

PORT ORANGE CODE ENFORCEMENT
SPECIAL MAGISTRATE MINUTES
COUNCIL CHAMBERS
1000 CITY CENTER CIRCLE
PORT ORANGE, FLORIDA
NOVEMBER 11, 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
Debbie Pearson, Code Enforcement Manager
Shelby Field, Assistant City Clerk

Attorney Overview of Special Magistrate Code Enforcement Process

Special Magistrate Fuller dispensed with an overview of the code enforcement process as there were no members of the public present.

Consideration of Minutes

Special Magistrate Fuller approved the October 28, 2020 meeting minutes as presented.

Oaths

Code Compliance Inspector 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.: 20-1483

Respondent: Jodi Leigh Purdy

Address of Violation: 38 Golden Gate Circle, Port Orange, FL 32129

Code Officer: Dennis Boehmer

First Notified: 9/15/2020

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.

Dena Joseph, 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.: 20-1466

Respondent: Dora B Powell

Address of Violation: 16 Golden Gate Circle, Port Orange, FL 32129

Code Officer: Amanda Bonin

First Notified: 7/24/2020

Compliance: Yes

Cited for violation(s) - City of Port Orange Code of Ordinances, Chapter 42 (Nuisances), Article V Unsafe Conditions, Division 3 Abatement of Unsafe Structures, Section 42-108 Unsafe Conditions; Nuisance (a) (1) (3) (4) (6) (b).

2019 International Property Maintenance Code, Chapter 6 (Mechanical and Electrical Requirements), Section 602 (Heating Facilities), 602.1 Facilities Required as adopted by the City of Port Orange Code of Ordinances, Chapter 14, Article II, Section 14-26.

2019 International Property Maintenance Code, Chapter 6 (Mechanical and Electrical Requirements), Section 602 (Heating Facilities), 602.2 Residential Occupancies as adopted by the City of Port Orange Code of Ordinances, Chapter 14, Article II, Section 14-26.

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

5. CEB Case No.: 20-1466

Respondent: Dora B Powell

Address of Violation: 16 Golden Gate Circle, Port Orange, FL 32129

Code Officer: Amanda Bonin

First Notified: 7/24/2020

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.

6. **CEB Case No.:** 20-0853

Respondent: Christian Alexis Palacios

Address of Violation: 859 Chickadee Dr., Port Orange, FL 32127

Code Officer: Scott Allman

First Notified: 5/19/2020

Compliance: Yes

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, (d) Missing boards, pickets, or posts shall be replaced in a timely manner with material of the same type and quality.

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

7. **CEB Case No.:** 20-0121

Respondent: Donald & Susan Franchi

Address of Violation: 145 Wimbledon Ct., Port Orange, FL 32127

Code Officer: Scott Allman

First Notified: 8/6/2020

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

8. **CEB Case No.:** 20-1564

Respondent: Marlene Schaffer

Address of Violation: 5348 Landis Avenue, Port Orange, FL 32127

Code Officer: Dena Joseph

First Notified: 3/4/2020

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.

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 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 20, 2020 by removing all trash and debris on site and removing all outside items on the property.

Ms. Joseph recommended the property owners be found in violation of the above referenced codes with the violations to be corrected by December 11, 2020 by removing all trash and debris and removing all items stored on the property as the home is a total loss due to fire damage. 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 remains in noncompliance. 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 \$147.40 was tendered into evidence and accepted by Special Magistrate Fuller with no objections.

Carly Meek, Assistant City Attorney, asked that the following language be included in the Special Magistrates Order: If the respondents fail to take corrective action within 30 days of the date of the Order, the City is granted the authority to enter the property and remove and dispose of the structure, items and personal property with all costs to be assessed against the respondent and the City shall not be responsible for any damage or loss.

Special Magistrate Fuller granted the recommendation as presented and deemed the property a health and safety violation. The property owner has until December 11, 2020 to remove all trash and debris and remove all items stored on the property as the home is a total loss due to fire damage or a one-time fine in the amount of \$100.00 per day shall be imposed for each day the property remains in noncompliance. If the respondents fail to take corrective action within 30 days of the date of the Order, the City is granted the authority to enter the property and remove and dispose of the structure, items and personal property with all costs to be assessed against the respondent and the City shall not be responsible for any damage or loss. Costs in the amount of \$147.40 were awarded to the City.

9. CEB Case No.: 20-1569

Respondent: First National Bank of America

Address of Violation: 5348 Landis Avenue, Port Orange, FL 32127

Code Officer: Dena Joseph

First Notified: 9/3/2020

Compliance: No

Cited for violation(s) - Chapter 42 (Nuisances), Article II (Garbage , Junk and Undergrowth), Section 42-33 Abandoned real property (a) Purpose and intent (b) Definitions (c) Applicability (d) Registration of abandoned property (1) (2) (3) (4) (5) (6) (7) (8) (9) (10) (e) Maintenance requirements (1) (2) (f) Security requirements (1) (2) (g) Immunity of enforcement

officer (h) Additional authority (i) Penalties and enforcement 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 November 8, 2020 by properly registering said property, by submitting the application fee and by securing and maintaining the property as required by the ordinance.

Ms. Joseph recommended the property owners be found in violation of the above referenced codes with the violations to be corrected by December 11, 2020 by properly registering said property, submitting the application fee and by securing and maintaining the property as required by the ordinance, removing all trash and debris and removing all items stored on the property and demolishing the structure in its entirety, which will require a permit from the City of Port Orange Building Department. Once demolished, the property will need to be filled, graded and seeded with grass seed or sodded within five days of the date of completion of the demolition and comply with the established vegetation standards of the city. Furthermore, all tents are to be removed and all accessory structures vacated. 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 remains in noncompliance. 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 \$73.40 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 December 11, 2020 to properly register said property, submit the application fee and secure and maintain the property as required by the ordinance, remove all trash and debris and remove all items stored on the property and demolish the structure in its entirety, which will require a permit from the City of Port Orange Building Department. Once demolished, the property will need to be filled, graded and seeded with grass seed or sodded within five days of the date of completion of the demolition and comply with the established vegetation standards of the city. Furthermore, all tents are to be removed and all accessory structures vacated or a daily fine in the amount of \$100.00 per day shall be imposed for each day the property remains in noncompliance. If the respondents fail to take corrective action within 30 days of the date of the Order, the City is granted the authority to enter the property and remove and dispose of the structure, items and personal property with all costs to be assessed against the respondent and the City shall not be responsible for any damage or loss. Costs in the amount of \$73.40 were awarded to the City.

10. **CEB Case No.:** 20-1432

Respondent: Marlene Schaffer

Address of Violation: 5348 Landis Avenue, Port Orange, FL 32127

Code Officer: Dena Joseph

First Notified: 9/3/2020

Compliance: No

Cited for violation(s) - Chapter 1 (Scope and Administration), Section 108 (Unsafe Structures and Equipment), 108.1 (General), 108.1.1 (Unsafe Structures), 108.1.3 (Structure Unfit for Human Occupancy), 108.1.5 (Dangerous Structure or Premises), (1), (2), (3), (4), (5), (6), (7), (8), (10), (11), 108.6 (Abatement Methods), Section 109 (Emergency Measures), 109.1 (imminent Danger) of the 2018 International Property Maintenance Code as adopted per Chapter 14, Article II of the City of Port Orange Code of Ordinances.

Chapter 42, (Nuisances), Article V (Unsafe Conditions), Division 3 (Abatement of Unsafe Structures), 42-108 (Unsafe Conditions-Nuisance), (a) 1, 2, 3, 4, 5, 6 & (b) of the City of Port Orange Code of Ordinances.

City of Port Orange Land Development Code, Chapter 16 (Miscellaneous Regulations), Section 1 (Accessory Uses and Structures), (a) General, (b) Principal use and/or principal structure required, (1), (2), (3) & (4).

2018 International Property Maintenance Code, Chapter 5 (Plumbing Facilities and Fixture Requirements), Section 502 (required Facilities), 502.1 (Dwelling Units) as adopted per Chapter 14, Article II of the City of Port Orange Code of Ordinances.

2018 International Property Maintenance Code, Chapter 5 (Plumbing Facilities and Fixture Requirements), Section 505 (Water System), 505.1 General as adopted by the City of Port Orange Code of Ordinances, Chapter 14, Article II.

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 November 8, 2020 by demolishing the structure in its entirety, which will require you to obtain a permit from the City of Port Orange Building Department. Once demolished, property will need to be filled, graded and seeded with grass seed or sodded within five days of the date of completion of the demolition and comply with the established vegetation standards of the city. Furthermore, all tents were to be removed and all accessory structures vacated by the November 8th, 2020 deadline.

Carly Meek, Assistant City Attorney, submitted communication with the mortgage company and law firms into evidence.

Al Tischler, Building Official, was sworn in by Special Magistrate Fuller and testified to the affidavit that the structure was destroyed by a structure fire and is uninhabitable.

Ms. Joseph recommended the property owners be found in violation of the above referenced codes with the violations to be corrected by December 11, 2020 by demolishing the structure in its entirety, which will require a permit from the City of Port Orange Building Department. Once demolished, the property will need to be filled, graded and seeded with grass seed or sodded within five days of the date of completion of the demolition and comply with the established vegetation standards of the city. Furthermore, all tents are to be removed and all accessory structures vacated. 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 \$2,000.00 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 \$147.40 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 December 11, 2020 to demolish the structure in its entirety, which will require a permit from the City of Port Orange Building Department. Once demolished, the property will need to be filled, graded and seeded with grass seed or sodded within five days of the date of completion of the demolition and comply with the established vegetation standards of the city. Furthermore, all tents are to be removed and all accessory structures vacated or a one-time fine in the amount of \$2,000.00 shall be imposed. If the respondents fail to take corrective action within 30 days of the date of the Order, the City is granted the authority to enter the property and remove and dispose of the structure, items and personal property with all costs to be assessed against the respondent and the City shall not be responsible for any damage or loss. Costs in the amount of \$147.40 were awarded to the City.

11. CEB Case No.: 20-0607

Respondent: Alberta R. Hiller

Address of Violation: 5515 Nova Road, Port Orange, FL 32127

Code Officer: Dena Joseph

First Notified: 4/6/2020

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 42-32 Storage of vehicles, furniture, etc. 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 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 3 (General Requirements), Section 308 (Rubbish and Garbage), 308.1 (Accumulation of rubbish or garbage) 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 (General Requirements), Section 308 (Rubbish and Garbage), 308.3.2 (Containers) 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 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 14, 2020 by mowing the entire property to include the right of way, weed eating, and blowing of yard debris. Grass clippings are to be blown back onto the property and off the street and sidewalk. All yard debris to include fallen limbs, fronds, etc. must be removed from the property. Storing all outside items inside an enclosed building and removing all trash and debris on site to include items being stored inside the trailers on the property that are visible to the public. Additionally, all vehicles and trailers are to be properly parked in the driveway or on an installed driveway extension made of rock or mulch and set apart with landscape timbers. Lastly, the property owner is to keep the exterior of the property free and clear of trash and dispose of trash in containers that are leak proof and have tight fitting lids. Trash is to be put out by the roadway on the regular day of pick up.

The property has since been mowed and all debris and trash has been picked up.

Ms. Joseph recommended the property owners be found in violation of the above referenced codes with the violations to be corrected by November 18, 2020 by storing all outside items in an enclosed building and by properly parking all vehicles in the driveway and storing all trailers under 24 feet in the driveway or behind the front plane of the home. 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 remains in noncompliance. 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 \$43.80 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 November 18, 2020 to store all outside items in a building, by properly parking all vehicles in the driveway and storing all trailers under 24 feet in the driveway or behind the front plane of the home or a daily fine in the amount of \$100.00 shall be imposed for each day the property remains in noncompliance. Costs in the amount of \$43.80 were awarded to the City.

C. ORDER IMPOSING FINE/LIEN

There were none.

D. ADJOURNMENT – 10:07 a.m.


Special Magistrate Fuller