

**CITY OF DAYTONA BEACH**

**MINUTES**

**SPECIAL  
MAGISTRATE  
HEARING**

**November 9, 2010 at 9:00 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

Sgt. Tracy Miller

Officer Steve Grant

Mr. Steve Alderman, Code Inspector

Ms. Barbara Collins, Code Inspector

Ms. Vicki Lankford, Code Inspector

Mr. John Stenson, Code Inspector

Ms. Aimee Hampton, Board Secretary

Approval of Minutes by: \_\_\_\_\_

\_\_\_\_\_ Special Magistrate

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Mr. Vukelja called the Hearing to order at 9:10 a.m.

Mr. Vukelja approved the minutes of the September 21, 2010 Meeting Minutes.

Staff members who would be testifying during the Hearing were sworn by Ms. Hampton

**Case 1**

**CEB 06-09-100 – 345 Wilson Avenue (Applicant Name: Roy Rob Riley) Previous Owner- Rayfield McCloud:** Order Imposing Fine/Lien of \$50.00 per day imposed October 8, 2009; Compliance date October 15, 2010 - Lien maximized at **\$15,000.00**.

Applicant, Roy Riley came forward and was sworn. Mr. Riley requested a partial waiver of the reduced amount of the lien per amnesty due to him taking the property back through foreclosure.

Ms. Lankford testified on behalf of the City and stated that once Mr. Riley took the property back over he brought it into compliance quickly.

**Ruling**

Mr. Vukelja ordered the lien be reduced to the sum of \$250.00 payable within thirty days.

**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.

Mr. Jackson presented a case history of the properties and informed the Magistrate that based upon his conversation with Mr. Hughes the city would be in favor of a continuance specifically to allow the new Inspector for the case to go re-inspect the property and become more familiar with the issues.

Attorney Barry Hughes appeared on behalf of the Respondent. Mr. Hughes provided the case history and the nature of non-compliance to the Magistrate. Mr. Hughes provided a plan of action and strategy for the properties and further requested a 90 day continuance.

### **Ruling**

Mr. Vukelja amended the previous order of non-compliance to allow the Respondents until February 2, 2011 to come into compliance or be returned to a subsequent meeting for consideration of a fine up to \$1,000.00 per day until compliance is achieved and further ordered a progress report for the January 11, 2011 Special Magistrate Meeting.

**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.

Mr. Hughes testified on behalf of the City and requested a continuance of the case until the February Meeting.

Mr. Jackson testified on behalf of the City and stated that the City did not have an objection to the 90 day continuance.

Mr. Charles Bryant, Redevelopment, came forward and was sworn. Mr. Bryant stated he received complaints about a dumpster being on fire at the Marion Street property.

Mr. Andrew Hoener came forward and was sworn. Mr. Hoener stated in their attempt to clean the properties they brought in dumpsters and only one caught on fire.

**Ruling**

Mr. Vukelja continued the cases until the February 8, 2011 Special Magistrate Meetings.

**CASE NO 3 SMG 07-10-97 – Fran J. Lasseter** is cited for failure to correct violations of the Land Development Code, Art. 19 Sec. 1.1 (ref. FBC Supp IPMC 302.5, 304.13, 304.7); Ch. 90-297 Code of Ordinances), at **314 Cottrill Avenue** - Violation(s) – Rodent harborage; windows and doors; roof and drainage; no rental license - First Notified – 2/4/2010.

Mr. Tim Hassler appeared on behalf of the Respondent. Mr. Hassler stated that the front property was in compliance but the back unit needed some repairs before they could get their rental license.

Mr. Stenson testified on behalf of the City and recommended amending until the next cut-off date for compliance.

**Ruling**

Mr. Vukelja amended the previous order of non-compliance to allow the Respondent until December 8, 2010 or be returned to a subsequent meeting for consideration of a one-time administrative fine of \$250.00.

**CASE NO 4 SMG 08-10-102 – Conch House Ocean Waters, LLC** is cited for failure to correct violations of the Land Development Code, Art. 19 Sec. 1.1 (ref. FBC Supp IPMC 304.3, 304.2, 304.15, 304.13, 704, 605, and 304.6), at **700 N. Atlantic Avenue** - Violation(s) – Exterior structure maintenance; exterior wiring; fire extinguishers out dated; broken windows; damaged room doors; building address - First Notified – 3/24/2010.

Respondent was in compliance October 20, 2010.

**CASE NO 5 SMG 09-10-117 – Robert B. Irving** is cited for failure to correct violations of the Land Development Code, Art. 19 Sec. 1.1 (ref. FBC 105.1 Supp IPMC 304.13, 305.6, 305.3, 605.2, 304.6, and 604.3); City Code 90-297, at **740 N. Segrave Street** - Violation(s) – Windows/doors; interior doors; interior surfaces; receptacles; exterior surfaces (walls); electrical system hazard; working without permits (fence); and no rental license - First Notified – 7/14/2010.

Respondent was not present.

Mr. Stenson testified on behalf of the City and stated the property was in non-compliance and requested a continuance until the next meeting date.

**Ruling**

Mr. Vukelja ordered the case be continued until the December 14, 2010 Meeting.

**CASE NO 6 SMG 10-10-123 – Daniel Chambers** is cited for failure to correct violations of the Land Development Code, Art. 19 Sec. 1.1 (ref. FBC Supp IPMC 504.3); City Ordinance 90-297, at **327 N. Caroline Street** - Violation(s) – **Plumbing system hazard; no rental license** - First Notified – 7/23/2010.

Respondent was in compliance October 28, 2010.

**CASE NO 7 SMG 10-10-125 – Binky Geneva Pickney as Court Appointed Guardian for James Pickney, a minor child** is cited for failure to correct violations of the Land Development Code, Art. 19 Sec. 1.1 (ref. FBC Supp IPMC 302.7 and 304.6), at **136 N. Keech Street** - Violation(s) – Accessory structure (fencing); exterior walls - First Notified – 8/7/2010.

Respondent was not present.

Mr. Stenson testified on behalf of the City and recommended the next cut-off date for compliance.

#### **Ruling**

Mr. Vukelja amended the previous order of non-compliance to allow the Respondent until December 8, 2010 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 8 SMG 10-10-126 – Mozel W. Hendley** is cited for failure to correct violations of the Land Development Code, Art. 19 Sec. 1.1 (ref. FBC Supp IPMC 302.8), at **318 N. Keech Street** - Violation(s) – **Junk vehicle** - First Notified – 8/25/2010.

Respondent was in compliance October 28, 2010.

**CASE NO 9 SMG 11-10-129 – Loland, LLC** is cited for failure to correct violations of City Ordinance 90-297, at **1021 Berkshire Road** - Violation(s) – No occupational license - First Notified – 8/25/2010.

Respondent was in compliance November 8, 2010.

**CASE NO 10 SMG 11-10-130 – Federal National Mortgage Association** is cited for failure to correct violations of City Ordinance 90-297, at **933 Madison Avenue** - Violation(s) – No occupational license - First Notified – 9/1/2010.

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 Respondents come into compliance by December 8, 2010 or be returned to a subsequent meeting for consideration the imposition of a one-time administrative fine of \$250.00.

**CASE NO 11 SMG 11-10-131 – David Walker** is cited for failure to correct violations of the Land Development Code, Art. 19 Sec. 1.1 (ref. FBC 105.1), at **147 Kingston Avenue** - Violation(s) – Working without permits - First Notified – 9/23/2010.

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 December 8, 2010 or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day.

**CASE NO 12 SMG 11-10-132 – Stamenko & Dusanka Angelov** is cited for failure to correct violations of the Land Development Code, Art. 19 Sec. 1.1 (ref. FBC Supp IPMC 301.1, 301.2, 302.1, 302.2, 302.3, 302.4, 302.5, 302.7, 303.12, 303.13, 303.13.1, 303.14, 303.15, 303.10), at **115 S. Grandview Avenue** - Violation(s) – The Building needs to be repaired to City Standards: Poorly maintained house - paint, trim, remove loose coverings, damaged encapsulates loose putty, and/or deteriorated plaster and peeling paint, doors, stairways - First Notified – 5/26/2010.

Respondents were not present.

Mr. Fitzgerald testified on behalf of the City and stated the Respondents were making good progress and recommended the next cut-off date for compliance.

**Ruling**

Mr. Vukelja found the Respondents in non-compliance and ordered the Respondent come into compliance by December 8, 2010 or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day until compliance is achieved.

**CASE NO 13 SMG 11-10-133 – Peter H. Colt Revocable Trust Agreement dated 1/23/92** is cited for failure to correct violations of the Land Development Code, Art. 18 Sec. 5.4(d); Art. 18 Sec. 4.4(c), at **150 S. Grandview Avenue** - Violation(s) – Fading, peeling, flaking and chipped paint; mildew - First Notified – 3/18/2010.

Respondent was in compliance October 30, 2010.

**CASE NO 14 SMG 11-10-134 – Emily Louise Khayat** is cited for failure to correct violations of the Land Development Code, Art. 1 Sec. 5.3 and 5.2; City Ordinance 90-297, at **437 N. Halifax Avenue # 6** - Violation(s) – Non-conforming use; painting and doing work on multiple cars; no occupational license - First Notified – 9/29/2010.

Respondent was in compliance October 25, 2010.

**CASE NO 15 SMG 11-10-135 – Matthew Jones & Anna Alastra** is cited for failure to correct violations of the Land Development Code, Art. 1 Sec. 5.3, at **37 N. Peninsula Drive** - Violation(s) – Non-conforming use - utilizing a single family house as multifamily - First Notified – 6/11/2010.

Attorney Jacqueline Alastra appeared on behalf of the Respondents. Attorney Alastra stated the Respondents did not agree with the non-compliance as they purchased the property as a multi-family property as it was advertised as multi-family and also is currently listed on the property appraiser's website as multi-family. Ms. Alastra stated they were commencing a lawsuit against the Realtor, the Broker and the Bank. Ms. Alastra stated they have not rented out the back property and would like to rescind the contract due to the misrepresentation of multi-family status.

Ms. Anna Alastra came forward and was sworn. Ms. Alastra stated she would like to un-due the contract if it can't be used as a duplex or multi-family.

Mr. Fitzgerald stated the property was being used in a non-conforming way because it has an apartment downstairs and upstairs with a kitchen and the structure is non-conforming because of the zoning.

Mr. Jackson stated unfortunately as long as the facility is set up as a multi-family it will continue to have the appearance of utilizing it as a multi-family.

**Ruling**

Mr. Vukelja found the Respondents in non-compliance and ordered the matter be placed on the December 14, 2010 Agenda for determination of a compliance date.

**CASE NO 16 SMG 06-10-82 – Arline Warwick** is cited for failure to correct violations of the Land Development Code, Art. 1 Sec. 5.3, 5.3a1, 5.3a2, 5.3a3; City Ordinance 90-297; Art. 19 Sec. 1. 1(ref. FBC Supp IPMC 303.1 & 303.2), at **1317 N. Halifax Avenue** - Violation(s) – Illegal dock construction and extention, illegal conversion of single family residence to a tri-plex, no rental occupational license; unsanitary & unsafe pool - First Notified – 3/5/2010.

Respondent was not present.

Mr. Alderman testified on behalf of the City and stated the property was still in non-compliance with the illegal conversion of a single family residence to a tri-plex and further recommended imposing a fine of \$100 per day with a cap of \$20,000.

**Ruling**

Mr. Vukelja imposed a fine of \$100 per day against the Respondent effective November 3, 2010 to continue each day thereafter until compliance is achieved or reached the maximum amount of \$20,000.

**Miscellaneous Business:**

1. There was no miscellaneous business.

**Adjournment:** The meeting was adjourned at 10:20 a.m.