

CODE ENFORCEMENT SPECIAL MAGISTRATE HEARING

MINUTES

JUNE 13, 2016

10:00 A.M.

PRESENT

Amber Ashton, Special Magistrate
Andrew Dickman, City Attorney
Jennifer Bryla, Community Development Department Director
Mary Jo Murphy, Deputy City Clerk
Joanne Boland, Zoning & Permitting Administrator
Chris Lostraglio, Code Enforcement Officer

1. CALL TO ORDER

Special Magistrate Ashton called the City of St. Pete Beach Code Enforcement Special Magistrate Hearing to order at 10:00 a.m.

2. PLEDGE OF ALLEGIANCE

Special Magistrate Ashton invited everyone present to recite the Pledge of Allegiance.

3. ADMINISTER OATH

Special Magistrate Ashton administered the oath or affirmation to witnesses present.

4. OLD CASES

Special Magistrate Ashton heard the following cases and entered the following orders:

- A. Case No. 20150180**
City of St Pete Beach vs. Dolphin Watch I, LLC
(Beth Ann Morean) Property owner.
Address: 110 15Th Ave., St Pete Beach, FL 33706
Violations:

Sec. 98-66. – Residential and commercial property maintenance (a) (b), (20) (21), (a) (b), (22) Trees (a) (b)
(a) All premises shall be maintained in compliance with the standards in this section.
(b) Standards for improved property.

(20) All grasses or weeds, and uncultivated vegetation shall not exceed ten inches in height on improved property, including the area between the edge of the pavement in the street and the lot line.

(21) All real property shall be maintained in a condition to prevent erosion of soil by:

(a) Landscaping with grass, trees, shrubs or other planted ground cover; or

(b) Such other suitable means as shall be approved by the building official.

(22) Hazardous trees.

(a) Dead, dying, damaged or diseased trees are prohibited. A finding by a registered forester or certified arborist employed by the city that a tree is in danger of falling upon an adjacent lot or street due to death, disease or damage, including damage caused by weather conditions, is prima facie evidence of a violation of this section.

(b) Prohibited conditions. The following conditions are prohibited:

Trees, plants, shrubs, vegetation, or parts thereof, which overhang any sidewalk, street, alley or fire hydrant, and obstruct or impair the free and full use of the sidewalk, street, alley or fire hydrant by the public.

Grass, weeds, shrubs, bushes, trees or vegetation which constitute a fire hazard or a menace to public health, safety or welfare.

Removal of obstruction. The owner of any real property shall trim trees, plants, shrubs or vegetation, or any parts thereof as follows: which overhang any sidewalk, alley or street as determined by the building official, and which interfere with the use of any sidewalk, alley, street, poles, wires, pipes, fixtures or any other part of any public utility situated in the right-of-way. **Non-compliant**

Chris Lostraglio, Code Enforcement Officer, updated the Special Magistrate in regard to Case No. 20150180.

Special Magistrate Ashton found the following:

- Entered an order to continue the hearing for 30 days until July 11, 2016 in order to bring the property into compliance.

B. Case No. 20160001

City of St. Pete Beach v. Beth Ann Morean, Property Owners

Address: 309 39th Ave., St. Pete Beach, FL 33706

Violations:

1. Sec. 98-65 (4) of the Code of Ordinances

Unsightly Conditions. There is trash accumulating on the east side of the garage, specifically a ceiling fan and wood. **Non-compliant**

2. Sec. 98-66 (a), (b), (7), (20), (21),(22), (24) of the Code of Ordinances

Residential & commercial property maintenance.

- (a) All premises shall be maintained in compliance with this section.
- (b) Standards for improved property.
- (7) Exterior surface treatment. The paint is peeling and chipping and needs to be repainted.
- (20) Grass, weeds and uncultivated vegetation. The grass is overgrown in the front and back yard. **Non-compliant**
- (21) Shrubbery, plants and ground cover. All real property shall be maintained in a condition to prevent erosion of soil. The shrub next to the mailbox is growing into the street and needs to be trimmed.
- (22) Trees. Trees shall be maintained or removed. The trees are overgrown and need to be trimmed.
- (24) Fences and walls. The fence in front is falling down and needs to be repaired. **Non-compliant**

In regard to Case No. 20160001, Chris Lostraglio, Code Enforcement Officer, informed Special Magistrate Ashton that the property was in compliance.

C. Case No. 20160014
City of St. Pete Beach vs. Vincent A. Grybauskas
Address: 260 41st Ave., St. Pete Beach, FL 33706
Violations:

Sec. 46-33. - Enumeration (1), (a), (b), (c), (2), (3), (9), (12)
Of the Code of Ordinances

(1) Vegetation as follows:

(a) Any weeds such as broom grass, jimson, burdock, ragweed, sandspur or other similar weeds or any other vegetation, other than trees, ornamental bushes, flowers or ornamental plants, with a height exceeding 12 inches.

(b) Dead branches or fronds on trees or shrubs.

(c) Trees and shrubs planted in such a manner as to obstruct vehicular and pedestrian traffic along roadways, sidewalks and public rights-of-way.

(2) Accumulation of trash, litter, debris, garbage, bottles, paper, cans rags, dead or decayed fish, fowl, meat or other animal matter; fruit, vegetables, offal, bricks, concrete, scrap lumber or other building debris or other refuse of any nature.

(3) Any condition which provides harborage for rats, mice, snakes and other vermin.

(9) Any accumulation of stagnant water permitted or maintained on any lot, piece of ground or swimming pool.

(12) Any worn out, scrapped, partially dismantled, non-operative, unusable or discarded materials or objects, such as automobiles or parts thereof, building materials, machinery, metal wastepaper, rags, glassware, tin ware, vehicles, boats or parts thereof, or other items of junk. **Non-compliant**

Chris Lostraglio, Code Enforcement Officer, updated the Special Magistrate in regard to Case No. 20160014.

Special Magistrate Ashton found the following:

- Entered an order imposing a fine and a lien on the property for \$150.00 a day until the property is brought into compliance.

D. Case No. 20150132

City of St. Pete Beach vs. Roger Dillon, Property Owner

Address: 451 81st Ave., St. Pete Beach, FL 33706

Violation:

Sec. 98-66 Enumeration (5), (20), (22) Of the Code of Ordinances

(5) Standards for improved property.

Garage door is damaged and inoperable

(20) Grass, weeds & uncultivated vegetation.

Overgrown grass, weeds and shrubs

(22) Trees Overgrown

Overgrown and untrimmed trees

Non-compliant

Chris Lostraglio, Code Enforcement Officer, updated the Special Magistrate in regard to Case No. 20160132.

Special Magistrate Ashton found the following:

- Found the property remains in violation.
- The owner was properly noticed for the hearing.
- Entered an order imposing a lien on the property at \$150.00 per day until the property is brought into compliance.

Roger Dillon, owner, presented a contract to Special Magistrate Ashton.

- Special Magistrate Ashton was presented a landscape contract that was signed on 6/9/16 that sets forth all of the issues with the property that are in violation.
- Entered an order for an additional 30 days to bring the property into compliance.
- If the property is not in compliance within 30 days, there will be a hearing before Special Magistrate Ashton on July 11, 2016 and a fine and a lien will be imposed at that time.

E. Case No. 20150134

City of St. Pete Beach vs. St. Pete Beach Theater, LLC

Address: 315 Corey Avenue, St. Pete Beach, FL 33706

Violations:

**1. Sec. 26.14 of the Land Development Code
Maintenance of Signs.**

The existing marquee sign structural supports have sufficient visual evidence in the opinion of the Building Official that an independent engineer needs to inspect all structural supports to determine that the structure is safe to meet all load requirements of the Florida building Code

and if inspection reveals structural deficiencies, a detailed construction plan is needed indicating what is necessary to restore the sign structure.

2. **Sec. 98-66 Enumeration (b), (d), of the Code of Ordinances**

(b) Sign structure needs to be painted.

(d) Exterior building has peeling paint.

Chris Lostraglio, Code Enforcement Officer, updated the Special Magistrate in regard to Case No. 20150134.

Special Magistrate Ashton found the following:

- Granted 60 days to complete the painting on the property with a deadline of August 12, 2016.
- The next hearing date will be September 12, 2016 for imposition of a fine and a lien.

5. **NEW CASES**

A. **Case No. 20160042**

City of St. Pete Beach vs. Paula P. Cane

Address: 1404 Pass – A - Grille Way, St. Pete Beach, FL 33706

Violation:

Sec. 46-33 Enumeration (2) (4) (a) (b) (13)

The maintaining, using, placing, depositing, leaving or permitting to be or remain on any public or private property of any of the following items, conditions or actions is declared to be and constitutes a nuisance, provided this enumeration shall not be construed as a designation of all nuisances.

(2) Accumulation of trash, litter, debris, garbage, bottles, paper, cans, rags, dead or decayed fish, fowl, meat or other animal matter; fruit, vegetables, offal, bricks, concrete, scrap lumber or other building debris or other refuse of any nature.

(4)(a) Buildings and structures as follows: Any building, dock, or other structure which is in such a dilapidated condition that it is unfit for human habitation or use of which is kept in such an unsanitary condition that it is a menace to the health of people residing in the vicinity thereof or presents a more than ordinarily dangerous life safety code violation or fire hazard in the vicinity where it is located.

(b) Any building, structure or other improvement on which the paint or other exterior coating or surface is flaking or has deteriorated to the point that the building, structure or other improvement is unsightly in appearance and thus adversely affects the aesthetic appearance of the area.

(13) The storage of any vehicle, whether motorized or nonmotorized, including but not limited to automobiles, trucks, trailers, campers, recreational vehicles, motor homes, boats, boat trailers, or parts thereof, without a valid license plate or valid vehicle or trailer or boat-trailer or other registration certificate, showing the vehicle or part thereof to be titled in the name of the owner or occupier of the property upon which the vehicle or part thereof is located. Failure to have such

license or other registration certificate specifically attached to the vehicle or part thereof shall be prima facie evidence that the property is worn out, scrapped, nonoperative, unusable or discarded, as provided in subsection (12) of this section.

In regard to Case No. 20160042, Chris Lostraglio, Code Enforcement Officer, informed Special Magistrate Ashton that the property was in compliance.

B. Case No. 20160013
City of St. Pete Beach vs. Gino X. Perna
Address: 107 13th Ave., St. Pete Beach, FL 33706
Violations:

Sec. 46-33 – Enumeration (1), (2), (3), (12), (13)

The maintaining, using, placing, depositing, leaving or permitting to be or remain on any public or private property of any of the following items, conditions or actions is declared to be and constitutes a nuisance, provided this enumeration shall not be construed as a designation of all nuisances:

(1) Vegetation as follows:

- a. Any weeds such as broom grass, jimson, burdock, ragweed, sandspur or other similar weeds or any other vegetation, other than trees, ornamental bushes, flowers or other ornamental plants, with a height exceeding 12 inches.
- b. Dead branches or fronds on trees or shrubs.
- c. Trees and shrubs planted in such a manner as to obstruct vehicular and pedestrian traffic along roadways, sidewalks and public rights-of-way.

(2) Accumulation of trash, litter, debris, garbage, bottles, paper, cans, rags, dead or decayed fish, fowl, meat or other animal matter; fruit, vegetables, offal, bricks, concrete, scrap lumber or other building debris or other refuse of any nature.

(3) Any condition which provides harborage for rats, mice, snakes and other vermin.

(12) Any worn out, scrapped, partially dismantled, non-operative, unusable or discarded materials or objects, such as automobiles or parts thereof, building materials, machinery, metal, wastepaper, rags, glassware, tinware, vehicles, boats or parts thereof, or other items of junk.

(13) The storage of any vehicle, whether motorized or non-motorized, including but not limited to automobiles, trucks, trailers, campers, recreational vehicles, motor homes, boats, boat trailers, or parts thereof, without a valid license plate or valid vehicle or trailer or boat-trailer or other registration certificate, showing the vehicle or part thereof to be titled in the name of the owner or occupier of the property upon which the vehicle or part thereof is located. Failure to have such license or other registration certificate specifically attached to the vehicle or part thereof shall be prima facie evidence that the property is worn out, scrapped, non-operative, unusable or discarded, as provided in subsection (12) of this section.

Chris Lostraglio, Code Enforcement Officer, updated the Special Magistrate in regard to Case No. 20160013.

Special Magistrate Ashton found the following:

- Entered an order continuing the initial hearing for 30 days until the next hearing date of July 11, 2016.
- If the property is not in compliance by July 11, 2016, an order will be entered finding the property in violation.

C. Case# 20160043

City of St. Pete Beach vs. Michael E. Bomar (Gulf Strand)

Address: 4510 Gulf Blvd, St. Pete Beach, FL 33706

Violations:

Sec. 25.6 - Tiki huts. Enumeration (a), (1), (a), (b), (c), (d), (2), (3)

(a) The city may permit the location of a tiki hut on the beach in accordance with the following:

(1) Tiki huts shall be allowed only in conjunction with the approval of the owner of the property upon which the tiki hut will be located and as part of a conditional use approved under the provisions Division 4 of this Code. Tiki huts shall be further regulated as follows:

(a) Only one tiki hut for each approved conditional use on a zoning lot;

(b) Such tiki huts shall be located in accordance with an approved site plan;

(c) Tiki huts shall be no larger than 36 square feet in area with sides that are at least 50 percent open and may have a roof;

(d) No tiki hut shall have utility services, shall serve food or drinks, or shall be used for any other service beyond the sales of services for an approved commercial water sports operation.

(2) Tiki huts shall be removed from the beach in the event of the issuance of a warning for a storm that, in the opinion of the city, is expected to be of sufficient strength to warrant such removal.

(3) Any tiki hut or other similar structure placed or erected on the beach after the adoption of this Code without a permit from the city shall be in violation of this Code and all remedies shall be sought in accordance with the provisions of Section 3.16 of this Code.

D. Case No. 20160044

City of St. Pete Beach vs. Michael E. Bomar (Howard Johnson)

Address: 6100 Gulf Blvd., St. Pete Beach, FL 33706

Violations:

Sec. 25.6 - Tiki huts. Enumeration (a), (1), (a), (b), (c), (d), (2), (3)

(a) The city may permit the location of a tiki hut on the beach in accordance with the following:

(1) Tiki huts shall be allowed only in conjunction with the approval of the owner of the property upon which the tiki hut will be located and as part of a conditional use approved under the provisions Division 4 of this Code. Tiki huts shall be further regulated as follows:

- (a) Only one tiki hut for each approved conditional use on a zoning lot;
- (b) Such tiki huts shall be located in accordance with an approved site plan;
- (c) Tiki huts shall be no larger than 36 square feet in area with sides that are at least 50 percent open and may have a roof;
- (d) No tiki hut shall have utility services, shall serve food or drinks, or shall be used for any other service beyond the sales of services for an approved commercial water sports operation.

(2) Tiki huts shall be removed from the beach in the event of the issuance of a warning for a storm that, in the opinion of the city, is expected to be of sufficient strength to warrant such removal.

(3) Any tiki hut or other similar structure placed or erected on the beach after the adoption of this Code without a permit from the city shall be in violation of this Code and all remedies shall be sought in accordance with the provisions of Section 3.16 of this Code.

E. Case No. 20160046
City of St. Pete Beach v. Michael E. Bomar
(Dolphin Beach Resort)
Address: 4900 Gulf Blvd, St. Pete Beach, FL 33706
Violations:

Sec. 25.6 - Tiki huts. Enumeration (a), (1), (a), (b), (c), (d), (2), (3)

(a) The city may permit the location of a tiki hut on the beach in accordance with the following:

(1) Tiki huts shall be allowed only in conjunction with the approval of the owner of the property upon which the tiki hut will be located and as part of a conditional use approved under the provisions Division 4 of this Code. Tiki huts shall be further regulated as follows:

- (a) Only one tiki hut for each approved conditional use on a zoning lot;
- (b) Such tiki huts shall be located in accordance with an approved site plan.
- (c) Tiki huts shall be no larger than 36 square feet in area with sides that are at least 50 percent open and may have a roof;
- (d) No tiki hut shall have utility services, shall serve food or drinks, or shall be used for any other service beyond the sales of services for an approved commercial water sports operation.

(2) Tiki huts shall be removed from the beach in the event of the issuance of a warning for a storm that, in the opinion of the city, is expected to be of sufficient strength to warrant such removal.

(3) Any tiki hut or other similar structure placed or erected on the beach after the adoption of this Code without a permit from the city shall be in violation of this Code and

all remedies shall be sought in accordance with the provisions of Section 3.16 of this Code.

Chris Lostraglio, Code Enforcement Officer, informed the Special Magistrate that Case No. 20160043 is combined with Case No. 20160044 and Case No. 20160046.

Special Magistrate Ashton found the following in regard to Case 20160043:

- Found the property was in violation.
- The owner did receive proper notice.
- Re-set for a hearing on August 15, 2016.

Special Magistrate Ashton found the following in regard to Case 20160044:

- Special Magistrate Ashton continued the hearing date until the July 11, 2016 hearing date.

Special Magistrate Ashton found the following in regard to Case 20160046:

- Special Magistrate Ashton found the property was not in violation.
- City Attorney Dickman asked for an extension on Case 20160046 so he could have time to perform research.
- Special Magistrate granted the extension, and the case was continued to the hearing date of 8/15/16.

F. Case No. 20150156
City of St. Pete Beach vs. Robert Smith
Address: 5850 Bahia Way S., St. Pete Beach, FL 33706
Violation:

Sec. 8.2. – Permitted principal uses and structures.

Subject to the provisions or restrictions contained in this section and elsewhere in this Code, permitted uses and structures in the RU-1 Residential District are as follows: (a) Residential dwellings—detached single-family only. Such dwellings shall not be used for transient occupancy.

In regard to Case No. 20150156, Chris Lostraglio, Code Enforcement Officer, informed Special Magistrate Ashton that the property was in compliance.

G. Case No. 20150188
City of St. Pete Beach vs. Jamie P. Hoffman
Address: 33 44th Ave., St. Pete Beach, FL 33706
Violation:

Sec. 9.2. - Permitted principal uses and structures.

Subject to the provisions or restrictions contained in this section and elsewhere in this Code, permitted uses and structures in the RU-2 Residential District are as follows: (a) Residential dwellings—detached single-family only. Such dwellings shall not be used for transient occupancy.

In regard to Case No. 20150188, Chris Lostraglio, Code Enforcement Officer, informed Special Magistrate Ashton that the property was in compliance.

Special Magistrate Ashton found the following:

- Found the property was in compliance but noted for the file that the property was in violation of the short term rental ordinance.

H. Case No. 20160023

City of St. Pete Beach vs. Michael G. Pape & Wendy H. Ehrke - Pape
Address: 3976 Belle Vista Drive East, St. Pete Beach, FL 33706
Violations:

- 1. Sec. 104.6.2 of the Code of Ordinances**
- 2. Sec. 105.1 of the Florida Building Code**
- 3. Sec. 8.7 (a) (3) of The Land Development Code**

104.6.2 Work commencing before permit issuance. Any person who commences any work on a building, structure, electrical, gas, mechanical, and plumbing or life safety system before obtaining the necessary permits shall be subject to a penalty of triple the required permit fee. This provision shall not apply to emergency work, when delay would clearly have placed life or property in imminent danger. In all such emergency cases the required permit(s) shall be obtained within five business days and any unreasonable delay in obtaining those permit(s) shall result in the charge of a triple fee. In the event of an emergency declaration from the state, the time required to obtain the required permit(s) for emergency work may be extended. The payment of a triple fee shall not preclude or be deemed a substitute for prosecution for commencing work without first obtaining a permit. The building official may grant extensions of time when justifiable cause has been demonstrated in writing.

105.1 Required. Any owner or authorized agent who intends to construct, enlarge, alter, repair, move, demolish, or change the occupancy of a building or structure, or to erect, install, enlarge, alter, repair, remove, convert or replace any impact-resistant coverings, electrical, gas, mechanical or plumbing system, the installation of which is regulated by this code, or to cause any such work to be done, shall first make application to the building official and obtain the required permit.

8.7 (a) (3) The minimum yard requirements for principal structures in the RU-1 Residential District are as required in this section.

Detached single-family dwellings.

(1) Front yard: 20 feet.

(2) Secondary front yard: 20 feet.

(3) Side yards: The lesser of ten percent of the lot width or seven feet.

(4) Rear yard: 20 feet.

Bruce Cooper, Building Official, updated the Special Magistrate in regard to Case No. 20160023.

Special Magistrate Ashton found the following:

- Determined the property was in compliance, but the order will not be entered, finding the property is in compliance, until the Building Official visits the property to confirm.

6. **ADDITIONAL ITEMS**

**603 55th Avenue – Jackson Settlement
For Release of Lien
(City Attorney)**

Special Magistrate Ashton found the following:

- Entered an order approving a settlement between the City and the property owners, the Jacksons, whereby the City will accept administrative costs in the amount of \$850.00 in exchange for a release or satisfaction of the 2009 lien on the property in Largo.

Attorney Gordon, representing the Jacksons, submitted a check to Special Magistrate Ashton to hold in escrow. City Attorney Dickman stated he would hold the check in escrow.

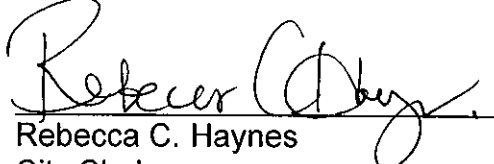
7. **NEXT HEARING**

Monday, June 13, 2016, 10:00 A.M.

8. **ADJOURNMENT**

There being no further business to come before the Special Magistrate, the hearing was adjourned at 11:06 a.m.

Attest:


Rebecca C. Haynes
City Clerk