

**MINUTES
TOWN OF LAKE CLARKE SHORES
REGULAR TOWN COUNCIL MEETING
AUGUST 21, 2007**

I. (A) CALL TO ORDER, ROLL CALL:

Vice Mayor Mayes called the meeting to order at 6:30 p.m.

The following members and officials were present:

Tom Mayes, Jr., Vice Mayor
Robert M. W. Shalhoub, Pres. Pro Tem
Valentin Rodriguez, Jr., Council Member
Gregory Freebold, Council Member
Joann Hatton, Town Administrator
Jo Plyler, Town Clerk
Mary Pinkerman, Permit/License Supervisor
Charles Schoech, Town Attorney
Wes Smith, Chief of Police
Dana Schack, Code Enforcement Officer
Joe Iagrossi, Building Official

The following official was absent:

Malcolm K. Lewis, Mayor

(B) PLEDGE OF ALLEGIANCE:

Colonel Banna Ghioto led the assembly in the pledge of allegiance to the American Flag.

II. APPROVAL OF AGENDA:

Motion made by President Pro Tem Shalhoub to approve the agenda, seconded by Council Member Rodriguez; Motion approved (4-0).

III. CONSENT AGENDA:

- A) Approval of August 7, 2007 Minutes:

President Pro Tem Shalhoub made a motion to approve the consent agenda, seconded by Council Member Rodriguez; Motion approved (4-0).

IV. UNFINISHED BUSINESS:

- A) Vice Mayor Mayes opened the **PUBLIC HEARING** on the Barby Property, 7011 Haden Road and deferred the subject matter to Attorney Charles Schoech.

Attorney Schoech gave an overview of the events since June 29, 2007 at which time a Notice of Dangerous Building and a Notice of Violation of Minimum Standards for Habitable Structures and Outdoor Areas were served on James Barby, 7011 Haden Road, enjoining him to remove all accumulated debris and make the necessary repairs to the building within thirty (30) days of receipt of notices.

On August 2, 2007 the property was re-inspected and no apparent improvements had been made.

On August 9, 2007, the building official ordered the owner and occupant(s) to vacate the building and declared it to be unfit for human occupation as it is dangerous to the health, morals, safety, or general welfare to its occupants and to be a public nuisance.

Attorney Schoech said that the purpose of this hearing was for the Council to consider a recommendation from the Code Enforcement Officer that an order be issued for Town work or contracted work to repair or secure the property. Such work shall include removal of debris and inoperable vehicles located outside the building structure.

At this time, Chief Wes Smith presented photographs taken this date (8/21/07) and reported that two (2) vehicles have been removed along with other miscellaneous items and as depicted by the photographs, Mr. Barby has not complied with the order to remove all accumulated debris and make necessary repairs to secure the property.

Audience Comments:

Spencer Wilson, 1830 Cambodiana Road, a member of the Code Enforcement Board and a Town resident for nineteen (19) years, stated that he is aware of the continuous violations on the property and remembers when the Town

provided Mr. Barby with a dumpster at the Town's expense. Further, the Town and Code Enforcement Board have continued to work with him over the years by permitting additional time to comply. Neighbors have discussed this and felt that the house should be torn down, property cleaned, and sold after all this has been accomplished.

Doug Todd, 7005 Haden Road, stated that he has lived next door to Mr. Barby for six (6) years and the house and property are a disaster. His cat has brought home numerous rats, and the smell is terrible. He feels that the house should be torn down, that the Town should not spend dollars to have the property cleaned.

Tom Gerbus, 1811 Carissa Road, informed the Council that he has been a neighbor of Mr. Barby since 1984. The house was in perfect condition when Mr. Barby purchased and he started accumulating trash and piles of debris against the fence that separates both properties. He was of the opinion that the Town should have the house torn down, clear the land and resell.

James Cramer, 7101 West Lake Drive, stated that the Town has been wasting dollars on the property for a long time, they should buy him out and do whatever is needed to bring into compliance.

William Murphy, 1841 Evergreen Drive, stated that with the liens against the property and the extent of house damage, he does not think Mr. Barby has resources available to make the necessary repairs.

Mr. Barby's Attorney, Shane Weaver, from the Legal Aid Society, informed Council there are other contributing factors for his client's behavior. Mr. Barby has been diagnosed with bi-polar disorder and excessive compulsive disorder and Legal Aid is working to find resources available to help him clean the yard and house. Attorney Weaver stated that Mr. Barby has removed vehicles, cleaned several rooms, and there is evidence that he is attempting to clean the property. Attorney Weaver requested that Council grant an additional 60 days to get the property to acceptable code compliance.

Council Member Rodriguez stated that as a past member of the Code Enforcement Board, history shows that the board tried to work with Mr. Barby many times, to no avail, regarding the numerous health and safety issues. The codes need to be met regardless of his mental disabilities.

Council Member Freebold questioned Mr. Weaver if he had been on the property and observed the serious conditions inside including the damaged ceiling. Attorney Weaver responded that he had been on the property

President Pro Tem Shalhoub questioned if there has been a building permit applied for in the last six (6) years for Mr. Barby to secure and repair the defects. The staff responded that applications for permits have not been received.

President Pro Tem Shalhoub further questioned that should the Town approve a 60-day extension, and Mr. Barby does not comply, would he forfeit/waive his rights to future proceedings, etc? Attorney Weaver responded that he could not answer that question. He would need to discuss this with his client and the Town Attorney.

Vice Mayor Mayes questioned if Mr. Barby has a time frame to bring the property into compliance. Attorney Weaver responded that he did not and again requested a 60-day extension. The Vice Mayor further questioned if Mr. Barby did not comply within 60 days, would he forfeit his homestead exemption? No response was offered.

The following non-residents and friends of Mr. Barby spoke on his behalf:

Don Green has known Mr. Barby 25-30 years. He stated he would help repair the sliding glass door and install a front door which would secure the building.

Pam Meldrum would like for the Town to help Mr. Barby by using the dollars that they would expend to evict him. She stated that Mr. Barby is a very special person and would like to see him live out his life in that house.

Council Member Rodriguez discussed the time that Ms. Meldrum came before the Code Enforcement Board several years ago on behalf of Mr. Barby and asked her if things have changed since then. She responded that some things have changed, some not. She understands the neighbors concerns but would like for the neighbors to assist him in cleaning up the property.

Felicia Griffin advised that she has been in Mr. Barby's house and seen how much work he has done within the last few weeks. She and others would be willing to help him clean up but would need the Town to grant additional time and dollars to be able to accomplish within the time granted.

Dan Meldrum has been a friend for 15-16 years and advised that Mr. Barby pays his taxes and that he does not drink or take drugs. He, along with other friends, would help in the property cleanup.

Vice Mayor Mayes closed the Public Hearing and re-opened the regular Council Meeting.

Following further discussion by the Council, **President Pro Tem Shalhoub made a motion that no dollars be spent by the Town on the Barby property and that the Town Attorney prepare a notice to vacate the property by 12:01 p.m. on Wednesday, August 22, 2007, and a lawsuit be filed to seek legal remedy to secure, clear and remove hazards, seconded by Council Member Rodriguez; motion approved (4-0).**

President Pro Tem Shalhoub further stated that Mr. Barby and his friends still have the availability to clean and repair the property to make it habitable.

V. AUDIENCE COMMENTS:

Ashok Kulkarni, 8131 West Lake Drive questioned if Mr. Barby can continue to live on the property. President Pro Tem Shalhoub responded that Mr. Barby would not be allowed to live on the property.

VI. TOWN COUNCIL COMMENTS:

A.) Town Council:

Council Member Rodriguez expressed his appreciation to Attorney Weaver for his time and efforts in representing Mr. Barby and also hopes that the action taken by the Council will soon give the neighbors relief from the ongoing violations.

Council Member Freebold

No comment

President Pro Tem Shalhoub advised that he is a member and Past President of the Legal Aid Society and commended Attorney Weaver for his representation of Mr. Barby on behalf of the Society.

Vice Mayor Mayes extended his best wishes to Mr. Barby with hope that everything will work out for the best.

VII. ADJOURNMENT:

President Pro Tem Shalhoub made a motion to adjourn the meeting at 8:15 p.m.; seconded by Council Member Freebold; Motion approved (4-0).

Tom Mayes, Jr., Vice Mayor

Jo H. Plyler, Town Clerk