

**CODE ENFORCEMENT BOARD  
MEETING  
SEPTEMBER 28, 2011**

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

**OTHERS PRESENT:** David Levin, City Attorney; Melissa Reynolds, Police Officer; Randy Wright, Dawn Lewis, Code Compliance Officers; Teri Tubbs, Zoning Official; David McCarty, Code Compliance Coordinator; Troy West, Ed Wotitzky, Cecil Berson, Claude Collier

**CALL TO ORDER/ANNOUNCEMENTS**

- A. Roll Call
- B. Next Scheduled Meeting – October 26, 2011
- C. Election of Chairman (effective October 26, 2011)
  - Recording Secretary Kelly opened the floor for nominations for Chairman.
  - Mr. Stevens NOMINATED Mr. Council for Chairman.
  - Ms. Perry asked if a conflict of interest existed if a member of the Board was also employed by the City.
  - City Attorney David Levin replied same would not constitute a conflict of interest.
  - Ms. Perry NOMINATED Ms. Sepanik for Chairman.
  - Recording Secretary Kelly called three times for any other nominations.
  - Mr. Viola MOVED, Mr. Ashworth SECONDED to close the nominations. MOTION CARRIED UNANIMOUSLY.
  - Recording Secretary Kelly called for a show of hands for Mr. Council as Chairman followed by a show of hands for Ms. Sepanik as Chairman.
  - Ms. Sepanik was appointed Chairman, effective October 26, 2011, by a majority vote.
- D. Presentation of Plaque
  - The Board presented Mr. Stevens with a Certificate of Appreciation, noting he had served since April 2004.
  - Mr. Stevens thanked members and staff, stating he had enjoyed his time on the Board.

**APPROVAL OF MINUTES**

- A. Meeting of August 24, 2011
  - Mr. Council MOVED, Mr. Ashworth SECONDED approval of the August 24, 2011 minutes. MOTION CARRIED UNANIMOUSLY.

## NEW BUSINESS

- Recording Secretary Kelly swore in all participants.
- A. 11-44134 – POLICE OFFICER – MELISSA REYNOLDS
  - Respondent: Troy Althea West
  - Address of Violation: 440 East Grace Street/Taylor Road
  - Violation of Chapter 23, Section 23-15(c)(2), Parking facing against the flow of traffic in the adjacent lane.
- Ms. Troy West, respondent, entered a plea of not guilty.
- Police Officer Melissa Reynolds stated on August 9, 2011, at 3:28 p.m., she observed a vehicle parked in the subject area, located within City limits, facing against the flow of traffic. She displayed photographs of the alleged violation, submitting same into the record. She concluded she then issued a citation for parking against the flow of traffic.
- Mr. Viola clarified the alleged violation occurred on a two-way street.
- Ms. Sepanik MOVED, Mr. Council SECONDED the City had presented a prima facie case. MOTION CARRIED UNANIMOUSLY.
- Ms. West stated she had parked in the subject location several times over the past few months in order to utilize the adjacent Charlotte County services. She explained markings left on the roadway from when same was a one way street remained; thus, she had continued to park as she always had in the past. She then displayed photographs on her cellular phone attesting to same.
- Officer Reynolds advised the markings were white prior to March 2011 when the right-of-way (ROW) was changed back to a two-way street.
- Mr. Poitras asked Ms. West if she had been aware the ROW was a two-way street.
- Ms. West replied in the negative.
- Mr. Poitras clarified the respondent had never observed vehicles driving in the opposite direction.
- Ms. Sepanik questioned the direction taken by the respondent.
- Ms. West replied she had turned right off of Taylor Road onto Grace Street.
- Ms. Sepanik pointed out a Stop Sign was clearly depicted in one of the photographs, asking if Ms. West had observed same.
- Ms. West replied she had not.
- Ms. Sepanik pointed out the white line which also directed vehicles to stop.
- Mr. Poitras asked if Officer Reynolds was aware of any one-way streets which were not clearly marked as such.
- Officer Reynolds replied she was not.

- Mr. Poitras asserted there were a number of markings indicating the ROW was two-way.
- Ms. West countered those markings would have been behind her.
- Mr. Council interjected the subject ROW was a two-way street, which was marked accordingly.
- Mr. Poitras added same had existed for five months.
- Officer Reynolds pointed out a large parking lot existed for the Charlotte County Health Department.
- Ms. Perry confirmed Ms. West was a local resident.
- Ms. Sepanik MOVED, Mr. Poitras SECONDED to find the respondent guilty and to impose a fine of \$25. MOTION CARRIED UNANIMOUSLY.

**Note: Items B through G were heard following Item I.**

**B. 11-43823 – CODE COMPLIANCE OFFICER – RANDY WRIGHT**

Respondent: New Millennium Petroleum, LLC

Address of Violation: 3949 Tamiami Trail

Violation of Chapter 26, Section 26-11.2(g); and Chapter 7, Section 7-32(a)(1), Failure to obtain permit for new signage.

- Mr. Stevens noted the respondent was not present, confirming there was no objection to entering a not guilty plea on their behalf.
- Mr. Randy Wright, Code Compliance Officer, displayed several photographs of the alleged violation, stating the subject property was located within City limits. He advised on June 23, 2011, he found the name of the business had changed, a new sign had been installed but no permit application had been submitted. He stated a Notice of Violation was issued and subsequently received by the respondent on July 30, 2011, adding he also hand delivered same to advise the violations must be eliminated within 5 days. He reported as of August 26, 2011, the respondent had obtained the required Local Business Tax (LBT) receipt; however, no sign permits had been obtained. He announced a Notice of Hearing was issued and hand delivered on August 26, 2011, concluding the violation remained as of September 27, 2011.
- Ms. Sepanik MOVED, Ms. Perry SECONDED the City had presented a prima facie case. MOTION CARRIED UNANIMOUSLY.
- Mr. Poitras asked if this was a corporate run facility.
- Mr. Wright replied affirmatively.
- Ms. Perry questioned the amount of time involved in obtaining a permit.
- Mr. Wright replied only a few days.

- 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.
- C. 11-44017 – CODE COMPLIANCE OFFICER – DAWN LEWIS
- Respondent: Chase Home Finance, LLC
- Address of Violation: 2100 Via Seville
- Violation of Chapter 9A, Section 9A-17(f), Failure to submit a Distressed Real Property Registration.
- Ms. Dawn Lewis, Code Compliance Officer, requested a dismissal as the violation had been eliminated.
  - Mr. Viola MOVED, Mr. Ashworth SECONDED to dismiss Case #11-44017. MOTION CARRIED UNANIMOUSLY.
- D. 11-42381 – CODE COMPLIANCE OFFICER – DAWN LEWIS
- Respondent: Citi Mortgage, Inc.
- Address of Violation: 2111 Ryan Boulevard
- Violation of Chapter 9A, Section 9A-17(f), Failure to submit a Distressed Real Property Registration.
- Mr. Stevens noted the respondent was not present, confirming there was no objection to entering a not guilty plea on their behalf.
  - Ms. Lewis attested to her January 21, 2011, Affidavit of Violation and Notice of Hearing, both delineated in the agenda material. She further adopted the findings of fact presented in the aforementioned Affidavit as her testimony this date.
  - Mr. Ashworth MOVED, Mr. Viola 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.
- E. 11-44136 – CODE COMPLIANCE OFFICER – RANDY WRIGHT
- Respondent: Harry A. Bernstel, Jr.
- Address of Violation: 2121 Aqui Esta Drive
- Violation of Chapter 26, Section 26-8.11(c)(e)(f), Grass and/or weeds over 12 inches throughout the property, including the landscaped areas.
- Mr. Stevens noted the respondent was not present, confirming there was no objection to entering a not guilty plea on his behalf.

- Mr. Wright displayed several photographs of the subject property, located within City limits, stating he first inspected same on August 12, 2011, and observed grass and weeds over 12 inches and landscaping full of weeds. He advised a Notice of Violation was issued by certified mail and received by the respondent on August 23, 2011, requiring the violations to be eliminated within 5 days. He noted on September 1, 2011, the violations continued to exist in that the grass had been cut but the landscaping remained full of weeds. He stated a Notice of Hearing was issued on September 2, 2011, adding he also posted the property on September 13, 2011. He concluded as of September 27, 2011, some work had been done; however, the property's condition was not up to Code.
  - Mr. Council asked if the respondent lived in the home.
  - Mr. Wright replied in the negative; however, the respondent had telephoned him and advised the violations would be addressed. He noted this property faced Aqui Esta Drive, adding he had received a number of complaints.
  - Mr. Poitras MOVED, Mr. Ashworth SECONDED the City had presented a prima facie case. MOTION CARRIED UNANIMOUSLY.
  - Mr. Poitras MOVED, Ms. Sepanik 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.
- F. 11-44068 – CODE COMPLIANCE OFFICER – RANDY WRIGHT
- Respondent: Eric L. Wetherington  
Address of Violation: 1210 Lemon Street  
Violation of Chapter 9A, Section 9A-12(d), Unlicensed vehicle parked/stored on the property; and Chapter 9A, Section 9A-12(a); and Chapter 26, Section 26-8.11(g), Outside storage.
- Mr. Stevens announced the City had requested a continuance to the Board's next meeting.
  - Mr. Viola MOVED, Mr. Ashworth SECONDED to continue Case #11-44068 to October 26, 2011. MOTION CARRIED UNANIMOUSLY.
- G. 11-43674 – CODE COMPLIANCE OFFICER – RANDY WRIGHT
- Respondent: Cecil T. & Linda M. Berson  
Address of Violation: 422 East Olympia Avenue  
Violation of Chapter 10, Section 10-1.1, Dense wild growth of trees, weeds and under-brush.
- Mr. Ed Wotitzky, respondents' attorney, entered a plea of not guilty.

- Mr. Wright displayed several photographs of the subject property, located within City limits, stating he first inspected the property on June 15, 2011, and found a dense, wild overgrowth of trees, underbrush and weeds over 12 inches in height. He explained on June 27, 2011, a Notice of Violation was issued to the respondent requiring the violations to be eliminated within 10 days; however, as of September 6, 2011, the violations had not been corrected. He concluded a Notice of Hearing was served upon the respondent by certified mail on September 12, 2011, noting the violations remained as of September 27, 2011.
- City Attorney Levin confirmed Mr. Wright had taken the photographs, asking if they accurately depicted the scene as viewed during his inspections.
- Mr. Wright replied affirmatively.
- City Attorney Levin submitted the displayed photographs into evidence.
- Mr. Council asked if the trees depicted in the photographs were considered an invasive species.
- Mr. Wright replied the City Code originally stated same; however, the Code had since been amended to state a “dense overgrowth.” He mentioned courtesy letters had been issued to adjacent property owners, all of whom had eliminated the violations by cleaning up their property.
- Ms. Sepanik clarified all property owners had come into compliance with the exception of the respondent.
- Mr. Wright agreed, stating he had since received complaints from those property owners regarding the respondent’s property. He pointed out the subject trees were Australian Pines, stating nothing else would grow around same.
- Mr. Council clarified compliance could be attained only through removal of the trees.
- Mr. Ashworth MOVED, Ms. Sepanik SECONDED the City had presented a prima facie case. MOTION CARRIED UNANIMOUSLY.
- Mr. Wotitzky confirmed the respondents had been charged with violation of Section 10-1.1, submitting a copy of same into the record as evidence. He pointed out the copy indicated Section 10-1.1 was adopted pursuant to Ordinance #1033-91, which was dated December 4, 1991. He then asked Mr. Wright if only the Australian Pines were the subject of the violation.
- Mr. Wright replied the density of the Australian Pines were in violation, adding some weeds existed on the outskirts of same.
- Mr. Wotitzky questioned the amount of time Mr. Wright had been employed as a Code Compliance Officer.
- Mr. Wright replied seven years, confirming he had resided in the area for ten years.

- Mr. Wotitzky questioned the amount of time the Australian Pines depicted in the photograph had existed in that location.
- Mr. Wright expressed uncertainty regarding same, stating he would have no way of knowing such a fact.
- Mr. Wotitzky asked if the surrounding property owners had eliminated the violations on their properties pursuant to a threatened violation notice referencing Section 10-1.1 or Section 12.10, Prohibited Plants.
- Mr. Wright replied the properties were first cited for violation of Section 12.10, adding the Code was subsequently amended; thus, a notice of violation was resubmitted citing Section 10-1.1. He clarified courtesy notices were issued to all of the property owners, including the respondent.
- Mr. Wotitzky then called the respondent, Mr. Cecil Berson, confirming he had owned the subject property for approximately eight years. He asked if the trees depicted in the photographs were existing when the respondent purchased the property
- Mr. Berson replied affirmatively.
- Mr. Wotitzky displayed aerial photographs of the property dated 1988 and 1992, stating same were obtained from Charlotte County's public records. He pointed out the photographs both depicted a stand of trees.
- City Attorney Levin objected from the standpoint of acting in the capacity of the City's prosecutor, arguing a proper predicate had not been laid in that the respondent did not have personal knowledge of what had been on the property in 1988.
- Mr. Wotitzky countered State Statute provided formal rules of evidence did not apply to the Board, acknowledging fundamental due process must be observed. He maintained the aerial photographs were admissible in this case as well as in Court. He attested to the fact that the photographs were obtained from Charlotte County, adding he had personal knowledge the photographs accurately depicted the property as it appeared in 1988.
- Ms. Sepanik asked if Mr. Wotitzky wished to retract his earlier question of Mr. Berson's personal knowledge of what was depicted in the photograph.
- City Attorney Levin clarified he was not objecting to the authenticity of the photographs but rather to Mr. Berson's testimony of what they depicted as he had no personal knowledge of same.
- Mr. Wotitzky explained he simply wished to show the stand of trees on the subject property had existed for a very long time, prior to 1988 and prior to adoption of the ordinance.
- Mr. Stevens asked when the ordinance was adopted.

- City Attorney Levin replied the ordinance was originally adopted on September 2, 1969.
- Mr. Wotitzky disagreed, stating Ordinance #1033-91 specifically incorporated Section 10-1.1 as stated in Chapter 10, already submitted into evidence.
- City Attorney Levin drew members' attention to the "Editor's note" at the beginning of Chapter 10, pointing out Ordinance #317, adopted on September 2, 1969, amended Chapter 10. He then displayed a copy of Ordinance #317.
- Ms. Perry asked Mr. Wotitzky if he was contending the respondents had not violated City Code.
- Mr. Wotitzky replied affirmatively, explaining the trees had existed prior to Mr. Berson's purchase of the property.
- Mr. Stevens asked if Mr. Wotitzky was contending the trees were not an invasive species.
- Mr. Wotitzky replied affirmatively, reiterating the trees were Australian Pines.
- City Attorney Levin stipulated the violation was not based on the trees being a prohibited species but rather same constituted a dense, wild growth, which had been prohibited since 1969.
- Mr. Wotitzky questioned the steps taken by Mr. Berson to maintain the property.
- Mr. Berson replied the property was part of the City's lot mowing program.
- Mr. Poitras asked if Mr. Wotitzky had knowledge of Australian Pines' rate of growth.
- Mr. Wotitzky replied he did not. He then called Mr. Claude Collier to testify, explaining Mr. Collier had expertise in that field.
- Mr. Collier stated he was a landscape designer, installer and maintainer, adding he had been engaged in that business for approximately 25 years. He noted he was licensed as a commercial landscaper in Charlotte County. He confirmed he had personally inspected the subject property on September 27, 2011, and observed the stand of Australian Pines.
- Mr. Wotitzky asked Mr. Collier to testify regarding what he had observed in connection with the subject property.
- Mr. Collier explained the species of Australian Pines was similar to a perpetual growing garden, providing a detailed explanation of same. He opined the subject trees could conceivably be more than 40 years old.
- Mr. Wotitzky requested clarification of the attributes of Australian Pines when used in landscaping.

- Mr. Collier replied Australian Pines grew very quickly, perhaps 12 to 18 inches annually. He continued such trees provided privacy screening, noise barriers and cultivated hedges.
- Mr. Wotitzky asked if the subject trees could have been located on the property since the mid-1960s.
- Mr. Collier replied affirmatively.
- Ms. Sepanik asked if Mr. Collier was aware of any State programs intended to eradicate Australian Pines.
- Mr. Collier replied affirmatively; however, several large contingents were attempting to protect Australian Pines. He acknowledged Australian Pines could be troublesome, citing as an example two neighbors, one of which had Australian Pines on his/her property. He explained Australian Pines spread quickly and easily and thus could migrate to a neighboring property. He noted Australian Pines must be properly maintained as they could become unsightly.
- Ms. Sepanik asked if Australian Pines were transmittable by birds.
- Mr. Collier replied in the negative. He commented the respondents' property was the only land in the area with vegetation, recommending the trees be allowed to remain until such time as the respondent chose to develop the property. He asserted the trees were doing no harm.
- Mr. Council asked if Mr. Collier felt the trees lent themselves to some type of selective thinning as an alternative to complete removal.
- Mr. Collier replied he did not believe so as all the trees and their roots were intertwined.
- Ms. Perry pointed out the matter before the Board was a dense, wild overgrowth as opposed to anything to do with the species of plant.
- Mr. Collier opined the trees in question were a natural growth.
- Mr. Wotitzky asked if Mr. Collier had observed standing water on the adjacent properties where trees had been removed.
- Mr. Collier replied affirmatively, explaining a great deal of dirt was removed along with the trees, which affected drainage.
- City Attorney Levin asked if Mr. Collier was contending the subject trees had been cultivated as a garden.
- Mr. Collier replied he was not but rather same represented a natural phenomena.
- City Attorney Levin asked if Mr. Collier would describe the growth as wild.
- Mr. Collier replied affirmatively.
- City Attorney Levin asked if Mr. Collier would describe the stand of trees as dense.

- Mr. Collier replied affirmatively.
- City Attorney Levin clarified the trees, if not cultivated, would continue to exist in their natural state as opposed to dying on an annual basis.
- Mr. Collier agreed that was correct.
- Mr. Poitras commented the City wanted the trees removed while the respondent wished to have them remain, asking if a compromise was possible.
- City Attorney Levin pointed out Mr. Collier testified Australian Pines could not be selectively thinned or trimmed effectively.
- Mr. Council noted Section 10-1 referenced dense growth being detrimental to the health and safety of the public.
- City Attorney Levin explained the respondent was alleged to have violated Section 10-1.1.
- Ms. Perry asked Mr. Berson why he did not wish to comply with City Code.
- Mr. Berson replied he planned to remove the trees when he developed the property. He stated removal of the trees involved a cost of \$7,000, asserting the trees were not hurting anyone. He opined the City simply wished to have property owners remove Australian Pines. He contended the courtesy notices referenced by Mr. Wright were actually precursors to violation notices, stating adjacent property owners acted as a result of what he felt was a threat. He stated he owned a number of properties in the City, all of which he kept perfectly maintained.
- Mr. Wotitzky concluded he believed the City had overreached with regard to enforcement of the City Code. He stated the stand of trees had existed for a long period of time, perhaps since the early 1960s. He opined the pertinent ordinance was #1033-91, not #317, asking the Board to base their decision on the former; however, the stand of trees may have existed prior to adoption of Ordinance #317 in 1969. He questioned the basis for citing the respondent after the trees had been in place for over 20 years. He further questioned whether Section 10-1.1 could be applied retroactively. He stated the Florida Supreme Court had reiterated the United States and Florida Constitutions provided no State shall pass any ex-post facto laws, explaining same referred to a prior event. He then cited the following cases, submitting copies into the record and providing a detailed review of same: Jason Shenfeld versus State of Florida; Damien Frye versus State of Florida; Rinker Materials Corporation versus City of North Miami; James Jennings versus Florida Elections Commission; Robert Jasinski and Susan M. Misavage versus the City of Miami and Downtown Towing Company; Walker & LaBerge, Inc. and Bituminous Casualty Corporation versus Jack Halligan; Richard Ramcharitar versus Erzulie Derosins and Sky Chefs, Inc.; Louis R. Menendez,

Jr., et al. versus Progressive Express Insurance Company, Inc.; State of Florida, Department of Management Services and Police Benevolent Association versus City of Delray Beach. He commented on Section 12.10 of the City Code, stating same had been the subject of certain articles as well as discussions by the City Council. He explained Section 12.10 delineated plant species which were prohibited, including Australian Pines. He noted the effective date of the ordinance amending Section 12.10 was in 2005. He commented negatively on the courtesy notices issued by the City, asserting same were simply a precursor to “slamming” the property owner.

- City Attorney Levin objected to that characterization, stating a courtesy letter was nothing more than that. He pointed out anyone who came into compliance after receiving a courtesy notice was no longer the subject of any Code Compliance Division action.
- Mr. Wotitzky then stated City Attorney Levin had issued an opinion wherein the City had no authority to prohibit trees which had existed prior to the 2005 ordinance, expressing agreement with same.
- Ms. Sepanik asked if the cases cited by Mr. Wotitzky had been challenged.
- Mr. Wotitzky replied if a law existed which required one person to take the burden of society on his/her own shoulders, there must be just compensation. He expressed uncertainty with regard to any of the cited cases being challenged.
- Mr. Ashworth interjected the Board must determine whether or not the respondent violated Section 10-1.1 of the City Code. He clarified any grandfathering or reference to other sections of the City Code were not in the Board’s province.
- City Attorney Levin agreed. He then stated he was very much aware of the difference between retroactive versus prospective ordinances, adding he did not believe those arguments came into play in this case. He advised Section 10-1.1 did not prohibit the planting of trees but rather stated it was unlawful for any property owner to allow a dense, wild growth of trees. He maintained the respondent had allowed a dense, wild growth of trees to occur on his property, reiterating same was a direct violation of the prohibition. He agreed Mr. Berson was an excellent caretaker of property; however, Mr. Collier had testified there was no way to make the dense, wild growth of trees more manageable in a manner which would not run afoul of the prohibition’s purpose. He pointed out the Board was not present to challenge the wisdom of the ordinance but rather to enforce the ordinance as written. He referenced Ordinance #317, adopted in 1969, pointing out same contained a section which was almost identical to Section 10-1.1 as currently written. He argued the Board had not received any competent and substantial evidence which would allow members to draw a conclusion

that the trees were in existence prior to adoption of Ordinance #317; thus, it was apparent there was no retroactive application of the law. He summarized the subject property did contain a dense, wild growth of trees, which constituted a violation of Section 10-1.1.

- Mr. Council clarified the exemptions under Section 10-1.2 did not apply in this case.
- City Attorney Levin asked Mr. Wright if he believed the subject property qualified for any exemptions listed in Section 10-1.2.
- Mr. Wright replied he did not.
- City Attorney Levin confirmed the property was platted but not located in a subdivision.
- Mr. Wotitzky countered the property was located in a subdivision, specifically the City of Punta Gorda, which was a subdivision pursuant to the plat recorded in various plat books.
- City Attorney Levin asked if the property was more than 15% developed.
- Mr. Wotitzky replied it was not.
- City Attorney Levin requested the Board take judicial notice that the subdivision in which the subject property was located was more than 15% developed.
- Mr. Wotitzky expressed his belief same was inappropriate.
- Mr. Stevens asked if the property was located within 500 feet of a house.
- Mr. Berson replied a house was located nearby; however, it was being used commercially.
- Mr. Wright testified the property was located less than 500 feet from a habitable structure.
- City Attorney Levin concluded the property did not qualify under any of the exemptions depicted in Section 10-1.2.
- Mr. Wotitzky asked Mr. Collier if the stand of trees could be maintained in its current condition without expanding.
- Mr. Collier replied affirmatively, stating mowing around the perimeter of the stand would suffice.
- Mr. Wotitzky replied he did not believe the growth of trees was wild, acknowledging it was dense.
- City Attorney Levin countered Mr. Collier had testified the stand of trees was both dense and wild. He submitted the outer trees had grown since 1969.
- Ms. Perry MOVED, Ms. Sepanik 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 60 days of receipt of the Board's Order subject to a fine of up to \$100 per day.

- Mr. Council expressed concern with regard to Section 10-1.1 being applicable and enforceable.
- Mr. Ashworth countered the Board was charged with enforcing City law and had no authority to change same.
- Mr. Stevens questioned whether mowing around the perimeter of the stand of trees would result in same no longer being wild.
- Ms. Perry replied she felt same would still be a dense, wild growth of trees.
- Ms. Sepanik concurred.
- VOTING AYE: Ashworth, Perry, Poitras, Sepanik, Viola.
- VOTING NAY: Council, Stevens.
- MOTION CARRIED.

**Note: Items H and I were heard following Item A.**

H. 11-44159 – CODE COMPLIANCE OFFICER – RANDY WRIGHT

Respondent: Charlotte County School Board  
c/o Andrea Messina, Chairman

Address of Violation: 1250 Cooper Street

Violation of Chapter 15, Section 15-19(c)(3)(4), Unpaid false alarm fees.

- City Attorney Levin requested a 60 day continuance on this case as well as the next, stating the respondent intended to question the wisdom of the ordinance directly with City Council.
- Mr. Viola MOVED, Ms. Sepanik SECONDED to continue Case #11-44159 to November 23, 2011. MOTION CARRIED UNANIMOUSLY.

I. 11-44182 – CODE COMPLIANCE OFFICER – RANDY WRIGHT

Respondent: Charlotte County School Board  
c/o Andrea Messina, Chairman

Address of Violation: 311 East Charlotte Avenue

Violation of Chapter 15, Section 15-19(c)(3)(4), Unpaid false alarm fees.

- Ms. Sepanik MOVED, Ms. Perry SECONDED to continue Case #11-44182 to November 23, 2011. MOTION CARRIED UNANIMOUSLY.

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

J. 11-43465 – CODE COMPLIANCE OFFICER – RANDY WRIGHT

Respondent: Sovereign Bank  
c/o Joseph L. Hoffman

Address of Violation: 528 Carmalita Street

Violation of Chapter 9A, Section 9A-12(d), Unlicensed cargo trailer parked/stored on the property; and Chapter 9A, Section 9A-12(a), Outside storage.

- Mr. Stevens noted the respondent was not present, confirming there was no objection to entering a not guilty plea on their behalf.
- Mr. Wright displayed several photographs of the subject property, located within City limits, stating he first observed an unlicensed cargo trailer parked/stored on same on July 26, 2011. He continued several other items were being stored outside, including but not limited to tables, chairs, plastic containers, coolers, gallon jugs, several bicycles, an engine hoist and other miscellaneous items. He announced a Notice of Violation was issued and subsequently received by the respondent on July 29, 2011. He stated on September 6, 2011, a re-inspection found the violations had not been corrected; thus, he issued a Notice of Hearing which was received on September 8, 2011. He concluded the trailer remained with an expired tag as of September 27, 2011.
- Mr. Council MOVED, Mr. Poitras SECONDED the City had presented a prima facie case. MOTION CARRIED UNANIMOUSLY.
- Mr. Council asked if anyone resided in the home.
- Mr. Wright replied affirmatively, stating they had moved out but then returned.
- 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 7 days of receipt of the Board's Order subject to a fine of up to \$250 per day. MOTION CARRIED UNANIMOUSLY.

#### **UNFINISHED BUSINESS**

A. Hearing Imposing Penalty

11-43417 – CODE COMPLIANCE OFFICER – DAWN LEWIS

Respondent: American Home Mortgage Servicing, Inc.

Address of Violation: 392 Royal Poinciana Boulevard

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

- Ms. Lewis reported 47 days of non-compliance with the Board's Order, specifically from August 12, 2011, to September 27, 2011.
- Ms. Sepanik MOVED, Mr. Viola SECONDED to impose a fine of \$11,750, representing a daily fine of \$250 for 47 days of non-compliance. MOTION CARRIED UNANIMOUSLY.

#### **ADJOURNMENT**

- Meeting Adjourned: 11:04 a.m.

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Jim Stevens, Chairman

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Mary Kelly, Recording Secretary