

**MINUTES  
CITY OF ORMOND BEACH  
QUALITY OF LIFE ADVISORY BOARD  
REGULAR MEETING**

**July 2, 2015**

**6:00 PM**

**City of Ormond Beach  
Training Room  
22 South Beach Street  
Ormond Beach, Florida**

**1) Call to Order**

Dr. Shapiro called the meeting to order at 6:00 p.m.

Members present were: Debbie Berner, Julianne Blanford, William Masters, Brian Nave, Kathy Page and Dr. Philip Shapiro. Excused was Troy Railsback.

Staff present was: City Manager Joyce Shanahan, Deputy City Attorney Ann Margret Emery, Neighborhood Improvement Division Manager Chris Mason and Recording Secretary Shá Moss.

**2) Approval of Minutes – May 7, 2015 and May 14, 2015**

Corrections were made to page 4 of the May 7, 2015, meeting.

**Ms. Berner moved, seconded by Mr. Masters to accept the minutes of the May 7, 2015, meeting, as amended. The motion passed unanimously.**

**Ms. Berner moved, seconded by Mr. Nave to accept the minutes of the May 14, 2015, meeting. The motion passed unanimously.**

**3) Discussion Items**

**a. Property Maintenance Code**

Dr. Shapiro stated regarding code enforcement, it was better to advise than to penalize in an ideal scenario, but the code enforcement guidelines needed to be updated. Most property owners take care of the properties, but there are a few that create an eyesore or health issue for the community.

Dr. Shapiro introduced Neighborhood Improvement Division (NID) Manager Chris Mason.

Ms. Shanahan stated some of the slides would be familiar since the Board has reviewed them, but she wanted to put in context things that were currently regulated and what was unregulated. Staff was looking for input from the Board so that an Ordinance can be drafted for the City Commission's consideration. She noted once the regulations were drafted it would be brought back to the Board for further discussion. She stated several years ago, the City looked at the International Property Code but the City Commission felt they were too burdensome.

Ms. Shanahan noted that the City Commission stated green pools were not something that they were concentrating on because pool pumps and filters would have to run, which was beyond the scope of what the Commission wanted to regulate. NID works with Mosquito Control so that mosquitoes are not an issue. She also stated staff was asked to concentrate on the outside of the structure and not the inside.

Ms. Shanahan stated that code enforcement process was statutorily defined by how you go through that process. There is a quasi judicial hearing once you are in violation and the process takes time. The goal of code enforcement is compliance not to penalize.

Ms. Berner asked whether the code enforcement regulations referred to just the structure.

Ms. Shanahan answered that it also included the yard. Currently there is an ordinance that regulates the grass, but nothing that regulated trees or shrubs.

Mr. Mason reviewed the Power Point Presentation – Residential and Commercial Property Maintenance Issues.

**Slide 2 – Green Pools/Water Conditions Not Regulated Pool Security Regulated**

Ms. Shanahan stated this slide showed a green pool and a broken pool enclosure. She noted the enclosure was a safety issue and the City ensures that pools are secure for safety reasons and has done so in the past for other pool enclosures. She stated the City does not address the health hazard of the green pool.

Dr. Shapiro stated there were health issues with a green pool. He stated a code should exist.

Ms. Berner read New Smyrna Beach Code Sec. 913 (11) *Swimming Pools* – Any swimming pool or spa shall be properly maintained and kept in working order so the water remains clear, free of pollutants and debris, and does not become a breeding place for mosquitoes and other insects. Any pool of spa not maintained in this manner

shall be drained and kept dry. Properties with pools or spa shall comply with the minimum security fencing requirements of the city.

Mr. Masters asked what the repercussions would be; wherein Ms. Shanahan stated a citation would be issued and the pool would have to be brought to compliance.

Ms. Blanford, Ms. Page and Mr. Masters agreed with New Smyrna Beach's code regarding swimming pools.

Mr. Nave did not want to see the City take someone's property from them because they were not in compliance with the regulations. He would like to see some social organizations work with the property owners.

Ms. Shanahan stated that the City could not take away a homesteaded property. We can only fine the property owner and place a lien on the property.

**Slide 3 – Site Maintenance & Inoperable Vehicle Regulated**

Mr. Mason stated they were called to this property for yard condition and a missing tag on the vehicle as well as debris in front of the vehicle.

Ms. Shanahan stated that this issue is already regulated and if the City does anything to bring the issue into compliance, a lien is placed on the property.

**Slide 4 - Decorative Vines Shrubbery Not Currently Regulated – No violation exists**

Mr. Mason stated that a house with vines growing on it is not necessarily a violation.

Ms. Blanford stated even though they are well maintained does not mean that someone else's property might not be kept the same.

**Slide 5 – These Landscaping Issues Not Currently Regulated – No violation exists**

Mr. Mason stated the yard was full of plants and if they are not trimmed, slide 5 showed the results.

Ms. Shanahan stated currently the City has a code for grass, but not for plants or hedges.

Mr. Nave stated the property was subjective.

The Board did not see this as a code issue.

**Slide 6 – Decorative Vines & Shrubbery Not Currently Regulated – No violation exists**

Mr. Mason noted that there were plants planted all around the house.

Dr. Shapiro asked whether a structure has to be visible or can the plants or shrubbery block the view.

Ms. Shanahan stated there was no regulation stating the structure needed to be visible.

Ms. Berner read New Smyrna Beach Code Sec. 26-193(8) *Landscaping* – Maintain all yards and landscaping by watering, cutting, pruning, and mowing all lawns and vegetation. Yards and lawns shall be kept free of weeds.

Dr. Shapiro stated it does not look as though it would bring the neighborhood down.

Ms. Shanahan stated in her opinion the photo shows that the weeds and shrubbery were not properly maintained.

Ms. Blanford stated it looked like native vegetation.

**Slide 7 – Overgrown Shrubbery – Not Currently Regulated**

Ms. Berner read New Smyrna Beach Code Sec. 26-193(8) *Landscaping* – Maintain all yards and landscaping by watering, cutting, pruning, and mowing all lawns and vegetation. Yards and lawns shall be kept free of weeds.

**Slide 8 – Decorative Vines & Shrubbery Not Currently Regulated – No violation exists**

Dr. Shapiro stated overgrown shrubs do not look good in any neighborhood. He noted that when one house goes down, others can follow.

Ms. Berner read New Smyrna Beach Code Sec. 26-193(8) *Landscaping* – Maintain all yards and landscaping by watering, cutting, pruning, and mowing all lawns and vegetation. Yards and lawns shall be kept free of weeds.

Mr. Nave stated there needed to be some type of balance and asked if the City wanted to force their will on the property owner. He suggested helping your neighbors.

**Slide 9 and 10 – Unsafe Building Abatement Regulated by the Chief Building Official**

Mr. Mason stated the slide showed a tarp on the roof for over two years and it was in foreclosure. This property has been determined that it was an unsafe structure by the

Chief Building Official and the City Engineer and will be demolished if not repaired in 30 days.

Ms. Shanahan stated if properties are in foreclosure or pre foreclosure, there is no party to site.

This issue was already being regulated.

**Slide 11 – Tarps on Roofs - Regulated**

Ms. Shanahan stated tarps on roofs and boarded windows were two of the changes the City Commission made in 2010 so that the property owner could temporarily secure the property from hurricane damage.

This issue was already being regulated.

**Slide 12 – Boarded Up Structures – Regulated / General Maintenance – Not Currently Regulated**

Ms. Shanahan stated this property has been in this condition for quite some time and currently the City does not regulate general maintenance.

Dr. Shapiro stated there should be something in the regulations. He said the City should paint it and place a lien on it.

Ms. Shanahan stated the City does not have sufficient funds to paint structures.

Mr. Nave asked whether residential and commercial properties can be separated.

Ms. Berner read New Smyrna Beach Code Sec. 26-193(2) *Exterior surfaces* - All exterior finish surfaces shall be weather tight and in good repair and shall not have any holes, cracks or deterioration that allows water or vermin to reach any basic structural element or to enter the interior of any building.

Ms. Berner read New Smyrna Beach Code Sec. 26-193(3) *Protection of exterior surfaces* – All exterior surfaces of a building or structure that may deteriorate from exposure to weather shall be protected from the weather by a properly applied weather-resistant paint, stain or other waterproof finish. Primers shall be properly covered with a water-resistant finish coating.

The Board agreed with New Smyrna Beach Code Sec. 26-193(2) and (3)

**Slide 13 – Boarded up Structure – Regulate / Façade Unmaintained – Not Currently Regulated**

Ms. Shanahan stated this was another property has been in this condition for quite some time and currently the City does not regulate general maintenance.

**Slide 14 – Garage Door Ajar – Not Currently Regulated**

Ms. Shanahan stated garage doors being ajar was a common complaint. Sometimes the property is occupied, but neighbors are concerned that things can get into the garage and eventually come onto their property. Currently there is no regulation for it, but the issue would be how to secure it. Sometimes it may be equipment issues or it could be a lot of stuff keeping the garage from closing.

Mr. Mason stated this property was currently in foreclosure and the garage door was currently off track.

Mr. Nave stated this was also a safety issue and asked whether this could be tied into the issue regarding pool enclosures.

Ms. Emery stated that it might be cited more as an aesthetic issue than a safety issue by the residents.

The Board agreed that a garage door left ajar should be regulated.

Ms. Shanahan asked whether there was a way to have a separate set of standards for foreclosed properties and owner occupied properties.

Ms. Emery answered not really and that they should conform to the same standards as occupied properties. There was not a lot of case law on requiring a bank that only had a security interest in the property to make repairs.

**Slide 15 – Exterior Structure Maintenance – Not Currently Regulated**

Ms. Shanahan stated this property had peeling paint and soffit that needed repairing.

Dr. Shapiro stated that if left alone, it could create wood rot, termites and devalues the neighborhood. He stated the New Smyrna Beach Code Sec. 26-914(3) would apply to this issue.

Ms. Blanford stated the City should have the authority to regulate painting on residential and commercial properties. She noted that the City would take into account reasonableness. Once a complaint is made, she stated there would be a few steps for the homeowner to go through. She hoped the City would look at code issues from other cities and some research should probably be done.

Mr. Nave asked who was to say that the next house was not painted good enough. Doing so would add additional issues such as; what was going to be regulated, how are you going to regulate it and how was it going to be enforced.

Ms. Shanahan reiterated that staff was looking to the Board for some general direction. She was not looking for the Board to say how badly deteriorated the issue was or how to regulate it. She noted after staff drafts the regulations; they would come back to the Board for further review. She also understood that the Board wanted a degree of specificity.

Mr. Nave stated once you start looking as specifics, it could go in a different direction.

### **Slide 16 – Exterior Maintenance – Not Currently Regulated**

Ms. Shanahan stated the car in the slide had mechanical issues and has since been removed.

Mr. Mason stated regarding the structure, the porch is sagging, the glass in the front door was missing but the property was occupied.

Ms. Berner read New Smyrna Beach Sec. 26-193(9) *Trash and debris* – The property shall be kept free of trash and debris. Trash and debris shall be removed from the property within seven days of placement on the property.

Ms. Shanahan stated the City currently regulates trash and debris but the issue was exterior maintenance, not the trash.

Dr. Shapiro stated that New Smyrna Beach Code Sec. 26-193(1) would be relative to this issue.

Ms. Shanahan stated New Smyrna Beach code Sec. 26-193(5) was also important as there has been a number of complaints about exterior structures not properly attached, such as stairways, gutters, down spouts, canopies, antenna and basic structure elements.

Ms. Blanford and Ms. Page stated the City should have the authority to regulate this issue.

Mr. Nave stated if it can be proven to be unsafe, it should fall under the safety regulations the City already has. He asked how we would know whether the property owner could afford the repairs.

Dr. Shapiro stated that was not what was being discussed; wherein Mr. Nave disagreed, because it was an issue.

Ms. Berner stated that we wanted to present a good image to people inside and outside the community. She stated we needed to set some standards.

Ms. Blanford stated she hoped that someone would come to their aid regarding repairs.

Dr. Shapiro stated the intent was not to punish and we were only looking at the gaps in the code.

Ms. Blanford stated there were county funds available for repairs.

Ms. Shanahan agreed there were programs at the county level to assist residents with repairs.

Dr. Shapiro stated if someone was in trouble and significantly out of compliance with City code the logical thing would be there to assist them.

Mr. Nave stated we were not talking about establishing a City fund to help people. He stated we were deciding what to enforce and what to slap people with if they didn't comply.

Ms. Shanahan reiterated that there were no funds currently available in the City's budget to assist people with repairs.

Ms. Berner read New Smyrna Beach Code Sec. 26-193(4) *Exterior windows and doors* – All exterior windows and doors shall be weather tight and in good repair, intake and functioning as originally intended and designed, or shall be secured against weather by boarding which is painted color matching that of the adjacent exterior siding. Boarding shall be done in a manner and with materials as specified in this Code. All exterior openings suitable for human or animal entry shall be secured by use of exterior grade plywood, of a least three-eighths- inch thickness, cut to the size of the opening and secured by use of Phillips-headed, minimum two inches long screws on all first story or ground accessible points of entry. The use of 16d common nails is permitted on entry points being secured above the first story or where not accessible from ground level. Boards shall be placed over all points of entry.

Dr. Shapiro agreed with New Smyrna Beach codes.

Ms. Shanahan stated staff wanted to provide the Board with information from a similar community in the area. She noted there were many different codes throughout the State, but stated the New Smyrna Beach Code was only to be used as a guide for the Board.

Dr. Shapiro read New Smyrna Beach Code Sec. 26-912 *Applicability* – The provisions of this article shall apply to all properties and to any person owning, occupying, managing or controlling any property in the city as identified by this article. Dr. Shapiro stated the word controlling could apply to the banks.

Dr. Shapiro stated once things are regulated, NID would let them know what the standards were, wherein the resident would respond and the issue could be figured out. He noted most people would be cooperative and those that were not, the City would decide how to proceed.

**Slide 17 – Painting unfinished – Not Currently Regulated**

Ms. Shanahan stated there was no regulation to compel them to paint the structure.

**Slide 18 – Deterioration of existing vacant structure – Not Currently Regulated**

Ms. Shanahan stated the structure was not secure, there were boarded windows, and the sign was peeling.

**Slide 19 – Vacant Business – Awning ripped, general maintenance – Not Currently Regulated**

*Board member comments were inserted into the appropriate slide section, to flow with the second review of the slides. Below are additional comments and motions.*

Dr. Shapiro stated the Board needed to develop a philosophy because aesthetics was within the Board's responsibility. He suggested going over each slide and allow everyone to make a comment.

Ms. Shanahan stated the packet included New Smyrna Beach Code of Ordinance in terms of what they regulate.

Mr. Nave asked what the goal was.

Ms. Shanahan asked whether the Board wanted to see any additional regulations. The City receives complaints on these issues and the City currently has no ability within the existing code to issue citations to improve the problem.

Ms. Blanford stated it would be more beneficial to review New Smyrna Beach's code.

Ms. Shanahan stated she was asking the Board to let staff know what was important regarding the issues and staff would develop the language for the regulations which would come back to the Board to review.

Ms. Shanahan stated should the issue get to the hearing level; the Special Magistrate will give the property owner time to make the necessary repairs.

Dr. Shapiro asked whether the slides were important enough to change the current regulations.

Mr. Nave stated if there were no complaints regarding those current issues, then maybe we shouldn't bother. If you make regulations, you have to enforce regulations which cost money and time.

Mr. Masters stated even though people are complaining, a lot of it has been resolved.

Ms. Emery stated there would be a difference on how the situations are handled between residential and commercial. She noted it was a business decision not to put more money into a property. Regarding the residential properties most homeowners will comply and pay their citation, but there was generally some type of social issues.

Ms. Shanahan stated that in 2010 the City Commission was presented with a broader view on properties and it was decided to focus on the two big issues which were tarps on roofs and boarded up structures. There are continued complaints regarding shrubbery and garage doors in residential areas. In commercial areas, the issues were regarding the aesthetics of the property.

Rita Press, 875 Wilmette Avenue, stated CFOB has been working on this same issue for the past four years and was aware of the conditions of many homes. She noted they had community meetings and their group presented their recommendations to the City Commission. She noted the citizens needed to take pride in their city again.

Mr. Nave stated the Board had good intentions, but once the powers were given to the City, there may not be as many nice residents in the future. Once power was given to the City, thing invariably went south.

Dr. Shapiro stated people moved to Ormond Beach for the quality of life and the City does a great job making this a great place to live, but there was a gap in the code enforcement.

Mr. Nave stated he wanted to concentrate on abandon structures, that residential or commercial are closed and made safe to include garage doors, windows as mentioned in New Smyrna Beach Code Sec, 26-914(4). Regarding painting the exterior in New Smyrna Beach Code Sec, 26-914(3) should apply to commercial only. He further noted all sections of New Smyrna Beach Code Sec. 26-914 should apply to commercial properties.

**Mr. Nave moved, seconded by Ms. Page that the Quality of Life Advisory Board would like to encourage the City to reference all sections of the New Smyrna Beach Code 26-914 for commercial property and New Smyrna Beach Code 26-914 Sec (4) and (7) for unoccupied residential properties.**

Dr. Shapiro asked whether Mr. Nave wanted to include Sec (8) in his motion; wherein Mr. Nave stated he did not.

Ms. Blanford asked why Mr. Nave held commercial properties under a different standard.

Mr. Nave stated he wanted to protect people that could not afford to keep their structures up. He stated codes could be used to take homes away from people, unintentionally. He noted as a community we should go in and assist people that are unable to take care of their homes so that liens were not imposed on them. He stated if commercial businesses had money to run their business, they had money to take care of the property.

Ms. Shanahan reiterated that you cannot foreclose on a homesteaded property.

Dr. Shapiro stated this has been going on for a long time and the Board has given staff direction for the process.

**The motion passed with Dr. Shapiro voting no.**

Dr. Shapiro asked if anyone wanted to make a motion regarding residential property maintenance.

Ms. Berner stated that there should be some standards.

**Ms. Berner moved, seconded by Ms. Blanford that the Quality of Life Advisory Board gives direction to staff to use New Smyrna Beach Codes 26-914 Sections 1-13 as a starting point for standardize property maintenance for residential and commercial properties.**

Mr. Nave stated the second motion overrides and takes restrictions over the first motion and gives the City rights and power over residential and commercial properties.

**The motioned passed with Mr. Nave and Ms. Page voting no.**

Dr. Shapiro stated that he felt staff would look out for the best interest of the community when drafting the regulations.

Dr. Shapiro thanked the Board for the comments concerning the code issues.

Mr. Nave stated he fights hard for what he believes in and he remembers a comment made by Tom Lipps, that it's a good thing when you have one opinion and another opinion because at the end of the day the right decision will be made.

**4) Member Comments**

None

**5) Adjournment – Next Meeting – August 6, 2015**

The meeting adjourned at 8:14 p.m.

Respectfully submitted,

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Shá Moss, Recording Secretary

ATTEST:

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Dr. Philip J. Shapiro, Chairman