

CODE ENFORCEMENT SPECIAL MAGISTRATE MINUTES

COUNCIL CHAMBERS

1000 CITY CENTER CIRCLE

APRIL 8, 2015

THE SPECIAL MAGISTRATE HEARING of the City of Port Orange was called to order by Special Magistrate Branch at 9:14 a.m.

PRESENT: Raymond Branch, Special Magistrate

ALSO PRESENT: Chris Hutchison, Code Enforcement Supervisor
Scott Allman, Code Enforcement Inspector
Dena Joseph, Code Enforcement Inspector
Deborah Faircloth, Code Enforcement Inspector
Amanda Bonin, Code Enforcement Inspector
Theresa Gutierrez, Recording Secretary

Special Magistrate Branch reviewed the Code Enforcement hearing process.

Consideration of Minutes from March 25, 2015

Special Magistrate Branch approved the March 25, 2015 meeting minutes.

Oaths

Dena Joseph, Code Compliance Inspector, Amanda Bonin, Code Compliance Inspector, and Scott Allman, Code Compliance Inspector, were sworn in by Special Magistrate Branch.

A. NEW BUSINESS

1. CEB CASE NO. 15-0180
RESPONDENT/ Derek George
ADDRESS OF VIOLATION/ 108 Eddy Lane, Port Orange, FL 32129
CODE OFFICER/ Dena Joseph
First Notified – February 26, 2015

Cited for violation(s) – Chapter 10, Article I, Section 2 (Permits Required for Change of Grade) of the City of Port Orange Land Development Code.

Florida Building Code 2010, Section 105.1 (Permits Required).

Michael Cochetti, Attorney for Code Enforcement, said the violation was first observed on February 17, 2015 relative to a change of grade permit not being applied for. A permit is required at any time when there is a change of grade of the property. On February 17, 2015 Amanda Bonin, Code Compliance Inspector,

inspected the property and found that work was being performed without a permit. At that point, a stop work order was issued and Derek George, alleged violator, was directed to obtain a permit.

Ms. Bonin said on February 17, 2015 she observed the work being conducted. It came to her attention by an anonymous compliant. Ms. Bonin presented a picture dated February 17, 2015 of the stop work order posted at the property. Mr. Cochetti asked Ms. Bonin if she inspected the property with Chris Hutchison, Code Compliance Supervisor and Kenny Ho, City Engineer. Ms. Bonin said she inspected the property with Mr. Hutchison. Mr. Cochetti asked Ms. Bonin if she then notified Mr. George that a change of grade permit was required. Ms. Bonin said she is not sure if she did or Mr. Hutchison did but it was done.

Special Magistrate Branch asked Ms. Bonin if Mr. George was advised that a change of grade permit was required on February 17, 2015 in Ms. Bonin's presence. Ms. Bonin said yes. She also advised Mr. George that some of the fill that was brought to the property could be used around the home to protect the home and the remainder of the fill dirt would have to be removed.

On February 25, 2015 a re-inspection was conducted by Ms. Joseph. Ms. Joseph said she was out on leave when this case was first observed.

Special Magistrate Branch asked who identified the property owner. Ms. Bonin said she did. She checked on the Volusia County Tax Roll on February 17, 2015 and determined the owner to be Derek George. Ms. Bonin observed a truck dumping the dirt and leaving the property. She viewed and heard Mr. Hutchison speaking to the truck driver that dumped the dirt at the property. The dirt located on the property had been spread out. Ms. Bonin said Mr. Ho went out at a later time after Mr. Hutchison inspected the property.

Ms. Bonin believes there were at least three (3) to four (4) large piles. Special Magistrate Branch said it was on the vacant portion of the property. Special Magistrate Branch asked if this property is one parcel or multiple. Ms. Bonin said she believes its one parcel.

Mr. Hutchison was duly sworn by Special Magistrate Branch. Mr. Cochetti asked Mr. Hutchison why he was at the property on February 17, 2015. Mr. Hutchison said he received a complaint. Mr. Hutchison said the dump truck had just emptied the dirt. He stopped the truck and the driver said he was working with the owner to bring the dirt in. Mr. Hutchison ordered Ms. Bonin to issue a stop work order. Mr. Hutchison did speak with a tenant at the property. Mr. Hutchison had Mr. Ho meet up with Ms. Bonin at City Hall. Mr. Cochetti asked if there were any other interactions. Mr. Hutchison said there was a follow up meeting with Ms. Bonin, Mr. Ho, and himself.

Mr. George said he was not there on February 17, 2015. Mr. Hutchison agreed. Mr. George said Ms. Bonin's testimony was wrong.

Ms. Joseph said the Notice of Violation/Notice of Hearing was posted on February 26, 2015 with direct instructions on how to take care of the violation. Mr. Cochetti asked what date it was applied for. Ms. Joseph said it was applied for on March 3, 2015.

Mr. Cochetti asked Ms. Joseph for her interaction with the case. Ms. Joseph received the case from Ms. Bonin. There was no further involvement after April 7, 2015. Ms. Joseph said there was a front end loader

Mr. Cochetti asked Ms. Joseph for her interaction with the case. Ms. Joseph received the case from Ms. Bonin. There was no further involvement after April 7, 2015. Ms. Joseph said there was a front end loader on site removing dirt from the property. She observed the gentleman in the audience who was on the front end loader and put dirt onto the truck. Ms. Joseph pointed out the gentleman in the audience sitting next to Mr. George.

Mr. George asked if a permit had been issued. Ms. Joseph said it was picked up on March 30, 2015.

Mr. Cochetti reminded Special Magistrate Branch that Mr. George applied for a permit on March 3, 2015. Ms. Joseph said she didn't notice any different. Mr. George asked if Mr. Ho authorized any work after the stop work order was issued. She did not discuss with Mr. Ho to be placed around the structure. Mr. Ho did indicate the dirt to be spread with the intent on the stop work order. Mr. Cochetti said the notice of violation of issued for failure to apply for a permit.

Mr. Ho was duly sworn by Special Magistrate Branch. On February 17, 2015 he received a call for a change of grade permit. He said he was the lead to look over the property. The first time he went to the property was two (2) days later. Mr. George showed up at City Hall on Wednesday or Thursday. The violation was for importing dirt onto the land. Mr. Ho observed a couple piles of dirt that was spread out.

Mr. Cochetti asked Mr. Ho questions. Mr. Ho said their first conversation was with Mr. Hutchison in his office. He visited the site with Mr. George. There were conversations with Mr. George about the scope of work he can and cannot do at the property. Mr. Ho said 108 Eddy Lane is in the flood zone. Mr. George objected. The major intent would be to not change the natural flow plan of the water. There were a couple solutions with a change of grade permit. He said Mr. George would use existing dirt and build a berm by the house.

Mr. Ho said he approved the permit on March 10, 2015. The permit technician called Mr. George on March 10, 2015 or March 11, 2015. Mr. Ho said it took about a week. They wrote the conditions on the permit. Special Magistrate Branch asked if Mr. Ho had any notes. Mr. Ho said he noticed that Mr. George did not pick up the permit. Mr. Ho submitted a copy of the actual permit that was issued.

Special Magistrate Branch asked Mr. Ho if he received a call from Mr. George for a re-inspection. Mr. Ho said no. Mr. Ho went back on a random visit to go over the permit condition again on April 3, 2015 and April 7, 2015. He did not see any equipment on site. There was no purpose for him to get out of the car. Special Magistrate Branch asked Mr. Ho if it has been brought into compliance. Mr. Ho said no. Mr. George would have to remove the access dirt and grade the existing spread of dirt back to its original grade.

Audrey Prance, witness, was duly sworn in by Special Magistrate Branch. Ms. Prance said she has personal knowledge of the violations. Mr. Cochetti asked if Ms. Prance saw fill dirt spread throughout the property. Ms. Prance said yes. She has heard the dump trucks at her house coming and going. She has to drive out several times a day and saw the dumb trucks that same day on February 17, 2015 (on or about). Ms. Prance did notice the stop work order posted at the property.

Tim Dieson, truck driver, said his intent to spread dirt was so they could dry it out. They tried to spread dirt out and scoop it up and put it against the house, garage, or road way so it would be a lot less mess.

Mr. Cochetti referred back to the Notice of Violation/Notice of Hearing. There has been some testimony with the permit being obtained since March 8, 2015. The City Staff tried to achieve compliance with the property owner. Some work was performed and in violation of the permit. That would include the spreading of the fill dirt. The fill dirt was spread and chopped. Mr. Cochetti said he doesn't believe that there is any challenge. Obtaining the permit showed a violation of the conclusion of this case. The testimony supports the fact that the permit conditions have not been met. The City has met all requirements. Mr. Cochetti said that is appropriate to find the property in violation.

Special Magistrate Branch said he has not been able to complete the 90 day work period when his permit was issued. The Notice of Violation/Notice of Hearing said the terms said who have to obtain a permit. The permit wasn't issued until March 10, 2015. Special Magistrate Branch requested a full 90 days to comply with the notice.

Special Magistrate Branch will not find a violation. He ordered the respondent to come into full compliance before the permit expires. If Mr. George is not in compliance before the permit is expired, this case will be resumed on June 24, 2015. If the permit is revoked, this will come back at an earlier date.

2. CEB CASE NO. 15-0174
RESPONDENT/ Mikel Chase Skinner
ADDRESS OF VIOLATION/ 820 Sugar House Blvd., Port Orange, FL 32129
CODE OFFICER/ Dena Joseph
First Notified – March 9, 2015

Cited for violation(s) – Chapter 70 (Traffic), Article II (Stopping, Standing Parking), Section 70-49 (Restrictions on disabled or abandoned vehicles), (c) Restrictions, 1 (a) & (b), and (2).

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), (f) Garbage, waste, trash, etc. prohibited.

The violation was first observed on February 16, 2015. Ms. Joseph said she had observed two (2) unregistered/inoperable vehicles. The alleged violator was given Notice of Violation/Notice of Hearing on March 5, 2015 by property posting. The notice was also sent via certified mail and posted at City Hall on March 9, 2015. The certified mail was not returned to the City Clerk's Office. The U.S. postal service stated that there was a notice left at the residency and no authorized recipient available. The violation was to be corrected by March 15, 2015 by properly registering, storing or covering the unlicensed/inoperable vehicles in the driveway and by removing all trash on site to include outside the property and inside the porch area. Ms. Joseph re-inspected the property on March 23, 2015 and April 7, 2015 resulting in non-compliance.

Ms. Joseph presented pictures dated on March 5, 2015, March 23, 2015, and April 7, 2015. All pictures indicated non-compliance. All pictures taken are true and accurate depictions of what Ms. Joseph saw on the dates and times stamped on the photos. Special Magistrate Branch submitted the photos into evidence.

Based on the information presented in case no. 15-0174, Ms. Joseph is requesting the Special Magistrate to find Mikel Chase Skinner, property owner of 820 Sugar House Blvd., Port Orange, FL 32129 be found in violation of 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) and Chapter 70 (traffic), article ii (stopping, standing, parking), section 70-49 (restrictions on disabled or abandoned vehicles), (c) restrictions, 1 (a) & (b) and 2.

Special Magistrate Branch found case no. 15-0180 in violation of 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) and Chapter 70 (traffic), article ii (stopping, standing, parking), section 70-49 (restrictions on disabled or abandoned vehicles), (c) restrictions, 1 (a) & (b) and 2.

Ms. Joseph request the violation be corrected on or before April 19, 2015. If the accused does not comply with this Order, a fine of \$250 be imposed for each day the violation continues past April 19, 2015. Ms. Joseph also request the accused is further ordered to contact this Code Enforcement Officer to arrange for a re-inspection of the property to verify compliance with the Order. Any future violations under this ordinance shall be considered repeat violations.

Additionally, as per Chapter 2, Section 2-214, Code of Ordinances: "In addition to any fines, the Special Magistrate may impose additional fines to cover all costs incurred by the City in enforcing its codes and all costs or repairs pursuant to sub section (a)." The cost to date is \$40.65 as indicated on this cost sheet submitted into evidence. The respondent will be responsible for any additional costs incurred with follow-up inspections and other costs associated with this case until its conclusion.

Special Magistrate Branch ordered a fine of \$250 per day be imposed for each day the violation continues past April 19, 2015. Also, the violator shall notify Ms. Joseph for a re-inspection. The cost in the amount of \$40.65 is ordered.

3. CEB CASE NO. 15-0018
RESPONDENT/ Linda Kennedy, Maureen Kennedy, and John Kennedy
ADDRESS OF VIOLATION/ 5204 Sydney Street, Port Orange, FL 32127
CODE OFFICER/ Scott Allman
First Notified – March 6, 2015

Cited for violation(s) – Chapter 3, Section 304.11 (Unsafe Conditions) of the 2009 International Property Maintenance Code as adopted per Chapter 14, Article II of the City of Port Orange Land Development Code.

Chapter 3, Section 304.7 (Roofs and Drainage) of the 2009 International Property Maintenance Code as adopted per Chapter 14, Article II of the City of Port Orange Land Development Code.

Chapter 3, Section 304.9 (Overhanging Extensions) of the 2009 International Property Maintenance Code as adopted per Chapter 14, Article II of the City of Port Orange Land Development Code.

Chapter 3, Section 304.18 (Building Security) of the 2009 International Property Maintenance Code as adopted per Chapter 14, Article II of the City of Port Orange Land Development Code.

Chapter 3, Section 305.1.1 (Unsafe Conditions) of the 2009 International Property Maintenance Code as adopted per Chapter 14, Article II of the City of Port Orange Land Development Code.

Chapter 3, Section 305.3 (Interior Surfaces) of the 2009 International Property Maintenance Code as adopted per Chapter 14, Article II of the City of Port Orange Land Development Code.

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) & §§(f) (Garbage, waste, trash, etc., prohibited) of the City of Port Orange Code of Ordinances.

Mr. Allman mentioned that there was a grammatical error in the Notice of Violation/Notice of Hearing; Chapter 3, Section ~~304.11~~ [304.1.1](Unsafe Conditions) of the 2009 International Property Maintenance Code as adopted per Chapter 14, Article II of the City of Port Orange Land Development Code.

Special Magistrate Branch asked Mr. Allman if Chapter 3, Section 304.1.1 was mailed out with the notice. Mr. Allman said yes.

Mr. Allman the violation was first observed on January 8, 2015. The alleged violator was given notice on March 6, 2015 by property posting. Additionally, the notice was also sent via certified mail on March 9, 2015 and posted at City Hall. The violation was to be corrected on April 6, 2015. Upon re-inspection on April 6, 2015, the property continues to be in non-compliance.

Mr. Allman presented photos taken on March 6, 2015 and April 6, 2015. The notice was still posted on the property. All pictures presented are true and accurate depictions of what Mr. Allman saw on the dates and times of the photos submitted. Some of the pictures taken were taken from the adjacent property owner's property. Mr. Allman said the tiles that are on the car port are not secured. The roof has missing fascia and some of the roof pans are bending and bowing. Mr. Allman said the screen for the door is missing, the inside of the house is collapsing, and the inside of the mobile home is very dangerous and unsafe. Mr. Allman believes this is a very dangerous situation. Special Magistrate Branch submitted the photos into evidence.

Phillip Pitt, witness, was duly sworn by Special Magistrate Branch. Mr. Pitt said he has seen people coming in and out of the house and shed. The police have been on numerous actions. He said the photos do not do justice. Mr. Pitt said there have been animals going in and out as well. He said it is dangerous for the community. The property has been vacant for at least four (4) years.

Monica Lechevalier, witness, was duly sworn in by Special Magistrate Branch. Ms. Lechevalier said she is concerned about the property values. She said it is very dangerous.

Gary Lechevalier, witness, was duly sworn in by Special Magistrate Branch. Mr. Lechevalier said he would like to see something done about the house. He would like to see the house demolished. Special Magistrate Branch said it is not within his control. He said he will be able to refer this to the City Council.

Sandra Klopsis, witness, was duly sworn in by Special Magistrate Branch. Ms. Klopsis said she knew the owners. All the damage done to the house was from the hurricane in 2004. She said the floor is all busted in the rooms. Ms. Klopsis said the police were over on several occasions. She is concerned about the animals entering the home and trespassers. Ms. Klopsis stated the aluminum shed flops and disturbs her sleep.

Mr. Allman asked Ms. Klopsis what the business was for the Police Department to be called. Ms. Klopsis said there have been trespassers on the property.

Steven Lehtinen, witness, was duly sworn by Special Magistrate Branch. Mr. Lehtinen said this has been an ongoing issue since spring of 2011. He mentioned that the roof is caving in. Mr. Lehtinen said he has notice people stealing stuff off the property.

Doreen M. Goodwin, citizen, was duly sworn in my Special Magistrate Branch. Ms. Goodwin showed an interest in the property and would like to not see it demolished.

Based on the information presented in case no. 15-18, Mr. Allman is requesting the Special Magistrate to find that Linda Kennedy, Maureen Kennedy and John Kennedy property owners of 5204 Sydney St, Port Orange, FL 32127, be found in violation of Chapter 3, Section 304.1.1 (Unsafe Conditions) of the 2009 International Property Maintenance Code as adopted per Chapter 14, Article II of the City of Port Orange Land Development Code, Chapter 3, Section 304.7 (Roofs and Drainage) of the 2009 International Property Maintenance Code as adopted per Chapter 14, Article II of the City of Port Orange Land Development Code, Chapter 3, Section 304.9 (Overhanging Extensions) of the 2009 International Property Maintenance Code as adopted per Chapter 14, Article II of the City of Port Orange Land Development Code, Chapter 3, Section 304.18 (Building Security) of the 2009 International Property Maintenance Code as adopted per Chapter 14, Article II of the City of Port Orange Land Development Code, Chapter 3, Section 305.1.1 (Unsafe Conditions) of the 2009 International Property Maintenance Code as adopted per Chapter 14, Article II of the City of Port Orange Land Development Code, Chapter 3, Section 305.3 (Interior Surfaces) of the 2009 International Property Maintenance Code as adopted per Chapter 14, Article II of the City of Port Orange Land Development Code, and 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) & §§(f) (Garbage, waste, trash, etc., prohibited) of the City of Port Orange Code of Ordinances.

Special Magistrate Branch found case no. 15-18 in violation of Chapter 3, Section 304.1.1 (Unsafe Conditions) of the 2009 International Property Maintenance Code as adopted per Chapter 14, Article II of the City of Port Orange Land Development Code, Chapter 3, Section 304.7 (Roofs and Drainage) of the 2009 International Property Maintenance Code as adopted per Chapter 14, Article II of the City of Port Orange Land Development Code, Chapter 3, Section 304.9 (Overhanging Extensions) of the 2009 International Property Maintenance Code as adopted per Chapter 14, Article II of the City of Port Orange Land Development Code, Chapter 3, Section 304.18 (Building Security) of the 2009 International Property Maintenance Code as adopted per Chapter 14, Article II of the City of Port Orange Land Development Code, Chapter 3, Section 305.1.1 (Unsafe Conditions) of the 2009 International Property Maintenance Code as adopted per Chapter 14, Article II of the City of Port Orange Land Development Code, Chapter 3,

Section 305.3 (Interior Surfaces) of the 2009 International Property Maintenance Code as adopted per Chapter 14, Article II of the City of Port Orange Land Development Code, and 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) & §§(f) (Garbage, waste, trash, etc., prohibited) of the City of Port Orange Code of Ordinances.

Mr. Allman request the violation be corrected on or before May 8, 2015 by repairing all roof and soffit damage, removing all loose and unsecured metal, securing all doors and windows, repairing all damaged walls, ceilings, and rotted wood inside the mobile home, mowing the entire property, removing all high weeds, and by removing all garbage and debris from the property. If the accused does not comply with this Order, a fine of \$50 is imposed for each day the violation continues beyond May 8, 2015. Due to the condition of the property, Mr. Allman also request that the home be deemed a health, safety and welfare issue to the neighbors and surrounding properties. Mr. Allman also request the City of Port Orange be granted the ability to abate this health and safety concern by abating all violations and potentially demolishing the mobile home. Additionally, Mr. Allman request that the accused is further ordered to contact this Code Enforcement Officer to arrange for a re-inspection of the property to verify compliance with the Order. Any future violations under this ordinance shall be considered repeat violations.

Additionally, as per Chapter 2, Section 2-214, Code of Ordinances: "In addition to any fines, the Special Magistrate may impose additional fines to cover all costs incurred by the city in enforcing its codes and all costs or repairs pursuant to sub section (a)." The cost to date is \$76.45 as indicated on this cost sheet submitted into evidence. The respondent will be responsible for any additional costs incurred with follow-up inspections and other costs associated with this case until its conclusion.

Special Magistrate Branch ordered the violators to contact the City to obtain a permit to correct the violations on April 15, 2015. If there has been no contact with the City of Port Orange Building Department and Mr. Allman inquiring for building permits for repair or restoration of this property, this case will be referred to City Council on April 22, 2015 for possible abatement. Special Magistrate Branch said this is a health, safety, and welfare violation. This needs immediate corrective action. Special Magistrate Branch does not want to wait until May 8, 2015. There will be no fines enforced due to the property being vacant. The cost in the amount of \$76.45 is ordered.

4. CEB CASE NO. 15-237
RESPONDENT/ Tuckahoe, LLC
ADDRESS OF VIOLATION/ 5326 Ridgewood Avenue, Port Orange, FL 32127
CODE OFFICER/ Scott Allman
First Notified – February 27, 2015

Cited for violation(s) – Chapter 18, Article IV, Section 18-77 (2) & (6), (Sidewalk, Garage, Yard Sales) of the City of Port Orange Land Development Code.

Mr. Allman requested for case no. 15-237 be dismissed due to the property owner being in compliance with the notice. Special Magistrate Branch dismissed case no. 15-237.

5. CEB CASE NO. 15-286
RESPONDENT/ Clifford Mason, Sr.
ADDRESS OF VIOLATION/ 956 Tall Pine Drive, Port Orange, FL 32127
CODE OFFICER/ Scott Allman
First Notified – March 25, 2015

Cited for violation(s) – 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 56 (Solid Waste), Article II (Collection and Disposal Service), Section 56-34 (Location of Containers), of the City of Port Orange Code of Ordinances.

Mr. Allman requested for case no. 15-286 be dismissed due to the property owner being in compliance with the notice. Special Magistrate Branch dismissed case no. 15-286.

- B. OLD BUSINESS: NONE
C. PUBLIC COMMENTS: NONE
D. ADJOURNMENT: 12:58 a.m.



Special Magistrate Raymond Branch