

**CODE ENFORCEMENT BOARD
MEETING
JUNE 16, 2020**

MEMBERS PRESENT: John Chalifoux, Chairman
Henry Bauman, Roland Ericsson,
Timothy Heggan, Carol Perry,
Edward Weiner

MEMBERS ABSENT: Nora Giardina, Paul Sacilotto

OTHERS PRESENT: David McCarty, Code Compliance Supervisor
Lavosia Price, Code Compliance Officer
Allen McDaniel, Code Compliance Officer
Nick Falkner, Code Compliance Officer
Board Attorney Kelly Fernandez

CALL TO ORDER/ANNOUNCEMENTS

- Mr. Chalifoux called the meeting to order at 9:00 a.m.
- A. Roll Call
- B. Next Scheduled Meeting
- 1. July 22, 2020

APPROVAL OF MINUTES

- A. February 26, 2020
- Mr. Bauman MOVED, Mr. Weiner SECONDED approval of the February 26, 2020 minutes. MOTION CARRIED UNANIMOUSLY.

NEW BUSINESS

- Recording Secretary Pues swore in all participants.
- A. CONTEST OF LOT MOWING EXEMPTION REVOCATION
20-75435 - CODE COMPLIANCE OFFICER - LAVOSIA PRICE, JR.
Respondents: First Baptist Church of Punta Gorda
Pastor Bill Frank
Property Address: 615 West Virginia Avenue
Violation of Chapter 9, Section 9-7 (d), (e).
- Mr. Lavosia Price, Code Compliance Officer, displayed several photographs of the subject property, located within City limits, noting the original inspection carried out on January 28, 2019, found tall grass and/or weeds exceeding twelve inches in height; however, an inspection on February 19, 2019, found the violation had been corrected. He stated inspection on January 28, 2020, revealed the property was again out of compliance as tall grass and/or weeds exceeding twelve inches in height were found throughout the property. He stated he provided notice of intent to revoke the

property's lot mowing exemption, noting on February 10, 2020, Mr. Bill Frank, respondent, requested a hearing to contest the revocation, which was scheduled for the March 25, 2020, Code Enforcement Board meeting; however, same had been cancelled in response to COVID-19 and rescheduled to this date.

- Mr. Edward Wotitzky, respondent's representative, inquired as to the location of the area depicted in a photograph. He acknowledged grass had grown taller than twelve inches in some areas on the property, requesting the exemption from the City's lot mowing program be continued. He apologized for the violation, stating same had been remedied immediately upon notification. He explained the violation occurred at a vacant lot maintained by the Church for more than ten years, noting the western portion of the property had been sold and had not been maintained as well.
- Mr. Price replied the photograph was taken in the location denoted by an arrow. He noted the other parcel Mr. Wotitzky referenced had been added to the City's lot mowing program.
- Mr. Wotitzky stated the property had only been in violation twice, adding both violations were immediately remedied.
- Mr. Price noted the property had since been in violation a third time on March 24, 2020.
- Mr. Frank stated the first violation resulted from the individual who mowed the vacant lot quitting without notifying anyone. He explained the individual who the Church then employed to mow the lot experienced a medical issue and had been unable to do so for a period, acknowledging he had not thought to check the grass at the vacant lot until he received notice of the second violation, at which point the Church immediately remedied same. He requested the Board allow the Church to continue to maintain the property.
- Mr. Chalifoux inquired as to who was originally employed to perform the mowing.
- Mr. Price replied he believed it was Beautiful Boundaries, explaining they mowed individual lots privately in addition to those done under the City's lot mowing program. He stated they stopped mowing many properties when they lost their contract with the City.
- Mr. Chalifoux noted the City was not responsible for ensuring property owners maintained their lawns.
- Discussion ensued regarding the City's lot mowing program and the cost to maintain this property within same.

- Mr. Weiner MOVED, Mr. Bauman SECONDED to approve the contest of the revocation of the exemption from the City Mandatory Lot Mowing Program request and for the respondent to remain exempt from same.
- VOTING AYE: Bauman, Heggan, Weiner.
- VOTING NAY: Chalifoux, Ericsson, Perry.
- MOTION FAILED.
- Board Attorney Kelly Fernandez advised this motion stood as failed; however, another motion could be made.
- Mr. Frank stated the Church understood their responsibility and desired to be a positive influence in the community, requesting the Board reconsider their request.
- Mr. Chalifoux confirmed no one desired to make another motion, concluding the revocation stood.

B. 19-74320 - CODE COMPLIANCE OFFICER – LAVOSIA PRICE JR.

Respondent: John J. Corino

Address of Violation: 2824 Ryan Boulevard

Violations of Chapter 26, Section 12.4 (k) Exposed Soil; and Chapter 9, Section 9-2 (a) Outside Storage.

- Mr. Chalifoux entered a plea of not guilty on behalf of the absent respondent.
- Mr. Price displayed several photographs of the subject property, located within City limits, stating a February 11, 2020, inspection found areas of exposed soil and outside storage. He reviewed the City’s efforts to bring the property into compliance, noting an inspection on February 28, 2020, found the violations remained. He stated an inspection on June 15, 2020, found the outside storage remained. He submitted an invoice for case costs incurred in the amount of \$21.75.
- Mr. Heggan MOVED, Ms. Perry SECONDED the City had presented a prima facie case. MOTION CARRIED UNANIMOUSLY.
- Mr. Heggan questioned if a neighbor owned the potted plants included in the outside storage violation.
- Mr. Price replied the neighbor indicated she had permission from the property owner to store the plants at the subject property. He stated he had provided her 30 days for removal of the outside storage, noting some but not all of the items had been removed.
- Mr. Heggan MOVED, Mr. Weiner SECONDED to find the respondent guilty, to issue a Cease & Desist Order for any future violations, to order the property be brought into compliance within 30 days and to require payment of case costs incurred in the

amount of \$21.75 within 30 days, subject to a fine of \$250 per day plus applicable interest. MOTION CARRIED UNANIMOUSLY.

C. 20-75952 - CODE COMPLIANCE OFFICER – NICK FALKNER

Respondent: Bank of America, N.A.

Address of Violation: 1480 Narranja Street

Violation of Chapter 26, Section 8.11 (e) Dead Palm Fronds.

- Mr. Chalifoux entered a plea of not guilty on behalf of the absent respondent.
- Mr. Nick Falkner, Code Compliance Officer, displayed several photographs of the subject property, located within City limits, stating a March 10, 2020, inspection found dead palm fronds hanging from trees on the property. He reviewed the City's efforts to bring the property into compliance, noting inspections on May 18, 2020, and June 15, 2020, found the property remained out of compliance. He submitted an invoice for case costs incurred in the amount of \$11.55.
- Mr. Heggan MOVED, Mr. Weiner SECONDED the City had a prima facie case. MOTION CARRIED UNANIMOUSLY.
- Mr. Ericsson inquired if the property was in foreclosure or owned by a bank.
- Mr. Falkner replied the property had undergone foreclosure and was registered with the City.
- Mr. Weiner MOVED, Mr. Bauman SECONDED to find the respondent guilty, to issue a Cease & Desist Order for any future violations, to order the property be brought into compliance within 15 days and to require payment of case costs incurred in the amount of \$11.55 within 15 days, subject to a fine of \$250 per day plus applicable interest. MOTION CARRIED UNANIMOUSLY.
- Ms. Perry inquired as to unaddressed case costs mentioned during the contest of the revocation of exemption from the lot mowing program.
- Board Attorney Kelly Fernandez replied staff decided to waive those costs.

D. 20-76523 – CODE COMPLIANCE OFFICER – NICK FALKNER

Respondent: Cheryl R. & Leroy McDaniel

Address of Violation: 550 Corto Andra

Violations of Chapter 26, Section 8.26; and Chapter 26, Section 3.7 (d); and Chapter 9, Section 9-2 (a) Temporary Structure, Outside Storage.

- Mr. Chalifoux entered a plea of not guilty on behalf of the absent respondent.
- Mr. Falkner displayed several photographs of the subject property, located within City limits, stating a May 12, 2020, inspection found a tent, canopy tarp and outside storage on the property. He reviewed the City's efforts to bring the property into compliance, noting an inspection on May 19, 2020, found the tent and canopy tarp

remained on the property. He stated an inspection on June 15, 2020, found the tent and canopy tarp had been removed; however, tall grass and/or weeds were found on the property and a new case was opened for those violations. He requested a Cease & Desist Order and submitted an invoice for case costs incurred in the amount of \$11.85.

- Mr. Heggan MOVED, Mr. Bauman SECONDED the City had presented a prima facie case. MOTION CARRIED UNANIMOUSLY.
- Mr. Heggan MOVED, Mr. Bauman SECONDED to find the respondent guilty, to issue a Cease & Desist Order for any future violations and to require payment of case costs incurred in the amount of \$11.85 within 30 days, subject to a fine of \$250 per day plus applicable interest. MOTION CARRIED UNANIMOUSLY.

E. 19-74773 – CODE COMPLIANCE OFFICER – ALLEN MCDANIEL

Respondent: Walter E. & Mary I. Huizenga

Address of Violation: 2559 Brazillia Court

Violations of Chapter 9, Section 9-2 (h), Tall Grass and/or Weeds; and Chapter 26, Section 8.11 (e) (1): Dead Palm Fronds on the Palm Trees.

- Mr. Chalifoux entered a plea of not guilty on behalf of the absent respondent.
- Mr. Allen McDaniel, Code Compliance Officer, displayed several photographs of the subject property, located within City limits, stating a November 27, 2019, inspection found tall grass and/or weeds and dead palm fronds hanging from trees throughout the property. He reviewed the City's efforts to bring the property into compliance, noting an inspection on December 9, 2019, found the property remained out of compliance. He stated the Code Enforcement Board continued this case to the March 25, 2020, meeting during their January 29, 2020, meeting; however, the case was instead continued to this date as the March 25, 2020, meeting was cancelled in response to COVID-19. He then indicated an inspection on June 15, 2020, found the dead palm fronds had been removed; however, the tall grass and/or weeds remained. He submitted an invoice for case costs incurred in the amount of \$56.75.
- Mr. Heggan MOVED, Ms. Perry SECONDED the City had presented a prima facie case. MOTION CARRIED UNANIMOUSLY.
- Mr. McDaniel reported contact had been made with the property owners, noting they were out-of-state as a family member had a serious medical condition. He stated mailing the respondents had been difficult, but the respondents were responsive. He confirmed this was the first time a case concerning the respondents had been presented to the Board. He explained the respondents had a landscaper, opining there had been miscommunication related to the property being managed remotely. He

pointed out the property had been posted for nuisance abatement; therefore, the City would mow the property if the respondents did not.

- Mr. Heggan MOVED, Ms. Perry SECONDED to find the respondent guilty, to issue a Cease & Desist Order for any future violations, to order the property be brought into compliance within 30 days and to require payment of case costs incurred in the amount of \$56.75 within 30 days, subject to a fine of \$250 per day plus applicable interest. MOTION CARRIED UNANIMOUSLY.

UNFINISHED BUSINESS

A. HEARING - REQUEST FOR FINE REDUCTION

19-72234 - CODE COMPLIANCE OFFICER - DAVID MCCARTY

Respondent: Ruth C. Hamilton

Authorized Representative: Gregor Hamilton

Property Address: 207 East Marion Avenue

Violations of Chapter 9, Section 9-12 (a) 2, b, c; and Chapter 26, Section 8.11.

- Mr. David McCarty, Code Compliance Supervisor, displayed several photographs of the subject property, located within City limits, providing a detailed review of events surrounding the case and the Board's actions dating back to November 19, 2019. He announced Mr. Gregor Hamilton, authorized representative, had requested reduction of a fine in the amount of \$4,144.32, explaining the lien would remain valid if any remaining fine amount was not paid within the timeframe ordered by the Board. He noted an inspection on June 15, 2020, found the property was in compliance. He concluded the total amount currently due with interest on the lien was \$4,292.96, then submitting an invoice for case costs incurred in the amount of \$57.30.
- Mr. Hamilton stated he and his wife were moving back to Punta Gorda and would maintain the building appropriately.
- Mr. Chalifoux stated he believed Mr. Hamilton had attended all of the prior Code Enforcement Board meetings concerning the subject property, confirming this was not the first time the property had been out of compliance. He inquired as to the length of time taken for the building to be repaired.
- Mr. McCarty replied the property was in compliance within four days of the Board's hearing imposing penalty.
- Mr. Chalifoux inquired as to the amount of the penalty.
- Mr. McCarty replied \$4,100 in addition to case costs of \$44.32.
- Mr. Hamilton stated an individual representing a contractor approached him during his previous appearance before the Board, explaining that contractor fixed the stucco on

his building. He stated he had experienced difficulty hiring a contractor while he was in Chicago, noting other contractors had failed to show up at the property.

- Ms. Perry inquired as to the number of times Mr. Hamilton had been notified of violations at the property without addressing same.
- Mr. Hamilton replied he had previously spoken with Ms. Jennifer Daumann, former Code Compliance Officer/Executive Assistant; however, he had not always received mail in Chicago. He stated he had an easier time maintaining contact since Mr. McCarty had taken control of the case.
- Mr. Weiner expressed dissatisfaction with the failure of property owners to maintain their properties while out of the area.
- Mr. Hamilton stated he was now a full-time resident of Punta Gorda, explaining the property had belonged to his mother and had not been used as an income property for a number of years, adding he and his wife lost their income due to the COVID-19 situation. He stated the fines would be an extreme financial hardship.
- Ms. Perry inquired as to the property's use.
- Mr. Hamilton replied he and his wife intended to use the lower level of the building as a business and to live in the upper level.
- Mr. Bauman commented on the length of time the respondent took to correct the violations.
- Mr. Hamilton stated he had contracted with a number of landscapers before finding one who was reliable.
- Mr. Bauman confirmed the respondent had contacted staff following the issue of the compliance order. He opined a reduced fine should be imposed.
- Mr. Hamilton requested a reduction of the fine to \$400 to \$500 dollars.
- Mr. Bauman MOVED, Ms. Perry SECONDED to approve the reduction of fine request, to reduce the fine of \$4,144.32 plus applicable interest as well as additional court costs in the amount of \$57.30 to \$2,000 and to require full payment within 30 days, or the remaining unpaid fine in the amount of \$4,144.32 plus applicable interest shall remain valid.
- VOTING AYE: Bauman, Perry, Ericsson.
- VOTING NAY: Chalifoux, Heggan, Weiner.
- MOTION FAILED.

NOTE: Requests for Fine Reduction for Cases #15- 58461, #16- 61754, #17- 63520 and #17- 64554 were heard at the same time.

B. HEARING - REQUEST FOR FINE REDUCTION - 15-58461 - CODE COMPLIANCE OFFICER - DAVID MCCARTY

Respondent: Winter Park Dodge, Inc.
% Douglas D. Plattner, Registered Agent

Property Address: 1601 Tamiami Trail

Violations of Chapter 26, Section 17.5 (2), (c), (d) (1), (2), (3); and Chapter 26, Section 11.3 (g) (1), (2), (3), (4), (5), (6), (7), (8),(9),(10),(11); and Chapter 26, Section 8.11 (c), (e) 1, 2, 3, 4.

- Mr. McCarty displayed several photographs of the subject property, located within City limits, providing a detailed review of events surrounding the cases and the Board's actions dating back to May 25, 2016. He announced Mr. Douglas Plattner had requested reduction of fines in the following amounts: for Case #15-58461, \$3,328.57 plus applicable interest, \$15,811.75 plus applicable interest, \$15,881.65 plus applicable interest and \$5,720.97 plus applicable interest; for Case #16-61754, \$22,527.65 plus applicable interest and \$14,085.26 plus applicable interest; for Case #17-63520, \$21,583.06 plus applicable interest; for Case #17-64554, \$13,530.17 plus applicable interest. He explained the liens would remain valid if any remaining fine amounts were not paid within the timeframes ordered by the Board. He concluded an inspection on June 15, 2020, found the property was in compliance and indicated the total amount of the liens with interest and case costs were as follows: for Case #15-58461, \$48,150.58; for Case #16-61754, \$43,074.58; for Case #17-63520, \$24,163.38; for Case #17-64554, \$15,536.71.
- Mr. Morgan Bentley, respondent's representative, acknowledged Mr. Douglas Plattner had not remedied the violations for a period of two years, opining Mr. Plattner would not handle violations in a similar manner in the future. He noted the property had been improved and now operated as a business. He opined the fines were excessive, pointing out there was legal precedent from the Supreme Court regarding punishments which exceeded crimes. He noted Mr. Plattner had a check written for \$55,000, requesting relief so that the business could continue to operate and contribute to the community.
- Mr. Chalifoux confirmed a case against Winter Park Dodge had been presented at the November 19, 2019, Code Enforcement Board meeting, inquiring as to the outcome.
- Mr. McCarty replied the Board issued a zero-dollar fine.

- Mr. Chalifoux indicated he did not believe Mr. Plattner's assurances, requesting Mr. Plattner pay the fine if he desired resolution.
- Mr. Bentley countered Mr. Plattner had quickly addressed the violation, pointing to the zero-dollar fine the Board issued as evidence the most recent violation had been handled differently by Mr. Plattner. He stated he could not guarantee another violation would never occur; however, Mr. Plattner would be responsive.
- Mr. Chalifoux stated the City was not responsible for ensuring property owners maintained their properties.
- Mr. Douglas Plattner, registered agent, asserted there had not been a violation in November 2019. He stated other people had managed the cases for him previously, agreeing the violations had not been handled well in the past.
- Mr. Chalifoux inquired as to why Mr. Plattner did not respond to City Manager Howard Kunik's offer to appear before City Council to explain the situation.
- Mr. Plattner replied he did not receive the letter. He stated he relied on others to help him do business, noting he had 15 commercial properties. He opined a \$55,000 settlement was tremendous, reiterating there was case law which stated penalties had to match the crime. He apologized for the inconveniences caused.
- Mr. Weiner expressed disbelief Mr. Plattner's employees would not notify him of a certified mailing.
- Discussion ensued regarding prior action taken to remedy violations at the subject property.
- Mr. Bentley stated Mr. Plattner was continuing to operate a business at the property during a time of economic hardship, reiterating Mr. Plattner desired resolution. He noted he often heard code enforcement was about compliance, not punishment, concluding \$55,000 was still a great deal of punishment.
- Mr. Bauman stated he was not in favor of a fine reduction.
- Mr. Weiner MOVED, Ms. Perry SECONDED to deny the requests for fine reductions for Cases #15-58461, #16-61754, #17-63520 and #17-64554.
- VOTING AYE: Bauman, Chalifoux, Ericsson, Perry, Weiner.
- VOTING NAY: Heggan.
- MOTION CARRIED.

C. HEARING - REQUEST FOR FINE REDUCTION - 16-61754 - CODE COMPLIANCE OFFICER
- DAVID MCCARTY

Respondent: Winter Park Dodge, Inc.
% Douglas D. Plattner, Registered Agent
Property Address: 1601 Tamiami Trail
Repeat Violation of Chapter 26, Section 8.11 (c), (e) 2.

D. HEARING - REQUEST FOR FINE REDUCTION - 17-63520 - CODE COMPLIANCE OFFICER
- DAVID MCCARTY

Respondent: Winter Park Dodge, Inc.
% Douglas D. Plattner, Registered Agent
Property Address: 1601 Tamiami Trail
Repeat Violations of Chapter 26, Section 8.11 (c); and Chapter 26, Section 8.11 (e) 1.

E. HEARING - REQUEST FOR FINE REDUCTION - 17-64554 - CODE COMPLIANCE OFFICER
- DAVID MCCARTY

Respondent: Winter Park Dodge, Inc.
% Douglas D. Plattner, Registered Agent
Property Address: 1601 Tamiami Trail
Repeat Violations of Chapter 26, Section 8.11 (c); and Chapter 26, Section 8.11 (e)

NOTE: The Hearing Imposing Penalty for Case #19- 74816 was heard following the Hearing Imposing Penalty for Case #20- 76572.

F. HEARING IMPOSING PENALTY - 19-74816 - CODE COMPLIANCE OFFICER - ALLEN
MCDANIEL

Respondent: Ronald B. Neff, Jr.
Property Address: 109 Colony Point Drive
Violations of Chapter 20, Section 20-1 Palm Trees in ROW; and Chapter 26, Section 1.4, 1.5, 1.10.

- Mr. McDaniel displayed several photographs of the subject property, located within City limits, providing a brief history of the Compliance Order issued to the respondent on January 29, 2020. He reviewed the City's efforts to bring the property into compliance, noting inspections on May 18, 2020, and June 15, 2020, found the four palm trees remained planted on the public right-of-way (ROW). He concluded the property had been in noncompliance for 94 days from March 14, 2020, through June 15, 2020, submitting an invoice for additional case costs incurred in the amount of \$7.50.
- Mr. Weiner pointed out the trees were blocking the flow of water.
- Ms. Perry inquired as to Mr. McDaniel's communication with Mr. Neff.

- Mr. McDaniel replied during the previous week, Mr. Neff had requested a continuance to allow him additional time to come into compliance.
- Mr. Chalifoux concurred with Mr. Weiner, noting the Board previously told Mr. Neff drainage needed to be maintained.
- Mr. Heggan suggested the pandemic could have delayed Mr. Neff from hiring a landscaper to remove the trees.
- Discussion ensued regarding the potential impact of the pandemic on bringing the property into compliance as well as the impact of the palm trees on drainage.
- Mr. Weiner MOVED, Mr. Heggan SECONDED to find the respondent in violation of the Compliance Order, to impose a fine of \$9,400, representing a fine of \$100 per day for 94 days of noncompliance, plus applicable interest, with the fine continuing to run until the respondent came into compliance, and to require payment of case costs incurred in the amount of \$7.50.
- Mr. Bauman questioned if Mr. Neff had indicated why he had not removed the trees.
- Mr. McDaniel replied Mr. Neff had indicated he believed the trees were beautiful and he was attempting to beautify the neighborhood. He recalled Mr. Neff also pointed to other instances of trees planted in the ROW as justification.
- MOTION CARRIED UNANIMOUSLY.

NOTE: The Hearing Imposing Penalty for Case #19- 73677 was heard following the Requests for Fine Reduction for Cases #15- 58461, #16- 61754, #17- 63520 and #17- 64554.

G. HEARING IMPOSING PENALTY- 19-73677 – CODE COMPLIANCE OFFICER – ALLEN MCDANIEL

Respondent: Ariel Popper

Address of Violation: 233 Harvey Street

Violation of Chapter 26, Section 8.11 (e): Overgrowth of Plants, Trees and Shrubs.

- Mr. Chalifoux confirmed the subject property was in compliance and staff desired the case be dismissed.
- Mr. Bauman MOVED, Mr. Ericsson SECONDED to dismiss Case #19-73677. MOTION CARRIED UNANIMOUSLY.

H. HEARING IMPOSING PENALTY – REPEAT VIOLATION – 20-76572 – CODE COMPLIANCE OFFICER – LAVOSIA PRICE, JR.

Respondent: Southwest Partners, LLC

% Todd Lang, Registered Agent

Property Address: 2530 Tamiami Trail

Repeat Violation of Chapter 9, Section 9-2 (h) Tall Grass and/or Weeds.

- Mr. Chalifoux confirmed the subject property was in compliance and staff desired the case for the repeat violation be dismissed.
- Mr. Bauman MOVED, Mr. Ericsson SECONDED to dismiss Case #20-76572. MOTION CARRIED UNANIMOUSLY.

STAFF COMMENTS

- None.

NOTE: Committee/Board Comments were heard following the Hearing Imposing Penalty for Case #19- 74816.

COMMITTEE/BOARD COMMENTS

- Mr. Chalifoux thanked the Board for their efforts.

CITIZENS' COMMENTS

- None.

ADJOURNMENT

- Meeting Adjourned: 11:00 a.m.

John Chalifoux, Chairman

Leah Pues, Recording Secretary