

CITY OF DAYTONA BEACH

**MINUTES – Biketoberfest
2013 Master Plan Appeal**

**SPECIAL
MAGISTRATE
HEARING**

August 13, 2013 9:00 AM
City Commission Chambers
301 South Ridgewood Avenue,
Daytona Beach, Florida

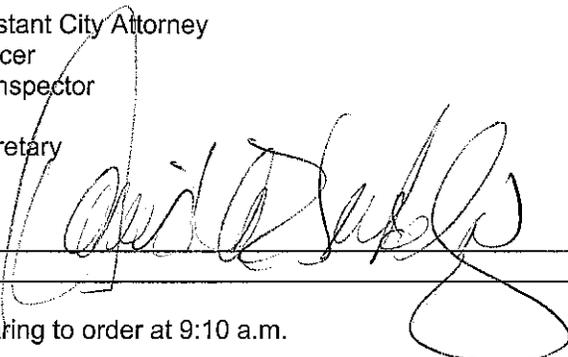
ATTENDEES:

Mr. David Vukelja, Special Magistrate

STAFF:

Anthony E. Jackson, Assistant City Attorney
Colleen Miles, Zoning Officer
Mr. Daniel Garcia, Code Inspector

Ms. Aimee Hampton, Secretary

Approval of Minutes by:  _____ Special Magistrate

Mr. Vukelja called the Hearing to order at 9:10 a.m.

Ms. Hampton swore in members of City staff.

The cases were heard at the same time.

Case 1

BIKER DESIGN – 504 MAIN STREET - Requested by Ergun Recel.

Appeal of denial of Biketoberfest® Development Committee and City Commission for participation in Master Plan outside activities for Biketoberfest® 2013 due to Section 1 (a) permanently licensed year-round business. Businesses must be open and operating for a minimum of 250 days, 6 hours per day, during the one-year period immediately preceding the application date.

Case 2

BIKER DESIGN – 777 MAIN STREET - Requested by Ergun Recel.

Appeal of denial of Biketoberfest® Development Committee and City Commission for participation in Master Plan outside activities for Biketoberfest® 2013 due to Section 1 (a) permanently licensed year-round business. Businesses must be open and operating for a minimum of 250 days, 6 hours per day, during the one-year period immediately preceding the application date.

Mr. Ergun "Tom" Recel came forward and was sworn.

Ms. Colleen Miles, Zoning Officer appeared on behalf of the City and stated the basis for denial was that the business was not opened for 250 days prior to the application deadline as required in the Master Plan Guidelines.

Mr. Vukelja inquired as to how many days the business was open.

Ms. Miles stated the business was open 220 days or less.

Mr. Vukelja went over the criteria for his review of the appeal based upon the guidelines.

Mr. Daniel Garcia testified to the process of how the business checks are done and further described how he came to the determination the business was closed.

Ms. Miles stated the application deadline day was May 8, 2013 and that two checks were performed by code every day to verify the business is open.

Mr. Recel stated the 777 Main Street was open 6 days a week until February 1, 2013. Mr. Recel further stated sometime in April they did put a sign on the door stating they were in the back of the property. Mr. Recel stated he has 10 to 15 employees present on the property 6 days a week. Mr. Recel stated he was not aware there was a problem until May 2013.

Mr. Garcia stated he has been to the back of the building looking for someone. Mr. Garcia stated he went there Friday and no one was out front and he had to go all the way into the building into some offices to find an employee.

Ms. Miles stated they were not open as a retail business but were operating a shipping business which is not a permitted use. Ms. Miles stated they were not open until they were cited.

Mr. Vukelja stated the intent of the ordinance was to have retail businesses open on Main Street.

Ms. Miles stated over the last year and a half it was rarely open until it was cited.

Mr. Garcia stated 504 Main Street was open less than 777 Main Street.

Mr. Recel stated this past Bike Week it was open enough days and they were able to participate. Mr. Recel stated he leased the property and the tenants left approximately 30 days and it was not occupied.

Mr. Vukelja inquired if Mr. Recel had some sort of plausible explanation why there is just cause for the non-compliance.

Mr. Recel stated he did have a retail business and they were conducting business from 9:30 to 10:00 a.m. until 5:00 to 6:00 p.m.

Ruling

Mr. Vukelja announced based upon the testimony of the Inspector's he was denying the appeal for both 504 Main Street and 777 Main Street.

Mr. Vukelja then began the proceedings for the August 13, 2013 Regular Meeting Agenda.