

**CODE ENFORCEMENT BOARD
MEETING
JANUARY 26, 2011**

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

OTHERS PRESENT: Maricela Perdomo, Dawn Lewis, Randy Wright, Code Compliance Officers; Dylan Renz, Police Officer; David Levin, City Attorney; Joan LeBeau, Chief Planner; Teri Tubbs, Zoning Official; Randall Cole, Building Official; David McCarty, Code Compliance Coordinator; Beth Sullivan, Robert Corsini, Peggy Keen, William Quednau, Don Knoepfle, William Hicks

CALL TO ORDER/ANNOUNCEMENTS

- A. Roll Call
- B. Next Scheduled Meeting – February 23, 2011

APPROVAL OF MINUTES

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

NEW BUSINESS

- Recording Secretary Kelly swore in all participants.
- Mr. Stevens provided a detailed review of hearing procedures, explaining the Board had no authority to change existing laws but rather was charged with enforcing same.
- A. 10-42083 – CODE COMPLIANCE OFFICER – MARICELA PERDOMO
 - Respondents: Charlie Anton Dubbaneh & Ashley Noelle Dubbaneh
 - Address of Violation: Six Hibiscus Drive
 - Pursuant to Florida Statutes, Title XI, Chapter 162, Sections 162.06(4) and 162.09(1) for an irreversible and irreparable violation of Chapter 26, Section 26-3.13(i), Parking vacant lot/right-of-way between 1 a.m.–5 a.m.
 - Mr. Stevens noted the respondents were not present, confirming there was no objection to entering a not guilty plea on their behalf.
 - Ms. Maricela Perdomo, Code Compliance Officer, displayed several photographs of the subject property, located within City limits, stating on December 1, 2010, she received a complaint regarding various vehicles being parked on the right-of-way (ROW). She reported she personally observed two vehicles parked on the ROW with previously issued citations on same, confirming the vehicles were registered to the respondents.

She announced a Notice of Hearing was issued and received by the respondents on December 30, 2010. She mentioned this was an ongoing problem at this location.

- Mr. Viola MOVED, Mr. Ashworth SECONDED the City had presented a prima facie case. MOTION CARRIED UNANIMOUSLY.
- Police Officer Dylan Renz reported on December 1, 2010, he was dispatched to the subject location for a City Code violation, confirming he observed two vehicles parked in the ROW in front of the residence. He mentioned one of the vehicles was registered to Mr. Charlie Dubbaneh while the other was registered to Ms. Ashley Dubbaneh. He concluded he issued a citation at that time to each vehicle.
- City Attorney David Levin asked if the photographs displayed by Ms. Perdomo depicted the same vehicles observed by Officer Renz.
- Officer Renz replied affirmatively.
- City Attorney Levin announced the respondents had paid the fines, requesting a Cease & Desist Order.
- Ms. Sepanik MOVED, Mr. Poitras SECONDED to find the respondents guilty, to issue a Cease & Desist Order for any future violations subject to a fine of up to \$250 per day.
- Mr. Poitras questioned the number of citations issued in the past.
- Ms. Perdomo replied there were many, stating there had been 15 at one point.
- MOTION CARRIED UNANIMOUSLY.

B. 10-42174 - CODE COMPLIANCE OFFICER - MARICELA PERDOMO

Respondent: Peggy Diane Keen

Address of Violation: 715 West Marion Avenue

Violation of Chapter 26, Section 26-12.10(b)(23), Prohibited invasive species (Java Plum plants).

- Ms. Beth Sullivan, respondent's attorney, announced she represented Ms. Peggy Keen, respondent, entering a plea of not guilty on her behalf.
- Ms. Perdomo displayed several photographs of the subject property, located within City limits, stating on August 16, 2010, she received a complaint regarding an invasive Java Plum plant on the side of the property. She explained the complainant indicated Java Plum berries were falling onto her driveway and vehicle and staining both. She confirmed the Java Plum plant was prohibited by City Code. She announced she met with Ms. Keen on December 21, 2010, at which time the respondent asked to be scheduled for this hearing. She advised a Notice of Hearing was issued and subsequently received by the respondent on December 30, 2010, adding the violation remained as of a January 25, 2011 inspection. She concluded the complainant was present to testify as was Ms. Joan LeBeau, Chief Planner.

- Mr. Robert Corsini, complainant, announced he resided next door to the respondent at 717 West Marion Avenue. He acknowledged the Java Plum tree was lovely; however, numerous berries dropped onto his property and stained his driveway and vehicle, the latter having to be re-painted.
- City Attorney Levin referenced a photograph of a driveway being displayed, confirming same was a depiction of Mr. Corsini's property.
- Ms. LeBeau testified as to her expertise as a horticulturist and certified arborist, stating she assisted on all plant-related issues for the City. She advised she visited the subject property most recently on January 24, 2011, confirming the Java Plum tree in question was located on the respondent's property.
- City Attorney Levin asked if there was any question regarding identification of the respondent's Java Plum plant.
- Ms. LeBeau replied there was none.
- City Attorney Levin asked why the Java Plum was prohibited by the City.
- Ms. LeBeau replied the Java Plum originated in India and was listed on the Florida Exotic Plant Council's list as a Category 1 exotic nuisance species. She explained Java Plum plants tended to take over and crowd out native species, thus presenting an ecological threat to surrounding preservation lands.
- Mr. Council questioned the approximate age of the tree.
- Ms. LeBeau estimated it had been present for many years.
- City Attorney Levin asked the Zoning Official to testify with regard to Mr. Council's question, particularly if the Java Plum plant was prohibited by the City at the time it was planted. He asked Ms. Tubbs if City Code required compliance irrespective of when the tree was planted.
- Ms. Teri Tubbs, Zoning Official, replied affirmatively, specifically in Section 26-8.11, Property Maintenance, which required all landscaping to meet current standards regardless of when growth commenced.
- Ms. Sullivan asked Mr. Corsini if he wished to have the Java Plum tree removed.
- Mr. Corsini replied affirmatively.
- Ms. Sullivan confirmed Mr. Corsini resided at his home with his wife, questioning Ms. Corsini's wishes regarding the tree.
- Mr. Corsini replied his wife also desired to have the tree removed.
- Ms. Sullivan asked if Ms. Corsini felt otherwise at some point in the past.
- Mr. Corsini replied he was unaware of same.
- Ms. Sullivan asked Mr. Corsini if the clean-up of his property as same related to the Java Plum berries was addressed by Ms. Keen.

- Mr. Corsini replied he did not believe so.
- Ms. Sullivan asked if Ms. Keen had offered to cut the tree back so as not to allow it to drop such a significant number of berries.
- Mr. Corsini replied not that he was aware.
- Ms. Sullivan asked if trimming the tree on a monthly basis would alleviate Mr. Corsini's concern.
- Mr. Corsini replied affirmatively, provided no berries dropped on his driveway or vehicle.
- Ms. Sullivan then asked Ms. LeBeau if she was aware of Java Plum trees existing at other locations in the City.
- Ms. LeBeau replied affirmatively, stating she believed some were located on both private and public lands.
- Ms. Sullivan asked Ms. LeBeau if she felt other Java Plum trees should be cut down in the event Ms. Keen's tree was required to be removed.
- Ms. LeBeau replied affirmatively, stating the City was working toward same. She explained a contractor was on staff for tree removal as such exotics were identified.
- Ms. Sullivan asked when the City's tree removal program commenced with regard to Java Plums.
- Ms. LeBeau replied Java Plum trees were not specifically targeted but rather those species prohibited by City Code, of which the Java Plum was one. She announced the City had compiled a tree inventory list which included prohibited species which were marked for removal.
- Ms. Sullivan asked if the list was available to the public.
- Ms. LeBeau replied affirmatively.
- Ms. Sullivan questioned the removal cost.
- Ms. LeBeau replied she did not have that figure, stating the inventory of trees was only recently developed.
- Ms. Sullivan asked if the City had considered providing assistance to private home owners with regard to tree removal costs.
- Ms. LeBeau replied she was unaware of same.
- Ms. Sullivan asked if Ms. LeBeau felt regular maintenance of Ms. Keen's Java Plum tree, as described above, would alleviate her neighbors' concerns.
- Ms. LeBeau replied she did not due to the prolific nature of this species. She explained the Java Plum tree provided a food source for birds who then deposited the berries in other areas, such activity being impossible to control.

- Ms. Sullivan then confirmed Ms. Tubbs had testified grandfathering would not be allowed in this situation, asking her to explain same. She further asked how the subject Java Plum tree differed from an existing structure, which could be grandfathered.
- Ms. Tubbs replied City Code was specific to the requirement for landscaping to meet current standards, stating there was no other option due to the invasive nature of this particular tree.
- Ms. Sullivan asked if Ms. Tubbs believed this Java Plum tree could be considered a non-conforming use.
- Ms. Tubbs replied it was not a use but rather a tree.
- Ms. Sullivan asserted the Java Plum was actually a structure which existed on the property.
- Ms. Tubbs countered it was not a structure but rather a tree.
- City Attorney Levin concluded the question regarding the tree and its production of berries and the neighbor's objections being addressed by its maintenance were totally irrelevant to the issue before the Board because of the prohibition of the tree.
- Ms. Sepanik MOVED, Mr. Ashworth SECONDED the City had presented a prima facie case. MOTION CARRIED UNANIMOUSLY.
- Mr. Poitras commented the above mentioned driveway looked familiar, asking if the Board had been presented with a similar case in the past.
- City Attorney Levin replied the City had previously identified the tree as being located in the rear yard when it was actually in the side yard; thus, a decision was made to re-initiate the case to properly identify its location. He then advised this case presented a question of whether the tree was prohibited or not as opposed to whether or not a complaint was submitted.
- In response to an earlier question from Mr. Council, Ms. Keen announced her Java Plum tree was at least 60 years old. She noted her property was considered a Certified Florida Yard, asserting her tree had not been invasive in her own yard.
- Ms. Sullivan asked if Ms. Keen was advised by her neighbors they would be satisfied if the area was cleaned up and the offending portion of the tree cut back.
- Ms. Keen replied she was not but rather her neighbor indicated same through a third party. She noted removal of the tree would completely change the vegetation in her yard as well as remove all screening between her home and the Corsini's.
- Ms. Sullivan asked if Ms. Keen had viewed similar trees on public land in Punta Gorda.
- Ms. Keen replied affirmatively as well as on private properties. She noted the City had chosen 27 plants to prohibit, adding the Java Plum tree was the 23rd species listed. She

pointed out Ficus trees were prohibited as well, which included Banyan trees, Australian Pines, Brazilian Pepper and a number of others, all of which existed throughout the City. She displayed photographs of various locations such as the Boat Club, Bayfront Center and along Olympia Avenue, all of which had prohibited tree species.

- Mr. Ashworth interjected it seemed Ms. Keen was presenting a case to change the law, which was irrelevant to this particular case. He asserted City Code required removal of the respondent's Java Plum tree.
- Ms. Sullivan acknowledged the Board's rules as read by Mr. Stevens at the beginning of the meeting; however, she submitted the Board had some discretion. She stated she and Ms. Keen understood the Java Plum tree was on the list of prohibited species. She requested members listen to her presentation with an open mind as she believed there were extenuating circumstances as to why this tree should not be removed.
- Mr. Council asked if Ms. Sullivan considered the fact that there were other Brazilian Pepper trees in Punta Gorda which had not been removed an extenuating circumstance.
- Ms. Sullivan replied absolutely. She expressed doubt the City would remove each and every prohibited tree.
- Mr. Council asked if Ms. Sullivan maintained Ms. Keen's Java Plum tree should be removed as soon as the City removed a Brazilian Pepper tree.
- Ms. Sullivan replied she believed removal must be done on a case by case basis, adding she did not believe the situation was "black and white."
- Mr. Viola disagreed, stating he was sure the City would take action on the properties identified by Ms. Keen.
- City Attorney Levin maintained the issue was "black and white," stating City Council had included certain plants to prohibit in their City Code. He explained the purpose of this hearing was to confirm the subject tree was correctly identified as a Java Plum, which he believed was the case. He opined this Board did not have discretion to overrule City Council as to what was prohibited or not. He suggested the respondent may wish to seek redress from City Council as to why she felt its prohibition was unwise if this Board found a violation existed.
- Mr. William Quednau stated he had two Java Plum trees on a vacant lot, adding he did not believe they proliferated. He spoke in favor of maintaining greenery in general. He advised he was recently asked to voluntarily remove his Java Plum trees in that no complaint had been filed regarding same.

- Mr. Poitras interjected the case before the Board was relative to one tree on one property, acknowledging the existence of similar violations throughout the City. He pointed out the respondent's Java Plum tree was causing a problem for her neighbor.
- Mr. Council reminded Mr. Quednau Java Plum trees were allowed to proliferate by the distribution of its fruit carried by birds.
- City Attorney Levin asked Ms. Perdomo what prompted the City to notify Mr. Quednau of the prohibition against Java Plum trees.
- Ms. Perdomo replied the notification was complaint based, adding the complaint included a list of many other locations as well. She announced the complaints were submitted by Ms. Keen.
- Ms. Sepanik requested clarification of Mr. Quednau's statement regarding being asked to "voluntarily" remove his trees.
- Ms. Perdomo explained a Courtesy Notice had been issued, adding Mr. Quednau had been working slowly toward the removal of those trees.
- City Attorney Levin confirmed a Notice of Violation would be issued if Mr. Quednau's voluntary compliance stopped.
- Mr. Council 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 30 days of receipt of this Order subject to a fine of up to \$250 per day.
- Ms. Sullivan requested additional time to allow her the opportunity to approach City Council.
- Ms. Sepanik noted the Board would not impose a fine if the respondent was moving forward toward seeking a resolution from City Council.
- MOTION CARRIED UNANIMOUSLY.

C. 10-41127 - CODE COMPLIANCE OFFICER - DAWN LEWIS

Respondents: Anthony Cardiello and Bessey Law, P.A. (counsel for Bruce and Barbara Laishley, ACCU Funding Corporation, Charlotte Equities, Inc., and Countrywide Mortgage)

Address of Violation: 24368 Airport Road

Violations of Chapter 9A, Section 9A-12(a), Storage of junk & debris; and Section 9A-12(b), Storage of other debris; and Section 9A-12(g), Dangerous, blighted condition; and Section 9A-12(i), Chapter 7; and Section 9A-12(k), Chapter 10; and Section 9A-12(p), Chapter 26; and Chapter 10, Section 10-1.1, Grass and overgrowth; and Chapter 26, Section 26-8.11(a)(b)(c)(d)(e)(f)(g), Property maintenance; and Chapter 26, Section 26-8.14(b), Storage; and Chapter 26, Section 12.10, Prohibited invasive species; and

Chapter 7, Section 7-32(a), No permit; and Chapter 7, Section 7-35(d), Address numbers.

- Mr. Stevens noted the respondents were not present, confirming there was no objection to entering a not guilty plea on their behalf.
- Ms. Dawn Lewis, Code Compliance Officer, displayed several photographs of the subject property, located within City limits, stating on August 25, 2010, she observed the following: overgrowth of tall grass and/or weeds over 12 inches in height; an area of wild growth of underbrush; overgrown trees; overgrowth of a prohibited invasive species; two overflowing dumpsters; a utility trailer, miscellaneous personal property; bed headboard, counter tops, wood, other miscellaneous debris; structure in a state of disrepair; work done without any building permit; unconnected electrical wire hanging from exterior wall; boarded windows and doors; stairs in complete disrepair; no address numbers; unapproved temporary pre-development sign; displayed construction sign. She announced a Notice of Violation/Order for Corrective Action was issued on August 31, 2010, but returned undelivered on September 3, 2010; thus, said Notice/Order were posted on September 8, 2010, by Ms. Perdomo, requiring all violations to be eliminated within 14 days. She advised as of December 22, 2010, she found the dumpsters had been removed as had the pre-development and constructions signs as well as the utility trailer; however, all other violations remained. She stated a Notice of Hearing was served upon the respondent on January 12, 2011, by certified mail. She mentioned the respondent, Mr. Anthony Cardiello, subsequently contacted her by telephone and informed her the property was in foreclosure and going back to the mortgage holder, Mr. Bruce Laishley, respondent. She concluded her inspection the previous day, January 26, 2011, showed the violations remained.
- Ms. Sepanik MOVED, Mr. Ashworth SECONDED the City had presented a prima facie case. MOTION CARRIED UNANIMOUSLY.
- Ms. Perry asked if Mr. Cardiello indicated whether he had any intention of appearing at this hearing.
- Ms. Lewis replied Mr. Cardiello had advised her of his intention to discuss all City Code violations with Mr. Laishley, noting she had informed him this hearing would still take place.
- Mr. Council questioned whether Mr. Laishley had registered with the City's Distressed Real Property program.
- Mr. David McCarty, Code Compliance Coordinator, replied he had been asked to do so but had not as of this date.

- Mr. Poitras 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 30 days of receipt of this Order subject to a fine of up to \$250 per day. MOTION CARRIED UNANIMOUSLY.

D. 10-41195 - CODE COMPLIANCE OFFICER - DAWN LEWIS

Respondent: Sovereign Bank

Address of Violation: 1205 Santana Court

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

- Mr. Stevens noted the respondent was not present, confirming there was no objection to entering a not guilty plea on their behalf.
- Ms. Lewis announced as of September 7, 2010, the subject property had not been registered; thus, a Notice of Violation was issued by certified mail and subsequently received by the respondent on November 1, 2010. She confirmed a Notice of Hearing was received by the respondent on December 20, 2010.
- Mr. Ashworth MOVED, Mr. Council SECONDED the City had presented a prima facie case. MOTION CARRIED UNANIMOUSLY.
- Mr. Ashworth 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 14 days of receipt of this Order subject to a fine of up to \$250 per day. MOTION CARRIED UNANIMOUSLY.

Note: Item E was heard following Item U, Unfinished Business.

E. 10-41962 - CODE COMPLIANCE OFFICER - RANDY WRIGHT

Respondent: Myrtice Santini Trust Life Estate

Address of Violation: 501 Burland Street

Violation of Chapter 26, Section 26-8.10; and Chapter 9A, Section 9A-12(a)(d)(e), Several watercraft in disrepair and a cargo trailer without a tag stored in the rear of the property; and Chapter 9A, Section 9A-12(a), Miscellaneous items and debris stored in the carport.

- 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 subject property, located within City limits, stating on November 23, 2010, he observed the following: boats; trailers, upside-down camper shell; seat; several stacks of tires; carport and side yard full of debris. He announced a Notice of Violation/Order for Corrective Action requiring all violations to be eliminated was issued and

subsequently received by the respondent on November 8, 2010; however, a December 28, 2010, re-inspection found the violations had not been corrected. He advised a Notice of Hearing was posted on the property on January 10, 2010, adding as January 25, 2011, one unregistered vehicle and a differential remained. He mentioned a tire had been placed on the trailer; thus, almost all violations had been eliminated.

- Ms. Sepanik MOVED, Mr. Poitras SECONDED the City had presented a prima facie case. MOTION CARRIED UNANIMOUSLY.
- Ms. Perry asked if the home was occupied.
- Mr. Wright replied affirmatively.
- Ms. Sepanik MOVED, Mr. Ashworth 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 15 days of receipt of this Order subject to a fine of up to \$250 per day. MOTION CARRIED UNANIMOUSLY.

F. 10-42058 - CODE COMPLIANCE OFFICER - RANDY WRIGHT

Respondent: Julian T. & Joelle R. Beverly

Address of Violation: 1480 Narranja Street

Violation of Chapter 9A, Section 9A-12(a), Visual blight; and Chapter 26, Section 26-8.11(g), Outside storage; and Chapter 26, Section 26-8.11(c), Tall grass and/or weeds over twelve (12) inches in height throughout the rear yard.

- Mr. Wright requested a continuance as the respondents had begun to clean up the yard.
- Mr. Poitras MOVED, Mr. Ashworth SECONDED to continue Case #10-42058 to February 23, 2011. MOTION CARRIED UNANIMOUSLY.

G. 10-42167 - CODE COMPLIANCE OFFICER - RANDY WRIGHT

Respondent: James W. Fischer

Address of Violation: 428 Showalter Avenue

Violation of Chapter 26, Section 26-8.11(c)(e), Tall grass and/or weeds; and Chapter 26, Section 26-8.11(g); and Chapter 9A, Section 9A-12(a), Miscellaneous items stored outside.

- 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 on December 20, 2010, he observed the following: tall grass and weeds; several chairs; storage containers; cabinet; pallet; weeds overgrowing the sidewalk. He announced a Notice of Violation/Order for Corrective Action requiring all violations to be eliminated was issued and subsequently received by the respondent on December

24, 2010; however, a January 25, 2011, re-inspection found the violations had not been corrected. He advised a Notice of Hearing was posted on the property on January 13, 2011. He reported as of January 24, 2011, the furniture had been removed; however, none of the weeds had been cut.

- Ms. Sepanik MOVED, Mr. Poitras 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 30 days of receipt of this Order subject to a fine of up to \$250 per day. MOTION CARRIED UNANIMOUSLY.

H. 11-42304 - BUILDING OFFICIAL - RANDALL COLE

Respondent: Breck and Minervas Painting, Inc.
c/o Michael B. Hankison

Address of Violation: 619 Madrid Boulevard

Pursuant to Florida Statutes, Title XI, Chapter 162, Sections 162.06(4) and 162.09(1), for an irreversible and irreparable Violation of Chapter 7, Section 7-11(a), Performing work without a Certificate of Competency.

- City Attorney Levin requested a continuance to allow for proper service on the respondent.
- Mr. Council MOVED, Mr. Poitras SECONDED to continue Case #11-42304 to February 23, 2011. MOTION CARRIED UNANIMOUSLY.
- Mr. Council commented on the potential for a case such as this to result in the imposition of fines, asking how same would be handled.
- City Attorney Levin replied this case had not been filed against the property owner but rather the contractor, stating the City had the authority under State Statute to place a lien on any personal property.
- Mr. Council clarified the property owner was an innocent victim, notwithstanding they had not ensure their contractor was legitimately licensed.

Note: Item I was heard following Item D.

I. 10-42100 - CODE COMPLIANCE OFFICER - MARICELA PERDOMO

Respondent: First Methodist Church of Punta Gorda

Address of Violation: 507 West Marion Avenue

Violation of Chapter 26, Section 26-13.5(a); and Chapter 26, Section 26-11.6(c), Banners and signs displayed, including in the City right-of-way.

- Mr. Don Knoepfle, respondent, entered a plea of not guilty.

- Ms. Perdomo displayed several photographs of the subject property, located within City limits, stating on December 9, 2010, she observed 2 banners and signs promoting a church event, one located on the property and the other in the City right-of-way. She announced a Notice of Violation was issued and subsequently received on December 14, 2010, requesting the banners be removed or a Temporary Promotional permit be obtained. She noted the banners remained as of her inspection on January 11, 2011, adding a Notice of Hearing was hand delivered on January 12, 2011. She reported the banner was removed as of a January 25, 2011 inspection; however, since the Notice of Hearing was issued, the banners and signs were posted on two other occasions without a permit.
- Ms. Sepanik confirmed the signs had since been removed.
- Ms. Perdomo agreed, stating the respondent need only obtain a no-charge, Temporary Promotional permit for future events.
- Ms. Perry asked if such permits had been obtained for past events.
- Ms. Perdomo replied in the negative.
- Ms. Sepanik MOVED, Mr. Viola SECONDED the City had presented a prima facie case. MOTION CARRIED UNANIMOUSLY.
- Mr. Knoepfle announced he was the business manager, stating there had been a change in staff at the church as of January 3, 2011. He provided a detailed review of an overlap/change in staff, including the church's pastor, all of which led to the subject violations.
- Ms. Sepanik suggested Mr. Knoepfle meet with Code Compliance Division staff on site to determine the allowed sign locations. She further stated the process for obtaining a Temporary Promotional permit was quite simple and free of charge.
- Mr. Poitras MOVED, Mr. Ashworth 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 5 days of receipt of this Order subject to a fine of up to \$250 per day. MOTION CARRIED UNANIMOUSLY.

Note: Item J was heard following Item H.

J. 10-42138 - CODE COMPLIANCE OFFICER - RANDY WRIGHT

Respondent: Tuscan Lodge #92
c/o John H. Gamble

Address of Violation: 629 East Charlotte Avenue

Violation of Chapter 26, Section 26-8.11(c)(e), Tall grass and/or weeds over twelve (12) inches in height; and Chapter 26, Section 26-8.11(g), Several pieces of wood stacked on the stairs; and Chapter 26, Section 26-8.11(a), Exterior walls of the

structure discolored and mildewed; and Chapter 26, Section 26-8.11(b), Several windows missing and covered with plywood on the structure.

- 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 on December 16, 2010, he observed the following: tall grass and weeds; several pieces of wood stacked on the stairs; discolored and mildewed exterior walls; several missing windows covered with plywood. He announced a Notice of Violation/ Order for Corrective Action requiring all violations to be eliminated within 21 days of receipt of the notice was issued and subsequently received by the respondent on December 21, 2010; however, a January 12, 2011, re-inspection found the violations had not been corrected. He advised a Notice of Hearing was posted on the property on January 14, 2011, adding same was also served by certified mail on January 15, 2011. He reported as of January 24, 2011, all violations remained.
- Ms. Sepanik MOVED, Mr. Poitras SECONDED the City had presented a prima facie case. MOTION CARRIED UNANIMOUSLY.
- Ms. Sepanik asked where the notices were being sent.
- Mr. Wright replied a Port Charlotte address.
- Ms. Perry questioned the use of this building.
- Mr. Wright replied this location had formerly been called the "Boxing Club" but had been vacant since approximately 2005.
- Ms. Sepanik MOVED, Mr. Viola SECONDED to find the respondent guilty, to issue a Cease & Desist Order from any future violations and to require the property to be brought into compliance within 30 days of receipt of this Order subject to a fine of up to \$250 per day. MOTION CARRIED UNANIMOUSLY.

K. 10-41492 - CODE COMPLIANCE OFFICER - MARICELA PERDOMO

Respondent: Timothy T. Coons

Address of Violation: 420 West Olympia Avenue

Violation of Chapter 26, Section 26-6.3, Lot size; and Chapter 26, Section 26-3.7(g)(1)(2)(3)(4)(5)(6)(7), Development standards; and Chapter 26, Section 18.2(c)(e), Illegally subdivided lots.

- Mr. Stevens noted the respondent was not present, confirming there was no objection to entering a not guilty plea on his behalf.
- Ms. Perdomo displayed several photographs of the subject property, located within City limits, stating same had been illegally subdivided into two non-conforming lots. She explained the property was originally one parcel, adding on November 6, 2010, a

Courtesy Notice was issued requesting the properties be combined into a single parcel within 20 days. She noted on November 5, 2010, the violation had not been corrected; thus, a Notice of Violation was sent but returned undeliverable. She continued the property was posted on December 10, 2010; however, the violation had not been corrected as of January 12, 2011; thus, a Notice of Hearing was posted and received by certified mail on January 15, 2011. She concluded the violation remained in that the two lots had yet to be combined into one parcel as of January 25, 2011.

- Mr. Poitras MOVED, Mr. Viola SECONDED the City had presented a prima facie case. MOTION CARRIED UNANIMOUSLY.
- Ms. Sepanik asked when the subdivision took place.
- Ms. Perdomo expressed uncertainty regarding same, stating the property was originally listed under a different name.
- Discussion ensued with regard to the proper procedure for the subdivision of lots.
- Ms. Sepanik confirmed the same person owned the entire property.
- Ms. Perdomo advised the owner was Mr. Timothy Coons who purchased same from Claymore Properties. She noted it was purchased as two separate parcels.
- City Attorney Levin stated lot 35 was where the house was located, adding Mr. Coons purchased both parcels. He confirmed Mr. Coons was in violation of the ordinance by attempting to sell the vacant parcel. He inquired how staff became aware of his attempt to split the parcel for resale.
- Ms. Perdomo responded the Charlotte County Property Appraiser indicated Mr. Coons created two lots.
- City Attorney Levin confirmed same was done by request of Mr. Coons.
- Ms. Perdomo corrected her earlier statement with regard to the previous owner, indicating same was Mr. Fox.
- Ms. Sepanik inquired if there had always been two lots with only one being buildable.
- Ms. Perdomo advised at one point there was only one parcel which had subsequently been divided into two lots.
- Mr. Stevens asked how same could be accomplished without permission of the City.
- City Attorney Levin opined the Property Appraiser did so without the knowledge of the City.
- Ms. Perdomo added the vacant lot was too small for construction.
- Mr. Council stated the lots had not been legally separated.
- City Attorney Levin confirmed same was correct from the City's perspective. He advised the Property Appraiser could create separate tax identification parcels; however, he had no authority to supersede the City's zoning code.

- City Attorney Levin inquired how the City became aware the property had been separated.
- Ms. Teri Tubbs, Zoning Official, responded she received inquiries from realtors when the property went into foreclosure as to whether the vacant lot was buildable. She stated she had been provided with surveys of the two parcels which indicated the structure's wooden deck extended over the property line onto the vacant lot.
- Mr. Stevens confirmed there was no grandfathering relevant to this case.
- Discussion ensued with regard to the size of lots in the immediate area.
- City Attorney Levin inquired how staff knew the vacant lot was not a nonconforming lot of record.
- Ms. Tubbs replied the two lots were combined and the house constructed on the combined parcel, adding the subdivision occurred after the house was constructed.
- City Attorney Levin asked if the combined parcel eliminated the character of two separate lots under the City's zoning code.
- Ms. Tubbs responded affirmatively.
- Ms. Perry MOVED, Mr. Council SECONDED to find the respondent guilty, to issue a Cease & Desist Order from any future violations and to require the property to be brought into compliance within 15 days of receipt of this Order subject to a fine of up to \$250 per day. MOTION CARRIED UNANIMOUSLY.

UNFINISHED BUSINESS

A. Hearing Imposing Penalty

09-38260 – ZONING OFFICIAL – TERI TUBBS

Respondent: Linda-Louise (for the family Christian)

Address of Violation: 2543 Brazilia Court

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

- Ms. Tubbs announced the property remained in violation as of her inspection this date; therefore, the violation had existed for an additional 35 days.
- Mr. Poitras MOVED, Ms. Perry SECONDED to find the respondent in violation of the Board's Order and to impose a fine of \$8,750 representing \$250 per day for 35 days of non-compliance. MOTION CARRIED UNANIMOUSLY.

B. Hearing Imposing Penalty

10-39687 – CODE COMPLIANCE OFFICER – MARICELA PERDOMO

Respondent: Linda-Louise (for the family Christian)

Address of Violation: 2543 Brazilia Court

Violation of Chapter 26, Section 26-8.11(e)(f), Dead and dying palm fronds on the palm tree in the rear of the property near the canal.

- Ms. Perdomo displayed a photograph of the subject violation, reporting the property continued to be in violation for another 35 days from December 22, 2010, to January 25, 2011.
- Ms. Sepanik MOVED, Mr. Poitras SECONDED to find the respondent in violation of the Board's Order and to impose a fine of \$8,750 representing \$250 per day for 35 days of non-compliance. MOTION CARRIED UNANIMOUSLY.

C. Hearing Imposing Penalty – REPEAT VIOLATION

10-40466 – CODE COMPLIANCE OFFICER – MARICELA PERDOMO

Respondent: Linda-Louise (for the family Christian)

Address of Violation: 2543 Brazilia Court

Violation of Chapter 7, Section 7-35(d), No house numbers displayed on the structure at 2543 Brazilia Court.

- Ms. Perdomo displayed a photograph of the subject violation, reporting the property continued to be in violation for another 35 days from December 22, 2010, to January 25, 2011.
- Mr. Poitras MOVED, Ms. Sepanik SECONDED to find the respondent in violation of the Board's Order and to impose a fine of \$17,500 representing \$500 per day for 35 days of non-compliance. MOTION CARRIED UNANIMOUSLY.
- Mr. Council questioned the status of the Court case involving this respondent.
- City Attorney Levin replied a shade meeting had been scheduled to consider the settlement proposal from the respondent.

Note: Item D was heard following Item T.

D. 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 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 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 Chapter 9A, Section 9A-12(b), Several broken pieces of concrete in the rear yard; and Chapter 26, Section 26-8.11(b), A broken window on the front of the house.

- Mr. Wright reported the property continued to be in violation for another 34 days from December 22, 2010 through January 24, 2011.
 - Mr. Council MOVED, Mr. Viola SECONDED to find the respondent in violation of the Board's Order and to impose a fine of \$8,500 representing \$250 per day for 34 days of non-compliance. MOTION CARRIED UNANIMOUSLY.
- E. Hearing Imposing Penalty
 10-40776 - CODE COMPLIANCE OFFICER - RANDY WRIGHT
 Respondent: Elbert H. Van Nostrand & Bonnie Jacobs
 Address of Violation: 551 Toulouse Drive
 Violation of Chapter 9A, Section 9A-12(a)(e), Inoperative and unregistered boat which is in a state of decay.
- Mr. Wright reported the property continued to be in violation for another 34 days from December 22, 2010 to January 24, 2011. He mentioned the respondent had been offered some assistance but had refused same.
 - Ms. Perry MOVED, Mr. Viola SECONDED to find the respondent in violation of the Board's Order and to impose a fine of \$8,500 representing \$250 per day for 34 days of non-compliance. MOTION CARRIED UNANIMOUSLY.
- F. Hearing Imposing Penalty
 10-39946 - CODE COMPLIANCE OFFICER - RANDY WRIGHT
 Respondent: Elbert H. Van Nostrand & Bonnie Jacobs
 Address of Violation: 551 Toulouse Drive
 Violation of Chapter 26, Section 26-8.11(a), More than 20% of the roof structure is discolored and mildewed.
- Mr. Wright reported the property continued to be in violation for another 34 days from December 22, 2010 to January 24, 2011.
 - Mr. Poitras MOVED, Ms. Sepanik SECONDED to find the respondent in violation of the Board's Order and to impose a fine of \$8,500 representing \$250 per day for 34 days of non-compliance. MOTION CARRIED UNANIMOUSLY.
 - Mr. Ashworth asked if another agency could intervene in the cases involving Items E and F, stating it appeared the respondent may have some mental health issues.
 - City Attorney Levin replied the issue was that that the property was homestead property, preventing the City from foreclosing on same. He advised the special assessment lien was placed on the property to ensure the City was paid. He advised State Statute imposed certain limitations on municipalities, adding it may be necessary to petition the court for an injunction; however, he was unsure whether the courts would view an unkempt roof as a health safety issue.

- Mr. Poitras asked if a threshold was set beyond which additional action would be taken.
- City Attorney Levin replied a three month threshold following recorded liens existed, adding in some cases the costs of litigation and attorney fees exceeded the cost of the fines, thus it was prudent to move forward with foreclosure. He concluded the City could not foreclose on homesteaded property.
- Mr. Council noted the respondent was not a recluse but rather went out each day, volunteering, and was able to drive.
- City Attorney Levin replied some municipalities placed a sign on the property indicating the property owner was in violation of the law, owed a certain amount of money or other information related to the violation; however, he did not feel that would be done in this area.

Note: Item G was heard following Items R and S.

G. Hearing Imposing Penalty

10-40594 - CODE COMPLIANCE OFFICER - DAWN LEWIS

Respondent: U.S. Bancorp

Address of Violation: 2531 Rio Largo Court

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

- Ms. Lewis reported 44 days of non-compliance existed from December 14, 2010 through January 25, 2011.
- Mr. Council MOVED, Mr. Viola SECONDED to find the respondent in violation of the Board's Order and to impose a fine of \$11,000 representing \$250 per day for 44 days of non-compliance.
- VOTING AYE: Ashworth, Council, Perry, Poitras, Sepanik, Viola
- VOTING NAY: Stevens
- MOTION CARRIED.

H. Hearing Imposing Penalty

10-40599 - CODE COMPLIANCE OFFICER - DAWN LEWIS

Respondent: SunTrust Mortgage, Inc.

Address of Violation: 423 La Sila Court

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

- Mr. Stevens announced this case had been dismissed.

I. Hearing Imposing Penalty

10-40719 - CODE COMPLIANCE OFFICER - DAWN LEWIS

Respondent: BAC Home Loans Servicing, L.P.

Address of Violation: 1480 Narranja Street

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

- Ms. Lewis reported 43 days of non-compliance from December 14, 2010 through January 25, 2011.
- Mr. Ashworth MOVED, Ms. Sepanik SECONDED to find the respondent in violation of the Board's Order and to impose a fine of \$10,750 representing \$250 per day for 43 days of non-compliance.

VOTING AYE: Ashworth, Council, Perry, Poitras, Sepanik, Viola

VOTING NAY: Stevens

MOTION CARRIED.

J. Hearing Imposing Penalty

10-40715 - CODE COMPLIANCE OFFICER - DAWN LEWIS

Respondent: SunTrust Mortgage, Inc.

Address of Violation: 312 Durrance Street

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

- Ms. Lewis reported 44 days of non-compliance from December 13, 2010 through January 25, 2011.
- Mr. Council MOVED, Mr. Poitras SECONDED to find the respondent in violation of the Board's Order and to impose a fine of \$11,000 representing \$250 per day for 44 days of non-compliance. MOTION CARRIED UNANIMOUSLY.

K. Hearing Imposing Penalty

10-40821 - CODE COMPLIANCE OFFICER - DAWN LEWIS

Respondent: Wells Fargo Bank, N.A.

Address of Violation: 1481 West Marion Avenue

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

- Ms. Lewis reported 45 days of non-compliance from December 12, 2010 through January 25, 2011.
- Mr. Viola MOVED, Ms. Sepanik SECONDED to find the respondent in violation of the Board's Order and to impose a fine of \$11,000 representing \$250 per day for 45 days of non-compliance. MOTION CARRIED UNANIMOUSLY.

L. Hearing Imposing Penalty

10-40583 - CODE COMPLIANCE OFFICER - DAWN LEWIS

Respondent: SunTrust Mortgage, Inc.
Address of Violation: 312 West McKenzie Street
Violation of Chapter 9A, Section 9A-17, Failure to submit a Distressed Real Property Registration form.
Ms. Perry MOVED, Mr. Council SECONDED to dismiss Case #10-40583. MOTION CARRIED UNANIMOUSLY.

M. Hearing Imposing Penalty

10-40759 - CODE COMPLIANCE OFFICER - DAWN LEWIS

Respondent: Wachovia Mortgage, FSB

Address of Violation: 118 Hibiscus Drive

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

- Ms. Lewis reported 45 days of non-compliance from December 12, 2010 through January 25, 2011.
- Ms. Sepanik MOVED, Mr. Viola SECONDED to find the respondent in violation of the Board's Order and to impose a fine of \$11,250 representing \$250 per day for 45 days of non-compliance. MOTION CARRIED UNANIMOUSLY.

N. Hearing Imposing Penalty

10-40750 - CODE COMPLIANCE OFFICER - DAWN LEWIS

Respondent: BAC Home Loans Servicing, L.P.

Address of Violation: 617 Vinca Rosea

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

- Ms. Lewis reported 43 days of non-compliance from December 14, 2010 through January 25, 2011.
- Mr. Council MOVED, Mr. Viola SECONDED to find the respondent in violation of the Board's Order and to impose a fine of \$10,750 representing \$250 per day for 43 days of non-compliance. MOTION CARRIED UNANIMOUSLY.

O. Hearing Imposing Penalty

10-40782 - CODE COMPLIANCE OFFICER - DAWN LEWIS

Respondent: Wachovia Mortgage, FSB

Address of Violation: 1130 La Palma Court

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

- Ms. Lewis reported 45 days of non-compliance from December 12, 2010 through January 25, 2011.

- Mr. Viola MOVED, Ms. Sepanik SECONDED to find the respondent in violation of the Board's Order and to impose a fine of \$11,250 representing \$250 per day for 45 days of non-compliance. MOTION CARRIED UNANIMOUSLY.

P. Hearing Imposing Penalty

10-40779 - CODE COMPLIANCE OFFICER - DAWN LEWIS

Respondent: SunTrust Mortgage, Inc.

Address of Violation: 2117 Deborah Drive

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

- Ms. Lewis reported 44 days of non-compliance from December 13, 2010 through January 25, 2011.
- Ms. Perry MOVED, Ms. Sepanik SECONDED to find the respondent in violation of the Board's Order and to impose a fine of \$11,000 representing \$250 per day for 44 days of non-compliance. MOTION CARRIED UNANIMOUSLY.

Q. Hearing Imposing Penalty

10-40778 - CODE COMPLIANCE OFFICER - DAWN LEWIS

Respondent: BAC Home Loans Servicing, L.P.

Address of Violation: 35 Tropicana Drive

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

- Ms. Lewis reported 43 days of non-compliance from December 14, 2010 through January 25, 2011.
- Mr. Poitras MOVED, Ms. Perry SECONDED to find the respondent in violation of the Board's Order and to impose a fine of \$10,750 representing \$250 per day for 43 days of non-compliance. MOTION CARRIED UNANIMOUSLY.

NOTE: Items R and S were heard following Item F.

R. Hearing Imposing Penalty

10-41468 - 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(a), Visual blight; and Chapter 26, Section 26-8.14(b), Outside storage.

- Mr. Wright reported he had inspected the property on January 24, 2011, advising the violations still remained, thus there were 40 additional days of non-compliance from December 16, 2010 through January 24, 2011.

- Ms. Sepanik MOVED, Mr. Viola SECONDED to find the respondent in violation of the Board's Order and to impose a fine of \$10,000 representing \$250 per day for 40 days of non-compliance. MOTION CARRIED UNANIMOUSLY.
- S. 10-41631 - CODE COMPLIANCE OFFICER - RANDY WRIGHT
- Respondent: Jeffrey A. Lund
- Address of Violation: 7524 Viburnum
- Violation of Chapter 26, Section 26-8.11(a), More than 20% of the exterior walls are discolored and mildewed.
- Mr. Wright requested a continuance to the Board's next meeting.
 - Mr. Poitras MOVED, Ms. Sepanik SECONDED to continue Case #10-41631 to February 23, 2011. MOTION CARRIED UNANIMOUSLY.

NOTE: Item T was heard following Item G.

- T. 10-40346 - CODE COMPLIANCE OFFICER - MARICELA PERDOMO
- Respondent: Mickel H. & M. Patricia Werner
- Address of Violation: 1940 Aqui Esta Drive
- Violation of Chapter 26, Section 26-8.26, Temporary fence constructed of green agricultural grade fencing material located in the rear of the property.
- Ms. Perdomo reported this case was continued from the Board's previous meeting.
 - Mr. Stevens confirmed there was no objection to enter a plea of not guilty on behalf of the respondent, who was not present.
 - Ms. Perdomo reported the case had been continue to provide time for the respondent to obtain a permit to remove the subject fence and install a garden fence on the rear of the property. She advised the tenant had to leave the country, thus was unable to complete the work prior to this meeting. She noted the respondent had removed the fencing, adding only the stakes remained; however, they were in place to denote the boundary for installation of the new fence. She advised the respondent had indicated it would take seven to eight days for completion.
 - Ms. Sepanik MOVED, Mr. Viola SECONDED the City had presented a prima facie case. MOTION CARRIED UNANIMOUSLY.
 - Mr. Poitras MOVED, Mr. Viola SECONDED to find the respondent guilty, to issue a Cease & Desist Order requiring compliance within 30 days of receipt of the Board's Order subject to a fine of up to \$250 per day. MOTION CARRIED UNANIMOUSLY.

Note: Item U was heard following Item I, New Business.

- U. Hearing Imposing Penalty - REPEAT VIOLATION
- 10-42026 - CODE COMPLIANCE OFFICER - RANDY WRIGHT
- Respondent: Environmental Marketing & Distributing, Inc.

Address of Violation: 1205 Elizabeth Street, Unit B

Violation of Chapter 12, Section 12-1, Failure to pay the Local Business Tax for 2011.

- Mr. William Hicks, respondent, announced difficult economic times over the past few years had forced him to lay off much of his administrative staff, adding he had not been aware of the subject violations. He explained he was present to request a reduction of the fines which had already been imposed. He noted he had only become aware of the violations in December 2010.
- Ms. Sepanik requested staff outline the case for the Board.
- Mr. Wright confirmed the subject property was located within City limits, stating the Board was first presented with this case on February 24, 2010, when the respondent refused to pay his Local Business Tax (LBT). He stated as of March 30, 2010, the LBT had still not been paid, adding on April 28, 2010, the Board found the respondent in violation and imposed a fine of \$1,375, representing a fine of \$25 per day for 55 days of non-compliance from March 5, 2010, to April 28, 2010. He announced the respondent paid the LBT on May 14, 2010. He continued an inspection of the City's LBT records on December 1, 2010, found the respondent had not paid his 2011 LBT, which had been due September 30, 2010; therefore, the respondent was alleged to be a repeat violator of the Code Compliance Order issued on February 24, 2010. He advised on December 22, 2010, the Board found the respondent to be a repeat violator and imposed a fine of \$8,200, representing a fine of \$100 per day for 82 days of non-compliance from October 1, 2010, to December 21, 2010, which would continue to run until the respondent came into compliance. He noted subsequent inspections showed the 2011 LBT had not been paid, thus showing the respondent to be a repeat violator of City Code. He stated the respondent paid the 2011 Local Business Tax (LBT) on January 13, 2011, after the property was posted on December 22, 2010.
- City Attorney Levin asked Mr. McCarty to testify with respect to whether or not the various orders and notices were received by the respondent.
- Mr. McCarty replied all notices, orders, etc., were received by the respondent with the exception of the final notice, which had been posted, noting Mr. Hicks had the posting in hand this date.
- City Attorney Levin confirmed Mr. McCarty had written evidence confirming receipt of such notices and orders.
- Mr. Ashworth asked who signed for receipt of the notices.
- Mr. McCarty replied "C. Holt" and "Mike Zimmerman."
- Ms. Sepanik asked if those individuals worked for Mr. Hicks.

- Mr. Hicks replied affirmatively. He maintained he had not received any notices of the subject violations before December 2010; however, he had been unable to pay the fines which had accrued at that time as business was quite slow. He mentioned he had experienced difficulty in even meeting his payroll. He acknowledged the coincidence between the posting and his payment of the 2011 LBT; however, he had always intended to pay his LBT. He pointed out the original LBT was \$65, asserting a fine of \$8,200 was excessive from a percentage standpoint and unreasonable.
 - Mr. Poitras asked if his business had been active since February 24, 2010.
 - Mr. Hicks replied affirmatively.
 - Mr. Poitras asked if Mr. Hicks had been aware of all of the notices described by Mr. Wright.
 - Mr. Hicks replied they were not brought to his attention.
 - Mr. Poitras clarified Mr. Hicks paid an 2010 LBT on May 14, 2010; thus, the respondent was aware of this annual requirement.
 - Mr. Hicks acknowledged he was guilty of failing to pay his LBT on time and of being irresponsible with regard to his accounting. He asserted it would be impossible for him to pay the total fines which had accrued.
 - Mr. Poitras summarized current fines totaled \$8,200.
 - Mr. Wright added another 22 days of non-compliance had accrued between December 22, 2010, to January 12, 2011, when the LBT was paid.
 - Ms. Perry questioned the amount of time Mr. Hicks had been in business.
 - Mr. Hicks replied he had been in business for himself for approximately eight years, five of which were in Punta Gorda.
 - Ms. Perry asked if Mr. Hicks had paid his LBT during his first three to four years in Punta Gorda.
 - Mr. Hicks replied affirmatively, stating he had always attempted to do so. He noted he had taken on many additional duties over the past two years. He contended he would have paid the original LBT far in advance if he had been aware of the potential for a fine of over \$8,000.
 - Discussion ensued with regard to an appropriate fine amount.
 - Ms. Sepanik MOVED, Ms. Perry SECONDED to find the respondent in violation of the Board's Order and to reduce all existing fines to \$500. MOTION CARRIED UNANIMOUSLY.
- V. Report: Orders Recorded Three Months or More
- No discussion.

ADJOURNMENT

- Meeting Adjourned: 12:17 p.m.

Jim Stevens, Chairman

Mary Kelly, Recording Secretary