

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, November 23, 2015 at 1:30 p.m.

Present were Chairman **Karl Zimmermann**, Realtor Appointee; **David Myers II**, Businessman Appointee, **Stephen Boehning**, Engineer Appointee; **Tony Gervasio**, Member-at-Large Appointee; **Joe Petrulak**, Subcontractor Appointee; **Pete Clements**, General Contractor Appointee.

Let the record show that there is a vacancy for an Architect Appointee.

Also in attendance was Attorney Jennifer Peshke, Attorney for the Board; IRC staff: Roland DeBlois, Environmental and Code Enforcement Chief; Betty Davis and Vanessa Carter Solomon, Code Enforcement Officers and Lisa Carlson, Recording Secretary.

9:23:40 **Call to Order**

Chairman Zimmermann called the meeting to order and led all in the Pledge of Allegiance. The secretary called the roll, establishing that a quorum was present.

9:24:59 **Approval of Minutes of**

ON MOTION BY Mr. Petrulak, SECONDED BY Mr. Myers II, the Board voted unanimously (6-0) to approve the minutes of October 26, 2015 as presented.

9:25:27 **Attorney's Overview of Board Purpose and Procedures**

Attorney Jennifer Peshke, Attorney for the Board, gave a brief overview of the procedures and purpose of the Code Enforcement Board.

9:30:00 **Agenda Additions or Deletions, Consent Items**

Mr. Roland DeBlois, IRC Environmental and Code Enforcement Chief, reported the following cases had either complied, been rescheduled, or were

recommended by staff for an extension of time on the Consent Agenda. Cases #2015090076, #2015080157 and #2015080098 – 30 day extension until December 25, 2015. Cases #2015030026, #2013060022, #2015020129, #2015060091, #2015040128, #2015040126, #2015060062, #2014100101, #2015060094, #2014120101, #2015040035, #2014100124, #201010086, #2015080027, #2015060084, #2015020028 and #2015060040 – 60 day extension until January 22, 2016. Cases #2015110023, #2015100143 and #2015090002 have been rescheduled.

In compliance were Cases #2015080126, #2015080036, #2015100138, #2015100139, #2015100141, #2015100034, #2015100036, #2015100027, #2015100015, #2015100007, #2015100152, #2015100110, #2015110008, #2015110011, #2015060142, #2015090026, #2015080049, #2015070139 and #2014090134.

Mr. DeBlois recommended that the Administrative Hearings be heard at 2:30 p.m. and that the Lien Release and Rehearing Requests be heard at 3:00 p.m. or later.

9:38:48

ON MOTION BY Mr. Boehning, SECONDED BY Mr. Gervasio, the Board voted unanimously (6-0) to accept the Consent Agenda with the revisions.

9:39:31 **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.

EVIDENTIARY HEARINGS

9:40:09 **Case #201507003 – Kelly Garceau and Tenant**

Ms. Vanessa Carter Solomon, IRC Code Enforcement Officer, submitted into evidence two photos, a site plan application and an Affidavit of Service indicating that the Subject Property had been posted on November 13, 2015. She testified that the Respondent was cited because the business use at the Subject Property had changed from automotive repair to towing and confirmed that the Respondent has begun the site plan approval process. The Respondent was also cited for a modular building that does not have a building permit and for parking issues that block access to the neighboring business that shares the driveway.

Respondent Mr. Kelly Garceau requested more time in order to complete the permitting process.

Mr. DeBlois recommended a 60 day extension, until January 22, 2016, to allow time for the permit approval process. He also recommended that the parking issue be resolved immediately as it affects the adjacent property.

The Respondent countered that the driveway is indeed shared with his neighbor but that both businesses experience the same parking concerns. He contends that the main cause of the problem is that the other business uses fifty percent of its parking area for storage.

9:49:48

ON MOTION BY Mr. Petrulak, SECONDED BY Mr. Myers II, the Board voted unanimously (6-0) to find the violation, order immediate compliance on the parking issues and grant an extension of 60 days, until January 2, 2016, to allow for approval of the site plan or a \$100 per day fine would be imposed.

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

9:50:38 **Case #2015090053 – Dynasty Properties of South Florida, Elizabeth Pons and Fittings Construction Inc.**

Inspector Ms. Betty Davis, IRC Code Enforcement Officer, submitted one photo into evidence and testified that this case involved an unpermitted sign as well as building permit issues for a shed, a fence, a beach crossover and a gazebo. The property was posted on November 13, 2015. She recommended a 90 day extension, until February 19, 2016, to relocate the shed, the fence, the gazebos and the beach crossover.

Respondent Mr. Toma Fettig of Fettigs Construction Inc., testified that the dock permit is being processed. He stated that he could not relocate the shed at this time because it is full of materials that will go back into the house on the Subject Property that is undergoing a major renovation. The gazebo has been removed.

10:00:03

ON MOTION BY Mr. Gervasio, SECONDED BY Mr. Boehning, the Board voted unanimously (6-0) to find non-compliance and grant an extension of 90 days, until February 19, 2016, for the Respondent to resolve building permit violations on the Subject Property, or a \$100 per day fine would be imposed.

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

10:00:31 **Case #2015100155 – Coalby Arms, LLC**

Inspector Davis submitted one photo into evidence and testified that the Subject Property was posted on November 17, 2015 for a violation involving a fence which was constructed without a permit and is encroaching onto neighboring property. She is awaiting a survey from the condominium association of the neighboring property, The Inlet at Sebastian. Staff recommended a 60 day extension, until January 22, 2016, for the fence to be permitted and relocated.

Respondent Mr. Matthew Thilmony of Coalby Arms, LLC stated that there is a dispute as to his property line but that he has always maintained the property inside the fence while the condominium association maintained the property south of the fence, never encroaching into his yard. In 2003, the condominiums were instructed by St. John's River Water Management District ("SJRWMD") to establish a 400-500 feet conservation area. In 2013, he received a letter from SJRWMD that the condominiums had done a survey and that the property line was basically touching his driveway then going at an angle towards the river. He's been unable to find a company to do a survey since then but has repeatedly offered to purchase the property. A couple of months ago he received a letter from the association stating that SJRWMD told them they needed to remove the fence, kill the grass and remove the palms. At that time he put up a No Trespassing sign and cordial negotiations ended. His attorney has prepared a lawsuit but hopes to negotiate.

Ms. Nancy Duval, Inlet at Sebastian Condominium Association President, testified that their property was surveyed in December of 2012, the property line ran very close to the Respondent's home, and although he's disputed it, has not produced a survey and in fact removed their survey's metal marker from his driveway. Since that time they have repeatedly asked the Respondent to remove the fence from their property. They are mandated by SJRWMD to maintain almost four acres of deeded conservation easement, keeping invasive and non-native species to less than ten percent and they have stayed in compliance at a cost of approximately

ten thousand dollars a year. The trees behind the Respondent's fence are non-native and are scheduled to be removed by their contractor in the next month. As for the sale of the land, it would require a one hundred percent affirmative vote from their 82 unit owners in order to transfer that 10-15 feet of land and she feels this would be unlikely and nevertheless would take a long time to accomplish.

10:24:12

ON MOTION BY Mr. Gervasio, SECONDED BY Mr. Boehning, the Board voted unanimously (6-0) to grant an extension of 60 days, until January 22, 2016, for the Respondent to resolve building permit violations on the Subject Property, or a \$100 per day fine would be imposed.

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

ADMINISTRATIVE HEARINGS

10:25:43 **Case #2015100156 – Gardens at River Grove HOA Inc.**

Mr. Deblois advised that the case related to a zoning citation and under the County's regulations, this case was scheduled as a potential opportunity for appeal. As the Respondent was not present for this hearing, he recommended that the Board ratify the citation.

10:26:22

ON MOTION BY Mr. Petrulak, SECONDED BY Mr. Gervasio, the Board voted unanimously (6-0) to uphold the citation as issued.

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

10:26:40 **Case #2015100159 – 6350 Shoppes LLC**

Mr. Deblois advised that the case related to a zoning citation and under the County's regulations, this case was scheduled as a potential opportunity for appeal. As the Respondent was not present for this hearing, he recommended that the Board ratify the citation.

10:26:48

ON MOTION BY Mr. Petrulak, SECONDED BY Mr. Gervasio, the Board voted unanimously (6-0) to uphold the citation as issued.

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

EVIDENTIARY HEARINGS

10:28:08 **Case #2015090139 – Titone Properties LLC and Tenant**

Ms. Vanessa Carter Solomon, IRC Code Enforcement Officer, submitted into evidence four photos and an Affidavit of Service indicating the Subject Property had been posted on November 13, 2015. She testified that this case involved junk, trash and debris accumulation and that while there has been some progress with the cleanup, there are still issues. She added that the Subject Property has been cited numerous times over the past several years with the Respondent eventually coming into compliance. She recommended a 30 day extension, until December 25, 2015 to bring the Subject Property into compliance.

Respondent Mr. Donald Dagerson, Tenant, assured the board that the cleanup would be complete within a week.

10:30:55

ON MOTION BY Mr. Petrulak, SECONDED BY Mr. Boehning, the Board voted unanimously (6-0) to grant an extension of 30 days, until December 25, 2015, for the Respondent to bring the Subject Property into compliance, or a \$100 per day fine would be imposed.

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

10:31:50 **Case #2015110026 – Lowe's Home Centers Inc.**

Inspector Davis submitted two photos into evidence and testified that this property was posted on November 13, 2015 and related to landscape maintenance issues. She stated that this is a recurring problem because their irrigation comes from a retention pond which allows debris to come through the pipes, clogging them and allowing the plants to die. Staff recommended a 30 day extension, until December 25, 2015, for the Subject Property to be brought into compliance.

Respondent Ms. Connie Durham of Merit Service Solutions, the company that maintains the Subject Property, testified that her company gets its irrigation water from the mall's retention pond and that they have no control over the pump system. The hedge in question was replaced in July because of inconsistent watering after Lowes chose to replace the shrubs rather than improve the irrigation system.

10:43:50

ON MOTION BY Mr. Gervasio, SECONDED BY Mr. Petrulak, the Board voted (4-2) to grant an extension of 30 days, until December 25, 2015, for the Respondent to bring the Subject Property into compliance, or a \$100 per day fine would be imposed. Mr. Myers and Mr. Boehning were the opposing votes.

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

COMPLIANCE HEARINGS

10:44:50 **Case #2015080025 – Steven and Kristina Wilton**

Mr. DeBlois testified that on September 28, 2015, the board entered an order finding violation with two tiered compliance. The Respondent did attend that hearing. By October 23, 2015, storage of more than one boat was to cease, all vehicles would demonstrate road worthiness and parking vehicles in the public right of way would stop. An after the fact permit for the shed was to be acquired by November 20, 2015 as well. There is still noncompliance on all issues.

Respondent Mr. Steven Wilton testified that he has two sets of permits for the sheds and doesn't understand why the county maintains that he has not acquired them. He feels that it's unfair that other people in his neighborhood seem to be allowed to park in the right of way but that he was cited for it. He went on to say that he's been parking his boats and vehicles this way for 27 years and doesn't understand why it's an issue since he lives on a dead end road.

Mr. DeBlois responded that the county ordinance does allow visitors to park in the right of way for up to 48 hours as long as it does not cause obstructions. He went on to say that the county code allows one boat per property and one additional boat for no more than two weeks in any given month and that they must be stored in a designated driveway or rear yard. He recommended an extension of 30 days, until December 25, 2015, to resolve the permit issues, ceasing the storage of vehicles and boats in the right of way and limiting the boat storage to one for the property.

11:01:15

ON MOTION BY Mr. Gervasio, SECONDED BY Mr. Myers II, the Board voted unanimously (6-0) to grant an extension of 30 days, until December 25, 2015, for the Respondent to bring the Subject Property into compliance, or a \$100 per day fine would be imposed.

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

LIEN RELEASE REQUESTS

11:03:37 **Case #2014120113 – Paul and Jodi Aliano and Federal National Mortgage Association**

Mr. DeBlois informed the Board that this case was related to overgrown weeds on the Subject Property. The start of the fine was April 27, 2015 and the compliance date was 188 days later on October 30, 2015. The flat fine would be \$18,800 with administrative costs of \$2000. He recommended reducing the fine to administrative costs only and to partially release the lien.

11:07:52

ON MOTION BY Mr. Gervasio, SECONDED BY Mr. Boehning, the Board voted unanimously (6-0) to reduce the fine to \$2000 and issue a partial release of lien for the Subject Property.

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

11:08:27 **Case #2000010082 – Frederick and Rita Mensing**

Mr. DeBlois informed the Board that this case was related to junk vehicles, trash and debris, zoning use violations and more than one mobile home on the Subject Property. The start of the fine was July 24, 2000 and a compliance date was 5476 days later on July 20, 2015 by a new owner. The flat fine would be \$547,600 with administrative costs of \$2000. He recommended reducing the fine to administrative cost only.

11:11:36

ON MOTION BY Mr. Gervasio, SECONDED BY Mr. Boehning, the Board voted unanimously (6-0) to reduce the fine to \$2000 against the Respondent.

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

EVIDENTIARY HEARINGS

11:23:25 **Case #2015090046 – Mark Treiling**

Mr. DeBlois submitted five photos into evidence and testified that this case was posted on November 3, 2015. Of the four items originally cited, the zoning district and junk vehicle issues have been resolved. However, the boat trailer storage as well as the junk, trash and debris issues remain. He recommended an extension of 60 days, until January 22, 2015 for the Subject Property to come into compliance.

11:25:00

ON MOTION BY Mr. Gervasio, SECONDED BY Mr. Myers II, the Board voted unanimously (6-0) to find the violations and grant an extension of 60 days, until January 22, 2016, for compliance or a \$100 per day fine would be imposed.

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

11:25:45 **Case #20150090061 – Daniel and Colleen Zicari**

Inspector Carter Solomon submitted three photos into evidence and testified that this case was posted on November 13, 2015. She testified that this violation was for an unsecured swimming pool on a property where the house has been demolished. She recommended an extension of 7 days, until November 30, 2015 for the Respondent to secure the pool so that it is not accessible by neighbors.

11:26:20

ON MOTION BY Mr. Petrulak, SECONDED BY Mr. Gervasio, the Board voted unanimously (6-0) to find the violations and grant an extension of 7 days, until November 30, 2015, for compliance or a \$100 per day fine would be imposed.

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

12:26:39 **Case #2015090125 – Francisco Soto and Chantal Garcia**

Inspector Carter Solomon submitted six photos into evidence and testified

that this case was posted on November 13, 2015. She testified that this violation is for overgrown weeds and recommended an extension of 30 days, until December 25, 2015 for the Respondent to bring the Subject Property into compliance.

11:27:21

ON MOTION BY Mr. Boehning, SECONDED BY Mr. Petrulak, the Board voted unanimously (6-0) to find the violations and grant an extension of 30 days, until December 25, 2015, for compliance or a \$100 per day fine would be imposed.

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

11:27:56 **Case #2015080065 – Michael Jaholkowski**

Inspector Carter Solomon submitted an Affidavit of Service indicating the Subject Property had been posted on November 13, 2015 along with two photos into evidence and testified that the violations were for overgrown weeds and property maintenance issues. She requested an extension of 90 days, until February 19, 2016, for the Respondent to bring the property into compliance.

11:28:52

ON MOTION BY Mr. Boehning, SECONDED BY Mr. Petrulak, the Board voted unanimously (6-0) to find the violations and grant an extension of 90 days, until February 19, 2016, for compliance or a \$100 per day would be imposed.

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

11:29:21 **Case 2015100160 – McNab & McNab “V” Inc.**

Inspector Davis submitted one photo into evidence and testified that the violations were for landscape and site plan issues. She posted the property on November 2, 2015. She requested an extension of 30 days, until December 25, 2015, for the Respondent to bring the property into compliance.

11:30:58

ON MOTION BY Mr. Boehning, SECONDED BY Mr. Petrulak, the Board voted unanimously (6-0) to find the violation and grant a 30 day extension until

December 25, 2015, for compliance or a \$100 per day fine will be imposed.

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

11:31:45 **Case #2015100039 – Red Warrior Holding Corp and The Stringer Firm, Chartered**

Inspector Davis submitted one photo into evidence and testified that the property was posted on November 12, 2015. She testified that the violations were for landscape and site plan issues. She requested of extension of 7 days, until November 30, 2015, for the Respondent to cease selling vehicles on the subject property and an extension of 60 days, until January 22, 2016, for the Respondent to fix the landscape issues and bring the property into compliance.

11:32:41

ON MOTION BY Mr. Boehning, SECONDED BY Mr. Gervasio, the Board voted unanimously (6-0) to find the violation and grant an extension of 7 days, until November 30, 2015, for compliance on the site plan violation and an extension of 60 days, until January 22, 2016 for compliance on the landscape issues, or a \$100 per day fine would be imposed.

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

11:32:55 **Case #2015100016 – Timothy McNamee**

Inspector Carter Solomon submitted an Affidavit of Service indicating that the property had been posted on November 13, 2015, along with three photos into evidence. She testified that the violation was for overgrown weeds and requested an extension of 30 days, until December 25, 2015 for the Respondent to bring the property into compliance.

11:33:54

ON MOTION BY Mr. Petrulak, SECONDED BY Mr. Clements, the Board voted unanimously (6-0) to find the violations and grant an extension of 30 days, until December 25, 2015, for compliance or a \$100 per day fine would be imposed.

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

11:34:09 **Case #2015100111 – Dean Mosley**

Inspector Carter Solomon submitted an Affidavit of Service indicating the property had been posted on November 13, 2015, along with one photo into evidence. She testified that the violation was for overgrown weeds and requested an extension of 30 days, until December 25, 2015 for the Respondent to bring the property into compliance.

11:34:59

ON MOTION BY Mr. Gervasio, SECONDED BY Mr. Petrulak the Board voted unanimously (6-0) to find the violations and grant an extension of 30 days, until December 25, 2015, for compliance or a \$100 per day fine would be imposed.

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

11:35:09 **Case #2015110003 – Paradise Central Corp. and Nural Islam**

Inspector Davis testified that the property had been posted on November 13, 2015 and submitted two photos into evidence. She testified that this was a landscaping and site plan nonconformance violation and requested an extension of 30 days, until December 25, 2015 for the Respondent to bring the property into compliance.

11:36:39

ON MOTION BY Mr. Petrulak, SECONDED BY Mr. Gervasio the Board voted unanimously (6-0) to find the violations and grant an extension of 30 days, until December 25, 2015, for compliance or a \$100 per day fine would be imposed.

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

COMPLIANCE HEARINGS

11:36:53 **Case #2015080113 – Pablo Almanzo and Fatella Asher**

Inspector Davis testified that the violation was for junk vehicles and citrus

equipment being stored on the Subject Property. The case initially came before the Board on September 28, 2015 and the Respondent was given a 60 day extension, until November 20, 2015 to come into compliance. Very little progress has been made and there has been no contact with the Respondent. She recommended that a \$100 per day fine be imposed with a start date of November 21, 2015.

11:37:58

ON MOTION BY Mr. Petrulak, SECONDED BY Mr. Boehning, the Board voted unanimously (6-0) to find the violation and impose a \$100 per day fine beginning November 21, 2015.

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

11:38:19 **Case #2015070113 – Paul D. Stauback**

Inspector Carter Solomon submitted three photographs into evidence and testified that the violation was for overgrown weeds and property maintenance issues. It originally came before the Board on October 26, 2015 and the Respondent was given a 30 day extension, until November 20, 2015 to come into compliance. She recommended that a \$100 per day fine be imposed with a start date of November 21, 2015.

11:38:51

ON MOTION BY Mr. Gervasio, SECONDED BY Mr. Boehning, the Board voted unanimously (6-0) to find the violation and impose a \$100 per day fine beginning November 21, 2015.

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

11:39:19 **Case #2015040137 – Titone Properties**

Inspector Carter Solomon testified that the case originally came before the Board on October 26, 2015 and the Respondent was given until November 9, 2015 to have an electrical contractor inspect, obtain permits and make the necessary repairs to ensure that the electrical system was safe. No permits have been issued. She recommended that a \$100 per day fine be imposed with a start date of November 10, 2015.

11:39:57

ON MOTION BY Mr. Gervasio, SECONDED BY Mr. Petrulak, the Board voted unanimously (6-0) to find the violation and impose a \$100 per day fine beginning November 10, 2015.

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

11:40:19 **Case #2015060027 – Tommy J. Cummings & Bank of America, N.A.**

Inspector Carter Solomon testified that the violation originally came before the Board on July 27, 2015 and the Respondent has since been granted two extensions but there has been no compliance to date. She recommended that a \$100 per day fine be imposed with a start date of November 21, 2015.

11:40:51

ON MOTION BY Mr. Petrulak, SECONDED BY Mr. Gervasio, the Board voted unanimously (6-0) to find the violation and impose a \$100 per day fine beginning November 21, 2015.

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

11:41:14 **Authorization for Notices to Appear**

ON MOTION BY Mr. Petrulak, SECONDED BY Mr. Boehning, the Board voted unanimously (6-0) to authorize the Notices to Appear for cases leading up to the January 25, 2016 meeting.

Other Matters

There were none.

Adjournment

There being no further business, the meeting was adjourned at 3:52 p.m.

Chairman Karl Zimmermann

Date

Lisa Carlson, Recording Secretary

Date