



MINUTES

MUNICIPAL CODE ENFORCEMENT BOARD MEETING

Wednesday May 31st, 2023, 2:00 P.M.

CITY OF ST. AUGUSTINE BEACH, 2200 A1A SOUTH, ST. AUGUSTINE BEACH, FLORIDA 32080

I. CALL TO ORDER

Chairman Kevin Mr. Sweeny called the meeting to order at 2:01 p.m.

II. PLEDGE OF ALLEGIANCE

III. ROLL CALL

BOARD MEMBERS PRESENT: Chairman Mr. Kevin Sweeny, Mr. Nick Binder, Ms. Trish Gilpin, Mr. Raymond Lovett, Mr. Pritchett, Mr. Mariutto

STAFF PRESENT: Code Enforcement Officer Mr. Timmons, Code Enforcement Officer Mr. Ferris, Building Official Brian Law, City Attorney Mr. Blocker, Recording Secretary Lacey Pierotti

IV. APPROVAL OF MINUTES OF APRIL 26th, 2023, MEETING

Motion: to approve the minutes of the April 26th, 2023, meeting. **Moved** by Ms. Gilpin, seconded by Mr. Biner, **passed 6-0** by unanimous voice-vote.

V. NEW BUSINESS

- A. Notice to appear issued to John Blackford, property owner of parcel 1695800080 for notice of violation of St. Augustine Beach City Code Chapter 19- Traffic, Sec. 19-37. -Prohibiting the parking of tractor trailers, other large trucks, and recreational vehicles on or within the right-of-way of city streets and within residentially zoned areas.
- B. Notice to appear issued to Mary Riley property owner of parcel 1695800140 for notice of violation of St. Augustine Beach City Code Sec. 3.09.00 for operating a transient lodging facility. This violation is the property owner's second offense.

Mr. Sweeny: Let's move to new business with a notice to appear issued to John Blackford the property owner for notice of the violation of our code chapter 19 traffic section 19-37 prohibiting the parking of tractor trailers or other large trucks and recreational vehicles on or within the rights-of-way of city streets and within residentially zoned areas.

Mr. Ferris are you going to be handling this case?

Mr. Ferris: Yes, thank you. We left off last month with the property owner opting to obtain a variance through Planning and Zoning. However, aside from the owner obtaining paperwork after our last meeting, no other

action has been taken by the owner.

Mr. Sweeny: Okay. Members, any questions for Mr. Ferris?

Ms. Gilpin: Mr. Ferris, Is the Shasta Trailer still there?

Mr. Ferris: I checked yesterday, and the trailer was still there.

Mr. Sweeny: Mr. Blackford? Please state your name and address for the record.

Mr. Blackford: Yes, my name is John Blackford. I live at 207 8th Street, St. Augustine Beach.

Mr. Blackford: Okay. During the last Code Board, I was told that a complaint more than a year and a half ago had been made, and the complaint came across Code Enforcement's desk recently as it was still open. We were told the size of the camper was not in violation, so we thought we were ok.

Mr. Sweeny: Okay. I have a few questions, but members I open it to you first. Any questions? Ok, Mr. Blackford, you are recognized.

Mr. Blackford: Is the enforcement of the code universal? I am under the impression that as I look around St. Augustine Beach, we're not the only RVs in front of a house. Is something driving your code enforcement which is not a violation? There's something other than that at play?

Mr. Swcny: Let me say this. I believe that we are a two-person operation in code enforcement. So, I don't believe that there is a conspiracy in any way against you or your property.

Mr. Sweeny: You're recognized. Please state your name and address.

Mindy Hall: I'm John's wife. 207 8th Street St. Augustine Beach, FL. When the complaint came in, our neighbor called somebody on the board to get the measurements for the statue, and we were not out of compliance. The trailer does not obstruct any views, our truck and the cars in the neighborhood are bigger than the trailer.

Mr. Sweeny: I ask Mr. Blocker to please if you can, read the code violation there are in violation of.

Mr. Blocker: Yes Sir. Mr. Law has the violation.

Mr. Law: Section 19-37 of the St. Augustine Beach City code prohibits the parking of tractor-trailers or other large trucks and recreational vehicles on or within the driveway of city streets and within residentially zoned areas. Section, 1 definition. The following words or phrases shall have the following meanings. So, section [A], Prohibited vehicles, either motorized or not motorized, and has one or more of the following characteristics. I'm going to skip the first four. Number 5 is the recreational code. A recreational vehicle as defined. So, section [C] defines recreational vehicles. A vehicle which is designed to provide temporary living for recreation, camping, or travel purposes. A recreational vehicle may be designed to be self-propelled, towed, or carried by another vehicle. Recreational vehicles include campers, travel trailers, or motor homes.

Mr. Sweeny: Thank you, Mr. Law. So, Mr. Law or our Mr. Blocker, are they in violation of the code?

Mr. Blocker: That's correct Mr. Sweeny. If I could just elaborate.

Mr. Swency: Yes sir, please.

Mr. Blocker: I understand what the gentleman and Ma'am are saying, however, what's before this board today is this specific case or maybe other cases that are out there. But this is a very specific case involving this property in front of this board. So, what is happening in other cases is that's something code enforcement can address if these individual citizens would like to make a complaint or are certainly able to do that. What's in front of this board today is this matter. And the board has the authority under the city charter for the law to evaluate the merits of this specific matter. So, I would say, Mr. Sweeny what other neighbors are doing is not relevant right now. This is not the forum to hear those concerns. There are other forums where those concerns could be made and brought to the attention. The best forums to address those matters are probably the city council or there are other forums to better address that. What should be addressed here today is the specific code violation that's been identified by the staff that has the authority to go on and identify them. And that's just it for the board for consideration.

Mr. Sweeny: Here is my issue where we are today. We were here a month ago and set up the protocol to end this. You were to come talk staff, to talk to other boards, and get certain boxes checked off to make this okay. We have given you a calendar month to do something. You have done zero and to me it's just someone insulting that we are here again when we had the opportunity quite frankly good or bad, agree with it or not to start levying fines.

Mr. Blackford: As it was left last time, I was not 100% sure what we were supposed to do other than potentially find another place for our camper and planning. As the code enforcement board, you have the authority to enforce the code. You're not mandated to in the wording of that. I don't believe you are. I believe the fact that you had the opportunity to think about this and the fact that we're here indicates that you have some say over the enforcement of that code.

Mr. Sweeny: So just so I'm clear, it is your belief that we should have gone out and done some work to consider your case over the last 28-30 days while you did zero?

Mr. Blackford: No, I'm not saying that at all.

Mr. Sweeny: But I didn't expect you to do anything at that time. We didn't expect you guys to do anything. We just wanted you to...

Mr. Blackford: I'm not sure about that interpretation of the law. I understand that I am not a lawyer but when you're authorized to do something it doesn't mean you're mandated to do it unless there is a new definition of the term authorized, I'm not familiar with.

Mindy Hall: We talked about the option of applying for the variance, but it is four hundred dollars which is a lot of money.

Mr. Sweeny: The motion that was passed on the floor to postpone the action of fining you \$250 per day was given at least a month before another board so then we can rule with our code being the code. Mr. Blackford, you answered, "I think the first option is a lot better." So, you certainly knew what we were trying to do at the last meeting or where we were going at least based off our minutes.

Mr. Pritchett: All you had to do is call the Building Department, they would have told you everything that we're telling you now.

Mr. Blackford: But we didn't have the \$400 to spend on the variance.

Mr. Sweeny: All you had to do was make a phone call to Mr. Law, Mr. Timmons, or Mr. Ferris so we knew you were at least trying. I understand money is tight, but we left it a month ago giving you a month to do something so the fines of \$250 a day did not start. So, you've come here today, and the code is still the code, and we must abide by that code and now unless there is anything pertinent to this issue we have to move forward now and figure out where we're going to go.

Mindy Hall: I don't understand the measurements. I mean is there a measurement for recreational vehicles? This thing is 11 feet long.

Mr. Law: So again section 19-37 Section 1 alpha prohibited vehicles. A vehicle either motorized or not motorized, that has one, and I used that. So, I deflect a little bit my voice so we can hear it, has one or more of the following characteristics. I'm going to read all 5 into the record now. Keep in mind only one of them qualifies. The registered gross weight in excess of 17,100 pounds. Having a length more than 20 feet. Having a height of more than 11 feet, 6 inches. Having a width of more than 89 inches. Number 5 is, a recreational vehicle as here and after defined. Sub-section C recreational vehicle. A vehicle which is designed to provide temporary living quarters for recreation, camping, or travel purposes. A recreational vehicle may be designed to be self-propelled or towed or carried by another vehicle. Recreational vehicles include campers, travel trailers, or motor homes.

Mindy Hall: I talked to my brother today, and he said we can move it to his property. I worked hard to buy that, and it has not been a problem.

Mr. Sweeny: It is a violation. You are in violation of the code.

Mr. Pritchett: We have given people who have come before us in the past extra days to solve their problems. If we give them some extra days and they still haven't solved the problem, then we can start fines.

Mr. Sweeny: Okay. Thoughts on down the line? Okay if you are ready with the motion I will not stand in your way.

Mr. Pritchett: Okay. I am making a motion that we start to fine \$250 a day starting tomorrow until you get the problem solved.

Motion: To come into compliance by June 8th, 2023, or be fined \$250 will begin. Moved by Mr. Pritchett, **seconded by Chairman Sweeny, passed 6-0** by the board by unanimous voice vote.

Mr. Sweeny: I ask for approval of our April 26, 2023, meeting. Looking for a motion to approve those minutes.

Motion: Approval of April 26th, 2023, minutes. **Moved by Ms. Gilpin, seconded by Mr. Binder, passed 6-0** by the board by unanimous voice-vote.

Mr. Sweeny: Let's move along to B, under new business. A notice to appear to Mary Riley, property owner for a notice for violation of our code Section 3.09.00 for operating a transient lodging facility. Mr. Ferris, are you going to take on this as well? Mr. Ferris, you're recognized.

Mr. Ferris: Notice to appear issued to Mary Riley property owner of parcel 1695800140. The notice of violation City of St. Augustine Beach Code Section 3.09.00 operating transient lodging facility. This violation is the property owner's second offense.

Mr. Ferris: while investigating a separate rental, this rental was discovered. If I may, I have additional articles of evidence to pass on to the board.

[Exhibit A]

Mr. Sweeney: Yes Sir. Please.

Mr. Ferris: So originally this first offense started back in September 2020 and ultimately results in the Code Board having Ms. Riley sign an affidavit. The affidavit stated that she would not operate a transient rental again. As this is a repeated violation, the violation is sent directly back to the Code Board.

Mr. Sweeney: It looks like she did pay a fine in 2020, is that correct?

Mr. Ferris: Correct.

Mr. Sweeney: Ok, I see a fine of \$200.00 was paid. Members, any questions for Mr. Ferris.

Mr. Sweeney: Okay, thank you, Mr. Ferris. All right, Mary Ann Riley. Please don't forget to state your name and your address for the record.

Mary Riley: Mary Ann Riley, 213 Eight Street, apartment A. I thought I wasn't in violation. I have a full-time tenant in my unit B. And I have a full-time tenant, she rents a room from me. And I have all the taxes that I paid, all the notifications of taxes to pay.

Mr. Sweeney: May I ask that you hand the taxes to our Attorney, just so he can make heads or tails, or tell us if it means anything or if it doesn't mean anything?

Mary Riley: So, I've owned my home since 2001, I was an out-of-state owner and landlady until I moved in, and I thought I was complying. I have two tenants that live there, and I live there.

Mr. Sweeney: I just want to remind you the code is the code. So, we must operate within certain parameters. I believe the code forbids you to do short-term rentals.

Mary Riley: I have 2 long terms, sir. My son rents Unit B, and he has been renting since 2010. My housemate Nancy, she and I have that Airbnb just for the weekends.

Ms. Gilpin: I have a question. You and your roommate move out of your house for people?

Mary Riley: Yes, exactly.

Ms. Gilpin: Where do you go when you rent?

Mary Riley: Sometimes I sleep on my son's sofa. Sometimes I go to my brother's house. She has a boyfriend she always goes to. If I'm not working, I'm often working on weekends, sometimes I'll go to my sister's house or I'll go to a friend's house in the store. And lots of times I'm right there on the sofa, there are never any issues.

Mr. Sweeney: Mr. Attorney or Mr. Law, whoever can answer this, what is the minimum amount of time you can rent to someone without becoming a short-term rental?

Mr. Timmons: There are 3 types of rentals. You have long-term rentals which are six months or more. You have short-term rentals which are 30 days or more, which is allowable in the medium density. Then you have the transient rentals which are your weekly, daily, nightly kind of rentals, which are obviously restricted due to the hundred allowable within the medium density.

Mr. Sweeny: And so, that's where you fall in violation of the code.

Mary Riley: There are no variables even though I have two tenants?

Mr. Blocker: The documentation you've shown is evidence of long-term rentals. You are authorized, and I see, from Saint John's County, there's a receipt here that you're paying the local tourist development tax. However, that does not absolve this requirement for transient rentals which is within a certain leaf of time, which would fall within the weekend. With short-term rental, there is a very specific limit to the number of businesses that are authorized to do that. It's capped at 100, and there's a waiting list, to be authorized to do that. The city commission or the elected officials here have made a policy decision which is enforceable on the Florida law, that is the requirement.

Mary Riley: Nobody said beforehand that even though you've owned your house, you can't do this. When did this come about?

Mr. Blocker: Just to point out Mr. Sweeny to the Board, that there was a transient rental affidavit that was signed by Ms. Riley, where there's acknowledgment, I'll read it here. This is on Section four, that as of September 30th, 2020, I will no longer rent my home for periods of less than 30 days, unless a transient rental license of the 100 becomes available to me and I have submitted the required documents for the City of St. Augustine Beach. This was notarized and signed on the 30th of October 2020.

Ms. Gilpin: I thought she had agreed to not do it.

Mr. Sweeny: So, you were made aware of the rules.

Mary Riley: I also thought that I was okay because I had two tenants and I got notification to pay taxes.

Mr. Swcny: No ma'am. It sounds like that allows for short-term and long-term rentals, not transient.

Mary Riley: Okay. So even though I have a person living in my house, that's not considered long-term?

Mr. Sweeny: That is. But because you also have your transient rental or renter, that's where you're in violation. You've got many things going on. You've got a long-term and maybe a short-term, and then transient. It's the transient that is why we're here today.

Mr. Blocker: The short-term as well. Long-term is acceptable; the short-term and transient rental is where there is an issue.

Mr. Swcny: That's why we're here today.

Mr. Timmons: Short-term is allowable if you get a permit and documentation through the city.

Mary Riley: So, I can't do this?

Mr. Sweeny: Unfortunately, that is right.

Mary Riley: And it's for my sustainability, for a home that I pay taxes in?

Mr. Sweeny: I understand. But for now, these are the parameters we're operating under, and you are in violation.

Mr. Sweeny: You have been in violation of the code; we've got to act on that violation. I think we are authorized to fine up to \$250 dollars a day, is that correct for this?

Ms. Gilpin: Yes.

Mr. Sweeny: Members, I ask that we consider not fining and we give until June 8TH for a cease and desist.

Motion: Cease and desist by June 8th, 2023, or a fine of \$250 per day will begin. **Moved by Chairman Sweeny, seconded by Mr. Mariutto, passed 6-0 by the board by unanimous voice-vote.**

Mr. Sweeny: All right members, let's move forward. Any old business? You're recognized.

Mr. Binder: Well, last month I asked the question related to residence 720, Beach Boulevard. About outstanding liens that haven't been placed on anybody. Mr. Timmons indicated at that time a contact from the attorney is having trouble locating Ms. Johnson and Mr. Kuhlman. Attorneys have reached out to the Sheriff's Office who are having a hard time finding them. Has anything changed? And my concern is, has anything been put on the deed of the property which would prevent Mrs. Johnson from selling the property?

Mr. Sweeny: City Attorney you're recognized.

Mr. Blocker: Mr. Binder yes, a lawsuit has been filed, they have been served, and they have represented themselves pro se at this point. They have hired a legal aid, who's representing them. Their Attorneys have reached out with an indication there are some homestead issues with the properties. So that's something we're trying to work out. As far as your specific question is something placed against the deed? Under Florida law, you can continue to place assessments and fines on the property, but if the property is a homestead, we're seeking to verify, and make sure that there are not any issues with fraud regarding that. Florida has very specific laws about homesteads. That may be a challenge to this specific case but will not prevent the city's staff from continuing to issue fines which would have to be paid at some point if there is a sale of the residence.

Mr. Sweeny: Mr. Binder?

Mr. Binder: So, there's no lien on the deed right now?

Mr. Blocker: I'd have to clarify that. If that property is a homestead, there would be a lien that would be placed on or there will be assessments that we will be placed on the property. So, if the property is sold, those would have to be paid to the local government.

Mr. Binder: Correct.

Mr. Blocker: So, then we're using different terminologies, but I think we're at the same point. So yes, that is something that we're perfecting. The lawsuit was a foreclosure of the property. If the property is a homestead, we would not be able to foreclose on the property. There is some dispute about whether this is homestead of property as far as practice because, Florida does deal with homestead fraud, where people would claim

homestead and it's not homestead. So that's something we're trying to work out right now. But as far as your question about liens being placed on the property? We are moving forward with that.

Mr. Law: Just to remind the board, if a property sells and it goes to the appropriate with the closing documents and all that, my staff receives a request for co-enforcement violations of the permits. Normally Ms. Lacy handles all those, at that point we would disclose that to the closing company, and then they would have to rectify whatever we're up to.

Mr. Blocker: So, Mr. Binder said the time of sale is where those fines would come in. So, if the property is worth \$300,000 and the fines are \$200,000, then that's how the city would recoup those losses. If the property was not homesteaded and we were to verify it was not homesteaded under Florida law we can foreclose a property and actually take it that way as well which is less common, but it is a tool, an effective tool for us to operate under.

Mr. Bender: So at this present time, Mrs. Johnson still is getting a fine each day of \$250?

Mr. Law: Can we get back on the board on that? I seem to have a different memory than Mr. Timmons, the records will indicate them, we'll let you know.

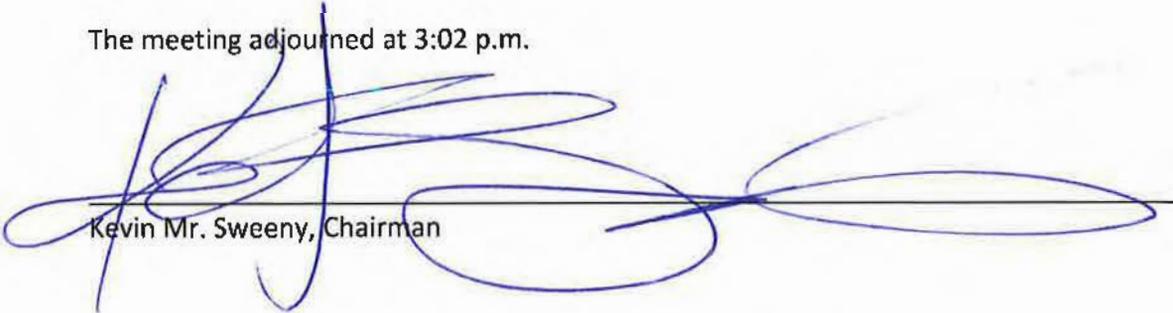
Mr. Sweeny: Anyone else, members? Members thank you very much.
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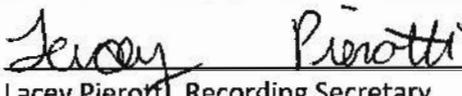
VI. BOARD COMMENT

There was no board comment.

VII. ADJOURNMENT

The meeting adjourned at 3:02 p.m.


Kevin Mr. Sweeny, Chairman


Lacey Pierotti, Recording Secretary

(THIS MEETING HAS BEEN RECORDED IN ITS ENTIRETY. THE RECORDING WILL BE KEPT ON FILE FOR THE REQUIRED RETENTION PERIOD. COMPLETE AUDIO RECORDING CAN BE OBTAINED BY CONTACTING THE CITY MANAGER'S OFFICE AT 904-471-2122.)