

**CODE ENFORCEMENT BOARD
MEETING
DECEMBER 23, 2009**

MEMBERS PRESENT: Jim Stevens, Chairman
Norman Ashworth, Tom Bailey, Vic Poitras, Ed Viola

MEMBERS ABSENT: Richard Kresge

OTHERS PRESENT: Teri Tubbs, Zoning Official; David Levin, City Attorney; Maricela Perdomo, Randy Wright, Dawn Lewis, Code Compliance Officers; David McCarty, Code Compliance Coordinator; Jeffrey Ogle

CALL TO ORDER/ANNOUNCEMENTS

- A. Roll Call
- B. Next Scheduled Meeting - January 27, 2010

APPROVAL OF MINUTES

- A. Meeting of November 25, 2009
 - Mr. Viola MOVED, Mr. Poitras SECONDED approval of the November 25, 2009 minutes.
- MOTION CARRIED UNANIMOUSLY.

NEW BUSINESS

- Recording Secretary Kelly swore in all participants.
- A. 09-38260 - ZONING OFFICIAL - TERI TUBBS
 - Respondent: Linda Louise Christian
 - Address of Violation: 2543 Brazilia Court
 - Violation of Section 26-3.13(m), Installing a fence in a way not consistent with the requirements of this ordinance; and Section 7-32(a)(1), Construction of a fence without a valid building permit.
 - Mr. Stevens noted the respondent, Ms. Linda Louise Christian, was not present, confirming there was no objection to entering a plea of not guilty on her behalf.
 - Ms. Teri Tubbs, Zoning Official, stated on November 25, 2009, the previous owner of the subject property, located within City limits, specifically Ms. Gerda Craig, was ordered to obtain a permit within 7 days and was granted 14 days from receipt of the Board's orders to remove the portion of fence in violation or remove the fence in its entirety. She noted on that same day, the City received a "Courtesy Notice" from Ms. Craig indicating title to the property had been transferred and was no longer owned by her. She announced a search of Charlotte County records confirmed title transfer by way of Quit Claim Title, as delineated in the agenda material, to Ms. Craig's daughter, Ms. Linda-Louise (for the family-Christian), hereinafter called Ms. Christian, on

November 23, 2009, 2 days prior to the Board's last meeting. She reported she advised Ms. Christian by certified mail that the property was subject to code enforcement action prior to the title transfer; thus, Ms. Christian, as new owner, was still responsible for correcting the subject violations. She explained a Statement of Violation/Notice of Hearing was issued on December 2, 2009, to Ms. Christian's attention at the address listed in the records of Charlotte County, advising her of the violations and providing notice of this hearing. She mentioned the Statement of Violation/Notice of Hearing was also posted on the property by Ms. Maricela Perdomo, Code Compliance Officer, on December 4, 2009, at which time it was also personally handed to Ms. Craig. She advised the property was again posted on December 9, 2009, to ensure proper notice, adding Ms. Christian also signed for the notice at her address in Vermont. She stated based on the Board's original order, all required work should have been completed by December 19, 2009, with re-inspection on December 21, 2009; however, by virtue of an affidavit signed by Ms. Christian, a copy of which was provided in the agenda material, Ms. Christian indicated she had no intention to comply with the order. She concluded re-inspection of the property at 4:45 p.m. on December 22, 2009, found no change in the violation nor had a replacement permit application been submitted.

- Mr. Viola clarified the only change relative to this case since the Board's previous meeting was relative to the owner of record.
- Mr. Poitras recalled the City had compensated the previous owner for expenses associated with removal of the section of fence in violation.
- City Attorney Levin explained Ms. Christian was not the original violator; however, she assumed that violation as same ran with the land. He clarified the violation was the lack of a permit for the fence, which exceeded that which was authorized by City Code.
- Mr. Viola asked if the same offer was made to the new owner.
- City Attorney Levin explained the former owner had requested compensation while Ms. Christian had not. He noted Ms. Christian disavowed the jurisdiction of the City of Punta Gorda and State of Florida to exercise any authority over her property.
- Mr. Ashworth questioned the grounds upon which Ms. Christian was making her assertions.
- City Attorney Levin replied he had no idea. He mentioned the language used in Ms. Christian's pieces of correspondence was often used by prisoners seeking Writs of Habeas Corpus to be released from prison based upon certain jurisdictions not having lawful authority. He pointed out Ms. Christian identified the States of Florida and

Vermont as “republics.” He mentioned courts which had considered such rhetoric had not found same to be a valid basis for lack of jurisdiction.

- Mr. Viola asked if Ms. Christian’s statements moved the case out of the Board’s jurisdiction.
- City Attorney Levin replied it did not but rather the constitutionality of the City’s actions did not fall within this Board’s scope of authority. He asserted the City’s ordinances were lawfully adopted.
- Mr. Poitras asked if the property transfer was done correctly.
- City Attorney Levin replied Florida Statute required the seller of property which was subject to code enforcement action to provide copies and notice relative to same to the buyer, adding failure to do so constituted fraud. He stated the City had no evidence of what had transpired between the seller and the respondent in this case; however, staff had received correspondence from the respondent on behalf of the former owner, in this case the respondent’s mother. He clarified this would imply the respondent was aware of the action.
- Mr. Ashworth MOVED, Mr. Bailey SECONDED the City had presented a prima facie case. MOTION CARRIED UNANIMOUSLY.
- Mr. Ashworth MOVED, Mr. Viola SECONDED to find the respondent guilty of violations of Sections 26-3.13(m) and 7-32(a)(1) based upon the evidence and testimony presented, to order the respondent to obtain a no charge replacement permit within 7 days of receipt of the Board’s Order and to have the portion of the fence extending beyond the architectural front of the house removed within 14 days of receipt of the Board’s Order or to remove the fence in its entirety within 14 days of receipt of the Board’s Order or be subject to a fine of up to \$250 per day and to issue a Cease & Desist Order for any future violations of Sections 26-3.13(m) and 7-32(a)(1) or be subject to a fine of up to \$250 per day for each day the property remained in violation. MOTION CARRIED UNANIMOUSLY.

B. 09-38454 - CODE COMPLIANCE OFFICER - RANDY WRIGHT

Respondent: Jeffrey Ogle

Address of Repeat Violation: 1426 Sea Fan Drive

Violation of Section 26-8.11(c), Standards of property maintenance, grass and weeds over twelve (12) inches in height throughout the landscaped areas of the property; and Section 26-8.11(e), Trees and shrubs not trimmed; and Section 26-8.11(f), Dead landscaping.

- Mr. Jeffrey Ogle, respondent, entered a plea of not guilty.

- Ms. Maricela Perdomo, Code Compliance Officer, displayed a photograph of the subject property, located within City limits, stating on November 9, 2009, in response to a complaint, she observed tall weeds throughout the landscaping. She announced she left a seven day courtesy notice to make the owner aware of the violation. She reported a Notice of Hearing was posted by Mr. Randy Wright, Code Compliance Officer, on November 16, 2009, and received by the owner on November 20, 2009. She concluded also on November 16, 2009, Mr. Wright observed the landscaping had been maintained.
- Mr. Bailey asked if this was a second offense.
- Ms. Perdomo replied affirmatively, stating the Board issued a Cease & Desist Order in 2007 for tall grass and weeds in the landscaping.
- Mr. Bailey MOVED, Mr. Viola SECONDED the City had presented a prima facie case. MOTION CARRIED UNANIMOUSLY.
- Mr. Ogle confirmed receipt of the notice as testified by Ms. Perdomo; however, he misread the notice and had understood same stated the violation was relative to the yard, which did not appear to be in violation. He noted he mowed the lawn and was later contacted by Mr. Wright who advised him the violation was in reference to the landscaping; however, he expressed his belief the landscaping was maintained and no violations existed. He asserted there was no vegetation over 12 inches in height with the possible exception of bougainvillea.
- Ms. Perdomo agreed the grass had been cut; however, the problem was relative to the front of the landscaping.
- Mr. Ogle mentioned he performed the minimal amount of work to bring the property into compliance in order to show the Board the alleged violation was minimal. He clarified he only trimmed the bougainvillea and turned over the mulch in the flowerbed, adding he did not see how same could be construed as weeds over 12 inches in height.
- Ms. Perdomo mentioned Ms. Dawn Lewis, Code Compliance Officer, could attest to the stated violations.
- Mr. Bailey confirmed Mr. Ogle was contending the vegetation was not 12 inches in height, asking if he had measured same.
- Mr. Ogle replied he had not, asserting the vegetation growth was nowhere near 12 inches. He pointed out Mr. Wright had agreed no violation existed in the flowerbed.
- Ms. Perdomo explained Mr. Wright visited the property one week after her initial inspection, reiterating the landscaping was overgrown and unkempt initially. She reiterated she observed weeds over 12 inches and unkempt landscaping.

- Mr. Ogle countered he had not trimmed anything but the bougainvillea.
 - Discussion ensued with regard to the condition of the respondent's yard and landscaping beds.
 - Mr. Poitras clarified the displayed photographs, taken one week apart, represented "before and after" conditions.
 - Mr. Viola MOVED, Mr. Poitras SECONDED to find the respondent guilty for one day of non-compliance and to impose a \$25 fine. MOTION CARRIED UNANIMOUSLY.
- C. 09-37059 - CODE COMPLIANCE OFFICER - DAWN LEWIS
- Respondent: David A. & Susan E. Graham
- Address of Violation: 210 Venezia Court
- Violation of Section 26-8-13(a-c), Improper ground cover in required drainage area; and Section 7-32(a)(1), Construction of a fence without a valid building permit; and Section 26-3.13(m), Installing a fence in a way not consistent with the requirements of this ordinance.
- City Attorney Levin requested a continuance to the Board's next meeting as it appeared an amicable resolution would be reached.
 - Mr. Viola MOVED, Mr. Bailey SECONDED to continue Case #09-37059 to the Board's next meeting. MOTION CARRIED UNANIMOUSLY.
- D. 09-38531 - CODE COMPLIANCE OFFICER - RANDY WRIGHT
- Respondent: James B. & Connie Kantor
- Address of Violation: 1318 Columbian Drive
- Violation of Section 26-8.14(b), Watercraft stored on a temporary structure attached to the outside of the house; and Section 26-3.13(l), Watercraft improperly stored on the property; and Section 26-8.26, Temporary structures prohibited.
- Mr. Stevens noted the respondents, Mr. James Kantor and Ms. Connie Kantor, were not present, confirming there was no objection to entering pleas of not guilty on their behalf.
 - Mr. Wright displayed a photograph of the subject property, located within City limits, stating on November 17, 2009, he observed three canoes stored on the outside of the home on a temporary structure. He reported a Statement of Violation was issued and received on November 20, 2009, allowing the respondents 5 days to eliminate the violations. He announced a Notice of Hearing was issued and received on December 4, 2009, stating the violations remained as of the previous day, December 22, 2009.
 - Mr. Viola MOVED, Mr. Ashworth SECONDED the City had presented a prima facie case. MOTION CARRIED UNANIMOUSLY.

- Mr. Viola asked if the temporary structure had been erected near the front of the home.
- Mr. Wright replied it was located approximately half-way down the side of the house. He pointed out the house was equipped with a five to six car garage; thus, the canoes could be stored out of sight.
- Mr. Bailey asked if Mr. Wright had spoken with the respondents.
- Mr. Wright replied he had not.
- Mr. Ashworth MOVED, Mr. Viola SECONDED to find the respondents guilty, to require all violations to be eliminated within five days and to issue a Cease & Desist Order for any future violations or be subject to a fine of up to \$250 per day. MOTION CARRIED UNANIMOUSLY.

E. 09-38487 - CODE COMPLIANCE OFFICER - DAWN LEWIS

Respondent: Patrick F. & Joan G. Donaldson

Address of Violation: 1001-1003 Cooper Street

Violation of Section 9A-12(a), Outside storage of personal property, trailer and construction debris.

- Mr. Stevens noted the respondents, Mr. Patrick Donaldson and Ms. Joan Donaldson, were not present, confirming there was no objection to entering pleas of not guilty on their behalf.
- Ms. Lewis displayed several photographs of the subject property, located within City limits, stating on November 12, 2009, she observed the following conditions: outside storage of tires, appliances, computer equipment on a trailer, exercise equipment, a television and construction debris. She announced a Statement of Violation/Notice of Hearing was served on December 11, 2009, and the property posted the same day. She mentioned several attempts to contact the property owner were unsuccessful. She concluded the property was in compliance as of 8:00 a.m. this date.
- Mr. Viola MOVED, Mr. Bailey SECONDED the City had presented a prima facie case. MOTION CARRIED UNANIMOUSLY.
- Mr. Viola MOVED, Mr. Ashworth SECONDED to issue a Cease & Desist Order for any future violations or be subject to a fine of up to \$250 per day. MOTION CARRIED UNANIMOUSLY.

F. 09-38423 - CODE COMPLIANCE OFFICER - DAWN LEWIS

Respondent: George A. & Kathleen A. Smith

Address of Violation: 7357 Schefflera Street

Violation of Section 10-1.1, Grass and/or weeds over twelve (12) inches in height.

- Mr. Stevens noted the respondents, Mr. George Smith and Ms. Kathleen Smith, were not present, confirming there was no objection to entering pleas of not guilty on their behalf.
- Ms. Lewis displayed several photographs of the subject property, located within City limits, stating on November 4, 2009, she observed grass and weeds, including within the landscaped areas, exceeding 12 inches in height. She advised a Statement of Violation/Notice of Hearing was served and the property posted on December 5, 2009. She explained the property appeared vacant and was being maintained by a management company, concluding the violations had been eliminated as of December 18, 2009.
- Mr. Viola MOVED, Mr. Ashworth SECONDED the City had presented a prima facie case. MOTION CARRIED UNANIMOUSLY.
- Mr. Viola MOVED, Mr. Bailey SECONDED to issue a Cease & Desist Order for any future violations or be subject to a fine of up to \$250 per day. MOTION CARRIED UNANIMOUSLY.

OLD BUSINESS

A. Hearing Imposing Penalty

1. 09-37882 - CODE COMPLIANCE OFFICER - RANDY WRIGHT

Respondent: Michele Stokes & T. Rene Comer

Address of Violation: 465 Booth Street

Violation of Section 26-8.11(b), Failure to repair exterior damage.

- Mr. Stevens confirmed neither respondent was present.
- Mr. Wright announced the Board issued a Cease & Desist Order in this case on October 28, 2009, adding the respondents had failed to abide by same; thus, he requested the Board's consideration of imposition of a fine for 31 days of non-compliance.
- Mr. Ashworth confirmed the respondents had not contacted Mr. Wright.
- Mr. Wright clarified the respondents received proper notice for this hearing.
- Mr. Ashworth MOVED, Mr. Viola SECONDED to impose a fine of \$3,100 or \$100 per day for 31 days of non-compliance. MOTION CARRIED UNANIMOUSLY.

Note: A two minute recess was called at 9:58 a.m.

2. 09-38261 - CODE COMPLIANCE OFFICER - DAWN LEWIS

Respondent(s): Punta Gorda-Charlotte Harbor, LLC

c/o Jack O. Hackett II, Registered Agent

Address of Violation: 1000 West Marion Avenue

Violation of Section 9-9A-12, Temporary construction fencing materials; and Section 26-18.2(h), Temporary sales/construction trailer; and Section 10-1.1, Grass and/or weeds over twelve (12) inches in height.

- Ms. Lewis provided a brief review of this case, stating she did not wish to seek imposition of a fine at this time as it appeared the property was being maintained and would be brought fully into compliance.
- Mr. Viola MOVED, Mr. Ashworth SECONDED to impose no fine at this time. MOTION CARRIED UNANIMOUSLY.

ADJOURNMENT

- Meeting Adjourned: 10:03 a.m.

Jim Stevens, Chairman

Mary Kelly, Recording Secretary