

**THE CITIZEN CODE ENFORCEMENT BOARD
NOTICE OF HEARING
TO BE HELD AT 4:30 P.M.
JANUARY 17, 2010
CITY COMMISSION CHAMBERS, 210 SAMS AVENUE
NEW SMYRNA BEACH, FLORIDA**

Members:

John Shelby (Chair)
Michael Slayton (Vice Chair)
P.J. (Pat) Arvidson
Keith Gerhartz
Ken Taylor
Katharine (Kathy) L. Cooley
Megan Badgley

THIS SHALL SERVE AS YOUR OFFICIAL NOTIFICATION of a hearing of the Citizens Code Enforcement Board, to be held on TUESDAY, JANUARY 19, 2010 at 4:30 P.M. in the City Commission Chamber, City Hall, 210 Sams Avenue, New Smyrna Beach, Florida, for consideration of the following:



John Shelby, Chairperson
Citizens Code Enforcement Board

I. ROLL CALL:

II. 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.

III. APPROVAL OF MINUTES:

November 17, 2009

IV. SWEARING OF CITY STAFF

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

VI. OLD BUSINESS:

C2007-0829: Gilbert L. Dannehower 137 Cunningham Dr. (SERVED)

Permitting or causing to be permitted tree removal without the required tree removal permit in violation of §604.051 A. of the Land Development Regulations.

Mr. Dannehower is requesting a modification to the Board's Order dated July 15, 2008.

July 15, 2008: The Board found Gilbert L. Dannehower in violation and gave Mr. Dannehower 30 days to bring the property into compliance. Mr. Dannehower failed to comply with the Board's Order and the fine of \$250.00 per day started on the 18th day of August, 2008.

August 19, 2008: The Code Enforcement Board's Hearing was cancelled due to Tropical Storm Fay.

September 16, 2008: Gilbert L. Dannehower requested a modification to the Board' Order dated July 15, 2008. The Board modified the Order giving Mr. Dannehower until September 15, 2009 to come into compliance. Mr. Dannehower is to provide the Board with quarterly reports with the first report due on December 16, 2008.

January 20, 2009: Review of the first quarterly report per the Board's Order dated the 16th day of September 2008.

March 17, 2009: Review of the second quarterly report per the Board's Order dated the 16th day of September 2008.

July 21, 2009: Review of the third quarterly report per the Board's Order dated the 16th day of September 2008.

August 18, 2009: The Board modified its Board Order dated the 16th day of September and extended the compliance date from September 15, 2009 to November 17, 2009.

November 19, 2009: The Board modified the Board's Order dated the 16th day of September 2008 and extended the compliance date from November 17, 2009 to January 19th, 2010.

C2009-0825:

Bobbi Jean Bresnowitz

629 Dora Street

SERVED

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

VIII. REPEAT BUSINESS:

IX. ADJOURNMENT:

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:

Administrative Specialist
% City Hall
210 Sams Avenue
New Smyrna Beach, FL 32168-9985
Telephone: 386.424.2137
Fax: 386.424.2206

**MINUTES OF THE CITIZEN CODE ENFORCEMENT BOARD
HEARING
HELD AT 4:30 P.M.
NOVEMBER 17, 2009
CITY COMMISSION CHAMBERS, 210 SAMS AVENUE
NEW SMYRNA BEACH, FLORIDA**

- I. The Hearing of November 17, 2009, was called to order at 4:30 p.m. Answering to roll call were:

John Shelby, Chairperson
Michael Slayton, Vice Chairperson
P.J. (Pat) Arvidson
Keith Gerhartz
Ken Taylor
Katharine L. Cooley (Absent)

Also present were Code Enforcement Supervisor Lynne Kunkle, Code Enforcement Officer Barbara Bobelak, Assistant City Attorney Greg McDole and Administrative Specialist Tammy Dickerson. Katharine L. Cooley arrived at 4:37 p.m.

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**

October 20, 2009

Mr. Taylor made a motion to approve the minutes of the October 20, 2009 hearing as written; seconded by Ms. Arvidson. Motion carried unanimously on roll call vote 5-0.

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:

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July 21, 2009: Review of the third quarterly report per the Board's Order dated the 16th day of September 2008.

August 18, 2009: The Board modified its Board Order dated the 16th day of September and extended the compliance date from September 15, 2009 to November 17, 2009.

Mr. Dannehower was present and sworn for testimony.

Mr. Dannehower testified that he has received the permits from the Department of Environmental Protection (DEP) and Army Corps of Engineers, and that the next step is to fine tune the contractors, and apply for the City's permit.

Mr. Dannehower requested an additional six (6) month extension and said that it may not take him that long.

Mr. Gerhartz stated that as long as he was making consistent progress, he had no problem with the extension.

There was additional conversation between board members regarding the length of time to extend Mr. Dannehower's compliance schedule.

Mr. Gerhartz made a motion to modify the Board's Order and give Mr. Dannehower until January 19, 2010 to come into compliance; seconded by Ms. Arvidson. Motion carried unanimously on roll call vote 6-0.

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.

October 20, 2009: The Board found Ronald & Linda McHale in non-compliance and gave Ronald & Linda McHale 30-days to bring the property into compliance or face a fine of \$50.00 per day for each and every day the violation occurs.

Mr. Shelby noted for the record there was no one present to represent this case.

Officer Bobelak testified that no one has made contact with her regarding this case and that a permit has not been obtained for the work.

Conversation among the board members revealed that Ronald and Linda McHale has until November 19, 2009 to bring the property into compliance.

Mr. Taylor made a motion to impose the fine and record a lien if Ronald and Linda McHale fail to bring the property into compliance on or before November 19, 2009; seconded by Mr. Slayton. Motion carried unanimously on roll call vote 6-0.

VII. NEW BUSINESS:

C2009-0346: Shiny Brite II 1324 SR 44 (SERVED)

IN COMPLIANCE

Permitting or causing to be permitted the installation of a sign without the required sign permit in violation of §604.14 D. of the Land Development Regulations.

C2009-0351: Budget Rent-A-Car 715 N. Dixie Freeway

IN COMPLIANCE

- (A) Permitting or causing to be permitted a business operation (Budget Rent-A-Car System, Inc.) without having paid the business license tax in violation of Article V. Occupational Licenses, §74-146. of City Code of Ordinances.
- (B) Permitting or causing to be permitted prohibited signs upon the subject property in violation of §604.14 B. of the Land Development Regulations.

C2009-0557:

**Ocean Reef Villas
Condo Association**

1571 S. Atlantic Avenue

WITHDRAWN

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

C2009-0575:

Carol Baker

423 Palm Street

Permitting or causing to be permitted a residential structure to exist that has not been properly maintained in a safe and sanitary condition in violation of §101.6 of the Standard Housing Code 1997 Edition.

- Hole in roof admitting rain
- Hole in floor
- Electric wiring in electric panel box
- Heat/air unit
- Protective coating

Ms. Baker was present and sworn for testimony.

Ms. Baker stipulated to the violations and testified that she had been in court earlier today and was granted possession of the property.

Further, Ms. Baker asked for ninety (90) days to bring the property into compliance.

Mr. Taylor made a motion to continue the case until the hearing on February 16, 2010; seconded by Mr. Slayton. Motion carried unanimously on roll call vote 6-0.

C2009-0702:

Brian Blackwelder

1571 S. Atlantic Ave.

WITHDRAWN

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

C2009-0710:

TBC Retail Group, Inc.

1698 State Road 44

(A) Permitting or causing to be permitted the use of prohibited signs in violation of Article VI. Development Design & Improvement Standards, §604.14 B. of the Land Development Regulations.

Mr. Shelby noted for the record that no one was present to represent this case.

Officer Bobelak testified that she had visited the site numerous times because of the continued violations.

Further Officer Bobelak explained to the Board that she met with an employee of Tire Kingdom and gave him a copy of the ordinance they were violating and a copy of the definition of *moving sign*.

Ms. Kunkle testified that there had been four (4) different balloon-type signs at the site.

Eric Wilcoxin was sworn for testimony.

Mr. Wilcoxin testified that he is the owner of American Auto and has to comply with all the City's codes and would like to see his competition have to do the same.

Further, Mr. Wilcoxin testified that he had called Officer Bobelak four (4) times one day in reference to the balloon-type signs at Tire Kingdom, and that he knew the code enforcement staff had inspected the site numerous times.

Mr. Slayton made a motion to find the property in violation and to give TBC Retail Group, Inc. forty-eight (48) hours from the date of receipt of the Board's Order to bring the property into compliance or face a fine of \$250.00 per day for each and every day the subject property is in violation; seconded by Mr. Taylor. Motion carried unanimously on roll call vote 6-0.

VIII. REPEAT BUSINESS:

None

IX. ADJOURNMENT:

Mr. Gerhartz made a motion to adjourn. All agreed and the hearing adjourned at 5:05 p.m.