

CITY OF DAYTONA BEACH MINUTES

SPECIAL MAGISTRATE HEARING

FEBRUARY 9, 2016 at 9:00 AM
City Commission Chambers
301 South Ridgewood Avenue,
Daytona Beach, Florida

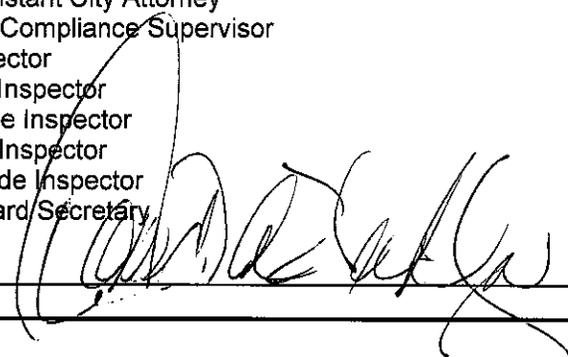
ATTENDEES:

Mr. David Vukelja, Special Magistrate

STAFF:

Anthony E. Jackson, Assistant City Attorney
Mr. Hector Garcia, Code Compliance Supervisor
Mr. Tom Clig, Code Inspector
Mr. Daniel Garcia, Code Inspector
Mr. Cliff Recanzone, Code Inspector
Mr. John Stenson, Code Inspector
Ms. Glejuanda Davis, Code Inspector
Ms. Aimee Hampton, Board Secretary

Approval of Minutes by: _____

 Special Magistrate

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

Mr. Vukelja approved the January 12, 2016 Meeting Minutes.

Mr. Vukelja asked if there were any announcements.

Ms. Hampton stated there were no announcements:

CASE NO 1 SMG 09-15-38 – Precious Property Management, LLC is cited for failure to correct violations of the Land Development Code, Art. 9 Sec. 9.1.A (Ref. FBC 105.1), at **2735 N. Atlantic Avenue** - Violation(s) – Expired Demolition Permit - First Notified – 8/4/2015.

Mr. Elmo Angelo Bartolome came forward and was sworn.

Mr. Ben Butera came forward and was sworn.

Mr. Jackson reviewed the case history and advised the property needs to be restored, there is no permit or action and nothing has changed. Mr. Jackson stated staff was recommending a fine of \$200 per day with a maximum of \$25,000.00.

Mr. Bartolome says he has bank information and since before August he has been working on trying to obtain an SBA loan and he has information verifying that. Mr. Bartolome says the process for obtaining an SBA loan is lengthy and it takes time.

Mr. Vukelja inquired if a site plan has been submitted to the City.

Mr. Butera advised a site plan was submitted to the City but the City changed its requirements and so the site plan has to go through re-engineering which is going to take a redesign and new plans for the future development. Mr. Butera stated he was working with the civil engineer but it is not going quickly because they are waiting on the funding for the SBA loan.

Mr. Vukelja asked if the future development intends to use the sign.

Mr. Bartolome stated he does intend to use the sign for future development.

Discussions were held amongst the parties regarding the likelihood of the project actually coming to fruition.

Mr. Vukelja inquired about the new requirements of the City.

Mr. Butera stated they would have had an approved plan from the City 3 months ago to present to the bank if the city's new requirements were not imposed. Mr. Butera stated they did look into challenging the rules with the city but instead elected to adjust their plan to comply with the requirements.

Mr. Jackson stated it was the City's understanding that a site plan has been submitted with the modified changes and that has been denied as well.

Mr. Vukelja inquired why it was denied.

Ofc. Clig stated he was told by zoning it was denied.

Mr. Butera stated they did not receive a letter of rejection and it did not appear the committee had any issues with the new plan.

Mr. Bartolome stated he will be submitting the remaining paperwork very soon to SBA and he is hoping to have a decision or approval by the end of the month.

Ruling

Mr. Vukelja continued the case to the March 8, 2016 Agenda for a consideration of a fine and a progress report regarding the SBA loan and status of the site plan.

CASE NO 2 SMG 12-15-62 – ADL Partners, LLC & VJA Partners, LLC is cited for failure to correct violations of the Land Development Code, Art. 9 Sec. 9.2.A (Ref. FBC Supp IPMC 304.7, 304.13, 304.15, 305.1, 305.2, 305.3, 305.6, and 607.1), at **149 Oak Tree Circle** - Violation(s) – Ceiling leak/damage; window, door, tile and interior surface damage - First Notified – 9/4/2015.

Respondent was in compliance February 2, 2016

CASE NO 3 SMG 11-15-53 – Marilyn Carvalho is cited for failure to correct violations of the Land Development Code, Art. 6 Sec. 6.2.H.7.a.i.; Art. 9 Sec. 9.2.A (Ref. FBC 105.1 & Supp IPMC 302.7), at **910 Derbyshire Road** - Violation(s) – Off-street parking; dilapidated fencing; working without permits - First Notified – 9/18/2015.

Mr. David Carvalho came forward and was sworn.

Mr. Jackson stated there has been no permits and nothing new has been done.

Mr. Carvalho stated he has all of the information and survey to submit for the permit and he went to submit everything on the 26th but they would not accept it and told him they needed his mother. Mr. Carvalho further stated his mother is out of state so they told him he needed a contractor to submit it for him. Mr. Carvalho stated he had a contractor yesterday but he was only able to do concrete so he has a new contractor to do everything today.

Mr. Stenson stated as of yesterday the parking was corrected and the fencing has been corrected. Mr. Stenson stated the parking issue does come and go but as of yesterday it was in compliance.

Ruling

Mr. Vukelja amended the previous order of non-compliance to allow the Respondent until March 2, 2016 to come into compliance or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day.

CASE NO 4 SMG 11-15-54 – Willis McDuffie is cited for failure to correct violations of the Land Development Code, Art. 6 Sec. 6.2.H.7.a.i.; Art. 9 Sec. 9.2.A (Ref. FBC Supp IPMC 302.7), at **1324 Phillips Street** - Violation(s) – Parking in the yard; accessory structure (tent shelter in front yard) - First Notified – 10/3/2015.

Mr. Willis McDuffie came forward and was sworn.

Mr. Jackson stated the inspector reports the accessory structure has been taken care of but the parking is still occurring. Mr. Jackson stated staff was recommending a fine of \$150.00 per day to a maximum of \$10,000.00.

Mr. Stenson stated the parking in the yard is still continuing.

Mr. McDuffie stated the corvette is his son's car who just came into town and he has already removed the SUV his grandkids drove to school. Mr. McDuffie stated his work truck is being parked in a neighbor's driveway. Mr. McDuffie stated he plans on doing a driveway as soon as he gets his income tax returns.

Mr. Vukelja inquired where the driveway was for this property.

Mr. Jackson stated in the past there were two "landing strips" were approved for parking in the past but he did not know if they met current code.

Mr. McDuffie stated four people in the house have cars and it is hard to find a place to park.

Mr. Vukelja inquired as to what the City was requesting he fined for.

Mr. Jackson stated it is the other vehicles parked in the yard other than the white truck that is parked on the landing strips.

Mr. Stenson stated he assumes that Mr. McDuffie could park in the City right of way on the front part of the yard.

Mr. McDuffie stated his truck was broken into parking it on the street.

Ruling

Mr. Vukelja amended the previous order of non-compliance to allow the Respondent until March 2, 2016 to come into compliance or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day.

CASE NO 5 SMG 11-15-56 – Larry Brown & Abner Brown is cited for failure to correct violations of the Land Development Code, Art. 6 Sec. 6.19.A.3.a.; Art. 6 Sec. 6.2.H.7.a.i; Art. 9 Sec. 9.2.A (Ref. FBC Supp IPMC 605.1, 504.1, 704.2, 304.6, 305.6, 304.13, 304.7); City Code Ch. 90 Sec. 90-297, at **520 Pleasant Street** - Violation(s) – Outside storage; parking in the yard; electrical fixtures; plumbing fixtures; smoke detectors; exterior surfaces; interior doors; windows; roof; no business tax receipt (BTR) for rental property - First Notified – 7/28/2015.

Mr. Abner Brown came forward and was sworn.

Mr. Jackson stated the last information that was provided is that the eviction is still going forward and without the eviction it would appear he cannot bring the property into compliance.

Mr. Brown stated he is going through the process of the eviction and his hopeful the tenant would be out by the end of the month.

Ruling

Mr. Vukelja amended the previous order of non-compliance to allow the Respondent until March 2, 2016 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 12-15-65 – Michael J. Ford is cited for failure to correct violations of the Land Development Code, Art. 6 Sec. 6.2.H.7.a.; Art. 6 Sec. 6.19.A.3.a; Art. 9 Sec. 9.2.A. (Ref. FBC Supp IPMC 304.7, 304.13, 304.10, 304.6, 605.1, 704.2, 305.3, 305.6), at **506 North Street** - Violation(s) – Off-street parking; appearance standards; dilapidated roof; broken/inoperable windows; dilapidated stairs; exterior surfaces; electrical fixtures; missing smoke detectors; interior surfaces; interior doors - First Notified – 10/13/2015.

Respondent was not present.

Mr. Jackson stated the inspector reports the Respondent is moving forward in good faith and staff is recommending the next cut-off for compliance.

Ruling

Mr. Vukelja amended the previous order of non-compliance to allow the Respondent until March 2, 2016 to come into compliance or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day.

CASE NO 7 SMG 12-15-59 – Drymonis Georgas, LLC and 2D2G Corp is cited for failure to correct violations of the Land Development Code, Art. 6 Sec. 6.10.G, at **640 N. Grandview Avenue** - Violation(s) – Sign maintenance or removal - First Notified – 8/18/2015.

Respondent was not present.

Mr. Jackson stated he acknowledged at the December meeting Attorney Brett Hartley appeared at the meeting and as of this date code staff has not heard anything from the Respondents. Mr. Jackson stated code staff checked with permits and licensing and no permit has been filed for a sign removal. Mr. Jackson stated staff was recommending a fine be imposed of \$200 per day to a maximum of \$25,000.

Mr. Recanzone stated the property was a comedy club that used to be Aqua nightclub. Mr. Recanzone stated there are poles that remain of an old sign. Mr. Recanzone stated he explained they either needed to obtain a demo permit to remove the poles or obtain a permit for a new sign. Mr. Recanzone stated they informed him they were going to put up a new sign. Mr. Recanzone stated in October they did obtain a sign permit but it was for posters for Biketoberfest not for repairing the pole sign. Mr. Recanzone stated the poles are in solid condition with the sleeves over them and are not in danger of falling.

Ruling

Mr. Vukelja imposed a fine of \$200 per day effective February 4, 2016 to continue each day thereafter until the property is in compliance or the fine reaches the maximum amount of \$25,000.00.

CASE NO 8 SMG 12-15-68 – Black Tide USA, LLC is cited for failure to correct violations of the Land Development Code, Art. 9 Sec. 9.2.A. (Ref. FBC Supp IPMC 302.7 and 307.1), at **712 Georgia Street** - Violation(s) – Accessory Structure - shed with no wall; rubbish and garbage throughout the yard - First Notified – 8/24/2015.

Respondent was not present.

Mr. Jackson stated the Respondent has applied for a permit but it has not been approved yet. Mr. Jackson stated staff was recommending amending the compliance date to the next cut-off.

Ruling

Mr. Vukelja amended the previous order of non-compliance to allow the Respondent until March 2, 2016 to come into compliance or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day.

CASE NO 9 SMG 08-15-34 – Tudja & Kaival, LLC d/b/a Heritage Inn is cited for failure to correct violations of the Land Development Code, Art. 9 SEc. 9.2.A. (Ref. FBC Supp IPMC 302.4, 302.7, 304.2, 304.7, 304.10, 304.12, 304.14, 307.1, 308.1, 603.1, 604.3, 605.1, 704.2), at **1100 S. Ridgewood Avenue** Violation(s) – Smoke alarms; electrical equipment; electrical system hazards; mechanical equipment; extermination; rubbish & garbage; insect screens; handrails & guards; stairways, decks, porches and balconies; roofs and drainage; protective treatment; accessory structures, weeds. -First Notified – 6/12/2015.

Attorney Kenneth Bohannon appeared on behalf of the Respondent.

Mr. Pravin Patel came forward and was sworn.

Mr. Vukelja reviewed the minutes of the last meeting.

Mr. Vukelja asked if a re-inspection has been performed by the code inspector.

Mr. Jackson stated the re-inspection from the Inspector confirms they are far along and the City is willing to allow the 3 months they have requested would be reasonable to what they have remaining. Mr. Jackson stated staff is willing to allow until the May cut-off date for compliance.

Mr. Bohannon stated his client believed the city's recommendation was reasonable.

Ruling

Mr. Vukelja amended the previous order of non-compliance to allow the Respondent until May 4, 2016 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 01-16-03 – Charles Smith is cited for failure to correct violations of the Land Development Code, Art. 6 Sec. 6.19.A.3.a; Art. 6 Sec. 6.2.H.7.a.i; Art. 8 Sec. 8.2.A., at **800 Madison Avenue** - Violation(s) – Outside storage; off-street parking; non-conforming use (storage area) First Notified – 11/20/2015.

Respondent was in compliance February 1, 2016.

CASE NO 11 SMG 01-16-04 – 905 Redwood Land Trust c/o TRSTE, LLC is cited for failure to correct violations of the Land Development Code, Art. 6 Sec. 6.2.H.7.a.i; Art. 9 Sec. 9.2.A (Ref. FBC Supp IPMC 302.7 and 304.3); City Code Ch. 90-297, at **905 Redwood Street** - Violation(s) – Off-street parking; dilapidated fencing; no premises identification numbers; no business tax receipt (BTR) for rental property - First Notified – 11/16/2015.

Respondent was not present.

Mr. Jackson stated the property remains in non-compliance and staff was recommending a fine of \$200 per day to a maximum of \$15,000 plus the one-time \$250.00 administrative fine.

Mr. Stenson stated there has been no communication from the Respondent and the conditions have not changed.

Ruling

Mr. Vukelja imposed a fine of \$200 per day effective February 4, 2016 to continue each day thereafter until the property is in compliance or the fine reaches the maximum amount of \$15,000.00 plus the one-time administrative fine of \$250.00 for failing to obtain a business tax receipt (BTR).

CASE NO 12 SMG 02-16-05 – La Phillip, Inc. is cited for failure to correct violations of the Land Development Code, Art. 9 Sec. 9.2.A. (Ref. FBC Sup IPMC 605.2, 603.1, 304.13, 605.1, 504.1, 704.2, 504.1, 305.3, 304.13); Art. 9 Sec. 9.2.A (Ref. FBC 105.1), at **424 N. Charles Street, Apt. 7** - Violation(s) – Electrical outlets; inoperable appliances (stove and refrigerator); broken/inoperable windows; electrical fixtures; plumbing fixtures; smoke detectors; interior surfaces; working without permits - First Notified – 12/18/2015.

Mr. Alik Alfighani came forward and was sworn. Mr. Alfighani stipulated to non-compliance.

Mr. Jackson stated staff recommended the next cut-off date for compliance.

Mr. Alfighani stated agreed to March compliance date and stated they have pulled a permit and the work is completed they were just waiting on a final inspection.

Ruling

Mr. Vukelja found the Respondent in non-compliance and ordered the Respondent come into compliance by March 2, 2016 or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day.

CASE NO 13 SMG 02-16-06 – Jo Ann Hough 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 and 304.2), at **240 Center Street** - Violation(s) – Parking in yard; outside storage; dilapidated detached garage; junk vehicles; peeling paint - First Notified – 10/13/2015.

Ms. Jo Ann Hough came forward and was sworn. Ms. Hough stipulated to the violations.

Mr. Jackson stated staff recommended the next cut-off date for compliance. Mr. Jackson stated there is a concern Ms. Hough has a difficult time throwing things away.

Ms. Hough stated she believed she could have everything completed.

Ruling

Mr. Vukelja found the Respondent in non-compliance and ordered the Respondent come into compliance by March 2, 2016 or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day.

CASE NO 14 SMG 02-16-07 – George Smalls, Jr. & Vincent Smalls, JTRS is cited for failure to correct violations of the Land Development Code, Art. 6 Sec. 6.19.A.3.a; Art. 8 Sec. 8.2.A.; Art. 9 Sec. 9.2.A (ref. FBC Supp IPMC 604.3, 304.7, 704.2, 304.14, 605.1, 305.3, 504.1, 302.5) Art. 9 Sec. 9.2.A. (Ref. FBC 105.1); City Code Ch. 90 Sec. 90-297, at **927 Berkshire Road** - Violation(s) – Outside storage; Non-conforming use (dorm living); electrical system hazard; dilapidated roof; smoke detectors; dilapidated screens; electrical wiring; interior surfaces; plumbing fixtures; rodent harborage; working without permits; no valid business tax - First Notified – 12/4/2015.

Respondent was not present.

Mr. Jackson stated the property was in non-compliance and staff 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 March 2, 2016 or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day.

CASE NO 15 SMG 02-16-08 – Trust No. 731 c/o Dennis Riggins, Trustee is cited for failure to correct violations of the Land Development Code, Art. 9 Sec. 9.2.A. (Ref. FBC Sup IPMC 302.7, 308.1, 304.7, 304.14, 304.6, 504.3); City Code Ch. 90 Sec. 90-297, at **731 Washington Street** - Violation(s) – Accessory structure (shed); infestation; dilapidated roof; torn/missing screens; exterior surfaces; plumbing system hazard (raw sewage); renting without a valid business tax receipt (BTR) - First Notified – 12/16/2015.

Respondent was not present.

Mr. Jackson stated the property was in non-compliance and staff 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 March 2, 2016 or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day

CASE NO 16 SMG 02-16-09 – Leo Abbott Dolphin is cited for failure to correct violations of the Land Development Code, Art. 9 Sec. 9.2.A (Ref. FBC Supp IPMC 304.7, 506.2), at **801 Mulberry Street** - Violation(s) – Leaking roof; sanitary drainage - First Notified – 8/26/2015.

Respondent was not present.

Mr. Jackson stated the property was in non-compliance and staff 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 March 2, 2016 or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day

CASE NO 17 SMG 02-16-10 – VISHNU, LTD is cited for failure to correct violations of the Land Development Code, Art. 9 Sec. 9.2.A (Ref. FBC Supp IPMC 302.7 and 304.2), at **1000 N. Atlantic Avenue** - Violation(s) – Peeling paint; damaged fence on the seawall - First Notified – 8/20/2015.

Ms. Anna Kamondi came forward and was sworn. Ms. Kamondi stipulated to non-compliance and agreed to the compliance date. Ms. Kamondi thought they did everything but now she realized there are parts of the seawall that need to be painted.

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

Mr. Recanzone reviewed the pictures Ms. Kamondi had and informed her there are other sections of the fence that need painted.

Ruling

Mr. Vukelja found the Respondent in non-compliance and ordered the Respondent come into compliance by March 2, 2016 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 10:08 a.m.