

**CODE ENFORCEMENT BOARD
MEETING
APRIL 24, 2019**

MEMBERS PRESENT: John Burrage, Acting Chairman
Henry Bauman, William Brennan,
Nora Giardina, Timothy Heggan,
Jay Nadelson

MEMBERS ABSENT: John Chalifoux, Edward Weiner

OTHERS PRESENT: City Attorney David Levin
Lisa Hannon, Zoning Official
David McCarty, Code Compliance Supervisor
Allen McDaniel, Code Compliance Officer
Lavosia Price, Code Compliance Officer
Nick Falkner, Code Compliance Officer
Barry Schrayner, Patrick Fisher, Eric Eisen,
Cathy Getz, Wes Demott, John Gamble,
Mickey Warren

CALL TO ORDER/ANNOUNCEMENTS

- A. Roll Call
- B. Next Scheduled Meeting
 - 1. May 22, 2019

APPROVAL OF MINUTES

- A. March 27, 2019
 - Mr. Bauman MOVED, Ms. Giardina SECONDED approval of the March 27, 2019 minutes.
MOTION CARRIED UNANIMOUSLY.

NEW BUSINESS

- Recording Secretary Pues Swore in all participants.
- A. 19-71159 – CODE COMPLIANCE OFFICER – NICK FALKNER
 - Respondents: Peace River Beer Company,
 - LLC Registered Agent: % Surasak Wichitsakulrat
 - Address of Violation: 1732 Steadley Avenue
 - Violation of Chapter 26, Section 8.11 (e) and; Violation of Chapter 26, Section 8.11 (f)
Property Maintenance - Grass.
 - Mr. Barry Schrayner, respondent, entered a plea of not guilty.
 - Mr. Nick Falkner, Code Compliance Officer, displayed several photographs of the subject property, located within City limits, noting inspection on February 11, 2019, found tall grass and/or weeds. He reviewed the City's efforts to bring the property into compliance, noting inspection carried out on February 19, 2019, revealed the violation had not been corrected; however, inspections carried out on April 2, 2019, and April

23, 2019, found the property was in compliance. He requested a Cease and Desist Order for future violations and submitted an invoice for case costs incurred in the amount of \$38.80.

- Mr. Bauman MOVED, Mr. Brennan SECONDED the City had presented a prima facie case. MOTION CARRIED UNANIMOUSLY.
- Mr. Schrayner requested dismissal of the case as the property was brought into compliance. He informed the members the property had not come into compliance previously due to difficulties hiring contractors to mow and weed 1.2 feet as well as railroad weeds trespassing onto his property. He opined determination of grass length was subjective and not reliable evidence.
- Discussion ensued regarding the code compliance process on finding violations.
- Mr. Brennan MOVED, Ms. Giardina SECONDED to find the respondent guilty, to issue a Cease & Desist Order for any future violations and to require payment of case costs incurred in the amount of \$38.80 within 10 days, subject to a fine up to \$250 per day plus applicable interest. MOTION CARRIED UNANIMOUSLY.

B. HEARING IMPOSING PENALTY - REPEAT VIOLATION 19-71736 - CODE COMPLIANCE OFFICER - ALLEN MCDANIEL

Respondents: Punta Gorda AA Hotel, LLC

Registered Agent: % Amer Asmar

Address of Repeat Violation: 300 West Retta Esplanade

Repeat Violations of Chapter 9, Section 9-2 (a); and Chapter 9, Section 9-2 (g); and Chapter 9, Section 9-2 (h) Public Nuisance; and Chapter 26, Section 10.2 (h) Driveway and Curbing in Disrepair.

- Mr. Patrick Fisher, respondent's representative, entered a plea of not guilty.
- Mr. David McCarty, Code Compliance Supervisor, provided a brief overview of violations at the subject property dating back to January 2015, noting the property had unpaid fines in the amount of \$3,808.40.
- Mr. Allen McDaniel, Code Compliance Officer, 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 October 24, 2018. He announced the property was initially brought into compliance on December 14, 2018, but an inspection on March 13, 2019, again found the driveway dumpster enclosure in a state of disrepair, multiple potholes, stagnant and greasy water, dirt and gravel accumulated on the driveway and trash and debris on the property; therefore, the property was in repeat violation. He noted the respondents had submitted a building permit for a new dumpster enclosure on April 16, 2019; however, the permit was currently in rejection

status. He stated inspection on April 23, 2019 found the violations continued to exist, concluding the property had remained in violation for 42 days from March 13, 2019, to April 23, 2019. He then submitted an invoice for case costs incurred in the amount of \$19.60.

- Mr. Nadelson MOVED, Mr. Brennan SECONDED the City had presented a prima facie case. MOTION CARRIED UNANIMOUSLY.
- Mr. Fisher stated water displayed in the pictures had resulted from power washing near Hurricane Charley's Raw Bar & Grill on the dates of inspection, noting the respondent was in the process of reconfiguring the area and was waiting for approval of the new garbage hide structure.
- Discussion ensued with members noting the following: the respondent had been working with staff to bring the property into compliance; relocation of the garbage hide structure would resolve remaining violations; changes to the delivery process would prevent further damage to the embankment; the property could be brought into compliance in 60 days.
- Mr. McCarty advised the Zoning Division required clarification of the garbage hide structure's exterior finish, the dumpster gate material and the bollard type in order to approve the permit.
- Mr. Bauman MOVED, Mr. Heggan SECONDED to continue Case #19-71736 to May 22, 2019. MOTION CARRIED UNANIMOUSLY.

C. 19-70872 – CODE COMPLIANCE OFFICER – ALLEN MCDANIEL

Respondents: Peter J. & Maria E. Glanton, Trs

Address of Violation: 2917 Ryan Boulevard

Violation of Chapter 26, Section 8.11 (a) Property Maintenance.

- Mr. Burrage 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, noting inspection carried out on February 11, 2019, found that more than 20 percent 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 inspection carried out on March 18, 2019, found the violation continued to exist along with a new violation of more than 20 percent of the structure's exterior walls not free from dirt or mold. He added inspection carried out on April 23, 2019, found the roof had been brought into compliance; however, the dirt or mold remained on 20 percent of the structure's exterior wall. He confirmed he had been in contact with the property owner and his daughter, who had requested more time to come into compliance due to health issues. He then submitted an invoice for case costs incurred in the amount of \$20.00.

- Mr. Bauman, Mr. Brennan SECONDED the City had presented a prima facie case. MOTION CARRIED UNANIMOUSLY.
 - Mr. McDaniel estimated the property would be brought into compliance within 30 days.
 - Mr. Bauman MOVED, Ms. Giardini SECONDED to continue Case #19-70872 to May 22, 2019.
- MOTION CARRIED UNANIMOUSLY.

UNFINISHED BUSINESS

A. 18-67253 – CITY ATTORNEY – DAVID M. LEVIN

Respondents: Emerald Pointe Condominium Association, Inc.

Registered Agent: Michael R. McKinley, Esq.

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

- City Attorney Levin reviewed the case brought forth on November 28, 2018, adding testimony about the case would not be heard this date. He noted on March 21, 2019, the respondent provided a letter from the Florida Department of Environmental Protection (FDEP) indicating they were exercising jurisdiction over the area in question. He opined if the letter had been brought forth on the original date of hearing, the case would have been dismissed. He advised the appropriate action was to vacate the previous order.
- Mr. Brennan MOVED, Mr. Nadelson SECONDED to vacate the order issued on November 28, 2018. MOTION CARRIED UNANIMOUSLY.
- Mr. Wes Demott, neighboring property owner, inquired as to the next step.
- City Attorney Levin replied the appeal would be dismissed in court; adding the City would further investigate its options in regards to the State exercising jurisdiction in the subject area. He noted if the City still believed there was a violation, action would be taken accordingly. He concluded legal issues raised in the appeal would be evaluated to see whether or not they had merit with respect to this particular case.

B. HEARING IMPOSING ADDITIONAL PENALTY 18-69983 – CODE COMPLIANCE OFFICER – NICK FALKNER

Respondents: Tuscan Lodge No. 92

% John H. Gamble

Address of Violation: 629 E. Charlotte Avenue

Violations of Chapter 9, Section 9-12 (a) 1, 2, (b) 1, (g) Property Maintenance Violation; and Chapter 9, Section 9-2 (g) Public Nuisance Danger Blight.

- Mr. Falkner noted the property was in compliance, calling for dismissal.

- Mr. Brennan MOVED, Mr. Heggan SECONDED to dismiss the case. MOTION CARRIED UNANIMOUSLY.
- C. HEARING IMPOSING PENALTY 19-71210 – CODE COMPLIANCE OFFICER – ALLEN MCDANIEL
 - Respondent: Robert A. Nicholas, Jr. Trustee
 - Address of Violation: 3021 Roma Court
 - Violations of Chapter 26, Section 8.11 (e) 1 Property Maintenance – Debris; and Chapter 26, Section 8.5 (b) (2) (f) Fence in Disrepair; and Chapter 9, Section 9-2 (a); and Chapter 26, Section 8.14 (b) Outdoor Storage.
- Mr. McDaniel displayed several photographs of the subject property, located within City limits, reviewing the history of the Board’s actions regarding the garbage hide structure being in a state of disrepair, landscape debris and outdoor storage dating back to March 27, 2019. He reported inspections carried out on April 8, 2019, and April 23, 2019, found the violations continued to exist, summarizing the property had been out of compliance for 16 days. He then submitted an invoice for case costs incurred in the amount of \$62.44, noting there had been no contact with the property owner.
- Mr. Brennan MOVED, Mr. Bauman SECONDED the City had presented a prima facie case. MOTION CARRIED UNANIMOUSLY.
- Mr. Bauman MOVED, Ms. Giardina SECONDED to find the respondent in violation, to impose a fine of \$2,400.00, representing a fine of \$150.00 per day for 16 days, plus applicable interest and to require payment of total case costs incurred in the amount of \$62.44.
- Mr. Nadelson opined imposing a large fine would not resolve the issue, questioning what actions the City could take if the respondent was perhaps deceased.
- City Attorney Levin replied legal action could be taken if the property was foreclosed upon by the City.
- VOTING AYE: Bauman, Brennan, Giardina, Heggan, Burrage
- VOTING NAY: Nadelson
- MOTION CARRIED.
- D. HEARING IMPOSING ADDITIONAL PENALTY REPEAT VIOLATION 18-69199 – CODE COMPLIANCE OFFICER – NICK FALKNER
 - Respondent: Sylvia Ware Longmire
 - Address of Repeat Violation: 520 Ida Avenue
 - Repeat Violations of Chapter: 9, Section 9-2 (a); and Chapter: 26, Section 8.14 (b) Outside Storage, Debris, Junk Yard.

- Mr. Falkner noted the property was in compliance and the City was not requesting any additional fines be imposed at this time.
- Mr. Bauman MOVED, Mr. Heggan SECONDED to dismiss Case #18-69199. MOTION CARRIED UNANIMOUSLY.

STAFF COMMENTS

- Mr. McCarty reported no liens had been recorded for three months.

COMMITTEE/BOARD COMMENTS

- Mr. Bauman confirmed he would not be at the May 22, 2019 meeting.

CITIZENS' COMMENTS

- Mr. Eric Eisen expressed concern about selling his house due to appearance and safety issues presented by the staircase on the neighboring property.
- Ms. Cathy Getz requested the City closely monitor the progress of the Punta Gorda Hotel property.
- Mr. Wes Demott opined the City should compel the State to bring Emerald Pointe into compliance. He reviewed the history of the property and the hazards it caused to neighboring properties during the rainy season.
- Mr. John Gamble stated in response to Mr. Eisen's comment, repairs to the stairway was the next item on the schedule and progress has been made to bring the property into compliance.
- Mr. Mickey Warren requested Code Compliance be more aggressive with the owner of his neighboring property due to its state of disrepair.
- City Attorney Levin reviewed the steps needed to move forward with the Emerald Pointe Condominium Association, Inc. case, confirming the City was in active litigation with the property owners. He explained in detail which authorities citizens could contact regarding abandoned houses. He then offered to provide a brief summary of the laws that were unique to members' jurisdiction to provide them with a better understanding of same.
- Consensus was to do so at a future meeting.

ADJOURNMENT

- Meeting Adjourned: 10:28 a.m.

John Chalifoux, Chairman

Leah Pues, Recording Secretary