

AGENDA
CODE ENFORCEMENT BOARD
Tuesday, February 20, 2007
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 address and telephone number noted at least seven working days prior to the meeting.

CALL TO ORDER

OATHS OF OFFICE

MINUTES OF PREVIOUS MEETING

1. Approval of Minutes dated December 19, 2006 Code Enforcement Board Meeting.

OLD BUSINESS:

NEW BUSINESS:

2. Margaret A. Harrison TR, 2808 S. Atlantic Avenue, CDEF2006-95, Notice of Violation
 - Appendix G, LDC, Section 14-52.9(B & D) Nuisances defined & Minimum maintenance standards.
3. Pappas Properties, LLC., 2516 S. Atlantic Avenue, PCDEF2007-15, Notice of Violation
 - 2004 Florida Building Code, Chapter 1, Section 109.3 Required Inspections.
4. Jasani Aziz & Shenin Sachedina, 2055 S. Atlantic Avenue, PCDEF2007-4, Notice of Violation
 - 2004 Florida Building Code, Chapter 1, Section 109.3 Required Inspections.

REMARKS OF STAFF

5. Clarification of Massey Hearing procedure – Our new procedure calls for the respondent to request a Massey Hearing in writing to the Code Enforcement office within 30 days of receipt of the Affidavit of Non-Compliance and proposed Order Imposing Fine/Lien. If one is not requested, the Lien will be sent for recording. If a Massey Hearing is requested within the 30 days, then it will take place at the next scheduled hearing.
6. Review of the “Suggested Fine Amounts” list.
7. We appreciate our new office very much and look forward to our open house so you can all come and have a look – date is to be announced.

REMARKS OF BOARD MEMBERS

ADJOURNMENT

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

MINUTES
CODE ENFORCEMENT BOARD
February 20, 2007
3048 S. Atlantic Avenue Daytona Beach Shores, FL

CALL TO ORDER: Chairman Ersland called the meeting to order at 1:00 pm.

MEMBERS PRESENT: John Ersland, James Thumser, Lowell Wynn, Larry Saffer, Joanne Jerome and Henry Fehrmann. **MEMBERS EXCUSED:** Diane Scavelli **STAFF PRESENT:** Gwyn Herstein, Terry Griffiths, Bob Chumbley, Steve Edmunds, and Attorney Susan Stacy.

MINUTES OF PREVIOUS MEETING

1. Approval of Minutes dated December 19, 2006 Code Enforcement Board Meeting. Ms. Jerome moved, seconded by Mr. Thumser to approve the minutes of December 19, 2006. All yes by a roll call vote.

OLD BUSINESS: None.

NEW BUSINESS:

The City Attorney swore in witnesses for the public hearings.

2. Margaret A. Harrison TR, 2808 S. Atlantic Avenue, CDEF2006-95, Notice of Violation
- Appendix G, LDC, Section 14-52.9(B & D) Nuisances defined & Minimum maintenance standards.

Ms. Herstein stated the violations relating to this case for the record. She explained the initial inspection was performed on June 14, 2005. The initial notice of violation was returned as undeliverable mail. A second notice was sent and received on November 7, 2006. Ms. Harrison notified the City that due to an illness she had not been able to make any repairs. On December 12, 2006 a re-inspection was performed and all the violations still existed. It was explained that there are two buildings on the property; one is a guest home and the other the main residence. Neither building is occupied at this time. The swimming pool is one of the main violations as it is not fenced or maintained at this time. Margaret Harrison spoke as trustee of the property. She explained that this is her mother's property and she has had six strokes since 2004. Ms. Harrison has looked into a product called Thermosave in order to rebuild the properties. She explained that it has been very time consuming. She stated that she is willing to do whatever the board deems necessary but is not able to move forward in rebuilding the house at this time. She also has looked into demolition costs. Building Inspector Steve Edmunds said the house would need to be remodeled and probably would need a variance to comply with the building standards today. It would take 30 days to obtain permits for either a demolition or remodeling. The board asked the respondent what she would do if she was only given 30 days and she stated that she would demolish the structure.

After some discussion, the board determined that more than enough time had been given for some of the minor offenses to be repaired.

Mr. Thumser moved, seconded by Mr. Fehrmann to find the property owner in violation of the Land Development Code Appendix “G” Section 14-52.9 (B&D). In order to correct the violation a fence permit must be obtained within 10 days (March 2) and all additional permits required needed within 30 days (March 22). Complete compliance must be within 90 days (May 21) or a fine of \$250 per day for any violation will be levied plus the administrative fee of \$146.45.

ROLL CALL VOTE:

ERSLAND	YES
FEHRMANN	YES
JEROME	YES
WYNN	YES
THUMSER	YES
SAFFER	YES (motion passed 6-0)

3. Pappas Properties, LLC., 2516 S. Atlantic Avenue, PCDEF2007-15, Notice of Violation
 - 2004 Florida Building Code, Chapter 1, Section 109.3 Required Inspections.

Ms. Herstein explained that this case dealt with three expired permits. One permit was to replace some damaged drywall but the final inspection had not been performed. The second permit was to replace the entry door system and the third permit to replace a wall sign. Mr. Chris Pappas is the owner of the building, but it was the tenant, China American Garden who had the work done. These permits are from 2005. In January 2007 a notice of violation was sent out and received in proper time. Prior to the meeting today, the contractor withdrew the permit for the door, but re-instated the permit for the drywall. An inspection date was set and he has six months to perform the work. The third permit from Fairway Sign is still outstanding and expired.

Chris Pappas spoke on his own behalf. He inquired if the Building Department sent out notices when a permit had expired. It was explained that this is not required by law, but is done as a courtesy by our City. Once the permits are expired, they are turned over to the Code Enforcement Department. Mr. Pappas stated the original sign company was out of business now and cannot be contacted. He knows a company that will complete the work. It was explained by Building Inspector Edmunds, that the permit would need to be reinstated and then inspected. The third remaining permit for the entry door is withdrawn, and therefore not to be considered.

After some discussion, the Board felt it was not fair to fine the owner when it was the tenant who had the work performed. In addition, the original tenant is now deceased. Jin Choo Amadio, niece of Lu Chin, was instructed that she would need to follow up with the contractors to make sure they call for re-inspection.

Mr. Thumser moved, seconded by Mr. Wynn to find the property owner in violation of FL Building Code, Chapter 1, Section 109.3. To correct the violations, inspections must be completed in 45 days (April 6). In the event of non-compliance, a \$50 fine per day will be levied plus the administrative fee of \$146.45.

ROLL CALL VOTE:

ERSLAND	YES
FEHRMANN	YES
JEROME	YES
WYNN	YES
THUMSER	YES
SAFFER	YES (motion passed 6-0)

4. Jasani Aziz & Shenin Sachedina, 2055 S. Atlantic Avenue, PCDEF2007-4, Notice of Violation
 - 2004 Florida Building Code, Chapter 1, Section 109.3 Required Inspections.

Ms. Herstein explained that this case also regarded an expired permit. The permit was for the installation of shutters issued in December 2005. The permit expired on July 25, 2006. The notice of violation was sent and received on February 12, 2007. Building Inspector Edmunds explained that the company New South Industries had been selling and installing shutters. The business has now been sold. There are other permits that may come before the board from this same business. The state has been notified and a complaint filed against them for false notaries and other items. The name has been suspended from the state. It was explained that the first inspection had failed due to electrical issues. The building department made numerous phone calls to the company.

Mr. Thumser moved, seconded by Ms. Jerome to find the property owner in violation of FL Building Code, Chapter 1, Section 109.3. An inspection needs to be completed within 45 days (April 6) or a fine of \$50 per day will be levied plus the cost of administrative fee of \$146.45.

ROLL CALL VOTE:	ERSLAND	YES
	FEHRMANN	YES
	JEROME	YES
	WYNN	YES
	THUMSER	YES
	SAFFER	YES (motion passed 6-0)

REMARKS OF STAFF

5. Clarification of Massey Hearing procedure – Our new procedure calls for the respondent to request a Massey Hearing in writing to the Code Enforcement office within 30 days of receipt of the Affidavit of Non-Compliance and proposed Order Imposing Fine/Lien. If one is not requested, the Lien will be sent for recording. If a Massey Hearing is requested within the 30 days, then it will take place at the next scheduled hearing.

Ms. Herstein wanted to clarify the procedure for a Massey Hearing. The respondent would need to request in writing within 30 days a receipt of noncompliance. If one were not requested, the lien would be sent for recording. This information would be in the finding of fact and order.

6. Review of the “Suggested Fine Amounts” list.

Ms. Herstein reviewed the various fine amounts for the board giving examples of each. She explained that a higher fine is justifiable only for life/safety issues or when multiple smaller fines are in combination. Any repeat offenders can be imposed a fine double the amount of the original fine up to \$500 per day. Mr. Ersland felt that if the board were consistent with the fines imposed, there would not be any problem if they were to be appealed in circuit court.

The City Attorney reviewed the ex-parte communication aspect explaining that it needs to be disclosed at the hearing.

Mr. Fehrmann would like other cities to be contacted to inquire how they handle expired permits. He felt it is not fair the board can only fine the business owner and not the tenant. He would like to see an article in the next Pelican to help homeowners be aware of

unlicensed contractors. Ms. Herstein noted that an article was in a recent edition of the Pelican by the building official, Fred Hiatt.

7. We appreciate our new office very much and look forward to our open house so you can all come and have a look – date is to be announced.

REMARKS OF BOARD MEMBERS: None.

ADJOURNMENT The meeting adjourned at 3:00 pm.

ATTEST:

Cheri Schwab, Recording Secretary

John Ersland, Chairman