

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 28, 2011 at 1:30 p.m.

Present were Chairman **Keith Hedin**, Businessman Appointee; Vice Chairman **Joe Petrulak**, Subcontractor Appointee; **Karl Zimmermann**, Realtor Appointee; **Cliff Suthard**, Member-at-Large Appointee; **John Owens**, Engineer Appointee; and **Joe Garone**, General Contractor Appointee.

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

Also in attendance was IRC staff: Roland DeBlois, Environmental and Code Enforcement Chief; Betty Davis, Vanessa Carter Solomon, Rose Jefferson and Kelly Buck, Code Enforcement Officers; Attorney David Hancock, Attorney for the Board; and Darcy Vasilas, Commissioner Assistant District 3, Recording Secretary.

12:25:52 **Call to Order**

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

12:26:48 **Approval of Minutes of October 24, 2011**

ON MOTION BY Mr. Petrulak, SECONDED BY Mr. Suthard, the Board voted unanimously (6-0) to approve the minutes of October 24, 2011 as presented.

12:27:23 **Attorney's Overview of Board Purpose and Procedures**

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

12:35:29 **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 - #2011080224, #2011080122, #2011080069, #2011030142, #2011070089, #2011060193, #2011060019, #2011070202, #2011080197, #2011090099, #2011080064, #2011080190 - 30 day extension until December 23, 2011. Cases #2010050118, #2011020073, #2011060239, #2011050026, #2011080124, #2011050226, #2011090052, #2011080148 - 60 day extension until January 20, 2012. Cases #2011070128, #2011080147, - 90 day extension until February 24, 2012. Cases #2011080003, #2011090081, #2011100031, #2011100085, #2011110067, #2011110019, and #2009100079 were rescheduled.

In compliance were Cases #2011070183, #2011080205, #2011090026, #2011090114, #2011090126, #2011090127, #2011090098, #2011090018, #2011080092, #2011040071, #2011080123, #2011080138, #2011090254, #2011100109, #2011100099, #2011100091, #2011100083, #2011100053, #2011100034, #2011100078, #2011100088, #2011100062, #2011100060, #2011090242, #2011090209, #2011090214, #2011090249, #2011080133, #2011110047, #2011050255, #2011090055, #2011090056, #2011090065, #2011090070, #2011050097, #2011090142, #2011080215, #2011080217, #2011080219, #2011080251, #2011090152, and #2011090048.

Mr. DeBlois announced there was one Administrative Hearing and Lien Release Requests which should be held at a time certain of 2:30 p.m. He also requested Case #2011090199 be heard first, and under Other Matters discussion was requested regarding Resolution 2011-102 concerning the delegation of certain authority to the Code Enforcement Board and Community Development Director to reduce, compromise, satisfy and release Code Enforcement Board liens.

12:47:40

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

12:47:58 **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

10:50:47 **Case #2011090199 – Dr. John S. Cairns & Marlene A. Cairns**

Mr. DeBlois related a Notice of Hearing was issued to the Respondents with issues of land clearing without permits and a site plan nonconformance violation concerning site drainage not being constructed in accordance with the current County's approved site plan.

Ms. Kelly Buck, IRC Code Enforcement Officer, testified she had received a call from Todd Tardiff, IRC Stormwater Inspector, regarding some drainage issues that residents in the Tropic Grove Apartments adjacent to the subject property were having. She visited the site with David Hays, IRC Engineering Development Manager, on September 7, 2011 and she showed photographs (County Exhibit A) depicting the area that had been cleared. Inspector Buck verified upon returning to the office no land clearing permit had been issued. Mr. Hays was also investigating the drainage issues raised by the residents of Tropic Grove Apartments.

Inspector Buck submitted an aerial photograph indicating where IRC Environmental Planner, Andy Sobczak had identified the area that had been cleared without the proper permits. There was a notation on the photograph by Mr. Sobczak stating 34,010 square feet x \$.50 per square feet = \$15,000. Mr. DeBlois pointed out under the County's Tree Protection Ordinance, Section 927.17.6, there was a reference for calculation of fines for land clearing. There was a cap on fines under that section.

Mr. DeBlois explained the Board of County Commissioners directed staff, in the context of land development regulations as part of the Comprehensive Plan, to revisit the specific fine references and possibly re-institute the opportunity for after-the-fact permits for commercial property.

Mr. David Hays, IRC Engineering Development Manager, testified essentially the site was a re-developed site over time. In 1999, a plan was submitted to improve the drainage and basically permit it as a developed site (County Exhibit B). A complete drainage system was installed with a stormwater tract in the rear. The improvements were never actually permitted through the County. While the calculations and plans were submitted, it never went all the way through for permitting and never developed as such, while the site continued to grow and improvements were made, the drainage system was never installed.

Mr. Hays continued, subsequently in 2001, St. John's River Water Management District (SJRWMD) issued a stormwater permit for a revised design with dry retention on the north and south sides of the property (County Exhibit C). Evidence does not indicate the Respondents ever came to the County for approval of that design and permitting. It appears a portion of the system was possibly installed but the entire system was not installed.

Mr. DeBlois inquired which of the plans submitted, County Exhibit B or C, was approved by the County.

Mr. Hays responded there was no current County approved plan, however, Exhibit C was currently being reviewed by County staff for permitting. He added Exhibit C had been approved by the SJRWMD.

Mr. Hays explained when he met the Respondent on the site in September, 2011, the ditch running along the edge of the clearing was the drainage system for Tropic Grove Apartments. There was a lot of impediment in that drainage system and that was why staff was called out there initially as the Tropic Grove residents claimed there had been a back-up of water because the Respondents were doing some land clearing and filling in the ditch. While Mr. Hays did not feel the Respondent was intentionally filling in the ditch, there was some impediment and he requested the ditch be immediately cleaned out so there would be positive discharge for any future rain. To date, nothing has been done to clear the ditch even though the Respondent indicated they would start on it the next day.

Mr. DeBlois asked when the plan, Exhibit C, was submitted for permitting. Mr. Hays replied it was submitted approximately early 2011, the plan was still being reviewed for compliance because it was not currently a permissible plan by the County.

Mr. DeBlois questioned if any there were any other related applications submitted for land clearing or tree removal. Inspector Buck replied a tree removal and land clearing permit application were submitted but as of last week, neither had been reviewed by staff.

Mr. DeBlois inquired under the site plan the applications would relate to, did it show any indication of improvements on the east edge of the property that would indicate land clearing to comply with this site plan. Mr. Hays replied nothing submitted for permits so far have indicated anything east of the ditch, which was the area cited for clearing.

The Respondent, Dr. John Cairns, Attorney Fred Kretchmer, and Jeff Smith

from Mosby & Smith Engineering were present. Attorney Kretchmer asked Inspector Buck when she initially visited the site on September 7, 2011 was the one worker present removing pepper trees from the site.

Inspector Buck stated on that date most of the land clearing had already been done as evidenced by her photographs submitted as County Exhibit A and dated September 7, 2011.

Attorney Kretchmer asked Inspector Buck when she learned there was no land clearing permit. Inspector Buck replied after returning to the office on September 7, 2011 she found there was no permit applied for or issued.

Attorney Kretchmer asked Inspector Buck when she notified the Respondent or any of his workers the work being done was in violation. Inspector Buck responded she had a meeting with Mr. Hays; and representatives from SJRWMD, Mark Crosby and Janice Unger, sometime later in September.

Attorney Kretchmer pointed out the Notice of Violation sent to the Respondent was dated September 27, 2011. Prior to that date, he asked Inspector Buck if she ever notified the Respondent or his workers they were in violation for clearing the pepper trees from the property. Inspector Buck replied she had not.

Attorney Kretchmer inquired if Inspector Buck could tell whether or not anything other than pepper trees had been cleared on the site. Inspector Buck related there was a large pile of debris in the middle of the property but she was unable to determine what was in the center of the pile. She did see some pepper trees and oak tree branches.

Inspector Buck testified when she spoke with the Respondent she advised him the matter would be going before the Board of County Commissioners as they were looking at amending the tree removal ordinance to determine if he would be able to apply for an after-the-fact land clearing or tree removal permit.

Attorney Kretchmer questioned if after explaining to the Respondent there was a potential for a \$15,000 fine, did she nonetheless still tell him he had to clear the ditch. Inspector Buck replied that was discussed with SJRWMD and they wanted the ditch cleared immediately so it would help with the drainage from Tropic Grove Apartments.

Discussion was held whether or not the Respondent was able to remove the pepper trees in the ditch impeding the drainage without a permit. Mr. DeBlois

pointed out the Ordinance does consider the Brazilian pepper trees to be nuisance vegetation and it is encouraged for removal. Any type of clearing or grubbing that disturbs the soil as a method of removal requires a land clearing permit. If the trees were removed with a chainsaw or by hand a permit would not be needed. If heavy equipment was being used that would potentially affect other vegetation, drainage, and siltation issues; that is when a land clearing permit would be required.

Attorney Kretchmer pointed out the application pending with the County had been pending since December, 2010. Mr. DeBlois interjected whenever a land clearing tree removal permit was submitted in conjunction with a site plan as proposed for approval, it was common those permits would not be issued or released until the site plan they were associated with were approved. In this case, these permit applications were associated with a site plan that had not been approved.

Attorney Kretchmer asked for clarification from Mr. Hays if the land clearing permit that had been applied for was necessary to do the work that was associated with the site plan. Mr. Hays responded he did not see the land clearing permit application, however, there would have to be some land clearing associated with the site plan which does not extend to the entire east side of the property. He submitted a photograph, County Exhibit D, into evidence showing the drainage ditch.

Attorney Kretchmer asked for clarification from Inspector Buck that no land clearing would be required east of the drainage ditch associated with the site plan. Inspector Buck replied in the affirmative.

Mr. Suthard asked if there was an easement for the ditch. Mr. Hays replied there was an easement in honor of the Tropic Grove Apartment complex.

Mr. Suthard inquired who would be required to maintain the ditch. Mr. Hays related there was not a copy of the deed and both the Respondent and the Tropic Grove Apartments have been asked to search their archives and research the matter. Neither party has been able to produce any evidence.

Attorney Kretchmer submitted a copy of County Code Chapter 927 (Respondent's Exhibit 1), the Indian River County Tree Protection and Land Clearing Ordinance. He explained the Respondent only removed pepper trees from his property and the Ordinance does not prohibit that removal, especially when it is not in association with any construction. He interpreted Section 927.05 as not requiring a permit for land clearing because it was not due to construction; in Section 927.06 where exemptions to the necessity of a tree removal or land clearing permit stating

the work performed was routine maintenance; and Section 927.07 which indicates no land clearing permit should be issued unless the clearing or grubbing were necessary to make site improvements authorized by an approved site plan, or land development permit as the Respondent was only doing routine maintenance.

The Respondent, Dr. Cairns, testified he purchased the property in November, 1990 and he had owned the property continuously since that time. He submitted a photograph into evidence, labeled Respondent Exhibit 1.

Attorney Kretchmer asked if the Respondent owned the property the drainage ditch was on. Dr. Cairns responded in the affirmative and that he generally maintained the ditch by hiring someone to come in every few years to clear out the ditch and vegetation including pepper trees to the area east of the drainage ditch.

Attorney Kretchmer inquired if there was ever a time when the County told the Respondent he had to clear the ditch. Dr. Cairns replied he was told a few years ago he needed to clear the ditch or the County would come in and do it assessing him for the work. Pepper trees were removed from the ditch and surrounding the ditch at that time.

Under questioning by Attorney Kretchmer, Dr. Cairns testified in September, 2011 he determined the ditch was overgrown and hired a person to come in to clear out the ditch and the pepper trees. He had never applied for a permit in the past so had not applied for a permit in September, 2011. When he cleared the ditch in the past and removed pepper trees at the request of the County, he was never advised that he needed a permit.

Attorney Kretchmer asked Dr. Cairns if he had finished the necessary maintenance to clear the ditch as requested by County staff. Dr. Cairns replied he had stopped because when he was told he was being cited for taking out pepper trees he thought he should wait until the issue was resolved.

Attorney Kretchmer asked Dr. Cairns if prior to clearing out the pepper trees, had there been any conversations with engineers he had retained as to whether a permit would be required. Dr. Cairns stated he had asked the engineer who was submitting plans into the County for other reasons, if he could get the water flowing through the ditch by clearing the pepper trees. The engineer informed him pepper trees were nuisance plants and were allowed to be removed without a permit.

Mr. DeBlois asked Dr. Cairns how the pepper trees were removed. Dr. Cairns replied a rake on a backhoe was used to get up under the roots of the pepper trees

and pull them up.

Jeff Smith, civil engineer with Mosby & Smith Engineering was called to testify by Attorney Kretschmer. He stated he had been working as a civil engineer in Indian River County since 1982 and was familiar with the County ordinances and procedures as to what was required in regard to land clearing and removal of invasive species. Dr. Cairns had retained him to assist with the site development plan for the drainage submitted to the County in 2010. He verified Dr. Cairns had consulted with him in September, 2011 as to whether a permit would be required to remove the pepper trees and he had told Dr. Cairns a permit was not required to maintain the ditch involving the removal of pepper trees.

Attorney Kretschmer asked Mr. Smith if he had been to the site after removal of the pepper trees. Mr. Smith replied in the affirmative and based on his knowledge of the property beforehand, and after seeing what was removed, there was nothing removed other than pepper trees.

The Respondent submitted a photograph (Respondent's Exhibit 2) he had found in his archives showing the property on the eastern property in question was cleared at some point in time. He was not able to ascertain what year the picture was taken.

Discussion was held regarding work that had been done since 1999 on the property and the permits and site plan approvals that had or had not been done.

Attorney Kretschmer summarized it appeared from the evidence presented, Dr. Cairns had followed the spirit and intent of the land clearing and tree removal requirements of the County and followed the technical requirements of the ordinance as well. He did not feel the ordinance did not, or should not apply because there was no construction going on. If the Board determined the ordinance does apply, then the Respondent falls within the exemption to the ordinance set forth in County Code 927.06 with regard to landscaping activity recognized as routine maintenance.

Mr. DeBlois stated with respect to the issue of not needing approvals and the level of fine, in the Respondent's Exhibit 1, which is Chapter 927, the Tree Ordinance, he read 927.17.1.d "it shall be a violation of this chapter to without a permit, perform any land clearing or grubbing." Then under the penalty section, 927.17.6, "any person who commits a violation specified in paragraph 927.17.1.d, shall be subject to a fine of not less than one hundred dollars (\$100) and not greater than fifteen thousand dollars (\$15,000) per separate offense. The amount of the fine shall be calculated as follows: (a) For low quality vegetation removal, a base fee of

fifty cents (\$.50) per square foot of area illegally cleared land shall be charged. Low quality vegetation generally consists of plants such as dog fennel, grape vine, goose-foot grass, or non-native vegetation such as Brazilian pepper.”

Mr. DeBlois opined the ordinance was clear, if you land clear or grub property without a permit, section 927.1.d.a provided the fine calculation and specifically references the removal of Brazilian pepper. The question of the method of removal was brought forward but the Respondent testified a backhoe with a rake was used and under the County’s definition of land clearing found in Ordinance 901.03, “land clearing is the grubbing, by any means of any type of vegetation from land; not including however, activities governed by tree removal, mangrove alteration, or dune vegetation maintenance permits.”

Mr. DeBlois continued staff did not dispute that Brazilian peppers were considered nuisance vegetation and they encouraged their removal. However, the issue was the method of removal by grubbing or land clearing disturbing the soil where other vegetation could potentially be affected, or have other issues such as soil erosion, that was when a permit was required to make sure pepper trees were the only thing being removed. It is staff’s perspective that there was disturbance to soil so a permit would be required.

Mr. DeBlois related staff recommended staying the determination of the \$15,000 fine pending the outcome of a potential Land Clearing and Tree Removal Ordinance change by the Board of County Commissioners which should be within the next six months. There were two issues; one was land clearing without a permit and the other site plan nonconformance where the site was not maintained in accordance with most current approved County site plan, although SJRWMD approvals may have been obtained, the County does not have them and they were not in compliance with the site plan. He recommended granting the Respondents 60 days, until January 20, 2012, to gain site plan approval for the site work related to the drainage, then comply with the approved site plan, and be subject to the fines resulting from the Land Clearing and Tree Removal Ordinance revisions. He added an additional 60 days could be granted, with 120 days total, for the actual completion of improvements, if needed.

Attorney Kretschmer asked Mr. DeBlois if a land clearing permit had been applied for with regard to the work that was done, would the County have approved it. Mr. DeBlois responded he felt the permit would have been issued with certain conditions with respect to erosion control and other similar issues.

Attorney Kretschmer stated in light of what Mr. DeBlois was indicating and

from the testimony heard; if there was a violation, he opined it was a technical violation. There were no protected trees or other native vegetation damage. If the Board determines a fine was appropriate, he believed it should be a de minimus fine of \$500 as is allowed in County Code 927.17.11.

02:007:31

ON MOTION BY Mr. Petrulak, SECONDED BY Mr. Suthard, to find a violation of County Codes Chapter 927.05.02 and 914.15.07, set the fine at \$500, grant 60 days for the permitting process, until January 20, 2012 and an additional 60 days, until March 23, 2012 for completion.

UNDER DISCUSSION Mr. Suthard recommended the fine be tied to the pending Land Clearing and Tree Removal Ordinance amendments.

Attorney Hancock cautioned if the Board attempted to levy a fine that was higher than something done today, they could not go to the detriment of the property owner at that point. The fine would have to be made less, rather than more.

THE RECORDING SECRETARY POLLED THE MEMBERS resulting in a (4-2) vote. Mr. Owens, Mr. Zimmermann, Chairman Hedin and Mr. Petrulak voted in favor of the motion. Mr. Suthard and Mr. Garone voted against.

The Respondent was present for this hearing.

02:11:27 **Case #2011110030 – Octavi Merida**

Ms. Betty Davis, IRC Code Enforcement Officer, related this was a complaint that came to staff regarding the storage of commercial equipment in an agricultural district. Service was received from the Respondent on November 15, 2011, and the bank on November 16, 2011. Four photographs were submitted into evidence.

Mr. DeBlois pointed out this was being presented as a repeat violation. On September 27, 2010, the Board entered an order on similar issues relating to the level of storage of citrus equipment and trucks for a citrus harvesting business and a

barn converted into living quarters that go beyond what was allowed on an agriculturally zoned property without proper approvals. The County Ordinance does allow one commercial vehicle in agricultural areas different than single family sites but there is an issue of more than one commercial vehicle being regularly stored on the site.

The Respondent had requested a translator and Laura Vasquez, Commissioner Assistant, District 2, served as a translator for the Respondent.

Inspector Davis testified the Respondent's husband had recently passed away and the Respondent had told her she was just bringing in the equipment until the citrus season was over with then she would remove it from the property. The property was in good condition other than having several commercial vehicles on site.

The Respondent, through her translator, related to the Board that she was now a widow and citrus was her only source of income. She asked what they wanted her to do.

Inspector Davis responded because the Respondent did not have over 20 acres and an established grove, the commercial equipment could not remain on the site. Only one commercial vehicle could remain. She recommended granting 90 days, until February 24, 2012, to remove the other vehicles from the property.

Mr. Petrulak asked about the barn converted into living quarters. Inspector Davis replied the barn had been inspected and no one was living in the structure so that item was being removed from the list of code violations.

02:22:56

ON MOTION BY Mr. Zimmermann, SECONDED BY Mr. Petrulak, the Board voted unanimously, (6-0) to grant 90 days, until February 24, 2012 to remove all but one commercial vehicle from the property.

The Respondent was present for this hearing.

ADMINISTRATIVE HEARING

02:23:23 **Case #2011110038 – George Bosseler – (violator Melissa P. Currey)**

Mr. DeBlois recapped the County staff through the Building Department has issued an unlicensed contractor violation citation relating to bathroom remodeling work which occurred at the subject property with no permit. The issue was the bathroom remodeling was not being done by a licensed contractor and with no permit pulled.

Ms. Betty Beatty-Hunter, Contractor License Investigator, IRC Building Department, testified a complaint was received from a neighbor about unlicensed contractors doing work in Grand Harbor. On the day she arrived at the subject site, Currey Home Repairs was on site working. Photographs were shown (included in agenda packet) of the bathroom being remodeled and the demolition materials removed from the bathroom. Ms. Currey has an occupational license number from St. Lucie County listed on her work vehicle, and a copy of her St. Lucie County tax receipt for home repairs and a business card which listed "Minor to Major Repairs" were shown. The Currey's do not have a contractor's license for either IRC or the state qualifying them to do a bathroom remodel.

Ms. Hunter related she had placed a Stop Work Order on the job noting a permit and a licensed contractor was required to finish the work.

Mr. DeBlois stated under County Codes staff issued a citation on October 18, 2011 and a \$500 fine for unlicensed contracting and also an additional \$500 for deliberate disregard of County Contracting Ordinance as no permit was pulled for the work. Staff recommended the Board uphold the fine and citation.

Ms. Melissa Currey testified the work she was doing was not a bathroom remodel. She had an occupational handyman license and her business was hired to pull a bathtub out with no replacement bathtub being installed. The customer wanted shelves put in to use the room for storage.

Ms. Hunter interjected the license issued to Ms. Currey was from St. Lucie County and noted IRC does not have a handyman license but requires a General Contractor's License.

Mr. DeBlois asked Ms. Hunter if IRC's licensing requirements were tied into or based on state requirements similar to what was exempt and what was needed for a licensed contractor. Ms. Hunter responded IRC adopted the state contractor laws and we have our own local laws.

02:34:44

ON MOTION BY Mr. Suthard, SECONDED BY Mr. Petrulak, the Board voted unanimously (6-0) to uphold the citation with \$500 fine for unlicensed contracting and additional \$500 for deliberate disregard of County Contracting Ordinance as no permit was pulled for the work.

The Violator was present for this hearing.

Chairman Hedin called for a break at 3:41 and the meeting resumed at 3:46 p.m.

LIEN RELEASE REQUESTS

02:37:04 **Case #2008010013 – Trust Company (TRS) Deutsche Bank NA (Previous Owner: Ana Chavalo)**

Mr. DeBlois related this was a request for the Board to acknowledge the Respondent's compliance and setting of a fine. Initially in April, 2008, the Board entered an Order Finding Violation against the Respondent, Ana Chavalo, for overgrown weeds and junk, trash, and debris on the property. The Board granted a period of time for compliance. On May 19, 2008, the case came back to the Board and since there had not been compliance, the Board entered an Order Imposing Fine of \$100 per day with a start date of May 17, 2008.

Recently staff was contacted by representatives of Deutsche Bank with respect to the accruing fine. Staff determined as of June 14, 2011, compliance was verified which resulted in a flat fine of \$112,300 for 1,023 days of noncompliance. This case came back to the Board in July, 2011, but the Respondents were not represented at that time. Staff reported compliance had been achieved so there has been recorded an Order Acknowledging Compliance and setting fine to the flat fine amount of \$112,300 and within the Order it indicates the Board retains the jurisdiction in this matter to consider the reduction of the fine at a future meeting if so warranted.

Ms. Rose Jefferson, IRC Code Enforcement Officer, testified she was at the site this morning and it was still in compliance.

Ms. Cheri Brown, representing the realtor for the property, stated the bank did not get the Certificate of Title to the property until February, 2011.

Mr. DeBlois reported the previous land owner, Ana Chavalo, was the cited Respondent for this case and the bank was not one of the notified Respondents where the fine was imposed. Based on that information, staff feels a reduction of the flat fine of \$112,300 was warranted and would recommend the fine be set at \$5,000.

Ms. Brown stated the house was worth \$20,000 and was currently under contract.

Mr. DeBlois related staff would reduce the fine to 10-percent of the testified value of the property; making the fine \$2,000.

02:44:55

ON MOTION BY Mr. Petrulak, SECONDED BY Mr. Zimmermann, the Board voted unanimously (6-0) to reduce the fine to \$2,000.

The realtor's representative was present for this hearing.

02:45:06 **Case #2011060074 – US Bank National Association**

Mr. DeBlois recapped this case involved overgrown weeds and an unmaintained swimming pool. It originally came before the Board on August 22, 2011 and the Board set forth a compliance date of September 23, 2011 to clear the violations. At the September 26, 2011 Compliance Hearing staff reported the weeds and the pool maintenance had not occurred as ordered and as a result the Board entered an Order Imposing Fine with a start date of September 24, 2011. Staff verified compliance on October 24, 2011 which resulted in a flat fine of \$3,000.

Ms. Vanessa Solomon, IRC Code Enforcement Officer, testified she did verify compliance on October 24, 2011.

Mr. Gregory Dalessio, realtor for the property, related he received the listing after a reassignment of agents. There was a tenant that had to be evicted from the property and he received a Writ of Possession on September 11, 2011. He was assigned the property on October 11, 2011 and immediately brought the property into compliance.

Mr. DeBlois recommended the fine be set at \$1,800 to cover administrative costs.

02:48:01

ON MOTION BY Mr. Suthard, SECONDED BY Mr. Owens, the Board voted unanimously (6-0) to find the property in compliance and set the fine at \$1,800.

The listing realtor was present for this hearing.

02:48:17 **Case #2011030105 – US Bank National Association**

Mr. DeBlois recapped this case came to the Board as an Evidentiary Hearing on April 25, 2011 for a junk, trash and debris violation. At that time the Board granted a timeframe until May 20, 2011 to remove an accumulation of trash, clothes and other items from the property. The case came back to the Board on June 27, 2011 where staff reported the violations had not been resolved and as a result the Board entered a fine of \$100 per day with a start date of June 25, 2011. Based on recent contact and inspection, staff confirmed that the violation had been resolved as of September 26, 2011, which is a total of 93 days at \$100 per day, or a flat fine calculation of \$9,300.

Inspector Solomon stated she verified compliance on September 26, 2011 and submitted seven photographs into evidence.

Mr. Bill Carroll, realtor for the property, testified he was involved with the property after September 26, 2011, and had actually first visited the site on September 29, 2011. He has a buyer for the property and was scheduled to close in two days for \$32,000.

Mr. DeBlois recommended the fine be set at administrative costs of \$1,800.

02:53:51

ON MOTION BY Mr. Suthard, SECONDED BY Mr. Owens, the Board voted unanimously (6-0) to find the property in compliance and set the fine at \$1,800.

The listing realtor was present for this hearing.

02:54:16 **Case #2011070232 – Alberta L. Snider**

Mr. DeBlois related this case came before the Board in an Evidentiary Hearing on September 26, 2011 with an issue of overgrown weeds, swimming pool enclosure violation, dirty pool, and dilapidated fence. The Respondent received proper notification of the meeting but did not attend the hearing. The Board set a timeframe

of seven days, until October 3, 2011 for securing the pool and 30 days, until October 21, 2011 to resolve the other issues of maintenance and overgrowth. The case came back to the Board on October 24, 2011 and at that time staff reported no action had been taken. Based on that information the Board entered a \$100 per day fine with a start date of October 4, 2011. Subsequently staff was contacted and as of November 1, 2011, all violations were resolved resulting in 28 days of violation with a flat fine of \$2,800.

Mr. DeBlois showed the Board a letter written by the Respondent in which she states she did not actually receive the written Order until well after the October 4, 2011 compliance date. When the Respondent did finally receive the certified letter she took immediate action to get the issues resolved. Based on when we did receive verification of certified service, and when it occurred, that does support the conclusion that when she was formally notified she did take immediate steps to comply.

Inspector Davis testified the Respondent called her on October 21, 2011 when she received notice and was given several names of people to perform the necessary repairs and mowing. The Respondent hired Allan Dale Williams to perform the work and it was done immediately.

Mr. DeBlois stated based on the information received, he recommended acknowledging compliance and rescinding the fine.

02:59:18

ON MOTION BY Mr. Zimmermann, SECONDED BY Mr. Suthard, the Board voted unanimously (6-0) to find the property in compliance and rescind the fine.

Mr. Allan Dale Williams was present to speak on behalf of the Respondent.

03:00:08 **Case #2010070165 – Bank of New York (TRS) (Previous Owners: Scott & Berta Fairbanks)**

Mr. DeBlois recapped this case went to Board for an Evidentiary Hearing on August 23, 2010 with issues of junk, trash, and debris, and a public nuisance regarding bees on the property. The Board entered an Order giving the Respondent until September, 2010 to clean up the debris and deal with the beehive hazard. On October 25, 2010 when the case came before the Board in a Compliance Hearing, staff reported that the violations had not been resolved so a fine was imposed of

\$100 per day with a start date of October 23, 2010. Compliance was verified on September 30, 2011 with a total of 342 days in non-compliance totaling \$34,200.

Ms. Dana Laney, realtor for the property, stated the bank did not acquire this property until August, 2011 and she was assigned the property on September 27, 2011 at which time she immediately notified the bank of the problem with the beehive and debris. The bank sent a work crew out on October 3, 2011 and the work was completed on October 11, 2011.

Mr. DeBlois explained this was another situation involving a foreclosure action and the bank getting involved with the property and going through their procedures. In this case the bank was notified from the beginning of the issues and the foreclosure was in process when the initial issue came through. There appears to be some haste in remedying the violations once the property was obtained by the bank. He recommended setting the fine at \$2,000.

03:04:24

ON MOTION BY Mr. Zimmermann, SECONDED BY Mr. Petrulak, the Board voted unanimously (6-0) to find the property in compliance and set the fine at \$2,000.

The listing realtor was present for this hearing.

03:04:45 **Case #2009080129 – BAC Home Loans Servicing, LP (Previous Owners: Hugo & Sarah Sanchez)**

Mr. DeBlois related this issue regarding this case that led to the fine was an unsecured and unmaintained swimming pool that originally came to the Board for an Evidentiary Hearing in October, 2009. When the case came back to the Board in November, 2009 for a Compliance Hearing, staff reported the pool remained unsecured and unmaintained so consequently the Board imposed a \$100 per day fine with a start date of November 21, 2009. Staff verified compliance as of August 13, 2010 with 265 days of non-compliance and a flat fine accumulation of \$26,500.

Inspector Jefferson verified the compliance date of August 13, 2010. She submitted two photographs into evidence.

Ms. Kelli Mintzer, listing realtor for the property, testified as soon as the bank received possession of the property in August, 2010, they immediately took care of the violations.

Mr. DeBlois felt the fine should be set at \$2,600 due to the length of time the pool remained accessible.

03:11:07

ON MOTION BY Mr. Zimmermann, SECONDED BY Mr. Owens, the Board voted unanimously (6-0) to find the property in compliance and set the fine at \$2,600.

The listing realtor was present for this hearing.

03:11:27 **Case #2010090231 – Kristi J. Wheatley**

Mr. DeBlois recapped this case involved an unmaintained swimming pool that originally came before the Board in November, 2010. In February, 2011 the case came back before the Board, and because the violation had not been cleared a fine of \$100 per day with a start date of February 26, 2011 was imposed. Compliance was verified as of November 16, 2011 with a total of 263 days, equaling \$26,300 in fines.

Mr. Dan Fast, listing realtor, testified he personally went and cleaned the pool. The bank had not yet taken ownership of the property and Mr. Fast had hoped to sell it as he had a signed contract for purchase.

Mr. DeBlois recommended the fine be set at \$1,800.

03:16:05

ON MOTION BY Mr. Petrulak, SECONDED BY Chairman Hedin, the Board voted unanimously (6-0) to find the property in compliance and set the fine at \$1,800.

The listing realtor was present for this hearing.

EVIDENTIARY HEARINGS

03:16:57 **Case #2011090095 – Joseph Fenyak**

Inspector Davis testified she received complaints of illegal vehicle parking in the right-of-way; commercial vehicle at a residence; junk, trash, and debris; junk vehicle; and zoning district use violations. She posted the property on November 16, 2011, and received service on Wells Fargo Bank on October 31, 2011. The

commercial vehicles have been removed and currently the remaining violations were the junk, trash, and debris; junk vehicle; and zoning district use involving outdoor storage.

Inspector Davis stated there were coolers and a deep freezer outside that were potential hazards for being accessible by children. Two photographs were submitted into evidence. Staff recommended a seven day compliance period, until December 5, 2011 for the coolers and deep freeze and a 60 day compliance period, until January 20, 2012 for the remaining violations.

Attorney Monique Yenk, representing the lender, testified a foreclosure action had been filed, foreclosure was still pending, and they do not yet have Certificate of Title issued so since the property was still occupied, they could not take any action until the Certificate of Title was issued and the eviction process was complete to remove the residents. She asked for a little more time to at least remove the coolers and deep freezer.

Discussion was held on alternatives to secure the coolers and deep freezer by at least removing the doors.

03:21:41

ON MOTION BY Mr. Petrulak, SECONDED BY Mr. Zimmermann, to grant seven days, until December 5, 2011 to secure the coolers and deep freeze, and 60 days, until January 20, 2012 to clear the remaining violations.

The attorney for the lender was present for this hearing.

03:22:09 **Case #2011090130 – Loretta Larose**

Mr. DeBlois explained this was an agriculturally zoned property with issues of outside storage issues related to zoning district compliance; vehicle painting; semi storage; junk vehicles; vehicle and boat parts; junk, trash and debris. In May, 2001, this property came before the Board regarding the welding and airboat repair business on the property and at that time based on information presented, there was a determination there was essentially a welding and airboat repair business that was considered grandfathered as a use on the property and was allowed to continue. From that perspective, there was not an issue of whether or not there can be an airboat and welding-type repair work on the property, what was at issue today was the level of activity and whether or not it had gone beyond the grandfathered use. Of

issue in particular, were the level of storage and certain levels of activity that appear to go beyond the grandfathered aspect.

Inspector Davis testified she had been receiving complaints regarding the expansion of the use. She submitted seven photographs into evidence and an Affidavit of Service dated November 28, 2011. Included in the photographs submitted, there were aerials of the property dated 2001, 2003, 2006, and 2008 which showed an increase of vehicles on the property.

Inspector Davis stated, while she did not wish to decrease the amount of business, she continually received complaints concerning the amount of storage of boats and parts; things for sale and bringing in of semi-trailer units for work and storage which constitutes an expansion of the use. In an agriculturally zoned property, if a business was to expand, the Code requires the business owner to receive site plan approval to increase the square footage area for storage or work area.

Mr. DeBlois interjected another concern was according the business' website, the transition from what was a repair business to what seems to include sales of retail parts on the property, which goes beyond the grandfathered use. Staff recommended the Respondent work with Inspector Davis over the next 60 days, until January 20, 2012, to resolve some of the issues.

Mr. Danny Emmons, owner of the business on the property, Sawgrass Airboat, asked for clarification of painting. He added he was trying to move to a new location to allow him to do more and he was willing to do as staff recommended in the meantime.

03:37:38

ON MOTION BY Mr. Petrulak, SECONDED BY Mr. Suthard, the Board voted unanimously (6-0) to grant 60 days, until January 20, 2012 for the Respondent to meet with staff in resolving the existing issues.

03:37:37 **Case # 2011110012 – Vero South Property Owners Association**

Mr. DeBlois recapped this case has to do with Vero South Circle, SW, a private road within the overall Vero South townhouse development. There was a small commercial plaza which also used this road as its only access. There has been a failure in the culvert causing sinkholes in the road which has made the road impassable at least on the egress of the road. Staff received complaints from the

plaza owners that the road was becoming impassable and a hazard. The road was the sole maintenance responsibility of the Vero South Property Owners Association (VSPOA).

In the interest of facilitating repair, staff approached Ms. Claudia Alvarez, as representative of the VSPOA, to see if she would sign a consent agreement with the County for the County to go ahead and do the repairs within a short time frame and then bill the repair costs to the VSPOA. The agreement was drafted by the County Attorney and signed by Ms. Alvarez. A copy of the agreement along with photographs and the Deed of Easement were submitted into evidence.

Mr. DeBlois reported IRC Public Works staff came up with an estimated cost of repairs of approximately \$22,000 and under the agreement signed by Ms. Alvarez it would allow the County to do the work based on that approximate cost which would be adjusted based on actual cost. Under the agreement, the VSPOA agrees that once the work is completed, the owners would satisfy the lien within 12 months of completion of the improvements. He continued staff felt it was appropriate in the meantime to bring this forward for the Board's consideration to find a violation and to enter an order that grants a period of time for compliance.

Ms. Claudia Alvarez, Secretary of the VSPOA, confirmed the information presented by Mr. DeBlois.

03:51:32

ON MOTION BY Mr. Petrulak, SECONDED BY Mr. Suthard, the Board voted unanimously (6-0) to enter an Order Finding Violation and grant 30 days, until December 23, 2011, for the road repairs.

Ms. Alvarez asked if once the repairs were made to the culvert and road, would the VSPOA be responsible in the future to keep maintaining the culvert. Mr. DeBlois responded the culvert was the responsibility of St. Johns River Water Management Control District and they would be responsible for maintaining the culvert area.

A representative for the association was present for this hearing.

COMPLIANCE HEARING

03:55:09 **Case #2011020100 – Andrew J. Ekonomou**

Mr. DeBlois recapped this was a Compliance Hearing related to a Board order entered on August 22, 2011 regarding an illegal vehicle parking in right-of-way; junk vehicle violation; illegal structure in County right-of-way or easement; and a use established without site plan approval. There was outdoor storage contrary to the approved site plan and a dumpster in the right-of-way. The Board entered an order granting the Respondent until November 25, 2011 to relocate the dumpster and also to apply for and obtain County site plan approval for outdoor storage use on the property. If the site plan was not forthcoming, the outdoor storage was to cease.

Inspector Solomon testified the dumpster had been removed from the right-of-way and Mr. Ben Pace, owner of the business on the property, came in to meet with her about site plan approval. He was going to discuss with the Respondent, Mr. Ekonomou, whether or not it would be feasible for them to go through the process. Mr. Pace had been making an attempt to move some of the things off the site, but had requested an additional 90 days to finish bringing the property into compliance.

Mr. DeBlois stated staff could support a 90 day extension, until February 24, 2012 to finish bringing the property into compliance.

03:57:51

ON MOTION BY Mr. Petrulak, SECONDED BY Mr. Zimmermann, the Board voted unanimously (6-0) to grant an additional 90 days, until February 24, 2012 to finish bringing the property into compliance.

The tenant of this property was present for this hearing.

EVIDENTIARY HEARING

03:58:10 **Case #2011090146 – HSCB Bank USA NA (TRS)**

Mr. DeBlois recapped this case involved boat trailer storage and junk, trash and debris.

Inspector Davis testified she posted the property on November 16, 2011 for the tenant, and received certified mail on November 4, 2011 for HSBC Bank. Currently there were two utility trailers parked in the required side yard setback

between two homes at the location and there was some wood and pallets on the property. Staff recommended granting 30 days, until December 23, 2011 to bring the property into compliance.

Mr. Suthard stepped out of the meeting at 5:10 p.m.

03:59:47

ON MOTION BY Mr. Zimmermann, SECONDED BY Mr. Petrulak, the Board voted unanimously (5-0) to grant 30 days, until December 23, 2011 to bring the property into compliance.

The Respondent was not present for this hearing.

03:59:56 **Case #2011090200 – Sed Enuff, Inc.**

Inspector Jefferson testified the property was posted on November 16, 2011 after attempts at regular and certified mail were unsuccessful. An Affidavit of Service and a photograph were submitted into evidence. This case involved a violation of overgrown weeds. Staff recommended granting 30 days, until December 23, 2011, to bring the property into compliance.

04:00:46

ON MOTION BY Mr. Petrulak, SECONDED BY Mr. Zimmermann, the Board voted unanimously (5-0) to grant 30 days, until December 23, 2011 to bring the property into compliance.

The Respondent was not present for this hearing.

04:00:57 **Case #2011090168 – Secretary of Veterans Affairs**

Inspector Jefferson recapped the property was posted on November 16, 2011 with a violation of overgrown weeds at a vacant residence. An Affidavit of Service and two photographs were submitted into evidence. Staff recommended granting 60 days, until January 20, 2012 to correct the cited violation.

04:01:38

ON MOTION BY Mr. Zimmermann, SECONDED BY Mr. Garone, the Board voted unanimously (5-0) to grant 60 days, until January 20, 2012 to clear the violation.

The Respondent was not present for this hearing.

Mr. Suthard returned to the meeting at 5:12 p.m.

04:01:51 **Case #2011090183 – Gary Dean Compton**

Inspector Jefferson reported she received service on this property on November 4, 2011 which was cited for a violation of overgrown weeds. A photograph was submitted into evidence showing a portion of the property was still unmowed. Staff recommended granting 30 days, until December 23, 2011 to correct the cited violation.

04:02:59

ON MOTION BY Mr. Petrulak, SECONDED BY Mr. Zimmermann, the Board voted unanimously (6-0) to grant 30 days, until December 23, 2011 to clear the violation.

The Respondent was not present for this hearing.

04:03:09 **Case #2011090112 – P. Scott McCracken**

Inspector Jefferson recapped she posted the property on November 16, 2011 after attempts at regular and certified mail were unsuccessful. An Affidavit of Service and a photograph were submitted into evidence. The cited violation was overgrown weeds. Staff recommended granting 30 days, until December 23, 2011 to correct the cited violation.

04:03:44

ON MOTION BY Mr. Zimmermann, SECONDED BY Mr. Petrulak, the Board voted unanimously (6-0) to grant 30 days, until December 23, 2011 to bring the property into compliance.

The Respondent was not present for this hearing.

04:04:01 **Case #2011090041 – James W. & Virginia C. Morrow**

Inspector Jefferson testified this property was posted November 16, 2011 after attempts at regular and certified mail were unsuccessful for a cited violation of no building permit for a shed that was installed. An Affidavit of Service and a photograph were submitted into evidence. Staff recommended granting

approximately 60 days, until January 20, 2012 to correct the cited violation.

04:04:42

ON MOTION BY Mr. Zimmerann, SECONDED BY Mr. Suthard, the Board voted unanimously (6-0) to grant 60 days, until January 20, 2012 to either obtain an after-the-fact building permit for the shed or remove the shed from the property.

The Respondent was not present for this hearing.

04:04:56 **Case #2011080216 - Richard Costanzo**

Inspector Solomon related she received service on this property on November 2, 2011. The cited violations were overgrown weeds and junk, trash, and debris. A photograph was submitted into evidence. The overgrown weed violation had been resolved and the remaining issue was a pile of yard clippings that were placed in the backyard for months. The daughter of the Respondent had called stating they would take care of the debris, but to date, it had not been resolved. Staff recommended granting approximately 30 days, until December 23, 2011 for the cited violations to be resolved.

04:06:09

ON MOTION BY Mr. Petrulak, SECONDED BY Mr. Suthard, the Board voted unanimously (6-0) to grant 30 days, until December 23, 2011 for the cited violations to be resolved.

The Respondent was not present for this hearing.

04:06:23 **Case #2011080048 – Daniel T. Glover**

Mr. DeBlois recapped this was an overgrown weed violation and the property was posted on November 16, 2011 with the foreclosing bank, Interstate Advisors, Inc. receiving service on November 4, 2011. An Affidavit of Service and a photograph were submitted into evidence. Staff recommended granting 30 days, until December 23, 2011 to bring the property into compliance.

04:07:04

ON MOTION BY Suthard, SECONDED BY Mr. Petrulak, the Board voted unanimously (6-0) to grant 30 days, until December 23, 2011 to bring the property into compliance.

The Respondent was not present for this hearing.

04:07:13 **Case #2011090216 – Shannon Cook & Robert Kahn**

Inspector Jefferson testified the property was posted on November 16, 2011 for a violation of overgrown weeds. An Affidavit of Service and a photograph were submitted into evidence. Staff recommended granting 30 days, until December 23, 2011 to bring the property into compliance.

04:07:41

ON MOTION BY Mr. Suthard, SECONDED BY Mr. Zimmermann, the Board voted unanimously (6-0) to grant 30 days, until December 23, 2011 to bring the property into compliance.

The Respondent was not present for this hearing.

04:07:51 **Case #2011090225 – Tito Antonio Pena**

Inspector Jefferson related she received Service on this case November 5, 2011 for a vacant residence with an overgrown weeds violation. A photograph was submitted into evidence. Staff recommended granting 30 days, until December 23, 2011, to correct the cited violation.

04:08:24

ON MOTION BY Mr. Zimmermann, SECONDED BY Mr. Owens, the Board voted unanimously (6-0) to grant 30 days, until December 23, 2011 to clear the cited violation of overgrown weeds.

The Respondent was not present for this hearing.

04:08:35 **Case #2011090210 – Carl Richard Kiefner**

Inspector Davis recapped this case involved a complaint from the IRC Sheriff's Department involving a property maintenance violation; junk, trash, and debris; and overgrown weeds. This was a vacant structure that was being vandalized. Service was received on the Respondent on October 31, 2011 and the property had been boarded up but there was still maintenance needing to be completed. A roof permit was being pulled to replace the roof and the property had been mowed except for an area where some debris remained on the property. A picture was submitted into evidence. Staff recommended 60 days, until January 20, 2012 for compliance.

04:10:15

ON MOTION BY Mr. Petrulak, SECONDED BY Mr. Zimmermann, the Board voted unanimously (6-0) to grant 60 days, until January 20, 2012, to clear the remaining violations.

The Respondent was not present for this hearing.

04:10:27 **Case #2011090241 – Lonnie & Kieron Leonard**

Inspector Davis related this case involved an overgrown weeds violation. The property was posted on November 16, 2011 and an Affidavit of Service along with a photograph were submitted into evidence. Staff recommended granting 30 days, until December 23, 2011 to bring the property into compliance.

04:10:57

ON MOTION BY Mr. Suthard, SECONDED BY Mr. Petrulak, the Board voted unanimously (6-0) to grant 30 days, until December 23, 2011 to bring the property into compliance.

The Respondent was not present for this hearing.

04:11:07 **Case #2011090207 – Gregory Nicosia**

Inspector Davis recapped this was a property cited with property maintenance and junk, trash and debris violations stemming from a dilapidated fence that was falling outward from the property. She submitted a photograph into evidence and stated she received Service on November 4, 2011. Staff recommended granting 30 days, until December 23, 2011 to clear the violations.

04:12:02

ON MOTION BY Mr. Petrulak, SECONDED BY Mr. Zimmermann, the Board voted unanimously (6-0) to grant 30 days, until December 23, 2011 to clear the violations.

The Respondent was not present for this hearing.

04:12:13 **Case #2011090260 – Jorge Colin Eligio**

Inspector Davis testified this property was cited with a violation of overgrown weeds. Both the Respondent and the bank received service on October 31, 2011. A photograph was submitted into evidence and staff recommended granting 30 days, until December 23, 2011 to bring the property into compliance.

04:12:53

ON MOTION BY Mr. Petrulak, SECONDED BY Mr. Owens, the Board voted unanimously (6-0) to grant 30 days, until December 23, 2011 to bring the property into compliance.

The Respondent was not present for this hearing.

04:13:05 **Case #2011090262 – Rex Engle**

Inspector Davis recapped staff received a complaint regarding a deck which was added to the back of the house without a building permit. The property was posted on November 16, 2011 by hand delivery to the Respondent. An Affidavit of Service and a photograph were submitted into evidence. Staff recommended granting 30 days, until December 23, 2011 to bring the property into compliance.

04:13:46

ON MOTION BY Mr. Petrulak, SECONDED BY Mr. Suthard, the Board voted unanimously (6-0) to grant 30 days, until December 23, 2011 to bring the property into compliance.

The Respondent was not present for this hearing.

04:13:56 **Case #2011100103 – Robert & Caroline Valet**

Inspector Davis related staff received complaints regarding overgrown weeds on the property and rebar that was sticking up without caps on the top. Violations cited were health and safety hazard/public nuisance; overgrown weeds; junk, trash and debris. The property was posted on November 16, 2011, an Affidavit of Service and three photographs were submitted into evidence. Staff recommended granting 60 days, until January 20, 2012 to bring the property into compliance.

04:14:54

ON MOTION BY Zimmermann, SECONDED BY Mr. Owens, the Board voted unanimously (6-0) to grant 60 days, until January 20, 2012 to bring the property into compliance.

The Respondent was not present for this hearing.

04:15:08 **Case #2011100095 – Barnett Bank of Indian River County/Bank of America**

Inspector Davis related this was the Bank of America on State Road 60 and Kings Highway with violations of dead and dying landscape and site plan nonconformance. Both Barnett Bank and Bank of America received service on October 31, 2011. Six pictures were submitted into evidence and staff recommended 60 days, until January 20, 2012 to bring the property into compliance.

04:16:15

ON MOTION BY Mr. Zimmermann, SECONDED BY Mr. Owens, the Board voted unanimously (6-0) to grant 60 days, until January 20, 2012 to bring the property into compliance.

The Respondent was not present for this hearing.

04:16:21 **Case #2011100042 – Bank of New York Mellon**

Mr. DeBlois recapped this case involved an overgrown weeds violation. Service was received on November 2, 2011 and staff recommended approximately 30 days, until December 23, 2011 for compliance.

04:17:11

ON MOTION BY Mr. Zimmermann, SECONDED BY Mr. Suthard, the Board voted unanimously (6-0) to grant 30 days, until December 23, 2011 to bring the property into compliance.

The Respondent was not present for this hearing.

04:18:53 **Case #2011100084 – Venante Orange**

Inspector Solomon recapped she received Service on this property on November 8, 2011 by certified mail. The violations cited were junk, trash, and debris which had been resolved, and the remaining issue of a health and safety hazard caused by a large oak tree in the yard that was dead. The limbs of the tree were falling into to the yard and the neighbors were concerned. Two photographs were submitted into evidence and staff was requesting 60 days, until January 20, 2012 for the remaining violation to be corrected.

04:19:57

ON MOTION BY Mr. Zimmermann, SECONDED BY Mr. Petrulak, the Board voted unanimously (6-0) to grant 60 days, until January 20, 2012 to clear the remaining violation of the dead oak tree.

The Respondent was not present for this hearing.

04:20:09 **Case #2011100051 – David E. Turner**

Inspector Solomon testified this property was posted on November 28, 2011 after attempts at certified and first class mail were unsuccessful. The cited violations were overgrown weeds and junk, trash, and debris. An Affidavit of Service and three photographs were submitted into evidence. Staff recommended granting 30 days, until December 23, 2011 to bring the violations into compliance.

04:21:17

ON MOTION BY Mr. Zimmermann, SECONDED BY Mr. Petrulak, the Board voted unanimously (6-0) to grant 30 days, until December 23, 2011 to bring the violations into compliance.

The Respondent was not present for this hearing.

04:21:29 **Case #2011100002 – Guy Tenenbaum**

Inspector Solomon recapped she received Service on November 3, 2011 by certified mail for an overgrown weeds violation at a vacant residence. The owner was having the front yard maintained but the backyard was extremely overgrown. Two photographs were submitted into evidence and staff recommended 30 days, until December 23, 2011, to bring the violation into compliance.

04:22:20

ON MOTION BY Mr. Zimmermann, SECONDED BY Mr. Petrulak, the Board voted unanimously (6-0) to grant 30 days, until December 23, 2011 to bring the violation into compliance.

The Respondent was not present for this hearing.

04:22:23 **Case #2011100023 – Philip & Karen LaFlamme**

Inspector Solomon stated this property was posted on November 18, 2011 after attempts at certified and first class mail were unsuccessful. An Affidavit of Service and two photographs were submitted into evidence. The cited violation was overgrown weeds. The property had been cited a few months ago and the bank had been taking care of it but they had since let it go. Staff requested 30 days, until December 23, 2011 to bring the property into compliance.

04:23:08

ON MOTION BY Mr. Zimmermann, SECONDED BY Mr. Petrulak, the Board voted unanimously (6-0) to grant 30 days, until December 23, 2011 to bring the property into compliance.

The Respondent was not present for this hearing.

04:23:20 **Case #2011100027 – James L. Franks & Brenda K. Williams**

Inspector Solomon related this property was posted on November 18, 2011 after attempts at certified and first class mail were unsuccessful. An Affidavit of Service and seven photographs were submitted into evidence. The cited violations were property maintenance; junk, trash, and debris; and swimming pool maintenance. The house had been vacant for a couple of months and the Respondent James Franks was deceased. The house was in foreclosure with an

overall lack of maintenance. Staff recommended 30 days, until December 23, 2011 for the violations to be corrected.

04:24:43

ON MOTION BY Mr. Petrulak, SECONDED BY Mr. Suthard, the Board voted unanimously (6-0) to grant 30 days, until December 23, 2011 for the violations to be corrected.

The Respondents were not present for this hearing.

04:24:47 **Case #2011090154 – Robert and Valerie Hill**

Inspector Buck stated she posted the property on November 7, 2011 with a cited violation of swimming pool maintenance. An Affidavit of Service and a photograph were submitted into evidence. The house was vacant and in foreclosure. Service was received on the bank on November 10, 2011. Staff recommended 60 days, until January 20, 2012 for compliance.

04:26:00

ON MOTION BY Mr. Zimmermann, SECONDED BY Mr. Petrulak, the Board voted unanimously (6-0) to grant 60 days, until January 20, 2012 to bring the pool into compliance.

The Respondent was not present for this hearing.

COMPLIANCE HEARINGS

04:26:08 **Case #2011080078 – Michael Cangialosi**

Mr. DeBlois recapped this case related to an overgrown weed issue which came before the Board initially in September, 2011 and the Board granted a 30 day timeframe to mow the grass. An extension was granted in October, 2011, giving the Respondent another 30 days. There has been no compliance so staff recommended the fine of \$100 per day beginning November 26, 2011 be imposed.

04:27:09

ON MOTION BY Mr. Owens, SECONDED BY Mr. Zimmermann, the Board voted unanimously (6-0) to impose the fine of \$100 per day beginning November 26, 2011.

The Respondent was not present for this hearing.

04:28:01 **Case #2011070193 – Salem Y. Abelhameed**

Inspector Solomon testified this was a case relating to violations of overgrown weeds and junk, trash, and debris. The case originally came to the Board on September 26, 2011 at which time the Board found the Respondent in violation. The Respondents were granted 60 days, until November 25, 2011 to bring the property into compliance but there had been no progress. Two photographs were submitted into evidence. Staff recommended the \$100 per day fine be imposed with a start date of November 26, 2011.

04:28:58

ON MOTION BY Mr. Zimmermann, SECONDED BY Mr. Petrulak, the Board voted unanimously (6-0) to impose the fine of \$100 per day with a start date of November 26, 2011.

The Respondent was not present for this hearing.

04:29:21 **Case #2011080006 – Jon Wagstrom**

Inspector Solomon recapped this case initially came to the Board on September 26, 2011 at which time an order was entered for the health and safety hazard violation for a tree in the front yard and an overgrown weeds violation. The Respondent was granted one extension and to date there had been no progress. A photograph was submitted into evidence. Staff recommended the \$100 per day fine be imposed with a start date of November 26, 2011.

04:29:56

ON MOTION BY Mr. Zimmermann, SECONDED BY Mr. Owens, the Board voted unanimously (6-0) to impose the fine of \$100 per day with a start date of November 26, 2011.

The Respondent was not present for this hearing.

04:30:32 **Case #2011040210 – Terry H. & Rhonda D. Drum**

Mr. DeBlois recapped this case involved an overgrown weed issue that initially came before the Board on September 26, 2011. The Board granted 30 days with an extension for another 30 days and the violation had still not been cleared. Staff recommended imposing the fine of \$100 per day beginning November 26, 2011.

04:31:11

ON MOTION BY Mr. Suthard, SECONDED BY Mr. Owens, the Board voted unanimously (6-0) to impose a fine of \$100 per day with a start date of November 26, 2011.

The Respondent was not present for this hearing.

04:31:12 **Case #2011070043 - Richard & Janet Bruce**

Inspector Solomon testified this was a case involving overgrown weeds and swimming pool maintenance violations. It initially came to the Board on September 26, 2011 at which time the Respondent was given approximately 30 days to resolve the swimming pool maintenance violation. One extension was granted because the realtor called and said she was having problems getting on the property. Once access was granted, it was discovered the violation had not been resolved. Staff recommended the \$100 per day fine be imposed with a start date of November 26, 2011. A photograph was submitted into evidence.

04:32:06

ON MOTION BY Mr. Suthard, SECONDED BY Mr. Petrulak, the Board voted unanimously (6-0) to impose the fine of \$100 per day with a start date of November 26, 2011.

The Respondent was not present for this hearing.

04:32:20 **Case #2011080100 – Gail Ann Sheppard**

Inspector Solomon stated this case involved an overgrown weeds violation that initially came to the Board on September 26, 2011. The Respondent was granted 30 days and one 30 day extension to clear the violation but there had been

no progress on the property. Staff recommended the \$100 per day fine be imposed with a start date of November 26, 2011. Two photographs were submitted into evidence.

04:32:59

ON MOTION BY Mr. Petrulak, SECONDED BY Mr. Zimmermann, the Board voted unanimously (6-0) to impose the fine of \$100 per day with a start date of November 26, 2011.

The Respondent was not present for this hearing.

04:33:08 **Case #2011080023 – Carol A. Quinn**

Inspector Solomon testified this case involved overgrown weeds and swimming pool maintenance violations that initially came before the Board on September 26, 2011 at which time the Board granted approximately 30 days for the violations to be resolved. The Respondent was granted one extension and there had still been no progress. Staff recommended the \$100 per day fine be imposed with a start date of November 26, 2011. A photograph was submitted into evidence.

04:33:43

ON MOTION BY Mr. Zimmermann, SECONDED BY Mr. Owens, the Board voted unanimously (6-0) to impose the \$100 per day fine with a start date of November 26, 2011.

The Respondent was not present for this hearing.

04:33:51 **Case #2011090075 – Stephanie Wells**

Inspector Solomon recapped this case involved overgrown weeds and swimming pool maintenance violations. The case initially came before the Board on September 26, 2011 at which time they were granted approximately 30 days to resolve the violations. One extension had been granted and upon inspection of the property this morning, the pool had been drained and covered but the grass was still overgrown. Staff recommended the \$100 per day fine be imposed with a start date of November 26, 2011. A photograph was submitted into evidence.

04:34:42

ON MOTION BY Mr. Suthard, SECONDED BY Mr. Garone, the Board voted unanimously (6-0) to impose the \$100 per day fine with a start date of November 26, 2011.

The Respondent was not present for this hearing.

04:34:49 **Case #2011090106 – Bank of America**

Inspector Solomon related this case initially came to the Board on October 24, 2011 with violations of overgrown weeds; junk, trash and debris; swimming pool maintenance and pool enclosure violations. At that time the Respondents were given seven days to resolve the swimming pool enclosure violation and approximately 30 days to resolve the remaining issues. After the October hearing, a bank representative contacted her and she was disputing the bank owned the property. Once the information was sent to the bank representative confirming the bank's ownership, the representative would not return phone calls. The pool was still unsecured, grass was still overgrown and trash was still on the property so staff recommended the \$100 per day fine be imposed with a start date of November 1, 2011. Four photographs were submitted into evidence.

04:35:51

ON MOTION BY Mr. Petrulak, SECONDED BY Mr. Suthard, the Board voted unanimously (6-0) to impose the \$100 per day fine with a start date of November 26, 2011.

The Respondent was not present for this hearing.

04:36:05 **Case #2022080160 – Marvin Penalba**

Inspector Solomon testified this case involved overgrown weeds and junk, trash and debris which initially came before the Board on October 24, 2011. The Respondent was at the meeting but left before his case was heard. He indicated he was no longer living at the home because the house was in foreclosure and if the bank did not resolve the violations he would. She had not heard from the Respondent since that time and nothing had been done to bring the property into compliance. Staff recommended the \$100 per day fine be imposed with a start date of November 26, 2011. Two photographs were submitted into evidence.

04:36:56

ON MOTION BY Mr. Zimmermann, SECONDED BY Mr. Petrulak, the Board voted unanimously (6-0) to impose the \$100 per day fine with a start date of November 26, 2011.

The Respondent was not present for this hearing.

04:37:03 **Case #2011090030 – Gifford Gardens, LLC**

Inspector Buck testified this property was cited for overgrown weeds and junk, trash and debris. As of this morning, nothing had been done to bring the property into compliance. Staff recommended a fine of \$100 per day be imposed with a start date of November 26, 2011.

04:37:36

ON MOTION BY Mr. Petrulak, SECONDED BY Mr. Suthard, the Board voted unanimously (6-0) to impose a fine of \$100 per day with a start date of November 26, 2011.

The Respondent was not present for this hearing.

04:37:50 **Case #2011090013 – Cape Investment Group, Inc.**

Inspector Buck related this was a vacant piece of property with an overgrown weeds violation. There had been no contact with the property owners so staff recommended a fine of \$100 per day with a start date November 26, 2011 be imposed.

04:38:14

ON MOTION BY Mr. Owens, SECONDED BY Mr. Suthard, the Board voted unanimously (6-0) to impose a fine of \$100 per day with a start date of November 26, 2011.

The Respondent was not present for this hearing.

04:37:27 **Case #2011090027 – Gifford Gardens, LLC**

Inspector Buck reported this was property cited for overgrown weeds and an

unsecured vacant structure. Upon inspection of the property this morning, the grass was still overgrown and the vacant structure still had not been secured. Staff recommended a fine of \$100 per day with a start date of November 26, 2011 be imposed.

04:39:02

ON MOTION BY Mr. Petrulak, SECONDED BY Mr. Suthard, the Board voted unanimously (6-0) to impose a \$100 per day fine with a start date of November 26, 2011.

The Respondent was not present for this hearing.

04:39:08 **Case #2011090012 – Omni Venture, Inc.**

Inspector Buck testified this was a vacant lot with an overgrown weeds violation. The site was still in violation when she inspected it today. Staff recommended the fine of \$100 per day with a start date of November 26, 2011 be imposed.

04:39:37

ON MOTION BY Mr. Zimmermann, SECONDED BY Mr. Owens, the Board voted unanimously (6-0) to impose a fine of \$100 per day with a start date of November 26, 2011.

The Respondent was not present for this hearing.

04:39:36 **Case #2011100159 – Estate of Albina Cwik**

Inspector Solomon testified this was a Compliance Hearing for a repeat violation. The case came before the Board for an Evidentiary Hearing on November 22, 2010 for a violation of junk, trash and debris. The Respondents pile their trash on a side yard and the neighbors have been complaining of the smell. The property was posted on November 18, 2011 after attempts at certified and first class mail were unsuccessful. Staff recommended a \$100 per day fine be imposed with a start date of November 18, 2011. An Affidavit of Service and a photograph were submitted into evidence.

04:40:48

ON MOTION BY Mr. Owens, SECONDED BY Mr. Zimmermann, the Board voted unanimously (6-0) to impose a fine of \$100 per day with a start date of November 18, 2011.

The Respondent was not present for this hearing.

04:40:54 **Case #2011110002 – Rodney William Atwood**

Inspector Solomon stated this was a Compliance Hearing for a repeat overgrown weeds violation. The property was posted on November 18, 2011 after attempts at certified and first class mail were unsuccessful. In September, 2011 the Board entered an order for the Respondent regarding mowing the grass and he did mow the front yard of the property but the side yards and back yard were extremely high. Staff recommended granting 30 days, until December 23, 2011 to bring the violation into compliance. An Affidavit of Service and a photograph were submitted into evidence.

04:41:50

ON MOTION BY Mr. Zimmermann, SECONDED BY Mr. Petrulak, the Board voted unanimously (6-0) to grant 30 days, until December 23, 2011 to bring the violation into compliance.

The Respondent was not present for this hearing.

04:42:33 **Authorization for Notices to Appear**

ON MOTION BY Mr. Zimmermann, SECONDED BY Mr. Petrulak the Board voted unanimously (6-0) to authorize the Notices to Appear for cases leading up to the January 23, 2012 meeting.

Mr. DeBlois stated since there would not be a Board meeting in December, he requested the Board to authorize Notices to Appear that came in during the month of December, 2011.

04:42:55

ON MOTION BY Mr. Petrulak, SECONDED BY Mr. Zimmermann the Board voted unanimously (6-0) to authorize Notices to Appear for cases coming in during December, 2011.

Other Matters

Mr. DeBlois related Mr. Suthard had asked for a discussion regarding guidelines for fines and liens to be assessed for foreclosures and other ownerships. The County Commission on November 8, 2011 approved Resolution 2011-102 to resolve these issues through delegation which does clarify some issues raised by an Attorney General opinion.

Mr. Suthard recommended discussing this matter further at the next meeting and asked the members for their comments concerning the way the Board had been dealing with the fines.

Mr. Zimmermann expressed frustration with the lack of ability to fine the banks until they actually take physical control of the properties because in many instances they were not filing their motions in court to take the property into bankruptcy and close it out. The property then sits as an eyesore for months.

Attorney Hancock interjected in some cases the Board liens exist prior to the creation of a mortgage lien in which case there would be considerably more leverage. In most cases the creation of the Code Enforcement lien occurs after the mortgage lien. His recommendation was to continue to provide the banks with notice so they know what is going on with the properties.

Mr. Suthard felt the mortgage holders should bear ownership responsibilities of some sort. He also asked if staff costs had been updated recently.

Mr. DeBlois replied staff costs had not been updated for a couple of years and he could provide those costs to the Board at the next meeting.

Chairman Hedin agreed that the time the properties are sitting vacant and in violation was frustrating. He wondered if the County could somehow get involved and clean up the violations and then put a lien on the property. Discussion ensued on the costs involved for that alternative.

ADJOURNMENT

There being no further business, the meeting was adjourned at 6:02 p.m.