

MINUTES OF THE CITIZENS CODE ENFORCEMENT BOARD
HEARING
HELD AT 4:30 P.M. – OCTOBER 20, 2009
UTILITIES COMMISSION, DEBERRY ROOM, 3RD FLOOR, 200 CANAL STREET,
NEW SMYRNA BEACH, FLORIDA

- I. The Hearing of October 20, 2009, was called to order at 4:35 p.m. Answering to roll call were:

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

Also present were Code Enforcement Supervisor Lynne Kunkle, Code Enforcement Officer Barbara Bobelak, Assistant City Attorney Greg McDole and Administrative Specialist Claudia Soulie. Katharine Cooley and Keith Gerhartz were absent.

II. DISCLOSURE OF EX PARTE COMMUNICATIONS:

Members of the Citizens Code Enforcement Board were asked to please disclose, for the record, the substance of any ex parte communications that occurred prior to this public hearing.

Mr. Shelby stated that there were none.

III. APPROVAL OF MINUTES

September 15, 2009

Mr. Taylor made a motion to approve the minutes of the September 15, 2009, hearing as written; seconded by Ms. Arvidson. Motion carried unanimously on roll call vote 4-0.

IV. SWEARING OF CITY STAFF

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

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

None

VI. OLD BUSINESS:

None

VII. NEW BUSINESS:

Staff had requested that a member of the City's Building Department be present in regards to case C2009-0311. In order to accommodate this request, Ms. Soulie called case C2009-0441 first.

C2009-0311: **Ronald & Linda McHale 726 Neal Street**

Permitting or causing to be permitted construction (modified roof) without the required permits in violation of §105.1 of the Florida Building Code.

Ms. Kunkle asked for a five (5) minute recess to confer with staff from the Building Department.

Ricky Shawn Powell, tenant, and Fredrick Short, Building Inspector were present and sworn for testimony.

Mr. Shelby asked Mr. Powell if he understood why he was asked to appear. Mr. Powell was not quite sure and proceeded to inform the Board that he had been asked by his landlord to do a patch and repair job on the roof to fix a hole caused by a branch. Mr. Powell stated that an alleged inspector looked at the patch job and stated that no permit was needed.

Ms. Kunkle asked Mr. Powell if he had a name for the inspector or a description of the vehicle. Mr. Powell did not have a name, but thought the inspector drove a white truck. Ms. Kunkle stated that the City's Building inspectors trucks are not white.

Mr. Shelby asked staff to present their findings. Ms. Kunkle inquired of Mr. Short when he placed the "stop-work" order at the property. Mr. Short was not quite sure of the exact date, but confirmed placing the "stop-work" order at the property and informing the workers that a permit was needed in order to continue the work.

Ms. Bobelak introduced photos of the property into evidence that she had taken on October, 7, 2009 when she posted the property as the certified mail was returned unclaimed. Ms. Bobelak stated that the property owners lived in California.

Ms. Bobelak stated that the Building Department attempted to contact the property owner to no avail.

Mr. Shelby asked staff for a recommendation.

A brief discussion ensued about who was authorized to pull the permit, communications with the homeowner and what full compliance entailed.

Mr. Taylor made a motion to find case C2009-0311 in non-compliance and give the respondent thirty (30) days to come into full compliance or face a fine of \$50 per day; seconded by Ms. Arvidson. Motion carried unanimously on roll call vote 4-0.

**C2009-0441: Island Town Center, LLC 103 N. Causeway
R. Ryan Holmes**

(A) Permitting or causing to be permitted weeds and undergrowth upon the subject property in violation of Article IV Nuisances §38-111. of the City Code of Ordinances.

(B) Permitting or causing to be permitted discarded and abandoned waste material upon the subject property in violation of Article IV Nuisances §38-113. of the City Code of Ordinances.

Mr. Shelby asked for the record to reflect that no one was present on behalf of this case and asked staff for their recommendation.

Ms. Bobelak stated that the respondent had until October 6, 2009 to come into full compliance. Ms. Bobelak continued that the respondent came into compliance on October 8, 2009. Ms. Kunkle recommended the Board find the case in non-compliance and determine the fine in case of a repeat offense. Ms. Kunkle elaborated that this would allow staff to bring this case back under repeat business, if necessary.

Mr. Shelby inquired if the respondent had been cited before. Ms. Kunkle affirmed this question and stated that the respondent usually waited until the 11th hour to comply.

Mr. Slayton made a motion to find that case C2009-0441 had been in violation but is currently in compliance and that a repeat offense would be \$500 per day; seconded by Mr. Taylor. Motion carried unanimously on roll call vote 4-0.

ADJOURNMENT:

Mr. Taylor made the motion to adjourn. All agreed and the hearing adjourned at 4:55 pm.