

**CODE ENFORCEMENT BOARD
MEETING
OCTOBER 27, 2021**

MEMBERS PRESENT: Henry Bauman, Chairman
Roland Ericsson, Nora Giardina,
Adele Higgins, Carl Rich,
Paul Sacilotto

MEMBERS ABSENT: Joseph Comeaux

OTHERS PRESENT: City Attorney David Levin
Board Attorney Kelly Fernandez
Lisa Hannon, Zoning Official
David McCarty, Code Compliance Supervisor
Lavosia Price, Code Compliance Officer
Allen McDaniel, Code Compliance Officer
Nick Falkner, Code Compliance Officer
Ashley Omelanski-Carney, Executive Assistant
Roger Miller, Jeff Lustig

CALL TO ORDER/ANNOUNCEMENTS

- Mr. Bauman called the meeting to order at 9:00 a.m.
- A. Roll Call
- B. Next Scheduled Meeting
- 1. November 16, 2021

APPROVAL OF MINUTES

- A. September 15, 2021
- Mr. Sacilotto MOVED, Ms. Giardina SECONDED approval of the September 15, 2021, minutes. MOTION CARRIED UNANIMOUSLY.

NEW BUSINESS

- Recording Secretary Pues swore in all participants.
- A. RESPONDENT'S MOTION TO STAY ORDERS AND ADMINISTRATIVE ACTIONS
CITATION 205076 - CASE #21-79930
Respondent: Richard Lee Massey
Address of Violation: 326 West Marion Avenue
Violation of Chapter 9A, Section 9A-13(c)8; and Chapter 26, Section 11.5(z) Display of Indecent Sign
- City Attorney David Levin announced the respondents' counsel served the City with Motion to Stay Orders for Items A through E while the matters in each case were being appealed through the Circuit Court. He requested the Motion to Stay Orders be approved, noting same did not foreclose the City from taking action on any new violations.

- Mr. Rich verified the case number for Item A in the letter from the respondent's lawyer was incorrect due to a scrivener's error.
- Board Attorney Kelley Fernandez confirmed the motion for Items A through E could be combined into one motion.
- Mr. Bauman read Cases #21-79930, #21-79906, #21-79908, #21-79967 and #21-80024 into the record.
- Mr. Ericsson MOVED, Mr. Sacilotto SECONDED to approve the request to Stay Orders and Administrative Actions for each case cited. MOTION CARRIED UNANIMOUSLY.

B. RESPONDENT'S MOTION TO STAY ORDERS AND ADMINISTRATIVE ACTIONS

CITATION 205071 – CASE #21-79906

Respondent: Andrew Bryant Sheets

Address of Violation: 410 Taylor Street

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

- See above.

C. RESPONDENT'S MOTION TO STAY ORDERS AND ADMINISTRATIVE ACTIONS

CITATION 205072 – CASE #21-79908

Respondent: Andrew Bryant Sheets

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

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

- See above.

D. RESPONDENT'S MOTION TO STAY ORDERS AND ADMINISTRATIVE ACTIONS

CITATION 205081 – CASE #21-79967

Respondent: Andrew Bryant Sheets

Address of Violation: 126 Harvey Street

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

- See above.

E. RESPONDENT'S MOTION TO STAY ORDERS AND ADMINISTRATIVE ACTIONS

CITATION 205086 – CASE #21-80024

Respondent: Andrew Bryant Sheets

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

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

- See above.

F. 21-80407- CODE COMPLIANCE OFFICER – ALLEN MCDANIEL

Respondents: Michael J. Grant & Lorraine B. Grant TRS
and Christopher M. Grant

Address of Violation: 610 Trabue Avenue

Violation of Chapter 9, Section 9-2 (h) Tall grass and/or weeds

- Mr. Roger Miller, respondent's representative, entered a plea of not guilty.
- Mr. Allen McDaniel, Code Compliance Officer, displayed photographs of the subject property, located within City limits, stating an August 17, 2021, inspection found tall grass and/or weeds throughout the property. He reviewed the City's efforts to bring the property into compliance, noting an inspection on August 31, 2021 found the violations remained; however, an inspection on September 7, 2021, found the violation was corrected. He indicated an additional inspection on September 28, 2021, found the property was not in compliance; however, an October 26, 2021, inspection found the violation was again corrected. He requested a Cease and Desist Order for any future violations due to frequent citizen complaints against the property, submitting an invoice for case costs incurred in the amount of \$12.29.
- Ms. Giardina MOVED, Mr. Sacilotto SECONDED the City had presented a prima facie case. MOTION CARRIED UNANIMOUSLY.
- Mr. Miller indicated the respondents were out of the country during the first inspection and returned shortly after the notice of violation was issued. He stated immediate action was taken to rectify the violations, requesting the Board consider same and refrain from entering an order unless a subsequent violation was to occur.
- Mr. Bauman questioned if there were any previous complaints against the property.
- Mr. McDaniel responded there were four complaints which were received on July 22, 2020, March 29, 2021, June 28, 2021, and August 17, 2021, verifying each complaint related to tall grass at the property.
- Mr. Bauman spoke against Mr. Miller's request to refrain from issuing a Cease and Desist Order due to the reoccurring violations, opining arrangements could have been made while the respondents were gone.
- Mr. Rich expressed confusion regarding the details of the violation.
- Mr. McDaniel clarified the communications he had with the respondent as well as the circumstances regarding the violation, including the respondent indicating he had not seen the property and desired for the case to be dismissed.

- Mr. Sacilotto MOVED, Mr. Ericsson SECONDED to find the respondent guilty, to issue a Cease and Desist Order for any future violations and to require payment of case costs incurred in the amount of \$12.29 within 10 days, subject to a fine of \$250 per day plus applicable interest. MOTION CARRIED UNANIMOUSLY.
- G. 21-80374- CODE COMPLIANCE OFFICER – NICK FALKNER
- Respondents: James and Jean Ulchinsky, TRS.
- Address of Violation: 7542 Dracena
- Violations of Chapter 26, Section 8.11(d) Property Maintenance Site; and Chapter 9, Section 9-2(a) Outside Storage; and Chapter 26, Section 8.14(b) Structures and Uses Limited; and Chapter 9, Section 9-2(h) Wild Overgrowth
- Mr. Bauman 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 an August 12, 2021, inspection found outside storage on the rear yard of the property along with dead palm fronds hanging from the trees on the front yard of the property. He reviewed the City’s efforts to bring the property into compliance, noting an inspection on August 30, 2021, found the dead palm fronds were trimmed and removed; however, the outside storage remained. He indicated an inspection on October 26, 2021, found the violation continued and submitted an invoice for case costs incurred in the amount of \$17.06.
 - Mr. Bauman verified there had been no contact with the respondent relating to this violation, inquiring whether the property was occupied.
 - Mr. Falkner replied with uncertainty regarding same.
 - Mr. Sacilotto MOVED, Ms. Giardina SECONDED the City had presented a prima facie case. MOTION CARRIED UNANIMOUSLY.
 - Ms. Giardina MOVED, Mr. Sacilotto SECONDED to find the respondent guilty, to issue a Cease and Desist Order for any future violations, to order the property be brought into compliance within 10 days and to require payment of case costs incurred in the amount of \$17.06 within 10 days, subject to a fine of \$250 per day plus applicable interest.
 - Ms. Higgins requested the portion of the motion relating to the wild overgrowth be removed as the dead palm fronds from the trees had been removed.
 - City Attorney Levin explained the City was requesting a Cease and Desist for future violations with respect to the wild overgrowth as the purpose of the Board was to ensure properties remained in compliance.
 - Ms. Higgins and Mr. Rich received clarification regarding the Cease and Desist procedures, the process for notifying respondents and the method for establishing the respondents as property owners.

- MOTION CARRIED UNANIMOUSLY.
- H. 21-80231- CODE COMPLIANCE OFFICER – NICK FALKNER
- Respondent: Tammie L. Stroman
- Address of Violation: 602 Drive Martin Luther King Jr. Boulevard
- Violations of Chapter 9, Section 9-2(a); and Chapter 26, Section 8.14(b) Outside Storage; and Chapter 26, Section 8.26 Temporary Structure
- Mr. Falkner announced the property was in compliance, requesting dismissal of the case.
 - Ms. Giardina MOVED, Mr. Sacilotto SECONDED to dismiss the case. MOTION CARRIED UNANIMOUSLY.
- I. 21-80288- CODE COMPLIANCE OFFICER – NICK FALKNER
- Respondent: Brenda Berkemeier
- Address of Violation: 7212 North Blue Sage
- Violation of Chapter 26, Section 8.11(b); and Chapter 9, Section 9-12(e) Torn/Missing Pool Cage Screening
- Mr. Bauman entered a plea of not guilty on behalf of the absent respondent.
 - Mr. Falkner displayed photographs of the subject property, located within City limits, stating an August 16, 2021, inspection found areas of missing or torn screening on the pool cage on the rear of the housing structure. He reviewed the City’s efforts to bring the property into compliance, noting inspections on September 3, 2021, and October 26, 2021, found the violations remained. He submitted an invoice for case costs incurred in the amount of \$16.76.
 - Mr. Sacilotto MOVED, Mr. Ericsson SECONDED the City had presented a prima facie case. MOTION CARRIED UNANIMOUSLY.
 - Mr. Bauman questioned the reason the mail was not properly served to the respondent.
 - Mr. David McCarty, Code Compliance Supervisor, replied postal carriers were signing their names along with the word COVID-19 on certified mail when they refrained from approaching properties due to COVID-19, explaining the property was then posted since the City could not confirm the mailing had been delivered.
 - Ms. Higgins verified the property was occupied.
 - Mr. Ericsson MOVED, Mr. Sacilotto SECONDED to find the respondent guilty, to issue a Cease and Desist Order for any future violations, to order the property be brought into compliance within 10 days and to require payment of case costs incurred in the amount of \$16.76 within 10 days, subject to a fine of \$250 per day plus applicable interest. MOTION CARRIED UNANIMOUSLY.

UNFINISHED BUSINESS

A. HEARING IMPOSING PENALTY

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

- City Attorney Levin announced the respondent had requested a continuance for this case, explaining Mr. McCarty would present evidence in opposition to the respondent's request as well as present the case if the Board denied the request.
- Mr. McCarty stated Mr. Falkner received a message by phone and email on October 26, 2021, from Mr. Daniel Anderson, respondent, indicating Mr. Anderson was returning to his property and desired a continuance for this case. He explained there were 17 code cases against the property since April 2016, noting 2 of the cases were heard by the Board and 5 were issued based on citizen complaints. He recalled the Board granted the respondent 30 days to bring the property into compliance at the July 28, 2021, meeting, pointing out it had been 90 days since the timeframe was granted.
- Mr. Falkner then confirmed the violations remained at the property as of October 26, 2021.
- Ms. Giardina verified the respondent was the same property owner for each of the 17 violations.
- Board Attorney Fernandez stated there was less risk with presenting the case this date without the respondent present as there was already a hearing for determining the initial violation; however, members could decide whether there was a legitimate reason for the respondent's absence.
- Ms. Giardina received clarification the potential fine for the case would be based on the date of the hearing for the initial violation.
- Mr. Sacilotto opined a continuance should not be granted since the respondent appeared to be a habitual offender.
- Mr. Sacilotto MOVED, Ms. Giardina SECONDED to deny the request for continuance. MOTION CARRIED UNANIMOUSLY.
- Mr. Falkner reviewed the history of the Compliance Order issued to the respondent on July 28, 2021, stating a September 21, 2021, inspection found corrective action ordered by the Board had not been taken in that unpermitted fencing remained on the rear yard

of the property, tall grass and/or weeds remained throughout the property and the landscaped areas on the front yard of the property were not maintained or clearly defined. He then displayed photographs of the subject property, located within City limits, and reviewed the City's efforts to bring the property into compliance, noting an inspection on October 26, 2021, found the violations remained. He concluded the property had been in noncompliance for 36 days and submitted an invoice for additional case costs incurred in the amount of \$17.40.

- Ms. Giardina recalled the occupants of the property indicated 30 days was a sufficient amount of time to bring the property into compliance at the July 28, 2021, meeting, verifying the outdoor storage portion of the violation was corrected.
- Mr. Bauman inquired as to the occupants of the property.
- Mr. Falkner replied the daughter of the property owner was the tenant and the property owners were traveling from out of state.
- Mr. Bauman noted many seasonal residents still maintained their properties.
- Ms. Giardina MOVED to find the respondent in violation of the Compliance Order, to impose a fine of \$3,600, representing \$100 per day for 36 days plus applicable interest, with the fine continuing to run until the respondent came into compliance, and to require payment of additional case costs incurred in the amount of \$17.40.
- Mr. McCarty confirmed the additional case costs had been incurred since the initial case costs were paid.
- Mr. Ericsson SECONDED.
- Mr. Sacilotto noted the respondents could appear before the Board for a fine reduction if the violations were corrected.
- MOTION CARRIED UNANIMOUSLY.

STAFF COMMENTS

- City Attorney Levin introduced himself and Ms. Fernandez to the new members of the Board, advising Ms. Higgins and Mr. Rich contact him with any questions they might have regarding the procedures of the Board.
- Ms. Giardina inquired as to who to contact for advice if members were emailed regarding potential problems.
- City Attorney Levin replied members could contact him regarding same, then providing a brief explanation of members' obligations under the Sunshine Law.

COMMITTEE/BOARD COMMENTS

- Mr. Bauman welcomed the new members to board.

CITIZENS' COMMENTS

- Mr. Jeff Lustig spoke in opposition to the sign ordinance.

ADJOURNMENT

- Meeting Adjourned: 10:00 a.m.

Henry Bauman, Chairman

Leah Pues, Recording Secretary