

CITY OF DAYTONA BEACH MINUTES

SPECIAL MAGISTRATE HEARING

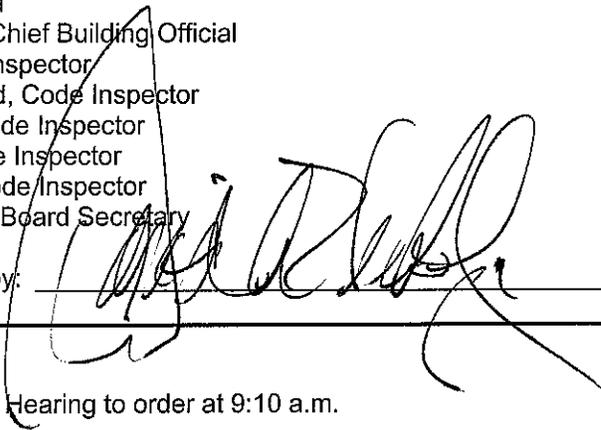
September 10, 2013 at 9:00 AM
City Commission Chambers
301 South Ridgewood Avenue,
Daytona Beach, Florida

ATTENDEES:

Mr. David Vukelja, Special Magistrate

STAFF:

Anthony E. Jackson, Assistant City Attorney
Mr. Hector Garcia, Code Compliance Manager
Officer Sheri Siracusa
Mr. Michael Garrett, Chief Building Official
Mr. Tom Clig, Code Inspector
Mr. Michael Fitzgerald, Code Inspector
Mr. Daniel Garcia, Code Inspector
Mr. David Newell, Fire Inspector
Mr. John Stenson, Code Inspector
Ms. Aimee Hampton, Board Secretary

Approval of Minutes by:  _____ Special Magistrate

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

Mr. Vukelja approved the August 13, 2013 Biketoberfest Master Plan Appeal Minutes and the August 13, 2013 Regular Meeting Minutes.

Mr. Vukelja asked if there were any announcements.

Ms. Hampton announced the following cases in compliance:

CASE NO 4 SMG 08-13-45 – Harbourside Sunsets Condominium Association, Inc. is cited for failure to correct violations of the Land Development Code, Art. 19 Sec.1.1 (Ref. NFPA 72), at **900 S. Peninsula Avenue** - Violation(s) – Fire alarm system turned off; Breaker for fire alarm system removed - First Notified – Will Fine Order entered 12/12/2012.

Respondent was in compliance September 9, 2013.

CASE NO 5 SMG 08-13-47 – JNC Solomon Enterprises, Inc. and Jundi Group, LLC, d/b/a Daytona Beach Market is cited for failure to correct violations of the Land Development Code, Art. 19 Sec.1.1 (Ref. FBC Supp NFPA 96, 11.2.1, 101, 7.1.10.1, 1, 11.1.5), at **645 N. Atlantic Avenue** - Violation(s) – **Provide inspection paperwork for kitchen hood systems; Nozzles for hood suppression system** are not aligned with cooking equipment; Means of egress shall be continuously free of all obstruction or impediments: North entrance pad locked and ice machine is blocking the exit on the north side; Remove extension cords and multi-plug adapters for permanent wiring used for the cooler at the north exit and ice cream cooler - First Notified – 5/7/2013.

Respondent was in compliance September 9, 2013.

CASE NO SMG 08-13-48 – Marston 46, LLC is cited for failure to correct violations of the City Ordinance Ch. 90 Sec. 90-310 (1); Land Development Code, Art. 19 Sec. 1.1 (Ref. FBC Supp NFPA 1, 4.5.8.4, 101, 30.3.6.3, 13.2.2.2.3, 7.1.8, 31.5.4.1, 6.9, 31.5.4.1, 9.6.3.4, 31.4.4.2 and FAC 69A-48), at **732 N. Halifax Avenue** - Violation(s) – Every business shall post and maintain their license upon the licensed premises in a place where it may be seen at all times; Fire alarm system has not been certified or inspected in the past 12 months; Stairwell doors must be self closing and self latching; Panic hardware on stairwell doors not self latching; handrail in the north stairwell is missing and one in south stairwell does not meet code; Fire alarm must send signal to a monitoring company; Fire alarm must have visual and audio devices that have a positive alarm sequence; Smoke detectors required in the common areas on each floor; Fire alarm pull station boxes are on a recall- must contact alarm contractor. - First Notified – 4/11/2013.

Respondent was in compliance September 9, 2013.

Ms. Hampton swore in members of staff.

CASE NO 1 SMG 07-13-41 – Michael & Mary Lou Sayles is cited for failure to correct violations of the Land Development Code, Art. 1 Sec. 5.3; Ch. 90-297 City Code, at **422 Old Trail Road** - Violation(s) – **Non-conforming use of short term rentals; No occupational license for rental** - First Notified – 4/2/2013.

Respondent was in compliance August 21, 2013.

CASE NO 2 SMG 08-13-43 – Richard L. & Mary Sue Kerlin is cited for failure to correct violations of the Land Development Code, Art. 17 Sec. 2.189 (A)(2), at **2920 N. Peninsula Drive** - Violation(s) – **Parking of vehicle over 10,000 gvw (Recreational Vehicle)** - First Notified – 5/22/2013.

Respondent was in compliance September 3, 2013.

Mr. Richard Kerlin came forward and was sworn. Mr. Kerlin stated he wanted to express his disappointment with the vagueness of the code regarding recreational vehicle parking.

CASE NO 3 SMG 08-13-44 – Edward C. Gillespie & Patricia Dederick H & W is cited for failure to correct violations of the Land Development Code, Art. 1 Sec. 5.3, at **601 Wisteria Road** - Violation(s) – **Non-conforming use - short term rentals** - First Notified – 5/31/2013.

Respondent was in compliance September 6, 2013.

CASE NO 9 SMG 09-13-53 – Mayan Ocean Waters, LLC is cited for failure to correct violations of the Land Development Code, Art. 19 Sec.1.1 (Ref. FBC Supp IPMC 302.3, 304, 304.1, 304.10, 304.15, 304.2, 304.4, 304.5, 304.6, and 403.5), at **103 S. Ocean Avenue** - Violation(s) – **Structural deficiencies - structural members, exterior walls, foundation walls, balconies , doors, driveway and walkway; peeling paint; clothes dryer exhaust** - First Notified – 7/10/2013.

Don Zeigler appeared on behalf of Mayan Ocean Waters and came forward and was sworn. Mr. Zeigler Stipulated to the violations.

Mr. Jackson stated the City was looking the finding of non-compliance and for an engineering report and time line for repairs be submitted to the City. Mr. Jackson called Mr. Garrett to testify.

Mr. Garret stated the issues were Spaulding which are typical wear and tear issues on buildings that are on the beachside and requires constant maintenance. The concerns are structural and the City would request a structural engineer report and a timeline for repairs.

Mr. Zeigler stated they have begun the process of having engineers looking at several portions of the building and were working on hiring a contractor. Mr. Zeigler stated they were also in contract phase with the balcony work and further had engineers looking at the walkways.

Ruling

Mr. Vukelja found the Respondent in non-compliance and continued the determination of a compliance date until the October 8, 2013 meeting and further ordered the Respondents provide a structural engineer's assessment and report and timeline to the City.

CASE NO 7 SMG 09-13-51 – Guillermo Vasquez-Hildago & Vicenta Sanchez is cited for failure to correct violations of City Code, Chapter 42 Sec. 214(a) & (b), at **125 Center Street** - Violation(s) – **Noise Complaint- excessive loud music outdoors** - First Notified – 5/16/2013.

Mr. Guillermo Vasquez came forward and was sworn.

Mrs. Vicenta Sanchez came forward and was sworn.

Mr. Jose Vasquez came forward and was sworn.

Mr. Jackson stated there is a continuation of events that have been occurring with noise coming from the front yard. Mr. Jackson asked if there was a Mr. Pugh in the audience who was the witness to testify to the noise. Mr. Jackson called Officer Siracusa to testify. Mr. Jackson stated the complaints have been continuous and are from Mr. Pugh and requested a continuance to allow Mr. Pugh to have the opportunity to appear.

Officer Siracusa stated Mr. Pugh's complaint was her only knowledge regarding the noise. Officer Siracusa stated the complaints were that there is a child sitting in his driveway in his vehicle playing loud music at night when the parents are not home.

Mr. Vasquez stated the house was a rental and they are being told it is the child making the noise.

Ms. Sanchez stated she spoke with the tenants and the lady told her the music is being played inside the house.

Mr. Vukelja inquired of the parties if they took off work to appear at the meeting.

The parties advised they did take off work and Mr. Jose Vasquez took off school.

Ruling

Mr. Vukelja ordered the case be dismissed.

CASE NO 8 SMG 09-13-52 – Theodora E. Keeling is cited for failure to correct violations of the Land Development Code, Art. 19 Sec.1.1 (Ref. FBC Supp IPMC 304.7), at **1030 Alice Drive** - Violation(s) – **Dilapidated roof** - First Notified – 6/28/2013.

Ms. Theodora E. Keeling came forward and was sworn.

Leon C. Keeling came forward and was sworn. Mr. Keeling stated he was appearing on behalf of his mother and stipulated to the violations. Mr. Keeling stated he believed the roof was structurally sound but it was only the soffit that he thinks needed repaired. Mr. Keeling stated he received a bid that was really high for the repairs. Mr. Keeling requested 90 days to correct the roof.

Mr. Stenson stated there were numerous other violations that were corrected but the only thing that remained was the roof. Mr. Stenson stated 60 days for the repairs.

Ruling

Mr. Vukelja found the Respondent in non-compliance and ordered the Respondent come into compliance by December 4, 2013 or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day until compliance is achieved.

Miscellaneous Business

There was no miscellaneous business.

Adjournment: The meeting was adjourned at 9:35 a.m.