

**CODE ENFORCEMENT BOARD
MEETING
MARCH 25, 2009**

MEMBERS PRESENT: Heinz Schmidt, Chairman
Kate Albers, Tom Bailey, Richard Kresge,
Paul Meyer, Jim Stevens, Ed Viola

OTHERS PRESENT: David Levin, City Attorney; Dawn Lewis, Maricela Perdomo, Randy Wright, Code Compliance Officers; Teri Tubbs, Zoning Official; Randy Cole, Building Official; John Lundy, Police Department; John Polk, Board Attorney, Councilmembers Bill Albers, Charles Wallace; Mayor Larry Friedman; Vice Mayor Harvey Goldberg; Donyl Yates, Board Secretary; Norman Ashworth, Alternate Board Member; Ed Wotitzky, Ron Oskey, George Guill, Roy Wiley

CALL TO ORDER/ANNOUNCEMENTS

- A. Roll Call
- B. Next Scheduled Meeting - April 22, 2009

APPROVAL OF MINUTES

- A. Meeting of February 25, 2009
 - Mr. Meyer MOVED, Mr. Bailey SECONDED approval of the February 25, 2009 minutes. MOTION CARRIED UNANIMOUSLY.
 - Recording Secretary Kelly swore in all participants.

NEW BUSINESS

- A. 09-36811 - CODE COMPLIANCE OFFICER - DAWN LEWIS
 - Respondent: The City Marketplace Inc.
 - Address of Violation: 115 Tamiami Trail
 - Violation of Section 26-11.3(h), Permitted sign incidental; Section 26-11.8(d), Signs in right-of-way; Section 26-19.3(a)(92), Definitions - fence; Section 26-18.2(b), Violations; Section 26-8.5(b), Fences, walls and hedges.
 - City Attorney David Levin stated the respondent in this case had initially been charged with violation of Section 26-11.8(d), Signs in right-of-way (ROW); however, staff had subsequently determined the signs were not located in the ROW; thus, that charge had been withdrawn.
 - Mr. Ed Wotitzky, respondent's attorney, entered a plea of not guilty on behalf of his client.
 - Ms. Dawn Lewis, Code Compliance Officer, stated on March 17, 2009, she inspected the subject property which was located within the City limits, adding she observed several "No Parking/Violators will be Towed at the Owners Expense" signs posted

without a permit as well as chains surrounding the site. She explained the chains did not meet the fence requirements of City Code. She displayed photographs of the property depicting the above, noting she confirmed no sign or fence permits were in place. She stated she was then instructed to post a "Stop Work Order" at the subject location, adding she also provided Mr. Ron Oskey, respondent, with a copy of same by facsimile. She announced a Statement of Violation/Notice of Hearing was served to the respondent on March 17, 2009, and the property was posted requiring the property to be brought into compliance immediately. She advised notices were also hand delivered to the respondent via process service. She stated a re-inspection of the property on March 23, 2009, showed the chains surrounding the site remained; however, signs attached to the chains had been removed. She noted two signs posted on the property abutting the City's ROW, to the north end and one on the south end, remained. She concluded no permits had been issued as of this date.

- Mr. Wotitzky asked how many signs were located on the property as of this date.
- Ms. Lewis replied her last inspection took place on March 24, 2009, stating a total of 3 signs remained at that time.
- Mr. Wotitzky requested clarification of the violation with regard to the signs.
- Ms. Lewis replied the signs were not permitted.
- Mr. Wotitzky drew Ms. Lewis' attention to the Notice of Violation of March 18, 2009, stating it appeared the noted violations referenced incidental signs.
- Ms. Lewis agreed.
- Mr. Wotitzky asked if this was the only notice received by Mr. Oskey in connection with the violation.
- Ms. Lewis replied affirmatively.
- Mr. Wotitzky asked where in the notice a violation of City ordinance was spelled out because of lack of a permit.
- Ms. Lewis replied the violation description stated a permit was required for all uses of incidental signs, adding the corrective action required removal of illegal signs and chains from the property. She explained the signs were illegal as they were not permitted.
- Mr. Wotitzky asked if Ms. Lewis' basis for a permit requirement was because of the verbiage "permitted for all uses."
- Ms. Lewis replied City ordinance required a permit to post signs.
- Mr. Wotitzky asked where same was spelled out.
- Ms. Lewis asked the Zoning Official to address same.

- Mr. Wotitzky stated it appeared Ms. Lewis was unaware of the specific section of City Code indicating a permit was required for the signs.
- City Attorney Levin responded same was not Ms. Lewis' primary responsibility.
- Mr. Wotitzky asserted no evidence had been presented proving a permit was required. He then commented on Section 26-19.3(a)(2), which was a definition, asking if the allegation was his client had violated a definition.
- Ms. Lewis replied the chains were, by definition, a fence, adding the lack of a permit for same was a Code violation.
- Mr. Wotitzky asked if the City was alleging a violation of the definition section of City Code.
- Ms. Lewis replied posting the chain on the property was considered a fence, reiterating there was no permit for same, which was a violation.
- Mr. Wotitzky asked if Ms. Lewis believed the chain was a fence.
- Ms. Lewis replied affirmatively.
- Mr. Wotitzky asked on what Ms. Lewis based that conclusion.
- Ms. Lewis replied City Code defined a fence as a structure which was used to delineate or define the boundary, particularly for privacy, or to delineate the public or private realm of a property.
- Mr. Wotitzky asked if the chain extended completely around the boundary of the property.
- Ms. Lewis replied affirmatively to her knowledge, stating she observed the chain on the north side of U.S. 41, along West Retta Esplanade and Taylor Street.
- Mr. Wotitzky asked if the displayed photographs reflected every piece of the chain.
- Ms. Lewis replied she believed they reflected a fair portion of same.
- Mr. Wotitzky cited an example of a private property owner who wished to prohibit entrance into their driveway and subsequently strung a chain across the entrance to same, asking if that would be interpreted as a fence.
- Ms. Lewis replied she would interpret same as a boundary.
- Mr. Wotitzky asked if the same example was considered a violation.
- Ms. Lewis replied that was correct to her knowledge, stating she was addressing residences under similar circumstances.
- Mr. Wotitzky asked if he would be required to obtain a permit and to construct a fence of the materials delineated in City Code, i.e., brick, stucco, wrought iron, stone or a similar combination, if he simply wished to prohibit access to his driveway.

- Ms. Lewis replied Code restrictions were dependent upon the zoning designation, stating chain link was allowed in certain zoning districts as opposed to the subject location.
- City Attorney Levin interjected the cited provision was for non-residential.
- Mr. Wotitzky asked if a driveway of a downtown business would fall under the same restrictions.
- Ms. Lewis replied that was her interpretation.
- Mr. Wotitzky asked if Ms. Lewis had received any guidance regarding her interpretation.
- Ms. Lewis replied affirmatively, specifically her supervisor, Mr. Randy Cole, Building Official.
- City Attorney Levin added Ms. Lewis had also discussed this matter with himself.
- Mr. Wotitzky asked if Ms. Lewis had been instructed with regard to that interpretation by either Mr. Cole or City Attorney Levin.
- Ms. Lewis replied there had been a discussion of the Code on March 17 and 23, 2009.
- Mr. Wotitzky asked if a discussion had ever been held with regard to chains being considered fences prior to those dates.
- Ms. Lewis replied affirmatively.
- Mr. Wotitzky asked if Ms. Lewis was familiar with an agreement entered into by his client and the Community Redevelopment Agency (CRA)/City in August 2003.
- Ms. Lewis replied she was not.
- Mr. Wotitzky asked if all conclusions with respect to the subject violations had been based on the existing City Code.
- Ms. Lewis replied affirmatively.
- Mr. Wotitzky confirmed consideration had not been given to the City Code in effect in August 2003 when determining whether his client was in violation.
- City Attorney Levin then asked Ms. Teri Tubbs, Zoning Official, if she had observed the chains at the subject location.
- Ms. Tubbs replied affirmatively.
- City Attorney Levin asked if Ms. Tubbs believed the chains constituted a fence.
- Ms. Tubbs replied in her opinion they did as they delineated the boundary of a portion of the property.
- City Attorney Levin asked if the chains required a City permit.
- Ms. Tubbs replied affirmatively.
- City Attorney Levin asked if a permit could be issued.

- Ms. Tubbs replied it could not as the chains did not meet fence material requirements in the City Center (CC) zoning district. She explained in non-residential districts, fences and/or hedges must not exceed eight feet in rear yards and four feet in other applications, adding fences along front, side and street yards must be brick, stucco, wrought iron, stone or similar combinations. She noted these requirements were depicted in Section 26-8.5, Fences, Walls and Hedges.
- City Attorney Levin asked if Ms. Tubbs met with Mr. Oskey to discuss the installation of No Parking signs.
- Ms. Tubbs replied she met with Mr. Oskey on March 13, 2009, stating at that time she was of the opinion he did not need a permit for those signs; thus, she advised him accordingly. She explained she based her interpretation at that time on Section 26-11.5, providing a brief description of same; however, on March 16, 2009, City Attorney Levin disagreed with her interpretation and pointed out Section 11.3, Incidental Signs, included "No Parking" signs, which required a permit.
- City Attorney Levin asked if Ms. Tubbs agreed or disagreed with his view of the Code as presented.
- Ms. Tubbs concluded she agreed with the City Attorney's opinion.
- City Attorney Levin asked if it was unusual for Ms. Tubbs to consult with the City Attorney
- Ms. Tubbs replied it was not, stating she did so quite often. She noted she then contacted Mr. Oskey on March 16, 2009, to correct and explain her error and to advise him of the need for a sign permit.
- City Attorney Levin questioned Ms. Tubbs' opinion as of this date with regard to whether or not the No Parking signs required a permit.
- Ms. Tubbs replied the signs did require a permit issued by the City.
- City Attorney Levin asked what section of the Code indicated that requirement.
- Ms. Tubbs replied Section 26-11.3, Permitted Signs, reading a portion of same into the record. She mentioned Table 11.1 specified whether a sign was allowed and if a permit was required.
- City Attorney Levin displayed an overhead of Table 11.1, asking if the No Parking signs under discussion this date constituted a violation of the City's Land Development Regulations (LDRs).
- Ms. Tubbs replied the signs as they existed this date were in violation of same.
- City Attorney Levin asked if Ms. Tubbs was familiar with the agreement referenced earlier by Mr. Wotitzky.
- Ms. Tubbs replied she was aware of same.

- City Attorney Levin asked if the installation of signs and chains would constitute development as that term was used in the agreement.
- Ms. Tubbs replied she did not believe so.
- Mr. Wotitzky asked if the size of the signs would be allowed if same were permitted with respect to their size, square footage, etc.
- Ms. Tubbs replied they appeared so; however, incidental signs were restricted to three feet in height.
- Mr. Wotitzky read a definition of an “incidental sign” into the record as follows: a sign, generally informational, which has a purpose secondary to the use of the site on which it is located, such as “No Parking,” such signs will be allowed provided they do not exceed two square feet in area and three feet in height.” He expressed confusion as to what was meant with regard to height, asking if same referred to the sign itself or the elevation off the ground.
- Ms. Tubbs replied the sign code defined the computation of sign height to be the distance from the base of the sign at normal grade to the top of the highest attached component of the sign. She continued normal grade was construed to be the newly established grade after construction and exclusive of any filling, berming, mounding or excavating solely for the purpose of locating the sign.
- Mr. Wotitzky opined same contemplated a monument sign such as that at the Freeman House.
- Ms. Tubbs responded any sign attached to the ground at grade or a support at grade would be measured from grade as to height.
- Mr. Wotitzky asked if Ms. Tubbs recalled the 2003 City Code as it related to signs.
- Ms. Tubbs replied she could not quote anything from that time.
- Mr. Wotitzky asked if Ms. Tubbs was basing her opinions solely on whether or not the activities of his client constituted a violation of the current City Code.
- Ms. Tubbs replied she was referencing the current City Code, acknowledging the developer’s agreement tied the property to the Commercial Business District; however, she did not believe the agreement was tied entirely to Revision 31 which was in place at the time it was adopted. She mentioned there were architectural provisions attached to that agreement.
- Mr. Wotitzky asked if Ms. Tubbs was simply speculating.
- Ms. Tubbs countered the CBD and architectural provisions were attached to the agreement.
- Mr. Wotitzky asked if any of those provisions specifically related to signs or chains.

- Ms. Tubbs replied it would not be related to signs as they would not apply in the CBD zoning district.
- Mr. Kresge requested confirmation from staff as to whether the No Parking signs were considered “incidental signs.”
- Ms. Tubbs confirmed same.
- Mr. Bailey MOVED, Mr. Stevens SECONDED the City had presented a prima facie case. MOTION CARRIED UNANIMOUSLY.
- Mr. Wotitzky submitted a copy of the above referenced developer’s agreement into the record, referencing Section 7.08, Applicability of Regulations, asking Mr. Oskey to read same into the record.
- Mr. Oskey did so as follows: “The ordinances and regulations of the City governing the development of the Mall Property at the Effective Date of this Agreement shall continue to govern the development of the said land as modified and superseded by the terms and conditions hereof for the duration of the Agreement and any extension hereof.”
- Mr. Wotitzky asked if protection of the subject property was part of its overall development.
- Mr. Oskey replied affirmatively.
- Mr. Wotitzky asked if Mr. Oskey was familiar with the City Code in effect at the time of execution of the agreement.
- Mr. Oskey replied he was, confirming he had reviewed same.
- Mr. Wotitzky submitted a copy of a portion of Section 26-8(15) into the record, observing same stated fences and hedges were permitted in required yards in accordance with certain restrictions. He questioned Mr. Oskey’s understanding of the provision of the 2003 Code dealing with fences or hedges.
- In response, Mr. Oskey read Section 26-8(15)(b) into the record as follows: “In non-residential districts, fences and/or hedges not to exceed eight (8) feet in total height are permitted in any required yard.
- Mr. Wotitzky asked if any other provision existed in the 2003 Code which designated required materials in connection with construction of fences.
- Mr. Oskey replied he was unaware of any such provision.
- Mr. Wotitzky then submitted a portion of Section 26-9(8), Signs, in effect at the time of execution of the developer’s agreement, asking Mr. Oskey if he could identify same as a true copy.
- Mr. Oskey replied affirmatively.
- Mr. Wotitzky asked if Mr. Oskey had understood the No Parking signs discussed this date were exempt under the 2003 Code.

- Mr. Oskey replied affirmatively.
- Mr. Wotitzky referenced Subsection (1)1, pages 26-131 and 26-132, on the copy just submitted, asking if same was the basis for that understanding.
- Mr. Oskey replied affirmatively. He then read the following excerpt regarding exempt signs from page 26-132, as delineated in the agenda material, into the record at Mr. Wotitzky's request: "Directional or instructional signs. Signs which provide direction or instruction and are located entirely on the property to which they pertain and do not in any way advertise a business and do not exceed six (6) square feet in area; signs identifying restrooms, public telephones, walkways, or signs providing direction such as parking lot entrance and exit signs and those of similar nature."
- Mr. Wotitzky asked if Mr. Oskey found any other provision in his review of the Code which specifically pertained to No Parking signs.
- Mr. Oskey replied he had not.
- Mr. Wotitzky asked if Mr. Oskey had believed he did not require a permit at the time he arranged for installation of the signs and chains.
- Mr. Oskey replied that was correct, stating he also sought verification from the City.
- City Attorney Levin asked Mr. Oskey if he had subsequently been advised those signs were not authorized without permits.
- Mr. Oskey replied affirmatively.
- City Attorney Levin asked Mr. Oskey if he then chose not to apply for such permits.
- Mr. Oskey replied that was correct.
- Mr. Wotitzky confirmed the signs were already up at that point.
- Mr. Viola questioned the permit cost.
- City Attorney Levin replied \$100, which would cover all signs. He then asked Ms. Tubbs if the subject of the chain fence arose during her discussion with Mr. Oskey.
- Ms. Tubbs replied Mr. Oskey had not indicated his intention to barricade, block off or fence off the property in any manner but rather indicated his plan to place No Parking signs in accordance with Florida Statute. She mentioned compliance with State Statute would have required numerous signs placed 25 feet apart in areas which lacked curbing.
- City Attorney Levin then commented on Mr. Oskey's testimony regarding Section 7.08 of the agreement, specifically referencing development of the mall property, asking if Ms. Tubbs believed the posting of signs and erection of a fence would constitute development as that term was contemplated by the agreement.

- Ms. Tubbs replied she stood by her earlier testimony in that this did not contemplate development of the property based on the agreement. She explained development would be actual construction of buildings, providing for a specific use.
- Mr. Wotitzky countered when a land owner was developing, constructing or improving a property, it would be logical for that owner to want to restrict access to the site.
- Ms. Tubbs agreed only upon issuance of a building permit.
- Mr. Wotitzky clarified Ms. Tubbs felt anything outside the scope of a building permit would not be construed to be an action taken in connection with developing a parcel of property.
- Ms. Tubbs concurred, stating development required a building permit. She pointed out Mr. Oskey could certainly apply for a fence permit if he wished to restrict access to his property; however, this would not necessarily constitute development.
- Mr. Wotitzky asked if “development” was defined in the City Code or in the developers agreement.
- Ms. Tubbs expressed uncertainty regarding same.
- Mr. Wotitzky asserted Ms. Tubbs’s opinion was merely “shooting from the hip.”
- Ms. Tubbs countered she was reasonably sure “development” was defined in the existing City Code; however, she did not have same at hand at this time, adding she did not want to guess.
- Mr. Kresge asked if any legal justification existed with regard to the argument that the developers agreement should be based on the 2003 City Code.
- City Attorney Levin replied it was dependent upon whether or not the Board accepted Mr. Wotitzky’s argument that use of the term “development,” as identified in Section 7.08, would include the posting of a sign or fence. He reminded members of the Zoning Official’s testimony that those incidental activities would not constitute development as contemplated in the agreement, adding he did not believe any reasonable person would interpret erection of a sign and/or fence as development.
- Mr. Kresge clarified the Board should conduct their deliberations under the existing City Code.
- Mr. Meyer questioned the direct purpose of placement of the signs and limiting parking.
- Mr. Oskey replied he was looking to reduce his legal liability incurred by so much use of his property, stating same was not a parking lot but rather a demolition site.
- City Attorney Levin clarified the City was in no way saying Mr. Oskey should not take steps to control the use of his property but rather he simply must do so lawfully according to the requirements of City Code.

- Mr. Viola asked if the respondent would be required to remove the fence and signs if he did not prevail this date.
- City Attorney Levin replied the City would be asking the Board for an order requiring the respondent to immediately remove the fences, which staff believed presented a safety hazard. He asserted both the fences and signs must be removed until both were permitted.
- Mr. Schmidt questioned the amount of time Mr. Oskey had allowed parking on the subject property.
- Mr. Wotitzky replied since after Hurricane Charley in August 2004.
- Mr. Schmidt asked if the provisions of Mr. Oskey's insurance policy had changed since that time.
- Mr. Wotitzky replied he was certain the policy was different; however, he could not attest to the specific provisions.
- Mr. Schmidt explained he was attempting to determine the motivation behind Mr. Oskey's actions at this particular point in time.
- Mr. Wotitzky responded he believed his client felt there was a substantial amount of liability. He stated there had been recent conversations with the insurance carrier, adding he believed same was part of that motivation; however, there may have been other motivations.
- Mr. Schmidt commented it would have been simple to contact the City to determine how both parties could share in this enterprise, stating he was confident the City would have been very receptive to same.
- Mr. Oskey countered he had been working on such an enterprise for over three months; however, his recent actions came about as a result of exhaustion from working with the City.
- Mr. Schmidt asked City Attorney Levin to address Mr. Oskey's comments.
- City Attorney Levin responded he believed the City was desirous of working with Mr. Oskey on development of a plan which was consistent with City Code requirements.
- Mr. Meyer observed Section 4.02 of the developers agreement stated Mr. Oskey would be able to provide additional parking spaces for the good of the downtown facilities, asking if any action was being taken toward that end.
- Mr. Wotitzky replied there had been quite a number of discussions over the years regarding that provision, stating his client had extended an offer to essentially give the City some of the property in exchange for the City's construction of a parking structure; however, the City had opted to act otherwise. He pointed out the final

sentence of Section 4.02 stated there were no guarantees of an agreement for additional parking.

- City Attorney Levin acknowledged the Board's discretion to ask any questions they chose; however, he respectfully requested members remain focused on the issues related to the violations as charged.
- Mr. Meyer asked if Mr. Oskey had approached any downtown businesses about sharing insurance liability costs, perhaps by leasing parking spaces.
- Mr. Oskey replied he spoke with a representative of the Wyvern Hotel and a City Councilmember who owned a restaurant downtown. He stated he found it peculiar the City was forcing the issues under discussion this date at the same time plans were underway to resolve same at the April 1, 2009 CRA Meeting. He expressed surprise he was forced to appear before the Board approximately one week after being cited.
- City Attorney Levin expressed resentment with regard to Mr. Oskey's statement, stating the City was extremely concerned with the safety of its residents and visitors. He asserted entrances were barricaded by the City until this matter was resolved only out of a concern for the public's health, safety and welfare.
- Mr. Wotitzky summarized the City objected to placement of three No Parking signs, a chain over the drives leading into the property and chains along the northern boundary of the property between the West Retta Esplanade extension and Mr. Oskey's property. He explained the purpose of the signs and chains was to restrict public parking on the property, adding his client had the right to protect his property, especially in light of increased insurance premiums and other potential liabilities. He contended Section 7.08 specifically provided the Code in effect at the time the agreement was executed would govern development of the property. He maintained Ms. Tubbs was unable to testify specifically about the current City Code's definition of development, which was very broad, including initiation of any use or the construction of any structure on properties was deemed to be development. He opined any action requiring a permit would be considered development, adding the City required a permit for a sign or fence, which fell within the definition of development under the current City Code. He read from page 26-218 of the City Code as follows: "The initiation, construction, change, or enlargement of any use or structure, the disturbance of land through the removal of ground cover, or the division of land into two or more parcels. Any land disturbing activity which adds to or changes the amount of impervious or partially impervious cover on a land area or which otherwise decreases the infiltration of precipitation into the soil." He maintained his client's actions constituted development under the provisions of the current City Code; therefore, the Board must determine

whether what had been done on the property violated the applicable provisions of Code in effect in 2003. He explained certain signs were exempt from permitting under the 2003 Code, including those which provided direction or instruction, were located entirely on the property to which they pertained, did not advertise a business or exceed 6 feet in area. He asserted the No Parking signs qualified under that exclusion, both in 2003 and currently; thus, he contended there was no violation. He then expressed his opinion the chains did not constitute a fence within the current definition of the City Code, especially those placed over the driveways which did not delineate the boundaries of the property. He stated the 2003 Code allowed fences and/or hedges in non-residential districts in any required yard provided same did not exceed 8 feet in total height. He noted that Code provision was changed in 2005 or 2006 to state fences and/or hedges in non-residential districts could not exceed 8 feet in rear yards and 4 feet in other applications; however, fences along front, side and street yard must be brick, stucco, wrought iron, stone or a similar combination. He disputed the City's contention the chain constituted a fence and the reason same was considered a violation, specifically it was not constructed of those required materials. He expressed his belief the No Parking signs did not violate current City Code and were clearly exempt from permitting requirements. He then voiced disagreement with the allegation of violation of Section 26-19.3(a)(92), asserting a definition could not be violated. He further expressed opposition to the allegation of a violation of Section 26-18.2(b), which stated structures not consistent with the ordinance were not allowed; however, the chain was allowed pursuant to the applicable provisions of the 2003 City Code. He summarized the Board must review these charges under the 2003 Code, reiterating his belief his client's actions constituted development of the property. He concluded Section 7.08 of the developers agreement applied as did the 2003 City Code; therefore, there was no violation.

- City Attorney Levin observed Mr. Wotitzky testified current City Code did not apply while also using the current City Code's definition of development to attempt to say the 2003 Code applied, adding he had not identified the definition of development at that time. He asserted the only evidence before the Board was that term, as it was used in that provision, was not intended to address incidental activities such as the erection of signs or fences. He concluded staff felt they had demonstrated the violations had occurred, requesting the Board find the respondent guilty of erecting signs without permits and constructing a fence without a permit and not of the allowed materials. He asked the Board to order the respondent to remove these offenses immediately. He pointed out Florida Statute (F.S.) 715.07 addressed signs which

mentioned the towing of vehicles, advising such signs must have very specific wording, have certain heights of letters and include other such requirements with regard to how such signs were posted. He announced although the signs installed by the respondent did not comply with State Statute, the City would issue a sign permit for correctly installed signs; however, the signs would not legally justify the towing of any vehicles.

- Mr. Wotitzky commented on the Statutory requirement for size and content of a No Parking sign which would allow a property owner to have an illegally parked vehicle to be towed, stating City Code would not allow that type of a sign.
- Mr. Bailey commented he personally did not feel the property was under development.
- Mr. Viola MOVED, Mr. Bailey SECONDED to find the respondent guilty of violation of Sections 26-11.3(h), 26-19.3(a)(92), 26-18.2(b) and 26-8.5(b), to require the respondent to remove the signs and chain/fence within 24 hours and to issue a Cease & Desist Order for future violations or be subject to a fine of up to \$250 per day for each violation. MOTION CARRIED UNANIMOUSLY.

B. 09-36716 - POLICE DEPARTMENT - JOHN C. LUNDY

Respondent: George Guill

Address of Violation: 1200 West Retta Esplanade

Violation of Section 23-18(b), Parking spaces provided for certain disabled persons (PK #08035).

- Mr. George Guill, respondent, entered a plea of not guilty.
- Volunteer in Policing (VIP) Officer John Lundy stated on February 12, 2009, he observed a vehicle parked in a handicapped parking space at the subject location, which was located within the City limits. He continued another vehicle was parked just to the right of same, directly over the striped, loading/unloading zone, stating he confirmed that vehicle was owned by the respondent. He then displayed a photograph of the general location of the violation.
- Ms. Albers MOVED, Mr. Bailey SECONDED the City had presented a prima facie case. MOTION CARRIED UNANIMOUSLY.
- Mr. Viola confirmed the "Trolley Stop" sign had been removed.
- Mr. Guill displayed two photographs, asserting there was no sign in front of the striped area where he had been parked which indicated same was a loading zone. He confirmed he was authorized to park in a handicap space.
- Mr. Bailey countered the stripes painted on the ground were clear.
- Ms. Albers asked if Mr. Guill was provided with instructions when his handicap placard was issued.

- Mr. Guill replied he was unaware of same. He mentioned he had parked in the subject location numerous times without receiving a ticket.
 - Ms. Albers MOVED, Mr. Kresge SECONDED to find the respondent guilty and to impose a fine of \$100 plus \$30 Court costs. MOTION CARRIED UNANIMOUSLY.
- C. 09-36542 - CODE COMPLIANCE OFFICER - DAWN LEWIS
- Respondent: Federal National Mortgage Association
- Address of Violation: 206 Yucca
- Violation of Sections 10-1 & 10-1.1, pages 10-1 & 10-2, Grass & weeds over 12 inches; Section 10-3, page 10-3, Nuisance grass & weeds; Section 26-8.11(c,e,f), Standards of property maintenance.
- Mr. Schmidt confirmed the respondent was not present.
 - Mr. Meyer MOVED, Ms. Albers SECONDED to enter a not guilty plea on behalf of the respondent. MOTION CARRIED UNANIMOUSLY.
 - Ms. Lewis displayed several photographs of the subject property, located within the City limits, stating there had been a prior case relative to this property; however, she had delayed presenting same to the Board as the property was about to go into foreclosure, with ownership transferred to the mortgage holder. She announced on February 10, 2009, she observed overgrown weeds, landscaping exceeding 12 inches, dead landscaping surrounding the property and trash/debris throughout. She advised a Statement of Violation/Notice of Hearing was served to the respondent on February 26, 2009. She reported as of March 20, 2009, she observed overgrown landscaping, grass and weeds over 12 inches in height and trash/debris throughout the property. She mentioned she subsequently met with the contractor retained by the respondent to address these violations, adding the property was almost in compliance as of the day prior to this meeting, March 24, 2009.
 - Mr. Meyer MOVED, Mr. Bailey SECONDED the City had presented a prima facie case. MOTION CARRIED UNANIMOUSLY.
 - Mr. Bailey MOVED, Ms. Albers SECONDED to issue a Cease & Desist Order and require all violations to be eliminated within 14 days or be subject to a fine of up to \$250/day. MOTION CARRIED UNANIMOUSLY.

Note Old Business was heard following Item C.

- D. 09-36529 - CODE COMPLIANCE OFFICER - DAWN LEWIS
- Respondent: Joseph & Beatrice Holt Jr.
- Address of Violation: 143 Maria Court
- Violation of Sections 9A-12(a), page 9A-8, Visual blight; Section 26-8.14(b), Standards structures/uses; Section 10-2, page 10-3, Nuisance grass/weeds; Section 10-1 & 10-

1.1, pages 10-1 & 10-2, Grass/weeds over 12 inches; Section 26-8.11(c,f), Standards property maintenance; Section 9A-12(f), Visual blight.

- Mr. Schmidt confirmed the respondents were not present.
- Mr. Meyer MOVED, Mr. Viola SECONDED to enter a not guilty plea on behalf of the respondents. MOTION CARRIED UNANIMOUSLY.
- Ms. Lewis stated on February 6, 2009, she inspected the subject property, located within the City limits, and observed building materials stored on the right side of the home, including wood, a door and debris, overgrown landscaping, yard waste and discarded fruit. She explained the out-of-State property owner had been unaware of the condition of the property and had indicated her intention to hire a different contractor. She reported as of March 20, 2009, the outside storage had been removed, and the dead landscaping had been trimmed; however, all the trimmings had been left on the ground.
- Mr. Meyer MOVED, Ms. Albers SECONDED the City had presented a prima facie case. MOTION CARRIED UNANIMOUSLY.
- Mr. Kresge MOVED, Ms. Albers SECONDED to issue a Cease & Desist Order requiring compliance within 14 days or be subject to a fine of up to \$250/day. MOTION CARRIED UNANIMOUSLY.

E. 09-36474 - CODE COMPLIANCE OFFICER - RANDY WRIGHT

Respondent: Walker & Maureen Zaleski

Address of Violation: 3020 Ames Street

Violation of Section 26-8.10, Parking of trucks, trailers and travel trailers; Section 9A-12(a), page 9A-8, Visual blight.

- Mr. Schmidt confirmed the respondents were not present.
- Mr. Meyer MOVED, Ms. Albers SECONDED to enter a not guilty plea on behalf of the respondents. MOTION CARRIED UNANIMOUSLY.
- Mr. Randy Wright, Code Compliance Officer, stated on January 27, 2009, he received a complaint concerning conditions at the subject property, which was located in the City limits, adding he observed the following: several construction trailers without tags; an enclosed trailer with flat tires and without tags; another trailer in disrepair; a backhoe tractor in the rear yard; wood stacked along the fence; plastic pipe; a mowing attachment; 5 gallon buckets in the side yard; other construction equipment near the fence. He reported he left a Courtesy Notice at that time which denoted what actions were necessary to eliminate these violations. He advised a Statement of Violation/ Notice of Hearing was served upon the respondent on March 3, 2009, by hand delivery, adding the property was posted as well. He stated re-inspections on March 20 and 24,

2009, showed the tandem axle trailer remained without a tag and with flat tires, the trailer in disrepair remained in the front yard and the remaining violations had been eliminated.

- Mr. Meyer MOVED, Ms. Albers SECONDED the City had presented a prima facie case. MOTION CARRIED UNANIMOUSLY.
- Mr. Stevens MOVED, Ms. Albers SECONDED to find the respondent guilty, to issue a Cease & Desist Order for any future violations and to require violations to be eliminated within 10 days or be subject to a fine of up to \$250/day. MOTION CARRIED UNANIMOUSLY.

Note: Old Business was heard following Item C, New Business.

OLD BUSINESS

A. Hearing Imposing Penalty

1. 09-36557 - CODE COMPLIANCE OFFICER - MARICELA PERDOMO

Respondent: Roy G. & Eunice M. Wiley

Address of Violation: 653 Mary Street

Violation of Section 9A-12(a), Visual blight.

- Ms. Maricela Perdomo, Code Compliance Officer, stated on July 25, 2007, a Cease & Desist Order was issued to the respondents, adding on March 10, 2009, the property was again found to be in violation of Section 9A-12(a), Visual Blight. She displayed several photographs of the property, located within City limits, pointing out a great deal of debris remained as of the previous day, March 24, 2009.
- Mr. Roy Wiley announced the debris had been removed as of this date. He explained the majority of items had accumulated as he was storing household items for his daughter who was ill and had been forced to close her home.
- Ms. Perdomo asked if all the debris had been removed.
- Mr. Wiley replied affirmatively.
- City Attorney Levin suggested a continuance to allow Ms. Perdomo time to ensure compliance. He asked Mr. Wiley to assume he was required to appear at the Board's next meeting unless notified otherwise by staff.
- Mr. Meyer MOVED, Mr. Stevens SECONDED to continue Case #09-36557 to April 22, 2009. MOTION CARRIED UNANIMOUSLY.

Note: Member Comments were heard following Item E, New Business.

MEMBER COMMENTS

- Ms. Albers commented the Board had continued Case #09-36441 to this hearing, questioning the status of the case.
- Mr. Wright reported the property had been brought into compliance.

- Mr. Meyer then asked if the Board would be allowed to grant some leniency with regard to watering violations.
- City Attorney Levin replied the Board now had that authority, adding the City also had the option of issuing warnings initially.
- Mr. Stevens asked if a decision had been made with regard to Court costs.
- City Attorney Levin replied in the negative, acknowledging he must conduct research regarding same.

ADJOURNMENT

- Meeting Adjourned: 10:55 a.m.

Heinz Schmidt, Chairman

Mary Kelly, Recording Secretary