

**CODE ENFORCEMENT BOARD
MEETING
AUGUST 25, 2010**

MEMBERS PRESENT: Jim Stevens, Chairman
Kate Albers, Cecil Knapp, Vic Poitras, Ed Viola

MEMBERS ABSENT: Norman Ashworth, Tom Bailey, Gloria Sepanik

OTHERS PRESENT: Randy Wright, Maricela Perdomo, Dawn Lewis, Code Compliance Officers; David Levin, City Attorney; Teri Tubbs, Zoning Official; David McCarty, Code Compliance Coordinator; Councilmember Larry Friedman; Councilmember Elect Rachel Keesling; Robert Miller, Susan Gauta, Maria Gauta, Ana Gauta Waleri, Robert Craig

CALL TO ORDER/ANNOUNCEMENTS

- A. Roll Call
- B. Next Scheduled Meeting - September 22, 2010
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- C. Election of Vice Chairman
 - Mr. Stevens announced the Board must elect a new Vice Chairman as Mr. Richard Kresge was no longer a member.
 - Recording Secretary Kelly opened the floor for nominations for Vice Chairman.
 - Mr. Poitras NOMINATED Mr. Viola for Vice Chairman.
 - As there were no other nominations, Mr. Viola was appointed Vice Chairman by acclamation.

APPROVAL OF MINUTES

- A. Meeting of July 28, 2010
 - Mr. Viola MOVED, Mr. Poitras SECONDED approval of the July 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. 10-40684 - CODE COMPLIANCE OFFICER - RANDY WRIGHT
 - Respondent: Branch Banking & Trust Co.
 - Address of Violation: 596 South Drive
 - Violation of Chapter 26, Section 26-8.11(c)(e), Tall grass and/or weeds over 12 inches in height throughout the property and 3 dead palm trees in the front yard.

- Mr. Stevens noted the respondent was not present, confirming there was no objection to entering a plea of not guilty on their behalf.
- Mr. Randy Wright, Code Compliance Officer, requested a continuance as the property had been mowed, adding he had been in touch with the respondent who was arranging for the trees to be removed.
- Mr. Poitras MOVED, Mr. Viola SECONDED to continue Case #10-40684 to September 22, 2010. MOTION CARRIED UNANIMOUSLY.

UNFINISHED BUSINESS

A. 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 their behalf.
- Ms. Maricela Perdomo, Code Compliance Officer, requested a dismissal as the property was now in compliance.
- Mr. Viola MOVED, Mr. Knapp SECONDED to dismiss Case #09-38544. MOTION CARRIED UNANIMOUSLY.

B. 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.

C. 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.

D. 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 David Levin announced City Code allowed property owners to opt out of the City's mandatory lot mowing program with appropriate notice; however, upon incurrence of two violations, the City would revoke that exemption. He explained property owners were given the opportunity to appeal that revocation to the Board, which was the case with this respondent.
- Ms. Dawn Lewis, Code Compliance Officer, displayed photographs of the subject properties, all located within City limits, stating these vacant parcels had first been exempted from the City's lot mowing program at the owner's request, effective October 30, 2008. She continued the following years' exemption requests were received on September 25, 2009, and June 14, 2010, the latter being the exemption which had been revoked. She advised the property was inspected on May 5, 2010, at which time the grass was found to be over 12 inches in height, adding the lots were subsequently brought into compliance by June 10, 2010. She stated she was contacted by the respondent with regard to problems with his mowing equipment. She announced a Notice of Violation was issued on July 2, 2010, as the property was again found to be out of compliance. She reported a second notification was issued on December 3, 2009, after the property was again found to be overgrown, adding a third notice was issued on May 5, 2010, for the same reason. She mentioned the property was currently in compliance. She stated a Notice of Intent to Revoke Lot Mowing Exemption was provided to the respondent on June 14, 2010, advising the respondent would be billed \$224 for each parcel. She noted Mr. Richard Miller, respondent, was provided a list of City mowing dates, upon his request. She concluded the respondent contacted her on June 22, 2010, requesting this opportunity to address the Board.
- City Attorney Levin clarified the respondent was issued warnings for each property found to be in violation. He confirmed the properties were brought into timely compliance following each such notice.
- Ms. Lewis agreed, noting same was done more quickly than was typically seen.
- City Attorney Levin clarified this case was strictly the respondent's request to contest the revocation.
- Mr. Miller stated he was one of three owners of the subject parcels, stating the other two owners did not reside locally. He reminded members all developers were struggling in the current economy, stating he employed people in his construction company who could mow the grass. He explained he had experienced trouble with his mower, adding the subject lots had become a problem before he became aware of same. He opined he could set up a computerized system to ensure the properties were

maintained, adding it would be much easier and more affordable to utilize an existing employee already on his payroll.

- Ms. Albers commented the City's lot mowing program seemed to make sense from a financial standpoint.
- Mr. Miller agreed; however, he reiterated his belief the schedule he had implemented would address the problem. He mentioned he had a number of other properties throughout Charlotte County, adding this was the only time he had violated City Code.
- Ms. Albers countered Ms. Lewis had testified regarding problems over the past few years.
- Ms. Lewis replied there were two occurrences in 2009 and one in 2010.
- City Attorney Levin asked Mr. Miller if he would be willing to stipulate to automatic revocation of his exemption and not request to contest same if the properties were again found to be in non-compliance.
- Mr. Miller replied affirmatively; however, he expressed concern with his exemption being revoked if he was only a day or two late, for example.
- City Attorney Levin opined the City would be reasonable.
- Mr. Viola MOVED, Ms. Albers SECONDED to grant the respondent's request to remain exempt from the lot mowing program with the understanding enrollment in the City's lot mowing program would be automatic if the respondent failed to maintain any one of the three lots. MOTION CARRIED UNANIMOUSLY.

E. 10-40387 - CODE COMPLIANCE OFFICER - RANDY WRIGHT

Respondent: Holidaze Boat Rental, Inc.

Address of Violation: 150 Laishley 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. Stevens noted the respondent was 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 June 7, 2010, he observed two, non-permitted signs on each side of the entrance into the building. He continued a vending machine was located in front of the business for which the Local Business Tax (LBT) had not been paid nor had a special exception been granted. He announced on June 8, 2010, a Notice of Violation/Order for Corrective Action was issued and subsequently received by the respondent on June 15, 2010, via hand delivery. He reported the violations had not been eliminated as of a

June 28, 2010, re-inspection; thus, a Notice of Hearing was issued for the Board's July 28, 2010 hearing, at which time the respondent's request for a continuance to this date was granted. He concluded the vending machine remained in place and in violation as of August 24, 2010, adding a sign permit was issued but had not been paid for or picked up.

- City Attorney Levin asked if a special exception application had been submitted.
- Mr. Wright replied in the negative.
- Mr. Viola questioned the procedure for having the vending machine removed.
- Mr. Wright replied Coca Cola would be required to remove the machine, stating he had left a message for the area representative on August 23, 2010; however, he had not had a response to date.
- Mr. Viola MOVED, Mr. Poitras SECONDED the City had presented a prima facie case. MOTION CARRIED UNANIMOUSLY.
- Mr. Viola MOVED, Mr. Poitras SECONDED to find the respondent guilty and to issue a Cease & Desist Order requiring compliance with regard to the signs within 10 days, immediate disconnection of the vending machine and removal of the vending machine within 10 days subject to a fine of up to \$250 per day for future violations.
- Mr. Viola recommended staff follow up with Coca Cola.
- MOTION CARRIED UNANIMOUSLY.

F. 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 vehicle with broken windows parked in the side yard and 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.

- 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 photographs of the subject property, located within City limits, stating this case had been continued from the Board's July 28, 2010 meeting, at the property owner's request as she had been experiencing some difficulty with respect to the vehicle title. He reported the side yard had been cleaned up with the exception of the vehicle, which remained in place with several broken windows and an expired registration.
- Ms. Albers observed the vehicle seemed to be being used for trash.
- Mr. Wright agreed, stating he believed it was being used for storage as well.
- Ms. Albers commented there may be a health hazard as well.

- Ms. Albers MOVED, Mr. Viola SECONDED the City had presented a prima facie case. MOTION CARRIED UNANIMOUSLY.
- Mr. Poitras MOVED, Ms. Albers SECONDED to find the respondent guilty and to issue a Cease & Desist Order requiring the vehicle to be removed within 10 days subject to a fine of up to \$250 per day for future violations. 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.

- 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 7:20 a.m. this date. She concluded the Board had imposed several fines over the past few months, concluding the violation had continued to exist for an additional 28 days since the last finding of violation.
- Mr. Poitras MOVED, Mr. Knapp SECONDED to impose a \$7,000 fine representing \$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 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 the Board issued an order for this repeat violation on June 23, 2010, adding the violation remained as of this date. She reported the violation had existed for 64 days, specifically from June 23, 2010, to August 25, 2010.
- Ms. Albers asked if foreclosure proceedings had commenced on this property.
- City Attorney Levin replied a complaint for foreclosure had not yet been filed, stating same should be forthcoming.
- Ms. Albers asked if the fines would stop once foreclosure had commenced.
- City Attorney Levin replied they would not but rather would continue to run.
- Mr. Poitras MOVED, Ms. Albers SECONDED to impose a \$16,000 fine representing 64 days of non-compliance at \$250 per day. MOTION CARRIED UNANIMOUSLY.

C. Hearing Imposing Penalty

10-40466 - 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.

- Ms. Perdomo announced the Board issued an order for a repeat violation on July 28, 2010, at which time the owner was granted 7 days of receipt of the Order to install house numbers subject to a fine of up to \$500 per day. She reported the violation had continued to exist for 15 days from August 11, 2010, to August 25, 2010.
- Mr. Viola expressed concern relative to the City's liability in the event a fire, for example, broke out and the Fire Department was unable to respond in a timely manner.
- City Attorney Levin responded the property owner was responsible for maintaining the house in compliance with City Code.
- Ms. Albers commented it seemed the house was occupied.
- City Attorney Levin pointed out 2543 Brazilia Court was listed as the respondent's mailing address.
- Mr. Poitras confirmed house numbers must be affixed to the structure as opposed to the mailbox only.
- Ms. Perdomo agreed, expressing uncertainty as to whether numbers were even posted on the mailbox.
- Mr. Stevens asked if a fine had previously been imposed for this violation.
- Ms. Perdomo replied in the negative.
- City Attorney Levin clarified this was the first penalty hearing for the subject violation.
- Ms. Albers confirmed the Board had the authority to impose a daily fine of "up to" \$500 per day.
- Mr. Poitras MOVED, Mr. Knapp SECONDED to impose a \$7,500 fine representing 15 days of non-compliance at \$500 per day. MOTION CARRIED UNANIMOUSLY.

D. Hearing Imposing Penalty

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.

- Ms. Perdomo stated this case was brought before the Board on October 24, 2007, at which time the respondent, Mrs. Maria Gauta, was fined \$59,000 for 118 days of non-

compliance, specifically \$500 per day from June 27, 2007, to October 23, 2007. She noted this was a repeat violation, adding the fines would continue to run until the property was brought into compliance. She advised the violation remained in that the necessary permits had not been obtained, and the repairs had not been completed. She concluded the property had been in violation for 1,036 days from October 24, 2007, to August 25, 2010.

- City Attorney Levin reminded the Board the respondent had requested a fine reduction at their last meeting, recalling the Board denied the request and voted to not re-consider same until the property was brought into compliance.
- Ms. Susan Gauta, respondent's daughter-in-law, stated she and her husband, the respondent's son, had only recently become aware of the severity of this matter. She pledged their assistance to the respondent to bring the property into compliance, whether through demolition or repair. She explained the respondents and family members had been experiencing significant health problems over the past several years, adding there had also been issues related to other properties. She opined the respondents had simply not been capable of rectifying the situation; however, she assured the Board this matter would be addressed within a reasonable amount of time. She requested the fines be eliminated, stating she and her husband would be assisting financially; however, they were not able to finance elimination of the violations in addition to paying the fines.
- Mr. Poitras asked if Ms. Gauta was aware of any insurance proceeds or documentation of same. He stated he seemed to recall testimony from the respondent relative to being instructed by the insurance company to take no action on the property.
- City Attorney Levin clarified the respondent had received proceeds in the amount of \$43,000 for this property, noting same was delineated within the Board's July 28, 2010 Minutes.
- Ms. Gauta mentioned her mother-in-law had contacted 21 contractors since the Board's last meeting; however, only 1 had responded. She stated she was aware of a number of available contractors from Lee County in the event a contract could not be executed with a local company.
- Mr. Poitras questioned the respondent's requested timeframe.
- Ms. Gauta inquired as to what the Board felt was reasonable.
- Mr. Poitras responded the existing and ongoing fines warranted an immediate response.
- Ms. Gauta clarified four months was beyond that which would be considered acceptable.

- City Attorney Levin interjected an order was outstanding which required compliance, stating the time necessary to achieve same was the respondent's responsibility. He continued the fines would cease running once compliance was attained, adding at that time, the respondent would have the right to request a fine reduction. He asserted the Board would not consider a fine reduction until all violations had been eliminated. He pointed out the matter before the Board this date was an additional fine hearing.
- Ms. Gauta reiterated she had insufficient funding available to pay the fines in addition to demolishing/repairing the property.
- City Attorney Levin responded the Board would take that into consideration at the appropriate time.
- Mr. Poitras commented it was difficult to believe Ms. Gauta had been unaware of this situation for 1,036 days.
- Ms. Gauta explained she had been aware of the situation but not of the severity of the fines.
- City Attorney Levin interjected City Council had already authorized him to initiate foreclosure proceedings with respect to the existing \$59,000 fine.
- Mr. Poitras asked if the Board must impose a \$500 per day fine.
- City Attorney Levin replied the Board could impose fines of "up to" \$500.
- Ms. Albers confirmed the fines imposed under another case of the respondent had been paid.
- Ms. Ana Gauta Waleri, respondent's daughter, commented she and other members of the respondent's family became fully aware of this situation at the Board's previous meeting. She assured members her mother was taking this seriously and had made significant headway over the past 30 days. She requested members show some compassion in their deliberations.
- Mrs. Gauta provided a brief outline of her past efforts, stating she was restricted financially as to what she could accomplish.
- Ms. Albers clarified the case would be presented to the Board each month from this point forward as a fine hearing.
- City Attorney Levin replied affirmatively.
- Discussed ensued with regard to possible fine amounts.
- Ms. Albers MOVED, Mr. Poitras SECONDED to impose a fine of \$500 per day for 1,036 days of non-compliance for a total of \$518,000.
- Mrs. Gauta asserted same represented more than the property was worth, adding she had only a few thousand dollars remaining out of the original settlement of \$43,000.
- City Attorney Levin countered the violations had existed for several years.

- VOTING AYE: Albers, Knapp, Poitras, Stevens.
- VOTING NAY: Viola.
- MOTION CARRIED.
- City Attorney Levin asked how the \$43,000 insurance settlement had been used.
- Ms. Gauta Waleri replied it had been applied to maintenance of the property, i.e., taxes, yard work.
- City Attorney Levin countered the purpose of those funds was to fix or demolish the structure.
- Ms. Gauta Waleri responded \$43,000 was insufficient to bring the property into compliance with City Code.
- City Attorney Levin questioned the cost for demolition.
- Ms. Gauta Waleri replied she did not know.
- Ms. Albers noted the property had been rented for a period of time as well.
- Mr. Viola opined the settlement would have been sufficient to cover demolition costs.

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

- Ms. Perdomo reported all violations had been remedied.
- Mr. Viola MOVED, Mr. Knapp SECONDED to dismiss Case #10-39699. MOTION CARRIED UNANIMOUSLY.

OTHER BUSINESS

A. Report: Orders Recorded Three Months or More

- City Attorney Levin drew members' attention to the subject report, as delineated in the agenda material, noting same was provided for information only.

B. Staff Recommendation for Request of Foreclosure of Lien when Lien has been Recorded Three Months or More

1. 09-37882

Respondents: Michele Stokes & T. Rene Comer

Address of Violation: 465 Booth Street

Lien Amount: \$3,100

2. 09-38260

Respondent: Linda-Louise (for the family Christian)

Address of Violations: 2543 Brazilia Court

Lien Amounts: \$14,250 and \$8,750

3. 10-39040

Respondent: Linda-Louise (for the family Christian)

Address of Violations: 2543 Brazilia Court

Lien Amount: \$1,000

- City Attorney Levin requested a recommendation to City Council authorizing him to foreclose on the subject liens.
- Mr. Poitras MOVED, Ms. Albers SECONDED to recommend City Council authorize the City Attorney to proceed with foreclosure on each of the subject liens. MOTION CARRIED UNANIMOUSLY.

MEMBER COMMENTS

- Ms. Albers suggested Mrs. Gauta be advised of the significant amount of staff time and City funds which had been expended on her cases. She reiterated the respondent had taken no action over a number of years.
- City Attorney Levin responded staff did not maintain a time log for each case.
- Mr. Robert Craig asked when foreclosure papers would be filed for 2543 Brazilia Court.
- City Attorney Levin replied he intended to do so within seven days.

ADJOURNMENT

- Meeting Adjourned: 10:43 a.m.

Jim Stevens, Chairman

Mary Kelly, Recording Secretary