

City of Layton

CODE ENFORCEMENT BOARD

HEARING

Friday, November 14, 2008

Layton, Florida

MINUTES

I. Chairman James Tynan called the meeting to order at 7:00 p.m. followed by the pledge to the flag. Philip “Skip” Haring, Administrative Assistant to the Mayor, gave the invocation.

II. ROLL CALL

Chairman James Tynan	Present
Charles “Sandy” Maclaren	Absent
Al Greulich	Absent
Octavio Betancourt	Absent
Thomas Dudderar	Present
Alternate William Murchie	Present and Seated
Alternate Raymond Monteleone	Late, Not Seated
Alternate Susan Grant	Absent

Staff present were: Skip Haring, City Attorney Joshua Hauserman, and City Clerk Marjorie Parmenter.

Jack Bridges, Attorney for the Layton Code Enforcement Board was also in attendance.

III. APPROVAL OF MINUTES

Thomas Dudderar made a motion to approve the minutes of the Code Enforcement Board Hearing of July 9, 2008. The motion was seconded. All approved.

Thomas Dudderar made a motion to approve the minutes of the Code Enforcement Board Hearing of Friday, October 3, 2008. The motion was

seconded. All approved.

IV. CASE # 2009-B08: REIMBURSEMENT OF LEGAL EXPENSES INCURRED BY THE CITY OF LAYTON REGARDING THE UNSAFE STRUCTURE LOCATED AT 144 BUTTONWOOD LANE

Attorneys Harold Truppman and William Crispin were in attendance on behalf of John and Jean B. Murphy. Court Reporter Kathi Fegers was present in order to provide a transcript of the proceedings for Mr. and Mrs. Murphy.

City Clerk Marjorie Parmenter was sworn in by Court Reporter Kathi Fegers. After extensive questioning of the witness, pertaining in the most part to payment of bills and issuance of orders, Attorney Truppman stated that, in his opinion, the City of Layton has in place an ordinance for the reimbursement of costs, not legal fees. Mr. Truppman agreed to research case law in regard to this matter, and to provide copies of his findings to City Attorney Joshua Hauserman and Code Enforcement Board Attorney Jack Bridges. A hearing of the City of Layton Code Enforcement Board was set for Friday, December 5, 2008.

Jack Bridges was called as an expert witness. Attorney Bridges was sworn in by Court Reporter Kathi Fegers. Chairman Tynan accepted the qualifications of Mr. Bridges as an expert witness. Mr. Bridges testified that the legal fees submitted by Vernis & Bowling of the Florida Keys, P.A., the law firm representing the City of Layton, for work done in reference to Case # 2009-B08, the Murphy residence at 144 Buttonwood Lane in Layton, seem to be, in his professional opinion, reasonable. Attorney Truppman questioned Mr. Bridges as to whether or not specific entries on the bills, submitted as evidence by Joshua Hauserman, appear to be reasonable. Mr. Bridges testified that two (2) of the entries may be questionable, in his opinion, but all others seem reasonable. He stated that he had not studied each individual file.

No other witnesses were called and no additional evidence was presented.

Attorney Truppman summarized his feelings that the City of Layton Code of Ordinances addresses reimbursements of costs, not legal fees, and that evidence presented by the City was insufficient for the Code Enforcement Board to make a ruling. Chairman Tynan stated that he would like to review the case law before the Code Enforcement Board Hearing scheduled to be held on Friday, December 5, 2008. Mr. Bridges offered to distribute copies to all parties as soon as he receives the documents from Attorney Truppman. Mr. and Mrs. Murphy and Attorneys Crispin and Truppman left the room. William Murchie asked a question regarding the Murphy case. The court reporter was asked to continue to record the proceedings, as the meeting had not adjourned, and discussion involved the Murphy case for which she was hired. Mr. Murchie asked for a breakdown of legal fees and timing in reference to the unsafe structure order which was later vacated. There were no further questions or comments in reference to the Murphy case (# 2009-B08).

V. CASE # 1052-B07: CONSIDER AND TAKE ACTION ON VIOLATIONS AND UNSAFE CONDITIONS REGARDING THE POOL INSTALLATION AT 112 PRIMROSE LANE.

The City Attorney stated that the City requests a finding of fact which states that the swimming pool protective devices are not in compliance with the Florida Building Code, and further that an order be issued directing the City to take immediate action to effect reasonable repairs to make the pool area safe as per Section 2-128 (a) of the City of Layton Code of Ordinances and allowing the City to recover associated costs. The City of Layton Building Code Administrator was called as a witness, and was sworn in by Court Reporter Kathi Fegers. The Building Code Administrator testified that the permit issued for the pool included an approved pool cover, which has not been installed, causing the pool to be unsafe and dangerous. The City recommended hiring a State of Florida Certified General Contractor to make the pool safe. Attorney Bridges recommended that the Code Enforcement Board grant the City's request to secure the pool, as is allowed by law. Violations exist against the Florida Building Code and Florida Statutes. According to Florida State Statute, the Board could have the Sheriff issue a summons to the property owner as the violation constitutes a third degree misdemeanor.

William Murchie made a motion to turn the matter over to the Monroe County Sheriff. There was no second to the motion. The Code Board members present agreed unanimously to find David & Nancy Soderquist to be in non-compliance. The Certified General Contractor who pulls the permit for the emergency cover over the pool will accept responsibility for the work. Mr. Murchie amended the original motion to include hiring a contractor to make emergency repairs to the pool. The motion died for lack of a second. Mr. Murchie made a motion to hire a State Certified General Contractor to make repairs to the pool. Thomas Dudderar asked that the motion be amended to include reimbursement to the City of Layton for all expenses and attorneys fees related to this case.

Roll Call was taken to amend the motion:

Chairman James Tynan	YES
William Murchie	YES
Thomas Dudderar	YES

Roll Call was taken on the amended motion:

Chairman James Tynan	YES
William Murchie	YES
Thomas Dudderar	YES

VI. Case # 1083-B07: CONSIDER AND TAKE ACTION ON VIOLATION OF THE CITY OF LAYTON CODE OF ORDINANCES REGARDING MINIMUM LANDSCAPING REQUIREMENTS AT 100 BUTTONWOOD LANE.

The City requested that this item be removed from the agenda, as this property is now in compliance. The City will invoice the owner for costs incurred in noticing this meeting.

Roll Call was taken:

Chairman James Tynan	YES
William Murchie	YES
Thomas Dudderar	YES

VII. COMMENTS

Attorney Russell Yagel, of the Law Offices of Hershoff, Lupino & Yagel, LLP, asked for a re-hearing to consider the reduction of the fines and fees assessed to the three (3) homeowners on North Layton Drive concerning non-compliance with the wastewater ordinance. Attorney Yagel asked that the fines be reduced to \$ 1,000. Attorney Hauserman stated that the City objects to a re-hearing. Discussion ensued. Attorney Yagel stated that for the purposes of these proceedings he will not raise issues concerning reimbursement of legal fees and costs or ordinance issues. William Murchie made a motion to grant a re-hearing on December 5, 2008. The motion died for lack of a second. Discussion ensued concerning the scope of a re-hearing. Mr. Yagel stated that he is representing all three (3) homeowners on North Layton Drive. Again discussion ensued. Chairman Tynan, within his authority as Code Enforcement Board Chairman, made a decision to grant a re-hearing concerning fines and fees assessed to the homeowners on North Layton Drive. It was reiterated that a re-hearing will be scheduled for Friday, December 5, 2008.

VIII. ADJOURNMENT

Chairman Tynan made a motion to adjourn the Code Enforcement Board Hearing. The motion was seconded. All were in favor. The City of Layton Code Enforcement Board Hearing of Friday, November 14, 2008 was adjourned at approximately 9:30 p.m.

Respectfully submitted,
Marjorie Parmenter
City Clerk

This is to attest that these are the true minutes of the City of Layton Code Enforcement Board Hearing of Friday, November 14, 2008.

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City of Layton Code Enforcement Board Hearing of Friday, November 14, 2008.

Respectfully submitted,

Marjorie Parmenter
City Clerk
City of Layton