

**Murray Code Enforcement Board Minutes  
September 6, 2011**

The Murray Code Enforcement Board met in regular session on September 6, 2011 at 5:00 p.m. in the council chambers of City Hall located at 104 North 5<sup>th</sup> Street.

**Board Members Present:** Mitzi Key, Sam Underwood, and Thomas Rottinghaus

**Others Present:** Jennifer Tolley, Fire Marshal Walls, David Roberts, Officer Morris, Officer Covey, Officer Scott, Officer McCuiston, and general audience.

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

**Approval of August 2, 2011 Minutes:** Motion made by Sam Underwood to accept and seconded by Chairman Rottinghaus.

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

**Public Hearing – Reggie McNutt:** Chairman Rottinghaus called the public hearing to order and Jennifer Tolley 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 Morris came forward and was sworn in. Officer Morris stated that he received a complaint for 1401 and 1403 Main Street. Officer Morris stated that the grass height was over 10 inches, and there was vegetation growth around the home and fence. Chairman Rottinghaus asked how tall he would estimate the grass and weeds that were growing. Officer Morris stated that portions of the property were in excess of 20 to 24 inches around the trees and fences and the total grass height was at least a foot. Chairman Rottinghaus asked if this was the property where the tree had fallen onto the neighbor's yard. Officer Morris stated yes the tree at 1403 Main fell eastward onto 1401 Main. Chairman asked the Board if they had any questions. They all answered no. Chairman Rottinghaus called the Respondent, Reggie McNutt forward and asked him to raise his right hand. The Respondent said that he was sorry but he could not because he did not believe in the obligation of oath. Chairman Rottinghaus asked if he could tell the Board his side of the story. The Respondent replied he wished to challenge the jurisdiction and then he went onto question what the Board actually was. Chairman Rottinghaus replied that is was the Code Enforcement Board, comprised of civilians who listen to the cases brought before them to determine whether a violation had been committed or not, and is empowered by Kentucky Revised Statues. The Respondent stated that he was objecting to the Code Enforcement Board. At this time the Respondent read his letter of appeal that was given to the clerk's office, dated August 15<sup>th</sup>. The Respondent went on to state that he was entering a jurisdiction of challenge. Chairman Rottinghaus stated if he chooses to appeal any ruling the Code Enforcement Board makes, he may do so within 30 days to the District Court. The Respondent stated he understood that but he had to challenge the Board at this time. Chairman Rottinghaus stated his challenge had been made, and the hearing at hand had to do with the weeds, grass and the height there of. Chairman Rottinghaus asked if he was going to admit that the weeds and grass were above 10" tall or was he denying it. The

Respondent replied that he was not admitting it or denying it. Chairman Rottinghaus asked if the property was his and if he lived next to the property. The Respondent replied it was his property and he did live next to it. Chairman Rottinghaus asked if he had lived next to the property since June, July, and August. The Respondent replied that he had lived there since 1952. Chairman Rottinghaus asked if he was aware of the growth on the property. The Respondent replied sure. Chairman Rottinghaus asked if there were any weeds growing on this property. The Respondent replied that the Board might determine them as weeds and he might determine them as herbs. At this time Chairman Rottinghaus called Officer Morris back up and reminded him he was still under oath. Chairman Rottinghaus asked if he seen any tall vegetation growing on the property like what grows in the medians of 641. Officer Morris replied yes. Chairman Rottinghaus asked if he noticed any vegetation that resembled an attended herb garden. Officer Morris replied that he did not. Officer Morris stated that he was by the property that day at 1:00pm, and what he considered weeds were still over 10 inches next to the sidewalk. Chairman Rottinghaus asked Officer Morris to read under PM 303.4 the definition of weeds. Officer Morris read Property Maintenance Code 303.4 subsection weeds: All premises and exterior properties shall be maintained free from weeds or plant growth in excess of 10 inches (254 mm). All noxious weeds shall be prohibited. Weeds shall be defined as all grasses, annual plants and vegetation, other than trees or shrubs provided; however, this term shall not include cultivated flowers and gardens. Chairman Rottinghaus asked if he saw any cultivation practices on the property. Officer Morris replied that he did not. Chairman Rottinghaus asked the Board if they had any questions. They all answered no. Chairman Rottinghaus closed the public hearing. The board deliberated. **Chairman Rottinghaus made a motion that a violation of the City Ordinance had been committed. Sam Underwood seconded the motion and it carried by a 3-0 roll call vote.**

**Fine Hearing – Reggie McNutt:** Chairman Rottinghaus made a motion that a violation of the City Ordinance had been committed and the Respondent pay a civil fine in the amount of \$700 within 30 days. Sam Underwood seconded the motion and it carried by a 3-0 roll call vote. Chairman Rottinghaus stated let the record reflect that each fine sheet indicates a \$700 fine.

**Default Case – Shelter Development:** Chairman Rottinghaus called the fine hearing to order and Jennifer Tolley read the case information. Chairman asked the board if they 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 Walls came forward and was sworn in. Marshal Walls stated that he received a complaint concerning the property at 1311 Main. Marshal Walls went on to say that on February 24, 2011 he went to inspect the property and noted several violations that existed. At this time Marshal Walls presented the Board with photographs of the property that were taken at the time the violation was issued. Marshal Walls stated he issued Shelter Development a Notice of Violation giving them the option to repair the property or tear the structure down, as well as clean up the property. Fire Marshal Walls went on to state that the Respondent was given 60 days to have the structure tore down, and at the end of this 60 days progress was still being made. Marshal Walls stated that in the early summer progress seemed to come to a halt. Marshal Walls stated he went and spoke with the Respondent in August about the property and the Respondent stated that the man he hired to tear the structure down began work and then stopped. Marshal Walls stated he went by the property that day at 2 pm and substantial progress had been made, there was still debris that needed to be removed and the Respondent was there bush hogging the property. At this time Marshal Walls submitted pictures

to the Board of what the property looked like on that day. Chairman Rottinghaus stated as of today, the property still has not been totally cleaned up. Marshal Walls replied that was correct, a substantial amount had been done but there was work still to be done. Chairman Rottinghaus asked the Board if they had any questions. Sam Underwood asked how much had been completed. Marshal Walls replied ninety-eight percent. The Respondent, Cliff Coleman came forward and was sworn in. Mr. Coleman stated that the apartments had been vandalized numerous times, and just before the end of 2010 the decision had not been made as to what they were going to do with the apartments. Chairman Rottinghaus asked why the property had not been taken care of. Mr. Coleman stated when Marshal Walls talked to him he hired a gentleman to clean the property up. Chairman Rottinghaus asked why he allowed this to drag on since February 16th. Mr. Coleman stated that the man he hired was having family problems and he didn't have the heart to fire the man. Chairman Rottinghaus asked if the Board had any questions and they all answered no. Chairman Rottinghaus closed the public hearing. The Board deliberated. **Mitzi Key made a motion that the Respondent had committed a violation and Sam Underwood seconded and it carried by a 3-0 roll call vote.**

**Fine Hearing – Shelter Insurance:** Chairman Rottinghaus called the fine hearing to order. **Sam Underwood made a motion that the Respondent, Shelter Development shall pay a civil fine in the amount of \$6000 payable within 30 days. Chairman Rottinghaus seconded and it carried by a 3-0 roll call vote.**

**Default Case – Gerald & Mary Ann Carter:** Chairman Rottinghaus called the public hearing to order and Jennifer Tolley 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. Marshal Walls came forward and was sworn in. Marshal Walls stated that on April 26<sup>th</sup> while investigating another complaint a neighbor approached him about the structure across the street. At this time Marshal Walls submitted photographs of the structure at 502 North 3<sup>rd</sup>. Marshal Walls stated that he wrote a notice of violation on April 27<sup>th</sup>, mailed the violation by certified mail and it was signed for on April 30<sup>th</sup> by Mrs. MaryAnn Carter. Marshal Walls stated that work began on the structure soon after the violation was received. Marshal Walls went on to say that after the 30 days he continued to monitor the progress being made, and in late summer progress came to a halt. Marshal Walls stated that on August 15<sup>th</sup> he went to inspect the property. At this time Marshal Walls submitted photographs of the condition of the property from that day. Marshal Walls stated that he went out to the property on that day and all the items listed on his compliance order had been met and submitted more photographs of the property taken that day. Chairman Rottinghaus asked if the Board had any questions. Sam Underwood asked if the Respondent had completed everything he was asked to do. Marshal Walls replied that he had completed them, but the property was not ready for occupancy. The Respondent, Gerald Carter came forward and was sworn in. Chairman Rottinghaus asked the Respondent what his take of the situation was. The Respondent replied it was exactly like Marshal Walls stated, and he had no other excuse, it just hadn't been done until then. Chairman Rottinghaus asked the Respondent why no other contact had been made with Marshal Walls other than the email that was sent on June 20<sup>th</sup>. The Respondent replied that it was his error, his fault and he was working on it. Chairman Rottinghaus asked the Board if they had any questions. Mr. Underwood asked how much needed to be done for it to be ready for occupancy. The Respondent replied finishing the sheet rock, blandex on the inside, plumbing, and electrical. Chairman Rottinghaus asked the Board if they had any further

questions and they answered no. Chairman Rottinghaus closed the public hearing. The Board deliberated. **Chairman Rottinghaus made a motion that the Respondent shall correct any and all violations to the property at 502 North 3<sup>rd</sup> within 60 days. After the 60 days, Marshal Walls and the Building Inspector shall enter the property to determine if the property is up to code. The Respondent shall issue copies of the HVAC, electrical and plumbing inspection certificates. If the Respondent meets all these requirements then the \$3000 fine will be dismissed. If after the 60 days the building does not meet code, or all inspection certificates have not been issued on or before the date specified, then the Respondent shall pay a civil fine in the amount of \$3000 to the City of Murray Clerks Office within 90 days of the order. Sam Underwood seconded the motion and it carried by a 3-0 roll call vote.**

**Default Case – Joyce Lewis:** Chairman Rottinghaus called the public hearing to order and Jennifer Tolley 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 Mark McCuiston came forward and was sworn in. Officer McCuiston stated the Respondent was in violation of tall weeds and grass since the date the violation was issued. Officer McCuiston stated he made an inspection of the property at 4:30 that day and the property was still in violation. At this time Officer McCuiston submitted photographs of the property. Chairman Rottinghaus asked the Board if they had any questions and they answered no. Chairman Rottinghaus closed the public hearing. The Board then deliberated. **Mitzi Key made a motion that a violation had occurred. Sam Underwood seconded the motion and it carried by a 3-0 roll call vote.**

**Fine Hearing – Joyce Lewis:** Chairman Rottinghaus stated that no representative for the Respondent was present. **Sam Underwood made a motion that the Respondent pay a civil fine in the amount of \$700 to the City of Murray Clerks Office within 30 days. Mitzi Key seconded the motion and it carried by 3-0 roll call vote.**

**Default Case – Gloria Landrum:** Chairman Rottinghaus called the public hearing to order and Jennifer Tolley 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 Robinson was not present for the meeting. Chairman Rottinghaus asked if there was any representative for the Respondent present and there was not. Chairman Rottinghaus closed the hearing. The Board deliberated. **Chairman Rottinghaus made a motion that a violation had been committed. Mitzi Key seconded and it carried by a 3-0 roll call vote.**

**Fine Hearing – Gloria Landrum:** Chairman Rottinghaus called the fine hearing to order. **Chairman Rottinghaus made a motion that the Respondent shall pay a civil fine in the amount of \$700 to the City of Murray Clerk’s Office within 30 days. Sam Underwood seconded and it carried by a 3-0 roll call vote.**

**Default Case – Thomas Hornbuckle:** Chairman Rottinghaus called the public hearing to order and Jennifer Tolley 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 Chris Scott came forward and was sworn in. Officer Scott stated that on the June 22<sup>nd</sup> he issued the Respondent a violation requesting the

grass to be mowed and brush pile removed. Officer Scott submitted photographs of the property taken on August 23<sup>rd</sup> and September 6th. Officer Scott stated the grass was in excess of 10 inches, weeds growing, and brush pile still remained. Chairman Rottinghaus asked the Board if they had any further questions and they answered no. At this time the Respondent, Thomas Hornbuckle came forward and was sworn in. Mr. Hornbuckle stated when he received the notice of violation he called the man that mows the yard for him, Charles Caldwell. Mr. Hornbuckle stated that he also called the City of Murray to pick up the brush pile and they told him it wasn't close enough to the street. Mr. Hornbuckle went on to state that the City came back and picked up the brush pile on July 20th and issued a copy of the Sanitation pickup receipt. Mr. Hornbuckle stated that he asked Mr. Caldwell if he was going to come back and mow and he told him when he got done with his tobacco. Officer Scott stated that he issued him a violation dated June 8th that was taken care of but the violation issued on June 22nd which is the one in discussion, is not in compliance. Officer Scott stated that on the violations, in the compliance order he writes that grass be kept mowed. **Chairman Rottinghaus closed the hearing and the Board deliberated. Sam Underwood made a motion that a violation had been committed. Mitzi Key seconded and it carried by a 3-0 roll call vote.**

**Fine Hearing – Thomas Hornbuckle: Chairman Rottinghaus made a motion that the Respondent shall pay a civil fine in the amount of \$633.33 to the City of Murray Clerk's office within 30 days. Sam Underwood seconded and it carried by a 3-0 roll call vote.**

**Default Case – Jack Lyons:** Chairman Rottinghaus called the public hearing to order and Jennifer Tolley 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 Keith Covey came forward and was sworn in. Officer Covey stated that in June 2011 a complaint was received in regards to the property at 616 S. 4<sup>th</sup>. Officer Covey stated that they had tried contacting the owner by phone but did not. On June 16<sup>th</sup> a violation was issued to the Respondent, sent by certified mail. Officer Covey stated that the weeds were over waist high. Officer Covey stated that the lot had been mowed recently, but the weeds were still tall around the utility pole. Chairman Rottinghaus asked if he knew when the property was mowed. Officer Covey replied no. Mitzi Key asked if any response had been made from the Respondent. Officer Covey replied none. Sam Underwood asked if the property had only been mowed one time the whole year to his knowledge. Officer Covey replied he believed that to be correct. The Respondent, Jack Lyons came forward and was sworn in. Mr. Lyons stated that he was under the impression that he could let the grass grow for hay. Mr. Lyons stated that he doesn't cut the grass around the sign or deep culvert, and asked if it was his responsibility to maintain this section on his property. Chairman Rottinghaus stated that if it was on his property then it was his responsibility and he would have to cease on relying on the property for hay. The Respondent stated that the property was mowed at the end of June and again that previous week. Chairman Rottinghaus closed the hearing and the Board deliberated. Chairman Rottinghaus **made a motion to dismiss the violation and the Respondent be released of all fines, charges, and any additional cost and fees. Sam Underwood seconded and it carried by a 3-0 roll call vote.**

**Default Case – George Nichols:** Chairman Rottinghaus called the public hearing to order and Jennifer Tolley 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 Scott came forward and was sworn in. Officer Scott

stated on August 11<sup>th</sup> he issued a notice of violation to the Respondent, giving him 7 days to clean the property up. Officer Scott stated that within a week some of the property had been taken care of. Officer Scott went on to state that the Respondent called requesting him to come out and take a look at the property to see if it was in compliance. Officer Scott stated that Officer McCuiston went by, found appliances and stuff on the side of the house needed to be removed. Officer Scott stated that by August 26<sup>th</sup> the Respondent had the property cleaned up. Officer Scott submitted pictures of the property that were taken that day. Chairman Rottinghaus asked if the Respondent was in compliance within 15 days. Officer Scott stated that was correct. Chairman Rottinghaus closed the hearing and the Board deliberated. **Chairman Rottinghaus made a motion to dismiss the case and the Respondent, be released of all fines, charges and any additional cost/fees. Sam Underwood seconded and it carried by a 3-0 rolls call vote.**

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

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Chairman, Thomas Rottinghaus

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Recording Secretary, Jennifer Tolley