

# CITY OF DAYTONA BEACH MINUTES

## SPECIAL MAGISTRATE HEARING

August 12, 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 Sherri Siracusa  
Mr. Daniel Garcia, Code Inspector  
Ms. Vicki Lankford, 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 9:05 a.m.

Mr. Vukelja approved the July 8, 2014 Regular Meeting Minutes.

Mr. Vukelja asked if there were any announcements.

Ms. Hampton stated there were no announcements.

Ms. Hampton swore in members of staff.

### *Hearing of Cases:*

#### Lien Review 1

**SMG 08-13-50 – 144 Taylor Avenue – Joseph Owen – Owner (Request by Jeanie Mitchem as POA)**  
was cited for failure to correct violations: Art. 19 Sec. 1.1 (Ref. FBC Supp IPMC 302.7 and 304.2):  
Violations: Peeling, missing, fading paint and rotten wood or material on house and on exterior structure.  
**Order imposing Fine/Lien of \$250.00 per day imposed on October 2, 2013. Compliance on July 25,  
2012. Total amount of lien \$10,024.00.**

Ms. Jeanie Mitchem came forward and was sworn. Ms. Mitchem stated she was a friend of the owner, Mr. Owen, who was ill and has moved to seek medical treatment. Ms. Mitchem has Power of Attorney over the property and is the one who brought it into compliance.

Mr. Jackson stated the City was requesting a reduction to \$500.00.

Ms. Mitchem stated she was agreeable to the reduction of \$500.00.

### Ruling

Mr. Vukelja ordered the lien be reduced to the sum of \$500.00 subject to being paid in 30 days.

**Hearing of Cases**

***Continued Cases:***

**CASE NO 1 SMG 07-14-44 – Protogroup, Inc.** is cited for failure to correct violations of the Land Development Code, Art. 19 Sec.1.1 (Ref. FBC Supp IPMC 110.1, 302.1, 302.3, 302.9, 303.1, 304.2, 304.10, 305.3, 306.1, 307.1, 501.2, 601.2, 701.2), at **500 N. Atlantic Avenue** - Violation(s) – General demolition orders; sanitation - exterior not in a clean or sanitary condition; sidewalks and driveways - not in a proper state of repair; defacement - graffiti on pool and wall; pool - pool is empty but not maintained clean or in good repair; protective treatment - windows, doors, walls, to be free of defects; stairways, decks, porches and balconies not in good repair; interior surfaces - not in good repair (mold & paint); handrails and guardrails in disrepair; accumulation of rubbish or garbage; responsibility of owner to provide plumbing facilities in good working condition; responsibility of owner to provide working mechanical and electrical facilities; responsibility of owner to provide fire safety facilities - First Notified – 6/4/2014.

Mr. Robert Kuen came forward and was sworn. Mr. Kuen stated the building is under demolition and the property should be in compliance within the time frame.

**CASE NO 2 SMG 04-14-25 – Target House Property Solutions, LLC** 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 304.10, 307.1, 305.3, 305.4, 305.6, 505.1, 604.1, 605.1, 704.2, 602.2 401.2); article 1 section 4.3(c); City Code Ch. 90 Sec. 90-297(a), at **323 Maple Street** - Violation(s) – No permit for addition to the home; inadequate light and ventilation; Stairways, decks, porches and balconies; accumulation of rubbish or garbage; exterior walls; interior surfaces including Windows and doors; stairs and walking surfaces; interior doors; plumbing fixture - facilities required; installation of electrical equipment and appliances, smoke alarms; dorm living - First Notified – 1/3/12014 & 2/14/2014.

Respondent was not present.

Mr. Jackson stated the property was still in non-compliance and there has been no change or communication with the property owners and therefore the city 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 effective August 7, 2014 to continue each day thereafter until compliance is achieved or the fine reaches the maximum amount of \$15,000.

**CASE NO 3 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.

Mr. Don Ziegler appeared on behalf of the respondent. Mr. Ziegler apologized for missing the last meeting. Mr. Ziegler stated the dryer exhaust is complete, the balcony work is complete, and the walkway and driveway is in the process of being permitted. Mr. Ziegler stated he believed they were on schedule with the original completion date as provided.

Mr. Garcia stated he spoke with the new contractor who advised in 30 days he would tie up some loose ends and also would be applying for a permit for a large job that should take 4 months, and additionally 2 permits need to be renewed and a final inspection was needed for another permit.

Mr. Jackson stated staff was recommending another progress report.

**Ruling**

Mr. Vukelja ordered a progress report for the November 11, 2014 agenda.

August 12, 2014

**CASE NO 4 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. David Leete, Architect, came forward and was sworn.

Mr. Garcia stated that the building department is going to issue the permit for the work and Mr. Leete is going to make an adjustment to the plans and it will be resubmitted today.

Mr. Jackson stated staff was recommending amending the compliance date for another 60 days.

Mr. Garcia stated the 60 days was recommended for compliance on the exterior and once the plans are changed and submitted today they will be issued the permit.

Mr. Baruchel stated he would like to have 90 days for compliance because his contractor stated that he could not get started on the work for another 2 or 3 weeks and it would take approximately 60 days for compliance.

Mr. Leete stated something needed to be erased from the plan and then he can resubmit and get the permit.

#### **Ruling**

Mr. Vukelja amended the previous order of noncompliance to allow the respondent until November 5, 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 5 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. Cynthia Wachtman came forward and was sworn. Ms. Wachtman stated she was almost completed.

Mr. Paul Culver, contractor came forward and was sworn.

Mr. Jackson stated that the property was making good progress in the contractor was doing a good job in the city was satisfied as to the effort of the respondent.

**CASE NO 6 SMG 04-14-26 – Helena W. Montgomery Revocable Trust dtd 12/17/09** is cited for failure to correct violations of the Land Development Code, Art. 19 Sec. 1.1 (Ref. FBC Supp IPMC 302.7, 304.2, 304.3, 304.7, 304.13, 304.14, 304.15, 305.1, 305.3, 307.1, 504.1, 601.2, 603.1, 605.1, 605.2, 704.2); City Code 90 Sec. 90-297, at **756 Fairmount Road** - Violation(s) – See Premises Inspection Report - accessory structures; protective treatment; premises identification; roofs and drainage; Windows skylight and door frames; insect screens; exterior doors; interior surfaces; accumulation of rubbish or garbage; general plumbing fixtures; mechanical and electrical requirements; mechanical appliances; electrical equipment wiring and appliances; receptacles; smoke detectors; no business tax receipt - First Notified – 11/22/2013.

Attorney Michael Clower came forward and was sworn.

Samuel Harkness came forward and was sworn.

Helena Montgomery came forward and was sworn.

Lauren Nassar came forward and was sworn.

Mr. Jackson stated the property remained in non-compliance and staff was seeking a fine be imposed of \$100 per day.

Mr. Stenson stated the exterior of the property has been cleaned up and the interior of the house has been cleaned completely out but the actual broken material/violations still exist. Mr. Stenson stated the house was vacant now and the tenant has been removed.

Mr. Clower stated the contractor has been hired and should have the work completed within 30 days.

**Ruling**

Mr. Vukelja amended the previous order of noncompliance to allow the respondent until October 8, 2014 to come into compliance or an automatic fine of \$100 per day shall go into effect each day thereafter until compliance is achieved or the fine reaches the maximum amount of \$15,000.

**CASE NO 7 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 that the property was in compliance except for the occupational license and that the city was requesting the imposition of a one-time administrative fine of \$250 for failure to obtain the business tax receipt.

**Ruling**

Mr. Vukelja imposed the one-time administrative fine of \$250 effective August 12, 2014.

**CASE NO 8 SMG 07-14-48 – Eric N. & Kimberly D. McGill** is cited for failure to correct violations of the Land Development Code, Art. 19 Sec.1.1 (Ref. FBC Supp IPMC 302.7 and 304.13), at **1201 Essex Road** Violation(s) – Dilapidated fencing; broken windows; property is vacant and unsecured - First Notified – 5/27/2014 - 6/2/2014.

Respondent was not present.

Mr. Jackson stated that the property was in non-compliance and no action or contact has been made with the respondent. Mr. Jackson stated staff was recommending a fine be imposed of \$250 per day to a maximum of \$10,000. Mr. Jackson further requested an authorization for securing the property.

**Ruling**

Mr. Vukelja imposed a fine of \$250 per day against the respondent effective August 7, 2014 to continue each day thereafter until compliance is achieved or the fine has reached the maximum amount of \$10,000 and further authorized the city to secure the property.

**CASE NO 9 SMG 07-14-49 – Paul B. Porter** 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 304.7, 304.15, 302.7, 305.3, 305.6, 605.1, 504.1 and 605.2), at **1208 Imperial Drive** - Violation(s) – Parking in yard; outside storage; dilapidated roof; exterior front door; dilapidated fencing; interior surfaces; interior doors; plumbing fixtures; inoperable appliances; inoperable receptacles - First Notified – 4/26/2014.

Mr. Jackson stated the property was still in non-compliance and staff recommended a compliance date of the next cut-off.

Mr. Paul Porter came forward and was sworn. Mr. Porter stated he was agreeable with the September 3<sup>rd</sup> date and his attorney was having the tenants evicted and they should be out in 5 days. Mr. Porter stated the exterior has been repaired and the roof has been repaired.

**Ruling**

Mr. Vukelja amended the previous order of non-compliance to allow the Respondent until September 3, 2014 to come into compliance or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day.

**CASE NO 10 SMG 08-14-50 – Jonathan I. Rotstein and Mason Avenue Pawn** is cited for failure to correct violations of the Land Development Code, Art. 18 Sec. 6.6; Art. 18 Sec. 6.6 (a)4; Art. 18 Sec. 6.6 (a)6; Art. 18 Sec. 6.6 (a)8; Art. 18 Sec. 6.6 (a)9, at **347 Mason Avenue** - Violation(s) – Prohibited signs; sign on pole column not permitted; "open" sign cannot be flashing; sandwich board or A-frame signs prohibited; no pennants and other signs which move in the wind; vehicle may not be used as primary purpose for advertising - First Notified – 6/23/2014.

Attorney Jonathan Rothstein appeared on behalf of himself and Mason Avenue Pawn.

Mr. Frank Murphy came forward and was sworn.

Mr. Rotstein stated he requested a motion to dismiss based on the fact he did not received notice. Mr. Rotstein stated he was assuming the property was in compliance because he was not sure what the issues were.

Mr. Jackson stated the City has certified mail green cards for the notices and an affidavit of hand delivery for notice to the Mason Avenue Pawn Shop.

Ms. Lankford stated she was appearing on behalf of Mr. Fitzgerald and stated that the Land Development Code clearly states you cannot have signs that move in the wind and signs that are not permanently fixed. The property has feather banners and A-frame signs that are on the property. Ms. Lankford stated the tenant was noticed and Mr. Rotstein was noticed.

Mr. Rotstein stated he was allowed to have an open sign for each store front.

Ms. Lankford read the section of the land development code and stated Art. 18 Sec. 6.6 (a) 6 reads that mobile or portable signs, A-Frame signs and sandwich board signs are now allowed.

Mr. Murphy stated he was only doing what everyone down the street was doing but code says across the street is not their area.

Mr. Jackson stated if that indeed that was the dialogue to please feel free to notify a supervisor.

Mr. Vukelja stated it is the same thing that happens with the car dealerships in the area.

**Ruling**

Mr. Vukelja found the respondent in non-compliance and ordered the respondent come into compliance by the August 22, 2014 or be returned to subsequent meeting for consideration of a fine up to \$1000 per day.

**CASE NO 11 SMG 08-14-51 – Community Dynamics, Inc.** is cited for failure to correct violations of the Land Development Code, Art. 19 Sec.1.1 (Ref. FBC Supp IPMC 304.13.1), at **501 S. Martin Luther King Blvd.** - Violation(s) – All glazing materials shall be maintained free from cracks and holes - First Notified – 5/21/2014.

Mr. Gerald Chester came forward and was sworn.

Mr. Jackson stated the property was in noncompliance and recommended the next cut-off date for compliance.

Mr. Chester stated they have boarded the windows up at this point.

Mr. Jackson stated boarded windows are not sufficient for compliance.

Mr. Chester stated they are not prepared to develop that property at the moment and to put new glass in is only going to create vandalism and because of the location in the neighborhood the windows are only going to get broken.

### **Ruling**

Mr. Vukelja found the respondent in non-compliance and ordered the respondent come into compliance by September 3, 2014 or be returned to subsequent meeting for consideration of a fine up to \$1000 per day.

**CASE NO. 12 SMG 08-14-53 – Navarra Construction, Inc.** is cited for failure to correct violations of the Land Development Code, Art. 19 Sec.1.1 (Ref. FBC Supp IPMC 304.15, 305.3, 304.13, 504.1, 305.6, 605.1, 304.14), at **521 Pine Street** - Violation(s) – Exterior doors (garage door); interior surfaces; broken windows; broken plumbing fixtures; dilapidated interior doors; electrical fixtures; missing screens; property is unsecured - First Notified – 5/19/2014.

Respondent was not present.

Mr. Jackson stated the property was in noncompliance and recommended the next cut-off date for compliance.

### **Ruling**

Mr. Vukelja found the respondent in noncompliance and ordered the respondent come into compliance by September 3, 2014 or be returned to subsequent meeting for consideration of a fine up to \$1000 per day.

**CASE NO SMG 08-14-54 – Michael A. Huss & Cathy Ann Huss** 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 304.6, 304.7, 504.3, 304.14, 605.2, 504.1, 305.3, 305.6, 704.2, 308.1, 302.7); Art. 19 Sec.1.1 (Ref. FBC 105.1), at **506 Brentwood Drive** - Violation(s) – Outside storage; exterior surfaces; dilapidated roof; plumbing system hazard (venting); missing/broken screens; inoperable receptacles; plumbing fixtures; interior surfaces; interior doors; missing/inoperable smoke detectors; insect infestation; dilapidated fencing; roof work with out permits - First Notified – 5/31/2014.

Mr. Michael Huss and Cathy Huss came forward and were sworn. Mr. Huss stipulated to the violations. Mr. Huss stated he believed it would be in compliance by September 3, 2014.

Mr. Dennis Checchi, contractor, came forward and was sworn. Mr. Checchi asked for a little more time because the roof was not going to be started until August 28, 2014.

Mr. Jackson stated the property was in noncompliance and recommended the next cut-off date for compliance.

### **Ruling**

Mr. Vukelja found the respondent in noncompliance and ordered the respondent come into compliance by October 8, 2014 or be returned to subsequent meeting for consideration of a fine up to \$1000 per day.

### **Miscellaneous Business**

There was no miscellaneous business.

**Adjournment:** The meeting was adjourned at 10:20 a.m.