

CODE ENFORCEMENT BOARD

A meeting of the Indian River County (IRC) Code Enforcement Board (the Board) was held in the Commission Chambers at the County Administration Building, 1801 27th Street, Building "A", Vero Beach, Florida on Monday, February 22, 2016 at 1:30 p.m.

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

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

Also in attendance was Attorney Jennifer Peshke, Attorney for the Board; IRC staff: Roland DeBlois, Environmental and Code Enforcement Chief; Betty Davis, Kelly Buck, Rose Jefferson and Vanessa Carter Solomon, Code Enforcement Officers; Betty Beatty-Hunter and David Checchi, IRC Contractor License Investigators; and Lisa Carlson, Recording Secretary.

8:12:14 Call to Order

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

8:13:59 Approval of Minutes

ON MOTION BY Mr. Petrulak, SECONDED BY Mr. Boehning, the Board voted unanimously (6-0) to approve the minutes of January 25, 2016 as presented.

8:14:23 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.

8:19:30 Agenda Additions or Deletions, Consent Items

Mr. Roland DeBlois, IRC Environmental and Code Enforcement Chief,

2015, the Board ordered the Respondent to obtain an after the fact permit or remove the structure by January 22, 2016 or a \$100 per day fine would be imposed and he later received a thirty-day extension. The Respondent has not yet applied for a building permit or obtained a survey. Mr. DeBlois produced correspondence from the Inlet of Sebastian Condominium Association, a copy of which will be submitted into evidence, urging that the Board proceed with its action so that they could proceed in their compliance with the directive from SJRWMD.

Respondent Mr. Matthew Thilmony of Coalby Arms, LLC testified that a court case was filed in January 2016 and was served to the condominium association in February. He stated that the fence was erected more than ten years ago and he is disputing the location of the property line. He claimed he could not get a survey to establish a property line until the lawsuit is completed.

Mr. DeBlois contended that there is no reason that the Respondent cannot get a survey of his own property and he's trying to make a case that since he's used the property for ten years, he should be allowed to keep it. However, the fence was put up without a permit so there is no grandfathering in of any structures in question. He went on to say that since the Respondent doesn't agree with the survey done by the condominium association, he should get his own survey, compare surveys for discrepancies and determine which property survey is correct.

Mr. Zimmerman asked Ms. Jennifer Peshke, Attorney for the Board, whether the lawsuit prohibits the Respondent from having a survey done relative to determination of the property line. She responded that she agreed with Mr. DeBlois that any owner of record can obtain a survey of their own property at any time.

Mr. Gervasio stated that he was currently experiencing a similar situation and learned that the dispute between two neighbors as to whose property a fence is on has nothing to do with this board but rather is a very simple case of a fence erected without a permit which is a violation.

8:45:43

ON MOTION BY Mr. Gervasio, SECONDED BY Mr. Zimmermann, the Board voted (5-1) to find the violation and impose a \$100 per day fine beginning February 20, 2016. Mr. Clements was the opposing vote.

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

photos into evidence regarding an issue of vehicle parking in the yard of the Subject Property and recommended a thirty-day extension, until March 25, 2016, for the Subject Property to be brought into compliance.

Respondent Mr. Tracey Scarborough testified that he recently sold his lawn company and has been bringing equipment home to detail as he sells it. He added that he expects the remainder of the equipment to be gone in the next week.

9:03:52

ON MOTION BY Mr. Zimmerman, SECONDED BY Mr. Boehning, the Board voted unanimously (6-0) to find the violation and grant an extension of 30 days, until March 25, 2016, for compliance or a \$100 per day fine would be imposed.

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

9:05:47 **Case #2016010021 – Randy & Kathy Beal**

Inspector Betty Davis submitted four photos into evidence as well as an Affidavit of Service indicating that the property had been posted on February 11, 2016. She testified that this violation was for outdoor storage violations as well as an RV being used as living quarters. She stated that when the Respondents sold the neighboring property, they moved onto their lot next door along with boats, vans and a shipping container. She recommended a thirty-day extension, until March 25, 2016, for the Subject Property to be brought into compliance.

Respondents Mr. Randy Beal and Ms. Kathy Beal testified that they were under the impression that the shipping container was legal since they'd seen them on other properties. Mr. DeBlois responded that they required a permit and needed to be tied down appropriately. Ms. Beal pointed out that it might take more than thirty days for the shipping container to be removed and Mr. DeBlois recommended a sixty-day extension.

9:10:44

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

May 20, 2016 to bring the Subject Property into compliance.

10:08:52

ON MOTION BY Mr. Gervasio, SECONDED BY Mr. Petrulak, the Board voted unanimously (6-0) acknowledge compliance and reduce the fine to \$2000 for the first order and conditionally set the fine to \$2470 for the second order and bring the Subject Property into compliance with 90 days, by May 20, 2016.

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

EVIDENTIARY HEARINGS

10:10:45 **Case #2015120077 – Gholamreza Torkaman**

Inspector Vanessa Carter Solomon submitted into evidence eight photos and an Affidavit of Service indicating that the Subject Property had been posted on February 12, 2016. She testified that this case related to a tenant complaint of substandard housing. She went on to say that the Respondent has been very responsive in attempting to resolve the issues, the most urgent being the fence surrounding the swimming pool. He applied for the fence permit in January but there was some conflict with the tenant and he was not allowed onto the property to make the repairs. Staff recommended a sixty-day extension, until April 22, 2016, for the Respondent to bring the Subject Property into compliance.

Attorney Ms. Margaret Anderson testified that she's been helping the Respondent to attempt to evict the tenants from the Subject Property. The tenants complained about the condition of the property in court and the judge reduced the rent by fifty percent. The Respondent has been in touch with five different contractors to do repair estimates but the tenant refused all of them admission. As for the fence, it was completed this morning as the tenant was out of the house. Because the court system has allowed the tenants to remain for several months at half rent, they have no incentive to allow the repairs or to leave the property. However, the lease expires March 21, 2016 and the tenants have been served that the lease will not be renewed. As soon as the tenants leave, all repairs will be made.

Ray Vilanova, residential certified state contractor, testified that he pulled a permit for the fence on the Subject Property and made the repairs that morning. When he had attempted to begin the project the previous Saturday, there was an

altercation between the owner and tenant but because the tenant was not home today, he was able to finish the project. The Respondent has spoken to him about doing an evaluation of the property once it's vacant. He indicated that he had performed small repairs on the property in the past and had done an inspection of the property in November concluding that only minimal repairs were required.

Mr. Clements asked Mr. DeBlois whether it may be appropriate to add to the order that no tenant could be moved into the Subject Property until the violations are resolved to which Mr. DeBlois agreed.

10:30:50

ON MOTION BY Mr. Zimmerman, SECONDED BY Mr. Gervasio, the Board voted unanimously (6-0) to find the violations and grant an extension of 60 days, until April 22, 2016, for compliance or a \$100 per day fine would be imposed. No tenants will be allowed to occupy the Subject Property until the violations are resolved.

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

10:31:55 **Case #2015090066 – Littoral LLC**

Inspector Betty Davis submitted one photo into evidence and testified that this case was posted on January 11, 2016. She explained that this violation involved a dune crossover structure built without a permit and a construction sign with no active building permit. She recommended an extension of thirty days, until March 25, 2016, for the Respondent to remove the structure and the sign until there is a permit for the new structure.

Representative for the Respondent, Mr. Toma Fettig, stated that he's been waiting for a building permit from the county for over a year but does possess a permit from the state DEP. The permit had to pass through the Planning and Zoning office followed by the Environmental Control office but was signed off last week. He expects to have the building permit within two months for the three story home.

10:40:50

ON MOTION BY Mr. Zimmermann, SECONDED BY Mr. Gervasio, the Board voted unanimously (6-0) to find the violations and grant an extension of 30 days, until February 19, 2016, for compliance or a \$100 per day

fine would be imposed.

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

Chairman Myers II called a five-minute recess at 3:57 p.m. and reconvened the meeting at 4:05 p.m.

10:46:39 **Case #2015090087 – Paul M. Deschryver**

Inspector Betty Davis submitted four photos into evidence and testified that this violation was for an unpermitted carport structure as well as numerous Army vehicles on the Subject Property. She recommended an extension of sixty days, until April 22, 2016, for the Respondent to bring the Subject Property into compliance.

10:50:21

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

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

10:50:43 **Case #2015090005 – Dickerson Realty Florida Inc.**

Inspector Vanessa Carter Solomon testified that the property was posted on January 26, 2015 for storm water drainage violations. She requested an extension of thirty days, until March 25, 2016, for the Respondent to bring the property into compliance.

10:51:45

ON MOTION BY Mr. Petrulak, SECONDED BY Mr. Boehning, the Board voted unanimously (6-0) to find the violations and grant an extension of 30 days, until March 25, 2016, for compliance or a \$100 per day would be imposed.

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

10:52:31 **Case 2015080194 – Francis Anne Kistler**

Ms. Rose Jefferson, IRC Code Enforcement Officer, submitted one photo into evidence and testified that the property was posted on February 12, 2016 for an unpermitted shed and fence. She requested an extension of sixty days, until April 22, 2016, for the Respondent to bring the property into compliance.

Mr. Gervasio submitted a Memorandum of Voting Conflict form to the secretary and advised that he would have to remove himself from this case.

10:53:08

ON MOTION BY Mr. Petrulak, SECONDED BY Mr. Boehning, the Board voted (5-0) to find the violation and grant an extension of 60 days, until April 22, 2016, for compliance or a \$100 per day fine will be imposed. Mr. Gervasio abstained.

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

10:53:35 **Case #2016010048 – Alberta L. Snider**

Inspector Betty Davis submitted into evidence four photos and an Affidavit of Service indicating that the property was posted on February 11, 2016 and testified that the violation was for a swimming pool enclosure and maintenance violations as well as overgrown weeds. She requested an extension of thirty days, until March 25, 2016, for the Respondent to bring the property into compliance.

10:55:11

ON MOTION BY Mr. Petrulak, SECONDED BY Mr. Boehning, the Board voted unanimously (6-0) to find the violation and grant an extension of 30 days, until March 25, 2016, for compliance or a \$100 per day fine will be imposed.

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

10:55:55 **Case #2015120056 – Nationstar Mortgage LLC**

Inspector Betty Davis submitted into evidence two photos and an Affidavit of Service indicating that the property had been posted on February 11, 2016. She testified that the violation was junk, trash and debris as well as illegal use of an RV. She requested an extension of thirty days, until March 25, 2016, for the Respondent to bring the property into compliance.

10:56:54

ON MOTION BY Mr. Zimmermann, SECONDED BY Mr. Boehning, the Board voted unanimously (6-0) to find the violations and grant an extension of 30 days, until March 25, 2016, 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.

10:57:09 **Case #2015120039 – Margaret M. Braue**

Inspector Vanessa Carter Solomon submitted into evidence two photos and an Affidavit of Service indicating that the property had been posted on February 12, 2016. She testified that the violation was for junk, trash and debris and requested an extension of thirty days, until March 25, 2016, for the Respondent to bring the property into compliance.

10:57:59

ON MOTION BY Mr. Gervasio, SECONDED BY Mr. Clements, the Board voted unanimously (6-0) find the violation and grant an extension of 30 days, until March 25, 2016, 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.

10:58:19 **Case #2015120015 – Beverly Riffe**

Inspector Vanessa Carter Solomon submitted into evidence two photos and an Affidavit of Service indicating that the property had been posted on February 12, 2016. She testified that the violation was for a dead pine tree causing a safety hazard and requested an extension of thirty days, until March 25, 2016, for the Respondent to bring the property into compliance.

10:59:41

ON MOTION BY Mr. Gervasio, SECONDED BY Mr. Boehning the Board voted unanimously (6-0) find the violation and grant an extension of 30 days, until March 25, 2016, 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.

10:59:43 **Case #2016010020 – Yvette Washington**

Inspector Rose Jefferson submitted into evidence one photo and an Affidavit of Service indicating that the property had been posted on February 22, 2016. She testified that the violations were for overgrown weeds and a junk vehicle and requested an extension of thirty days, until March 25, 2016, for the Respondent to bring the property into compliance.

11:00:48

ON MOTION BY Mr. Boehning, SECONDED BY Mr. Clements the Board voted unanimously (6-0) find the violation and grant an extension of 30 days, until March 25, 2016, 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.

11:01:09 **Case #2015120021 – Bernie T. Nash**

Inspector Rose Jefferson submitted into evidence two photos and an Affidavit of Service indicating that the property had been posted on February 12, 2016. She testified that the violation was for junk, trash and debris and requested an extension of thirty days, until March 25, 2016, for the Respondent to bring the property into compliance.

11:02:08

ON MOTION BY Mr. Boehning, SECONDED BY Mr. Clements the Board voted unanimously (6-0) find the violation and grant an extension of 30 days, until March 25, 2016, 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.

11:02:19 **Case #2015120022 – Willie Hamp & Florine Roberson**

Inspector Kelly Buck submitted into evidence seven photos and an Affidavit of Service indicating that the property had been posted on February 11, 2016. She

testified that she initially went onto the property in December 2015 with a member of the sheriff's office and a member of the building department. She added that the building department has since begun the condemnation process on the structure. The violations are for an unsecured vacant structure, overgrown weeds and junk, trash and debris. She requested an extension of seven days, until February 29, 2016 to secure the structure and thirty days, until March 25, 2016, for the Respondent to bring the property into compliance.

11:04:38

ON MOTION BY Mr. Clements, SECONDED BY Mr. Gervasio the Board voted unanimously (6-0) find the violation and grant an extension of 7 days, until February 29, 2016 to secure the structure and 30 days, until March 25, 2016, 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.

11:04:39 **Case #2016020002 – Jose & Miriam Ocampo**

Inspector Betty Davis submitted into evidence four photos and an Affidavit of Service indicating that the property had been posted on February 11, 2016. She testified that the violations were for an unpermitted gazebo and storage unit as well as for storing and selling vehicles from a vacant lot. She requested an extension of thirty days, until March 25, 2016, for the Respondent to bring the property into compliance.

11:06:38

ON MOTION BY Mr. Zimmerman, SECONDED BY Mr. Petrulak the Board voted unanimously (6-0) find the violation and grant an extension of 30 days, until March 25, 2016, 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

11:06:49 **Case #2015060022 – Hiram Serrano-Rios**

Inspector Betty Davis submitted two photos into evidence and testified that the

violation was for an RV being used as living quarters during the course of construction. She went on to say that the permit to do this is good for one year during construction and not renewable. The Respondent has agreed to move the RV to an alternate location.

11:10:39

ON MOTION BY Mr. Zimmerman, SECONDED BY Mr. Gervasio, the Board voted unanimously (6-0) to acknowledge compliance.

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

11:11:11 **Case #2015060040 – Richard W. Chisholm**

Inspector Betty Davis submitted two photographs into evidence and testified that the violation was for an unpermitted fence. The case initially came before the Board on August 24, 2015. Extensions have brought it to February 19, 2016 for compliance but there has been no permit application, no progress has been made and there has been no contact with the Respondent. She recommended that a \$100 per day fine be imposed with a start date of February 20, 2016.

11:12:18

ON MOTION BY Mr. Petrulak, SECONDED BY Mr. Zimmerman, the Board voted unanimously (6-0) to find the violation and impose a \$100 per day fine beginning February 20, 2016.

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

11:12:41 **Case #2015040035 – JP Morgan Chase Bank**

Inspector Vanessa Carter Solomon testified that the violation was for landscape maintenance and site plan nonconformance. The case initially came before the Board on November 23, 2015. Extensions have brought it to February 19, 2016 for compliance but there has been no progress. She recommended that a \$100 per day fine be imposed with a start date of February 20, 2016.

11:13:48

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

beginning February 20, 2016.

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

LIEN RELEASE REQUESTS

11:14:47 **Case #2013070029 – Nicole M. Devlin**

Mr. DeBlois testified that this case related to overgrown weeds and yard debris on the Subject Property. The start of the fine was November 23, 2013 and the compliance date was 817 days later on February 18, 2016. The flat fine would be \$81,700 with administrative costs of \$2000. He went on to say that this property was recently sold at a tax deed sale and the Code Enforcement office subsequently received proceeds in the amount of \$2622.86 that go towards the fine.

Mr. Zimmerman asked Mr. DeBlois whether the board would be taking a chance of setting a bad precedent by determining the amount of fine according to proceeds paid, to which Mr. DeBlois agreed.

Discussion ensued as to the fact that the board might have settled for the administrative costs anyway and who is responsible for the remaining fine, if any.

11:23:07

ON MOTION BY Mr. Zimmermann, SECONDED BY Mr. Clements, the Board voted unanimously (6-0) to acknowledge compliance and reduce the fine to \$8170 minus the proceeds from the tax deed sale.

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

11:24:07 **Case #2014090124 – Peter T. Rossell**

Mr. DeBlois testified that this case related to overgrown weeds on a property where the owner has since died. The start of the fine was December 20, 2014 and the compliance date was 356 days later on December 11, 2015. The flat fine would be \$35,600 with administrative costs of \$1700. He recommended setting the fine at \$3560.

11:26:57

ON MOTION BY Mr. Clements, SECONDED BY Mr. Petrulak, the Board voted unanimously (6-0) to acknowledge compliance and reduce the fine to

\$3560.

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

11:27:14 **Authorization for Notices to Appear**

ON MOTION BY Mr. Petrulak, SECONDED BY Mr. Zimmermann, the Board voted unanimously (6-0) to authorize the Notices to Appear for cases leading up to the March 28, 2016 meeting.

Other Matters

There were none.

Adjournment

There being no further business, the meeting was adjourned at 4:47 p.m.