

**CODE ENFORCEMENT BOARD
MEETING
OCTOBER 27, 2010**

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

OTHERS PRESENT: Melissa Reynolds, Police Officer;
Michael Poshard, Volunteer Police Officer;
David Levin, City Attorney;
Randy Wright, Marcela Perdomo, Dawn Lewis,
Code Compliance Officers; Teri Tubbs, Zoning Official;
David McCarty, Code Compliance Coordinator;
Alan Lessman, Anthony Lorini, Garret Kaiser,
Fred Quelle, Susan Kane, Ronnie Murray,
Robert Hurst, Maria Gauta, Charles Zajicek,
Keith Wexler

CALL TO ORDER/ANNOUNCEMENTS

- A. Roll Call
- B. Next Scheduled Meeting - November 24, 2010

APPROVAL OF MINUTES

- A. Meeting of - September 22, 2010
 - Mr. Viola MOVED, Mr. Ashworth SECONDED approval of the September 22, 2010 minutes. MOTION CARRIED UNANIMOUSLY.

NEW BUSINESS

NOTE: Item A was heard after Item C.

- A. 10-40789 - POLICE OFFICER - MELISSA REYNOLDS
 - Respondent: Erica E Edelen
 - Address of Violation: 2310 Tamiami Trail
 - Violation of Chapter: 23, Section: 23-18 (c) Failure to properly display handicap permit.
 - City Attorney David Levin stated staff had received a request for continuance for health reasons, requesting the case be continued to the next meeting.
 - . Mr. Viola MOVED, Mr. Ashworth SECONDED to continue case 10-40789 to the November, 2010 meeting. MOTION CARRIED UNANIMOUSLY.
- B. 10-41377 - POLICE OFFICER - MELISSA REYNOLDS
 - Respondent: Alan Paul Lessman
 - Address of Violation: 3400 Ponce De Leon Parkway
 - Violation of Chapter: 23, Section: 23-13.2. (a) (4) Parking of Boat Trailer only.
 - Mr. Alan Lessman plead not guilty.

- Officer Melissa Reynolds testified on Sunday, September 12, 2010 at 8:30 a.m. she witnessed a black 1985 Honda motorcycle parked in a space next to the Police Department Boat Trailer parking space, adding she issued a citation for parking in a Boat Trailing Only space. She displayed a photograph of the space that had been taken subsequent to the violation, as delineated in the agenda materials.
- Mr. Levin inquired if the location of the violation was within the territorial limits of Punta Gorda, Florida.
- Officer Reynolds replied affirmatively.
- Mr. Levin confirmed Officer Reynolds had no further testimony.
- Ms. Sepanik MOVED, Mr. Ashworth SECONDED the City had presented a prima facie case. MOTION CARRIED UNANIMOUSLY.
- Mr. Lessman reiterated the area where he parked was not a parking space, adding there were a total of 11 spaces; however, 10 of the spaces were marked boat trailer only. He displayed several photographs of the parking lot, as delineated in the agenda materials, briefly describing the parking area, asserting the non-parking area was big enough for a motorcycle, so he parked there. He attested there was no signage indicating it was boat trailer parking only.
- Mr. Council inquired if any of the motorcycle had encroached on the police designated space.
- Mr. Lessman replied it did not, reiterating there was no signage where his motorcycle was parked.
- Mr. Ashworth MOVED, Mr. Council SECONDED to dismiss the case.
- VOTING AYE: Mr. Viola, Mr. Ashworth, Ms. Perry, Ms. Sepanik, Mr. Stevens and Mr. Council.
- VOTING NAY: Mr. Poitras.
- MOTION CARRIED.
- Mr. Viola suggested the space be marked as a no parking area.

NOTE: Item C was heard prior to Item A.

C. 10-41399 - VOLUNTEER POLICE OFFICER - MICHAEL POSHARD

Respondent: Anthony J Lorini

Address of Violation: 1200 W Retta Esplanade

Violation of Chapter: 23, Section: 23-13.2. (a) (2) g Fire Lane.

- Mr. Anthony Lorini plead not guilty.
- Mr. Michael Poshard testified he was patrolling in Fisherman's Village at approximately 10:35 a.m. on September 17, 2010 and observed an unoccupied white vehicle parked in the fire lane, adding after circling the village and returning to the vehicle, he

obtained the license plate number and called dispatch to confirm the registration information. He then displayed photographs of the violation, as delineated within the agenda materials.

- Mr. Levin inquired if Mr. Poshard had taken the picture.
- Ms. Poshard replied another officer took the picture.
- Mr. Levin confirmed Mr. Poshard was present when the photographs were taken, that they accurately depicted the scene as he observed it, that the location was within the territorial limits of Punta Gorda, and that he had no further testimony.
- Mr. Viola MOVED, Mr. Ashworth SECONDED the City had presented a prima facie case. MOTION CARRIED UNANIMOUSLY.
- Mr. Lorini testified he was parked outside his store to deliver a cash register, adding when he informed the officer of the reason he was parked there, he was ignored. He stated he had been operating his store for 28 years in that same location and had never received a parking ticket, asserting UPS and other deliveries were made while vehicles were parked in that location. He testified he was only parked there for five minutes, asserting he shouldn't be penalized \$100 to simply deliver a cash register.
- Mr. Viola inquired if Mr. Lorini realized that was a fire lane.
- Mr. Lorini replied affirmatively.
- Mr. Stevens inquired if there was a loading zone in the rear.
- Mr. Lorini replied in the negative, attesting that area was also a fire lane.
- Ms. Perry inquired as to the timeframe Mr. Poshard was in the area.
- Mr. Poshard replied the car was observed at 10:35 a.m. and the ticket was written at 10:40 a.m..
- Mr. Lorini reiterated when he attempted to speak to the officer, he received no response, which showed a lack of respect.
- Mr. Levin displayed a page from the Code book, noting there was a provision in subparagraph 3 which allowed for temporary parking for the purpose of loading and unloading merchandise or passengers in certain areas, pointing out in subparagraph 2, which was the basis of the citation, there was no similar provision for parking in fire lanes. He requested the Board take that into consideration.
- Mr. Ashworth inquired if there was diagonal parking adjacent to the fire lane.
- Mr. Poshard replied there was diagonal parking across the street.
- Mr. Lorini testified those spaces were next to the water and were for handicap parking, adding the regular spaces were further away. He stated this occurred at 10:35 a.m. on a September morning when nobody else was in the area.

- Mr. Levin reiterated City Council allowed for loading and unloading in certain circumstances within parking restricted area; however, the Code was more restrictive with regard to a fire lane, noting the only exception was active loading and discharging passengers. He opined City Council's different treatment of the cited sections was significant.
- Mr. Viola MOVED, Mr. Ashworth SECONDED to find the respondent guilty and to issue a fine of \$100 plus \$25 court costs.
- Ms. Sepanik opined finding the defendant guilty was not fair as this had been a common practice for him for 28 years, questioning if the fine amount could be negotiated.
- Mr. Levin replied in the negative; however, the court costs could be negotiated.
- Ms. Perry MOVED, Ms. Sepanik SECONDED to AMEND the motion to find the respondent guilty and impose a fine of \$100.
- VOTING AYE: Ms. Sepanik, Ms. Perry and Mr. Stevens.
- VOTING NAY: Mr. Ashworth, Mr. Viola, Mr. Council and Mr. Poitras.
- MOTION TO AMEND FAILED.
- VOTING AYE: Mr. Viola, Mr. Stevens, Mr. Poitras, Mr. Council and Mr. Ashworth.
- VOTING NAY: Ms. Sepanik and Ms. Perry.
- MOTION CARRIED.

D. 10-41376 – CODE COMPLIANCE OFFICER – MARICELA PERDOMO
REPEAT VIOLATION

Respondent: Susana Punta Gorda, LLC

Address of Repeat Violation: 413 W. Retta Esplanade

REPEAT Violation of Chapter: 10, Section: 10-1.1 Tall grass and/or weeds over twelve (12) inches in height throughout the property.

- Mr. Garret Kaiser stated he was attending the meeting at the request of the City in order to request a continuance since he was making improvements to the property.
- Mr. Levin inquired as to Mr. Kaiser's relationship to the respondent.
- Mr. Kaiser replied the company was owned by Mr. Mike Knapp, who resided in England, adding he was here on Mr. Knapp's behalf.
- Ms. Maricela Perdomo testified this case was previously heard on June 24, 2009, at which time a cease and desist order was issued, adding on September 20, 2010, she observed tall grass and weeds throughout the property. She testified a notice of hearing was posted and mailed on September 22, 2010, adding she received a phone call from Mr. Kaiser who indicated the landscaper was no longer maintaining the property; however, he would have it maintained by that weekend. She reported as of

- September 27, 2010, the violations had been remedied, concluding the property was in not in compliance from September 20, 2010 to September 28, 2010, a total of 8 days.
- Ms. Sepanik MOVED, Mr. Ashworth SECONDED the City had presented a prima facie case. MOTION CARRIED UNANIMOUSLY.
 - Mr. Ashworth inquired if Mr. Kaiser had applied for the necessary permits to work on the property.
 - Mr. Kaiser replied affirmatively.
 - Ms. Perdomo clarified this case was related only to tall grass and weeds.
 - Mr. Kaiser testified he had learned of the violation when he drove by the house, adding it was then discovered that their current lawn company had gone out of business. He stated he immediately hired another lawn company and the property was cleared within 24 hours, adding if they had known the contractor had gone out of business, the violation would not have occurred.
 - Mr. Viola inquired if Mr. Kaiser would be maintaining the property in the future.
 - Mr. Kaiser replied he had agreed to keep an eye on the property, adding he would also be obtaining the building permits needed for another related case.
 - Mr. Poitras inquired if Mr. Kaiser was involved in the original case that made this a repeat violation.
 - Mr. Kaiser replied in the negative, reiterating he had merely driven by the property and observed the violation. He stated he was not aware of the previous violation until he spoke with Ms. Perdomo.
 - Mr. Viola inquired if Mr. Kaiser had advised Mr. Knapp of the violation.
 - Mr. Kaiser replied affirmatively, adding Mr. Knapp had forwarded funds to pay for the lawn service and had established an account for any necessary expenditures.
 - Ms. Perry confirmed the residence was vacant.
 - Mr. Ashworth inquired if the property owner was notified of the first violation at his address in England.
 - Ms. Perdomo replied affirmatively.
 - Mr. Ashworth inquired if she had spoken directly to the owner.
 - Ms. Perdomo replied in the negative.
 - Mr. Stevens inquired if the property was brought into compliance after the first violation, recalling the respondent had been given 21 days to remedy the problem.
 - Ms. Perdomo replied affirmatively, adding there was one occasion where the respondent was charged \$900 for a tall grass and weeds violation. She stated the original order was signed for by Mr. Knapp on July 6, 2009.
 - Mr. Viola inquired if the fine had been paid.

- Ms. Perdomo replied with uncertainty, adding staff had agreed to reconsider the fine if Mr. Knapp agreed to maintain the property from that point forward; however, they did not hear back from him.
- Mr. Council inquired if violations occurring in a future year would be considered a repeat violation.
- Ms. Perdomo responded if another violation occurred within the next five years, it was considered a repeat violation.
- Mr. Poitras stated he was confident Mr. Kaiser would maintain the property from this point forward; however, he was concerned about the repeat violation.
- Mr. Kaiser stated the owner was aware of the violation; however, Mr. Knapp had never mentioned the fine, and he had not been aware of it prior to today. He stated he would notify the owner of the amount due.
- Mr. Poitras inquired if the owner was notified he owed \$900.
- Ms. Perdomo replied affirmatively.
- Mr. Ashworth confirmed the owner was aware he could request a reduction in the fine. He then pointed out the property had been maintained except for 8 days, adding that was due to a contractor going out of business, which happened frequently in this area.
- Ms. Perdomo clarified the respondent had paid the \$900 fine.
- Ms. Kaiser stated the owner had good intentions and planned to spend more time in the area in the future, adding a reputable lawn company had been hired to maintain the property.
- Mr. Ashworth MOVED, Ms. Sepanik SECONDED to find the respondent guilty of the repeat violation and not impose a fine for the 8 days of non compliance. MOTION CARRIED UNANIMOUSLY.

NOTE: Item IV. I. was heard before Item III.E.

E. 10-41453 - CODE COMPLIANCE OFFICER - MARICELA PERDOMO
REPEAT VIOLATION

Respondent: Fred W Quelle

Address of Repeat Violation: 97 Sabal Dr.

REPEAT Violation of Chapter: 26, Section: 8.11 (c), (e), (f) Tall grass and/or weeds over twelve (12) inches in height throughout the landscaped areas on the side of the property.

- Mr. Fred Quelle plead not guilty.
- Ms. Perdomo testified the Board had heard this case on July 28, 2010, at which time a cease and desist was issued for future violations, adding on September 29, 2010, she received a complaint regarding tall grass and weeds on the side of the property. She

testified she confirmed the violation and a notice of hearing was received by the respondent on October 1, 2010, adding as of October 6, 2010, the violations had been remedied; thus, the property had been in violation for a total of 8 days.

- Mr. Ashworth MOVED, Ms. Sepanik SECONDED the City had presented a prima facie case. MOTION CARRIED UNANIMOUSLY.
- Mr. Levin requested that the respondent confine his remarks to the issue of tall weeds and grass with the understanding that he is now found to be in compliance and the purpose of this proceeding was to fine him for those days of non compliance.
- Mr. Quelle stated he was now a full time resident of the City as he had sold his home in Massachusetts, inquiring if staff agreed his property was in good condition at this time.
- Ms. Perdomo replied affirmatively.
- Mr. Levin suggested asking the respondent to explain the mitigating circumstances which caused the property to be out of compliance for 8 days.
- Ms. Perdomo attested Mr. Quelle previously indicated he was going to maintain the grass himself, opining that was the reason it took so long to resolve the violation.
- Mr. Council inquired if Mr. Quelle was maintaining the property himself.
- Mr. Quelle replied affirmatively.
- Mr. Council inquired if he would be able to continue to do so in the future and avoid future violations.
- Mr. Quelle replied affirmatively, asserting in the past he had hired gardeners who did not take care of the property.
- Ms. Perdomo displayed several photographs of the property, briefly reviewing same.
- Mr. Levin reiterated this was a repeat violation and the Board had already issued a cease and desist, advising the Board needed to decide whether to fine the respondent for the 8 days he was out of compliance with the previous order.
- Mr. Viola inquired if there was a timeframe that could be extended as they did in a previous case.
- Mr. Levin replied in the negative.
- Ms. Perry inquired as to the options for penalties.
- Mr. Levin replied the fine could be up to \$500 per day.
- Mr. Council MOVED, Ms. Perry SECONDED to find the respondent guilty and impose a fine of \$25 per day for the 8 days that he was out of compliance for a total of \$200. MOTION CARRIED UNANIMOUSLY.

F. 10-41449 – CODE COMPLIANCE OFFICER – MARICELA PERDOMO

Respondent: Fred W Quelle

Address of Violation: 97 Sabal Dr.

Chapter: 9A, Section: 9A-12 (a), (b); and

Chapter: 26, Section: 8.11 (g) Outside storage of wood, empty planters, mulch, garbage cans, buckets, tarps, a ladder, and other miscellaneous items.

- Mr. Quelle plead not guilty.
- Ms. Perdomo testified on September 29, 2010, she received a complaint regarding outdoor storage on the property, noting she observed wood, empty planters, mulch, buckets and other items. She stated Mr. Quelle indicated he was working on several projects and that the mulch was to be used in the case of a hurricane, adding the wood would be used to form a canopy for shade. She reported as of October 12, 2010 the items stored in front of the driveway had been removed but the other items remained, adding a notice of hearing was hand delivered to Mr. Quelle on October 13, 2010. She attested as of yesterday, some of the wood had been used but some remained in the rear of the property, adding the mulch, empty buckets and other items also remained. She said Mr. Quelle indicated the wood would be removed; however, he wanted to retain some items.
- Mr. Viola MOVED, Mr. Ashworth SECONDED the City had presented a prima facie case. MOTION CARRIED UNANIMOUSLY.
- Ms. Perdomo displayed several photographs of the property that had been taken the previous day, briefly explaining same, noting most of the items remained.
- Mr. Quelle stated he was trying to protect himself as he was living on a civil service pension, adding he was trying to live his life in the most sensible way he could.
- Mr. Levin requested the respondent describe what was in the pictures.
- Mr. Quelle explained there was a stack of mulch that he was saving in case of a hurricane, asserting it was not visible from any adjacent properties.
- Ms. Susan Kane introduced herself.
- Ms. Sepanik inquired if Ms. Kane understood why the property was in violation.
- Ms. Kane replied affirmatively.
- Ms. Sepanik inquired whether she could assist Mr. Quelle in any way to bring the property into compliance.
- Ms. Kane stated she continued to remind him to maintain the property, announcing Mr. Quelle's son was coming to visit in two weeks and she would have him take care of the matter.
- Ms. Sepanik inquired if Ms. Kane communicated with Mr. Quelle's son and whether he was aware of this situation.
- Ms. Kane replied affirmatively.

- Mr. Viola inquired if Mr. Quelle understood the Board could impose fines that were greater than any amount he would save by storing mulch.
- Ms. Kane replied it was unclear whether or not Mr. Quelle understood, adding she had asked him to hire a gardener but he felt he could take care of the property himself.
- Mr. Sepanik opined Mr. Quelle needed help, suggesting there were many agencies and organizations that could become involved to protect his rights and to take care of him.
- Ms. Perdomo stated she had been informed that Mr. Quelle's son would be in town for four days and would address these issues at that time.
- Ms. Sepanike inquired if it would be possible to contact the son to make sure he understood what needed to be done.
- Ms. Perdomo replied she could make arrangements to meet with Mr. Quelle's son while he was in town.
- Ms. Sepanik MOVED, Mr. Viola SECONDED to continue this case to the next meeting.
- Mr. Council inquired what conditions staff would set for storage of the mulch.
- Ms. Perdomo advised no outdoor storage was permitted, suggesting Mr. Quelle might be able to store some items in his garage.
- Mr. Quelle stated he could make room in the garage by moving the pool heaters to the side of the house.
- Ms. Perdomo advised the pool heaters could not be stored outside.
- MOTION CARRIED UNANIMOUSLY.
- Mr. Levin stated staff would work with the respondent to assist him in bringing his property into compliance.

G. 10-41394 – CODE COMPLIANCE OFFICER – DAWN LEWIS

Respondent: Trinity Harbor Group, LLC

% Christopher G Constance

Address of Violation: 402 Cross St.

Violation of Chapter: 10, Section: 10-2.4 (f) Contest of Revocation of Lot Mowing Exemption.

- Ms. Ronnie Murray, Excavation, Etc., stated she had been granted permission to attend the hearing in Mr. Christopher Constance's place, pleading not guilty.
- Mr. Levin explained this request was an appeal of the determination of the City to revoke the exemption, adding the respondent could question the validity of the action taken by the City after staff presented the circumstances of the revocation. He advised the burden to prove that the actions taken by the City were not appropriate was on the respondent, pointing out the City Manager had the authority to revoke the exemption if the property was not maintained. He stated all vacant lots were included

in the program unless an exemption was granted; however, the exemption was conditional upon the property being maintained, adding after two violations, the City Manager could revoke the exemption. He reiterated this was an appeal of a revocation, requesting that staff be allowed to present both cases at this time.

- Ms. Dawn Lewis testified the property was first inspected on June 15, 2010 and appeared to be overgrown, adding her intent was to allow some time for the lot to be mowed; however, on June 26, 2010, she received a complaint from the City Manager and subsequently observed the property was still overgrown. She stated she called Mr. Constance's office and spoke to Judy regarding the problem, adding a letter was sent to the respondent on July 6, 2010. She reported as of July 12, 2010, the property had been maintained. She stated staff received another complaint from the City Manager on September 15, 2010, adding she then confirmed the property was again overgrown and mailed a Notice of Violation on September 22, 2010. She stated she received a phone call from Mr. Constance's office indicating that the property would be maintained, adding she had allowed ten days for the property to be maintained prior to each letter being sent. She stated a Notice of Intent to revoke the lot mowing exemption was issued September 23, 2010, adding the owner was billed \$112 for each parcel. She stated Mr. Constance had contacted the City Manager on October 8, 2010 to request that Ms. Murray be allowed to appear on his behalf, adding an Affidavit of Violation and Notice of Hearing were served to the respondent on October 12, 2010.
- Mr. Levin inquired if the various dates were identical for both properties.
- Ms. Lewis replied affirmatively.
- Ms. Murray stated this was a high profile lot that her company had been mowing for 3 to 4 years, advising the lot was now part of their weekly rotation, which meant the mowers were there at least once per week. She stated she was uncertain what dates the pictures were taken.
- Ms. Lewis replied the picture with the white sign was taken in June while the other pictures had been taken in September.
- Ms. Murray stated the picture with the white sign showed stringy weeds rather than grass over 12 inches, voicing concern the City maintained the lots while also being responsible for monitoring the program. She asserted when the City was behind, there were no violation notices sent to anyone in the City's lot mowing program, opining it was unfair for other lot mowing companies to be held to a different set of standards than the monitoring agency. She attested she had emails from Ms. Lewis indicating the City was 10 days behind due to consecutive days of rainfall, reiterating it was not acceptable for the City to be behind 10 days without consequences while her clients

received phone calls and letters. She stated her company's maximum response time was 24 hours, stressing it was not in her company's best interest to have lots in violation as they had much business in the area, including County contracts; however, they faced the same problems as other companies due to rain and breakdowns. She stated she had been told by the City's inspectors that violations were up to their discretion, adding she could not have a violation simply because a stringy weed popped up. She stated she was not asking the Board to rewrite the Ordinance; however, in order for people to obey the law, there had to be a reasonable program with reasonable rules.

- Ms. Sepanik interjected the Board only enforced the Codes.
- Ms. Murray reiterated she had been told that violations of the Code were at the inspectors' discretion, asserting the Code was being enforced in a way that was not fair uniformly.
- Ms. Sepanik inquired as to other properties maintained by Excavation, Inc. that had been out of compliance.
- Ms. Murray replied there had been none in five years.
- Mr. Levin pointed out the Ordinance was not on trial, adding this was a challenge of a revocation based on observations at two identified properties. He suggested the appropriate testimony was whether the evidence presented was accurate and whether there were any extenuating circumstances that should prevent the revocation.
- Ms. Murray reiterated the pictures had no dates on them, asserting they could have been taken at any time.
- Mr. Levin countered Ms. Lewis had testified as to the dates the pictures were taken, adding as long as she was able to testify that she took the pictures and when she took them, that should be sufficient evidence for consideration.
- Ms. Sepanik inquired if the exemption was revoked, whether they could apply for an exemption in the future.
- Ms. Teri Tubbs replied it was up to the City Manager's discretion.
- Mr. Levin advised the denial could be appealed to the appropriate authorities.
- Ms. Lewis reiterated the properties had been out of compliance on two occasions, attesting the violation had not been corrected within 24 hours.
- Ms. Murray attested one case occurred during a time of heavy rain, asserting Ms. Lewis had stated in an email that all of the City's lots were also in violation at that time.
- Ms. Lewis countered that was untrue, explaining the first violation occurred in June; however, the City had experienced problems with rain in August, adding the second

violation was in September and although the City was behind with the second mowing of the month, they were not in violation with grass higher than 12 inches.

- Ms. Murray stated she could produce pictures of Burnt Store Isles where every City lot was in violation.
- Mr. Levin stated the City had presented its case, requesting the testimony be confined to the two lots in question.
- Ms. Murray reiterated the lots in question would be monitored and mowed weekly.
- Ms. Lewis advised exempted lots had a yellow dot on the street in front of the lot.
- Ms. Perry MOVED that the lot be maintained by the City and the revocation remain.
- Mr. Levin advised the correct form of the motion would be for the Board to deny the request of the respondent that the revocation not take place.
- Mr. Viola MOVED, Ms. Sepanik SECONDED to deny the request by the respondent that the revocation not take place.
- Mr. Levin reminded members there were two cases being addressed.
- Mr. Ashworth inquired how many yellow dot lots had been cited.
- Ms. Lewis replied she had sent out hundreds of letters over the years, adding the majority of the letters sent resulted from complaints of neighbors.
- Ms. Sepanik inquired if a letter had been sent to Mr. Constance.
- Ms. Lewis replied she typically contacted the owner by telephone as a courtesy, pointing out many property owners lived out of State and the City's letter only provided five days to resolve issues.
- Ms. Sepanik inquired if she had called Mr. Constance.
- Ms. Lewis replied she made a courtesy call for the first violation in June; however, she did not call regarding the second violation in September, adding she gave the owner additional time to correct the problem; however, when she received a second complaint from the City Manager, she had to send the Notice of Violation.
- Mr. Stevens inquired if the motion was to deny the contest of the revocation of the lot mowing program.
- Mr. Levin responded the appropriate motion would be that the respondent's contest of the exemption revocation from the City lot mowing program was hereby denied, the respondent's exemption from the City mandatory lot mowing program was revoked, and the respondent shall pay the fee of \$112 per lot within a certain number of days as appropriate.
- Mr. Viola MOVED, Ms. Sepanik SECONDED to AMEND the motion as stated.
- Ms. Sepanik inquired if the fee of \$112 was for mowing.

- Ms. Lewis replied the City had not yet mowed the lots, advising the fee was an annual charge for mowing 10,000 square feet; therefore, she would need to measure to determine if there were one or two lots in this case.
 - Mr. Levin requested that all of the previous motions be tabled, suggesting the new motion be that the Board finds that the respondent's contest of the exemption revocation from the City of Punta Gorda lot mowing program was hereby denied, that the respondent's exemption was revoked from the lot mowing program, and that the respondents shall pay the appropriate fee for the mandatory lot mowing program within a certain number of days.
 - Mr. Viola MOVED, Ms. Sepanik SECONDED that the respondent's contest of the exemption revocation from the City of Punta Gorda lot mowing program be denied, that the respondent's exemption from the lot mowing program be revoked and that the respondents shall pay the appropriate fee for the mandatory lot mowing program within 30 days.
 - Mr. Levin reiterated the motion was for both cases.
 - MOTION CARRIED UNANIMOUSLY.
 - Ms. Murray inquired as to the process to appeal.
 - Mr. Levin replied they would appeal to the Circuit Court.
- H. 10-41395 – CODE COMPLIANCE OFFICER – DAWN LEWIS
 Respondent: Trinity Harbor Group, LLC
 % Christopher G Constance
 Address of Violation: 408 Cross St.
 Violation of Chapter: 10, Section: 10-2.4 (f) Contest of Revocation of Lot Mowing Exemption.
- See discussion above.

UNFINISHED BUSINESS

- A. 10-40347 – CODE COMPLIANCE OFFICER – MARICELA PERDOMO
 Respondent: Bluewater Trading; and Brian Rommel; and Jamdi Corporation
 Address of Violation: 124 Cross St.
 Violation of Chapter: 7, Section: 7-32 (a) (1); and Violation of Chapter: 26, Section: 11.2 (g); and Violation of Chapter: 26, Section: 11.4 (e) (4) – Installation of a sign without a permit.
- Ms. Perdomo requested that this case be dismissed.
 - Mr. Viola MOVED, Mr. Poitras SECONDED to dismiss Case 10-40347. MOTION CARRIED UNANIMOUSLY.
- B. 10-40957 – CODE COMPLIANCE OFFICER – RANDY WRIGHT

Respondent: John R. Gill

Address of Violation: 7233 N. Blue Sage

Violation of Chapter: 9A, Section 9A-12 (a) and Violation of Chapter: 26, Section: 8.11 (g) Personal items stored on the lanai; and a riding mower and ladder stored outside in the yard.

- Mr. Robert Hurst stated he was representing Mr. John Gill and plead not guilty.
- Mr. Randy Wright testified he inspected the property on August 10, 2010 and found numerous violations, adding a notice of violation and order for corrective action was sent to the respondent on August 12, 2010 via certified mail. He stated he received a telephone call from Beverly who requested a continuance as the owners were attempting to clean up the property, adding as of August 25, 2010, all personal items remained on the lanai and many other items were still outside. He attested an affidavit of violation and notice of hearing was sent on August 27, 2010, adding a notice of continuance was issued on September 27th, adding when he reinspected the property on October 13, 2010 most of the conditions remained.
- Mr. Viola MOVED, Mr. Ashworth SECONDED the City had presented a prima facie case. MOTION CARRIED UNANIMOUSLY.
- Mr. Hurst stated Mr. Gill had Alzheimer Disease, explaining Ms. Beverly Gill, Mr. Gill's daughter, was his fiancé. He displayed several photographs of the property, testifying the yard looked much better at this time as all of the items had been removed.
- Mr. Wright acknowledged it appeared the lanai had been cleared.
- Mr. Hurst promised to maintain the property.
- Ms. Sepanik inquired if staff was satisfied the property was in compliance.
- Mr. Wright replied he would like to personally inspect the property, requesting a continuance to next month.
- Ms. Sepanik MOVED, Mr. Viola SECONDED to continue this case to November 24, 2010. MOTION CARRIED UNANIMOUSLY.
- Mr. Levin advised if the property was in compliance at that time, the case could be dismissed.

NOTE: The Board Took A Five Minute Recess at 11:05 a.m.

C. HEARING IMPOSING PENALTY

06-30629 – CODE COMPLIANCE OFFICER – MARICELA PERDOMO

RESPONDENT: Jakov and Maria Gauta

Address of Violation: 501 E. Olympia Ave.

Violation of Chapter: 26, Section 8.11 (b) – Property Maintenance.

- Ms. Maria Gauta explained she was representing her husband Mr. Jakov Gauta.

- Ms. Perdomo explained this case had been continued at the September, 2010 meeting, adding at that time Ms. Gauta had indicated she was working with Southwest Construction to make the necessary repairs to the property, and that she had contacted an engineer to obtain the required plans; however, the engineering drawings could take some time to complete. She testified no permits had been submitted to the Building Department as of this date.
- Ms. Gauta stated she spoke to Mr. Jim Montgomery who indicated the repairs to the outside of the building would cost \$25,000, opining it did not make sense to repair the outside but not the inside. She stated that price did not include replacing the railing, which would cost an additional \$7,500 or \$8,000, adding she was unsure what to do.
- Ms. Sepanik inquired what the respondent expected the Board to do.
- Ms. Gauta replied with uncertainty, adding she received \$43,000 but had to pay for taxes and maintenance.
- Ms. Sepanik asserted the Board was done waiting.
- Ms. Gauta pointed out the only part of the building exterior to be repaired was the rear.
- Ms. Sepanik stated if Ms. Gauta did not have the money yesterday or today, she would not have it tomorrow, adding it was time for the Board to move forward with their options.
- Ms. Gauta stated she appreciated the extra time the Board had given her; however, she had many family hardships.
- Mr. Poitras commented the fines amounted to \$518,000.
- Ms. Gauta inquired if demolishing the structure would satisfy the Board.
- Ms. Sepanik opined it would cost more to demolish the structure than to repair it.
- Ms. Gauta countered she had demolished three structures recently.
- Mr. Stevens inquired if she had attempted to sell it.
- Ms. Gauta replied affirmatively.
- Mr. Levin advised if Ms. Gauta wanted to demolish the structure, there was a process for same which included applying for a demolition permit, adding the City would take into consideration the timeframe required for that process when addressing the imposition of additional fines. He recalled Ms. Gauta previously indicated her daughter was coming to town and would resolve the situation; however, 60 days had elapsed and nothing had been done, adding the City had intended to foreclose on Ms. Gauta's property; however, they had delayed doing so because of the representations made that the property would be brought into compliance. He stated at this time, there was no reason not to move forward with the foreclosure.

- Ms. Gauta explained her daughter-in-law was attempting to obtain a loan.
- Mr. Levin stated if the property was brought into compliance, Ms. Gauta had the right to request a reduction of the fines, adding he understood Ms. Gauta's reluctance to destroy the structure as it was a beautiful building; however, it had remained in violation for six years and there was no hope that she would come into compliance any time soon.
- Mr. Poitras inquired as to the Board's options.
- Mr. Levin replied the Board needed to decide whether to impose a fine, adding the amount of the fine would be recorded, after which a lien could be filed and the City could foreclose on the liens. He advised Ms. Gauta that if she wanted to avoid the imposition of fines and foreclosure, she should make every effort to come into compliance either through construction or demolition. He then stated if Ms. Gauta submitted an application for demolition prior to the next Board meeting, the Board might consider continuing the case to the next month and delay assessing any additional fines, explaining regardless of how Ms. Gauta proceeded, each day the property remained in violation was another day the fine would continue. He stated foreclosure was a very severe action and was only pursued when compliance was no longer an option, adding if the structure was demolished, Ms. Gauta could request the fine be reduced.
- Mr. Poitras inquired how long it would take to obtain the necessary demolition permits.
- Mr. Levin explained because it was a historic structure, it could take 18 months, opining it might be possible to shorten that timeframe.
- Ms. Sepanik inquired if Ms. Gauta pursued demolition, whether that would delay the foreclosure process.
- Mr. Levin replied the Board could continue the case for one month to see if Ms. Gauta applied for a demolition permit, adding if she was making a good faith effort to come into compliance and the Board was satisfied that was being done, they could recommend that City Council hold the foreclosure action in abeyance until such time it was determined that she was no longer acting in good faith to come into compliance. He reiterated if Ms. Gauta brought the property into compliance, she could then request the Board to reduce the fine.
- Ms. Gauta stated if she did not have the money to repair the structure, she would not have the funds to pay a fine.
- Mr. Levin stated that was the argument she could make if and when she came into compliance, stressing the City's primary intent was for the property to be brought into compliance.

- Ms. Sepanik inquired if Ms. Gauta could afford to demolish the house.
- Ms. Gauta replied it would cost \$8,000 to \$10,000 to demolish the house, reiterating it would cost at least \$25,000 to repair it.
- Mr. Levin stated he could not advise Ms. Gauta what to do; however, if she could not afford to repair the structure, but could find someone to purchase it at a reasonable price, that buyer could come before the Board to request a certain number of days to repair the property and then request them to consider reducing the fine, adding the City would then be satisfied.
- Ms. Gauta countered a potential lessor had approached the City and had been told the fine would remain, asserting nobody would want to rent the house with the fine in place since they would lose the lease if the property was foreclosed on.
- Ms. Tubbs stated she had spoken to the realtor, Mr. Quinn, and advised him that they could request a reduction in the fine; however, the fine would not affect a rental, clarifying the property was not changing hands in the case of a rental.
- Mr. Levin interjected only the Board could reduce the fine, adding in the current market, it might not be possible to sell the property unless it was offered at a good price.
- Ms. Gauta stated many people would want the property if she were willing to give it away.
- Mr. Levin countered that was not necessarily true if it was going to cost more to repair it than it was worth; however, it was not up to the Board to decide which option was best. He pointed out this was the first time they had a serious discussion regarding demolition as being an option.
- Mr. Council MOVED, Mr. Poitras SECONDED to continue the case to the next meeting with the expectation that the respondent would have submitted an application for demolition, or have proof of a signed contract to rehabilitate the property or a signed contract for sale. MOTION CARRIED UNANIMOUSLY.

D. HEARING IMPOSING PENALTY

09-38260 – ZONING OFFICIAL – TERI TUBBS

RESPONDENT: Linda-Louise (for the family Christian)

Address of Violation: 2543 Brazilia Court

Violation of Chapter: 26-3.13(m). – Installing a fence in a way not consistent with the requirements of this ordinance; and Violation of Chapter: 7-32(a)(1), construction of a fence without a valid building permit.

E. 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: 8.11(e),(f) – Dead and dying palm fronts on the palm tree in the rear of the property near the canal.

F. HEARING IMPOSING PENALTY

10-40466 – CODE COMPLIANCE OFFICER – MARICELA PERDOMO

RESPONDENT: Linda-Louise (for the family Christian)

Address of Violation: 2543 Brazilia Court

Repeat Violation of Chapter: 7, Section: 7-35(d) – no house numbers displayed on the structure.

- Mr. Levin reported Ms. Gerta Craig had initiated litigation to regain her property, adding at the direction of City Council, he had been in touch with Ms. Craig's attorney to discuss the possibility of an agreement regarding the three violations and the outstanding penalties in the event that Ms. Craig regained possession. He stated pursuant to the Board's recommendation and direction of the City Council, he had initiated foreclosure action on the Code Enforcement liens on the subject property; however, a shade meeting would take place with City Council after their next meeting to discuss a settlement, adding he was optimistic that some type of agreement could be reached in the near future. He stated staff was requesting the Board consider the status of non compliance with respect to imposing penalties on the properties until the status changed, adding if this matter was successfully concluded, there would be no need to foreclose on the properties. He stated he intended to delay recording the order imposing the penalty until after the outcome of the shade meeting, clarifying this was a procedural step until such time as the direction of the case changed.
- Ms. Sepanik inquired as to the timeframe for Ms. Craig to regain the property.
- Mr. Levin replied he received an order from the Clerk of the Circuit Court indicating the Clerk had issued a default in Ms. Craig's case against Linda Louise, adding it was not appropriate to discuss the implications of that case or how long it might take to resolve; however, there had been movement, and he hoped some agreement could be reached within the next 60 days. He pointed out that was assuming Linda Louise took no action in response to the default. He clarified he was requesting the Board move forward with the penalty hearings today and not concern themselves with the other matters.
- Mr. Council inquired if the issue would come back to the Board regarding the accumulated fines if Ms. Craig regained her property.

- Mr. Levin replied it depended upon what happened during negotiations, adding from a legal perspective, the liens were for the benefit of the City. He stated City Council could not reduce the amount of the liens; however, they had the authority to extinguish the liens.
- Mr. Ashworth inquired if anything would be done to the property if Ms. Craig did not regain control.
- Mr. Levin replied if no agreement was reached with the owner and if the property was not brought into compliance, adding he presumed the City would prevail on its foreclosure of the liens. He stated someone would eventually own the property, and hopefully at that time the property would be brought into compliance, concluding one way or another, the property would be in compliance.
- Mr. Stevens inquired how many days the property had been out of compliance.
- Ms. Tubbs testified as of this date the property was still in non compliance for the fence and the palm fronds, adding it amounted to an additional 34 days.
- Mr. Ashworth MOVED, Mr. Council SECONDED to continue the fines.
- Mr. Levin requested the fines be identified.
- Ms. Tubbs replied for case 09-38260, the fine was \$250 per day for an additional 34 days, for case 10-39687 the fine was \$250 per day for an additional 35 days, and for case 10-40466, which was a repeat violation, the fine was \$500 per day for an additional 35 days.
- Mr. Ashworth inquired if it had been made clear to the other party that the fines could be reduced if negotiations were satisfactory.
- Mr. Levin replied he had tried in every way possible to express that the City's primary objective was compliance, noting a representative of the respondent in the other cases was present this date. He stated the City had expended considerable time and effort on this matter, adding ultimately it would be between the parties to determine an appropriate amount to settle the matter.
- Mr. Poitras MOVED, Ms. Sepanik SECONDED to continue the fines in the amount of \$8,500 for case 09-38260, in the amount of \$8,750 for case 10-39687 and \$17,500 for case 10-40466. MOTION CARRIED UNANIMOUSLY.

G. 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 8.11(a). – More than 20% of the roof structure is discolored and mildewed.

- Mr. Wright recalled the case had been brought before the Board on July 28, 2010 at which time a penalty of \$5,000 was imposed, noting as of September 22, 2010, an additional fine of \$13,750 was imposed. He stated he reinspected the property on October 26, 2010, and the violation remained, adding there was now an additional 35 days of non compliance. He confirmed he had never been contacted by the respondent, adding every time he posted the property, the resident removed the posting.
- Mr. Charles Zajicek stated he lived next door to this property, noting Mr. Elbert Van Nostrand had been dead for several years.
- Mr. Wright stated the case had to be addressed based on the property appraiser's information.
- Mr. Council MOVED, Mr. Poitras SECONDED to recognize the continuing non compliance for an additional 35 days at \$250 per day for a total of \$8,750. MOTION CARRIED UNANIMOUSLY.
- Mr. Levin advised after penalties had been imposed for three months, the Board could request City Council to authorize foreclosure on the liens, explaining at the end of the third month, the Board would be provided with a report and would be asked to make a recommendation.

H. HEARING IMPOSING PENALTY

10-39399 – CODE COMPLIANCE OFFICER – RANDY WRIGHT

RESPONDENT: Money Consultants, Inc.

Address of Violation: 412 Allen Street

Violation of Chapter: 9A, Section 9A-12(e) – Inoperative and unregistered watercraft stored in the rear yard; and Violation of Chapter: 9A, Section 9A-12(d) – Inoperative and unlicensed black pick up truck with a flat tire and expired tags parked in the driveway, and Violation of Chapter: 9A, Section 9A-12(a) – Lamps, wood, bird cages, a cooler, bins, doors, a trailer with no wheels, and other miscellaneous debris stored outside; and Violation of Chapter: 9A, Section 9A-12(b) – Several broken pieces of concrete in the rear yard; and Violation of Chapter: 26, Section 8.11(b). – A broken window on the front of the house.

- Mr. Randy Wright testified the case was first heard on September 22, 2010 at which time the respondent was found guilty and a fine of \$23,750 was imposed for 95 days of noncompliance, adding as of yesterday, the pick-up truck was gone; however, everything else remained the same. He stated another 35 days of non compliance had elapsed. He confirmed nobody lived at the residence now and there had been no communication with the respondent.

- Mr. Ashworth MOVED, Ms. Perry SECONDED to continue the fine for an additional 35 days at \$250 per day for a total of \$8,750. MOTION CARRIED UNANIMOUSLY.

NOTE: Item IV.I. was heard after Item III.D.

I. HEARING IMPOSING PENALTY

10-39906 – CODE COMPLIANCE OFFICER – MARICELA PERDOMO

RESPONDENT: Susana Punta Gorda, LLC

Address of Violation: 413 West Retta Esplanade

Repeat Violation of Chapter: 26, Section: 8.11 (c),(e),(f) – Overgrown trees, shrubs, dead landscape material; and Repeat Violation of Chapter: 26, Section: 8.11(b) – Failure to obtain a Certificate of Appropriateness and Building Permits to repair broken windows, fence and house siding.

- Mr. Kaiser requested a continuance as the work was underway.
- Ms. Perdomo testified this case was first heard on May 26, 2010. She displayed several pictures, stating much work still needed to be done, recalling the respondent had been ordered to apply for building permits and obtain a certificate of appropriateness within 30 days of receipt of the order, but failed to do so. She stated fines began accruing on June 29, 2010, adding a notice of hearing was posted on September 22, 2010. She reported Mr. Kaiser contacted her on September 24, 2010, concluding the permit applications had been submitted as of October 22, 2010.
- Ms. Sepanik inquired how long it would be before the permits would be issued.
- Ms. Perdomo replied as this was a historic structure, the plans had to be reviewed through the necessary process.
- Mr. Dennis Murphy stated if the plans were complete, they could be approved within 2 days, opining the permit could be approved within the next five days.
- Mr. Kaiser stated he had been requested by staff to submit an application for Certificate of Appropriateness, which had been done on Monday, October 25th, noting staff had indicated that was the last item required.
- Ms. Perry inquired as to the timeframe for the violation.
- Ms. Perdomo replied the violation remained from June 29, 2010 to October 22, 2010.
- Ms. Sepanik inquired when Mr. Kaiser had been contacted.
- Mr. Kaiser responded he discovered this problem on the same day as the lawn violation, adding at that time he contacted Mr. Knapp and requested funds to resolve all of the issues.
- Ms. Perdomo commented she met with Mr. Kaiser on September 24, 2010.
- Mr. Ashworth inquired why Mr. Knapp had not addressed the matter sooner.

- Mr. Kaiser replied Mr. Knapp had two family members with breast cancer, opining those personal matters had likely taken precedence.
- Mr. Ashworth inquired if Mr. Knapp owned other properties in the City.
- Mr. Kaiser replied Mr. Knapp owned a total of 7 properties, some of which were jointly owned by his father, asserting all of the other properties were well maintained and in compliance. He advised 4 were rentals and the other 3 were commercial properties.
- Ms. Perry voiced concern about the amount of time that had elapsed since the owner was first notified.
- Mr. Kaiser reiterated he would take care of the property from this point forward.
- Mr. Ashworth inquired if the property would be sold when it was renovated.
- Mr. Kaiser replied the property was already for sale, adding the owner would be obtaining bids for restoration while he was in town this coming February. He stated an agreement had been made with Code Compliance on what needed to be done to eliminate the eyesores.
- Ms. Sepanik inquired how much time was needed.
- Mr. Kaiser replied approximately two weeks from the time the building permit was issued, requesting a continuance to next month.
- Mr. Levin advised since this Board issued the original order with a compliance date of June 29th, they could extend that compliance date by modifying that original order, adding in that way they would not need to address the issue of fines.
- Ms. Sepanik MOVED, Mr. Viola SECONDED to modify the original order and extend the compliance date to November 24, 2010. MOTION CARRIED UNANIMOUSLY.
- Mr. Council confirmed the owner would be notified of this action by regular mail.

NOTE: Item IV.J. was heard after Item IV.K.

J. 10-40187 – CODE COMPLIANCE OFFICER – RANDY WRIGHT

Respondent: Julian T & Joelle R Beverly

Address of Violation: 1480 Narranja St.

Violation of Chapter: 7, Section: 7-32 (a) (1), and 7-32 (b) (4) Fence installed on the property without a permit.

- Mr. Wright announced this case had been continued to the next meeting.

NOTE: Item IV.K. was heard after Item IV.H.

K. REQUEST FOR FINE REDUCTION

10-38922 – CODE COMPLIANCE OFFICER – RANDY WRIGHT

Respondent: Debra Ann Rommel

Address of Violation: 402 W. Grace St.

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

- Mr. Keith Wexler, Real Estate Agent, explained he was attending the meeting on behalf of his customers, Mr. and Mrs. Richard Rosenberg, adding they were under a short sale contract; however, they were waiting for lender acceptance. He stated his customers were requesting that the fines levied against the seller for noncompliance be waived if they purchased the property, noting they were willing to pay the City's costs as they did for the property located at 608 West Olympia Avenue. He concluded he had a letter from the buyers regarding same.
- Mr. Ashworth MOVED to grant the request with the provision that the short sale be approved.
- Mr. Levin clarified the sellers were asking for a reduction in penalties with a promise by the buyers that they would bring the property into compliance, opining the sellers were not going to bring the property into compliance.
- Mr. Wexler agreed, adding his customers would bring the property into compliance immediately upon closing.
- Mr. Levin inquired how they would do so, questioning if they would remove the pool.
- Mr. Wexler replied they had determined the lift had caused too much damage; thus, they intended to demolish it and fill it in.
- Mr. Levin stated there was no closing date or lender approval, inquiring as to an estimated timeframe for approval or a deadline for the contract.
- Mr. Wexler replied they had 90 days, noting the property had already been appraised, which was typically the final step.
- Mr. Levin stated staff would not be inclined to agree to reduce the fines simply on a promise that the property would be sold and that the buyers would bring it into compliance, recommending the Board could consider reducing the fine contingent upon the sale and compliance within a certain period of time. He then stated the City had expenditures of \$170.34 which should be factored into the Board's consideration, noting fines amounted to \$5,250.
- Mr. Ashworth MOVED, Ms. Sepanik SECONDED to eliminate the fine of \$5,250 contingent upon the property being sold and brought into compliance within 90 days and contingent upon the buyer assuming the expenditures of the City in the amount of \$170.34. MOTION CARRIED UNANIMOUSLY.
- Mr. Council inquired if the fines would continue to accumulate during the 90 day period.
- Mr. Levin replied affirmatively. He then stated Mr. Wexler's clients would need to come up with some creative way of dealing with the situation, adding staff preferred that the sellers bring the property into compliance before it was sold. He opined the buyers

would have difficulty obtaining title insurance with a lien of \$5,250 against the property, adding the title company would likely require the lien be paid prior to issuing a clear title. He stated the buyer was asking that the fine be eliminated, which was their prerogative; however, as a practical matter, the buyer bringing the property into compliance before they owned the property was problematic, adding the Board could choose to eliminate the fine without a contingency; but he would not recommend they do so.

- L. Report: Orders recorded three (3) months or more.
- No discussion.

MEMBER COMMENTS

- None.

ADJOURNMENT

- Meeting Adjourned: 12:09 p.m.

Jim Stevens, Chairman

Karen Smith, Recording Secretary