

MAYOR
Hal J. Rose

DEPUTY MAYOR
Andrea Young

COUNCIL MEMBERS
Daniel Batchelder
Pat Bentley
John Dittmore
Daniel McDow
Stephen Phrampus



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Tom Forbes, Building Official
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CODE ENFORCEMENT BOARD

AGENDA

Thursday, January 20, 2022
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 October 21, 2021 hearing.

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

- A. Case No. 21-0067 (2395 Minton Road)
S & A Minton Road Corp, et al.
Violation of Section 71-107. – Required – Trees removed from vacant lot
Order imposing liens
- B. Case No. 21-0107 (2395 Minton Road)
S & A Minton Road Corp, et al.
Violation of Section 71-118. – Plant material
Order imposing liens
- C. Case No. 21-0051 (66 Westover Drive)
John Laisi, et al.
Violation of Section 26-206. - Vehicles in inoperable condition
Violation of Section 26-207. - Storing, depositing or keep property in encl. bldg.
Order imposing liens

7. NEW BUSINESS

- D.** Case No. 21-0061 (4345 W. New Haven Ave.)
Cinema World of Florida, Inc.
Violation of Section 98-1122. – Maintenance of walls and fences
Order of findings and penalty

- E.** Case No. 21-0187 (792 Conestee Drive)
Bradley E. Dunham, et al.
Violation of Section 2-93. – Repeat violations
Order of findings repeat violations and penalty

8. ADJOURNMENT

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

October 21, 2021

1. CALL TO ORDER/PLEDGE OF ALLEGIANCE

Chair Chris Gibbs called the meeting to order at 5:30 pm and led the Pledge of Allegiance.

2. ROLL CALL

Present: Chair Chris Gibbs, Vice Chair Sandra Michelson, Board Members Andrew Jones, James Shipton, Linda Palardy and George Bosch.

Absent: Board Member Robert Luber.

Board Member Bosch moved to excuse Board Member Robert Luber, seconded by Board Member Palardy, motion carried 5-0.

Also present: Council Member Stephen Phrampus, Building Official Tom Forbes, Code Enforcement Inspector Roy Black, Fire Code Inspectors Charles Crowell and Carl Weaver, Planning & Economic Development Director Christy Fischer, City Attorney Morris Richardson, Administrative Support Specialist Doreen Morales and other members of the public.

3. ADOPTION OF THE MINUTES

Vice Chair Michelson moved to approve the minutes from August 19, 2021 with a minor change on a motion, due to microphones not being used, error was corrected by Administrative Support Specialist Doreen Morales. Seconded by Board Member Jones, motion carried 5-0.

4. SWEARING IN OF THOSE PRESENTING TESTIMONY

City Attorney Morris Richardson, swore in those presenting testimony.

*Former Code Board Member Carl Weaver informed the Board of his resignation after 12 years of service on the Code Enforcement Board. He thanked the Board and stated he will see them on the other side of the dais, as he is now employed by the City of West Melbourne as the Fire Code Inspector.

**Council Member Stephen Phrampus introduced himself as the Code Enforcement liaison, offered Council's assistance, at any time, and thanked the Board for their help and service to the City.

5. NEW BUSINESS

****Agenda change - Chair Gibbs requested to hear Cases "E" & "F" first, as the Planning & Economic Development Director Christy Fischer has time constraints.*

Case No. 2021-0094 (Case E)

Violation of Section 66-552. - Required for certain developments; exemptions
Violation of Section 26-100. - Prohibited accumulations of garbage & trash

Building Official Tom Forbes presented Case No. 2021-0094 for property located at 7629 Coral Drive and owned by Xa Thi Tran, et al.

Building Official Forbes was sworn in and testified:

- City requires an approved site plan from Respondents
- Planning Department gave Respondent and her engineer a checklist
- There are over 100 vehicles on the lot at this time; concerns of auto salvage business taking place
- Trash and debris remain on the site
- Photographs taken today were shown to the Board and Respondents
- There is one tenant on the property with multiple Business Tax Receipts
- Lot requires crushed concrete for automotive fluids and will be required by the City once a site plan is approved

Planning & Economic Development Director Christy Fischer was sworn in and testified:

- Sunset Clause was adhered to back in December 2020
- City requires an approved site plan for allowable uses
- Respondent and her engineer were given a checklist for the change of use
- Two preliminary site plans have been submitted but were denied by the City
- Submitted site plans were labeled as "Junkyards"
- Basic information is needed regarding parking and uses of the property
- A deficiency letter was sent to property owners and engineer
- There have been language barriers between Respondent and the City is working with Respondent and are being lenient
- City has also waived the application for a pre-application meeting

- City will require an environmental study but one has not been completed

City Attorney Richardson explained a Business Tax Receipt to the Board. It is only a receipt showing the business paid a tax. It does not allow certain businesses at a property. Attorney Richardson stated the tenants have quite a few Business Tax Receipts for this site.

City Attorney Richardson stated the lot cannot be used as a junkyard as per the Sunset Clause Agreement in December 2020.

Xa Thi Tran, through her translator, 3003 Lasistor Street, Orlando, FL 32817, was sworn in and testified:

- Garbage and trash have been partially removed and need to know what areas need to be cleaned
- Site plan has been submitted as per City request
- Respondent requests a checklist be provided to architect, engineer and property owners
- Respondent is very appreciative of the City's help in getting the site plan completed
- Salvage yard was cleaned up as per the Sunset Clause, December 2020 and the property owner are surprised at the number of vehicles that have returned to the site

Glenda Cook, 764 Universe St NW, Palm Bay, FL 32907, tenant at 7629 Coral Drive, was sworn in and testified:

- She is the tenant at 7629 Coral Drive
- Photographs of vehicles are for the towing and storing businesses
- Vehicles accumulate quickly from police rotations; there are many accidents
- Liens are placed on the vehicles and can take up to 30-45 days for them to clear; records can be made available
- They operate an auto dealership, auto repair, auto body repair and towing businesses on the lot
- Tenant was advised afterward about a City site plan
- There are no raccoons living in the vehicles
- Explained photograph of a gentleman fixing a windshield in the road
- There is a community of like businesses in the area and have access to Coral Drive

Board Member Jones would like the businesses at 7629 Coral Drive to cease after 30 days. Attorney Richardson stated he can make a recommendation to City Council and have an injunctive relief to cease business after 30 days.

Board Member Bosch questioned why license plates were not on the vehicles. Ms. Cook stated the vehicles are from the towing after accidents. Vehicle owners pick up

the tags and their belongings. Then once the lien is completed they dispose of the vehicles.

Wendell Stroderd, 7619 Coral Drive, West Melbourne, FL 32904, was sworn in and testified:

- He is a neighbor, business and property owner
- Vehicles have been there for months
- Photographs presented are from the Respondent's lot, Coral Drive and Property Appraiser website
- Photographs were made available to the Board and Respondents
- Businesses in the area are being affected by the tenant's businesses
- Photographs of engines & transmissions being removed prove this is being operated as a salvage yard
- December 2020 photograph depicts when the Sunset Clause Agreement was adhered to
- May 2021 – Lot was full of junk cars
- June 23rd - there were no cars on the lot
- June 23rd - in the afternoon there were 20 vehicles back on the lot
- There are over 100 cars on the lot
- They are not there to be repaired
- He hired an exterminator for the racoons and mosquitos
- Racoons are living in the vehicles & standing water creates mosquitos
- Photograph 1 - Salvage yard in 2020
- Photograph 2 - Respondent complied and moved all vehicles from lot
- Photographs 3 and 4 - Vehicles back on the lot
- Photographs 5 and 6 - Total loss vehicles
- Photographs 7, 8 and 9 - Engines being pulled from the cars
- Photographs 10, 11 and 12 - Removed engines and transmissions at the property
- Photographs 13 and 14 - High grass and weeds
- Photographs 15, 16 and 17 - Road being blocked by many vehicles
- Photograph 18 - Vehicle being worked on in the road
- Photograph 19 - In front of Garcia Automotive; can't see the business
- Photographs 20 and 21 - Spilled automotive fluids on Coral Drive from junk cars

Vice Chair Michelson stated without an approved site plan the business should not be operating.

Building Official Forbes recommends the Board find the violations at 7629 Coral Drive.

Board Member Jones moved to find the violations at 7629 Coral Drive. Board Member Palardy seconded, motion carried 5-0.

Building Official Forbes recommends granting 30 days to come into compliance with an approved site plan. If site plan not approved in 30 days, a \$250/a day fine thereafter.

Board Member Shipton moved to grant 30 days to come into compliance with an approved site plan, if not complied a \$500/a day fine thereafter. Vice Chair Michelson seconded, motion carried 5-0.

Building Official Forbes recommends granting three days to remove the trash and debris, if not removed in three days, a \$250/a day fine thereafter.

Board Member Jones moved to grant three days to remove the trash and debris, if not removed in three days, a \$250/a day fine thereafter. Board Member Bosch seconded, motion carried 5-0.

Case No. 2021-0152 (Case F)

Violation of Section 26-207. – Storing, depositing or keeping abandoned prop.

Violation of Section 98-1122. – Maintenance of walls & fences

Code Enforcement Inspector Roy Black presented Case No. 2021-0152 for property located at 7629 Coral Drive and owned by Xa Thi Tran, et al.

Code Enforcement Inspector Roy Black was sworn in and testified:

- December 2020 – multiple issues on the site but were never charged with a fence requirement
- Fence is not in alignment, it's missing poles, pallets and needs replacement
- Described photographs to the Board, Respondent and Tenants
- Abandoned property is defined as construction equipment, scaffolding, parts of cars, engines, automotive parts, etc. and should be under cover
- Trash and debris are just that trash and debris and will never to be used
- Inoperable vehicles at the site could potentially be the nature of the business
- Spoke with Respondent and Tenants about the fence and abandoned property
- 8' fence is not required at this location

Xa Thi Tran, through her translator, 3003 Lasistor Street, Orlando, FL 32817, was sworn in and testified:

- Property owner will pay for the materials for the fence and gravel
- Labor will come from the tenant as per lease
- Lease states any work that needs to be done at the site will be completed by the tenant
- Property owner is willing to split the costs with the tenant
- Property owner requests 60 days to complete the work
- Property owner willing to pay for materials and up to \$5,000 towards labor

- Property owner willing to supply the fence materials and labor will be done by tenant

Dietrich Stor, 2901 Eldron Blvd, Palm Bay, FL 32909, tenant, was sworn in and testified:

- He stated he is the tenant at 7629 Coral Drive
- He is not paying for anything on the property
- Fence has been there for 30 years
- Stated he is a victim and has been harassed since January
- Stated there are drones flying over the property and photographs are being taken regularly
- The street is 30 years old and there are plenty of other shops on the block
- Imperial has 70 tow cars with no plates
- There are 25 tow yards in West Melbourne
- Doesn't understand why only his businesses are being addressed within the City

Inspector Black recommends the Board find the violations at 7629 Coral Drive.

Board Member Palardy moved to find the violations at 7629 Coral Drive. Vice Chair Michelson seconded, motion carried 5-0.

Inspector Black recommends granting 30 days to replace the fence and remove abandoned property, if not complied in 30 days a \$250/a day fine thereafter.

Board Member Palardy moved to grant 45 days to replace the fence and remove the abandoned property, if not complied in 45 days a \$250/a day fine thereafter. Vice Chair Michelson seconded, motion carried 5-0.

Case No. 2021-0124

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

Building Official Tom Forbes presented Case No. 2021-0124 for property located at 350 S. Wickham Road and owned by Cloud Angels, LLC., et al.

Fire Code Inspector Charles Crowell was sworn in and testified:

- Business was cited during his fire safety inspection
- Broken emergency light fixture with exposed electrical wiring and is considered a threat to occupants; doesn't meet electrical code
- In the south corner of the store there is a locked exit door when occupied and they have yet to unlock the door
- Six inspections were done before a Notice of Violation was requested
- Notice of Violation & Summons were hand delivered

Inspector Crowell recommends the Board find the violations at 350 S. Wickham Road.

Board Member Jones moved to find the violations at 350 S. Wickham Road. Board Member Palardy seconded, motion carried 5-0.

Inspector Crowell recommends granting 30 days to come into compliance and \$250/a day thereafter.

Board Member Jones moved to grant 15 days to come into compliance and \$250/a day thereafter. Board Member Palardy seconded, motion carried 5-0.

*****City Attorney Richardson and the Board acknowledged Mr. Crowell for his service to the City and wished him luck in his retirement.*

Case No. 2021-0127

Violation of Section 26-103. – Swimming pool standards

Code Enforcement Inspector Roy Black presented Case No. 2021-0127 for property located at 574 Lake Ashley Circle and owned by Michael Orenstein, et al.

Inspector Black was sworn in and testified:

- 8/19 – Received email complaint from Lauren Lewis at 572 Lake Ashley Circle
- 9/7 – Spoke to property owner about the pool clarity – greenish/brown in color
- 10/5 – Advised Respondent of the other issues at the property and he would have additional violations added
- Described photographs to the Board
- Pool clarity is resolved; need an order of findings for repeat violations

Michael Orenstein, 574 Lake Ashley Circle, West Melbourne, FL., was sworn in and testified:

- Respondent stated he works three jobs around 50-60 hours a week
- Can't afford to hire people and has filled six trash bins of yard waste
- Working on the property when he can
- Getting quotes for a fence
- Received a quote for repairs to the screen enclosure of \$3,200
- Requests 30 days to complete all work
- Lives alone and his children are in Miami
- Will maintain chemicals in the pool

Lauren Lewis, 572 Lake Ashley Circle, West Melbourne, FL., was sworn in and testified:

- 10-year resident of West Melbourne
- Has two small daughters; one is allergic to mosquitos
- Offered help to Mr. Orenstein on numerous occasions over the years
- There was a prior case for the pool clarity a few years ago
- Willing to help Mr. Orenstein rehabilitate the property

Inspector Black recommends the Board find the violations at 574 Lake Ashley Circle.

Board Member Jones moved to find the violations at 574 Lake Ashley Circle. Vice Chair Michelson seconded, motion carried 5-0.

Case No. 2021-0151

Violation of Section 26-100. - Prohibited accumulations of garbage & trash

Violation of Section 26-102. - Removal of certain growth of grass & weeds

Violation of Section 98-1046. - Swimming pools

Code Enforcement Inspector Roy Black presented Case No. 2021-0151 for property located at 574 Lake Ashley Circle and owned by Michael Orenstein, et al.

Inspector Black was sworn in and testified:

- Described photographs to Board
- Respondent's screen enclosure is the only life safety measure for the pool; there is no fence around the property
- Screen enclosure is missing panels throughout and needs repair
- Recommends replacing screen panels or install a fence
- 10/5 – Met with property owner and advised of violations

Inspector Black recommends the Board find the violations at 574 Lake Ashley Circle.

Board Member Palardy moved to find the violations at 574 Lake Ashley Circle. Board Member Jones seconded, motion carried 5-0.

Inspector Black recommends granting 10 days to come into compliance with the life safety issues by either repairing screen enclosure or installing a fence and 30 days for the trash and overgrowth, if not complied in 10/30 days respectively a \$50/a day thereafter.

Board Member Bosch moved to grant 10 days to come into compliance with the life safety issues by either repairing screen enclosure or installing a fence and 30 days for the trash and overgrowth, if not complied in 10/30 days respectively a \$50/a day thereafter. Board Member Jones seconded, motion carried 5-0.

Case No. 2021-0129
Violation of Section 26-102. - Removal of certain growth of grass & weeds

Code Enforcement Inspector Roy Black presented Case No. 2021-0129 for property located at 290 Bry-Lynn Drive and owned by George & Marilyn Blackett, et al.

Inspector Black was sworn in and testified:

- Property has extreme overgrowth
- 8/19 - Complaint received from Board Member Bosch for his neighbor
- 8/21 - Property is a HUD property and they are responsible
- Respondents had a reverse mortgage and have since deceased
- Property appraiser website states the Respondents are still the owners
- Multiple mailings, phones calls, emails and have not reached anyone
- Lawn maintenance ceased at some point
- 10/5 – Mr. Blackett, son of deceased, stated he has no legal interest in the property

Kevin Blackett, 392 Rheine Road, NW Palm Bay, FL 32907 was sworn in and testified:

- Mr. Blackett, son of deceased, apologized to Board Member Bosch and stated his parents lived there since 1966 and would be mortified to see the property the way it is today
- Complimented Mr. Black and stated everything he said was true and accurate
- Property was mowed in May
- He has been trying to reach representatives from HUD to take the property back but cannot get a response from them
- Sent emails to HUD regarding pay-offs, maintenance, etc.
- He has interest in the property because property values have risen but cannot reach anyone regarding status of property
- Entered the home in September and all of the City's notices were inside the house
- He noted on October 14th, someone was inside the home for an inspection, as they initialed an inspection card so they are aware of the violations but they have yet to contact the City
- He has no legal interest in the property

Inspector Black recommends the Board find the violations at 290 Bry-Lynn Drive.

Board Member Jones moved to find the violations at 290 Bry-Lynn Drive. Board Member Palardy seconded, motion carried 5-0.

Inspector Black recommends an immediate forced City mow.

Board Member Palardy moved for an immediate forced City tow. Board Member Shipton seconded, motion carried 5-0.

Case No. 2021-0134

Violation of Section 98-1008. – Parking, storage or use of major rec. equip.

Code Enforcement Inspector Roy Black presented Case No. 2021-0134 for property located at 792 Conestee Drive and owned by Bradley E. Dunham, et al.

Inspector Black was sworn in and testified:

- Started a case in May but complied before a Notice of Violation was mailed
- 9/8 – Boat reappeared, started a new case
- 9/17 – Respondent called about the Notice of Violation
- 10/19 – Boat reappeared; repetitive violations
- Requests a finding of violation for repeat violations

Bradley Dunham, 792 Conestee Drive, West Melbourne, FL 32904, was sworn in and testified:

- Recently purchased boat for gator hunting
- He thought 24 hr. period resets
- Neighbor complained of parking boat in the street so he backed the boat into driveway
- Boat is stored at his brother's house in Titusville but gator hunting is at night and it's hard to get the boat at night
- Would like to understand the City Code so he can adjust his behavior
- Stated he has concerns regarding future photographs and being cited for repeat violations

City Attorney Richardson stated the City's ordinance is only for loading and unloading of the boat and not for extended stay and should be on the property not in the street.

Inspector Black recommends the Board find the violations at 792 Conestee Drive for possible repeat violations.

Board Member Palardy moved to find the violations at 792 Conestee Drive. Vice Chair Michelson seconded, motion carried 5-0.

Case No. 2021-0071

Violation of Section 66-31. – Unlawful acts

Code Enforcement Inspector Roy Black presented Case No. 2021-0071 for property located at 793 Conestee Drive and owned by Annette Doan, et al.

Inspector Black was sworn in and testified there was no service. Will post property and bring back to Code Board next month.

Case No. 2021-0069
Violation of Section 302.1 – Sanitation

Building Official Tom Forbes presented Case No. 2021-0069 for property located at 1380 W. New Haven Ave and owned by Michael Kawohl., et al.

Building Official Forbes stated this case has complied.

Case No. 2021-0095
Violation of Section 18-151. - Required

Building Official Tom Forbes presented Case No. 2021-0095 for property located at 1380 W. New Haven Ave and owned by Michael Kawohl., et al.

Building Official Forbes was sworn in and testified:

- There are two portions of this case – septic system repair and roof repair
- Both were completed without permits
- Roof repair is a rental unit and a permit cannot be issued per Florida statute
- Repairs of the roof are irreparable but was done properly and shows no signs of leakage
- Repair work to septic system was completed but were not permitted
- Brevard County Health Department will issue the septic permit
- No evidence today of any leakage around manhole or septic system but cannot certify as septic is covered up

Michael Kawohl, 1013 Revilla Lane, Rockledge, FL 32955, Respondent, was sworn in and testified:

- Respondent said he is guilty as charged
- Stated he is a handyman and can do the work himself
- He has a hard time paying someone else to do work when he can do it himself
- Pays \$9,000 a year in property taxes
- Trying to keep his costs down because property is up for sale and buildings will most likely be torn down

Building Official Forbes recommends the Board find the violations at 1380 W. New Haven Avenue.

Board Member Jones moved to find the violations at 1380 W. New Haven Avenue. Board Member Palardy seconded, motion carried 5-0.

Building Official Forbes recommends a fine of \$250 for the unpermitted roof repair work, which is considered irreparable or irreversible.

Board Member Jones moved for a fine of \$250 for the unpermitted roof repair work, which is considered irreparable or irreversible. Vice Chair Michelson seconded, motion carried 5-0.

Building Official Forbes recommends granting 30 days to pull a permit from Brevard County Health Department, have the septic system inspected and approved. If not permitted and approved within 30 days a \$100/ a day fine thereafter until compliance has been reached.

Board Member Jones moved to grant 30 days to pull a permit from Brevard County Health Department, have the septic system inspected and approved. If not permitted and approved within 30 days a \$100/ a day fine thereafter until compliance has been reached. Board Member Shipton seconded, motion carried 5-0.

6. ADJOURNMENT

There being no further business, hearing was adjourned at 7:32 pm.

Chair Chris Gibbs, or designee

Doreen A. Morales
Recording Secretary