

**CODE ENFORCEMENT BOARD  
MEETING  
JULY 27, 2011**

**MEMBERS PRESENT:** Jim Stevens, Chairman  
Norman Ashworth, Charles Council, Carol Perry,  
Vic Poitras, Gloria Sepanik, Ed Viola

**OTHERS PRESENT:** Randy Wright, Dawn Lewis, Code Compliance Officers; David Levin,  
City Attorney; Teri Tubbs, Zoning Official; David McCarty, Code  
Compliance Coordinator; Herman Novak, Alternate Board Member;  
James Casazza

**CALL TO ORDER/ANNOUNCEMENTS**

- A. Roll Call
- B. Next Scheduled Meeting – August 24, 2011
- C. Strategic Plan Discussion
  - Recording Secretary Kelly drew members' attention to the Fiscal Year (FY) 2011 Strategic Plan Progress Report, as delineated in the agenda material, stating City Council was seeking input from the public relative to development of a potential list of strategic objectives for FY 2012. He noted City Council wished to have all input by August 31, 2011, adding same could be submitted by individuals or by the Board as a whole.

**APPROVAL OF MINUTES**

- A. Meeting of June 22, 2011
  - Mr. Ashworth MOVED, Mr. Viola SECONDED approval of the June 22, 2011 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. 11-42494 – CODE COMPLIANCE OFFICER – RANDY WRIGHT
  - Respondent: Daniel A. & Karen E. Benner
  - Address of Violation: 5024 San Massimo Drive
  - Violation of Chapter 26, Section 26-8.11(e)(f), Dead and overgrown landscaping throughout the property; and Chapter 26, Section 26-3.13(e), Trees and bushes within six feet of the seawall; and Chapter 6, Section 6-6(a)(k)(3)(4)(5), Un-permitted floating dock; and Chapter 7, Section 7-32(a)(1), Electric lines, windows and a floating dock installed without permits.

- Mr. Randy Wright, Code Compliance Officer, requested a dismissal, stating the property was in compliance.
  - Ms. Sepanik MOVED, Mr. Ashworth SECONDED to dismiss Case #11-42494. MOTION CARRIED UNANIMOUSLY.
- B. 11-43147 - CODE COMPLIANCE OFFICER - RANDY WRIGHT
- Respondent: James K. Casazza
- Address of Violation: 2609 Rio Grande Drive
- Violation of Chapter 26, Section 26-3.13(p), Plastic storage container on the side of the house.
- Mr. James Casazza, respondent, entered a plea of not guilty.
  - Mr. Wright submitted into the record a photograph of the subject property, located within City limits, stating on April 4, 2011, Ms. Maricela Perdomo, Code Compliance Officer, observed a storage container on the side of the home. He stated a Notice of Violation was issued by certified mail on May 13, 2011, requiring all violations to be eliminated within 5 days of receipt of same; however, the Notice was returned undelivered on June 2, 2011; thus, the property was posted on June 8, 2011. He advised the violation remained as of his June 16, 2011, re-inspection; thus, a Notice of Hearing was issued for this hearing but was again returned undeliverable. He advised he posted the property on June 17, 2011, adding the violation remained as of July 26, 2011.
  - Mr. Viola asked if electricity had been routed to the storage container.
  - Mr. Wright replied he did not believe so.
  - Mr. Ashworth MOVED, Mr. Viola SECONDED the City had presented a prima facie case. MOTION CARRIED UNANIMOUSLY.
  - Mr. Casazza announced he enjoyed living in the City, acknowledging the protective covenants which were in place. He stated he did not believe the property was in violation of City Code. He explained the storage container was put in place so as to prohibit garbage from spreading through the neighborhood or wind knocking over the cans and/or recycle bins. He drew members' attention to the Notice of Violation, as delineated in the agenda material, stating same mentioned a "plastic storage container was located on the side of the house"; however, Section 26 of the City Code did not mention "plastic storage containers" but rather specified accessory structures; therefore, he contended his plastic storage container was not in violation of any portion of City Code. He requested the Board dismiss the case.
  - Mr. Poitras confirmed the respondent resided within the home, questioning why he had not retrieved the above mentioned certified mail.

- Mr. Casazza replied he worked out of town and was thus not home during the day.
- Mr. Poitras asked Mr. Casazza if he was first made aware of the problem when his property was posted.
- Mr. Casazza replied he had received a letter prior to the property being posted and had responded to same. He explained he had asked staff to clarify what he felt was an erroneous citing of City Code; however, he never received any such clarification other than his property being posted.
- Mr. Stevens asked if the container was attached to the home.
- Mr. Casazza replied it was not but rather was mounted on a concrete slab.
- Mr. Poitras asked if other items were stored in the container.
- Mr. Casazza replied he also stored fuel containers within same.
- Ms. Perry asked if Mr. Casazza considered the container a temporary building.
- Mr. Casazza replied he did not.
- Ms. Perry confirmed the United States Postal Service (USPS) left a notice when attempting to deliver certified mail. She suggested Mr. Casazza could perhaps have picked up the certified mail at the post office on a Saturday.
- Mr. Casazza replied he had been unable to do so as he worked six to seven days per week.
- Mr. Ashworth clarified the respondent received notice of two certified mailings to which he had not responded.
- Mr. Casazza reiterated he responded to the first notice.
- Ms. Sepanik commented she had personally been unable to respond to notices from the USPS regarding certified mail. She stated she believed structures such as that depicted in the photograph were considered temporary structures in the City, requesting clarification of same.
- City Attorney David Levin called Ms. Teri Tubbs, Zoning Official, to the stand, asking if she was familiar with the provisions of Chapter 26-3.13.
- Ms. Tubbs replied affirmatively, stating those provisions were specific to the Special Residential Overlay (SRO) zoning district. She confirmed the photograph depicted a container which was accessory to the primary structure, which was a single family residence. She then read Section 3.13(p) into the record, confirming the container was an accessory structure.
- Ms. Sepanik asked if the respondent obtained a permit to erect the structure.
- Mr. Casazza replied he did not.
- Mr. Stevens asked if a permit was required.

- Ms. Tubbs replied affirmatively for any permissible structure; however, a permit could not be issued for the structure in question as the property was located in the SRO district.  
Mr. Casazza interjected the City had defined the object as a plastic storage container as opposed to a building or temporary structure. He asserted he did not believe his property was in violation of City Code.
- City Attorney Levin pointed out Mr. Casazza testified he stored fuel tanks in the structure.
- Mr. Casazza replied it was primarily designed for storage of garbage, adding he had occasionally placed empty fuel tanks within same; however, he did not intend to do so in the future.
- City Attorney Levin asked if Mr. Casazza denied the container was an accessory structure.
- Mr. Casazza replied affirmatively.
- Mr. Viola commented he felt it was a temporary building.
- Ms. Sepanik opined it was definitely an accessory structure.
- City Attorney Levin asked the respondent if he was aware of the object in question upon receiving notice from the City.
- Mr. Casazza replied affirmatively, reiterating he had requested clarification.
- City Attorney Levin confirmed Mr. Casazza was fully aware the structure shown in the above mentioned photograph was the item at issue this date.
- Mr. Ashworth commented it would appear Section 26-3.13(p) covered accessory and/or temporary structures, stating the additional description of "plastic storage container" was an attempt to expand on same. He asserted the object could be termed a "box with a peaked roof" if desired; however, it would still be an accessory building, which was not allowed.
- City Attorney Levin stated the respondent testified he understood the problem identified in the Notice of Violation was in fact the object at issue this date.
- Mr. Casazza objected, maintaining the City had classified the object as a plastic storage container. He contended the definitions contained within the City Code could not be expanded upon to meet temporary requirements.
- Ms. Sepanik MOVED, Mr. Viola 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 Order subject to a fine of up to \$250 per day.



brought into compliance within 10 days of receipt of the Order subject to a fine of up to \$250 per day. MOTION CARRIED UNANIMOUSLY.

- Mr. Poitras asked if the respondents in Items C and D had a local address.
- Ms. Lewis expressed uncertainty regarding same.
- Mr. Council commended staff on a job well done as evidenced by the small number of such cases on the agenda this date.

#### **UNFINISHED BUSINESS**

##### A. Hearing Imposing Penalty

11-42633 - CODE COMPLIANCE OFFICER - DAWN LEWIS

Respondent: Household Finance Corporation III

Address of Violation: 514 Showalter Avenue

Violation of Chapter 9A, Section 9A-17(f), Failure to submit a Distressed Real Property Registration form.

- Ms. Lewis reported 78 days of non-compliance from May 10, 2011, to July 26, 2011.
- Mr. Council asked if there had been any communication with the respondent since the Board's Order was entered.
- Ms. Lewis replied in the negative, confirming the respondent had received all notices sent by certified mail.
- Ms. Sepanik MOVED, Mr. Viola SECONDED to impose a fine of \$19,500 for 78 days of non-compliance. MOTION CARRIED UNANIMOUSLY.

##### B. 11-42624 - CODE COMPLIANCE OFFICER - RANDY WRIGHT

Respondent: Punta Gorda Corral, Inc.

d/b/a Golden Corral of Punta Gorda

Address of Violation: 1451 Tamiami Trail

Violation of Chapter 7, Section 7-32(a)(1), Failure to obtain permit; and Chapter 26, Section 26-7.4(a)(2)d,e, Building principles; and Chapter 26, Section 26-3.10(d)(e)(3), Prohibited structures.

- Mr. Wright requested a continuance, stating the respondent was working toward compliance.
- Mr. Viola MOVED, Ms. Sepanik SECONDED to continue Case #11-42624 to the Board's next meeting. MOTION CARRIED UNANIMOUSLY.

#### **MEMBER COMMENTS**

- Mr. Viola commented on Case #11-43147, asking if the language contained within Section 26-3.13 should be clarified.
- City Attorney Levin replied he did not believe additional discussion would be appropriate in that the respondent indicated he may appeal the Board's decision.

- Mr. Stevens questioned the status of the search for a part-time Board attorney.
- City Attorney Levin replied a few active members of the Florida Bar who were retired had offered their assistance. He noted an attorney had been retained to advise the Board on an as needed basis.

**ADJOURNMENT**

- Meeting Adjourned: 9:41 a.m.

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Jim Stevens, Chairman

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Mary Kelly, Recording Secretary