

MINUTES OF THE CITIZENS CODE ENFORCEMENT BOARD
HEARING HELD AT 4:30 P.M.
NOVEMBER 21ST, 2006
BRANNON CENTER, CONNOR ROOM, 105 S. RIVERSIDE DRIVE,
NEW SMYRNA BEACH, FLORIDA

The Hearing of November 21st, 2006 was called to order at 4:31 p.m. Answering to roll call:

Michael E. Slayton, Chairperson
John Shelby, Vice Chairperson (arrived at 4:35)
Maggie Hawk
Jay Crocker
Elliott Hoffman
Carol Kerrigan
Vacant Seat

Also present were Code Enforcement Supervisor Lynne Kunkle, Code Enforcement Officer Barbara Bobelak 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

October 17th, 2006

Jay Crocker made a motion to approve the minutes as written; seconded by Carol Kerrigan. 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:

C2006-0098: 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 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 subject property remains in violation.

August 15, 2006: The Board continued this case to September 19, 2006.

September 19, 2006 **The Board continued this case until November 21, 2006. A fine of \$50.00 per day started on the 16th day of August, 2006 and totals \$4,900.00 to date (98 days).**

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

Ms. Bobelak submitted pictures of this property she had taken this morning to the Board for their review. Ms. Bobelak stated the commercial vehicle is still present; however, most of the waste material had been removed.

Ms. Kunkle testified this Board had made a finding that the commercial vehicle was in excess of one (1) ton rated capacity, and in violation. Ms. Kunkle stated Staff had offered help to Mr. Sullivan to assist in the cleaning of the property and that there was no lien filed on the property to date.

Ms. Kerrigan asked Staff to clarify if there was no lien and the current owner passed or sold the property, would there be any record of these violations or would Staff as well as this Board have to start a new case.

Ms. Kunkle stated based on Florida State Statute, Chapter 162, Mr. Sullivan is required to reveal any code violations and these violations would continue forward with any new owner. Ms. Kunkle stated since the vehicle had never been registered in Mr. Sullivan's name, Staff could request the police to inspect the vehicle for current tags and ten (10) day notice the vehicle and have the vehicle towed. *Ms. Kunkle recommended continuing this case.*

Jay Crocker made a motion to continue this case until the January 16th, 2007 meeting; seconded by Carol Kerrigan. Motion carried unanimously on roll call vote 6-0.

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).

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

Ms. Bobelak submitted pictures she had taken today of the property to the Board for their review. Ms. Bobelak testified that §38-111 of the Land Development Regulations was in compliance at this time. Ms. Bobelak stated Mr. Chisholm

came to City Hall on October 18th, 2006 stating he would have everything that was piled in front of the garage removed and would be in compliance by today; however, the pictures proved this issue still existed. Ms. Bobelak stated Mr. Chisholm should be aware the fine had reached \$2,500.00 and still running based on the notices that he had received; however, Mr. Chisholm had not been in contact with Staff since October 18th, 2006. *Ms. Bobelak recommended the Board authorize the City Attorney to record a lien on the property.*

Jay Crocker made a motion to find Michael & Tammy Chisholm in compliance of §38-111 of the Land Development Regulations; seconded by John Shelby. Motion carried unanimously on roll call vote 6-0.

Carol Kerrigan made a motion to request the City Attorney record a lien on this property with fines continuing to accrue until in compliance; seconded by Elliott Hoffman. Motion carried unanimously on roll call vote 6-0.

NEW BUSINESS:

No New Business.

REPEAT BUSINESS:

C2006-0839: Mark Dam, Beachside Tavern

[Served]

Violation of §38-73. (12) of the City Code of Ordinances by permitting or causing to be permitted music to be played in such a manner that it was plainly audible while parked in the are of Horton Avenue/2nd Avenue in the area of property zoned for residential use located at 690 3rd Avenue at 23:35 Friday, August 25, 2006 and 01:05 Saturday, August 26, 2006.

March 21, 2006:

The Board entered an order finding Mark Dam, Beachside Tavern, in violation of §38-73. (12) of the City Code of Ordinances on the 10th day of November 2005 at 22:53 (10:53), the 18th day of November 2005 at 23:55 (11:55), the 28th day of December 2005 at 01:04, the 19th day of January 2006 at 00:05 (12:05) the 28th day of January 2006 at 23:40 (11:40), the 29th day of January 2006 at 00:22 (12:22), the 3rd day of February 2006 at 23:59 (11:59) and the 5th day of February 2006 at 00:56 (12:56). It was the further Order of the Board that Mark Dam, Beachside Tavern shall pay a fine of Five Hundred Dollars (\$500.00) for each of the eight (8) violations to total Four Thousand Dollars (\$4,000.00) for the repeat violations.

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

Ms. Kunkle stated Staff had received three police reports, two of which the officer verified Mr. Dam was in violation of the City Ordinance. Mr. Dam was present today before the meeting and was not contesting the violations. Mr. Dam stated he would bring a check to the City tomorrow for \$1,000.00; therefore, Staff was withdrawing this case.

DISCUSSION:

Board members and Staff discussed Chapter 162, Fla. Stat. (2004) and specifically the Sections addressing repeat violations, the maximum fine amounts based on population and the need for more stringent remedies.

ADJOURNMENT:

John Shelby made a motion to adjourn; seconded by Jay Crocker. All agreed and the Board adjourned at 5:04 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 II
% City Hall
210 Sams Avenue
New Smyrna Beach, FL 32168-9985
Telephone: 386.424.2242
Fax: 386.424.2143