

**CITY OF DAYTONA BEACH MINUTES**

**SPECIAL  
MAGISTRATE  
HEARING**

**March 10, 2015 at 9:30 AM  
City Commission Chambers  
301 South Ridgewood Avenue,  
Daytona Beach, Florida**

ATTENDEES:

Mr. David Vukelja, Special Magistrate

STAFF:

- Anthony E. Jackson, Assistant City Attorney
- Mr. Hector Garcia, Code Compliance Supervisor
- Officer Aaron Paro
- Mr. Tom Clig, Code Inspector
- Mr. Michael Fitzgerald, Code Inspector
- Mr. Daniel Garcia, Code Inspector
- Mr. Cliff Recanzone, 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 9:45 a.m.

Mr. Vukelja approved the January 13, 2015 Regular Meeting Minutes.

Mr. Vukelja asked if there were any announcements.

Ms. Hampton stated there were no announcements.

Ms. Hampton swore in members of staff who would be testifying.

**CASE NO 1 SMG 01-15-03 – Talib, LLC** is cited for failure to correct violations of the Land Development Code, Art. 18 Sec. 6.6; Art. 18 Sec. 7.3.1, at **601 Main Street** - Violation(s) – Prohibited signs and banners; outside storage - First Notified – 10/13/2014.

Respondent was not present.

Mr. Jackson appeared on behalf of the City and stated the violations were supposed have been corrected by February 4, 2015 and as of this date they were not in compliance. Mr. Jackson called Inspector Garcia to testify. Mr. Jackson stated the city was requesting a fine of \$300 per day.

Mr. Garcia stated the violations consisted of outside storage, dilapidated fence, and banners and signs displayed with no permits. Mr. Garcia stated he informed the business owner to remove the banners and signs and also to remove the previous business sign however they just put a banner covering the sign. Mr. Garcia stated the gate was repaired and outside storage was removed. Mr. Garcia stated the Respondent came to the City to try and get permits for the banners and signs but permits and licensing told him he could not get a permit. Mr. Garcia stated the Respondent did take the signs down, but then when bike week came he put banners and signs back up without a permit.

Mr. Vukelja asked what the maximum fine was for the property.

**Ruling**

Mr. Vukelja imposed a fine of \$300.00 per day against the Respondent effective February 5, 2015 to continue each day thereafter until compliance is achieved or the fine reaches the maximum amount of \$20,000.

**CASE NO 2 SMG 01-15-04 – Robert & Chantal Pesce** is cited for failure to correct violations of the Land Development Code, Art. 18 Sec. 7.3.1; Art. 19 Sec.1.1 (Ref. FBC Supp IPMC 304.12, 304.13, 304.14, 304.15, 304.2, 304.5, 304.7, 305.3, 305.6, 505.1, 704.2), at **128 S. Wild Olive Avenue** - Violation(s) – Broken windows; rotted wood; smoke detectors; interior surface damage; cracks; toilet bowl; stove; soffits; outside storage and handrail -First Notified – 8/28/2014.

Mr. Robert Pesce came forward and was sworn.

Mr. Mike Bowen, Contactor, came forward and was sworn.

Mr. Vukelja asked Mr. Pesce if he obtained permits.

Mr. Bowen stated permits were applied for on February 25, 2015 and the last thing needed was a scope of work which was turned in and he was going to check on the status this morning after the meeting.

Mr. Garcia stated the progress that has occurred is painting. Mr. Garcia stated the property needed to be converted to a single family use.

Mr. Pesce stated his intention was to convert the property to a single family residence and use it as their vacation home. Mr. Pesce stated the property was unoccupied, and it is starting to be cleaned out.

Mr. Jackson stated staff was concerned about the length of time to get work started.

Mr. Pesce stated that since November the tenants have been removed.

**Ruling**

Mr. Vukelja amended the previous order of non-compliance to allow the Respondent until May 6, 2015 to obtain permits for the conversion and further required the Respondent to appear at the May 12, 2015 Special Magistrate meeting to show permits and determine a compliance date. It was further ordered the property remain secured and it is not be rented, occupied or otherwise utilized until compliance is achieved.

**CASE NO 3 SMG 02-15-05 – RSF Properties, LLC** is cited for failure to correct violations of the Land Development Code, Art. 19 Sec.1.1 (Ref. FBC Supp IPMC 304.2), at **633 Mulberry Street** – Violation(s) – Peeling, fading paint – First Notified – 9/10/2014.

Respondent was not present.

Mr. Jackson stated the inspector has informed him the property is still in non-compliance and recommended the next cut-off for compliance. Mr. Jackson called Mr. Fitzgerald to testify.

Mr. Fitzgerald stated the nature of the violation was peeling paint. Mr. Fitzgerald stated the property has been posted.

**Ruling**

Mr. Vukelja found the Respondent in non-compliance and ordered the Respondent come into compliance by April 8, 2015 or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day.

**CASE NO 4 SMG 02-15-06 – Olive H. Doggett, Life Estate** is cited for failure to correct violations of the Land Development Code, Art. 19 Sec. 1.1 (Ref. FBC Supp IPMC 302.1, 302.7, 303.13.1, 303.13.2, 303.14, 303.15, 303.7, 303.8, 303.9, 303.10), at **176 Pierce Avenue** - Violation(s) – Sanitation; Sidewalks and driveways are hazardous; Weeds; Rodent harborage; Exhaust vents; Accessory structures; Gates; Handrails and guards; Window, skylight and door frames; Glazing; Openable windows; Insect screens; All exterior doors; Roofs and drainage; Decorative features; Overhang extensions; Stairways, decks, porches and balconies; property is unsecured. - First Notified – 10/29/2014.

Respondent was not present.

Mr. Jackson called Mr. Fitzgerald for testimony.

Mr. Fitzgerald stated the property was vacant and had problems with sanitation, weeds, rodents and the property was in very bad condition.

### **Ruling**

Mr. Vukelja found the Respondent in non-compliance and ordered the Respondent come into compliance by April 8, 2015 or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day.

**CASE NO 5 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.

Mary Gordon, mother of the Respondent, William Gordon appeared on his behalf, came forward and was sworn. Ms. Gordon stated she had permission from her son to appear at the meeting as he was in a car accident and unable to travel from Illinois. Ms. Gordon stated she agreed the property was in non-compliance.

Mr. Fitzgerald stated the property should be in compliance by the next cut-off date.

Ms. Gordon stated April 8<sup>th</sup> would be cutting it close as the contractors are really busy. Ms. Gordon stated the roof has been repaired and permits were being pulled for the front porch and the beam across the front. Ms. Gordon stated the inside has been cleaned out from junk left by transients. Ms. Gordon stated it is a large place and it is boarded up.

Mr. Fitzgerald stated 60 days for compliance.

Ms. Gordon stated at least 4 to 6 months she would estimate for completion.

Mr. Vukelja asked if the property was occupied.

Ms. Gordon stated no it was not occupied and the property is very secure.

### **Ruling**

Mr. Vukelja found the Respondent in non-compliance and ordered the Respondent appear for a progress report for the May 12, 2015 meeting for determination of a compliance date and further ordered the property not be rented, occupied or otherwise utilized until compliance.

**CASE NO 6 SMG 03-15-08 – Frank P. Heckman, III** is cited for failure to correct violations of the Land Development Code, Art. 19 Sec. 1.1 (Ref. FBC Supp IPMC 302, 302.1, 302.6, 302.7, 304, 304.10, 304.12, 304.13, 304.13.1, 304.13.2, 304.14, 304.15, 304.18.1, 304.2, 304.6, 304.8, 604, 604.3), at **46 S. Oleander Avenue** - Violation(s) – Exterior paint fading, peeling or missing; exhaust vents broken; porch railing loose or missing pieces; damaged or broken windows; damaged, broken, deteriorated or decayed doors; decorative features; cornices/eaves fascia; exterior walls issues (holes and breaks); cracks, loose, missing and rotting materials; exterior electrical hazard; porch lights broken and/or missing parts - First Notified – 12/5/214.

Mr. Frank Heckman came forward and was sworn. Mr. Heckman stipulated to the violations.

Mr. Jackson stated the staff was recommending 60 days to come into compliance with a progress report in 30 days.

Mr. Heckman stated he agreed.

### **Ruling**

Mr. Vukelja found the Respondent in non-compliance and ordered the Respondent come into compliance by May 6, 2015 or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day. It was further ordered the case be placed on the April 14, 2015 Agenda for a Progress Report.

**CASE NO 7 SMG 03-15-09 – Atlantis of Daytona, LLC** is cited for failure to correct violations of the Land Development Code, Art. 18 Sec. 6.6, at **2739 N. Atlantic Avenue** - Violation(s) – Illegal sign banners - First Notified – 11/7/2014.

Respondent was in compliance March 4, 2015.

**CASE NO 8 SMG 03-15-10 – Alena Hrubá & Jiri Mikan , as JTRS** is cited for failure to correct violations of the Land Development Code, Art. 8 Sec. 2.7, at **359 Golf Blvd.** - Violation(s) – Parking on the grass First Notified – 12/18/2014.

Mr. Jiri Mikan came forward and was sworn. Mr. Mikan stated he agreed to the violations.

Mr. Jackson stated the violations were for parking in the grass and called Mr. Clig for testimony.

Mr. Clig stated the only way to correct the violations was to get a variance to install a driveway.

Mr. Jackson stated the violations were for parking on the grass and until a driveway is installed he cannot park in the grass.

Mr. Mikan stated that he was planning on putting in a driveway because he does not have one.

Mr. Vukelja inquired as to why there was no driveway.

Mr. Mikan stated there was no driveway when he purchased the property.

Mr. Jackson stated the issues was an approved surface. Mr. Jackson stated he drove through the neighborhood because there have been so many complaints he went to see for himself. Mr. Jackson stated there are numerous properties in that area that do not have driveways.

Mr. Clig stated the property owners in the area have been parking like that for years.

Mr. Jackson stated one side of the street looks like there might be street side parking but not on this side of the street.

Mr. Vukelja inquired what relief was being sought by the City.

Mr. Jackson stated discontinue the use of parking in the yard.

Mr. Mikan stated he has applied for a permit to install a driveway but the permit is pending because the City wanted some corrections. Mr. Mikan stated it would take approximately 2 months to complete the driveway.

Mr. Vukelja asked the City how long it would take to install a driveway.

Mr. Clig stated 30 days.

Mr. Jackson asked if there was a certain material that was approved for driveway.

Ms. Eskew stated there is a list of approved surfaces for driveways.

### **Ruling**

Mr. Vukelja found the Respondent in non-compliance and ordered the Respondent come into compliance by May 6, 2015 or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day.

**CASE NO 9 SMG 03-15-11 – Allen & Deborah Bukowski** is cited for failure to correct violations of the Land Development Code, Art. 19 Sec.1.1 (Ref. FBC 105.1), at **420 Golf Blvd.** - Violation(s) – No permit for shed - First Notified – 12/18/2014.

Respondent was not present.

Mr. Clig stated the violation was for no permit for installation of shed. Mr. Clig stated the owner hired home depot to install the shed several years ago but they never got a permit.

### **Ruling**

Mr. Vukelja found the Respondent in non-compliance and ordered the Respondent come into compliance by May 6, 2015 or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day.

**CASE NO 10 SMG 03-15-12 – Livingston Miller & Vanessa L. Miller** is cited for failure to correct violations of the Land Development Code, Art. 8 Sec. 2.7, at **1057 Imperial Drive** - Violation(s) – Parking in the yard - First Notified – 2/2/2015.

Respondent was not present.

Mr. Jackson stated staff is advising the property is still 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 6, 2015 or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day.

**CASE NO 11 SMG 03-15-13 – Samuel Baker** 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 and 304.2); City Ordinance Ch. 90 Sec. 90-297,, at **1197 Jimmy Ann Drive** - Violation(s) – Outside storage; dilapidated fencing; peeling paint; no valid Business Tax Receipt (BTR) - First Notified – 11/7/2014.

Respondent was not present.

Mr. Jackson called Mr. Stenson for testimony.

Mr. Stenson stated the case was initiated by a neighbor compliant and stated he property is still 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 6, 2015 or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day.

**CASE NO 12 SMG 03-15-14 – Leroy A. Simmons** is cited for failure to correct violations of the Land Development Code, Art. 19 Sec.1.1 (Ref. FBC 105.1), at **451 Pine Street** - Violation(s) – No permit for roof work - First Notified – 1/23/2015.

Mr. Leroy Simmons came forward and was sworn. Mr. Simmons stipulated to the violations.

Mr. Stenson stated the property should 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 May 6, 2015 or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day.

**CASE NO 13 SMG 03-15-15 – Ingrid Beltran** is cited for failure to correct violations of the Land Development Code, City Ordinance Ch. 90 Sec. 90-297, at **311 Wisteria Road** - Violation(s) – Failure to obtain Business Tax Receipt (BTR) - First Notified – 2/10/2011 - Order of Non-compliance entered.

Ms. Ingrid Beltran came forward and was sworn.

Mr. Jacksons stated this case is brought for consideration of a fine for repeat violations of renting without a business tax receipt (BTR) since he has done this in the past.

Mr. Cliff Recanzone, Code Inspector, stated he was called to the property for a complaint by the tenant and obtained a signed form advising she was a tenant who resided there. Mr. Recanzone stated he also spoke with Ms. Beltran who advised the individual was a tenant but did not pay rent. Mr. Recanzone stated there are two separate buildings on the same parcel and the tenant was in the back building.

Ms. Beltran stated her brother lives on the second floor and the lady who was living in the other building was not paying rent. Ms. Beltran stated the woman was residing in 311 Wisteria.

Mr. Vukelja asked if Ms. Beltran was renting 311 Wisteria and if she had an occupational license.

Ms. Beltran stated she came to city hall and asked if she could have someone living with her that was not related.

Mr. Jackson called Mr. Hector Garcia for testimony.

Mr. Garcia stated they received a complaint and went to the property and were advised by the complainant she was a tenant and her landlord was not making repairs. Mr. Garcia stated the home in the front is where the Ms. Beltran resided and the tenant resided in the house behind the front house. Mr. Garcia stated they have received several complaints about renting without a license.

**Ruling**

Mr. Vukelja imposed the one-time administrative fine of \$250.00 for repeat violation of renting without a business tax receipt (BTR) effective March 10, 2015.

**Miscellaneous Business**

Mr. Jackson introduced Officer Aaron Paro as the new Code Liaison and Mr. Cliff Recanzone as the new code inspector.

**Adjournment:**

The meeting was adjourned at 11:06 a.m.