

CITY OF DeBARY
REGULAR CODE ENFORCEMENT BOARD MEETING
WEDNESDAY, March 9, 2005
6:00 P.M., Florence K. Little Town Hall
12 COLOMBA ROAD, DeBARY, FLORIDA

MINUTES

CALL TO ORDER

Chairman Don Pulver called the meeting to order at 6:03 P.M.

ROLL CALL

Present: Alan Williamson, Jack Lenzen, Chairman Don Pulver, Bob Rini, John Harvey, City Planner Anita Gonzalez and City Attorney Dan Langley.

Absent: Greg France and Joe Canfield. Excused: Linda Padgett.

County Staff in Attendance: Ms. Kerrigan, Mr. Jiles, Ms. Waggoner, Mr. Vancini, Mr. Solano, and Mr. Ashley.

ADOPTION OF MINUTES

1. The minutes of the regular Code Enforcement Board hearing of January 12, 2005 were presented for adoption. Board Member Bob Rini moved to accept the minutes as presented. John Harvey seconded the motion. All members voted to approve the motion.

Witnesses Sworn In:

City Planner Anita Gonzalez swore in all witnesses who intended to testify.

UNFINISHED BUSINESS:

1. **DEB-03-041 – LITCHFIELD, Josph and/or**
HOME LENDERS TRUST INC. and/or
Myrna Passalacqua, Registered Agent
SECURITY MORTGAGE SERVICES, INC.
Jennifer Twyford, Registered Agent

Complaint No. 031021010

Violation of City of DeBary Code of Ordinance 58-84, Florida Building Code Section 3401.6 for an unsafe and dilapidated building at 249 Toms Road in DeBary.

(Building Division – Tom Reynolds)

*Order of Non-Compliance and Order Imposing Fine/Lien issued at the March 10, 2004, hearing;
*Report & Affidavit of Compliance was issued with a compliance date of February 9, 2005;

Order of Compliance

Scott Ross, Esquire, representing Home Lenders Trust appeared at the hearing. Ms. Carol Kerrigan appeared on behalf of the Volusia County Code Enforcement Dept. She testified that the property is in compliance. Board Member Bob Rini motioned to find the property in compliance. Alan Williamson seconded the motion. All members voted to approve the motion.

2. **DEB-04-017 – WEST, Kim Merrell**

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)

*Order of Non-Compliance and Order Imposing Fine/Lien issued at the November 10, 2004, hearing;
*Report & Affidavit of Compliance was issued with a compliance date of November 24, 2004;
*Order of Compliance issued at the January 12, 2005, hearing;

Order Dismissing & Releasing Fine/Lien

Debbie Waggoner, Volusia County Code Enforcement, testified that the property was found to be in compliance at the January 12, 2005 hearing. This case is ready to be dismissed and there is no fine. Chairman Don Pulver motioned to find the property in compliance and to dismiss the case. Board Member Bob Rini seconded the motion. All members voted to approve the motion.

3. **DEB-04-027 – KING, John D.**

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)

*Order of Non-Compliance and Order Imposing Fine/Lien issued at the November 10, 2004, hearing;
*Report & Affidavit of Compliance was issued with a compliance date of January 3, 2005;
*Order of Compliance issued at the January 12, 2005, hearing;

Order Dismissing & Releasing Fine/Lien

Phil Solano, Volusia County Code Enforcement Officer, stated this property was found in compliance and should be dismissed. Chairman Don Pulver motioned to find the property in compliance and to dismiss the case. Board Member Bob Rini seconded the motion. All members voted to approve the motion.

4. **DEB-04-028 – ITURRALDE, Mario V.**

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)

*Order of Non-Compliance and Order Imposing Fine/Lien issued at the November 10, 2004, hearing;

*Report & Affidavit of Compliance was issued with a compliance date of November 24, 2004;

*Order of Compliance issued at the January 12, 2005, hearing;

Order Dismissing & Releasing Fine/Lien

Debbie Waggoner, Volusia County Code Enforcement Officer, informed the Board that this case was found in compliance and there is no fine. This case should be dismissed. Chairman Don Pulver motioned to find the property in compliance and to dismiss the case. Board Member Bob Rini seconded the motion. All members voted to approve the motion.

5. **DEB-98-015 - GREENE, Gary & Theresa**

Complaint No. 980311057

Violation of City of DeBary Code of Ordinances, Chapter 22, Buildings and Building Regulations, Article II, Section 22.32 - Standard Building Code, 1994 Edition, Sections 104.1.1 and 105.6, for construction (room addition) for which the required building permit(s) and inspection approvals have not been obtained or maintained at 135 Eldorado Drive in DeBary.

(Building Department – Tom Reynolds)

*Order of Non-Compliance issued at the January 13, 1999, hearing;

*1st Amended Order of Non-Compliance issued at the April 14, 1999, hearing;

*Order Imposing Fine/Lien issued at the June 9, 1999, hearing;

*Foreclosure action taken by Veterans Administration;

*Summary of Final Judgment issued March 22, 2000;

*Per Allen Rubio, Asst. City Attorney for DeBary lien eliminated;

Order Dismissing & Releasing Fine/Lien

City Planner Anita Gonzalez stated that previously the V.A. foreclosed on the property dismissing our action on the property. The case is presented here to clean the record. The illegal addition is still in existence at this house and Mr. Reynolds will be in contact with the new owners. Chairman Don Pulver motioned to dismiss this case. Board Member Bob Rini seconded the motion. All members voted to approve the motion.

HEARINGS AND PRESENTATION OF FILED NOTICES OF VIOLATIONS:

1. **DEB-04-039 – GREEN, Mitchell A.**

Complaint No. 041021009

Violation of City of DeBary Ordinance, Chapter 14, Article IX, Section 14-201 for not posting assigned building address numbers at 1 Palmira Road in DeBary.

(Zoning Compliance – Debbie Waggoner)

Chairman Don Pulver informed the Board that this case was withdrawn.

2. **DEB-05-001 – RICHARDSON, Mary Ann**

Complaint No. 041209039

Violation of City of DeBary Ordinance 80-8, as amended, Article VIII, Section 801.01 for failing to observe the required setbacks at 516 Weston Place in DeBary.

(Zoning Compliance – Debbie Waggoner)

Chairman Don Pulver informed the Board that this case was continued to the May 11, 2005 meeting.

3. **DEB-05-008 – BAUERLE, SR., Donald C. TR**

Complaint No. 050127072

Violation of City of DeBary 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 488 West Highbanks Road in DeBary.

(Zoning Compliance – Debbie Waggoner)

Carol Kerrigan, Volusia County Code Administration Manager, stated she was in attendance with several members of her staff to provide a historical record of the problems existing at this property. Those staff members present were: Don Vancini, Volusia County Building Official, Scott Ashley the County Planning Manager, Bryan Jiles and Phil Solano from Zoning Compliance and Debbie Waggoner who would present the case.

Debbie Waggoner, Volusia County Code Enforcement Officer, provided a handout with pictures for four of the violations to the Board members and to Mr. Bauerle. She testified there were several incidents of building without permits or inspections in the recreational vehicle park. This investigation started in March of 2004 when neighbors complained. The issue of raw sewage needs to be addressed by another agency. There are, however, building and zoning violations on this property. She testified that in June 2004 she and other staff members met with Mr. Bauerle on site, toured the facility and noted the violations. They met again in August 2004 and presented the issues needing work to Mr. Bauerle. Mr. Bauerle was to review his records and get back in contact with them. He failed to contact the County. The staff scheduled another meeting with Mr. Bauerle on December 9, 2004 at his office.

He was given the list of lots the County staff had discovered for which no permits or inspections for additions to the trailer trailers, campers, etc. had been obtained from the County. He was also told that if he could not produce documentation to the contrary, code violation proceedings would commence. For example: additions, roof overs, screen rooms and decks. Therefore, the County is presenting four (4) violations this evening; but there are a total of 54 violations which were discovered in the park. Staff is requesting an order of non-compliance for the four lots with the provision that the owner would have 60 days to obtain permits or remove the construction; or the staff would recommend a fine of \$250 per day to being on May 12, 2005, the day after the May 11th Code Board meeting.

Debbie Waggoner noted on lot 98 there is an RV with an aluminum roof over and a Florida room addition. On lot 142 there is an RV with a Florida room that has glass windows. On lot 119 there is an RV with a Florida room where screen windows have been converted to glassed windows. On lot 135 an RV has a screen room and a deck attached.

City Attorney, Dan Langley, asked who is responsible to get the permits for improvements within the park. Mr. Vancini, Volusia County Building Official, said state law provides for a mobile home owner to apply for a permit once the mobile home is situated on the site. There is no exemption for RV's. A permit would have to be pulled by a licensed contractor, in this instance. City Attorney Dan Langley asked who is responsible to secure the permit, the park owner or the RV owner. Don Vancini, Volusia County Building Official, stated it is his opinion that it is the park owner because it is their property. City Attorney Dan Langley also shared that opinion. Chairman Don Pulver asked that if an RV owner applies for a permit what happens. Don Vancini, Volusia County Building Official, stated the RV owner would be turned down and be told they had to get a licensed contractor to obtain the permit. City Attorney Dan Langley asked Debbie Waggoner of Volusia County Code Enforcement, how long these structure additions were in existence before the County became aware of the violations. Ms. Kerrigan, Volusia County Code Administration Manager, stated the County would have no way of knowing that unless a permit were obtained. She stated the park was opened in the 1970's.

Richard Brown, former manager of Highbanks Marina, stated he was the manager from 1986 to January of 2004. He had some handouts for the Board dating from 1997. In July of 1997 Howard Hall was the Volusia County Building Official. Mr. Hall called him stating there were 48 code violations at the RV Park. He and Mr. Hall worked on the list to determine the violations. It took him 2 months to work on the list. He met with Mr. Hall on September 16, 1997 and 7 County workers. The bottom line was that of the 48 violations, one was an empty lot. They found permits for all but 7 of the 48 violations. After that time, the 7 lot renters who needed permits got them. He also talked to Mrs. Robinson at the time. He was concerned that he would never have to re- address these same issues in the future. He requested a letter stating these properties were in compliance. He sent Mrs. Robinson a letter in 1998 again requesting a letter stating the park was in compliance. And on exhibit 11A there are listed 9 permits that were obtained to make the park compliant. To this date he never got the letter he requested. Now he is retired but has come back to deal with the County. Chairman Don Pulver asked how many of these violations are the same violations that were already dealt with in the past. Mr. Brown answered 18 of them.

In 1997 he talked to the County Attorney, Mr. Weaver, and found there was no statute of limitations for the building and zoning code violations. In August, Janice, in the County Building Dept., told him that records were only available back to 1982. Then Brenda told him when the Growth Management Plan came about only records from 1986 forward were available. Mr. Howard Hall, Volusia County Building Official, agreed with him to establish February 1, 1986 as the start date for review of violations within Highbanks Marina.

Board member Jack Lenzen asked Mr. Brown to walk him through the permit process with the RV owners. He noted he required a copy of the permit for his files before work was done. Chairman Don Pulver asked if the RV's are owned individually. Mr. Brown stated yes, 83% are individually owned. And many of them have been sold and re-sold many times. Mr. Brown stated he kept a daily journal for the 18 years he worked at the park. He listed the events of the day on a daily basis of people he talked to, and what problems were dealt with. Chairman Don Pulver restated that 18 were dealt with and cleared back in 1997. Mr. Brown stated yes and cleared. City Attorney Dan Langley asked if any of the 4 lots before the Board tonight were any of the 18 already cleared up. Mr. Brown stated lot 98 has had the room addition since 1987. Ms. Kerrigan was asked how she wanted to resolve these cases. She responded she wanted permits and inspections to be obtained or the construction removed. She believes the County is correct, on lot 98 the roof over has not been there since 1987.

Chairman Don Pulver stated he believes 60 days is not an unreasonable extension of time. Mr. Brown's packet shows lot 135 to have a permit for a screen room and deck. Ms. Kerrigan stated she was there in 1987 and the County did not give letters of compliance after a CO is issued. Howard Hall brought certain ones to the Code Board and they were brought into compliance.

City Attorney Dan Langley addressed the audience and stated all questions were to be directed to the Board by the citizens not directly to the staff. Board Member Bob Rini asked Mr. Brown if he had the file of the permits, to please produce them and get the issues resolved.

Nan Lafferty, 32 River Bluff Trail, stated she lives behind the campground in the River Bluff subdivision. She said she believed the campground was to have only mobile vehicles and there was a 30 foot set back required in the site plan. Many of the RVs built additions/structures in the buffer area. Don Bauerle owns a home in River Bluff that abuts the river and the other homes in her development have a deeded access easement to the river. Mr. Bauerle opened the fence between his property and the campground for his access to the campground and that right now the campground has more access than the residents of her development and she would like that situation addressed. She requested that the Board make the campground come into compliance regarding the easement.

Terry Cumberledge, 24 River Bluff Trail, stated that she lives next door to Nan Lafferty. She has lived there for 15 years. Over the years there have been more and more buildings. She is concerned about the sewage issue. She asked if Don Pulver was employed by the campground. He responded yes, as an independent contractor. She said that there are 400 to 500 people living in the campground. It is a small city and the buffer has been breached. There is hardly any buffer left. There are sheds, and all kinds of things against the fence at the end of the buffer.

Debbie Waggoner stated these issues are not before the Board this evening, but they are problems. Terry Cumberledge asked how do you put additions like master baths on an RV that is supposed to be mobile,

it isn't a mobile home park. Chairman Don Pulver noted the Board could only address Building and Zoning Code compliance issues; the issuance of permits for the additions is the responsibility of Volusia County. Mrs. Cumberledge noted Highbanks Marina has been issued a notice of violation from the Health Department for health code violations, and F.D.E.P. has issued them a permit denial for their package sewage treatment plant. Her property backs up to their current sewage plant. In the beginning there was no problem with run off or odor but now that they have grown and added permanent residents and expanded their restaurant there have been more issues with the sewage. She handed out pictures of the property and drain field that the Marina installed 10 feet from her fence without a permit from F. D.E. P. In March 2003 it spilled thousands of gallons of untreated sewage. She asked that they be required to be in compliance and complained that issues arise with them every few years.

Jay Erndl, 74 River Bluff Trail, representing the River Bluff Homeowners Association, said that since the property is adjacent to their neighborhood they want to protect their property rights and maintain the separation between the commercial and residential areas. The Homeowners Association wants all violations to be corrected.

John Cumberledge, 24 River Bluff Trail, asked Chairman Don Pulver if he feels there is a conflict of interest with him sitting on the Board judging someone who pays him thousands of dollars a year. City Attorney Dan Langley then asked Chairman Don Pulver if he currently receives money from the landowner of Highbanks Marina. Chairman Don Pulver said "I do". City Attorney Dan Langley asked do you think you can make a fair and impartial judgment? Chairman Pulver responded "Yes sir".

Mr. Cumberledge said he finds Don Bauerle to be extremely difficult to deal with about problems. He complained that he feels that Mr. Bauerle thinks he is above the law. He said that violations take years to be dealt with by the County. He asked people to come to his property and see the debris and sewage and the expansion of the homes up to 2000 square feet that don't pay taxes.

City Attorney Dan Langley asked if Scott Ashley, Volusia County Zoning Manager, would speak to some of the zoning issues raised by the citizens. Board member Jack Lenzen asked Mr. Ashley what is the size on one of the RV's if one wants to attach a screen room. He responded that in 1989 his predecessor allowed temporary structures in RV parks and campground. The definition he used is: "Any structure such as a patio, roof over, screen room, shed or the like which is capable of being dismantled by means of removing bolts or screws without demolition and be reused and does not have a footing but may have a slab beneath it; such structures are not permitted to have HVAC systems and must have a 10 foot separation between structures". If there is not a permit issued, there is a violation. If there is a permit these guidelines are utilized. There is not a definition of the size of the RV; there is the space standard. The Marina project was approved in 1982. There is no limit in the zoning ordinance on how long the RV can be there. It is supposed to be a temporary use of the site. Of the 54 violations there are rooms with walls, and HVAC that are not of a temporary nature.

Chairman Don Pulver asked the Board if they have any questions. Board member Bob Rini asked Mr. Bauerle to do the research to help document the lots with permits. He then made a motion to find the

property in non-compliance and allow the owner 60 days until May 11,2005 at the next Code Board meeting to bring the property into compliance on the 4 lots identified that evening (Lots: 98, 119, 135, 142). If the property is not in compliance at that time the Board would to impose a fine of \$250 per day. Board member Alan Williamson seconded the motion. Board member John Harvey voted nay. All other Board members voted to approve the motion.

NEW BUSINESS:

1. Tally Sheet
No new business.
2. As Entertained by Chairman
3. As Entertained by Board Attorney
No new business.
4. As Entertained by Staff Attorney
No new business.
- .5. As Entertained by Staff
No new business.

ADJOURNMENT:

Board member Bob Rini made a motion to adjourn the meeting. Board member John Harvey seconded the motion. All members voted to approve the motion. The meeting adjourned at 7:20 P.M.

ADOPTED MAY 11,2005 BY
THE DEBARY CODE
ENFORCEMENT BOARD

Don Pulver, Chairman