

CODE ENFORCEMENT SPECIAL MAGISTRATE
MEETING MINUTES
COUNCIL CHAMBERS – CITY HALL
1000 CITY CENTER CIRCLE
PORT ORANGE, FLORIDA
JANUARY 25, 2023

THE CODE ENFORCEMENT SPECIAL MAGISTRATE MEETING of the City of Port Orange was called to order by Special Magistrate David Fuller at 9:00 a.m.

PRESENT: David Fuller, Special Magistrate

ALSO PRESENT: Robert Kuhn, Code Enforcement Officer
Dena Joseph, Code Enforcement Officer
Bailey Hornbuckle, Code Enforcement Officer
Tracee Cody, Assistant City Clerk

Oaths

Robert Kuhn, Dena Joseph, and Bailey Hornbuckle, Code Enforcement Officers, were sworn in by Special Magistrate Fuller.

CALL TO ORDER

1. Attorney Overview of Special Magistrate Code Enforcement Process

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

2. Consideration of Minutes - January 11, 2023

Special Magistrate Fuller approved the January 11, 2023 meeting minutes as presented.

FORMAL HEARING (COMPLIANCE OR NON-COMPLIANCE)

3. **CEB Case No.:** 22-0027
Respondent: Everett Wicker
Address of Violation: 711 Fieldstone Avenue, Port Orange, FL 32129
Code Officer: Dena Joseph
First Notified: 12/6/2022

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 (h) Abutting property owner maintenance of parkages.

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 January 8, 2023 by mowing the entire property to include weed eating all high weeds on site and blowing all yard debris back onto the property.

Ms. Joseph recommended the property owners be found in violation of the above referenced codes with the violations to be corrected by February 1, 2023 by mowing the entire property to include weed eating all high weeds on site and blowing all yard 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, the City of Port Orange shall have the option to abate the violation as this is a health and safety concern and 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, and that the property be deemed a health and safety concern for the surrounding neighbors in that it is an attractive nuisance for small children, rodents, and other pests. The cost sheet in the amount of \$46.03 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 February 1, 2023 to mow the entire property to include weed eat all high weeds on site and blow all yard debris back onto the property or a daily fine in the amount of \$100.00 per day shall be imposed. Costs in the amount of \$46.03 were awarded to the City.

4. CEB Case No.: 22-1464

Respondent: Darlene Dullea

Address of Violation: 5440 Pineland Avenue, Port Orange, FL 32127

Code Officer: Robert Kuhn

First Notified: 11/22/2022

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

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Dena Joseph, Code Enforcement Officer, 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.

5. **CEB Case No.:** 22-1463

Respondent: Cody Jon Cheries

Address of Violation: 5210 Wood Street, Port Orange, FL 32127

Code Officer: Robert Kuhn

First Notified: 11/22/2022

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

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.

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

ORDER IMPOSING FINE/LIEN

6. **CEB Case No.:** 22-1403

Respondent: Betty Jane Buelow Estate

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

Code Officer: Robert Kuhn

First Notified: 10/10/2022

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 (h) Abutting property owner maintenance of parkages.

Ms. Joseph requested a continuation of the case until February 8, 2023. Special Magistrate Fuller granted the continuation request.

7. **CEB Case No.:** 22-1235

Respondent: Lionel F. Silvia, Jr.
Address of Violation: 5480 Pineland Avenue, Port Orange, FL 32127
Code Officer: Robert Kuhn
First Notified: 8/31/2022

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.

Robert Kuhn, Code Enforcement Officer, was sworn in by Special Magistrate Fuller and requested an Order Setting Fine/Lien as the property was not in compliance by December 21, 2022, as ordered in the previous hearing on December 14, 2022 by the Special Magistrate. He requested a daily fine in the amount of \$100.00 per day beginning December 22, 2022 and running through and including January 16, 2023 for a total of 26 days as ordered in the Finding of Fact, Conclusion of Law & Order. A cost sheet for mailing and recording costs in the amount of \$121.42 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 December 22, 2022 and running through and including January 16, 2023 for a total of \$2,600.00 and mailing and recording costs to date of \$121.42. A lien in the amount of \$2,721.42 shall be imposed.

After the ruling was made, the property owner, Lionel Silvia, and Alan Gaudreau, the current tenant, showed up to plead their case. Special Magistrate Fuller informed them that their case was already heard and the ruling stands.

8. **CEB Case No.:** 22-0581

Respondent: Allan R. Thompson
Address of Violation: 5827 Ridgewood Avenue, Port Orange, FL 32127
Code Officer: Robert Kuhn
First Notified: 5/16/2022

Compliance: No

Cited for violation(s) - City of Port Orange Code of Ordinances Chapter 42 Nuisances, Article V Unsafe Conditions, Section 108 Unsafe Conditions; Nuisance (a) (1) (2) (4) (b)

Chapter 1 Scope and Administration, Section 111 Unsafe Structures and Equipment of the 2021 International Property Maintenance Code as adopted per Chapter 14, Article II of the City of Port Orange Code of Ordinances 111.1 Unsafe conditions.

Chapter 1 Scope and Administration, Section 111 Unsafe Structures and Equipment of

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the 2021 International Property Maintenance Code as adopted per Chapter 14, Article II of the City of Port Orange Code of Ordinances 111.1.3 Structure unfit for human occupancy.

Chapter 1 Scope and Administration, Section 111 Unsafe Structures and Equipment of the 2021 International Property Maintenance Code as adopted per Chapter 14, Article II of the City of Port Orange Code of Ordinances 111.1.5 Dangerous structure or premises (1) (3) (5) (6) (7) (8) (9) (10).

Chapter 3 General Requirements, 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 302.1 Sanitation. Exterior property and premises shall be maintained in a clean, safe and sanitary condition.

Chapter 3 General Requirements, 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 302.5 Rodent Harborage.

Chapter 3 General Requirements, 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 302.7 Accessory Structures.

Chapter 3 General Requirements, Section 304 Exterior Structures of the 2021 International Property Maintenance Code as adopted per Chapter 14, Article II of the City of Port Orange Code of Ordinances 304.1.1 Unsafe Conditions. The following conditions shall be determined as unsafe and shall be repaired or replaced to comply with the International Building Code or the International Existing Building Code as required for existing buildings: (8)

Chapter 3 General Requirements, Section 304 Exterior Structures of the 2021 International Property Maintenance Code as adopted per Chapter 14, Article II of the City of Port Orange Code of Ordinances 304.6 Exterior walls.

Chapter 3 General Requirements, Section 304 Exterior Structures of the 2021 International Property Maintenance Code as adopted per Chapter 14, Article II of the City of Port Orange Code of Ordinances 304.13 Window, skylight and door frames.

Chapter 3 General Requirements, Section 309 Pest Elimination of the 2021 International Property Maintenance Code as adopted per Chapter 14, Article II of the City of Port Orange Code of Ordinances 309.1 Infestation.

Chapter 6 Mechanical and Electrical Requirements, Section 604 Electrical Facilities of the 2021 International Property Maintenance Code as adopted per Chapter 14, Article II of the City of Port Orange Code of Ordinances 604.3 Electrical system Hazards.

Chapter 6 Mechanical and Electrical Requirements, Section 605 Electrical Equipment of the 2021 International Property Maintenance Code as adopted per Chapter 14, Article II

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of the City of Port Orange Code of Ordinances 605.1 Installation.

Chapter 6 Mechanical and Electrical Requirements, Section 605 Electrical Equipment of the 2021 International Property Maintenance Code as adopted per Chapter 14, Article II of the City of Port Orange Code of Ordinances 605.4 Wiring.

Chapter 7 Fire Safety Requirements, Section 702 Means of Egress of the 2021 International Property Maintenance Code as adopted per Chapter 14, Article II of the City of Port Orange Code of Ordinances 702.1 General.

City of Port Orange Land Development Code Chapter 8 Building and Fire Codes, Article 1 Reference Codes, Section 2 Fire Codes; Fire Codes indicated below:

Travel to exit doors, free of obstructions: equal to door width. NFPA 1 Chapter 14

Electrical circuits /outlets shall not be overloaded. NFPA 1 Chapter 11

Extension cords shall not be used as a substitute for permanent wiring. NFPA 1

Chapter 11

Electrical cords shall not be through wall/ceilings/under floor coverings. NFPA 70, NFPA 1 Chapter 11

Electrical cords, plugs, coverings and insulation shall be intact with no splices. NFPA 70, NFPA 1 Chapter 11

All products properly stored; storage shall be neat, compact and orderly. NFPA 101 Chapter 4

Combustible material shall be kept a minimum of 2 feet from heat source. NFPA 101 Chapter 8

Storage shall be 18 inches below sprinkler heads and/ or below ceiling. NFPA 13 or NFPA 1 Chapter 10

Fire Extinguishers required. NFPA 1 Chapter 13 and NFPA 10

Exit signs and emergency lighting required. NFPA 1 Chapter 14

Detection systems (smoke detectors) required. NFPA 1 Chapter 13

The City has acted and/or has authority to act under the following emergency measures and any interference with the City is a violation:

Chapter 1 Scope and Administration, Section 111 Unsafe Structures and Equipment of the 2021 International Property Maintenance Code as adopted per Chapter 14, Article II of the City of Port Orange Code of Ordinances 111.2.1 Authority to disconnect service utilities.

Chapter 1 Scope and Administration, Section 112 Emergency Measures and Equipment of the 2021 International Property Maintenance Code as adopted per Chapter 14, Article II of the City of Port Orange Code of Ordinances 112.1 Imminent Danger.

Chapter 1 Scope and Administration, Section 112 Emergency Measures and Equipment of the 2021 International Property Maintenance Code as adopted per Chapter 14, Article II of the City of Port Orange Code of Ordinances 112.2 Temporary Safeguards.

Chapter 1 Scope and Administration, Section 112 Emergency Measures and Equipment

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of the 2021 International Property Maintenance Code as adopted per Chapter 14, Article II of the City of Port Orange Code of Ordinances 112.4 Emergency Repairs.

Ms. Joseph requested a continuation of the case until February 22, 2023. Special Magistrate Fuller granted the continuation request.

9. **CEB Case No.:** 22-1323.

Respondent: Darrell Blake

Sharon Blake

Address of Violation: 1157 Millbrook Avenue, Port Orange, FL 32127

Code Officer: Robert Kuhn

First Notified: 9/16/2022

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. Kuhn requested an Order Setting Fine/Lien as the property was not in compliance immediately, as ordered in the previous hearing on October 26, 2022 by the Special Magistrate. The City retained vendor Cutting Edge Landscaping & Services, who abated the violation(s) at the cost of \$150.00. A cost sheet for mailing and recording costs in the amount of \$146.59 was tendered and submitted into evidence without objection.

Special Magistrate Fuller found the property in non-compliance and awarded abatement costs of \$150.00 and mailing and recording costs to date of \$146.59. A lien in the amount of \$296.59 shall be imposed.

10. **CEB Case No.:** 22-1322

Respondent: Stacey L. Algieri

Address of Violation: 5245 Sydney Street, Port Orange, FL 32127

Code Officer: Robert Kuhn

First Notified: 9/16/2022

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 (h) Abutting property owner maintenance of parkages

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Mr. Kuhn requested an Order Setting Fine/Lien as the property was not in compliance immediately, as ordered in the previous hearing on October 26, 2022 by the Special Magistrate. The City retained vendor Cutting Edge Landscaping & Services, who abated the violation(s) at the cost of \$150.00. A cost sheet for mailing and recording costs in the amount of \$121.42 was tendered and submitted into evidence without objection.

Special Magistrate Fuller found the property in non-compliance and awarded abatement costs of \$150.00 and mailing and recording costs to date of \$121.42. A lien in the amount of \$271.42 shall be imposed.

11. CEB Case No.: 21-1940

Respondent: Geraldine Jones Life Estate

Address of Violation: 1237 Edna Dr., Port Orange, FL 32129

Code Officer: Robert Kuhn

First Notified: 11/22/2021

Compliance: No

Cited for violation(s) - Chapter 1 Scope and Administration, Section 111 Unsafe Structures and Equipment of the 2021 International Property maintenance Code as adopted per Chapter 14, Article II of the City of Port Orange Code of Ordinances 111.1 Unsafe conditions.

Chapter 1 Scope and Administration, Section 111 Unsafe Structures and Equipment of the 2021 International Property maintenance Code as adopted per Chapter 14, Article II of the City of Port Orange Code of Ordinances 111.1.3 Structure unfit for human occupancy.

Chapter 1 Scope and Administration, Section 111 Unsafe Structures and Equipment of the 2021 International Property maintenance Code as adopted per Chapter 14, Article II of the City of Port Orange Code of Ordinances 111.1.5 Dangerous structure of premises.

Chapter 1 Scope and Administration, Section 111 Unsafe Structures and Equipment of the 2021 International Property maintenance Code as adopted per Chapter 14, Article II of the City of Port Orange Code of Ordinances 111.2.1 Authority to disconnect service utilities.

Chapter 1 Scope and Administration, Section 111 Unsafe Structures and Equipment of the 2021 International Property maintenance Code as adopted per Chapter 14, Article II of the City of Port Orange Code of Ordinances 112.1 Imminent Danger.

Chapter 1 Scope and Administration, Section 111 Unsafe Structures and Equipment of the 2021 International Property maintenance Code as adopted per Chapter 14, Article II of the City of Port Orange Code of Ordinances 112.2 Temporary Safeguards.

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Chapter 1 Scope and Administration, Section 111 Unsafe Structures and Equipment of the 2021 International Property maintenance Code as adopted per Chapter 14, Article II of the City of Port Orange Code of Ordinances 112.4 Emergency Repairs.

Mr. Kuhn requested an Order Setting Fine/Lien as the property was not in compliance by September 29, 2022, as ordered in the previous hearing on November 9, 2022 by the Special Magistrate. The City retained vendor Cutting Edge Landscaping & Services, who abated the violation(s) at the cost of \$585.00. A cost sheet for mailing and recording costs in the amount of \$121.42 was tendered and submitted into evidence without objection.

Special Magistrate Fuller found the property in non-compliance and awarded abatement costs of \$585.00 and mailing and recording costs to date of \$121.42. A lien in the amount of \$706.42 shall be imposed.

12. CEB Case No.: 22-1203

Respondent: Tylo Investments, LLC C/O Kathleen L. Crotty

Address of Violation: 5684 Riverside Drive, Port Orange, FL 32127

Code Officer: Robert Kuhn

First Notified: 8/25/2022

Compliance: No

Cited for violation(s) - Per the City of Port Orange's Land Development Code, Land Development Code, Chapter 8, Article III, Section 8(c)(3)(g): Applications and permits.

Mr. Kuhn requested an Order Setting Fine/Lien as the property was not in compliance by December 22, 2022, as ordered in the previous hearing on October 26, 2022 by the Special Magistrate. He requested a daily fine in the amount of \$100.00 per day beginning December 23, 2022 and running through and including January 19, 2023 for a total of 28 days as ordered in the Finding of Fact, Conclusion of Law & Order. A cost sheet for mailing and recording costs in the amount of \$113.03 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 December 23, 2022 and running through and including January 19, 2023 for a total of \$2,800.00 and mailing and recording costs to date of \$113.03. A lien in the amount of \$2,913.03 shall be imposed.

13. CEB Case No.: 22-1397

Respondent: Victor Gullo

Address of Violation: 5402 Taylor Avenue, Port Orange, FL 32127

Code Officer: Robert Kuhn

First Notified: 10/7/2022

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.

Mr. Kuhn requested an Order Setting Fine/Lien as the property was not in compliance immediately, as ordered in the previous hearing on December 14, 2022 by the Special Magistrate. He requested a daily fine in the amount of \$100.00 per day beginning October 11, 2022 for each and every day the violation exists as ordered in the Finding of Fact, Conclusion of Law & Order. A cost sheet for mailing and recording costs in the amount of \$100.67 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 11, 2022 for each and every day the violation exists and mailing and recording costs to date of \$100.67.

14. CEB Case No.: 22-1276

Respondent: Geraldine Jones

Address of Violation: 1237 Edna Drive, Port Orange, FL 32129

Code Officer: Bailey Hornbuckle

First Notified: 9/7/2022

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 (h) Abutting property owner maintenance of parkages.

Bailey Hornbuckle, Code Enforcement Officer, 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 November 9, 2022 by the Special Magistrate. She requested a daily fine in the amount of \$100.00 per day beginning September 7, 2022 and running through and including January 14, 2023 for a total of 130 days as ordered in the Finding of Fact, Conclusion of Law & Order. The City retained vendor Cutting Edge Landscaping & Services, who abated the violation(s) at the cost of \$200.00. A cost sheet for mailing and recording costs in the amount of \$121.42 was tendered and submitted into evidence without objection.

Special Magistrate Fuller found the property in non-compliance and awarded a daily fine

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in the amount of \$100.00 beginning September 7, 2022 and running through and including January 14, 2023 for a total of \$13,000.00, abatement costs of \$200.00 and mailing and recording costs to date of \$121.42. A lien in the amount of \$13,321.42 shall be imposed.

15. **CEB Case No.:** 22-444

Respondent: Roy H. Garvin

Phyllis T. Garvin

Edward T. Garvin

Address of Violation: 1389 N. Dexter Drive, Port Orange, FL 32129

Code Officer: Bailey Hornbuckle

First Notified: 4/25/2022

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.

Ms. Joseph requested a continuation of the case until February 22, 2023. Special Magistrate Fuller granted the continuation request.

ADJOURNMENT – 9:43 a.m.



Special Magistrate David Fuller