stated he had completed this task. Mr. Verano stated it was his understanding that parties other than himself have secured the property with a chain link fence, boarded up all the first floor windows and doors, picked up miscellaneous debris and there had been backfill installed underneath the foundation that is beach compatible. The seawall is serviceable and it is the Property Owner's Association's contention that the property is serviceable and could be remodeled, which is their intention.

Upon verification by Mr. Verano that Ms. Bobelak's before-and-after pictures of the property were accurate, Ms. Bobelak submitted the pictures to the Board for their review.

Ms. Bobelak verified for Board members that the before-pictures had previously been admitted into evidence.

Mr. Crocker asked Ms. Bobelak if any of these violations had been resolved to the City's satisfaction.

Ms. Kunkle testified that the violations had not been resolved and that Ocean Palms Beach Club was to have submitted plans to the Building Department by October 15th, 2006, but as of today, nothing had been received by the Building Department.

Mr. Gummey asked Staff if all the violations were related to the structure excluding the seawall.

Ms. Bobelak stated that was correct.

Mr. Verano explained that the client has been unable to move as quickly as they would like due to deaths in the family and respectfully requests more time.

Ms. Bobelak made a recommendation to continue this case until the January 16th, 2007 meeting.

Carol Kerrigan made a motion to continue this case until the January 16th, 2007 meeting for further review; seconded by John Shelby. Motion carried on roll call vote 4-2 with Jay Crocker and Elliott Hoffman casting the dissenting votes.

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.

August 15, 2006: The Board found Robert O. Cory in violation and gave Mr. Cory thirty (30) days to come into compliance or face a fine of \$250.00 per day for each day Mr. Cory's boat remains in violation.

September 19, 2006: **The Board authorized the City of New Smyrna Beach to abate the nuisance. A fine of \$250.00 per day started on the 15th day of September, 2006 and totals \$1,250.00 to date (5 days.**

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

Ms. Kunkle stated Mr. Cory had not contacted Code Enforcement to date and that Staff verified that Agents at the UPS Store sign for all certified mail; however, the UPS Store had a logbook showing where Mr. Cory had signed for each piece of certified mail. Ms. Kunkle stated since the Board had authorized the City to abate the nuisance, Staff is getting prices to have the boat removed and the fine would continue. *Ms. Kunkle made a recommendation to continue this case.* Further, Ms. Kunkle testified that she is suspect that Mr. Cory might be a live-aboard in the river, and that an attempt by staff would be made the following day to locate Mr. Cory.

Jay Crocker made a motion to continue this case until such time further development warrants review by the Code Enforcement Board; seconded by John Shelby. Motion carried unanimously on roll call vote 6-0.

NEW BUSINESS:

C2006-0228: Frances S. Harris, ETAL

[Served]

Violation of §108.1.1 of the International Property Maintenance Code, 1998 Edition by permitting or causing to be permitted unsafe structures to exist that are dangerous to the life, health, property or safety of the public located at 512 Flagler Avenue.

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

Ms. Bobelak testified that Ms. Harris' son or nephew had been in contact with her and that she had a proposal of a contract for demolition of this structure. Ms. Bobelak presented the Board with pictures she had taken in August as well as pictures from today showing the property had been boarded up. *Ms. Bobelak recommended continuing this case until February 20th, 2007.*

Mr. Crocker asked Staff the date the contract stated demolition would take place.

Ms. Bobelak testified the contract stated once the utilities disconnects have been completed the contractor would be in to obtain the permits and would begin work within one (1) week.

Ms. Kunkle said the utilities disconnects could take 2 – 3 weeks, and then the Building Official and the Fire Marshall both have to walk the property and sign off before the permit could be issued. Ms. Kunkle estimated the contractor might be ready about one (1) month from now to begin.

Jay Crocker made a motion to find this case in violation and give the owner until January 16th, 2007 to bring the property into compliance or face a fine of \$250.00 a day for each and every day the property remains in violation; seconded by Carol Kerrigan.

Mr. Shelby asked Mr. Crocker on what grounds he found this property in violation considering he had not seen any evidence.

Mr. Crocker stated the basis for his motion was from the testimonial evidence given by the sworn City Staff.

Motion carried unanimously on roll call vote 6-0.

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 402 Flagler Avenue.

Anthony Decamillas was sworn for testimony.

Mr. Decamillas testified that he agreed the property had not been maintained as it should have been and that he had taken actions over the past year to bring the property into compliance. Mr. Decamillas testified he had made efforts to bring the property into compliance by hiring four companies since July 2005 to no avail and has since hired a new contractor and would be meeting with him tomorrow to discuss bringing this property into compliance as well as refurbish the building.

Upon verification of authenticity by Mr. Decamillas, Ms. Bobelak submitted pictures she had taken in June 2006, as well as today to the Board for their review. Ms. Bobelak explained that the pictures show that the building had been secured, the loose hanging awning had been removed and the property had been mowed and cleaned. *Ms. Bobelak recommended continuing this case until February 20th, 2007.*

Ms. Hawk asked if someone could fall through the front decking.

Mr. Decamillas testified the contractor informed him it would be safer not to remove the decking because then it would be accessible to people who could possibly be harmed. Mr. Decamillas also stated he walked the decking today and only one board was bowed that caused him some concern; however, the decking could be removed immediately if necessary.

John Shelby made a motion to continue this case until February 20th, 2007; seconded by Jay Crocker.

Ms. Kerrigan asked Mr. Decamillas what the plans were during the interim.

Mr. Decamillas stated he had secured financing and believed from his experience this group was the most responsive. Mr. Decamillas stated there was nothing holding this project back other than getting the drawings and obtaining a permit.

Motion carried unanimously on roll call vote 6-0.

C2006-0514: Eva Mae Hines Kennon

[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 730 S. Duss Street.

The City withdrew this case.

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.

Violation of §802.02 of the Land Development Regulations by permitting or causing to be permitted a vehicle without a current tag to be stored upon the subject property located at 214 Flagler Avenue.

Violation of §802.02 is in compliance.

Bert and Susan Bauer were sworn for testimony.

Mr. Bauer testified he agreed with the above violation and that he was in negotiations with a local realtor to sell the home; however, if the home could not be sold by the end of this year he would apply for a permit and demolish the home.

Ms. Bauer stated they had received preauthorization to demolish this home from the City Commission on April 26th, 2005.

Ms. Bobelak provided pictures of the property that she had taken today to Mr. Bauer for verification of accuracy and then submitted the pictures to the Board for their review.

Ms. Kunkle made a recommendation to continue this case until February 20th, 2007 to allow time to resolve this violation.

Mr. Shelby asked Mr. and Ms. Bauer if the property could be cleaned up in the interim.

Mr. Bauer stated that was no problem.

Jay Crocker made a motion to continue this case until February 20th, 2007; seconded by Carol Kerrigan. Motion carried on roll call vote 5-1 with Maggie Hawk casting the dissenting vote.

C2006-0724: Richard & 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.

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

Ms. Bobelak testified there had been no recent communication on behalf of this case and submitted pictures to the Board that she had taken on October 3, 2006 as well as pictures taken today for their review. Further, Ms. Bobelak testified that some progress had been made by mowing and removing some of the waste material. *Ms. Bobelak made a recommendation to find the property in violation and give Richard & Tammy Chisholm ten (10) days to bring the property into compliance or face a fine of \$100.00 per day for each and every day the property remains in violation.*

Carol Kerrigan made a motion to find this case in violation and give Richard & Tammy Chisholm ten (10) days to bring the property into compliance or face a fine of \$100.00 per day for each and every day the property remains in violation; seconded by Jay Crocker. Motion carried on roll call vote 6-0.

DISCUSSION:

Jay Crocker asked when another member would be joining this Board.

Mr. Gummey stated there were more appointments on the next City Commission agenda; however, he was unsure if this Board was included.

Ms. Kunkle stated she was not aware of any applicants specifically for this Board.

ADJOURNMENT:

Jay Crocker made a motion to adjourn; seconded by John Shelby. All agreed and the Board adjourned at 5:21 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 Fegley
Administrative Specialist
% City Hall
210 Sams Avenue
New Smyrna Beach, FL 32168-9985
Telephone: 386.424.2242
Fax: 386.424.2143