

CITY OF DAYTONA BEACH

MINUTES

**SPECIAL
MAGISTRATE
HEARING**

January 11, 2011 at 9:00 AM
City Commission Chambers
301 South Ridgewood Avenue,
Daytona Beach, Florida

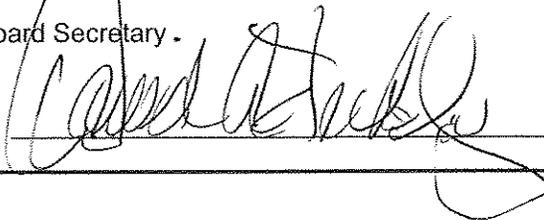
ATTENDEES:

Mr. David Vukelja, Special Magistrate

STAFF:

Anthony E. Jackson, Assistant City Attorney
Sgt. Tracy Miller
Officer Sherri Siracusa
Mr. Emory Counts, Community Development Supervisor
Ms. Colleen Miles, Zoning Officer
Mr. Michael Fitzgerald, Code Inspector
Mr. Daniel Garcia, Code Inspector
Ms. Vicki Lankford, Code Inspector
Mr. John Stenson, Code Inspector

Ms. Aimee Hampton, Board Secretary

Approval of Minutes by: 

Special Magistrate

Mr. Vukelja called the Hearing to order at 9:10 a.m.

Mr. Vukelja approved the minutes of the November 9, 2010 Meeting Minutes.

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

***Cases 1, 2, & 3 were heard at the same time**

Case 1

CEB 12-01-283 – 441 Pine Street (Applicant Name: Edith Jones) Owner- Ollie Mae Kenman & Willie A. Davis, Estate: Order Imposing Lien of \$250.00 imposed January 14, 2002 – Lien imposed due to repeat violation of outside storage of tires.

Case 2

CEB 05-02-69 – 441 Pine Street (Applicant Name: Edith Jones) Owner- Ollie Mae Kenman & Willie A. Davis, Estate: Order Imposing Lien of \$1,000.00 imposed June 10, 2002 – Lien imposed due to repeat violation of outside storage of tires.

Case 3

CEB 10-03-293 – 441 Pine Street (Applicant Name: Edith Jones) Owner- Ollie Mae Kenman & Willie A. Davis, Estate: Order Imposing Lien of \$2,500.00 imposed October 9, 2003 – Lien imposed due to repeat violation of outside storage of tires.

Ms. Edith Jones came forward and was sworn. Ms. Jones stated she had a financial hardship and requested a waiver of the application fee as well as the outstanding lien amounts.

Mr. Stenson testified on behalf of the City and stated he would recommend consolidating the three cases and reduce the total amount of the liens to the sum of \$500.00.

Ruling

Mr. Vukelja consolidated cases 1, 2, and 3 and further ordered the lien be reduced to the sum of \$250.00 effective January 11, 2011.

Hearing of Cases:

CASE NO 1 SMG 11-09-84 – Five Star of Central Fla, Inc. is 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.**

Mr. Emory Counts appeared on behalf of Community Development Department. Mr. Counts stated the housing authority was the owner of the property now and that they were working with the City in bringing the property into compliance and monitoring the project.

Mr. Stenson testified on behalf of the City and stated since the property was owned by the Housing Authority and was now a city project he recommended the case be dismissed.

Ruling

Mr. Vukelja ordered Case # SMG 11-09-84 be dismissed.

CASE NO 2 SMG 01-10-12; 01-10-13; 01-10-14; 01-10-17 – Halifax Wrecking Company, Inc. & Robert Klenk is cited for failure to correct violations of the Land Development Code, Art. 19 Sec.1.1 (ref. FBC Supp IPMC 302.7 & 302.8) - Accessory Structures (fence) & Junk Vehicle; Art. 1 Sec. 5.3(b) - Nonconforming use of vacant lot; Art. 13 Sec. 3.6(a) - Salvage/recycling facility conditional use in M-1 district; City Ordinance 90.297 - Occupational license required; City Ordinance 78-111 - Overgrown conditions and/or accumulation of debris; LDC Art. 19 Sec. 1.1 (ref. FBC 105.1) - Permits required for excavation work, at **Parcel # 39-15-33-32-05-0060 (Wallace Street) & Parcel # 39-15-33-42-00-0040 (Marion Street); Parcel # 39-15-33-42-00-0020 (Marion Street) & Parcel # 39-15-33-42-00-0030 (419 Marion Street); Parcel # 39-15-33-01-26-0074 (Loomis Avenue) & Parcel # 39-15-33-01-26-0075 (Loomis Avenue); 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; 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.**

Attorney Barry Hughes appeared on behalf of Mr. Klenk. Mr. Hughes stated the property has substantially improved and Mr. Klenk was making a great deal of progress and would be applying for his conditional use permit.

Mr. Garcia testified on behalf of the City stated the Respondent has made substantial progress in cleaning up the property.

Mr. Robert Klenk came forward and was sworn and stated he would be working with Colleen Miles in obtaining the conditional use permit.

No further action was required as the case was on the Agenda for a Progress Report.

CASE NO 3 SMG 02-10-22 – Carry Bernadette Smith-Ramsey is cited for failure to correct violations of the Land Development Code, Art. 18 Sec. 7.3; Art. 19 Sec. 1.1 (ref. FBC Supp IPMC 304.10, 304.13, 304.2, 304.6, 604.3, 504.3 and 304.4); Chapter 90 Sec. 90-297 Code of Ordinances, at **210-214 College Park Drive** - Violation(s) – Outside storage, exterior stairs, windows, exterior paint, exterior surfaces, inadequate power services, inadequate water services, structural members, no rental license - First Notified – 11/25/2009.

Bernard Smith, Jr. came forward and was sworn. Mr. Smith stated he was not able to get the title clear and has since decided they would perform the work to come into compliance by themselves. Mr. Smith suggested he complete the painting of both structures by February 8, 2011 hearing date. Mr. Smith stated he needed to order the windows and any additional work could be completed by July 4, 2011.

Mr. Stenson testified on behalf of the City and recommended imposing a fine of \$100 per day. Mr. Stenson stated there were more violations than thought at the house on the property and since the case has been on-going and the title issues could not be cleared he recommended imposing a fine.

Ruling

Mr. Vukelja amended the previous order of non-compliance to allow the Respondent until March 2, 2011 or be automatically fined the amount of \$150.00 per day beginning March 2, 2011 to continue until compliance is achieved or reached the maximum of \$20,000.

CASE NO 4 SMG 07-10-97 – Fran J. Lasseter is cited for failure to correct violations of the Land Development Code, Art. 19 Sec. 1.1 (ref. FBC Supp IPMC 302.5, 304.13, 304.7); Ch. 90-297 Code of Ordinances), at **314 Cottrill Avenue** - Violation(s) – Rodent harborage; windows and doors; roof and drainage; no rental license - First Notified – 2/4/2010.

Timothy Hassler, property manager came forward and was sworn. Mr. Hassler stated everything is in compliance except they now have to install heat strips before they can pass the rental license inspection.

Mr. Stenson testified on behalf of the City and stated the property was still in non-compliance with the rental license.

Ruling

Mr. Vukelja amended previous order of non-compliance to allow the Respondents until February 2, 2011 or be returned to a subsequent meeting for consideration of a one-time administrative fine of \$250.00.

CASE NO 5 SMG 11-10-135 – Matthew Jones & Anna Alastra is cited for failure to correct violations of the Land Development Code, Art. 1 Sec. 5.3, at **37 N. Peninsula Drive** - Violation(s) – Non-conforming use - utilizing a single family house as multifamily - First Notified – 6/11/2010.

Respondent was in compliance January 10, 2011.

CASE NO 6 SMG 12-10-137 – Harriet Foreman Estate is cited for failure to correct violations of the Land Development Code, Art. 19 Sec. 1.1 (ref. FBC Supp IPMC 504.3), at **241 Jefferson Street - Violation(s) – Plumbing system hazard (No water service) - First Notified – 10/22/2010.**

Respondent was not present.

Mr. Stenson testified on behalf of the City and stated the property was in non-compliance as it still did not have any water and it was occupied. Mr. Stenson recommended imposing a fine of \$75.00 per day with a maximum amount of \$10,000.

Ruling

Mr. Vukelja imposed a fine of \$75.00 per day against the Respondent effective January 5, 2011 to continue each day thereafter until compliance is achieved, not to exceed the amount of \$10,000.

CASE NO 7 SMG 12-10-139 – John Cicero is cited for failure to correct violations of the Land Development Code, Art. 18 Sec. 7.3; Art. 19 Sec. 1.1 (ref. FBC Supp IPMC 304.13), at **121 Mason Park Drive - Violation(s) – Outside storage and broken windows - First Notified – 9/28/2010.**

Respondent was not present.

Mr. Stenson testified on behalf of the City and stated the property was still unsecured and therefore recommended a fine of \$75.00 per day with a maximum amount of \$15,000. The compliance date for the remaining violations was set for March 2011.

Ruling

Mr. Vukelja imposed a fine of \$75.00 per day against the Respondent effective January 5, 2011 to continue each day thereafter until property is secured or reached the maximum amount of \$15,000.

CASE NO 8 SMG 12-10-141 – Robert B Irving is cited for failure to correct violations of the Land Development Code, Art. 19 Sec. 1.1 (ref. FBC Supp Sections of the IPMC as Outlined in the Attached Housing Inspection Report), at **322 Fulton Street - Violation(s) – See Premises Inspection Report attached to Notice of Violation - First Notified – 10/13/2010.**

Respondent was not present.

Mr. Stenson testified on behalf of the City and recommended amending the compliance date until the next cut-off.

Ruling

Mr. Vukelja amended the previous order of non-compliance to allow the Respondent until February 2, 2011 to come into compliance or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day until compliance is achieved.

CASE NO 9 SMG 12-10-142 – Edward G. Taylor; Anthony J. Taylor & Christopher J. Taylor is cited for failure to correct violations of the Land Development Code, Art. 19 Sec. 1.1 (ref. FBC Supp IPMC 302.8) & City Ordinance 90-297, at **950 Tomoka Road - Violation(s) – Junk vehicle; no rental license First Notified – 9/3/2010.**

Respondent was not present.

Mr. Stenson testified on behalf of the City and stated the property was still in non-compliance and did not have their occupational license. Mr. Stenson therefore recommended imposing a fine of \$75.00 per day plus a one-time fine of \$250.00.

Ruling

Mr. Vukelja imposed a fine against the Respondent of \$75.00 per day effective January 5, 2011 to continue each day thereafter until compliance is achieved or reached the maximum amount of \$15,000 plus one-time administrative fine of \$250.00.

CASE NO 10 SMG 12-10-145 – Steve D. & Valerie Kane is cited for failure to correct violations of City Ordinance 90-297, at **1197 Champions Drive** - Violation(s) – No occupational license - First Notified – 10/14/2010.

Respondent was not present.

Ms. Lankford testified on behalf of the City and stated the property was still in non-compliance and recommended imposing the one-time fine of \$250.00.

Ruling

Mr. Vukelja imposed a plus one-time administrative fine of \$250.00 effective January 5, 2011 against the Respondents.

CASE NO 11 SMG 12-10-146 – Rebecca A. Taylor is cited for failure to correct violations of City Ordinance 90-297, at **564 Fairmount Road** - Violation(s) – No occupational license - First Notified – 10/14/2010.

Respondent was in compliance January 10, 2011.

CASE NO 12 SMG 12-10-147 – Juanita C. Armstrong is cited for failure to correct violations of City Ordinance 90-297, at **1115 Madison Avenue** - Violation(s) – No occupational license - First Notified – 9/16/2010.

Respondent was in compliance January 10, 2011.

CASE NO 13 SMG 12-10-148 – Edison & Mariella Puentes is cited for failure to correct violations of City Ordinance 90-297, at **335 Perfect Drive** - Violation(s) – No occupational license - First Notified – 9/3/2010.

Respondent was not present.

Ms. Lankford testified on behalf of the City and stated the property remained in non-compliance and recommended imposing the one-time administrative fine of \$250.00.

Ruling

Mr. Vukelja imposed a plus one-time administrative fine of \$250.00 effective January 5, 2011 against the Respondents.

CASE NO 14 SMG 12-10-149 – Charles Kirk Winstead & Rebecca A. Hedrick is cited for failure to correct violations of City Ordinance 90-297, at **108 Zaharias Circle** - Violation(s) – No occupational license - First Notified – 10/11/2010.

Respondent was not present.

Ms. Lankford testified on behalf of the City and stated the property remained in non-compliance and recommended imposing the one-time administrative fine of \$250.00.

Ruling

Mr. Vukelja imposed a plus one-time administrative fine of \$250.00 effective January 5, 2011 against the Respondents.

CASE NO 15 SMG 12-10-153 – Richard Postlewait is cited for failure to correct violations of the City Ordinance 90-297, at **716 Harvey Avenue** - Violation(s) – No occupational license - First Notified – 11/4/2010.

Respondent was not present.

Mr. Fitzgerald testified on behalf of the City and requested an order of dismissal of the case.

Ruling

Mr. Vukelja ordered Case # SMG 12-10-153 – 716 Harvey Avenue – Richard Postlewait be dismissed.

CASE NO 16 SMG 12-10-158 – Robert & Chantal Pesce is cited for failure to correct violations of the Land Development Code, Art. 19 Sec.1.1 (ref. FBC Supp IPMC 303.13, 303.13.1, 303.13.2, 303.14, 303.15, 303.2, 303.6, 605.2, 504.1, 301.2, 304), at **128 S. Wild Olive Avenue** – Violation(s) – Maintenance Code: Cracked stucco; fascia board; receptacles covers missing; screens & doors; bath tubs – First Notified – 9/1/2010.

Respondent was in compliance January 10, 2011.

CASE NO 17 SMG 12-10-159 – Trust No.219 c/o Dennis C. Riggins, Trustee is cited for failure to correct violations of the Land Development Code, Art. 19 Sec. 1.1 (ref. FBC Supp IPMC 504.3) & Ch. 90-297 Code of Ordinances, at **219 North Street** - Violation(s) – Plumbing system hazard & no occupational license - First Notified – 11/4/2010.

Respondent was not present.

Mr. Stenson testified on behalf of the City and requested imposing a fine as the property was still in non-compliance.

Ruling

Mr. Vukelja imposed a fine of \$75.00 per day effective December 24, 2010 to continue each day thereafter until compliance is achieved or reached the maximum amount of \$15,000.00 along with a one-time administrative fine of \$250.00 for failure to obtain a rental occupational license.

Miscellaneous Business

1. Discussions were held regarding Code Stat and the upcoming Code Workshop.

Adjournment: The meeting was adjourned at 10:25 a.m.