

CODE ENFORCEMENT SPECIAL MAGISTRATE
MEETING MINUTES
COUNCIL CHAMBERS – CITY HALL
1000 CITY CENTER CIRCLE
PORT ORANGE, FLORIDA
APRIL 12, 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
Scott Allman, Code Enforcement Officer
Dena Joseph, Code Enforcement Officer
Bailey Hornbuckle, Code Enforcement Officer

Oaths

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

CALL TO ORDER

1. 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.

2. Consideration of Minutes - March 22, 2023

Special Magistrate Fuller approved the March 22, 2023 meeting minutes as presented.

FORMAL HEARING (COMPLIANCE OR NON-COMPLIANCE)

3. **CEB Case No.:** 23-0132
Respondent: Scott T. Maiorano
Rhonda Maiorano
Address of Violation: 404 Orange Avenue, Port Orange, FL 32127
Code Officer: Dennis Boehmer, Jr.
First Notified: 1/27/2023

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.

Scott Allman, Code Enforcement Officer, requested a dismissal of the case as it is in compliance. Special Magistrate Fuller granted the dismissal request.

4. **CEB Case No.:** 22-0055

Respondent: Troy Douglas Sharpton

Address of Violation: 3714 Paige Street, Port Orange, FL 32129

Code Officer: Bailey Hornbuckle

First Notified: 12/15/2022

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), (f) Garbage, waste, trash, etc., prohibited, (h) Abutting property owner maintenance of parkages 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.

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.

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

5. **CEB Case No.:** 23-223

Respondent: Gil Lichtenstein

Address of Violation: 907 Second Street, Port Orange, FL 32127

Code Officer: Scott Allman

First Notified: 2/21/2023

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) and (h) Abutting property owner maintenance of parkages 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.

Scott Allman 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 by mowing the entire property, trimming all high weeds and blowing all debris back onto

Code Enforcement Special Magistrate Meeting

April 12, 2023

Page 3 of 9

the property and removing all unregistered vehicles, storing them in an enclosed garage or by covering said vehicles with approved vehicle covers.

Mr. Allman recommended the property owners be found in violation of the above referenced codes with the violations to be corrected immediately by mowing the entire property, trimming all high weeds and blowing all debris back onto the property and removing all unregistered vehicles, storing them in an enclosed garage or by covering said vehicles with approved vehicle covers. 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 violations in regards to the high weeds and the vehicle as this is a health and safety concern. A daily fine in the amount of \$100.00 per day shall be imposed beginning on March 1, 2023. 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. Allman 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 the car in the driveway could be an attractive nuisance to children in the neighborhood. The cost sheet in the amount of \$46.65 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 immediately to mow the entire property, trim all high weeds and blow all debris back onto the property and remove all unregistered vehicles, store them in an enclosed garage or cover said vehicles with approved vehicle covers, or a daily fine in the amount of \$100.00 per day shall be imposed beginning March 1, 2023. Costs in the amount of \$46.65 were awarded to the City.

6. CEB Case No.: 23-261

Respondent: Gil Lichtenstein

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

Code Officer: Scott Allman

First Notified: 2/21/2023

Compliance: No

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.

Mr. Allman 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 March 20, 2023 by repairing or removing all damaged fencing. Mr. Allman recommended the property owners be found in violation of the above referenced codes with the violations

Code Enforcement Special Magistrate Meeting

April 12, 2023

Page 4 of 9

to be corrected by April 26, 2023 by repairing or removing all damaged fencing on the property and if the fence is repaired, it's required to be repaired to its original and upright condition. 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. 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. Allman 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 the damaged fence could become wind-borne debris. The cost sheet in the amount of \$46.65 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 April 26, 2023 to repair or remove all damaged fencing. Costs in the amount of \$46.65 were awarded to the City.

7. **CEB Case No.:** 23-273

Respondent: Adam Baxter

Address of Violation: 1211 Vagabond Drive, Port Orange, FL 32127

Code Officer: Scott Allman

First Notified: 2/27/2023

Compliance: No

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

Chapter 5 (Plumbing Facilities and Fixture Requirements), Section 505 (Water System), 505.1 (General), of the 2021 International Property Maintenance Code as adopted per Chapter 14, Article II of the City of Port Orange Code of Ordinances, 505.3 Supply.

Chapter 6 (Mechanical and Electrical Requirements), Section 601 (General), 601.2 (Responsibility), of the 2021 International Property Maintenance Code as adopted per Chapter 14, Article II of the City of Port Orange Code of Ordinances.

Chapter 6 (Mechanical and Electrical Requirements), Section 604 (Electrical Facilities), 604.1 (Facilities Required), 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 (General Requirements), Section 308 (Rubbish and Garbage), 308.1 (Accumulation of rubbish or garbage) of the 2021 International Property Maintenance Code 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 42-32 (Storage of vehicles, furniture, etc.) of the City of Port Orange Code of Ordinances.

Chapter 16 (Miscellaneous Regulations), Section 1 (Accessory Uses and Structures), (d) Size Limitations, of the City of Port Orange Land Development Code: Any residential accessory structure in a residential zoning district shall be required to comply with the following conditions: (4), (5).

Mr. Allman 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 March 24, 2023 by abating all unsanitary conditions, reconnecting to the city water system, reconnecting to the electrical system, removing all outdoor stored items from the property and removing the tenant from the shed in the backyard.

Adam Baxter, property owner, was sworn in by Special Magistrate Fuller and testified to the condition of the property. Mr. Baxter explained his financial hardships due to other issues that are hindering him from being able to correct the violations.

Mr. Allman recommended the property owners be found in violation of the above referenced codes with the violations to be corrected by May 10, 2023 by abating all unsanitary conditions, reconnecting to the city water system, reconnecting to the electrical system, removing all outdoor stored items from the property and removing the tenant from the shed in the backyard. 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. Allman requested any future violations under this ordinance be considered repeat. The cost sheet in the amount of \$37.95 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 May 10, 2023 to abate all unsanitary conditions, reconnect to the city water system, reconnect to the electrical system, remove all outdoor stored items from the property and remove the tenant from the shed in the backyard or a daily fine in the amount of \$100.00 per day shall be imposed. Costs in the amount of \$37.95 were awarded to the City.

8. CEB Case No.: 23-0264

Respondent: Sylvia D. Morris
Theresa D. Frees

Address of Violation: 5457 Pineland Avenue, Port Orange, FL 32127

Code Officer: Robert Kuhn

First Notified: 2/28/2023

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.

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 was sworn in by Special Magistrate David 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 by cleaning up and removing all garbage, trash, and debris from the property and removing all outside stored items from the property, or properly storing them in an enclosed building.

Theresa Macioci (Frees), property owner, was sworn in by Special Magistrate Fuller and testified as to the condition of the property due to her husband's actions. Ms. Frees' husband was using the property to store items. Richard Shaffner was sworn in by Special Magistrate Fuller and testified that he assisted the property owner with correcting the violations as he is in the process of becoming the current tenant of the property. Lionel Silvia, neighbor of Ms. Frees, was sworn in by Special Magistrate Fuller and testified that Ms. Frees' husband is a tenant of his property and claims he is a hoarder.

Mr. Kuhn recommended the property owners be found in violation of the above referenced codes with the violations to be corrected by March 1, 2023 by cleaning up and removing all garbage, trash, and debris from the property and removing all outside stored items from the property, or properly storing them in an enclosed building. 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 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. Kuhn requested any future violations under this ordinance be considered repeat. The cost sheet in the amount of \$64.05 was tendered into evidence and accepted by Special Magistrate Fuller with no objections.

Special Magistrate Fuller did not agree with the recommended daily fine and instead decided on a one time set fine. The property came in compliance on April 10, 2023 and a lien in the amount of \$800.00 shall be imposed. Costs in the amount of \$64.05 were awarded to the City.

ORDER IMPOSING FINE/LIEN

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

Respondent: Betty Jane Buelow Estate

Code Enforcement Special Magistrate Meeting
April 12, 2023
Page 7 of 9

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.

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. The City retained vendor Cutting Edge Landscaping & Services, LLC, who abated the violation(s) at the cost of \$75.00. A cost sheet for mailing and recording costs in the amount of \$100.98 was tendered and submitted into evidence without objection.

Special Magistrate Fuller found the property in non-compliance and awarded abatement costs of \$75.00 and mailing and recording costs to date of \$100.98. A lien in the amount of \$175.98 shall be imposed.

10. CEB Case No.: 22-1404

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 3 (General Requirements), Section 304 (Exterior Structure), 304.10 (Stairways, decks, porches, and balconies) of the 2021 International Property Maintenance Code, as adopted per Chapter 14, Article II of the City of Port Orange Code of Ordinances.

Mr. Kuhn requested an Order Setting Fine/Lien as the property was not in compliance by January 21, 2023, as ordered in the previous hearing on January 11, 2023 by the Special Magistrate. The City retained vendor Cutting Edge Landscaping & Services, LLC, who abated the violation(s) at the cost of \$450.00. A cost sheet for mailing and recording costs in the amount of \$100.98 was tendered and submitted into evidence without objection.

Special Magistrate Fuller found the property in non-compliance and awarded abatement costs of \$450.00 and mailing and recording costs to date of \$100.98. A lien in the amount of \$550.98 shall be imposed.

11. CEB Case No.: 21-0550

Code Enforcement Special Magistrate Meeting

April 12, 2023

Page 8 of 9

Respondent: Louis L. Huntley Enterprises C/O: Louis Ward Huntley

Address of Violation: 5878-5886 Ridgewood Ave. (Pizza City), Port Orange, FL 32127

Code Officer: Dena Joseph

First Notified: 10/2/2019

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 Enforcement Officer, was sworn in by Special Magistrate Fuller and requested an Order Setting Fine/Lien as the property was not in compliance by March 31, 2023, as ordered in the previous hearing on February 22, 2023 by the Special Magistrate. She requested a daily fine in the amount of \$100.00 per day beginning April 1, 2023 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 \$92.90 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 April 1, 2023 each and every day the violation exists and mailing and recording costs to date of \$92.90.

12. 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 requested an Order Setting Fine/Lien as the property was not in compliance by February 1, 2023, as ordered in the previous hearing on January 25, 2023 by the Special Magistrate. She requested a daily fine in the amount of \$100.00 per day beginning February 2, 2023 and running through and including March 21, 2023 for a total of 48 days as ordered in the Finding of Fact, Conclusion of Law & Order. The City retained vendor Cutting Edge Landscaping & Services LLC, who abated the violation(s) at the cost of \$80.00. A cost sheet for mailing and recording costs in the amount of \$100.98 was tendered and submitted into evidence without objection.

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

Code Enforcement Special Magistrate Meeting

April 12, 2023

Page 9 of 9

in the amount of \$100.00 beginning February 2, 2023 and running through and including March 21, 2023 for a total of \$4,800.00, abatement costs of \$80.00 and mailing and recording costs to date of \$100.98. A lien in the amount of \$4,980.98 shall be imposed.

ADJOURNMENT – 10:26 a.m.



Special Magistrate David Fuller