

**CODE ENFORCEMENT BOARD
MEETING
JANUARY 24, 2018**

MEMBERS PRESENT: Norman Ashworth, Chairman
Henry Bauman, Trudi Baxter, William Brennan,
John Burrage, John Chalifoux

MEMBERS ABSENT: Vic Poitras

OTHERS PRESENT: David Levin, City Attorney;
Nick Falkner, Allen McDaniel and
Lavosia Price, Code Compliance Officers;
David McCarty, Code Compliance Supervisor;
Lisa Hannon, Zoning Official;
Jennifer Daumann, Executive Assistant
Kelly Fernandez, Board Attorney
Mike McKinley, Wes Demott, Richard Coates,
Max Watkins, Uwe Pfennigwerth, George Kingston

CALL TO ORDER/ANNOUNCEMENTS

- A. Roll Call
- B. Next Scheduled Meeting
 - February 28, 2018
 - Mr. Ashworth presented a Certificate of Appreciation to former member Mr. Charles Council, thanking him for his years of service on the Board. He then welcomed Mr. Brennan, who was recently appointed to the Board.

APPROVAL OF MINUTES

- A. December 19, 2017
 - Mr. Burrage MOVED, Mr. Chalifoux SECONDED approval of the December 19, 2017 minutes. MOTION CARRIED UNANIMOUSLY.

Note: New Business was heard following Item A, Unfinished Business.

NEW BUSINESS

- Recording Secretary Kelly swore in all participants.
- A. 17-65950 - CODE COMPLIANCE OFFICER - NICK FALKNER
 - Respondents: Richard & Geraldine Coates
 - Address of Violation: 502 Macedonia Drive
 - Violation of Chapter 26, Section 8.11(a); and Chapter 9, Section 9-12(c), Dirty roof.
 - Mr. Nick Falkner, Code Compliance Officer, requested a dismissal as the property was in compliance.
 - Mr. Burrage MOVED, Mr. Baumann SECONDED to dismiss Case #17-65950. MOTION CARRIED UNANIMOUSLY.

B. 17-65222 - CODE COMPLIANCE OFFICER - NICK FALKNER

Respondents: A Way Out Bail Bonds II Inc.,
c/o Matthew T. Jones, Registered Agent

Address of Violation: 312 Mary Street

Violation of Chapter 26, Section 8.11(b); and Chapter 9, Section 9-12(a)1,2, Property maintenance structure.

- Mr. Ashworth noted the respondent was not present, confirming there were no objections to entering a plea of not guilty on his behalf.
- Mr. Falkner displayed several photographs of the subject property, located within City limits, stating an August 16, 2017 inspection found numerous missing sections of trim from the top of the building's exterior walls were on the ground. He reviewed the City's efforts to bring the property into compliance, concluding a reinspection conducted the previous day found the property remained out of compliance, though the respondent was in the process of addressing the violations. He then submitted an invoice for case costs incurred in the amount of \$16.03.
- Ms. Baxter MOVED, Mr. Bauman SECONDED the City had presented a prima facie case. MOTION CARRIED UNANIMOUSLY.
- Mr. Burrage asked Mr. Falkner if the owner had contacted him.
- Mr. Falkner replied in the affirmative, noting he had granted the respondent an extension at that time.
- Mr. Burrage MOVED, Mr. Chalifoux SECONDED to find the respondent guilty, to issue a Cease and Desist Order for any future violations, to require the property to be brought into compliance within 30 days and to require payment of case costs in the amount of \$16.03 within 10 days, subject to a fine of up to up to \$250 per day plus applicable interest. MOTION CARRIED UNANIMOUSLY.

C. 17-65827 - CODE COMPLIANCE OFFICER - ALLEN MCDANIEL

Respondent: James Casazza

Address of Violation: 2609 Rio Grande Drive

Violation of Chapter 6, Section 6-11(a),(c),(1),(2), Waterway - storage of boats.

- Mr. Allen McDaniel, Code Compliance Officer, announced the respondent contacted him this date and requested a continuance due to a personal emergency, adding staff had no objection. He confirmed the case was not complaint driven, noting he met with the respondent after an initial attempt to come into compliance, but part of the respondent's sailboat still extended across the property line.
- City Attorney Levin affirmed the violation was not negatively impacting navigation or the respondent's neighbor.

- Mr. Chalifoux MOVED, Mr. Bauman SECONDED to continue Case #17-65827 to the Board's next meeting. MOTION CARRIED UNANIMOUSLY.
- D. 17-64931 - CODE COMPLIANCE OFFICER - ALLEN MCDANIEL
- Respondent: Stephen R. Franck
- Address of Violation: 2533 Rio Tiber Drive
- Violation of Chapter 26, Section 8.11(a); and Chapter 9, Section 9-12(c), Dirty roof.
- Mr. Ashworth noted the respondent was not present, confirming there were no objections to entering a plea of not guilty on his behalf.
 - Mr. McDaniel displayed several photographs of the subject property, located within City limits, stating a November 20, 2017 inspection found more than 20% of the subject property's roof was not free of dirt or mold. He reviewed the City's efforts to bring the property into compliance, concluding a reinspection conducted the previous day found the property remained out of compliance. He then submitted an invoice for case costs incurred in the amount of \$19.18.
 - Mr. Ashworth confirmed a roof cleaning had been scheduled.
 - Mr. Richard Coates interjected his objection to the validity of the City Code.
 - Mr. [Bauman](#) MOVED, Ms. Baxter SECONDED the City had presented a prima facie case. MOTION CARRIED UNANIMOUSLY.
 - City Attorney Levin confirmed Mr. McDaniel had determined the roof was dirty and in violation.
 - Mr. Burrage MOVED, Mr. Bauman SECONDED to find the respondent guilty, to issue a Cease and Desist Order requiring the property to be brought into compliance within 15 days and to require payment of case costs in the amount of \$19.18 within 15 days, subject to a fine of up to \$250 per day plus applicable interest. MOTION CARRIED UNANIMOUSLY.
- E. 17-66130 - CODE COMPLIANCE OFFICER - NICK FALKNER
- Respondents: Aaron D. Nordgren
- Address of Violation: 7332 North Seagrape Road
- Violation of Chapter 26, Section 8.11(c),(e),(f), Tall grass and/or weeds and landscape.
- Mr. Ashworth noted the respondent was not present, confirming there were no objections to entering a plea of not guilty on his behalf.
 - Mr. Falkner displayed several photographs of the subject property, located within City limits, stating a November 21, 2017 inspection found tall grass and/or weeds on both sides of the house around black flowerpots and a wooden structure. He reviewed the City's efforts to bring the property into compliance, noting a January 4, 2018 reinspection found the property in compliance. He concluded reinspection conducted

the previous day found the property remained in compliance. He then submitted an invoice for case costs incurred in the amount of \$23.64.

- Mr. Bauman MOVED, Mr. Chalifoux SECONDED the City had presented a prima facie case. MOTION CARRIED UNANIMOUSLY.
- Mr. Chalifoux MOVED, Mr. Bauman SECONDED to find the respondent guilty, to issue a Cease and Desist Order for any future violations and to require payment of case costs in the amount of \$23.64 within 15 days, subject to a fine of up to \$250 per day. MOTION CARRIED UNANIMOUSLY.

F. 17-65082 – CODE COMPLIANCE OFFICER – NICK FALKNER

Respondent: Beverly A. Miller

Address of Violation: 510 Philodendron

Violation of Chapter 26, Section 8.11(b); and Chapter 9, Section 9-12(e), Missing and torn screens.

- Mr. Ashworth noted the respondent was not present, confirming there were no objections to entering a plea of not guilty on her behalf.
- Mr. Falkner displayed several photographs of the subject property, located within City limits, stating an August 3, 2017 inspection found missing or torn screening on the rear of the property. He explained reinspection on September 29, 2017, found the property remained out of compliance with new damage from Hurricane Irma observed. He noted a second Notice of Violation and order for Corrective Action was issued by certified mail on October 18, 2017, and was posted at the property and in City Hall on that date. He noted an agreement to have the repairs made yielded no result, concluding a reinspection conducted the previous day found the property remained out of compliance. He then submitted an invoice for case costs incurred in the amount of \$27.
- Mr. Bauman MOVED, Mr. Chalifoux SECONDED the City had presented a prima facie case. MOTION CARRIED UNANIMOUSLY.
- Mr. Chalifoux confirmed contact had been made with the respondent's son, clarifying the initial violation predated Hurricane Irma.
- Mr. Falkner explained the respondent's son was in Massachusetts caring for his mother, opining the property was uninhabited.
- Mr. Burrage MOVED, Mr. Chalifoux SECONDED to find the respondent guilty, to issue a Cease and Desist Order requiring the property to be brought into compliance within 15 days and to require payment of case costs in the amount of \$27 within 10 days, subject to a fine of up to \$250 per day plus applicable interest. MOTION CARRIED UNANIMOUSLY.

UNFINISHED BUSINESS

Note: Item A was heard following Approval of Minutes.

A. 17-64367 – CODE COMPLIANCE SUPERVISOR – DAVID MCCARTY

Respondents: Emerald Pointe Phase 1

Address of Violation: 25188 Marion Avenue

Violation of Chapter 9, Section 9-2(h); and Chapter 26, Section 8.11(c),(e)1, Wild overgrowth/stagnant water.

- Mr. David McCarty, Code Compliance Supervisor, displayed 45 photographs of the subject property, located within City limits, stating on June 8, 2017 an Orchid Drive resident submitted a complaint citing a large area of overgrowth, debris and stagnant water at the property, which an inspection confirmed. He explained he mailed a Courtesy Notice June 14, 2017, however, a July 17, 2017 reinspection found the property remained out of compliance, adding a Notice of Violation and Order for Corrective Action was issued via certified mail on July 18, 2017, which was acknowledged by an Emerald Pointe representative. He stated staff met with the Emerald Pointe property manager to explain the steps necessary to eliminate the violations, adding the property manager agreed to contact the Emerald Pointe Board regarding clean-up before the hearing. He stated on August 29, 2017, Mr. Mike McKinley, the respondent's attorney, declared nothing could be done before the conclusion of an environmental study and environmental permitting. He explained he subsequently received the respondent's environmental report and a request from Mr. McKinley to postpone the hearing indefinitely, adding the case was continued to the present date during the September 27, 2017 Board meeting, and a Notice of Continuance was issued via certified mail that date. He noted the Solid Waste Division had addressed the landscape debris at the edge of the road. He concluded the violations remained as of January 23, 2018. He then submitted an invoice for case costs incurred in the amount of \$18.43.
- Mr. Chalifoux MOVED, Mr. Burrage SECONDED the City had presented a prima facie case. MOTION CARRIED UNANIMOUSLY.
- Mr. Burrage confirmed no attempt had been made to clear out the area.
- Mr. Chalifoux asked if the subject property was part of the Emerald Pointe construction site from its initial development.
- Mr. McCarty expressed uncertainty regarding same.
- Mr. McKinley entered a plea of not guilty on behalf of the respondent. He contended Emerald Pointe was not aware they owned the property prior to this case, asserting the property was never included in their drainage system. He drew attention to submission

of an environmental report, as delineated in the agenda material, which indicated the area in question was jurisdictional; thus it could not be cleared without permitting from the Southwest Florida Water Management District and the Army Corps of Engineers. He attested the environmental consultant advised it was highly unlikely such a permit would be issued, adding State law prohibited the removal of mangroves or the use of any removal equipment. He opined three Brazilian Pepper trees and a barrel represented the most unsightly portion of the site, all of which would be removed.

- Mr. Chalifoux pointed out it appeared drainage ditches from Emerald Pointe led to the referenced property, acknowledging the flooding concerns of the adjacent property owner, Mr. Wes Demott.
- City Attorney Levin reiterated this case was originally scheduled for the September 2017 Board Meeting, adding the City had granted a continuance to allow the respondent time to apply for permits from various regulatory agencies. He stressed the respondent had failed to apply for those permits on the assumption same might be denied, noting if the property were indeed part of a drainage facility there were many exceptions which would allow the land to be cleared. He maintained Emerald Pointe must be held to the same standard as any residential property.
- Mr. Demott drew attention to photographs of flooding experienced along Orchid Drive, asserting same was due to the unmaintained ditch. He voiced concern the flooding saturated older septic systems which in turn created a risk to the public's health, safety and welfare, adding the flooding also resulted in erosion and stagnant water which provided a breeding ground for mosquitoes.
- Mr. Ashworth inquired if ditch maintenance was exempt from permitting.
- City Attorney Levin replied the Board could order the respondent to come into compliance which in turn would require discussions with the regulatory agencies governing same. He advised if the property was an isolated wetland which served no water quality function, it could be filled in so it no longer presented a breeding ground for mosquitoes. He reiterated the respondent had failed to attempt to come into compliance. He then acknowledged the permitting process would likely take a significant amount of time and could be costly; however, the City had to respond to any and all complaints received, adding the law placed responsibility on the property owner. He opined the cost would be shared among the residents of Emerald Pointe. He concluded the neighbors should not be made to suffer.
- Mr. McKinley drew members' attention to the environmental report which indicated the site met the criteria to be claimed as jurisdictional wetland by State environmental agencies.

- Mr. Ashworth confirmed Mr. McKinley had not investigated the ditch maintenance exemption.
- Mr. McKinley requested one to two months to allow time for his engineer and environmental specialist to explain why such action was futile.
- City Attorney Levin countered an exemption determination simply required a letter to a State agency and did not entail significant cost, time or documentation.
- Mr. McKinley offered to pursue an exemption determination and to clean up the site to a certain extent.
- Mr. Chalifoux MOVED, Mr. Bauman SECONDED to find the respondent guilty, to issue a Cease and Desist Order requiring the property to be brought into compliance within 30 days, to require payment of case costs incurred in the amount of \$18.43 within 15 days, subject to a fine of up to \$250 per day, and to require any debris or vegetation which was allowed to be cut down to be removed and to require written confirmation from the State attesting to the site being subject to, or not subject to, environmental permitting requirements, with further remedial action to be determined at the Board's next meeting dependent on the latter. MOTION CARRIED UNANIMOUSLY.

Note: Item B was heard following New Business.

B. Hearing Imposing Penalty

17-65281 – CODE COMPLIANCE OFFICER – NICK FALKNER

Respondent: Diane A. Novak

Address of Violation: 1975 Narranja Street

Violation of Chapter 9, Section 9-2(a), Outside storage; Chapter 26, Section 8.14(b), Outside storage; and Chapter 26, Section 8.11(c), Tall grass/weeds.

- Mr. Falkner displayed 23 photographs of the subject property, located within City limits, providing a detailed review of events surrounding this case and the Board's actions dating back to September of 2017. He confirmed the property had been in non-compliance for an additional 90 days from October 26, 2017, to January 23, 2018. He submitted an invoice for additional case costs incurred in the amount of \$50.16, requesting the Board authorize the City to enter the property so as to remedy the violations.
- Mr. Ashworth clarified the property was occupied.
- Mr. Chalifoux confirmed this was a Habitat for Humanity home.
- City Attorney Levin requested the Board find this property to be a public nuisance, which in turn would allow the City to recoup any associated costs. He then clarified even if someone was using the home without permission, the property owner was responsible for the condition of this property.

- Mr. Chalifoux expressed concern with the City having to maintain the property indefinitely.
- City Attorney Levin explained in detail the use of fines, special assessments and foreclosure as methods to recoup the City's expenses at length.
- Mr. Chalifoux MOVED, Mr. Burrage SECONDED to find the respondent to be in violation of the Board's Order, to impose a fine of \$9,000 (\$100 per day for 90 days) plus applicable interest of 5.53% per year, to require payment of case costs incurred in the amount of \$50.16, to authorize the City to enter the property in order to abate the violation and to file a lien against the property if the violations were not eliminated within 7 days. MOTION CARRIED UNANIMOUSLY.

C. Hearing Imposing Penalty

17-65484 – CODE COMPLIANCE OFFICER – LAVOSIA PRICE

Respondent: Hans Schuett

Address of Violation: 122 Dolly Street

Violation of Chapter 26, Section 8.11(e), Property maintenance - landscape.

- Mr. Lavosia Price, Code Compliance Officer, displayed six photographs of the subject property, located within City limits, providing a detailed review of events surrounding this case and the Board's actions dating back to December of 2017. He announced a January 3, 2018, reinspection found the corrective actions ordered by the Board had not been taken. He summarized the property had been in non-compliance for 21 days from January 3, 2018, to January 23, 2018. He then submitted an invoice for case costs incurred in the amount of \$101.65, which included unpaid costs of \$31.40 and additional case costs incurred in the amount of \$70.25, requesting the Board authorize the City to enter the property to remedy the violations.
- Mr. Chalifoux confirmed the City would use a contractor to remove the debris.
- Mr. Burrage MOVED, Mr. Bauman SECONDED to find the respondent to be in violation of the Board's Order, to impose a \$2,100 fine (\$100 per day for 21 days) plus applicable interest of 5.53% per year, to require payment of case costs incurred in the amount of \$101.65, to authorize the City to enter the property in order to abate the violation and to file a lien against the property if the violations were not eliminated within 15 days. MOTION CARRIED UNANIMOUSLY.

D. Hearing Imposing Penalty

17-65456 – CODE COMPLIANCE OFFICER – ALLEN MCDANIEL

Respondent: Frank and Katharine Gorman

Address of Violation: 2838 Deborah Drive

Violation of Chapter 9, Section 9-2(a),(e), Public nuisance.

- Mr. McDaniel displayed eight photographs of the subject property, located within City limits, providing a detailed review of events surrounding this case and the Board's actions dating back to December of 2017. He confirmed the property had been in non-compliance for an additional 20 days from January 4, 2018, to January 23, 2018. He submitted an invoice for case costs incurred in the amount of \$52.94, which included \$23.49 and additional case costs incurred in the amount of \$29.45, requesting the Board authorize the City to enter the property so as to remedy the violations.
- Mr. Chalifoux inquired as to any special circumstances in that the violation was on the water as opposed to the property itself.
- City Attorney Levin explained City Code allowed the City to hold the property owner accountable, further explaining the steps necessary to right or seize the vessel.
- Mr. Chalifoux clarified a violation would still exist once the vessel was righted if the boat was not operable.
- Mr. [Bauman](#) MOVED, Mr. [Chalifoux](#) SECONDED to find the respondent to be in violation of the Board's Order, to impose a \$2,000 fine (\$100 per day for 20 days) plus applicable interest of 5.53% per year, to require payment of case costs incurred in the amount of \$52.94, to authorize the City to enter the property in order to abate the violation and to file a lien against the property if the violations were not eliminated. MOTION CARRIED UNANIMOUSLY.

COMMITTEE/BOARD COMMENTS

- Mr. Ashworth requested an update on the case for 1601 Tamiami Trail, Winter Park Dodge.
- City Attorney Levin replied City Council agreed to allow the respondent's attorney to present a revised settlement agreement for City Council's consideration.
- Ms. Baxter opined the respondent was not an ethical person, recommending each Board member contact City Council in writing to recommend against any type of fine reduction.
- City Attorney Levin explained the settlement proceedings surrounding litigation regarding the City's foreclosure on the property, concluding City Council could not reduce the fine the Board imposed.

CITIZENS' COMMENTS

- Mr. Max Watkins commented on Case #17-65456, stating the sailboat in question had been at that location for over two years. He opined the respondent deserved a significant penalty.
- City Attorney Levin briefly reviewed the process the City must follow in order to address same.
- Mr. Uwe Pfennigwerth submitted photographs of the vessel from Case #17-65456 into the record, asserting same was polluting the water.
- Mr. George Kingston expressed frustration regarding the length of time the violation had existed in Case #17-65456.
- Mr. Coates commented on dirty roofs and the sections of City Code regarding same, opining same was unenforceable.
- City Attorney Levin clarified certain duplications had been found in various sections of City Code which had been eliminated; however, no sections of City Code had been found to be unenforceable or unconstitutional.

ADJOURNMENT

- Meeting Adjourned: 11:15 a.m.

Norman Ashworth, Chairman

Mary Kelly, Recording Secretary