

**CODE ENFORCEMENT BOARD
MEETING
DECEMBER 18, 2018**

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

MEMBERS ABSENT: Jim Lanza

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
Kelly Fernandez, Board Attorney
Lori Grimaldi, Steve Zugg, Jeff Berning, Eric Isen

CALL TO ORDER/ANNOUNCEMENTS

- A. Roll Call
- B. Next Scheduled Meeting
 - 1. January 23, 2019

APPROVAL OF MINUTES

- A. November 28, 2018
 - Mr. Burrage MOVED, Mr. Weiner SECONDED approval of the November 28, 2018 minutes.
MOTION CARRIED UNANIMOUSLY.

NEW BUSINESS

- Recording Secretary Welch swore in all participants.

Note: Item A was heard following Item D.

- A. 18-67716 - CODE COMPLIANCE OFFICER - ALLEN MCDANIEL

Respondents: Ted R. & Sandra Lindstrom

Address of Violation: 2416 St. Davids Island Court

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

- Mr. Chalifoux confirmed the subject property was in compliance.
- Mr. Bauman MOVED, Mr. Burrage SECONDED to dismiss Case #18-67716. MOTION CARRIED UNANIMOUSLY.

B. 18-69983 - CODE COMPLIANCE OFFICER - NICK FALKNER

Respondents: Tuscan Lodge No. 92
c/o John H. Gamble

Address of Violation: 629 East Charlotte Avenue

Violations of Chapter 26, Section 8.11 (c) Tall Grass and/or Weeds; and Chapter 9, Section 9-12 (a) 1, 2 Holes Exterior Walls; and Chapter 9, Section 9-12 (b) 1 Broken Window; and Chapter 9, Section 9-12 (g) Temporary Coverings; and Chapter 9, Section 9-2 (g) Danger Blight - Bees.

- Mr. Chalifoux entered a plea of not guilty on behalf of the absent respondent.
- Mr. Nick Falkner, Code Compliance Officer, displayed several photographs of the subject property, located within City limits, stating an October 16, 2018, inspection found tall grass and weeds, several holes in the structure's exterior walls, broken windows covered by plywood and an infestation of bees. He reviewed the City's efforts to bring the property into compliance, noting an inspection on November 15, 2018, found the grass and weeds had been trimmed but the other violations remained. He reported an inspection on December 17, 2018, found the remaining violations continued to exist, then submitting an invoice for case costs incurred in the amount of \$12.09.
- Mr. Bauman MOVED, Mr. Burrage SECONDED the City had presented a prima facie case. MOTION CARRIED UNANIMOUSLY.
- Mr. Bauman commented the house appeared to be unoccupied.
- Mr. Falkner confirmed the home was vacant.
- Mr. Bauman inquired as to the location of the property owner.
- Mr. Falkner replied he was unsure of same; however, correspondence had been received at a Port Charlotte address.
- Mr. Chalifoux questioned if the structure was a residence.
- Mr. Falkner replied the property was located in a residential zoning district.
- Mr. Burrage MOVED, Mr. Weiner 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 incurred in the amount of \$12.09 within 15 days, subject to a fine of \$250 per day plus applicable interest. MOTION CARRIED UNANIMOUSLY.

C. 18-67505 - CODE COMPLIANCE OFFICER - ALLEN MCDANIEL

Respondent: Edward J. Sullivan

Address of Violation: 1424 Sea Gull Court

Violations of Chapter 26, Section 8.11 (a) Dirty Roof; and Chapter 9, Section 9-2 (a); and Chapter 26, Section 8.14 (b) Outdoor Storage.

- 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 May 1, 2018, inspection found more than 20% of the roof was not free from dirt or mold. He reviewed the City's efforts to bring the property into compliance, noting an inspection on November 19, 2018, found the initial violation remained in addition to a new violation of outdoor storage. He stated an inspection on December 17, 2018, found the violations continued to exist. He then submitted an invoice for case costs incurred in the amount of \$11.64.
- Mr. Bauman MOVED, Mr. Burrage SECONDED the City had presented a prima facie case. MOTION CARRIED UNANIMOUSLY.
- Mr. Bauman questioned if the property was being regularly maintained.
- Mr. McDaniel replied the property owner was out of town but had agreed to a reinspection on October 10, 2018; however, the property owner had been ill and unable to return as planned. He noted roof cleaning was scheduled for December 21, 2018, and the gardener would address the mulch being stored outdoors.
- Mr. Chalifoux inquired as to the length of time Mr. McDaniel had allowed the property owner to come into compliance.
- Mr. McDaniel explained staff was understanding of part-time residents' desire to be present for property maintenance.
- 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 incurred in the amount of \$11.64 within 15 days, subject to a fine of \$250 per day plus applicable interest. MOTION CARRIED UNANIMOUSLY.

Note: Item D, New Business, was heard following Approval of Minutes.

D. 18-67629 - CODE COMPLIANCE OFFICER - ALLEN MCDANIEL

Respondent: Lori Grimaldi

Address of Violation: 440 Capri Isles Court

Violations of Chapter 26, Section 8.11 (b); and Chapter 9, Section 9-12 (a) 1, 2, (b), (c) Property Maintenance; and Chapter 9, Section 9-2 (a) Outdoor Storage.

- Ms. Lori Grimaldi, respondent, entered a plea of not guilty.

- Mr. McDaniel displayed several photographs of the subject property, located within City limits, stating a March 26, 2018, inspection found the roof and lanai in a state of disrepair, a blue tarp on the roof, more than 20% of the roof not free of dirt and mold and outdoor storage. He reviewed the City's efforts to bring the property into compliance, noting inspections on November 19, 2018, and December 17, 2018, found the violations continued to exist. He then submitted an invoice for case costs incurred in the amount of \$25.21.
- Mr. Bauman MOVED, Mr. Burrage SECONDED the City had presented a prima facie case. MOTION CARRIED UNANIMOUSLY.
- Ms. Lori Grimaldi, property owner, stated Hurricane Irma had damaged the property, explaining she and her family did not reside in the home. She recounted difficulties obtaining insurance funds to complete repairs.
- Mr. Chalifoux confirmed no one lived at the property.
- Mr. Burrage questioned how much time was required to come into compliance.
- Ms. Grimaldi expressed uncertainty regarding same. She noted her husband could possibly power wash the roof and remove the lanai, expressing hesitation to power wash the roof due to the risk of leakage.
- Mr. Bauman questioned whether the trash depicted in photographs remained on the property.
- Mr. McDaniel replied in the negative, explaining staff had been working with Ms. Grimaldi since November 2017.
- Mr. Chalifoux confirmed a quote for repairs had been obtained.
- Mr. Burrage questioned if 30 days was sufficient to achieve compliance.
- Ms. Grimaldi replied she hoped the insurance funds would be disbursed by that time.
- Mr. Chalifoux noted Ms. Grimaldi could request a fine reduction if sufficient progress was made after a penalty was imposed.
- City Attorney Levin advised a compliance order was needed initially.
- Mr. Weiner confirmed a mound of dirt in the yard was not impeding compliance efforts.
- Discussion ensued regarding the respondent's efforts to obtain the insurance funds.
- Mr. Brennan MOVED, Mr. Burrage SECONDED to find the respondent guilty, to issue a Cease and Desist Order requiring the property to be brought into compliance within 60 days and to require payment of case costs incurred in the amount of \$25.21 within 15 days, subject to a fine of \$250 per day plus applicable interest. MOTION CARRIED UNANIMOUSLY.

Note: Items E through N were heard together following Item C.

- E. HEARING IMPOSING PENALTY IRREVERSIBLE AND IRREPARABLE
18-70411 - CODE COMPLIANCE SUPERVISOR - DAVID MCCARTY
Property Owner: Dolphin Stations, LLC
Registered Agent: William D. McKnight
Respondents: APEC Foods, LLC
Registered Agent: William D. McKnight
Respondents: SW Florida Petroleum, LLC
Registered Agent: Lee Margolis
Authorized Member: Jay Seewald
Address of Violation: 3949 Tamiami Trail - Pump 1
- F. HEARING IMPOSING PENALTY IRREVERSIBLE AND IRREPARABLE
18-70412 - CODE COMPLIANCE SUPERVISOR - DAVID MCCARTY
Address of Violation: 3949 Tamiami Trail - Pump 2
- G. HEARING IMPOSING PENALTY IRREVERSIBLE AND IRREPARABLE
18-70414 - CODE COMPLIANCE SUPERVISOR - DAVID MCCARTY
Address of Violation: 3949 Tamiami Trail - Pump 3
- H. HEARING IMPOSING PENALTY IRREVERSIBLE AND IRREPARABLE
18-70415 - CODE COMPLIANCE SUPERVISOR - DAVID MCCARTY
Address of Violation: 3949 Tamiami Trail - Pump 4
- I. HEARING IMPOSING PENALTY IRREVERSIBLE AND IRREPARABLE
18-70416 - CODE COMPLIANCE SUPERVISOR - DAVID MCCARTY
Address of Violation: 3949 Tamiami Trail - Pump 5
- J. HEARING IMPOSING PENALTY IRREVERSIBLE AND IRREPARABLE
18-70417 - CODE COMPLIANCE SUPERVISOR - DAVID MCCARTY
Address of Violation: 3949 Tamiami Trail - Pump 6
- K. HEARING IMPOSING PENALTY IRREVERSIBLE AND IRREPARABLE
18-70418 - CODE COMPLIANCE SUPERVISOR - DAVID MCCARTY
Address of Violation: 3949 Tamiami Trail - Pump 7
- L. HEARING IMPOSING PENALTY IRREVERSIBLE AND IRREPARABLE
18-70419 - CODE COMPLIANCE SUPERVISOR - DAVID MCCARTY
Address of Violation: 3949 Tamiami Trail - Pump 8
- M. HEARING IMPOSING PENALTY IRREVERSIBLE AND IRREPARABLE
18-70420 - CODE COMPLIANCE SUPERVISOR - DAVID MCCARTY
Address of Violation: 3949 Tamiami Trail - Pump 9

N. HEARING IMPOSING PENALTY IRREVERSIBLE AND IRREPARABLE

18-70421 - CODE COMPLIANCE SUPERVISOR - DAVID MCCARTY

Address of Violation: 3949 Tamiami Trail - Pump 10

- Mr. Chalifoux explained Items E through N would be heard together as each case related to the same property owner, respondents, registered agents, authorized member, violation and address except for the gas pump number.
- Messrs. Steve Zugg and Jeff Berning entered pleas of not guilty for Cases #18-70411, #18-70412, #18-70414, #18-70415, #18-70416, #18-70417, #18-70418, #18-70419, #18-70420 and #18-70421.
- Mr. David McCarty, Code Compliance Supervisor, displayed photographs of each of the subject gas pumps, located within City limits, stating a November 26, 2018, inspection found Pumps 1 through 10 did not have security measures required by Punta Gorda Code. He noted the violations were irreversible and irreparable, reviewing the City's efforts to bring the property into compliance. He then submitted invoices for case costs incurred in the amount of \$37.29 for each case.
- Lieutenant Justin Davoult stated he inspected the abovementioned gas pumps on November 26, 2018, and determined none were equipped with a locking device which required an access key unique to the subject gas station. He provided a detailed description of his inspection of the interior of each pump.
- Mr. Burrage inquired if any illegal tampering with the pumps had occurred.
- Lieutenant Davoult replied five illegal "skimmers" had been discovered.
- Mr. Bauman MOVED, Mr. Burrage SECONDED the City had presented a prima facie case. MOTION CARRIED UNANIMOUSLY.
- Mr. Steve Zugg, HyTec Petroleum, drew members' attention to a letter he received from the Punta Gorda Police Department, asserting same indicated security tape qualified as an alternative security measure. He added new dispensers with increased security measures had been installed at the gas station.
- Mr. Weiner confirmed HyTec Petroleum was an independent contractor which worked for APEC Foods, LLC.
- Mr. Bauman requested clarification of acceptable devices according to Chapter 15, Section 15-18(b)(3), Punta Gorda Code.
- City Attorney Levin responded he had no evidence at this time regarding the sufficiency of security tape alone.
- Mr. Chalifoux confirmed all other gas stations within City limits were in compliance.

- Lieutenant Davoult explained the City had requested a secondary lock be affixed to the outside of the gas pump case with a key specific to that station, noting the respondents' representatives advised they could not do so.
- Mr. Chalifoux expressed dissatisfaction measures had not been taken quickly to protect the public.
- Mr. Jeff Berning, Territory Manager for APEC, agreed additional measures should have been taken, asking for leniency as the gas station was now in compliance. He requested he be contacted should any issues arise in the future.
- Mr. Weiner questioned how Mr. Berning became involved in the case.
- Mr. Berning replied the gas station's operator had requested his assistance two weeks earlier.
- Discussion ensued with regard to who was responsible for taking corrective action as well as gas pump security measure provisions in Punta Gorda Code and State Statute.
- Mr. Weiner MOVED, Mr. Burrage SECONDED to find the respondent in irreversible and irreparable violation, to impose a fine of \$250 per pump for Pumps 1 through 10, inclusive, to be paid within 30 days and to require payment of total case costs incurred in the amount of \$372.90 within 30 days. MOTION CARRIED UNANIMOUSLY.

STAFF COMMENTS

A. Code Enforcement Board Dates 2019

- Mr. McCarty presented the proposed Board meeting dates for 2019. He then reviewed liens recorded over the past three months, noting 517 Wood Street and 591 Corto Andra had come into compliance.
- Mr. Chalifoux requested a report of all outstanding liens be provided to members every six months.

CITIZENS' COMMENTS

- Mr. Eric Isen stated he owned the property adjacent to 629 East Charlotte Avenue.
- Board Attorney Kelly Fernandez advised the Board could not hear testimony regarding the property at this time.
- City Attorney Levin stated Mr. Isen could attend the penalty hearing for the property.

ADJOURNMENT

- Meeting Adjourned: 10:23 a.m.

John Chalifoux, Chairman

Sara Welch, Recording Secretary