

## CODE ENFORCEMENT BOARD

A meeting of the Indian River County (IRC) Code Enforcement Board (the Board) was held in the Commission Chambers at the County Administration Building, 1801 27th Street, Building "A", Vero Beach, Florida on Monday, June 23, 2008 at 1:30 p.m.

Present were Chairman **Joe Petrulak**, Subcontractor Appointee; **Joe Garone**, General Contractor Appointee; **Cliff Suthard**, Member-at-Large Appointee; **Karl Zimmermann**, Realtor Appointee; **Keith Hedin**, Businessman Appointee and **Dana Stetser**, Architect Appointee.

Absent was **John Owens**, Engineer Appointee (excused).

Also in attendance was IRC staff: Roland DeBlois, Environmental and Code Enforcement Chief; Don Wixon, Code Enforcement Coordinator; Kelly Zedek, Betty Davis, Vanessa Carter Solomon and Rose Jefferson, Code Enforcement Officers. Others present: Attorney Suzanne Vitunac, Attorney for the Board and Reta Smith, Recording Secretary.

### 12:43:55 Call to Order

Chairman Petrulak called the meeting to order and the secretary called the roll, establishing that a quorum was present.

### 12:44:20 Approval of Minutes of May 19, 2008

**ON MOTION BY Mr. Suthard, SECONDED BY Mr. Hedin, the Board voted unanimously (6-0) to approve the minutes of May 19, 2008 as presented.**

### 12:44:31 Attorney's Overview of Board Purpose and Procedures

Attorney Vitunac gave a brief overview of the procedures and purpose of the Code Enforcement Board.

### 12:48:26 Agenda Additions or Deletions, Consent Items

Mr. Don Wixon, Code Enforcement Coordinator, reported the following cases

had either complied, been rescheduled, or were recommended by staff for an extension of time on the Consent Agenda: Cases #2008020052, #2008020097, #2008030172, #2007090125, #2007100110, #2007060007, #2007060047, #2007120088, #2008010083, #2008030009 and #2007120026 - 30 day extension until July 25, 2008. Cases #2007120030, #2008030107, #2007110074 and #2007120040 - 60 day extension until August 22, 2008. Cases #2008020076, #2008030082, #2008040211, #2008050116, #2008050046, #2008040171 and #2007040018 were rescheduled.

In compliance were Cases: #2008020095, #2008040109, #2008040118, #2008030096, #2008030035, #2008030026, #2008040045, #2008040025, #2008050007, #2008050022, #2008050024, #2008050062, #2008050146, #2008030141, #2008040138, #2008040131, #2008040222, #2008050001, #2008010048, #2008030080, #2008030087, #2007120064, #2008030053, #2008020100, #2008030167, #2008040088, #2008020058, #2008030055, #2008030099 and #2008060037.

Mr. Wixon requested the Board hear the cases involving James and Patricia Cook on pages four and six of the agenda at the beginning of today's meeting in order for IRC staff to attend.

Chairman Petrulak advised if anyone present had heard their name or case number called for a Consent item and wanted to be heard, they should get with their Code Enforcement Officer and the Board would accommodate their request.

12:58:29

**ON MOTION BY Mr. Hedin, SECONDED BY Mr. Suthard, the Board voted unanimously (6-0) to accept the Consent Agenda with the revisions and recommendation.**

12:58:41 **Swearing in of Those Who Will Testify**

The secretary proceeded to administer the testimonial oath to everyone who would be testifying at today's hearings.

12:59:17 **Case #2008030022 – James & Patricia Cook**

Inspector Kelly Zedek, IRC Code Enforcement Officer, explained she had received a complaint about illegal structures in a mobile home park, and this Evidentiary hearing was for a carport constructed without a permit. She submitted a photograph into evidence, which is on file in the Commission Office. Mr. Wixon







**Suthard, the Board voted unanimously (6-0) to approve staff's recommendation.**

It is noted for the record the Respondent was present for this hearing.

1:18:09 **Case #2008030135 – Marsha & Steven McGuffey**

Mr. Wixon advised the only outstanding violations were for junk, trash and debris and junk vehicles. Inspector Davis submitted an Affidavit of Service dated June 13, 2008 and photographs into evidence, which are on file in the Commission Office. She related the Respondent was of the opinion the trailer was like a utility shed, but because it was on a trailer and licensed through the Department of Motor Vehicles it could not be converted to a shed.

The Respondent stated the property was zoned limited commercial and he was licensed to propagate plants and move them around his site on the trailer. He maintained the IRC Planning Department had told him he was legal.

Discussion followed.

Mr. DeBlois summarized staff's position was the trailer was a junk vehicle and could not be used as a stationery shed and recommended 30 days, until July 25, 2008, for its removal and cleanup of the junk, trash and debris.

Mr. Zimmermann wondered if the issue could be resolved by giving a continuance and having a meeting with IRC Code Enforcement staff and the IRC Planner of the Day. Mr. DeBlois agreed to support a continuance until the next meeting.

1:31:52

**ON MOTION BY Mr. Zimmermann, SECONDED BY Mr. Suthard, the Board recommended this case be continued under the next Code Enforcement Board meeting on July 28, 2008.**

It is noted for the record the Respondent was present for this hearing.

1:33:45 **Case #2008040072 – Jimmy Thatcher & Kyle Thatcher**

Inspector Rose Jefferson, IRC Code Enforcement Officer, submitted a photograph and an Affidavit of Service dated June 13, 2008 into evidence, copies of





with no activity whatsoever, and since it was hurricane season the County looked at this as it would any other site and was asking the Board to find it was a hazard to public safety, health and welfare for any material at all to be on the property.

Discussion followed.

2:06:23

**ON MOTION BY Mr. Zimmermann, SECONDED BY Mr. Suthard, the Board voted unanimously (6-0) to hear the case in order to evaluate the information, and then make a motion to either support or deny the County's request.**

The Respondent wanted to know what authority the Board had to supersede the circuit court on the issues. Attorney Vitunac stated the Board was being asked to make a finding and if it turned out it was improper, the finding would become null and void.

Discussion ensued.

The Respondent maintained the Board had no jurisdiction as per Florida State 2006 Statute, Chapter 162.11. He added the reason the material was on the property was because the County's beach restoration contractor had removed his storage building used to store the majority of the material when it had done a beach restoration project and needed access to the beach.

Inspector Carter Solomon submitted photographs into evidence taken June 20, 2008, which are on file in the Commission Office, and compared them to photos previously submitted in July, 2007. Mr. Wixon testified it appeared 95% of the same material was still on the property.

Mr. DeBlois explained the County's public nuisance ordinance.

The Respondent asked what new material had been added. Mr. DeBlois said he had no knowledge of more material being brought to the property and it appeared to be similar, if not the same, materials. The Respondent inquired what material was a serious threat to public health and safety. Mr. DeBlois testified the unsecured junk, trash and debris was a potential threat in a hurricane situation.



Ms. Joan Willis of Brevard's Best Realty, representing the Respondent, testified the property was on the market for \$30,000 and the Respondent was asking for some relief from the fine because they would be lucky to break even on the property.

Discussion followed.

Mr. DeBlois recommended the Board reduce the fine to \$2,000. Mr. Zimmermann expressed concern about the number of foreclosures taking place; however he observed it was the bank's responsibility to address maintenance problems and hire staff to bring properties into compliance. He did not feel the Board would send a message to the responsible banking authorities by merely charging administrative costs. Mr. Suthard agreed with Mr. Zimmermann.

2:43:29

**ON MOTION BY Mr. Zimmermann, SECONDED BY Mr. Suthard, the Board voted unanimously (6-0) to set the fine at \$3,000 with the understanding the fine could be reimposed if the property did not stay in compliance until a new owner was involved.**

It is noted for the record the Respondent's representative was present for this hearing. .

2:47:40      **Case #2007110138 – John Jenkins & Jeanetta Parrott**

Mr. DeBlois related this case had originally gone to the Board in March, 2008, and staff had also cited Countrywide Home Loans Incorporated as the bank that was in a foreclosure mode on the property. He continued in April, 2008 when the case came to the Board for the Order Imposing Fine, staff had also recommended the Board consider a determination of public nuisance warranting abatement. The Respondents had subsequently given staff their consent to enter onto the property and clean it up and impose any clean up charges to the property, so the case had never officially been brought to the BCC for more formal option.

Mr. DeBlois submitted before and after photographs into evidence, which are on file in the Commission Office, and confirmed June 9, 2008 as the verified compliance date, which would be 44 days or \$4,400.

Ms. Wendy Wilson stated her and her client, Mr. Denny, had been in

negotiations with the Respondents' lender to short sell the mortgage, and requested a reduction or release of lien to facilitate the transaction. Mr. DeBlois felt \$4,400 was a reasonable fine and recommended the Board uphold this amount.

2:55:50

**ON MOTION BY Mr. Hedin, SECONDED BY Mr. Suthard, the Board voted (5-1) to approve staff's recommendation. Mr. Zimmermann in opposition.**

Mr. Zimmermann surmised the fine would be taken into consideration by the lending institution when it established a price for the property, and said he would be inclined to set the fine at something like the \$3,000 the Board had set on the previous case.

It is noted for the record the prospective owner's representative was present for this hearing.

2:58:59      **Case #2007080062 – David B. McAdams**

Mr. DeBlois recalled this case went to the Board in September, 2007 for an overgrown weeds violation, and the Board ultimately imposed the fine on October 20, 2007. He continued staff had confirmed compliance on March 10, 2008, which amounted to a total of 142 days and a flat fine of \$14,200.

Mr. James O'Brien of Billero & Billero Realty, representing the lender, stated the bank received the property on February 18, 2008, and had subsequently approved the expenditure of \$500 to have the grass mowed. He felt the bank had responded quickly to take care of the violation after receiving approval to expend that amount from its head office, and asked for a reduction in the fine.

Mr. DeBlois noted the bank was aware of the condition of the property in mid-February, 2008 and it was mowed in mid-March, 2008, which was approximately 30 days, and recommended the Board set the fine at \$3,000.

3:07:33

**ON MOTION BY Mr. Zimmermann to reduce the fine to \$2,000, based on the bank's quick response when notified of the violation. The motion died for lack of a second.**





Inspector Davis submitted photographs into evidence, which are on file in the Commission Office, and described site plan nonconformance, landscape maintenance and junk, trash and debris violations. Mr. DeBlois recommended the Board grant an extension of 30 days, until July 25, 2008.

3:20:35

**ON MOTION BY Mr. Zimmermann, SECONDED BY Mr. Hedin, the Board voted unanimously (6-0) to approve staff's recommendation.**

It is noted for the record the Respondent was not present for this hearing.

3:20:42      **Case #2008040192 – Justo Hernandez & Blanca Morejon**

Inspector Davis submitted a photograph and Affidavit of Service dated June 13, 2008 into evidence, which are on file in the Commission Office. She testified the property was in foreclosure and the violations were overgrown weeds and junk, trash and debris. Mr. DeBlois recommended an extension of 30 days, until July 25, 2008.

3:22:13

**ON MOTION BY Mr. Suthard, SECONDED BY Mr. Hedin, the Board voted unanimously (6-0) to approve staff's recommendation.**

It is noted for the record the Respondents were not present for this hearing.

3:22:21      **Case #2008040105 – Kenneth Gibbs Jr.**

Inspector Davis submitted photographs into evidence, which are on file in the Commission Office. She said she had spoken with the Respondent about his tenants leaving junk, trash and debris on the site, adding the junk vehicle violation had been resolved. Mr. DeBlois recommended the Board find a violation for junk, trash and debris and grant an extension of 30 days, until July 25, 2008, for compliance.

3:23:33

**ON MOTION BY Mr. Zimmermann, SECONDED BY Mr. Hedin, the Board voted unanimously (6-0) to approve**



Inspector Zedek reported she had not received service on this case.

3:26:22      **Case #2008040199 – Henry & Lisa Rodrigues**

Inspector Carter Solomon submitted photographs into evidence, which are on file in the Commission Office. She confirmed the unsecured vacant structure violation was in compliance but there were still overgrown weeds and junk, trash and debris on the property. Mr. DeBlois recommended the Board grant an extension of 30 days, until July 25, 2008.

3:27:09

**ON MOTION BY Mr. Zimmermann, SECONDED BY Mr. Hedin, the Board voted unanimously (6-0) to approve staff's recommendation.**

It is noted for the record the Respondents were not present for this hearing.

3:27:15      **Case #2008020136 – Charles Jones**

Inspector Zedek submitted a photograph into evidence, which is on file in the Commission Office, and described an accumulation of construction debris in the rear yard of the property. Mr. DeBlois recommended the Board grant an extension of 30 days, until July 25, 2008, for compliance.

3:27:43

**ON MOTION BY Mr. Hedin, SECONDED BY Mr. Suthard, the Board voted unanimously (6-0) to approve staff's recommendation.**

It is noted for the record the Respondent was not present for this hearing.

3:27:50      **Case #2008030070 – Gholamreza Torkman**

Inspector Jefferson submitted an Affidavit of Service dated June 13, 2008 and a photograph into evidence, copies of which are on file in the Commission Office. She confirmed the only violation outstanding was for overgrown weeds, and Mr. DeBlois recommended a 30 day extension, until July 25, 2008.

3:29:02

**ON MOTION BY Mr. Suthard, SECONDED BY Mr. Hedin, the Board voted unanimously (6-0) to approve staff's recommendation.**

It is noted for the record the Respondent was not present for this hearing.

3:29:09      **Case #2008020158 – Tammy & Ralph Proctor**

Inspector Zedek submitted a photograph into evidence, which is on file in the Commission Office, and explained this case involved an unpermitted shed. Mr. DeBlois recommended an extension of 60 days, until August 22, 2008, for compliance.

3:29:47

**ON MOTION BY Mr. Suthard, SECONDED BY Mr. Hedin, the Board voted unanimously (6-0) to approve staff's recommendation.**

It is noted for the record the Respondents were not present for this hearing.

3:29:56      **Case #2007120117 – Mark Cunningham**

Mr. DeBlois said this case was to be rescheduled.

3:30:40      **Case #2008040163 – Lester & Christina Hayes**

Inspector Carter Solomon submitted an Affidavit of Service dated June 9, 2008 and a photograph into evidence, which are on file in the Commission Office. She related this was a pool maintenance violation on property that was most likely going through a foreclosure. Attorney Vitunac felt this could be a health and safety problem under the public nuisance ordinance because if somebody fell in the pool nobody would know.

Mr. DeBlois recommended a ten day time frame for compliance, until July 3, 2008, with the written Order to be posted on the property. He noted the pool was built before 1978 so it did not require a full enclosure.



It is noted for the record the Respondents were not present for this hearing.

3:37:49      **Case #2008040217 – Humberto Gamez**

Inspector Davis submitted photographs into evidence, which are on file in the Commission Office. Mr. DeBlois recommended a 30 day extension, until July 25, 2008, for compliance of all the violations cited.

3:38:55

**ON MOTION BY Mr. Suthard, SECONDED BY Mr. Hedin, the Board voted unanimously (6-0) to approve staff's recommendation.**

It is noted for the record the Respondent was not present for this hearing. .

3:39:01      **Case #2008050002 – Robert & Kathleen Morrison**

Inspector Davis submitted photographs into evidence, which are on file in the Commission Office. She related she had received complaints about a large bus parked on the property, adding the junk, trash and debris violation was in compliance. Mr. DeBlois recommended a 30 day extension, until July 25, 2008.

3:39:55

**ON MOTION BY Mr. Hedin, SECONDED BY Mr. Suthard, the Board voted unanimously (6-0) to approve staff's recommendation.**

It is noted for the record the Respondents were not present for this hearing.

3:40:07      **Case #2008050013 – Diana Dorothy Sylvia**

Inspector Davis advised the junk, trash and debris violation had been resolved but there was one junk vehicle remaining. Mr. DeBlois recommended a 30 day extension, until July 25, 2008.

3:40:31

**ON MOTION BY Mr. Suthard, SECONDED BY Mr. Hedin, the Board voted unanimously (6-0) to approve staff's recommendation.**





It is noted for the record the Respondent was not present for this hearing.

3:36:44 **Case #2008050155 – David Van**

Inspector Jefferson advised she had not received service on this case.

3:46:55 **Case #2008050185 – Michael Hooker**

Inspector Jefferson stated there was no service on this case.

3:47:06 **Case #2008050187 – Stephanie Wright**

Mr. DeBlois withdrew this case as complied.

3:47:28 **Case #2008020151 – SDG Kings Inc.**

Inspector Carter Solomon testified the property was not in compliance but she had received correspondence from the property manager in Brevard County, and requested time to make contact with the Respondent. Mr. Wixon recommended the Board grant a 30 day extension, until July 25, 2008.

3:48:04

**ON MOTION BY Mr. Zimmermann, SECONDED BY Mr. Hedin, the Board voted unanimously (6-0) to approve staff's recommendation.**

It is noted for the record the Respondent was not present for this hearing.

3:48:17 **Case #2008040018 – Mark Curtis**

Inspector Davis submitted a photograph into evidence, which is on file in the Commission Office, and related the only issue remaining was a junk vehicle. Mr. DeBlois recommended the fine be imposed.

3:49:50

**ON MOTION BY Mr. Suthard, SECONDED BY Mr. Hedin, the Board voted unanimously (6-0) to approve staff's recommendation.**

It is noted for the record the Respondent was not present for this hearing.





**Hedin, the Board voted unanimously (6-0) to approve staff's recommendation.**

It is noted for the record the Respondent was not present for this hearing.

**LIEN RELEASE REQUESTS**

3:57:38 **Case #2006020009 – Michael Ciccotto**

Mr. DeBlois recapped the Respondent had built a dock the neighbor thought encroached into his riparian area and there was an issue of whether the dock was built according to the approved plan. He confirmed IRC staff had been working with the Respondent since 2006 to resolve the issues, and he ultimately got approvals from the State after paying a fine to them. Mr. DeBlois acknowledged there was a certain amount of miscommunication between the Respondent and IRC staff, and recommended the Board find compliance and rescind the fine.

4:00:15

**ON MOTION BY Mr. Hedin, SECONDED BY Mr. Zimmermann, the Board voted (5-1) to approve staff's recommendation. Mr. Suthard in opposition.**

It is noted for the record the Respondent was not present for this hearing.

4:01:38 **Case #2007060097 – Michael & Joan Purdy**

Mr. DeBlois related this had to do with a boat lift constructed without County electrical permits for a case that came before the Board in September, 2007. He summarized the fine was entered in February, 2008 and staff had confirmed a permit was pulled six days after that date, which accrued to \$600. He recommended the Board find compliance and set the fine in the amount of \$600.

4:03:42

**ON MOTION BY Mr. Hedin, SECONDED BY Mr. Suthard, the Board voted unanimously (6-0) to approve staff's recommendation.**

It is noted for the record the Respondents were not present for this hearing.

4:03:51 **Case #2008010004 – HSBC Bank USA, NA**

