SPECIAL MAGISTRATE MINUTES
COUNCIL CHAMBERS
1000 CITY CENTER CIRCLE
PORT ORANGE, FLORIDA
SEPTEMBER 8, 2021

THE SPECIAL MAGISTRATE HEARING of the City of Port Orange was called to order by Special Magistrate Fuller at 9:02 a.m.

PRESENT:	David Fuller, Special Magistrate
ALSO PRESENT:	Dena Joseph, Code Compliance Inspector Daniel Bungart, Code Compliance Inspector 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 25, 2021 meeting minutes as presented.

Oaths

Code Compliance Inspectors Dena Joseph and Daniel Bungart were sworn in by Special Magistrate Fuller.

B. FORMAL HEARING (COMPLIANCE OR NON-COMPLIANCE)

3. **CEB Case No.:** 21-0549
   Respondent: Julia J. Knapp
   Address of Violation: 5180 Pineland Avenue, Port Orange, FL 32127
   Code Officer: Dena Joseph
   First Notified: 3/29/2021

Compliance: Yes

Cited for violation(s) - 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 70 (Traffic), Article II (Stopping standing and parking), Section 70-48 Parking of recreational vehicles and equipment on residential premises, (d), (1), (2), (3), 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.:** 21-1302
   Respondent: Audrey E. Aiuto Vanbuskirk - Hoge
   Address of Violation: 407 N. Willow Ave., Port Orange, FL 32127
   Code Officer: Dena Joseph
   First Notified: 7/20/2021

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), (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 15, 2021 by keeping that portion of the property abutting and within 10 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 was to be cut to a height not exceeding 12 inches within such area.

Ms. Joseph recommended the property owners be found in violation of the above referenced codes with the violations to be corrected by September 15, 2021 by keeping that portion of the property abutting and within 10 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 was to be cut to a height not exceeding 12 inches within such area. 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 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 $43.94 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 September 15, 2021 to keep that portion of the property abutting and within 10 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 is to be cut to a height not exceeding 12 inches within such area or a daily fine in the amount of $100.00 per day shall be imposed. Costs in the amount of $43.94 were awarded to the City.

5. **CEB Case No.:** 21-513
   Respondent: Robert L. Ward
   Address of Violation: 7 Lawrence Court, Port Orange, FL 32127
   Code Officer: Scott Allman
   First Notified: 3/19/2021

Compliance: Yes

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.

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

6. **CEB Case No.:** 21-1254
   Respondent: Majid Tavakoli
   Address of Violation: 839 6th Street, Port Orange, FL 32129
   Code Officer: Scott Allman
   First Notified: 7/12/2021

Compliance: Yes

Cited for violation(s) - Chapter 56 (Solid Waste), Article II (Collection and Disposal Service), Section 56-32 (Wrapping and preparation of garbage; keeping containers covered) 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.

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

7. **CEB Case No.:** 21-1305
   Respondent: Ashley M. Lampe
   Address of Violation: 3464 Country Walk Drive, Port Orange, FL 32129
   Code Officer: Scott Allman
   First Notified: 7/21/2021

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, (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 3 (General Requirements), Section 303 (Swimming Pools, Spas and Hot Tubs), 303.2 (Enclosures), of the 2021 International Property Maintenance Code as adopted per Chapter 14, Article II 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.

A. ORDER IMPOSING FINE/LIEN

8. **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.

Ms. Joseph requested a continuation of the case to the October 13, 2021 Hearing.

Michael Moore, Attorney for the owner, stated the homeowner has submitted an after the fact permit and is willing to pay for it, but she has had difficulties obtaining a surveyor. He asked for the fine to be waived or an extension for a reasonable amount of time.

Special Magistrate Fuller granted the continuation request.

9. **CEB Case No.:** 20-1578
   Respondent: Darrell & Sharon Blake
   Address of Violation: 1157 Millbrook Avenue, Port Orange, FL 32127
   Code Officer: Scott Allman
   First Notified: 10/4/2020

Compliance: No

Cited for violation(s) - 2018 International Property Maintenance Code, Chapter 1 (Scope and Administration), Section 108 (Unsafe Structures and Equipment), 108.1.1 (Unsafe Structures), 108.1.3 (Structure unfit for human occupancy), and 108.1.5 (1-11) (Dangerous structure or premises), as adopted by the City of Port Orange Code of Ordinances, Chapter 14, Article II, Section 14-26.

Ms. Joseph requested a continuation of the case to the October 13, 2021 Hearing. Special Magistrate Fuller granted the continuation request.

10. **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.

Mr. Bungart requested an Order Setting Fine/Lien as the property was not in compliance immediately as ordered in the previous hearing on July 28, 2021 by the Special Magistrate. He requested a daily fine in the amount of $200.00 per day beginning July 13, 2021 and running through and including August 2, 2021 as ordered in the Finding of Fact, Conclusion of Law & Order. A cost sheet for mailing and recording costs in the amount of $89.94 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 $200.00 per day beginning July 13, 2021 and running through and including August 2, 2021 for a total of $4,200.00 and mailing and recording costs to date of $89.94.A lien is hereby imposed in the amount of $4,289.94.

11. **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: Yes

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.

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

D. ADJOURNMENT -9:22 a.m.

Special Magistrate Fuller