

**CODE ENFORCEMENT BOARD
MEETING
MARCH 28, 2018**

MEMBERS PRESENT: John Chalifoux, Chairman
Norman Ashworth, Henry Bauman, Trudi Baxter,
William Brennan, John Burrage, Vic Poitras

OTHERS PRESENT: Nick Falkner, Allen McDaniel and Lavosia Price, Code Compliance Officers; Lisa Hannon, Zoning Official; David Levin, City Attorney; David McCarty, Code Compliance Supervisor; Jennifer Daumann, Executive Assistant; Maria Claypool

CALL TO ORDER/ANNOUNCEMENTS

- A. Roll Call
- 1. Roll Call
- B. Next Scheduled Meeting
- 1. April 25, 2018

APPROVAL OF MINUTES

- A. February 28, 2018
- Mr. Burrage MOVED, Mr. Bauman SECONDED approval of the February 28, 2018 minutes.
MOTION CARRIED UNANIMOUSLY.

NEW BUSINESS

- Recording Secretary Welch swore in all participants.
- A. 18-66900 – CODE COMPLIANCE OFFICER – NICK FALKNER
- Respondents: Bank of America, N.A.
BAC Home Loans Servicing, LP
f/k/a Countrywide Home Servicing, LP
c/o CT Corporation System, Registered Agent
- Address of Violation: 1480 Narranja Street
- Violation of Chapter 9, Section 9-2 (h) Excerpt - Stagnant Water
- Violation of Chapter 26, Section 12.10 Landscape Prohibited Plants
- Violation of Chapter 26, Section 8.11 (c) Property Maintenance Grass
- Mr. Chalifoux entered a plea of not guilty on behalf of the defendant in the defendant's absence.
- Mr. Nick Falkner, Code Compliance Officer, displayed several photographs of the subject property, located within City limits, stating a January 31, 2018 inspection found dense wild overgrowth of trees, vines, underbrush, grass and/or weeds and wild overgrowth of Brazilian pepper trees along the fence line and in front of and behind the garage. He

reviewed the City's efforts to bring the property into compliance, noting a reinspection conducted February 21, 2018, found the violations remained. He concluded reinspection on March 27, 2018, found all violations at the property had been addressed except for an overgrowth of Brazilian pepper trees along the fence at the rear of the property. He then submitted an invoice for case costs incurred in the amount of \$34.90.

- Mr. Brennan MOVED, Mr. Bauman SECONDED the City had presented a prima facie case. MOTION CARRIED UNANIMOUSLY.
- Mr. Chalifoux questioned how the property boundaries were determined.
- Mr. Falkner stated he used Charlotte County's Geographic Information System (GIS).
- City Attorney Levin opined it was reasonable to assume that the fence was on the defendant's property in the absence of contradicting evidence. He noted most property owners placed fences as close to the property line as possible, asserting Mr. Falkner's evidence was sufficient for this proceeding.
- Mr. Burrage MOVED, Ms. Baxter SECONDED to find the respondent guilty, to issue a Cease and Desist Order for any future violations, to order the property be brought into compliance within 10 days and to require payment of case costs incurred in the amount of \$34.90 within 10 days, subject to a fine of up to \$250 per day plus applicable interest. MOTION CARRIED UNANIMOUSLY.

B. 17-65501 – CODE COMPLIANCE OFFICER – LAVOSIA PRICE JR

Respondent: Josh Mobley

Address of Violation: 301 Fitzhugh Avenue

Violation of Chapter 26, Section 8.11 (e) 1, 2, 3, 4, 5 Dead Tree

- Mr. Chalifoux entered a plea of not guilty on behalf of the defendant in the defendant's absence.
- Mr. Lavosia Price, Code Compliance Officer, displayed several photographs of the subject property, located within City limits, stating a January 19, 2018, inspection found the remains of a downed tree and dead landscape debris on the property. He reviewed the City's efforts to bring the property into compliance, concluding a reinspection conducted the previous day found the property remained out of compliance. He then submitted an invoice for case costs incurred in the amount of \$16.25.
- Mr. Bauman MOVED, Ms. Baxter SECONDED the City had presented a prima facie case. MOTION CARRIED UNANIMOUSLY.
- Mr. Bauman inquired as to any communication with the property owner.
- Ms. Jennifer Daumann, Executive Assistant, stated a woman naming herself as the property owner advised she was abandoning the property for financial reasons, requested the City cease sending notices regarding the case and objected to her

husband's name on the legal notices and tax bill. She confirmed she had explained the City's procedures in detail to the respondent, including the potential penalties which might be imposed.

- Mr. Poitras MOVED, Mr. Burrage SECONDED to find the respondent guilty, to issue a Cease and Desist Order for any future violations, to require the property be brought into compliance within 14 days and to require payment of case costs incurred in the amount of \$16.25 within 14 days, subject to a fine of up to \$250 per day plus applicable interest. MOTION CARRIED UNANIMOUSLY.
- City Attorney Levin clarified the Charlotte County Property Appraiser's Office named Mr. Josh Mobley as the property owner; therefore, the woman's comments could not be taken to reflect the wishes of the property owner.
- Mr. Chalifoux inquired if the property owner was receiving the City's correspondence.
- City Attorney Levin explained the notice posted on the property met requirements regarding noticing property owners, inquiring if Mr. Mobley had contacted staff.
- Mr. Price replied in the negative.

C. 17-66209 – CODE COMPLIANCE OFFICER – ALLEN MCDANIEL

Respondent: Lori Grimaldi
Address of Violation: 440 Capri Isles Court
Violation of Chapter 9, Section 9-2 (a) and;
Violation of Chapter 26, Section 8.14 (b) Outdoor Storage

- Mr. Chalifoux entered a plea of not guilty on behalf of the defendant in the defendant's absence.
- Mr. Allen McDaniel, Code Compliance Officer, displayed several photographs of the subject property, located within City limits, stating a December 12, 2017, inspection found outdoor storage of pallets, household items, screen frames and other miscellaneous items. He reviewed the City's efforts to bring the property into compliance, noting a March 5, 2018, reinspection found the violations remained. He concluded a reinspection on March 26, 2018, found the property was in compliance. He then requested a Cease and Desist Order be granted and submitted an invoice for case costs incurred in the amount of \$23.86.
- Mr. Poitras MOVED, Mr. Ashworth SECONDED the City had presented a prima facie case. MOTION CARRIED UNANIMOUSLY.
- Mr. Poitras inquired as to the delay between the initial inspection and the final reinspection.
- Mr. McDaniel responded same was due to legal proceedings regarding a pending insurance claim. He explained staff was working with the property owner's attorney.

- Mr. Bauman MOVED, Mr. Burrage SECONDED to find the respondent guilty, to issue a Cease and Desist Order for any future violations and to require payment of case costs incurred in the amount of \$23.86 within 15 days, subject to a fine of up to \$250 per day plus applicable interest. MOTION CARRIED UNANIMOUSLY.
 - Ms. Maria Claypool voiced her desire to offer testimony regarding the case.
 - City Attorney Levin opined citizens who were not named as respondent did not have a right to be heard during the proceeding but could speak during the Citizens Comments portion of the agenda.
 - Ms. Claypool asserted neighbors had seen the respondent purposefully deface his roof, requesting her name be withheld.
 - Mr. Chalifoux informed Ms. Claypool that this was a public proceeding and all comments were recorded.
 - City Attorney Levin clarified the hearing concerning the property's roof would be heard at a later date.
- D. 18-66727 – CODE COMPLIANCE OFFICER – LAVOSIA PRICE JR
- Respondents: Bruno and Jolanda Bolliger
- Address of Violation: 354 Martin Luther King Boulevard
- Violation of Chapter 26, Section 8.11 (e) 1, 2, 3, 4, 5 Dead Tree
- Mr. Price displayed several photographs of the subject property, located within City limits, stating a January 23, 2018, inspection found the remains of a large tree branch on the property. He reviewed the City's efforts to bring the property into compliance, concluding a reinspection conducted the previous day found the property remained out of compliance. He then submitted an invoice for case costs incurred in the amount of \$20.00.
 - Mr. Bauman MOVED, Ms. Baxter SECONDED the City had presented a prima facie case. MOTION CARRIED UNANIMOUSLY.
 - Mr. Poitras confirmed notice sent to the respondent was directed to a Fort Myers address, questioning if the property owner had contacted staff.
 - Mr. Price replied in the negative.
 - Discussion ensued regarding the respondent's mailing address.
 - City Attorney Levin advised Florida Statute recognized property owners could abandon their properties. He opined the code enforcement process was intended to provide efficient, cost effective means to address out-of-compliance properties. He pointed out posting at properties met the legal requirements of providing notice regardless of whether correspondence was received by respondents.

- Mr. Bauman MOVED, Mr. Burrage SECONDED to find the respondent guilty, to issue a Cease and Desist Order for any future violations, to require the property be brought into compliance within 15 days and to require payment of case costs incurred in the amount of \$20.00 within 15 days, subject to a fine of up to \$250 per day plus applicable interest. MOTION CARRIED UNANIMOUSLY.

E. 18-67250 – CODE COMPLIANCE OFFICER – NICK FALKNER

Respondents: Leroy and Cheryl McDaniel

Address of Violation: 550 Corto Andra

Violation of Chapter 26, Section 8.11 (c) Property Maintenance – Grass

- Mr. Chalifoux entered a plea of not guilty on behalf of the defendant in the defendant's absence.
- Mr. Falkner displayed several photographs of the subject property, located within City limits, stating a February 26, 2018, inspection of the property found tall grass and/or weeds on the front lawn near the street and throughout the rear of the property. He reviewed the City's efforts to bring the property into compliance, noting a March 8, 2018, reinspection found the violations remained. He concluded a reinspection on March 12, 2018, found the property was in compliance, and reinspection the previous day confirmed it remained in compliance. He then requested a Cease and Desist Order for future violations and submitted an invoice for case costs incurred in the amount of \$16.25.
- Mr. Burrage MOVED, Ms. Baxter SECONDED the City had presented a prima facie case. MOTION CARRIED UNANIMOUSLY.
- Mr. Poitras MOVED, Mr. Burrage SECONDED to find the respondent guilty, to issue a Cease and Desist Order for any future violations and to require payment of case costs incurred in the amount of \$16.25 within 15 days, subject to a fine of up to \$250 per day plus applicable interest. MOTION CARRIED UNANIMOUSLY.

UNFINISHED BUSINESS

A. REQUEST FOR FINE REDUCTION

17-65484 – CODE COMPLIANCE OFFICER – LAVOSIA PRICE JR

Respondent: Hans Schuett

Requestor: Cindy Struthers

Address of Violation: 122 Dolly Street

Violation of Chapter 26, Section 8.11 (e) Property Maintenance – Landscape

- Ms. Cynthia Struthers spoke on behalf of Mr. Hans Schuett, respondent, requesting a fine reduction as Mr. Schuett had neglected to formally change his address and thus had not received any of the City's notices. She explained several unsuccessful attempts were

made to remove the tree, noting she and Mr. Schuett had finally achieved same. She respectfully requested the Board's consideration for a fine reduction.

- Mr. Price displayed two photographs of the subject property, located within City limits, providing a detailed review of events surrounding the case and the Board's actions dating back to January 2018. He announced Ms. Struthers had requested a fine reduction in the amount of \$2,201.65 on Mr. Schuett's behalf. He explained he informed Mr. Schuett and Ms. Struthers of the fine reduction process, further informing them if any remaining fine costs were not paid within the date ordered by the Board, the lien would remain valid. He submitted an invoice for additional case costs incurred in the amount of \$90.33 for a total case cost of \$191.98.
- Mr. Bauman inquired if court costs had been paid.
- Mr. Price replied the City had a check for the court costs, but it had not been processed pending the result of this hearing.
- Mr. Ashworth confirmed Ms. Struthers managed Mr. Schuett's property on 720 West Marion Avenue, not the subject property.
- Mr. Chalifoux questioned if correspondence sent to Germany was returned undeliverable.
- Mr. Price explained no correspondence was addressed to Germany; mail was sent to properties in Gambia and Naples. He noted correspondence addressed to Naples was returned as undeliverable.
- Mr. Chalifoux opined Mr. Schuett had known of the situation if he sent a check.
- Mr. Ashworth opined there had been miscommunication regarding this case.
- Mr. Bauman voiced concern Mr. Schuett had not made arrangements for maintenance before leaving Punta Gorda. He expressed he was not sympathetic to a fine reduction in this case.
- Mr. Chalifoux concurred with Mr. Bauman.
- Mr. Ashworth reiterated there had been significant miscommunication in this case. He opined an effort had been made on behalf of the respondent to bring the property into compliance. He then inquired as to how often Mr. Schuett returned to Punta Gorda.
- Ms. Struthers responded approximately three or four times each year, clarifying the subject property was a rental rather than his residence.
- City Attorney Levin opined any miscommunication which occurred was the responsibility of the property owner. He spoke in favor of property owners arranging for maintenance of their property when out of town.

- Ms. Lisa Hannon, Zoning Official, explained Ms. Struthers had requested the Public Works Department remove the tree; however, staff did not have the necessary equipment and had notified the property owner of same.
- Mr. Brennan MOVED, Ms. Baxter SECONDED to deny the request for a fine reduction and to require payment of \$90.33 within 15 days, full payment of the fine to be made within 30 days of the Board's Order.

VOTING AYE: Bauman, Baxter, Brennan, Burrage, Poitras, Chalifoux.

VOTING NAY: Ashworth.

MOTION CARRIED.

B. HEARING IMPOSING PENALTY

17-65082 – CODE COMPLIANCE OFFICER – NICK FALKNER

Respondent: Beverly A. Miller

Address of Violation: 510 Philodendron

Violation of Chapter 26, Section 8.11 (b) and;

Violation of Chapter 9, Section 9-12 (e) Missing & Torn Screens

- Mr. Falkner displayed several photographs of the subject property, located within City limits, providing a detailed review of events surrounding the case and the Board's actions dating back to January 2018. He confirmed the property had been in non-compliance for an additional 41 days from February 15, 2018, to March 27, 2018. He submitted an invoice for total case costs of \$60.08.
- Mr. Ashworth inquired if the home was vacant.
- Mr. Falkner voiced uncertainty regarding same, clarifying each posted notice had remained in place and he never observed a vehicle parked at the property.
- Mr. Chalifoux confirmed all correspondence addressed to the property since the hearing on January 24, 2018, had been returned undeliverable. He inquired if there was a secondary address listed for the property owner.
- Mr. Falkner replied in the negative.
- Mr. Burrage MOVED, Mr. Bauman SECONDED to find the respondent continued to be in violation of the Board's Order, to impose a fine of \$4,100 (\$100 per day for 41 days) plus applicable interest of 5.53% per year and to require payment of case costs incurred in the amount of \$60.08. MOTION CARRIED UNANIMOUSLY.

C. HEARING IMPOSING PENALTY

17-65456 – CODE COMPLIANCE OFFICER – ALLEN MCDANIEL

Respondents: Frank and Katharine Gorman

Address of Violation: 2838 Deborah Drive

Violation of Chapter 9, Section 9-2 (a), (e) Public Nuisance

- Mr. McDaniel displayed several photographs of the subject property, located within City limits, providing a detailed review of events surrounding the case and the Board's actions dating back to December 2017. He confirmed the property had been in non-compliance for an additional 48 days from January 24, 2018, to March 12, 2018, noting the City righted the submerged vessel on March 13, 2018. He then submitted an invoice for additional case costs incurred in the amount of \$46.67.
- Mr. Chalifoux inquired if the vessel was still in violation of City Code as it did not have registration numbers posted.
- City Attorney Levin clarified the registration sticker, not the numbers, must be posted, voicing uncertainty as to whether same was posted on the vessel. He stated the City would begin a new case regarding the vessel's registration if needed.
- Mr. Bauman confirmed the vessel remained at the dock, questioning when it could be declared abandoned.
- City Attorney Levin explained the vessel could not be declared abandoned as it was tied to the dock, advising it could not be declared inoperable as the City was unable to determine whether it could be sailed.
- Mr. McDaniel stated Mr. Frank Gorman, who owned the vessel, was deceased, adding he believed the person who owned the vacant lot was the previous registered owner.
- Mr. Poitras MOVED, Mr. Bauman SECONDED to find the respondent to be in violation of the Board's Order, to impose a fine of \$2,400 for 48 days of non-compliance and to require payment of additional case costs incurred in the amount of \$46.67. MOTION CARRIED UNANIMOUSLY.

COMMITTEE/BOARD COMMENTS

- Mr. Chalifoux requested a line regarding swearing-in participants be inserted into the agenda after Approval of Minutes.
- City Attorney Levin opined there had been some technical difficulties with the agenda software which prevented same, offering to investigate the situation.
- Mr. Chalifoux inquired as to a spreadsheet which delineated outstanding Board Orders.
- Ms. Daumann distributed same to members, as delineated in the agenda materials.
- Mr. McCarty commented a report regarding recorded liens would be included with future agendas.
- City Attorney Levin explained future liens should not exceed a property's value, opining the market value of a property and unpaid taxes would have to be considered before the foreclosure process commenced.
- Mr. Ashworth inquired as to the Winter Park Dodge case.

- City Attorney Levin replied although the City wished to proceed with action, some properties could not be foreclosed on due to extraordinary liens or homestead status. He stated the unique nature of the case prevented him from providing an estimated timeframe for resolving the case; however, he could provide a report prior to the April 25, 2018, meeting.

ADJOURNMENT

- Meeting Adjourned: 10:24 a.m.

John Chalifoux, Chairman

Sara Welch, Recording Secretary