

CITY OF DAYTONA BEACH

MINUTES

**SPECIAL
MAGISTRATE
HEARING**

**May 10, 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
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 9:00 a.m.

Mr. Vukelja approved the March 24, 2011 Emergency Lien Review Meeting Minutes and the April 12, 2011 Regular Meeting Minutes.

Hearing of Cases

CASE NO 1 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.

Respondent was in Compliance May 3, 2011.

CASE NO 2 SMG 01-10-15; 01-10-16; 01-10-18 – Halifax Reclamation, Inc. & Robert Klenk is cited for failure to correct violations of the Land Development Code, Art. 1 Sec. 5.3(a) - Non-conforming use; City Ordinance 90.297 - Occupational license required; Art. 19 Sec. 1.1 (ref. FBC Supp IPMC 302.8) - Junk vehicle; Art. 17 Sec. 2.189(a) - The parking of large commercial vehicles when not in use; Art. 18 Sec. 6.6(a)(8) - Prohibited signs/pennants; Art. 19 Sec. 1.1 (ref. FBC Supp IPMC 307.1, 302.7, & 304.8) - Accumulation of rubbish or garbage, Accessory structure, & Premises identification; City Ordinance 78-111 - Overgrown conditions and/or the accumulation of debris, Art. 19 Sec. 1.1 (ref. FBC Supp IPMC 304.2 & 304.3) 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); Parcel # 39-15-33-32-00-0010 (341 Marion Street); Parcel # 39-15-33-33-00-0080 (327 Marion Street)** - Violation(s) – Failure to conform to zoning requirements; Failure to obtain occupational license for salvage yard, auto salvage, and temporary landfill; Failure to remove inoperative/unlicensed vehicles from property; Failure to remove permanent storage containers; Failure to remove pennant string; Failure to remove rubbish and garbage from property; Failure to maintain in good repair accessory structures including fence and including former 504 Live Oak Avenue accessory building; Failure to cut tall grass/weeds and remove debris; 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. Failure to paint exterior wall; Failure to display street address - First Notified – 11/20/2009.

Attorney Barry Hughes appeared on behalf of Mr. Klenk. Mr. Hughes stated they would agree with non-compliance but requested a comprehensive list regarding what violations are still remaining as they believe they are close to compliance. Mr. Hughes stated his client would request three months to correct the remaining violations.

Mr. Klenk came forward and was sworn.

Mr. Stenson testified on behalf of the City and for Mr. Garcia and stated the southerly properties have been taken care of and they City would be able to provide the Respondents what remaining violations exist. Mr. Stenson suggested the July cut-off date for compliance.

Mr. Vukelja reviewed the existing list of violations with Mr. Hughes.

Mr. Hughes requested to a compliance date of September as he is on vacation for the August meeting date.

Mr. Jackson stated the City acknowledged the good faith effort of the Respondent thus far.

Ruling

Mr. Vukelja found the Respondent in non-compliance and ordered the Respondent come into compliance by September 7, 2011 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 3 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.

Respondent was in compliance May 5, 2011.

CASE NO 4 SMG 02-11-05 – Ledoro Properties, Inc. 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, 304.13, 605.1, 504.3, 304.6, 305.3, 304.2) and Ch. 90-297 Code of Ordinances, at **143 Harney Street** - Violation(s) – Parking in yard; outside storage; dilapidated fencing; broken windows and doors; electrical installation; plumbing hazard; exterior surfaces; interior surfaces; peeling paint; no rental license - First Notified – 11/4/2010.

Respondent was not present.

Mr. Stenson testified on behalf of the City and stated the property was vacant and secured as of May 9, 2011 so the running fine for failing to secure the property could be stopped. Mr. Stenson recommended amending the compliance date until June 8, 2011.

Ruling

Mr. Vukelja amended the previous order of non-compliance to require the Respondent come into compliance by June 8, 2011 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 5 SMG 02-11-06 – The Bank of New York Mellon, fka The Bank of New York, as Trustee for the Certificate Holders Alternative Loan Trust 2006-HY11, Mortgage Pass-through Certificates, Series 2006 HY-11 and Ali Darren Jafroodi is cited for failure to correct violations of the Land Development Code, Art. 19 Sec. 1.1 (ref. FBC Supp IPMC 505.1, 603.1, 704.2, 304.14, 602.3, 604.3, 304.2) and Ch. 90-297 City Code of Ordinances, at **503 Ruth Street** - Violation(s) – No hot water; inoperable appliances; no smoke detectors in bedrooms; no window screens; no heating system; electrical system hazards; peeling paint; and no occupational license - First Notified – 12/10/2010.

Respondent was not present.

Mr. Stenson testified on behalf of the City and stated the property was in non-compliance but it was vacant and secured. Mr. Stenson recommended imposing a fine of \$50.00 per day not to exceed \$15,000.00.

Ruling

Mr. Vukelja imposed a fine of \$50.00 per day effective May 4, 2011 to continue until compliance is achieved not to exceed the maximum amount of \$15,000.00.

CASE NO 6 SMG 03-11-35 – James E. Jelks & Alice Mae Jelks 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 & 304.2), at **967 Madison Avenue** - Violation(s) – Parking in the yard; outside storage; junk vehicles; peeling paint - First Notified – 1/15/2011.

Respondent was in compliance May 9, 2011.

CASE NO 7 SMG 04-11-40 – Asher & Lea Moryoussef is cited for failure to correct violations of 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 there has been no contact and recommended the one-time administrative fine of \$250.00 be imposed.

Ruling

Mr. Vukelja imposed a one-time administrative fine of \$250.00 against the Respondents effective May 4, 2011.

CASE NO 8 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 in compliance April 13, 2011.

CASE NO 9 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 in compliance April 28, 2011.

CASE NO 10 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 in compliance April 11, 2011.

CASE NO 11 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 Ishita Chadda came forward and was sworn. Ms. Chadda stated the work was completed she was waiting on a re-inspection which was scheduled for later in the afternoon.

Mr. Stenson testified on behalf of the City and stated the property was still in non-compliance for the purposes of the hearing however, the Respondent had a re-inspection scheduled for the afternoon and should be in compliance.

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 fine up to \$1,000 per day until compliance is achieved.

CASE NO 12 SMG 05-11-47 – Eula Lee Hart, Life Estate is cited for failure to correct violations of the Land Development Code, Art. 18 Sec. 7.3, at **1309 Sunset Blvd.** - Violation(s) – Trash and debris stored on property - First Notified – 2/16/2011.

Respondent was in compliance May 3, 2011.

CASE NO 13 SMG 05-11-48 – Adrienne Joan Ross is cited for failure to correct violations of the Land Development Code, Art. 19 Sec.1.1 (ref. FBC Supp IPMC 304.13.2), at **1207 Suwanee Road** - Violation(s) – Window inoperable/boarded - First Notified – 12/21/2010.

Respondent was in compliance May 2, 2011

CASE NO 14 SMG 05-11-50 – Sharon & Shoshana Ofer is cited for failure to correct violations of the Land Development Code, Art. 8 Sec. 2.7, at **547 Sandra Avenue** - Violation(s) – Parking vehicles on unimproved surface - First Notified – 2/9/2011.

Respondent was in compliance May 2, 2011.

CASE NO 15 SMG 05-11-51 – Douglas E. Davis, Jr. is cited for failure to correct violations of City Ordinance 90-297, at **634 Aberdeen Street** - Violation(s) – No occupational license for rental property - First Notified – 2/15/2011.

Respondent Douglas Davis came forward and was sworn. Mr. Davis stated he stipulated to the violations and stated he should be in compliance upon re-inspection by the building department.

Mr. Stenson testified on behalf of the City and stated the case 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 June 8, 2011 or be returned to a subsequent meeting for consideration of a one-time administrative fine of \$250.00.

CASE NO 16 SMG 05-11-52 – Andrew Casavant is cited for failure to correct violations of the Land Development Code, Art. 18 Sec. 4.4(i), at **159 Kingston Avenue** - Violation(s) – Dead tree - First Notified – 3/4/2011.

Cindy Casavant, Wife of Respondent Andrew Casavant came forward and was sworn. Ms. Casavant presented pictures of wildlife and informed the Special Magistrate her tree was protected by state as it houses protected wildlife. Ms. Casavant further presented information from FWCC regarding Florida Statutes protecting the tree.

Mr. Stenson testified on behalf of the City and stated the case was generated from a complaint of a dead tree.

Ruling

Mr. Vukelja ruled based on the evidence presented that the notice of violation be dismissed.

CASE NO 17 SMG 05-11-53 – Adonis Sylvester & Evelyn R. Lockley is cited for failure to correct violations of the Land Development Code, Art. 19 Sec. 1.1 (Ref. FBC Supp IPMC 304.7), at **837 Kingston Avenue** - Violation(s) – Roof and drainage - First Notified – 2/17/2011.

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 June 8, 2011 or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day until compliance is achieved.

CASE NO 18 SMG 05-11-54 – Philip Woodham is cited for failure to correct violations of the Land Development Code, Art. 19 Sec. 1.1 (ref. FBC Supp IPMC 304.2, 304.6, 304.10, 304.13 and 304.14), at **614 Tanglewood Street** - Violation(s) – Peeling paint; exterior walls; roof; stairs; windows; exterior doors; and screens - First Notified – 1/19/2011.

Respondent Phillip Woodham came forward and was sworn.

Mr. Stenson testified on behalf of the City and stated the property was in non-compliance and recommended the July cut-off date for compliance.

Ruling

Mr. Vukelja found the Respondent in non-compliance and ordered the Respondent come into compliance by July 6, 2011 or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day until compliance is achieved.

Adjournment: The meeting was adjourned at 9:55 a.m.