

**CITY OF PUNTA GORDA, FLORIDA
CODE ENFORCEMENT BOARD MEETING MINUTES
MARCH 23, 2022, 9:00 A.M.**

MEMBERS PRESENT: Bauman, Chair
Comeaux, Ericsson, Giardina, Higgins, Rich, Sacilotto

OTHERS PRESENT: City Attorney David Levin; Board Attorney Kelly Fernandez; David McCarty, Code Compliance Supervisor; Nick Falkner, Code Compliance Officer; Taylor Smith, Punta Gorda Police Officer; Andrew Sheets

CALL TO ORDER

Mr. Bauman called the meeting to order at 9:00 a.m.

1) **APPROVAL OF MINUTES**

1.A Meeting of January 26, 2022

Exhibits:

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01-26-2022 Minutes

Ms. Giardina **MOVED** to approve the January 26, 2022, minutes, **SECONDED** by Mr. Sacilotto.

MOTION UNANIMOUSLY CARRIED.

2) **NEW BUSINESS**

Recording Secretary Pues swore in all participants.

2.A **HEARING- CONTEST OF CITATION 205240
22-82079- POLICE OFFICER- TAYLOR SMITH #707**

Respondent: Andrew Bryant Sheets

Address of Violation: 75 Taylor Street

Violation of Chapter 9A, Section 9A-13 (c) 8 and;

Violation of Chapter 26, Section 11.5 (z) Display of Indecent Sign

Exhibits:

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22-82079 Citation 205240 Sheets

Mr. Andrew Sheets, respondent, entered a plea of not guilty.

City Attorney David Levin verified the following with Ms. Taylor Smith, Punta Gorda Police Officer, who issued the citation to Mr. Sheets: her duties and responsibilities included enforcement of ordinances within the City; she responded to a potential Code violation initiated via citizen complaint at approximately 6:50 p.m. at 75 Taylor Street, 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; Exhibits 4 and 5 contained the narrative and photograph which accurately depicted the

scene upon her arrival to the subject location; she identified Mr. Sheets as the respondent based on prior interactions and running the license plate of the vehicle which had a projection device attached; she witnessed the projection device displaying language consisting of indecent speech, according to the City's sign standards, on the exterior wall of the Charlotte Harbor Event Center; she determined the indecent speech that was projected on the wall was legible from any nearby public right-of-ways and could be viewed by children under the age of 17; Exhibit 6 was an accurate copy of the citation which was issued to Mr. Sheets. He then requested Exhibits 1 through 6 be entered into the record.

Mr. Bauman verified members and Mr. Sheets had no objections to do so.

Mr. Sheets indicated the projected language was free speech, opining he was not guilty of a violation based on the constitution.

Mr. Sacilotto recalled there was an agreement to defer previous fines issued to Mr. Sheets with the condition he not violate the sign ordinance.

City Attorney Levin clarified he had a gentlemen's agreement with Mr. Sheets' previous attorney that Mr. Sheets would refrain from potential violations of the sign code while those cases were in the appeal process with the circuit court, noting Mr. Sheets had a change in counsel and the agreement was not part of the Stay Orders issued for those citations.

Ms. Higgins questioned if Mr. Sheets had permission from the property owner to conduct his activities at the subject location.

Mr. Sheets replied in the negative, opining he had not committed a violation or caused any damages.

City Attorney Levin indicated the alleged violation was considered irreparable which permitted the Board to impose a fine up to \$5,000.

Ms. Giardina **MOVED** 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 \$9.23 within 10 days, **SECONDED** by Mr. Rich.

Ms. Higgins **MOVED** to strike the statements "FBI is the KJB", "Schools are like prisons" and "Free speech" from the citation on the basis the statements did not meet the standards of indecent speech as defined in the sign ordinance.

Ms. Giardina **SECONDED**.

Mr. Sacilotto clarified the statements were part of Ms. Smith's narrative and not the citation.

City Attorney Levin added the citation was issued based on the "f" word.

Ms. Higgins **WITHDREW** her motion.

Mr. Bauman called for a vote on the original motion.

MOTION UNANIMOUSLY CARRIED.

2.B [21-81344- CODE COMPLIANCE OFFICER- NICK FALKNER](#)

[Respondents: Dean M. Comstock & Sarah A. Ryan](#)

[Address of Violation: 7315 Powder Puff](#)

[Violation of Chapter 26, Section 8.11 \(e\) 1,2,3,4 ; and](#)

[Violation of Chapter 26, Section 8.11 \(f\) Dead Tree](#)

[Exhibits:](#)

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[21-81344 7315 Powder Puff](#)

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 a January 3, 2022, inspection found a dead palm tree on the front yard of the property. He reviewed the City's efforts to bring the property into compliance, noting inspections on February 15, 2022, and March 22, 2022, found the violation remained. He submitted an invoice for case costs incurred in the amount of \$23.73.

Mr. Sacilotto **MOVED** the City presented a prima facie case, **SECONDED** by Ms. Giardina.

MOTION UNANIMOUSLY CARRIED.

Mr. Sacilotto questioned whether the subject property was occupied.

Mr. Falkner replied with uncertainty, verifying all the notices had been received except for the notice of hearing.

Mr. Sacilotto **MOVED** to find the respondent guilty, to issue a Cease and Desist Order for 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 \$23.73 within 15 days, subject to a fine of \$250 per day plus applicable interest, **SECONDED** by Ms. Giardina.

MOTION UNANIMOUSLY CARRIED.

- 2.C [21-81221- CODE COMPLIANCE OFFICER- NICK FALKNER](#)
[Respondents: Walter L. Marion & Derick C. Marion & Demoria Williams & Angela Selina Marion](#)
[Address of Violations: 427 Showalter Avenue](#)
[Violation of Chapter 9, Section 9-2 \(a\); and](#)
[Violation of Chapter 26, Section 8.14 \(b\) Outside Storage; and](#)
[Violation of Chapter 9, Section 9-2 \(d\) Unlicensed and Inoperative Vehicles; and](#)
[Violation of Chapter 26, Section 8.26 Temporary Structure](#)
[Exhibits:](#)
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[21-81221 427 Showalter Avenue](#)

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 a December 20, 2021, inspection found outside storage throughout the property, an inoperative vehicle on the driveway of the property with two missing front end wheels and a vehicle parked on the road without a valid tag displayed. He reviewed the City's efforts to bring the property into compliance, noting inspections on January 3, 2022, and February 22, 2022, found the violations were not corrected, as well as an additional inoperative vehicle with a missing front passenger side wheel in front of the driveway of the property along with a temporary structure on the driveway. He indicated an inspection on March 22, 2022, found the additional violations were corrected; however, the original violations remained, submitting an invoice for case costs incurred in the amount of \$17.19.

Mr. Ericsson **MOVED** the City presented a prima facie case, **SECONDED** by Mr. Sacilotto.

MOTION UNANIMOUSLY CARRIED.

Mr. Rich questioned whether the residents had been in contact with the City regarding the violations.

Mr. Falkner responded an unidentified individual indicated he resided at the property and requested additional time to bring the property into compliance following the first notice of violation.

Mr. Bauman indicated the items did not appear to be stored at the property recently, inquiring as to why same had not been addressed by the City sooner.

Mr. Falkner replied the violations could only be determined as of December 20, 2021, verifying the violations were found during a routine inspection.

Mr. Ericsson **MOVED** to find the respondent guilty, to issue a Cease and Desist Order for 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 \$17.19 within 15 days, subject to a fine of \$250 per day plus applicable interest, **SECONDED** by Mr. Sacilotto.

MOTION UNANIMOUSLY CARRIED.

3) UNFINISHED BUSINESS

Mr. Rich questioned how members would know which code cases were on hold.

City Attorney Levin responded the deferred cases referenced this date related to violations of the sign code, explaining the Board had made final determinations for those cases which the respondents were appealing with the circuit court. He provided a brief update on the status of those cases, concluding same were moving forward.

4) STAFF COMMENTS

Mr. David McCarty, Code Compliance Supervisor, introduced Mr. Scott Wilhelm as the new Lot Mowing Program Coordinator to the Board.

5) MEMBER COMMENTS

None.

ADJOURNMENT

The meeting was adjourned at 9:46 a.m.

Chair

Recording Secretary