

PORT ORANGE CODE ENFORCEMENT
SPECIAL MAGISTRATE MINUTES
COUNCIL CHAMBERS
1000 CITY CENTER CIRCLE
PORT ORANGE, FLORIDA
JULY 22, 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: Dena Joseph, Code Compliance Inspector
Amanda Bonin, 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 provided an overview of the code enforcement process as there were members of the public present.

Consideration of Minutes

Special Magistrate Fuller approved the July 8, 2020 meeting minutes as presented.

Oaths

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

Deborah Pearson, Code Compliance Manager, asked to hear item # 5 first as there were members of the public present. Special Magistrate Fuller agreed.

B. FORMAL HEARING (COMPLIANCE OR NON-COMPLIANCE)

3. CEB Case No.: 20-0176

Respondent: Barbara Cates

Address of Violation: 1205 Vagabond Drive, Port Orange, FL 32127

Code Officer: Scott Allman

First Notified: 2/3/2020

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), (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. Pearson requested a dismissal as the case is in compliance. Special Magistrate Fuller granted the dismissal request.

4. CEB Case No.: 20-0895

Respondent: Ronaldo C. & Leslie C. Lee

Address of Violation: 3499 Winchester Drive, Port Orange, FL 32129

Code Officer: Dennis Boehmer

First Notified: 6/2/2020

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), (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.

City of Port Orange Land Development Code, Chapter 16 (Miscellaneous Regulations), Section 2 (Home Occupations), (d) Restrictions (3) (9) (10)

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 by June 23, 2020 by removing all discarded tires from the property and properly dispose of them, properly storing all outside items inside an enclosed building or remove them from the property, and cease and desist all business operations form the property, other than office/telephone use only.

Ronaldo Lee, Property Owner, was sworn in by Special Magistrate Fuller and testified that he has complied with everything Mr. Boehmer has asked of him. He stated he has a mobile mechanic business and doesn't work out of his home but fixes cars wherever the problem is.

Mr. Boehmer stated the tires have been removed and the property owner has kept the tarp off the ground.

Mr. Boehmer recommended the property owner be found in violation of the above referenced codes with the violations to be corrected on or before July 22, 2020 by cease and desisting all business operations form the property, other than office/telephone use only. 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 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. Mr. Boehmer 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 as presented. The property owner has until July 22, 2020 to cease and desist all business operations from the property, other than office/telephone use only or a daily fine in the amount of \$100.00 per day shall be imposed for each day the property remains in noncompliance. Costs in the amount of \$58.20 were awarded to the City.

5. CEB Case No.: 20-0506

Respondent: Sophia Martin Est.

Address of Violation: 5722 Riverside Drive, Port Orange, FL 32127

Code Officer: Dena Joseph

First Notified: 3/18/2020

Compliance: No

Cited for violation(s) - 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.

City of Port Orange Land Development Code, Chapter 16 (Miscellaneous Regulations), Section 1 (Accessory Use and Structures), (d) Size Limitations, (4).

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 42-26 (Cleanliness of property generally - duty of owner), (d) (Maintenance of improved residential lots) of the City of Port Orange Code of Ordinances.

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 June 21, 2020 by mowing the entire property to include weed eating of all high weeds on site and blowing all grass clippings back onto the property, removing all trash and debris, removing outside stored items and placing in an enclosed building, and removing all residents inside the accessory structure and not allowing the shed to be utilized as a residential dwelling.

Amanda Bonin, Code Compliance Inspector, was sworn in by Special Magistrate Fuller and testified that the pictures are true and accurate depictions of what she saw at the property.

Officer Morris was sworn in by Special Magistrate Fuller and testified to responding to a report of domestic violence and drug use/manufacturing at the location and taking video statements from the individuals residing in the shed.

Officer Cravotta was sworn in by Special Magistrate Fuller and testified to what he witnessed inside the location and the statements he received by the individuals residing in the shed.

Ms. Joseph recommended the property owners be found in violation of the above referenced codes with the violations to be corrected on or before August 2, 2020, by mowing the entire property to include weed eating of all high weeds on site and blowing all grass clippings back onto the property, removing all trash and debris, removing outside stored items and placing in an enclosed building, and removing all residents inside the accessory structure and not allowing the shed to be utilized as a residential dwelling. 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 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 \$43.60 was tendered into evidence and accepted by Special Magistrate Fuller with no objections.

Special Magistrate Fuller granted the recommendation as presented. The property owner has until August 2, 2020 to mow the entire property to include weed eating of all high weeds on site and blowing all grass clippings back onto the property, remove all trash and debris, remove outside stored items and place in an enclosed building, and remove all residents inside the accessory structure and not allow the shed to be utilized as a residential dwelling or a daily fine in the amount of \$100.00 per day shall be imposed for each day the property remains in noncompliance. Costs in the amount of \$43.60 were awarded to the City.

6. CEB Case No.: 20-0460

Respondent: Samuel C. Sebergandio Jr. Est

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

Code Officer: Dena Joseph

First Notified: 3/11/2020

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.

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 a repeat violation, by mowing the entire property and parkage area to include weed eating and blowing of grass clippings back onto the property.

The property is now in compliance; however, Ms. Joseph recommended the property owners be found in repeat violation of the above referenced codes as the property was not in compliance with the Notice of Hearing. She requested a one-time fine in the amount of \$1,000.00 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 \$58.20 was tendered into evidence and accepted by Special Magistrate Fuller with no objections.

Special Magistrate Fuller granted the recommendation as presented. A one-time fine in the amount of \$1,000.00 shall be imposed. Costs in the amount of \$58.20 were awarded to the City.

Special Magistrate Fuller and the City Attorney's office have authorized that repeat violations that have come into compliance but still result in fines may have an Order Imposing Fine/Lien issued immediately. Special Magistrate Fuller granted the recommendation and the Order Imposing Fine/Lien was accepted.

7. CEB Case No.: 20-0333

Respondent: Doreen Polito Goodwin & Ross Polito

Address of Violation: 5479 Taylor Avenue, Port Orange, FL 32127

Code Officer: Dena Joseph

First Notified: 3/2/2020

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), (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.

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

8. CEB Case No.: 20-0949

Respondent: Dennis O'Donnell

Address of Violation: 530 Orange Avenue, Port Orange, FL 32127

Code Officer: Dena Joseph

First Notified: 6/15/2020

Compliance: No

Cited for violation(s) - 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.

City of Port Orange Land Development Code, Chapter 16 (Miscellaneous Regulations), Section 1 (Accessory Use and Structures), (e), (1) Residential Uses, (b)

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 42-26 (Cleanliness of property generally - duty of owner), (d) (Maintenance of improved residential lots) 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 a repeat violation, by covering all disabled/unregistered vehicles with standard vehicle covers, parking them in an enclosed garage, or removing them from the property and all vehicles that have been towed to the property as part of Mr. O'Donnell's scrap yard located in New Smyrna Beach, must be removed from the property. No further vehicles used as part of this business can be stored on this property. In addition, all trash, debris and junk must be removed from the property and the yard must be mowed and maintained to include weed eating.

Carly Meek, Assistant City Attorney, stated the city and Mr. O'Donnell's attorney have come to an agreement regarding the fine amount.

Barry Hughes, Attorney for the owner, stated they agree to a fine of \$3, 500 if the violation at 532 Orange Avenue isn't brought into compliance 15 days from July 22, 2020.

Respondent corrected the aforesaid violations by covering all disabled/unregistered vehicles with standard vehicle covers, parking them in an enclosed garage, or removing them from the property and removing all vehicles that had been towed to the property as part of Respondent's scrapyards located in New Smyrna Beach from the property. In addition, all trash, debris and junk were removed from the property and the yard was mowed including weed eating. Said compliance did not occur immediately, which was the Compliance Date listed in the Notice of Violation/Notice of Hearing. As such, Respondent is subject to fines. However, during the hearing, it was discussed that the same violations existed on other property owned by the Respondent, 532 Orange Avenue, Port Orange, FL. The parties agreed to waive said fines for the repeat violations, if the Respondent brings 532 Orange Avenue into compliance within 15 days of the date of the hearing. If 532 Orange Avenue is not in compliance by August 6th, Respondent will pay a fine in the amount of \$3,500.00. 530 Orange Avenue shall also remain in compliance.

Special Magistrate Fuller granted the recommendation as presented. A one-time fine in the amount of \$3,500.00 shall be imposed if the 532 Orange Avenue property is not brought into

compliance 15 days from July 22, 2020 and the 530 Orange Avenue property does not remain in compliance.

9. **CEB Case No.:** 19-0625

Respondent: Andres & Maria Masci

Address of Violation: 5440 Ridgewood Avenue, Port Orange, FL 32127

Code Officer: Dena Joseph

First Notified: 4/23/2019

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), (c) (Maintenance of commercial and industrial zoned lots) of the City of Port Orange Code of Ordinances.

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 (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 14-318.- Other property improvements; maintenance criteria: (c) Walls and Fences (3) (d) Trash, litter and debris.

City of Port Orange Land Development Code, Chapter 3 (Administration), Article I (Code Administration), Section 4 (Development order), (e) Modification of a development order, (3)

City of Port Orange Land Development Code, Chapter 3 (Administration), Article II (Non-conforming Provisions), Section 8 (Nonconforming Provisions) (c) Nonconforming uses of land and structure (1)

2018 Florida Building Code, 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: Any owner or authorized agent who intends to construct, enlarge, alter, repair, move, demolish, or change the occupancy of a building or structure, or to erect, install, enlarge, alter, repair, remove, convert or replace any required impact-resistant coverings, electrical, gas, mechanical or plumbing system, the installation of which is regulated by this code, or to cause any such work to be done, shall first make application to the building official and obtain the required permit.

Ms. Joseph requested a continuation of the case to the August 12, 2020 hearing. Special Magistrate Fuller granted the continuation request.

C. ORDER IMPOSING FINE/LIEN

10. **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: 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 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. Pearson requested a dismissal as the case is in compliance. Special Magistrate Fuller granted the dismissal request.

11. **CEB Case No.:** 20-0101
Respondent: Scott Theodore Zyrowski
Address of Violation: 191 Gibson Way, Port Orange, FL 32129
Code Officer: Dennis Boehmer
First Notified: 1/20/2020

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.

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.

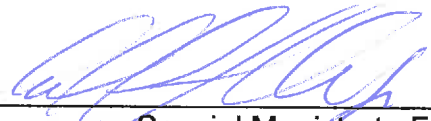
Chapter 3, Section 304 (Exterior Structure) 304.1 (General), 304.6 (Exterior Walls), of the 2018

International Property Maintenance Code, as adopted per Chapter 14, Article II of the City of Port Orange Code of Ordinances.

Chapter 3, Section 304 (Exterior Structure) 304.1 (General), 304.15 (Doors), of the 2018 International Property Maintenance Code, as adopted per Chapter 14, Article II of the City of Port Orange Code of Ordinances.

Ms. Joseph requested a continuation of the case to the August 12, 2020 hearing. Special Magistrate granted the continuation request.

D. ADJOURNMENT – 10:20 a.m.


Special Magistrate Fuller