

PORT ORANGE CODE ENFORCEMENT
SPECIAL MAGISTRATE MINUTES
COUNCIL CHAMBERS
1000 CITY CENTER CIRCLE
PORT ORANGE, FLORIDA
OCTOBER 23, 2019

THE SPECIAL MAGISTRATE HEARING of the City of Port Orange was called to order by Special Magistrate Fuller at 9:00 a.m.

PRESENT: David Fuller, Special Magistrate

ALSO PRESENT: Amanda Bonin, Code Compliance Inspector
Dennis Boehmer, Code Compliance Inspector
Scott Allman, Code Compliance Inspector
Dena Joseph, Code Compliance Inspector
Debbie Pearson, Code Enforcement Manager
Shelby Field, Assistant City Clerk

Attorney Overview of Special Magistrate Code Enforcement Process

Special Magistrate Fuller gave an overview of the code enforcement process as there were members of the public present.

Consideration of Minutes

Special Magistrate Fuller approved the October 9, 2019 meeting minutes as presented.

Oaths

Code Compliance Inspectors Dennis Boehmer, Amanda Bonin, Scott Allman, Dena Joseph and Deborah Pearson Code Compliance Manager were sworn in by Special Magistrate Fuller.

B. FORMAL HEARING (COMPLIANCE OR NON-COMPLIANCE)

3. CEB Case No.: 19-1179

Respondent: Robert Rogers Estate

Address of Violation: 31 Elda Lane, Port Orange, FL 32127

Code Officer: Scott Allman

First Notified: 8/7/2019

Compliance: Yes

Cited for violation(s) - Chapter 42, (Nuisances), Article II (Garbage, Junk and Undergrowth), Section 42-26 (Cleanliness of property generally - duty of owner), (d) (Maintenance of improved residential lots) of the City of Port Orange Code of Ordinances.

Chapter 42, (Nuisances), Article II (Garbage, junk and undergrowth), Section 42-26 (Cleanliness of property generally-duty of owner), (h) Abutting property owner maintenance of parkages.

Scott Allman, Code Compliance Inspector, was sworn in by Special Magistrate Fuller and requested a dismissal of the case as it is in compliance. Special Magistrate Fuller granted the dismissal request.

4. CEB Case No.: 19-1346

Respondent: Arthur P. Champley

Address of Violation: 560 Newton Road, Port Orange, FL 32127

Code Officer: Scott Allman

First Notified: 9/10/2019

Compliance: No

Cited for violation(s) - Chapter 42, (Nuisances), Article II (Garbage, Junk and Undergrowth), Section 42-26 (Cleanliness of property generally - duty of owner), (d) (Maintenance of improved residential lots) of the City of Port Orange Code of Ordinances.

Chapter 42, (Nuisances), Article II (Garbage, junk and undergrowth), Section 42-26 (Cleanliness of property generally-duty of owner), (h) Abutting property owner maintenance of parkages.

Mr. Allman testified as to the condition of the property, as well as the notice provided to the property owner. Photos were submitted into evidence and accepted by Special Magistrate Fuller with no objections. The violation was to be corrected by September 30, 2019 by mowing the entire property, trimming, edging and blowing all debris back onto the property.

Mr. Allman recommended the property owners be found in violation of the above referenced codes with the violations to be corrected on or before November 8, 2019 by mowing the entire property, trimming, edging and blowing all debris back onto the property. In the event the property is not brought into compliance on or before the compliance date, and/or not maintained in a state of compliance, a daily fine in the amount of \$100.00 per day shall be assessed for each day the property is in violation beyond the compliance date. Accused should be further ordered to contact the Code Enforcement Officer to arrange for a re-inspection of the property to verify compliance with the order. Mr. Allman requested any future violations under this ordinance be considered repeat. The cost sheet in the amount of \$43.60 was tendered into evidence and accepted by Special Magistrate Fuller with no objections.

Special Magistrate Fuller granted the recommendation as presented and deemed the property a health and safety violation. The property owner has until November 8, 2019 to mow the entire property, trim, edge and blow all debris back onto the property or a daily fine in the amount of \$100.00 per day shall be imposed. Costs in the amount of \$43.60 were awarded to the City.

5. CEB Case No.: 19-1353

Respondent: Jacqueline M. Sale

Address of Violation: 825 Upland Drive, Port Orange, FL 32127

Code Officer: Scott Allman

First Notified: 9/12/2019

Cited for violation(s) - Chapter 42, (Nuisances), Article II (Garbage, Junk and Undergrowth), Section 42-26 (Cleanliness of property generally - duty of owner), (d) (Maintenance of improved residential lots) of the City of Port Orange Code of Ordinances.

Chapter 42, (Nuisances), Article II (Garbage, junk and undergrowth), Section 42-26 (Cleanliness of property generally-duty of owner), (h) Abutting property owner maintenance of parkages.

Mr. Allman requested a dismissal of the case as it in compliance. Special Magistrate Fuller granted the dismissal request.

8. CEB Case No.: 17-1871

Respondent: June Freniere

Address of Violation: 5204 Taylor Avenue, Port Orange, FL 32127

Code Officer: Dena Joseph

First Notified: 12/11/2017

Compliance: Yes

Cited for violation(s) - 2018 Florida Building Code, 6th Edition, Section 105 (Permits), 105.1 (Permits Required), as adopted by Chapter 8, Article 1, of the City of Port Orange Land Development Code.

Mr. Allman requested a dismissal of the case as it in compliance. Special Magistrate Fuller granted the dismissal request.

9. CEB Case No.: 19-1293

Respondent: Valerie Potter

Address of Violation: 176 Iron Gate Circle, Port Orange, FL 32127

Code Officer: Dennis Boehmer

First Notified: 8/22/2019

Compliance: No

Cited for violation(s) - Chapter 42, (Nuisances), Article II (Garbage, Junk and Undergrowth), Section 42-26 (Cleanliness of property generally - duty of owner), (d) (Maintenance of improved residential lots) of the City of Port Orange Code of Ordinances.

Dennis Boehmer, Code Compliance Inspector, was sworn in by Special Magistrate Fuller and testified as to the condition of the property, as well as the notice provided to the property owner. Photos were submitted into evidence and accepted by Special Magistrate Fuller with no objections. The violation was to be corrected immediately by mowing and trimming the property of all high weeds and grass and blowing all yard debris back onto the property.

Mr. Boehmer recommended the property owners be found in violation of the above referenced codes with the violations to be corrected immediately by mowing and trimming the property of all high weeds and grass and blowing all yard debris back onto the property. In the event the property is not brought into compliance immediately, and/or not maintained in a state of

compliance, the City shall have the option to abate the violation. Accused should be further ordered to contact the Code Enforcement Officer to arrange for a re-inspection of the property to verify compliance with the order. Mr. Boehmer requested any future violations under this ordinance be considered repeat. The cost sheet in the amount of \$43.60 was tendered into evidence and accepted by Special Magistrate Fuller with no objections.

Special Magistrate Fuller granted the recommendation as presented and deemed the property a health and safety violation. The property owner is to immediately mow and trim the property of all high weeds and grass and blow all yard debris back onto the property or the City shall have the option to abate the violation. Costs in the amount of \$43.60 were awarded to the City.

10. CEB Case No.: 19-1241

Respondent: Thomas S. Wintink est

Address of Violation: 1391 N. Dexter Drive, Port Orange, FL 32129

Code Officer: Amanda Bonin

First Notified: 8/13/2019

Compliance: No

Cited for violation(s) - Chapter 42, (Nuisances), Article II (Garbage, Junk and Undergrowth), Section 42-26 (Cleanliness of property generally - duty of owner), (d) (Maintenance of improved residential lots) of the City of Port Orange Code of Ordinances.

Chapter 42, (Nuisances), Article II (Garbage, junk and undergrowth), Section 42-26 (Cleanliness of property generally-duty of owner), (h) Abutting property owner maintenance of parkages.

Chapter 42 (Nuisances), Article II (Garbage , Junk and Undergrowth), Section 42-32 Storage of vehicles, furniture, etc. of the City of Port Orange Code of Ordinances.

Amanda Bonin, Code Compliance Inspector, was sworn in by Special Magistrate Fuller and testified as to the condition of the property, as well as the notice provided to the property owner. Photos were submitted into evidence and accepted by Special Magistrate Fuller with no objections. The violation was to be corrected immediately, as it is a repeat violation, by mowing and trimming all high weeds and grass and removing all outside storage.

Re-inspection was conducted on October 16, 2019 and the property is now in compliance; however, Ms. Bonin recommended the property owners be found in violation of the above referenced codes as the property was not in compliance with the Notice of Hearing. Ms. Bonin requested any future violations under this ordinance be considered repeat. The cost sheet in the amount of \$43.60 was tendered into evidence and accepted by Special Magistrate Fuller with no objections.

Special Magistrate Fuller granted the recommendation as presented. Costs in the amount of \$43.60 were awarded to the City.

C. ORDER IMPOSING FINE/LIEN

11. **CEB Case No.:** 19-847

Respondent: OR-EL 18 LLC

Business Filings Incorporated

Address of Violation: 3741 Clyde Morris Blvd., Port Orange, FL 32129

Code Officer: Amanda Bonin

First Notified: 6/5/2019

Compliance: No

Cited for violation(s) - Chapter 14, Article VII, Commercial Property Maintenance Standards of the City of Port Orange Code of Ordinances Section 14-314. - Landscaping and buffers - Maintenance criteria. (a) Approved landscape plans (1) Trees (2) Shrubs (3) Lawns (d) (2) (5) (7) Required maintenance and anticipated growth and coverage.

Chapter 14, Article VII, Commercial Property Maintenance Standards of the City of Port Orange Code of Ordinances Section 14-315. - Same - Replacement criteria. (a) Landscape plantings (b) Buffer plantings (1) (2) (3).

Chapter 14, Article VII, Commercial Property Maintenance Standards of the City of Port Orange Code of Ordinances Section 14-318. -Other property improvements; maintenance criteria. (d) Trash, litter and debris.

Ms. Bonin requested an Order Setting Fine/Lien as the property was not in compliance by June 5, 2019 (the date of violation) as ordered in the previous hearing on September 11, 2019 by the Special Magistrate. She requested a daily fine in the amount of \$500.00 as ordered in the Finding of Fact, Conclusion of Law & Order to begin on June 5, 2019 and running until the property is brought into compliance. A cost sheet for mailing and recording costs in the amount of \$116.80 was tendered and submitted into evidence without objection.

Special Magistrate Fuller found the property in non-compliance and awarded \$500.00 in daily fines beginning June 5, 2019 and running until the property is brought into compliance and mailing and recording costs to date of \$116.80.

12. **CEB Case No.:** 19-1108

Respondent: Herbert Schubert Jr.

Address of Violation: 408 Nancy Street, Port Orange, FL 32127

Code Officer: Dennis Boehmer

First Notified: 7/26/2019

Compliance: No

Cited for violation(s) - Chapter 42, (Nuisances), Article II (Garbage, Junk and Undergrowth), Section 42-26 (Cleanliness of property generally - duty of owner), (d) (Maintenance of improved residential lots) of the City of Port Orange Code of Ordinances.

Chapter 42, (Nuisances), Article II, (Garbage, Junk and Undergrowth), Section 42-26,

(Cleanliness of Property Generally-duty of owner), (f) Garbage, waste, trash, etc. prohibited of the City of Port Orange Code of Ordinances.

Chapter 42 (Nuisances), Article II (Garbage , Junk and Undergrowth), Section 42-32 Storage of vehicles, furniture, etc. of the City of Port Orange Code of Ordinances.

Chapter 70 (Traffic), Article II (Stopping, Standing, and Parking), Section 70-49 (Restrictions on abandoned or disabled vehicles), (c) Restrictions, (1) (a), (b) and (2) of the City of Port Orange Code of Ordinances.

Mr. Boehmer requested an Order Setting Fine/Lien as the property was not in compliance by September 21, 2019 as ordered in the previous hearing on September 11, 2019 by the Special Magistrate. He requested a one-time fine in the amount of \$1,000.00 as ordered in the Finding of Fact, Conclusion of Law & Order to begin on September 21, 2019. A cost sheet for mailing and recording costs in the amount of \$89.60 was tendered and submitted into evidence without objection.

Special Magistrate Fuller found the property in non-compliance and awarded \$1,000.00 in fines and mailing and recording costs to date of \$89.60. A lien is imposed on the property in the amount of \$1,089.60.

13. CEB Case No.: 19-1108

Respondent: Herbert Schubert Jr.

Address of Violation: 408 Nancy Circle, Port Orange, FL 32127

Code Officer: Dennis Boehmer

First Notified: 7/26/2019

Compliance: No

Cited for violation(s) - City of Port Orange Land Development Code, Chapter 16 (Miscellaneous Regulations), Section 1 (Accessory Uses and Structures), (e) Outside Storage (1) Residential Uses (a).

Mr. Boehmer requested an Order Setting Fine/Lien as the property was not in compliance by September 21, 2019 as ordered in the previous hearing on September 11, 2019 by the Special Magistrate. He requested a one-time fine in the amount of \$1,000.00 as ordered in the Finding of Fact, Conclusion of Law & Order to begin on September 21, 2019. A cost sheet for mailing and recording costs in the amount of \$89.60 was tendered and submitted into evidence without objection.

Special Magistrate Fuller found the property in non-compliance and awarded \$1,000.00 in fines and mailing and recording costs to date of \$89.60. A lien is imposed on the property in the amount of \$1,089.60.

14. CEB Case No.: 19-1129

Respondent: Jessica Lynn Lincicome

Address of Violation: 9 Raintree Drive, Port Orange, FL 32127

Code Officer: Scott Allman

First Notified: 7/31/2019

Compliance: No

Cited for violation(s) - Chapter 42, (Nuisances), Article II (Garbage, Junk and Undergrowth), Section 42-26 (Cleanliness of property generally - duty of owner), (d) (Maintenance of improved residential lots) of the City of Port Orange Code of Ordinances.

Mr. Allman asked the magistrate if an amended Finding of Fact was needed for language clarification to make it clear the daily fine would be starting at the time of the notice. Special Magistrate Fuller responded he did not believe it was necessary as it seemed clear in the Finding of Fact. Mr. Allman moved forward to set the Fine/Lien.

Mr. Allman requested an Order Setting Fine/Lien as the property was not in compliance by July 31, 2019 (the time of the violation) as ordered in the previous hearing on September 11, 2019 by the Special Magistrate. He requested a daily fine in the amount of \$100.00 as ordered in the Finding of Fact, Conclusion of Law & Order to begin on July 31, 2019, the date of violation, and running through and including September 18, 2019 for a total of 50 days. The City retained vendor Yellowstone Landscape who abated the violations at the cost of \$247.68. A cost sheet for mailing and recording costs in the amount of \$94.90 was tendered and submitted into evidence without objection.

Special Magistrate Fuller found the property in non-compliance and awarded \$5,247.68 in daily fines and abatement costs and mailing and recording costs to date of \$94.90. A lien is imposed on the property in the amount of \$5,342.58.

15. **CEB Case No.:** 19-1130
 Respondent: Jessica Lynn Lincicome
 Address of Violation: 9 Raintree Drive, Port Orange, FL 32127
 Code Officer: Scott Allman
 First Notified: 7/31/2019

Compliance: No

Cited for violation(s) - City of Port Orange Land Development Code, Chapter 16 (Miscellaneous Regulations), Section 3 (Fences and Walls), (b) General Provisions, (4) Design and Maintenance, (b) All fences shall be maintained in their original upright condition & (d) Missing boards, pickets, or posts shall be replaced in a timely manner with material of the same type and quality.

Mr. Allman requested an Order Setting Fine/Lien as the property was not in compliance by October 11, 2019 as ordered in the previous hearing on September 11, 2019 by the Special Magistrate. He requested a daily fine in the amount of \$100.00 as ordered in the Finding of Fact, Conclusion of Law & Order to begin on October 12, 2019 and running until the property is brought into compliance. A cost sheet for mailing and recording costs in the amount of \$94.90 was tendered and submitted into evidence without objection.

Special Magistrate Fuller found the property in non-compliance and awarded \$100.00 in daily fines to begin October 12, 2019 and running until the property is brought into compliance and mailing and recording costs to date of \$94.90.

16. **CEB Case No.:** 19-0750

Respondent: Samuel C. Sebergandio Jr.

Address of Violation: 5453 Pineland Ave., Port Orange, FL 32127

Code Officer: Dena Joseph

First Notified: 5/22/2019

Compliance: Yes

Cited for violation(s) - Chapter 42, (Nuisances), Article II (Garbage, Junk and Undergrowth), Section 42-26 (Cleanliness of property generally - duty of owner), (d) (Maintenance of improved residential lots) of the City of Port Orange Code of Ordinances.

Chapter 42, (Nuisances), Article II (Garbage, junk and undergrowth), Section 42-26 (Cleanliness of property generally-duty of owner), (h) Abutting property owner maintenance of parkages.

2018 International Property Maintenance Code Chapter 3 (General Requirements), Section 304 (Exterior Structure), 304.13 (Window, Skylight, and Door Frames) as adopted per Chapter 14, Article II of the City of Port Orange Code of Ordinances.

Ms. Joseph requested a dismissal of the case as it is in compliance. Special Magistrate Fuller granted the dismissal request.

17. **CEB Case No.:** 19-1046

Respondent: James E. Redmond

Address of Violation: 5400 Turton Lane, Port Orange, FL 32127

Code Officer: Dena Joseph

First Notified: 7/16/2019

Compliance: Yes

Cited for violation(s) - Chapter 42, (Nuisances), Article II (Garbage, Junk and Undergrowth), Section 42-26 (Cleanliness of property generally - duty of owner), (d) (Maintenance of improved residential lots) of the City of Port Orange Code of Ordinances.

Chapter 42, (Nuisances), Article II (Garbage, junk and undergrowth), Section 42-26 (Cleanliness of property generally-duty of owner), (h) Abutting property owner maintenance of parkages.

Ms. Joseph requested a dismissal of the case as it is in compliance. Special Magistrate Fuller granted the dismissal request.

18. **CEB Case No.:** 19-0915

Respondent: Matthew Brandt

Address of Violation: 5478 Rogers Avenue, Port Orange, FL 32127
Code Officer: Dena Joseph
First Notified: 6/21/2019

Compliance: No

Cited for violation(s) - Chapter 42, (Nuisances), Article II (Garbage, Junk and Undergrowth), Section 42-26 (Cleanliness of property generally - duty of owner), (d) (Maintenance of improved residential lots) and (h) abutting property owner maintenance of parkages of the City of Port Orange Code of Ordinances.

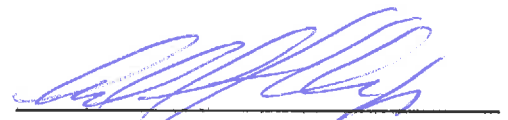
Chapter 42 (Nuisances), Article II (Garbage , Junk and Undergrowth), Section 42-32 Storage of vehicles, furniture, etc. of the City of Port Orange Code of Ordinances.

Chapter 42, (Nuisances), Article II, (Garbage, Junk and Undergrowth), Section 42-26, (Cleanliness of Property Generally-duty of owner), (f) Garbage, waste, trash, etc. prohibited of the City of Port Orange Code of Ordinances.

Ms. Joseph requested an Order Setting Fine/Lien as the property was not in compliance immediately as ordered in the previous hearing on September 11, 2019 by the Special Magistrate. She requested a daily fine in the amount of \$50.00 as ordered in the Finding of Fact, Conclusion of Law & Order to begin on August 6, 2019 and running through and including August 12, 2019 for a total of 7 days. A cost sheet for mailing and recording costs in the amount of \$94.90 was tendered and submitted into evidence without objection.

Special Magistrate Fuller found the property in non-compliance and awarded \$50.00 in daily fines beginning on August 6, 2019 and running through and including August 12, 2019 and mailing and recording costs to date of \$94.90. A lien is imposed on the property in the amount of \$444.90.

D. ADJOURNMENT – 10:00am



Special Magistrate Fuller