

CITY OF TREASURE ISLAND, FLORIDA
LOCAL GOVERNMENT
CODE ENFORCEMENT BOARD
AGENDA
CEB HEARING DATE – July 26, 2007, 3:00 p.m.

1. Call To Order:

The meeting was called to order at 3:00 p.m. by Chairman Richard Harris.

2. Roll Call:

Richard Harris	Present
John Hehn, Jr.	Present
Jim Lorenz	Present
Michael Daughtry	Present
Dominique Reiter	Present
Kevin Johnson	Present
Thomas Walkowiak	Present
Alternates: John Watters	Present
Charles Weinreich	Present

3. Approval of Minutes of Previous Meeting:

It was moved by Jim Lorenz and seconded by Dominique Reiter to approve the minutes as corrected. Upon roll call, the vote to approve was unanimous.

4. Swearing in of witnesses:

The witnesses and City staff were sworn in by City Attorney Maura Kiefer.

5. Case Hearings: Sec. 18-37. Unhealthful accumulations declared public nuisance

A. Case #: 2007-03-A 10800 Gulf Blvd. 2nd offense. Return hearing. Debris Sec. 18-37. Cited 6/10/07 by code department. Code Board compliance date: 7/20/07.

Ms. Kitts presented the City's case. This is the old Buccaneer property. She presented pictures showing the condition of the property. The City Public Works Department has gone in and cleaned up the back of the property. There is still debris on the front of the property. They were notified properly, and the certified mail signature cards were returned signed.

Mr. Lorenz clarified that the second offense was regarding the debris only. The concrete vault for the energy box is in bad condition. They have approximately \$10,000 set aside for this that was given to Progress Energy from the developer. They will be moving forward with moving the box soon. This vault is providing electricity to businesses across Gulf Boulevard, so there will be a lot of engineering involved.

There was nobody present representing the owner of this property.

Mr. Hehn asked if the debris was left by the owner, or if it was a result of debris that comes in from the beach. It was cleaned up in January, but it has not been cleaned up since.

Mr. Weinreich clarified that the debris was on the subject property and not on the public easement.

Ms. Reiter stated that the owners should be responsible for the property, but asked if the City could put up trash cans to try to cut back on the debris. People that are using the beach are littering. Mr. Schwartz stated that it would be up to the owner to call and ask for that. We are not getting any feedback from the developer.

The public hearing was closed at 3:20. Mr. Harris stated that the problem wasn't that the owner was causing the debris; it was because it is a vacant property that gets a lot of beach traffic. The owner can say that they can't put up a fence to keep people out, and people litter. He asked if there are city garbage cans on the city side of this property. Mr. Schwartz said they will check on that. He also stated that it is not just the trash, cans and bottles, but also concrete and other debris, as well as the weeds. Mr. Harris stated that the owner should be maintaining the property weekly during this time of year. Mr. Harris asked the board for its recommendation.

Mr. Hehn stated that a fine was the only way to get their attention. Mr. Johnson agreed.

Ms. Kiefer stated that at the June meeting they were given until July 20th. Mr. Schwartz stated that an order was not sent out, as one was not received from the City Attorney. Mr. Harris stated that because he did not receive an executive order a notice needs to be sent out before the owner can be fined. Ms. Kiefer suggested that they be adjudicated today as a repeat offender for violating the City's deadline. Because it is a second offense they do not need to be given time to comply.

Mr. Daughtry spoke about how the City of St. Pete handles cases like this. They bring in an outside contractor to clean up properties like this, then lien the property to ensure that they get reimbursed. Mr. Schwartz explained how the cleanup is handled and billed here. If he chooses not to pay he can be liened.

Ms. Reiter stated that she had a problem because so much time was spent on the July 20th date, and is displeased because the executive order was not done. Ms. Kiefer stated that we are trying to work out the procedure.

Mr. Daughtry asked about where the concrete is coming from, since the property was cleaned up in January. Ms. Kitts stated that there is a wall that has been breaking.

Mr. Watters asked if the City will be billing him for the work done. Mr. Schwartz stated that they will not bill for the work done on the city owned portion of this property. If the city does further cleanup they will be billed.

Ms. Kiefer stated that they have not met deadlines. The options are to adjudicate them as a repeat offender.

Ms. Reiter made a motion that they be found in noncompliance and recommends that they be charged \$500 per day effective at midnight tonight until the property is cleaned up. It was seconded by Mr. Lorenz.

Mr. Hehn asked Ms. Kitts if she felt this was a worse case scenario. He feels that the amount is excessive. He asked if it looked like a \$500 per day mess. She stated that she didn't know what it would take to get their attention.

Mr. Harris stated that he just wants them to come into compliance. Can we get City Staff to start cleaning up the property? Mr. Schwartz asked the City Attorney if we could subpoena the owner to get them in front of the board. Ms. Kiefer stated that it was a good idea.

Mr. Daughtry agreed with Mr. Harris regarding having the City clean up the property, and fining them something between now and the time that it is cleaned up. Mr. Schwartz stated that it is budget time right now, and money is very tight. We would be spending several thousand dollars, and not know when it might be reimbursed. Mr. Harris pointed out that it would not be a one-shot deal – the City would be doing it weekly if started. It really is the owner's responsibility. We don't want to make money – we just want him to clean up his property.

Ms. Reiter stated that we have been doing this for one year. She doesn't feel that anything short of \$500 per day would get his attention. He can always appeal the amount. She disagreed with the amount that Mr. Schwartz stated it might cost to clean the property.

Ms. Kiefer explained the state law regarding City cleanup. If they elect to do that before the hearing, the cost can be included in the fine, and the total of the two can be recorded as a lien against the property if they default.

Mr. Harris asked Ms. Kiefer if we had enough documentation to ensure that the \$500 per day fine is enforceable. She stated that she didn't see any problem with it.

Ms. Reiter stated that she felt the crumbling wall was a hazard, and didn't think the fine was excessive.

Mr. Daughtry stated that \$500 per day should get anyone's attention, but would it encourage them to get an attorney to fight it. Ms. Kiefer stated that it may. He stated that he would rather collect \$300 per day, than fight over \$500 per day. Mr. Harris stated that the best scenario would be to collect \$500 for one day and have them clean up the property. We try to be sympathetic to what the developer was trying to do, but it is his responsibility to keep the property clean.

Ms. Reiter asked if we lowered the fine today, can there be a time frame where we would have another meeting and change the amount. Ms. Kiefer stated that you could not.

Mr. Daughtry asked Ms. Kiefer what the fastest way to get the lot cleaned up would be. Ms. Kiefer stated that court orders and injunctive relief is expensive and time consuming.

Mr. Johnson asked is someone is injured could the family sue the city because the city didn't do enough to make the owner clean it up. Ms. Kiefer stated that the city would not be liable.

Mr. Harris asked Mr. Shwartz if there was any form of physical barrier that could be put along Gulf Boulevard without it being under construction. Mr. Schwartz stated that they can put up a fence, but has to meet all ordinance requirements for fencing. It could be a decorative fence that meets city code. A fence may stop a little litter, but will not stop the growth of weeds. The other debris still needs to be removed.

Mr. Harris called for the vote on the motion. Upon roll call the vote to approve the motion was unanimous.

Mr. Lorenz asked who's responsibility it is to do the executive order. Ms. Kiefer stated that she was doing it right now. Ms. Kiefer stated that the next time there was a meeting regarding rules you may want to change the rules to allow someone at City Hall, such as the Secretary, sign the orders on behalf of the board.

- B. Case 2007-02: Request by Doug Forbes, owner of 13 Treasure Lane, for a reduction of fine hearing. Presented by Gerald Bezanson. Non compliance from: 7/19/2006-5/25/2007 Fine: \$4,900 + \$75.00 admin fee. That would be \$100.00 per day. The Property is in compliance.

Mr. Schwartz stated that this case is a request for reduction of the fine. They have asked before and were denied.

Jay Bezanson, who represents the owner of this property, was present. He explained that he took the property over in March. He stated that he was never given a comprehensive list of everything that needed to be done. He was given items one at a time, and complied each time. He stated that he would call a Code Enforcement Officer to meet him at the lot and show him what needed to be done to comply. He feels that the \$4,900 is excessive and unfair. He feels that it is fair for the city to be reimbursed for its time, but that amount is too much. He felt that he came into compliance in a timely manner and works well with the city. He did everything he was asked. There was an issue with the fence where he was not given adequate direction. When he met with the inspector he was told that he could have done something else that he had already done regarding the fence. Due to the miscommunication that has gone on he feels it is unfair.

Mr. Lorenz asked who came before the board in January. Mr. Bezanson stated that it was him. Mr. Lorenz asked about his status as a business partner, and as such, had some responsibility. Mr. Bezanson stated that he was negotiating at that time, but had not

reached an agreement at that time. In January the issue was the fence. Later he was told about the gate, and the pool. Mr. Lorenz asked if anyone came to the city to get the rules regarding fencing. Mr. Bezanson stated that he followed what he was told at the Code Enforcement Board hearing. Mr. Lorenz asked about the permitting process and the fence.

Mr. Watters asked if the gate was supposed to be locked, and stated that it is not. Mr. Schwartz stated that it does not have to be locked.

Mr. Harris stated that the reason we are here today is because of the \$4,900 fine. He asked if the property was being maintained and if he was communicating with City staff. Mr. Bezanson answered in the affirmative. Mr. Harris then closed the public hearing.

Mr. Hehn asked Ms. Kitts when she was there last, and if they were in compliance. She answered that she was there today, and they are in compliance. He asked if Mr. Bezanson has been cooperative. She stated that he has been very cooperative. Mr. Hehn stated that at \$35 per hour the fine would be approximately \$1,500. He made a motion to reduce the fine to \$1,500. He then asked Ms. Kiefer if reducing the fine would affect future action. There was no second on the motion.

Mr. Harris asked if the staff was meeting with them, or at the property daily. He asked what they thought of a reduction. Mr. Schwartz stated that the inspectors are supposed to look at properties and decide if they are in compliance. It is up to the board to decide the fines. The owner has been very cooperative. It is up to the board to make that decision, not staff.

Mr. Daughtry asked about the issue with the addresses. There was a discrepancy with the tax rolls and the actual address. Mr. Daughtry stated that it looked to him like there had been a good address for him since the tax bills in November. Mr. Schwartz stated that the burden of proof as to whether he got notice was whether there was representation at the meetings. He has had representation since January.

Mr. Harris stated that there was a lot of confusion involved regarding the various citations. He asked if anyone would entertain a motion for another amount between \$1,500 and \$4,900.

Ms. Reiter commented that at the time the fine was imposed it could have been \$250 per day. She stated that it is just common sense to enclose the pool on all four sides. Mr. Harris explained that this property is a little different as it can be left open on the sea wall side.

Mr. Schwartz stated that the new pool code states that you have to protect the pool on all four sides, alarm it, or cover it. This is an existing pool, so they are not required to fence the sea wall side.

Mr. Hehn asked if they put a fence up when asked. Mr. Schwartz stated that they did, but did not pull the permit. Mr. Hehn clarified that the fine was not due to the lack of a permit.

Mr. Daughtry read excerpts from previous minutes that discussed the fence. He stated that this involves health and safety because of the issue with the pool. The problems went on over a long period of time. He doesn't think we should look at this as trying to recover the cost per hour of the staff.

Mr. Harris stated that in January he stated that the owner should know the situation with the pool fence.

Mr. Daughtry made a motion to reduce the fine to \$4,000. It was not seconded.

Ms. Reiter made a motion to keep the fine at \$4,900. Mr. Johnson seconded the motion. The motion carried with a 4-2 vote.

6. Old Business:

None

7. New Business:

Ms. Reiter stated that she felt it was appropriate to have a training session for the procedures to make motions and other procedural items that the trainer might feel are necessary. She suggested that it be held after a meeting. Mr. Harris stated that he agrees, and requested that we work on the procedure for notices of violations, executive orders, and time frames.

The board agreed to do this after the August meeting, unless the meeting lasts longer than two hours.

Ms. Kiefer asked if there were particular items to be discussed. Mr. Harris suggested time frames and procedures for notices. He wants to ensure that action can be taken in a timely manner.

Mr. Weinreich commented that \$500 per day is a powerful incentive to engage a property manager, and that is what we are looking for. Does the city have provisions to charge interest in unpaid? Ms.

Kiefer stated that she has to research the statutes. They can be sent to professional collection agencies. Mr. Lorenz stated that the state of Florida is very liberal with allowing liens. Mr. Daughtry asked if there is any provision for selling the clean up costs as a certificate. Ms. Kiefer stated that she would have to look into that.

Mr. Weinreich asked Mr. Schwartz what requirements there were to put ground cover out on the previously discussed property. Mr. Schwartz stated that it was covered in the new appearance codes, and the owner would be notified.

Mr. Hehn asked about the electrical vault on the Buccaneer property. Mr. Schwartz stated that it is Progress Energy's equipment, but the vault belonged to the property owner. Because this is a safety issue Progress Energy will be dealing with this issue very soon.

Ms. Reiter requested that Ms. Kiefer add to the education session a form she showed how to make a proper motion.

The next meeting will be the 4th Thursday in August at 3:00 p.m.

Mr. Watters asked about the Code book. Mr. Harris suggested that they go on the MuniCode website. Mr. Schwartz stated that by this time next month the people that want a book will have a book.

8. Adjournment:

The meeting was adjourned at 4:30 p.m.