

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, February 23, 2009 at 1:30 p.m.

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

Absent was **Joe Garone**, General Contractor Appointee.

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

1:48:32 **Call to Order**

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

1:49:02 **Approval of Minutes of January 26, 2009**

ON MOTION BY Mr. Suthard, SECONDED BY Mr. Owens, the Board voted unanimously (6-0) to approve the minutes of January 26, 2009 as presented.

1:49:27 **Attorney's Overview of Board Purpose and Procedures**

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

1:53:23 **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 #2008090222, #2008090232, #2008090226, #2008110065, #2008120001, #2008110053, #2008070146, #2008080135, #2008080029, #2008090130, #2008070231, #2008100297, #2007060047 and #2008080134 - 30 day extension until March 20, 2009. Cases #2008100063, #2008100232, #2008040188, #2008090244 and #2008080039 - 60 day extension until April 24, 2009. Cases #2009010008, #2009010084, #2009010043, #2009010051 and #2009010138 were rescheduled. Case #2009010089 was withdrawn.

In compliance were Cases: #2008100024, #2008100133, #2008120247, #2008110167, #2009010114, #2009010036, #2008100091, #2008110160, #2009010073, #2008120269, #2009020141, #2006080073, #2008100027, #2008110046, #2008090057, #2008080151, #2008040183, #2008090017, #2008100107, #2008070265 and 2009020033.

Mr. Wixon requested the Board hear Case #2008060038, Lee & Kathleen Muschott, at the beginning of today's meeting in order for IRC staff to attend.

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

2:02:24

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

2:02:44 **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.

2:03:10 **Case #2008060038 – Lee & Kathleen Muschott**

Attorney Vitunac disclosed she had a potential conflict on this case and would refrain from participating in the discussions, and if the Board needed legal advice the case would have to be continued so legal input could be obtained elsewhere.

Mr. Roland DeBlois, IRC Environmental and Code Enforcement Chief, recapped an Order Finding Violation had been entered by the Board on September 22, 2008 for a violation of the County's noise and vibration ordinance. He explained a generator installed adjacent to the residence was designed to come on automatically once a week for a maintenance run consisting of a 12 minute period, and the noise reading for the generator at the adjacent property owner's property line was above the decibel threshold of the ordinance.

Mr. DeBlois related several extensions had been granted and the Respondent had made initial application for administrative approval to see if there was a way to mitigate the noise by building a sound proof wall or by some other method, and the Respondent advised he had turned off the unit since January 15, 2009 so the maintenance check did not occur. He acknowledged the case was technically in compliance since the generator was no longer running; however if the weekly test runs recurred without noise abatement it would be considered a repeat violation and the Respondent could be subject to an automatic fine.

Mr. Suthard wondered if staff had considered changing the ordinance to accommodate some variance in order for the generator to be checked.

Mr. DeBlois said if the Board wished to direct staff to review some of the issues it would be done; however in this particular case there was a neighbor who found it a particular nuisance given the characteristics of the site. Mr. Petrulak thought it was important for generators to be checked to assure they would be operational in the event of a power outage caused by a storm situation.

Discussion followed about what might happen in emergency situations such as a hurricane when many generators would likely be in use around the County.

Mr. Suthard opined he would not like to be put in a position to pass judgment on a violation to the code he did not think was acceptable in an emergency situation or preparation for such a situation, and as it stood now if a violator was brought to the Board the code would have to be enforced.

2:21:30

ON MOTION BY Mr. Suthard, SECONDED BY Mr.

Petrolak, the Board voted unanimously (6-0) to direct staff to evaluate the ordinance.

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

2:23:51 **Case #2008100066 – Martha Ortiz**

Mr. Andrew Scolero, representing J.P. Morgan as the lender on the property, stated it was in foreclosure. Attorney Vitunac asked if Respondent Martha Ortiz had been served. Mr. Wixon advised she had been served on February 17, 2009, and Attorney Vitunac concluded there had not been sufficient service to Respondent Ortiz.

Mr. Scolero confirmed the bank did not have title and a public auction was set for March 10, 2009. He asked if the case could be rescheduled for 60 days, until April 24, 2009, because the certificate of title would be issued by then and the bank could bring the property into compliance.

Mr. DeBlois advised no motion was necessary as the case would be withdrawn and brought back to the Board in 60 days if the situation was not resolved by that time.

2:26:21 **Case #2008120134 – William Pinheiro**

Mr. Wixon related this case involved Recreational Vehicle (RV) illegal use and a zoning district use violation.

The Respondent, Mrs. Deborah Pinheiro, testified she and her husband were in the process of remodeling their home after the 2004 hurricanes. She explained they had been ripped off by a contractor for a \$52,000 modular home and were having to resubmit plans to the County for a site-built home. The Respondent mentioned construction would begin on March 1, 2009, adding she was anxious to get out of the travel trailer and into her own home. She asked the Board to consider a 90 day extension.

2:31:02

ON MOTION BY Mr. Hedin, SECONDED BY Mr. Petrolak, the Board voted unanimously (6-0) to find a violation and grant an extension of 90 days, until May 15, 2009, for compliance.

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

2:31:28 **Case #2009010033 – Tracey Scarborough**

Ms. Vanessa Carter Solomon, IRC Code Enforcement Officer, related staff had issued a home occupation license to the Respondent for a lawn and landscape business, which was basically to use the home as a business address with no storage or display of material on the premises. She noted there had originally been a sign violation that had been resolved; however material was being stored on site in violation of the permit and zoning district use. Ms. Carter Solomon submitted photographs into evidence, which are on file in the Commission Office, and described trees and flowers in pots being stored at the property.

The Respondent stated he was using the plants as a buffer because of construction involved with widening State Road 60 in front of his property.

Ms. Carter Solomon observed the plants were in pots and none of them had been put in the ground to form a buffer, and mentioned there had been an Order on the Respondent a couple of years ago for the same violation. She contended this was an advertising mechanism to attract customers and there should be no indication a business was being run from the residence. Mr. Wixon recommended the Board find a violation and grant 30 days, until March 20, 2009, for the Respondent to remove all the plant material off the property.

2:38:28

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

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

2:39:58 **Case #2009010044 – Nicholas Diaz**

Inspector Carter Solomon submitted photographs into evidence, which are on file in the Commission Office, and described overgrown weeds in the rear yard and an untagged vehicle at the site.

The Respondent testified he would move the vehicle and a boat from the

property and mow the yard even though the home was going through foreclosure.

Mr. Wixon advised the Respondent he was responsible for the grass until the bank actually took title of the property and recommended an extension of 30 days, until March 20, for compliance.

2:43:51

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

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

LIEN RELEASE REQUESTS

2:44:47 **Case #2008080003 – Doyal & Dianna Cox**

Mr. DeBlois recapped this case had first come to the Board in September, 2008 for a gazebo and shed built without permits, and ultimately the Board had imposed the fine as of November 22, 2008. He advised the Respondent had succeeded in getting a permit and a final inspection on the shed; however he still need to resolve a few issues to obtain final inspection approval for the gazebo. Mr. DeBlois stated the accumulated fine as of today's date was 93 days, or \$9,300.

Mr. DeBlois noted the Respondent had made recent progress and was working with staff to come into compliance, and recommended a conditional setting of the fine at \$2,000 provided the Respondent got the final inspection for the gazebo within 30 days, by March 20, 2009.

Mr. Suthard did not understand why the Board would not wait until the violation was fully complied and then set a fine. Mr. DeBlois explained the Respondent would be out of town for an extended period of time by the end of this month and was trying to wrap up loose ends. He added if compliance was not achieved within the 30 days it would revert to the original accruing fine, just as if the condition was not set.

2:49:09

ON MOTION BY Mr. Owens, 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.

2:49:25 **Case #2005090103 – Joseph S. Filburn**

Mr. DeBlois related this matter had originally been to the Board in November, 2005 for health and safety hazard/public nuisance, junk, trash and debris and other violations. He clarified the main issue was the condition of the premises after the 2004 hurricanes and use of the property as a rooming house along with noise and housing code issues, and ultimately the Board had imposed the fine which had been accruing as a recorded lien since March 25, 2006.

Mr. DeBlois explained the IRC Building Department had proceeded with a condemnation procedure, and the records indicated as of February 22, 2008 the County contracted and completed demolition work on the property. At that time there was still debris on the site and staff concluded it had finally come into compliance on January 22, 2009. He calculated the fine up to the date of final cleanup as 1,034 days, or \$103,400.

Ms. Betty Davis, IRC Code Enforcement Officer, noted the cost of the demolition in the amount of \$11,950 was recorded separately from the Board's Order.

Attorney Rene Vandeborde, representing the Respondent (2:57:03), gave a brief history of the property and circumstances involving the Respondent's access to the site and subsequent incarceration in the County jail. He advised the demolition fines had been paid in full and requested a reduction in the amount of the CEB fines.

Discussion followed.

3:06:17

**ON MOTION BY Mr. Hedin, SECONDED BY Mr. Owens,
the Board voted unanimously (6-0) to confirm
compliance and set the fine at \$5,000.**

It is noted for the record the Respondent and his attorney were present for this hearing.

3:07:34 **Case #2009010123 – Kenneth Holms, Jr.**

Mr. Wixon summarized this Evidentiary hearing had to do with a corner

visibility violation for brush and trees on property owned by the Respondent blocking visibility onto a through street.

The Respondent agreed to meet with County staff and cut the material back to specifications as instructed.

Mr. Wixon recommended an extension of 30 days, until March 20, 2009, for compliance.

3:12:17

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

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

3:15:14 **Case #2008090011 – SS&M Automotive Inc.**

Attorney Vitunac stated there was not sufficient service on this case and it would have to be rescheduled.

3:16:15 **Case #2008100113 – Margaret & Lucien LePage (National City Bank)**

Ms. Rose Jefferson, IRC Code Enforcement Officer, submitted a photograph and an Affidavit of Service dated February 13, 2009 into evidence, which are on file in the Commission Office. She testified she had received numerous complaints about overgrown weeds on the subject property and recommended an extension of 30 days, until March 20, 2008, for compliance.

3:17:34

ON MOTION BY Mr. Petrulak, 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.

3:17:43 **Case #2008100130 – Joshua Arsenault (Wells Fargo Bank)**

Inspector Jefferson submitted photographs and an Affidavit of Service dated February 13, 2009 into evidence, which are on file in the Commission Office, and

stated the violation involved overgrown weeds over 12 inches in height. Mr. Wixon recommended an extension of 30 days, until March 20, 2009, for compliance.

3:18:47

ON MOTION BY Mr. Suthard, SECONDED BY Mr. Petrulak, 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.
3:18:58 **Case #2008120258 – Ernest & James Boyette**

Inspector Carter Solomon submitted photographs into evidence, which are on file in the Commission Office. She advised the boat/trailer storage violation was in compliance but there were still overgrown weeds and junk, trash and debris on the premises, and recommended an extension of 30 days, until March 20, 2009, for compliance.

3:20:02

ON MOTION BY Mr. Hedin, SECONDED BY Mr. Petrulak, 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.
3:20:14 **Case #2008100075 – Susan Kay McGowan**

Inspector Carter Solomon submitted photographs and an Affidavit of Service dated February 13, 2009 into evidence, which are on file in the Commission Office, and described junk, trash and debris on the subject property. She recommended an extension of 30 days, until March 20, 2009, for compliance.

3:21:33

ON MOTION BY Mr. Petrulak, 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.
3:21:49 **Case #2008100019 – Delia Arocha (Alvelo Mortgage)**

Inspector Davis submitted a photograph into evidence, which is on file in the

Commission Office. She testified this was an overgrown lot on property going through foreclosure and recommended an extension of 30 days, until March 20, 2009, for compliance.

3:22:12

ON MOTION BY Mr. Hedin, SECONDED BY Mr. Owens, 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.

3:22:21 **Case #2008100098 – Daniel LoPresti**

Inspector Jefferson submitted a photograph and an Affidavit of Service dated February 13, 2009 into evidence, which are on file in the Commission Office, and testified this was an overgrown weeds violation. She recommended an extension of 30 days, until March 20, 2009, for compliance.

3:22:51

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.

3:23:02 **Case #2009010042 – Rebecca Alfonso**

Inspector Carter Solomon submitted a photograph into evidence, which is on file in the Commission Office, and pointed out junk, trash and debris on the site. She recommended an extension of 30 days, until March 20, 2009, for compliance.

3:23:49

ON MOTION BY Mr. Petrulak, SECONDED BY Mr. Owens, 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.

3:23:55 **Case #2009010046 – Joesceffis Storey & Shaunna Whitfield**

Inspector Carter Solomon submitted photographs and an Affidavit of Service

dated February 13, 2009 into evidence, which are on file in the Commission Office. She related there had been a foreclosure proceeding on the property but it had been dismissed and she was not sure what the status was. She testified some trees had been cut down and all the limbs and debris were left on the site along with a junk vehicle and overgrown weeds.

3:24:52

ON MOTION BY Mr. Suthard, SECONDED BY Mr. Petrulak, the Board voted unanimously (6-0) to find the violations and grant an extension of 30 days, until March 20, 2009, for compliance.

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

3:25:04 **Case #2009010126 – Carmen Salinas Olquin**

Mr. Wixon related the Respondent had built a metal carport structure in the front yard that was packed with junk, trash and debris, along with illegal RV use. He recommended an extension of 60 days, until April 24, 2009.

Attorney Vitunac inquired in the event the structure was legal, would the storage of material inside be a violation. Mr. Wixon explained the material was starting to protrude outside the structure and the neighbors had complained. He noted there was also additional junk, trash and debris on other parts of the property, and said he would look into the matter to see if a permit was necessary for the structure.

3:31:23

ON MOTION BY Mr. Suthard, SECONDED BY Mr. Petrulak, 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.

3:31:43 **Case #2008110035 – Laura M. O'Connor (Nation City Mortgage)**

Inspector Jefferson submitted an Affidavit of Service dated February 13, 2009 and photographs into evidence, copies of which are on file in the Commission Office, and described overgrown weeds on the property. She recommended an extension of 30 days, until March 20, 2009, for compliance.

3:32:17

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.

3:32:29 **Case #2009010001 – GRP Loan LLC**

Mr. Wixon advised there was no service on this case.

3:32:53 **Case #2009010002 – Tobias Milo Williams**

Mr. Wixon stated the property had been posted on February 13, 2009 by IRC Code Enforcement Officer Ms. Debbie Clifford, who was out sick today. He reported he was unable to locate an Affidavit of Service in the computer; however he showed a picture of the posting and Attorney Vitunac advised the Affidavit could be filed after-the-fact.

Mr. Wixon related the Evidentiary hearing had to do with junk, trash and debris and overgrown weeds and recommended an extension of 30 days, until March 20, 2009, for compliance.

3:35:50
ON MOTION BY Mr. Suthard, SECONDED BY Mr. Petrulak, 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.

3:35:55 **Case #2009010072 – Howard & Martha Wiener**

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

3:36:09 **Case #2009010045 – Duetsche Bank et al**

Inspector Jefferson submitted photographs into evidence, which are on file in the Commission Office. She said she had received numerous complaints about overgrown weeds and junk, trash and debris on the subject property and

recommended an extension of 30 days, until March 20, 2009.

3:36:49

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.

3:37:04 **Case #2009010052 – Christopher Lawhon (Washington Mutual Bank)**

Mr. Wixon related there was no service on this case.

3:37:13 **Case #2008100271 – The Fountains at Amber Lakes POA, Inc. (David Chase/National City Bank)**

Inspector Jefferson submitted an Affidavit of Service dated February 13, 2009 and photographs into evidence, copies of which are on file in the Commission Office. She testified she had received complaints about vacant overgrown lots, non-maintenance of landscape buffers and dead and missing landscape material, and recommended an extension of 60 days, until April 24, 2009, for compliance.

3:38:05

ON MOTION BY Mr. Suthard, SECONDED BY Mr. Petrulak, 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.

3:38:24 **Case #2008110168 – U.S. Bank National Association**

Inspector Carter Solomon submitted photographs into evidence, which are on file in the Commission Office. She recapped this case had originally been to the Board in January, 2009 for a health a safety hazard involving dead pine trees on the property. Inspector Carter Solomon added the Respondent bank had initially been cited in November, 2008, and since there had been no contact or correspondence from them she recommended the fine be imposed.

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.

3:39:07 **Case #2008100237 – Linda Jackson**

Inspector Davis submitted photographs into evidence, which are on file in the Commission Office. She testified she had cited the Respondent several times in the past and described a dilapidated mobile home, junk, trash and debris and overgrown weeds on the property. Mr. Wixon recommended the Board impose the fine.

3:40:52

ON MOTION BY Mr. Petrulak, 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.

3:41:14 **Case #2008040182 – Andrew & Olga Kojnok**

Inspector Davis submitted a photograph into evidence, which is on file in the Commission Office. She stated someone had come along and thrown a mattress and some styrofoam onto a vacant lot, noting the overgrown weeds violation was complied.

After some discussion about the Respondents being out of State residents, Mr. Wixon said he would look into having the County clean up the lot and bring the case back to the Board.

ON MOTION BY Mr. Petrulak, SECONDED BY Mr. Suthard, the Board voted unanimously (6-0) to grant an extension of 30 days, until March 20, 2009, for staff to look into the matter.

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

3:44:07 **Case #2008070040 – Thomas Hart**

Inspector Carter Solomon summarized this case had initially come to the Board on November 28, 2008 for junk, trash and debris and an unpermitted shed. She testified the Respondent had cleaned up the property and several extensions had been granted for him to obtain permits and inspection for the illegal structure, but no further progress had been made in that regard.

3:45:13

ON MOTION BY Mr. Petrulak, SECONDED BY Mr. Hedin, the Board voted unanimously (6-0) to impose the fine.

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

3:45:30 **Authorization for Notices to Appear**

ON MOTION BY Mr. Petrulak, SECONDED BY Mr. Owens, the Board voted unanimously (6-0) to approve Authorization for Notices to Appear for March, 2009.

There being no further business, the meeting was adjourned at 3:30 p.m.