

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

MEMBERS PRESENT: Henry Bauman, Chairman
John Chalifoux, Roland Ericsson,
Nora Giardina, Jay Nadelson,
Paul Sacilotto, Edward Weiner

OTHERS PRESENT: City Attorney David Levin
Board Attorney David Jackson
Lisa Hannon, Zoning Official
David McCarty, Code Compliance Supervisor
Allen McDaniel, Code Compliance Officer
Nick Falkner, Code Compliance Officer
Ashley Omelanski-Carney, Executive Assistant
William Gorman, Punta Gorda Police Officer
Russell Fiorino, Punta Gorda Police Officer
Joshua Girard, Punta Gorda Police Officer
Taylor Smith, Punta Gorda Police Officer
Phares Heindl, Andrew Sheets, Nicole Christian,
Richard Massey, Christopher Chase,
Rebecca Anderson

CALL TO ORDER/ANNOUNCEMENTS

- Mr. Bauman called the meeting to order at 9:00 a.m.
- A. Roll Call
- B. Next Scheduled Meeting
- 1. August 18, 2021

APPROVAL OF MINUTES

- A. June 23, 2021
- Mr. Weiner MOVED, Mr. Sacilotto SECONDED approval of the June 23, 2021, minutes.
- Mr. Nadelson pointed out the last page of the minutes included a discussion regarding cases which would be presented this date, opining the minutes should clarify whether City Attorney David Levin was speaking as the prosecutor or as an advisor to the Board.
- City Attorney Levin clarified he was speaking generally as the City Attorney at that time and not with respect to a case, explaining he would be acting as the City's prosecutor this date and any comments he made would be considered as argument and not as advice to the Board.
- Mr. Nadelson MOVED to amend the June 23, 2021, minutes to reflect that City Attorney Levin's comments were not made as counsel to the Board but as prosecution.
- Mr. Chalifoux opined all comments made during the discussion should be included in the minutes, expressing desire for same to be amended prior to approval.

- Mr. Weiner amended his motion to reflect same.
- City Attorney Levin explained the discussion regarded the interpretation of the recently adopted sign ordinance, noting questions had been posed to him as the City Attorney who contributed to drafting the ordinance. He reiterated his comments were of a general nature made pursuant to his role as the City Attorney and not as the prosecutor in any particular case.
- Mr. Chalifoux stated he had commented it was not for the Board to determine the legality of the ordinance; rather, it was to determine whether the respondent was guilty of violating the sign ordinance adopted by City Council.
- Mr. Bauman suggested the amendment be that the comments were in general nature of the parties in the matters that would be considered.
- Mr. Weiner amended the motion to reflect Mr. Bauman's suggestion.
- Ms. Giardina SECONDED.
- Mr. Weiner MOVED, Mr. Sacilotto SECONDED approval of the minutes as amended. MOTION CARRIED UNANIMOUSLY.

NEW BUSINESS

- Recording Secretary Welch swore in all participants.
- A. HEARING – CONTEST OF CITATION 205071
21-79906 – POLICE OFFICER – WILLIAM GORMAN #711
Respondent: Andrew Bryant Sheets
Address of Violation: 410 Taylor Street
Violations of Chapters 9A, Section 9A-13 (c) 8; and Chapter 26, Section 11.5 (z) Display of Indecent Sign.
- Board Attorney David Jackson explained the respondent(s) for this case, and related cases heard this date, were issued citations for alleged violations of Chapter 26, Section 11.5(z) of the Punta Gorda Code, noting in accordance with Chapter 9, Section 9-8(10)(d), the respondents timely filed written Notices of Appeal with the City to contest the citations. He stated pursuant to Chapter 9A, Section 9A-10 (g), Punta Gorda Code, the respondents' election to contest the citations served as a waiver for paying the fines initially assessed in the citation, explaining the Board could impose a fine in accordance with Section 9A-8(f) if a violation were to be found. He verified the Board's responsibilities were to consider the evidence and testimony presented so as to establish whether violations set forth in the citations occurred and to determine the fine amount to be imposed if same was established. He indicated while members might have received written materials regarding the constitutionality of the ordinance which was alleged to have been violated, constitutionality was not within their purview and should not be a

part of their determination, adding the Board did not have authority to overrule City Council's decision to adopt the ordinance. He concluded further law provided questions of constitutionality could be addressed through an appeal to the Circuit Court.

- Mr. Nadelson inquired as to how members could establish a prima facie case.
- Board Attorney Jackson responded Chapter 26, Section 11.5(z), Punta Gorda Code, prohibited individuals from erecting, displaying, wearing, altering, maintaining or relocating signs containing obscene language or graphics, fighting words or indecent speech which was legible from any public right-of-way (ROW) or within any public space and which could potentially be viewed by children under the age of 17. He stated the citations issued and contested this date referenced indecent speech, explaining the evidence and Code language must be examined to determine whether the signs in question included indecent speech. He advised the Code defined indecent speech as language or graphics that depicted or described sexual or excretory activities or organs in a manner which was offensive as measured by contemporary community standards.
- Mr. Nadelson questioned how contemporary community standards were established and whether the City had an obligation to establish same prior to proceeding with the cases.
- Board Attorney Jackson replied there was not a definition of community standards in the Code, verifying same would be for the Board to determine.
- Mr. Nadelson opined a prima facie case could not be established until community standards were determined.
- Board Attorney Jackson reiterated the Board should determine whether indecent speech was legible from any public ROW or within a public space which could potentially be viewed by children under the age of 17. He then indicated members had received a memorandum from the defense counsel representing the respondents for each contest of citation case heard this date, noting the City had filed a motion to strike the memorandum and the Board had discretion on how they wished to proceed.
- City Attorney Levin indicated he would be acting as the City's prosecutor for the contest of citation cases heard this date. He then stated the principal argument in the defense's memorandum contested the constitutionality of the sign ordinance cited in the violation by the respondent, explaining the motion to strike the respondent's memorandum was filed as the Board was an administrative tribunal with limited jurisdiction separate from that of the courts. He stated the motion to strike the memorandum was intended to clarify the findings made by the Board were based on evidence presented in relation to the ordinance and not the constitutionality of the ordinance.
- Mr. Phares Heindl, respondent's attorney, indicated the memorandum was standard protocol, expressing desire for same to be part of the record so that appellate courts or

higher jurisdictions would know the argument had been made. He acknowledged the limited jurisdiction of the Board; however, he suggested the memorandum be viewed as an understanding of the reason the respondents were adamantly against the ordinance they had been cited for and the motivation for the signs' wording. He explained the context of the respondents exercising their rights as well as standing for the community's rights, opining although the Board could not determine the constitutionality of the ordinance, they could determine there was strong argument the ordinance was unconstitutional.

- City Attorney Levin acknowledged the reasoning for the memorandum; however, he indicated it was inappropriate for the Board to consider whether there was a strong or compelling argument made by the respondents on the ordinance's constitutionality. He emphasized the record needed to be clear that determinations were based strictly on finding of facts as related to the evidence and testimony presented this date; therefore, the motivations of the respondents and their beliefs regarding the constitutionality of the ordinance were irrelevant.
- Mr. Bauman noted some of the information that was provided to members was received late, requesting members accept the documents for the record; however, no action would be taken on them.
- Mr. Chalifoux MOVED, Mr. Sacilotto SECONDED to strike the Memorandum of Defense to Citations and Memorandum of Law in Support of the Motion.
- Mr. Chalifoux explained his motion was made in response to the advice of the attorneys, opining the memorandum had no precedence in this case. He reiterated the Board's role was to consider whether an ordinance had been violated, not whether the ordinance was constitutional.
- Mr. Bauman opposed the motion, opining all documents should be incorporated into the Board's record as the matter would most likely proceed to the courts.
- Mr. Nadelson reiterated the Motion to Strike the Respondent's Memorandum was received late and members did not have adequate time to review same, agreeing the memorandum should remain as part of the record.
- Board Attorney Jackson recommended the constitutionality of the ordinance not be part of the Board's determination; however, the memorandum and motion could remain as part of the record going forward.
- Mr. Chalifoux MOVED, Ms. Giardina SECONDED to amend the previous motion to allow both documents to be entered into the record; however, same would not be considered in deliberations.
- VOTING AYE: Bauman, Chalifoux, Ericsson, Giardina, Nadelson, Sacilotto.

- VOTING NAY: Weiner.
- MOTION CARRIED.
- Board Attorney Jackson stated the preliminary discussion would be part of the record for each of the subsequent contest of citation cases on the agenda.
- Mr. Andrew Sheets, respondent, entered a plea of not guilty.
- City Attorney Levin verified the following with Mr. William Gorman, Punta Gorda Police Officer, who issued the citation to Mr. Sheets: his duties and responsibilities included enforcement of ordinances within the City; he responded to a potential Code violation at approximately 9:40 a.m. on June 9, 2021, at 410 Taylor Street, located within City limits; he was familiar with the City sign standards contained in Chapter 26 of the Punta Gorda Code; he recognized Exhibits 1 through 3, delineated in the agenda material, as the language for the types of signs prohibited by the City's sign code; he verified Exhibits 4 through 7 were photographs which accurately depicted the scene upon his arrival to the subject location. He then questioned the location of Mr. Gorman when the photographs were taken.
- Mr. Gorman replied he was in a public space approximately 10 to 15 yards away from the respondent, verifying the location was in front of the Charlotte County Tax Collectors Office where members of the public were entering and exiting the building throughout the day. He confirmed the respondent was holding a sign and wearing apparel containing indecent speech as defined in the City's sign code in a location where the sign could potentially be viewed by children under the age of 17. He verified he had knowledge of a warning regarding an alleged violation of the Code issued to the respondent on June 7, 2021, confirming Exhibit 8 was a true and accurate copy of the citation he issued to the respondent on June 9, 2021.
- City Attorney Levin requested Exhibits 1 through 8 be entered into the record.
- Mr. Bauman accepted the exhibits.
- Mr. Heindl drew attention to the body of the ordinance, verifying Mr. Gorman was required to fairly apply the wording of the ordinance in his duties as a police officer. He questioned whether the wording of the definitions were fairly applied and whether Mr. Gorman expected the Board to adopt his version of what the words on the sign and apparel meant.
- Mr. Gorman responded he was unable to comment on the Board's beliefs, explaining he could only comment on what words were instructed as enforceable. He agreed the Board could read the definition in the ordinance and apply the facts to determine whether there was a violation.

- Mr. Heindl inquired if Mr. Gorman made a determination the signs could potentially be viewed by individuals under the age of 17.
- Mr. Gorman replied the determination was made based on the public access to the subject location.
- Mr. Heindl questioned whether Mr. Gorman agreed a sign which was legible in any public area could be viewed by individuals under the age of 17.
- City Attorney Levin objected to the relevancy of the question as same was seeking to contest the language of the ordinance and its applicability. He stated the testimony before the Board regarded the specific location, time of day and signs that were an issue in this case, explaining an opinion could be rendered based on where the potential violation occurred and not with respect to any hypothetical situation.
- Mr. Heindl rebutted the ordinance needed to be understood and Mr. Gorman needed to determine whether the signs could be viewed by anyone under the age of 17, questioning if there was any public area where a sign could not be viewed by someone under the age of 17.
- Mr. Bauman opined the question was broad and irrelevant.
- Mr. Heindl inquired how Mr. Gorman determined the signs could be viewed by someone under the age of 17.
- Mr. Gorman responded his determination was based on the ordinance, verifying he determined the sign could be viewed by an individual under the age of 17 based on common knowledge that the subject location was public property.
- Mr. Heindl questioned whether Mr. Gorman found any obscenities in the signs.
- City Attorney Levin objected, explaining the charge related to indecent signs only and the question should be limited to whether or not Mr. Gorman determined the sign contained indecent speech.
- Mr. Bauman agreed with the objection.
- Mr. Heindl drew attention to the definition of indecent speech, apologizing for utilizing language he typically did not use. He stated the definition of indecent speech was language or graphics that depicted or described sexual or excretory activities or organs in a manner offensive as measured by contemporary community standards. He indicated there needed to be a finding that the signs depicted sexual or excretory activities or organs in order to find the signs contained indecent speech. He inquired whether it was agreed that each word in the definition was important to understand, noting the definition of the word "depict" and questioning the definition of "describe".
- Mr. Gorman responded the description of the words were in a memorandum that clearly stated the "f" word and "c" word were a violation of the ordinance that could be enforced.

- Mr. Heindl indicated it was important for the Board to know Mr. Gorman was operating according to direction he was given regarding what the words meant and not what he personally thought they meant.
- Mr. Gorman stated this was not the time nor place for his own opinion.
- Mr. Heindl stated the Board was not going to receive the memorandum and was not required to go by same, questioning whether Mr. Gorman agreed.
- Mr. Weiner objected to being lectured on English.
- Mr. Bauman added the Board was aware of such words as “depict” and “describe” and definitions were not needed.
- Mr. Heindl pointed out the word “fuck” (“f”) in relation to indecent speech, inquiring if “what the ‘f?’” depicted anything sexual.
- Mr. Bauman noted the signs did not utilize that phrase, requesting Mr. Heindl remain focused on the actual signs rather than generalities.
- Mr. Heindl explained the respondents were holding the signs due to issues with the ordinance’s constitutionality.
- City Attorney Levin objected to any argument relating to the constitutionality of the ordinance.
- Mr. Heindl indicated there were commonly used phrases containing the “f” word that did not have sexual connotations.
- Mr. Bauman requested Mr. Heindl remain focused on the language used on the signs.
- Mr. Chalifoux suggested a prima facie case be established.
- Mr. Heindl reiterated the Board needed to determine whether “‘f’ you” described sexual or excretory activities, indicating same was only a phrase. He then stated there was not a prima facie case as there was no indecency on the sign, noting members could interpret the words and not accept Mr. Gorman’s statement. He commented the “f” word might be offensive; however, the respondents did not display the word for sexual arousal; rather, same was used for intensity. He concluded the ordinance needed to be applied fairly and properly for this case.
- Mr. Nadelson inquired whether the memorandum was distributed to all City officers.
- Mr. Gorman replied he had received a copy, expressing uncertainty as to who else received same. He verified the word “cunt” (“c”) was a distinct word cited on the memorandum which fell under indecent speech; additionally, the “f” word had the power to insult or offend and derived from a sexual meaning.
- Mr. Chalifoux questioned Mr. Sheet’s demeanor when Mr. Gorman approached him.
- Mr. Gorman responded Mr. Sheets was cooperative and requested the citation be provided to him.

- City Attorney Levin recalled Mr. Heindl's comment regarding his reluctance to use the "f" word in the current setting, pointing out he was likely considering the Board and community could be offended by same. He stated the "f" word was the gravamen of the offense and not the context of the word, explaining Mr. Gorman testified the "f" and "c" word were determined to describe sexual activity or organs based on the interpretation of the ordinance and were displayed in a location which could be viewed by children under the age of 17; therefore, the elements of the offense had been met in this case.
- Mr. Chalifoux MOVED, Mr. Weiner SECONDED the City presented a prima facie case.
- Mr. Nadelson opined the Board had to determine whether community standards had been surpassed prior to establishing a prima facie case, adding community standards were broad and left to the interpretation of an individual. He indicated he had completed a large amount of research on the authority of the Board, including the constitutionality of the ordinance. He emphasized the importance of defining obscene and indecent speech as well as community standards and referenced two Supreme Court cases relating to obscene materials.
- City Attorney Levin requested Board Attorney Jackson determine whether independent research and argument were appropriate for a member to complete, particularly when addressing the constitutionality of the ordinance.
- Board Attorney Jackson advised the extent of the discussion regarded indecent speech, reiterating the constitutionality of the ordinance and obscene language were not part of the charge.
- Discussion ensued between Mr. Nadelson and City Attorney Levin regarding Supreme Court cases involving obscene language and community standards, with Mr. Nadelson reiterating community standards had not been established.
- Mr. Weiner noted both respondents appeared to live outside the City.
- VOTING AYE: Bauman, Chalifoux, Ericsson, Giardina, Sacilotto, Weiner.
- VOTING NAY: Nadelson.
- MOTION CARRIED.
- Mr. Bauman inquired whether the respondent's statements would apply to the succeeding matters heard this date.
- City Attorney Levin stated the respondent had the opportunity to present their cases as a defense since a prima facie case was established, concluding the respondent could reference the argument made for each case.
- Mr. Sheets read a statement into the record to be included in each case heard this date, stating he was a reporter for Charlotte County Cop Watch. He referenced his YouTube channel as well as his attempts to confront police officer and government corruption,

indicating attempts were made to prohibit him from doing same. He stated the strong words were displayed to express the depth of his anger with the government, opining it was his duty to confront attempts to remove freedom of speech. He added he would rather use the First Amendment than the Second Amendment to protest. He indicated the City was at fault for his protests in the streets as he had been trespassed from many locations, concluding the language he used was not sexual but regarded the Police Department policing for profit.

- Mr. Chalifoux questioned if Mr. Sheets thought the language was offensive to children.
- Mr. Heindl objected to the form of the question, noting the statement regarded indecent speech and the words were required to depict or describe sexual or excretory activities in a manner which was offensive.
- City Attorney Levin indicated it was not appropriate to object to a question raised by the administrative panel in a quasi-judicial capacity, opining the question was fair.
- Mr. Bauman agreed, requesting Mr. Sheets answer the question.
- Mr. Sheets replied in the negative, reiterating his language was free speech.
- Mr. Weiner verified Mr. Sheets resided outside of City limits, pointing out Mr. Heindl's memorandum indicated both parties he was representing resided within the City.
- Mr. Bauman clarified the Board was interested in Mr. Sheet's conduct and not where he resided.
- Mr. Weiner questioned Mr. Sheets' claims regarding corruption in the City.
- A brief discussion ensued regarding Mr. Sheet's claims, with Mr. Bauman requesting the focus remain on the ordinance.
- Ms. Giardina inquired whether Mr. Sheets could educate the public on his points of view without using indecent speech.
- Mr. Sheets replied pedestrians did not have to look or listen to him.
- Mr. Bauman indicated it was difficult for individuals to ignore signs that were in front of them. He then questioned whether there was any language not protected according to Mr. Sheets.
- Mr. Heindl opined the extent of Mr. Sheet's beliefs in free speech had no bearing on the factual determinations the Board needed to make. He then inquired whether the words Mr. Sheets displayed depicted or described sexual or expletory activities or organs.
- Mr. Sheets replied in the negative.
- City Attorney Levin questioned what the "f" word meant to Mr. Sheets.
- Mr. Sheets responded same was almost meaningless and had previous negative connotations.

- City Attorney Levin inquired as to those negative connotations and how the word was defined.
- Mr. Sheets reiterated it was a strong word used when making a strong statement, verifying he was not aware the word described sexual activity.
- City Attorney Levin questioned what the “c” word meant to Mr. Sheets.
- Mr. Sheets replied same was another suggestive, strong word used when making a strong statement.
- City Attorney Levin inquired whether he had ever heard the “c” word referred to a sexual organ.
- Mr. Sheets responded potentially in the past.
- Mr. Heindl stated the Board was not authorized to interpret the constitutionality of the ordinance; however, they were able to determine what the words meant. He questioned who the community standards concerned as the ordinance eliminated the entire community over the age of 16, noting while the preference might be to prevent children from hearing or seeing bad words, such language was heard throughout television and from politicians. He inquired whether speech should be sanitized to what individuals considered moral, concluding members should consider the community and not reach a hasty decision as Mr. Sheets was not guilty.
- City Attorney Levin provided a detailed overview of the considerations and determinations made when City Council adopted the ordinance, noting same was not to address Mr. Sheets; rather, it was drafted to address the United States (US) Supreme Court findings relating to the content, location and size of signs. He explained in order to make the sign code’s definition of obscenity consistent with the US Supreme Court’s definition, it was necessary to differentiate between the different forms of speech that were determined not to be protected by the First Amendment by the courts. He indicated indecent speech was one of the forms not protected and the definition of same was crafted from cases that defined indecent speech. He explained contemporary community standards were determined by the governing body within the City, noting the Police Officers as well as the Board were aware of what was considered to be offensive to the community. He stated the use of the particular words was what the ordinance prohibited, particularly where same could be legible from a public ROW and be viewed by children under the age of 17. He indicated the elements of the ordinance were satisfied and asked that there be a finding of violation, adding the nature of the case was irreparable. He concluded according to the ordinance, members could assess a fine up to \$5,000 per offense if an irreparable violation were to be found.

- Mr. Heindl requested members honor the efforts made to protect the constitutional rights of all as well as refrain from bias against himself or Mr. Sheets. He indicated his clients were protesting for all citizens, requesting there be a small penalty if needed.
- Mr. Chalifoux acknowledged Mr. Sheets' desire to protest; however, he spoke against the use of the words, noting he was not represented by Mr. Sheets as he would not use such inflammatory language.
- Mr. Sacilotto stated the "f" word as used in the sign was a verb and the "c" word was used as a noun, opining the context of the two words were explicitly indecent.
- Mr. Nadelson indicated the City attempted to draw a line between indecent and obscene speech, suggesting the ordinance as written would be found unconstitutional. He commented on the potential funds needed from the City to defend the ordinance, inquiring whether there was a better solution.
- Mr. Bauman stated the Board represented the City's community standards, noting he had issues with the use of the word as described by Mr. Sheets and would support a motion finding the respondent had violated the ordinance.
- Mr. Weiner MOVED to find the citation valid and the respondent irreparably violated the code, to order a fine in the amount of \$5,000 be imposed and to require payment of case costs incurred in the amount of \$7.41 within 10 days.
- MOTION FAILED due to lack of a SECOND.
- Mr. Sacilotto MOVED, Mr. Chalifoux SECONDED to find the citation valid and the respondent irreparably violated the code, to order a fine in the amount of \$1,000 be imposed and to require payment of case costs incurred in the amount of \$7.41 within 10 days.
- VOTING AYE: Bauman, Chalifoux, Ericsson, Sacilotto.
- VOTING NAY: Giardina, Nadelson, Weiner.
- MOTION CARRIED.

NOTE: A short break was called at 10:58 a.m.

NOTE: Case# 21-79930 was heard following Case# 21-79906.

NOTE: Case #21-79908 heard following Committee/Board Comments - Certificate of Appreciation.

B. HEARING - CONTEST OF CITATION 205072

21-79908 - POLICE OFFICER - RUSSELL FIORINO #714

Respondent: Andrew Bryant Sheets

Address of Violation: Right-of-Way West Olympia Avenue/Taylor Street

Violations of Chapter 9A, Section 9A-13 (c) 8; and Chapter 26, Section 11.5 (z) Display of Indecent Sign.

- Mr. Andrew Sheets, respondent, entered a plea of not guilty.
- City Attorney Levin verified the following with Mr. Russell Fiorino, Punta Gorda Police Officer, who issued the citation to Mr. Sheets: his duties and responsibilities included enforcement of ordinances within the City; he responded to a potential Code violation on June 12, 2021, at West Olympia Avenue and Taylor Street, located within City limits; he was familiar with the City sign standards contained in Chapter 26 of the Punta Gorda Code; he recognized Exhibits 1 through 3, delineated in the agenda material, as the language for the types of signs prohibited by the City's sign code; he verified Exhibits 4 through 5 were photographs which accurately depicted the scene upon his arrival to the subject location; he confirmed the incident took place on a weekend in a public location during a farmers market where children under the age of 17 were present and could view the signs; he issued Mr. Sheets a second citation equaling \$200. He then requested Exhibits 1 through 6 be entered into the record.
- Mr. Bauman accepted same.
- Mr. Heindl inquired whether "'f' Biden" meant one despised Biden or desired to have sexual relations with him.
- Mr. Fiorino replied he did not have an opinion regarding same as the sign contained indecent language according to the ordinance, agreeing with Mr. Sacilotto that the "'f'" word was a verb and represented an action.
- Ms. Giardina inquired whether the sign displayed to the left of Mr. Sheets was part of the citation.
- City Attorney Levin responded in the negative, verifying the apparel worn and flag held by Mr. Sheets were the only violations. He then questioned if the "'f'" word connoted a sexual activity to Mr. Fiorino.
- Mr. Fiorino responded affirmatively.
- Mr. Chalifoux MOVED, Mr. Weiner SECONDED the City presented a prima facie case.
- VOTING AYE: Bauman, Chalifoux, Ericsson, Giardina, Sacilotto, Weiner
- VOTING NAY: Nadelson
- MOTION CARRIED.
- Mr. Sheets indicated the citation was selective and discriminatory toward him as there had been numerous videos of police officers witnessing other individuals with indecent signs in locations where children were present, adding none of those individuals received a citation. He stated he had a lower income and the fines were outrageous, questioning what the irreparable harm had been.
- Mr. Bauman replied the conduct had already occurred and there was no curative action that could be taken to prevent the violation.

- Mr. Sheets inquired how the citation could be enforced if he could not pay it. He stated the language on the signs were acronyms with dots between each letter, adding Mr. Fiorino later apologized for overlooking same.
- Mr. Chalifoux questioned how Mr. Sheets knew the other individuals holding signs had not received warnings.
- Mr. Chalifoux responded the occurrence had been completely documented by body cameras, reiterating he had been discriminated against.
- City Attorney Levin questioned whether the dots between the letters in the “f” word were visible by most passersby.
- Mr. Fiorino replied in the negative, adding same were not noticed until after the video was uploaded to YouTube. He indicated later that date he informed Mr. Sheets the dots were not noticeable, noting he had never apologized to Mr. Sheets.
- Mr. Heindl expressed desire for the Board not to perceive “f Biden” as sexual in nature as same was required to properly and fairly apply the ordinance. He indicated Mr. Chalifoux had suggested obscene language and “fighting words” were relevant to the charge, requesting members consider the rule of law in that an individual was innocent until proven guilty; additionally, members would be applying the rule of law if they found Mr. Sheets guilty of obscene language or “fighting words”, neither of which were included in the charges.
- City Attorney Levin clarified the citation was for indecent speech.
- Mr. Heindl then asserted the City was applying the standards for obscene language to indecent language, further asserting “f Biden” did not depict or describe sexual activity or organs. He emphasized the respondents were standing for constitutional rights, noting a large fine would not help the issue.
- Mr. Bauman disagreed with Mr. Heindl’s point of view, opining the use of the word was not generalized, but described a sexual act being carried out on an individual.
- Mr. Weiner MOVED to find the citation valid and the respondent irreparably violated the code, to order a fine in the amount of \$5,000 be imposed and to require payment of case costs incurred in the amount of \$7.41 within 10 days.
- MOTION FAILED due to lack of as SECOND.
- Ms. Giardina MOVED, Mr. Sacilotto SECONDED to find the citation valid and the respondent irreparably violated the code, to order a fine in the amount of \$500 be imposed and to require payment of case costs incurred in the amount of \$7.41 within 10 days.
- Mr. Nadelson opined there was not a violation of the ordinance as the City had not established community standards.

- Mr. Chalifoux opined the fine should remain \$1,000.
- VOTING AYE: Bauman, Ericsson, Giardina, Sacilotto.
- VOTING NAY: Chalifoux, Nadelson, Weiner.
- MOTION CARRIED.

NOTE: Mr. Chalifoux and Mr. Nadelson left meeting at 1:10 p.m.

C. HEARING – CONTEST OF CITATION 205081

21-79967 – POLICE OFFICER – CPL. JOSHUA GIRARD

Respondent: Andrew Bryant Sheets

Address of Violation: 126 Harvey Street

Violations of Chapter 9A, Section 9A-13 (c) 8; and Chapter 26, Section 11.5 (z) Display of Indecent Sign

- Mr. Andrew Sheets, respondent, entered a plea of not guilty.
 - City Attorney Levin verified the following with Mr. Joshua Girard, Punta Gorda Police Officer, who issued the citation to Mr. Sheets: his duties and responsibilities included enforcement of ordinances within the City; he responded to a potential Code violation at approximately 2:00 p.m. on June 22, 2021, at 126 Harvey Street, located within City limits; he was familiar with the City sign standards contained in Chapter 26 of the Punta Gorda Code; he recognized Exhibits 1 through 3, delineated in the agenda material, as the language for the types of signs prohibited by the City’s sign code; he verified Exhibits 4 and 6 were photographs which accurately depicted the scene upon his arrival to the subject location; he witnessed Mr. Sheets wearing apparel and holding a sign containing indecent speech in a public location where they could potentially be viewed by children under the age of 17; he determined Mr. Sheets was previously issued a warning and citations. He then requested Exhibits 1 through 6 be entered into the record.
 - Mr. Bauman accepted same.
 - Mr. Heindl questioned whether Mr. Sheets would still be in violation if the sign had stated “what the ‘f’?” or “‘f’ off”.
 - Mr. Girard replied affirmatively.
 - Mr. Heindl inquired whether the term “what the ‘f’?” described sexual activity.
 - Mr. Girard declined to provide his personal opinion regarding same.
 - Mr. Heindl then requested to incorporate his prior arguments into this case.
 - City Attorney Levin questioned if Mr. Girard understood the “f” word described sexual activity.
 - Mr. Girard replied affirmatively.
 - Mr. Sacilotto MOVED, Ms. Giardina SECONDED the City presented a prima facie case.
- MOTION CARRIED UNANIMOUSLY.

- Mr. Heindl confirmed Mr. Sheets desired to incorporate his previous statements into this case.
- Mr. Bauman verified the Board accepted Mr. Sheets' previous testimony.
- Mr. Heindl inquired whether Mr. Bauman considered "what the 'f'?" or "'f' off" to describe sexual activity.
- Mr. Bauman replied he found the "f" word to be used in such a way in this particular case.
- Mr. Heindl indicated the courts should evaluate the statute if same could be applied so broadly.
- City Attorney Levin stated the witness' previous statements were accepted as testimony, requesting the testimony and questions he had posed to the witness also be incorporated into the record for this case.
- Mr. Heindl agreed same was fair.
- Mr. Weiner questioned if the dots between the letters of the "f" word on Mr. Sheets' apparel were visible to Mr. Girard.
- Mr. Girard responded in the negative.
- City Attorney Levin inquired as to the distance between Mr. Girard and the respondent and whether the dots were noticeable from same.
- Mr. Girard replied in the negative, verifying he was approximately a foot away from the respondent.
- Mr. Ericsson MOVED, Mr. Sacilotto SECONDED to find the citation valid and the respondent irreparably violated the code, to order a fine in the amount of \$500 be imposed and to require payment of case costs incurred in the amount of \$7.41 within 10 days.
- VOTING AYE: Bauman, Ericsson, Giardina, Sacilotto.
- VOTING NAY: Weiner.
- MOTION CARRIED.

D. HEARING - CONTEST OF CITATION 205086

21-80024 - POLICE OFFICER - CPL. JOSHUA GIRARD

Respondent: Andrew Bryant Sheets

Address of Violation: Right-Of-Way Tamiami Trail & East Retta Esplanade.

Violations of Chapter 9A, Section 9A-13 (c) 8; and Chapter 26, Section 11.5 (z) Display of Indecent Sign

- Mr. Andrew Sheets, respondent, entered a plea of not guilty.
- City Attorney Levin verified the following with Mr. Joshua Girard, Punta Gorda Police Officer, who issued the citation to Mr. Sheets: his duties and responsibilities included enforcement of ordinances within the City; he responded to a potential Code violation

at approximately 2:15 p.m. on June 26, 2021, at Tamiami Street and East Retta Esplanade, located within City limits; he was familiar with the City sign standards contained in Chapter 26 of the Punta Gorda Code; he recognized Exhibits 1 through 3, delineated in the agenda material, as the language for the types of signs prohibited by the City's sign code; he verified Exhibit 4 was a photograph which accurately depicted the scene upon his arrival at the subject location; he witnessed Mr. Sheets wearing apparel and holding a sign containing indecent speech in a public location where they could potentially be viewed by children under the age of 17; he determined Mr. Sheets was previously issued a warning and citations. He then requested Exhibits 1 through 5 be entered into the record.

- Mr. Bauman accepted same.
- Mr. Heindl questioned whether Mr. Sheets would still be in violation if the sign had stated "what the 'f'?" or "'f' off".
- Mr. Girard replied affirmatively.
- Mr. Heindl inquired if Mr. Girard independently determined the words described sexual activity or if same was determined based on the Police Department's memorandum.
- Mr. Girard responded the "f" word was offensive as it had a sexual meaning.
- Mr. Heindl questioned if the phrases "what the 'f'?" or "'f' off" described sexual activity, requesting Mr. Girard respond in the negative for the record.
- City Attorney Levin objected to Mr. Heindl arguing with the witness, explaining "what the 'f'?" was not displayed on the sign and was not the subject of Mr. Girard's testimony.
- Mr. Bauman agreed to the objection.
- Mr. Heindl indicated the "f" word appeared to mean one thing in certain settings and another when displayed on a sign as free speech.
- City Attorney Levin inquired whether Mr. Heindl's statement was posed as a question or argument, objecting to same if posed as argument.
- Mr. Heindl noted members indicated they could use the "f" word in their personal lives; however, the word had a different meaning when used on a sign as free speech.
- Ms. Giardina indicated the "f" word was offensive to her regardless of the location where same was used.
- Mr. Sheets pointed out Exhibit 4 displayed other individuals protesting and no violations had been issued to them, reiterating the citations were selective and discriminatory toward him.
- City Attorney Levin questioned whether the "f" word was a word used to describe sexual activity.

- Mr. Sheets replied in the negative, noting same was a strong word and had many meanings.
- Ms. Nicole Christian stated she was present when Mr. Girard issued the citation to Mr. Sheets, verifying Mr. Girard ignored the other individuals present with signs containing indecent speech. She referenced previous cases relating to the constitution and free speech.
- City Attorney Levin objected to Ms. Christian's argument based on constitutional rights.
- Mr. Bauman explained her testimony should be based on observations of the scene.
- Ms. Christian continued to speak on the constitutionality of the ordinance, opining the ordinance was created to eliminate Mr. Sheet's free speech.
- Mr. Heindl stated the ordinance did not protect the community unless an individual was under the age of 17, noting 80% of the City was elderly. He indicated members were not protected from the words that might be offensive, concluding parents were responsible for protecting and teaching their children.
- City Attorney Levin stated the ordinance was created to protect children under the age of 17 from having to witness indecent speech in public places, concluding the City desired to attract families with children and protect them from language the community found offensive.
- Ms. Giardina MOVED, Mr. Sacilotto SECONDED to find the citation valid and the respondent irreparably violated the code, to order a fine in the amount of \$500 be imposed and to require payment of case costs incurred in the amount of \$7.41 within 10 days.
- VOTING AYE: Bauman, Ericsson, Giardina, Sacilotto.
- VOTING NAY: Weiner.
- MOTION CARRIED.

NOTE: Case #21-79622 heard following Case #205086.

E. HEARING - CONTEST OF CITATION 205076

21-79930 - POLICE OFFICER - TAYLOR SMITH #707

Respondent: Richard Lee Massey

Address of Violation: 326 West Marion Avenue

Violations of Chapter 9A, Section 9A-13 (c) 8; and Chapter 26, Section 11.5 (z) Display of Indecent Sign

- Mr. Richard Massey, respondent, entered a plea of not guilty.
- City Attorney Levin verified the following with Ms. Taylor Smith, Punta Gorda Police Officer, who issued the citation to Mr. Massey: her duties and responsibilities included enforcement of ordinances within the City; she responded to a potential Code violation

at 326 West Marion Avenue, located within City limits; she was familiar with the City sign standards contained in Chapter 26 of the Punta Gorda Code; she recognized Exhibits 1 through 3, delineated in the agenda material, as the language for the types of signs prohibited by the City's sign code; she verified Exhibits 4 through 6 were photographs which accurately depicted the scene upon her arrival to the subject location. He then questioned how Ms. Smith verified the identity of Mr. Massey.

- Ms. Smith responded with an explanation of the process she used to identify Mr. Massey as well as the interactions she had with him while issuing the citation. She verified a warning had been issued to Mr. Massey for an indecent sign a week prior to the date. She confirmed he was sitting in a public space at approximately 2:29 p.m. on the date she issued the citation while holding a sign containing indecent speech which could potentially be viewed by children under the age of 17.
- City Attorney Levin requested Exhibits 1 through 7 be entered into the record.
- Mr. Bauman accepted same.
- Mr. Heindl questioned whether Mr. Massey expressed he was attempting to defend First Amendment rights and whether he would have been in violation if the sign stated "what the 'f'?"
- Ms. Smith replied affirmatively.
- Mr. Heindl indicated Ms. Smith made determinations based on a memorandum rather than if the word depicted or described sexual or excretory activities or organs.
- City Attorney Levin objected to the form of the question as Ms. Smith had not testified she relied on the memorandum to determine the sign violated the ordinance.
- Mr. Heindl inquired if Ms. Smith relied on the memorandum or made an independent decision regarding the use of the word.
- Ms. Smith replied the determination was made based on the ordinance and the memorandum. She then verified Mr. Massey was located in front of the City Hall, accessed by members of the public, including children under the age of 17; additionally, the location was centrally located near the downtown area as well as Gilchrist Park where many children could be found.
- Mr. Heindl questioned if a violation would occur if an individual used the "f" word when making a speech.
- City Attorney Levin objected to the question as the violation regarded a sign and not public speech.
- Discussion ensued regarding the location of the violation as well as the interactions which occurred between Ms. Smith and Mr. Massey.

- Mr. Nadelson inquired whether the sign would be in violation if a raised middle finger was displayed, explaining the attempt was to establish what the community standards were.
- Ms. Smith responded the case was complaint driven; therefore, a member of the community found the sign offensive.
- Mr. Heindl questioned who made the complaint.
- City Attorney Levin explained State Statute allowed complaints to be anonymous prior to July 1, 2021, and the complaint was initiated prior to that date.
- Discussion continued regarding the complaint and interactions during the alleged violation.
- Mr. Chalifoux MOVED, Mr. Sacilotto SECONDED the City presented a prima facie case.
- Mr. Nadelson opined the City had not established community standards regarding indecent speech; therefore, he disagreed that a prima facie case was established.
- VOTING AYE: Bauman, Chalifoux, Ericsson, Giardina, Sacilotto, Weiner.
- VOTING NAY: Nadelson.
- MOTION CARRIED.
- Mr. Massey indicated the sign and protest were focused against the City's attempts to restrict free speech, noting although the language might not be approved of, it was still protected under the First Amendment. He questioned the difference between saying the words where children could hear them versus displaying them on a sign, adding the First Amendment covered both written and spoken speech. He stated Ms. Smith violated her oath to uphold the US and Florida Constitutions, requesting the Board dismiss the citation.
- Mr. Heindl questioned whether Mr. Massey used language or graphics which depicted or described sexual or excretory activities or organs in his displayed sign.
- Mr. Massey replied in the negative.
- Mr. Heindl inquired as to the meaning of the word according to Mr. Massey.
- Mr. Massey responded the use of the "f" word was to show his frustration with the City's attempt to eliminate free speech. He stated multiple citizens displayed indecent signs but had not received citations, questioning why he had received one.
- Mr. Heindl confirmed Mr. Massey was disabled, questioning if he could pay a large fine.
- Mr. Massey replied in the negative, verifying a large fine would be another obstacle to his attempts to maintain his civil rights.
- City Attorney Levin inquired whether Mr. Massey understood the "f" word related to sexual activity.

- Mr. Massey responded same might in one definition; however, the “f” word had many definitions that did not have sexual connotations. He then verified he had footage from a body camera of other individuals protesting who received warnings and others who had not received warning.
- Mr. Chalifoux inquired if Mr. Massey thought the “f” word would be offensive to others in the community.
- Mr. Massey replied possibly, reiterating the “f” word was protected by the First Amendment.
- Mr. Nadelson questioned whether Mr. Massey thought he was being selectively prosecuted.
- Mr. Massey responded affirmatively.
- City Attorney Levin noted the case was considered to be an irreparable violation and a fine up to \$5,000 could be imposed.
- Mr. Heindl expressed his frustration regarding members not considering whether the words used had depicted or described sexual or excretory activities or organs, reiterating it was the use of the word and not the word itself that the definition addresses.
- City Attorney Levin drew attention to the language as written in the ordinance, noting same did not mention the phrase in which the word appeared; instead, it addressed whether the word that was used on the sign described sexual activity in a manner that was offensive and measured by contemporary community standards. He explained the case this date related to the sign potentially being viewed by children under the age of 17, concluding the ordinance defined indecent speech and members should determine whether the word itself described sexual activity as the “f” word did have sexual connotations.
- Mr. Chalifoux agreed with City Attorney Levin, noting children had not been influenced by external meanings such as adults had been.
- Mr. Weiner MOVED to find the citation valid and the respondent irreparably violated the code, to order a fine in the amount of \$5,000 be imposed and to require payment of case costs incurred in the amount of \$7.41 within 10 days.
- MOTION FAILED due to lack of a SECOND.
- Ms. Giardina MOVED, Mr. Sacilotto SECONDED to find the citation valid and the respondent irreparably violated the code, to order a fine in the amount of \$500 be imposed and to require payment of case costs incurred in the amount of \$7.41 within 10 days.

- Mr. Nadelson indicated the word was distasteful; however, he opined the sign was political speech. He reiterated the City had not presented a prima facie case by establishing that community standards had been violated.
- Mr. Bauman opined the Board constituted community standards, noting he found the language to be in violation of the ordinance.
- VOTING AYE: Bauman, Chalifoux, Ericsson, Giardina, Sacilotto.
- VOTING NAY: Nadelson, Weiner.
- MOTION CARRIED.
- Mr. Heindl requested the remaining cases for Mr. Sheets be deferred to the August 18, 2021, meeting.
- City Attorney Levin verified the officer for those cases had conflicts with the next meeting date.

F. 21-79789 - CODE COMPLIANCE OFFICER – NICK FALKNER

Respondents: Christopher S. Chase

Address of Violation: 415 Cooper Street

Violations of Chapter 26, Section 3.8 (d) (1) Prohibited Use; and Chapter 26, Section 8.5 (b) (2) f Fence in disrepair

- Mr. Christopher Chase, respondent, entered a plea of not guilty.
- Mr. Nick Falkner, Code Compliance Officer, displayed photographs of the subject property, located within City limits, stating a May 25, 2021, inspection found the operation of a vehicle storage facility and the fence in a state of disrepair. He reviewed the City's efforts to bring the property into compliance, noting inspections on June 14, 2021, and July 27, 2021, found the violations remained. He submitted an invoice for case costs incurred in the amount of \$22.71.
- Mr. Chalifoux MOVED, Ms. Giardina SECONDED the City had presented a prima facie case. MOTION CARRIED UNANIMOUSLY.
- Mr. Chase indicated he was in the process of moving to the subject property over the past year, expressing confusion as to why the vehicles were not permitted to be stored at the property as he understood the location was for commercial use. He stated some of the vehicles had been removed; however, the two large semi-trailers could not be sold as they contained items from his shop and house, adding the house was not large enough to fit those items. He explained the intent was to install a sliding gate once he obtained more funds, adding the fence would be addressed with a contractor to ensure compliance. He concluded he was attempting to bring the property into better condition than in prior years.

- Ms. Lisa Hannon, Zoning Official, verified the property was zoned as Neighborhood-Center, a mixed use classification which did not permit outdoor storage. She summarized the history of the property prior to the zoning change in 2005, noting the only recent business tax receipt was for the Smoke House on the property and all other contractor businesses for the location expired in 2010.
- Mr. Chalifoux verified the zoning for the property would likely remain mixed-use classification and a contractor license would not allow that type of use.
- Ms. Giardina inquired as to when Mr. Chase purchased the property.
- Mr. Chase responded September 2020, questioning what could be done with the items. He objected to being told how he could use his property.
- Mr. Bauman stated the zoning classification had been established for the location and Mr. Chase had not done his due diligence prior to its purchase.
- Mr. Nadelson questioned whether efforts were made to notify Mr. Chase of the citation prior to its issuance.
- Mr. Falkner clarified a citation had not been issued, explaining the property was posted after the notices of violations were not received.
- Ms. Hannon verified the notices were returned after being mailed to the address listed on the Charlotte County Property Appraiser's website.
- Ms. Giardina inquired as to how much time Mr. Chase needed to bring the property into compliance.
- Mr. Chase replied with uncertainty as to where to park the two semi-trailers.
- Discussion ensued regarding potential options for Mr. Chase to bring the property into compliance, with City Attorney David Levin confirming a special exception was not a viable alternative for the subject property unless the proposed use was similar in nature to other special exceptions listed for the zoning district.
- Mr. Ericsson questioned Mr. Chase's purpose for purchasing the property.
- Mr. Chase responded the intention was to request a zoning variance for a towing company and mechanical shop for the location. He then stated he was in the process of selling items that moved with him to the subject property, reiterating the two semi-trailers could not be sold as they were being used for storage.
- Discussion continued regarding potential solutions, with Ms. Hannon verifying construction of a building to store the items would require development review as there were architectural provisions with height and size limitations in the neighborhood-center zoning classification.
- Ms. Giardina questioned the timeframe for Mr. Chase to bring the property into compliance.

- Mr. Chase replied with uncertainty as he had limited income.
- Mr. Nadelson indicated there were locations in Charlotte County that were zoned agricultural that could potentially store machinery which was considered farm equipment.
- Mr. Bauman stated the Board had limited authority since the ordinance was clear on the classification of the property, noting several days could be granted to bring the property into compliance and Mr. Chase could work with staff.
- Mr. Weiner MOVED, Mr. Chalifoux SECONDED to find the respondent guilty, to issue a Cease and Desist Order for any future violations, to bring the property into compliance within 90 days, to require payment of case costs incurred in the amount of \$22.71 within 10 days, subject to a fine of \$250 per day plus applicable interest. MOTION CARRIED UNANIMOUSLY.
- Mr. Chase questioned what was permitted to be stored on the property.
- Ms. Giardina responded staff could advise him of same.

G. 21-79478 - CODE COMPLIANCE OFFICER – ALLEN MCDANIEL

Respondents: Michael Christopher & Nicole C. Ross
 Address of Violation: 2814 La Mancha Court

Violations of Chapter 9, Section 9-2 (a); and Chapter 26, Section 8.14 (b) Outdoor Storage; and Chapter 26, Section 3.13 (g) Commercial Vehicle

- Mr. Bauman announced the City was requesting dismissal of the case.
- Mr. Chalifoux MOVED, Mr. Weiner SECONDED to dismiss the case. MOTION CARRIED UNANIMOUSLY.
- Mr. Allen McDaniel, Code Compliance Officer, verified the property was in compliance.

H. 21-78406 - CODE COMPLIANCE OFFICER – ALLEN MCDANIEL

Respondents: Jason D. & Monica P. Mattes
 Address of Violation: 134 Colony Point Drive

Violation of Chapter 26, Section 8.11 (a) Dirty Roof

- Mr. McDaniel verified the property was in compliance and requested dismissal of the case.
- Mr. Chalifoux MOVED, Mr. Sacilotto SECONDED to dismiss the case. MOTION CARRIED UNANIMOUSLY.

NOTE: A short break followed Case #21-78406.

NOTE: Certificate of Appreciation under Board/Committee Comments heard following the break.

I. 21-79622 - CODE COMPLIANCE OFFICER – NICK FALKNER

Respondents: Daniel & Lura Jean Anderson

Address of Violation: 337 San Marie Drive

Violations of Chapter 9, Section 9-2 (a); and Chapter 26, Section 8.14 (b) Outdoor Storage; and Chapter 9, Section 9-2 (h) Tall Grass and/or Weeds; and Chapter 26, Section 12.4 (d) (9) a, b, c Overgrown landscaping; and Chapter 26, Section 8.5 (b) (2) c Unpermitted fencing material

- Ms. Rebecca Anderson, respondent's representative, entered a plea of not guilty on behalf of the absent respondent.
- Mr. Nick Falkner, Code Compliance Officer, displayed photographs of the subject property, located within City limits, stating a May 25, 2021, inspection found outdoor storage on the right side of the house and on the rear yard of the property as well as tall grass and/or weeds throughout the property and overgrown landscaping on the front yard. He provided a detailed review of the City's efforts to bring the property into compliance, noting an inspection on June 24, 2021, and July 27, 2021, found the violations remained; however, the outside storage on the rear and side yard had been removed from the property. He submitted an invoice for case costs incurred in the amount of \$22.71.
- Ms. Anderson indicated the lawn was mowed regularly; additionally, items were stored in the yard while awaiting construction of new additions to the property.
- Mr. Weiner MOVED, Ms. Giardina SECONDED the City had presented a prima facie case. MOTION CARRIED UNANIMOUSLY.
- Ms. Anderson reiterated the outside storage had been removed and provided a detailed explanation of the reason for the violations as well as the efforts made to bring the property into compliance. She indicated a neighbor installed the wire fence, adding neighboring property owners had no complaints regarding same.
- Mr. Bauman inquired as to Code requirements regarding the fence material.
- Ms. Hannon cited the section of Code relating to same as well as to landscaping, explaining agricultural grade fence material was not permitted. She concluded the agricultural grade fence had been addressed in a previous case; however, same had been reinstalled.
- Ms. Anderson indicated the fence was installed by the neighboring property owner without permission as the neighbor believed the piece of land was not owned by the respondent.
- Discussion ensued regarding the location of the agricultural grade fence relative to the subject property.

- City Attorney Levin pointed out there was evidence the fence was within the property line and the respondents were responsible for same. He stated the respondents could be fined if they did not comply with the Board's order to remove the fence, adding the order should be acceptable to inform the neighbor the fence needed to be removed and could not be reinstalled. He then verified Ms. Anderson was addressing the overgrowth of vegetation, noting there was evidence indicating the absence of landscape border to outline the bed and the weeds within the bed had become overgrown. He recommended the Board find a violation had occurred and allow an appropriate amount of time to install a structural bed to contain the vegetation, to continue removal of the overgrown vegetation and to remove the fence.
- Mr. Bauman indicated 30 days was the typical amount of time allowed to bring a property into compliance.
- Ms. Anderson stated the respondents intended to have the issues corrected when they returned in October 2021.
- Discussion continued regarding the violations, with Mr. Falkner verifying the respondents indicated they were in the process of hiring a landscape specialist or architect to resolve the landscaping issues.
- Ms. Anderson added they were attempting to improve the property.
- Mr. Weiner MOVED, Ms. Giardina SECONDED to find the respondent guilty, to issue a Cease and Desist Order for any future violations, to order the respondents to bring the property into compliance within 30 days, and to require payment of case costs incurred in the amount of \$22.71 within 10 days, subject to a fine of \$250 per day plus applicable interest. MOTION CARRIED UNANIMOUSLY.

UNFINISHED BUSINESS

- No items.

STAFF COMMENTS

- None.

COMMITTEE/BOARD COMMENTS

NOTE: Certificate of Appreciation heard following Case #21-78406.

- A. Certificate of Appreciation
 - Mr. Bauman announced Mr. Chalifoux would be leaving during this meeting and presented Mr. Chalifoux with a Certificate of Appreciation in recognition of his years of service on the Board.
 - Mr. Chalifoux expressed appreciation for his time served on the Board; additionally, he thanked staff and members, concluding the purpose and intent of the Board was to maintain the standards of the community.

NOTE: Case #21-79908 heard following Certificate of Appreciation.

- Mr. Weiner inquired of Mr. Sheets.
- City Attorney Levin interjected there were additional violations against Mr. Sheets which could return to the Board, requesting no other comments be made relating to him.

CITIZENS' COMMENTS

- None.

ADJOURNMENT

- Meeting Adjourned: 2:24 p.m.

Henry Bauman, Chairman

Sara Welch, Recording Secretary