

**MINUTES
SPECIAL MAGISTRATE
CITY OF FORT PIERCE
100 NORTH U.S. # 1
FORT PIERCE, FL 34950
APRIL 2, 2014**

Special Magistrate Blandino called the meeting to order at 9:10 AM.

All present stood for the Pledge of Allegiance.

The first item on the agenda was the swearing in of code officers: Code Compliance Manager Margaret Arraiz, Code Officers Shaun Coss, Andy Avery, and City Forester Paul Bertram.

Staff present was Recording Secretary, Colleen Greer and Assistant City Attorney, Steve McCain.

The next item on the agenda was **Massey Hearing.**

Item 6A-7 is case #13-1962, 3300 S US Highway 1, Ft. Pierce, Florida. The property is currently owned by Capstone Residential Development LLC, P.O. Box 25999, Overland Park, KS 66225. The code sections in violation were 22-31 (E) (4) open space character.

Margaret Arraiz presented the Facts of the Case explaining that the case was initiated on September 19, 2013 came before the Special Magistrate on December 4, 2013 who gave the property owners 30 days to comply or a fine of \$250.00 per day be assessed. An inspection was made on January 13, 2014 the property was not in compliance and the fines began. On March 14, 2014 an inspection was made and the property was now in compliance; the fines stopped. The total amount of fines is \$16,280.00 of which \$30.00 is recording fees. There were no liens recorded. An offer was made to resolve this case for \$1,000.00 and Staff is agreeable.

Hoyt C. Murphy Jr. was sworn in. Mr. Murphy expressed his concerns about property owners being permitted to secure their property and Staff said this issue was being addressed.

Special Magistrate Blandino went over the 3 criteria required by Rule 16 and agreed to the \$1,000.00 reduction payable within 30 days. If the payment is not received within that 30 days the fine would revert back to the original amount and a lien would be recorded.

The next items on the agenda are **New Violation Cases.**

Item 5A-2 is case #13-2343, 113 Maple Avenue, Ft. Pierce, Florida. The owner is Margaret Evans (Est), 113 Maple Avenue, Ft. Pierce, Florida 34982. The code violations are 5-368 (1) (4) property maintenance, 5-368 (6) fence maintenance, 16-46, 16-47, 16-48 (8) nuisance – stagnant water.

Officer Shaun Coss read in the case and explained what the violations consisted of. Officer Coss stated that the stagnant water violation has been complied and presented photographs to be considered as evidence.

Harry Evans was sworn in for testimony. Mr. Evans stated that he has been working on the violations but needs a little more time to complete it.

Attorney Steve McCain asked what Mr. Evans relationship is to the owner, Margaret Evans and he stated he was her husband and she is deceased. The house was not titled in his name but he is trying to get it changed back.

Special Magistrate ordered that a violation did exist and allowed Mr. Evans 30 days to bring the property into compliance. If he sees he needs a little more time contact Officer Coss who has the ability to give an administrative extension. If the violations are not cured within the 30 days a fine of \$250.00 a day will be assessed. He has 30 days in which to appeal his decision.

Item 5A-4 is case #14-0298, 1223 Raymond Avenue, Ft. Pierce, Florida. The owner is Ricky D. Nichols (Lf Est), 1223 Raymond Avenue, Ft. Pierce, Florida 34950. The code violations are 22-194 (f) tree protection and mitigation which refers to excessive pruning of trees. The City Forester has put together a recommendation that was submitted for review. There were also photos submitted and marked as Composite Exhibit 1.

Rick Nichols was sworn in for testimony. He explained that he pruned the trees because the insurance company recommended it for safety reasons. City Forester Paul Bertram said that most of the trees are set back a distance from the house. Margaret Arraiz stated if Mr. Nichols had applied and received a permit the department would have been allowed to inspect the trees prior to being pruned and determine whether they

should or should not be cut. Mr. Nichols admitted it was his fault and said he knew there would be a fine but not more than the property was worth. Mr. Bertram explained that most the homes in this area have little value but because Ft. Pierce is known as the "city of trees" there is an aesthetic value. Attorney McCain asked Mr. Bertram if Mr. Nichols had followed proper procedure and had applied for a permit how much would it have cost. Mr. Bertram stated if he had applied for a permit, it probably would have been denied and the tree closest to the house would have been the only one allowed to be pruned and or cut down. The permit would have cost \$35.00. Attorney McCain recommended that the parties take a recess and go out to see if they could come to an agreeable solution.

The next item on the agenda is a **Request for Lien Reduction.**

Item 6B-8 is case #09-1815, 603 S 24th Street, Ft. Pierce, FL. The owner is Emilie Alouption. The code sections in violation were 16-46, 16-47, 16-48 (11) outside storage-indoor furniture, 22-67 (B) (5) fence maintenance-permit required, 11-24 parking on r/o/w.

Margaret Arraiz presented the Facts of the Case and explained that the case was initiated on June 22, 2009. The case came before the Special Magistrate on January 6, 2010 and he gave the property owner 15 days to comply or a fine of \$150.00 per day would be assessed. An inspection was made on February 16, 2010; the property was not in compliance and the fine began. A lien was recorded on April 28, 2010. Another inspection was made on January 27, 2014 and the property was now in compliance; the fines were stopped. The total amount of the fines is \$215,900.00 which includes \$50.00 in recording fees. On January 28, 2014 Staff received a lien reduction request from Ms. Alouption to waive all fines. Staff's recommendation is to reduce the fine to \$3,500.00 and make it contingent upon payment at closing.

Emilie Alouption was sworn in for testimony. A translator was also sworn in should it be necessary. Mrs. Alouption explained that when she had a permit in 2006 to work on the house she also put up the wall. The engineering department told her she would have to have plans and they would tell her whether she could have the wall or not. She did not do this so they issued a violation notice. After a period of time passed she took the wall down which complied the violation.

Special Magistrate Blandino reviewed the 7 criteria required by Rule 17 and recommended the City Commission reduce the lien to \$1,750.00 payable out of proceeds at closing. If it is not paid or there is no sale within 6 months the lien would revert back to the original settlement offer of \$3,500.00.

The concerned parties from case #14-0298 returned to the Chambers and the case was continued.

Officer Coss stated that Mr. Bertram and he had discussed the issue with Mr. Nichols and they came to a settlement agreement of \$3,600.00 payable to the city tree fund.

Special Magistrate found that a violation did exist and established the fine to be \$3,500.00. payable within 30 days from the date of the order.

The next items on the agenda **New Violation Cases Where No One is Present.**

Item 5A-1 is case #13-2297, 711 Parkway Dr., Ft. Pierce, Florida. The property owner is Glenn & Kimberly Spaulding, 711 Parkway Dr., Ft. Pierce, Florida. The code violations were 5-368 (4) property maintenance.

Item 5A-3 is case #14-0093, 408 N 24th St., Ft. Pierce, Florida. The property owner is Benjamin Tullis, 408 N. 24th St., Ft. Pierce, Florida. The code violations were 5-369 vacant buildings.

Special Magistrate Blandino ruled that the violations do exist and the violators that are not present are deemed to have admitted guilt. He further ordered that they be given the number of days recommended by the Code Enforcement Officer on the case summary sheet to come into compliance or they would be fined the amount also shown on the summary sheet.

There being no further business the meeting was adjourned at 10:05 A.M.

ATTEST:

Colleen Green

SECRETARY TO THE SPECIAL MAGISTRATE

Margaret Arraiz by mcgrew
CODE ENFORCEMENT MANAGER

A Taped Recording of this Meeting has been saved.