

**CODE ENFORCEMENT BOARD
MEETING
MAY 26, 2010**

MEMBERS PRESENT: Jim Stevens, Chairman
Tom Bailey, Richard Kresge,
Vic Poitras, Gloria Sepanik, Ed Viola

MEMBERS ABSENT: Norman Ashworth

OTHERS PRESENT: David Levin, City Attorney; Dean Irving, Police Officer;
Dawn Lewis, Maricela Perdomo, Code Compliance Officers;
Teri Tubbs, Zoning Official; David McCarty, Code Compliance
Coordinator; Maria Gauta

CALL TO ORDER/ANNOUNCEMENTS

- A. Roll Call
- B. Next Scheduled Meeting - June 23, 2010

APPROVAL OF MINUTES

- A. Meeting of April 28, 2010
 - Mr. Viola MOVED, Mr. Bailey SECONDED approval of the April 28, 2010 minutes.
MOTION CARRIED UNANIMOUSLY.

NEW BUSINESS

- Mr. Stevens provided a detailed review of hearing procedures, explaining the Board had no authority to change existing laws but rather was charged with enforcing same.
- Recording Secretary Kelly swore in all participants.
- A. 10-39984 - POLICE OFFICER - DEAN IRVING - REPEAT VIOLATION
 - Respondents: Donato Boccio, Vincent Boccio and Connie Boccio
 - Address of Violation: 540 Gold Tree
 - Repeat Violation of Chapter 26, Section 26-3.13(g), Parking commercial vehicle in the yard in the Special Residential Overlay (SRO) district; and Chapter 26, Section 26-3.13(l), Parking or storing a boat and trailer on the property in the SRO district; and Chapter 26, Section 26-3.13(h), Parking or storing a commercial van, boat and trailer in the yard on the property in the SRO District.
 - Mr. Stevens noted the respondents were not present, confirming there was no objection to entering a plea of not guilty on their behalf.
 - City Attorney David Levin announced Ms. Connie Boccio, respondent, was experiencing some health issues and was offered the option for a continuance; however, she declined that offer but was clearly not present; thus, the City wished to proceed with presentation of their case.

- Police Officer Dean Irving displayed photographs of the subject violations, stating while on regular patrol on April 24, 2010, in the area of 540 Gold Tree, located within City limits, he observed a white van parked in the side yard of this residence with a boat and trailer attached to same. He noted he was subsequently advised this was a repeat violation. He concluded he then issued Parking Citation #140354 for the stated violations.
- Ms. Sepanik questioned the time Officer Irving observed the violations.
- Officer Irving replied approximately 3:05 a.m.
- Ms. Dawn Lewis, Code Compliance Officer, stated on April 23, 2010, she received a complaint relative to the above mentioned boat and trailer, adding she then personally observed same. She explained she submitted a request to the Police Department to determine whether the vehicle was being parked overnight, reiterating that had been the case. She noted the homeowner was informed of the need to remove the boat and vehicle; however, he had explained the boat and vehicle were parked at his property as his storage location had flooded. She continued the trailer's brake system had been flooded and became inoperable, stating the respondent had been unable to repair the brakes within the allowed time frame. She advised the boat had since been sold, adding the respondents had indicated they believed the circumstances had been beyond their control.
- Ms. Sepanik clarified this was a repeat violation.
- Ms. Lewis replied affirmatively with respect to storage of the commercial vehicle.
- Mr. Kresge asked if the respondents had been fined.
- Ms. Lewis replied they had not been fined but rather a Cease & Desist Order had been issued.
- Mr. Kresge requested staff's recommendation.
- Ms. Lewis suggested the Board show leniency as she agreed the circumstances had been beyond the respondents' control.
- City Attorney Levin asked if staff was recommending leniency for the violations associated with the boat and boat trailer.
- Ms. Lewis replied the boat and trailer were hooked to the commercial vehicle.
- Mr. Stevens confirmed the vehicle had been parked on the side lawn.
- Mr. Viola MOVED, Mr. Poitras SECONDED the City had presented a prima facie case. MOTION CARRIED UNANIMOUSLY.
- Mr. Poitras asked if the situation could have been avoided if the respondents had simply advised the City of the circumstances relative to the above described flooding.
- Ms. Lewis replied affirmatively.

- Mr. Viola noted the Board had been provided with a written recommendation to impose a fine of \$250 for 1 day of non-compliance.
- Mr. Stevens pointed out a fine of up to \$500 per day could be imposed as this was a repeat violation.
- Mr. Kresge MOVED, Mr. Poitras SECONDED to find the respondent guilty of a repeat violation and to impose a fine of \$100, representing 1 day of non-compliance. MOTION CARRIED UNANIMOUSLY.

Note: Item B was heard following Item E.

B. 10-39906 - CODE COMPLIANCE OFFICER - MARICELA PERDOMO - REPEAT VIOLATION

Respondent: Susana Punta Gorda, LLC

Address of Violation: 413 West Retta Esplanade

Repeat Violation of Chapter 10, Section 10-1.1, Tall grass and/or weeds over 12 inches in height throughout the property, including landscaped areas; and Chapter 26, Section 26-8.11(c)(e)(f), Overgrown trees, shrubs and dead landscape materials throughout the property; and Chapter 26, Section 26-8.11(b), Broken windows and exterior wall damage on the house structure.

- Mr. Stevens noted the respondent was not present, confirming there was no objection to entering a plea of not guilty on their behalf.
- Ms. Maricela Perdomo, Code Compliance Officer, displayed several photographs of the subject property, located within City limits, stating a Cease & Desist Order had been issued on June 24, 2009, for tall grass and weeds, dead palm fronds and overgrown landscaping. She advised on April 12, 2010, she again observed tall grass and weeds, overgrown shrubs throughout the property and dead palm fronds. She mentioned she had provided a realty company with the photographs being displayed with the hope the property owner could be contacted. She stated a Notice Imposing Penalty was sent to the respondent by certified mail but was returned undeliverable; thus, the property was posted on April 13, 2010. She advised a May 18, 2010, inspection found the tall grass and weeds had been addressed; therefore, the violations had existed for a total of 36 days. She then commented on a separate issue, stating on April 12, 2010, she observed two broken windows, damaged window panes, a broken fence and other conditions of disrepair. She explained at the June 24, 2009, hearing, the owner was informed he must pull the necessary permits to make all repairs within 60 days from July 3, 2009; however, the owner had believed removal of the carport met all requirements of the Board's Order; thus, she requested future orders specifically indicate the following: all necessary permits need to be pulled to repair the windows,

damaged window panes, broken fence and area of the home where the carport trellis was removed within 30 days of receipt of the Board's Order.

- Mr. Kresge expressed confusion as the owners had started rehabilitation work on the property but then stopped.
- Ms. Perdomo agreed, thus the basis for her recommendation to delineate all requirements. She reiterated the property had changed hands in and around the time of the 2009 hearing, adding the new owner had believed removal of the carport was sufficient to achieve compliance.
- Mr. Kresge countered he could not see how the owners could believe the property was in compliance in light of the conditions depicted in the photographs.
- Ms. Sepanik MOVED, Mr. Bailey SECONDED the City had presented a prima facie case. MOTION CARRIED UNANIMOUSLY.
- Mr. Viola MOVED, Mr. Poitras SECONDED to find the respondent guilty of a repeat violation, to impose a \$900 fine, representing \$25 per day for 36 days of non-compliance, to require the respondent to obtain a Certificate of Appropriateness and all required building permits for repair of the windows, fence and house siding, to bring the property into compliance within 30 days of receipt of the Board's Order, subject to a fine of up to \$250 per day and to issue a Cease & Desist Order for future violations. MOTION CARRIED UNANIMOUSLY.

C. 10-39343 - CODE COMPLIANCE OFFICER - MARICELA PERDOMO

Respondent: John O. Fish

Address of Violation: 2444 Flora Lane

Violation of Chapter 26, Section 26-3.13(g), Parking of a cargo trailer with commercial advertising in the driveway; and Chapter 26, Section 26-4.22(a-g), On-site storage of goods related to a home occupation and advertising in the white and yellow pages of the telephone book, advertising the home occupation at this address; and Chapter 26, Section 26-3.13(n), Garbage containers stored outside in the side yard; and Chapter 26, Section 26-8.11(a), Missing, cracked and discolored roof tiles on the structure.

- Mr. Stevens noted the respondent was not present, confirming there was no objection to entering a plea of not guilty on his behalf.
- Ms. Perdomo requested a continuance to the Board's next meeting on behalf of the respondent, who had advised he was attempting to locate roof tiles and to make arrangements to have the roof cleaned.
- Mr. Viola MOVED, Ms. Sepanik SECONDED to continue Case #10-39343 to June 23, 2010. MOTION CARRIED UNANIMOUSLY.

D. 10-39687 - CODE COMPLIANCE OFFICER - MARICELA PERDOMO

Respondent: Linda-Louise (for the family Christian)

Address of Violation: 2543 Brazilia Court

Violation of Chapter 7, Section 7-35(d), No house numbers displayed on the structure at 2543 Brazilia Court; and Chapter 26, Section 26-8.11(e)(f), Dead and dying palm fronds on the palm tree in the rear of the property near the canal.

- Mr. Stevens noted the respondent was not present, confirming there was no objection to entering a plea of not guilty on her behalf.
- Ms. Perdomo displayed several photographs of the subject property, located within City limits, stating on March 31, 2010, she received a complaint regarding dead palm fronds hanging from trees adjacent to the seawall. She noted there were no house numbers on the home, adding the front of the structure was discolored. She announced a Courtesy Notice was left requiring the violations related to the palm fronds and house numbers to be eliminated within seven days and those associated with the discoloration to be remedied within thirty days. She advised the discoloration was addressed as of April 9, 2010; however, the structure remained without house numbers, and one tree was still untrimmed. She continued a re-inspection on May 13, 2010, found the latter violations remained; thus, a Notice of Hearing was posted and sent on May 14, 2010; however, the Notice of Violation was returned undeliverable. She concluded the violations remained as of the previous day, May 25, 2010.
- Ms. Sepanik MOVED, Mr. Bailey SECONDED the City had presented a prima facie case. MOTION CARRIED UNANIMOUSLY.
- Ms. Sepanik MOVED, Mr. Kresge SECONDED to find the respondent guilty, to issue a Cease & Desist Order for any future violations and to require the property to be brought into compliance within 10 days of receipt of the Board's Order subject to a fine of up to \$250 per day. MOTION CARRIED UNANIMOUSLY.
- Mr. Poitras asked where the above mentioned "undeliverable" Notice of Violation was sent.
- Ms. Perdomo replied the subject property itself was posted, adding the Notice was mailed to the address on file with the Charlotte County Property Appraiser's records, "Ms. Linda-Louise, General Post Office, Northfield, VT 05663."
- City Attorney Levin confirmed State Statute authorized posting of the property after giving certified notice, adding same constituted adequate notice. He then advised a gentleman in the audience this date was related to the respondent; thus, it was clear the respondent was being notified.

Note: Item E was heard following Item B, Old Business.

E. 10-39776 - CODE COMPLIANCE OFFICER - DAWN LEWIS

Respondent: Charlotte Isles Development, LLC

Addresses of Violations: 3738, 3740, 3742, 3744, 3746, 3748, 3750, 3752, 3754, 3756, 3758, 3760, 3762 and 3764 Albacete Circle

Violation of Chapter 10, Section 10-1.1, Tall grass and/or weeds throughout each of the properties; and Chapter 9A, Section 9A-12(a), Accumulation of debris in various areas of these properties.

- Ms. Lewis requested a continuance to the Board's next meeting as the respondent had agreed to enroll in the City's lot mowing program. She explained she wished to ensure receipt of the necessary paperwork, adding she would provide the Board with an update at their next hearing.
- Mr. Kresge MOVED, Mr. Viola SECONDED to continue Case #10-39776 to June 23, 2010. MOTION CARRIED UNANIMOUSLY.

Note: Unfinished Business was heard following Item D, New Business.

UNFINISHED BUSINESS

A. 10-39420 - CODE COMPLIANCE OFFICER - DAWN LEWIS

Respondent: Lucille Glover & Gerald Sanders

Address of Violation: 515 Myrtle Street

Violation of Chapter 26, Section 26-8.11(c), Grass and/or weeds over 12 inches in height; and Chapter 9A, Section 9A-12(d), Inoperative vehicle parked in the rear yard of the property; and Chapter 9A, Section 9A-12(a), Accumulation of debris around the inoperative vehicle in the rear yard of the property.

- Mr. Stevens noted the respondents were not present, confirming there was no objection to entering pleas of not guilty on their behalf.
- Ms. Lewis displayed several photographs of the subject property, located within City limits, stating on January 29, 2010, she observed the following: grass and weeds exceeding 12 inches throughout; an inoperable vehicle parked in the rear yard; an accumulation of debris around said vehicle. She continued the violations remained as of February 23, 2010, noting she attempted to contact the respondents' daughter and spoke with several neighbors as the property seemed to be abandoned. She mentioned neighbors had informed her the two individuals who had been residing in the home were in prison, adding she understood Mr. Gerald Sanders, respondent, was ill. She announced subsequent Notices of Violation were sent and posted; however, the violations remained unchanged as of a March 30, 2010, inspection. She reviewed

the additional notices issued and steps taken, concluding the violations remained as of the previous day, May 25, 2010.

- Mr. Viola MOVED, Mr. Bailey SECONDED the City had presented a prima facie case. MOTION CARRIED UNANIMOUSLY.
- Mr. Kresge confirmed the City could clean up this property and issue a lien for the costs associated with same.
- Ms. Sepanik MOVED, Mr. Kresge SECONDED to find the respondent guilty, to issue a Cease & Desist Order for any future violations and to require the property to be brought into compliance within 14 days of receipt of the Board's Order subject to a fine of up to \$250 per day. MOTION CARRIED UNANIMOUSLY.
- Ms. Sepanik MOVED, Mr. Bailey SECONDED to recommend City Council recognize this property with respect to the new, recently adopted ordinance in order to bring the property into compliance. MOTION CARRIED UNANIMOUSLY.

B. 10-39399 - CODE COMPLIANCE OFFICER - DAWN LEWIS

Respondent: Money Consultants, Inc.
R. Lee Jr. & Jennifer Chadwick

Address of Violation: 412 Allen Street

Violation of Chapter 9A, Section 9A-12(e), Inoperative and unregistered watercraft; and Chapter 9A, Section 9A-12(d), Inoperative and unlicensed vehicle; and Chapter 9A, Section 9A-12(a), Lamps, wood, bird cages, cooler, bins, doors, trailer with no wheels and other miscellaneous debris stored outside; and Chapter 9A, Section 9A-12(b), Several pieces of broken concrete in the rear yard; and Chapter 26, Section 26-8.11(b), A broken window on the front of the house; and Chapter 26, Section 26- 11.5(e), Snowman holiday decoration displayed in the front of the property.

- Mr. Stevens noted the respondents were not present, confirming there was no objection to entering pleas of not guilty on their behalf.
- Ms. Lewis displayed several photographs of the subject property, located within City limits, stating on February 23, 2010, she observed the following: inoperative and unregistered watercraft in the rear yard; inoperative and unlicensed vehicle with a flat tire and expired tags in the driveway; lamps, wood, bird cages, cooler, bins, doors, a trailer with no wheels and other miscellaneous debris in the rear yard; a broken window on the front of the house; a snowman holiday decoration displayed in front of the property. She noted the respondents were noticed to bring the property into compliance by March 18, 2010; however, a March 30, 2010, inspection found all violations remained. She reviewed the additional notices issued and steps taken, stating she was eventually contacted by a representative of Money Consultants, Inc.,

one of the respondents, and advised of their wish to bring the property into compliance once the current tenants had vacated the home. She concluded as of the previous day, May 25, 2010, the snowman decoration had been removed and the front yard was being mowed; however, all other violations remained.

- City Attorney Levin asked who had been identified as the property owner of record by the Charlotte County Property Appraiser's Office.
- Ms. Lewis replied all parties listed as respondents on the agenda.
- Mr. Kresge MOVED, Ms. Sepanik SECONDED the City had presented a prima facie case. MOTION CARRIED UNANIMOUSLY.
- Mr. Kresge MOVED, Mr. Poitras SECONDED to find the respondent guilty, to issue a Cease & Desist Order for any future violations and to require the property to be brought into compliance within 14 days of receipt of the Board's Order subject to a fine of up to \$250 per day. MOTION CARRIED UNANIMOUSLY.

C. 09-38645 - CODE COMPLIANCE OFFICER - DAWN LEWIS

Respondent: Laura A. Hauser

Address of Violation: 7241 North Blue Sage

Violation of Chapter 26, Section 26-8.11(c)(e)(f), Tall grass and/or weeds in the landscaped areas of the property and dead landscape debris throughout the yard.

- Mr. Stevens noted the respondent was not present, confirming there was no objection to entering a plea of not guilty on her behalf.
- Ms. Lewis displayed several photographs of the subject property, located within City limits, stating on November 25, 2009, she observed grass and/or weeds over 12 inches in height throughout the landscaped areas and dead landscape debris throughout the yard. She announced a Notice of Violation was issued by certified mail on February 16, 2010, but was returned undelivered; thus, the property was posted on March 3, 2010, requiring compliance by March 13, 2010. She reported the violations remained as of March 30, 2010, after which a Statement of Violation/Notice of Hearing was served upon the respondent by certified mail on April 21, 2010. She stated the respondent had periodically done some trimming, cutting, etc.; however, she had never achieved compliance. She advised the property was being foreclosed, adding the respondent expected to remain in the home for the next six months.
- Ms. Sepanik MOVED, Mr. Bailey SECONDED the City had presented a prima facie case. MOTION CARRIED UNANIMOUSLY.

- Ms. Sepanik MOVED, Mr. Poitras SECONDED to find the respondent guilty, to issue a Cease & Desist Order for any future violations and to require the property to be brought into compliance within 7 days of receipt of the Board's Order subject to a fine of up to \$250 per day. MOTION CARRIED UNANIMOUSLY.
- D. Hearing Imposing Penalty
 09-38809 - CODE COMPLIANCE OFFICER - DAWN LEWIS
- Respondent: Jack Tara Mike, Inc.
 Address of Violation: 417 Cooper Street
 Violation of Chapter 12, Section 12.1, Failure to pay Local Business Tax.
- Ms. Lewis announced this case had been continued from the Board's previous meeting, stating the City Clerk's Office had not been provided with written confirmation, as requested, of this business having closed as of February 2010. She clarified the Local Business Tax (LBT) had been paid on April 27, 2010; however, it had been due by September 30, 2009.
 - Mr. Kresge MOVED, Mr. Poitras SECONDED to find the respondent failed to comply with the Board's Order and to impose a fine in the amount of \$100. MOTION CARRIED UNANIMOUSLY.

OLD BUSINESS

- A. Hearing Imposing Penalty
 09-38260 - ZONING OFFICIAL - TERI TUBBS
- Respondent: Linda-Louise (for the family Christian)
 Address of Violation: 2543 Brazilia Court
 Violation of Chapter 26, Section 26-3.13(m), Installing a fence in a way not consistent with the requirements of this ordinance; and Chapter 7, Section 7-32(a)(1), Construction of a fence without a valid building permit.
- City Attorney Levin again noted a gentleman who was related to the respondent was present; however, he confirmed this person did not wish to make a statement.
 - Ms. Teri Tubbs, Zoning Official, reported this case was heard by the Board on December 23, 2009, at which time the respondent was ordered to come into compliance with City Code. She stated the Board issued an Order of Non-compliance on January 27, 2010, as no action had been taken. She advised the violation remained as of an April 29, 2010 inspection and as of 7:40 a.m. this date; therefore, staff recommended the Board impose an additional fine of \$7,000, representing a daily fine of \$250 for 28 days of non-compliance.
 - Mr. Viola confirmed the respondent had been legally noticed.

- Mr. Poitras MOVED, Ms. Sepanik SECONDED to impose a fine of \$7,000, representing a fine of \$250 per day for 28 days of non-compliance. MOTION CARRIED UNANIMOUSLY.

Note: Item B was heard following Item A, New Business.

B. Hearing Imposing Penalty

09-38709 - CODE COMPLIANCE OFFICER - MARICELA PERDOMO

Respondent: Jakov & Maria Gauta

Address of Violation: 1797 Belle Court

Violation of Chapter 9A, Section 9A-12(e), Two inoperable boats which are in a state of decay.

- Ms. Perdomo displayed several photographs of the subject violation, noting this property was located within City limits. She explained this case was brought before the Board on March 24, 2010, at which time the respondent was given 10 days upon receipt of the Order to bring 2 inoperable and unlicensed boats into compliance. She advised an inspection of the property on April 16, 2010, found the respondent had not complied with the Board's Order. She mentioned the respondent, Ms. Maria Gauta, had indicated it was difficult to address these violations due to family health issues. She stated Ms. Gauta had expressed her intention to submit a written request for possible elimination or reduction of any fines; however, the City had not received same.
- Ms. Gauta stated the boat located on land was inoperable. She explained she had attempted to give the boat away to a local high school to no avail. She mentioned another offer to purchase the boat in September or October 2009 had fallen through. She then stated the larger boat was operable as of November 2009. She mentioned she had received an offer to purchase the larger boat contingent upon sale of the buyer's existing vessel; however, the offer had since been rescinded.
- Ms. Perdomo pointed out neither boat was registered. She explained the larger boat's tag had expired in April 2009, adding the smaller boat's registration had expired in 2005.
- Ms. Gauta responded she had been unaware of same. She expressed hope the boats could remain in their current locations as she did not know how to remedy the situation.
- Mr. Kresge asked if the smaller boat was operable.
- Ms. Gauta replied she did not believe so, stating it had been damaged in Hurricane Charley in August 2004.
- Mr. Kresge questioned how the violation relative to the smaller boat could be remedied.

- City Attorney Levin replied someone must be paid to haul the boat away, asserting he did not believe it would be difficult to find such a person in that the respondent was willing to give up the vessel at no cost. He advised the larger boat could remain in its current location provided the registration was brought up to date.
- Discussion ensued with regard to possible solutions relative to removal of the smaller boat.
- City Attorney Levin reminded the Board this was a penalty hearing in that the respondent had failed to comply with their Order.
- Mr. Kresge MOVED, Mr. Viola SECONDED to find the respondent failed to comply with the Board's Order, to impose a fine in the amount of \$200, representing a fine of \$5 per day for 40 days of non-compliance with respect to the small boat and to require the larger boat to be registered within 14 days.
- VOTING AYE: Bailey, Kresge, Poitras, Viola, Stevens.
- VOTING NAY: Sepanik.
- MOTION CARRIED.

Note: Other Business was heard following Item A, Old Business.

OTHER BUSINESS

- A. Report - Orders Recorded Three Months or More
- City Attorney Levin announced his intention to meet with staff and the City Manager to compose a standard operating procedure with respect to how to implement the new ordinance as it related to special assessment actions.

ADJOURNMENT

- Meeting Adjourned: 10:31 a.m.

Jim Stevens, Chairman

Mary Kelly, Recording Secretary