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

THE SPECIAL MAGISTRATE HEARING of the City of Port Orange was called to order by Special Magistrate Fuller at 9:03 a.m.

PRESENT:	David Fuller, Special Magistrate
ALSO PRESENT:	Dena Joseph, Code Compliance Inspector Daniel Bungart, Code Compliance Inspector Scott Allman, 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 August 12, 2020 meeting minutes as presented.

Oaths

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

Dena Joseph, Code Compliance Inspector, was sworn in by Special Magistrate Fuller and asked to hear item #9 first as the respondent was present. Special Magistrate Fuller granted the change.

B. FORMAL HEARING (COMPLIANCE OR NON-COMPLIANCE)

3. **CEB Case No.:** 20-1103
   Respondent: KMTM Enterprises, LLC
   Address of Violation: 4989 Ridgewood Avenue, Port Orange, FL 32127
   Code Officer: Amanda Bonin
   First Notified: 6/19/2020

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.

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.:** 20-1098
   Respondent: Zachary R. Staley
   Address of Violation: 1515 Rusty Circle, Port Orange, FL 32129
   Code Officer: Daniel Bungart
   First Notified: 7/8/2020

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.

Daniel Bungart, 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 July 18, 2020 by mowing and trimming all high weeds and grass and ensuring all debris is blown back onto property.

The property is now in compliance; however, Mr. Bungart 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. Mr. Bungart 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.

Deborah Pearson, Code Compliance Manager, provided clarification regarding the language in the notice if a property comes into compliance and falls back into noncompliance.

Special Magistrate Fuller granted the recommendation as presented. Costs in the amount of $36.30 were awarded to the City.

5. **CEB Case No.:** 20-1124
   Respondent: Theodore S. Michelini
   Address of Violation: 1248 Thomas Drive, Port Orange, FL 32129
   Code Officer: Daniel Bungart
   First Notified: 7/14/2020

Compliance: Yes

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.

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

6. **CEB Case No.:** 20-0102
   Respondent: Barbara Kelley
   Address of Violation: 704 Venters Street, Port Orange, FL 32127
   Code Officer: Scott Allman
   First Notified: 1/20/2020

Compliance: Yes

Cited for violation(s) - Chapter 3 (General Requirements), Section 304 (Exterior Structure), 304.7 (Roofs and Drainage), of the 2018 International Property Maintenance Code as adopted per Chapter 14, Article II of the City of Port Orange Code of Ordinances.

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.

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.

7. **CEB Case No.:** 20-1118
   Respondent: Arthur P. Champley
   Address of Violation: 560 Newton Road, Port Orange, FL 32127
   Code Officer: Scott Allman
   First Notified: 7/13/2020

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.

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 immediately, as it is a repeat violation, by mowing and trimming all high weeds.

Mr. Allman recommended the property owners be found in repeat violation of the above referenced codes with the violations to be corrected immediately by trimming all high weeds and by 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 $150.00 per day beginning July 13, 2020, the date the repeat violation was first observed, 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. Allman 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 and deemed the property a health and safety violation. The property owner is to immediately trim all high weeds and blow all debris back onto the property or a daily fine in the amount of $150.00 per day, beginning July 13, 2020, shall be imposed for each day the property remains in noncompliance. Costs in the amount of $58.20 were awarded to the City.

8. **CEB Case No.:** 20-1043
   Respondent: Culture Without Borders, LLC
   C/o Scott R. Rost, Esq., Registered Agent
   Address of Violation: 5825 Riverside Drive, Port Orange, FL 32127
   Code Officer: Dena Joseph
   First Notified: 6/25/2020

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.

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 70-36 (Stopping, standing or parking prohibited in specified places) (a) (1) (k) (1), (2) & (3) of the City of Port Orange Code of Ordinances.

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

9. **CEB Case No.:** 20-1044
   Respondent: Erica M. Firouzadj
   Address of Violation: 5200 Rogers Avenue, Port Orange, FL 32127
   Code Officer: Dena Joseph
   First Notified: 6/25/2020

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 42-26 (Cleanliness of property generally - duty of owner), (e) (Maintenance of unimproved 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 by August 3, 2020 by mowing and weed eating a 10 foot buffer around the entire perimeter of the unimproved lot abutting and within ten feet of any improved lot, sidewalk, street or bicycle path free and clear of all fallen trees and limbs, and all weeds, grass and undergrowth therein shall be cut to a height not exceeding 12 inches within such area. In addition, all trash and debris on the lot was to be removed from the property.

Erica Firouzadj, property owner, was sworn in by Special Magistrate Fuller and testified that it is a vacant lot and she does not reside in Port Orange and is unsure how to keep other citizens from putting their trash on the property. She is unsure how to get to the backside of the property abutting the neighbor to trim the overgrowth.

Ms. Joseph recommended the property owners be found in violation of the above referenced codes with the violations to be corrected on or before September 6, 2020, by mowing and weed eating a 10 foot buffer around the entire perimeter of the unimproved lot abutting and within ten feet of any improved lot, sidewalk, street or bicycle path free and clear of all fallen trees and limbs, and all weeds, grass and undergrowth therein shall be cut to a height not exceeding 12 inches within such area. In addition, all trash and debris on the lot was to be removed from 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 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 and deemed the property a health and safety concern. The property owner has until September 6, 2020 to mow and weed eat a 10 foot buffer around the entire perimeter of the unimproved lot abutting and within ten feet of any improved lot, sidewalk, street or bicycle path free and clear of all fallen trees and limbs,

and all weeds, grass and undergrowth therein shall be cut to a height not exceeding 12 inches within such area. In addition, all trash and debris on the lot is to be removed from the property 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.

10. **CEB Case No.:** 18-0364
Respondent: Across the Pond Development
Mark Venables, Registered Agent
Address of Violation: 5684 Riverside Drive, Port Orange, FL 32127
Code Officer: Dena Joseph
First Notified: 3/14/2018

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: 304.7 Roofs and drainage.

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 by August 10, 2020 by removing the tarp and repairing the roof structure or installing a new roof with an applicable permit.

The property is now in compliance; however, Ms. Joseph 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., 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. Costs in the amount of $43.60 were awarded to the City.

11. **CEB Case No.:** 19-1671
Respondent: Joel Jairo Arevalo & Yolanda Mirna Rodriguez
Address of Violation: 5622 Touro Drive, Port Orange, FL 32127
Code Officer: Dena Joseph
First Notified: 11/25/2019

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 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 August 23, 2020 by obtaining a permit through the Port Orange Building Department for the new fencing that was installed on site and

for the extensive roof repairs/new roofing that was done at this location. In addition, all associated fees must be paid, and a final inspection conducted by an inspector with the Port Orange Building Department.

A re-inspection of the permitting system through the City of Port Orange Building Department was conducted on August 24, 2020 and as of that date, a permit for the roof has been applied for and approved and permits have been applied for the fence.

Ms. Joseph recommended the property owners be found in violation of the above referenced codes with the violations to be corrected on or before September 6, 2020, by obtaining a permit through the Port Orange Building Department for the new fencing that was installed on site, all associated fees must be paid and a final inspection conducted by an inspector with the Port Orange Building Department. 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 $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 September 27, 2020 to obtain a permit through the Port Orange Building Department for the new fencing that was installed on site, all associated fees must be paid and a final inspection conducted by an inspector with the Port Orange Building Department 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.

12. **CEB Case No.:** 18-0563
Respondent: Robert I. & Connie J. Kisner
Address of Violation: 422 Plumosa Avenue, Port Orange, FL 32127
Code Officer: Dena Joseph
First Notified: 4/25/2018

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 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 August 23, 2020 by obtaining permits for all work that was done to include the payment for the permit and all associated fees. The permit that was submitted has been in plans check since January 2019. Respondents were told to get with the building department to find out why the permit was returned and rectify the situation with the permit.

Ms. Joseph recommended the property owners be found in violation of the above referenced codes with the violations to be corrected on or before September 27, 2020, by obtaining a permit through the Port Orange Building Department for the new shed that was erected on site to include payment of all associated fees or removing the shed from 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 $50.00 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 September 27, 2020 to obtain a permit through the Port Orange Building Department for the new shed that was erected on site to include payment of all associated fees or remove the shed from the property or a daily fine in the amount of $50.00 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.

C. ORDER IMPOSING FINE/LIEN

13. **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: 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.

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

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

14. **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.

Ms. Joseph requested an Order Setting Fine/Lien as the property was not in compliance August 2, 2020 as ordered in the previous hearing on July 22, 2020 by the Special Magistrate. She requested a daily fine in the amount of $100.00 per day as ordered in the Finding of Fact, Conclusion of Law & Order beginning August 3, 2020 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 a daily fine in the amount of $100.00 per day beginning August 3, 2020 and running until the property is brought into compliance mailing and recording costs to date of $96.90.

15. **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: Yes

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

D. ADJOURNMENT – 10:23am

Special Magistrate Fuller