

AGENDA
CODE ENFORCEMENT BOARD
Tuesday, May 19, 2015
1:00 p.m.
3048 S. Atlantic Avenue
Daytona Beach Shores, FL

Notice is hereby given to all interested parties that if a person should decide to appeal any decision made at the aforementioned meeting of the Code Enforcement Board, such person will need a recording of the proceedings conducted at such meeting, and for such purpose or she may need to ensure that a verbatim record of the proceedings was made; such record to include testimony and evidence upon which any appeal shall be based. NOTE: individuals covered by the American with Disabilities Act of 1990 in need of accommodations for this public meeting should contact the Office of the City Clerk at the City Hall of Daytona Beach Shores or by telephone at 763-5353 at least seven working days prior to the meeting.

CALL TO ORDER

MINUTES OF PREVIOUS MEETING

1. Approval of Minutes from the Code Enforcement Board Meeting on April 21, 2015

PRELIMINARY STAFF COMMENTS

2. Indication of any Cases removed from the Agenda

OLD BUSINESS

3. First Compliance Hearing

Case #: CDEF2014-105
Address: 2043 S. Atlantic Avenue, Unit 203, Daytona Beach Shores, FL
Owners: Ted Coutchavlis
Parcel ID #: 5316-30-00-2030

In violation of: *Code of Ordinances of the City of Daytona Beach Shores*, Appendix "G" – *Land Development Code*, Chapter 5, Section 5-5.1.*Building Occupancy*. in the following manner:

- **The unit referenced above, in a building designed for short-term, transient occupancy, is being occupied as though it were designed for multi-family, residential occupancy, without meeting the requirements for such**

Initial Hearing Date: March 17, 2015
Board-Ordered Compliance Date: April 16, 2015
Board-Ordered Fine: \$150.00 per day
Board-Approved Administrative Fees: \$140.98
Additional Administrative Fees Requested: \$ 76.31 (Total: \$217.29)

NEW BUSINESS

4. Initial Hearing

Case #: CDEF2014-103
Address: 2043 S. Atlantic Ave., Unit 127, Daytona Beach Shores, FL
Owner: Richard Pauk
Parcel ID #: 5316-30-00-1270

Violations: Code of Ordinances of the City of Daytona Beach Shores, Appendix "G" – *Land Development Code*, Chapter 5, Section 5-5.

- **The unit referenced above, in a building designed for short-term, transient occupancy is being occupied as though it were designed for multi-family, residential occupancy, without meeting the requirements for such**
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5. Initial Hearing

Case #: CDEF2014-104
Address: 2043 S. Atlantic Ave., Unit 201, Daytona Beach Shores, FL
Owner: Thomas E. Marr
Parcel ID #: 5316-30-00-2010

Violations: Code of Ordinances of the City of Daytona Beach Shores, Appendix "G" – *Land Development Code*, Chapter 5, Section 5-5.

- **The unit referenced above, in a building designed for short-term, transient occupancy is being occupied as though it were designed for multi-family, residential occupancy, without meeting the requirements for such**
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6. Initial Hearing

Case #: CDEF2014-106
Address: 2043 S. Atlantic Ave., Unit 415, Daytona Beach Shores, FL
Owner: Barry W. Barks
Parcel ID #: 5316-30-00-4150

Violations: Code of Ordinances of the City of Daytona Beach Shores, Appendix "G" – *Land Development Code*, Chapter 5, Section 5-5.

- **The unit referenced above, in a building designed for short-term, transient occupancy is being occupied as though it were designed for multi-family, residential occupancy, without meeting the requirements for such**

7. Initial Hearing

Case #: CDEF2014-108
Address: 2043 S. Atlantic Ave., Unit 419, Daytona Beach Shores, FL
Owner: Rose M. Vegren
Parcel ID #: 5316-30-00-4190

Violations: Code of Ordinances of the City of Daytona Beach Shores, Appendix "G" – *Land Development Code*, Chapter 5, Section 5-5.

- **The unit referenced above, in a building designed for short-term, transient occupancy is being occupied as though it were designed for multi-family, residential occupancy, without meeting the requirements for such**
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8. Initial Hearing

Case #: PCDEF2015-30
Address: 2615 S. Atlantic Ave., Unit 1J, Daytona Beach Shores, FL
Owner: Wells Fargo Bank NA
Parcel ID#: 5322-22-00-001J

In violation of: *Code of Ordinances of the City of Daytona Beach Shores*, Appendix "G" – *Land Development Code*, Chapter 5, Section 5-6.*Building Code adopted.*, which refers, in part, to the *Florida Building Code*, Chapter 1, Section 105.1.*Required.*

- **Plumbing, electrical, and building work done without permits**
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9. Initial Hearing

Case #: PCDEF2015-29
Address: 3815 S. Atlantic Ave., Daytona Beach Shores, FL
Owner: Shores Club Condominium Association a/k/a The Shores Club Management Corporation, Inc.
Parcel ID #: 6302-26-00-0001

In violation of: *Code of Ordinances of the City of Daytona Beach Shores*, Appendix "G" – *Land Development Code*, Chapter 5, Section 5-6.*Building Code adopted.*, which refers, in part, to the *Florida Building Code*, Chapter 1, Section 105.1.*Required.*

- **Pool refinished without a permit**
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REMARKS OF STAFF

10. The next CEB meeting will take place on Tuesday, June 16, 2015, at 1:00 P.M.

REMARKS OF BOARD MEMBERS

ADJOURNMENT

MEETING FORMAT Pursuant to Chapter 2, Section 2-36, VIII, Municipal Code

MINUTES
CODE ENFORCEMENT BOARD
Tuesday, April 21, 2015
3048 S. Atlantic Avenue Daytona Beach Shores, FL

Present: Larry Saffer, Sally Dowling, Lowell Wynn, Eric Datz, Larry Kittinger, Donald Bauknecht, and Ike Ofer. Staff present: Board Attorney Lonnie Groot, Gwyn Herstein, Tom Squires, Fred Hiatt and Steve Edmunds.

The Chair called the meeting to order at 2:00 pm.

The witnesses were sworn in by the Board Attorney.

MINUTES OF PREVIOUS MEETING

1. Approval of Minutes from the Code Enforcement Board Meeting on March 17, 2015
Mr. Wynn moved, seconded by Mr. Bauknecht to approve the minutes of March 17, 2015. The motion passed unanimously by a voice vote.

PRELIMINARY STAFF COMMENTS

2. Indication of any Cases removed from the Agenda

There were no cases removed from the agenda.

OLD BUSINESS

3. Second Compliance Hearing

Case #: PCDEF2014-75
Address: 3162 S. Atlantic Avenue, Daytona Beach Shores, FL
Owners: Surfside Square Condominium Association, Inc. & Guy Marchand
Parcel ID #s: 5334-16-00-0001, 5334-16-00-0040, 5334-16-00-0070

In violation of: *Code of Ordinances of the City of Daytona Beach Shores*, Appendix "G" – *Land Development Code*, Chapter 6, Section 6-3. *Permit Required; application, issuance, fees.* & Chapter 14, Section 14-52.9.(D)(9). in the following manner:

- **Pole sign copy change which reads "Oceans Luxury Realty sSales sRentals" was not permitted (*compliant December 15, 2014*)**
- **Wall sign which reads "Oceans Luxury Realty" was not permitted (*compliant January 7, 2015*)**
- **Surface of pole for sign is deteriorated and not being maintained with a "painted and rust-free, cared for appearance" (*compliant March 16, 2015*)**

Initial Hearing Date: September 16, 2014

Board-Ordered Compliance Dates: October 16, 2014 (first two) & December 1, 2014 (third)

Actual Compliance Dates: December 15, 2014; January 7, 2015; & March 16, 2015

Fined Days of Non-Compliance: 150

Board-Ordered Fine: \$150.00 per day

Total Accrued Fine: \$22,500.00

Board-Approved Administrative Fees: \$293.60
Additional Administrative Fees Requested: \$ 76.31 (Total: \$369.91)

Ms. Herstein asked that each document provided by the City be accepted into evidence. The Chairwoman accepted the documents into evidence. The violations were read for the record with the property becoming fully compliant as of March 16, 2015. On April 7, 2015, the Notice of Second Compliance Hearing was mailed with good service being achieved. The total fines due are \$22,500 for a total of 150 days. Ms. Herstein asked for reimbursement of the Administrative Fees in the amount of \$369.91. Lynn Becker, Association Manager, spoke for the Respondent. She gave the board a timetable of events (Exhibit A) which she briefly went over. She asked for a reduction in the fine amount. Ms. Herstein offered to break down the violations into separate categories because not all violations were present for the entire 150 days. With each violation accounting for 1/3 of the daily fine (\$50), the pole sign copy change was in violation for 59 days with a total of \$2,950. The wall sign was in violation for 82 days with a total of \$4,100. The deteriorated pole was in violation for 104 days with a total of \$5,200. Redistributing the fines this way gives a total of \$12,250 before any consideration for other circumstances is given. Mr. Saffer felt this case was more involved with many entities needing to give approval. He thought that they had been diligent in obtaining bids and having the work performed. He stated that removing the wall sign should have happened fairly quickly but it didn't. He proposed a reduction to \$7,500. Mr. Ofer thought the reduction was about half the cost of the project itself, which seemed fair.

Mr. Datz moved, seconded by Mr. Saffer that based on the testimony given and the evidence presented today regarding Surfside Square Condominium Association, Inc. & Guy Marchand at 3162 S. Atlantic Avenue, Case Number PCDEF2014-75, Parcel Number 5334-16-00-0001, 5334-16-00-0040, 5334-16-00-0070 find that, while the property is compliant at this time, the Respondent did not comply with the Code Enforcement Board's Order of September 16, 2014, by the date specified in that Order. However, based on the Respondent's continued cooperation and complexity of the different contractors and permits, move to reduce the fines/lien to \$7,500 plus an Administrative Fee of \$369.91. This reduced fine shall be paid within 60 days from the date of this order or the fine shall revert to the original fine amount and shall be imposed as a lien.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 7).

Yes: Donald Bauknecht, Eric Datz, Ike Ofer, Larry Kittinger, Larry Saffer, Lowell Wynn, Sally Dowling.

NEW BUSINESS

4. Initial Hearing

Case #: CDEF2014-103
Address: 2043 S. Atlantic Ave., Unit 127, Daytona Beach Shores, FL
Owner: Richard Pauk
Parcel ID #: 5316-30-00-1270

Violations: Code of Ordinances of the City of Daytona Beach Shores, Appendix "G" – *Land Development Code*, Chapter 5, Section 5-5.

- **The unit referenced above, in a building designed for short-term, transient occupancy is being occupied as though it were designed for multi-family residential occupancy without meeting the requirements for such**

Attorney Groot informed the board that a request for a Motion for Continuance had been received from Attorney George Trovato for the next four cases. The City had a written response as well that was distributed to the board to read. Both documents (exhibits B and C) were submitted as evidence and accepted by the Chair.

Mr. Bauknecht moved, seconded by Mr. Saffer to combine the continuance request for cases 4,5,6 & 7.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 7).

Yes: Donald Bauknecht, Eric Datz, Ike Ofer, Larry Kittinger, Larry Saffer, Lowell Wynn, Sally Dowling.

Mr. Wynn moved, seconded by Mr. Ofer to continue cases 4,5,6 &7 until the next regular meeting on May 19th, 2015.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 7).

Yes: Donald Bauknecht, Eric Datz, Ike Ofer, Larry Kittinger, Larry Saffer, Lowell Wynn, Sally Dowling.

5. Initial Hearing

Case #: CDEF2014-104
Address: 2043 S. Atlantic Ave., Unit 201, Daytona Beach Shores, FL
Owner: Thomas E. Marr
Parcel ID #: 5316-30-00-2010

Violations: Code of Ordinances of the City of Daytona Beach Shores, Appendix "G" – *Land Development Code*, Chapter 5, Section 5-5.

- **The unit referenced above, in a building designed for short-term, transient occupancy is being occupied as though it were designed for multi-family residential occupancy without meeting the requirements for such**

See above.

6. Initial Hearing

Case #: CDEF2014-106
Address: 2043 S. Atlantic Ave., Unit 415, Daytona Beach Shores, FL
Owner: Barry W. Barks
Parcel ID #: 5316-30-00-4150

Violations: Code of Ordinances of the City of Daytona Beach Shores, Appendix "G" – *Land Development Code*, Chapter 5, Section 5-5.

- **The unit referenced above, in a building designed for short-term, transient occupancy is being occupied as though it were designed for multi-family residential occupancy without meeting the requirements for such**

See above.

7. Initial Hearing

Case #: CDEF2014-108
Address: 2043 S. Atlantic Ave., Unit 419, Daytona Beach Shores, FL
Owner: Rose M. Vegren
Parcel ID #: 5316-30-00-4190

Violations: Code of Ordinances of the City of Daytona Beach Shores, Appendix "G" – *Land Development Code*, Chapter 5, Section 5-5.

- **The unit referenced above, in a building designed for short-term, transient occupancy is being occupied as though it were designed for multi-family residential occupancy without meeting the requirements for such**

See above.

8. Initial Hearing

Case #: CDEF2014-102
Address: 2071 S. Atlantic Ave., Unit 105, Daytona Beach Shores, FL
Owner: Nicole Mosley
Parcel ID#: 5315-05-04-0105

In violation of: *Code of Ordinances of the City of Daytona Beach Shores*, Chapter 13, Section 13-4. *Maintaining unsafe premises.* and Appendix "G" – *Land Development Code*, Chapter 5, Section 5-6. *Building Code adopted.*, which refers, in part, to the Florida Building Code, Chapter 1, Section 105.1. *Required.* & Section 110. *Inspections*, and Appendix "G" – *Land Development Code*, Chapter 14, Section 14-52.9.(B)(17), (C), & (D)(2).

- **No permits have been obtained to repair the fire and/or water damage or mitigate the potential for damage to neighboring units**
- **Electrical work is unpermitted in that electrical permit numbered 20141361 was closed by the contractor without a final inspection**
- **Premises are not free from health hazards in that fire and water damaged areas of the unit have not been repaired or replaced**
- **Unit is fire and water damaged and has not been cleared to be safe for human occupancy**
- **Areas weakened by the fire and/or water damage have not been repaired or replaced**

Ms. Herstein asked that each document provided by the City be accepted into evidence. The Chairwoman accepted the documents into evidence. The violations were found by staff and read for the record. On August 13, 2014, there was a fire in the unit. The owner caused the fire by cooking with grease on the stove and she walked away. She is now understood to be living in California. An Unsafe Building Placard was posted on the door. An electrical permit was obtained on October 13, 2014 but it was rescinded by the contractor on November 25, 2014. The Notice of Violation was sent on December 9, 2014, but good service was not achieved. After waiting 30 days, the property was posted and the notice was sent via first class mail. There has been no

contact from the owner. Staff waited more than ten days after posting the unit and determined that the violations still existed. On February 23, 2015, a Notice of Hearing was sent by certified mail but it was also returned. After waiting another 30 days, the property was posted and the notice was sent via first class mail on April 8, 2015. Ms. Herstein questioned Building Inspector Steve Edmunds as to the accuracy of the documents and events. He responded they were accurate. Staff recommended allowing 30 days to correct the violations or levy a fine in the amount of \$250 per day. Reimbursement of \$140.98 in Administrative Fees was also requested. The board asked Mr. Edmunds if other units were compromised. He replied since there is no power in the unit, the smoke detectors are not working and that does put other units at risk. It is also unclear whether mold has started to grow inside the unit. A restoration company did pull out some water shortly after the fire. Ms. Herstein asked Fire Commander Terry Griffiths to the stand. He stated that the sprinkler system is a quick response system. Since the unit has a compromised ceiling, it could delay the sprinkler action. He felt this compromised the building. The condominium does not have a management company onsite. It was suggested to copy the COA on all future correspondence regarding the case.

Mr. Bauknecht moved, seconded by Mr. Kittinger that based on the testimony given and the evidence presented today regarding Nicole Mosley at 2071 S. Atlantic Avenue Unit 105, Case Number CDEF2014-102, Parcel Number 5315-05-04-0105, find the property in violation of Code of Ordinances of the City of Daytona Beach Shores, Chapter 13, Section 13-4. *Maintaining unsafe premises.* and Appendix "G" – *Land Development Code*, Chapter 5, Section 5-6. *Building Code adopted.*, which refers, in part, to the Florida Building Code, Chapter 1, Section 105.1. *Required.* & Section 110. *Inspections*, and Appendix "G" – *Land Development Code*, Chapter 14, Section 14-52.9.(B)(17), (C), & (D)(2), and that the Respondent be Ordered to correct the violations on or before May 21, 2015 and pay an Administrative Fee of \$140.98. In the event the Respondent does not comply with the Order, a fine of \$250 will be imposed for each and every day the violation continues past the aforesated date and additional Administrative Fees may be approved by the Board at subsequent hearings and imposed. The Respondent is further ordered to secure all required permits before beginning correction of said violations and to contact the City of Daytona Beach Shores Code Enforcement Office to report and verify compliance with this Order. Any future reoccurrence of this Code violation by Respondent will be treated as a Repeat Violation for which a fine of up to \$500.00 per day may be imposed.

Note: Motion carried by unanimous roll call vote (**summary:** Yes = 7).

Yes: Donald Bauknecht, Eric Datz, Ike Ofer, Larry Kittinger, Larry Saffer, Lowell Wynn, Sally Dowling.

9. Initial Hearing

Case #: FCDEF2014-121
Address: 2071 S. Atlantic Ave., Unit 105, Daytona Beach Shores, FL
Owner: Nicole Mosley
Parcel ID #: 5315-05-04-0105

Violations: Code of Ordinances of the City of Daytona Beach Shores, Chapter 11, Section 11-1. *Florida Fire Prevention Code adopted by reference.*, which refers, in part, to the NFPA 72, 2002 Ed., Chapter 11. and to the NFPA 13, 2002 Ed., Chapter 8, Section 8-3.

- **Lack of power to unit prevents smoke alarms from being compliant with code, which requires a commercial power supply and a battery backup**
- **Missing ceiling section makes the sprinkler head coverage inadequate due to the possibility of altered heat accumulation and how that affects head response**

Ms. Herstein asked that each document provided by the City be accepted into evidence. The Chairwoman accepted the documents into evidence. The violations were found by city staff. The lack of power prevents smoke alarms from working and the missing ceiling section makes any sprinkler head coverage inadequate. The Notice of Violation was sent on December 9, 2014, but good service was not achieved. After waiting 30 days, the property was posted and the notice was sent via first class mail. There has been no contact from the owner. Staff waited more than ten days after posting the unit and determined that the violations still existed. On February 23, 2015, a Notice of Hearing was sent by certified mail but it was also returned. After waiting another 30 days, the property was posted and the notice was sent via first class mail on April 8, 2015. Ms. Herstein asked Fire Commander Terry Griffiths to take the stand. She asked if all the documents were true and accurate. He responded they were. Staff recommended allowing 30 days to correct the violations or levy a fine in the amount of \$250 per day. Reimbursement of \$140.98 in Administrative Fees was also requested. It was noted that the COA would also receive any future correspondence on this case.

Mr. Bauknecht moved, seconded by Mr. Ofer that based on the testimony given and the evidence presented today regarding Nicole Mosely at 2071 S. Atlantic Avenue Unit 105, Case Number FCDEF2014-121, Parcel Number 5315-05-04-0105, find the property in violation of City Code Chapter 11, Section 11-1. *Florida Fire Prevention Code adopted by reference.*, which refers, in part, to the NFPA 72, 2002 Ed., Chapter 11 and to the NFPA 13, 2002 Ed., Chapter 8, Section 8-3, and that the Respondent be Ordered to correct the violations on or before May 21, 2015 and pay an Administrative Fee of \$140.98. In the event the Respondent does not comply with the Order, a fine of \$250 will be imposed for each and every day the violation continues past the aforesated date and additional Administrative Fees may be approved by the Board at subsequent hearings and imposed. The Respondent is further ordered to secure all required permits before beginning correction of said violations and to contact the City of Daytona Beach Shores Code Enforcement Office to report and verify compliance with this Order. Any future reoccurrence of this Code violation by Respondent will be treated as a Repeat Violation for which a fine of up to \$500.00 per day may be imposed.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 7).

Yes: Donald Bauknecht, Eric Datz, Ike Ofer, Larry Kittinger, Larry Saffer, Lowell Wynn, Sally Dowling.

REMARKS OF STAFF

10. Year over year code enforcement complaints

Ms. Herstein reviewed the number of yearly complaints compared to the total violation numbers.

11. The next CEB meeting will take place on Tuesday, May 19, 2015, at 1:00 P.M.

Ms. Herstein informed the board that there would be no meeting in July.

REMARKS OF BOARD MEMBERS -

Ms. Dowling stated that she would be out of town for July and August.

ADJOURNMENT: The meeting ended at 3:28 pm.

Attest:

Cheri Schwab, Recording Secretary

Sally Dowling, Board Chairwoman