

**CODE ENFORCEMENT BOARD  
MEETING  
APRIL 28, 2021**

**MEMBERS PRESENT:** Henry Bauman, Chairman  
John Chalifoux, Nora Giardina,  
Paul Sacilotto, Edward Weiner

**MEMBERS ABSENT:** Roland Ericsson

**OTHERS PRESENT:** City Attorney David Levin  
Lisa Hannon, Zoning Official  
David McCarty, Code Compliance Supervisor  
Lavosia Price, Code Compliance Officer  
Allen McDaniel, Code Compliance Officer  
Terry Nichols, Executive Assistant  
Ronald Neff

**CALL TO ORDER/ANNOUNCEMENTS**

- Mr. Bauman called the meeting to order at 9:00 a.m.
- A. Roll Call
- B. Next Scheduled Meeting
- 1. May 26, 2021

**APPROVAL OF MINUTES**

- A. March 24, 2021
- Mr. Weiner MOVED, Mr. Chalifoux SECONDED approval of the March 24, 2021, minutes.  
MOTION CARRIED UNANIMOUSLY.

**NEW BUSINESS**

- Recording Secretary Pues swore in all participants.
- A. 20-78356 – CODE COMPLIANCE OFFICER – ALLEN MCDANIEL  
Respondent: Richard E. Cotton, TR  
Address of Violation: 2415 St. David’s Island Court  
Violations of Chapter 26, Section 8.11 (b); and Chapter 9, Section 9-12 (e) Torn/Missing Pool Cage Screening; and Chapter 9, Section 9-2 (a) Broken Light Fixtures
- Mr. Bauman entered a plea of not guilty on behalf of the absent respondent.
- Mr. Allen McDaniel, Code Compliance Officer, displayed photographs of the subject property, located within City limits, stating a February 16, 2021, inspection found torn or missing screens on the pool cage on the rear of the property as well as broken light fixtures on the front and rear of the property. He reviewed the City’s efforts to bring the property into compliance, noting inspections on March 22, 2021, and April 27, 2021,

found the violations remained. He submitted an invoice for case costs incurred in the amount of \$11.97.

- Mr. Chalifoux MOVED, Mr. Weiner SECONDED the City had presented a prima facie case. MOTION CARRIED UNANIMOUSLY.
- Mr. Chalifoux verified there had been no contact with the property owner.
- Mr. Weiner confirmed a family resided at the location.
- Mr. Chalifoux 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 15 days and to require payment of case costs incurred in the amount of \$11.97 within 10 days, subject to a fine of \$250 per day plus applicable interest. MOTION CARRIED UNANIMOUSLY.

B. 21-78617 – CODE COMPLIANCE OFFICER – ALLEN MCDANIEL

Respondent: Douglas R. Engberg

Address of Violation: 3837 Bermuda Court

Violations of Chapter 26, Section 8.14 (h) (2) Walkway Installed; and Chapter 26, Section 1.4, 1.5, 1.10 No Permit; and Chapter 26, Section 8.13 (a) (1), (b), (c), (d), (1); and Chapter 26, Section 12.4 (d) (8) (a), (c), (d), (e) Unapproved Ground Cover

- Mr. Bauman entered a plea of not guilty on behalf of the absent respondent.
- Mr. McDaniel displayed photographs of the subject property, located within City limits, stating a February 24, 2021, inspection found the following: pavers installed on the front yard of the property creating a walkway greater than five feet in width; structural landscape components installed on the property; unapproved shell groundcover installed on the front yard of the property. He reviewed the City's efforts to bring the property into compliance, noting inspections on March 22, 2021, and April 27, 2021, found the violations remained. He submitted an invoice for case costs incurred in the amount of \$12.42.
- Mr. Sacilotto MOVED, Mr. Chalifoux SECONDED the City had presented a prima facie case. MOTION CARRIED UNANIMOUSLY.
- Mr. Chalifoux verified there had been no contact with the property owner; however, all notices were received by the property owner. He confirmed it appeared the owner was completing work at the property, questioning whether application for a permit would resolve the matter other than the shell groundcover.
- Ms. Lisa Hannon, Zoning Official, replied application for a permit would be the first step; however, whether staff could approve a permit application was dependent on what the application would entail. She indicated Punta Gorda Code allowed only 10% of a yard to be inorganic mulch or inorganic groundcover.

- Mr. Bauman inquired if the respondent was aware permits were required.
- Mr. McDaniel replied the notice of violation indicated permits were required.
- Ms. Hannon clarified any permit application for more than 10% inorganic mulch groundcover or for a sidewalk width greater than 5 feet would not be approved.
- Mr. Sacilotto MOVED, Mr. Chalifoux 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 \$12.42 within 10 days, subject to a fine of \$250 per day plus applicable interest. MOTION CARRIED UNANIMOUSLY.

**UNFINISHED BUSINESS**

A. FINE REDUCTION REQUEST

19-72420 – CODE COMPLIANCE OFFICER – LAVOSIA PRICE, JR.

Respondent: Tidewater Virginia Holding, LLC

Address of Violation: 149 Colony Point Drive

Violations of Chapter 26, Section 8.11 (e) 2, 3 Maintenance – Dead Tree; and Chapter 9, Section 9-12 (e) Maintenance of Seawalls; and Chapter 9, Section 9-2 (g) Danger Blight; and Chapter 6, Section 6-7 (d) Maintenance of Seawalls

- City Attorney David Levin requested members deny the fine reduction request at this time as the respondent was not present to provide evidence and testimony.
- Mr. Weiner MOVED, Mr. Chalifoux SECONDED to deny the request for fine reduction. MOTION CARRIED UNANIMOUSLY.

**NOTE: The following discussion occurred after the request was reopened during Staff Comments.**

- Mr. Lavosia Price, Code Compliance Officer, displayed a photograph of the subject property, located within City limits, providing a detailed review of events surrounding the case and Board’s actions dating back to September 25, 2019. He noted the property was brought into compliance on March 30, 2021. He announced Mr. Ronald Neff, respondent, had requested reduction of the fines imposed in the amount of \$15,447.02, explaining the existing lien would remain valid if any remaining fine amount was not paid within the timeframe ordered by the Board. He concluded the total amount due with interest was \$15,603.76, submitting an invoice for additional case costs incurred in the amount of \$26.06.
- Mr. Neff stated he hired J & E Marine approximately a year prior to fix the seawall caps; however, the contractor had difficulty locating enough help to complete the job.
- Mr. Chalifoux recalled the Board had granted the respondent 180 days to come into compliance in their Compliance Order dating to September 25, 2019, confirming the

seawall was completed prior to March 30, 2021; however, the property had still required installation of sod within six feet of the seawall.

- Mr. Neff reiterated there were numerous attempts to hire a contractor to correct the violation but no others had accepted the job. He explained the contractor had been hired to complete four seawall caps and had finished two before work had stalled for a period.
- Discussion ensued regarding the length of time for the violation.
- Mr. Chalifoux MOVED, Mr. Weiner SECONDED, to reduce the fine of \$15,603.76 along with additional case costs of \$26.06 to \$2,500 and to require full payment within 15 days of entry of this order, with the City to order a satisfaction of lien which shall be recorded at the sole cost of the respondent after payment; however, if the respondent failed to submit full payment to the City within the time specified herein, the remaining unpaid fine in the amount of \$15,447.02 plus applicable interest would remain valid.
- VOTING AYE: Bauman, Chalifoux, Sacilotto, Weiner.
- VOTING NAY: Giardina.
- MOTION CARRIED.

**B. FINE REDUCTION REQUEST**

19-72425 - CODE COMPLIANCE OFFICER - LAVOSIA PRICE, JR.

Respondent: Tidewater Virginia Holdings, LLC

Address of Violation: 169 Colony Point Drive

Violations of Chapter 9, Section 9-12 (e) Maintenance of Seawalls; and Chapter 9, Section 9-2 (g) Danger Blight; and Chapter 6, Section 6-7 (d) Maintenance of Seawalls; and Chapter 26, Section 8.13 (a) Seawall in Disrepair

- City Attorney David Levin requested members deny the fine reduction request at this time as the respondent was not present to provide evidence and testimony.
  - Mr. Chalifoux MOVED, Ms. Giardina SECONDED to deny the request for fine reduction.
- MOTION CARRIED UNANIMOUSLY.

**NOTE: The following discussion occurred after conclusion of the fine reduction request for Case 19-72420.**

- Mr. Price displayed a photograph of the subject property, located within City limits, providing a detailed review of events surrounding the case and Board's actions dating back to September 25, 2019. He noted the property was brought into compliance on March 30, 2021. He announced Mr. Ronald Neff, respondent, had requested reduction of the fines imposed in the amount of \$15,447.02, explaining the existing lien would remain valid if any remaining fine amount was not paid within the timeframe ordered by the Board. He concluded the total amount due with interest was \$15,603.76, submitting an invoice for additional case costs incurred in the amount of \$26.06.

- City Attorney Levin verified Mr. Neff could indicate he desired to incorporate his testimony from the previous fine reduction request under this request.
- Mr. Neff stated he desired to do so, stating the situation was exactly the same in this case.
- Ms. Giardina MOVED to reduce the fine of \$15,447.02 plus applicable interest issued in the previous order along with additional case costs in the amount of \$26.06 to \$5,000 and to require full payment within 15 days of entry of this order, with the City to order a satisfaction of lien which shall be recorded at the sole cost of the respondent after payment; however, if the respondent failed to submit full payment to the City within the time specified herein, the remaining unpaid fine in the amount of \$15,447.02 plus applicable interest would remain valid.
- MOTION FAILED due to a lack of SECOND.
- Mr. Chalifoux MOVED, Mr. Weiner SECONDED, to reduce the fine of \$15,447.02 plus applicable interest issued in the previous order along with additional case costs in the amount of \$26.06 to \$2,500 and to require full payment within 15 days of this order, with the City to order a satisfaction of lien which shall be recorded at the sole cost of the respondent after payment; however, if the respondent failed to submit full payment to the City within the time specified herein, the remaining unpaid fine in the amount of \$15,447.02 plus applicable interest would remain valid.
- Mr. Chalifoux indicated while the property owner did take some time to correct the violation, he did bring the property into compliance.
- VOTING AYE: Bauman, Chalifoux, Sacilotto, Weiner.
- VOTING NAY: Giardina.
- MOTION CARRIED.

C. FINE REDUCTION REQUEST

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 Right-of-Way and Chapter 26, Section 1.4, 1.5, 1.10

- City Attorney Levin swore in the respondent.
- Mr. McDaniel displayed 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 January 29, 2020. He noted the property was brought into compliance on July 31, 2020. He announced on March 31, 2021, Mr. Ronald Neff, respondent, had requested reduction of the fines imposed in the amount of \$9,407.50, explaining the

existing lien would remain valid if any remaining fine amount was not paid within the timeframe ordered by the Board. He concluded the total amount due with interest was \$9,896.72, submitting an invoice for additional case costs incurred in the amount of \$25.91.

- Mr. Ronald Neff, respondent, explained he had been unaware trees could not be planted in the location, stating he had done everything requested to come into compliance.
- Mr. Chalifoux inquired whether he was present during the fine process.
- Mr. Neff replied he did not believe he was present for the meeting where the fine was issued, requesting the fine be reduced.
- Mr. Weiner inquired as to how quickly the trees were relocated after the notice of the fine was received.
- Mr. Neff replied within two weeks, adding additional time had been needed to address the swale.
- Mr. McDaniel stated the property was not brought into compliance until July 31, 2020, pointing out the case was initiated in 2019.
- Mr. Weiner opined the photographs appeared to show the respondent had satisfactorily corrected the violations.
- Mr. Weiner MOVED, Mr. Sacilotto SECONDED to reduce the fine to \$1,500 and to require payment of the remaining fine plus the outstanding case costs within 20 days. MOTION CARRIED UNANIMOUSLY.

#### STAFF COMMENTS

- City Attorney Levin verified members had the discretion to reopen requests for fine reductions.
- Mr. Neff asked for the requests for fine reductions for Case 19-72420 and Case 19-72425 be reopened, noting he had driven an hour and a half to attend the meeting.
- Mr. Chalifoux MOVED, Mr. Sacilotto SECONDED to reopen the requests. MOTION CARRIED UNANIMOUSLY.

**NOTE: The fine reduction request for Case 19-72420 was heard following Staff Comments.**

#### COMMITTEE/BOARD COMMENTS

- Mr. Bauman recalled City Attorney Levin had previously discussed excessive fines, opining same was not an issue at this time.
- City Attorney Levin stated he would advise the Board if he felt a fine were significantly out of alignment with the severity of the violations in a case. He added the courts realized reductions were at the discretion of the Board.
- Mr. Chalifoux inquired if certain properties which were in compliance but still had fines recorded had not requested fine reductions.

- Mr. David McCarty, Code Compliance Supervisor, replied affirmatively, verifying code liens were valid for 20 years.
- A brief discussion ensued regarding respondents who avoided appearing before the Board and the use of fines to obtain their attention.

**CITIZENS' COMMENTS**

- None.

**ADJOURNMENT**

- Meeting Adjourned: 10:05 a.m.

---

Henry Bauman, Chairman

---

Leah Pues, Recording Secretary