

SPECIAL MAGISTRATE MINUTES
COUNCIL CHAMBERS
1000 CITY CENTER CIRCLE
PORT ORANGE, FLORIDA
DECEMBER 8, 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
Dennis Boehmer, 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 November 10, 2021 meeting minutes as presented.

Oaths

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

B. FORMAL HEARING (COMPLIANCE OR NON-COMPLIANCE)

3. **CEB Case No.:** 21-1423
Respondent: Michael J. Burch
Address of Violation: 1002 4th Street, Port Orange, FL 32129
Code Officer: Scott Allman
First Notified: 8/23/2021

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.

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.:** 21-1393
Respondent: Wakenda Yancey
Address of Violation: 217 Grant Street, Port Orange, FL 32127
Code Officer: Scott Allman
First Notified: 8/12/2021

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.

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

5. **CEB Case No.:** 21-1527
Respondent: WBA Portfolio Owner Fund V Galaxy LLC
CO: Oak Street Real Estate Capital LLC
Address of Violation: 1625 Taylor Road, Port Orange, FL 32128
Code Officer: Amanda Bonin
First Notified: 3/17/2021

Compliance: No

Cited for violation(s) - City of Port Orange Code of Ordinances, Chapter 14 Buildings and Building Regulations, Article 7 Commercial Property Maintenance Standards, Section 14-314 (a)(1)(2), (d)(2)(3)(4)(5)(6)(7)

City of Port Orange Code of Ordinances, Chapter 14 Buildings and Building Regulations, Article 7 Commercial Property Maintenance Standards, Section 14-315 (b)(1)(2)(3)

Ms. Bonin 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 30, 2021 by replacing all missing/dead plants/shrubs and trees as indicated on the landscape plan, pressure washing the building and monument signs, repairing the bollards, removing trash and debris on site, and correcting all violations listed on the site plan.

Ms. Bonin recommended the property owners be found in violation of the above referenced codes with the violations to be corrected by January 9, 2022 by replacing all missing/dead plants/shrubs and trees as indicated on the landscape plan, removing trash and debris on site, and correcting all violations listed on the site plan. 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 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. Bonin requested any future violations under this ordinance be considered repeat. The cost sheet in the amount of \$44.72 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 January 9, 2022 to replace all missing/dead plants/shrubs and trees as indicated on the landscape plan, remove trash and debris on site, and correct all violations listed on the site plan or a daily fine in the amount of \$150.00 per day shall be imposed. Costs in the amount of \$44.72 were awarded to the City.

6. CEB Case No.: 21-491

Respondent: Turcotte Enterprises LLC

Address of Violation: 3664 Jackson Street, Port Orange, FL 32129

Code Officer: Amanda Bonin

First Notified: 3/19/2021

Compliance: No

Cited for violation(s) - City of Port Orange Land Development Code, Chapter 10 Clearing, Grading, and Stormwater Management Article 2 Stormwater Management, Section 9 Prohibitions and exemptions (b) Exemptions. The following activities shall be exempt from this article: (6) The one-time construction of any structure or addition, not otherwise exempt, not exceeding 4,000 square feet of impervious or semi-impervious surface area subject to vehicular traffic. This area includes roads, parking lots, driveways and loading zones.

City of Port Orange Land Development Code, Chapter 10 Clearing, Grading, and Stormwater Management Article 2 Stormwater Management, Section 10 Stormwater Management permit review (c) Stormwater permit application and review. Application shall be made directly to the department (1) (a) (b) (c) (d) (e) (f) (g)

Ms. Bonin 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 December 3, 2021 by completing stormwater management if the millings are left as installed. This would involve hiring an engineer and having site plans drawn up and require two permits, a building permit, and a stormwater permit to construct a pond and all systems to go with it. The second option to correct the violation would be to reduce the square footage of the millings from 10,000 square feet to 4,000 square feet maximum and the leave the rest of the area shell or rock. This would only

require a building permit. All permits were to be submitted to the Port Orange Building Department in Community Development at City Hall.

William Turcotte, property owner, was sworn in by Special Magistrate Fuller and testified to purchasing the property in 1993 at which time the milling/parking lot was already present. He stated he only adds to it and resurfaces it every 10 years to fill potholes. Mr. Turcotte has not had any issues with water retention on the property and stated he has made no changes to the drainage. He stated he did not alter anything from the stormwater drains to the elevation and doesn't understand the sudden issue.

Valerie Duhl, Community Development Engineer, was sworn in by Special Magistrate Fuller and testified that in the City if there is any change of grade a permit is required. In her opinion it seems to be a change of material as well which would also require a review and permit by the City.

Ms. Bonin recommended the property owners be found in violation of the above referenced codes with the violations to be corrected by January 9, 2022 by completing stormwater management if the millings are left as installed. This would involve hiring an engineer and having site plans drawn up and require two permits, a building permit, and a stormwater permit to construct a pond and all systems to go with it. The second option to correct the violation would be to reduce the square footage of the millings from 10,000 square feet to 4,000 square feet maximum and the leave the rest of the area shell or rock. This would only require a building permit. All permits were to be submitted to the Port Orange Building Department in Community Development at City Hall. 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. Bonin requested any future violations under this ordinance be considered repeat. The cost sheet in the amount of \$36.86 was tendered into evidence and accepted by Special Magistrate Fuller with no objections.

Mr. Turcotte believes all requested changes will make the parking lot/property worse while right now it is in great shape. He stated he already spent \$10,000 to place the additional millings and the requested change will add an additional \$6,000-20,000 which he believes is unreasonable.

Special Magistrate Fuller granted the recommendation with an amendment. The property owner has until February 9, 2022 to complete stormwater management if the millings are left as installed. This would involve hiring an engineer and having site plans drawn up and require two permits, a building permit, and a stormwater permit to construct a pond and all systems to go with it. The second option to correct the violation would be to reduce the square footage of the millings from 10,000 square feet to 4,000 square feet maximum and leave the rest of the area shell or rock. This would only require a building permit. All permits are to be submitted to the Port Orange Building Department in Community Development at City Hall or a daily fine in the amount of \$100.00 per day shall be imposed. Costs in the amount of \$36.86 were awarded to the City.

7. CEB Case No.: 21-1777

Respondent: Stephen Stewart

Address of Violation: 717 Dove Avenue, Port Orange, FL 32129

Code Officer: Daniel Bungart
First Notified: 10/21/2021

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.

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.

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 November 3, 2021 by trimming all high weeds, grass, and blowing debris back onto the property and storing all items at rear of the property in an enclosed building or removing them from the property to include all storage containers, debris, clothing, towels, and any other items found at rear of the property.

Mr. Bungart recommended the property owners be found in violation of the above referenced codes with the violations to be corrected by December 13, 2021 by trimming all high weeds, grass, and blowing debris back onto the property and storing all items at rear of the property in an enclosed building or removing them from the property to include all storage containers, debris, clothing, towels, and any other items found at rear of 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 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 \$36.86 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 13, 2021 to trim all high weeds, grass, and blow debris back onto the property, store all items at rear of the property in an enclosed building or remove them from the property to include all storage containers, debris, clothing, towels, and any other items found at rear of the property or a daily fine in the amount of \$100.00 per day shall be imposed. Costs in the amount of \$36.86 were awarded to the City.

8. **CEB Case No.:** 21-1563
Respondent: Robert W. Call
Address of Violation: 1145 Bayview Lane, Port Orange, FL 32127
Code Officer: Dennis Boehmer
First Notified: 9/16/2021

Compliance: Yes

Cited for violation(s) - City of Port Orange Code of Ordinances, Chapter 1 (Animals), Section 10-20 (Urban chickens), d (Urban chicken permit regulations): It shall be unlawful to keep, harbor, raise or maintain chickens without an urban chicken permit. An urban chicken permit shall not be required for keeping chickens in the agricultural (A), flood plain-conservative (F-C) or agricultural preservation (AP) zoning districts.

Dennis Boehmer, 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.

9. **CEB Case No.:** 21-1484

Respondent: Wayne C. & Ilene S. Tillman

Address of Violation: 724 Crane Ct., Port Orange, FL 32127

Code Officer: Dena Joseph

First Notified: 9/3/2021

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.

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 70-48 Parking of recreational vehicles and equipment on residential premises (a) (c) (1) (3).

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

C. ORDER IMPOSING FINE/LIEN

10. **CEB Case No.:** 21-1631

Respondent: Michael Deguire & Leonora Deguire

Address of Violation: 1235 Thomas Drive, Port Orange, FL 32129

Code Officer: Daniel Bungart
First Notified: 10/1/2021

Compliance: Yes

Cited for violation(s) - City of Port Orange Code of Ordinances, Chapter 56 (Solid Waste), Article II (Collection and Disposal Service), Sec. 56-27 (Scope of service), (a) No human or animal excrement will be picked up or transported by the public works department or by any franchisee.

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

11. CEB Case No.: 21-1418

Respondent: George R. Davison Estate

Address of Violation: 5828 Spruce Creek Woods Drive, Port Orange, FL 32127

Code Officer: Dennis Boehmer

First Notified: 8/20/2021

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.

Mr. Boehmer requested an Order Setting Fine/Lien as the property was not in compliance immediately as ordered in the previous hearing on October 13, 2021 by the Special Magistrate. The City retained vendor Mark Solomon Properties, who abated the violation(s) at the cost of \$574.00. A cost sheet for mailing and recording costs in the amount of \$97.80 was tendered and submitted into evidence without objection.

Special Magistrate Fuller found the property in non-compliance and awarded abatement costs of \$574.00 and mailing and recording costs to date of \$97.80. A lien is imposed on the subject property in the amount of \$671.80.

12. CEB Case No.: 21-1376

Respondent: Donald & Susan Franchi

Address of Violation: 145 Wimbleton Ct, Port Orange, FL 32127

Code Officer: Dennis Boehmer

First Notified: 8/11/2021

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.

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

Mr. Boehmer requested an Order Setting Fine/Lien as the property was not in compliance by October 24, 2021 as ordered in the previous hearing on October 13, 2021 by the Special Magistrate. He requested a daily fine in the amount of \$100.00 per day beginning October 25, 2021 and running until the property is brought into compliance as ordered in the Finding of Fact, Conclusion of Law & Order. A cost sheet for mailing and recording costs in the amount of \$120.60 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 October 25, 2021 and running until the property is brought into compliance and mailing and recording costs to date of \$120.60.

13. CEB Case No.: 21-1007

Respondent: Alberta R. Hiller

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

Code Officer: Dena Joseph

First Notified: 5/26/2021

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.

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 42-32 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.

Dena Joseph, Code Compliance Inspector, was sworn in by Special Magistrate Fuller and requested an Order Setting Fine/Lien as the property was not in compliance immediately as ordered in the previous hearing on October 13, 2021 by the Special Magistrate. She requested a daily fine in the amount of \$100.00 per day beginning September 10, 2021 (the date the violation was first observed) as ordered in the Finding of Fact, Conclusion of Law & Order. A cost sheet for mailing and recording costs in the amount of \$98.58 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 September 10, 2021 (the date the violation was first observed) and running until the property is brought into compliance and mailing and recording costs to date of \$98.58.

14. CEB Case No.: 21-1493

Respondent: Betty Jane Buelow Estate

Address of Violation: 5437 Isabelle Avenue, Port Orange, FL 32127

Code Officer: Dena Joseph

First Notified: 9/8/2021

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 October 13, 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 \$236.00. A cost sheet for mailing and recording costs in the amount of \$98.58 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 \$236.00 and mailing and recording costs to date of \$98.58. A lien is imposed on the subject property in the amount of \$1,334.58.

15. CEB Case No.: 20-1954

Respondent: Catherine M. Thomas Life Estate

Address of Violation: 717 Marshall Circle, Port Orange, FL 32127

Code Officer: Dena Joseph

First Notified: 12/17/2020

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.

Ms. Joseph requested an Order Setting Fine/Lien as the property was not in compliance by June 27, 2021 as ordered in the previous hearing on May 26, 2021 by the Special Magistrate. She requested a daily fine in the amount of \$100.00 per day beginning June 28, 2021 and running through and including December 1, 2021 for a total of 157 days as ordered in the Finding of Fact, Conclusion of Law & Order. The City retained vendor Samsula Demolition, who abated the violation(s) at the cost of \$5,700.00. A cost sheet for mailing and recording costs in the amount of \$276.69 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 June 28, 2021 and running through and including December 1, 2021 for a total of \$15,700.00, abatement costs of \$5,700.00 and mailing and recording costs to date of \$276.69. A lien is imposed on the subject property in the amount of \$21,676.69.

16. 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 to the January 12, 2022 hearing. Special Magistrate Fuller granted the continuation request.

D. ADJOURNMENT – 10:38 a.m.


Special Magistrate Fuller