

MAYOR
Hal J. Rose

DEPUTY MAYOR
Stephen Phrampus

COUNCIL MEMBERS
Diana Adams
Pat Bentley
John Dittmore
Daniel McDow
Andrea Young



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Tom Forbes, Building Official
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CODE ENFORCEMENT BOARD

AGENDA

Thursday, April 20, 2023
5:30 pm
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 March 16, 2023 hearing.

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

A. Case No. 23-0008 (415 Daniel Drive)
CHRISTOPHER MAHONY, et al.
DANIEL MAHONY, et al.
Violation of Section 58-106(d) – Fee and penalties for tampering with
automatic electronic water meter - **COMPLIED**
Update

7. **NEW BUSINESS:**

B. Case No. 23-0067 (51 NW Carolina Street, Unit 103)
BOB & MICA LLC, et al.
Fire Violation of Section 14.10.1.1 – Exits shall be located and exit access
shall be arranged so that exits are readily accessible at all times.
Fire Violation of Section 10.10.6.1 – No hibachis, grills, cooking or heating
devices, or open fire within 10' of any structure.
Order finding violations and penalties

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

March 16, 2023

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 Robert Luber, Andrew Jones, James Shipton, Linda Palardy and Kimberly McGibany.

Absent: Board Member George Bosch

Vice Chair Sandra Michelson moved to excuse Board Member George Bosch. Seconded by Board Member Robert Luber motion carried 7-0.

Also present: Council Member Andrea Young, Building Official Tom Forbes, Code Enforcement Inspector Camille Moore, City Attorney John Cary, Administrative Support Specialist Lisa Pilsbury and other members of the public.

3. ADOPTION OF THE MINUTES

Vice Chair Sandra Michelson moved to approve the minutes from February 16, 2023. Seconded by Board Member Linda Palardy motion carried 7-0.

4. SWEARING IN OF THOSE PRESENTING TESTIMONY

Lisa M Pilsbury swore in those presenting testimony

5. OLD BUSINESS

Case No. 2023-0008

Violation of Section 58-106 (d) – Fee and penalties for tampering with automatic electronic water meter

Code Enforcement Inspector Camille Moore presented Case No. 23-0008 for property located at 415 Daniel Drive and owned by Christopher Mahony and Daniel Mahony, et al.

Inspector Moore having been sworn in testified:

She reminded the Code Board back on February 16, 2023 they were found in violation and granted 30 days to come into compliance, if not in compliance by March 16, 2023 then \$25 a day fine thereafter.

- Clarification regarding found violation – tampering with the water meter.
- Fines would begin on March 17, 2023
- Property Owner did pay \$200 towards balance. Leaving a new balance of \$537.98 and a \$75 reinstall fee.

Property Owner Mr. Daniel Mahoney III, 415 Daniel Drive, West Melbourne, FL 32904 having been sworn in testified:

- He confirmed an online payment of \$200 was made.

Board Member Luber asked Mr. Mahoney if he had made any arrangements for a payment plan with the City's Water Department.

Mr. Mahoney replied;

- No, as payment plans are available.
- He did not understand the fines would be starting on March 17, 2023 nor understand why there is a \$150 fine by the Water Department and now the Board is looking to add an additional fine.
- He had choices to make and decided to pay his mortgage
- Has requested mortgage assistance with the mortgage company.
- Both he and his brother tried to re-finance the house which is not going according to plan.
- Still looking for daytime employment.
- Intends to pay the water bill just asking for additional time and assistance.

Inspector Moore stated she did confirm with the Water Department and payment plans are not an option. There are services available to help folks having trouble paying their utility bills. She is not against extending Mr. Mahoney's deadline for the Code Enforcement fine. Today is just to discuss and clarify the finding of violation regarding tampering with the meter and any fees levied.

Board Member Luber asked if the payment Mr. Mahoney paid was to the City Water Department or to Code Enforcement. Inspector Moore replied the Water Department as the Code fines are not scheduled to start until March 17, 2023.

Board Member Luber asked to discuss the possibility of extending these fines. Mr. Mahoney replied he does understand the breakdown of the money which is currently being discussed.

Board Member Luber replied the fine is \$25 per day starting on March 17, 2023 for tampering with the water meter. Mr. Mahoney asked if the tampering fine is already worked into the Water Department fees. Inspector Moore replied no, this fine is strictly for tampering with the water meter. Mr. Mahoney asked if the \$737.98 water bill includes the fine. Board Member Luber stated no these are two separate fines. One fine is for the Water Department and the other fine is for tampering with the water meter. Board Member Luber asked how much is the total fine for the water meter. Inspector Moore stated we have not accrued any fines for tampering with the water meter as those fines would start on March 17, 2023 at \$25 per day. Mr. Mahoney stated he was told there is a \$150 fine for tampering with the water meter, which would be included in his bill.

Board Member Luber asked Building Official Thomas Forbes to elaborate regarding the Water Department fine.

Building Official Thomas Forbes having been sworn in testified:

- Code Enforcement did not levy a fine at last month's hearing
- The Water Department's levy for tampering with the meter could be part of the whole water bill

Board Member Shipton asked if we are concerned about the fines coming from the City Water Department or Mr. Mahoney tampering with the water meter itself. Inspector Moore stated our concern is tampering with the water meter and how the fine to assess. Board Member Shipton stated the \$537.98 is not a concern for the City's Code Enforcement but the City's Water Department; correct. Inspector Moore replied correct.

Board Member Shipton stated as of last month's hearing we approved a \$25 a day fine until Mr. Mahoney comes into compliance. Now, does coming into compliance mean with the City Water Department or Code Enforcement. Inspector Moore replied paying the Water Department bill in full would comply this case.

Board Member Luber stated he would like to discuss extending Mr. Mahoney's fines out until the next Code hearing.

Board Member Palardy asked if the meter has been reinstated and does Mr. Mahoney have water. Building Official Forbes replied Mr. Mahoney has well water but no city water. The City Water Department will not reconnect until the balance is paid in full. Board Member Palardy asked if Mr. Mahoney is being fined twice; once from the Water Department and now by Code Enforcement. Board Member Luber stated no, these are two different fines.

City Attorney Cary stated these are two separate fines. One is a fine and levy by the Water Department for tampering which is an administrative action by the City. The second fine is from the Code Board and would start on March 17, 2023 if no further action is taken. The \$25 per day Code Enforcement fine is the fine you have jurisdiction over. By taking no further action, the fines would start or you could extend until next Code hearing.

Board Member Luber asked are we the enforcement for tampering with the water meter. City Attorney Cary replied yes, Code Enforcement for the violation. The Water Department has a separate process which they go through and the Code Board has no jurisdiction regarding their process.

Board Member McGibany stated if Mr. Mahoney paid \$200 in thirty (30) days then another thirty (30) days would not give him enough time to pay the remaining balance due. Board Member Luber replied granting another thirty (30) day extension would give Mr. Mahoney the opportunity to come back before the Board to see his progression towards the remaining balance.

City Attorney Cary stated the Code Board has the authority to bring this case back next month to determine the progress Mr. Mahoney has made and then react in accordance. Now, if no progress is made by next Code hearing the Board can then allow the fine to start or choose to extend another month.

Vice Chair Michelson asked Building Official Forbes if the well water was acceptable for habitation in the house. Building Official Forbes replied Mr. Mahoney indicated he is using bottled water for drinking. The well is a source of water; however, he does not believe the City has the ability to test the well water. The well water does give Mr. Mahoney sanitary facilities. Mr. Mahoney is required to tie into the City's water system and with Code Enforcement we will get Mr. Mahoney there.

Board Member Luber moved to grant thirty (30) days to come into compliance by April 20, 2023. Board Member Shipton seconded, motion carried 7-0.

6. NEW BUSINESS

Case No. 2022-0179

Violation of Section 26-206. – Vehicle in inoperable condition

Code Enforcement Inspector Camille Moore presented Case No. 2022-0179 for property located at 235 Park Hill Blvd and owned by Alex C. Lamarre, et al.

Inspector Moore having been sworn in testified this case is now in compliance and closed.

Case No. 2022-0214

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

Code Enforcement Inspector Camille Moore presented Case No. 2022-0214 for property located at 709 John Adams Lane owned by Marion Jean Pauli and Wayne K. Pauli, et al.

Inspector Moore having been sworn in testified:

10/12/2022 – She saw a damaged fence during drive by. Building Official Thomas Forbes indicated to give a month since likely hurricane damaged

10/31/2022 - Spoke with tenant who advised a fence contractor had been there for the Property Owners the previous week. Informed tenant she would return in 3-4 weeks for reinspection.

11/28/2022 – Re-inspected and photographed; no change in fence and no permit in system. Request Notice of Violation.

11/30/2022 - Mailed Notice of Violation via certified and regular mail.

12/27/2022 – Re-inspected and photographed; no change nor permit application. Requested copy of Notice of Violation to post on property

12/27/2022 - Printed copy of Notice of Violation for Inspector to post on property

12/28/2022 – Posted and photographed Notice of Violation

1/3/2023 – Spoke with Property Owner who lives in Canada and provided contact info; he's working with a contractor to repair the roof and fence but trying to get it done within 20-30 days

2/7/2023 - Emailed Property Owner asking when someone might begin working on the fence. Received email from property owner who indicated he just does not have the money for the fence/roof repairs

2/8/2023 - Replied to Property Owner informing him he needs to arrange for the fence to be taken down and gave 3 weeks

3/1/2023 – Re-inspected and photographed; no change. Requested Summons to be mailed to Property Owners Canadian address.

3/2/2023 - Mailed Summons to Property Owner who lives in Canada

3/3/2023 – Emailed Summons to Property Owner (cc'd Code Enforcement Admin) and requested 'reply all' if he wanted something shared with the Board on his behalf if fence would not be taken down by the 14th

3/6/2023 – Received email response from Property Owner who is taking time off at the end of the month to "head south" regarding the problem at hand "please bear with him will get it done"

3/14/2023 – Re-inspected and photographed; no change

3/16/2023 – Re-inspected and photographed; no change

Inspector Moore recommends finding the violations.

Board Member Linda Palardy moved to find the violations. Board Member Andrew Jones seconded, motion carried 7-0.

Inspector Moore recommends granting three (3) weeks to come into compliance by April 10, 2023, then \$10/a day thereafter if not in compliance.

Board Member Andrew Jones moved to grant three (3) weeks to come into compliance by April 10, 2023, then \$10/a day thereafter if not in compliance. Board Member Kimberly McGibany seconded, motion carried 7-0.

7. ADJOURNMENT

There being no further business, hearing was adjourned at 5:54 pm.

Chair Chris Gibbs or designee

Lisa M. Pilsbury
Recording Secretary