

**CITY OF DAYTONA BEACH MINUTES**

**SPECIAL  
MAGISTRATE  
HEARING**

**JULY 14, 2015 at 9:30 AM  
City Commission Chambers  
301 South Ridgewood Avenue,  
Daytona Beach, Florida**

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ATTENDEES:

Mr. David Vukelja, Special Magistrate

STAFF:

Anthony E. Jackson, Assistant City Attorney  
Mr. Hector Garcia, Code Compliance Supervisor  
Officer Aaron Paro  
Mr. Michael Fitzgerald, Code Inspector  
Mr. Daniel Garcia, Code Inspector  
Mr. Cliff Recanzone, Code Inspector  
Mr. John Stenson, Code Inspector  
Mr. David Newell, Fire Inspector  
Ms. Rose Askew, Development Services  
Mr. Robert Snowden, Building Department  
Ms. Aimee Hampton, Board Secretary

Approval of Minutes by:  \_\_\_\_\_ Special Magistrate

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Mr. Vukelja called the Hearing to order at 9:24 a.m.

Mr. Vukelja approved the June 9, 2015 Regular Meeting Minutes.

Mr. Vukelja asked if there were any announcements.

Ms. Hampton stated the following case was in compliance:

**CASE NO 3 SMG 05-15-23 – Mat Rentals, LLC** is cited for failure to correct violations of the Land Development Code, Art. 1 Sec. 5.2; Art. 18 Sec. 7.3; \*New LDC eff. 3-1-15 ref. Art. 8 Sec. 8.2.A. and Art. 6 Sec. 6.19.A.3.a; City Code 90 Sec. 90-297, at **500 N. Keech Street** - Violation(s) – Non-conforming use (metal scrapping); outside storage; no valid Business Tax Receipt (BTR) - First Notified – 12/27/2014.

***Compliance 7/7/2015***

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

**CASE NO 8 SMG 07-15-32 – Plantation Acres, LLC** is cited for failure to correct violations of the Land Development Code, NFPA 1, 13.6.6.8.3.0., 101, 30.3.6.3, 14.5.5.2.2, 10.4.1.0, 10.4.1, 13.7.1.4.8, 13.7.1.4.8, 4.5.8.1, 11.1.5, 70 406.5, 14.6.3, at **132 Dr. Mary M. Bethune Blvd.** - Violation(s) – Fire extinguisher on second floor with no inspection/tag recertified annually; All doors within a corridor must have a self-closing device; all exit doors leading to the outside are required to have panic hardware - no exit shall have a key on the egress side; all emergency lights must be hard wired with battery back up; no backflow device as required by Florida Statute; Smoke detectors throughout the building are missing or replaced with battery operated detectors instead of hard wired detectors; no hard wired detectors are installed in the managers office living room; sprinkler head in the hallway near manager's office has paint on deflector; sprinkler head in the hallway near/in manager's office is a pendant when it should be up right; extension cords were being utilized for permanent wiring; numerous receptacles with exposed wiring throughout the building; usable space under stairs prohibited except where the fire resistant rating is same as the stairs \*\* Upon reinspection on 6/29/2015 found additional violations: Open and exposed wiring throughout the building; 200 amp service double tapped with a 150 amp panel which could be overloading the circuit; Missing most dead-front panels which expose live wiring; Joints made and pushed back in the wall and not in a box; Sagging/deflection on the beams located over the front porch area - First Notified – 5/29/2015.

Mr. Steve Karp came forward and was sworn. Mr. Karp stipulated to the violations.

Mr. Jackson stated there was several factors the Inspector needed to make the Magistrate aware of and therefore called Mr. Newell for testimony.

Mr. Newell stated property is a three story rooming and lodging building. Mr. Newell stated there have been 2 electrical fires at that location and since then it has become a hazard for people to reside in the building and the power has since been shut down since last Friday. Mr. Newell stated the property was now currently not occupied and because of the urgency of the matter the City was requesting 7 days for the compliance with the electrical. Mr. Newell stated the fire alarm system needs to be up and running again as well.

Mr. Snowden stated as long as the building is not occupied then the danger is not there however he believes 7 days should be sufficient to get the electrical issues corrected.

Mr. Jackson stated the City was going to request 2 separate orders, one regarding the electrical and one for the remaining non-life safety issues.

Mr. Karp stated as soon as he was made aware of the issues, he hired a licensed electrician and the permit was pulled July 1<sup>st</sup>. Mr. Karp stated he believed in the next few days the electrical could be inspected and hopefully signed off.

Mr. Vukelja asked the City if they were requested the property not be occupied once the electrical issues have been resolved.

Mr. Newell stated the City was requesting that the property remain unoccupied until the electrical work is signed off by FPL & the City inspectors and the power is turned back on and the fire alarm system being turned on.

Mr. Snowden said normally this is not the process but the electrical materials installed by the electrician was not up to code and now that he has help it should be better. Mr. Snowden stated they need a passing inspection with work before the building should be occupied.

Mr. Vukelja inquired as to the compliance date for the remaining issues.

Mr. Newell stated the remaining issues other than the electrical issues can be done by the next cut-off.

Mr. Vukelja asked Mr. Karp his opinion regarding the city's request.

Mr. Karp stated he has signed a contract for the balance of the work and they are about 3 weeks out which would be August 8<sup>th</sup> or 10<sup>th</sup>.

## **Ruling**

Mr. Vukelja found the Respondent in non-compliance. Mr. Vukelja announced his order as follows:

Respondent must come into compliance with the emergency lights; backflow device; Smoke detectors; detectors installed in the managers office living room; remove extension cords were being utilized for permanent wiring; numerous receptacles with exposed wiring throughout the building; open and exposed wiring throughout the building; 200 amp service double tapped with a 150 amp panel which could be overloading the circuit; Missing most dead-front panels which expose live wiring; joints made and pushed back in the wall and not in a box by July 21, 2015, or return to a subsequent hearing for consideration of the imposition of a fine of up to One Thousand (\$1,000.00) Dollars per day.

Mr. Vukelja ordered the Respondent must come into compliance with the fire extinguisher on second floor with no inspection/tag recertified annually; all doors within a corridor must have a self-closing device; all exit doors leading to the outside are required to have panic hardware - no exit shall have a key on the egress side; sprinkler head in the hallway near manager's office has paint on deflector; sprinkler head in the hallway near/in manager's office is a pendant when it should be up right by August 5, 2015 or return subsequent hearing for consideration of the imposition of a fine of up to One Thousand (\$1,000.00) Dollars per day.

It was further ordered the Respondent must come into compliance with the sagging/deflection on the beams located over the front porch area by September 2, 2015 or return subsequent hearing for consideration of the imposition of a fine of up to One Thousand (\$1,000.00) Dollars per day.

## **Lien Review 1**

**CASE NO SMG 04-10-53 – 1010 Cedar Highlands Blvd. – Keech Street Properties, LLC** was cited for failure to correct violations of Land Development Code Art. 19 Sec.1.1 (Ref. FBC Supp IPMC 302.3, 302.4, 307.1); City Ordinance Ch. 90 Sec. 90-297 - Violation(s) – Sidewalk and walkway must be maintained in a safe and non-hazardous condition (grass and debris covering sidewalk); properties must be maintained free from weeds; trash and debris letter on the property; no occupational license for rental property. Order Imposing Fine/Lien of \$25.00 per day effective May 5, 2010 plus a one-time administrative \$250.00. Compliance date: 5/20/2015 = \$10,250.00 plus recording costs of \$10.00. Total owed: \$10,260.00.

Mr. McCrary came forward and was sworn. Mr. McCrary stated he was the owner and did not know about the lien until a title search came back on the property. Mr. McCrary stated he did not receive notice of the violation. Mr. McCrary stated once he found out he immediately went to the City and obtained an occupational license. Mr. McCrary stated he was the registered agent now for the corporation and Mr. Barkin was the listed registered agent at the time of the notice.

Mr. Jackson stated based upon the current condition of the property the city was requesting no reduction as the property is still in non-compliance.

Mr. Stenson stated the photographs were taken yesterday morning and show the over growth encroaching on the sidewalk.

Mr. McCrary stated he was informed the property was in compliance back in May of 2015.

Mr. Stenson stated the order that property should be maintained in the compliance date. Mr. Stenson stated at the time of his re-inspection, the grass was cut but now it was not in compliance.

Mr. Vukelja inquired if he was compelled to take into consideration of the current status of the property.

Mr. Jackson stated our practice has been to consider all factors including the current status of the property when considering a lien review. Mr. Jackson stated he did not believe there is anything that compels Mr. Vukelja to consider the current status.

Mr. Vukelja asked if the property was occupied.

Mr. McCrary stated it is currently occupied and he did bring it into compliance by cutting the grass and charging the tenant.

**Ruling**

Mr. Vukelja stated he was continuing the lien review to the next meeting to allow the Respondent to bring it into compliance and allow the City to review the notice issue.

**Hearing of Cases**

**CASE NO 1 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. Mike Bowen, contractor came forward and was sworn. Mr. Bowen stated the architect was preparing the plans and they needed to be altered. Mr. Bowen stated there is a lot of structural damage to the house that the owners were not expecting and the cost has probably doubled since what they originally believed. Mr. Bowen stated they need drawings from the architect in order to be able to get the permit and because the house was sinking everything had to be re-done. Mr. Bowen stated Mr. Pesce would be in town July 21<sup>st</sup> for three weeks and they should be able to get everything hashed out.

Mr. Jackson stated the contractor has been in contact with the City and the City understands the delay but because of the balance of uncertainty would request a progress report at the August meeting.

**Ruling**

Mr. Vukelja ordered a progress report for the August 11, 2015 Agenda.

**CASE NO 2 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 owner, came forward and was sworn.

Mr. Vukelja inquired as to who was Elliot Meadows is.

Ms. Gordon stated he was the contractor her son hired who wanted to purchase the building but since the process was taking too long to figure out what can be done with the property he has since backed out.

Mr. Vukelja inquired as to what the City's position was regarding the status.

Mr. Jackson stated there are things that are required before the owner can move forward with the technical review committee.

Ms. Askew stated Ms. Gordon needed to submit a current survey of the property and she sent an email to Mr. Gordon and his mother regarding what the process is for being able to determine what can be done with the property and also suggested they talk to the code inspector to be able to determine what issues should be corrected first.

Mr. Vukelja asked how many units were on the property.

Ms. Gordon stated there are 8 units, 3 in the back front and 1 in the front.

Ms. Askew stated there are three structures and some of the units were developed without permits.

Mr. Fitzgerald stated two structures with multiple units.

Mr. Vukelja stated his patience was wearing thin with this case and cautioned that until the owner starts taking responsibility things are not going to progress.

### **Ruling**

Mr. Vukelja continued the case to the August 11, 2015 Agenda.

**CASE NO 4 SMG 05-15-24 – Chandra L. Washington** is cited for failure to correct violations of the Land Development Code, Art. 9 Sec. 9.2.A (Ref. FBC Supp IPMC 307, 302.4, 304.14, 305.6, 305.3, 704.2, 308.1, 504.2, 504.1, 504.3, 304.15, 605.1, and 302.7), at **1033 Thunderbird Drive** - Violation(s) – Rubbish; weeds; dilapidated screens; interior doors; interior surfaces; smoke detectors; infestation; plumbing fixture clearance (bathroom); plumbing fixtures; plumbing system hazard; exterior doors; electrical fixtures; accessory structure (fencing); accessory structure (laundry room) - First Notified – 3/20/2015.

Ms. Chandra Washington came forward and was sworn.

Mr. Arthur Wright, contractor came forward and was sworn.

Mr. Jackson stated the city was recommending amending the compliance date until the next cut-off date.

Mr. Stenson stated there is some progress being made but quite a bit of work remained to done.

Mr. Wright stated he just applied for the permit yesterday and asked if the compliance date could be August 11<sup>th</sup>.

Mr. Stenson confirmed there were no life safety issues.

### **Ruling**

Mr. Vukelja amended the previous order of non-compliance to allow the Respondent until September 2, 2015 to come into compliance or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day.

**CASE NO 5 SMG 06-15-26 – Julie N. Stokes and Jackie D. Gibson and Cynthia E. Gibson as JTRS** is cited for failure to correct violations of the Land Development Code, Art. 8 Sec. 8.2.A; Art. 9 Sec. 9.2.A (ref. FBC Supp IPMC 302.8), at **240 Dahoon Holly Drive** - Violation(s) – Non-conforming use as Auto Repair Shop; Junk Vehicles - First Notified – 5/6/2015.

Respondent was in compliance June 19, 2015

**CASE NO 6 SMG 04-15-20 – Precious Property Management, LLC** is cited for failure to correct violations of the Land Development Code, Art. 9 Sec. 9.1.A (Ref. FBC Supp IPMC 304.4, 304.5, 304.6, 304.7, 304.15, 305.2, 604.3), at **2735 N. Atlantic Avenue** - Violation(s) – Exterior structural members, exterior walls, Exterior Roof, Exterior doors, Interior structural members, electrical systems hazards - First Notified – 3/3/2015.

Mr. Angelo Bartolome came forward and was sworn.

Mr. Jackson stated the building is demolished but the demolition standards require the land be cleared and landscaped and those issues still remained.

Mr. Recanzone stated the landscaping needs to be maintained and the sign needs to be removed.

Mr. Bartolome stated the pole sign was very expensive and he would be using it for the next business he builds.

Mr. Jackson stated unfortunately if there is no active business there he cannot have the sign there.

Mr. Bartolome stated he can remove the name.

Mr. Vukelja asked how soon he was going to be putting a new business there.

Mr. Bartolome showed plans of a new building drawn that he was waiting for the bank to approve his funding. Mr. Bartolome stated he could request Mr. Butera his architect incorporate the sign in the drawings.

Mr. Jackson stated staff understands the issue and there may be some relief available it just is not before the Special Magistrate and he would need to seek that through permits and licensing.

Mr. Bartolome offered to remove the name of the previous business on the sign.

Mr. Jackson asked if they could have ordered while in the period of reprieve that the previous business sign be removed.

Mr. Garcia requested the verbiage on the sign be removed.

### **Ruling**

Mr. Vukelja continued the case to the August 11, 2015 for a progress report and the landscaping shall be maintained and the Respondent shall show his efforts for seeking relief from removing the sign and further the lettering should be removed from the sign.

**CASE NO 7 SMG 06-15-27 – Grandview Manor DB, LLC** is cited for failure to correct violations of the Land Development Code, Art. 9 Sec. 9.2.A. (Ref. FBC Supp IPMC 304.10, 304.13.2, and 304.14), at **919 N. Grandview Avenue, Unit # 7** - Violation(s) – Unopenable windows; no insect screens; and rotten wood stairways - First Notified – 4/16/2015.

Respondent was in compliance June 26, 2015.

**CASE NO 9 SMG 07-15-29 – Susan Mayabb** is cited for failure to correct violations of the Land Development Code, Art. 9 Sec. 9.1.A. (Ref. FBC 105.1), at **1812 N. Halifax Avenue** - Violation(s) – No permit for roof/deck - First Notified – 11/6/2014.

Ms. Susan Mayabb Cheney came forward and was sworn. Ms. Cheney stated she has acquired the permit in December 2014 and she moved here in Ohio and the letter went to Ohio and she just moved down here and she thought they were done. Ms. Cheney stated she went and got a permit extension and paid the penalty.

Mr. Jackson called Mr. Garcia to provide the case information.

Mr. Garcia stated he was looking at a permit card, however there are no inspections done on the card and just indicates a 10x10 deck was done but there were no inspections. Mr. Garcia stated this should be able to be completed by the next cut-off date.

**Ruling**

Mr. Vukelja found the Respondent in non-compliance and ordered the Respondent come into compliance by August 5, 2015 or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day.

**CASE NO 10 SMG 07-15-30 – Wild Olive Land Trust** is cited for failure to correct violations of the Land Development Code, Art. 6 Sec. 2.H.7.A.I., at **822 N. Wild Olive Avenue** - Violation(s) – Parking of RV and Parking in the yard - First Notified – 3/3/2015.

Mr. Langdon Stanley, property manager came forward and was sworn. Mr. Stanley stipulated to non-compliance.

Mr. Jackson stated the property was now in compliance and staff was just asking for the finding.

**Ruling**

Mr. Vukelja found the Respondent previously in non-compliance currently in compliance and for any future violation be subject to a fine of up to \$5,000 per occurrence.

**CASE NO 11 SMG 07-15-31 – Levonda Joy Selph & Albert P. Skroch, Jr.** is cited for failure to correct violations of the Land Development Code, Art. 9 Sec. 9.1.A. (Ref. FBC 105.1), at **826 N. Peninsula Drive** Violation(s) – No permit for driveway extension - First Notified – 4/22/2015.

Ms. Levonda Selph came forward and was sworn. Ms. Selph stipulated to the violations.

Mr. Jackson stated the next cut-off date for compliance to acquire a permit for the driveway.

Mr. Recanzone stated he believed they would have to remove the driveway material because it is a historic district.

**Ruling**

Mr. Vukelja found the Respondent in non-compliance and ordered the Respondent come into compliance by August 5, 2015 or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day.

**Miscellaneous Business**

There was no miscellaneous business.

**Adjournment:**

The meeting was adjourned at 11:00 a.m.