PORT ORANGE CODE ENFORCEMENT
SPECIAL MAGISTRATE MINUTES
COUNCIL CHAMBERS
1000 CITY CENTER CIRCLE
PORT ORANGE, FLORIDA
FEBRUARY 24, 2021

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 Deborah Pearson, Code Compliance Manager Carly Meek, Assistant City Attorney 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 January 27, 2021 meeting minutes as presented.

Oaths

Code Compliance Inspector Scott Allman and Deborah Pearson Code Compliance Manager were sworn in by Special Magistrate Fuller.

B. FORMAL HEARING (COMPLIANCE OR NON-COMPLIANCE)

3. **CEB Case No.:** 20-1977
   Respondent: Richard W. Radabaugh- Timmons
   Address of Violation: 5422 Taylor Avenue, Port Orange, FL 32127
   Code Officer: Dena Joseph
   First Notified: 12/28/2020

Compliance: Yes

Cited for violation(s) - 2018 International Property Maintenance Code Chapter 3 (General Requirements), Section 308 (Rubbish and Garbage), 308.2 (Disposal of rubbish) as adopted per Chapter 14, Article II of the City of Port Orange Code of Ordinances.

2018 International Property Maintenance Code Chapter 3 (General Requirements), Section 308 (Rubbish and Garbage), 308.3.2 (Containers) as adopted per Chapter 14, Article II 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 56 (Solid Waste), Article II (Collection and Disposal Service), Section 56-31 (Containers required) of the City of Port Orange Code of Ordinances.

Chapter 56 (Solid Waste), Article II (Collection and Disposal Service), Section 56-34 (Location of Containers) of the City of Port Orange Code of Ordinances.

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

C. ORDER IMPOSING FINE/LIEN

4. **CEB Case No.:** 20-1412
   Respondent: Joseph M. Cerce, Summer Cerce and James R. Kenning
   Address of Violation: 5814 Williams Road, Port Orange, FL 32127
   Code Officer: Daniel Bungart
   First Notified: 8/31/2020

Compliance: Yes

Cited for violation(s) - City of Port Orange Code of Ordinances, Chapter 10 (Animals), Section 10-20 (Urban chickens), (d) Urban chicken permit regulations (1)-(12).

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

5. **CEB Case No.:** 20-1835
   Respondent: Mildred E. Davison Life Estate
   Address of Violation: 5828 Spruce Creek Woods Drive, Port Orange, FL 32127
   Code Officer: Scott Allman
   First Notified: 11/18/2020

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.

Scott Allman, Code Compliance Inspector, was sworn in by Special Magistrate Fuller and requested an Order Setting Fine/Lien as the property was not in compliance January 25, 2021 as ordered in the previous hearing on January 13, 2021 by the Special Magistrate. He

requested a daily fine in the amount of $100.00 per day beginning January 26, 2021 and running through and including February 9, 2021 for a total of 14 days as ordered in the Finding of Fact, Conclusion of Law & Order. The City retained vendor Mark Solomon Properties, who abated the violation(s) at the cost of $259.50. A cost sheet for mailing and recording costs in the amount of $97.20 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 beginning January 26, 2021 and running through and including February 9, 2021 for a total of $1,400.00, abatement costs of $259.50 and mailing and recording costs to date of $97.20. A lien is imposed on the property for a total amount of $1,756.70.

6. **CEB Case No.:** 20-1568
   Respondent: Lori Mathews (aka Lori Hurley)
   Address of Violation: 5302 Landis Avenue, Port Orange, FL 32127
   Code Officer: Dena Joseph
   First Notified: 9/25/2020

Compliance: Yes

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.

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

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

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

7. **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.

Mrs. Pearson informed Special Magistrate Fuller that both Case 20-1564 and Case 20-1432 have been combined in one Order Imposing Fine/Lien due to the repeat information on the same property.

Mrs. Pearson requested an Order Setting Fine/Lien as the property was not in compliance December 11, 2020 as ordered in the previous hearing on November 11, 2020 by the Special Magistrate. She requested a daily fine in the amount of $100.00 per day for Case No. 20-1432 and $100.00 per day for Case No. 20-1564 beginning December 12, 2020 and running through and including February 22, 2021 as ordered in the Finding of Fact, Conclusion of Law & Order. The City retained vendor Down to Earth Trucking, who abated the violation(s) at the cost of $6,807.00. The abatement costs are not included in this Order but are under separate Order Imposing Fine/Lien. A cost sheet for mailing and recording costs in the amount of $520.00 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 for Case No. 20-1432 and $100.00 per day for Case No. 20-1564 beginning December 12, 2020 and running through and including February 22, 2021 for a total of $14,600 and mailing and recording costs to date of $520.00. A lien is imposed on the property for a total amount of $15,120.00.

8. **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.

Mrs. Pearson requested an Order Setting Fine/Lien as the property was not in compliance December 11, 2020 as ordered in the previous hearing on November 11, 2020 by the Special Magistrate. The City retained vendor Down to Earth Trucking, who abated the violation(s) at the cost of $6,807.00.

Special Magistrate Fuller found the property in non-compliance and awarded abatement costs of $6,807.00. A lien is imposed on the property for a total amount of $6,807.00.

9. **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.

This item was combined with item # 7.

D. <u>ADJOURNMENT</u> – 9:30 a.m.

Special Magistrate Fuller