PORT ORANGE CODE ENFORCEMENT
SPECIAL MAGISTRATE MINUTES
COUNCIL CHAMBERS
1000 CITY CENTER CIRCLE
PORT ORANGE, FLORIDA
FEBRUARY 26, 2020

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:	Scott Allman, Code Compliance Inspector Amanda Bonin, Code Compliance Inspector Dena Joseph, Code Compliance Inspector Dennis Boehmer, 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 February 12, 2020 meeting minutes as presented.

Oaths

Code Compliance Inspectors Scott Allman, Dennis Boehmer, Amanda Bonin, 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.:** 20-0067
   Respondent: Lee C. & Leslie C. Ronaldo
   Address of Violation: 3499 Winchester Drive, Port Orange, FL 32129
   Code Officer: Dennis Boehmer
   First Notified: 1/14/2020

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), (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.

Dennis Boehmer, 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.:** 20-0034
   Respondent: Springwood Square Joint Ventures
   Address of Violation: Springwood Square, Port Orange, FL 32129
   Code Officer: Dennis Boehmer
   First Notified: 1/10/2020

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 42-26, (Cleanliness of Property Generally-duty of owner), (f) Garbage, waste, trash, etc. prohibited of the City of Port Orange Code of Ordinances.

Mr. Boehmer 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 this is a repeat violation, by mowing the entire property of high weeds, grass and underbrush, edging, weed-eating, removing any down tree limb debris and blowing all grass clippings back onto the property off the street and sidewalk, and pick up/remove any trash, debris, garbage, waste or junk found on the property.

Mr. Boehmer recommended the property owners be found in violation of the above referenced codes. The City of Port Orange requests to abate the property immediately and lien the property for all costs of abatement. 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 City of Port Orange shall abate the property immediately and lien the property for all costs of abatement. Costs in the amount of $43.60 were awarded to the City.

5. **CEB Case No.:** 20-0090
   Respondent: Port Orange Retail I, LLC
   William Battillo, RA
   Address of Violation: Big Lots Port Orange, 3818 Nova Rd, Port Orange, FL 32127

Code Officer: Scott Allman
First Notified: 1/19/2020

Compliance: No

Cited for violation(s) - City of Port Orange Land Development Code, Chapter 15, Sec 3 (b) Prohibited signs. It shall be unlawful to erect, cause to be erected, maintained or cause to be maintained any sign described as follows (18) - Off-site advertising.

City of Port Orange Land Development Code, Chapter 15, Sec 3 (b) Prohibited signs. It shall be unlawful to erect, cause to be erected, maintained or cause to be maintained any sign described as follows (24) - Signs on public property.

Scott Allman, 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. There was no time frame given for compliance as the signs were removed by a city employee and due to Big Lots not complying with previous requests.

William Batillo, Registered Agent, was sworn in by Special Magistrate Fuller and testified to his employer purchasing the property in November 2019 and becoming aware of the issues in January 2020. He stated corporate Big Lots has agreed this will no longer be an ongoing problem and he will ensure it as he oversees the property now.

The City corrected the violations on the property by removing the signs. Additionally, the Respondent(s) has/have failed to comply with prior notices of the City and continue to repeat the same violations. Therefore, the above refenced violations were found on the property. Mr. Allman requested any future violations under this ordinance be considered repeat. The cost sheet in the amount of $44.20 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 $44.20 were awarded to the City.

6. **CEB Case No.:** 19-1666
   Respondent: Madeline Underwood
   Address of Violation: 5617 Finely Drive, Port Orange, FL 32127
   Code Officer: Dena Joseph
   First Notified: 11/22/2019

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.

Dena Joseph, 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 by February 22, 2020 by obtaining a building permit for the porch addition on the back of the home and payment of all associated fees or removing the structure in its entirety.

Wendy Eshe, Property Owners Daughter, was sworn in by Special Magistrate Fuller and testified to the process they are going through to receive the architectural drawings needed to apply for the permit. She asked for an extension to obtain a permit, so they don't have to remove the structure.

Ms. Joseph recommended the property owners be found in violation of the above referenced codes with the violations to be corrected on or before March 15, 2020 by obtaining a building permit for the porch addition on the back of the home and payment of all associated fees or removing the structure in its entirety. 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 one-time fine in the amount of $250.00 shall be assessed. 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. Joseph requested any future violations under this ordinance be considered repeat. The cost sheet in the amount of $36.30 was tendered into evidence and accepted by Special Magistrate Fuller with no objections.

Special Magistrate Fuller granted the recommendation with an amendment. The property owner has until March 15, 2020 to apply for a building permit for the porch addition on the back of the home or a one-time fine in the amount of $250.00 shall be imposed. Special Magistrate Fuller allowed that if the property owner is having trouble with the permit process to reach out to Ms. Joseph. Costs in the amount of $36.30 were awarded to the City.

7. **CEB Case No.:** 20-0175
   Respondent: David W.Alexander TR
   Alexander Family Trust
   Address of Violation: 5967 Riverside Drive, Port Orange, FL 32127
   Code Officer: Dena Joseph
   First Notified: 2/3/2020

Compliance: No

Cited for violation(s) - Chapter 70 (Traffic), Article II (Stopping, standing, and parking), Section 70-36 (Stopping, standing or parking prohibited in specified places) (a) (1) (k) (1), (2) & (3) 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.

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.

Ms. Joseph 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 repeat violation, by removing all outside stored items on site and properly storing in an enclosed building and properly parking all vehicles in the driveway or on the driveway extension.

David Alexander, Property owner, was sworn in by Special Magistrate Fuller and testified he was not aware of the issues at the property due to medical reasons.

James Ross and Chrissy McHale, Tenants, were sworn in by Special Magistrate Fuller and testified as to how long they have lived at the property, the previous violations they have been cited for, and the current struggles they have been having with the property. They believe they can bring it into compliance.

Ms. Joseph recommended the property owners be found in repeat violation of the above referenced codes with the violations to be corrected on or before March 4, 2020 by removing all outside stored items on site and properly storing in an enclosed building and properly parking all vehicles in the driveway or on the driveway extension. 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 violation continues past 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. Joseph requested any future violations under this ordinance be considered repeat. The cost sheet in the amount of $36.30 was tendered into evidence and accepted by Special Magistrate Fuller with no objections.

Special Magistrate Fuller granted the recommendation with an amendment. The property owner has until February 28, 2020 to remove all outside stored items on site and properly storing in an enclosed building and properly park all vehicles in the driveway or on the driveway extension or a daily fine in the amount of $150.00 per day shall be imposed. Costs in the amount of $36.30 were awarded to the City.

C. ORDER IMPOSING FINE/LIEN

8. **CEB Case No.:** 19-1680
   Respondent: Edwina V. Schaffer (deceased)
   Address of Violation: 5348 Landis Ave., Port Orange, FL 32127
   Code Officer: Dena Joseph
   First Notified: 12/2/2019

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 42-26, (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.

Ms. Joseph requested an Order Setting Fine/Lien as the property was not in compliance December 2, 2020 as ordered in the previous hearing on January 8, 2020 by the Special Magistrate. She requested a daily fine in the amount of $50.00 per day as ordered in the Finding of Fact, Conclusion of Law & Order to begin December 2, 2020 and running through and including December 4, 2020 for a total of $100.00. 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 and mailing and recording costs to date of $96.90. A lien is imposed on the property in the amount of $196.90.

9. **CEB Case No.:** 18-1449 (continued from 6/12/19)
   Respondent: MHC Pickwick L.L.C., Owner
   CT Corporation System, Registered Agent
   Address of Violation: 4500 Clyde Morris Blvd. - Pickwick Village Mobile Home Park, Port Orange FL 32129
   Code Officer: Amanda Bonin
   First Notified: 9/4/2018

Compliance: Yes

Cited for violation(s) - City of Port Orange Land Development Code, Chapter 10 (Clearing, Grading, and Storm Water Management), Article II(Storm Water Management), Section 13 (Maintenance).

City of Port Orange Code of Ordinances, Chapter 14 (Buildings and Building Regulations), Article VII (Commercial Property Maintenance Standards), Section 14-318 (Other Property improvements; maintenance criteria): Drainage and utility improvements.

City of Port Orange Code of Ordinances, Chapter 14 (Buildings and Building Regulations), Article VII (Commercial Property Maintenance Standards), Section 14-317 (Parking, sidewalk and driveway) Subsection (3): Pavement surfaces.

Deborah Pearson, Code Compliance Manager, requested a dismissal of the case as it is in compliance. Special Magistrate Fuller granted the dismissal request.

10. **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: Yes

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

11. **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. Pearson requested a continuation of the case to the March 25, 2020 hearing. Special Magistrate Fuller granted the continuation request.

12. **CEB Case No.:** 19-943
Respondent: Port Orange Petro LLC
c/o Nilesh Shah
Address of Violation: 6223 S Williamson Blvd., Port Orange, FL 32128
Code Officer: Amanda Bonin
First Notified: 6/14/2019

Compliance: Yes

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

D. ADJOURNMENT – 10:15am

Special Magistrate Fuller