

SPECIAL MAGISTRATE MINUTES
COUNCIL CHAMBERS
1000 CITY CENTER CIRCLE
PORT ORANGE, FLORIDA
JULY 28, 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: Dena Joseph, Code Compliance Inspector
Amanda Bonin, Code Compliance Inspector
Daniel Bungart, Code Compliance Inspector
Deborah Pearson, Code Compliance 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 14, 2021 meeting minutes as presented.

Oaths

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

The agenda was asked to be heard out of order as there were members of the public present. Special Magistrate Fuller granted the request.

B. FORMAL HEARING (COMPLIANCE OR NON-COMPLIANCE)

3. **CEB Case No.:** 21-1257
Respondent: Zachary R. Staley
Address of Violation: 1515 Rusty Circle, Port Orange, FL 32129
Code Officer: Daniel Bungart
First Notified: 7/13/2021

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 immediately, as it is a repeat violation, by trimming all high weeds and grass and blowing all debris back onto property.

Mr. Bungart recommended the property owners be found in violation of the above referenced codes with the violations to be corrected immediately by trimming all high weeds and grass and 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 \$200.00 per day beginning July 13, 2021 (the day the property was found in repeat violation) shall be imposed. 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. Bungart requested any future violations under this ordinance be considered repeat. The cost sheet in the amount of \$36.47 was tendered into evidence and accepted by Special Magistrate Fuller with no objections.

Special Magistrate Fuller granted the recommendation as presented. The property owner is to immediately trim all high weeds and grass and blow all debris back onto the property. A daily fine in the amount of \$200.00 per day beginning July 13, 2021 (the day the property was found in repeat violation) shall be imposed. Costs in the amount of \$36.47 were awarded to the City.

4. CEB Case No.: 20-0992

Respondent: Joseph Magurczek (Joint Tenancy with Right of Survivorship)

Jason Magurczek (Joint Tenancy with Right of Survivorship)

Address of Violation: 521 Lafayette Street, Port Orange, FL 32127

Code Officer: Dena Joseph

First Notified: 6/18/2020

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), 108.1.2 (Structure Unfit for Human Occupancy), 108.1.5 (Dangerous Structure or Premises), (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) 2, 3, 4, 5, 6 & (b) 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

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.

Mrs. Pearson requested a continuation of the case to the September 8, 2021 hearing. Special Magistrate Fuller granted the continuation request.

5. **CEB Case No.:** 20-1843
Respondent: J Plummer Sherbino
J Plummer Sherbino Rev. Living Trust
Address of Violation: 115 Fleming Avenue, Port Orange, FL 32127
Code Officer: Dena Joseph
First Notified: 11/20/2020

Compliance: Yes

Cited for violation(s) - City of Port Orange Code of Ordinances, Chapter 58 (Streets, sidewalks, and other public spaces), Article II (Construction in rights-of-way), Sec. 58-40 (Removal of obstructions in right-of-way): Unless otherwise provided in this article or in any permit or license issued in accordance with this article, the city shall have the right to remove any object from any right-of-way, to prohibit any activity within a right-of-way that conflicts with the purpose or intended use of such right-of-way, and to restore any portion of a right-of-way excavated by any person. The city shall have the right to reimbursement for all costs of restoration of the right-of-way, direct and indirect, from any person responsible for the object, activity, or excavation.

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

6. **CEB Case No.:** 21-1012
Respondent: J. Plummer Sherbino
J. Plummer Sherbino Rev. Living Trust
Address of Violation: 115 Fleming Avenue, Port Orange, FL 32127
Code Officer: Dena Joseph
First Notified: 5/26/2021

Compliance: No

Cited for violation(s) - 2020 Florida Building Code, 7th Edition, Section 105 (Permits), Section 105.1 (Required) as adopted per Chapter 8, Article I 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 July 21, 2021 by obtaining permits for all the work that has been done at this location and by paying all fees associated with obtaining those permits. If permits were not obtained, structures, etc. that were installed or constructed were to be removed and placed back in original condition when the home was purchased by the respondent.

James & Kim Ellis, neighbors, were sworn in by Special Magistrate Fuller and testified to the work they've witnessed, and the property owners' fence being located 2 ½ feet on their property according to a survey they have. They were unaware of the fence being on their property at the time of purchase. Mrs. Ellis testified that the stairs leading up to the roof were constructed within the last 9 months.

Deborah Pearson, Code Compliance Manager, was sworn in by Special Magistrate Fuller and testified to working on the original case against this property in 2009 regarding a dilapidated building. At that time the carport was open, it had not been enclosed yet.

Stanley Hoelle, architect for the owner, was sworn in by Special Magistrate Fuller and testified to the reason for the work on the property. He submitted photos into evidence which were accepted by Special Magistrate Fuller with no objections. Mr. Hoelle stated they are waiting on a survey before any work is done.

Ms. Joseph recommended the property owners be found in violation of the above referenced codes with the violations to be corrected by August 31, 2021 by obtaining permits for all the work that has been done at this location and by paying all fees associated with obtaining those permits. If permits are not obtained, structures, etc. that were installed or constructed must be removed and placed back in original condition when the home was purchased by the respondent. 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 imposed. 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 \$58.88 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 31, 2021 to obtain permits for all the work that has been done at this location and by paying all fees associated with obtaining those permits. If permits are not obtained, structures, etc. that were installed or constructed must be removed and placed back in original condition when the home was purchased by the respondent or a daily fine in the amount of \$50.00 per day shall be imposed. Costs in the amount of \$58.88 were awarded to the City.

C. ORDER IMPOSING FINE/LIEN

7. CEB Case No.: 21-0759

Respondent: Betty Jane Buelow

Address of Violation: 5437 Isabelle Ave., Port Orange, FL 32127

Code Officer: Dena Joseph

First Notified: 4/20/2021

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 requested an Order Setting Fine/Lien as the property was not in compliance immediately as ordered in the previous hearing on June 23, 2021 by the Special Magistrate. She requested a one-time fine in the amount of \$1,000.00 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 \$107.00. A cost sheet for mailing and recording costs in the amount of \$97.41 was tendered and submitted into evidence without objection.

Special Magistrate Fuller found the property in non-compliance and awarded a one-time fine in the amount of \$1,000.00, abatement costs of \$107.00 and mailing and recording costs to date of \$97.41. A lien in the amount of \$1,204.41 shall be imposed.

8. **CEB Case No.:** 20-0301

Respondent: Gil Lichtenstein

Address of Violation: 907 Second Street, Port Orange, FL 32129

Code Officer: Dennis Boehmer

First Notified: 2/25/2020

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), (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 70-49 (Restrictions on abandoned or disabled vehicles), (c) Restrictions, (1) (a), (b) and (2) of the City of Port Orange Code of Ordinances.

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

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.

Mrs. Pearson requested a continuation of the case to the September 8, 2021 hearing date. Special Magistrate Fuller granted the continuation request.

9. **CEB Case No.:** 21-837
Respondent: Wynter Geneva M
Address of Violation: 717 Brom Bones Court, Port Orange, FL 32127
Code Officer: Scott Allman
First Notified: 5/3/2021

Compliance: No

Cited for violation(s) - Chapter 3, Section 302 Exterior Property Areas of the 2021 International Property Maintenance Code as adopted per Chapter 14, Article II of the City of Port Orange Code of Ordinances.

Chapter 3, Section 303 Swimming Pools, Spas, and Hot Tubs of the 2021 International Property Maintenance Code as adopted per Chapter 14, Article II of the City of Port Orange Code of Ordinances 303.1 Swimming Pools.

Mrs. Pearson requested a continuation of the case to the September 8, 2021 hearing. Special Magistrate Fuller granted the continuation request.

10. **CEB Case No.:** 20-253
Respondent: Dean I. Maxwell & Marguerite Sanders
Address of Violation: 5589 Ridgewood Avenue, Port Orange, FL 32127
Code Officer: Amanda Bonin
First Notified: 11/10/2020

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), (f) Garbage, waste, trash, etc. prohibited of the City of Port Orange Code of Ordinances.

City of Port Orange Code of Ordinances, Chapter 14, Article 7, Section 14-314 (a)(2)(5): (a) approved landscape plans (2) Shrubs (5) mulched areas shall be maintained so as to provide solid coverage and reasonable weed control.

City of Port Orange Land Development Code Chapter 16, Miscellaneous Regulations Section 3: - Fences and walls. Modified (b) (4) (b) (d) General provisions.

2019 International Property Maintenance Code, Chapter 3, Section 304, 304.6, as adopted by the City of Port Orange Code of Ordinances, Chapter 14, Article II, Section 14-26: Exterior Walls.

Mrs. Pearson requested a continuation of the case to the August 11, 2021 hearing. Special Magistrate Fuller granted the continuation request.

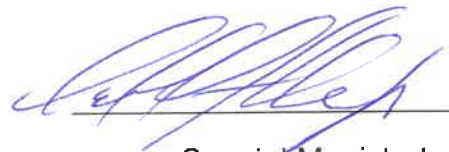
11. **CEB Case No.:** 16-1127
 Respondent: Donald Ray Clark
 Address of Violation: 1015 Samms Avenue, Port Orange, FL 32129
 Code Officer: Amanda Bonin
 First Notified: 7/8/2016

Compliance: No

Cited for violation(s) - 2018 Florida Building Code, 6th Edition, Section 105 (Permits), Section 105.1 (Required) as adopted per Chapter 8, Article I of the City of Port Orange Code of Ordinances: Failure to Obtain a Building Permit.

Mrs. Pearson requested a continuation of the case to the August 11, 2021 hearing. Special Magistrate Fuller granted the continuation request.

D. ADJOURNMENT – 10:00 a.m.


Special Magistrate Fuller