

Murray Code Enforcement Board Minutes
April 6, 2009

The Murray Code Enforcement Board met in special session on April 6, 2009 at 5:00 p.m. in the council chambers of City Hall located at 104 North 5th Street.

Board Members Present: Matt Jennings, Mitzi Key, and Thomas Rottinghaus

Board Members Absent: Danny Brittain and Sam Underwood

Others Present: David Roberts, Dannetta Clayton, Jennifer Tolley, Fire Marshal Dickie Walls, Officer Darren McCuiston, Officer Ricky Starks and general audience.

Chairman Thomas Rottinghaus called the meeting to order and an attendance roll call was then taken.

Approve Minutes from November 4, 2008 Meeting: Chairman Rottinghaus asked for approval of the November 4, 2008 minutes. **Mitzi Key made a motion to approve the November 4, 2008 minutes. Thomas Rottinghaus seconded the motion and it carried by a 3-0 voice vote.**

Chairman Rottinghaus introduced the Board members and informed the Respondents of their rights of appeal.

Public Hearing – Henry Nance: Chairman Rottinghaus called the public hearing to order and Dannetta Clayton read the case information. Chairman Rottinghaus asked if any board member had any direct or indirect financial or personal interest in any matter to be decided by the Board. All Board members answered no. Fire Marshal Dickie Walls came forward and was sworn in. Mr. Walls stated that Mr. Henry Nance purchased this structure in the middle of proceedings that had already begun. The previous owner of the property, Mr. Debois T. Jackson received numerous Notice of Violations on the property. Mr. Walls stated that in late August 2007, he received a call from attorney Mr. Jon Nelson, informing him that Mr. Jackson had passed away in late June 2007 and the property was now in estate. On September 11, 2007 Mr. Nelson called him and stated that he had a buyer for the property, Mr. Mike Conley was the agent for the buyer, but did not have the name of the buyer. Mr. Walls agreed to the sale of the property on the condition that the buyer of the property was made aware that the structure was to be razed and the lot was to be cleared within 60 days of closing. Mr. Walls went on to say that months went by and he had lost contact with the Attorney Jon Nelson. On April 23, 2008 Mr. Walls turned the case over to City Attorney Warren Hopkins, to file a lawsuit against the property. On September 4, 2008, Mr. Walls spoke with Mr. Mike Conley and he said that he still had a buyer. At that time, Mr. Walls decided to put a hold on the lawsuit to see if they could get the sale finalized. Mr. Walls found out that the property had sold and the new owner was Mr. Henry Nance. On February 24, 2009, Mr. Walls wrote a Notice of Violation to Mr. Nance, giving 60 days to have the structure razed and removed and the lot cleared of all debris and rubbish.

He sent the Notice of Violation via certified mail which was signed for February 26, 2009. Mr. Walls stated that Mr. Nance came to his office stating that he was not aware that the property had to be torn down. He asked Mr. Walls if he could refurbish the house and have a little more time. Mr. Walls explained that he himself could not make that decision and it had to come before the Code Enforcement Board. Mr. Walls asked the board if it is their decision to allow the property to be refurbished, that it be done with the stipulation that it has to be monitored by the building code department. Mr. Rottinghaus asked if the refurbishing could be done safely. Mr. Walls stated that the portion that had collapsed could be removed, the other part of the house could be secured, he would need to put a construction fence around the property, and secure the front door. At this time, Mr. Henry Nance came forward and was sworn in. Mr. Nance stated that he received the deed on the property December 8, 2008. He said he is having the land surveyed to find out if the pile of rubbish in the back is his or not. His plan for the house is to get estimates and see if the house is worth refurbishing. He requested that the board give him a year to refurbish the house. Mr. Nance stated that if after the evaluation the house couldn't be refurbished he would take immediate action to have the house removed and the lot cleared. Chairman Rottinghaus said they needed a shorter time period to deal with what is a true hazard right now and secure the property. Mr. Nance stated he could he could make an assessment on the property in a month. Chairman Rottinghaus called Mr. Walls forward. Chairman Rottinghaus asked if it would meet the city requirements to give Mr. Nance a week to put a fence up and secure the place. Also, within 60 days make a decision to refurbish or tear down the house, and remove the collapsed part. During these 60 days if he decides to refurbish he must apply for a building permit. Mr. Walls said yes. Mr. Nance was called forward. Mr. Jennings asked Mr. Nance if he thought this was enough time. Mr. Nance said he would like to have 6 months and then answered yes. Mr. Nance stated he wasn't aware that just to remodel he needed a permit. Mr. David Roberts answered if you do anything structural, new roofing, trusses, and support walls that he would need a permit. Chairman Rottinghaus closed the public hearing and the Board deliberated. **Chairman Thomas Rottinghaus made a motion that the Respondent, Henry Nance shall put a fence around the structure and secure the doors within 7 days from April 6, 2009. He shall remove the collapsed portion of the structure within 60 days from April 6, 2009. Within 60 days from April 6, 2009 he shall have a decision whether the structure is to be torn down or repaired. If Respondent, Henry Nance decided to repair the structure he shall apply for appropriate permits within 60 days from April 6, 2009 and he shall allow routine inspection by the City of Murray Building Official. He shall keep rubbish piles removed and property mowed. Upon complying with these Orders, Respondent, Henry Nance shall notify Fire Marshal, Dickie Walls, a code enforcement officer for the City of Murray, Kentucky who shall inspect the property and notify the Code Enforcement Board of Compliance. Mitzi Key seconded the motion and it carried by a 3-0 roll call vote.**

Public Hearing – Joe M. Easley: Chairman Rottinghaus called the public hearing to order and Danna Clayton read the case information. Chairman Rottinghaus asked if any board member had any direct or indirect financial or personal interest in any matter to be decided by the Board. All Board members answered no. Officer Ricky Starks came forward and was sworn in. Officer Starks stated that on March 9, 2009 he responded to a noise

complaint for Maximus Audio, and on his way the noise could be heard approximately 100 yards away at Myers Lumber. Officer Starks stated that upon arriving the music was still going and advised the two employees about the complaint. Chairman Rottinghaus asked Officer Starks if he knew who the two employees were. Officer Starks stated that he did not and just gave them a verbal warning. Chairman Rottinghaus asked if the noise source was inside or outside the building, and if the doors were up. Officer Starks stated the noise was inside the building and that the building had two bay doors on both the east side and west side of the building and both were open. Chairman Rottinghaus asked if it was music that he heard. Officer Starks replied that it was bass. Officer Starks stated that he responded again on March 31, 2009 and when he arrived there was no music playing and the employees denied excess music. Officer Darren McCuiston came forward and was sworn in. Officer McCuiston stated that on March 10, 2009 he was dispatched to Maximus Audio in reference to a noise complaint and he drove past the business and parked in Maley's parking lot, which was clearly over 50 feet away and could clearly hear the bass music playing. Officer McCuiston stated that he approached Mr. Joe M. Easley and proceeded to explain to him about the complaint and that he was going to receive a citation for violation of the noise ordinance. Officer McCuiston went on to say that he had to explain the disorderly conduct statute to Mr. Easley and then they communicated very well after that point. Officer McCuiston stated that Mr. Easley said that he was not afforded an opportunity to test out his equipment which he was in business for. Chairman Rottinghaus asked if the doors were up or down. Officer McCuiston stated that both east and west doors were up. Mitzi Key asked how the disorderly came to be. Officer McCuiston stated that Mr. Easley was aggravated that he was getting the citation and started to lose his temper. Officer McCuiston said that they talked it out and mediated it down, then they talked about different ways to approach the city with this, but right now he was in violation of the city sound ordinance which is 24 hours. Joe M. Easley came forward and was sworn in. Mr. Easley stated he was not there when Officer Starks came out the first time, but the boys called and told him that they had a noise complaint. Mr. Easley stated that it wasn't the first time the officers had been out there five, six, or seven times since they opened up the business. Mr. Easley stated that they are a car audio shop that sells and installs stereo equipment and a lot of it is loud, some of it is very loud. Mr. Easley said that when they put in the subs and amplifiers, they have to set the amplifiers and they were going to make noise when they do it. Mr. Easley said bass carries along way and we could probably hear the van right here where we are, but they don't do it constantly. Mr. Easley went on to say they test the stuff as they are working on it and bring stuff up to be able to make sure it is right. Mr. Easley went on to say he didn't feel like the city handled it correctly by issuing him a noise violation. Mr. Easley stated that he was here to ask for some leniency on the noise ordinance so he can conduct his business. Mr. Rottinghaus stated this Board could not grant that and what this Board was concerned about tonight is that he was in violation of the ordinance. Chairman Rottinghaus asked if Mr. Easley had any witness. Mr. Danny Williams came forward and was sworn in. Mr. Williams stated that he was not happy the citation was written and he felt like it should have been written to Maximus Audio because they were both owners. Officer McCuiston came forward and replied that when he arrived he asked for the owner and Mr. Easley stepped forth as the owner and stated that is why he received the citation. Chairman Rottinghaus closed the public hearing and the Board deliberated. **Chairman Rottinghaus made a motion that the Respondent, Joe M. Easley**

pay a civil fine in the amount of \$100.00 to the City of Murray. Mitzi Key seconded the motion and it carried by a 3-0 roll call vote. Chairman Rottinghaus told Mr. Easley that a copy of the Board's order would be mailed to him within seven days and if he wishes to appeal the Board's decision he has thirty days to do so with the District Court.

Default Case – Lacie Young: Chairman Thomas Rottinghaus made a motion that the Respondent, Lacie Young, shall be released of all fines, charges, and any additional cost/fees related to citation number 1450, dated February 12, 2009 as the citation was incomplete. Matt Jennings seconded the motion and it carried by a 3-0 roll call vote.

Chairman Rottinghaus stated that a chairperson needed to be elected for 2009. **Matt Jennings made a motion to elect Thomas Rottinghaus as chair person for 2009. Mitzi Key seconded the motion and it carried by a 3-0 roll call vote.**

Being no further business, Thomas Rottinghaus made a motion to adjourn.

Chairman, Thomas Rottinghaus

Recording Secretary, Jennifer Tolley