

**CODE ENFORCEMENT BOARD
MEETING
SEPTEMBER 23, 2009**

MEMBERS PRESENT: Heinz Schmidt, Chairman
Norman Ashworth, Tom Bailey, Sandy MacGibbon,
Paul Meyer, Jim Stevens, Albert Wiker

MEMBERS ABSENT: Richard Kresge

OTHERS PRESENT: David Levin, City Attorney; Tom Quegan, Brandon Jacobsen, Thomas Lewis, Police Department; Teri Tubbs, Zoning Official; Randy Wright, Maricela Perdomo, Dawn Lewis, Code Compliance Officers; Randy Cole, Building Official; Dennis Murphy, Growth Management Director; Clifford McNealy, Paul Patton, Gloria Blanding, Douglas Wilder

CALL TO ORDER/ANNOUNCEMENTS

- A. Roll Call
- B. Next Scheduled Meeting - October 28, 2009
- C. Presentation of Plaque
 - Mr. Schmidt presented a Certificate of Appreciation to Mr. Meyer, thanking him for his years of service to the City.
 - Mr. Meyer accepted the plaque, stating he had enjoyed his time on the Board.

APPROVAL OF MINUTES

- A. Meeting of August 26, 2009
 - Mr. Stevens MOVED, Mr. Bailey SECONDED approval of the August 26, 2009 minutes. MOTION CARRIED UNANIMOUSLY.

NEW BUSINESS

- Recording Secretary Kelly swore in all participants.
- A. 09-38105 - DETECTIVE TOM QUEGAN; OFFICER JACOBSEN; ZONING OFFICIAL TERI TUBBS
 - Respondent: Gloria Blanding, Business Owner
Clifton McNealy, Business Manager
Paul & Rosemary Patton, Property Owners
 - Address of Violation: 409 Dr. Martin Luther King Jr. Boulevard
 - Violation of Section 26-3.9(a)(9), CC, City Center District, Permitted Principal Uses and Structures; Section 26-3.9(c)(10), CC, City Center District, Uses Permitted with Conditions; Section 26-4.7(a)(b), Bars and Nightclubs; Section 26-3.9(f)(11), CC, City Center District, Special Exceptions.
 - Mr. Clifton McNealy, respondent, questioned the charge.

- City Attorney David Levin replied operation of a restaurant, bar or nightclub in the City Center (CC) District without a special exception, without permission with conditions and located closer to a residential neighborhood than that which was permitted by City Code.
- Mr. McNealy entered a plea of not guilty. He then requested a continuance as he had been unaware he was allowed to have witnesses.
- City Attorney Levin countered Ms. Teri Tubbs, Zoning Official, had advised Mr. McNealy of his right for same during personal communications with him. He then called Detective Tom Quegan to testify.
- Detective Quegan stated the Police Department had conducted several undercover operations in correlation with the Division of Alcoholic Beverages & Tobacco (ABT) in response to numerous complaints regarding an after hours nightclub at the subject location, known as the "Crock Pot." He explained ABT undercover operatives visited the Crock Pot on July 25, 2009, August 11, 2009, and August 21, 2009. He reported based on the undercover officers' observations, Mr. McNealy was arrested and charged with violation of City ordinance governing operation of a nightclub and serving liquor after 2:00 a.m. He mentioned two undercover operatives had purchased and been served food inside the establishment.
- Mr. McNealy asked what factor made the establishment a nightclub.
- Detective Quegan replied patrons inside being served alcohol, loud music, the presence of a disc jockey (DJ), dancing and consumption of alcohol.
- Mr. McNealy asked if the establishment could be considered a diner with entertainment.
- Detective Quegan replied it appeared to be a nightclub.
- City Attorney Levin then called Master Officer Brandon Jacobsen to testify.
- Master Officer Jacobsen testified he visited the Crock Pot on several consecutive Saturday evenings as it had been noticed over the past few months the Crock Pot seemed to get very busy at 2:15-2:30 a.m. He announced two officers were placed at that location due to increased parking from approximately 2:15 a.m. to 4:00 a.m. He stated he personally visited the Crock Pot on September 13, 2009, after the Statement of Violation was issued, and observed the following: there was no longer a nightclub atmosphere; six to eight tables; Mr. McNealy behind the counter preparing food; a large menu board; people standing in line ordering food; people sitting down eating; loud music.
- City Attorney Levin asked if Officer Jacobsen observed patrons purchasing food.
- Master Officer Jacobsen replied he did not observe hand to hand money transactions.

- City Attorney Levin asked if Officer Jacobsen observed the consumption of alcohol.
- Master Officer Jacobsen replied he had been unable to determine whether the beverages being consumed were alcoholic, adding he did not observe any open containers.
- Mr. Meyer asked if Officer Jacobsen observed these activities only on weekends.
- Master Officer Jacobsen replied they were observed primarily on Saturday nights/ Sunday mornings.
- Mr. McNealy questioned the incidents for which Officer Jacobsen had been called.
- Master Officer Jacobsen replied there had been no calls.
- Mr. McNealy asked if there had been any violent occurrences.
- Master Officer Jacobsen replied there had been none.
- Mr. McNealy asked if Officer Jacobsen felt the atmosphere at the Crock Pot had been calm on Saturday evenings.
- Master Officer Jacobsen replied affirmatively with the exception of loud music in a residential neighborhood.
- City Attorney Levin then called Ms. Tubbs to testify, asking her to describe the nature of the violations which had occurred at the subject location.
- Ms. Tubbs stated the first violation consisted of operation of a restaurant too close to a residentially zoned district, adding such establishments located less than 200 feet from a Neighborhood Residential (NR) zoning district required a special exception. She mentioned the Police Department had informed her of nighttime dancing and consumption of alcohol, thereby indicating the business was turning into a bar and nightclub.
- City Attorney Levin questioned the requirement for operation of a restaurant or bar at this site.
- Ms. Tubbs replied a special exception would be required; however, no special exception existed for this business nor had an application been submitted for same. She confirmed the business was located within 200 feet of a NR district. She clarified a restaurant, as defined by City Code, constituted a facility where you could enter, purchase food and consume it on the premise.
- City Attorney Levin asked if City Code allowed the purchase of food if same was taken out.
- Ms. Tubbs replied affirmatively.
- City Attorney Levin then questioned the definition of a bar.

- Ms. Tubbs replied a bar was defined as being primarily devoted to the serving of alcoholic beverages and in which the service of food was incidental to consumption of such beverages.
- Mr. Meyer asked if a business license was in place for the Crock Pot.
- Ms. Tubbs replied affirmatively, specifically for a neighborhood market and deli.
- Mr. McNealy asserted he was advised by the Urban Design Division customers would be permitted to consume food on site and drink a glass of wine. He maintained the Police Department did not wish the business to be successful. He asked Ms. Tubbs if she recalled informing him he would be allowed to serve food, beer and wine for on-site consumption.
- Ms. Tubbs replied staff met with Mr. McNealy on October 9, 2008, at which time he expressed his desire to open a neighborhood market with a small breakfast bar and the ability to serve lunch. She clarified it was felt a small scale deli did not meet the definition of a restaurant. She pointed out Mr. McNealy was asked at that time if he intended to provide entertainment, asserting Mr. McNealy responded he had no intention of providing entertainment as he wished to be in compliance with City Code. She concluded this business had far exceeded the scale of operations discussed with staff at that time.
- City Attorney Levin asked if Ms. Tubbs would have determined the operation of the Crock Pot under the conditions described this date to be consistent with the zoning code.
- Ms. Tubbs replied absolutely not, stating there was no question violations were occurring.
- Mr. McNealy asserted food was their primary service; thus, he did not believe his business met the definition of a bar.
- Ms. Tubbs reiterated Mr. McNealy had indicated the business would entail primarily daytime use of a small scale deli, adding the respondent also advised there would be no entertainment. She clarified a convenience store or market could be open past 2:00 a.m.; however, other laws regulated the sale of alcoholic beverages.
- Mr. McNealy asserted he provided entertainment to make the business a success, asking why crowds at 2:30 a.m. and later were a problem.
- Ms. Tubbs replied same meant the business was not operating as approved as a neighborhood market. She clarified the Crock Pot's operations were not that which was discussed at the above mentioned meeting.
- Mr. McNealy countered he sold far more food after 2:00 a.m. than alcohol.

- City Attorney Levin then called Captain Thomas Lewis to testify, asking him to describe his observations relative to operation of the Crock Pot.
- Captain Lewis testified over the past several months, the business was set up similar to a small grocery store during day time hours, including a small kitchen in the rear of the building; however, on Friday and Saturday evenings, the grocery store shelving was pushed against the walls and draped with black sheets, creating a massive dance floor. He continued he observed strobe lighting and a DJ with 7½ foot tall speakers. He confirmed receipt of noise complaints from neighbors. He clarified these observations were the basis for the Police Department's determination this was a nightclub. He mentioned patrons were assessed a cover charge to enter, adding he was unaware of any deli or diner which required payment of a cover charge. He concluded the Crock Pot was being operated as a nightclub after 2:00 a.m. to as late as 4:00 a.m.
- Mr. McNealy explained the shelving was covered to prevent stealing, adding he had required payment of a cover charge in order to pay the DJ. He opined this business was positive and did not cause detrimental harm to the neighborhood. He asserted the Police Department's presence at the Crock Pot discouraged people from entering.
- City Attorney Levin then called Mr. Randy Wright, Code Compliance Officer, asking him to describe the Crock Pot's location.
- Mr. Wright displayed an overhead depicting the Crock Pot's proximity to an NR district, specifying he measured same at 64 feet; however, City Code required that separation to be 200 feet. He continued the distance between the exterior of the Crock Pot to the closest single family residence, which should be at least 300 feet, was 26 feet. At City Attorney Levin's request, he then repeated the definition of a nightclub as a commercial establishment in which music, dancing and/or entertainment was conducted as a principal use.
- Mr. McNealy asked Mr. Wright if the NR zoning district was in effect prior to his meeting with the Urban Design Division.
- Mr. Wright replied affirmatively.
- Mr. McNealy reiterated he had been advised these activities would be allowed.
- City Attorney Levin asked if a convenience store would be permissible within the distances just identified.
- Mr. Wright replied affirmatively.
- City Attorney Levin then noted Ms. Gloria Blanding, respondent, was standing by, offering her the availability of the City's witnesses for cross examination.
- Mr. Paul Patton, respondent, offered to answer any questions, stating he wished to rectify this situation for all parties while staying within the law.

- City Attorney Levin clarified Mr. Patton was the property owner and was not involved in the day to day operations; however, he was a responsible party because of that ownership.
- Mr. Schmidt asked if Mr. Patton was aware of Mr. McNealy's agreement with the City.
- Mr. Patton replied affirmatively.
- Mr. Schmidt confirmed Mr. Patton was aware the Crock Pot was not licensed to operate as a nightclub.
- Ms. Blanding stated Mr. McNealy was attempting to make an honest living, adding they did not feel any harm was being done nor were they trying to break the law.
- City Attorney Levin reiterated his desire for Ms. Blanding to be given a full opportunity to cross examine the City's witnesses, asking her if she wished to do so or waive that right.
- Ms. Blanding waived her right to cross examine.
- City Attorney Levin concluded the City's testimony, stating the City had no fundamental objection to the operation of a restaurant at this facility but rather would encourage same; however, it must be done by special exception, urging the respondents to apply for same. He clarified the Code Compliance Division sought compliance as opposed to penalties.
- Mr. McNealy responded he was financially unable to satisfy the requirements for a restaurant.
- Mr. Schmidt asked Mr. McNealy if he had advised the Urban Design Division of his intention to operate the business until 4:00 a.m., serve alcohol and play music.
- Mr. McNealy replied he had asked about the time allowance, confirming he was aware alcohol could not be served after 2:00 a.m. He stated he had informed staff alcohol would be consumed.
- Mr. Schmidt clarified the Crock Pot had been operating since 2008, asking when the change was made to allow patronage, music and dancing after 2:00 a.m.
- Mr. McNealy replied January 2009; however, business did not pick up until June 2009. He opined the Police Department's actions discouraged the business' success, adding drivers were pulled over in Punta Gorda for the slightest violations.
- Mr. Schmidt countered police officers must enforce the law. He pointed out a number of nightclub and/or restaurant establishments operated quite successfully in Punta Gorda while complying with proper permitting requirements.
- Mr. Patton then questioned the allowed time for operation of a business at this location.
- City Attorney Levin replied there was no limit for operation of a convenience store.

- Mr. Patton commented on the approval of the consumption permit, stating he had initially been aware of same. He asked whether the permit was approved by the City or ABT or both. He mentioned he operated a business at this location in the past but did not sell or serve alcohol, adding he chose to close at 9:00 p.m.; however, he was under the impression this was optional.
- City Attorney Levin interjected the case before the Board was based on zoning violations. He confirmed there was an active investigation concerning after hours sale and consumption of alcohol and the sale of alcohol beyond the beer and wine permit in place. He advised there were specific regulations and time limits related to the sale and consumption of alcohol but no time limit for a convenience store.
- Mr. Stevens asked if Mr. McNealy had applied for a special exception.
- Mr. McNealy replied he had not, stating he had been informed he would not need same.
- Mr. Stevens MOVED, Mr. Bailey SECONDED the City had presented a prima facie case. MOTION CARRIED UNANIMOUSLY.
- Ms. Blanding asked if the Board was recommending they stop allowing food to be consumed on site.
- Mr. Schmidt reiterated they were not.
- City Attorney Levin then recommended the Board make a finding of guilt with respect to violation of the charges described above.
- Mr. MacGibbon questioned Mr. Patton's liability in that he was not involved with the business.
- City Attorney Levin replied the property owner was ultimately responsible for what happened on his property.
- Mr. Patton recalled he had undergone the special exception process when he was starting his business at this location, adding a commercial grade, special hood/exhaust system was installed based on the intent to cook and serve food. He acknowledged the City's concerns relative to operation of a nightclub.
- City Attorney Levin explained the distinction was the original approval was for a Planned Unit Development (PUD) in the Commercial General (CG) zoning district authorizing the operation of a neighborhood grocery store, with preparation of take-out food being contemplated. He confirmed the City had no objection to these activities as they did not meet the definition of a restaurant, adding Mr. McNealy could continue to prepare take-out food for off-premise consumption without a special exception.

- Mr. MacGibbon MOVED, Mr. Bailey SECONDED to find the respondents guilty of violation of Section 26-3.9(a)(9), to issue a Cease & Desist Order for any future violations or be subject to a fine of up to \$250 per day. MOTION CARRIED UNANIMOUSLY.
- Mr. Bailey MOVED, Mr. MacGibbon SECONDED to find the respondents guilty of violation of Section 26-3.9(c)(10), to issue a Cease & Desist Order for any future violations or be subject to a fine of up to \$250 per day. MOTION CARRIED UNANIMOUSLY.
- Mr. MacGibbon MOVED, Mr. Bailey SECONDED to find the respondents guilty of violation of Section 26-3.9(f)(11), to issue a Cease & Desist Order for any future violations or be subject to a fine of up to \$250 per day. MOTION CARRIED UNANIMOUSLY.
- Mr. MacGibbon MOVED, Mr. Bailey SECONDED to find the respondents guilty of violation of Section 26-4.7(a)(b), to issue a Cease & Desist Order for any future violations or be subject to a fine of up to \$250 per day. MOTION CARRIED UNANIMOUSLY.
- City Attorney Levin encouraged Mr. McNealy to apply for a special exception to lawfully operate a restaurant at this location. He clarified he represented the City, not the Board; thus, he made recommendations only, which the Board could accept or reject.
- Mr. Ashworth asked if operation of a deli and take-out restaurant would be allowed while going through the special exception process.
- City Attorney Levin replied affirmatively; however, operation of a bar or nightclub would not.
- Mr. McNealy asked if the City would be willing to waive the fee associated with a special exception application.
- City Attorney Levin replied City Council was responsible to make that determination.
- Mr. McNealy expressed his disagreement with the Board's action, asking how to appeal same.
- City Attorney Levin replied the appeal would be to Circuit Court.
- Mr. McNealy concluded he believed the reason behind the Police Department's problem with his business was based on the Crock Pot being the only black owned establishment, adding the Police Department also felt violence would ensue if a number of black people gathered.
- Mr. Schmidt urged the respondents to meet with City staff.

B. 09-38103 - VOLUNTEER OFFICER - STEVE FABIAN

Respondent: Annie Wynn

Address of Violation: 809 East Marion Avenue (Charlotte Regional Medical Center)

Violation of Section 23-18(b), Parking spaces provided for certain disabled persons.

- City Attorney Levin announced Volunteer in Policing (VIP) Officer Steve Fabian was ill and could not be present this date.
- A representative of Ms. Annie Wynn, respondent, requested a dismissal.
- Mr. MacGibbon MOVED, Mr. Ashworth SECONDED to dismiss Case #09-38103. MOTION CARRIED UNANIMOUSLY.

C. 09-38058 - BUILDING OFFICIAL RANDY COLE; CODE COMPLIANCE OFFICER MARICELA PERDOMO

Respondent: Poor Folks, LLC

Address of Violation: 434 Showalter Avenue

Violation of Section 7-38, Requirement for Safe Buildings & Structures, Section 7-39 (5,6,10,11), Definitions.

- Mr. Schmidt confirmed the respondent was not present.
- Mr. Meyer MOVED, Mr. Stevens SECONDED to enter a not guilty plea on behalf of the respondent. MOTION CARRIED UNANIMOUSLY.
- Ms. Maricela Perdomo, Code Compliance Officer, displayed several photographs of the subject property, located within City limits, stating on August 31, 2009, she received a complaint regarding an unsanitary condition and disrepair. She clarified Mr. Randy Cole, Building Official, would testify as to the condition of the property.
- Mr. Cole testified he first observed a significant number of flies on the interior of the home's windows, adding he then discovered the front door lock was broken after knocking on same. He explained the gentlemen who answered the door informed him he was renting the home from Mr. James Fisher, respondent's registered agent, the air conditioning (A/C) system had failed and flooded the home and the above mentioned flies were entering the home through the A/C ducts. He noted the house was filled with flies and other insects, including some crawling on a woman seated inside the home. He continued feces was smeared on the floor and walls of the kitchen, and piles of soaking wet newspapers and debris were stacked throughout the house, which smelled of mold and mildew. He reported the residents informed him Mr. Fisher was aware of the conditions inside the home. He stated when he returned on September 17, 2009, he found the front door had been secured and a No Trespassing sign had been placed in the front window; however, he was unable to gain entrance at that time.

- Ms. Perdomo stated on September 17, 2009, she advised Mr. Fisher a letter would be sent regarding the violation and condition of the property, to which Mr. Fisher indicated someone would take care of the property. She reported a Statement of Violation/Notice of Hearing was mailed but returned undeliverable on September 10, 2009; thus, the property was posted on September 11, 2009.
- Mr. Meyer MOVED, Mr. MacGibbon SECONDED the City had presented a prima facie case. MOTION CARRIED UNANIMOUSLY.
- Mr. Meyer MOVED, Mr. MacGibbon SECONDED to find the respondent guilty, to issue a Cease & Desist Order for future violations or be subject to a fine of up to \$250 per day. MOTION CARRIED UNANIMOUSLY.

D. 09-37784 - CODE COMPLIANCE OFFICER - MARICELA PERDOMO

Respondent: Gloria Blanding, Business Owner
Paul & Rosemary Patton, Property Owners

Address of Violation: 409 Dr. Martin Luther King Jr. Boulevard

Violation of Section 10-6, Disposition, lids on containers; Section 11-8(d), Signs in Rights-of-way.

- Ms. Blanding reported these violations had been eliminated.
- Ms. Perdomo noted she had not inspected the property since September 16, 2009.
- Mr. MacGibbon MOVED, Mr. Ashworth SECONDED to continue Case #09-37784 to October 28, 2009. MOTION CARRIED UNANIMOUSLY.

E. 09-37880 - CODE COMPLIANCE OFFICER - MARICELA PERDOMO

Respondent: A Plus Cleaning Professionals

Address of Violation: 251 East Olympia Avenue

Violation of Section 9A-12(d), Nuisances specified, generally.

- Mr. McNealy advised he owned A Plus Cleaning Professionals.
- Ms. Blanding announced the vehicles were no longer on the premises.
- Ms. Perdomo suggested continuing this case as well to allow her time for re-inspection.
- Mr. MacGibbon MOVED, Mr. Ashworth SECONDED to continue Case #09-37880 to October 28, 2009. MOTION CARRIED UNANIMOUSLY.

F. 09-37938 - CODE COMPLIANCE OFFICER - MARICELA PERDOMO

Respondent: Alberto Knoepffler

Address of Violation: 420 West Helen Avenue

Violation of Section 10-1 & 10-1.1, Litter, trash, debris, stagnant water, excessive growth of vegetation, declared detrimental to health and safety; Section 10-2.4(e), City's mandatory lot mowing program.

- Mr. Schmidt confirmed the respondent was not present.

- Mr. Meyer MOVED, Mr. MacGibbon SECONDED to enter a not guilty plea on behalf of the respondent. MOTION CARRIED UNANIMOUSLY.
 - Ms. Perdomo displayed several photographs of the subject property, located within City limits, stating on August 20, 2009, she received a complaint regarding this lot not being mowed, vegetation around the tree stumps and areas heavy with underbrush and vines. She announced a Statement of Violation/Notice of Hearing was issued and the property posted on September 11, 2009. She concluded a September 16, 2009, re-inspection indicated the violations remained.
 - Mr. Meyer MOVED, Mr. Bailey SECONDED the City had presented a prima facie case. MOTION CARRIED UNANIMOUSLY.
 - Mr. Meyer confirmed the respondent had not enrolled in the lot mowing program but was eligible to do so.
 - Mr. Meyer MOVED, Mr. MacGibbon SECONDED to find the respondent guilty, to issue a Cease & Desist Order requiring compliance within 5 days of receipt of the Board's Order or be subject to a fine of up to \$250 per day. MOTION CARRIED UNANIMOUSLY.
- G. 09-37563 - CODE COMPLIANCE OFFICER - MARICELA PERDOMO
- Respondent: Raymond Hayes
Address of Violation: 611 East Virginia Avenue
Violation of Section 26-8.11(a)(b)(c), Property maintenance.
- Mr. Schmidt confirmed the respondent was not present.
 - Mr. Meyer MOVED, Mr. Wiker SECONDED to enter a not guilty plea on behalf of the respondent. MOTION CARRIED UNANIMOUSLY.
 - Ms. Perdomo displayed several photographs of the subject property, located within City limits, stating on July 31, 2009, she observed tall grass and weeds throughout, boarded up windows and the structure discolored. She noted on August 19, 2009, the previous owner advised her the property had recently been sold; thus, a Statement of Violation/Notice of Hearing was sent and received by the new owner on September 3, 2009. She reported as of September 16, 2009, the violations related to the windows and discolored structure remained. She mentioned it seemed the tall grass and weeds had been cut but were starting to become overgrown once again. She announced the property owner advised he was away and would not return until the beginning of November 2009 but would have someone take care of the grass. She noted he also requested at least 45 days from this hearing to remedy the remaining violations.
 - Mr. Meyer MOVED, Mr. Stevens SECONDED the City had presented a prima facie case. MOTION CARRIED UNANIMOUSLY.

- Discussion ensued with regard to the length of time to allow the respondent to address the violations.
 - Mr. Ashworth MOVED, Mr. Bailey SECONDED to find the respondent guilty, to issue a Cease & Desist Order requiring the tall grass and weeds to be cut within 10 days and requiring the other violations to be eliminated within 45 days or be subject to a fine of up to \$250 per day. MOTION CARRIED UNANIMOUSLY.
- H. 09-37949 - CODE COMPLIANCE OFFICER - DAWN LEWIS
- Respondent: Steve Christian
- Address of Violation: 1410 Park Beach Circle, Unit #111
- Violation of Section 10-1 & 10-1.1, Litter, trash, debris, stagnant water, excessive growth of vegetation, declared detrimental to health and safety; Section 26-8.11(c)(e), Property maintenance.
- Mr. Schmidt confirmed the respondent was not present.
 - Mr. Meyer MOVED, Mr. MacGibbon SECONDED to enter a not guilty plea on behalf of the respondent. MOTION CARRIED UNANIMOUSLY.
 - Ms. Dawn Lewis, Code Compliance Officer, displayed several photographs of the subject property, located within City limits, stating on July 28, 2009, she observed tall grass and weeds throughout, overgrown landscaping and weeds and dead landscape debris. She announced a Statement of Violation/Notice of Hearing was served on September 11, 2009, by certified mail, asking for the property to be brought into compliance by September 15, 2009. She advised she received a letter from the respondent indicating he was responsible only for the interior of Unit #111 but was not responsible for the outside property; however, the respondent was the owner of record for the subject location. She confirmed the grass had been cut as of September 16, 2009, but the landscaping and weeds were still overgrown.
 - City Attorney Levin explained in a condominium situation, the owner of an individual unit owned the space within the walls outright but had an undivided interest in the common area. He clarified an association was typically retained to manage and retain that common area; however, the property owner was ultimately responsible.
 - Mr. Wiker asked if this property owner was also the developer.
 - Ms. Lewis replied she did not believe so.
 - Mr. Wiker clarified the property owner was not affiliated with the community association, asking if the respondent was the property owner of the common area.
 - City Attorney Levin replied the respondent was laying responsibility for the common area on the condominium association, acknowledging same was not uncommon;

however, if the association, which was made up of individual owners, failed to do so, that responsibility ultimately fell to the unit owner.

- Mr. Wiker opined all of the condominium unit owners would be jointly responsible for the common areas.
- Ms. Lewis agreed, noting the following three cases addressed same.
- Mr. Stevens MOVED, Mr. Bailey SECONDED the City had presented a prima facie case. MOTION CARRIED UNANIMOUSLY.
- Mr. Meyer MOVED, Mr. Bailey SECONDED to find the respondent guilty, to issue a Cease & Desist Order requiring compliance within 14 days or be subject to a fine of up to \$250 per day. MOTION CARRIED UNANIMOUSLY.

Note: Testimony relative to Items I, J and K was consolidated.

I. 09-37952 - CODE COMPLIANCE OFFICER - DAWN LEWIS

Respondent: Regions Bank

Address of Violation: 1410 Park Beach Circle, Unit #112

Violation of Section 10-1 & 10-1.1, Litter, trash, debris, stagnant water, excessive growth of vegetation, declared detrimental to health and safety; Section 26-8.11(c)(e), Property maintenance.

J. 09-37953 - CODE COMPLIANCE OFFICER - DAWN LEWIS

Respondent: Regions Bank

Address of Violation: 1410 Park Beach Circle, Unit #113

Violation of Section 10-1 & 10-1.1, Litter, trash, debris, stagnant water, excessive growth of vegetation, declared detrimental to health and safety; Section 26-8.11(c)(e), Property maintenance.

K. 09-37954 - CODE COMPLIANCE OFFICER - DAWN LEWIS

Respondent: Regions Bank

Address of Violation: 1410 Park Beach Circle, Unit #114

Violation of Section 10-1 & 10-1.1, Litter, trash, debris, stagnant water, excessive growth of vegetation, declared detrimental to health and safety; Section 26-8.11(c)(e), Property maintenance.

- City Attorney Levin requested the testimony presented during Case #09-37949, Item H, be adopted for Case #09-37952, #09-37953 and #09-37954.
- Mr. Schmidt confirmed the respondent was not present.
- Mr. Meyer MOVED, Mr. MacGibbon SECONDED to enter a not guilty plea on behalf of the respondent. MOTION CARRIED UNANIMOUSLY.
- Mr. Ashworth MOVED, Mr. MacGibbon SECONDED the City had presented a prima facie case. MOTION CARRIED UNANIMOUSLY.

- Mr. Ashworth MOVED, Mr. Bailey SECONDED to find the respondent guilty in Case #09-37952, #09-37953 and #09-37954, to issue Cease & Desist Orders requiring compliance within 14 days or be subject to a fine of up to \$250 per day.
- Mr. Ashworth asserted Regions Bank was local; thus, there was no reason for these properties to remain in their current condition.
- Mr. Wiker opined 14 days was excessive.
- Ms. Lewis mentioned the grass had been cut.
- MOTION CARRIED UNANIMOUSLY.

L. 09-38017 - CODE COMPLIANCE OFFICER - DAWN LEWIS

Respondent: George & Margaret Brown

Address of Violation: 2122 Cassino Court

Violation of Section 10-1 & 10-1.1, Litter, trash, debris, stagnant water, excessive growth of vegetation, declared detrimental to health and safety; Section 26-8.11(c)(e), Property maintenance.

- Mr. Schmidt confirmed the respondents were not present.
- Mr. Meyer MOVED, Mr. Stevens SECONDED to enter not guilty pleas on behalf of the respondents. MOTION CARRIED UNANIMOUSLY.
- Ms. Lewis displayed several photographs of the subject property, located within City limits, stating on August 24, 2009, she observed tall grass and weeds throughout, overgrown landscaping and weeds and dead landscape debris. She noted approximately two weeks later, the homeowners advised they had started the process to clean up the property, adding she had since observed the grass and weeds had been cut and some landscaping had been trimmed. She concluded the Statement of Violation/Notice of Hearing was served on September 11, 2009, by certified mail.
- Mr. Meyer MOVED, Mr. Stevens SECONDED the City had presented a prima facie case. MOTION CARRIED UNANIMOUSLY.
- Mr. Meyer MOVED, Mr. Bailey SECONDED to find the respondent guilty, to issue a Cease & Desist Order requiring compliance within 14 days of receipt of the Board's Order or be subject to a fine of up to \$250 per day. MOTION CARRIED UNANIMOUSLY.

M. 09-37573 - CODE COMPLIANCE OFFICER - DAWN LEWIS

Respondent: Harold & Norma Jones

Address of Violation: 30 Hibiscus Drive

Violation of Section 26-3.13(g), SRO, Special Residential Overlay District, Parking of Vehicle; Section 26-3.13(h), SRO, Special Residential Overlay District, Front Yard Parking.

- Mr. Schmidt confirmed the respondents were not present.

- Mr. Meyer MOVED, Mr. Stevens SECONDED to enter not guilty pleas on behalf of the respondents. MOTION CARRIED UNANIMOUSLY.
- Ms. Lewis stated after receiving numerous complaints of a box truck and trailer being stored on the subject property in the evenings, located within City limits, she inspected the property on June 20, 2009, but did not personally observe same. She displayed a photograph taken very late at night depicting the box truck, noting she advised the residents they could not store a box truck or trailer on their property. She reported she continued to receive complaints on a weekly basis, adding the Police Department had issued citations and filed reports relative to right-of-way (ROW) parking and storage of the truck and trailer. She explained based on the Police reports, a Statement of Violation/Notice of Hearing was issued by certified mail but returned unserved; thus, she posted the property on September 4, 2009. She continued on September 6, 2009, a resident of the home, who was not the property owner, informed her the box truck and trailer would not be stored at the property any longer. She mentioned on August 16, 2009, at 11:30 p.m., she personally witnessed the truck and trailer on site.
- Mr. Meyer MOVED, Mr. Bailey SECONDED the City had presented a prima facie case. MOTION CARRIED UNANIMOUSLY.
- Mr. Ashworth MOVED, Mr. Meyer SECONDED to find the respondent guilty, to issue a Cease & Desist Order for future violations or be subject to a fine of up to \$250 per day. MOTION CARRIED UNANIMOUSLY.

N. 09-37451 - CODE COMPLIANCE OFFICER - DAWN LEWIS

Respondent: Raymond V. Perla

Address of Violation: 1748 Boca Raton Court

Violation of Section 10-1 & 10-1.1, Litter, trash, debris, stagnant water, excessive growth of vegetation, declared detrimental to health and safety; Section 10-2, Same, procedure when property owner(s) fail to remove; Section 26-8.11(c)(e), Property maintenance.

- Mr. Schmidt confirmed the respondent was not present.
- Mr. Meyer MOVED, Mr. Stevens SECONDED to enter a not guilty plea on behalf of the respondent. MOTION CARRIED UNANIMOUSLY.
- Ms. Lewis displayed several photographs of the subject property, located within City limits, stating on August 10, 2009, she observed tall grass and weeds throughout, overgrown landscaping and dead landscape debris. She mentioned she had been working on this property for almost one year and had experienced difficulty attaining service on the owner who was listed as an Australian resident; thus, she posted the

property on September 4, 2009, requiring compliance by September 19, 2009; however, the violations remained, adding the City had maintained the property on 4 occasions prior to this date.

- Mr. Meyer MOVED, Mr. Bailey SECONDED the City had presented a prima facie case. MOTION CARRIED UNANIMOUSLY.
- City Attorney Levin advised City Code provided for instances where an owner failed to maintain their property and showed no effort or ability to do so, stating the Board had the authority to maintain and lien such property for all associated costs.
- Mr. MacGibbon questioned the City's charge for maintenance.
- Ms. Lewis replied a \$50 administrative fee and \$23.85 per cut.
- Mr. MacGibbon MOVED, Mr. Meyer SECONDED to find the respondent guilty, to issue a Cease & Desist Order requiring compliance within 7 days of receipt of the Board's Order or be subject to a fine of up to \$250 per day and to place a lien against the property each time the City performed maintenance. MOTION CARRIED UNANIMOUSLY.

O. 09-37665 - CODE COMPLIANCE OFFICER - RANDY WRIGHT

Respondent: Douglas & Darla Wilder

Address of Violation: 530 Corto Andra

Violation of Section 26-8.11(g), Property maintenance; Section 26-8.26, Temporary Structures Prohibited; Section 26-8.11(c), Property maintenance; Section 7-32(a)(1), Violations of building code, penalties.

- Mr. Douglas Wilder, respondent, entered a plea of not guilty.
- Mr. Wright displayed photographs of the subject property, located within City limits, stating on August 6, 2009, in response to complaints from the City Manager and during a routine inspection, he observed the following violations: front, side and rear yards full of grass and weeds over 12 inches; a riding mower beside the garage parked among overgrown weeds; a sink laying in the driveway. He noted a subsequent inspection revealed a temporary structure in the rear yard, specifically a tarp over plywood, and a Portable On Demand (POD) unit placed without a permit. He stated Mr. Wilder asked what was involved in making the POD an actual shed, adding he explained a drawing must be submitted depicting how the POD would be framed and made to appear as a structure along with a building permit application; however, none of this had been done. He mentioned the sink and lawn mower had been removed from the front and side yards, respectively; however, the tarp over plywood and POD remained in the yard along with plywood throughout the property, over windows and leaning against the house along with two bus tires. He announced a Statement of Violation/Notice of Hearing was issued and received on August 10, 2009. He

concluded all violations remained as of August 26 and September 11, 2009, stating he also hand delivered a Notice of Hearing on the latter date.

- Mr. Meyer MOVED, Mr. Ashworth SECONDED the City had presented a prima facie case. MOTION CARRIED UNANIMOUSLY.
- Mr. Wilder displayed photographs on his digital camera taken this date, maintaining same appeared different from those shown by Mr. Wright. He explained he was hospitalized in July 2009 and was thus unable to make arrangements for the property to be maintained. He noted his original shed was replaced with a POD, adding he never received a complaint regarding the shed. He noted the tarp and plywood structure had been in place for 16 to 18 years with no complaints received relative to same; however, he could make arrangements for same to be dismantled as soon as he was financially able.
- Mr. MacGibbon commented Mr. Wilder's photographs showed quite a bit of work had been done.
- Mr. Wilder noted one piece of plywood remained in the yard to provide a base for his wheelchair.
- Mr. Ashworth asked if Mr. Wilder had any photographs of the rear yard.
- Mr. MacGibbon asked if the POD could be permitted permanently.
- Mr. Wright replied the POD must be framed in and made to look similar to the home with a roof, trusses, siding, etc. He recommending continuing this case for 30 days in light of the fact the respondent had made an effort to clean up the property, adding a provision must be made relative to the POD.
- Mr. MacGibbon MOVED, Mr. Stevens SECONDED to continue Case #09-37665 to October 28, 2009. MOTION CARRIED UNANIMOUSLY.

P. 09-37886 - CODE COMPLIANCE OFFICER - RANDY WRIGHT

Respondent: Florida First Escrow Company Trust

Address of Violation: 520 Allen Street

Violation of Section 9A-12(d), Nuisances specified, generally.

- Mr. Schmidt confirmed the respondent was not present.
- Mr. Meyer MOVED, Mr. Stevens SECONDED to enter a not guilty plea on behalf of the respondent. MOTION CARRIED UNANIMOUSLY.
- Ms. Lewis displayed photographs of the subject property, located within City limits, stating on August 12, 2009, he observed a partially dissembled vehicle on blocks. He mentioned he left a Courtesy Notice at that time but received no response. He reported a Statement of Violation/Notice of Hearing was issued and received on September 4, 2009. He explained the vehicle remained as of September 9, 2009. He

advised the property manager had been present at this hearing earlier but had to leave, stating the tenant had been given seven days notice to cure or deliver possession of the home; thus, the property manager had requested the Board allow fourteen more days to remove the vehicle.

- Mr. Meyer MOVED, Mr. Bailey SECONDED the City had presented a prima facie case. MOTION CARRIED UNANIMOUSLY.
- Mr. Meyer MOVED, Mr. Stevens SECONDED to find the respondent guilty, to issue a Cease & Desist Order requiring compliance within 14 days or be subject to a fine of up to \$250 per day. MOTION CARRIED UNANIMOUSLY.

Note: A 5 minute recess was called at 11:09 a.m.

Distressed/Foreclosed Properties

Q. 09-37931 - CODE COMPLIANCE OFFICER - RANDY WRIGHT

Respondent: Norman Buff & Ameritrust Mortgage Company

Address of Violation: 706 Royal Poinciana

Violation of Section 10-1 & 10-1.1, Litter, trash, debris, stagnant water, excessive growth of vegetation, declared detrimental to health and safety.

- Mr. Schmidt confirmed the respondents were not present.
- Mr. Meyer MOVED, Mr. Ashworth SECONDED to enter not guilty pleas on behalf of the respondents. MOTION CARRIED UNANIMOUSLY.
- Mr. Wright displayed several photographs of the subject property, located within City limits, stating this distressed property was being maintained by the City. He announced the property was posted on August 31, 2009, and scheduled to be mowed by the City on September 16, 2009. He requested a lien be placed against the property each time it was maintained by the City to allow reimbursement of its expenses.
- Mr. Bailey MOVED, Mr. MacGibbon SECONDED to lien the property each time the City maintained same. MOTION CARRIED UNANIMOUSLY.

R. 09-37921 - CODE COMPLIANCE OFFICER - RANDY WRIGHT

Respondent: Anthony & Lori Morgenthaler

Address of Violation: 2824 Vasco Street

Violation of Section 10-1 & 10-1.1, Litter, trash, debris, stagnant water, excessive growth of vegetation, declared detrimental to health and safety.

- Mr. Schmidt announced Case #09-37921 had been dismissed.

S. 09-38005 - CODE COMPLIANCE OFFICER - RANDY WRIGHT

Respondent: Francisco & Massiel Delcalle

Address of Violation: 359 Monaco Drive

Violation of Section 10-1 & 10-1.1, Litter, trash, debris, stagnant water, excessive growth of vegetation, declared detrimental to health and safety.

- Mr. Schmidt confirmed the respondents were not present.
- Mr. Meyer MOVED, Mr. Ashworth SECONDED to enter not guilty pleas on behalf of the respondents. MOTION CARRIED UNANIMOUSLY.
- Mr. Wright displayed several photographs of the subject property, located within City limits, stating this distressed property was being maintained by the City. He announced the property was posted on August 31, 2009, and mowed by the City on September 15, 2009. He requested a lien be placed against the property each time it was maintained by the City to allow reimbursement of its expenses.
- Mr. Bailey MOVED, Mr. MacGibbon SECONDED to lien the property each time the City maintained same. MOTION CARRIED UNANIMOUSLY.

T. 09-38007 - CODE COMPLIANCE OFFICER - RANDY WRIGHT

Respondent: Carlos Gonzales

Address of Violation: 418 Monaco Drive

Violation of Section 10-1 & 10-1.1, Litter, trash, debris, stagnant water, excessive growth of vegetation, declared detrimental to health and safety.

- Mr. Schmidt announced Case #-09-38007 had been dismissed.

U. 09-37673 - CODE COMPLIANCE OFFICER - RANDY WRIGHT

Respondent: Patricia Leverenz

Address of Violation: 4025 San Massimo Drive

Violation of Section 10-1 & 10-1.1, Litter, trash, debris, stagnant water, excessive growth of vegetation, declared detrimental to health and safety.

- Mr. Schmidt confirmed the respondent was not present.
- Mr. Meyer MOVED, Mr. Ashworth SECONDED to enter a not guilty plea on behalf of the respondent. MOTION CARRIED UNANIMOUSLY.
- Mr. Wright displayed several photographs of the subject property, located within City limits, stating this distressed property was being maintained by the City. He announced the property was posted on September 11, 2009, and scheduled to be mowed by the City on September 26, 2009. He requested a lien be placed against the property each time it was maintained by the City to allow reimbursement of its expenses.
- Mr. Meyer MOVED, Mr. MacGibbon SECONDED the City had presented a prima facie case. MOTION CARRIED UNANIMOUSLY.
- Mr. Meyer MOVED, Mr. Bailey SECONDED to lien the property each time the City maintained same. MOTION CARRIED UNANIMOUSLY.

V. 09-37926 - CODE COMPLIANCE OFFICER - RANDY WRIGHT

Respondent: Carol Boucher & Bank of America

Address of Violation: 619 Trumpet Tree

Violation of Section 10-1 & 10-1.1, Litter, trash, debris, stagnant water, excessive growth of vegetation, declared detrimental to health and safety.

- Mr. Schmidt confirmed the respondents were not present.
- Mr. Meyer MOVED, Mr. Ashworth SECONDED to enter not guilty pleas on behalf of the respondents. MOTION CARRIED UNANIMOUSLY.
- Mr. Wright displayed several photographs of the subject property, located within City limits, stating this distressed property was being maintained by the City. He announced the property was posted on September 9, 2009, and scheduled to be mowed by the City on September 24, 2009. He requested a lien be placed against the property each time it was maintained by the City to allow reimbursement of its expenses.
- Mr. Meyer MOVED, Mr. Bailey SECONDED the City had presented a prima facie case. MOTION CARRIED UNANIMOUSLY.
- Mr. Meyer MOVED, Mr. Ashworth SECONDED to find the respondent guilty and to lien the property each time the City maintained same. MOTION CARRIED UNANIMOUSLY.

W. 09-37601 - CODE COMPLIANCE OFFICER - RANDY WRIGHT

Respondent: Carol Lange

Address of Violation: 519 Port Bendres Drive

Violation of Section 10-1 & 10-1.1, Litter, trash, debris, stagnant water, excessive growth of vegetation, declared detrimental to health and safety

- Mr. Schmidt confirmed the respondent was not present.
- Mr. Meyer MOVED, Mr. Ashworth SECONDED to enter a not guilty plea on behalf of the respondent. MOTION CARRIED UNANIMOUSLY.
- Mr. Wright displayed several photographs of the subject property, located within City limits, stating this distressed property was being maintained by the City. He announced the property was posted on September 11, 2009, and scheduled to be mowed by the City on September 26, 2009. He requested a lien be placed against the property each time it was maintained by the City to allow reimbursement of its expenses.
- Mr. Meyer MOVED, Mr. Bailey SECONDED the City had presented a prima facie case. MOTION CARRIED UNANIMOUSLY.
- Mr. Meyer MOVED, Mr. Bailey SECONDED to find the respondent guilty and to lien the property each time the City maintained same. MOTION CARRIED UNANIMOUSLY.

- Mr. Ashworth questioned how often the City mowed these types of properties.
 - Ms. Lewis replied approximately once every three weeks during the rainy season.
- X. 09-37881 - CODE COMPLIANCE OFFICER - DAWN LEWIS
- Respondent: Scott & Janett Gould
- Address of Violation: 2854 Don Quixote Drive
- Violation of Section 10-1 & 10-1.1, Litter, trash, debris, stagnant water, excessive growth of vegetation, declared detrimental to health and safety.
- Mr. Schmidt confirmed the respondents were not present.
 - Mr. Meyer MOVED, Mr. Bailey SECONDED to enter not guilty pleas on behalf of the respondents. MOTION CARRIED UNANIMOUSLY.
 - Ms. Lewis displayed several photographs of the subject property, located within City limits, stating this foreclosed property was being maintained by the City. She announced the property was posted on September 14, 2009, and scheduled to be mowed by the City on September 29, 2009.
 - Mr. Meyer MOVED, Mr. Bailey SECONDED the City had presented a prima facie case. MOTION CARRIED UNANIMOUSLY.
 - Mr. Meyer MOVED, Mr. Stevens SECONDED to find the respondent guilty and to lien the property each time the City maintained same. MOTION CARRIED UNANIMOUSLY.
- Y. 09-37914 - CODE COMPLIANCE OFFICER - DAWN LEWIS
- Respondent: James & Marilyn Prange
- Address of Violation: 2531 Rio Largo Court
- Violation of Section 10-2, Litter, trash, debris, stagnant water, excessive growth of vegetation, declared detrimental to health and safety; Procedure when property owner(s) fail to remove.
- Mr. Schmidt confirmed the respondents were not present.
 - Mr. Meyer MOVED, Mr. Wiker SECONDED to enter not guilty pleas on behalf of the respondents. MOTION CARRIED UNANIMOUSLY.
 - Ms. Lewis displayed several photographs of the subject property, located within City limits, stating this foreclosed property was being maintained by the City. She announced the property was posted on September 4, 2009, and mowed by the City on September 19, 2009.
 - Mr. Meyer MOVED, Mr. Bailey SECONDED the City had presented a prima facie case. MOTION CARRIED UNANIMOUSLY.
 - Mr. Meyer MOVED, Mr. MacGibbon SECONDED to find the respondent guilty, to issue a Cease & Desist Order requiring compliance within seven days or be subject to a fine of

up to \$250 per day and to lien the property each time the City maintained same.
MOTION CARRIED UNANIMOUSLY.

AA. 09-38059 - CODE COMPLIANCE OFFICER - DAWN LEWIS

Respondent: Charles & Janet Chapman

Address of Violation: 3669 Aruba Court

Violation of Section 10-1 & 10-1.1, Litter, trash, debris, stagnant water, excessive growth of vegetation, declared detrimental to health and safety.

- Mr. Schmidt confirmed the respondents were not present.
- Mr. Stevens MOVED, Mr. Bailey SECONDED to enter not guilty pleas on behalf of the respondents. MOTION CARRIED UNANIMOUSLY.
- Ms. Lewis displayed several photographs of the subject property, located within City limits, stating this foreclosed property was being maintained by the City. She announced the property was posted on September 8, 2009, and scheduled to be mowed by the City on September 22, 2009.
- Mr. Meyer MOVED, Mr. Stevens SECONDED the City had presented a prima facie case. MOTION CARRIED UNANIMOUSLY.
- Mr. Meyer MOVED, Mr. Bailey SECONDED to find the respondent guilty, to issue a Cease & Desist Order requiring compliance within seven days or be subject to a fine of up to \$250 per day and to lien the property each time the City maintained same. MOTION CARRIED UNANIMOUSLY.

BB. 09-38101 - CODE COMPLIANCE OFFICER - DAWN LEWIS

Respondent: Juan Carrillo

Address of Violation: 331 Goldstein Street

Violation of Section 10-1 & 10-1.1, Litter, trash, debris, stagnant water, excessive growth of vegetation, declared detrimental to health and safety.

- Mr. Schmidt confirmed the respondent was not present.
- Mr. Meyer MOVED, Mr. Bailey SECONDED to enter a not guilty plea on behalf of the respondent. MOTION CARRIED UNANIMOUSLY.
- Ms. Lewis displayed several photographs of the subject property, located within City limits, stating this foreclosed property was being maintained by the City. She announced the property was posted on September 10, 2009, and scheduled to be mowed by the City on September 25, 2009.
- Mr. Meyer MOVED, Mr. Stevens SECONDED the City had presented a prima facie case. MOTION CARRIED UNANIMOUSLY.
- Mr. Meyer MOVED, Mr. Bailey SECONDED to find the respondent guilty, to issue a Cease & Desist Order requiring compliance within seven days or be subject to a fine of up to

\$250 per day and to lien the property each time the City maintained same. MOTION CARRIED UNANIMOUSLY.

CC. 09-37814 - CODE COMPLIANCE OFFICER - DAWN LEWIS

Respondent: Ronald Colpus

Address of Violation: 359 Capri Isles Court

Violation of Section 10-1 & 10-1.1, Litter, trash, debris, stagnant water, excessive growth of vegetation, declared detrimental to health and safety.

- Mr. Schmidt confirmed the respondent was not present.
- Mr. Meyer MOVED, Mr. Ashworth SECONDED to enter a not guilty plea on behalf of the respondent. MOTION CARRIED UNANIMOUSLY.
- Ms. Lewis displayed several photographs of the subject property, located within City limits, stating this foreclosed property was being maintained by the City. She announced the property was posted on September 3, 2009, and had been mowed by the City on September 18, 2009.
- Mr. Meyer MOVED, Mr. Bailey SECONDED the City had presented a prima facie case. MOTION CARRIED UNANIMOUSLY.
- Mr. Meyer MOVED, Mr. Bailey SECONDED to find the respondent guilty, to issue a Cease & Desist Order requiring compliance within seven days or be subject to a fine of up to \$250 per day and to lien the property each time the City maintained same. MOTION CARRIED UNANIMOUSLY.

DD. 09-38089 - CODE COMPLIANCE OFFICER - DAWN LEWIS

Respondent: Doug Fleischmann

Address of Violation: 221 Delido Court

Violation of Section 10-1 & 10-1.1, Litter, trash, debris, stagnant water, excessive growth of vegetation, declared detrimental to health and safety.

- Mr. Schmidt confirmed the respondent was not present.
- Mr. Meyer MOVED, Mr. Ashworth SECONDED to enter a not guilty plea on behalf of the respondent. MOTION CARRIED UNANIMOUSLY.
- Ms. Lewis displayed several photographs of the subject property, located within City limits, stating this foreclosed property was being maintained by the City. She announced the property was posted on September 4, 2009, and was scheduled to be mowed by the City on September 19, 2009.
- Mr. Meyer MOVED, Mr. Ashworth SECONDED the City had presented a prima facie case. MOTION CARRIED UNANIMOUSLY.
- Mr. Meyer MOVED, Mr. Bailey SECONDED to find the respondent guilty, to issue a Cease & Desist Order requiring compliance within seven days or be subject to a fine of up to

\$250 per day and to lien the property each time the City maintained same. MOTION CARRIED UNANIMOUSLY.

EE. 09-37942 - CODE COMPLIANCE OFFICER - DAWN LEWIS

Respondent: John Stefanik

Address of Violation: 2030 Padre Island Drive

Violation of Section 10-1 & 10-1.1, Litter, trash, debris, stagnant water, excessive growth of vegetation, declared detrimental to health and safety.

- Mr. Schmidt confirmed the respondent was not present.
- Mr. Meyer MOVED, Mr. Bailey SECONDED to enter a not guilty plea on behalf of the respondent. MOTION CARRIED UNANIMOUSLY.
- Ms. Lewis displayed several photographs of the subject property, located within City limits, stating this foreclosed property was being maintained by the City. She announced the property was posted on September 3, 2009, and was mowed by the City on September 19, 2009.
- Mr. Meyer MOVED, Mr. MacGibbon SECONDED the City had presented a prima facie case. MOTION CARRIED UNANIMOUSLY.
- Mr. Meyer MOVED, Mr. Bailey SECONDED to find the respondent guilty, to issue a Cease & Desist Order requiring compliance within seven days or be subject to a fine of up to \$250 per day and to lien the property each time the City maintained same. MOTION CARRIED UNANIMOUSLY.

FF. 09-37611 - CODE COMPLIANCE OFFICER - MARICELA PERDOMO

Respondent: Thomas & Deborah Coates

Address of Violation: 318 Fitzhugh Avenue

Violation of Section: 10-1 & 10-1.1, Litter, trash, debris, stagnant water, excessive growth of vegetation, declared detrimental to health and safety.

- Mr. Schmidt confirmed the respondents were not present.
- Mr. Meyer MOVED, Mr. Bailey SECONDED to enter not guilty pleas on behalf of the respondents. MOTION CARRIED UNANIMOUSLY.
- Ms. Perdomo displayed several photographs of the subject property, located within City limits, stating this distressed property was being maintained by the City. She announced the property was posted on September 4, 2009, and scheduled to be mowed by the City on September 21, 2009.
- Mr. Meyer MOVED, Mr. Ashworth SECONDED the City had presented a prima facie case. MOTION CARRIED UNANIMOUSLY.
- Mr. Meyer MOVED, Mr. MacGibbon SECONDED to find the respondent guilty, to issue a Cease & Desist Order requiring compliance within seven days or be subject to a fine of

up to \$250 per day and to lien the property each time the City maintained same.
MOTION CARRIED UNANIMOUSLY.

- City Attorney Levin announced Items GG, HH, II, JJ and KK could be consolidated for the purposes of hearing testimony as the respondent was the same in each case.

GG. 09-37980 - CODE COMPLIANCE OFFICER - MARICELA PERDOMO

Respondent: Waterside Design/Development LLC

Address of Violation: 2600 Magdalena Drive

Violation of Section 10-1 & 10-1.1, Litter, trash, debris, stagnant water, excessive growth of vegetation, declared detrimental to health and safety.

HH. 09-37982 - CODE COMPLIANCE OFFICER - MARICELA PERDOMO

Respondent: Waterside Design/Development LLC

Address of Violation: 2602 Magdalena Drive

Violation of Section 10-1 & 10-1.1, Litter, trash, debris, stagnant water, excessive growth of vegetation, declared detrimental to health and safety.

II. 09-37983 - CODE COMPLIANCE OFFICER - MARICELA PERDOMO

Respondent: Waterside Design/Development LLC

Address of Violation: 2606 Magdalena Drive

Violation of Section 10-1 & 10-1.1, Litter, trash, debris, stagnant water, excessive growth of vegetation, declared detrimental to health and safety.

JJ. 09-37984 - CODE COMPLIANCE OFFICER - MARICELA PERDOMO

Respondent: Waterside Design/Development LLC

Address of Violation: 2608 Magdalena Drive

Violation of Section 10-1 & 10-1.1, Litter, trash, debris, stagnant water, excessive growth of vegetation, declared detrimental to health and safety.

KK. 09-38062 - CODE COMPLIANCE OFFICER - MARICELA PERDOMO

Respondent: Waterside Design/Development LLC

Address of Violation: 2524 Magdalena Drive

Violation of Section 10-1 & 10-1.1, Litter, trash, debris, stagnant water, excessive growth of vegetation, declared detrimental to health and safety.

- Mr. Schmidt confirmed the respondent was not present.
- Mr. Meyer MOVED, Mr. Ashworth SECONDED to enter a not guilty plea on behalf of the respondent. MOTION CARRIED UNANIMOUSLY.
- Ms. Perdomo displayed several photographs of the subject properties, all located within City limits, stating these distressed properties were being maintained by the City. She announced the properties were posted on August 31, 2009, and scheduled to be mowed by the City on September 17, 2009, with the exception of 2524

Magdalena Drive, which was posted on September 2, 2009, and scheduled to be mowed by the City on September 19, 2009.

- Mr. Meyer MOVED, Mr. Bailey SECONDED the City had presented a prima facie case. MOTION CARRIED UNANIMOUSLY.
- Mr. Meyer MOVED, Mr. Bailey SECONDED to find the respondent guilty in all cases, to issue Cease & Desist Orders requiring compliance within seven days or be subject to a fine of up to \$250 per day and to lien the properties each time the City maintained same. MOTION CARRIED UNANIMOUSLY.

LL. 08-34971 - CODE COMPLIANCE OFFICER - MARICELA PERDOMO

Respondents: William and Carol Livingston
Benjamin Martin, Attorney
Wachovia Mortgage

Address of Violation: 1485 Raven Court

Violation of Section 10-1 & 10-1.1, Litter, trash, debris, stagnant water, excessive growth of vegetation, declared detrimental to health and safety.

- Mr. Schmidt confirmed the respondents were not present.
- Mr. Meyer MOVED, Mr. MacGibbon SECONDED to enter not guilty pleas on behalf of the respondents. MOTION CARRIED UNANIMOUSLY.
- Ms. Perdomo displayed several photographs of the subject property, located within City limits, stating this distressed property was being maintained by the City. She announced the property was posted on September 10, 2009, and scheduled to be mowed by the City on September 25, 2009.
- Mr. Meyer MOVED, Mr. MacGibbon SECONDED the City had presented a prima facie case. MOTION CARRIED UNANIMOUSLY.
- Mr. Meyer MOVED, Mr. Bailey SECONDED to find the respondent guilty, to issue a Cease & Desist Order requiring compliance within seven days or be subject to a fine of up to \$250 per day and to lien the property each time the City maintained same. MOTION CARRIED UNANIMOUSLY.

MM. 09-37463 - CODE COMPLIANCE OFFICER - MARICELA PERDOMO

Respondent: Thomas & D. Lavender Coates

Address of Violation: 208 West Grace Street

Violation of Section 10-1 & 10-1.1, Litter, trash, debris, stagnant water, excessive growth of vegetation, declared detrimental to health and safety.

- Mr. Schmidt confirmed the respondents were not present.
- Mr. Meyer MOVED, Mr. Bailey SECONDED to enter not guilty pleas on behalf of the respondents. MOTION CARRIED UNANIMOUSLY.

- Ms. Perdomo displayed several photographs of the subject property, located within City limits, stating this distressed property was being maintained by the City. She announced the property was posted on September 11, 2009, and scheduled to be mowed by the City on September 26, 2009.
- Mr. Meyer MOVED, Mr. Bailey SECONDED the City had presented a prima facie case. MOTION CARRIED UNANIMOUSLY.
- Mr. Meyer MOVED, Mr. Bailey SECONDED to find the respondent guilty, to issue a Cease & Desist Order requiring compliance within seven days or be subject to a fine of up to \$250 per day and to lien the property each time the City maintained same. MOTION CARRIED UNANIMOUSLY.

OLD BUSINESS

Hearings Imposing Penalty

- A. 08-35658 - CODE COMPLIANCE OFFICER - DAWN LEWIS
- Respondent: Doug Fleischmann
 Address of Violation: 221 Delido Court
 Violation of Section 26-8.11(a)(e), Property maintenance; Section 26-8.11(f), Property maintenance.
- Ms. Lewis announced the subject property, located within City limits, was in foreclosure but was still under the responsibility of the owner. She confirmed the violations had existed for 260 days.
 - Mr. Schmidt questioned the City's goal in cases such as this.
 - Ms. Lewis replied the City hoped to recover some of their costs.
 - City Attorney Levin explained the City's code enforcement liens were not superior over the bank's mortgage; however, he hoped banks would simply opt to pay off such liens during a foreclosure action.
 - Mr. Ashworth asked if such liens must be satisfied before a bank could sell a property on which they had foreclosed.
 - City Attorney Levin replied they did not.
 - Ms. Lewis mentioned the City had received payment of liens on some foreclosed properties in the past.
 - Discussion ensued with regard to the foreclosure process.
 - Mr. Meyer MOVED, Mr. Wiker SECONDED to impose a fine \$6,500 (\$25 per day for 260 days). MOTION CARRIED UNANIMOUSLY.
- B. 09-37157 - CODE COMPLIANCE OFFICER - DAWN LEWIS
- Respondent: Scott & Janet Gould
 Address of Violation: 2854 Don Quixote

Violation of Section 26-8.11(b), Property maintenance.

- Ms. Lewis requested the Board consider the neighbors who had been living near this property for quite some time.
- Mr. Meyer MOVED, Mr. Stevens SECONDED to impose a fine of \$4,550 (\$50 per day for 91 days). MOTION CARRIED UNANIMOUSLY.

C. 09-37375 - CODE COMPLIANCE OFFICER - DAWN LEWIS

Respondent: Scott & Janet Gould

Address of Violation: 2854 Don Quixote Drive

Violation of Section 10-1, Litter, trash, debris, stagnant water, excessive growth of vegetation, declared detrimental to health and safety; Section 26-8.15, Swimming pools.

- Mr. Meyer MOVED, Mr. MacGibbon SECONDED to impose a fine of \$3,150 (\$50 per day for 63 days), MOTION CARRIED UNANIMOUSLY.

Repeat Violators

D. 09-37438 - CODE COMPLIANCE OFFICER - Maricela Perdomo

Respondent: Jay Goldberg

Address of Violation: 879 Napoli Lane

Violation of Section 26-8.11(c)(e)(f), Property maintenance.

- Ms. Perdomo announced this was a foreclosed property, reporting repeat violations for five days.
- Mr. Meyer MOVED, Mr. MacGibbon SECONDED to impose a fine of \$125 (\$25 per day for 5 days). MOTION CARRIED UNANIMOUSLY.

E. 09-38024 - CODE COMPLIANCE OFFICER - MARICELA PERDOMO

Respondent: Ronald Fine

Address of Violation: 936 Lassino Court

Violation of Section 10-1 & 10-1.1 Litter, trash, debris, stagnant water, excessive growth of vegetation, declared detrimental to health and safety; Section 26-8.11(c), Property maintenance; Section 26-8.11(e), Property maintenance; Section 26-3.13(m), SRO, Special Residential Overlay District, Fence, Walls and Hedges.

- Mr. Schmidt noted the violations had existed for 25 days.
- Mr. Meyer MOVED, Mr. MacGibbon SECONDED to impose a fine of \$1,250 (\$50 per day for 25 days). MOTION CARRIED UNANIMOUSLY.

F. 09-38023 - CODE COMPLIANCE OFFICER - DAWN LEWIS

Respondent: Marc Fratello & William Randquist

Address of Violation: 2241 Bayview Road

Violation of Section 10-1 & 10-1.1, Litter, trash, debris, stagnant water, excessive growth of vegetation, declared detrimental to health and safety; Section 26-8.11(c)(e)(f), Property maintenance.

- Ms. Lewis stated the property had been out of compliance several times, adding the tenant had been evicted. She advised the landlord had requested the Board's leniency.
- Mr. Meyer MOVED, Mr. Bailey SECONDED to impose a fine of \$375 (\$25 per day for 15 days). MOTION CARRIED UNANIMOUSLY.

ADJOURNMENT

- Meeting Adjourned: 12:21 p.m.

Heinz Schmidt, Chairman

Mary Kelly, Recording Secretary