

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, 1840 25th Street, Vero Beach, Florida on Monday, February 27, 2006 at 1:30 p.m.

Present were Chairman Karl Zimmermann, Realtor Appointee; Vice Chairman Joe Garone, General Contractor Appointee; Joe Petrulak, Subcontractor Appointee; John Owens, Engineer Appointee; Cliff Suthard, Member-at-Large Appointee; Louis Schacht, Businessman Appointee and Dana Stetser, Architect Appointee.

Also in attendance were IRC staff: Roland DeBlois, Environmental and Code Enforcement Chief; Betty Davis, Debbie Clifford, Vanessa Carter Solomon, Rose Teague and Kelly Zedek, Code Enforcement Officers; and Reta Smith, Assistant to the Executive Aide.

Call to Order

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

Approval of Minutes of January 23, 2006

ON MOTION BY Mr. Suthard, SECONDED BY Mr. Petrulak, the Board voted unanimously (7-0) to approve the minutes of January 23, 2006 as presented.

Attorney's Overview of Board Purpose and Procedures

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

Chairman's Matters

Chairman Zimmermann advised he wanted to discuss the following items at this time in the agenda because they may have some impact when cases were called later on this afternoon.

Discussion of Board Policy on Abatement of Fines

Chairman Zimmermann perceived Board members had some feelings of consternation when cases came before the Board and fines were levied when compliance was not achieved, and after a period of time the matter came back to the Board for abatement of a fine. He cited a recent incident where a Respondent's attorney had done research on this subject and claimed the Board had reduced fines in other cases, so they ought to do so in that particular case. Chairman Zimmermann felt when individuals realized under most circumstances the larger fines would be abated when they were brought back to the Board it inhibited the purpose of the Board, which was to gain compliance from people who were in violation of County ordinances.

Chairman Zimmermann specified the Board had a tendency to fine \$100 a day for the first offense and \$200 per day for repeat violations, without taking into account any degree of compliance and/or cooperation, or the impact of the violation on neighbors' health and safety and other things. He asked the Board members for their viewpoints on these issues.

Mr. Suthard related the Board had proceeded for many years on a case-by-case basis. He felt it might be difficult to set up a system or standard for reconsideration when each case varied, and he did not think it was incumbent on the Board to set up a policy on rehearings. Mr. Suthard suggested perhaps there might be some opportunity to notify property owners periodically that a fine was accruing at a significant rate.

Mr. Petrulak noted every case was different and he felt it would be difficult to set things in stone, because the Board needed to base its decisions on each member using his own judgment.

Mr. Garone thought the Board had been a little inconsistent at the last meeting because he was opposed to giving a big reduction in one case and then upholding a large fine against someone else. Mr. Owens commented it was difficult if someone came in with a property worth \$25,000 and there was a \$250,000 lien against it. He wondered if there was some way of tracking those cases and keeping the fines from getting that far out of hand.

Mr. DeBlois pointed out for a property to get to a point where a fine was imposed it would have gone through a substantial process with an opportunity for someone to correct the violation. He specified if a Respondent had a reasonable

explanation as to why it took so long to resolve a violation the Board was fairly accommodating, and by the time a fine was imposed it generally represented a lack of effort on the part of the Respondent to comply. He stressed it was up the Respondent to notify staff when a property came into compliance, although at one time staff had periodically sent out letters to Respondents reminding them a fine had been accruing on their property. He said if the Board wanted this to be done again, staff could do so, but it would just add to the administrative costs of the case brought upon by the Respondent for not complying with County laws.

Mr. Schacht found it very hard to quantify what the Board's decision would be since it depended on how cooperative the Respondent was and whether they attended a meeting or not.

Chairman Zimmermann said the reason he had brought up the subject was because of public perception the Board had a much more lenient attitude towards rescinding fines than the City of Vero Beach. He wanted to get a feeling from the rest of members at this meeting because the only place it could be discussed was in the sunshine.

Attorney Vitunac reminded the Board there were three criteria for setting fines: the gravity of the violation, actions taken by the violator to correct the violation and any previous violations.

Chairman Zimmermann remarked the recommendations came from staff, and perhaps Mr. DeBlois could take a look at a variation of the fine amount based on those criteria, which would possibly in the long run stop some of larger amounts from accumulating.

Scheduling of Cases with Attorney Representation

Chairman Zimmermann wondered if it was fair to other people in the audience when a person who brought an attorney to present his case was moved to the head of the line, as opposed to taking their place on the agenda.

Mr. Garone, Mr. Owens, Mr. Suthard and Chairman Zimmermann did not think they should be moved up.

Mr. DeBlois explained the sequence of case scheduling was Compliance hearings, Evidentiary hearings and a time certain for Administrative hearings; with Requests for Rehearings and Lien Release Requests being heard at the latter part of the meeting. He continued the cases were listed on the agenda the way the case

number was sequentially assigned. He clarified if somebody requested to have their case heard at the beginning of the meeting for any reason, staff generally brought this to the Board's attention. Mr. DeBlois indicated there was no specific policy, but if IRC staff from other departments were attending as witnesses there was some public benefit not to have them sitting through a meeting while they could be doing other work. He stated the main reason he sometimes brought cases with attorney representation forward was when an attorney had expressed a schedule conflict, such as having a court case later in the afternoon.

Mr. Suthard thought we should continue to have a time certain for cases involving staff so it did not take them away from their other duties working for the taxpayers. As to those making special requests, he felt we should continue to decide on a case-by-case basis if the request seemed reasonable or there were special circumstances. Otherwise, he agreed with Mr. Garone that the cases should be taken in order.

Chairman Zimmermann thanked the Board members for their input and said he would be guided accordingly.

Agenda Additions or Deletions, Consent Items

Mr. DeBlois reported the following cases had either complied, been rescheduled, or were recommended by staff for an extension of time on the Consent Agenda: Cases #2005090141, #2005090142, #2005060042 and #2005110071 - 30 day extension until March 24, 2006. Cases #2005100044, #2005050269, #2005090058, #2005090059, #2005110018, #2005070012, #2005070013 and #2005070021 - 60 day extension until April 21, 2006. Cases #2005060077, #2003110010 and #2005020015 - 90 day extension until May 19, 2006. Cases #2005110042, #2006010001 and #2006010004 had been rescheduled.

In compliance were Cases #2005090072, #2005100078, #2005100049, #2006010003, #2005080100, #2005060083, #2005090045, #2005110038, #2005090101, #2005110104, #2005110121, #2005120006, #2005120011, #2005120012, #2005120020, #2005120049, #2006010020, #2005120095, #2006010032, #2006010010, #2005110112, #2005120078, #2005100120 and #2006020100.

Mr. DeBlois mentioned there were two cases involving staff from the IRC Solid Waste Disposal District (SWDD) and he requested those cases be heard at the beginning of the meeting. He pointed out there were two Administrative Hearings, several Lien Release Requests and a Rehearing Request involving Case

#2003050070, Farm Releaf, Inc.

Mr. Petrulak asked if there was any new information on the Farm Releaf, Inc. case. Mr. DeBlois stated the Respondent's attorney felt the Respondent was not aware he would have the opportunity to have sworn witnesses testify on the issue of fine setting and compliance, and was requesting reconsideration for that purpose. He noted this would be the third hearing if it was granted, and staff did not support it. Chairman Zimmermann asked if anyone wanted to make a motion concerning the rehearing. Mr. Suthard suggested it be included in the motion concerning agenda revisions.

ON MOTION BY Mr. Suthard, SECONDED BY Mr. Petrulak, to accept the Consent Agenda revisions and the Consent items, with the exception of the Rehearing Request by Farm Releaf, Inc.

Attorney Vitunac advised the Board would have a motion for rehearing when the case came up and would vote on whether or not they would rehear it at that time.

ON AMENDED MOTION BY Mr. Suthard, AMENDED SECOND BY Mr. Petrulak, the Board voted unanimously (7-0) to accept the Consent Agenda and the Agenda revisions and deletions.

Chairman Zimmermann explained if anyone present was on the Consent Agenda and wanted to be heard they should let the Board know, otherwise their case would be extended, based on staff's recommendation.

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.

Case #2006010079 – GL Homes

Mr. DeBlois pointed out there were actually two main Respondents in this case, GL Homes cited as the onsite construction company on the development site and Waste Pro Corporation, which was a waste hauling company. Mr. DeBlois explained the County had issued franchises to both Treasure Coast Refuse and Waste Management, and under the ordinance only franchised haulers could distribute and contract for dumpsters of 15 cubic yards or larger. He related oversized containers were used on the subject site in violation of County regulations.

Mr. DeBlois noted Waste Pro Corporation had been very cooperative in complying at this and various other sites. He was asking for a finding of current compliance, but requesting a continuing order to put the waste haulers and contractors on notice that if it occurred in the future there would be an automatic fine per container. He added the ordinance applied only to the Incorporated County as the other municipalities had their own regulations on the size of containers and how they were regulated.

Inspector Zedek testified there were more sites with oversized containers belonging to Waste Pro Corporation in the County and submitted a photograph into evidence of one of the containers, which is on file in the Commission office. She confirmed both Waste Pro Corporation and GL Homes had fixed the violation in a timely manner.

Ms. Polly Kratman, IRC SWDD Managing Director, related this was an ongoing problem in the County and she had sent letters to several solid waste hauling companies regarding compliance with roll-off containers. She specified other companies were welcome to do business in the County, but the containers must be less than 15 cubic yards in size. Ms. Kratman indicated most of the companies had been buying their containers to conform to the County ordinance, but there had been a few exceptions. She added both Respondents had contacted her personally the day they received the notices and had been very cooperative.

Ms. Kratman related the two companies sharing a franchise paid the County a franchise fee of 6% on their gross revenues, but the County received nothing in return from any of the other companies doing business here with roll-off containers at the construction sites.

Mr. Benny DeCachio, Waste Pro Corporation, said he was working with Inspector Zedek to be in compliance. He mentioned for the record the dumpster shown in the picture presented in evidence was a 14.9 cubic yards container.

ON MOTION BY Mr. Suthard, SECONDED BY Mr. Petrulak, the Board voted unanimously (7-0) to find the Respondents in compliance, but enter a continuing order so in case of a recurrence there would be an automatic fine of \$250 per container per day.

It is noted for the record both Respondents were present for this hearing.

Case #2006010080 – Warham Construction

Mr. DeBlois related this involved Warham Construction and another Respondent, Tri County Waste & Recycling, and was a similar case to the previous one with the use of oversize commercial containers by a non-franchised hauler. Inspector Zedek confirmed the Respondents were now in compliance and Mr. DeBlois recommended the Board find the Respondents had violated the cited section, were currently in compliance and a continuing order be established so if there was a recurrence by either Respondent an automatic fine of \$250 per container per day would be levied.

Inspector Zedek stated she had not received service back from Warham Construction. Mr. DeBlois indicated he would at least like to proceed with Tri County Waste & Recycling in this matter.

Mr. Anthony DeFrancisco, representing Tri County Waste & Recycling, mentioned during the past hurricanes there were no containers from the two companies that were franchised and contractors had nowhere to put their trash, which was when Tri County Waste & Recycling had come into the County with the larger containers. Mr. DeFrancisco related since that time they had purchased over \$300,000 worth of containers to comply with the codes, and the container in question was a mistake by one of his drivers.

Mr. DeBlois mentioned his staff had delayed enforcement until now because they understood the situation after the hurricanes.

ON MOTION BY Mr. Petrulak, SECONDED BY Mr. Suthard, the Board voted unanimously (7-0) to approve staff's recommendation.

It is noted for the record the Respondent from TriCounty Waste & Recycling was present for this hearing.

Case #2004060053 – Ethel Brown

Mr. DeBlois explained this case had been before the Board in August, 2004 for an illegal mobile home on property where a house already existed. The Board concluded at that time it was a zoning district use violation, however they decided to give an extended period of time for compliance. Mr. DeBlois recapped the case had come back to Board on August 22, 2005, at which time the Board granted a six

month extension until February 24, 2006. He summarized there had been no change in the situation and the Board would either have to grant more time or impose a fine.

The Respondent's daughter, Mae Johnson, stated her mother was 94 years old and requested the Board allow her to keep the trailer on the property until she passed away.

A discussion followed about how the property was being taxed.

Mr. DeBlois recommended a six month extension, until August 25, 2006.

ON MOTION BY Mr. Suthard, SECONDED BY Mr. Schacht, the Board voted unanimously (7-0) to approve staff's recommendation.

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

Chairman Zimmermann noted it was time for the Administrative Hearings. Mr. DeBlois stated he had received a request from the person who was the next regular case on the agenda, to be heard towards the beginning of the meeting, due to health conditions.

Case #2005080098 – Keith & Dian Milligan (75%)

Chairman Zimmermann said he would have to recuse himself from this case and a Voting Conflict form is on file in the Commission office.

Mr. DeBlois recapped this Compliance hearing involved an Order Finding Violation the Board entered on November 28, 2005. He specified the cited Respondents were 75% owners, and five secondary owners were also cited for a subdivision violation. He explained there was a parcel configuration established without Affidavit of Exemption or subdivision approval and a perimeter strip of 12 feet wide and 10 feet wide that was not compliance with the regulations.

Mr. DeBlois indicated this had come back to the Board on January 23, 2006 when the Respondent requested a rehearing, which the Board denied. He continued the order of November 28, 2005 gave the Respondent until February 24, 2006 to comply by applying for a subdivision plan or Affidavit of Exemption approval through the County Planning Division and conform to that configuration as approved, or to

reconfigure the property to eliminate the remnant strip and meet the zoning dimensional requirements. At this time, there was no indication there had been any application for approvals, so it was still not in compliance.

Respondent Mrs. Dian Milligan said she did not own any of the property and did not know why her name was on it. She claimed Mr. Milligan owned all of the property, except for six acres in the names of their children. Respondent Mr. Milligan contended the legal description cited on the order did not describe his property, nor did it directly relate to all of the Respondents, so there were major conflicts and he did not see how the order could stand. He insisted there was no piece of land left over and he had not created a remnant on his property. The Respondent stressed the Affidavit of Exemption was inappropriate because the definition in the code was the division of parcel into three or more parcels, and he not done that but had divided it into two. He added Attorney Vitunac had earlier said one criteria the Board should consider was how severe the problem was to the community and what harm would come from it, and the only person being harmed in this episode was Mr. Milligan and the people who wanted to purchase the property.

Mr. DeBlois reminded the Board this was not an Evidentiary hearing, but rather an issue of whether or not the Respondent had done anything towards compliance, which he had not. He asked the Respondent if he intended to reconfigure the property to comply with the code as directed or was he not planning to do that and was therefore addressing the issue of how much the fine should be. The Respondent stated he planned to appeal this and wanted to minimize the fine while waiting for the Circuit Court to make a decision. He wanted a reasonable fine considering the harm it was doing and the fact he had spent a great deal of time trying to resolve the issue with County staff, and could not get any cooperation.

Respondent Mrs. Milligan requested an extension, rather than a fine, so she could tell her children about what was going on with the property. Mr. DeBlois stated staff's position was they were all properly served because the Milligan's address was on the Property Appraiser's record for the children. He summarized if the Board wanted to grant an extension to allow for discussion among the owners as to the nature of the violation and what was required to correct it, staff would support 30 days; however if the Respondent intended not to comply and maintained the position he was not in violation, he recommended the fine be imposed.

Mr. Suthard asked the Respondents if there would be any consideration for compliance if an extension was given. Respondent Mrs. Milligan said yes, but Respondent Mr. Milligan stated there would not be on his part.

A discussion followed.

ON MOTION BY Mr. Petrulak, SECONDED BY Mr. Suthard, the Board voted unanimously (7-0) to find non-compliance and set the fine.

It is noted for the record the Respondents were present for this hearing.

ADMINISTRATIVE HEARINGS

Case #2006020098 – Robert Kasper & Maud Geng, Owners (Violators: Thomas Doyle, Richard Doherty, Jr. and Robert Cross)

Mr. DeBlois related this had to do with remodeling and hurricane repair by unlicensed contractors.

Mr. George Perez, IRC Building Inspector, testified he had received a complaint about unlicensed workers and had gone to the subject property to investigate. The homeowner, Robert Kasper, told Mr. Perez that Mr. Cross was a friend of his from Michigan who had invited two of his friends down to fix Mr. Kasper's house.

Mrs. Betty Beatty-Hunter, IRC Building Department Contractor Licensing Division, confirmed an owner building permit had been pulled for the work but all three of the workers were unlicensed.

Respondent Robert Cross related he was a friend of the owners and had come down to assist in the remodeling as they were having a difficult time finding contractors. He said it was his understanding the homeowner builder could hire relatives and friends, but he had since found out that was not the case. The Respondent indicated he was relocating to Florida and was in the process of getting his license. He admitted there was a violation but contended it was a misunderstanding and none of them had much money.

Mr. DeBlois noted as the contracting citation laws were written, the Board could either increase or rescind the fine but did not have the authority to reduce it.

Mr. Buddy Akins, IRC Building Official, said there was an owner builder affidavit that had to be signed on the form but in this case Mr. Kasper had not signed it. Chairman Zimmermann asked Attorney Vitunac what the implication was of the affidavit not being signed initially. Mr. Akins clarified they had cited the owner builder, but because of the misunderstanding with the signature they had withdrawn

that citation. Chairman Zimmermann felt it was pertinent because the owner was responsible for hiring the Respondents, and there was proof he did not know the rules because he did not sign the affidavit.

Mr. Petrulak pointed out ever since the 2004 hurricanes it had been well publicized about the importance of hiring licensed contractors.

ON MOTION BY Mr. Petrulak, SECONDED BY Mr. Suthard, the Board voted (6-1) to uphold the citations and the fines. Chairman Zimmermann opposed.

It is noted for the record the Respondents were present for this hearing.

Case #2006020099 – Anita St. Angelo/Roy Stayner, Owners (Violator: Nils Nedrelin, D/B/A Energy Coatings Corporation)

Mr. Akins advised the owner had not been cited in this case but he had cited the Respondent contractor for doing work the Building Department considered to be outside the scope of his license. He continued the Respondent was a licensed roofer who had repaired structural trusses, which he was not licensed to do.

The Respondent specified he was a state certified roofing contractor, and Chapter 489 of the Florida statutes stated “a roofing contractor means a contractor whose services are unlimited in the roofing trade; to install, maintain, repair, alter, extend or design a roof.” He stated almost all roofs that got torn off had some kind of wood damage, either through rot, termites or as in this case, impact damage. The Respondent explained a huge pine tree had fallen on the roof after Hurricane Wilma and there was a large hole in the roof and five trusses were damaged.

The Respondent confirmed he repaired the trusses, put back the roof deck and dried the roof in, which he contended was his only option. He continued either the owner or the insurance adjuster contacted an engineer who wrote a report recommending there should be gusset plates installed, so the Respondent had redone the work. The Respondent indicated the owner then brought in a building inspector who did not agree with the way the trusses were put together, so he had taken the roof apart again and done it the way the inspector had recommended and it passed inspection.

The Respondent did not agree with the citation. He related woodwork was something he ran into all the time, and he was allowed to do a certain percentage, but nobody knew exactly what they were allowed to do and not to do.

Mr. Akins asked the Respondent if he had repaired the flat deck over the back porch on the house, which included replacing some rafters. The Respondent replied in the affirmative. Mr. Akins advised the roof envelope started with the sheeting and everything below that was somebody else's job.

A discussion followed.

ON MOTION BY Mr. Suthard, SECONDED BY Mr. Petrulak, the Board voted unanimously (7-0) to confirm Citation 1015.

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

Case #2005070042 – BW Treasure Inc.

Mr. DeBlois related this concerned a landscape maintenance violation at the Wynn Dixie Plaza on Oslo Road that had gone to the Board in August, 2005. The Board's order at that time gave the Respondent until November 25, 2005 to bring the property into conformance with the site plan by replacing dead or missing landscape, with more extensions granted until February 24, 2006.

Inspector Teague submitted photographs into evidence, which are on file in the Commission office. She said she had visited the site today and there were numerous canopy trees missing and replacement shrubs did not meet the required 30 inch replacement height.

The Respondent's representative, Ms. Rene Hamelin, contended there were enough trees around the retention pond. Mr. DeBlois clarified there were two issues, the number of trees and the quality. The Respondent suggested doing a site plan revision because there was not enough room for the roots to grow out there.

Mr. DeBlois said he would support a 30 day extension, until March 24, 2006, to allow for resolution of certain issues with the site plan and for site plan revision.

ON MOTION BY Mr. Petrulak, SECONDED BY Mr. Owens to approve staff's recommendation.

Mr. Suthard suggested 30 days for administrative approval and another 30 days, until April 21, 2006, for compliance.

ON AMENDED MOTION BY Mr. Petrulak, AMENDED SECONDED BY Mr. Owens, the Board voted unanimously (7-0) to grant 30 days, until March 24, 2006, for a revised site plan and another 30 days, until April 21, 2006, for implementation.

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

Case #2005110095 – Bridgeton Real Fund 1

Mr. DeBlois specified this Evidentiary hearing was for sign violation and landscape maintenance issues. Inspector Davis explained there were numerous signs in the right-of-way and missing landscape on the property. She noted the sign violations were resolved however there were still trees and hedges missing.

The Respondent's representative, Ms. Christine Frances, agreed to meet with Inspector Davis regarding the site plan and coming into compliance. Mr. DeBlois recommended the Board find the sign violation had been resolved, and recommended 30 days, until March 24, 2006, for compliance of the landscape issue.

ON MOTION BY Mr. Owens, SECONDED BY Mr. Schacht, the Board voted unanimously (7-0) to approve staff's recommendation.

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

Case #2005110033 – LLC Sebastian Riverwalk Investors

Mr. DeBlois advised this involved site plan non-conformance for landscape maintenance and sign violations at a commercial plaza. Inspector Davis testified all the landscape was looking pretty bad and the property had been cited several times in the past because of sprinkler and maintenance problems. She noted the Respondent had done some work but the hedges were shorter than required and there were still dead trees on the site. Inspector Davis confirmed the sign violation had been resolved and recommended an extension of 60 days, until April 21, 2006.

Attorney Casey Walker, representing the Respondent, said 60 days would be fine.

ON MOTION BY Mr. Schacht, SECONDED BY Mr. Petrulak, the Board voted unanimously (7-0) to approve staff's recommendation.

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

Case #2006010002 – George French

Mr. DeBlois outlined this case involved an illegal business on residential property and a zoning district use violation. Inspector Davis stated she had received complaints from neighbors about parking of commercial equipment on the property. She mentioned this was a repeat violation and even though it was now in compliance she was asking for a continuing order.

The Respondent's wife, Donna French, related the Department of Transportation had purchased part of the property out front and her husband had been trying to clear the yard, which was why the backhoes were on the site.

ON MOTION BY Mr. Suthard, SECONDED BY Mr. Petrulak, the Board voted unanimously (7-0) to find there was a violation of the County's zoning ordinance, the property was currently in compliance, and enter an order so if the violation recurred there would be an automatic fine of \$100 per day.

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

Case #2005120007 – Jonnie Louis Ham

Inspector Davis indicated she had visited the site today and it looked a lot better, but there was one car out front without a tag. Mr. DeBlois thought the car would be covered under the junk, trash and debris violation, even though it was not specifically cited.

Attorney Vitunac suggested the Board find a junk, trash and debris violation had occurred, but was now in compliance. Mr. DeBlois said he would close the case out and bring it back if the junk vehicle issue was not taken care of.

ON MOTION BY Mr. Suthard, SECONDED BY Mr. Schacht, the Board voted unanimously (7-0) to find compliance in this case.

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

Chairman Zimmermann called for a ten minute break at 4:04 p.m. and reconvened the meeting at 4:14 p.m.

Case #2005120018 – Gholamrez Torkaman

Mr. DeBlois advised this Evidentiary hearing was for housing code violations, junk vehicles, and junk, trash and debris. He clarified the housing code violations related to broken and missing windows, siding and a roof gable and structure issues. Inspector Davis stated she was on the site today and there was one car that may not be currently licensed and piles of debris in the rear and front of the property. She submitted photographs into evidence, which are on file in the Commission office.

The Respondent insisted there were no broken or missing windows and he did not know which house they were talking about. He submitted his own pictures into evidence, which are also on file in the Commission office.

A discussion followed about whether or not a particular window was missing or broken. The Respondent said a tenant was living in the house and they had not complained about any missing windows. Inspector Davis described plywood in the windows in front and the east side of the house, however she noticed the property was a lot cleaner than it had been and the siding had been repaired.

Mr. DeBlois recommended the board find a violation for the windows, the junk vehicles and junk, trash and debris and grant an extension of 30 days, until March 24, 2006, to resolve the remaining violations.

ON MOTION BY Mr. Owens, SECONDED BY Mr. Suthard, the Board voted unanimously (7-0) to approve staff's recommendation.

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

Case #2005120035 – Robert & Cynthia Wingo

Mr. DeBlois related this had to do with junk vehicles, junk, trash and debris and boat and trailer storage. Inspector Davis indicated the Respondent had done a lot of work on the property since the violations had first come to her attention.

The Respondent specified his hobby was antique cars and was in the process of swapping engines and having one sent to be rebuilt, and it could take up to four months to get an engine back from the machine shop. Mr. DeBlois advised the antique vehicles should be stored in an enclosed area. He added the Respondent could have one boat and trailer, which was allowed to be stored in a designated driveway or a rear yard.

Inspector Davis observed there were numerous automobiles, tires and related items stored along the back of the property. The Respondent stated he had spent a lot of money on the property trying to clear spaces to keep his cars where they would not be objectionable to his neighbors. He added he had tried to find storage for the vehicles, but it was almost impossible due to the hurricanes.

Mr. DeBlois recommended an extension of 60 days, until April 21, 2006, for compliance.

ON MOTION BY Mr. Petrulak, SECONDED BY Mr. Suthard, the Board voted unanimously (7-0) to approve staff's recommendation.

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

Case #2005120048 – Reflections of Sebastian LLC

Inspector Davis related this case had been resolved.

Case #2005120053 – Gregory Palmer

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

Case #2005120092 – Thomas Scott

Mr. Petrulak excused himself from this hearing and turned in a Voting Conflict form, which is on file in the Commission office.

Mr. DeBlois advised this case related to site plan non-conformance for landscape maintenance and shielding a light source from adjacent properties on a

development called The Inlet at Sebastian. Inspector Davis confirmed the hedges had been replaced and the only thing remaining was the problem of light from the site emanating on neighboring property.

Shielding of the light source was discussed.

Mr. DeBlois wanted the record to reflect that by staff saying there was compliance on the landscape issue under this particular order, in no way were they indicating there was compliance on the issue of riverfront vegetation removal, which would be pursued as a separate case on this property. He recommended the Board find there was a violation for the lights and give the Respondent an extension of 30 days, until March 24, 2006, to comply.

Respondent Mr. Thomas Scott, Director of The Inlet at Sebastian, LLC, passed around a letter dated February 27, 2006, signed by him and addressed to the Board, along with other information which is on file in the Commission office. He stated he had an outside firm come out and test the lighting at the site and the company reported the light did not reach the adjacent property. The Respondent added he had also talked to Florida Power and Light (FP&L) about the street lighting and they said the wattage could be changed from 150 watts to 100 watts on the poles, but the poles were leased from FP&L and it was almost impossible to get them to do anything in 30 days.

Mr. DeBlois pointed out there was a reduced version of the site plan in the material handed out by the Respondent, and it contained a note stating "the source of illumination for any site lighting will be screened from adjacent properties and post certificate of occupancy, adjustments may be required". He stated in the past the policy had been to look at shielding of light versus watt illumination as a way of addressing the problem. He did not know if the issue of reducing the wattage had been fully evaluated by County Planning staff, and asked the Respondent if there had been any attempts made to shield the lights.

The Respondent replied they had been focusing on the safety of the people who used the roadway where the lights were located and he felt they had tried to accommodate the neighbor. Mr. DeBlois suggested the hearing could be postponed until staff had a chance to evaluate the lower wattage, or the Board could make a determination on the violation and set the compliance date to allow for full evaluation for compliance.

ON MOTION BY Mr. Suthard, SECONDED BY Mr. Owens, the Board voted unanimously (6-0) to continue the case until March 27, 2006 to allow staff time to review the evidence as submitted. Mr. Petrulak recused himself from the hearing.

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

Case #2005120087 – Victor Building, Inc.

Mr. DeBlois stated this was an Evidentiary hearing relating to junk, trash and debris and site plan nonconformance for landscape maintenance at a commercial plaza on State Road 60. Inspector Clifford submitted photographs into evidence, which are on file in the Commission office. She noted there was trash on the rear of the property and the doors were falling off the enclosed dumpster. Inspector Clifford pointed out a picture of a driveway on the site which needed fixing because it was dangerous.

The Respondent, Mrs. Carole Stetson, testified two years ago she had appeared before the Board and she had to put in an \$8,000 sprinkler system and paid \$24,000 for a sign. She specified her father had built the building and she did not know if there was a site plan, but she agreed it needed some trees. The Respondent argued tenants on the property also needed to have visibility for their businesses and signage.

Chairman Zimmermann mentioned the State Road 60 Corridor Plan required much more landscaping than the original site plan. He thought it would be better for her to conform to the current site plan rather than get a new one because she would have to get more trees and her tenants would probably end up with more coverage of their signage than they would if the Respondent conformed to the current plan. He suggested she review the current site plan and compare it to what the new plan would require if she were to modify the old one.

Mr. DeBlois agreed, pointing out there was some flexibility on the location of the tree planting to accommodate her new sign. He recommended an extension of 90 days, until May 26, 2006, for compliance.

ON MOTION BY Mr. Suthard, SECONDED BY Mr. Petrulak, the Board voted unanimously (7-0) to approve staff's recommendation.

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

Case #2006010016 – The Oaks of Vero HOA

Inspector Carter Solomon advised there was no service on this case.

Case #2005120016 – Rebecca Lynn King

Inspector Carter Solomon stated she had not received service.

Case #2005110114 – Home Depot USA, Inc.

Mr. DeBlois reported this Evidentiary hearing had to do with using designating parking areas for outdoor storage and maintenance of a retention pond and general landscape infractions per the original site plan. Inspector Carter Solomon reported she had received complaints from the nearby charter school regarding the stormwater management tract and some staff complaints about the outdoor storage use that had been established at the site. She submitted photographs into evidence, which are on file in the Commission office.

The Respondent's representative, Mr. Santiago Bernardez, specified the merchandise stored at the side of the building were deliveries going out that day, or items that had been dropped by the delivery trucks as they came in. He explained they could not run the fork lifts throughout the day because of customer safety, so this was done the same night. He stressed he wanted to come into compliance and wondered if there would be any way to get approval for the racking in the back of the building.

Mr. DeBlois recommended granting 30 days, until March 24, 2006, for the Respondent to get with IRC Current Development staff to submit an administrative approval application to modify the parking for any storage that might be allowed, and ultimately 60 days, until April 21, 2006, for full compliance.

The Respondent mentioned the children from the charter school had been hanging around the rear of the building where there were fork lifts and cars coming through, and at one time the police had to be called because the students were breaking into boxes. He asked if he could put a barricade or gate in the area to

deter people from walking back there. Chairman Zimmermann stated he was on the Board of Directors of the charter high school and he would talk to the administrators about informing the students they were not supposed to be on the back of the property.

ON MOTION BY Mr. Suthard, SECONDED BY Mr. Petrulak, the Board voted unanimously (7-0) to approve staff's recommendation.

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

LIEN RELEASE REQUESTS

Case #2004120073 – James & Tammy Richardson

Mr. DeBlois recapped this had to do with a Board order entered in February, 2005 for junk, trash and debris and establishing an outdoor storage use without approvals on a property zoned heavy commercial. The Board had directed the Respondents to obtain site plan approval and comply with the site plan or cease the storage use. After extended compliance dates it was ultimately determined compliance had not been achieved, and an Order Imposing Fine was issued with a starting date of November 26, 2005. Inspector Teague testified the Respondents had come into compliance by ceasing the storage on December 6, 2005, which meant the accrued fine amount was \$1,100.

Mr. Bill Moody, representing the Respondents, stated a lot of the delay was in getting the site plan approved originally. He noted the Respondent had admitted to parking vehicles on the lot for one day, which was the day Inspector Teague had inspected the property, and was renting a lot to store all his lawn equipment in. Mr. DeBlois contended there would have been at least three days of non-compliance, which would be a \$300 fine.

Mr. Petrulak commented it was always the Respondent's responsibility to call staff and let them know when compliance had been attained. Inspector Teague confirmed the Respondent had telephoned her on December 5, 2005 and told her he had removed the stored items, and she had verified it the next day.

ON MOTION BY Mr. Petrulak, SECONDED BY Mr. Schacht, the Board voted unanimously (7-0) to set the fine at \$1,000.

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

Case #2004060023 – Chase Meadows POA, Inc.

Mr. DeBlois related this concerned an Order Imposing Fine that occurred on October 23, 2004 for landscape non-compliance, and compliance had finally been confirmed on January 13, 2006. Inspector Teague testified the Respondent had applied for administrative approval to replace the landscaping with a fence on October 20, 2005 and had a final inspection January 9, 2006.

The Respondent's representative, Dottie Costellano, asked for a rescindment of the fine, claiming the builder, Mercedes Homes, had been getting all the notices from Code Enforcement and never told them about any fines. She indicated someone in the development had sold their home and the title company had called and told them there was a lien against the homeowners association. The Respondent clarified they had planted shrubbery three times, but the sprinkler system was inadequate and they had applied to erect a fence. She added the homeowners had filed a lawsuit against Mercedes Homes.

Mr. DeBlois calculated the fine as approximately \$45,000.

A discussion followed.

Attorney Vitunac opined this was impacting the wrong people and it might be a good idea to bring these cases against the developers as well as the property owners association in the future, to keep from letting them off the hook.

Mr. Petrulak noted this was another one of those cases where if someone looked at a piece of paper one year from now and did not know the circumstances, they would not understand what the Board was faced with. The Respondent stressed Mercedes Homes misrepresented themselves when they came to the meeting and said they were still the homeowners association, when they were not.

Mr. DeBlois advised administrative costs to the County for this case would amount to approximately \$2,100.

ON MOTION BY Mr. Petrulak, SECONDED BY Mr. Schacht, the Board voted unanimously (7-0) to set the fine at \$2,100.

It is noted for the record the Respondents representative was present for this hearing.

Case #2005050010 – Martin Salley

Mr. DeBlois recalled this had to do with a case that was initially heard in June, 2005 for junk vehicles and a subsequent Order Imposing Fine with a beginning date of August 20, 2005. Inspector Teague said she had inspected the property on September 30, 2005 and found it in compliance. Mr. DeBlois reckoned the fine would be approximately \$4,000.

Mr. Richard Salley, the Respondent's brother, related his brother was 84 years old and was presently living in Pennsylvania. He stated the Respondent was having the violation taken care of by a friend who had removed six of the seven vehicles involved, but had left one because he thought it would be sold. Mr. Salley stated as soon as he was aware of the fine he had flown down and had the last car removed. He asked for some relief from the fine.

Mr. DeBlois noted there were no extensions granted in this case and the administrative costs were just over \$1,500.

ON MOTION BY Mr. Suthard, SECONDED BY Mr. Schacht, the Board voted unanimously (7-0) to set the fine at \$2,000.

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

Case #2004050014 – Elitese Pierre

Mr. DeBlois summarized this concerned initial violations for junk vehicles, commercial vehicles, junk, trash and debris and no building permit, and ultimately when the Board entered its order the remaining issue had to do with a shed built without a permit. Inspector Zedek testified the shed was removed on December 19, 2005 and the start date of the fine was January 2, 2005. Mr. DeBlois figured the approximate amount of the fine as \$33,000.

Inspector Zedek related the Respondent had had a stroke and the Council on Aging had found out about the lien when they were helping him to sell the property so he could go into a home. Mr. Lauren Pinot, the Respondent's representative, who was trying to buy the home, said he did not know about the lien until he had

cleaned up the property and went to buy it.

Mr. DeBlois noted the administrative costs would be \$1,800, adding he would not support rescindment of the fine.

ON MOTION BY Mr. Owens, SECONDED BY Mr. Petrulak, the Board voted (6-1) to set the fine at \$2,000. Mr. Suthard in opposition.

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

Case #2004030010 – Thomas & Valerie Waters

Mr. DeBlois recapped this related to an Order Imposing Fine dating back to June, 2004, and had to do with an unlicensed junk vehicle and unpermitted shed on the subject property. He specified this had initially gone to the Board in May, 2004, and there was also a junk, trash and debris issue, which was subsequently resolved. Inspector Davis confirmed the property was currently in compliance, but she did not know when this had occurred.

Mr. Shannon Cook stated he had purchased the property on the Courthouse steps on June 22, 2005, at which time he was unaware of the lien against the property. He related the home looked abandoned, however it turned out people were living there and sleeping on lawn furniture and sleeping bags, and it had been very difficult to get them out. He said there was an old pick up truck on the property, which he had towed away on June 22, 2005. Mr. Cook indicated the title company had not turned up any liens, but when he went to resell it the lien showed up.

A discussion followed about how the property could be sold and closed without the County finding out and executing their lien again the seller.

Mr. DeBlois estimated the fine would be around \$58,000 and administrative fees would be approximately \$1,500. Mr. Cook advised he would only be making about \$3,000 profit on the venture.

ON MOTION BY Mr. Suthard, SECONDED BY Mr. Petrulak, the Board voted unanimously (7-0) to set the fine at \$2,000.

It is noted for the record the new owner, Mr. Cook, was present for this

hearing.

REHEARING REQUESTS

Case #2003050070 – Farm Releaf, Inc.

ON MOTION BY Mr. Petrulak, SECONDED BY Mr. Owens, the Board voted unanimously (7-0) not to hear this case.

Chairman Zimmermann pointed out since the Respondent was not present, the case would not have to be heard in any event. Mr. DeBlois thought it was good to have an official motion since the Rehearing Request was put forth by the Respondent's attorney.

Case #2005080009 – Brian V. & Sandra L. Sowell

Mr. DeBlois related this had to do with junk, trash and debris and junk vehicles. Inspector Clifford submitted a photograph into evidence, which is on file in the Commission office. She stated the junk, trash and debris had been resolved but there was still a junk vehicle on the property. Mr. DeBlois recommended the fine be imposed.

ON MOTION BY Mr. Suthard, SECONDED BY Mr. Petrulak, the Board voted unanimously (7-0) to approve staff's recommendation.

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

Case #2005060050 – Kimberly Duerden & Luke Paris

Inspector Davis advised she had not received service in this case.

Case #2005110093 – Patel Associates, Inc.

Inspector Davis summarized this was a site plan landscape violation where the Respondent had cut some 20 foot oaks down to stubs, but the sign violation had been resolved.

ON MOTION BY Mr. Schacht, SECONDED BY Mr. Petrulak, the Board voted unanimously (7-0) to find a landscape violation and grant an extension of 60 days, until April 21, 2006 for compliance.

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

Case #2005110096 – Leo & Eunice Llonch

Inspector Davis explained this was for landscaping and sign site plan violations. She indicated the sign violations were resolved and the Respondents were working on the landscape. Mr. DeBlois recommended an extension of 60 days, until April 21, 2006.

ON MOTION BY Mr. Owens, SECONDED BY Mr. Petrulak, the Board voted unanimously (7-0) to approve staff's recommendation.

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

Case #2005110050 – 43rd Avenue Investment, Inc.

Mr. DeBlois reported this concerned site plan non-compliance for an unenclosed dumpster. Inspector Carter Solomon confirmed the Respondent was in the process of selling the property and would be getting administrative approval to move the location of the car wash business on the site. She noted the next case on the agenda involved the same owner for both properties, but it was two different businesses. Mr. DeBlois recommended 60 days, until April 21, 2006, for compliance. He added his recommendation would be the same for both cases, but there would be two separate orders.

ON MOTION BY Mr. Petrulak, SECONDED BY Mr. Schacht, the Board voted unanimously (7-0) to approve staff's recommendation.

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

Case #2005110049 – 43rd Avenue Investment, Inc.

Chairman Zimmermann summarized this had been covered in the previous case (#2005110050).

Case #2005110001 – Joseph James III & Catherine Masi

Inspector Carter Solomon stated this was an overgrown weeds violation, and the Respondents were waiting for someone they had hired to come in and clear the property.

ON MOTION BY Mr. Suthard, SECONDED BY Mr. Petrulak, the Board voted unanimously (7-0) an extension of 30 days, until April 24, 2006.

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

Case #2005120008 – Willie Lewis III

Inspector Davis described this was cited for junk, trash and debris, junk vehicles and health and safety hazard/public nuisance. The Respondent worked out of town and had requested 60 days, until April 21, 2006, and that was Mr. DeBlois' recommendation.

ON MOTION BY Mr. Petrulak, SECONDED BY Mr. Owens, the Board voted unanimously (7-0) to approve staff's recommendation.

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

Case #2005120009 – Cynthia Stamps

Inspector Davis indicated this case had been closed.

Case #2005120010 – Isola Gunder Clayton

Inspector Davis submitted a photograph into evidence, which is on file in the Commission office. She summarized this was for junk, trash and debris and junk vehicles and recommended 60 days, until April 21, 2006, for compliance.

ON MOTION BY Mr. Suthard, SECONDED BY Mr. Petrulak, the Board voted unanimously (7-0) to approve staff's recommendation.

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

Case #2005120014 – Jessie Lewis

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

Case #2005120025 – George & Ruth Dix

Inspector Davis noted the Respondents still had some cleanup to do on junk vehicles, commercial vehicle and junk, trash and debris violations. Mr. DeBlois recommended 30 days, until March 24, 2006, for compliance.

ON MOTION BY Mr. Owens, SECONDED BY Mr. Schacht, the Board voted unanimously (7-0) to approve staff's recommendation.

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

Case#2005120024 – Wanda Y. Martin

Inspector Teague stated she had not received service.

Case #2005120093 – Lori Fitch Reidenger

Inspector Teague said she had not received service in this case.

Case #2005120050 – The Legend Trust

Mr. DeBlois related this concerned stormwater and junk, trash and debris violations. Inspector Clifford testified IRC Engineering staff had looked into the matter and told her there was a drainage issue because of an underground pipe running onto the neighbor's property. Mr. DeBlois recommended an extension of 30 days, until March 24, 2006, for compliance.

ON MOTION BY Mr. Suthard, SECONDED BY Mr. Schacht, the Board voted unanimously (7-0) to approve staff's recommendation.

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

Case #2005120055 – Lowe's Home Centers Inc.

Inspector Clifford summarized this related to outside storage and landscape

maintenance. She specified the Respondent had heavy equipment, trailers and a pod stored in the parking area and had several trees leaning and uprooted from the hurricanes. Inspector Clifford confirmed the Respondent had hired a landscaping company, who was working to correct the landscape issues. Mr. DeBlois recommended 30 days, until March 24, 2006, to remove the outside storage and 90 days, until May 26, 2006, to correct the landscape violations.

ON MOTION BY Mr. Owens, SECONDED BY Mr. Schacht, the Board voted unanimously (7-0) to approve staff's recommendation.

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

Case #2005120028 – Sally Johnson Edgecombe

Inspector Clifford said this was for overgrown weeds. She added there had originally been a house on the property but it had been condemned and knocked down, and there was a fine and a lien on the property for that. Mr. DeBlois recommended an extension of 30 days, until March 24, 2006, for compliance with the overgrown weeds issue.

ON MOTION BY Mr. Petrulak, SECONDED BY Mr. Schacht, the Board voted unanimously (7-0) to approve staff's recommendation.

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

Case #2005120076 – Frank & Rae Donna Gallina Jr.

Mr. DeBlois indicated this had to do with overgrown weeds and a recreation vehicle on the property with no tag. Inspector Carter Solomon stated the weeds were taken care of and the Respondent had told her he should have the tag within 30 days. Mr. DeBlois recommended an extension of 30 days, until March 24, 2006, for compliance.

ON MOTION BY Mr. Suthard, SECONDED BY Mr. Schacht, the Board voted unanimously (7-0) to approve staff's recommendation.

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

Case #2005120015 – Mark & Kathy Lehr

Inspector Teague stated some of the junk, trash and debris had been removed from the site and the rear yard still needed to be mowed. She submitted a photograph into evidence, which is on file in the Commission office. Mr. DeBlois recommended an extension of 30 days, until March 24, 2006, for compliance.

ON MOTION BY Mr. Owens SECONDED BY Mr. Schacht, the Board voted unanimously (7-0) to approve staff's recommendation.

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

Case #2005080111 – Jole & Sue Astrup

Inspector Carter Solomon submitted photographs into evidence, which are on file in the Commission office. She advised this case had been going on since August, 2005, and she had finally gotten the Respondents to accept service. Inspector Carter Solomon described a van parked in the yard with no tag and some flat tires and overgrown weeds in the side and rear yards. Mr. DeBlois recommended an extension of 30 days, until March 24, 2006.

ON MOTION BY Mr. Petrulak, SECONDED BY Mr. Schacht, the Board voted unanimously (7-0) to approve staff's recommendation.

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

Case #2005090160 – Paul D. Stauback

Inspector Carter Solomon advised there was no service in this case.

Case #2005090064 – Richart T. Tallman (Unit Owner: Higinio Perez Bravo)

Inspector Zedek noted Respondent Tallman was present earlier but had to leave. She continued the junk vehicle had been removed and the Respondent Bravo had one half of the addition torn down. Mr. DeBlois recommended an extension of 30 days, until March 24, 2006, to finalize the building permit issue.

ON MOTION BY Mr. Schacht, SECONDED BY Mr. Owens, the Board voted unanimously (7-0) to approve staff's recommendation.

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

LIEN RELEASE REQUESTS

Case #9802052 – Sally Edgecombe

Chairman Zimmermann noted since no one was present, the lien would stand.

Case #2005060081 – Robert & Debbie Rusch

Mr. DeBlois explained the Respondent had produced a vehicle registration that predated the compliance date on this junk vehicle violation, and therefore it was technically in compliance. He recommended a rescindment of the fine.

ON MOTION BY Mr. Petrulak, SECONDED BY Mr. Suthard, the Board voted unanimously (7-0) to approve staff's recommendation.

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

Authorization for Notices to Appear

ON MOTION BY Mr. Petrulak, SECONDED BY Mr. Suthard, the Board voted unanimously (7-0) to grant Authorization for Notices to Appear for April, 2006.

There being no further business, the meeting was adjourned at 6:34 p.m.