

MAYOR
Hal J. Rose

DEPUTY MAYOR
John Dittmore

COUNCIL MEMBERS
Daniel Batchelder
Pat Bentley
Daniel McDow
Stephen Phrampus
Andrea Young



Building Department
Tom Forbes, Building Official
City Hall
2240 Minton Road
West Melbourne, FL 32904
Phone: (321) 837-7776
Fax: (321) 952-9542
www.westmelbourne.org

CODE ENFORCEMENT BOARD

AGENDA

Thursday, October 21, 2021
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 August 19, 2021 hearing.

5. **SWEARING IN OF THOSE PRESENTING TESTIMONY**

6. **NEW BUSINESS**

- A. Case No. 21-0124 (350 S. Wickham Road)
Cloud Angels, LLC.
Violation of Section 30-5. - Penalty for violation of fire prevention codes
Order of findings & penalties
- B. Case No. 21-0127 (574 Lake Ashley Circle)
Michael Orenstein, et al.
Violation of Section 26-103. - Swimming pool standards
Order of findings & penalties
- C. Case No. 21-0151 (574 Lake Ashley Circle)
Michael Orenstein, et al.
Violation of Section 26-100. - Prohibited accumulations of garbage and trash
Violation of Section 26-102. - Removal of certain growth of grass and weeds
Violation of Section 98-1046. - Swimming pools
Order of findings & penalties

- D.** Case No. 21-0129 (290 Bry-Lynn Drive)
George & Marilyn Blackett, et al.
Violation of Section 26-102. - Removal of certain growth of grass and weeds
Order of findings & penalties
Order for forced City mow
- E.** Case No. 21-0094 (7629 Coral Drive)
Xa Thi Tran, et al.
Violation of Section 66-552. - Required for certain developments; exemptions
Violation of Section 26-100. - Prohibited accumulations of garbage and trash
Order of findings & penalties
- F.** Case No. 21-0152 (7629 Coral Drive)
Xa Thi Tran, et al.
Violation of Section 26-207. - Storing, depositing or keeping abandoned property
Violation of Section 98-1122. - Maintenance of walls and fences
Order of findings & penalties
- G.** Case No. 21-0134 (792 Conestee Drive)
Bradley E. Dunham, et al.
Violation of Section 98-1008. - Parking, storage or use of major rec. equip.
Order of findings & penalties
- H.** Case No. 21-0071 (793 Conestee Drive)
Annette Doan, et al.
Violation of Section 66-31. - Unlawful acts
Order of findings & penalties
- I.** Case No. 21-0069 (1380 W. New Haven Ave)
Michael Kawohl, et al.
Violation of Section 302.1. - Sanitation
Order of findings & penalties
- J.** Case No. 21-0095 (1380 W. New Haven Ave)
Michael Kawohl, et al.
Violation of Section 18-151. - Required
Order of findings & penalties

7. 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

August 19, 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, Board Members Andrew Jones, James Shipton, Linda Palardy, Robert Luber and George Bosch.

Absent: Vice Chair Sandra Michelson and Board Member Carl Weaver.

Board Member Luber moved to excuse Vice Chair Sandra Michelson and Board Member Carl Weaver, seconded by Board Member Palardy, motion carried 5-0.

*****Vice Chair Sandra Michelson arrived late***

Also present: Council Member Daniel Batcheldor, Building Official Tom Forbes, Code Enforcement Inspectors Roy Black and Tommy Ramsey, City Attorney Morris Richardson, Administrative Support Specialist Doreen A. Morales and other members of the public.

3. ADOPTION OF THE MINUTES

Board Member Shipton moved to approve the minutes from May 20, 2021. Seconded by Board Member Luber, motion carried 6-0.

4. SWEARING IN OF THOSE PRESENTING TESTIMONY

Doreen A. Morales swore in those presenting testimony.

5. NEW BUSINESS

*****Chair Gibbs requested to first hear Case(s) "E" & "F", as the Respondent(s) has time constraints.***

Case No. 2021-0067
Violation of Section 71-107. - Required

Code Enforcement Inspector Tommy Ramsey presented Case No. 2021-0067 for property located at 2395 Minton Road and owned by S & A Minton Road Corp., et al.

Inspector Ramsey was sworn in and testified:

- Vacant lot was cleared without permitting and mitigation
- Respondent was cited and received notice of violation
- Respondent has agreed to City's requests for resolution

City Attorney Morris Richardson stated:

- Vacant lot next to the YourLife Facility on Minton Road was cleared
- Owner of the property lives in New York
- Owner hired Construction Engineering Group for design & permitting
- Owner hired a contractor to clear the property
- Contractor did not follow permit; removed trees that should not have been removed
- Contractor unfortunately went rogue but owner is ultimately responsible
- Susan Hall, Landscape Architect, evaluated the removed trees, applied the City codes and concluded a \$3,600 mitigation fine was appropriate
- Violation is irreparable and irreversible; fine can be up to and including \$5,000
- City requests the Board honor City's decision and go no higher than \$3,600 in addition to the \$3,600 tree mitigation fine; for a total of \$7,200

Mr. Jake Wise, of Construction Engineering Group, 2651 W. Eau Gallie Blvd., Melbourne, FL, 32935, was sworn in and testified:

- Contractor was hired and abandoned job site
- Property owner had to pay for pumps, gas, equipment rentals and sub-contractors because contractor abandoned job
- Owner is willing to pay the tree mitigation fee of \$3,600
- Owner requests more than 45 days to complete job

Inspector Ramsey recommends the Board find the violations at 2395 Minton Road.

Board Member Jones moved to find the violations at 2395 Minton Road. Board Member Palardy seconded, motion carried 6-0.

Inspector Ramsey recommends a fine of \$3,600 into the tree mitigation fund for removing trees without a permit and a fine of \$3,600 for irreparable and irreplaceable damages.

Board Member Jones moved to fine the Respondent's \$3,600 into the tree mitigation fund, for removing trees beyond what permit allowed and a fine of \$2,500 for irreparable and irreplaceable damages. Board Member Shipton seconded, motion carried 5-1. Board Member Luber opposed.

Case No. 2021-0107
Violation of Section 71-118. – Plant materials

Code Enforcement Inspector Tommy Ramsey presented Case No. 2021-0107 for property located at 2395 Minton Road and owned by S & A Minton Road Corp., et al.

Inspector Ramsey was sworn in and testified:

- Erosion control complaint per Mike McCabe from SJRWMD
- Property owner is requesting additional time to complete
- City requests silt fencing within seven days
- Grading, mulch, plant material is also required within 30 days

Mr. Jake Wise, of Construction Engineering Group, 2651 W. Eau Gallie Blvd., Melbourne, FL, 32935, was sworn in and testified:

- Water flows south towards Heritage Oaks Blvd. towards NW corner
- Should drain west to east into the storm water treatment pond
- Lot needs regrading
- Property owner hired Don Luchetti Construction to clear out overgrowth
- Silt fencing will be finished within seven days
- Regrading, seed, mulch, sod should be completed within 45 days

Building Official Forbes was sworn in and testified:

- No report of damage from Mr. McCabe from SJRWMD
- Mr. McCabe is concerned about continual run-off
- Silt fencing needs to be done within seven days

Inspector Ramsey recommends the Board find the violations at 2395 Minton Road.

Board Member Jones moved to find the violations at 2395 Minton Road. Board Member Luber seconded, motion carried 6-0.

City Attorney Morris Richardson stated the City's recommendation is seven (7) days to install silt fencing around the perimeter of the property to deter future erosion and 45 days to grade, sod, seed and mulch the vacant lot. If not completed in 45 days a \$100 per day until property is in compliance.

Board Member Jones moved to grant seven (7) days to install silt fencing around the perimeter of the property to deter future erosion and 45 days to grade, sod, seed and

mulch the vacant lot. If not completed in 45 days a \$100 per day fine until property is in compliance. Board Member Shipton seconded, motion carried 6-0.

Case No. 2021-0068

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

Violation of Section 26-102. - Removal of growth of grass and weeds

Violation of Section 26-206. - Vehicles in inoperable condition

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

Code Enforcement Inspector Roy Black presented Case No. 2021-0068 for property located at 206 Pine Street and owned by Timothy L. Wade, et al.

Inspector Black was sworn in and testified this case has closed in compliance.

Case No. 2021-0051

Violation of Section 26-206. - Vehicles in inoperable condition

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

Code Enforcement Inspector Roy Black presented Case No. 2021-0051 for property located at 66 Westover Drive and owned by John Laisi, et al.

Inspector Black was sworn in and testified:

- April 2021 – was inspecting adjacent properties and observed the violations. There is a large unpermitted berm consisting of old surface refuse dirt in front of the residence obstructing the sites drainage plan. There are multiple inoperable vehicles on the property. There is a very large accumulation of abandoned property and trash, to include a large number of old tires. The tires are a significant environmental issue and may ultimately require the involvement of Florida DEP if the tires are not disposed of legally.
- June 2021 – Property owner called and stated he will start the cleanup immediately
- July 2021 - Staff spoke with Respondent and told him he has until August hearing to clean up property
- July 2021 - Spoke to Respondent and he picked up the notice of violation at City Hall
- August 2021 - Spoke to Respondent numerous times prior to this date and he would give updates on his progress.
- Suggested to Respondent it would be in his best interest to attend August Code Board hearing to explain why he is not yet in compliance

Mr. John Laisi, of 66 Westover Drive, West Melbourne, Florida was sworn in and testified:

- Has had personal issues between April and August
- Sold garage on New Haven Avenue; was his tire business
- Closed both locations; moved belongings from those locations to 66 Westover

- Wife had horse accident and had to help her
- Property is zoned residential/commercial
- He will clean up property; showed pictures to Board of progress
- Requests more than 60 days to clean up property

Inspector Black recommends finding the violations at 66 Westover Drive.

Board Member Shipton moved to find the violations at 66 Westover Drive. Vice Chair Michelson seconded, motion carried 6-0.

Inspector Black recommends granting 60 days to come into compliance, if not in compliance in 60 days, \$100/a day thereafter until complied.

Board Member Luber moved to grant a 60 days to come into compliance, if not in compliance in 60 days, \$100/a day thereafter until complied. Board Member Jones seconded, motion carried 6-0

Case No. 2021-0103
Violation of Section 18-331. – Use and occupancy

Code Enforcement Inspector Tommy Ramsey presented Case No. 2021-0103 for property located at 2820 Minton Road and owned by Grace Church Melbourne, Inc., et al.

Inspector Ramsey was sworn in and testified:

- Respondent occupied property without Temporary Certificate of Occupancy (TCO)
- Water was not turned on; no fire suppression
- July 15th had a large gathering
- TCO was received July 29th
- City Attorney witnessed the gathering at the church on July 15th

City Attorney Morris Richardson stated he is a material witness. He received a call on Thursday evening, July 15, of a large gathering at the church. Instead of calling the police he went there himself and observed a large gathering of at least fifty cars. Many people, a lot of children and there was no active fire suppression and no water flow. He spoke with Mr. Olinski, the Lead Pastor of Grace Church, about the gathering and thereafter the crowd dispersed.

Mr. Aaron Olinski, Lead Pastor of Grace Church, 2820 Minton Road, West Melbourne, FL 32904 was sworn in and testified:

- He is guilty
- Would not put children and congregant's in any danger
- Was overly excited and thought they would get a TCO
- Mr. Richardson was professional and handled situation very well.

Mr. Daniel Batcheldor, of 2817 Kilns Circle, West Melbourne, FL 32904 was sworn in and testified:

- He is a witness and property owner which abuts the Grace Church property
- Frequent ordinance infractions during construction
- Clearing of the property started before a permit was issued and encroached on wetlands
- High debris piles next to property owner's residences
- Concrete pouring was ongoing until 2:30 am to 3:00 am with heavy equipment
- Repeated episodes of noise before 7am and late into the night
- Porta-potty was on-site for over a year
- Direct lighting from church into the neighborhood homes
- Fencing and mowing issues
- Loud sounds can be heard on Wednesdays and Sundays
- He finds the Pastor's argument of ignorance, on the part of the Church, to be lacking

City Attorney Morris Richardson stated there were many issues during the construction of the church and the city rectified what could be addressed.

Building Official Forbes stated the contractor is legitimate and at times put the horse before the cart during construction.

Inspector Ramsey recommends the Board find the violations at 2820 Minton Road.

Vice Chair Michelson moved to find the violations at 2820 Minton Road. Board Member Jones seconded, motion carried 6-0.

Inspector Ramsey recommends a one-day fine of \$250 for occupying the building before a TCO was issued.

Board Member Luber moved to fine the Respondent's a one-day fine of \$250 for occupying the building before a TCO was issued. Board Member Shipton seconded, motion carried 5-1. Vice Chair Michelson opposed.

Case No. 2021-0081
Violation of Section 18-151. – Required

Code Enforcement Inspector Tommy Ramsey presented Case No. 2021-0081 for property located at 682 Thomas Jefferson Lane and owned by Barbara Hogan, et al.

Inspector Ramsey stated this case has complied.

Case No. 2021-0095

Violation of Section 50-152. – Business tax receipt required

Violation of Section 18-151. - Required

Code Enforcement Inspector Tommy Ramsey presented Case No. 2021-0095 for property located at 1380 W. New Haven Ave and owned by Michael Kawohl., et al.

Inspector Ramsey stated this case is tabled, at Respondent's request, due to illness.

Case No. 2021-0069

Violation of Section 302.1 – Sanitation

Code Enforcement Inspector Tommy Ramsey presented Case No. 2021-0069 for property located at 1380 W. New Haven Ave and owned by Michael Kawohl., et al.

Inspector Ramsey stated this case is tabled, at Respondent's request, due to illness.

6. ADJOURNMENT

There being no further business, hearing was adjourned at 6:26 pm.

Chair Chris Gibbs, or designee

Doreen A. Morales
Recording Secretary