

**CODE ENFORCEMENT BOARD
JANUARY 25, 2007
MINUTES FOR JANUARY**

1. The meeting was called to order at 2:04 p.m. by Chairman, Leonard Kaul Jr.
2. The Pledge of Allegiance was led by Chairman Kaul.
3. Roll call:

Leonard Kaul, Jr.	Present
Ken Brown	Present
John Hehn Jr.	Present
Glenn Kaisner	Absent
Jeff Warner	Absent
Richard Harris	Present
Jim Lorenz	Present

4. Approval of Minutes:

It was moved by Ken Brown and seconded by Richard Harris to approve the minutes as printed. Upon roll call the vote to approve was: Kaul, yes, Brown, yes, Hehn, yes, Harris, yes, and Lorenz, abstaining.

5. Old Business:

There was a brief discussion about the last meeting, which was held on November 10, 2005. Chairman Kaul asked about the disposition of the Rose St. Germaine case that was heard at that meeting. Neil Schwartz confirmed that Ms. St. Germaine is now in compliance, and that the Schwarz/Gulf Coast Recovery case is still in Federal court and no further enforcement action can be taken at this time.

There was a discussion about the rules and regulations of the Code Enforcement Board. They were read by Mr. Kaul. It was moved and seconded to adopt the rules and regulations as read. Upon roll call the vote to adopt was unanimous.

Election of officers for the upcoming year was held. It was moved and seconded to nominate Ken Brown as Vice-Chairman. Upon roll call the vote was:

Mr. Kaul	Yes
Mr. Brown	Abstained
Mr. Hehn	Yes
Mr. Harris	Yes
Mr. Lorenz	Yes

It was moved and seconded to re-elect Leonard Kaul as Chairman. Upon roll call the vote to re-elect was unanimous.

6. Case CEB 2007-01
11105 8th Street E
Michael Busjahn

Violation of City code Sec. 68-460 – Minimum yard regulations for accessory structures.

All applicants, witnesses, members of staff or other persons wishing to address any item before the board of a quasi-judicial nature were duly sworn at this time.

Del Powell, Building Inspector, presented the board with the violation and the evidence. The violation was for a gazebo that did not meet the 25 foot set-back requirements. The enforcement measures that were taken were presented to the board. Neil Schwarz presented the board with photographs on the structure that is currently in place. The original gazebo was removed, and a portable gazebo was erected in its place. Mr. Lorenz asked if the issue before the board was the original structure, or the current structure. Mr. Schwarz explained that the issue was the new gazebo in the rear setback. It is the same violation. Mr. Hehn asked if the structure was anchored down, or if it was movable.

Helen and Jack Davis were present as witnesses. Mr. Schwarz asked how long the gazebo was in place. Ms. Davis answered that it was there at least 18 months. When asked if they had tried to make an agreement with their neighbor Mr. Davis answered in the affirmative. The structure and fence obstructs their view from their kitchen. There is a permit for the fence, which is legal. Ms. Davis stated that the structure is permanent, not temporary. It never comes down, and has electricity.

Mr. Bujahn was called to the podium. He presented a written statement and pictures, which were entered as Exhibit A. Ms. Bujahn, due to medical reasons, must limit her sun exposure. Without the shade provided by the gazebo it would limit her ability to enjoy the backyard. Mr. Kaul asked if there are exceptions made for medical reasons. Ms. Kitts stated that Mr. Bujahn could have applied for a variance, which could have been given for reasons of hardship. Mr. Bujahn stated that the gazebo does not obstruct views due to its location and open design. He stated that this did not become an issue until the fence was put up. He does not believe that the gazebo meets the definition of a structure. Mr. Kaul asked if the structure was wired for electricity. Mr. Bujahn stated that he uses an extension cord to power Christmas light type lights. They are removable.

Mr. Hehn asked if they had spoken with their neighbor about adjusting the fence. Mr. Kaul stated that the issue under discussion was the gazebo, and whether it was a temporary structure. Mr. Hehn asked if the extension cord was buried.

Mr. Brown asked if there were bolts holding the structure to the ground. Mr. Bujahn stated that there were not. Mr. Harris asked Mr. Schwarz what kind of winds the structure would have to withstand. Mr. Schwarz answered that it must withstand 130 mph winds. Mr. Bujahn asked what he did in the event of a storm. He stated that he takes the top off. The bare infrastructure has withstood all storms thus far. Mr. Harris stated that he thought that it would be prudent to fold it up each time it was not in use. Mr. Bujahn presented photographs of the original gazebo. It was entered into the record as Exhibit B. The old structure was in violation of the setback rule. The new structure is in violation if it is found to be a permanent structure. It is not a violation if it is found to be a temporary structure. Mr. Bujahn was dismissed from the stand.

Mr. Hehn asked Mr. Scharz if they would have been cited if the new structure had been there originally. Mr. Schwarz stated that they would not have been. Mr. & Mrs. Davis came back to the stand to make further comments. They stated that they would not have an issue if the gazebo were taken down when not in use. They stated that they had no knowledge of Mrs. Bujahn's medical condition. They stated that it hurts their view tremendously. Ms. Davis stated that to her permanent means that it stays up all the time, and this "temporary" structure has been made permanent. Mr. Bujahn was called back to the podium. He stated that Ms. Davis, under oath, stated that the structure had never come down. Mr. Davis just stated that it was put up at 3:00 on Saturday, which was a direct conflict of what was stated earlier. He has tried to be neighborly and find a good position with this and has not had it reciprocated. Mr. Lorenz asked if the structure was contained in concrete footings, or if there was an intention of it. Mr. Bujahn stated that it was not, nor would be. Mr. Harris recommended that it be folded up when not in use, and asked if he would be willing to do that. Mr. Bujahn stated that it might be difficult for his wife to do that when he is not at home. Mr. Harris asked if his three children were able to assist in erecting the gazebo. Mr. Bujahn stated that he doesn't mind taking it down, but that he doesn't want to be told when he has to take it down. Mr. Hehn stated that nowhere does the definition differentiate between permanent and temporary structures. Mr. Schwarz stated that the original gazebo was considered permanent, but the new one was on the line of a table and chairs, and other items that are removed as needed. Ms. Kitts stated that these canopies are not allowed to be kept overnight on the beach. There is another resident that puts up one of these structures each Sunday to wash his car, but it is for day use only. Mr. Kaul closed the hearing and opened up discussion by the board.

Ken Brown stated that everyone needs to think about what they would do in consideration of their neighbor. Mr. Kaul asked if a structure implied permanency. Mr. Schwarz called it a non-permanent structure. Mr. Schwarz stated that the issue was, was it permissible – is it permanent, and does it need a permit. The first gazebo would have had to have a permit and meet all requirements. He stated that this structure could not be permitted. There are no requirements on accessory structures other than setbacks and height

requirements. Mr. Kaul stated that there are no regulations on the books about tents. What is the determining factor in determining whether this is a violation or not. Mr. Hehn stated that he goes back to his question regarding whether he would have cited this if it were the original structure, and the answer was no. Lynn Rosetti defined temporary use as defined by City Code. Temporary use is defined by 90 days. She clarified that a variance was hardship on the land, and not due to medical reasons. Mr. Harris stated that it is not a permitted or permanent structure, and comes down to an issue of common courtesy. He thinks both parties need to give a little bit. Mr. Kaul stated that the issue before the board was to make a decision as to whether it was a permissible structure, or a temporary, nonpermissible structure. This structure is a tent. If the tent stands for longer than 90 days there may be a violation of another ordinance.

Mr. Schwarz stated that the case that was brought to the board was the original structure. That structure is down. We do not have a violation on the current structure. The motion that we are looking for is to specify that Mr. Bujahn is in compliance and he has taken the illegal structure down. It was moved by Ken Brown that the structure that was in violation has been removed, and the current structure complies with the code. It was seconded by Mr. Harris. Upon roll call the vote to approve the motion was unanimous. Mr. Kaul recommended to Mr. Bujold that he comply with the ordinance regarding temporary structures and take the structure down within the 90 days.

1/25/07

Case CEB 2007-02

Doug Forbes, 13 Treasure Lane

Violation of Section 68-460, Unhealthful accumulations declared public nuisance.

Del Powell, Code Enforcement Officer, explained what enforcement action had been taken by the City. Mr. Bezanson was present to represent Dr. Forbes. He is a business partner of Dr. Forbes. Mr. Powell asked if Dr. Forbes was aware of today's hearing. Mr. Bezanson stated that he was, and asked Mr. Bezanson to stand in for him. Mr. Powell stated that the former home has been demolished. There are piles of tree branches and dirt, and is overgrown with weeds. He showed pictures of the current condition of the property. The pool was green and full of mosquito larvae. It is no longer a breeding ground for mosquitoes, but there is no fence around it. It does not have a childproof fence. The piles of sand keep accumulating. Their explanation is that they agreed to let a contractor store dirt there, and without their approval the contractor didn't stop bringing the dirt after being asked to stop. The contractor is now saying that he doesn't have the equipment to remove it.

Carol Kitts stated that when she went out on January 8th there were men there cleaning up the debris. The pool is being chlorinated and the water moving. The pool is still unsecured. Mr. Hehn asked if the pool was the public nuisance. Ms.

Kitts stated that the debris has been cleaned out of the pool and the only issue is the lack of a fence and the growth around it. The issues are now the fence and the sand. Mr. Brown stated that he drives by there every day, and there are still a lot of weeds there. Mr. Bezanson was called to the podium. Mr. Kaul stated that it appeared that they are trying to clean it up. Mr. Bezanson stated that there is a fence in front of the pool, and they can and will be willing to remedy the fence issue. What Dell stated about the dirt was accurate. They were planning on having a house built, and two truckloads of dirt were ordered for the construction. The contractor did not stop dumping when asked to. It is fill dirt. They asked the city if they could keep it there until they built, and they were told that they could keep it there so long as it was kept covered. Mr. Hehn asked if there was a building permit for the house. Mr. Bezanson doesn't know, as the builder moved to North Carolina. He stated that they could have the property cleaned up within a week. Mr. Powell stated that they have been told on several occasions that the dirt would be cleaned up within a week. Mr. Kaul stated that we could set a deadline for the cleanup here today, and if the deadline isn't met you would be found in violation and brought back in.

Mr. Schwarz stated that they have been in contact with the owner, his representative, a builder, and others about this issue for several months. It was when we were not getting compliance that we brought this to the board. We ask that you find them guilty and fine them as appropriate, and if you want to give them extra time, that is fine. Mr. Bezanson stated that they purchased the house with the intention of it being demolished, and that was done within a month. Mr. Kaul asked if it could be brought into compliance within 10 days. Mr. Bezanson stated that they could do that.

Mr. Brown made a motion that they find them in noncompliance. Mr. Harris asked if Dr. Forbes intended to build a house, and whether they had a time frame. Mr. Bezanson stated that they did, but it is not permitted. Mr. Harris asked if the dirt was spread over the lot would they be in compliance. Mr. Schwarz stated that it was a violation of city ordinance – it does not allow fill dirt. Also, they will need a fence permit to put the fence up to bring the property into compliance. Mr. Brown made a motion to find Dr. Forbes in noncompliance. The motion was seconded by Mr. Hehn. Upon roll call the vote to approve the motion was unanimous. Mr. Kaul explained that there would be a notice of noncompliance, and they would be given 10 days to comply. If they are still in noncompliance they would be fined. Mr. Lorenz stated that they should issue the fines today. The motion covers the \$75 fine for today. If the property is not brought into compliance there will be further fines issued at the next meeting.

Case #2007-03 Allen Cowan 10800 Gulf Boulevard

Violation of Section 68-460, Unhealthful accumulations declared public nuisance.

Mr. Brown moved and Mr. Hehn seconded a motion to present the case without representation by the owner. The City's case was presented by Carol Kitts and Del Powell, Building Inspectors. Mr. Powell explained what enforcement action has been taken. Ms. Kitts showed pictures of a fence that was falling down. It is an unpermitted fence. The lot is full of trash and debris. They are asking that the property be cleaned up and be kept clean. They have been asking for the past six months. Mr. Kaul stated that he wanted to hear from the attorney what the maximum fine that could be imposed was, and when they could impose it. Mr. Harris commented that this is a prime example of how to do a vacant site wrong, and wants to compliment the owner of Gulf Golf on how to do a vacant site right. He made a motion to find them in violation, seconded by Mr. Brown. Upon roll call the vote was unanimous. They would like to assess daily fines of \$250, but for right now they will fine them \$250. If they are not in compliance by the next meeting they will impose the \$250 per day fine. Mr. Brown asked staff if they were visiting other properties around the city, and stated that there were many other eyesores around the city.

Carol Kitts requested that Case 2007-04 be tabled. Upon roll call the vote to table was unanimous.

Case 2007-05 Gary Ogden 62 Dolphin Drive

Violation of Section 50-04 Prohibited parking of commercial vehicles & Section 72-02 Prohibited parking of recreation vehicles

All applicants, witnesses, members of staff or other persons wishing to address any item before the board of a quasi-judicial nature were duly sworn at this time.

Ms. Kitts explained the enforcement actions that have been taken by the city, and the nature of the violation. There have been numerous complaints. He is in compliance today. He goes 4-6 weeks without parking a commercial vehicle or RV there, and then he will park an RV in the yard for several days. He currently has a six wheeler truck that is being parked there. He does not have a permit for a home occupation, so no commercial vehicles should be parked there. There have been complaints about backhoes and other construction equipment in his yard on the weekends that are not being used.

Mr. Hehn asked if there were written complaints. Ms. Kitts stated that she had one. It was entered into the record as Exhibit A. Mr. Kaul asked if there were a home occupation license would he be in compliance. Ms. Kitts stated that he would be allowed to drive his vehicle to work and home. Mr. Lorenz asked if a vehicle used in a home occupation would constitute a sign being on the property. Mr. Kaul asked if there were any criminal violations. Ms. Kitts stated only if the vehicles were parked on the street. Ms. Kitts presented a log of each time they were cited. It was entered into the record as Exhibit B. Mr. Lorenz asked how

many times they had observed this. Ms. Kitts stated that it was a minimum of twice a month since 2005.

Mr. Ogden was called to the podium. He stated that he has owned the property for 21 years. There was a problem in November and December, and was issued a notice about the trailer. He spoke with Mr. Schwarz, and thought that since the trailer was removed right away he was in compliance. He was given four notices of violations when he came in. He had never seen them prior to his visit with Mr. Schwarz. Four in 21 years is not numerous to him. When these came out nobody ever called him into the office to discuss them, so he is unaware of the procedure. The problem with the trailer is that he can put the trailer in front of his house, where it looks bad and disturbs the neighbors. He puts it on the side out of view. One violation was that he has dump trucks on his property. He doesn't own a dump truck, nor does his company. They were working on a trailer. When informed that they couldn't work on it there they removed it right away. Whenever they have been informed of a violation they have cleared it up right away. The neighbors have never approached him. They had a meeting and went to the code department. He is trying to make the house look nice. The truck in the picture shown by the city is owned by his son. It is registered as a private, not a commercial vehicle. Right now there is no ordinance in Treasure Island prohibiting signs on the side of a vehicle. He pointed out the picture showing the front of his yard dug up. He has brought in his equipment to work on his property. He has a permit for the work, which was displayed on the front door. There has been nothing in the yard other than the equipment that was being used for this permitted project. He was told by Peggy that he could have his equipment there while the work was being done.

Mr. Kaul read several complaints. There are two complaints after the permit for the work was issued. Mr. Schwarz stated that the reason we were here today was that there is a history of noncompliance. There was a question as to whether they can keep construction equipment on the property through the weekend for the permitted work. Mr. Schwarz stated that yes, it could, but that the neighbors are stating that it is not being used, but being stored there for the weekend. Mr. Ogden stated that he cannot work on his own property if he has a home occupancy license. Ms. Kitts stated that the last complaint was a backhoe, truck and trailer that was not used the weekend that it was there. Mr. Hehn stated that with the permit, he could bring the equipment home every day.

Mr. Eduardo Vargas, 59 Dolphin Drive, stated that this was nothing personal. They are frustrated that this equipment is not being used, but it is being parked. This is a quality of life issue. Mr. Ogden stated that the dump truck, bobcat, and trailer were there, but was used to remove trees, bushes, and grass. The trailer delivered the bobcat. Ms. Kitts asked where the storage yard was for this equipment. Mr. Ogden stated that it was located on 49th Street. The lease started six or seven months ago. Mr. Hehn asked Mr. Schwarz if there was an ordinance that allows commercial vehicles overnight or on weekends. Mr.

Schwarz stated that there was not. Mr. Vargas stated that this is not a one time instance. This is an ongoing issue. Ms. Kitts stated that we do not allow construction or heavy equipment to be used on Sundays. Mr. Ogden asked if everyone had to remove equipment on Saturday. Mr. Kaul stated that the city will work with you and allow you to keep the equipment overnight if it was being used on the property. If you were parking it to use it on another property it is not okay.

Mr. Hehn asked for clarification on how many times he has been cited, and whether there were complaints when he has not been cited. Ms. Kitts stated that it was at least 10 in the last two years. Mr. Kaul then closed the hearing. Mr. Kaul asked if he was in compliance today. Ms. Kitts answered in the affirmative. Mr. Kaul asked for clarification on how long the permit was good for. Mr. Schwarz stated that it was good for six months, and had to have activity within 90 days. Mr. Kaul stated that we don't have anything to decide today because he is not in violation today. If this comes before us again I would be for the maximum fines. Mr. Brown agrees with that. Mr. Lorenz asked for clarification as to whether someone could have a violation for 29 days, and if today they are not in violation it gets dismissed. Tomorrow they can be in violation again, and again be in compliance, and there is nothing we can do.

Mr. Brown made a motion that we find Mr. Ogden in compliance as of today. There was no second, and he withdrew his motion. Mr. Lorenz asked if there was an elevated or second level of violation if he is found to be in violation again. Mr. Kaul stated that it would have to be brought back to us on another day. We would have to decide that he was in violation the first time in order to find him in violation a second time. Mr. Harris stated that by making the motion to continue he wasn't saying that he isn't in violation. He wants an opinion from the city attorney. Mr. Kaul stated that the basic philosophy of the board is not about making examples of people, but about bringing people into compliance. Mr. Harris made a motion to continue this case until the next meeting. It was seconded by Mr. Hehn. Upon roll call, the vote to continue was unanimous. Mr. Ogden asked for clarification on what he is allowed to do. Mr. Kaul told him to talk to the city for clarification.

FUTURE – REPORTS AT THE BEGINNING OF THE MEETING

The next meeting will be held on Wednesday, February 28th at 2:00 p.m.

The meeting was adjourned at 5:05 p.m.