

CITY OF DeBARY
REGULAR CODE ENFORCEMENT BOARD MEETING
WEDNESDAY, NOVEMBER 10, 2004
6:00 P.M., Florence K. Little Town Hall
12 COLOMBA ROAD, DeBARY, FLORIDA
MINUTES

CALL TO ORDER

Call to order at 6: P.M. by Chairman Don Pulver.

ROLL CALL

Present: Don Pulver, John Harvey, Rosemary Obenland, Allan Williamson, Robert Reni,
Joe Canfield, City Attorney Dan Langley, and Anita Gonzales

Absent: Greg France, L. Padgett, and Jack Lenzen

New Member Sworn in: Joe Canfield

All Witnesses Sworn in.

ADOPTION OF MINUTES

1. Regular Code Enforcement Board Hearing of July 14, 2004.
Dan Langley, City Attorney, requests a change to **DEB-04-009 Smith, Sheldon L. & Bonny F** on page 3 of the **July 14, 2004** minutes of his comments to read: City Attorney Dan Langley stated that pool issues have been addressed in the past by City Ordinance Section 30-234;.

Motion by Robert Rini for the adoption of the Minutes of the July 14, 2004 Code Board Meeting was seconded by John Harvey. Minutes approved unanimously.

UNFINISHED BUSINESS:

1. **DEB-02-027 - MCDONOUGH, Lloyd R. & Ann** **[Served]**
Complaint No. 010628116
Violation of City of DeBary Ordinance 80-8, as amended, Article XI, Section 1104 for altering a Volusia County jurisdictional wetland and/or buffer without a permit at 361 Magnolia Place in DeBary. **(Environmental - Tara Boujoulian)**
*The Enforcement Official continued this case from the September 11, 2002, hearing;
*Order of Non-Compliance issued at the November 13, 2002, hearing;
*1st Amended Order of Non-Compliance issued at the January 15, 2003, hearing;
*Order Imposing Fine/Lien issued at the March 12, 2003, hearing;
*Report & Affidavit of Compliance was issued with a compliance date of August 24, 2004;
Order of Compliance

Tara Boujoulian, Volusia County Wetlands Program Manager, testified she inspected the property on August 24, 2004. She found that the property was in compliance with the wetland ordinance. The City requests that the Order of Compliance be contingent on the owner satisfying all the terms and conditions of the Volusia County use permit # 030407051 AND granting a drainage easement to the City and the County of Volusia.

Mr. McDonough objects to the conditions of compliance.

A motion to issue a **Conditional Order of Compliance** was made by Rosemary Obenland and seconded by John Harvey. The motion was approved unanimously.

2. **DEB-02-047 - DUVALL, Todd Alan & Panagiota** [Sheriff Served]

Complaint No. 021122045

Violation of City of DeBary Code of Ordinances, Chapter 14, Buildings and Building Regulations, Article II, Section 22.32 - Standard Building Code, 1997 Edition, Sections 104.1.1 and 105.6, for construction for which the required building permit(s) and inspection approvals have not been obtained or maintained at Old Mill Drive in DeBary.

(Code Administration - Tom Reynolds)

*Order of Non-Compliance and Order Imposing Fine/Lien issued at the January 15, 2003, hearing;

*Report & Affidavit of Compliance was issued with a compliance date of October 1, 2003;

Order of Compliance

Phil Salano appeared for Mr. Reynolds. Mr. Salano, Volusia County Code Enforcement, requests an Order of Compliance be granted as "everything has been taken care of". A motion was made and passed unanimously.

3. **DEB-03-036 – SERVICE, Alexander T.** [Served]

Complaint No. 030909059

Violation of City of DeBary Code of Ordinance 98-8, City of DeBary Standard Building Code Sections 103.5 and 3401.6 for an unsafe and improperly maintained structure at 18 Florence Boulevard in DeBary.

(Building Division – Tom Reynolds)

*Order of Non-Compliance & Order Imposing Fine/Lien issued at the January 14, 2004, hearing;

*Report & Affidavit of Compliance was issued with a compliance date of February 12, 2004;

Order of Compliance

Arriving late, Mr. Reynolds, Volusia County Building Dept. Inspector, reviewed a history of the case. He testified the demolition company did not pull a permit to demolish the mobile home leaving him unaware the work was done. He requests an Order of Compliance be back dated and the fine reduced to the date provided by the company that did the demolition work. The motion to grant an **Order of Compliance** was made and passed unanimously.

4. **DEB-03-037 – RIVERSIDE CONDO (DEBARY)** [Posted]

Complaint No. 030915007

Violation of City of DeBary Code of Ordinance 58-84, City of DeBary Standard Building Code Section 3401.6 for an unsafe and dilapidated structure at 313 Dirksen Drive in DeBary.

(Building Division – Tom Reynolds)

- *The Enforcement Official continued this case from the November 12, 2003, hearing;
- *Order of Non-Compliance issued at the January 14, 2004, hearing;
- *Order Imposing Fine/Lien issued at the May 12, 2004, hearing;
- *Report & Affidavit of Compliance was issued with a compliance date of September 17, 2004;

Order of Compliance

Tom Reynolds, Volusia County Building Dept. Inspector, reviewed a history of the case. He testifies that the repairs have been made as of September 17, 2004 (stairwells & handrails). Motion made to grant an **Order of Compliance** was granted unanimously.

5. **DEB-04-009 – SMITH, Sheldon L. & Bonny F.** **[Posted]**

Complaint No. 040325005

Violation of City of DeBary Code of Ordinance 58-84, Florida Building Code Section 3401.6 for an unsafe and dilapidated building at 792 Fort Florida Road in DeBary.

(Building Division – Barbara Musslewhite)

- *Order of Non-Compliance issued at the May 12, 2004, hearing;
- *Order Imposing Fine/Lien issued at the July 14, 2004, hearing;
- *Report & Affidavit of Compliance was issued with a compliance date of August 2, 2004;

Order of Compliance

Barbara Musslewhite, Volusia County Code Enforcement Officer, reviewed the history of the case. She testifies the property came into compliance on August 2, 2004 (pool).

Fines are outstanding. A motion was made to grant an **Order of Compliance** to be dated August 2, 2004. The motion passed unanimously.

6. **DEB-04- 016 - BAUERLE, Sr., Donald C.** **[Served]**

Complaint No. 040120009

Violation of City of DeBary Ordinance 99-11, DeBary Sign Regulations, Section 5 for prohibited signs at 488 West Highbanks Road in DeBary.

(Zoning Compliance – Debbie Waggoner)

- *Order of Non-Compliance issued at the July 14, 2004, hearing;
- *Report & Affidavit of Compliance was issued with a compliance date of August 20, 2004;

Order of Compliance

Phil Salano, Volusia County Code Enforcement Officer, testifies the property is in compliance (sign). He personally has inspected the property. A motion was made to grant an **Order of Compliance** and was passed unanimously.

HEARINGS AND PRESENTATION OF FILED NOTICES OF VIOLATIONS:

1. **DEB-04-017 – WEST, Kim Merrell** [Served]

Complaint No. 040319047

Violation of City of DeBary Ordinance, Chapter 30, Article III, Sections 30-103 and 30-104 for junked, wrecked or abandoned vehicle(s) that is inoperative and/or without current license tag at 16 Palmetto Drive in DeBary.

(Zoning Compliance – Debbie Waggoner)

Mr. Jack Hayes appeared representing Kim West. He stated he was not an attorney but was one of the parties involved. Phil Salano states the parties were served on April 8, 2004 and given 21 days to correct the problem. Mr. Hayes was shown pictures of the violation. Specifically, pictures of a van parked in the front of the property facing the road and a Lincoln continental which was jacked up with flat tires behind it. These pictures were taken on August 25,2004. Mr. Hayes reviewed the pictures and made the admission the pictures were an accurate depiction. Another picture taken on September 29,2004 showed the same two vehicles plus an older model mustang. Mr. Salano testified he drove by the home tonight and there were NO CHANGES.

Mr. Hayes testified that the vehicles have had tags at the different times under discussion. None have been consistently untagged and /or inoperative. The Lincoln will be gone soon. He then contests the Code Board’s authority. He claims all vehicles were operative.

Mr. Salano explained the ordinance to Mr. Hayes and what h e MUST do to comply. He recommended the Code Board find the property in **Non- Compliance** , give 14 days to produce documentation that ALL the vehicles are tagged and demonstrate that they are operable to him at a mutually agreeable time.

A motion was made to find the property in Non-Compliance and the owner has 14 days to get in compliance. After 14 days if there is no compliance a fine will be imposed at a rate of \$150 per day until the property is in compliance. The motion was passed.

2. **DEB-04-019 – FLORIDA POWER & LIGHT COMPANY** [Posted]

J. E. Leon, Registered Agent

[Served]

Complaint No. 040514032

Violation of City of DeBary Code of Ordinance 58-84, Florida Building Code Section 3401.6 for an unsafe and dilapidated building at 628 South US Highway 17-92 in DeBary.

(Building Division – Barbara Musslewhite)

Withdrawn.

3. **DEB-04-020 – FLORIDA POWER & LIGHT COMPANY** [Posted]

J. E. Leon, Registered Agent

[Served]

Complaint No. 040514033

Violation of City of DeBary Code of Ordinance 58-84, Florida Building Code Section 3401.6 for an unsafe and dilapidated building at 638 South US Highway 17-92 in DeBary.
(Building Division – Barbara Musslewhite)

Withdrawn

4. **DEB-04-024 – ALTMAN, Gary D.** [Served]

Complaint No. 040603044

Violation of City of DeBary Ordinance No. 11-99, DeBary Sign Regulations, Section 3 (B) for a sign without the required permit at 5 Sanctuary Avenue in DeBary.

(Zoning Compliance – Barbara Baldwin)

Brian Giles, Zoning Compliance Co-Ordinator, states Ms. Baldwin was unable to attend. He further stated the property was in compliance and this case was withdrawn.

5. **DEB-04-026 - HORNE, Michael M. & Joan** [Served]

Complaint No. 040520027

Violation of Volusia County Code of Ordinances, Florida Building Code Sections 104.1.1 and 105.6, for construction for which the required building permit(s) and inspection approvals have not been obtained or maintained at 37 Sanford Avenue in DeBary.

(Building Division – Barbara Musslewhite)

Ms. Musslewhite presents 3 photo's to the Code Board and Mrs. Horne verifies the photo. Ms. Musslewhite states she received an anonymous complaint that a metal storage shed was constructed without a permit on the rear of the property. On May 26, 2004 she observed the shed. It was within one to two feet of the wood privacy fence on the rear of the property and Volusia County records document there was NO permit issued. On June 3, 2004 the owners signed for receipt of service for the violation. There has been no permit obtained to date and staff requests an Order of Non- Compliance and a hearing to fine be set for January 12, 2005.

Mr & Mrs. Horne and Mr. Harrington appeared. Mrs. Horne states she purchased the property in February 2000. She states the shed was on the property at that time and has been there since 1984 as shown in the Property Appraiser's Records. Mrs. Horne asks why this is a problem NOW. She further states that even Blackwells survey shows the property with the shed in a 1984 survey. It is an 8 x 10 foot shed.

Mr. Pulver asks Ms. Musslewhite how to proceed. Ms Musslewhite recommends the current property owner obtain an affidavit from the prior property owner or a neighbor stating the shed has historically been there. This affidavit should be given to Mary Robinson, the Director of the Volusia County Building Dept. If the shed would be allowed as a zoning issue and also the permitting issue could be addressed by Ms. Robinson on receipt of the affidavit. Ms. Musslewhite requests a continuance of the case.

Mr. Lee Harrington testifies that he has lived in DeBary for 43 years. That the shed put on the property in the 70's by his friend Alex and it was there when he sold the Horne's the

property.

The Code Board kept the records proffered by the Hornes as evidence in the case. No motion was made by the board to continue.

7. **DEB-04-027 – KING, John D.** **[Sheriff Served]**
Complaint No. 040630095
Violation of Volusia County Land Development Code Ordinance 88-3, Article XI, Section 1104, for altering a Volusia County jurisdictional wetland without a permit at 47 Craycroft Avenue in DeBary.
(Environmental Management – Danielle Dangleman)

Ms. Dangleman testifies she received an anonymous complaint on June 30, 2004 and she inspected the property on July 1, 2004. There was evidence of filling in of the wetlands and of dredging and taking out the vegetation. She produced pictures showing the lots behind Mr. King's home. Mr. King came to her office on July 2, 2004 and he told her he would correct the problem. On July 23, 2004 Ms. Dangleman met him on site and they walked the site together. He acknowledged what had to be done to correct the problem. Ms. Dangleman returned 3 more times and nothing has been done to correct the problem. Pictures of September 20, 2004 show the fill dirt being washed into the wet prairie cutting of hydrology and killing off the plants in the wet prairie. A letter sent via the Sheriff was delivered. Return receipt mail was returned. Mrs. King called Ms. Dangleman stating the problem would be taken care of. On October 26, 2004 Mr. King apologized. He did move one tree but nothing else to comply.

Mr. & Mrs. King did Not appear.

A motion was made to find the property in **Non-Compliance** and the owner to be given 60 days (until January 12, 2005) to get the property into compliance. If the property is NOT in compliance at that time, a fine of \$150 per day will be imposed starting from November 10, 2004. The motion was passed unanimously.

8. **DEB-04-028 – ITURRALDE, Mario V.** **[Sheriff Posted]**
Complaint No. 040312043
Violation of City of DeBary Code of Ordinances, Chapter 30, Article III, Sections 30-103 and 30-104 for junked or wrecked abandon property and vehicle(s) that is inoperative and/or without current license tag at 252 Angeles Road in DeBary.
(Zoning Compliance – Debbie Waggoner)

Phil Salano, Code Enforcement Officer, states the case began on March 12, 2004. In March 2003 the same violation occurred. This should have been filed as a repeat offender. Certified mail was not picked up. The Sheriff served Donna Iturralde on July 28, 2004. An affidavit of service was given to the Code Board. Mr. Salano submitted a photo of a vehicle in the side yard and in a carport. One photo was taken July 7, 2004 by Ms. Waggoner. The other was taken on November 10, 2004. The property owners have had

no contact with Code Enforcement Officers.

Ms. Iturralde submits registrations, and insurance papers dating back to April when it was first tagged and titled. She states she has had trouble getting her mail. She stated the vehicle does run and it has been running the whole time.

Mr. Salano states the pictures show one of the vehicles has not been moved. He wants to inspect it to see that it is operable. Mr. Salano requests a continuance for the inspection.

Mrs. Iturralde admits the vehicle in the carport does not work and is not tagged. She states she thought it was ok in the carport. Just like in a garage.

Mr. Salano amended his request to an order of Non- Compliance and 2 weeks to be in compliance. A motion to find the property in **Non_Compliance** and allow the owner 14 days to bring the property into compliance with the provision of a fine of \$50 per day starting on the 15th day until the property is brought into compliance. The motion was passed unanimously.

9. **DEB-04-029 – PERALTA, Elaine M.** **[Posted]**

Complaint No. 040517001

Violation of Volusia County Code of Ordinances, Florida Building Code Section 3401.6 for an unsafe and dilapidated building at 113 Oak Tree Drive in DeBary.

(Building Division – Barbara Musslewhite)

Ms. Musslewhite received an anonymous call on May 17, 2004 regarding a mobile home that was abandoned following a fire. On June 7, 2004 she inspected the home. There was major damage from the fire and access to the home could be made through a broken window. Thus the home was unsecured. Also a tree fell on the home during the hurricanes. A citation was sent but returned. A neighbor stated they had moved out of state. On October 4, 2004 a Notice was posted on the home and at City Hall. As of this date there has been no contact with the property owner. Staff requests a finding of Non-Compliance and that the City take measures to secure the home.

Mr. Pulver notes that the damage is evident from the pictures Ms. Musslewhite produced. A motion to find the property in Non- Compliance and a fine to be imposed of \$500 per day was made and passed unanimously.

Mr. Langley reviewed the particulars of how the property was posted on the structure and at City Hall. And noted the letter that was sent and undeliverable.

A separate motion was made to advise City Staff to pursue a condemnation proceeding to commence. The motion was passed unanimously.

10. **DEB-04-030 – ROBY, Chad & Tiffany** **[Served]**

Complaint No. 040710006

Violation of City of DeBary Code of Ordinances, Chapter 30, Article III, Sections 30-103

and 30-104 for junked or wrecked abandon property and vehicle(s) that is inoperative and/or without current license tag at 146 Sunrise Boulevard in DeBary.
(Zoning Compliance – Debbie Waggoner)

Withdrawn.

11. **DEB-04-031** – HALL, Michael J. & Joanne **[Served]**
Complaint No. 040628027
Violation of Volusia County Code of Ordinances, Florida Building Code Sections 104.1.1 and 105.6, for construction for which the required building permit(s) and inspection approvals have not been obtained or maintained at 4 Smyrna Drive in DeBary.
(Building Division – Barbara Musslewhite)

Continued.

12. **DEB-04-032** – HALL, Michael J. & Joanne **[Served]**
Complaint No. 040630020
Violation of Volusia County Code of Ordinances, Florida Building Code Section 3406.1 for an unsafe and dilapidated building at 4 Smyrna Drive in DeBary.
(Building Division – Barbara Musslewhite)

Continued.

NEW BUSINESS:

1. Tally Sheets

Anita Gonzales reports Alexander Service at 118 Florence Blvd. Has paid \$3250 towards the fine and a payment of \$500 in lot maintenance which was the reason for the request for the release made earlier and there will be a new home placed on the site soon.

2. As Entertained by Chairman
3. As Entertained by Board Attorney
4. As Entertained by Staff Attorney
5. As Entertained by Staff

ADJOURNMENT:

A motion was made to adjourn at 7:26 P.M. and passed.

If any person decides to appeal any decision made by the Code Enforcement Board with respect to any matter considered at this meeting or hearing, he/she will need a record of the proceedings, and for such purpose he/she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based (FS 286.0105).

Individuals covered by the Americans with Disabilities Act of 1990 in need of accommodations at this public hearing should contact DeBary City Hall, 137 S. U.S. Highway 17-92, DeBary, Florida, 32713; (407) 668-2040, at least five (5) working days prior to the meeting date and time.