

**CODE ENFORCEMENT BOARD  
MEETING  
JULY 28, 2010**

**MEMBERS PRESENT:** Jim Stevens, Chairman  
Kate Albers, Norman Ashworth, Tom Bailey,  
Vic Poitras, Gloria Sepanik, Ed Viola

**MEMBERS ABSENT:** Richard Kresge

**OTHERS PRESENT:** David Levin, City Attorney; Melissa Reynolds, Police Sergeant; Randy Wright, Maricela Perdomo, Code Compliance Officers; Teri Tubbs, Zoning Official; John Day, Utilities Pretreatment Coordinator; Dennis Murphy, Growth Management Director; David McCarty, Code Compliance Coordinator; Patrick Fisher, Ron Asmar, Lance Ball; Ana Gauta Waleri, Maria Gauta

**CALL TO ORDER/ANNOUNCEMENTS**

- A. Roll Call
- B. Next Scheduled Meeting - August 25, 2010

**APPROVAL OF MINUTES**

- A. Meeting of June 23, 2010
  - Mr. Viola MOVED, Mr. Ashworth SECONDED approval of the June 23, 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.
- A. Discussion of City Attorney Memo regarding Fines and Recommendations
  - City Attorney David Levin drew members' attention to the subject correspondence, as delineated in the agenda material, providing a detailed review of same. He noted State Statute required the Board to include all costs incurred by the City. He concluded the Board was responsible to determine the amount of any fine to be imposed, adding the Board should not request a fine recommendation from staff nor would staff volunteer same.
  - Recording Secretary Kelly swore in all participants.
- B. 10-40535 - POLICE OFFICER - MELISSA REYNOLDS
  - Respondent: Marion O. Sax
  - Address of Violation: 310 Gulf Breeze Avenue
  - Violation of Chapter 23, Section 23-13.2(c)(2), Facing against flow of traffic in adjacent lane.

- Mr. Stevens noted the respondent was not present, confirming there was no objection to entering a plea of not guilty on his behalf.
- Police Sergeant Melissa Reynolds stated while on regular patrol on June 17, 2010, she observed a vehicle parked facing against the flow of traffic on Gulf Breeze Avenue. She confirmed the subject location was within City limits, concluding she then issued a citation.
- Ms. Sepanik MOVED, Ms. Albers SECONDED the City had presented a prima facie case. MOTION CARRIED UNANIMOUSLY.
- Mr. Poitras MOVED, Ms. Albers SECONDED to impose a fine of \$25 plus \$25 in Court costs.
- Mr. Bailey questioned the City's actual costs.
- City Attorney Levin replied the City was not seeking same.
- Mr. Bailey questioned whether the City should seek reimbursement of costs associated with Sergeant Reynolds' time.
- City Attorney Levin replied Sergeant Reynolds was employed by the City, adding there was no entitlement to charge for her salary in performance of her duties. He clarified the Courts had ruled the testimony of officers was included in the scope of their duties.
- Mr. Poitras confirmed there were no photographs of the violation available.
- MOTION CARRIED UNANIMOUSLY.
- C. 10-40318 - CODE COMPLIANCE OFFICER - DAWN LEWIS  
 Respondent: David A. & Susan E. Graham  
 Address of Violation: 210 Venezia Court  
 Violation of Chapter 26, Section 26-3.13(m); and Chapter 7, Section 7-32(a), A non-permitted section of fencing, which has a bench seating area attached, that is installed past the architectural front of the structure.
- City Attorney Levin announced Case #10-40318 had been dismissed by the City as the property was in compliance.
- D. 10-40079 - CODE COMPLIANCE OFFICER - DAWN LEWIS  
 Respondent: Top Water, LLC  
 Address of Violation: 7146 North Plum Tree  
 Violation of Chapter 10, Section 10-2.4(f), Contest of Revocation of Lot Mowing Exemption.
- See Item F.

- E. 10-40080 - CODE COMPLIANCE OFFICER - DAWN LEWIS  
 Respondent: Top Water, LLC  
 Address of Violation: 7136 North Plum Tree  
 Violation of Chapter 10, Section 10-2.4(f), Contest of Revocation of Lot Mowing Exemption  
 - See Item F.
- F. 10-40081 - CODE COMPLIANCE OFFICER - DAWN LEWIS  
 Respondent: Top Water, LLC  
 Address of Violation: 7130 North Plum Tree  
 Violation of Chapter 10, Section 10-2.4(f), Contest of Revocation of Lot Mowing Exemption  
 - City Attorney Levin requested Case #10-40079, #10-40080 and #10-40081 be continued to the Board's next meeting.  
 - Ms. Albers MOVED, Mr. Ashworth SECONDED to continue Case #10-40079, #10-40080 and #10-40081 to August 25, 2010. MOTION CARRIED UNANIMOUSLY.

**Note: Items G, H and I were heard following Item B, Other Business.**

- G. 10-40387 - CODE COMPLIANCE OFFICER - RANDY WRIGHT  
 Respondent: Holiday Boat Rental, Inc.  
 Address of Violation: 150 Laisley Court  
 Violation of Chapter 26, Section 26-11.2(g), Failure to obtain sign permit; and Chapter 7, Section 7-32(a)(1), Sign erected without an approved permit; and Chapter 12, Section 12-17, Vending machine in front of the business without Local Business Tax paid or granting of a special exception.  
 - Mr. Randy Wright, Code Compliance Officer, requested a continuance to the Board's next meeting as the respondent had begun the application process.  
 - Ms. Sepanik MOVED, Ms. Albers SECONDED to continue Case #10-40387 to August 25, 2010. MOTION CARRIED UNANIMOUSLY.
- H. 10-40431 - CODE COMPLIANCE OFFICER - RANDY WRIGHT  
 Respondent: Terri A. Wegert  
 Address of Violation: 368 San Carlos Drive  
 Violation of Chapter 9A, Section 9A-12(d), Inoperable minivan with broken windows parked in the side yard, items stored in the side yard of the property; and Chapter 9A, Section 9A-12(a), Miscellaneous items stored in the side yard of the property.  
 - City Attorney Levin requested a continuance to the Board's next meeting.  
 - Ms. Sepanik MOVED, Mr. Ashworth SECONDED to continue Case #10-40431 to August 25, 2010. MOTION CARRIED UNANIMOUSLY.

I. 10-40355 - CODE COMPLIANCE OFFICER - RANDY WRIGHT

Respondent: Michael L. & Anne M. Dull

Address of Violation: 527 Corto Andra

Violation of Chapter 26, Section 26-8.11(c), Tall grass and/or weeds over 12 inches in height in the side yard; and Chapter 9A, Section 9A-12(a), Miscellaneous items stored in the side and front yard of the property.

- Mr. Stevens announced Case #10-40355 had been dismissed.

**Note: Item J was heard following Item F.**

J. 10-40466 - CODE COMPLIANCE OFFICER - MARICELA PERDOMO - REPEAT VIOLATION

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.

- Mr. Lance Ball, attorney, announced he represented the former owner of this property, Ms. Gerta Craig, who was also the mother of the respondent.
- 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, displayed photographs of the subject property, located within City limits, stating this matter had originally been presented to the Board on May 26, 2010, at which time the respondent was given 10 days to install house numbers. She advised the violation had been corrected as of a June 10, 2010 inspection; however, a subsequent inspection on June 15, 2010, found the house numbers had once again been removed; thus, this was considered a repeat violation. She announced the property was posted on July 2, 2010, adding fines commenced on June 15, 2010, for a total of 43 days of violation to July 27, 2010.
- Mr. Viola asked why the numbers were removed.
- Ms. Perdomo replied she did not know.
- City Attorney Levin asked if the respondent had contacted Ms. Perdomo.
- Ms. Perdomo replied she had not.
- Ms. Albers MOVED, Mr. Ashworth SECONDED the City had presented a prima facie case. MOTION CARRIED UNANIMOUSLY.
- Mr. Viola confirmed Mr. Ball did not actually represent the respondent.
- City Attorney Levin agreed, stating the Board had the option of hearing Mr. Ball's testimony or not. He suggested allowing Mr. Ball the courtesy of addressing the Board but allowing him to object if he felt same was irrelevant.

- Mr. Poitras opined any information relative to this property would allow the Board to make a more informed decision.
- Mr. Ball stated the house numbers were removed as the current owner believed that action would remove the property from the jurisdiction of the City, County, State and United States government.
- City Attorney Levin interjected Mr. Ball's testimony constituted hearsay or speculation and had no bearing on the case.
- Mr. Stevens questioned the original fine.
- City Attorney Levin replied no fine was assessed as the property was previously brought into compliance. He explained as this was a repeat violation, the respondent was subject to a fine of up to \$500 per day. He recommended the Board allow a very brief period of time to bring the property into compliance.
- Ms. Sepanik asked if Ms. Craig planned to attempt to regain ownership of the property.
- Mr. Ball replied affirmatively, stating same could entail a considerable amount of time. He explained part of the problem was the respondent was very difficult to locate. He announced a complaint had been drafted seeking to file a lawsuit, listing causes of actions as follows: cancellation of quit claim title, declaratory judgment, breaches of contract as Ms. Craig had not been paid for the property.
- City Attorney Levin mentioned the last known address of the respondent was at General Delivery in Vermont, adding mail had been accepted at same in the past; however, recent certified mail had been returned, marked as undeliverable. He confirmed all notices were posted on the subject property in compliance with the law.
- Ms. Sepanik MOVED, Mr. Viola SECONDED to find the respondent guilty and to require compliance within 7 days or be subject to a fine of up to \$500 per day. MOTION CARRIED UNANIMOUSLY.

**Note: Items K and L were heard following Item I.**

K. 10-40490 - CODE COMPLIANCE OFFICER - MARICELA PERDOMO

Respondent: D&S Property Investments, LLC  
c/o Charlie A. Dubban & Gene Gorman Auto Sales

Address of Violation: 1305 Tamiami Trail

Violation of Chapter 26, Section 26-11.6(g), Prohibited signs and devices; and Chapter 26, Section 26-13.1, 13, Rules of interpretation.

- Mr. Stevens noted the respondent was not present, confirming there was no objection to entering a plea of not guilty on their behalf.
- Ms. Perdomo displayed photographs of the subject property, located within City limits, stating on June 18, 2010, she observed various balloons and flutter flags being used to

advertise the business which were in violation of City Code. She mentioned another Code Compliance Officer indicated this business had previously been informed those types of devices were prohibited. She announced a Notice of Violation was issued and subsequently received on June 25, 2010; however, on July 1, 2010, she again observed the balloons being displayed; thus, she hand-delivered a Notice of Hearing on July 2, 2010. She mentioned an individual at this business stated he understood the balloons were covered under an event permit.

- Mr. Viola commented he believed this property had not yet been annexed into the City.
  - City Attorney Levin replied the business owner also operated a similar business in south Punta Gorda, stating same was located outside of the incorporated City limits.
  - Ms. Perdomo advised she had confirmed 1305 Tamiami Trail was within the City limits of Punta Gorda.
  - Ms. Albers MOVED, Mr. Poitras SECONDED the City had presented a prima facie case. MOTION CARRIED UNANIMOUSLY.
  - Ms. Albers MOVED, Mr. Poitras SECONDED to find the respondent guilty and to issue a Cease & Desist Order for future violations subject to a fine of up to \$250 per day. MOTION CARRIED UNANIMOUSLY.
- L. 10-40635 - CODE COMPLIANCE OFFICER - MARICELA PERDOMO - REPEAT VIOLATION
- Respondent: George Hutchinson  
Address of Violation: 5004 La Costa Island Court  
Violation of Chapter 26, Section 26-8.11(c), Tall grass and/or weeds over 12 inches in height throughout the property.
- 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 displayed photographs of the subject property, located within City limits, stating this case was brought before the Board on August 6, 2009, at which time the respondent was issued a Cease and Desist Order for future violations. She continued on July, 2, 2010, she received a complaint regarding grass exceeding 12 inches, particularly in the rear yard, noting she confirmed the violation through a visual inspection. She advised the property had been maintained as of her July 7, 2010 inspection; thus, the property had been in violation for one day, July 2, 2010.
  - Ms. Sepanik MOVED, Mr. Viola SECONDED the City had presented a prima facie case. MOTION CARRIED UNANIMOUSLY.
  - Ms. Albers inquired if a fine had been imposed and/or paid in the past.
  - Ms. Perdomo replied in the negative.
  - Ms. Albers MOVED, Ms. Sepanik SECONDED to fine the respondent \$50.

- VOTING AYE: Albers, Ashworth, Poitras, Sepanik, Viola, Stevens.
- VOTING NAY: Bailey.
- MOTION CARRIED.

**Note: Item M was heard following Item A.**

- M. 10-40347 - CODE COMPLIANCE OFFICER - MARICELA PERDOMO  
 Respondent: Bluewater Trading, Brian Rommel, Jamdi Corporation  
 Address of Violation: 124 Cross Street  
 Violation of Chapter 7, Section 7-32(a)(1); and Chapter 26, Section 26-11.2(g); and Chapter 26, Section 26-11.4(e)(4), Installation of a sign without a permit.
- City Attorney Levin announced Case #10-40347 was continued to September 22, 2010.

**Note: Item N was heard following Item L.**

- N. 10-39028 - CODE COMPLIANCE OFFICER - MARICELA PERDOMO  
 Respondent: Fred W. Quelle  
 Address of Violation: 97 Sabal Drive  
 Violation of Chapter 26, Section 26-8.11(c)(e)(f), Tall grass and/or weeds over 12 inches in height throughout the landscaped areas of the property.
- 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 displayed photographs of the subject property, located within City limits, stating on January 22, 2010, she observed tall weeds throughout the landscaped area. She noted the homeowner advised he had been away and was working on a problem with his boat but would be taking care of the property within the next few days. She explained the owner slowly worked to remove the weeds throughout the property over the course of several months; however, his actions were insufficient to eliminate the violation. She announced a Notice of Violation was issued and subsequently received on July 3, 2010, adding a July 14, 2010, re-inspection found a bare area had been covered with mulch; however, some weeds remained in front. She stated she delivered a Notice of Hearing to the owner on July 15, 2010, and pointed out the areas of weeds which remained in violation. She explained the respondent advised he was attempting to perform the work himself, albeit somewhat slowly, and expressed opposition to retaining a contractor to have the work done more quickly. She concluded the weeds had been removed from the landscaped areas as of her inspection the previous day, July 27, 2010.
  - Ms. Sepanik MOVED, Ms. Albers SECONDED the City had presented a prima facie case. MOTION CARRIED UNANIMOUSLY.

- Ms. Sepanik MOVED, Mr. Bailey SECONDED to find the respondent guilty and to issue a Cease & Desist Order for any future violations subject to a fine of up to \$250 per day. MOTION CARRIED UNANIMOUSLY.

**UNFINISHED BUSINESS**

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

Respondent: Carole B. Destefano  
c/o 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, Section 7-32(a)(1); and Chapter 7, Section 7-32(b)(4), Failure to submit a sign permit application and pay the required fees.

- City Attorney Levin requested Case #09-38544 be continued to August 25, 2010.
- Ms. Sepanik MOVED, Ms. Albers SECONDED to continue Case #09-38544 to August 25, 2010. MOTION CARRIED UNANIMOUSLY.

**OLD BUSINESS**

**Note: Items A and B were heard following Item J, New 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.

- Ms. Teri Tubbs, Zoning Official, announced the Board issued the original order in this case on December 23, 2009, adding the fence remained in violation as of 7:30 a.m. this date. She concluded the Board had imposed several fines over the past few months, concluding the violation continued to exist since June 24, 2010, for 35 days of non-compliance.
- City Attorney Levin clarified the Board's actions allowed the City to place a lien on the property.
- Mr. Viola confirmed the respondent was not present nor was she represented.
- City Attorney Levin noted pursuant to the Board's recommendation and City Council's direction, he had initiated foreclosure proceedings on the property.
- Mr. Bailey questioned the amount of the previously imposed fines.
- Ms. Tubbs replied \$6,750 on January 27, 2010, \$14,250 on March 24, 2010, \$8,750 on April 28, 2010, \$7,000 on May 26, 2010, and \$7,000 on June 23, 2010.

- Ms. Sepanik MOVED, Mr. Poitras SECONDED to impose a fine of \$250 per day for 35 days of non-compliance for a total of \$8,750.
- Mr. Bailey confirmed this would make a total of \$59,500.
- Mr. Ball reiterated he represented the former owner of this property, Ms. Craig, stating he was aware the fence was not currently in compliance; however, he noted a fence permit had been issued to his client.
- City Attorney Levin objected to Mr. Ball's testimony as same was irrelevant to this penalty hearing.
- Mr. Ball countered his client had the same interests as the Board. He questioned the status of the lien foreclosure.
- City Attorney Levin replied a notice had been issued to the current property owner of the City's intention to foreclose on the property, stating same provided an opportunity for the property to be brought into compliance. He advised he was currently assessing the next step to take in this foreclosure action.
- Mr. Ball questioned what additional efforts had been made to locate the original owner.
- City Attorney Levin replied none, stating he had no obligation to do so. He stated he had been directed to take reasonable efforts to foreclose on the property, albeit with no specific timeline.
- Mr. Ball announced he would be filing a complaint, seeking to impose an equitable lien to foreclose the property as well. He continued if the City filed a complaint to foreclose on its lien, he would seek to join that lawsuit as well.
- MOTION CARRIED UNANIMOUSLY.

B. Hearing Imposing Penalty

10-39699 - CODE COMPLIANCE OFFICER - MARICELA PERDOMO

Respondent: Punta Gorda Hotel, LLC

Address of Violation: 300 West Retta Esplanade

Violation of Chapter 17, Section 17-11(a)(b)(c), Section 17-14(b)(d) and Section 17-15, Damaged septic tanks being used as grease interceptors which are leaking.

- Ms. Perdomo displayed several photographs of the subject property, located within City limits, stating this matter was heard by the Board on April 28, 2010, at which time the respondent was advised to apply for all necessary permits, to replace the septic tanks which were being used as grease interceptors and to bring the property into compliance within 60 days by July 27, 2010.
- Mr. John Day, Utilities Pretreatment Coordinator, stated the respondent had diligently maintained the cleanliness of the old tanks while the required work was being done and had kept up with their inspections. He continued installation of the interceptors

was complete, adding the final inspection was scheduled for this date. He concluded all equipment had been installed at this time.

- City Attorney Levin asked if compliance would be attained assuming the inspection this date passed.
- Mr. Day replied affirmatively. He noted there were some permitting issues which delayed the start of the job; however, the job proceeded quickly and smoothly once the permit was in place.
- Ms. Sepanik clarified Mr. Day anticipated being able to finalize this project this afternoon.
- Ms. Albers questioned the length of time the violations had existed.
- City Attorney Levin replied compliance had been required by July 27, 2010.
- Mr. Ashworth clarified the respondent had been working steadily to solve this problem.
- Mr. Poitras questioned the City's actual costs.
- Mr. Day expressed uncertainty regarding same, noting this was his job.
- Mr. Dennis Murphy, Growth Management Director, added the Code Compliance Division was responsible to ensure compliance with City Code. He commented favorably on the Best Western's efforts to come into compliance.
- Mr. Viola MOVED, Ms. Albers SECONDED to continue Case #10-39699 to August 25, 2010. MOTION CARRIED UNANIMOUSLY.
- City Attorney Levin confirmed the respondent would not be required to appear at the Board's next meeting if the final inspection passed.

**Note: Item C was heard following Unfinished Business.**

C. Hearing Imposing Penalty

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), Roof is more than twenty (20) percent discolored or mildewed.

- Mr. Wright stated this case was heard by the Board on June 23, 2010, at which time the respondent was given until July 4, 2010, to bring the property into compliance. He announced there was no change in the condition of the property; thus, he reported 20 days of non-compliance from July 8, 2010, to July 27, 2010.
- Ms. Sepanik inquired if there had been any communication from the respondents.
- Mr. Wright replied there had been none.
- Ms. Sepanik MOVED, Mr. Poitras SECONDED to impose a fine of \$250 per day for 20 days of non-compliance for a total of \$5,000. MOTION CARRIED UNANIMOUSLY.

D. Hearing Imposing Penalty

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 confirmed the respondent was not present.
- Mr. Wright stated this case was heard by the Board on June 23, 2010, at which time the respondent was given until July 3, 2010, to bring the property into compliance. He announced there was no change in the condition of the property as of his July 7, 2010 inspection. He displayed photographs of the pool, pointing out the water remained stagnant, and the pool had begun to pull away from the ground. He reported 21 days of non-compliance from July 8, 2010, to July 27, 2010.
- Ms. Sepanik inquired if there had been any communication from the respondent.
- Mr. Wright replied the respondent had advised she did not plan on taking any action regarding the pool and would most likely allow the property to go into foreclosure. He mentioned the home had been vacant since August 2004.
- Ms. Sepanik MOVED, Mr. Poitras SECONDED to impose a fine of \$250 per day for 21 days of non-compliance for a total of \$5,250. MOTION CARRIED UNANIMOUSLY.

**Note: Other Business was heard following Item B, Old Business.**

**OTHER BUSINESS**

A. Request for Fine Reduction

05-29264 - CODE COMPLIANCE OFFICER - MARICELA PERDOMO

Respondent: Jakov and Maria Gauta

Address of Violation: 1797 Belle Court

Violation of Chapter 9A, Section 9A-12(a), Visual blight; and Chapter 26, Section 26-8.11(b), Property maintenance.

B. Request for Fine Reduction

06-30629 - CODE COMPLIANCE OFFICER - MARICELA PERDOMO

Respondent: Jakov and Maria Gauta

Address of Violation: 501 East Olympia Avenue

Violation of Chapter 26, Section 26-8.11(b), Property maintenance.

- City Attorney Levin announced a penalty order had been issued in both of the subject cases, including fines/liens recorded, adding he had been authorized to seek foreclosure on these properties. He stated a demand letter was issued giving the property owner an opportunity to come into compliance on Item B and to pay the fine on Item A. He explained the respondent had requested the opportunity to seek fine

reductions, which the Board had the authority to grant. He then asked Ms. Perdomo to provide a status update on the properties.

- Ms. Perdomo stated Case #05-29264 was first brought before the Board on January 25, 2006, by former Code Compliance Officer Lynn Cord. She announced on April 26, 2006, the property was found to remain in violation and was fined \$8,000, representing \$200 per day for 40 days of non-compliance. She explained the fine was to continue until a roof or demolition permit application was received by the Building Division.
- Mr. Viola clarified 1797 Belle Court was now in compliance.
- Ms. Ana Gauta Waleri announced she was the respondents' daughter, stating the damage to the Belle Court property was incurred during Hurricane Charley in August 2004. She explained the delay in demolishing the property was due to disagreement between her parents and the insurance company. She clarified the insurance company advised against demolishing the structure until a final determination was made and inspections were conducted. She concluded the house had been demolished in May 2007.
- Mr. Poitras asked if the respondent had anything in writing from the insurance company.
- Ms. Maria Gauta, respondent, replied affirmatively; however, she had retained two lawyers to handle the issue, adding she had nothing in hand this date.
- Ms. Gauta Waleri confirmed the structure was demolished within one week of the insurance company's authorization to do so.
- Mr. Bailey asked if the Board had been made aware of this in the past.
- City Attorney Levin replied the City would not have brought this case to a penalty hearing if the Board had not had the opportunity to hear from Ms. Gauta on numerous occasions. He stated the compliance dates were extended but the property remained in violation, adding the Board eventually issued their order imposing a penalty.
- Ms. Gauta Waleri stated her parents attempted to salvage as much as possible from their home; however, the house deteriorated to the point where her father went into congestive heart failure partially due to the formation of mold in the home. She clarified her parents' main goal was to save her father's life, acknowledging their failure to comply with the Board's order. She noted she herself was recently diagnosed with breast cancer; thus, her parents had been dealing with that as well over the past seven months.

- City Attorney Levin recalled part of the problem was there was an order to demolish but Ms. Gauta was unable to obtain her husband's authorization for same. He clarified the respondent was within her rights to request a reduction.
- Mr. Bailey questioned the amount of the existing fine.
- Ms. Perdomo replied \$8,000 or 40 days at \$200 per day.
- Ms. Sepanik asked if the Board should consider actual staff costs in their deliberations.
- Ms. Albers pointed out staff had expended a great deal of time over the course of many years on this case.
- City Attorney Levin estimated approximately \$500 in legal costs.
- Ms. Albers MOVED to make no reduction based upon the numerous hours and years expended on Case #05-29264.
- MOTION DIED FOR LACK OF A SECOND.
- Mr. Bailey commented the respondent did as well as she could with what she had to work with, asserting the property was demolished within seven days of authorization by the insurance company.
- Mr. Viola countered the City went out of its way to resolve this situation, adding the Board was promised numerous times some action would be taken to no avail.
- City Attorney Levin stated the 40 days reflected in the penalty order were beyond another 30 days in which the respondent was to have eliminated the violation. He pointed out the 40 day period did not include the 7 days mentioned by Ms. Gauta. He asserted the City had a responsibility to the neighborhood with respect to the length of time the subject property was a visual blight on adjacent properties.
- Ms. Gauta Waleri countered in order to comply with the Board's requirements, her parents would have had to expend \$70,000 for a new roof on a home which would be demolished in the near future.
- City Attorney Levin clarified a request for a continuance had never been submitted nor an appeal taken.
- Ms. Sepanik MOVED, Mr. Bailey SECONDED to reduce the fine in Case #05-29264 to \$200 per day for 7 days plus legal fees of \$500 for a total of \$1,900, which must be paid within 7 days.
- VOTING AYE: Bailey, Poitras, Sepanik, Stevens.
- VOTING NAY: Albers, Ashworth, Viola.
- MOTION CARRIED.
- Mr. Stevens then announced the Board would address Case #06-30629.
- Ms. Perdomo announced this property was first cited by former Code Compliance Officer Josie Keen on April 24, 2006. She displayed several photographs of the

property, noting a portion of the exterior rear wall covering was missing, exposing brick and other materials, adding the rear railing had also been severely damaged. She stated Ms. Gauta was given 21 days to obtain the necessary permits and complete all repairs; however, the work could not be completed due to issues with her insurance company and engineer. She continued Ms. Cord acquired this case on March 12, 2007, at which time Ms. Gauta was given 30 days to March 28, 2007, to obtain a permit, and 90 days to May 28, 2007, to complete the work. She advised this case was brought before the Board on October 24, 2007, at which time the respondent was found to be in violation of the Board's Order, and a fine amount of \$59,000 was imposed, representing \$500 per day for 118 days of non-compliance. She concluded the property remained in non-compliance as of the previous day, July 27, 2010.

- City Attorney Levin respectfully requested the Board require the property to be brought into compliance before consideration was given to any fine reduction.
- Mr. Viola asked when Ms. Gauta anticipated being able to bring the property into compliance.
- Ms. Gauta expressed uncertainty regarding same, explaining her insurance company provided her with only \$43,000, which was insufficient to make the necessary repairs. She pointed out this was a rental property; however, she was unable to lease the property due to its condition, adding she no longer had the financial means to make the necessary repairs.
- Mr. Stevens asked if a lien had been filed against this property.
- City Attorney Levin replied affirmatively, adding he had been authorized to seek foreclosure against same.
- Ms. Albers asked why the Board was being asked to consider a fine reduction on a property which remained out of compliance.
- City Attorney Levin replied Ms. Gauta had requested the opportunity to do so. He clarified the City was not seeking a fine reduction nor did staff feel same was appropriate until the violations were eliminated.
- Ms. Sepanik MOVED, Mr. Bailey SECONDED to deny the request for a fine reduction and to not reconsider same until the property was brought into compliance. MOTION CARRIED UNANIMOUSLY.
- City Attorney Levin reminded Ms. Gauta the fine would continue to run, noting another penalty hearing would be held at the Board's next meeting.

**Note: Item C was heard following Item D, Old Business.**

- C. Report: Orders Recorded Three (3) Months or More
- City Attorney Levin drew members' attention to a list of orders recorded three months or more, as delineated in the agenda material, noting same was provided for information only.

**ADJOURNMENT**

- Meeting Adjourned: 11:03 a.m.

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Jim Stevens, Chairman

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Mary Kelly, Recording Secretary