

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, May 18, 2015 at 1:30 p.m.

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

Absent was Chairman **Karl Zimmermann**, Realtor Appointee (excused).

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

Also in attendance was Attorney Jennifer Peshke, Attorney for the Board; IRC staff: Roland DeBlois, Environmental and Code Enforcement Chief; Betty Davis, Vanessa Carter Solomon, Rose Jefferson and Kelly Buck, Code Enforcement Officers; Reta Smith, Recording Secretary; and Janice Meehan, Trainee.

9:20:31 Call to Order

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

9:21:35 Approval of Minutes of April 27, 2015

ON MOTION BY Mr. Clements, SECONDED BY Mr. Petrulak, the Board voted unanimously (5-0) to approve the minutes of April 27, 2015 as presented.

9:22:10 Attorney's Overview of Board Purpose and Procedures

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

9:27:59 Agenda Additions or Deletions, Consent Items

Mr. Roland DeBlois, IRC Environmental and Code Enforcement Chief,
CEB- Approved 1 May 18, 2015
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reported the following cases had either complied, been rescheduled, or were recommended by staff for an extension of time on the Consent Agenda. Case #2015030070 – seven day extension until May 25, 2015. Cases #2015010101, #2015010104, #2015010096, #2014070102, #2014080009, #2014080132, #2014100009, #2012100094, #2014030039, #2015010035, #2014090140, #2014080003, #2013120009, #2015040057, #2015010048, #2015010105, #2015020013, #2015010057, #2015020107, 2015020133 and #2014060021 - 30 day extension until June 19, 2015. Cases #2014120129, #2014120075, #2014090134, #2014100101, #2015020103 and #2014100124 - 60 day extension until July 24, 2015. Case #2015040018 was rescheduled.

In compliance were Cases #2015020108, #2015030057, #2015040107, #2015040108, #2015040110, #2015040011, #2015040152, #2015030075, #2015040078, #2015040084, #2015010106, #2015010059 (first of two tiers), #2015020109, #2015030071, #2014120095, #2015010046, #2012110095, #2015020042, #20150320055, #2014120037 and #2014100050.

Mr. DeBlois noted there was an addition to the agenda for one Lien Release Request for Case #2013070163, Marion J. & Janice Jones, and recommended all of the Lien Release Request cases be heard at a time certain starting at 3:00 p.m.

9:38:21

ON MOTION BY Mr. Clements, SECONDED BY Mr. Gervasio, the Board voted unanimously (5-0) to accept the Consent Agenda with the revisions.

9:38:52 **Swearing in of Those Who Will Testify**

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

EVIDENTIARY HEARINGS

9:39:37 **Case #2015020090 – Debbie & Anderson Guthrie**

Ms. Rose Jefferson, IRC Code Enforcement Officer, submitted six photographs taken on May 18, 2015 into evidence and described assorted junk, trash and debris on the subject property. She related she had received numerous complaints from neighbors about an ongoing problem with trailers filled with debris and scrap metal.

Inspector Carter Solomon submitted one photograph into evidence, along with a copy of a survey showing the encroachment and the easement area. She summarized Respondent DelGrosso had applied for a Declaration of Covenant to allow the fence to be in the easement, which was approved on March 11, 2015; and had received a permit for the fence on May 12, 2015.

Mr. DeBlois noted there was no dispute that the fence in question was on the neighbor's property and recommended an extension of 30 days, until June 19, 2015, for the Respondent to relocate the fence off the neighbor's property and obtain final inspection approvals.

Mr. Casey Walker, representing Respondent DelGrosso, agreed with staff's recommendation and advised the original fence had been destroyed by the 2004 hurricanes and later reconstructed in the same place as the original fence with a permit; but had never been finalled out.

Mr. Petrulak noted the permit stated the Respondent had six months from the date of issue to replace the fence and did not think the Board had the authority to make him complete the job any sooner.

Mr. DeBlois stated staff would have no objection to separating out the two issues and allowing 30 days to resolve the encroachment violation by taking down the fence and granting more time for the fence to be replaced.

10:06:13

ON MOTION BY Mr. Petrulak, SECONDED BY Mr. Boehning, the Board voted (4-1) to find the violations and grant an extension of 30 days, until June 19, 2015, to remove the fence encroachment; and six months from the date of issue of the permit for the Respondent to obtain final inspection approvals for a new fence, or a \$100 per day fine would be imposed. Mr. Gervasio opposed.

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

10:07:44 **Case #2015040080 – Insite LLC (Barry G. Segal, P.A.)**

Ms. Betty Davis, IRC Code Enforcement Officer, confirmed service on both

Respondents on May 4, 2015, and recapped the case had to do with a hazardous structure on the subject property. She advised the property was in the process of obtaining site plan approval for development of a subdivision, and submitted three photographs into evidence showing a dilapidated house that was open to the elements. Inspector Davis confirmed the Respondent was also in the process of pulling a permit to remove the structure.

Mr. DeBlois recommended an extension of 30 days, until June 19, 2015, to obtain a demolition permit and to complete cleanup of the property.

Mr. Robert Votaw stated he was the manager of Willows Development LLC, and the subject property was owned by The Willows Development LLC and not Insite LLC. He agreed the house needed to come down and confirmed the necessary permits had been pulled and compliance should take place this week.

10:12:50

ON MOTION BY Mr. Gervasio, SECONDED BY Mr. Clements, the Board voted unanimously (5-0) to find the violations and grant an extension of 30 days, until June 19, 2015, for compliance or a \$100 per day fine would be imposed.

It is noted for the record a representative for Willows Development LLC was present for this hearing.

10:13:33 **Case #2015040105 – Earl & Gladys Stemmelin**

Inspector Davis submitted an Affidavit of Service indicating the property had been posted on May 7, 2015 and related she had received a complaint on two different occasions regarding a commercial vehicle being parked at the subject property.

Mr. John McAlhany explained he had power-of-attorney for Respondent Gladys Stemmelin and his daughter and son-in-law rented the home from her, and the semi trailer belonged to his son-in-law. He promised the commercial vehicle would not be parked on the subject property in the future.

Mr. DeBlois observed Inspector Davis had received complaints about a recurring issue of a semi truck parked overnight on the property, and the violation was currently in compliance. He recommended the Board acknowledge current

compliance and enter a Continuing Order so if the violation occurred in the future there would be the potential of a \$100 per day fine for each day verified.

10:17:24

ON MOTION BY Mr. Petrulak, SECONDED BY Mr. Gervasio, the Board voted unanimously (5-0) to find the violation had occurred but was currently in compliance, and enter a Continuing Order if the violation recurred there would be the potential of a \$100 per day fine for each day of verified non-compliance.

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

10:18:14 **Case #2015040031 – CGV Investments**

Ms. Kelly Buck, IRC Code Enforcement Officer, confirmed service to the Respondent on May 7, 2015 and on the registered agent on May 6, 2015. She submitted three photographs taken on May 15, 2015 into evidence and related the cited sections were for property maintenance and junk vehicles, and indicated she had received complaints from residents of a subdivision across the street because of transients seem coming in and out of the overgrown area. Inspector Buck had observed an open garage door and broken windows at a dilapidated abandoned residence, and noted someone had recently brought two trailers onto the site. She advised Mr. Joseph Paladin had been hired by the Respondent owners to represent them in resolving the issues.

Mr. DeBlois recommended an extension of 30 days, until June 19, 2015, for compliance by securing the main structure and resolving any junk vehicle storage violations.

Mr. Joseph Paladin, president of Black Swan Consulting, announced the Respondent had contacted him this morning and asked him to represent him in this matter, and he did not have much information on the subject property. He related he was the developer of the subdivision across the street and resided there, and felt he could resolve the violations within 30 days and if not he would definitely be present at the next CEB meeting on June 22, 2015.

10:23:37

ON MOTION BY Mr. Gervasio, SECONDED BY Mr. Boehning, the Board voted unanimously (5-0) to find the violations and grant an extension of 30 days, until June 19, 2015, for compliance.

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

10:25:44 **Case #2015030052 – Huguette Turcotte (Tenant)**

Mr. DeBlois recapped this case had to do with a recreational vehicle (RV) and the issue of where it was stored and whether or not it was being used as living quarters on the site.

Inspector Carter Solomon submitted an Affidavit of Service indicating the property had been posted on May 8, 2015 and one photograph into evidence and indicated initially the RV was parked in the center of the front yard and there was an electrical cord running from the RV to residence. She noted the RV had been moved over onto the driveway and she had recently been advised by Respondent tenant that her brother was using the RV as a recording studio.

Mr. DeBlois clarified use of an RV for office or commercial purposes was not allowed under the code and studio recording use was in the same category as commercial purposes, adding electrical connections were also not permitted. He acknowledged the RV appeared to be stored in a property location; however the use issue needed to be resolved, and recommended an extension of 60 days, until July 24, 2015, for compliance.

Respondent Ms. Huguette Turcotte stated she had asked her tenant, Theresa Hackx, to remove the RV from the property and confirmed nobody was sleeping in it.

10:36:27

ON MOTION BY Mr. Gervasio, SECONDED BY Mr. Boehning, the Board voted unanimously (5-0) to find the violation for recreational vehicle illegal use and grant an extension of 60 days, until July 24, 2015, for compliance or a \$100 per day fine would be imposed.

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

COMPLIANCE HEARING

10:38:20 **Case #2015020027 – First Developers Corporation (Sterling Warner)**

Inspector Davis recalled this case first came to the Board on March 26, 2015 for site plan non-conformance and landscape maintenance, at which time the Board granted 60 days, until May 15, 2015, to replace dead and missing landscape on the subject property. She submitted four photographs into evidence and advised the original owner had passed away and a new property manager had been hired and some progress had been made; however the pump and well needed to be replaced or repaired and there was additional clearing that needed to be done. Inspector Davis recommended an extension of 30 days for the pump and well, until June 19, 2015: and another 60 days, until August 21, 2015, for total compliance.

Ms. Jodi Simon, Lambert Commercial Real Estate, testified her company had taken over management on May 1, 2015. She explained there had been several problems with the previous management company and asked for an extension of time to resolve the issues.

The need to repair the sidewalk was discussed.

10:48:50

ON MOTION BY Mr. Petrulak, SECONDED BY Mr. Gervasio, the Board voted unanimously (5-0) to find non-compliance and grant an extension of 90 days, until August 21, 2015, for total compliance or a \$100 per day fine would be imposed.

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

LIEN RELEASE REQUEST

10:51:05 **Case #2013070163 – Marion Jr. & Janice Jones**

Mr. DeBlois recapped this case originally came to the Board on September 23, 2013 for overgrown weeds, at which time a 30 day extension was granted until the case came back for a compliance hearing on October 28, 2013. He continued upon

learning nothing had been done the Board entered an Order Imposing Fine of \$100 per day with start date of October 26, 2013. Mr. DeBlois verified compliance as of January 25, 2015, which was 456 days of non-compliance for a flat accrued fine in the amount of \$45,600. He noted 10% of the flat fine would be \$4,560 and estimated administrative costs would be \$1,700.

10:55:29

ON MOTION BY Mr. Gervasio, SECONDED BY Mr. Petrulak, the Board voted (4-1) to find compliance and reduce the fine to 10% of the flat accrued fine for an amount of \$4,560. Mr. Clements opposed.

It is noted for the record Mr. Jay Ward, representing the new owner of the property was present for this hearing.

Vice-Chairman Myers called a recess at 3:07 p.m. and reconvened the meeting at 3:15 p.m.

COMPLIANCE HEARINGS

10:57:16 **Case #2015020028 – Vinpar Management LLC (Comfort Suites)**

Inspector Davis summarized this case first came to the Board on March 23, 2015, at which time an extension of 60 days was granted to comply with the site plan non-conformance and landscape maintenance violations. She reported some work had been done and a revised landscape plan had been submitted for replacement of landscape and trees removed from the site, and submitted two photographs into evidence. Inspector Davis recommended an extension of 60 days, until July 24, 2015 for compliance.

Mr. Sanjay Patel, representing the Respondent, said he had been too busy in the season to get the job completed and promised to comply within 60 days.

11:01:23

ON MOTION BY Mr. Petrulak, SECONDED BY Mr. Clements, the Board voted unanimously to find non-compliance and grant an extension of 60 days, until July 24, 2015, for compliance or a \$100 per day fine

remaining issues on or before June 19, 2015. Mr. DeBlois clarified the reason for today's hearing was specific to the swimming pool violation.

Inspector Buck submitted two photographs taken May 18, 2015 into evidence and testified all of the junk, trash and debris had been cleaned up and the house had been boarded up; however the swimming pool looked the same as before and the bank's contracted representative told her it had been secured per the IRC Building Department's requirements. She said she had told the representative there would have to be a fence around the unfinished pool; but as of today nothing had been done.

Ms. Best indicated she had received an e-mail from Wells Fargo Bank saying a different type of cover had been put on the pool along with additional two by fours.

Ms. Buck related the IRC Building Department's concern was about the mesh not being sturdy enough and the exposed rebar around the pool was not safe.

Discussion followed.

Mr. Gervasio noted the original Order specifically stated the necessity of installing a safety barrier to prevent access to the swimming pool area.

Mr. DeBlois agreed there had been some efforts to comply; but in view of the fact it was a safety issue he recommended the \$100 per day fine be imposed with a start date of May 8, 2015.

11:17:16

ON MOTION BY Mr. Gervasio, SECONDED BY Mr. Boehning, the Board voted unanimously (5-0) to find non-compliance of the swimming pool enclosure violation and impose a \$100 per day fine with a start date of May 8, 2015.

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

EVIDENTIARY HEARINGS

11:18:45 **Case #2015020043 – Michael Lewis**

Inspector Jefferson submitted two photographs into evidence and confirmed

the property had been posted on May 7, 2015 for overgrown weeds at a vacant residence. She recommended an extension of 30 days, until June 19, 2015, for compliance.

11:19:33

ON MOTION BY Mr. Petrulak, SECONDED BY Mr. Clements, the Board voted unanimously (5-0) to find the violation and grant an extension of 30 days, until June 19, 2015, for compliance or a \$100 per day fine would be imposed.

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

11:19:45 **Case #2015030048 – John & Sherry Cusano (The Bank of New York Mellon)**

Inspector Jefferson confirmed service by posting the property on May 7, 2015 and on the bank on April 28, 2015, and submitted four photographs into evidence. She observed there was a refrigerator in the side yard which was a health and safety hazard/public nuisance violation, along with overgrown weeds and junk, trash and debris on the subject property.

Mr. DeBlois recommended an extension of seven days, until May 25, 2015 to secure or remove the refrigerator and 30 days, until June 19, 2015, for compliance of the remaining violations.

11:22:33

ON MOTION BY Mr. Gervasio, SECONDED BY Mr. Petrulak, the Board voted unanimously (5-0) to find the violations and grant an extension of seven days, until May 25, 2015, to secure or remove the refrigerator and 30 days, until June 19, 2015, for overall compliance.

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

11:22:48 **Case #2015030019 – Michael & Amanda Baker**

Inspector Jefferson confirmed service on April 13, 2015 and submitted two photographs into evidence. She indicated this case had to do with no building permit

for two sheds and junk, trash and debris on the subject property, and confirmed the junk, trash and debris violation had been resolved. Inspector Jefferson recommended an extension of 60 days, until July 24, 2015, for the Respondents to obtain a permit and approval for the sheds or be subject to a \$100 per day fine.

11:24:15

ON MOTION BY Mr. Petrulak, SECONDED BY Mr. Clements, the Board voted unanimously (5-0) to find the violation for no building permit and grant an extension of 60 days, until July 24, 2015, for compliance or a \$100 per day fine would be imposed.

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

11:24:34 **Case #2015030039 – Kelly Construction & Development Inc.**

Inspector Buck confirmed service on May 7, 2015 and submitted one photograph taken on May 14, 2015 into evidence. She testified she had spoken to the Respondent about the overgrown weeds violation and recommended an extension of 30 days, until June 19, 2015, for compliance.

11:25:35

ON MOTION BY Mr. Petrulak, SECONDED BY Mr. Clements, the Board voted unanimously (5-0) to find the violation and grant an extension of 30 days, until June 19, 2015, for compliance or a \$100 per day fine would be imposed.

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

11:25:53 **Case #2015030043 – Michael Jaholkowski**

Inspector Carter Solomon confirmed service on May 9, 2015 and advised the cited violations were for no building permit and use established without site plan approval. She continued she had received a complaint that the Respondent had installed a metal garage without a permit and submitted two aerial photographs into evidence showing where the structure had been installed. Inspector Carter Solomon indicated the Respondent's representative told her he would be obtaining site plan approval and a building permit for the shed, and recommended an extension of 90 days, until August 21, 2015, for compliance.

11:27:10

ON MOTION BY Mr. Clements, SECONDED BY Mr. Boehning, the Board voted unanimously (5-0) to find the violations and grant an extension of 90 days, until August 21, 2015, for compliance or a \$100 per day fine would be imposed.

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

11:17:33 **Case #201502129 – Edward & Carol Begley**

Inspector Carter Solomon submitted an Affidavit of Service indicating the property had been posted on May 8, 2015 and one photograph into evidence. She described a utility shed added to the property without building permits and recommended an extension of 90 days, until August 21, 2015, for compliance.

11:28:42

ON MOTION BY Mr. Petrulak, SECONDED BY Mr. Boehning, the Board voted unanimously (5-0) to find the violation and grant an extension of 90 days, until August 21, 2015, for compliance or a \$100 per day fine would be imposed.

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

11:29:01 **Case #2015030059 – Marcus & Monica Pryor**

Inspector Jefferson confirmed service on May 2, 2015 and submitted one photograph into evidence. She detailed she had received complaints about a fence installed without permits and recommended an extension of 30 days, until June 19, 2015, for compliance.

11:29:37

ON MOTION BY Mr. Clements, SECONDED BY Mr. Petrulak, the Board voted unanimously (5-0) to find the violation and grant an extension of 30 days, until June 19, 2015, for compliance or a \$100 per day fine would be imposed.

Inspector Carter Solomon submitted an Affidavit of Service indicating the property had been posted on May 8, 2015 and three photographs into evidence, and noted the junk, trash and debris violation was in compliance; however there were still overgrown weeds and pool maintenance violations on the site. She recommended an extension of 30 days, until June 19, 2015, for compliance.

11:35:32

ON MOTION BY Mr. Petrulak, SECONDED BY Mr. Boehning, the Board voted unanimously (5-0) to find the violations and grant an extension of 30 days, until June 19, 2015, for compliance or a \$100 per day fine would be imposed.

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

11:35:44 **Case #2015040046 – Tax Receivables Corporation**

Inspector Carter Solomon submitted an Affidavit of Service indicating the property had been posted on May 8, 2015 and one photograph into evidence. She described overgrown weeds in the rear yard at a vacant residence and recommended an extension of 30 days, until June 19, 2015, for compliance.

11:36:34

ON MOTION BY Mr. Gervasio, SECONDED BY Mr. Clements, the Board voted unanimously (5-0) to find the violation and grant an extension of 30 days, until June 19, 2015, for compliance or a \$100 per day fine would be imposed.

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

11:36:58 **Case #2015040014 – McCracken Enterprises LLC**

Inspector Carter Solomon submitted an Affidavit of Service indicating the property had been posted on May 8, 2015 and two photographs into evidence, and described overgrown weeds at a vacant residence. She stated she had not had contact with the Respondent regarding the violation and recommended an extension of 30 days, until June 19, 2015, for compliance.

Mr. Gervasio submitted a Memorandum of Voting Conflict form 8B to the

secretary and advised he would have to recuse himself from this case.

11:37:56

ON MOTION BY Mr. Petrulak, SECONDED BY Mr. Clements, the Board voted unanimously (4-0) to find the violation and grant an extension of 30 days, until June 19, 2015, for compliance or a \$100 per day fine would be imposed. Mr. Gervasio abstained.

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

11:38:21 **Case #2015040082 – Christian Chang**

Inspector Carter Solomon submitted an Affidavit of Service indicating the property had been posted on May 8, 2015 and three photographs into evidence. She related the cited violations were for overgrown weeds and junk, trash and debris at a vacant residence; noting the junk, trash and debris violations were now in compliance, and recommended an extension of 30 days, until June 19, 2015, for the lawn to be mowed.

11:39:26

ON MOTION BY Mr. Boehning, SECONDED BY Mr. Petrulak, the Board voted unanimously (5-0) to find the violation for overgrown weeds and grant an extension of 30 days, until June 19, 2015, for compliance or a \$100 per day fine would be imposed.

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

COMPLIANCE HEARINGS

11:39:51 **Case #2013040024 – RIG Williams LLC**

Inspector Buck recapped this case originally came to the Board on June 24, 2013 for no building permit and property maintenance violations, with a number of extensions subsequently being granted for various reasons. She advised all that remained was for the Respondent to call for a final inspection; however as of today's date none had been scheduled and she recommended the \$100 per day fine be imposed with a start date of May 16, 2015.

11:41:14

ON MOTION BY Mr. Petrulak, SECONDED BY Mr. Clements, the Board voted unanimously (5-0) to find non-compliance and impose the \$100 per day fine with a start date of May 16, 2015.

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

11:42:04 **Case #2014100138 – Pinnacle Groves Ltd.**

Inspector Buck summarized this case first came to the Board on January 26, 2015 for a dumpster outside of the approved dumpster area that was being used to contain furniture, etc. from evicted tenants, along with a junk, trash and debris violation. She submitted one photograph taken on May 14, 2015 into evidence and reported administrative approval (AA) had been granted at the end of April, 2015 for an additional enclosed dumpster location behind the maintenance area; however the overflowing dumpster had not been moved from the previous location when the photograph was taken. Inspector Buck advised she was at the site today and the dumpster had been removed.

Mr. DeBlois clarified the second dumpster would be allowed until the Respondent got their AA provided it was not overflowing and creating a nuisance; however it was staff's position the dumpster should be removed from the property until the enclosure was built in the permitted area. He expressed concern the Respondent might have a perception the dumpster could be brought back on the site before the enclosure was built and recommended the Board find current compliance; but if the violation recurred it would be brought back as a repeat violation.

11:45:55

ON MOTION BY Mr. Gervasio, SECONDED BY Mr. Boehning, the Board voted unanimously (5-0) to find current compliance of the site plan non-conformance violation; but if the violation recurred it would be brought back as a repeat violation.

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

11:46:28 **Case #2015010065 – James Boyette**

Inspector Carter Solomon recalled this case initially came to the Board on

