

AGENDA

CITY OF KEY COLONY BEACH CODE ENFORCEMENT BOARD

February 12, 2020 9:30 a.m. Marble Hall

Call to Order – Tom Wright

Pledge of Allegiance and Roll Call

Election of Officers

Code Board Duties and Responsibilities – Attorney Tom Wright

Code Enforcement Board is quasi-judicial. The hearings are judicial in nature with due process given to everyone who comes before the Board. The elements of due process are notice of the charges and the opportunity to appear. An alleged violator is entitled to an impartial hearing. At the beginning of a hearing if you have a conflict or an issue or an ex-parte communication it needs to be disclosed. It is not usually a good idea to visit a site before the hearing as it could turn you into a witness when, in fact, a Board Member is supposed to be a judge, an impartial determiner of the facts. Plus, if you see something not evidenced at the hearing, then you are making a decision based on facts not in evidence. When asking questions at a hearing you must be careful not to assume the position of a prosecutor. The City is the prosecutor in these matters. If the Board finds a violation any appeal goes to the Courts, not to the City Commission. The City Commissioners are not part of the process at all. A standard of proof, in these hearings is a preponderance of the evidence, which means it does not have to be beyond a reasonable doubt. The burden of proof is always on the City to prove the violation took place. If you do find a violation your second responsibility is to determine the punishment. It works best if you separate the two and not make it all part of one motion. City Attorney Wright strongly recommended first a vote on the violation. Then, if found in violation, vote on the penalty. The procedure for the hearing is the City presents its case, the respondents should always be given the opportunity to cross examine the City's witnesses, Board Members can ask questions at any time, then the respondent states their case and calls any witnesses they have. The City has the right to cross-examine those witnesses. If there are members of the public present, they would go last. It is also a good idea to give the parties an opportunity to give a closing statement. At that point the Board can make their motions. The Code Enforcement Board is covered by the Sunshine Laws of the State of Florida. It is not appropriate for Board Members to discuss any Code Board issue outside of the hearing. You are not the Code Police, that is up to the Code Enforcement Officers and/or the Police Department. If an individual comes to a Board Member with a code violation, that person should be directed to the City Administrator, to the Building Department or to the Police Department.

Approval of Minutes: Code Enforcement Meeting July 10, 2019

Swearing in of Witnesses to Testify

Notice:

An ex-parte communication is defined as any contact, conversation, communication, writing, correspondence, memorandum or any other verbal or written communication that takes place outside of a public hearing between a member of the public and a member of a quasi-judicial board regarding matters which are to be heard and decided by said quasi-judicial board. Site visits and expert opinions are also considered ex-parte communications. In the event that someone contacts a Board Member about a quasi-judicial matter outside of a public meeting, at such time that a particular issue is brought before the board; the Board Member should state on the record the existence of an ex-parte communication, the nature of the communication, and the party who originated the ex-parte communication. Similarly, any correspondence received by a board Member must be forwarded to the City Clerk. You should also state whether the ex-parte communication affects your ability to impartially consider the evidence presented.

Cases for Hearing:

- 1. 160 10th Street – Owner: Teresa B. Ulrich** – City Ordinance Chapter 6, Section 56 Building and Property Maintenance.
- 2. 421 10th Street – Owner: Tammy K. Macomber** - City Ordinance Chapter 6, Section 56 Building and Property Maintenance.
- 3. 790 10th Street – Owner: Welker Betty Pangrace Trustee** - City Ordinance Chapter 6, Section 56 Building and Property Maintenance.

Discussion Items

Adjournment

- . Persons who need accommodations in order to attend or participate in this meeting should contact the city clerk at 305-289-1212 at least 48 hours prior to this meeting in order to request such assistance. If a person decides to appeal any decision made with respect to any matter considered at any meeting, that person will need a record of the proceedings and for such purpose may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.