

**CODE ENFORCEMENT BOARD
MEETING
NOVEMBER 28, 2018**

MEMBERS PRESENT: John Chalifoux, Chairman
Henry Bauman, William Brennan, John Burrage,
Timothy Heggan, Jim Lanza, Edward Weiner

OTHERS PRESENT: Lavosia Price, Code Compliance Officer
City Attorney David Levin
Lisa Hannon, Zoning Official
Allen McDaniel, Code Compliance Officer
Nick Falkner, Code Compliance Officer
David McCarty, Code Compliance Supervisor
Alan Mayo, Wes DeMott, Brian Orme, Vreni Gerber

CALL TO ORDER/ANNOUNCEMENTS

- A. Roll Call
- B. Next Scheduled Meeting
- 1. Tuesday, December 18, 2018

APPROVAL OF MINUTES

- A. October 24, 2018
- Mr. Burrage MOVED, Mr. Bauman SECONDED approval of the October 24, 2018 minutes.
MOTION CARRIED UNANIMOUSLY.

NEW BUSINESS

- A. 18-67253 - CODE COMPLIANCE OFFICER - NICK FALKNER
- Respondents: Emerald Pointe Condominium Association, Inc., Michael R. McKinley, Esq., Registered Agent
Emerald Pointe Phase 1 (Ownership as listed in the Charlotte County Tax Collector and Charlotte County Property Appraiser database)
- Address of Violation: 25188 Marion Avenue
- Violations of Chapter 9, Section 9-2(h); and Chapter 26, Section 8.11(c),(e)1, Wild overgrowth/stagnant water; and Chapter 26, Section 12.10, Invasive species.
- Mr. Alan Mayo, representative, entered a plea of not guilty.
- Mr. David McCarty, Code Compliance Supervisor, reviewed the history of violations at 25188 Marion Avenue.
- Mr. Nick Falkner, Code Compliance Officer, displayed several photographs of the subject property, located within City limits, stating a February 27, 2018, inspection found wild overgrowth of grass and/or weeds, miscellaneous debris and invasive species. He

reviewed the City's efforts to bring the property into compliance, noting inspections on September 24, 2018, and November 27, 2018, found the violations continued to exist, noting documentation from the State regarding permitting had not been submitted. He then submitted an invoice for case costs incurred in the amount of \$58.08.

- City Attorney Levin reported Mr. Warren Ross, registered agent, had requested a continuance in order to gather information about this case, stating staff and Mr. Ross had met to discuss the violations and how to bring the property into compliance.
- Mr. Bauman MOVED, Mr. Burrage SECONDED the City had presented a prima facie case. MOTION CARRIED UNANIMOUSLY.
- Mr. Mayo stated the Emerald Pointe Condominium Association had begun work to correct the violations once they confirmed their ownership of the subject property; however, rains had complicated same. He asserted progress was being made, requesting an additional two months to allow the stagnant water to dry up so work could be completed. He reported work would commence along Orchid Drive once their survey was complete.
- City Attorney Levin stated the drainage situation must be addressed.
- Mr. Wes DeMott pointed out the ditch along Orchid Drive was originally a canal which had been filled in at some point, asserting the environmental and health impacts of flooding were at the center of his complaint.
- Mr. Weiner questioned who had filled in the canal.
- Mr. DeMott expressed uncertainty regarding same.
- Messrs. Chalifoux, Weiner and Burrage expressed concern the violations would not be addressed within two months.
- Mr. Mayo responded the invasive species and debris could be addressed in two months; however, the stagnant water would likely take longer to address.
- Mr. Bauman questioned whether counsel had a recommendation.
- City Attorney Levin spoke against granting another continuation, recommending the Board set a deadline to correct the violations. He maintained there were multiple methods which could address the stagnant water.
- Mr. Burrage MOVED, Mr. Bauman SECONDED to find the respondent guilty, to issue a Cease & Desist Order for any future violations, to order the property to be brought into compliance within 60 days and to require payment of case costs incurred in the amount of \$58.08 within 10 days, subject to a fine of \$250 per day plus applicable interest.
- VOTING AYE: Bauman, Burrage, Brennan, Heggan, Lanza, Chalifoux.
- VOTING NAY: Weiner.
- MOTION CARRIED.

B. HEARING IMPOSING PENALTY REPEAT VIOLATION

18-69926 – CODE COMPLIANCE OFFICER – NICK FALKNER

Respondents: Brian Ross Orme, Life Estate

Address of Violation: 419 San Marie Drive

Violation of Chapter 26, Section 8.11(c), Tall grass and/or weeds.

- Mr. Brian Orme, respondent, entered a plea of not guilty on behalf of the absent respondent.
- Mr. Falkner displayed several photographs of the subject property, located within City limits, reviewing the history of the Board’s actions regarding the property dating back to August 21, 2018. He announced the property was initially brought into compliance on September 4, 2018, but an October 10, 2018, inspection again found tall grass and/or weeds; therefore, the property was in repeat violation. He stated reinspection on November 27, 2018, found the initial repeat violation remained in addition to new repeat violations of an inoperative vehicle and outdoor storage. He concluded the property had remained in violation for 49 days from October 10, 2018, to November 27, 2018. He then submitted an invoice for case costs incurred in the amount of \$28.62.
- Mr. Bauman MOVED, Mr. Brennan SECONDED the City had presented a prima facie case. MOTION CARRIED UNANIMOUSLY.
- Mr. Orme stated he was in contact with staff, explaining he could not afford storage or a rider lawn mower. He noted he had recently obtained a push-mower, asserting he would address the violations by November 30, 2018.
- Mr. Burrage questioned how much time Mr. Orme needed to come into compliance.
- Mr. Orme replied two weeks at most.
- Mr. Burrage MOVED, Mr. Bauman SECONDED to find the respondent in repeat violation, to impose a fine of \$490, representing a fine of \$10 per day for 49 days, if the property was not brought into compliance within 2 weeks and to require payment of total case costs incurred in the amount of \$28.62.
- VOTING AYE: Bauman, Brennan, Burrage, Heggan, Lanza.
- VOTING NAY: Weiner, Chalifoux.
- MOTION CARRIED.

C. 18-69537 – CODE COMPLIANCE OFFICER – ALLEN MCDANIEL

Respondent: Theodore Kwapich

Address of Violation: 1481 West Marion Avenue

Violation of Chapter 26, Section 8.11(e), Landscape maintenance.

- Mr. Chalifoux entered a plea of not guilty on behalf of the absent respondent.

- Mr. Allen McDaniel, Code Compliance Officer, displayed several photographs of the subject property, located within City limits, stating a September 25, 2018, inspection found bare soil throughout the property's landscaped areas. He reviewed the City's efforts to bring the property into compliance, noting reinspection on October 19, 2018, found the violations had not been corrected. He concluded reinspection on November 27, 2018, found the property remained out of compliance, then submitting an invoice for case costs incurred in the amount of \$17.
 - Mr. Burrage inquired if the property owner indicated when the tenants would remedy the violations.
 - Mr. McDaniel replied in the negative, noting the tenants had since purchased the property and started to correct the violations.
 - Mr. Burrage MOVED, Mr. Bauman SECONDED the City had presented a prima facie case. MOTION CARRIED UNANIMOUSLY.
 - Mr. Brennan MOVED, Mr. Burrage SECONDED to find the respondent guilty, to issue a Cease & Desist Order for any future violations, to order the property to be brought into compliance within 15 days and to require payment of case costs incurred in the amount of \$17 within 15 days, subject to a fine of \$250 per day plus applicable interest.
 - Mr. Weiner inquired as to the plan to cover the bare soil.
 - Mr. McDaniel replied sod and mulch would be applied.
 - MOTION CARRIED UNANIMOUSLY.
- D. 18-69682 - CODE COMPLIANCE OFFICER - ALLEN MCDANIEL
- Respondent: Charlotte County Homeless Coalition, Inc.
Registered Agent: Kevin W. Russell, Esq.
Address of Violation: 509 Berry Street
Violation of Chapter 26, Section 8.5(b)(2)f, Fence in disrepair.
- Mr. McDaniel requested the case be dismissed.
 - Mr. Burrage MOVED, Mr. Bauman SECONDED to dismiss Case #18-69682. MOTION CARRIED UNANIMOUSLY.

UNFINISHED BUSINESS

A. REQUEST FOR FINE REDUCTION

18-66727 – CODE COMPLIANCE OFFICER – LAVOSIA PRICE, JR.

Respondents: Bruce & Jolanda Bolliger

Representative: Vreni Gerber

Address of Violation: 354 Martin Luther King Boulevard

Violation of Chapter 26, Section 8.11(e)1,2,3,4,5, Landscape debris.

- Mr. Lavosia Price, Code Compliance Officer, recalled the Board imposed a fine of \$2,000 plus \$58.16 in case costs and applicable interest on May 23, 2018. He announced Mr. Bruce Bolliger and Ms. Jolanda Bolliger, respondents, requested a fine reduction on July 24, 2018. He reviewed the history of the case, explaining the lien recorded against the property would remain valid if any remaining fines were not paid as ordered by the Board. He then submitted an invoice for additional case costs incurred in the amount of \$29.72.
- City Attorney Levin confirmed the property had been brought into compliance.
- Ms. Vreni Gerber, representative, requested a fine reduction on behalf of Mr. Bolliger and Ms. Bolliger, explaining the Bolligers lived in Switzerland and had been unaware of the violation.
- Mr. Weiner questioned why the notice of the fine had been received while the previous notices were not.
- Mr. McCarty replied initial correspondence was sent to the mailing address provided by the Charlotte County Property Appraiser's records, explaining staff subsequently found the respondents' address in Switzerland. He mentioned the Bolligers had since corrected their address with the Charlotte County Property Appraiser.
- Mr. Weiner inquired who currently monitored the property.
- Ms. Gerber replied she did so.
- Mr. Bauman MOVED, Mr. Burrage SECONDED to approve the request, to reduce the fine and associated costs to \$100, to require full payment within 10 days, after which the City would issue a Satisfaction of Lien, and to require payment of \$2,058.16 if the reduced fine was not paid within 10 days. MOTION CARRIED UNANIMOUSLY.

B. HEARING IMPOSING PENALTY

18-69606 – CODE COMPLIANCE OFFICER – NICK FALKNER

Respondent: Margaret Riggs (Deceased)

Responsible Party: Wayne Riggs

Heirs: John Riggs, Don Riggs, Clarke Riggs & Linda Hale

Address of Violation: 329 Burland Street

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

- Mr. Falkner displayed several photographs of the subject property, located within City limits, reviewing the history of the Board’s actions regarding tall grass and/or weeds and outdoor storage dating back to October 24, 2018. He reported inspections on November 14, 2018, and November 27, 2018, found the violations continued to exist, summarizing the property had been out of compliance for 14 days. He then submitted an invoice for case costs incurred in the amount of \$46.20.
- Mr. Burrage MOVED, Mr. Bauman SECONDED to find the respondent in violation, to impose a fine of \$700, representing a fine of \$50 per day for 14 days, plus applicable interest and to require payment of total case costs incurred in the amount of \$46.20. MOTION CARRIED UNANIMOUSLY.

C. HEARING IMPOSING PENALTY

18-66865 – CODE COMPLIANCE OFFICER – LAVOSIA PRICE JR.

Respondent: Margaret Riggs (Deceased)

Responsible Party: Wayne Riggs

Heirs: John Riggs, Don Riggs, Clarke Riggs & Linda Hale

Address of Violation: 319 Burland Street

Violation of Chapter 26, Section 8.11(e)2,3, Property maintenance – tree stump; and Chapter 9, Section 9-2(h) Public Nuisance.

- Mr. Price displayed several photographs of the subject property, located within City limits, reviewing the history of the Board’s actions regarding a tree stump dating back to October 24, 2018. He reported inspections on November 14, 2018, and November 27, 2018, found the violation continued to exist, summarizing the property remained out of compliance for 14 days. He then submitted an invoice for case costs incurred in the amount of \$56.53.
- Mr. Chalifoux inquired as to any communication with the property owner.
- Mr. Price replied the responsible party indicated he sprayed the stump with “Kill Stump.”

- Mr. Bauman MOVED, Mr. Burrage SECONDED to find the respondent in violation, to impose a fine of \$700, representing a fine of \$50 per day for 14 days, plus applicable interest and to require payment of total case costs incurred in the amount of \$56.53.
- Mr. Weiner spoke in favor of a greater fine.
- VOTING AYE: Bauman, Brennan, Burrage, Heggan, Chalifoux.
- VOTING NAY: Weiner, Lanza.
- MOTION CARRIED.

STAFF COMMENTS

- Mr. David McCarty, Code Compliance Supervisor, reported no liens had been recorded over the past three months. He then announced the sunken sailboat had been removed and disposed of at a cost of \$13,000, reporting payment of \$35,000 in liens related to the sailboat. He stated \$33,000 in liens had been paid for 510 Philodendron as well.

COMMITTEE/BOARD COMMENTS

- Mr. Chalifoux welcomed Mr. Edward Weiner and Mr. Timothy Heggan to the Board.
- Mr. Chalifoux called for an election for Vice Chairman.
- Recording Secretary Welch opened the floor for nominations for Vice Chairman.
- Mr. Bauman NOMINATED Mr. Burrage.
- Recording Secretary Welch called for any other nominations. As there were no other nominations, Mr. Burrage was appointed Vice Chairman by acclamation.

ADJOURNMENT

- Meeting Adjourned: 10:29 a.m.

John Chalifoux, Chairman

Sara Welch, Recording Secretary