

MAYOR
Hal J. Rose

DEPUTY MAYOR
John Dittmore

COUNCIL MEMBERS
Daniel Batchelder
Pat Bentley
Adam Gaffney
Barbara A. Smith
Andrea Young



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CODE ENFORCEMENT BOARD

AGENDA

Thursday, January 16, 2020
5:30 p.m.
City Council Chambers

1. **CALL TO ORDER**
2. **PLEDGE OF ALLEGIANCE**
3. **ROLL CALL**
4. **ADOPTION OF MINUTES**

The Board is asked to approve the minutes of the November 21, 2019 hearing.

5. **SWEARING IN OF THOSE PRESENTING TESTIMONY**
6. **OLD BUSINESS**

- A. Case No. 2019-162 (4255 Norfolk Parkway)
WEST MELBOURNE HOLDINGS, II LLC, et al.
Violation of Section 30-5. Penalty for violation of fire prevention codes
Order imposing two liens

7. **NEW BUSINESS**

- B. Case No. 2019-0166 (1000 Fell Road – ROW)
TRU-GAS OF FLORIDA, INC., et al.
Violation of Section 18-151. Required
Order finding violations and penalties
- C. Case No. 2019-0176 (2710 Dairy Road)
ESTHER L. & MARIANO LOPEZ, et al.
Violation of Section 26-206. Vehicles in inoperable condition
Order finding violations and penalties

- D.** Case No. 2019-0155 (200 Bossieux Blvd.)
STANLEY & LINDA HART, et al.
Section 26-206. Vehicles in inoperable condition
Order finding violations & penalties

All persons wishing to be heard should appear in person at these hearings or send written comments to the City Clerk. All persons and parties are hereby advised that if they should decide to appeal any decision made by the City with respect to any matter considered at the public meeting or hearing described in this notice, they will need a record of the proceedings, and for such purpose, said person or party may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based (Chapter 286, Florida Statutes). In compliance with American with Disabilities Act (ADA), anyone who needs a special accommodation for this meeting should contact the City's ADA coordinator at 321-837-7774 at least 48 hours before the hearing.

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CODE ENFORCEMENT BOARD

MINUTES

November 21, 2019

1. CALL TO ORDER/PLEDGE OF ALLEGIANCE

Board Member Weaver, as Acting Chair, called the meeting to order at 5:35 pm and led the Pledge of Allegiance.

2. ROLL CALL

Present: Board Members Andrew Jones, James Shipton, Linda Palardy, Carl Weaver, Robert Lubber, George Bosch and Arvind Maddikonda.

Absent: Chair Chris Gibbs and Vice Chair Sandra Michelson.

Board Member Lubber moved to excuse Chair Gibbs and Vice Chair Michelson. Seconded by Board Member Jones, motion carried 6-0.

Also present: Council Member Barbara Smith, Building Official Tom Forbes, Code Enforcement Inspectors Trude Hull and Roy Black, Fire Code Inspector Charles Crowell, Administrative Support Specialist Doreen A. Morales, City Attorney Morris Richardson and other members of the public.

3. ADOPTION OF MINUTES

Board Member Shipton moved to approve the minutes from the October 17, 2019 hearing. Seconded by Board Member Lubber, motion carried 6-0.

4. SWEARING IN OF THOSE PRESENTING TESTIMONY

Doreen A. Morales swore in those presenting testimony.

5. NEW BUSINESS

Case No. 2019-162

Violation of Section 30-5 Penalty for violation of fire prevention codes

Code Enforcement Inspector Trude Hull presented Case No. 2019-162 for property located at 4255 Norfolk Parkway and owned by West Melbourne Holdings, II LLC, et al.

Inspector Hull turned the case over to Fire Code Inspector Charles Crowell.

Fire Code Inspector Charles Crowell was sworn in and testified:

- AMC Theatre has had a history of chronic false alarms
- Ten false alarms between 3/22/2019 – 10/23/2019
- Excessive humidity build up in the a/c ducts causing the duct detectors to activate the alarms
- Duct detectors should be set to supervisory signals not alarm signals
- Some progress has been made but it's been an ongoing issue
- Had been addressed in the past and was told the issues had been taken care of but the duct detectors still were setting off false alarms
- False alarms put our first responders, both fire fighters and police, at risk. As well as the general public because the response is an emergency response
- When there is a false alarm the emergency apparatuses are unavailable for actual emergency situations
- Duct detectors were retested and did come through as supervisory alarms but as time went on they returned to the alarm signals
- Fire department again notified him the alarm signals had returned
- Issues have been ongoing since the building was CO'd
- Requested AMC provide a licensed fire protection engineer at no cost to the AHJ to resolve the ongoing fire alarm issues and this should include engineering required to stop the false activation of duct detectors
- Acquire and maintain a listed central station monitoring service for the fire alarm system with runner service and AHJ notification of all FACP signals, including whenever the system has been reset, as per code
- Resetting of the fire alarm system shall not be permitted until the runner service is onsite
- Theatre occupants should evacuate the building and not re-enter until the runner service is onsite and verifies the fire alarm system is fully functional
- Provide the AHJ with a copy of the central station monitoring contract
- System should have components correctly addressed
- Central station monitoring is not onsite but they dispatch the police and fire departments to the theatre

- Contractors have been changed often; most recent one is Central Station Monitoring Service
- City Ordinance #18-508 addresses the cost for false/accidental alarms and the \$1,000 fine will help cover the City costs

Humberto Borunda, General Manager at the AMC Theatre, was sworn in and testified:

- Per Fire Marshall Crowell he requires a runner service (Fire Protection System Contractor) and AMC does have a runner service as requested
- False alarms do dispatch someone within 2-4 hrs. Panel will be checked to see if it is up to standard and this should alleviate the issues
- Program was not available to them as the original fire company withheld the program from AMC
- New company went through great lengths to get the program from them
- Program is now onsite and they have another one in the safe
- Hopefully by end of the month they will be good to go
- They are working diligently to resolve all the issues

Board Member Weaver asked why the duct detectors had not been reprogrammed to supervisory signals. Changing the panel to supervisory would alleviate 99.9 percent of the issues.

Inspector Crowell stated there hasn't been any false alarms since. A functional test has been completed with the a/c contractor and fire alarm contractor. They smoked all duct detectors. They could not ascertain the addressing of the duct detectors. They did come in as supervisory signals but as time went on they went back to alarm signals. Could be a programming problem or a corporate issue.

Board Member Luber asked if there has been a financial cost to the city. Ten false alarms is a lot to respond to.

Board Member Jones stated residents pay some within their tax bills as taxpayers and homeowners.

City Attorney Morris Richardson stated we can use Ordinance #18-508 which addresses fines and penalties of false alarm fees. The schedule can be used for the City costs for alarms. The BCFR cost is not included. City ordinance relates to burglar alarms not for fire alarms or smoke alarm systems but can be used as a guideline, not specific for this instance but not controlling.

City Attorney Richardson stated based on the legal notice sent for this hearing a maximum fine of \$250 is appropriate. Inspector Crowell can recommend up to \$250. Although, under Ordinance #2-100 – Administrative fees states when a violation is considered irreparable or irreversible, meaning it has happened and cannot be fixed,

such as trees being cut down. A thirty year old oak cannot be replaced. The Board can charge up to \$5,000 per violation in those instances, if they so choose. Attorney Richardson stated the Board has flexibility with the fines on the past alarms, because they are considered irreparable and irreversible.

Board Member Jones would like the AMC to maintain these contracts. This is a significant life safety issue.

Inspector Crowell stated based on Ordinance #18-508 fees begin after the third false alarm within a 12 month period. Again, this ordinance is not specific to fire alarms.

Inspector Crowell recommends the Board find the violations.

Board Member Jones moved to find the violations. Seconded by Board Member Luber, motion carried 6-0.

Inspector Crowell recommends for the ten (10) false alarms from 3/22/2019 to 10/23/2019, a fine of \$100 per alarm, for a total fine of \$1,000.

Board Member Jones moved for a fine of \$100/per false/nuisance alarms for the ten alarms for a total fine of \$1,000. Seconded by Board Member Luber, motion carried 6-0.

Inspector Crowell recommends granting thirty (30) days to come into compliance, if not in compliance by December 22, 2019 a fine of \$250/a day and for each day thereafter until compliance is reached.

Board Member Luber moved to grant thirty (30) days to come into compliance, if not in compliance by December 22, 2019 a fine of \$250/a day and for each day thereafter until compliance is reached. Seconded by Board Member Shipton, motion carried 5-1, with Board Member Jones voting against.

Case No. 2019-161

Violation of Section 30-5 Penalty for violation of fire prevention codes

Code Enforcement Inspector Trude Hull presented Case No. 2019-161 for property located at 4085 Norfolk Parkway and owned by Promise of Brevard, LLC, et al.

Inspector Hull turned the case over to Building Official Thomas Forbes who stated he would like to table for 30 days bring back to the Board if not making progress.

Board Member Luber moved to table for thirty days. Seconded by Board Member Palardy, motion carried 6-0.

Case No. 2019-150
Violation of Section 18-151 Permits required

Code Enforcement Inspector Trude Hull presented Case No. 2019-150 for property located at 129 W. Laila Drive and owned by Teresa Van Valkenburg, et al.

Inspector Hull stated this case has complied and is closed.

Case No. 2019-152
Violation of Section 26-64 Property maintenance
Violation of Section 26-102 Overgrowth of grass & weeds

Code Enforcement Inspector Trude Hull presented Case No. 2019-152 for property located at 116 Lee Road and owned by David & Nancy Olmstead, et al.

Inspector Hull was sworn in and testified:

- Property owner David Olmstead has passed away
- Nancy Olmstead is in a rehabilitation facility at this time
- Neighbors informed of a possible reverse mortgage on the property
- Bank of New York Mellon did not have any information on the property
- Property was posted with a Notice of Violation and Summons for the hearing
- Recommends a forced mow

Inspector Hull recommends the Board find the violations.

Board Member Jones moved to find the violations. Seconded by Luber, motion carried 6-0.

Inspector Hull recommends a forced city mow on the property at 116 Lee Road with no time cure. Inspector Hull will request three estimates for the mow and have the property mowed as soon as possible.

Board Member Shipton moved for a forced mow. Seconded by Board Member Palardy, motion carried 6-0.

Case No. 2019-159
Violation of Section 2-93 Repeat violations
Violation of Section 26-64 Property maintenance
Violation of Section 98-1008 Parking, storage or use of major rec. equip.

Code Enforcement Inspector Trude Hull presented Case No. 2019-159 for property located at 196 Hollywood Blvd., and owned by Deborah A. Raskett, et al.

Inspector Hull was sworn in and testified:

- She contacted Ms. Raskett via email about the repeat violations on the property
- The repeat violation case for the inoperable vehicles was closed
- Sent email thanking Ms. Raskett for complying re: the inoperable vehicles
- Advised Ms. Raskett in the same email a new case was opened for repeat violations, property maintenance and parking, storage or use of major recreational equipment
- Advised fines would start running on October 31st
- Drove by the property on October 30th and the four wheeler (PUG) and trailer were still in the driveway
- On November 14th received an email from Ms. Raskett asking if there was a Code Board hearing on November 15th
- Advised her, in a return email, there was a hearing on November 21st
- The prior email stated the new case and violations – email was resent to her
- The PUG is a recreational vehicle and garbage/debris remains in the driveway
- Fines started running on October 31 until November 9th for a total of nine days
- The PUG and trailer were removed over the weekend of November 9th/10th
- On November 11th the PUG and trailer were gone and the fines stopped running as of November 9th

Inspector Hull recommends the Board find the repeat violations for the property maintenance of garbage and debris in driveway and the recreational vehicle in the front yard with the trailer attached. All repeat violations. Recreational vehicles and trailers are not allowed in the front yard within city limits.

Deborah Raskett, the Respondent, was sworn in and testified:

- Ms. Raskett stated she received an email from Inspector Hull thanking her for taking care of the violations and the case was closed
- Ms. Raskett apologized as she did not continue reading the email once she had seen the thank you for complying; she did not think the same email would contain a new violation
- She would have contacted the tenant and have him remove the recreational vehicle and trailer but was unaware of the violations
- If she is aware of an issue at the property she will do what she can to fix it
- Requested the Board be lenient in this case
- Requests phone calls or separate emails for different cases

Moriya McNulty, the Tenant, was sworn in and testified:

- Mr. McNulty stated he moved the four wheeler for the first three days
- Promised to do better and keep property in better condition
- Four wheelers do not have to be registered in the State of Florida

Board Member Jones questioned if the vehicle is an electric vehicle, how it got there, is it registered with the State of Florida and why the vehicle and trailer are in the front yard. There may be a legal issue of getting it to and from the property. Also, would this vehicle be considered a motor vehicle.

Attorney Richardson stated the vehicle and trailer are definitely in violation but they were cited for major recreational vehicles in the yard. Inspector Hull stated she also cited for repeat violation and property maintenance. Attorney Richardson asked Inspector Hull if the property maintenance was complied. Inspector Hull stated no the property maintenance remains in violation.

Attorney Richardson read the ordinance to the Board explaining what the City considers major recreational equipment i.e.: boats and boat trailers, travel trailers, pickup campers or coaches designed to be mounted on automotive vehicles or trucks, motorized dwellings, tent trailers and cases or boxes used for transporting recreational equipment, whether occupied by such equipment or not. If the ordinance does not apply then the Respondent has not committed a violation as cited in the Notice of Violation.

Attorney Richardson and Ms. Raskett thought the property maintenance had complied before the hearing.

Board Member Shipton questioned if the equipment, with the straw/hay on it is defined as a trailer and is the motorized vehicle considered an ATV. Attorney Richardson stated our code defines a road tractor as any self-propelled vehicle designed and used for towing other vehicles or trailers and could fall under special mobile equipment. Trailer could be a violation.

Attorney Richardson stated the issue for the Board to decide is did the City cite the Respondent with the correct ordinance or not. Is the vehicle and trailer major recreational equipment and regardless if the Board decides there is a violation under major recreational equipment, this situation cannot continue. Respondent may be lucky this time depending on the ruling of the Board but they shouldn't take this as a directive they can continue to do this in the future.

Inspector Hull stated she does not go by the property unless she gets a complaint. Her recommendation is to dismiss the case.

Board Member Luber stated the Respondent was lucky tonight and they should think of their neighbors and Mr. McNulty, the Tenant, should think of the stress on Ms. Raskett.

Ms. Raskett questioned does a complaint have to come in for a repeat violation. Inspector Hull stated a complaint does not have to come in for a repeat violation. Attorney Richardson stated code does not require a complaint and the City's policy is complaint driven and there doesn't have to be a complaint for a repeat violation.

Ms. Raskett asked for a phone call if there are any issues at the property instead of emails. Inspector Hull stated she will only contact Ms. Raskett through email.

Board Member Jones suggested Ms. Raskett drive by the property on a regular basis to check on it. Ms. Raskett stated she drives by the property a couple times a month but not often.

Attorney Richardson stated the City has decided to dismiss the case so no further action is required.

6. REQUEST TO CANCEL

Inspector Hull requested to cancel the December 19, 2019 hearing due to the close proximity to Christmas.

Board Member Shipton requested to cancel the December 19, 2019 hearing. Seconded by Board Member Luber, motion carried 6-0.

Board Member Luber requested to please schedule a December hearing if there are any emergency cases. Inspector Hull stated we will schedule a hearing if there are any emergency cases.

7. ADJOURNMENT

There being no further business, hearing was adjourned.

Chair Chris Gibbs, or designee

Doreen A. Morales
Recording Secretary