

CITY OF DAYTONA BEACH

MINUTES

**SPECIAL
MAGISTRATE
HEARING**

April 12, 2011 at 9:00 AM
City Commission Chambers
301 South Ridgewood Avenue,
Daytona Beach, Florida

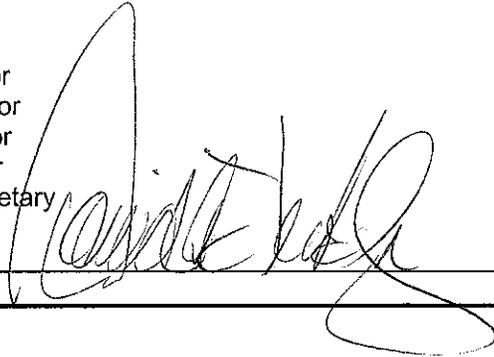
ATTENDEES:

Mr. David Vukelja, Special Magistrate

STAFF:

Anthony E. Jackson, Assistant City Attorney
Sgt. Tracy Miller
Officer Sherri Siracusa
Mr. Daniel Garcia, Code Inspector
Ms. Vicki Lankford, Code Inspector
Mr. John Stenson, Code Inspector
Mr. Denzil Sykes, Code Inspector
Ms. Aimee Hampton, Board Secretary

Approval of Minutes by: _____



Special Magistrate

Mr. Vukelja called the Hearing to order at 9:7 a.m.

Mr. Vukelja approved the March 8, 2011 Meeting Minutes.

Hearing of Cases:

CASE NO 1 SMG 09-10-118 – Lisa McCarthy 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 304.2, 302.1, 504.3, 304.8, 304.6, 304.13, 304.14, 605.1, 304.7, 304.6, 602.2, 305.3, 308.1, 302.5, 504.1 and 304.11), at **630 Tanglewood Street** - Violation(s) – Peeling paint; dirt/grime and mildew; plumbing system hazard; awnings; exterior surfaces; windows and frames; screens; electrical wiring; roof and drainage; exterior wall; heating facilities; interior surfaces; infestation; rodent harborage; plumbing fixtures; chimney and towers - First Notified – 6/28/2010.

Mr. Stenson testified on behalf of the City and stated everything was in compliance except for screens and a heating strip. Mr. Stenson recommended amending the compliance date until the May cut-off.

Ms. Lisa McCarthy came forward and was sworn. Ms. McCarthy agreed to the May cut-off date for compliance.

Ruling

Mr. Vukelja amended the previous order of non-compliance to allow the Respondent until May 4, 2011 to come into compliance or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day.

CASE NO 2 SMG 12-10-150 – D.R. Horton, Inc. - Jacksonville is cited for failure to correct violations of the Land Development Code, Art. 8 Sec. 3.6, at **Tournament Drive (Parcel # 5217-05-00-0001)** - Violation(s) – Defective/damaged retaining wall located SW corner of Tournament and Perfect (common area) - First Notified – 8/27/2010.

Respondent was in compliance March 30, 2011.

CASE NO 3 SMG 02-11-02 – Bobby Lee Burch, Jr.; Bobbie Lee Burch and Murtice Burch, Husband & Wife as JTRS is cited for failure to correct violations of the Land Development Code, Art. 19 Sec.1.1 (ref. FBC 105.1) & Art. 8 Sec. 3.1(b), at **836 N. Orange Avenue** - Violation(s) – No permit for renovations First Notified – 11/11/2010.

Mr. Sykes testified on behalf of the City and stated the property was in non-compliance and the Respondents have not pulled any permits. Mr. Sykes recommended imposing a fine of \$200 per day with a maximum of \$15,000.

Mr. John Burch came forward and was sworn. Mr. Burch stated he was living at the property because it was his parent's property and his brother was supposed to send money to help fix up the property but his brother had not sent any money.

Ruling

Mr. Vukelja imposed a fine of \$200.00 per day effective April 6, 2011 to continue each day thereafter until compliance is achieved or reached the maximum amount of \$15,000.00.

CASE NO 4 SMG 02-11-03 – Ralph A. & Rena Thomas Smith reserving life estates and Melonie Davis Thomas as JTRS 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 302.7), at **549 Cannon Street** - Violation(s) – Outside storage; dilapidated fencing - First Notified – 11/9/2010.

Respondent was not present.

Mr. Stenson testified on behalf of the City and stated the property was still in non-compliance and there has been no contact from the Respondents. Mr. Stenson recommended imposing a fine of \$50.00 per day with a maximum of \$15,000.

CASE NO 5 SMG 02-11-04 – Fred E. Allen is cited for failure to correct violations of Ch. 90-297 Code of Ordinances, at **345 Garden Street** - Violation(s) – No rental license - First Notified – 11/20/2010.

Respondent was in compliance March 25, 2011.

CASE NO 6 SMG 02-11-08 – Bright Beginnings Academy, LLC is cited for failure to correct violations of the Land Development Code, Art. 19 Sec. 1.1 (ref. FBC 105.1), at **910 Beville Road** - Violation(s) – No building, electrical and plumbing permit - First Notified – 9/16/2010.

Respondent was in compliance April 5, 2011.

CASE NO 7 SMG 02-11-11 – Sheryl Carrigan Anderson is cited for failure to correct violations of the Land Development Code, Art. 17 Sec. 2.189(a); Art. 19 Sec. 1.1 (ref. FBC Supp IPMC 302.8); and Art. 8 Sec. 2.7(a), at **1667 W. Paradise Lane** - Violation(s) – Illegal parking and expired tag - First Notified – 12/16/2010.

Respondent was not present.

Mr. Garcia testified on behalf of the City and stated the property was now in compliance as of April 11, 2011 but he was requesting the Magistrate enter a Will Fine Order for any future repeat violations.

Ruling

Mr. Vukelja found the Respondent was previously in non-compliance but was in compliance as of April 11, 2011 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 8 SMG 02-11-17 – George Joseph Nighland Revocable Living Trust dtd 12/22/04 is cited for failure to correct violations of City Ordinance 90-297, at **1200 Imperial Drive** - Violation(s) – No occupational license - First Notified – 10/25/2010.

Respondent was not present.

Ms. Lankford testified on behalf of the City and requested the Magistrate amend the compliance date until the June cut-off date due to the Respondent's health problems and that he has been in the hospital.

Ruling

Mr. Vukelja amended the previous order of non-compliance to allow the Respondent until June 8, 2011 to come into compliance or be returned to a subsequent meeting for consideration of a one-time administrative fine of \$250.00.

CASE NO 9 SMG 03-11-21 – Zelda D. Cooks is cited for failure to correct violations of the Land Development Code, Art. 19 Sec. 1.1 (ref. FBC Supp IPMC 302.8), at **1144 Edith Drive** - Violation(s) – Inoperable (junk) vehicle on site - First Notified – 11/22/2010.

Respondent was in compliance April 6, 2011.

CASE NO 10 SMG 03-11-24 – James & Pattanum George is cited for failure to correct violations of the Ch. 90-297 Code of Ordinances at **116 Joyelle Circle** - Violation(s) – No occupational license - First Notified – 11/17/2010.

Respondent was not present.

Ms. Lankford testified on behalf of the City and stated the property was in non-compliance and requested the Magistrate impose the one-time fine of \$250.00 for failure to obtain an occupational license.

Ruling

Mr. Vukelja imposed a one-time administrative fine of \$250.00 against the Respondent effective April 6, 2011.

CASE NO 11 SMG 03-11-26 – S.C. Gay Properties, LLC is cited for failure to correct violations of the Ch. 90-297 Code of Ordinances at **317 Congress Avenue** - Violation(s) – No occupational license First Notified – 1/13/2011.

Respondent was not present.

Ms. Lankford testified on behalf of the City and stated the property was still in non-compliance and that they had failed their inspection and had not scheduled another inspection. Ms. Lankford recommended the Magistrate impose the one-time fine of \$250.00.

Ruling

Mr. Vukelja imposed a one-time administrative fine of \$250.00 against the Respondent effective April 6, 2011.

CASE NO 12 SMG 03-11-29 – James G. Frost is cited for failure to correct violations of the Land Development Code, Art. 18 Sec. 7.3, at **318 Hobart Avenue** - Violation(s) – Outside storage - First Notified – 11/8/2010.

Respondent was in compliance April 6, 2011.

CASE NO 13 SMG 03-11-31 – Paul L. Jones & Sadie P. Lee is cited for failure to correct violations of the Land Development Code, Art. 8 Sec. 2.7 (a); Art. 18 Sec. 7.3; Art. 19 Sec. 1.1 (ref. FBC Supp IPMC 304.2), at **701 Kingston Avenue** - Violation(s) – Boat parked in yard; Outside storage; peeling paint First Notified – 10/27/2010.

Respondent was in compliance April 6, 2011.

CASE NO 14 SMG 03-11-33 – Carl Woods 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 302.8), at **535 Brentwood Drive** - Violation(s) – Outside storage; junk vehicle - First Notified – 2/7/2011.

Mr. Carl Woods came forward and was sworn.

Mr. Stenson testified on behalf of the City and stated the property was currently in compliance but he was seeking a Will Fine Order for any future repeat violations.

Ruling

Mr. Vukelja found the Respondent was previously in non-compliance but was in compliance as of April 12, 2011 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 15 SMG 03-11-34 – Ana Pacheco, Sara M. Pacheco & Rafael Pacheco, JTRS is cited for failure to correct violations of the Land Development Code, Art. 8 Sec. 2.7; Art. 18 Sec. 7.3; Art. 19 Sec.1.1 (ref. FBC Supp IPMC 302.8), at **873 Madison Avenue** - Violation(s) – Parking in yard; outside storage; junk vehicle - First Notified – 12/30/2010.

Respondents were not present.

Mr. Stenson testified on behalf of the City and stated the property was in non-compliance and recommended imposing a fine of \$75.00 per day with a maximum amount of \$15,000.00.

Ruling

Mr. Vukelja imposed a fine of \$75.00 per day against the Respondents effective April 6, 2011 to continue until compliance is achieved or reached the maximum of \$15,000.00.

CASE NO 16 SMG 03-11-38 – Caroline Daytona Properties, LLC is cited for failure to correct violations of the Land Development Code, Art. 19 Sec. 1.1 (ref. FBC Supp IPMC 302.7), at **629 Tucker Street** - Violation(s) – **Accessory Structure (fencing)** - First Notified – 1/7/2011.

Respondent was in compliance March 24, 2011.

CASE NO 17 SMG 04-11-39 – Robert H. Plugge & Karen A. Donovan is cited for failure to correct violations of the Land Development Code, Art. 8 sec. 2.7(a) & Art. 19 Sec. 1.1 (ref. FBC Supp IPMC 302.8), at **521 Wisteria Road** - Violation(s) – Failure to cease parking in the yard; Failure to remove the untagged, unlicensed, or inoperable vehicle from the property - First Notified – 2/5/2011.

Respondent was in compliance March 29, 2011.

CASE NO 18 SMG 04-11-40 – Asher & Lea Moryoussef is cited for failure to correct violations of the City Ordinance 90-297, at **1049 Hampton Road** - Violation(s) – No current occupational license
First Notified – 1/13/2011.

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 Respondents in non-compliance and ordered the Respondents come into compliance by May 4, 2011 or be returned to a subsequent meeting for consideration of a one-time administrative fine of \$250.00.

CASE NO 19 SMG 04-11-41 – Ismael L. Lopez is cited for failure to correct violations of the Land Development Code, Art. 18 Sec. 7.3, at **569 Byron Avenue** - Violation(s) – Outside storage - First Notified – Will Fine Order entered 7/10/2007.

Miguel Lopez, brother of Ismael Lopez, came forward and was sworn. Mr. Lopez stated he removed the outside storage last week and that he was taking care of the property while his brother was taking care of their mother in California.

Mr. Stenson testified on behalf of the City and stated there was a will fine order on the property and that this was the second time for the repeat violation of outside storage. Mr. Stenson recommended imposing a fine of \$250.00.

Ruling

Mr. Vukelja found the Respondent in non-compliance with outside storage and further in violation of the Will Fine Order, Mr. Vukelja imposed a fine of \$250.00 against the Respondents effective April 12, 2011.

CASE NO 20 SMG 04-11-42 – Leonard M. Giuliani is cited for failure to correct violations of the Land Development Code, Art. 19 Sec. 1.1 (ref. FBC 105.1), at **205 Congress Avenue** - Violation(s) – No permit - First Notified – 2/14/2011.

Respondent was in compliance March 28, 2011.

CASE NO 21 SMG 04-11-43 – David M. Schweibish is cited for failure to correct violations of City Ordinance 90-297 at **721 Edwards Street** - Violation(s) – No rental license - First Notified – 2/12/2011.

Respondent was not present.

Mr. Stenson 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 May 4, 2011 or be returned to a subsequent meeting for consideration of a one-time administrative fine of \$250.00.

CASE NO 22 SMG 04-11-44 – Charles Holtzclaw is cited for failure to correct violations of City Ordinance 90-297, at **215 Pierce Avenue** - Violation(s) – No rental license - First Notified – 2/11/2011.

Respondent was not present.

Mr. Stenson 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 May 4, 2011 or be returned to a subsequent meeting for consideration of a one-time administrative fine of \$250.00.

CASE NO 23 SMG 04-11-45 – Louise P. Webb is cited for failure to correct violations of City Ordinance 90-297, at **418 Pleasant Street** - Violation(s) – No rental license - First Notified – 1/28/2011.

Respondent was not present.

Mr. Stenson 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 May 4, 2011 or be returned to a subsequent meeting for consideration of a one-time administrative fine of \$250.00.

CASE NO 24 SMG 04-11-46 – Harvinder S. & Ishita K. Chadda is cited for failure to correct violations of the Land Development Code, Art. 19 Sec. 1.1 (ref. FBC Supp IPMC 602.3), at **551 N. Ridgewood Avenue** - Violation(s) – Heat Supply - First Notified – 1/20/2011.

Respondent was not present.

Mr. Stenson 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 Respondents in non-compliance and ordered the Respondents come into compliance by May 4, 2011 or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day until compliance is achieved.

There was no miscellaneous business.

Adjournment: The meeting was adjourned at 9:45 a.m.