

# CITY OF DAYTONA BEACH MINUTES

## SPECIAL MAGISTRATE HEARING

MARCH 8, 2016 at 9:00 AM  
City Commission Chambers  
301 South Ridgewood Avenue,  
Daytona Beach, Florida

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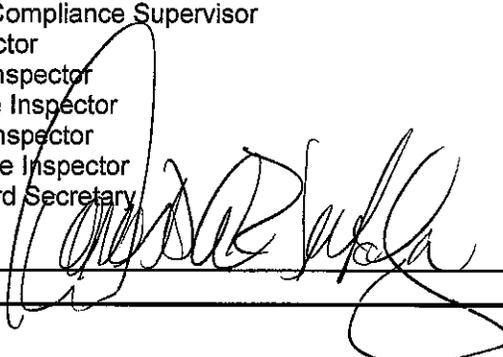
ATTENDEES:

Mr. David Vukelja, Special Magistrate

STAFF:

Anthony E. Jackson, Assistant City Attorney  
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

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Mr. Vukelja called the Hearing to order at 9:08 a.m.

Mr. Vukelja approved the February 9, 2016 Meeting Minutes.

Mr. Vukelja asked if there were any announcements.

Ms. Hampton announced the following cases in compliance:

**CASE NO 4 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.

**COMPLIANCE 3/5/2016**

**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. Angelo Bartolome came forward and was sworn.

Mr. Vukelja reviewed the actions of last meeting and requested a progress report on the status of the plans and SBA loan.

Mr. Jackson stated there has been no change and the City was requesting a fine of \$200 per day to a maximum of \$25,000. Mr. Jackson stated the Inspector indicates he has not heard from the Respondent since the last meeting.

Mr. Bartolome stated Mr. Butera met with the building official after the last meeting and has been working with the engineer. Mr. Bartolome stated Mr. Butera was supposed to be at the meeting and he was calling him.

Mr. Butera stated the civil engineer is about 75 % complete and they are going with an underground penetration system for drainage and there is a new site plan to show the city as well.

Mr. Jackson stated compliance would be restoring the property or obtaining a permit to redevelop the property.

Mr. Vukelja asked since the property owner is working on redeveloping the property, what is the next step for the Respondent to be able to move forward towards compliance.

Mr. Clig stated they have to resubmit their site plan and obtain a new permit.

Mr. Jackson stated the case has been going on since August 2015.

Mr. Bartolome stated they have engineering drawings they are going to be submitting.

### **Ruling**

Mr. Vukelja amended the previous order of non-compliance to allow the Respondent until May 4, 2016 to come into compliance or a fine of \$100 per day will automatically go into effect May 5, 2016 and continue each day thereafter until compliance is achieved or the fine reaches the maximum amount of \$25,000.00.

**CASE NO 2 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 property remained in non-compliance and staff was asking for a fine of \$200 per day to maximum of \$15,000. Mr. Jackson called Inspector Recanzone for further testimony.

Mr. Recanzone stated a permit to demolish the shed was pulled right before the last meeting so the City agreed to allow more time to complete the demolition. Mr. Recanzone stated they have taken down the walls but have not completed the entire demolition. Mr. Recanzone stated the rubbish and garbage has been taken care of.

### **Ruling**

Mr. Vukelja imposed a fine of \$100 per day against the Respondent effective March 3, 2016 to continue each day thereafter until compliance is achieved or the fine reaches the maximum amount of \$15,000.

**CASE NO 3 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 in compliance March 1, 2016.

**CASE NO 5 SMG 11-15-53 – Marilyn Carvahlio** 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.

Respondent was in compliance February 29, 2016

**CASE NO 6 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. McDuffie stated he was working on obtaining a survey for his property to be able to get a driveway installed and he decided due to the cost he purchased gravel and put it down.

Mr. Vukelja asked if the gravel driveway was in compliance with the city codes.

Mr. Jackson stated the Inspector does not believe it is in compliance but since the Land Development Code has been updated, the City would like to review the LDC and consult with the permitting division before moving forward.

Mr. McDuffie stated he has problem because there are 4 people living in the house all with cars.

Mr. Jackson stated the City was asking for a continuance to the next meeting to research if Mr. McDuffie's gravel driveway is in compliance.

### **Ruling**

Mr. Vukelja continued the case to the April 12, 2016 Agenda for consideration of the imposition of a fine.

**CASE NO 7 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 according to court records the property was vacated on March 5, 2016 and so the city was willing to amend the compliance date to the next cut-off for compliance.

Mr. Brown stated he was agreeable to the next cut-off date but his only concern was the roof. Mr. Brown stated he did not believe the roof was a major repair because it was a small hole but he was having a professional come look at it.

### **Ruling**

Mr. Vukelja amended the previous order of non-compliance to allow the Respondent until April 6, 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 8 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 Respondent was making good progress and only has the roof left to repair and therefore staff was asking to amend the compliance date to the next cut-off date.

**Ruling**

Mr. Vukelja amended the previous order of non-compliance to allow the Respondent to come into compliance by April 6, 2016 or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day.

**CASE NO 9 SMG 01-16-01 – 700 Madison Avenue Land Trust dated 11/20/2014** is cited for failure to correct violations of the Land Development Code, Art. 9 Sec. 9.2.A (Ref. FBC Supp IPMC 304.13, 304.14, 305.3, 304.7, 704.2, 305.6, 505.4, 605.1 and 604.3), at **700 Madison Avenue Unit 1** - Violation(s) – Broken windows; missing/torn screens; damaged interior surfaces; dilapidated roof; missing smoke detectors; missing interior doors; no hot water; electrical wiring; electrical system hazard - First Notified – 9/14/2015.

Mr. Marcus MacDonald came forward and was sworn. Mr. MacDonald stated he was the owner of the property.

Mr. Jackson stated the Inspector reports that he has heard nothing and saw nothing new from the Respondent and has not seen anything new on the property. Mr. Jackson stated the Inspector was requesting a fine of \$200 to a maximum of \$20,000.

Mr. Vukelja asked if the property was single family.

Mr. Stenson stated the property was multi-family with several units and has open case on the Units 1, 2 and 5. Mr. Stenson stated the progress has been minimal and believe for the amount of time that has gone by more progress should have been made.

Mr. MacDonald stated he is a flight attendant and so he hired a property management company to oversee the property and believed everything was being handled. Mr. MacDonald stated he took the property back on February 20, 2016 because he realized nothing was being fixed. Mr. MacDonald stated he obtained a contractor to pull the permits. Mr. MacDonald stated they are done with the inside of the units they are just waiting on a final inspection.

**Ruling**

Mr. Vukelja amended the previous order of non-compliance to allow the Respondent to come into compliance by April 6, 2016 or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day.

**CASE NO 10 SMG 01-16-02 – 700 Madison Avenue Land Trust dated 11/20/2014** is cited for failure to correct violations of the Land Development Code, Art. 9 Sec. 9.2.A (Ref. FBC Supp IPMC 305.3, 504.1, 504.3, 704.2, 308.1, 304.7, 505.4); Art. 9 Sec. 9.1.A (Ref. FBC 105.1); City Code Ch. 90-297, at **700 Madison Avenue Unit 2** - Violation(s) – Interior surfaces; plumbing fixtures; plumbing system hazard; missing smoke detectors; infestation; dilapidated roof; no hot water; work without permits; renting without a valid business tax receipt (BTR) - First Notified – 11/30/2015.

Mr. Marcus MacDonald stated the circumstances were the same with this case as to the previous case.

**Ruling**

Mr. Vukelja amended the previous order of non-compliance to allow the Respondent to come into compliance by April 6, 2016 or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day.

March 8, 2016

**CASE NO 11 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.

Respondent was in compliance March 1, 2016.

**CASE NO 12 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.

Respondent was not present.

Mr. Jackson stated the property had a lot of storage in the outside yard. Mr. Jackson stated there is good progress and staff was recommending amending to the next cut-off date for compliance.

### **Ruling**

Mr. Vukelja amended the previous order of non-compliance to allow the Respondent to come into compliance by April 6, 2016 or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day.

**CASE NO 13 SMG 02-16-07 – 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 the Inspector was requesting a fine of \$200 per day plus a one-time \$250 for no business tax receipt (BTR).

Mr. Stenson stated the complaint was tenant driven and he was advised the property was being used as a rooming house.

### **Ruling**

Mr. Vukelja imposed a fine of \$100 per day against the Respondents effective March 3, 2016 to continue each day thereafter until compliance is achieved or the fine reaches the maximum amount of \$15,000 plus a one-time administrative fine of \$250 for failure to obtain a business tax receipt (BTR).

**CASE NO 14 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 there has been no contact from the owner and there has been no work or progress towards compliance. Mr. Jackson stated the violations were result of a tenant complaint.

Mr. Stenson stated he has had to post the property with all notices and the first class mail has not been returned but he has had no contact from the property owner.

**Ruling**

Mr. Vukelja imposed a fine of \$200 per day against the Respondents effective March 3, 2016 to continue each day thereafter until compliance is achieved or the fine reaches the maximum amount of \$15,000 plus a one-time administrative fine of \$250 for failure to obtain a business tax receipt (BTR).

**CASE NO 15 SMG 03-16-13 – Bobby L. Caldwell** is cited for failure to correct violations of the Land Development Code, Art. 9 Sec. 9.2.A (Ref. FBC Supp IPMC 308.1, 308.2); Art. 6 Sec. 19.A.3., at **1311 Hillcrest Drive** - Violation(s) – Insect infestation; outside storage - First Notified – 8/20/2015.

Respondent was not present.

Mr. Jackson stated the property was previously in non-compliance but currently in compliance and staff was asking for a finding of non-compliance in case of a repeat violation. Mr. Jackson stated there is a tenant who desired to be heard regarding this matter.

Mr. John Murray, tenant, came forward and was sworn. Mr. Murray stated on August 5<sup>th</sup> he moved into a room at the property. Mr. Murray stated the room was infested with bed bugs and rodents. Mr. Murray further stated the property owner has hired a young man and not a contractor to make the repairs and they are completely unacceptable. Mr. Murray stated he will be moving on the 14<sup>th</sup> and hopes that code will do something to prevent a new tenant to move in. Mr. Murray states there is still insect infestation on the property.

**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 of up to \$5,000 per occurrence.

**CASE NO 16 SMG 03-16-11 – Iris Cunningham & Steven Robert Brown** is cited for failure to correct violations of the Land Development Code, Art. 6 Sec. 2.H.7.a, at **1437 Peachtree Road** - Violation(s) – **Trailer parked in driveway** - First Notified – 11/11/2015.

Respondent was not present.

Mr. Jackson stated the property was previously in non-compliance but is now in compliance and staff was just asking for the finding of non-compliance.

**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 of up to \$5,000 per occurrence.

**CASE NO 17 SMG 03-16-17 – Roy D. Helton** is cited for failure to correct violations of the Land Development Code, Art. 6 Sec. 19.A.3; Art. 9 Sec. 9.2.A . (Ref. FBC Supp IPMC 302.8), at **1348 Woodbine Street** - Violation(s) – **Outside storage & junk vehicle** - First Notified – 7/17/2015.

Mr. Roy Helton came forward and was sworn. Mr. Helton stipulated to the violations and stated he has completed everything.

**Ruling**

Mr. Vukelja found the Respondent in non-compliance and ordered the Respondent come into compliance by April 6, 2016 or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day.

**CASE NO 18 SMG 03-16-12 – Valerie Potter Albert** is cited for failure to correct violations of the Land Development Code, Art. 6 Sec. 19.A.4, at **299 Morningside Avenue** - Violation(s) – Failure to maintain exterior - First Notified – 9/4/2015.

Respondent was not present.

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

**Ruling**

Mr. Vukelja found the Respondent in non-compliance and ordered the Respondent come into compliance by April 6, 2016 or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day.

**CASE NO 19 SMG 03-16-14 – Brenda S. & Nelson S. Frahm** is cited for failure to correct violations of the Land Development Code, Art. 6 Sec. 6.2.H.7.a.i, at **528 Berkshire Road** - Violation(s) – **Off-street parking** - First Notified – 1/21/2016.

Respondent was in compliance February 25, 2016.

**CASE NO 20 SMG 03-16-15 – David & Suzanne Jeckovich** is cited for failure to correct violations of the Land Development Code, Art. 6 Sec. 6.19.A.3.a, at **825 Lewis Drive** - Violation(s) – Outside storage First Notified – 1/2/2016.

Respondent was not present.

Mr. Jackson stated the property was previously in non-compliance but is now in compliance and staff was just asking for the finding of non-compliance.

**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 of up to \$5,000 per occurrence.

**CASE NO 21 SMG 03-16-16 – Dana S. & Renard K. Thayer; Veronica Hobbs; and Juanita Redd** is cited for failure to correct violations of the Land Development Code, Art. 9 Sec. 9.2.A (Ref. FBC Supp IPMC 301.2, 303.1, 303.2, 303.4, 303.5, 303.6, 303.7, 303.13, 303.13.2, 303.14, 303.15, 304.1, 304.3, 304.6, 501.2, 504.1, 504.3, 505.1, 505.3, 505.4, 601.2, 602.1, 602.2, 602.3, 603.1, 604.1, 604.3, 605.1, 704.2), at **433 Walker Avenue** - Violation(s) – General owner responsibility for maintenance; protective treatment; structural members; foundation walls; exterior walls; roofs and drainage; windows; inoperable windows; insect screens; doors; interior surfaces; interior doors; plumbing fixtures; plumbing system hazard; general water system; water supply; water heating facilities; mechanical and electrical requirements; heating facilities required; heat supply; mechanical appliances; electrical facilities required; electrical system hazard; electrical equipment installation; smoke alarm installation. - First Notified – 1/22/2016.

Mr. Dana Thayer and Mr. Anthony Thayer came forward and was sworn. Mr. Anthony Thayer stated they agreed to the violations but stated the fire was in retaliation to them complaining about the homeless that had broken into their home. Mr. Thayer stated prior to the fire they were planning on demolishing the home even before the fire. Mr. Thayer stated they were just waiting on the gas company to shut off the gas and they have filed for the permit.

Mr. Jackson stated the code inspector says next cut-off the property could be demolished.

Mr. Thayer asked for additional time as they did not have the permit in hand and would be demolishing the property themselves.

### **Ruling**

Mr. Vukelja found the Respondent in non-compliance and ordered the Respondent come into compliance by June 8, 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 10:16 a.m.