

CITY OF DAYTONA BEACH

MINUTES

**SPECIAL
MAGISTRATE
HEARING**

January 12, 2010 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
Ofc. Steven Jessmer
Mr. Mark Ellison, Code Inspector
Ms. Vicki Lankford, Code Inspector
Mr. John Stenson, Code Inspector
Mr. Denzil Sykes, Code Inspector
Mr. Mark Criswell, Chief Building Official

Ms. Aimee Hampton, Board Secretary

Approval of Minutes by: _____

Special Magistrate

Mr. Vukelja called the Hearing to order at 9:05 a.m.

Staff members who would be testifying during the Hearing were sworn by Ms. Hampton

Mr. Vukelja approved the Minutes for the December 14, 2009 Meeting Minutes.

CASE 1 NO SMG 01-09-02 – Joseph Burton Hardy III, Joyce L. Wright and Juliette Massey has been cited for failure to correct violations of the Land Development Code, See attached housing inspection report, at 550 Tomoka Road - Violation(s) – Maintenance Code - First Notified – 9/19/2008.

Mr. Joseph Burton Hardy, III came forward and was sworn. Mr. Hardy stated he would need a week or so to open up the floor.

Mr. Mark Criswell, Chief Building Official, testified on behalf of the City and stated he inspected the floor and found some issues with the floor. Mr. Criswell advised Mr. Hardy has applied for a building permit in order to further explore the extent of the damage and said permit was issued on January 5, 2010. Mr. Criswell advised Mr. Hardy was to contact him once the floor was opened up to inspect the damage and determine whether or not an architect or engineer is required to do the repairs.

Mr. Stenson testified on behalf of the City and stated the only remaining violations were with regard to the floor.

Ruling

Mr. Vukelja continued the matter of imposition of fine to the February 9, 2010 Meeting.

CASE NO 2 SMG 08-09-62 – Kelly R. Dougherty has been cited for failure to correct violations of the Land Development Code, Art. 19 Sec. 1 (ref. 604.3, 504.3, 302.4, 304.13 and 304.7 IPMC), at **639 Winchester Street** - Violation(s) – Inadequate power service, inadequate water service, weeds, broken windows, and roofs and drainage - First Notified – 4/20/09; 5/14/09.

Mr. Kelly Dougherty came forward and was sworn. Mr. Dougherty stated he was still looking for employment and has not been able to resolve the water issue. Mr. Dougherty stated he is taking care of the exterior and doing minor repairs when he can. Mr. Dougherty stated the water bill is \$1,900.

Mr. Stenson testified on behalf of the City and stated the exterior was being maintained however the power meter that was previously there has been removed and there still is no water and the water meter has now been removed. Mr. Stenson stated if a fine was going to be imposed he would recommend \$25.00 per day.

Ruling

Mr. Vukelja continued this matter until March 9, 2010 Meeting for consideration of a fine and/or determination of a compliance date.

Mr. Vukelja stated for the record he has made the Respondent aware that as of March 9, 2010 it is unlikely the Respondent will receive any more continuances.

CASE NO 3 SMG 03-09-14 – Harman Investments, L.L.C. has been cited for failure to correct violations of the Land Development Code, Art. 19 Sec. 1 (ref. 105.1 FBC), at **919 N. Atlantic Avenue** - Violation(s) – No permit for water drainage plan before clearing and improving vacant lot -First Notified – 5/12/2008.

Richard Harman appeared on behalf of the Respondents and advised that plans were resubmitted to the City and he was waiting on the permit. Mr. Harman stated there are four owners of the property as follows: Cortez Investments owns 50%, John Butts 25%, Douglass Pierson 12 ½ % and World Wide Chicago Branch owns 12 ½ %

Mr. Alderman stated he spoke with Colleen Miles this morning and Cortez Investments is now the property owner and is pleased with their progress and the new company is following through with what they have promised.

Ruling

Mr. Vukelja ordered the case be continued to February 9, 2010 for a Progress Report and further add the new owners as Respondents.

CASE NO 4 SMG 11-09-84 – Five Star of Central Fla, Inc. has been cited for failure to correct violations of the Land Development Code, Art. 19 Sec. 1.1 (ref. FBC 105.1), at **214 N Keech Street - Main Number** - Violation(s) – Failure to obtain permit(s) for work being done on property - First Notified – 7/10/2009.

Surjan Bharrat came forward and was sworn. Mr. Bharrat stated they have obtained the permit but he was not sure if they would be in compliance by March 3, 2010.

Mr. Sykes testified on behalf of the City and stated the electrical life safety issues with Building 208 are in compliance. Mr. Sykes stated the electrical life safety issues have been resolved.

CASE NO 5 SMG 11-09-85 – Herbert Aguiar has been cited for failure to correct violations of the Land Development Code, Art. 19 Sec. 1.1 (ref. FBC Supp IMPC Sections as referenced on the attached Housing Inspection Report), at **517 Madison Avenue** - Violation(s) – Sections of the IPMC as referenced on the attached Housing Inspection Report - First Notified – 12/20/2008.

Respondent was not present.

Mr. Stenson testified on behalf of the City and stated the property was in non-compliance and no progress so he recommended a fine in the amount of \$150.00 per day.

Ruling

Mr. Vukelja imposed a fine in the amount of \$150.00 per day against the Respondent effective January 6, 2010 until compliance is achieved.

CASE NO 6 SMG 12-09-86 – 400 Beach Street Acquisitions, LLC has been cited for failure to correct violations of the Land Development Code, Art. 19 Sec. 1.1 (ref. FBC Supp IMPC 301.2, 302.4, 304.2, 304.6, 304.7, 304.9, 304.13, 305.3, and 605.1), at **300 N. Beach Street** - Violation(s) – Owner responsible to maintain structures and exterior of property in compliance with IPMC requirements; weeds; protective treatment; exterior walls; roofs and drainage; overhang extensions; window, light and door frames; interior surfaces; electrical equipment and wiring shall be properly installed and maintained - First Notified – 9/14/2009.

Mr. Ellison testified on behalf of the City and stated the Respondents were supposed to have the property secured by January 6, 2010 and they have done so. Mr. Ellison also advised progress appeared to be moving forward.

CASE NO 7 SMG 12-09-88 – Lincoln Trust Company has been cited for failure to correct violations of the Land Development Code, Art. 19 Sec. 1.1 (ref. FBC Supp. IPMC 301.2, 504.1, 305.3 and 308.1), at **634 Eldorado Street** - Violation(s) – Failure to repair plumbing, ceilings and maintain plumbing in good working order. Failure to exterminate for roaches and ants - First Notified – 9/21/2009.

Respondent was in compliance January 5, 2010.

CASE NO 8 SMG 12-09-90 – Ali Darren Jafroodi has been cited for failure to correct violations of the Land Development Code, Art. 19 Sec. 1.1 (ref. FBC Supp. IPMC 301.2, 302.1, 302.5, 304.1, 304.4, 304.6, 304.8, 304.10, 304.13, 304.14, 304.15, 501.2, 504.1, 504.3, 505.3, 602.1, 602.3, 604.3 and 605.1), at **143 Madison Avenue** - Violation(s) – Owner shall maintain the structures and exterior property in compliance with IPMC requirements; Sanitation; rodent harborage; exterior structure; exterior structural members; exterior walls (holes, wood rot); decorative features (lattice); stairways, decks and porches; window, skylight and door frames; insect screens (if no central air); doors; general plumbing; plumbing system hazards; water supply; heating facilities required; heat supply; electrical system hazards; electrical installation should be properly installed - First Notified – 9/30/2009.

Respondent was in compliance January 5, 2010.

CASE NO 9 SMG 12-09-92 – Ronald Mitchell & Jacqueline Babbs Mitchell has been cited for failure to correct violations of the Land Development Code, Art. 19 Sec. 1.1 (ref. FBC Supp. IPMC 304.7); Art. 18 Sec. 7.3 and Sec. 4.4; Art. 8 Sec. 2.7; City Code 90-297, at **1624 Cedar Highlands Blvd.** - Violation(s) – Roof is in an unfinished condition (tar paper only); materials are stored on exterior of property; vehicles parked on unimproved surfaces; yard not maintained (high weeds, grass, trash, and debris); no occupational license for rental - First Notified – 8/4/2009.

Mr. Ronald Mitchell came forward and was sworn. Mr. Mitchell stated he agreed with the violations. Mr. Mitchell stated the roof would take some time to complete but he could have the other violations in compliance by the next cut-off date.

Ms. Lankford testified on behalf of the City and stated the property was not a rental property as it was owner occupied. Ms. Lankford further stated the Respondent has made some improvement but still had some outside storage. Ms. Lankford advised once the roofing permit was obtained it should be 30 days to complete the roof.

Ruling

Mr. Vukelja amended the previous order of non-compliance to require the Respondent come into compliance with regard to the roof by March 3, 2010 and further ordered the remaining violations of outside storage, vehicles parked on unimproved surfaces and yard maintenance be in compliance by February 3, 2010; failing either conditions the Respondent shall be returned to a subsequent meeting for consideration of a fine up to \$1,000.00 per day until compliance.

New Cases

CASE NO 10 SMG 01-10-01 – Lance L. Thate & Lace J. Thate, JTRS has been cited for failure to correct violations of City Code Ch. 90-297, at **824 Pinewood** - Violation(s) – No rental occupational license - First Notified – 10/26/2009.

Respondent was not present.

Ms. Lankford testified on behalf of the City and stated the property was in non-compliance and 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 February 3, 2010 or be returned to a subsequent meeting for consideration of a one-time administrative fine of \$250.00.

CASE NO 11 SMG 01-10-02 – Joice C. Perry has been cited for failure to correct violations of the Land Development Code, Art. 19 Sec. 1.1 (ref. FBC Supp IPMC 301.2, 301.3, 305.1, 305.3 & 604.3), at **324 Aleatha Drive** - Violation(s) – Failure to repair interior surface and electrical; keep vacant property safe - owner is responsible - First Notified – 7/10/2009.

Respondent was not present.

Mr. Ellison testified on behalf of the City and stated the remaining violations were with regard to the interior area of the restroom next to the pool. Mr. Ellison stated he has not heard from the person representing the owner and 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 February 3, 2010 or be returned to a subsequent meeting for consideration of a fine up to \$1,000.00 per day until compliance is achieved.

CASE NO 12 SMG 01-10-03 – Galaxy Buick, Inc. and Daytona Auto Body & Repair, Inc. has been cited for failure to correct violations of the Land Development Code, Art. 18 Sec. 5 & 6, at **538 Ballough Road** - Violation(s) – Erecting signage with no permits; non-conforming to redevelopment standards - First Notified – 10/20/2009.

Mr. Jacob Nevcherlian of Daytona Auto Body & Repair, Inc. came forward and was sworn. Mr. Nevcherlian stipulated to the violations but believed they recently came into compliance as they applied for their permits.

Mr. Ellison testified on behalf of the City and stated the property was in non-compliance and 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 February 3, 2010 or be returned to a subsequent meeting for consideration of a fine up to \$1,000.00 per day until compliance is achieved.

CASE NO 13 SMG 01-10-04 – Coliseum and Burgoyne Properties, Inc. has been cited for failure to correct violations of the Land Development Code, Art. 18 Sec. 6, at **176 N. Beach Street** - Violation(s) – Erecting sign, no permit, right-of-way - First Notified – 11/25/2009.

Mr. Randy Burner and Henry McClellan came forward on behalf of the Respondents and were sworn. Mr. Burner stated they bring in performers which handle their own promotions and the business contracts with the performers state they are not allowed to post signs on City property without permission from the City.

Mr. Ellison testified on behalf of the City and stated both the property owner and the tenant were noticed to be at the meeting. Mr. Ellison stated the promoter has indicated the Coliseum's name is on their promoters signs. Mr. Ellison further stated the property was previously in non-compliance but was now in compliance but he was seeking a Will Fine Order for any future repeat violations that may occur.

Mr. Vukelja stated that the City cannot enforce the Contract between the tenant and the promoter and that it is up to the tenant and property owner to enforce the contract with the promoters who are violating the contract by posting signs on City property.

Ruling

Mr. Vukelja found the Respondents previously in non-compliance but currently in compliance and for any future repeat violations be returned to a subsequent meeting for consideration of a fine up to \$5,000.00 per occurrence.

CASE NO 14 SMG 01-10-05 – Earnest Deloach, Jr. & Delorice Ryles has been cited for failure to correct violations of the Land Development Code, Art. 19 Sec. 1.1 (ref. FBC Supp IPMC 304.2 & 304.3) & City Code Ch. 90-297, at **615 Clark Street** - Violation(s) – Failure to paint exterior trim and unpainted surfaces; Failure to obtain rental license - First Notified – 11/6/2009.

Mr. Earnest Deloach Jr. came forward and was sworn. Mr. Deloach acknowledged the paint issue but advised the property was not being rented. Mr. Deloach stated he believed the next cut-off date for compliance would be sufficient for compliance.

Mr. Ellison testified on behalf of the City and stated he would like to strike the no rental occupation license and believed the property will be in compliance by the next cut-off date.

Ruling

Mr. Vukelja found the Respondent in non-compliance and ordered the Respondent come into compliance by February 3, 2010 or be returned to a subsequent meeting for consideration of a fine up to \$1,000.00 per day until compliance is achieved.

CASE NO 15 SMG 01-10-06 – Mohammad M. Khabazeh has been 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 304.7, 304.3, 304.13 and 304.2), at **812 Magnolia Avenue** - Violation(s) – Outside storage; roof and drainage; identification numbers, broken windows and exterior surfaces - First Notified – 10/16/2009.

Respondent was not present.

Mr. Stenson testified on behalf of the City and stated he has not had any contact with the Respondent and there has been no progress on the property and there is now a squatter there. Mr. Stenson 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 February 3, 2010 or be returned to a subsequent meeting for consideration of a fine up to \$1,000.00 per day until compliance is achieved.

CASE NO 16 SMG 01-10-07 – Phyllis Lee Nattieel has been cited for failure to correct violations of the Land Development Code, Art. 19 Sec. 1.1 (ref. FBC Supp IPMC 302.7), at **426 Model Street** - Violation(s) – Accessory structure (shed) - First Notified – 10/14/09 (posted 11/9/09).

Respondent was in compliance January 4, 2010.

CASE NO 17 SMG 01-10-08 – Matthews Properties, LLC has been cited for failure to correct violations of the Land Development Code, Art. 18 Sec. 7.3; City Code Ch. 90-297, at **612 Mulberry Street** - Violation(s) – Outside storage; no rental license - First Notified – 8/24/2008.

Respondent was in compliance January 8, 2010.

CASE NO 18 SMG 01-10-09 – Heiko H. Folkerts & Ralph Gernster has been cited for failure to correct violations of the Land Development Code, Art. 19 Sec.1.1. (ref. FBC Supp IPMC 302.3, 302.4, 302.7, 303.2, 303.6, 303.7, 303.10, 303.12, 303.13, 305.1, 305.2.1, 305.3, 305.3.1, 306.4, 504.3, 506.2, 601.2, 603.1, 604.3, 605.1, 701.2 and 704.2), at **119 Thomasson Avenue** - Violation(s) – Sidewalks and driveways; weeds; accessory structures (fencing); gates; exterior structure; protective treatment; exterior walls; roofs and drainage; stairways-decks-porches- and balconies; handrails and guards; windows; accumulation of rubbish or garbage; rubbish storage facilities; disposal of garbage; garbage facilities; Extermination (owner-multi-occupancy); plumbing system hazards; drainage maintenance; mechanical and electrical requirements (responsibility); mechanical appliances, electrical system hazards and installation; Fire safety requirements (owner responsibility); Fire protection systems (installation -building fire alarm) - First Notified – 10/22/2009.

Mr. Ralph Gernster came forward and was sworn. Mr. Gernster stipulated to the violations. Mr. Gernster stated the property consisted of 20 unit complex and he further plans on going above and beyond the violations. Mr. Gernster stated he believed the March compliance date should be sufficient.

Mr. Stenson testified on behalf of the City and further recommended the March cut-off date for compliance as there is a lot of work to be done but good progress is being made.

Ruling

Mr. Vukelja found the Respondent in non-compliance and ordered the Respondent come into compliance by March 3, 2010 or be returned to a subsequent meeting for consideration of a fine up to \$1,000.00 per day until compliance is achieved.

CASE NO 19 SMG 01-10-10 – Mary Dent Grieve has been cited for failure to correct violations of the Land Development Code, Art. 19 Sec.1.1 (ref. FBC 105.1), at **601 Tucker Street** - Violation(s) – Working without permits (fencing) - First Notified – 11/14/2009.

Respondent was in compliance January 12, 2010.

CASE NO 20 SMG 01-10-11 – RDW Property Management, Inc. and Robert D. Williams has been cited for failure to correct violations of the Land Development Code, Art. 19 Sec. 1.1 (ref. FBC Supp IPMC 302.7, 303.7, 303.15, 303.13, 305.3, 504.1, 605.1); Art. 1 Sec. 5.3(b) & 4.3(c), at **344 Ellsworth Street** - Violation(s) – Failure to keep fence in good repair. Failure to remove junk vehicle accessory; using camper topper as a living unit. Failure to keep exterior doors in good repair. Failure to use dwelling for single family. Failure to keep interior flooring and walls in good repair. Failure to keep plumbing in good repair. Failure to keep roof in good repair.

Respondent, Robert D. Williams came forward and was sworn. Mr. Williams went through the Notice of Violation and questioned the dates as provided on the Notice and further stated there were old issues he was notified of a year ago but he thought those were taken care of. Mr. Williams stated the violation he was noticed on back in November of 2008 were not the same as the recent Notice of Violation with the Notice of Hearing.

Mr. Vukelja inquired if the photographs showed accurately depicted what was wrong with the property.

Officer Siracusa stated the pictures were accurate and that it was her understanding the tenant moved out that day as she physically helped her.

Mr. Sykes testified on behalf of the City and stated he was not present for the pictures but observed outside storage on the property which could be removed within ten days.

Mr. Stenson testified on behalf of the City and stated he responded to the location and took the pictures. Mr. Stenson further stated the property has been an on-going issue with these issues and prior cases have contributed to the condition of the property. Mr. Stenson stated he would recommend 60 days for compliance.

Mr. Williams stated in his lease he pays all utilities and the tenants are responsible for the upkeep of the property and if people were living in that condition and he didn't know about it or else he would have evicted the tenants and fixed the property, or had the tenants fix the property. Mr. Williams further requested 120 days for compliance. Mr. Williams also stated the property was occupied.

Ruling

Mr. Vukelja found the Respondent in non-compliance and ordered the Respondent come into compliance by May 5, 2010 or be returned to a subsequent meeting for consideration of a fine up to \$1,000.00 per day until compliance is achieved and further ordered the Respondent appear for a progress report at the March 9, 2010 Special Magistrate Meeting.

****Cases 21 to 27 are all related and were heard at the same time ****

CASE NO 21 SMG 01-10-12 – Halifax Wrecking Company, Inc. has been cited for failure to correct violations of the Land Development Code Art. 19 Sec.1.1 (ref. FBC Supp IPMC 302.7 & 302.8); Art. 1 Sec. 5.3(b); Art. 13 Sec. 3.6(a); Art. 19 Sec. 1.1 (ref. FBC 105.1); City Ordinance 90.297; City Ordinance 78-111, at Parcel # 39-15-33-32-05-0060 (Wallace Street) & Parcel # 39-15-33-42-00-0040 (Marion Street) - Violation(s) – Failure to maintain fence; Failure to remove vehicles that are inoperable without a tag; Failure to maintain vacant lot as vacant; Operating a salvage/recycling facility without meeting the conditions of conditional use: without building, without pavement, with outside storage; Failure to obtain permit for grade change including creation of soil mounds; Failure to obtain occupational license for salvage/recycling facility; Failure to cut tall grass/weeds and remove debris. - First Notified – 12/4/2009.

CASE NO 22 SMG 01-10-13 – Halifax Wrecking Company, Inc. has been cited for failure to correct violations of the Land Development Code Art. 19 Sec.1.1 (ref. FBC Supp IPMC 302.7 & 302.8); Art. 1 Sec. 5.3(b); Art. 13 Sec. 3.6(a); Art. 19 Sec. 1.1 (ref. FBC 105.1); City Ordinance 90.297; City Ordinance 78-111, at Parcel # 39-15-33-42-00-0020 (Marion Street) & Parcel # 39-15-33-42-00-0030 (419 Marion Street) - Violation(s) – Failure to maintain fence; Failure to remove vehicles that are inoperable without a tag; Failure to maintain vacant lot as vacant; Operating a salvage/recycling facility without meeting the conditions of conditional use: without building, without pavement, with outside storage; Failure to obtain permit for grade change including creation of soil mounds; Failure to obtain occupational license for salvage/recycling facility; Failure to cut tall grass/weeds and remove debris. -First Notified – 12/4/2009.

CASE NO 23 SMG 01-10-14 – Halifax Wrecking Company, Inc. has been cited for failure to correct violations of the Land Development Code Art. 19 Sec.1.1 (ref. FBC Supp IPMC 302.7 & 302.8); Art. 1 Sec. 5.3(b); Art. 13 Sec. 3.6(a); Art. 19 Sec. 1.1 (ref. FBC 105.1); City Ordinance 90.297; City Ordinance 78-111, at Parcel # 39-15-33-01-26-0074 (Loomis Avenue) & Parcel # 39-15-33-01-26-0075 (Loomis Avenue) - Violation(s) – Failure to maintain fence; Failure to remove vehicles that are inoperable without a tag; Failure to maintain vacant lot as vacant; Operating a salvage/recycling facility without meeting the conditions of conditional use: without building, without pavement, with outside storage; Failure to obtain permit for grade change including creation of soil mounds; Failure to obtain occupational license for salvage/recycling facility; Failure to cut tall grass/weeds and remove debris. - First Notified – 12/4/2009.

CASE NO 24 SMG 01-10-15 – Halifax Reclamation, Inc. has been cited for failure to correct violations of the Land Development Code Art. 1 Sec. 5.3(a); Art. 19 Sec. 1.1 (ref. FBC Supp IPMC 302.7, 302.8, 304.3, & 307.1); Art. 17 Sec. 2.189(a); Art. 18 Sec. 6.6(a)8; City Ordinance 90.297; City Ordinance 78-111. - at Parcel # 39-15-33-33-00-0070 (Marion Street Lot); Parcel # 39-15-33-32-00-0050 (335 Marion Street) & Parcel # 39-15-33-32-00-0011 (Marion Street) - Violation(s) – Failure to conform to zoning requirements; Failure to maintain in good repair accessory structures including fence and including former 504 Live Oak Avenue accessory building; Failure to remove inoperative/unlicensed vehicles from property; Failure to display street address; Failure to remove rubbish and garbage from property; Failure to remove permanent storage containers; Failure to remove pennant string; Failure to obtain occupational license for salvage yard, auto salvage, and temporary landfill; Failure to cut tall grass/weeds and remove debris. - First Notified – 11/20/2009.

CASE NO 25 SMG 01-10-16 – Halifax Reclamation, Inc. has been cited for failure to correct violations of the Land Development Code Art. 1 Sec. 5.3(a); Art. 19 Sec. 1.1 (ref. FBC Supp IPMC 302.7, 302.8, 304.3, & 307.1); Art. 17 Sec. 2.189(a); Art. 18 Sec. 6.6(a)8; City Ordinance 90.297; City Ordinance 78-111. - at Parcel # 39-15-33-32-00-0010 (341 Marion Street) - Violation(s) – Failure to conform to zoning requirements; Failure to maintain in good repair accessory structures including fence and including former 504 Live Oak Avenue accessory building; Failure to remove inoperative/unlicensed vehicles from property; Failure to display street address; Failure to remove rubbish and garbage from property; Failure to remove permanent storage containers; Failure to remove pennant string; Failure to obtain occupational license for salvage yard, auto salvage, and temporary landfill; Failure to cut tall grass/weeds and remove debris. First Notified – 11/20/2009.

CASE NO 26 SMG 01-10-17 – Robert P. Klenk has been cited for failure to correct violations of the Land Development Code Art. 19 Sec. 1.1 (ref. FBC Supp IPMC 302.7 & 302.8); Art. 1. Sec. 5.3(b); Art. 13 Sec. 3.6(a); City Ordinance 90.297; City Ordinance 78-111 at **Parcel # 39-15-33-32-05-0070 (Wallace Street)** - Violation(s) – Failure to maintain fence; Failure to remove vehicles that are inoperable without a tag; Failure to maintain vacant lot as vacant; Operating a salvage/recycling facility without meeting the conditions of conditional use: without building, without pavement, with outside storage; Failure to obtain occupational license for salvage/recycling facility; Failure to cut tall grass/weeds and remove debris - First Notified – 12/4/2009.

CASE NO 27 SMG 01-10-18 – Robert P. Klenk has been cited for failure to correct violations of the Land Development Code, Art. 19 Sec. 1.1 (ref. FBC Supp IPMC 304.2 & 304.3) - Exterior surfaces & Premises identification, at **Parcel # 39-15-33-33-00-0080 (327 Marion Street)** - Violation(s) – Failure to paint exterior wall; Failure to display street address - First Notified – 11/20/2009.

Mr. Robert Klenk came forward and was sworn.

Mr. Andrew Hohner came forward and was sworn.

Attorney Barry Hughes appeared for the Respondent. Mr. Hughes filed a Notice of Appearance in Case #'s 21 to 27. Mr. Hughes requested an extension of time and stated his client has been operating his demolition business for 32 years on all the numerous properties listed. Mr. Hughes stated he needed time to find out what uses are allowed on what properties and which uses may or may not be grandfathered in and further what properties are in compliance or non-compliance. Mr. Hughes further stated Mr. Klenk will be cleaning up the property in the meantime with some issues regarding debris.

Mr. Vukelja inquired if cases 21-27 were all related.

Mr. Vukelja made it known that his wife has been in touch with Mr. Klenk's brother regarding putting a roof on his brother's house and wanted to make sure no one has a conflict.

Mr. Jackson stated he did not have a concern with any conflict.

Mr. Hughes also stated the he had no issues with Mr. Vukelja presiding over the matter.

Mr. Kish testified on behalf of the City and stated he labeled a copy of each parcel with the case number and all the parcels are contiguous and interlocked because it is like one big piece of property that has all the violations.

Mr. Jackson stated he believed the February 9, 2010 date would be more than sufficient time to review the case history and further believed 60 days would be excessive regarding review of the history. Mr. Jackson stated the determination of compliance or non-compliance should be able to be determined by the next meeting.

Mr. Vukelja asked for clarification regarding the violations listed on the Notice for Case # SMG 01-10-12.

Mr. Kish stated the property is a vacant lot which looks like they are operating a salvage business on the lot. Mr. Kish stated if they had a license they would need a building, pavement, landscaping, and fencing.

Mr. Hohner stated there is an issue with regard to grandfathering use on the premises.

Mr. Vukelja asked Mr. Kish about the violations regarding Case # 01-10-13 and looked at the aerial photograph of the outline of the parcel.

The parties looked over the copies of the outline of the parcel.

Mr. Vukelja inquired of Mr. Hughes as to how much time he would need to figure out the zoning requirements for the properties.

Mr. Hughes stated he would need 60 days to review the zoning requirements.

Ruling

Mr. Vukelja continued the determination of compliance or non-compliance in cases 21 – 27 until the March 9, 2010 Special Magistrate Meeting.

Mr. Vukelja stated this should be placed last on the March 9, 2010 Agenda and if it appears to be lengthy to plan on staying until resolved.

Miscellaneous Business

1. Mr. Jackson advised Mr. Vukelja about the Code Enforcement Board Member workshop and the City Commission Workshop. Mr. Jackson stated they were also looking at capping the running fines to cap them at the percentage of the property values.

Mr. Vukelja stated his opinion with regarding to handling the outstanding running fines and liens.

Adjournment: The hearing was adjourned at 11:25 a.m.