

**MINUTES
CITY OF DAYTONA BEACH
CODE ENFORCEMENT BOARD WORKSHOP**

May 31, 2018

The workshop meeting of the CODE ENFORCEMENT BOARD was called to order 9:35 a.m. on Thursday, May 31, 2018, in Conference Room 149 A & B, 301 S. Ridgewood Ave., Daytona Beach, Florida.

Members present:

Ms. Mary Louise "Weegie" Kuendig
Mr. Neil Harrington
Ms. Cheryl House
Ms. Turner Hymes
Mr. Vernon Weatherholtz

Mr. Charles Cino, Esquire, Board Attorney.

Staff present:

Mr. James Morris, Deputy City Manager
Mr. Anthony E. Jackson, Assistant City Attorney
Mr. Glen Urquhart, Chief Building Official
Mr. Robert Snowden, Deputy Code Officer
Mr. John Cecil, Building Rehabilitation Specialist
Mr. Denzil Sykes, Neighborhood Services Division Manager
Mr. Tom Clig, Code Inspector
Ms. Barbara Collins, Code Inspector
Ms. Glejuanda Davis, Code Inspector
Mr. Mike Fitzgerald, Code Inspector
Mr. Danny Garcia, Code Inspector
Mr. Mark A. Jones, Combination Inspector
Mr. Jerome McCoy, Code Inspector
Mr. Clifford Recanzone, Code Inspector
Mr. John Stenson, Lead Code Inspector
Ms. Aimee Hampton, Senior Paralegal
Ms. Vivian J. Barnes, Secretary

Absent: Mr. Tad Jones

Approval of the Minutes by:

Mary Louise "Weegie" Kuendig Chairman

Ms. Barnes called the meeting to order and turned the meeting over to Mr. James Morris, Deputy City Manager.

WELCOME:

Mr. Morris thanked the Board Members for serving and introduced Chief Building Official, Glen Urquhart, and Code Enforcement Manager, Denzil Sykes. Mr. Morris reinforced that the Board is a quasi judicial board and is required to take the facts, consider the law, and make a conclusion. Mr. Morris stated it is recognized as such by the Florida Statutes which set up the Code Enforcement Boards.

Mr. Morris defined Mr. Cino as the judges' council and Mr. Jackson represents the Code Officers who identify violations and cite the violations. Mr. Morris stated the Board should first and foremost determine if there is compliance; and individuals who have been cited have the opportunity to contest that case. Mr. Morris stated the Board must look at the facts and testimony and consider the advice of the attorneys in the case. Mr. Morris stated if non-compliance is found, a reasonable opportunity to come into compliance must be allowed. Mr. Morris stated if the case is returned to the Board and compliance has not been achieved, the Board may impose a fine.

Ms Kuendig stated there were some things that she asked to be addressed that were not on the agenda regarding demolition and condemnation, foreclosures, and the new Building Board.

Mr. Morris stated those items were removed because they were not in the jurisdiction of the Code Board but stated he would be glad to discuss them individually with any member.

Mr. Weatherholtz stated each Board member may have questions that might not be related to the Board but would help them understand their roles better.

Mr. Morris stated part of the Code Enforcement Board process and the way it maintains its legitimacy is that it focuses within the realm of the Statute.

Mr. Harrington stated that he hoped the workshop would be educational and would allow the Board Members to move cases at a faster pace. Mr. Harrington asked for clarification on procedures that Code Officers follow in presenting their cases.

Ms. Kuendig stated there has been mis-communication regarding the Building Board and asked if the Building Board can consider Condemnation.

Mr. Morris stated the City is being aggressive with condemnation but it is a separate process.

Mr. Cino asked Mr. Morris to clarify the Property Appraiser's future process.

Mr. Morris stated staff is scheduled to meet with the Property Appraiser tomorrow and he hasn't had a direct conversation yet as to how the future process will affect us.

Mr. Morris concluded his comments.

STAFF PRESENTATIONS:

Mr. Jackson presented a general overview of the responsibilities of the Code Enforcement Board members.

Mr. Harrington asked if the procedure is to ask the City Commission to help where there are life safety issues.

Mr. Cino stated the Board does have the authority but there are no funds.

Mr. Morris stated funds are generally found for extreme circumstances, and the Board has the authority to expedite fines in those cases.

Ms. House stated there are often tenants living in terrible conditions and feels it is important for the Board have an avenue to address these conditions effectively.

Mr. Morris stated that the City Attorney has some power to remedy those types of situations but stated that it takes legal action which can be time consuming and costly. Mr. Morris stated taking legal action is not always the solution.

Ms. Kuendig stated that the Board is able to request that some things be done and she asked that the Board be notified by staff when action has been taken.

Mr. Harrington asked if it is appropriate for the Board to ask the opinion of an architect or engineer.

Mr. Cino said it is possible but it was rare.

Mr. Jackson said he understood the need for input from a builder or contractor but Board members could use their own personal knowledge, as a Board, to understand the citizen's plight.

Mr. Harrington stated he would like to see a paper that shows the qualifications of these types of witnesses.

Mr. Cino asked Mr. Jackson to explain the quorum needed for Lien Reviews.

Mr. Jackson stated that the rules address this; and as a 7 member Board, the quorum would be 4.

Mr. Harrington stated he is unsure how the City determines a recommendation for lien reviews and sometimes he feels he does not have enough facts to make a decision.

Mr. Jackson stated Mr. Harrington should ask for more facts if needed.

Mr. Weatherholtz stated this is the forum to discuss the review and determine appropriate action.

Mr. Morris stated staff will work on addressing that and will also work on the major content of citations. Mr. Morris stated the Board will be notified on this and they could respond back with their thoughts but all reply correspondence should include all Board Members.

Ms. House stated she feels requests from investors who have acquired properties as a result of other people's misfortunes and subsequently request that the fines be eliminated or reduced because they have improved the property should not be treated any different.

Mr. Morris stated that the object is to get compliance and improve the property and discretion is the responsibility of the Board to address each request individually.

Ms. Kuendig stated there is no Lien Review unless the property is in compliance and noted there is maximum amount that can be placed as a fine.

Mr. Cino expressed that whatever the Board chooses to do with a lien is the Board's decision and that is why they are independent of the City.

Mr. Morris stated requiring compliance to come before the Board may limit things being done and there are buyers who intend to purchase a property and make the improvements that would benefit the City.

Ms. Kuendig stated there are cases that are presented that are not in compliance but the owners have applied for a permit and the permits get extended, sometimes for long periods of time.

Mr. Weatherholtz stated investors come in and buy properties and then come before the Board to have a lien eliminated saying they were unaware of the lien.

Mr. Morris stated any purchase of property should require an inquiry if there are liens on the property.

Mr. Morris stated according to the Sunshine Law, it is essential that members make a decision at the meeting and not beforehand.

Mr. Cino discussed the history of the Board and how it has evolved over the years and his role as Board Attorney. Mr. Cino stated that Appeals for the Board would go to Circuit Court and that Board members are independent of the City and do not have to agree with the City. Mr. Cino stated that the only people that can testify before the Board are Code Officers and their witnesses.

Ms. House asked if Board members are permitted to ask at the meetings why other Board members have arrived at the decision they have regarding fine amounts.

Mr. Morris stated it is ok to discuss because, in the end, the Board must have a collective decision.

Mr. Harrington asked if it is required to have a motion on the floor before they have discussion.

Mr. Cino stated he has seen cities that do it either way.

Mr. Harrington asked for clarification regarding the City overturning the Code Enforcement Board's decisions.

Mr. Cino stated if a lien was owned by the City, the City could administratively release that lien. Mr. Cino stated the City could not change the case, only the fine.

Mr. Cino stated he will provide copies to the Board of Attorney General's opinions which the Board may discuss at the end of the meetings.

Ms. Hymes joined the meeting in progress.

Ms. Kuendig stated very often representatives of a neighborhood will attend a Code Enforcement Board meeting and asked who has the authority to permit the representatives to testify.

Mr. Cino responded the Board does but both sides must be permitted to speak.

Mr. Morris stated that the testimony must be relevant and they must be called by one side or the other.

Mr. Jackson stated often representatives of a neighborhood are called by the City because they have information to fill in the facts. Mr. Jackson stated the Board may choose a spokesperson for a group.

Mr. Weatherholtz pointed out that most of the witnesses who come to testify have been living with a violation for 10 years and they want to have a voice and he believes they have a legitimate right to testify.

Mr. Cino stated the law states it must be in instances of a case of controversy.

Mr. Morris added it is his opinion that it is valuable to hear testimony when the Board is determining what a fine should be but testimony should have relevance.

Mr. Harrington stated he believes the witness should be instructed as to what their testimony should include.

Ms. House stated that some of the worst "slumlords" in our city will send their attorneys who are very good at intimidation and will then talk about things that are not related to the specific case.

Mr. Morris said in those instances, their testimony should be stopped; and noted there are people at the meeting who can take them out of the room.

Mr. Cino thanked the Board and told them they are in a more difficult position than most Boards for the City.

Ms. House stated she feels there are negative comments made against the Code Enforcement Officers; and as a result, the Board receives criticism. Ms. House stated the Board's goal is to clean up the City and make it a good place to live.

Mr. Weatherholtz stated he believes we have a good City staff and the Board abides by the Codes but the City is in need of a little PR.

Mr. Harrington stated he's been on the Board 12 years and not once has a representative of the Daytona Beach News-Journal attended a meeting.

Mr. Morris stated he received an email regarding a series the News-Journal would like to do.

Mr. Harrington stated there have only been 3 Commissioners in 12 years that have attended Code Enforcement Board meetings.

The meeting was turned over to Neighborhood Services Manager, Denzil Sykes. Mr. Sykes reiterated that we have a great staff from the Building Official down to the Code Inspectors; and when he reads in the News-Journal what we are not

doing it is a little disheartening knowing everything that is actually being done. Mr. Sykes asked the Neighborhood Services Inspectors to introduce themselves:

- John Stenson, Lead Code Inspector;
- Danny Garcia, Code Inspector, Main Street to Beville, and from the river over to the Railroad tracks;
- Glejuanda Davis, Code Inspector, George Ingram south to South Street and the Segrave Railroad west to Clyde Morris;
- Mark Jones, Rental Inspector on the North Side from Main Street north to LPGA;
- Jerome McCoy, Rental Inspector from south of Main Street to City limits;
- Tom Clig, Code Inspector, Main Street North on the beachside to Nova to the City limits; Michael Fitzgerald, Code Inspector, South side of the Beachside;
- Barbara Collins, Code Inspector and Lot Clearance, North Charles to Bill France, to south of George Engram;
- Clifford Recanzone. Code Inspector, south side of the City limits from the railroad tracks to the west side of the City, North to South Street around the racetrack and airport.

Mr. Morris introduced Chief Building Official, Glen Urquhart.

Mr. Morris left the meeting.

Mr. Sykes reviewed the procedures for processing a Code Case.

Mr. Harrington stated the Chairman is the only one that has complete information on a case and the individual members have a brief description of the case. Mr. Harrington stated most of the time, that is fine but every once in a while there appears to be a lack of detail on a case and only the Chairman has received the information.

Ms. Kuendig stated the binder she is provided only contains the notices and orders for a case.

Mr. Jackson stated a Board member could made an inquiry if they need additional information.

Ms. Hymes stated in their packages, the description may say parking but doesn't include specific details.

Mr. Jackson stated the Board does not want to make any advance conclusions. Mr. Jackson stated the Board receives information but it is not designed to guide their decision-making; and what is stated at the proceeding is what should guide their decision.

Mr. Urquhart stated he has plans to perfect the details that go with the violation so they will have a more detailed description which he feels should include a chronology of the reports.

The meeting was turned over to Glen Urquhart, Chief Building Official. Mr. Urquhart introduced John Cecil, Demolition and Building Rehabilitation Inspector; Bo Snowden, Deputy Code Official; and June Barnes, Code Board and Special Magistrate Secretary; and Aimee Hampton, Senior Paralegal.

In response to the pre-submitted questions, Mr. Urquhart addressed the Rental and Business Tax process stating the BTR was an authorization to run a business and the Rental License is a confirmation that the rental is permitted. Mr. Urquhart stated with each process a checklist is followed and he is in the process of refining that process. Mr. Urquhart stated the first consideration is use and if it is permitted in the area they are requesting. Mr. Urquhart stated background information is considered on the person who will operate the planned business. Mr. Urquhart stated once a business is approved, an inspection is conducted by Building and Fire Inspectors, or Rental Inspectors in the case of an application for Rental License. Mr. Urquhart stated through this process, many Code Violations are identified. Mr. Urquhart stated Code Officers daily address complaints that have come in for their zones and then return phone calls and emails.

Mr. Urquhart further discussed the Permits and Licensing process. Mr. Urquhart stated in the past, a Code Enforcement case was closed when a permit was issued. Mr. Urquhart stated now, the citation will remain in place until the final inspection is performed on the permit and then a final inspection will be performed by the Code Inspector.

Mr. Harrington asked if a physical copy of the permit is given and Mr. Urquhart responded yes.

Mr. Snowden added a copy of the permit is not provided until it is approved and paid for.

Mr. Urquhart stated that often a respondent will come in and apply for the permit the day before the case goes before the board and the permit turnaround time is usually 3 to 5 days.

Mr. Sykes stated when the case is presented to the Board, the Code Officer will have the information regarding the permit; within 48 hours of the Board hearing, the Inspector will update the case with permits, pictures and other pertinent information.

Mr. Urquhart stated that the respondent could be supplied with a statement that the permit is in process before they appear before the Board even if the permit has not been approved.

Mr. Urquhart stated the Code Officer could view the permit during the hearing on the computer to show it is in the process of being reviewed. Mr. Urquhart stated through the Demolition and Code Inspectors, staff will be identifying the larger cases before and after and this information will be given to the Public Information Officer, Susan Cerbone, on a weekly or bi-weekly basis to reflect progress of the case.

Ms. Kuendig stated that Rental Inspectors go into a property where Code Inspectors, in general, have to do everything from outside.

Mr. Urquhart stated that Code Inspectors must be given permission to enter the property.

Ms. Kuendig stated Rental Officers often inspect multi-family homes but there could be more violations in a single family, owner occupied home that are more dangerous than what is visible from the outside.

Mr. Urquhart stated that if there are squatters or drug activity, staff can enlist the Police Department's help; or as the Chief Building Official, he can deem the property as imminent danger and obtain a warrant.

Mr. Harrington inquired about the lack of cases lately for vacation rentals and Mr. Jackson stated that the Inspectors will bring whatever violations they find appropriate to the Board.

Mr. Weatherholtz inquired if there is follow up on a compliant of a short term rental.

Mr. Jackson responded that they are.

Mr. Weatherholtz asked if the City Commission has established zones where short-term rentals are available at present.

Mr. Jackson referred him to Mr. Morris who can better address the issue one-on-one with the Board members.

Ms. Kuendig asked if there are definitions for health and safety issues, using a green pool as an example.

Mr. Urquhart responded that health and safety issues such as a pool are considered an attractive nuisance and dangerous to children. Mr. Urquhart

stated if the Board had any new issues to let him know and he will address them. Ms. Kuendig stated there are other situations that affect health and safety.

Mr. Jackson stated generally the Building Official will determine a health or safety issue.

The meeting was adjourned at 11:39 a.m.