

**CODE ENFORCEMENT BOARD
MEETING
JUNE 23, 2010**

MEMBERS PRESENT: Jim Stevens, Chairman
Tom Bailey, Cecil Knapp, Richard Kresge,
Vic Poitras, Gloria Sepanik,

MEMBERS ABSENT: Norman Ashworth, Ed Viola

OTHERS PRESENT: David Levin, City Attorney; Randy Wright, Maricela Perdomo, Code Compliance Officers; Mark Martella, Board Attorney; Teri Tubbs, Zoning Official; David McCarty, Code Compliance Coordinator; Lisa Hannon, Zoning Coordinator; Guy Oatman, Andrew Struk, Robert Spanos

CALL TO ORDER/ANNOUNCEMENTS

- A. Roll Call
- B. Next Scheduled Meeting - July 28, 2010

APPROVAL OF MINUTES

- A. Meeting of May 26, 2010
 - Mr. Bailey MOVED, Mr. Poitras SECONDED approval of the May 26, 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. 10-40030 - CODE COMPLIANCE OFFICER - RANDY WRIGHT
 - Respondent: Susan Reeves Oatman (c/o Joyce Stephens)
 - Address of Violation: 327 Boca Grande Boulevard
 - Violation of Chapter 26, Section 26-8.11(c), Tall grass and/or weeds over 12 inches in height throughout the property; and Chapter 9A, Section 9A-12(a), Tiles, kitty litter and other miscellaneous debris stored outside in the carport.
 - Mr. Guy Oatman, respondent's representative, stated he resided at the subject property; however, Ms. Susan Oatman, respondent, did not. He then entered a plea of not guilty.
 - Mr. Randy Wright, Code Compliance Officer, displayed photographs of the subject property, located within City limits, stating on April 29, 2010, he observed tall grass and weeds throughout the property exceeding 12 inches in height. He continued he also observed tiles, kitty litter containers and other miscellaneous debris stored in the

carport, adding he issued a courtesy notice but received no response regarding same. He announced a Notice of Violation was issued by certified mail, received by the respondent on May 8, 2010, requiring all violations to be eliminated within 5 days of receipt of the Notice, adding the grass had been cut as of June 7, 2010; however, all other violations remained.

- Mr. Bailey MOVED, Ms. Sepanik SECONDED the City had presented a prima facie case. MOTION CARRIED UNANIMOUSLY.
- Mr. Oatman stated the grass had grown more quickly than usual due to recent rains, adding the kitty litter containers actually contained charcoal, which he used for barbecuing. He advised the garbage cans and cat box had been removed. He asserted the tiles were stacked neatly against the rear wall of the carport. He explained he had experienced significant problems with a contractor after Hurricane Charley in August 2004, stating this contractor had only recently been located. He clarified the tiles should have been installed by the contractor. He pointed out he was physically unable to lift heavy items. He maintained the only notice he received was relative to tall grass, confirming he had arranged for a lawn service. He concluded he had no other place to store the tiles, requesting they be allowed to remain in place as he did not feel they were unsightly in that they were neatly stacked.
- Mr. Stevens observed a door in the photographs, asking where same led.
- Mr. Oatman replied the door led to an added-on living room; however, the doorway was sealed and could not be opened.
- Mr. Kresge questioned the reason for storing the tiles at all.
- Mr. Oatman replied the above mentioned contractor had begun working on his home but never finished same. He reiterated he was pursuing the matter through legal avenues.
- Mr. Kresge asked why the tiles continued to be stored.
- Mr. Oatman replied the floor still needed to be laid.
- Mr. Kresge noted Habitat for Humanity would accept a donation of the tiles.
- Mr. Oatman expressed opposition to same as he had experienced some personal problems with Habitat.
- Mr. Kresge questioned Mr. Oatman's intentions.
- Mr. Oatman replied he wished to leave the tiles in place until they could be laid or until his legal case was settled.
- Mr. Wright interjected the tiles had been in their current location for six years.
- Mr. Bailey commented it seemed Mr. Oatman did not understand the charges.

- Mr. Wright responded the property was cited for visual blight, adding he had spoken with Mr. Oatman numerous times over the past several years. He mentioned he had received several complaints regarding the visual blight at this property.
- Mr. Oatman explained it had taken five years to locate the contractor.
- Mr. Kresge asked if the tiles could be boxed in.
- Mr. Wright replied an enclosure would require permitting to ensure same was properly wind-loaded, adding temporary structures were not permitted.
- Mr. Stevens requested clarification of Section 9A-12(a) of the City Code.
- Mr. Mark Martella, Board Attorney, explained prohibited uses included storage of building materials except if same were being stored as part of a permitted project and would be used expeditiously. He advised such building materials must be stored so as to be not viewed from the outside. He opined the tiles would not fall under allowed uses as they had been present for six years.
- City Attorney Levin suggested Mr. Oatman may wish to apply for a permit to enclose the carport.
- Mr. Oatman responded he did not wish to enclose the carport. He concluded he would remove the tiles.
- Ms. Sepanik MOVED, Mr. Poitras SECONDED to find the respondent guilty and to issue a Cease & Desist Order requiring all violations to be eliminated within 10 days of receipt of the Board's Order subject to a fine of up to \$250 per day. MOTION CARRIED UNANIMOUSLY.

Note: Items B and C were heard following Item A, Unfinished Business.

B. 10-39946 - CODE COMPLIANCE OFFICER - RANDY WRIGHT

Respondent: Elbert H. Van Nostrand & Bonnie Jacobs

Address of Violation: 551 Toulouse Drive

Violation of Chapter 26, Section 26-8.11(a), More than twenty (20) percent of the roof is discolored and mildewed.

- Mr. Stevens noted the respondents were not present, confirming there was no objection to entering a plea of not guilty on their behalf.
- Mr. Wright displayed photographs of the subject property, located within City limits, stating on May 20, 2010, he observed the roof was discolored and mildewed. He announced a Notice of Violation was issued by certified mail on May 25, 2010, requiring all violations to be eliminated within 10 days of receipt of the Notice, adding the certified mail had been returned; thus, the property was subsequently posted. He reported the violation remained as of June 8, 2010; thus, a Notice of Hearing was

issued that date. He concluded the violation remained unchanged as of the previous day, June 22, 2010.

- Ms. Sepanik asked if the home was occupied.
- Mr. Wright replied affirmatively, stating there had been other violations over the years. He noted the respondent was typically slow to respond to notices and did not accept certified mail from the City.
- Ms. Sepanik confirmed Mr. Wright had never had any verbal contact with the respondent.
- Mr. Wright mentioned the Punta Gorda Isles (PGI) Civic Association (CA) provided him with a list of homes with dirty roofs, including the subject home.
- Ms. Sepanik MOVED, Mr. Poitras SECONDED the City had presented a prima facie case. MOTION CARRIED UNANIMOUSLY.
- Mr. Poitras MOVED, Mr. Bailey SECONDED to find the respondent guilty and to issue a Cease & Desist Order requiring all violations to be eliminated within 10 days of receipt of the Board's Order subject to a fine of up to \$250 per day. MOTION CARRIED UNANIMOUSLY.

C. 09-38544 - CODE COMPLIANCE OFFICER - MARICELA PERDOMO

Respondent: Carole B. Destefano
Peter A. Basile & Sons, Inc.

Address of Violation: 357 West Marion Avenue

Violation of Chapter 26, Section 26-11.2(g), Sign installed without a permit; and Chapter 7, Sections 7-32(a)(1) and 7-32(b)(4), Failure to submit a sign permit application and pay the required fees.

- Mr. Stevens noted the respondent was not present, confirming there was no objection to entering a plea of not guilty on her behalf.
- Ms. Maricela Perdomo, Code Compliance Officer, requested a continuance as a permit application had been submitted.
- Mr. Bailey MOVED, Mr. Knapp SECONDED to continue Case #09-38544 to July 28, 2010. MOTION CARRIED UNANIMOUSLY.

UNFINISHED BUSINESS

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

A. 09-38724 - CODE COMPLIANCE OFFICER - RANDY WRIGHT

Respondent: Elaine M. Struk, Trustee

Address of Violation: 414 Caicos Drive

Violation of Chapter 9A, Section 9A-12(e); Chapter 26, Section 26-3.13(r), Inoperative, unregistered boat which is in a state of decay.

- Mr. Andrew Struk, respondent, re-entered a plea of not guilty.
- Mr. Wright stated this case was presented to the Board on April 28, 2010, at which time the respondent was ordered and agreed to eliminate the violation by May 31, 2010. He mentioned the case was continued to this date to ensure compliance with the Board's Order. He concluded the boat had remained in violation for one day beyond the deadline imposed.
- Ms. Sepanik MOVED, Mr. Kresge SECONDED to dismiss Case #09-38724. MOTION CARRIED UNANIMOUSLY.

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

B. 10-38922 - CODE COMPLIANCE OFFICER - RANDY WRIGHT

Respondent: Debra Ann Rommel

Address of Violation: 402 West Grace Street

Violation of Chapter 10, Section 10-1.1, Stagnant pool water.

- Mr. Stevens noted the respondent was not present, confirming there was no objection to entering a plea of not guilty on her behalf.
- Mr. Wright displayed several photographs of the subject property, located within City limits, stating an inspection on January 7, 2010, found the swimming pool to be completely full of stagnant water. He reported on January 14, 2010, a Notice of Violation was issued requiring compliance within 5 days of receipt of same; however, the Notice was returned undelivered on January 30, 2010. He continued the property was posted on February 6, 2010, adding a re-inspection on March 18, 2010, showed the pool still contained stagnant water. He mentioned a hearing on April 28, 2010, had been continued at the respondent's request, concluding the violation remained as of the previous day, June 22, 2010.
- Mr. Stevens confirmed the house was vacant.
- Ms. Sepanik asked if the property was being foreclosed.
- Mr. Wright replied it was not. He explained the power had been shut off since Hurricane Charley, adding he had been informed the pool may be removed and the site filled in; however, there had been no action to date.
- Ms. Sepanik clarified there was no ordinance or State law requiring electricity to be maintained.
- Mr. Kresge asked how this came to Mr. Wright's attention.
- Mr. Wright replied he had observed same from a nearby lift station.
- Mr. Kresge commented it appeared the deck was settling.
- Mr. Wright agreed.
- Mr. Kresge asked where the owner resided.

- Mr. Wright replied in Punta Gorda.
- Ms. Sepanik MOVED, Mr. Poitras SECONDED to find the City had presented a prima facie case. MOTION CARRIED UNANIMOUSLY.
- Mr. Kresge MOVED, Ms. Sepanik SECONDED to find the respondent guilty and to issue a Cease & Desist Order requiring all violations to be eliminated within 10 days of receipt of the Board's Order subject to a fine of up to \$250 per day. 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 phone 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 26-8.1(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 stated this case was continued from the Board's previous meeting at the request of the property owner. She displayed several photographs of the subject property, located within City limits, reporting on February 25, 2010, she observed the following: trailer parked in the driveway with commercial advertising related to a home occupation at this location; pool equipment, a box and various other items in front of the garage; broken and missing roof tiles; dirty roof; garbage cans stored outside; overgrown weeds in the front and rear of the property. She continued the violations remained as of a March 5, 2010 inspection; thus, a 2 day Notice of Violation was issued for the trailer and garbage bins, and the owner was instructed to provide documentation confirming operation of the business from the home had ceased. She noted the owner was also given 14 days to have the roof repaired and cleaned, adding the Notice of Violation was received on March 13, 2010. She reported on April 1, 2010, she noticed the owner had been working on the home, adding the trailer was no longer parked in the driveway. She stated on May 10, 2010, she observed the roof was discolored and still had missing and broken roof tiles, adding no documentation regarding the business had been received. She advised a Notice of Hearing was issued by certified mail and the property posted on May 25, 2010, stating the violations remained as of her May 25, 2010 inspection. She stated the owner subsequently

advised the business phone number was no longer in service; therefore, the above mentioned documentation was no longer required. She noted the owner also indicated the required roof tiles were no longer being manufactured, adding he was experiencing difficulty locating substitute tiles. She stated the owner also stated he would order the best ridge caps available and would install them within 30 days of May 25, 2010, and would have the roof washed following same; however, on June 17, 2010, the respondent requested an additional 30 days as he had to leave town but would work on the ridge caps immediately upon his return. She mentioned the roof had been cleaned as of June 17, 2010. She concluded all violations had been eliminated with the exception of the ridge caps.

- Ms. Sepanik asked if Ms. Perdomo felt the respondent would bring the property completely into compliance.
- Ms. Perdomo replied she believed so, acknowledging she was unsure how long these conditions had existed.
- Ms. Sepanik MOVED, Mr. Bailey SECONDED to find the City had presented a prima facie case. MOTION CARRIED UNANIMOUSLY.
- Ms. Sepanik MOVED, Mr. Poitras SECONDED to find the respondent guilty and to issue a Cease & Desist Order requiring all violations to be eliminated within 30 days of receipt of the Board's Order subject to a fine of up to \$250 per day. 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 26-3.13(m), Installing a fence in a way not consistent with the requirements of this ordinance; and Chapter 7-32(a)(1), Construction of a fence without a valid building permit.

- 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 bring the property 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 a May 27, 2010 inspection and as of 7:25 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. Poitras MOVED, Mr. Kresge SECONDED to impose a fine of \$7,000, representing a fine of \$250 per day for 28 days of non-compliance. MOTION CARRIED UNANIMOUSLY.
- B. Hearing Imposing Penalty
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.
- Ms. Perdomo announced this case was heard by the Board on May 26, 2010, at which time the respondent was ordered to eliminate all violations by June 5, 2010. She reported the violations related to the dead palm fronds remained as of a June 7, 2010 re-inspection, adding the house numbers had been installed at that time; therefore, a notice imposing penalty was issued and posted on June 8, 2010. She concluded the violation related to dead palm fronds remained as of June 22, 2010; therefore, staff recommended the Board impose a fine of \$4,000, representing a daily fine of \$250 for 16 days of non-compliance.
- City Attorney Levin interjected the request for penalty this date was with respect to the palm fronds. He explained the respondent came into compliance with regard to the missing house numbers; however, the numbers had since been removed again; thus, a case for repeat violation would be presented at a future hearing.
- Mr. Stevens commented it would be difficult to receive mail without house numbers.
- City Attorney Levin agreed, pointing out more importantly, house numbers were necessary for a timely response by emergency personnel.
- Mr. Kresge MOVED, Mr. Poitras SECONDED to impose a fine of \$4,000, representing a fine of \$250 per day for 16 days of non-compliance. MOTION CARRIED UNANIMOUSLY.

OTHER BUSINESS

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

- A. Request for Fine Reduction
09-38538 - CODE COMPLIANCE OFFICER - RANDY WRIGHT
Respondent: Benderson Development Company, LLC (c/o David H Baldauf,
Registered Agent)
Address of Violation: 615 Cross Street
Violation of Chapter 26, Section 26-17.5(e)(3), Blank sign.
- Mr. Wright announced the Board imposed a fine of \$5,300, stating the property was subsequently brought into compliance on May 3, 2010. He explained the respondent

had submitted a request for relief, as delineated in the agenda material, requesting consideration be given to actual costs incurred by the City of \$349.20.

- Mr. Robert Spanos, respondent's representative, provided a detailed review of events surrounding this case dating back to January 5, 2010, stating he believed there had been some miscommunication; however, he acknowledged his responsibility in this matter. He explained after several meetings with staff, the Mayor and City Manager, a decision was made to seek a variance for an additional ground sign. He reported the Board of Zoning Appeals (BZA) recommended approval of the variance, concluding the next step was to seek final approval from City Council.
 - Ms. Sepanik asked if Mr. Spanos had a figure in mind.
 - Mr. Spanos replied any reduction would be appreciated.
 - Mr. Stevens confirmed the sign had been removed.
 - Mr. Poitras clarified administrative charges and fees of \$50 and \$299.20, respectively, totaled \$349.20.
 - Mr. Kresge MOVED, Mr. Knapp SECONDED to reduce the fine to \$500.
 - VOTING AYE: Knapp, Kresge, Poitras, Sepanik, Stevens.
 - VOTING NAY: Bailey.
 - MOTION CARRIED.
- B. Report: Orders Recorded Three Months or More
- Mr. Robert Craig announced his mother, Ms. Gerda Craig, was the former owner of 2543 Brazilia Court, adding his sister, Ms. Linda-Louise (for the family Christian), was the current owner. He stated his attempts to return ownership of the property to his mother had been unsuccessful as had been his efforts to stop the fines from accumulating. He clarified he did not own the property nor did he have any authority regarding same. He requested clarification of how the Code Compliance Division process worked.
 - City Attorney Levin responded some cases were complaint driven.
 - Ms. Tubbs added all Code Compliance Officers conducted inspections proactively as well.
 - City Attorney Levin noted fines were issued only when property owners did not respond to numerous notices from the City within a specific time frame.
 - Ms. Sepanik commented she understood Ms. Craig resided very close to the subject property.
 - Mr. Craig responded his mother lived next door.
 - Ms. Sepanik asked why Ms. Craig did not become more involved in these cases.

- Mr. Craig explained his sister had quit claimed the house to herself, adding his mother had not realized the significance of same at the time. He clarified he had not been made aware of any of this until approximately one month earlier.
- Ms. Sepanik opined there must be some legal action which could be taken, particularly if Mr. Craig felt fraud was involved.
- Mr. Craig concurred; however, he expressed concern the property would be fined out of existence in the meantime. He explained his sister had advised their mother she would take over the property and settle the problems with the City relative to Code violations; however, his sister had since declared herself to be anti-authoritarian, anti-government, etc. He mentioned his sister's daughter resided in the home and was in full agreement with her mother, who would not respond to any requests. He commented on the removal of house numbers, stating his sister believed same removed the home from Federal jurisdiction. He clarified he did not approve of his sister's actions and would not have allowed the situation to deteriorate if he had been aware of same.
- City Attorney Levin interjected a demand letter would be issued by June 25, 2010, which was the first step in foreclosing on liens, stating perhaps Mr. Craig's sister did not understand there was a real chance the property could be lost.
- Mr. Craig responded she simply did not care.
- City Attorney Levin advised Mr. Craig to encourage his mother to accelerate some type of legal action. He asked if Ms. Craig had requested the property be returned to her ownership.
- Mr. Craig replied affirmatively; however, he explained his sister absolutely refused.
- Mr. Kresge commented it seemed Ms. Craig was deceived.
- Mr. Martella asked if Ms. Craig was compensated for sale of the property.
- Mr. Craig replied she had advised she was not, explaining the quit claim deed indicated payment of 25 Morgan Silver Dollars, which were never received.
- Mr. Martella suggested Ms. Craig file paperwork claiming equitable interest in the property which would allow her to intervene in the foreclosure action.
- City Attorney Levin questioned the value of 25 Morgan Silver Dollars.
- Mr. Craig estimated same at \$450,000.
- City Attorney Levin thanked Mr. Craig for his time, concluding the City simply desired the property to be brought into compliance.
- Mr. Craig stated that was his wish as well.

ADJOURNMENT

- Meeting Adjourned: 10:21 a.m.

Jim Stevens, Chairman

Mary Kelly, Recording Secretary