

PORT ORANGE CODE ENFORCEMENT
SPECIAL MAGISTRATE MINUTES
COUNCIL CHAMBERS
1000 CITY CENTER CIRCLE
PORT ORANGE, FLORIDA
JANUARY 22, 2020

THE SPECIAL MAGISTRATE HEARING of the City of Port Orange was called to order by Special Magistrate Fuller at 9:02 a.m.

PRESENT: David Fuller, Special Magistrate

ALSO PRESENT: Scott Allman, Code Compliance Inspector
Amanda Bonin, 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 January 8, 2020 meeting minutes as presented.

Oaths

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

Ms. Bonin asked to hear the agenda out of order as there were members of the public present. Special Magistrate Fuller accepted.

B. FORMAL HEARING (COMPLIANCE OR NON-COMPLIANCE)

3. CEB Case No.: 19-1315

Respondent: Joseph M. Sr. & Jami Somereve

Address of Violation: 851 Chickadee Drive, Port Orange, FL 32127

Code Officer: Scott Allman

First Notified: 9/5/2019

Compliance: Yes

Cited for violation(s) - City of Port Orange Land Development Code, Chapter 9 (Environmental Protection), Article II (Tree Preservation), Section 10 (Permit requirements for tree removal), (a) it is hereby unlawful for any person to cut down, move, remove or destroy through damaging or to authorize the same, of any tree or natural vegetation

referenced in this article without obtaining a tree removal permit in accordance with the provisions of this article.

Amanda Bonin, 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.: 19-943

Respondent: Port Orange Petro LLC

c/o Nilesch Shah

Address of Violation: 6223 S Williamson Blvd., Port Orange, FL 32128

Code Officer: Amanda Bonin

First Notified: 6/14/2019

Compliance: No

Cited for violation(s) - City of Port Orange Land Development Code, Chapter 14 Buildings and Building Regulations, Article VII Commercial Property Maintenance Standards, Section 14-314. - Landscaping and buffers - Maintenance criteria. (a) Approved landscape plan **(1) trees (2) Shrubs (3) Lawns (5) other planting areas (d) (1) (2) (3) (4) (5) (6) & (7)** Section 14-315. - Same - Replacement Criteria **(a) landscape planting (b) buffer planting (c) natural areas** Section 14-317. - Parking, sidewalk and driveway areas. **(a) Maintenance criteria (1) (2) & (3) (b) City of Port Orange Land Development Code, Chapter 11 Utilities, Section 7 Solid Waste Collection Service; (b) (3) (3) Enclosure.**

Ms. Bonin 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 November 1, 2019 by pressure washing and painting the building, columns at the gas pumps, the dumpster enclosure and retaining wall, repairing the broken picket to the dumpster enclosure, replacing/installing all dead, dying, and missing plants, trees, and shrubs as required on the landscape plan, re-sealing and re-striping the parking lot (excluding the concrete section(s)), ensuring all parking lot lighting is in proper working order, repairing the irrigation and ensuring 100 percent coverage of all vegetation, pruning all low hanging/protruding trees as to not interfere with vehicular traffic, weeding and mulching all landscape beds and hedgerows, and removing all trash and debris from site.

This case was last heard on November 13, 2019, and found in violation but given until January 22, 2020, to get the landscaping and parking lot corrections completed. As of January 13, 2020, the landscaping was installed, the well was repaired, the irrigation is properly working, and the landscape beds and hedgerows were mulched. The remaining item is to reseal and restripe the parking lot, and paint the building, retaining wall, and columns. Most recent inspection on January 21, 2020, the retaining wall has been painted, and the parking lot was being re-sealed and re-striped. The property manager stated since they have changed gas companies to Mobil, they may have to change the color of the building to white. They would like to wait on painting until they receive an answer on the required color.

Bharat Thaker, Property Manager, was sworn in and spoke to the work that has been done on the property so far and the only remaining violation of painting the property.

Ms. Bonin recommended the property owners be found in violation of the above referenced codes with the violations to be corrected on or before February 1, 2020 by painting the building and columns. 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 \$250.00 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. Ms. Bonin requested any future violations under this ordinance be considered repeat. The cost sheet in the amount of \$58.20 was tendered into evidence and accepted by Special Magistrate Fuller with no objections.

Special Magistrate Fuller granted the recommendation with some amendments. The property owner has until February 23, 2020 to paint the building and columns or a one-time fine in the amount of \$250.00 shall be imposed. Costs in the amount of \$58.20 were awarded to the City.

5. CEB Case No.: 18-1686

Respondent: Anthony M. Malena

Address of Violation: 1394 Surrey Park Drive, Port Orange, FL 32128

Code Officer: Amanda Bonin

First Notified: 10/2/2018

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.

City of Port Orange Land Development Code, Chapter 16 (Miscellaneous Regulations), Section 3 (Fences and Walls),. Modified (a), (b) General Provisions, (4) Design and Maintenance & (d) Missing boards, pickets, or posts shall be replaced in a timely manner with material of the same type and quality.

Chapter 3, Section 304 Exterior Structure of the 2015 International Property Maintenance Code as adopted per Chapter 14, Article II of the City of Port Orange Code of Ordinances, 304.6 Exterior Walls.

Ms. Bonin 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 October 28, 2019 by mowing and trimming all high weeds and grass, repairing replacing or removing the fence, repairing the

damaged siding, and cleaning and painting the home. All violations have since been corrected except repairing the siding and painting the home.

This case was last heard on November 13, 2019 and was found in violation, but the case was continued to January 22, 2020, to allow for the property owner to obtain estimates to repair the siding and paint the house. The property owner stated he would contact some friends to help and get done what he can under the circumstances previously heard. As of January 17, 2020, the house has not been painted and the siding has not been repaired.

Anthony Malena, property owner, was sworn in by Special Magistrate Fuller and testified that he received an estimate on painting the house but has not received a quote for the repairs on the siding on the home yet. He is working on figuring out the financials to work on the repairs.

Ms. Bonin recommended the property owners be found in violation of Chapter 3, Section 304 Exterior Structure of the 2015 International Property Maintenance Code as adopted per Chapter 14, Article II of the City of Port Orange Code of Ordinances, 304.6 Exterior Walls with the violations to be corrected on or before February 1, 2020 by repairing the siding and cleaning and painting the house. 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. 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 with some amendments. The property owner has until February 23, 2020 to repair the siding and paint the house or a one-time fine in the amount of \$200.00 shall be imposed. Costs in the amount of \$43.60 were awarded to the City.

6. CEB Case No.: 19-1572

Respondent: Lalumfland Port Orange LLC

Address of Violation: 5784 Taylor Branch Road, Port Orange, FL 32127

Code Officer: Amanda Bonin

First Notified: 6/4/2019

Compliance: No

Cited for violation(s) - City of Port Orange Land Development Code, Chapter 14 Buildings and Building Regulations, Article VII Commercial Property Maintenance Standards, Section 14-314. - Landscaping and buffers - Maintenance criteria (a) approved landscape plans (2) Shrubs (d) (2) (3) (5) (7)
Section 14-315. - Same - Replacement Criteria (a) Landscape plantings.
Section 14-317. - Parking, sidewalks and driveway areas (a) Maintenance criteria (1) (2) (3)

2015 International Property Maintenance Code, Chapter 3, Section 304 Exterior Structure, as

adopted per Chapter 14, Article II of the City of Port Orange Code of Ordinances: 304.6 Exterior walls.

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

7. CEB Case No.: 19-1750

Respondent: Bank of New York Mellon Trust
Company NA TR
In Care of Bank of America

Address of Violation: 3809 Cherry Grove Court, Port Orange, FL 32129

Code Officer: Amanda Bonin

First Notified: 12/10/2019

Compliance: No

Cited for violation(s) - 2018 International Property Maintenance Code, Chapter 3, Section 304 Exterior Structure, as adopted per Chapter 14, Article II of the City of Port Orange Code of Ordinances: 304.13 Window, skylight and door frames. Every window, skylight, door and frame shall be kept in sound condition, good repair and weather tight.
304.15 Doors. Exterior doors, door assemblies, operator systems if provided, and hardware shall be maintained in good condition. Locks at all entrances to dwelling units and sleeping units shall tightly secure the door. Locks on means of egress doors shall be in accordance with section 702.3.

2018 International Property Maintenance Code, Chapter 7, Section 702 Means of Egress, as adopted per Chapter 14, Article II of the City of Port Orange Code of Ordinances: 702.3 Locked Doors. Shall be readily openable from the side from which egress is to be made without the need for keys, special knowledge, or effort, except where the door hardware conforms to that permitted by the International Building Code.

Ms. Bonin 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 January 2, 2020 by re-installing or replacing the garage door.

Daniel Halpern, Representative for the property owner, informed the Special Magistrate that they have a projected time to fix the garage door by the end of January 2020.

Ms. Bonin recommended the property owners be found in violation of the above referenced codes with the violations to be corrected on or before January 31, 2020 by re-installing or replacing the garage door. 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 \$150.00 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. 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 and deemed the property a health and safety violation. The property owner has until January 31, 2020 to re-install or replace the garage door or a daily fine in the amount of \$150.00 per day shall be imposed. Costs in the amount of \$43.60 were awarded to the City.

C. ORDER IMPOSING FINE/LIEN

8. CEB Case No.: 19-249

Respondent: Susan C Prisaznick

Address of Violation: 3736 Sunrise Oaks Drive, Port Orange, FL 32129

Code Officer: Amanda Bonin

First Notified: 2/18/2019

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 3, Section 303 Swimming Pools, Spas, and Hot Tubs of the 2015 International Property Maintenance Code as adopted per Chapter 14, Article II of the City of Port Orange Code of Ordinances; 303.1 Swimming Pools and 303.2 Enclosures.

City of Port Orange Land Development Code, Chapter 10 Clearing, Grading, and Stormwater Management, Article 1 Clearing and Grading, Section 1 Purpose and Intent.

City of Port Orange Land Development Code, Chapter 10 Clearing, Grading, and Stormwater Management, Article 1 Clearing and Grading, Section 2 Permits Required for change of Grade.

Ms. Bonin requested a continuation of the case to the April 22, 2020 hearing. Special Magistrate Fuller granted the continuation request.

9. CEB Case No.: 19-0873

Respondent: Alexandra C. Neubauer

Address of Violation: 932 Sabalwood Ct., Port Orange, FL 32127

Code Officer: Scott Allman

First Notified: 6/17/2019

Compliance: Yes

Cited for violation(s) - 2017 Florida Building Code, 6th Edition, Section 105 (Permits), Section 105.1 (Required) as adopted per Chapter 14, Article II of the City of Port Orange Code of Ordinances: Failure to obtain a building permit.

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

10. **CEB Case No.:** 19-1592

Respondent: Linda B. Caswell, Trustee

Address of Violation: 13 Lawrence Court, Port Orange, FL 32127

Code Officer: Scott Allman

First Notified: 11/5/2019

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.

Scott Allman, Code Compliance Inspector, was sworn in by Special Magistrate Fuller requested an Order Setting Fine/Lien as the property was not in compliance immediately as ordered in the previous hearing on December 11, 2019 by the Special Magistrate. He requested a one-time fine in the amount of \$100.00 as ordered in the Finding of Fact, Conclusion of Law & Order. A cost sheet for mailing and recording costs in the amount of \$96.90 was tendered and submitted into evidence without objection.

Special Magistrate Fuller found the property in non-compliance at the time of the Notice of Violation and awarded \$100.00 in fines and mailing and recording costs to date of \$96.90. A lien is imposed on the property in the amount of \$196.90.

11. **CEB Case No.:** 19-0908

Respondent: Michael J. Parker & Carolyn R. Champine

Address of Violation: 6129 Half Moon Drive, Port Orange, FL 32127

Code Officer: Scott Allman

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) 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, Section 304 (Exterior Structure) 304.1 (General) as adopted per Chapter 14, Article II of the City of Port Orange Code of Ordinances: 304.6 Exterior Walls.

Mr. Allman requested an Order Setting Fine/Lien as the property was not in compliance January 13, 2020 as ordered in the previous hearing on December 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 January 14, 2020 and running until the property is brought into compliance. The City retained vendor Mark Solomon Properties who abated the high weeds and grass violation at the cost of \$100.00. At this time the violation of the rotten siding is still in noncompliance. A cost sheet for mailing and recording costs in the amount of \$118.80 was tendered and submitted into evidence without objection.

Special Magistrate Fuller found the property in partial non-compliance and awarded \$100.00 in daily fines beginning on January 14, 2020 and running until the property is brought into compliance, \$100.00 in abatement costs and mailing and recording costs to date of \$118.80.

12. CEB Case No.: 19-1524

Respondent: Estate of Samuel C. Sebergandio Jr.

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

Code Officer: Dena Joseph

First Notified: 10/17/2019

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.

Ms. Joseph requested an Order Setting Fine/Lien as the property was not in compliance December 18, 2019 as ordered in the previous hearing on December 11, 2019 by the Special Magistrate. She requested a one-time fine in the amount of \$1,000.00 as ordered in the Finding of Fact, Conclusion of Law & Order. A cost sheet for mailing and recording costs in the amount of \$96.90 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 \$96.90. A lien is imposed on the property in the amount of \$1,096.90.

13. CEB Case No.: 19-1355

Respondent: Scott T. & Rhonda Maiorano

Address of Violation: 404 Orange Avenue, Port Orange, FL 32127

Code Officer: Dena Joseph

First Notified: 9/11/2019

Compliance: No

Cited for violation(s) - 2018 Florida Building Code, 6th Edition, Section 105 (Permits), Section 105.1 (Required) as adopted per Chapter 14, Article II of the City of Port Orange Code of Ordinances: Failure to Obtain a Building Permit.

Ms. Joseph requested an Order Setting Fine/Lien as the property was not in compliance December 22, 2019 as ordered in the previous hearing on December 11, 2019 by the Special Magistrate. She requested a daily fine in the amount of \$150.00 as ordered in the Finding of Fact, Conclusion of Law & Order to begin on December 23, 2019 and running until the property is brought into compliance. A cost sheet for mailing and recording costs in the amount of \$118.80 was tendered and submitted into evidence without objection.

Special Magistrate Fuller found the property in non-compliance and awarded \$150.00 in daily fines beginning on December 23, 2019 and running until the property is brought into compliance and mailing and recording costs to date of \$118.80.

14. **CEB Case No.:** 19-1210

Respondent: John J. Fondacaro

Address of Violation: 5718 Riverside Drive, Port Orange, FL 32127

Code Officer: Dena Joseph

First Notified: 8/15/2019

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.

Ms. Joseph requested an Order Setting Fine/Lien as the property was not in compliance December 22, 2019 as ordered in the previous hearing on December 11, 2019 by the Special Magistrate. She requested a daily fine in the amount of \$100.00 as ordered in the Finding of Fact, Conclusion of Law & Order to begin on December 23, 2019 and running until the property is brought into compliance. A cost sheet for mailing and recording costs in the amount of \$96.90 was tendered and submitted into evidence without objection.

Special Magistrate Fuller found the property in non-compliance and awarded \$100.00 in daily fines beginning on December 23, 2019 and running until the property is brought into compliance and mailing and recording costs to date of \$96.90.

D. ADJOURNMENT – 9:55am


Special Magistrate Fuller