

**CODE ENFORCEMENT BOARD
MEETING
JANUARY 23, 2019**

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

MEMBERS ABSENT: Timothy Heggan

OTHERS PRESENT: City Clerk Karen Smith
Allen McDaniel, Code Compliance Officer
Nick Falkner, Code Compliance Officer
Lisa Hannon, Zoning Official
City Attorney David Levin
Lavosia Price, Code Compliance Officer
David McCarty, Code Compliance Supervisor
Gordon Muir

CALL TO ORDER/ANNOUNCEMENTS

- A. Roll Call
- B. Next Scheduled Meeting
 - 1. February 27, 2019

APPROVAL OF MINUTES

- A. December 18, 2018
 - Mr. Weiner MOVED, Mr. Bauman SECONDED approval of the December 18, 2018 minutes. MOTION CARRIED UNANIMOUSLY.

NEW BUSINESS

- City Clerk Smith swore in all participants.
- A. 18-69712 - CODE COMPLIANCE OFFICER - ALLEN MCDANIEL
 - Respondents: John G. & Cheryl L. Boland
 - Address of Violation: 1200 Winward Court
 - Violation of Chapter 26, Section 8.11 (a) Dirty Roof.
 - Mr. Allen McDaniel, Code Compliance Officer, requested to continue the case to the February 27, 2019 meeting.
 - Mr. Bauman MOVED, Mr. Brennan SECONDED to continue the case to the February 27, 2019 meeting. MOTION CARRIED UNANIMOUSLY.

B. 18-69816 - CODE COMPLIANCE OFFICER - ALLEN MCDANIEL

Respondents: James E. Morrow Sr. & Christine Morrow

Address of Violation: 925 Lassino Court

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

- Mr. Chalifoux entered a plea of not guilty on behalf of the absent respondent.
- Mr. McDaniel displayed several photographs of the subject property, located within City limits, stating a November 5, 2018, inspection found more than 20% of the roof was not maintained to be free from dirt or mold. He reviewed the City's efforts to bring the property into compliance, noting inspections on December 10, 2018, and January 22, 2019, found the violation continued to exist. He stated the respondent indicated roof cleaning had been scheduled, noting he would reinspect the property on January 31, 2019. He then submitted an invoice for case costs incurred in the amount of \$11.79.
- Mr. Bauman MOVED, Mr. Burrage SECONDED the City had presented a prima facie case. MOTION CARRIED UNANIMOUSLY.
- Mr. Bauman commented negatively on the condition of the property.
- Mr. McDaniel agreed to investigate same.
- Mr. Burrage MOVED, Mr. Weiner SECONDED to find the respondent guilty, to issue a Cease & 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 \$11.79 within 10 days, subject to a fine of \$250 per day plus applicable interest. MOTION CARRIED UNANIMOUSLY.

C. 18-70002 - CODE COMPLIANCE OFFICER - NICK FALKNER

Respondents: OHNO, LLC

Registered Agent: Omar Hishmeh

Address of Violation: 1002 Tamiami Trail

Violation of Chapter 9, Section 9-12 (a) 1, 2 Torn/Missing Awnings.

- Mr. Nick Falkner, Code Compliance Officer, requested the case be dismissed.
- Mr. Bauman MOVED, Mr. Burrage SECONDED to dismiss the case. MOTION CARRIED UNANIMOUSLY.

D. 18-70251 - CODE COMPLIANCE OFFICER - NICK FALKNER

Respondents: Harbor Partners, LLC

Registered Agent: Frank Ibarra

Address of Violation: 319 Allen Street

Violations of Chapter 9, Section 9-12 (a) 1, 2 (a) (b) (c) Accessory Structures; and Chapter 9, Section 9-12 (e) Accessory Structures; and Chapter 9, Section 9-2 (g) Public Nuisance Danger Blight.

- Mr. Falkner announced the owner had obtained a demolition permit on January 16, 2019, explaining demolition would proceed following receipt of the asbestos report.
- Mr. Burrage MOVED, Mr. Brennan SECONDED to continue the case to February 27, 2019. MOTION CARRIED UNANIMOUSLY.

NOTE: Item E was heard prior to Item A.

E. 18-70441 - CODE COMPLIANCE OFFICER - ALLEN MCDANIEL

Respondents: Penny's Restaurant
Broadway Shoppes, LLC

Address of Violation: 1133 Bal Harbor Boulevard

Violations of Chapter 26, Section 1.10 No Permit; and Chapter 26, Section 8.27 (c), (1), (2), (3), (4), (5) Outdoor Dining.

- Mr. Gordon Muir, part-owner of Penny's Restaurant, entered a plea of not guilty.
- Mr. McDaniel displayed several photographs of the subject property, located within City limits, stating a December 4, 2018, inspection found the business owner had not applied for an Outdoor Dining permit. He reviewed the City's efforts to bring the property into compliance, noting inspections on December 14, 2018, and January 22, 2019, found the violations continued to exist. He then submitted an invoice for case costs incurred in the amount of \$23.58.
- Mr. Bauman MOVED, Mr. Weiner SECONDED the City had presented a prima facie case. MOTION CARRIED UNANIMOUSLY.
- Mr. Muir explained he had attempted to apply for a permit; however, he had difficulty in obtaining a site plan, which he had just received from the property owner. He pointed out outdoor dining had existed at the location for ten years.
- Mr. Weiner commented it would have been simple to move the tables inside.
- Mr. Muir replied no one told him he had to do so.
- Mr. Weiner stated there was no representation from the property owner.
- City Attorney David Levin stated while Penny's Restaurant was responsible for maintaining the inside and outside of the premises as lessee, the property owner needed to provide consent for utilization of the outdoor area. He explained both parties were responsible for the violation. He concluded the notice of violation ordered the violation be corrected, which could have been achieved by bringing the tables inside or obtaining the permit.
- Mr. Muir reiterated outdoor dining had existed at the location for many years.
- City Attorney Levin advised the previous owner had a permit, but same was not transferrable.
- Mr. Burrage inquired as to the timeframe for obtaining a permit.

- Ms. Hannon replied approximately two weeks.
- 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 be brought into compliance within 14 days and to require payment of case costs incurred in the amount of \$23.58 within 10 days, subject to a fine of \$250 per day plus applicable interest. MOTION CARRIED UNANIMOUSLY.

F. 18-70462 - CODE COMPLIANCE OFFICER - NICK FALKNER

Respondents: Michele Stokes & T. Rene Comer

Address of Violation: 465 Booth Street

Violation of Chapter 9, Section 9-2 (d) Inoperable Vehicle.

- Mr. Falkner requested the case be dismissed.
- Mr. Burrage MOVED, Mr. Bauman SECONDED to dismiss the case. MOTION CARRIED UNANIMOUSLY.

UNFINISHED BUSINESS

A. 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.

- Mr. Lavosia Price, Code Compliance Officer, 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 27, 2018, and January 2, 2019, found the violation had continued to exist. He stated inspection on January 22, 2019, found the tree stump had been removed, but an area of exposed soil remained on the property. He summarized the property remained out of compliance for 56 days. He then submitted an invoice for case costs incurred in the amount of \$17.19.
- City Attorney Levin recommended the case be continued to the next hearing to allow the property owner's heirs additional time to come into compliance.
- Mr. Price stated he would inform Mr. Riggs the bare soil required covering.
- Mr. Weiner MOVED, Mr. Brennan SECONDED to continue the case to February 27, 2019. MOTION CARRIED UNANIMOUSLY.

STAFF COMMENTS

- Mr. McCarty reviewed the status report, as delineated in the agenda material. He reported 412 Allen Street sold at auction for more than \$18,000, which covered the City's costs.
- Mr. Chalifoux inquired as to the gas pump security violation.
- Mr. McCarty replied the deadline for payment of the fine was the following day, confirming the gas pumps were in compliance.
- Mr. Brennan inquired as to the status of the Plattner case.
- City Attorney Levin replied the case was moving forward.

COMMITTEE/BOARD COMMENTS

- Mr. Bauman commented on the number of dirty roofs in Burnt Store Isles.
- Mr. Falkner replied there were several open cases for properties in that area.

ADJOURNMENT

- Meeting Adjourned: 9:44 a.m.

John Chalifoux, Chairman

Sara Welch, Recording Secretary