

**Code Enforcement Board
Special Meeting Minutes
June 5, 2018**

A special meeting of the Code Enforcement Board of the City of Cocoa was held on Tuesday, June 5, 2018 in the Council Chambers at 65 Stone Street, Cocoa, as publicly noticed.

OPENING MATTERS:

Chairman Jim Gifford called the meeting to order at 2:00 P.M. The Board Secretary called the roll.

MEMBERS PRESENT:

Jim Gifford
George Brown, Jr.
Virginia Weaver
Michael Klug
Michael Cicerrella
Stephanie Moretto

Chairman
Vice-Chairman
Board Member
Board Member
Board Member
Board Member

MEMBERS ABSENT:

David Lightholder

Board Member

OTHERS PRESENT:

Dennis Bunt
Mike Cantaloupe
Jeri Blanco
Dodie Selig
Scott Davis
Ed Wegerif
Matt Fuhrer
Steve Murdick
Brian Fose
Drew Smith
Debra Babb-Nutcher
Rachel Unruh

Code Enforcement Manager
Police Chief
Councilman
Planning Manager
Building Official
Public Works Director
Assistant City Manager
Code Enforcement Officer
Code Enforcement Officer
Council for Staff
Board Attorney
Recording Secretary

The Board Secretary swore in all Staff members giving testimony.

APPROVAL OF AGENDA AND MINUTES:

1. Approval of Meeting Agenda: June 5, 2018

Motion by Ms. Weaver, seconded by Mr. Cicerrella, to approve the agenda of June 5, 2018 as written. Vote on the motion carried unanimously(6-0).

NEW BUSINESS:

None

CASES:

1. CE-18-025 1018 Gray Rd, 1030 Gray Rd, 1014 Gray Rd and Tax ID 244413

Code Enforcement Officer Steve Murdick provided an overview of the Case history and presented exhibits for the Board's review on behalf of the Public Works Department. Officer Murdick testified that the Property Owner is in violation of Sec. 6-900(b)(4)(c) Maintenance of any structure or grounds and Sec. 6-900(b)(10) General conditions of property which constitute nuisance, of the City of Cocoa Code.

Officer stated the property owners have requested an appeal of the Nuisance Abatement and per the request of the property owners this was scheduled for a Hearing. Officer Murdick requested that the Board find the Property Owner in violation and the nuisance is abated by the City.

Ed Wegerif, Public Works Director, was sworn in. Mr. Wegerif provided a map of the properties and the R-O-W. Mr. Wegerif explained the culvert pipe has failed and stated the culvert is a shared private driveway. He explained it's a 72" corrugated metal culvert pipe and the culvert was installed about 25 to 30 years ago. He stated the City staff has had the City Attorney review the code to determine the City's responsibility in the repair. The City Attorney's Office determined the properties owners are responsible for the maintenance and the repair the culvert. Mr. Wegerif explained the City's concerns and past discussions with the property owners and City staff.

Discussion amongst the Board members and Mr. Wegerif.

Mr. Brown, Board member, asked Mr. Wegerif if the culvert can be removed and the canal dug out until the property owners could replace it.

Mr. Wegerif stated that is an option.

Additional discussion amongst the Board members and Mr. Wegerif.

Code Manager Dennis Bunt explained the properties were cited for the City abatement procedures and if the nuisance isn't corrected then the City could abate it and the cost of the repairs would forwarded to the property owners. Mr. Bunt explained that the property owners had request an appeal of the abatement to the Board and the nuisance would be abated by the City after the time frame the Board determined, if the owners don't correct the violations.

Additional discussion amongst the Board members and Mr. Bunt.

Mr. Bunt explained the process for permits and replacing the pipe. Mr. Bunt also explained that the R-O-W belongs to the City however improvements such as driveways are the responsibility of the property owner since that improvements are for the use of the property owner.

Charles and Amy Langoni, 1018 Gray Rd, was sworn in. Mrs. Langoni provided pictures to the Board members of the culvert and a survey. Mrs. Langoni explained she contacted her insurance company and it was explained that insurance doesn't cover driveways; she then contacted FEMA. She explained that a survey was completed and FEMA stated the R-O-W isn't her property and they can't provide funds to property she doesn't own. Mrs. Langoni stated she contact Ed Wegerif for assistance in submitting for FEMA funds. She stated that the City told her that the damage was submitted to FEMA; Mrs. Langoni continued by stating she has been to many City Council Meetings since the storm. Mrs. Langoni stated on January 22, 2018 she was notified that FEMA wasn't suppling funds for repairs and she was supplied a copy of the City Attorney's opinion by Matt Fuhrer, Assistant City Manager. She explained that they and the City have had several conversations and each time she asked about the FEMA forms. Mrs. Langoni explained that conversations she had with FEMA and City staff regarding the submittal of the forms for FEMA and why they were never submitted. She stated she spoke with FDOT and they offered base and the pipe, if one would fit, for them to repair the culvert. Mrs. Langoni stated she spoke with Ed and she understood if they purchased the pipe then the City would dig out the old one and place the new one in, so they purchased the pipe. She stated that ready thing is ready for the removal. Mrs. Langoni further explained additional conversations that she and the City staff have had regarding the removal of the pipe and damning the water. Mrs. Langoni asked the Board to have the City staff to explain the conversations that have been held.

Charles Langoni, already sworn in, stated they are looking to abate the violation. Mr. Langoni provided a brief history from his conversations and reconfirmed details that she Mrs. Langoni explained in her testimony. Mr. Langoni is asking the Board for more time and is asking for help from the City.

Mr. Gifford asked what type of help are the Langoni's are looking for from the City.

Mr. Langoni stated they are looking for the City to remove the old the culvert and place the new one in its place and they will finish the rest of the repairs.

Additional discussion amongst the Board members and Mr. & Mrs. Langoni.

Code Manager, Dennis Bunt explained the conceptual plan for the infrastructure for rehabilitation is designed for the leveling ditches but driveways and culverts are still the responsibility of the home owner.

Additional discussion amongst the Board members and staff regarding the Board's power to give directive.

Debra Babb-Nutcher stated the Board does not have the power to give the City directive to replace or repair the culvert (via phone).

Additional history regarding the conversations from Mr. & Mrs. Langoni.

Matt Fuhrer, Assistant City Manager, was sworn in. Mr. Fuhrer stated the City Attorney provided an opinion regarding the responsibility of the property owner and the City's responsibility. Mr. Fuhrer briefly explained the opinion of the Attorney to the Board members and the City's concerns of a complete failure of the culvert.

Additional discussion amongst the Board members and Mr. & Mrs. Langoni regarding conversations between the Langoni's and Public Works.

Mr. Gifford asked why papers weren't submitted to FEMA.

Mr. Fuhrer explained that the insurance nor FEMA won't cover the areas of R-O-W and the City doesn't repair private improvements. He further explained that the driveway and the culvert's in caught in the middle. Mr. Fuhrer stated the City suggested that an appeal is made to FEMA with the documents from the opinion of the City Attorney and see if FEMA would accept the appeal.

Mrs. Langoni stated that papers were not submitted to FEMA.

Mr. Gifford asked if the Board provided reasonable time for the repairs are the residents involved prepared to make the repairs.

Mr. Langoni stated they had been working on it until the rain and they are just looking for the City to remove the culvert and place the new one in its place.

Mr. Gifford asked Mr. Fuhrer if the City's position is not to be involved in any manner?

Mr. Fuhrer stated that City has opinion that states it's a private property issue and the City has not stated they were going to come in and share cost or labor to move the old pipe and replace the new one. Mr. Fuhrer explained to the Board there was a neighboring property that had a similar issue and the City took the same position and the residents made the repairs. He also stated there are several other culverts that are in similar condition and the precedent was set in 2015 and the City will take the same position for the others.

Ms. Weaver asked if permits will be required for the work.

Mr. Fuhrer explained that any work conducted in the City R-O-W requires a R-O-W use permit and there's no charge for the permit.

Additional comments by Mrs. Langnoi.

Debra Babb-Nutcher arrived at 2:57pm

Mr. Gifford explained to the Langoni's how Code Enforcement process works.

Additional comments by Mr. Langoni.

Debra Babb-Nutcher explained the difference to the Board members between a code case and the nuisance abatement appeal. She stated the Board will not be setting a daily fine and she read the code for nuisance abatement procedures to the Board members regarding what and how they will make a motion on.

Mr. Bunt stated to the Board members that other respondents are in the audience that may want to speak.

Mr. Gifford asked for any other respondents to step forward to speak.

Jack Kirshenbaum, attorney with Gray Robinson, legal representative for Morse Rowe. Mr. Kirshenbaum provided a map and handouts as exhibits for the Board members to view. Mr. Kirshenbaum asked the Board to not declare this nuisance to be a nuisance; he provided two points with his opening statements for Mr. Rowe regarding the property lines and stated the code is for the property the nuisance existed on, which is the R-O-W. Mr. Kirshenbaum gave closing remarks but asked Mr. Rowe to speak.

Morse Rowe, 1030 Gray Rd, was sworn in. Mr. Rowe provided a brief history of the installation of the pipes by the County. Mr. Rowe stated he was never provided a maintenance agreement by the City for the culvert and doesn't feel that they are responsible since they were installed by the County back 25 years ago.

Additional discussion amongst Board members and Mr. Rowe.

Mr. Fuhrer explained to the Board members the ditch is City responsibility but private improvements for residents to gain access to their property is not City responsibility.

Additional discussion amongst Board members and staff.

Mr. Cicerella asked about permits and plan review.

Mr. Fuhrer stated it's a short review process and is completed by Public Works Department.

Additional discussion amongst Board members and staff regarding the time frame and the concern for complete failure of the culvert.

Motion by Mr. Cicerrella seconded by Mr. Klug, to allow property owners 6 months to abate the nuisance or the City will abate at the owner's cost. Vote on the motion carried unanimously(6-0).

Break 3:27pm - 3:37pm

2. CE-17-907 2607 Indian River Dr.

Drew Smith, Laws Offices of Shepard, Smith, Kohlmyer and Hand, Attorney for City staff. Mr. Smith stated he will have opening statements and so will the respondent's attorney Kim Rezanka. Mr. Smith explained to the Board that Mrs. Kim Rezanka has some introductory matters then he will make his opening statements.

Kim Rezanka, Law Office of Cantwell & Goldman, respondent's attorney. Mrs. Rezanka made her introductory remarks.

Mr. Smith responded to introductory remarks.

Mr. Smith makes his opening statements.

Mrs. Rezanka makes her opening statements.

Mr. Smith calls Steve Murdick as first witness for the City.

Code Enforcement Officer Steve Murdick provided an overview of the Case history and presented exhibits for the Board's review. Officer Murdick testified that the Property Owner is in violation of Violation: APP. A, ART. XI, Sec. 3. - District and intent—RU-1-7 (A)(B), Single-Family Residential District, APP. A, ART. XI, Sec. 3. - District and intent—RU-1-7, Single-Family (A) (D), Ch. 6, Art. IV, Sec. 6-1600(c) – Mobile Home Parks Generally and Violation: APP. A, Art. XIII, Sec. 6 – Accessory Structures, of the City of Cocoa Code.

Officer Murdick requested that the Board find the Property Owner found in violation and a fine of \$100.00 be imposed for each day the violation(s) remains, until compliance is achieved.

Mr. Smith questioned Officer Murdick

Mr. Cicerrella asked Officer Murdick if there are two areas of living besides the home; the detached garage and the tiny home.

Officer Murdick stated yes.

Mr. Smith continued to question Officer Murdick.

Mr. Smith asked Officer Murdick what staff is recommending for compliance.

Officer Murdick stated staff is recommending 10 days.

Mr. Smith had no further questions if the Board had any questions for Officer Murdick. Otherwise Officer Murdick will be cross examined by respondent's attorney, Mrs. Rezenka.

Board members had questions for Officer Murdick. Discussion amongst the Board members and staff.

Mrs. Rezenka cross examined Officer Murdick.

Mrs. Rezenka had no further questions for Officer Murdick. Mr. Smith also stated he has no further questions if the Board members have any at this time they may ask before Officer Murdick is excused.

No further questions for Officer Murdick by the Board members.

Mr. Smith stated the City has one more witness to call. Mr. Smith called Dodie Selig to the stand.

Dodie Selig, Planning and Zoning Manager, was sworn in.

Mr. Smith questioned Ms. Selig.

Mr. Smith had no further questions if the Board had any questions for Planning Manager, Dodie Selig. Otherwise Planning Manager, Dodie Selig will be cross examined by respondent's attorney, Mrs. Rezenka.

No questions for Planning Manager, Dodie Selig by the Board members.

Mrs. Rezenka cross examines Ms. Selig.

Mrs. Rezenka has no further questions for Planning Manager Dodie Selig. Mr. Smith also stated the City had no further questions for the witness.

Mrs. Rezenka called Mr. Inthanam as a witness to provide testimony for the case.

Mr. Xaysana N Inthanam was sworn in.

Mrs. Rezanka provided exhibits for the record.

Mrs. Rezenka questioned Mr. Inthanam.

Break 5:16pm – 5:26pm

Mrs. Rezanka continued questioning Mr. Inthanam.

Mrs. Rezanka had no further questions for Mr. Inthanam.

Mr. Inthanam was cross examined by the City's Legal Representative, Mr. Smith.

Mr. Smith had no further questions for Mr. Inthanam, if the Board had any questions for Mr. Inthanam.

Board members questioned for Mr. Inthanam. Discussion amongst the Board members and Mr. Inthanam.

Board members had questions for Code Manager, Dennis Bunt.

Mrs. Rezanka approached the podium for additional questioning of Mr. Inthanam.

Mrs. Rezanka had no further questions for Mr. Inthanam.

Mrs. Rezanka called Robin Butler as an expert witness to provide testimony for the case.

Robin Butler, President & CEO of NOAH (National Origination of Alternative Housing), was sworn in. Mr. Butler provided expertise testimony regarding the tiny home on behalf of Respondent's attorney, Mrs. Rezanka.

Mrs. Rezanka questioned Mr. Bulter.

Mrs. Rezanka had no further questions for Mr. Bulter.

Mr. Smith crossed examined Mr. Bulter.

Mr. Smith had no further questions for Mr. Bulter.

Questions from the Board members for Mr. Bulter. Discussion amongst Board members and Mr. Bulter.

Break 6:03pm – 6:06pm to finalize first half of meeting and load second half of the meeting on Granicus.

Ms. Weaver did not return to meeting after the break.

Mr. Smith called Lew Jameson as a rebuttal witness.

Lew Jameson, 2630 N Indian River Dr, was sworn in.

Mr. Smith questioned Mr. Jameson.

Mr. Smith had no further questions of Mr. Jameson.

Mrs. Rezanka cross examined Mr. Jameson.

Mrs. Rezanka had no further questions for Mr. Jameson.

Mrs. Rezanka provided the Board members additional exhibits. Mrs. Rezanka provided additional statements regarding the newly provided exhibits.

Mrs. Rezanka has no additional statements to make or exhibits to enter.

Mr. Smith made his closing remarks.

Mrs. Rezanka made her closing remarks.

Motion by Mr. Brown, seconded by Cicerella, to find the property in violation of City Codes 1) APP. A, ART. XI, Sec. 3. - District and intent—RU-1-7 (A)(B), Single-Family Residential District, 2) APP. A, ART. XI, Sec. 3. - District and intent—RU-1-7, Single-Family (A) (D) and 4) APP. A, Art. XIII, Sec. 6 – Accessory Structures and provided the owner 30 days to comply to City codes or a fine of one hundred dollars (\$100.00) per day will be imposed. Vote on the motion carried unanimously(5-0). Ms. Weaver was not present for vote.

3. CE-17-719 228 Orange St.

Code Enforcement Manager Dennis Bunt provided an overview of the Case history and presented exhibits for the Board's review. Mr. Bunt testified that the Property Owner is in violation of Roofs & Drainage, Ch 6 Sec. 6-1003 (g), Window, Door & Frame, Ch 6 Sec. 6-1003 (m), Weeds, Ch 6 Sec. 6-1001(d) and Accessory Structures Ch 6 Sec. 6-1001 (g), of the City of Cocoa Code. Mr. Bunt explained the case had been brought back before the Board since the property has not met the Board Order. Staff is requesting the Board to reconsider the Board original motion and reconsider the time frame for compliance. Staff has requested the Board to accept staff's original recommendation, revising the initial Board order of March 15, 2018.

Discussion amongst the Board members, staff and Board Attorney.

Edward Williams, 530 Lucas Pl, MI, was sworn in. Mr. Williams stated they have made progress, they have boarded up the windows and had the squatters removed. Mr. Williams stated he didn't know that they needed a permit for the removal of the roof of the porch. Mr. Williams explained they stopped work once the stop work order was issued and no more work has been done since.

Phyllis Cross, 926 Derby Ln, Rockledge, was sworn in. Ms. Cross stated they are moving forward with Probate but they are still working on obtaining two other death certificates. She stated they are not looking to get out of any work that is needed to be done but they need the additional time in order to complete probate.

Additional comments by Dennis Bunt.

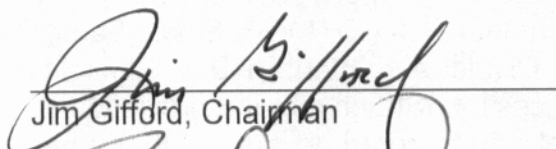
Discussion amongst the Board members and Ms. Cross.

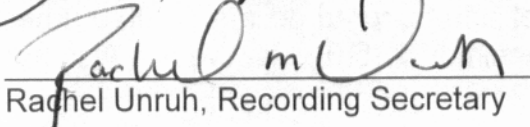
Motion by Ms. Moretto, seconded by Mr. Cicerrella, to not modify the Board Order from March 15, 2018. Vote on the motion carried unanimously (5-0).

ADJOURNMENT:

There being no further business the meeting adjourned at 6:47 PM.

Approved on this 19th day of July, 2018.


Jim Gifford, Chairman


Rachel Unruh, Recording Secretary



RACHEL M. UNRUH
MY COMMISSION # GG 049001
EXPIRES: June 14, 2020
Bonded Thr. Budget Notary Services