

**CITY OF DeBARY**  
**REGULAR CODE ENFORCEMENT BOARD MEETING**  
**WEDNESDAY, July 13, 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 6:00 P.M.

**ROLL CALL**

Present: Alan Williamson, Jack Lenzen, Chairman Don Pulver, Bob Rini, Rosemary Obenland, Greg France (late), City Manager Maryann Courson and City Attorney Dan Langley.

Unexcused: John Harvey, Joe Canfield, and Linda Padgett.

County Staff in Attendance: Mary Robinson, Carol Kerrigan, Bryan Jiles, Debbie Waggoner, Dave Hooker, Don Vancini, and Scott Ashley.

**ADOPTION OF MINUTES**

1. The minutes of the regular Code Enforcement Board hearing of March 9, 2005, were presented for adoption. Mr. Rini moved to accept the minutes as presented. Ms. Obenland seconded the motion. All members voted to approve the motion.

**Witnesses Sworn In:**

City Manager Maryann Courson swore in all witnesses who intended to testify.

**UNFINISHED BUSINESS:**

1. **DEB-03-025 – WADLINGTON, Ramona M.** **[Served]**  
Complaint No. 020521027  
Violation of City of DeBary Code of Ordinances, Chapter 14, Buildings and Building Regulations, Article II, Section 22.32 - 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 125 Oak Tree Drive in DeBary.  
**(Building Division – Tom Reynolds)**  
\*The Enforcement Official continued this case from the September 10, 2003, hearing;  
\*Order of Non-Compliance and Order Imposing Fine/Lien issued at the January 14, 2004, hearing;  
\*Report & Affidavit of Compliance was issued with a compliance date of December 8, 2004;  
\*Order of Compliance issued at the January 12, 2005, hearing;

\*City Council of DeBary issued an Amended Order Imposing Fine/Lien on April 13, 2005;

\*Fine in the amount of \$1,500.00 paid on June 10, 2005;

**Order Dismissing, Satisfying & Releasing Fine/Lien**

Mr. Rini motioned to approve the order dismissing, satisfying and releasing the fine/lien. Mr. Williamson seconded the motion. All members voted to approve the motion.

2. **DEB-05-008 – BAUERLE, SR., Donald C. TR** [Served]

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)**

\*Order of Non-Compliance issued at the March 9, 2005, hearing;

\*The May 11, 2005, hearing was cancelled due to a lack of quorum for the Board and continued to the July 13, 2005, hearing;

**Hearing to Impose Fine/Lien**

Carol Kerrigan, Volusia County Code Enforcement Manager, asked the Board to hear the second case for this property directly after hearing the first. Mr. Rini made a motion to approve the request, and Mr. Williamson seconded. All members voted to approve the motion. Ms. Kerrigan testified that the property was still in non-compliance; that the owner has not made any effort to secure permits or remove the un-permitted structures; and that staff recommends a \$250 per day fine. Mark Watts, attorney for the property owner, asked the Board to table both cases until the September meeting.

Terry Cumberledge, 24 River Bluff Trail, passed out the approved 1982 plat for the campground and the paperwork regarding the special exception approved by the County for the campground. She pointed out that the number of units has increased since 1982, and that the 30-foot setback requirement is not being observed.

Janet Fansher, representative for the River Bluff Homeowner's Association and resident of 425 Fox Run, asked the Board to impose a fine on the property and for any Board members with a potential conflict of interests to recuse themselves.

Mr. France recused himself due to his receipt of campaign contributions from the owner. Chairman Pulver recused himself due to his business relationship with the owner. Mr. Rini made a motion to impose a fine of \$250 per day immediately. There was not a second to the motion. Ms. Obenland made a motion to amend the Order of Non-Compliance to allow for a date of compliance to be no later than September 14, 2005, or a fine of \$250 per day would be imposed immediately. Mr. Williamson seconded the motion. The motion passed with Ms. Obenland, Mr. Williamson, and Mr. Lenzen voting in favor of the motion. Mr. Rini voted against the motion.

**HEARINGS AND PRESENTATION OF FILED NOTICES OF VIOLATIONS:**

8. **DEB-05-019 – BAUERLE, Sr., Donald C.** [Served]  
Complaint No. 050412007  
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)**

Debbie Waggoner, Code Compliance Officer, testified that there are multiple violations of the same type at the park. She provided a handout with pictures of ten of the units with violations to the Board members. Bryan Jiles, Code Compliance Coordinator, asked that the Board find the property in non-compliance.

Mr. Watts asked that the case be continued until the September meeting. Mr. Watts asked Ms. Waggoner how far back the permit records were researched. Ms. Waggoner answered they looked back to 1986.

Nan Lafferty, 32 River Bluff Trail, asked if the violations would be allowed to continue for another sixty days if the September meeting is cancelled as the May meeting had been. She also stated that it was unfair for the owner to hire an attorney at the last minute.

John Cumberledge, 24 River Bluff Trail, said that it did not matter how old the residents in the campground are, the zoning laws still apply.

Chairman Pulver and Mr. France again recused themselves. Mr. Rini made a motion to find the property in non-compliance and if not corrected by September 14, 2005, a fine of \$250 per day would begin immediately. Mr. Lenzen seconded the motion. The motion carried 4-0.

1. **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 – Dave Hooker)**  
\*The Enforcement Official continued this case from the November 10, 2004, hearing;  
\*The Enforcement Official continued this case from the March 9, 2005, hearing;

Chairman Pulver informed the Board that this case was withdrawn.

2. **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 – Dave Hooker)**  
\*The Enforcement Official continued this case from the November 10, 2004, hearing;

\*The Enforcement Official continued this case from the March 9, 2005, hearing;

Chairman Pulver informed the Board that this case was withdrawn.

3. **DEB-05-006** – **RUSSO, Melane & RUSSO, Elio**      **JTWROS RUSSO, Daniel**  
[Sheriff Served]

Complaint No. 040330005

Violation of City of DeBary Ordinance 80-8, as amended, Section I-1 for having a business without the required licenses, permits and/or site approval at 558 South US Highway 17-92 in DeBary.

**(Zoning Compliance – Debbie Waggoner)**

\*The May 11, 2005, hearing cancelled due to a lack of quorum for the Board and continued to the July 13, 2005, hearing;

Ms. Waggoner testified that the pool and screen business is being run out of a single-family residence without the proper licenses, permits and/or site approval. She handed out pictures of the site to the Board, explained them, and asked the Board for an order of non-compliance with a fine to be imposed immediately.

Mr. France made a motion to find the property in non-compliance and to order the property to be in compliance by September 14, 2005. Mr. Rini seconded the motion. The motion carried unanimously.

4. **DEB-05-011** – **KERR, James**      [Sheriff Served]

Complaint No. 041123019

Violation of City of DeBary Ordinance 80-8, as amended, Article VII, Section R-4 for having a junkyard where not permitted at 72 Alano Road in DeBary.

**(Zoning Compliance – Debbie Waggoner)**

\*The Enforcement Official continued this case from the May 11, 2005, hearing;

Chairman Pulver informed the Board that this case was continued.

5. **DEB-05-014** – **KERR, James**      [Sheriff Served]

Complaint No. 041115007

Violation of City of DeBary Ordinance, Florida Building Code Section 3401.6 for an improperly maintained structure 72 Alano Road in DeBary.

**(Building Division – Dave Hooker)**

\*The May 11, 2005, hearing cancelled due to a lack of quorum for the Board and continued to the July 13, 2005, hearing;

Dave Hooker, Code Compliance Officer, testified to the facts of the case and presented pictures of the violation to the Board. He explained his unsuccessful attempts to verbally contact the owner. He asked the Board for an order of non-compliance.

James Kerr, property owner, stated that he was waiting to re-roof the house until he completed an addition. He said he had wished to do it at one time, but was willing to re-roof now if it had to be done.

Mr. Hooker stated that Mr. Kerr should have a roofing permit issued prior to the September meeting.

Mr. Rini made a motion to find the property in non-compliance and to order the property to be in compliance by September 14, 2005. Mr. Williamson seconded the motion. The motion carried unanimously.

6. **DEB-05-015 – SCHIRALDI, Michael P. & Deborah** [Served]  
Complaint No. 041123033  
Violation of City of DeBary Ordinance 80-8, as amended, Article VII, Section R-4 for having a junkyard where not permitted at 129 Plantation Road in DeBary.  
(Zoning Compliance – Debbie Waggoner)

Chairman Pulver informed the Board that this case was withdrawn.

7. **DEB-05-016 – HERRMANN, Russell B. LF/ESTATE** [Posted]  
Complaint No. 050111002  
Violation of City of DeBary Code of Ordinances, Section 22.32 - Florida Building Code, Sections 104.1.1 and 105.6, for construction of a fence for which the required building permit(s) and inspection approvals have not been obtained or maintained at 230 Lakewood Drive in DeBary.  
(Zoning Compliance – Debbie Waggoner)

Ms. Waggoner presented pictures of the property to the Board and testified that neither of the fences in the photos had been permitted. She asked the Board to issue an order of non-compliance and allow the owner time to secure permits, or otherwise resolve the situation.

Russell Herrmann, property owner, stated that he had obtained a permit over twenty years ago for the chain link fence. He said the hurricane damaged the fence, and he had made repairs to the fence.

Mr. France asked if the fence was six feet tall. Mr. Jiles answered that the chain link fence was four feet, and the plastic fence was six. He stated that it violated the setback requirement, and would have to be approved through the variance process in order to remain where it is. Mr. France noted that the fence material did not appear to be standard. Don Vancini, Chief Building Official, stated that he had never seen fencing material like this, and he was not sure if it would be approved. Mr. Herrmann stated that it was PVC roofing material.

Mr. Rini made a motion to find the property in non-compliance and to order the property to be in compliance by September 14, 2005. Mr. Williamson seconded the motion. The motion carried unanimously.

Mrs. Courson said that the City would send a letter to Mr. Herrmann outlining the steps he needs to take to get his property into compliance.

9. **DEB-05-023 – ALTMAN, Gary D.** [Served]  
Complaint No. 050426125  
Violation of City of DeBary Ordinance 80-8, as amended, Article VII, Section B-5 for

violating the approved Site Plan at 5 Sanctuary Avenue in DeBary.  
**(Zoning Compliance – Debbie Waggoner)**

Ms. Waggoner presented the site plan and pictures of the property to the Board. She testified to the facts of the case and noted that there are multiple items stored on the property that are not on the approved site plan. She informed the Board that the site plan allows for inside storage only, and there are numerous vehicles being stored outside. She also noted the problem of illegal access and the owner not maintaining the landscape buffer. She asked the Board to issue an order of non-compliance and allow the owner time to remove the illegal outdoor storage and resolve the situation.

Chairman Pulver said that he would like to discuss all three cases on this property at the same time, because they are closely related and because Ms. Waggoner's pictures and testimony encompassed all three cases. Mr. Langley stated that they would have to be voted on individually after discussion.

Mr. Lenzen made a motion to find the property in non-compliance and to order the property to come into compliance by September 14, 2005. Mr. Rini seconded the motion. The motion carried unanimously.

10. **DEB-05-024 – ALTMAN, Gary D.** [Served]  
Complaint No. 050427011  
Violation of City of DeBary Ordinance 80-8, as amended, Article VII, Section B-5 for operating a business where not permitted at 5 Sanctuary Avenue in DeBary.  
**(Zoning Compliance – Debbie Waggoner)**

Chairman Pulver informed the Board that this case was withdrawn.

11. **DEB-05-025 – ALTMAN, Gary D.** [Served]  
Complaint No. 050427033  
Violation of City of DeBary Ordinance 80-8, as amended, Section IX, 900.04 for vehicle storage without the required certificate of occupancy at 5 Sanctuary Avenue in DeBary.  
**(Zoning Compliance – Debbie Waggoner)**

Ms. Waggoner recommended that the case be withdrawn. Chairman Pulver informed the Board that this case was withdrawn and would not be heard.

12. **DEB-05-026 – ALTMAN, Gary D.** [Served]  
Complaint No. 050303030  
Violation of City of DeBary Ordinance 80-8, as amended, Article VIII, Section 808.06 for illegal access over landscape buffer and parking on landscape buffer at 5 Sanctuary Avenue in DeBary.  
**(Zoning Compliance – Debbie Waggoner)**

Chairman Pulver noted that the Board had already discussed the violation while they discussed the earlier cases on the same property. Mr. Rini made a motion to find the property in non-compliance and to order the property into compliance by September 14, 2005. Mr. Lenzen seconded the motion. The motion passed unanimously.

13. **DEB-05-029 – MEDIATRIX c/o Concepcion S. Anayas TTEE** [ ]  
Complaint No. 050622002  
Violation of City of DeBary Ordinance 80-8, as amended, Article VIII, Section 811.02 for a boat without a current validation sticker and/or trailer without a current license tag at 2 Sunset Drive in DeBary.  
**(Zoning Compliance – Debbie Waggoner)**

Chairman Pulver informed the Board that this case was withdrawn.

14. **DEB-05-030 – MEDIATRIX c/o Concepcion S. Anayas TTEE** [ ]  
Complaint No. 050622005  
Violation of City of DeBary Ordinance 80-8, as amended, Article VII, Section B-4 for storing a boat and/or trailer where not permitted at 2 Sunset Drive in DeBary.  
**(Zoning Compliance – Debbie Waggoner)**

Chairman Pulver informed the Board that this case was withdrawn.

**NEW BUSINESS:**

1. Tally Sheet

Chairman Pulver asked staff about DEB-00-002. Mrs. Courson stated that the case had been settled.

Chairman Pulver asked Mr. Langley about the status of the Duvall property. Mr. Langley answered that the City is currently in litigation to collect \$263,000 in fines.

Mr. Rini asked for the status on Riverside Condos. Mrs. Courson stated that the City has entered into a payment agreement with the Association.

2. As Entertained by Chairman

No new business.

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:**

The meeting adjourned at 8:30 P.M.

**APPROVED 09/14/05  
THE DEBARY CODE  
ENFORCEMENT BOARD**

**Don Pulver, Chairman**