

MINUTES

CODE ENFORCEMENT BOARD KEY COLONY BEACH May 24, 2107, 9:30 a.m. City Hall Conference Room

Call to Order, Roll Call:

The Code Enforcement Board meeting was called to order by Chairman Tom Tucker at 9:30 a.m. *Present:* Chairman Tom Tucker, Vice Chair Tom Moore, John Dalton, Larry Wagner, Emilie Burroughs. and Rusty Stevens. *Also Present:* Code Enforcement Officer Edward Borysiewicz, Code Enforcement Officer Gerard Roussin, Police Chief Kris DiGiovanni, and City Clerk Kathryn McCullough. Excused: City Attorney Tom Wright. Public: 2

Approval of Minutes

Motion: Made by Larry Wagner, seconded by Rusty Stevens to approve the minutes of September 7, 2016 as written.

On the Motion: Unanimous voice vote approval.

Discussion/Recommendation to Commission for New Board Members

Chairman Tucker informed the Board Members of two openings. It is often difficult to get a quorum due to the vacancies. Tucker DeGraw, formerly a Board Member, has reapplied for one of the openings. Mr. DeGraw is also a past City Commissioner and very familiar with City codes. Joey Raspe has applied for the other opening. Mr. Raspe, a resident of 11th Street, is also very active in the City. Mr. Tucker reported the City Commission will not appoint either person without the recommendation of the Code Board Members.

MOTION: Motion made by Chairman Tucker, seconded by Board Members Burroughs, Dalton and Wagner to recommend to the City Commission the appointment of Tucker DeGraw and Joey Raspe to Code Enforcement.

ON THE MOTION: Unanimous voice vote approval.

Swear in Witnesses to Testify

Building Official Borysiewicz, Michael Keith and Michael Morrone were sworn in by City Clerk McCullough.

Case for Hearing

1. 201 E. Ocean Drive, Unit # 3-201 Owner Michael Keith

Building Official Borysiewicz reported on February 3, 2017, he received a complaint from Casa Clara Condo Association Vice President Marjory Jenning regarding Unit 3-201. The description of the violation, by the Complainant, was newspapers and magazines stacked throughout the unit, cat feces on the floor, a strong urine smell and possible mold throughout the unit. Mr. Keith allowed Mr. Borysiewicz to inspect the premises on March 17, 2017. He observed newspapers, mail and magazines stacked, strong unpleasant smells and dirt stains throughout the unit. A citation was issued on March 20, 2017 for a \$150/day fine. Prior to the date the fine was due, Mr. Keith requested a Code Board hearing. Mr. Borysiewicz reported a

re-inspection of the unit last week with some improvements noted, however, there are still very strong odors. It is still very dirty with many newspapers, etc. stacked throughout. Mr. Borysiewicz expressed his concern for the health of the residents. He stated there is definitely a health/safety issue for the occupants.

Chairman Tucker asked if the Board Members had any questions for Mr. Borysiewicz. Board Member Moore asked if this was an issue for the City or if the issue is between the unit owner and the Condo Association. Chairman Tucker stated Casa Clara has a concern and legal authority in this matter, however, it is also a code violation. Therefore, a hearing before this board is appropriate.

Chairman Tucker reported he was approached by Board Member Wagner who asked if he should recuse himself as he also lives in Casa Clara. Board Member Wagner stated he lives at Casa Clara, but is not involved with this issue. His ability to be impartial will not be impacted.

Michael Morrone, Casa Clara condo manager, reported a contractor, who entered the unit to perform maintenance, reported to Mr. Maroney that he would not enter the unit again as the odor made him nauseous. This occurred in November or December of last year and is what participated Casa Clara getting involved in this in this issue. Management and a Board Member visited the unit and determined extensive cleaning was necessary. The Casa Clara Board offered to have been unit cleaned if the owner was not capable of doing it. The owner would be charged for the service. To date there has been no response from the owner on this offer. Letters have been sent by the attorney; Board Members have visited the owner and his wife; and the situation has not changed. A a re-inspection of the unit was done on May 18, 2017. Building Official Borysiewicz, Mr. Keith, and Michael Morrone were in attendance. The summary of the inspection, prepared by Mr. Maroney, includes the following points; 1) there was extensive cat food and cat feces on the floor in the kitchen area; 2) there were clothes and newspapers stacked throughout the unit; 3) there was a foul odor throughout the unit. 4 Mr. Keith refused to allow photographs. It is Mr. Keith's right to refuse. Mr. Morrone provided a copy of the summary report to the Casa Clara Board, the Building Official, and Mr. Keith. The Casa Clara Board, again, offered to have been unit cleaned.

Board Member Dalton asked if the Board of Health or the Fire Marshal had been contacted regarding the situation. Mr. Morrone said neither the Board Health or the Fire Marshal's office will act until there is action on the part of Key Colony Beach . Building Official Borysiewicz indicated he would contact them if the situation can't be solved here.

Mr. Keith asked, with respect to the cat feces on the floor, did Mr. Morrone inspect close enough to see the feces was in the cat litter box? . Mr. Keith also reported the cat food was in a dispenser and the wet food was on a plate. Both of those items were on a rug on the floor. Mr. Keith also asked if Mr. Morrone had specifics on when the Condo Association had offered help? Chairman Tucker asked if Mr. Keith had any more questions. Mr. Keith responded he did not.

Michael Morrone stated, as the representative for the Casa Clara Board, he wanted it known he was not trying to be argumentative. Mr. Keith was provided a copy of the re-inspection report to allow him the opportunity to dispute any of the findings. With respect to report, Mr. Morrone stated he reported what he observed. He also stated Casa Clara Board Member Jennings had met with Mr. Keith and offered assistance in cleaning the unit.

Chairman Tucker said those persons living in a condominium have a higher responsibility because of the proximity to their neighbors. The Code Board is not trying to hurt or damage anyone. It is trying to fix the situation. The Code Board will make a determination on the guilt or innocence of the violation. If found in violation of City Code a fine will be affixed.

Mr. Keith stated he was not here to deny the violation of City Code. He does want to present a case for mitigation to keep the fines to a minimum. He is a very sorry, very humble, and humiliated by this situation. The code violation was not created in a short period of time and it will not be resolved in a short period of time. His wife cannot stand for any period of time, she cannot bend over without pain and she has demonstrated mental decline over the last year and a half. Mr. Keith's medical situation has also deteriorated over the last two years. His biggest problem is chronic fatigue which limits his ability to carry out tasks for more than 20 or 30 minutes a day. He cannot lift anything over 20 pounds and he cannot stand for any period of time without a back brace. While the primary portion of the complaint is based on the accumulation of newspapers and magazines, there are also medical records, insurance documents, condominium records and financial records include in those stacks of newspapers. He must, therefore, painstakingly go through the accumulated papers before throwing them out. He has worked with Mr. Borysiewicz over the last couple of months to resolve the situation. He realizes there are administrative costs and some monetary penalty that he will have to pay. He hopes the penalty will be fair. He is not destitute, but he drives a 15 year old car, receives a small pension, and lives below his income to pay the six figure condo assessments for concrete restoration and legal fees.

Chairman Tucker asked Mr. Keith if he would allow weekly inspections by Mr. Borysiewicz and Mr. Maroney. Mr. Keith said he would as long as he had advance notice and knew who was coming. Chairman Tucker asked Mr. Keith how long he thought it would take to correct the situation. Mr. Keith estimated it would take 30 to 45 days to clean the unit. Chairman Tucker asked if Mr. Keith would accept help from others living at Casa Clara. Mr. Keith indicated he would. Mr. Morrone, for clarification purposes, said it would be there very difficult to help Mr. Keith as the odors in the unit are so bad. Mr. Morrone said the condo association will hire a service to clean the unit and the rugs. The cleaning would be at Mr. Keith's expense.

Board member Wagner suggested Mr. Keith be given 30 to 45 days to rectify the situation before any fines.

Chairman Tucker stated Mr. Keith is in violation of City Code based on his own testimony. He requested the City Clerk poll the board. Board Member Wagner, yes. Board Member Burroughs, yes. Vice Chair Moore, yes. Board Member Dalton, yes. Board Member Stevens, yes. Chairman Tucker, yes.

MOTION: Motion made by Chairman Tucker, seconded by Board Member Burroughs, to assess a \$150/day fine, beginning today, May 24, 2017, to be held in abeyance for 60 days, to allow Mr. Keith time to bring the unit into compliance. If at the end of 60 days Mr. Borysiewicz, based on his inspections, finds that the unit is in compliance all fines and fees will be waived.

ON THE MOTION: Roll call vote. Unanimous approval.

Chairman Tucker told Mr. Keith the Code Board is trying to fix the situation. If the situation is remedied, evidenced by Mr. Borysiewicz's reports and inspections, by July 24, 2017, all fines will be dropped.

Chairman Tucker told Mr. Keith this was an opportunity to get his unit in order. Mr. Borysiewicz expressed, due to Mr. Keith's health issues, he won't be able to do this alone. Chairman Tucker told Mr. Keith if he hired a service to clean up the unit he would save \$150/ day. Mr. Keith agreed.

Motion made by Board Member Dalton to adjourn the meeting. All Board Members agreed.

The meeting adjourned at 10:40 AM.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Kathryn McCullough". The signature is written in black ink on a white background.

Kathryn McCullough, City Clerk

Note: A mechanical recording has been made of the meeting of which these minutes are a part, and a copy is on file in the office of the City Clerk, as a public record.