

CITY OF DAYTONA BEACH MINUTES

SPECIAL MAGISTRATE HEARING

November 11, 2014 at 9:30 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 Supervisor
Officer Sherri Siracusa
Mr. Michael Fitzgerald, Code Inspector
Mr. Daniel Garcia, Code Inspector
Mr. Denzil Sykes, Code Inspector
Mr. John Stenson, Code Inspector
Robert Snowden, Building Inspector
Ms. Aimee Hampton, Board Secretary

Approval of Minutes by: _____

Special Magistrate

Mr. Vukelja called the Hearing to order at 9:30 a.m.

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

Mr. Vukelja asked if there were any announcements.

Ms. Hampton stated the following cases were in compliance:

CASE NO 2 SMG 04-14-26 – Helena W. Montgomery Revocable Trust dtd 12/17/09 and Kim Law are 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.

COMPLIANCE 11/10/2014

Ms. Hampton swore in members of staff who would be testifying.

Hearing of Cases:

CASE NO 1 SMG 09-14-55 – Grover J. Dezern is cited for failure to correct violations of the Land Development Code, Art. 19 Sec.1.1 (Ref. FBC Supp IPMC 304.13, 304.14, 304.2, 304.4, 304.6, 304.7, and 304.9), at **733 Mulberry Street** - Violation(s) – Fading and peeling paint; roof structural members rotten; exterior walls cracks, loose, missing and rotting materials; roof and flashing; gutters; rust and

corrosion or missing parts and growing vegetation; overhang extension, rot or decay or rust; broken window glass; windows damaged or broken; ripped, torn or missing screens - First Notified – 4/3/2014.

Respondent was not present.

Mr. Jackson appeared on behalf of the City and stated the property remained in non-compliance and the City had previously asked for a continuance to research a Certificate of Title in the Respondent's name but that has since been confirmed to be related to a separate property. Mr. Jackson stated the City was requesting the imposition of a fine of \$250 per day to a maximum of \$15,000.

Mr. Fitzgerald stated there has been no contact from the owner and no change on the property. Mr. Fitzgerald stated there was a signed green card for the notice. Mr. Fitzgerald stated the \$250 per day fine was requested because of the deterioration of the property and it is an eyesore for the neighborhood who is trying to clean up the area.

Ruling

Mr. Vukelja imposed a fine of \$250.00 per day effective October 9, 2014 to continue until compliance is achieved or the fine reaches the maximum amount of \$15,000.

CASE NO 3 SMG 10-14-65 – Scott & Gwen Petersohn is cited for failure to correct violations of the Land Development Code, Art. 17 Sec. 2.189(a); Art. 18 Sec. 7.3.1 and 7.3.3; City Ordinance 90-297(a), at **2317 Dodge Drive** - Violation(s) – Parking trailer in the front yard; outside storage of materials; landscaping and grounds not reasonably maintained; No Business Tax Receipt (BTR) for rental
First Notified – 8/9/2014.

Respondent was in compliance November 5, 2014.

CASE NO 4 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, came forward and was sworn. Mr. Ziegler stated they were approaching the end of the project and are currently working on concrete restoration on roof edges and walkways and they expect to have that completed by the end of the year. Mr. Ziegler stated from there they will begin painting which should be completed by the end of January.

Mr. Vukelja inquired if there was a compliance date.

Mr. Jackson stated there has been no compliance date set just frequent progress reports to monitor the case.

Ruling

Mr. Vukelja amended the previous order of non-compliance to order a Progress Report for the January 13, 2015 meeting.

CASE NO 5 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. Garcia stated the exterior which is the subject of the existing code case would have been in compliance except for the excessive rain we received in the past few weeks. Mr. Garcia stated there was some minimal stucco to finish.

Mr. Baruchel stated the City has tied in interior improvements and repairs and therefore was asking for 90 to 120 days to complete the interior.

Mr. Garcia stated he was not cited for the interior.

Ruling

Mr. Vukelja amended the previous order of non-compliance to allow the Respondent until December 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 6 SMG 09-14-60 – Christiana Trust, Trustee c/o Lender Legal Services is cited for failure to correct violations of the Land Development Code, Art. 19 Sec.1.1 (Ref. FBC Supp IPMC 304.10, 304.2, 304.4, 304.6, 304.7, 506.2, 704.2, and 305.3), at **315 Cedar Street** - Violation(s) – Deteriorated porch floor; exterior walls - oxidation, dirt, grime, mildew and peeling paint; rotten decay and damaged wood from roof and soffit area; roof, soffit, fascia, drain and gutters; kitchen cabinets - cracked loose, ceiling walls plaster in the bedroom; plumbing lines and toilet and sewer lines; smoke detectors - First Notified – 7/18/2014.

Ms. Christine DiNardo came forward and was sworn. Ms. DiNardo stated the property was a bank owned property and she was the property manager. Ms. DiNardo stated she had the authority to speak on behalf of the property.

Mr. Jackson appeared on behalf of staff and stated Mr. Lopez was the previous inspector for the case and since he is no longer with the City a new inspector needed to be assigned and therefore the staff was requesting a continuance to the next meeting date.

Ms. DiNardo agreed with the new compliance date but just wanted to make the City aware the bank requires two contractors to provide two bids to agree to do the job and she finally found a contractor in Venice, Florida and Deltona, Florida. Ms. DiNardo stated she believes by the next meeting everything should be completed.

Ruling

Mr. Vukelja continued the case to the December 9, 2014 meeting.

CASE NO 7 SMG 09-14-61 – Blondell M. Ezell is cited for failure to correct violations of the Land Development Code, Art. 19 Sec.1.1 (Ref. FBC Supp IPMC 304.8, 304.2, and 302.7), at **647 Clark Street** Violation(s) – Unlicensed or inoperative vehicle; Protective treatment- oxidation stains; Accessory structures - fence in disrepair - First Notified – 7/16/2014.

Respondent was in compliance November 7, 2014.

CASE NO 8 SMG 10-14-70 – Ronald L. Helgemo is cited for failure to correct violations of the Land Development Code, Art. 19 Sec.1.1 (Ref. FBC Supp IPMC 302.4, 302.7, 302.8, 304.2, 304.6, 307.1, 304.14, 307.2.2), at **416 Marion Street** - Violation(s) – Junk vehicle; Weeds; Accessory Structures; Protective Treatment; Exterior Walls; Accumulation of rubbish or garbage; Insect Screens; Refrigerator and similar equipment not in operation shall not be discarded, abandoned or stored on premises - First Notified – 7/22/2014.

Respondent was in compliance November 7, 2014.

CASE NO 9 SMG 10-14-71 – Can Doo Man, LLC is cited for failure to correct violations of the Land Development Code, Art. 19 Sec. 1.1. (Ref. FBC Supp IPMC 302.7; 307.1; 304.13.1); Art. 1 Sec. 5.3; City Code 90-297, at **543 Division Street** - Violation(s) – Accessory structures; accumulation of rubbish or garbage; glazing; Non-conforming use; No business tax receipt (BTR) - First Notified – 7/1/2014 (Maintenance Code Violations) 7/23/2014 (non-conforming use/BTR)

Respondent was in compliance November 7, 2014.

CASE NO 10 SMG 10-14-68 – Dorothy M. Knapp is cited for failure to correct violations of the Land Development Code, Art. 19 Sec. 1.1 (Ref. FBC Supp IPMC 308.1), at **216 Mullally Street** - Violation(s) – **Infestation of bees** - First Notified – 7/24/2014.

Respondent was in compliance November 4, 2014.

CASE NO 11 SMG 10-14-69 – Dorothy M. Knapp is cited for failure to correct violations of the Land Development Code, Art. 18 Sec. 7.3.1; Art. 19 Sec. 1.1 (Ref. FBC 105.1); Art. 19 Sec.1.1 (Ref. FBC Supp IPMC 302.7), at **216 Mullally Street** - Violation(s) – Built ramp without permit; outside storage; peeling paint; damaged fence - First Notified – 4/22/2013.

Respondent was not present.

Mr. Jackson called Mr. Garcia to testify.

Mr. Garcia stated the outside storage has been corrected and a permit for the ramp has been applied for and it is under review, some pressure washing has been completed and the painting remained in addition to a few slats on the damaged fence. Mr. Garcia stated the City was requesting amending the compliance date to the next cut-off.

Ruling

Mr. Vukelja amended the previous order of non-compliance to allow the Respondent until December 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 12 SMG 11-14-72 – Sandra L. Wallace is cited for failure to correct violations of the Land Development Code, Art. 19 Sec.1.1 (Ref. FBC Supp IPMC 302.8), at **4 Cardinal Estates Blvd.** - Violation(s) – Unlicensed or inoperable vehicle - First Notified – 9/23/2014.

Respondent was not present.

Mr. Stenson stated the property was in non-compliance with the unlicensed vehicle in the driveway. Mr. Stenson stated the City recommended the next cut-off date for compliance.

Ruling

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

CASE NO 13 SMG 11-14-74 – Eldorado Property Holdings, LLC is cited for failure to correct violations of the Land Development Code, Art. 18 Sec. 7.3 and Art. 19 Sec.1.1 (Ref. FBC Supp IPMC 302.7, 304.2, 304.15, 305.3, 704.2, 304.13, 304.14, 603.1, 605.2 and 304.6), at **634 Eldorado Street, Suite 2** Violation(s) – Outside storage; dilapidated fencing; peeling paint; exterior doors; interior surfaces; smoke detectors; broken windows; missing screens; inoperable appliances (heat, stove); inoperable receptacles; exterior surfaces - First Notified – 9/22/2014.

Mr. Ken Poulin came forward and was sworn. Mr. Poulin stipulated to non-compliance.

Mr. Stenson stated the property owner has evicted the tenant and has already began working on the violations. Mr. Stenson recommended the next cut-off date for compliance.

Mr. Poulin stated the exterior has been corrected he just needed to complete the interior and if he could have extra time to complete the interior that would be preferable.

Mr. Vukelja stated he would be willing to allow 60 days for compliance if Mr. Poulin agreed the property would remain unoccupied until compliance.

Mr. Poulin agreed with keeping the property unoccupied until compliance.

Ruling

Mr. Vukelja found the Respondent in non-compliance and ordered the Respondent come into compliance by January 7, 2015 or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day and further ordered the property not be rented, occupied or otherwise utilized until compliance is achieved.

CASE NO 14 SMG 11-14-73 – William Bittorf & Kathy & Michelle Bittorf is cited for failure to correct violations of the Land Development Code, Art. 17 Sec. 2.189 & Art. 8 Sec. 2.7, at **S. Wild Olive - Vacant Lot Short Parcel # 5309-07-20-0150** - Violation(s) – Commercial vehicle parking and illegal parking
First Notified – 10/17/2014 at 2:25 p.m.

Mr. William H. Bittorf came forward and was sworn. Mr. Bittorf stipulated the parking occurred but it was not him who was allowing the parking it was his neighbor. Mr. Bittorf presented a survey of the land and explained where the parking of the RV was occurring.

Mr. Garcia described where the property was located and where the two large RV's were parked. Mr. Garcia stated this happened during Biketoberfest there were RV's parked on a lot and the RV's owners stated the property owner told him it was ok for them to park there. Mr. Garcia stated he then went across the street and spoke with Michael who was an employee of Club Topic, who stated he was charging for parking but he was willing to give the money back and just needed 2 hours to get them moved. Mr. Garcia stated the owners of the RV's and bikes were arguing and police had to be called but once the police arrived they agreed to leave once they received their money back.

Mr. Garcia stated he went by the property a couple hours later and the vehicles were removed. Mr. Garcia stated the property was in compliance but the City was seeking an order of non-compliance.

Mr. Bittorf stated he did have a permit for parking but he would not have allowed the RV's.

Mr. Jackson called the permits and licensing officer and asked her to testify.

Glejuanda Davis came forward and was sworn. Ms. Davis stated she was the licensing manager for the City permitting department. Ms. Davis reviewed the permit supplied by Mr. Bittorf and explained that permit was for 400 E. ISB and it allows for extended hours for selling alcohol, restaurant and parking on the that site only and not across the street. Ms. Davis stated if Mr. Bittorf wanted to do motorcycle parking on the vacant lot he would have needed to go through the master plan permitting process and if he wanted to obtain a permit for camping or overnight parking he would have to go through the process of obtaining a special use permit.

Mr. Bittorf reiterated he did not allow the parking of the RV.

Mr. Jackson called Officer Siracusa to testify.

Ofc. Siracusa stated she felt it necessary to inform Mr. Vukelja that when Mr. Bittorf received the hearing notice he contacted her office and they had a lengthy conversation about the hearing in which he said he does it every year and will continue to do it every year and the city does not know what it is talking about.

Mr. Vukelja asked Ms. Davis about photos submitted by Mr. Bittorf that showed parked motorcycle on an adjoining property that begins where his property ends.

Ms. Davis stated if it was residential property it would be a separate issue code enforcement would have to address. Ms. Davis stated the complaint was regarding the illegal RV's and that is what prompted the code enforcement case.

Mr. Robert Stoldmann came forward and was sworn. Mr. Stoldmann stated he tried to plan with the city legally to create parking on the vacant lot for several events but he never receives a response.

Ms. Davis states the property is not currently included in the master plan but there is a process where he can be included however the hurdle Mr. Bittorf runs into every year is coming in after the deadline to try and apply for the permits.

Ruling

Mr. Vukelja found the Respondent previously in non-compliance but currently in compliance and for any future repeat violation be returned to a subsequent meeting for consideration of a fine up to \$5,000 per occurrence.

Mr. Vukelja encouraged Mr. Bittorf to work with the city and try and begin the process sooner and informed the city if and when they seek to try and enforce this violation to be prepared to better explain the violations as this issue is a maze of complicated issues.

Miscellaneous Business

1. Discussions were held between Mr. Vukelja and Ms. Davis regarding the time frame for applying for Bike Week permits.

Ms. Davis stated she was going to put Mr. Bittorf in touch with the Planning Department to help him with the process.

Adjournment: The meeting was adjourned at 10:30 a.m.