

MINUTES OF THE CITIZENS CODE ENFORCEMENT BOARD
HEARING
HELD AT 4:30 P.M. – APRIL 21, 2009
UTILITIES COMMISSION, DEBERRY ROOM, 3RD FLOOR, 200 CANAL STREET,
NEW SMYRNA BEACH, FLORIDA

The Hearing of April 21, 2009 was called to order at 4:30 p.m. Answering to roll call:

John Shelby (Chair)
Michael Slayton (Vice Chair)
Pat Arvidson
Ken Taylor
Katharine Cooley

Also present were Code Enforcement Supervisor Lynne Kunkle, Code Enforcement Officer Barbara Bobelak, Assistant City Attorney Greg McDole and Administrative Specialist Claudia Soulie. Keith Gerhartz arrived at 4:38 pm.

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:

Minutes from the March 17, 2009 Code Enforcement Board Hearing

Mr. Slayton made a motion to approve the minutes of the March 17, 2009 hearing as written; seconded by Mr. Taylor. Motion carried 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.

Ms. Soulie informed the Board that cases C2008-1033 Audio Vision - 843 N. Dixie Freeway and C2009-0049 Walter A. & Natalie M. Bogumil - 4091 Hill Street were in compliance with the Board orders.

Ms. Soulie continued that case C2009-0083 Richard & June A. Gentile - 785 Pine Shores Blvd. would not be heard due to lack of jurisdiction.

Ms. Soulie stated that cases C2008-0956 The Avenue A Salon (dba: Christine Littman) -102 N. Pine Street; C2009-0022 NSB Business Solutions - 721 Live Oak Street; C2009-0080 ADP Development, LLC - 401 Bouchelle Drive and C2009-0081 Bouchelle Island Community Service Association had come into compliance and would not be heard at today's hearing.

V. CASES IN COMPLIANCE WITH THE BOARD'S ORDER:

C2008-1033: Audio Vision 843 N. Dixie Freeway

Ms. Kunkle asked the Board for a motion finding case C2008-1033 (Audio Vision) and case C2009-0049 (Walter A. and Natalie M. Bogumil) in compliance, as they were under a Board's order.

Ms. Arvidson made a motion to find cases C2008-1033 and C2009-0049 in compliance; seconded by Mr. Taylor. Motion carried unanimously on roll call vote 5-0.

VI. OLD BUSINESS:

C2009-0049 Bogumil, Walter A. & Natallie M. 4091 Hill Street

(A) Permitting or causing to be permitted the alteration (concrete) of existing stormwater runoff patterns without first obtaining a permit from the city engineer's office.

Case is in compliance. Included in the above listed addendum.

VII. NEW BUSINESS:

**C2008-0956: (The) Avenue A Salon 102 N. Pine Street
DBA: Christine Littman**

- (A) Permitting or causing to be permitted a business operation (The Avenue A Salon/dba: Christine Littman) without having paid the business license tax in violation of §74-146. of the City Code of Ordinances.
- (B) Permitting or causing to be permitted prohibited signs upon the subject property in violation of §604.14. of the Land Development Regulations.

Case is in compliance.

C2008-0994:

Sally M. Hicks

1714 N. Indian River Rd.

Permitting or causing to be permitted hedges on an atypical lot on the outer property line to exceed four (4') feet in height in violation of §803.03 B. atypical lots of the Land Development Regulations.

Ms. Sally M. Hicks was present and sworn for testimony.

Mr. Shelby asked Ms. Hicks if she agreed with the alleged violation. Ms. Hicks stated she agreed that the bushes were over 4ft in height and stated that she had cut the bushes to the correct height. Ms. Hicks continued that she had a survey that showed the bushes were not on her property.

Ms. Kunkle stated that staff was aware of a possible boundary line dispute and was going to leave this case as a civil issue between the homeowners. Staff had met with Ms. Hicks on numerous occasions prior to today's hearing as well as the morning of the hearing, at which time Ms. Hicks claimed ownership of the bushes. Ms. Kunkle continued that Ms. Hicks had most of the bushes reduced in height. Ms. Bobelak stated that staff was going to ask for a continuance on Ms. Hicks' behalf to trim the rest of the bushes.

Ms. Kunkle suggested that staff could either withdraw the case or the Board could continue it pending further investigation.

Ms. Arvidson made a motion to table case C2008-0994 and that it can be brought back at staff's discretion; seconded by Ms. Cooley. Motion carried unanimously on roll call vote 6-0.

C2009-0022:

NSB Business Solutions

721 Live Oak Street

- (A) Permitting or causing to be permitted an encroachment (sign) upon the City right-of-way in violation of §70-38 of the City Code of Ordinances.
- (B) Permitting or causing to be permitted a business operation (NSB Solutions/Ebay shipping site) without having paid the business license tax in violation of §74-146 of the City Code of Ordinances.

Case is in compliance.

C2009-0080:

ADP Development, LLC

401 Bouchelle Drive

Permitting or causing to be permitted an accessory structure (fence) to exist that has not been maintained structurally sound and in good repair in violation of §302.7 of the International Property Maintenance Code, 2006 Edition.

Case is in compliance.

C2009-0081:

**Bouchelle Island Community Services Association
Bouchelle Island Condominium Common Area**

- (A) Permitting or causing to be permitted construction (accessory structures, electrical, plumbing) without the required permits in violation of §26-172. of the City Code of Ordinances.
- (B) Permitting or causing to be permitted discarded and abandoned waste material (including but not limited to landscaping debris and/or hurricane damaged trees lying in the buffer areas) upon the subject property in violation of §38-113. of the City Code of Ordinances.
- (C) Permitting or causing to be permitted adding fill to low lot areas within the required yard areas without the required Stormwater Management permit in violation of §604.02 B. (1) of the Land Development Regulations
- (D) Permitting or causing to be permitted land clearing without the required permit in violation of §604.02 B. (1) a. of the Land Development Regulations.
- (E) Permitting or causing to be permitted storage of building materials without the required building permit in violation of §802.01 of the Land Development Regulations.

Case is in compliance.

C2009-0083:

Richard & June A. Gentile

785 Pine Shores Blvd.

Permitting or causing to be permitted insect infestation (termites) in violation of §308.1 of the International Property Maintenance Code, 2006 Edition.

No Jurisdiction.

C2009-0084:

Bud's Automotive

1101 N. Dixie Freeway

Permitting or causing to be permitted operating a business (Bud's Automotive) without having paid the business license tax in violation of Article V. Occupational Licenses §74-146. of the City Code of Ordinances.

Mr. Shelby asked the record to reflect that no one was present on behalf of this case. Ms. Bobelak stated that the application for the business license tax had been applied for, however the Zoning staff requested certain comments be addressed before they would sign off on the application. Ms. Bobelak continued that to this date the respondent had not made contact with staff to address these comments.

Staffs recommended the Board find the property in non-compliance and assess a \$50 per day fine until brought into compliance.

Ms. Arvidson made a motion to find the above property in violation and to give the respondent ten (10) days from the date of the hearing to contact staff or face a fine of \$50 per day for each and every day the violation continued past the 1st day of May, 2009; seconded by Mr. Gerhartz. Motion carried unanimously on roll call vote 6-0.

REPEAT BUSINESS:

None

ADOPTION OF NEW INTERNAL RULES AND REGULATIONS

Topic deferred until the next hearing.

DISCUSSION:

Mr. Shelby stated that he had a meeting with the Mayor, as he was interested in establishing a fee schedule for Code Enforcement procedures to be charged to the alleged violators, however, he was informed by Mr. McDole that only actual cost could be assessed. Mr. Shelby inquired about the Board's thoughts on creating oral reports for presentation to the City Commission on a quarterly basis. The Board came to the consensus to ask the City Clerk for a standing-order meeting to discuss Code Enforcement issues.

A brief discussion ensued about what authority the City Commission had in regards to reducing/waiving fines or liens, if they were allowed to reverse a Board order and the procedures for recording a lien.

Mr. McDole stated that the City Commission was authorized to reduce or waive fines and liens, but was not able to reverse a Board order.

Mr. Shelby asked if there was any further business; there being none, he asked for a motion to adjourn.

ADJOURNMENT:

Ms. Arvidson moved to adjourn at 5:10 p.m. and all agreed.

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:

Claudia Soulie
Administrative Specialist
% City Hall
210 Sams Avenue
New Smyrna Beach, FL 32168-9985
Telephone: 386.424.2265
Fax: 386.424.2148