

CITY OF DAYTONA BEACH MINUTES

SPECIAL MAGISTRATE HEARING

March 11, 2014 at 9:00 AM
City Commission Chambers
301 South Ridgewood Avenue,
Daytona Beach, Florida

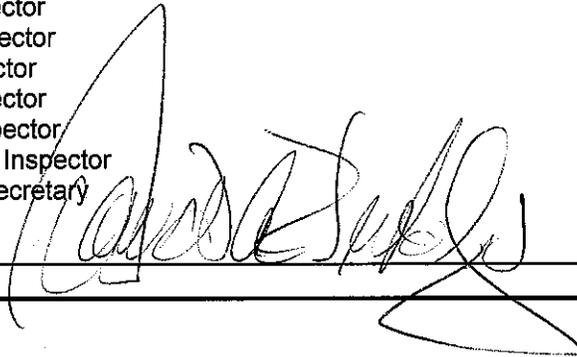
ATTENDEES:

Mr. David Vukelja, Special Magistrate

STAFF:

Anthony E. Jackson, Assistant City Attorney
Hector Garcia, Code Compliance Manager
Officer Sheri Siracusa
Mr. Tom Clig, Code Inspector
Mr. Daniel Garcia, Code Inspector
Ms. Vicki Lankford, Code Inspector
Mr. Edwin Lopez, Code Inspector
Mr. John Stenson, Code Inspector
Mr. Brian Sievertson, Fire Inspector
Mr. Robert Snowden, Building Inspector
Ms. Aimee Hampton, Board Secretary

Approval of Minutes by: _____

 Special Magistrate

Mr. Vukelja called the Hearing to order at 9:05 a.m.

Mr. Vukelja approved the February 11, 2014 Regular Meeting Minutes.

Mr. Vukelja asked if there were any announcements.

Ms. Hampton announced the following cases in compliance:

CASE NO 7 SMG 03-14-13 – Fay Klonaris & Antoinette Mandas is cited for failure to correct violations of the Land Development Code, Art. 18 Sec. 7.4, at **1500 S. Atlantic Avenue** - Violation(s) – Failure to maintain wall appearance - First Notified – 9/17/2013.

Respondent was in compliance March 11, 2014.

Ms. Hampton swore in members of staff.

Lien Review 1

CEB 01-09-10 – 735 McArthur Court encumbrance against 901 Redwood Street – Michael Nagella was cited for failure to correct violations of Art. 18 Sec. 7.3; Art. 19 Sec.1.1 (Ref. FBC Supp IPMC 304.13, 305.3, 605.1, 302.9, 304.7, 304.3, and 504.3) - Violations: Outside storage; windows; interior surfaces; electrical equipment installation; defacement of property; roofs and drainage; premises identification; plumbing system hazard; and no occupational license at 735 McArthur Court. Order Imposing Fine/Lien \$100.00 per day imposed 4/2/2009. Total amount owed \$14,000.00.

Mr. Michael Nagella came forward and was sworn.

Mr. Vukelja reviewed the case file.

Mr. Nagella explained the house went into foreclosure and the bank took several years before actually finalizing the foreclosure action. Mr. Nagella stated the lien was encumbering other properties he owns.

Attorney Anthony Jackson stated the City understood abandoning the property because it was a common practice at that time but it was to the detriment of the City and neighborhoods. Mr. Jackson stated the staff's recommendation was a reduction of the fine to 50% of the total amount which would be \$7,000.

Mr. Jackson called Inspector Stenson to testify. Mr. Stenson stated he had contact with Mr. Nagella's father several times because of numerous complaints of squatters and vagrants. Mr. Stenson stated he did speak with the owner only once. Mr. Stenson stated the City had to secure the property and place it on the trespass arrest site to keep vagrants off the property once it was finally unoccupied.

Mr. Nagella stated he was trying to purchase property again and he has paid for partial releases before and he was hoping to be able to sell more properties without the lien encumbering the other properties.

Discussions were held regarding when the property was transferred to the bank through foreclosure.

Ruling

Mr. Vukelja ordered the lien be reduced to the amount of \$2,500 subject to being paid within 30 days.

Lien Review 2

SMG 07-13-37- 145 Kingston Avenue – K. Randall Neland was cited for failure to correct violations of Art. 19 Sec. 1.1 (Ref. FBC Supp IPMC 304.13, 304.10, 304.14, 304.7, 304.6, 304.4, 304.15, 304.1); - Violations: windows; decks, screens, roof, exterior surfaces, structural members, exterior doors, general exterior structure, property is unsecure. Order Imposing Fine/Lien \$200.00 per day imposed January 7, 2014. Total amount owed \$7,237.29.

Mr. Randall Neland came forward and was sworn.

Mr. Vukelja reviewed the case file.

Attorney Anthony Jackson appeared on behalf of city staff and stated staff was recommending a reduction of the lien to the amount of \$500 subject to being paid within 30 days.

Mr. Neland stated he was agreeable to the reduced amount of \$500.00.

Ruling

Mr. Vukelja ordered the lien be reduced to the amount of \$500 subject to being paid within 30 days.

Hearing of Cases:

CASE NO 1 SMG 12-13-70 – Petra North, Inc. is cited for failure to correct violations of the Land Development Code, Art. 18 Sec. 7.3; Art. 19 Sec.1.1 (Ref. FBC Supp IPMC 302.7, 304.3, 304.15, 304.13, 605.1, 704.2, 305.3, 305.6, 504.1, 603.1, 304.2, 304.6, 604.3, 304.7, and 302.7) Art. 19 Sec. 1.1 (Ref. FBC 105.1); City Code 90-297, at **812 Berkshire Road** - Violation(s) – Outside storage; accessory structure (fencing); address numbers; exterior doors/garage door; broken/inoperable windows; electrical fixtures; smoke detectors; interior doors; plumbing fixtures; inoperable appliances; peeling paint; exterior surfaces; electrical system hazard; dilapidated roof; accessory structure (shed); work done without permits (side garage door blocked up); no rental license - First Notified – 8/21/2013.

Mr. Bassam Al-Khateeb came forward and was sworn.

Mr. Jackson appeared on behalf of city staff and stated that nothing has been done and there has been no action on the property except for 4 a permit that was applied for and was approved but has not been picked up by the respondent. Mr. Jackson stated staff's position was a fine be imposed of \$75 per day to a maximum of \$15,000 due to the lack of progress or effort of the Respondent.

Mr. Al Khateeb stated he believes everything should be in compliance but he has not had a final inspection.

Mr. Vukelja went through the list and asked what has been completed.

Mr. Al-Khateeb stated the remaining things where some of the plumbing and the shed roof. Mr. Al-Khateeb stated he tried to contact Mr. Stenson to update him but he did not get a response. Mr. Al-Khateeb stated he was doing the best he can and asked for a continuance of 30 days.

Inspector Stenson stated his last reinspection was on March 5, 2014.

Mr. Garcia stated the City believed they had given the Respondent ample time to complete the work.

Ruling

Mr. Vukelja amended the previous order of noncompliance to allow the respondent until April 2, 2014 to come into compliance or an automatic fine of \$50 per day will be imposed against the respondent and will continue each day thereafter until compliance is achieved or the fine reaches the amount of \$15,000.

CASE NO 2 SMG 12-13-71 – James Cortazar is cited for failure to correct violations of the Land Development Code, Art. 19 Sec. 1.1 (Ref. FBC Supp IPMC 304.6, 302.7, 304.7, 504.1, 605.1, 305.3, and 603.1); Art. 19 Sec. 1.1 (Ref. FBC 105.1), at **1041 Berkshire Road** - Violation(s) – Damaged exterior surfaces; accessory structure (fencing); dilapidated roof; plumbing system and fixtures; electrical wiring; interior surfaces; air conditioner installation; working without permits - First Notified – 9/3/2013.

Respondent was not present.

Mr. Jackson stated that good progress has been made and the respondent should be able to have it all completed by the next cut-off date.

Ruling

Mr. Vukelja amended the previous order of noncompliance to allow the respondent until April 2, 2014 to come into compliance or be returned to a subsequent meeting for consideration of a fine of up to \$1000 per day.

CASE NO 3 SMG 02-14-08 – Exit Strategy December 12, LLC is cited for failure to correct violations of the Land Development Code, Art. 19 Sec.1.1 (Ref. FBC Supp IPMC 304.7, 605.1, 305.3, and 704.2); Art. 19 Sec. 1.1 (Ref. FBC 105.1); City Ordinance Ch. 90 Sec. 90-297, at **1325 Ginsberg** - Violation(s) – Dilapidated roof; electrical wiring; interior surfaces; no working smoke detectors; rworking without permits; no occupational license for rental - First Notified – 12/5/2013.

Respondent was not present.

Mr. Jackson stated the property remained in non-compliance and staff was recommending a fine be imposed of \$100 per day to a maximum of \$15,000.

Ruling

Mr. Vukelja imposed a fine of \$100 per day against the respondent effective March 6, 2014 to continue each day thereafter until compliance is achieved or the fine reaches the maximum amount of \$15,000.

CASE NO 4 SMG 02-14-10 – Laverne Bell is cited for failure to correct violations of the Land Development Code, Art. 19 Sec. 1.1 (Ref. FBC Supp IPMC 302.8 and 304.13), at **1021 Cadillac Drive** Violation(s) – Junk vehicle; Broken window - First Notified – 8/15/2013.

Respondent was in compliance March 5, 2014.

CASE NO 5 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 303.1 and 304.7), at **1030 Alice Drive** Violation(s) – Dilapidated roof; unsanitary pool - First Notified – 6/28/2013.

Respondent was not present.

Mr. Jackson stated that there noncompliance regarding the roof still remained and therefore staff was recommending a fine be imposed of \$75 per day to a maximum of \$15,000.

Ruling

Mr. Vukelja imposed a fine of \$75 per day against the respondent effective March 6, 2014 to continue each day thereafter until compliance is achieved or the fine reaches the maximum amount of \$15,000.

CASE NO 6 SMG 03-14-12 – Alain Baruchel is cited for failure to correct violations of the Land Development Code, Art. 18 Sec. 5.12; Art. 18 Sec. 5.5(a); Art. 19 Sec. 1.1 (Ref. FBC Supp. IPMC 304.2 and 304.6), at **131 S. Grandview Avenue** - Violation(s) – Unfinished exterior surface: no temporary covering for more than 15 days and construction completed by 60 days; rear and side walls shall be repaired; protective treatment; exterior walls - First Notified – 8/16/2013.

Mr. Alain Baruchel came forward and was sworn. Mr. Baruchel stipulated to the violations.

Inspector Garcia stated that Mr. Baruchel had permits that have expired and needed to be renewed. Mr. Garcia stated two months for a progress report and it was unknown regarding the compliance date at this point.

Mr. Baruchel stated apologized for the non-compliance and stated there were extenuating circumstances regarding the case.

Mr. Robert Snowden from the building department came forward and was sworn. Mr. Snowden stated the 4 separate permits that were owner/builder permits since 2011 have expired. Mr. Snowden stated the City was requesting Mr. Baruchel hire a contractor/design professional to pull one permit that covers all the work that needs to be completed so the City can monitor the progress. Mr. Snowden stated Mr. Baruchel could pull the permits himself as the owner but he needed to supervise the project which was not being done.

Mr. Baruchel stated he has been in communication with Mr. Garrett the Chief Building Official and basically the only reason the project has been idled was because he was denied entry into the USA. Mr. Baruchel stated the existing building plans are professionally done by Mr. David Leete. Mr. Baruchel stated he wanted to work to bring the property into compliance.

Mr. Vukelja asked Mr. Baruchel as to his response to the City about hiring a contractor and pulling one permit.

Mr. Baruchel stated he wanted the permits to be amalgamated.

Mr. Jackson stated the code enforcement action was in response to numerous complaints which have risen to the level of commissioner concerns so it is something the City would like to monitor to make sure it gets done.

Mr. Baruchel stated he has met with a contractor but he will be pulling the permits because he knows the project and is not the typical owner.

Mr. Snowden stated if he was going to do a homeowner permit that he cannot rent or sell the property for a period of one year but there was a for sale sign in the lawn.

Mr. Baruchel stated he was not going to sell the property now and it was going to stay in the family.

Mr. Snowden stated Mr. Baruchel cannot sale or rent the property for at least a year and he also has to oversee the project which means being present for each inspection.

Mr. Vukelja inquired as to how long it would take to obtain a permit.

Mr. Snowden stated it would take approximately 2 to 3 weeks to get the permit.

Ruling

Mr. Vukelja found the respondent in noncompliance.

Mr. Robert Snowden, building inspector, stated that Mr. Baruchel has obtained 4 separate permits that have all expired and the building department was requesting a new permit be pulled by a contractor that encompasses all of the work that needs to be done with one permit.

Mr. Baruchel presented emails between himself and Chief Building Official Michael Garrett.

Mr. Garcia stated he's received numerous complaints about the condition of the property.

Discussions were held regarding summarizing the case for the next meeting.

Ruling

Mr. Vukelja continued the determination of a compliance date to the April 8, 2014 meeting and in the interim ordered the respondent to submit application for the required permits.

Mr. Vukelja adjourned the meeting 10:11 a.m.

Mr. Vukelja resumed the meeting at 10:17 a.m.

Mr. Vukelja announced he was going to take the remaining cases out of order.

CASE NO 13 SMG 03-14-19 – Daniel D. Bernstein, Trustee is cited for failure to correct violations of the Land Development Code, Art. 18 Sec. 7.3; Art. 19 Sec.1.1 (Ref. FBC Supp IPMC 302.7, 304.7, 304.6, 304.15, 603.1, 305.3, 305.6, and 605.1) City Ordinance Ch. 90 Sec. 90-297, at **1013 Imperial Drive**
Violation(s) – **Outside storage; fencing; dilapidated roof; exterior surfaces; exterior doors; appliances; interior surfaces; interior doors; electrical fixtures; No business tax receipt - First**
Notified – 12/20/2013.

Mr. Harry Leahey came forward and was sworn. Mr. Leahey stipulated to the violations.

Mr. Jackson stated the City believed the next cut-off date for compliance.

Mr. Leahey stated he was requesting an additional 30 days because there is a tenant inside and needed to work around the tenant.

Ruling

Mr. Vukelja found the respondent in noncompliance and ordered the respondent come into compliance by May 7, 2014 or be returned to subsequent meeting for consideration of a fine of up to \$1000 per day.

CASE NO 14 SMG 03-14-20 – Terry L. & Melody A. Hallock is cited for failure to correct violations of the Land Development Code, Art. 18 Sec. 7.3; Art. 19 Sec. 1.1 (ref. FBC 105.1), at **1061 Imperial Drive** Violation(s) – **Outside storage; no permit for accessory structure in rear of property** - First Notified – 9/13/2013.

Mr. Terry Hallock came forward and was sworn. Mr. Hallock stipulated to the violations.

Mr. Jackson stated the property should be able to come into compliance by the next cut-off date.

Mr. Hallock stated he agreed to the April 2nd cut-off date.

Ruling

Mr. Vukelja found the respondent in noncompliance and ordered the respondent come into compliance by April 2, 2014 or be returned to a subsequent meeting for consideration of a fine of up to \$1000 per day.

CASE NO 15 SMG 03-14-21 – John Michael McKee is cited for failure to correct violations of the Land Development Code, Art. 1 Sec. 3.1, 3.2, 3.3(a) and 4.3(b); Art. 19 Sec. 1.1 (Ref. FBC Supp IPMC 106.5 and 302.8); Art. 18 Sec. 7.3; and City Code 78-4, at **N. Williamson Blvd. - Vacant Lot Parcel # 5215-00-00-0110** - Violation(s) – No development orders; certificate of occupancy; non-conforming use; all use of land shall comply with applicable federal, state and local laws; outside storage of junk and debris; and littering - First Notified – 2/21/2014.

Respondent was not present.

Mr. Jackson stated that the violations were complaint driven and there were several members of the audience who would like to express their experiences in dealing with the respondent. Mr. Jackson explained the nature of the violations were that the property was obtained by a tax deed sale for \$700.00 and that the Respondent is damming the property blocking drainage. Mr. Jackson stated he is also pitching tents and camping on the site, and is collecting water and jugs of what appear to be water on the property and he also has built a make-shift park bench and storing his moped bike. Mr. Jackson stated all things that are consistent with doing on land where a home is Mr. McKee is doing on undevelopable land which is not allowed.

Mr. Steve Elmer came forward and was sworn. Mr. Elmer stated the individual has been staying on the property day and night and he also stated that the Respondent has stated to him to pay him \$40,000 and he will sell the property. Mr. Elmer further stated he has felt very threatened by the Respondent's actions and also had to call the police to issue a trespass warning. Mr. Elmer stated the actions of the Respondent have been difficult to handle.

Mr. Martin Petty came forward and was sworn. Mr. Petty stated the Respondent's actions have made him and his wife very uncomfortable and his wife no longer wants to walk by herself or bike ride down the sidewalk now.

Mr. Jackson requested a compliance date be within 7 days.

Ruling

Mr. Vukelja found the respondent in noncompliance and ordered the respondent come into compliance by March 18, 2014 or be returned to a subsequent meeting for consideration of a fine of up to \$1000 per day.

Mr. Vukelja stated he recommended anyone who wanted to be heard about the impact of the violation should appear at the imposition of a fine hearing because at that point he can consider the gravity of the violation.

CASE NO 16 SMG 01-14-01 – John Nicholson is cited for failure to correct violations of the Land Development Code, Art. 1 Sec. 5.3; Art. 19 Sec. 1.1 (Ref. FBC 105.1); Art. 19 Sec.1.1 (Ref. FBC Supp IPMC 302.1, 302.4, 302.5, 302.7, 304.1, 304.10, 304.11, 304.12, 304.13, 304.13.1, 304.13.2, 304.14, 304.15, 304.18, 304.2, 304.3, 304.4, 304.6, 305.2, 305.3, 307.1, 307.2., at **413 N. Grandview Avenue**
Violation(s) – : Non-conforming use – Number of units exceeds allowed amount of 2; No permit for constructing over 2 units and no permit for fence erected; Remove all trash and debris from the exterior of the property; Damaged, broken driveways and sidewalks; maintain landscaping in a reasonable manner, removing all weeds, dead tree trunks and overgrowth. Remove all materials, inside and out that contribute to rodent harborage; Violation 302.7: repair/replace fence to be upright, free of defects or remove completely. (note permits required to replace fence in its entirety; Damaged siding, peeling and fading paint; Stairways, decks and porches to be structurally sound and in good repair; Repair/replace existing chimney and all exposed surfaces to be protected from elements (painted or similar surface treatment; Handrails; Deteriorated window and door frames; Broken glazing (glass) on all windows. Replace plywood at windows with glazing; Repair/replace all windows to easily open and be able to stay open by window hardware; window screens; Exterior surfaces, including but not limited to walls, window and door frames, to be free of decay and protected from the elements; Install approved address numbers; All structural columns to be free of deterioration and capable of supporting imposed load.; Repair all exterior walls to be free of defects, holes, breaks and loose or rotting materials. All exterior walls to be weatherproof; Violation 305.3: Repair, replace, clean all interior surfaces that are not clean and sanitary, that have mold, peeling or chipped paint or plaster, all surfaces to be in good, clean and sanitary condition; dispose of all rubbish in a clean, sanitary manner and in approved containers; Exterminate property to remove all insect and rodent infestation; Repair/replace all plumbing fixtures and supply lines to be in operable condition, including but not limited to vent pipes and water heaters.; Ensure water heaters in all units are properly installed, vented and safe, free of hazards; Repair, replace water heater so that units have access to hot and cold water; Provide heating facilities to all units; Repair, replace all electrical equipment, to be safe and maintained in a proper manner; Provide and maintain fire safety facilities and equipment, to include fire extinguishers; Provide smoke detectors to all units. Obtain current Business Tax Receipt for rental properties. - First Notified – 11/13/2013.

Mr. John Nicholson came forward and was sworn.

Mr. Jackson stated that the city staff has clarification regarding what needs to happen with the property.

Mr. Jackson stated that Mr. Nicholson needs to come into compliance with regards to the number of units he is allowed currently he has 3 units in the garage apartment and he is only allowed to units in the garage apartment so he needs to convert the garage apartment to where there are only 2 units.

Mr. Nicholson stated he would like to go to the Board of Adjustment to request a variance to be able to keep the 4th unit. Mr. Nicholson stated he could remove a wall and make two units into a one unit with two bedrooms.

Mr. Jackson stated he could apply for a variance but he was informed by development services that there is no variance availability for density requirements.

Mr. Nicholson stated he has the property appraiser's website regarding being taxed on the additional units. Mr. Nicholson stated he was provided with a Business Tax Receipt in 2002.

Mr. Jackson stated the City was in agreement he was given a Business Tax Receipt.

Mr. Nicholson stated he believed he has all his required permits and he will take the wall down and make the two units into one.

Ms. Lankford stated that the removing the wall and making two units into one unit will only put the Respondent into compliance with the number of units that are required. There still remains the act of obtaining a permit and bringing the units up to code.

Mr. Garcia stated Mr. Nicholson has to apply for the permit, remove the wall and remove any additional plumbing fixtures and cabinetry to do the conversion.

Ruling

That the previous Amended Order of Non-compliance entered by the Special Magistrate on February 14, 2014 shall remain in full force and effect and the Respondent shall come into compliance with all exterior violations as stated in that amended order as well as obtain all permits required to convert the two (2) units into one (1) unit and complete the conversion by April 2, 2014 or be returned to a subsequent meeting for consideration of a fine of up to \$1,000 per day. It was further ordered this case shall be on the April 8, 2014 Special Magistrate meeting for a progress report and determination of a compliance date regarding the interior violations

CASE NO 8 SMG 03-14-14 – Sandra J. Ouder Kirk is cited for failure to correct violations of the Land Development Code, Art. 19 Sec.1.1 (Ref. FBC Supp IPMC 304.1 and 304.6), at **510 Wisteria Road** - Violation(s) – Failure to maintain walls and the exterior - First Notified – 10/11/2013.

Respondent was not present.

Mr. Jackson appeared on behalf of staff and stated the property was in noncompliance and staff was requesting a progress report for the April Meeting and the May cut-off date for compliance.

Ruling

Mr. Vukelja found the respondent in noncompliance and ordered the respondent come into compliance by May 7, 2014 or be returned to a subsequent meeting for consideration of a fine up to \$1000 per day. It was further ordered this case appear on the April 8, 2014 agenda for a progress report.

CASE NO 12 SMG 03-14-18 – Donald Watson, Donna Watson, Michelle Watson and Michael Watson is cited for failure to correct violations of the Land Development Code, Art. 19 Sec.1.1 (Ref. FBC Supp IPMC 304.3, 304.15, 304.13, 304.7, 304.6, 305.3 and 302.7), at **711 Flora Street** - Violation(s) – **Missing address numbers; dilapidated exterior doors; broken windows; dilapidated roof; exterior surfaces; interior surfaces; fencing** - First Notified – 9/25/2013.

Respondent was not present.

Mr. Jackson stated staff has advised the property is still in noncompliance and is unsecured at this time and staff was requesting a finding of noncompliance and for the magistrate to order the property be secured within 10 days with the next cut-off date for compliance.

Ruling

Mr. Vukelja found the respondent in noncompliance and ordered the property come into compliance by April 2, 2014 or be returned to subsequent meeting for consideration of a fine of up to \$1000 per day. It was further ordered the property be secured to city standards within 10 days or the case shall be returned to a subsequent meeting for consideration of a fine of up to \$1000 per day.

CASE NO 9 SMG 03-14-15 – Wilbur R. & Fannie Y. Johnson is cited for failure to correct violations of the Land Development Code, Art. 18 Sec. 6.6; Art. 19 Sec. 1.1 (Ref. FBC Supp IPMC 302.7, 304.6, 307.1 and 302.9), at **258 S. Martin Luther King Blvd.** - Violation(s) – Prohibited signs; accessory structures; exterior walls; accumulation of rubbish or garbage; defacement of property (graffiti) First Notified – 1/24/2014.

Respondent was in compliance March 5, 2014.

CASE NO 10 SMG 03-14-16 – Inez J. Hooks Revocable Trust Agreement dtd 9-10-01 is cited for failure to correct violations of the Land Development Code, Art. 1 Sec. 5.3; City Ordinance Chapter 94 Sec. 94-56, at **Orange Avenue - Vacant Lot - Short Parcel ID # 5339-79-00-0460** - Violation(s) – **no parking of truck and commercial vehicles; non-conforming use** - First Notified – 1/24/2014.

Handwritten notes:
15%
40%
90%
Hank
7/11/14
9/25/13
H-T
10/11/13

Respondent was in compliance March 5, 2014.

CASE NO 11 SMG 03-14-17 – Lloyd Haynes is cited for failure to correct violations of the Land Development Code, Art. 1 Sec. 5.3; City Ordinance Chapter 94 Sec. 94-56, at **Orange Avenue - Vacant Lot - Short Parcel ID # 5339-79-00-0210** - Violation(s) – **no parking of truck and commercial vehicles; non-conforming use** - First Notified – 1/24/2014.

Respondent was in compliance March 4, 2014.

Miscellaneous Business

Mr. Vukelja expressed kudos and his happiness with the Beach Street trailer park being cleaned up.

Adjournment: The meeting was adjourned at 11:48 a.m.