

# CITY OF DAYTONA BEACH MINUTES

## SPECIAL MAGISTRATE HEARING

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

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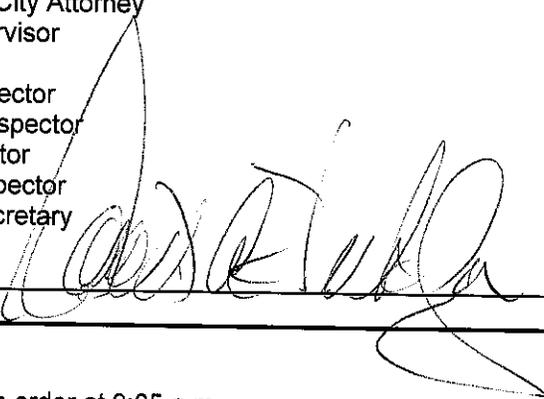
ATTENDEES:

Mr. David Vukelja, Special Magistrate

STAFF:

Anthony E. Jackson, Assistant City Attorney  
Mr. Hector Garcia, Coder Supervisor  
Mr. Tom Clig, Code Inspector  
Mr. Cliff Recanzone, Code Inspector  
Mr. Michael Fitzgerald, 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 9:05 a.m.

Mr. Vukelja approved the June 14, 2016 Meeting Minutes.

Mr. Vukelja asked if there were any announcements.

Mr. Garcia stated 568 Heineman Street is in compliance as of July 12, 2016.

Mr. Vukelja stated that case was not on the Agenda.

Mr. Garcia stated the following case was in compliance:

**CASE NO 1 SMG 08-15-34 – Tudja & Kaival, LLC** 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.

**COMPLIANCE 8/2/2016**

Mr. Garcia swore in members of staff who will be testifying.

Mr. Vukelja inquired about Case 1 coming into compliance.

Mr. Jackson explained the sufficiency of the repair of the roof is adequate at this time and the Respondent satisfied the minimal requirements for compliance and ultimately it was determined there was no permit needed for the sealant.

Hearing of Cases

**CASE NO 2 SMG 05-16-29 – 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 302.7, 304.2, 304.7, 304.13.2, 304.14, 305.1, 305.3, 305.6, 504.1, 603.1, 604.3, 704.2); Art. 8 Sec. 2.B., at **1311 Hillcrest Drive (Main House, Unit 4, Unit 5, and Carport)** - Violation(s) – Main house (occupied): Hallway bathroom – diverter not working properly; Wall area under lavatory sink open and exposed. Need to patch, seal and repaint all including all pipe intrusions; Hallway closet missing door knob; Missing smoke detectors in bedrooms and hallway; All windows must be easily openable; Missing windows screens throughout the property; Repair and re-paint all damaged or deteriorated fascia and soffits throughout the property; Rear yard wood fence is leaning; Cracked interior wall (living room); All ceiling light fixtures must have lamp covers (shades); Ceiling fans must be correctly installed; Kitchen countertops have damaged, exposed porous surfaces which must be repaired or top replaced; Visual evidence of roach infestation; Junk & trash at West side yard (wood boards, fish tank, containers with stagnant water, etc.); Zoning violation - illegal subdivision of main structure (West side bedroom as a separate apt.) and rear unit divided into two separate units (there is a kitchen in the main structure and a kitchen in apartment identified as #4). Must Obtain all required permits for added apartments or return to original state; The carpet inside the closets have exposed tack strips and are in deplorable state (replace/repair); There are missing HVAC wall vent grills missing; The A.H.U has no filter installed; Kitchen ceiling area shows a crack and needs to be finished/re-painted; The front entry door of the main house is missing the required dead bolt; Addition to zoning violation – the West side bedroom in the main structure which is rented has no windows; Unit #4 (S.W. rear - vacant): Missing smoke detectors; Visual evidence of roach infestation (under kitchen sink); Ceiling light fixtures damaged (kitchen & living room); Need to seal wall intrusions under bathroom sink; Hall closet missing door knob; Exposed light bulb at bathroom, install shade; Crawl space not secured (area under access stairs); The stove/range needs to be cleaned and serviced; Has a hip roof (unknown pitch) without shingles; Missing tile in bedroom area (repair); Bedroom door frame in need of paint. Unit #5 (S.E. rear - occupied): Smoke detector not functioning in bedroom; Bathroom GFCI protected receptacle has no power; Windows must be easily openable; Missing deadbolt at entry door (South exposure); Possible living area/square footage violation (ck. with Building Dept.). Carport: Dryer in carport closet has no venting; Unused refrigerator stored in open carport with door attached. Must be removed.; Exterior walls/surfaces: There are multiple cracks and exterior wall damage that will need to be corrected and repainted. Especially areas adjacent to the hose bib at back of carport closet. First Notified – 2/9/2016.

Respondent was not present.

Mr. Jackson stated the property remains in non-compliance but the Inspector is recommending to amend the compliance date to the next cut-off to allow time to replace the windows.

Ruling

Mr. Vukelja amended the previous order of non-compliance to allow the Respondent until September 7, 2016 to come into compliance or be returned to a subsequent meeting for consideration of a fine of up to \$1000 per day.

**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.

Respondent was not present.

Approximately 9:15 a.m. Ms. Hampton arrived.

Mr. Jackson stated the property was in non-compliance but has been making good progress. Mr. Jackson stated some new issues arose which have delayed progress some.

Mr. Fitzgerald stated there have been extensive renovations to the property and they were almost complete with the front house and have begun working on the back house. Mr. Fitzgerald stated they should be in compliance within 60 days.

**Ruling**

Mr. Vukelja amended the previous order of noncompliance to allow the respondent until October 5, 2016 to come into compliance or be returned to a subsequent meeting for consideration of a fine of up to \$1000 per day.

**CASE NO 4 SMG 04-16-21 – J & J Bryan Florida, Inc.** is cited for failure to correct violations of the Land Development Code, Art. 3 Sec. 3.4.S, at **1901 N. Atlantic Avenue** - Violation(s) – No permit for roof extension - First Notified – 12/18/2015.

Respondent was not present.

Mr. Jackson stated the respondent has applied for a variance and was scheduled to go before the Board of Adjustment last month however the Board did not have a quorum. This month's meeting is scheduled for August 16<sup>th</sup> and therefore staff was recommending the next cut-off for compliance.

**Ruling**

Mr. Vukelja amended the previous order of non-compliance to allow the Respondent until September 7, 2016 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 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.

Respondent was not present.

Mr. Jackson stated Mr. Stenson advised the contractor has been making good progress and 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 September 7, 2016 to come into compliance or be returned to a subsequent meeting for consideration of a fine of up to \$1,000 per day.

**CASE NO 6 SMG 05-16-22 – Joseph & Barbara Daley** is cited for failure to correct violations of the Land Development Code, Art. 6 Sec. 6.2.H.7.a.i; City Code Ch. 90 Sec. 90-297; City Code CH. 26 Sec. 26-294, at **835 Essex Road** - Violation(s) – Parking in the yard; Failure to obtain a business tax receipt (BTR); Failure to obtain a residential rental license (RTL) - First Notified – 3/17/2016.

Respondent was not present.

Mr. Jackson stated the case was for an occupied rental where the tenant is refusing entry according to the owner. Mr. Jackson stated staff relayed that it is the owner's responsibility to take whatever lawful actions he can to comply. Mr. Jackson stated staff was requesting a fine of \$150.00 per day to a maximum of \$15,000.

Mr. Vukelja asked what the fine was for.

Mr. Jackson stated it was because the failure to obtain a residential rental license. Mr. Jackson stated the business tax receipt (BTR) has been obtained and the parking is in compliance.

### **Ruling**

Mr. Vukelja imposed a fine of \$100 per day against the Respondent effective August 9, 2016 to continue each day thereafter until compliance is achieved or the fine reaches the maximum amount of \$15,000.

**CASE NO 7 SMG 05-16-23 – Star Chariot Enterprise, LLC** is cited for failure to correct violations of the Land Development Code, Art. 6 Sec. 6.19.A.3.a; Art. 9 Sec. 9.2.A. (Ref. FBC Supp IPMC 605.1, 704.2, 305.3, 305.6, 605.2, 304.13, 304.15, 302.7, 304.6, City Code Ch. 90 Sec. 90-297; City Code Ch. 26 Sec. 26-294, at **208 N. Frederick Avenue** - Violation(s) – Outside storage; electrical fixtures; smoke detectors; interior surfaces; interior doors; receptacles; broken/inoperable windows; exterior doors; dilapidated roof; exterior surfaces; no business tax receipt (BTR); no residential rental license (RTL) - First Notified – 2/26/2016.

Respondent was not present.

Mr. Jackson stated inspector reports to him the Respondent has indicated they are completed however he still needs to reinspect the property and therefore was requesting to amend to the next cut-off date for compliance.

### **Ruling**

Mr. Vukelja amended the previous order of non-compliance to allow the Respondent until September 7, 2016 to come into compliance or be returned to a subsequent meeting for consideration of a fine of up to \$1000 per day.

**CASE NO 8 SMG 06-16-30 – Cassandra Lee** is cited for failure to correct violations of the Land Development Code, Art. 8 Sec. 8.2.A; Art. 6 Sec. 6.19.A.3.a; Art. 9 Sec. 9.2.A (ref. FBC Supp IPMC 302.8, 303.2, 303.7, 303.13, 303.15, 304.1, 304.3, 306.1, 504.1, 605.1, 605.2, 305.3, 704.2); City Code Ch. 90 Sec. 90-297; City Code Ch. 26 Sec. 26-294, at **913 Lewis** - Violation(s) – Non-conforming use as a rooming house; excessive outside storage; junk vehicles; protective treatment; roofs and drainage; window, skylight, and door frames, exterior doors, interior surfaces, infestation, general plumbing fixtures, electrical equipment installation, receptacles, lighting fixtures, smoke alarm installation (referenced in attached Housing Inspection Report); Failure to obtain Business Tax Receipt (BTR); Failure to obtain Residential Rental License (RTL) - First Notified – 4/6/2016.

Respondent was not present.

Mr. Jackson stated the inspector reports to him he has been at the property several times for inspections and there has been little progress. Mr. Jackson stated the principal violation of non-conforming use as a rooming house appears to be in compliance. Mr. Jackson stated the respondents indicate they will not be renting anymore and the inspector is requesting a fine of \$200 per day to a maximum of \$15,000.

Mr. Stenson stated the original complaint as a rooming house is in compliance however all other violations still exist.

Mr. Vukelja asked if the property was occupied.

Mr. Stenson stated it is occupied by Ms. Lee the owner.

**Ruling**

Mr. Vukelja amended the previous order of non-compliance to allow the Respondent until September 7, 2016 to come into compliance, failing that an automatic fine of \$200 per day will be imposed effective September 7, 2016 and continue until compliance or the amount of the fine reaches the maximum of \$10,000.

**CASE NO 9 SMG 06-16-31 – Cary Lance Krupa** is cited for failure to correct violations of the Land Development Code, Art. 9 Sec. 9.2.A (ref. FBC Supp IPMC 304.13, 304.15, and 504.1), at **548 North Street** – Violation(s) – Broken/inoperable windows; exterior doors; plumbing fixtures (bathroom) –First Notified – 3/26/2016.

Respondent was not present.

Mr. Jackson stated all the violations have been corrected or appear to have been corrected however no permits were pulled or inspected by a building inspector so at this point the staff's position is that it remains in non-compliance and staff is asking for a fine of \$100 per day to a maximum of \$15,000.

Mr. Stenson stated the unit was a rental unit. Mr. Stenson stated the Respondent was notified of the necessity of permits for the work.

**Ruling**

Mr. Vukelja amended the previous order of non-compliance to allow the Respondent until September 7, 2016 to come into compliance, failing that an automatic fine of \$200 per day will be imposed effective September 7, 2016 and continue until compliance or the amount of the fine reaches the maximum of \$10,000.

**CASE NO 10 SMG 07-16-40 – Josif Janceski** is cited for failure to correct violations of the Land Development Code, Art. 3 Sec. 3.4.S.; Art. 6 Sec. 6.19.A.3.a; Art. 3 Sec. 3.4.S; Art. 9 Sec. 9.2.A (Ref. FBC Supp IPMC 604.3, 504.3, 304.14, 304.5, 302.7); City Code Ch. 90 Sec. 90-297; City Code Ch. 26 Sec. 26-294, at **1058 Thunderbird Drive** - Violation(s) – Working without permit (roof); outside storage; lack of power; lack of utilities (water); dilapidated screens; dilapidated garage door; dilapidated fencing; Failure to obtain business tax receipt (BTR); failure to obtain residential rental license (RTL) - First Notified – 5/5/2016.

Mr. Janceski came forward and was sworn. Mr. Janceski stated he has submitted for a permit for complete renovations and he has been able to remove the squatters and animals that were left behind.

Mr. Vukelja inquired if the City had a proposed compliance date.

Mr. Jackson stated staff was recommending a compliance date of 6 months with a progress report for the October meeting.

**Ruling**

Mr. Vukelja amended the previous order of non-compliance to allow the Respondent until February 8, 2017 to come into compliance or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day and it was further ordered the case appear for a progress report at the October 11, 2016 meeting.

**CASE NO 11 SMG 07-16-41 – Daisy Smalls Johnson and George Smalls, Jr. and Vincent E. Smalls, as JTRS** is cited for failure to correct violations of the Land Development Code, Art. 9 Sec. 9.2.A (Ref. FBC Supp IPMC 304.2, 304.15, 605.1, 305.3, 603.1, 504.1, 304.13, 304.14, 704.2, 605.2); City Code Ch. 90 Sec. 90-297; City Code Ch. 26 Sec. 26-294, at **1211 Imperial Dr.** - Violation(s) – Peeling paint; exterior doors; electrical fixtures; electrical wiring; interior surfaces; inoperable appliances; damaged plumbing fixtures; inoperable Windows; missing or damaged screens; missing or inoperable smoke detectors; and operable receptacles; failure to obtain business tax receipt (BTR); failure to obtain required residential rental license (RTL) - First Notified – 5/3/2016.

Mr. George Smalls and Daisy Smalls Johnson came forward and were sworn.

Mr. Vukelja inquired the status of the tenant.

Mr. Johnson stated he filed a 3 day notice and he paid the court cost for the deputy to serve the papers and they were waiting on a hearing date.

Ms. Johnson stated the tenant hides in the house and won't come out to be served. Ms. Johnson stated the tenant refuses to pay rent.

### **Ruling**

Mr. Vukelja continued the case for a progress report at the September 13, 2016 Agenda.

**CASE NO 12 SMG 08-16-46 – Crystal G. Scott** is cited for failure to correct violations of the Land Development Code, Art. 9 Sec. 9.2.A. (Ref. FBC Supp IPMC 602.3, 704.2, 504.1, 304.15, 304.2, 304.13, 305.3, 605.1, 604.3, 504.3, 304.7) City Code Ch. 90 Sec. 90-297; City Code Ch. 26 Sec. 26-294, at **544 Berkshire Road** - Violation(s) – No working heat; no smoke detectors; dilapidated plumbing fixtures; dilapidated garage door; damaged exterior door; peeling paint; inoperable windows; damaged interior surfaces; damaged/missing electrical fixtures; electrical system hazards (interior breaker panel); plumbing system hazard (low water pressure); dilapidated roof (fascia); Failure to obtain business tax receipt (BTR); failure to obtain residential rental license (RTL) - First Notified – 5/19/2016.

Geri Finley came forward and was sworn. Ms. Finley stated she was the mother of Crystal Scott and stipulated to non-compliance.

Mr. Jackson stated the tenant has moved and they were making progress. Ms. Finley stated she hired a contractor and they were getting a permit.

### **Ruling**

Mr. Vukelja found the Respondent in non-compliance and order the Respondent come into compliance by September 7, 2016 or be returned to a subsequent meeting for consideration of a fine of up to \$1,000 per day thereafter.

**CASE NO 13 SMG 08-16-47 – Susan Hounsom Family, LTD Partnership** is cited for failure to correct violations of the Land Development Code, Art. 9 Sec. 9.2.A. (Ref. FBC Supp IPMC 304.14, 304.2, 605.2, 308.1, 302.5, 704.2, 304.15, 305.6, 504.1, 304.10, 304.6) City Code Ch. 90 Sec. 90-297; City Code Ch. 26 Sec. 26-294, at **617 Kingston Avenue** - Violation(s) – Damaged or missing screens; dilapidated handrails; inoperable receptacles; infestation; rodent harborage; missing smoke detectors; damaged exterior doors; damaged interior doors; damaged plumbing fixtures; dilapidated stairs; exterior surfaces; Failure to obtain business tax receipt (BTR); Failure to obtain residential rental license (RTL) - First Notified – 6/1/2016.

Ms. Susan Hounsom came forward and was sworn. Ms. Hounsom stipulated to non-compliance but advised some of the items have been taken care of. Ms. Hounsom stated she is trying to evict the tenant for non-payment of rent and the tenant has counter sued her. Ms. Hounsom stated the tenant has been repeatedly refusing them to enter to make the repairs.

Mr. Peter Ancona came forward and was sworn.

Ms. Gail Galloway Johnson came forward and was sworn. Ms. Johnson stated she works 2 jobs and she would get calls and texts while she was at work and that notice was too short of notice. Ms. Johnson stated she has never received proper notice of when they want to enter. Ms. Johnson stated there are several issues wrong with the house that she found out after she moved in but was told everything was up to code.

Mr. Vukelja asked if Ms. Johnson was willing to allow them access to make repairs.

Ms. Johnson stated as long as she is provided at least 24 hours' notice she will let them in to make repairs.

Mr. Ancona stated there has only been one occasion he has not provided 24 hour notice.

Mr. Jackson wanted to make it known that some of the work would require permits and a licensed contractor.

Mr. Vukelja recommended the parties document their efforts and attempt to work together towards a resolution.

Mr. Ancona stated he has obtained a contractor and they are working on pulling the permits.

### **Ruling**

Mr. Vukelja found the Respondent in non-compliance and order the Respondent come into compliance by September 7, 2016 or be returned to a subsequent meeting for consideration of a fine of up to \$1,000 per day thereafter.

**CASE NO 14 SMG 08-16-48 – Elmer L. & Sarah A. Flanary** 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 302.8), at **1356 Continental Drive** - Violation(s) – Off-street parking; outside storage; junk vehicle - First Notified – Order of Non-compliance entered June 13, 2014.

Mr. Elmer Flanary came forward and was sworn. Mr. Flanary stated the violations did exist but are corrected now.

Mr. Jackson stated the violation was for repeat violations which did occur again but he is in compliance now. Mr. Jackson stated there were two occasions the violations were witnesses and the City was asking for \$50 per occurrence for a total of \$100.

Mr. Flanary stated he stated sometimes he has to park in his yard and did not understand why he cannot park his vehicle in the yard temporarily.

### **Ruling**

Mr. Vukelja found the Respondent in non-compliance and imposed a fine of \$50 for the repeat violation

**CASE NO 15 SMG 08-16-49 – William Berner** is cited for failure to correct violations of the Land Development Code, Art. 9 Sec. 9.2.A (Ref. FBC Supp IPMC 403.2 and 704.2); City Code Ch. 90 Sec. 90-297; City Code Ch. 26 Sec. 26-294, at **208 Arlington Avenue** - Violation(s) – Ventilation in the bathrooms and toilet rooms; inoperable smoke alarms; Failure to obtain business tax receipt (BTR); Failure to obtain residential rental license (RTL) - First Notified – 4/8/2016.

Mr. Homer Philips appeared and stated he was the owner and produced an unrecorded deed. Mr. Philips stated he was business partners with Mr. Berner.

Mr. Jackson suggested the case be continued to allow Mr. Philips to record the deed.

### **Ruling**

Mr. Vukelja continued the case to the September 13, 2016 Agenda.

**CASE NO 16 SMG 08-16-50 – AVS Investments, LLC** is cited for failure to correct violations of the Land Development Code, Art. 9 Sec. 9.2.A (Ref. FBC Supp IPMC 304.2, 304.7, 304.14, 305.3, 502.1, 602.1, 604.3) City Code Ch. 90 Sec. 90-297; City Code Ch. 26 Sec. 26-294, at **126 N. Charles Street** - Violation(s) – Peeling paint; roof in disrepair; insect screens; interior surfaces (ceiling and walls have water damage); plumbing facility requirements - flooring, bathtub, walls, toilet and piping; heating facilities required; inadequate electrical wiring; Failure to obtain a business tax receipt (BTR); failure to obtain a residential rental license (RTL)

Respondent was in non-compliance.

Mr. Jackson stated the property was a rental property and it remains in non-compliance. Mr. Jackson stated the owner informed Inspector Recanzone the tenant has been evicted and they are now working on the repairs.

### **Ruling**

Mr. Vukelja found the Respondent in non-compliance and order the Respondent come into compliance by September 7, 2016 or be returned to a subsequent meeting for consideration of a fine of up to \$1,000 per day thereafter.

**CASE NO 17 SMG 08-16-51 – Jim Anderson** is cited for failure to correct violations of the Land Development Code, Art 4 Sec. 4.1.A; Art. 5 Sec. 5.2.A.2, at **820 N. Wild Olive Avenue** - Violation(s) – The property is zoned SFR-5. Short-term rentals, known as "Other Accomodations" are not a permitted use in the zoning district. - First Notified – 6/2/2016.

Ms. Janelle Neal appeared on behalf of the owner and was sworn. Ms. Neal advised she was the Fiancée of owner and has the authority to speak on his behalf. Ms. Neal stated she believes the property is in compliance.

Mr. Jackson explained the violation was for short-term rentals and the property is not zoned for that use.

Mr. Recanzone stated the property was being advertised on Homeaway and Airbnb for nightly rentals and it is now in compliance.

Ms. Neal stated as far as she knows it was not a rental but she just found out about this because her fiancée has been up north and having back surgery.

### **Ruling**

Mr. Vukelja found the Respondent was 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.

### **MISCELLANEOUS BUSINESS**

1. Mr. Vukelja asked questions about the coating on the roof that was put on the Heritage Inn.

### **Adjournment:**

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