

**CITY OF DAYTONA BEACH MINUTES**

**SPECIAL  
MAGISTRATE  
HEARING**

**June 10, 2014 at 9:00 AM  
City Commission Chambers  
301 South Ridgewood Avenue,  
Daytona Beach, Florida**

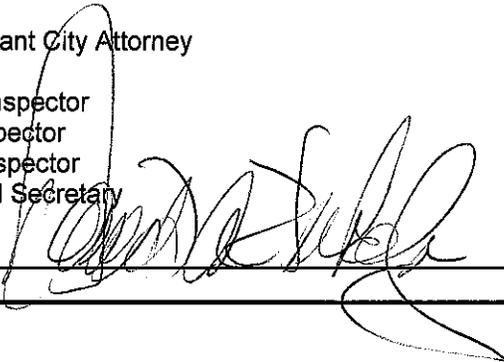
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**ATTENDEES:**

Mr. David Vukelja, Special Magistrate

**STAFF:**

Anthony E. Jackson, Assistant City Attorney  
Officer Sheri Siracusa  
Ms. Vicki Lankford, Code Inspector  
Mr. Eddie Lopez, Code Inspector  
Mr. John Stenson, Code Inspector  
Ms. Aimee Hampton, Board Secretary

Approval of Minutes by:  \_\_\_\_\_ Special Magistrate

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Mr. Vukelja called the Hearing to order at 9:07 a.m.

Mr. Vukelja approved the April 22, 2014 Regular Meeting Minutes.

Mr. Vukelja asked if there were any announcements.

Ms. Hampton stated the following announcements.

**CASE NO 4 SMG 04-14-27 – Dennis Thomas** is cited for failure to correct violations of the Land Development Code, Art. 8 sec. 2.7; City Code Sec. 90-297, at **616 North Street** - Violation(s) – Parking in yard; No business tax receipt - First Notified – 4/24/2013.

Respondent was in compliance on June 9, 2014.

**CASE NO 12 SMG 05-14-31 – Dennis Dale Thomas** is cited for failure to correct violations of City Code Sec. 90-297, at **347 Pierce Avenue** - Violation(s) – No business tax receipt - First Notified – 3/13/2014

This case was withdrawn by the City as the property has been sold.

Ms. Hampton swore in members of staff.

***Hearing of Cases:***

**CASE NO 1 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, 308.1, 504.1, 504.3, 505.1, 602.1, 602.2, 602.3, 605.1, 701.2, 704.1, 704.2); City Code Ch. 90 Sec. 297 (a) Failure to obtain Business tax receipt for Rental., at **413 N. Grandview Avenue** - Violation(s) – :Non-conforming use – Number of units

exceeds allowed amount of 3; No permit for constructing over 3 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 appeared on behalf of the city and stated the Respondent was still in noncompliance as it related to the violations on the exterior of the property and as the interior is currently not being used as a rental the city was withdrawing the violations cited for the interior. Mr. Jackson stated the City's position was to ask for a fine of \$200 per day because as of earlier this week the inspector had not heard from Mr. Nicholson and did not know why there was a delay.

Mr. Vukelja inquired as to the extent of the work that was remaining since the City was requesting a \$200 per day fine.

Ms. Lankford stated Mr. Nicholson was approximately 90% finished. Ms. Lankford described some of the remaining items that were not completed.

Mr. Nicholson said everything has been completed except a pile of carpet and landscape plastic. Mr. Nicholson said he could get the work done in a couple of hours.

Mr. Vukelja inquired of Mr. Nicholson if one week would be enough time.

Mr. Nicholson stated yes he could have it completed within a week.

### **Ruling**

Mr. Vukelja amended the previous order of non-compliance to allow the Respondent 7 days to come into compliance with the exterior or an automatic fine of \$200 per day will go into effect and continue each day thereafter until the exterior is in full compliance. Mr. Vukelja further stated it was acknowledged that the city was withdrawing the interior violations and further ordered the garage apartments not be rented occupied or otherwise utilized until such time as the proper inspections are obtained.

**CASE NO 2 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 the property remained in non-compliance and staff was requesting a fine of \$100 per day with a maximum of \$10,000.

**Ruling**

Mr. Vukelja imposed a fine of \$100 per day against the Respondent effective June 5, 2014 to continue each day thereafter until compliance is achieved or the fine reaches the amount of \$10,000.

**CASE NO 3 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.

Respondent was in compliance June 2, 2014.

**CASE NO 5 SMG 04-14-28 – ISOSTASY, LLC** is cited for failure to correct violations of the Land Development Code, Art. 19 sec. 1.1 (Ref. FBC Supp IPMC 605.1, 704.2, 304.15, 304.7, 305.3, 605.2, 602.3, 302.5, 308.1, 304.13, 304.14); City Code Sec. 90-297, at **410 Pleasant Street** - Violation(s) – Electrical system hazard; no working smoke detectors; dilapidated exterior doors; dilapidated roof; interior surfaces; Inoperative receptacles; no heat source; rodent harborage; infestation; broken/inoperative windows; missing and/or dilapidated screens; no business tax receipt - First Notified – 2/4/2014.

Respondent was in compliance June 3, 2014.

**CASE NO 6 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.

Respondent was not present.

Mr. Jackson stated the case was on the Agenda for a progress report. Mr. Jackson stated a number of the inspector's were out of the office for training and since Inspector Garcia was not present and no one from the building department was present he would like to pass it to the end of the meeting.

Mr. Vukelja asked if he should just move it to the next meeting.

**Ruling**

Mr. Vukelja continued the case to the July 8, 2014 meeting for a progress report.

**CASE NO 7 SMG 06-14-36 – Julian D. Pompei** is cited for failure to correct violations of the Land Development Code, Art. 18 Sec. 7.3.3 and Art. 19 Sec.1.1 (Ref. FBC Supp IPMC 302.4), at **243 Wellington Drive** - Violation(s) – Failure to maintain lawn in a reasonable manner - First Notified – Order of Non-compliance dated April 10, 2013.

Mr. Julian Pompei came forward and was sworn. Mr. Pompei stipulated to non-compliance.

Mr. Jackson stated the case was currently in compliance and was on the agenda for the imposition of a fine because of a repeat violation and the City was requesting a fine of \$50.00.

Mr. Pompei stated this was the first time the grass has been high since the last order. Mr. Pompei stated the grass did get high but he was out of town in Denver and so when they received the notice on their door his roommate cut the grass on April 27<sup>th</sup>.

Mr. Jackson stated the code action was in response to complaints.

**Ruling**

Mr. Vukelja imposed a fine of \$25.00 for the repeat violations but cautioned the Respondent that if it came back again the fine would get progressively larger.

**CASE NO 8 SMG 06-14-40 – Adeyemi & Rabietu Abel** is cited for failure to correct violations of the Land Development Code, Art. 19 Sec.1.1 (Ref. FBC Supp IPMC 302.7 and 307.1), at **845 Magnolia Avenue** - Violation(s) – Accessory structure (fence); accumulation of rubbish or garbage - First Notified – 4/23/2014.

Ms. Rabietu Abel came forward and was sworn. Ms. Abel stipulated to the violations.

Mr. Jackson stated the Respondent should be in compliance by the next cut-off however there seems to be a reoccurring problem with rubbish or garbage.

Ms. Abel stated there are tenants staying in the property and when it was brought to their attention the tenants corrected it but then more stuff was out again.

**Ruling**

Mr. Vukelja found the Respondent in non-compliance and ordered the Respondent come into compliance by July 2, 2014 or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day.

**CASE NO 9 SMG 05-14-29 – Cynthia Wachtman** is cited for failure to correct violations of the Land Development Code, Art. 19 Sec. 1.1. (Ref. FBC 105.1); Art. 19 Sec. 1.1 (Ref. FBC Supp IPMC 304.13, 304.2, 304.5, 304.6, 304.7), at **139 S. Peninsula Dr.** - Violation(s) – Expired building permits; peeling paint; rotted wood; holes; boarded and covered up windows - First Notified – 12/6/2013.

Ms. Wachtman came forward and was sworn. Ms. Wachtman stipulated to the violations.

Mr. Jackson stated the City believed the next cut-off date should be sufficient for compliance and a permit has been applied for and is under review.

Mr. Vukelja inquired of the Respondent if she believed July 2<sup>nd</sup> would be enough time.

Ms. Wachtman stated the permit was approved on June 3, 2014 and she had the permit number. Ms. Wachtman stated she was initially trying to do the work on her own while living out of state but the help she had fell through so she now has hired a contractor and he informed her it would take at least two months to correct everything.

**Ruling**

Mr. Vukelja found the Respondent in non-compliance and ordered the Respondent come into compliance by September 3, 2014 or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day and further ordered a progress report for August 14, 2014 meeting.

**CASE NO 10 SMG 06-14-37 – Michael J. Forest, TRS and Michel's Beachwear, LLC d/b/a Michael on the Beach** is cited for failure to correct violations of the Land Development Code, Art. 17 Sec. 2.111 (a)(b), at **3 Boardwalk** - Violation(s) – Outside activities and uses prohibited - First Notified – 5/14/2014.

Mr. Michael Forest came forward and was sworn. Mr. Forest stated the first notice he received was to appear at the meeting but apparently his tenant, Michael Hanna, had received the notices.

Mr. Jackson stated the violation was for violation of outside activities and the business did bring the property into compliance but the City was asking for a finding of non-compliance to prevent any repeat violations.

**Ruling**

Mr. Vukelja found the Respondent previously in non-compliance but currently in compliance and for any future violation be subject to repeat violation fines.

**CASE NO 11 SMG 06-14-38 – Irene Kypreos Koutouzis & Stanley T. Kypreos** is cited for failure to correct violations of the Land Development Code, Art. 17 Sec. 2.111 (a)(b), at **7 Boardwalk** - Violation(s) – Outside activities and uses prohibited - First Notified – 5/14/2014.

Respondent was not present.

Mr. Jackson stated this case was on the agenda for a repeat violation of outside activities without a TPA permit. Mr. Jacksons stated the City was requesting a fine of \$75.00 for the repeat violation and the property was now in compliance.

**Ruling**

Mr. Vukelja imposed a fine of \$75.00 for the repeat violation.

**CASE NO 13 SMG 06-14-41 – Richard W. & Lilia O. Morgan** is cited for failure to correct violations of the Land Development Code, Art. 19 Sec.1.1 (Ref. FBC Supp IPMC 304.7, 305.3, and 704.2); City Code Sec. 90-297, at **619 Aberdeen Street** - Violation(s) – Dilapidated roof; interior surfaces; missing smoke detectors; no valid business tax receipt (BTR) - First Notified – 3/28/2014.

Respondent was not present.

Mr. Jackson stated the owner was working on the violations and the City was requesting a finding of non-compliance and the next cut off date for compliance.

**Ruling**

Mr. Vukelja found the Respondents in non-compliance and ordered the Respondents come into compliance by July 2, 2014 or be returned to a subsequent meeting for consideration of a fine of up to \$1,000 per day.

**CASE NO 14 SMG 06-14-42 – Charles W. Mecklem Revocable Trust dtd 9/26/03** 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 2.7), at **515 Brentwood Drive** - Violation(s) – Outside storage; parking in the yard - First Notified – 4/15/2014.

Mr. Charles Mecklem came forward and was sworn. Mr. Mecklem stipulated to the violations.

Mr. Jackson stated the City suggested the next cut-off date for compliance and further stated this is a reoccurring issue.

Mr. Mecklem stated there are 4 adults (mother, father and two adult children) who each have a vehicle and with a one car driveway did not know where they were supposed to park.

Mr. Stenson stated parking issue is the parking on unimproved surface on both sides of the corners.

**Ruling**

Mr. Vukelja found the Respondent in non-compliance and ordered the Respondent come into compliance by July 2, 2014 or be returned to a subsequent meeting for consideration of a fine of up to \$1,000 per day.

**CASE NO 15 SMG 06-14-43 – Elmer L. & Sarah A. Flanary** is cited for failure to correct violations of the Land Development Code, Art. 8 Sec. 2.7; Art. 18 Sec. 7.3; Art. 19 Sec.1.1 (Ref. FBC Supp IPMC 302.7 and 302.8); Art. 19 Sec. 1.1 (Ref. FBC 105.1), at **1356 Continental Drive** - Violation(s) – Parking in yard; outside storage; accessory structure (shed); junk vehicle; new fence erected without permits - First Notified – 3/31/2014.

Mr. Elmer Flanary and Rod Flanary came forward and were sworn. Mr. Elmer Flanary stipulated to the violations.

Mr. Jackson stated the City is requesting compliance by the next cut-off date.

Mr. Elmer Flanary stated his shed was in the back yard and had a tarp over it because it has a couple of holes in the roof. Mr. Flanary also stated his vehicles were tagged and insured so he did not know why it was considered a junk vehicle. Mr. Flanary also stated at one point his tire was flat but it has since been fixed.

Mr. Stenson reviewed the violations with the corresponding pictures.

**Ruling**

Mr. Vukelja found the Respondent in non-compliance and ordered the Respondent come into compliance by July 2, 2014 or be returned to a subsequent meeting for consideration of a fine of up to \$1,000 per day

**Miscellaneous Business**

**Case 1**

**SMG 10-13-55 – Gary F. Zebrowski Estate & U.S. Bank NA** 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 304.3, 304.13, 304.7, 304.6, 302.7, 302.4, 304.15, 304.2, 302.7, 304.15); City Code Chapter 22 Section 22-27 & Section 22-48, at **620 Cannon Street** - Violation(s) – Outside storage; missing address numbers; broken windows; dilapidated roof; exterior walls; dilapidated fencing; weeds/landscaping; exterior doors; maintenance and security requirements responsibility of mortgagee as required by Code. - First Notified – 8/15/2013.

Mr. Jackson stated City was requesting the bank be removed as a Respondent because the foreclosure was dismissed and therefore the Bank was not responsible and did not have any authority to bring the property into compliance.

**Ruling**

Mr. Vukelja ordered the case be dismissed against US Bank and the fine remains against Gary F. Zebrowski Estate.

**Adjournment:** The meeting was adjourned at 10:00 a.m.