

# CITY OF DAYTONA BEACH MINUTES

## SPECIAL MAGISTRATE HEARING

MAY 12, 2015 at 9:30 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  
Mr. Hector Garcia, Code Compliance Supervisor  
Officer Aaron Paro  
Mr. Tom Clig, Code Inspector  
Mr. Michael Fitzgerald, Code Inspector  
Mr. Daniel Garcia, Code Inspector  
Ms. Vicki Lankford, Code Inspector  
Mr. Cliff Recanzone, 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 9:28 a.m.

Mr. Vukelja approved the April 14, 2015 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 who would be testifying.

**CASE NO 1 SMG 01-15-04 – Robert & Chantal Pesce** 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 Supp IPMC 304.12, 304.13, 304.14, 304.15, 304.2, 304.5, 304.7, 305.3, 305.6, 505.1, 704.2), at **128 S. Wild Olive Avenue** - Violation(s) – Broken windows; rotted wood; smoke detectors; interior surface damage; cracks; toilet bowl; stove; soffits; outside storage and handrail - First Notified – 8/28/2014.

Mr. Mike Bowen, General Contractor for the Respondent, came forward and was sworn. Mr. Bowen stated he was hired to bring the property up to code and return the property into a single family dwelling.

Mr. Jackson called stated the Respondents should have produced permits for renovation and staff was looking for the determination of a compliance date. Mr. Jackson called Inspector Garcia for testimony.

Mr. Garcia stated the city would like permits to demolish the interior be in hand next month. Mr. Garcia stated the permits have been applied for but not obtained.

Mr. Bowen stated they needed to change the permit over to a construction permit and was waiting on drawings from the architect. Mr. Bowen stated the house was being cleaned out and they came across a lot more structural damage the owner wasn't aware of and they are putting together a bid for him to correct those issues as well. Mr. Bowen stated he believed he could have the drawings by the June 3, 2015 cut-off date. Mr. Bowen stated he did not have an estimate of a compliance date at this time to have the whole project completed.

### **Ruling**

Mr. Vukelja continued the case to the June 9, 2015 meeting for a progress report and determination of a compliance date and further ordered permits should be in hand and the property is not to be rented, occupied or otherwise utilized until compliance.

**CASE NO 2 SMG 02-15-05 – RSF Properties, LLC** is cited for failure to correct violations of the Land Development Code, Art. 19 Sec.1.1 (Ref. FBC Supp IPMC 304.2), at **633 Mulberry Street** - Violation(s) – Peeling, fading paint - First Notified – 9/10/2014.

Respondent was in compliance April 29, 2015.

**CASE NO 3 SMG 02-15-07 – Grayceland REI Consulting, LLC** is cited for failure to correct violations of the Land Development Code, Art. 19 Sec.1.1 (Ref. FBC Supp IPMC 304.10, 304.11, 304.13, 304.13.1, 304.13.2, 304.14, 304.15, 304.4, 304.5, 304.6, 304.7, 304.8, 304.9), at **158 Madison Avenue** - Violation(s) – Deteriorated structural members; loose, missing or deteriorated foundation walls; exterior walls loose, missing or deteriorated; damaged gutters; roof flashing; eaves, fascia; general cornices and eaves loose, missing or deteriorated; overhang extensions loose, missing or deteriorated; rotting stairways, decks, porches, and balconies; broken windows; ripped, torn or missing window screens; exterior doors and hardware damaged, broken, deteriorated or decayed; no water connections; plumbing fixture damage; no electrical service - First Notified – 11/7/2014.

Elliot Meadows, Contractor for Respondent, came forward and was sworn. Mr. Meadows stated he was hired to bring the property into compliance. Mr. Meadows stated he has a couple of issues that are hindering progress. Mr. Meadows stated he has his permit application ready and has met with the city zoning and planning who informed him that because of the size of the lot, the maximum units that can be on the property are 4 units and there has to be a parking area, landscaping, and curbing included. Mr. Meadows stated the code reads if a property is abandoned for a period of time then you lose the grandfathering status. Mr. Meadows stated there was a previous court case with the City where a judge ordered a property was not abandoned simply because of the foreclosure. Mr. Meadows stated they are trying to lower the unit from 8 to 6 units.

Mr. Vukelja inquired as to when Grayceland purchased the property.

Mr. Meadows stated they purchased the property directly from the bank in November of 2014.

Ms. Hampton stated the property appraiser shows they purchased the property in June 2014.

Mr. Vukelja stated it seems there is an impasse about the grandfathering issue with the City.

Mr. Jackson stated he did speak with Mr. Gordon yesterday and that he does not know the details of what they are trying to do but knows they are having challenges regarding zoning and permits and trying to come into compliance with what they are cited with.

Mr. Jackson stated the Inspector is reporting that the property is not in compliance and the recommendation is for 60 days for compliance.

Mr. Vukelja inquired if any of the issues Mr. Meadows touched is an issue for the Special Magistrate to resolve.

Mr. Jackson stated none of the issues regarding zoning would be a determination by the Magistrate.

Mr. Vukelja stated if there is an issue of fact as to whether or not the property has been abandoned for 6 months and did not know if he was the determiner of the fact of that issue.

Discussions were held among Mr. Jackson and Mr. Vukelja regarding the process of appealing the staff determination of the grandfathering finding of fact.

Mr. Meadows advised there has been progress as far as painting and putting a new roof on both structures.

Mr. Fitzgerald stated the front of the building has been painted not the entire building.

### Ruling

Mr. Vukelja continued the case to the June 9, 2015 meeting for a progress report and determination of a compliance date. Mr. Vukelja stated if the parties are still at an impasse then he will make a determination of the abandoned/non-abandoned issue.

**CASE NO 4 SMG 03-15-10 – Alena Hrubá & Jiri Mikan , as JTRS** is cited for failure to correct violations of the Land Development Code, Art. 8 Sec. 2.7, at **359 Golf Blvd.** - Violation(s) – Parking on the grass  
First Notified – 12/18/2014.

Respondent was in compliance May 5, 2015

**CASE NO 5 SMG 04-15-20 – Precious Property Management, LLC** is cited for failure to correct violations of the Land Development Code, Art. 9 Sec. 9.1.A (Ref. FBC Supp IPMC 304.4, 304.5, 304.6, 304.7, 304.15, 305.2, 604.3), at **2735 N. Atlantic Avenue** - Violation(s) – Exterior structural members, exterior walls, Exterior Roof, Exterior doors, Interior structural members, electrical systems hazards - First Notified – 3/3/2015.

Respondent was not present.

Mr. Jackson called Mr. Clig for testimony.

Mr. Clig stated the building is in the process of being demolished and they are waiting on dumpsters to remove the debris. Mr. Clig stated the property should be in compliance by the next cut-off date.

### Ruling

Mr. Vukelja ordered the Respondent come into compliance by June 3, 2015 or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day.

**CASE NO 6 SMG 04-15-16 – Allure Investments, LLC** is cited for failure to correct violations of the Land Development Code, \*\*Art. 8 Sec. 2.7 and ; Art. 18 Sec. 7.3 \*\*New Land Development Code eff. 3/1/15 Reference: Art. 6 Sec. 6.2.H.7.a.i and Art. 6 Sect. 6.19.A.3.a.; City Ordinance Ch. 90 Sec. 90-297, at **1020 Audrey Drive** - Violation(s) – Parking in the yard; outside storage; Failure to obtain a Business Tax Receipt (BTR) - First Notified – 2/2/2015.

Respondent was in compliance May 4, 2015.

**CASE NO 7 SMG 04-15-17 – Doris L. Miles** 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 304.2) \*\*New Land Development Code eff. 3/1/15 Reference: Art. 6 Sec. 6.19.A.3.a. Art. 9 Sec. 9.1.A (Ref. FBC Supp IPMC 304.2), at **1028 Cadillac Drive** - Violation(s) – Outside storage; peeling paint - First Notified – 2/3/2015.

Respondent was not present.

Mr. Jackson stated the property remained in non-compliance with outside storage and peeling paint and staff was requesting a fine be imposed of \$75.00 per day to a maximum of \$10,000.

Mr. Stenson stated some of the debris has been removed but it has just been moved to a different location and the peeling paint still exists.

**Ruling**

Mr. Vukelja imposed a fine of \$75.00 per day against the Respondent effective May 7, 2015 to continue until compliance is achieved or the fine reaches the maximum amount of \$10,000.

**CASE NO 8 SMG 04-15-18 – AmazingGrace ARNP Solo 401K Trust c/o Grace Pedersen as 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 304.3, 304.7, 304.13, 304.14, 305.6, 302.7, 308.1, 304.15, 305.3, 605.1, 504.1, 604.3, 704.2, 605.2 and FBC 105.1 ) \*\*New Land Development Code eff. 3/1/15 Reference: Art. 6 Sec. 6.19.A.3.a.; Art. 9 Sec. 9.1.A (Ref. FBC Supp IPMC 304.3, 304.7, 304.13, 304.14, 305.6, 302.7, 308.1, 304.15, 305.3, 605.1, 504.1, 604.3, 704.2, 605.2 and FBC 105.1 ), at **724 Mercedes Avenue** - Violation(s) – Outside storage; no address numbers; dilapidated roof; inoperable windows; missing screens; dilapidated fencing; infestation; dilapidated exterior doors; dilapidated interior surfaces; missing interior doors; inoperable/dilapidated electrical fixtures; dilapidated plumbing fixtures; electrical hazard; missing smoke detectors; inoperable receptacles; working without permits - First Notified – 2/9/2015 (Hand Delivered).

Respondent was not present.

Mr. Jackson stated the property remained in non-compliance and requested a fine of \$250.00 per day to a maximum of \$15,000 plus the one-time \$250 for no business tax receipt.

Mr. Stenson stated there is currently a new tenant in the location and the violations still exist.

Mr. Jackson stated it appears the no BTR violations was not noticed.

**Ruling**

Mr. Vukelja imposed a fine of \$250.00 per day against the Respondent effective May 7, 2015 to continue until compliance is achieved or the fine reaches the maximum amount of \$15,000.

**CASE NO 9 SMG 04-15-19 – Ingrid Beltran** is cited for failure to correct violations of the Land Development Code, \*\*Art. 19 Sec.1.1 (Ref. FBC Supp IPMC 302.7, 302.8, 304.13, 304.14, 304.15, 305.1, 504.1, 605.1, 505.1, 602.3, 604.3, and 704.1) and Art. 18 Sec. 7.3.1 \*\*New Land Development Code eff. 3/1/2015 Reference: Art. 9 Sec. 9.1.A. (Ref. FBC Supp IPMC 302.7, 302.8, 304.13, 304.14, 304.15, 305.1, 504.1, 605.1, 505.1, 602.3, 604.3, and 704.1); and Art. 6 Sec. 6.19.A.3.a, at **309-311 Wisteria Road** - Violation(s) – Deteriorated fencing; inoperable RV; broken windows (glass and not in good repair); missing screens; damaged exterior door; stove and heat defective; plumbing leaks and backs up; faulty electric throughout; defective water heater; no smoke detectors or fire extinguishers - First Notified – 2/19/2015.

Ms. Ingrid Beltran came forward and was sworn.

Mr. Jackson called Ms. Lankford for testimony.

Ms. Lankford stated she has made a list of what has been accomplished and what items still remain that need to be repaired. Ms. Lankford stated the electrical issues have been taken care of and approved.

Ms. Beltran stated she believed she could have the remaining items completed by the next cut-off date.

**Ruling**

Mr. Vukelja amended the previous order of non-compliance to allow the Respondent until June 3, 2015 to come into compliance or be returned to a subsequent meeting for consideration of a fine of \$1,000 per day.

**CASE NO 10 SMG 05-15-21 – June St. John** is cited for failure to correct violations of the Land Development Code, \*\*Art. 8 Sec. 3.6; Art. 18 Sec. 7.4 (4); \*New Land Development Code Effective 3/1/15 reference: Art. 6 Sec. 6.8.G and Art. 6 Sec. 6.19.A.4.d., at **408 Wisteria Road** - Violation(s) – Defective fencing; Mold, mildew on exterior surfaces - First Notified – 9/17/2014.

Ms. Gail Diccico, daughter of Respondent, came forward and was sworn. Ms. Diccico stipulated to the violations.

Mr. Jackson stated the Inspector is Ms. Lankford who is requesting compliance by the next cut-off date.

Ms. Diccico stated her son has come down for a couple of months to help out with the repairs.

Ms. Diccico stated she needed to know which fence is in disrepair as she did not believe it belongs to her mother.

**Ruling**

Mr. Vukelja found the Respondent in non-compliance and ordered the Respondent to come into compliance by June 3, 2015 or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day.

**CASE NO 11 SMG 05-15-22 – Roecy House, LC** is cited for failure to correct violations of the Land Development Code, Art. 6 Sec. 6.2.h.7.a.i; Art. 6 Sec. 6.19.A.3.a; Art. 9 Sec. 9.2.A. (Ref. FBC Supp IPMC 302.7, 302.8, 304.6 and 304.15), at **1245 Essex Road** - Violation(s) – Parking in yard; outside storage; dilapidated fencing; junk vehicle; exterior surfaces; exterior doors (front door) - First Notified – 3/12/2015.

Ms. Cyril Javurek came forward and was sworn. Mr. Javurek stipulated to the violations and stated the house has been painted, the fence repaired and the vehicles have been removed or have tags.

Mr. Jackson believes the property should be in compliance by the next cut-off date.

Mr. Javurek stated he was not going to be in the country during the next meeting date and had a question about the dogs and did not know if he was responsible for the dogs.

Mr. Vukelja stated the City or Magistrate have no say over the tenant.

**Ruling**

Mr. Vukelja found the Respondent in non-compliance and ordered the Respondent come into compliance by June 3, 2015 or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day.

**CASE NO 12 SMG 05-15-23 – Mat Rentals, LLC** is cited for failure to correct violations of the Land Development Code, \*\*Art. 1 Sec. 5.2; Art. 18 Sec. 7.3; City Code 90 Sec. 90-297 \*\*New Land Development Code Effective 3-1-15 reference: Art. 8 Sec. 8.2.A. and Art. 6 Sec. 6.19.A.3.a, at **500 N. Keech Street** - Violation(s) – Non-conforming use (metal scrapping); outside storage; no valid Business Tax Receipt (BTR) - First Notified – 12/27/2014.

Cheryl Craig, property manager, came forward and was sworn. Ms. Craig stipulated to non-compliance.

Mr. Jacksons stated the City believes non-compliance with the next cut-off date for compliance.

Ms. Craig stated she would ask for at least 30 days for the business tax receipt (BTR) because everything is done except for that.

**Ruling**

Mr. Vukelja found the Respondent in non-compliance and ordered the Respondent come into compliance with outside storage and non-conforming use (metal scrapping) by June 3, 2015 or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day. It was further ordered the Respondent be in compliance with the no valid Business Tax Receipt (BTR) violation by July 8, 2015 or be returned to a subsequent meeting for consideration of a one-time administrative fine of \$250.00.

**CASE NO 13 SMG 05-15-24 – Chandra L. Washington** is cited for failure to correct violations of the Land Development Code, Art. 9 Sec. 9.2.A (Ref. FBC Supp IPMC 307, 302.4, 304.14, 305.6, 305.3, 704.2, 308.1, 504.2, 504.1, 504.3, 304.15, 605.1, and 302.7), at **1033 Thunderbird Drive** - Violation(s) – Rubbish; weeds; dilapidated screens; interior doors; interior surfaces; smoke detectors; infestation; plumbing fixture clearance (bathroom); plumbing fixtures; plumbing system hazard; exterior doors; electrical fixtures; accessory structure (fencing); accessory structure (laundry room) - First Notified – 3/20/2015.

Ms. Chandra Washington came forward and was sworn. Ms. Washington stipulated to the violations.

Mr. Jackson stated the Inspector indicates there has been no contact from the property owner and recommended the next cut-off for compliance.

Ms. Washington stated she spoke with Mr. Stenson on April 6<sup>th</sup> and she needed more time and needed to evict her tenant because she was destroying the property. Ms. Washington stated she was handling the eviction proceeding herself and would be calling tomorrow to try and get a default if there has been no response.

**Ruling**

Mr. Vukelja found the Respondent in non-compliance and ordered the Respondent come into compliance by July 8, 2015 or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day.

**Miscellaneous Business**

There was no miscellaneous business.

**Adjournment:**

The meeting was adjourned at 10:15 a.m.