

**CITY OF TEMPLE TERRACE, FLORIDA  
MUNICIPAL CODE ENFORCEMENT BOARD  
MINUTES**

**Regular Meeting  
Wednesday, November 10, 2010  
Council Chambers – City Hall**

The regular meeting of the Municipal Code Enforcement Board was held on Wednesday, November 10, 2010, in the Council Chambers at City Hall.

**PRESENT WERE:** Chairman David A. Pogorilich and Board Members Rick Gibson, William Newkirk, Maura Lear, James Ruyle, Richard Schmidt and Alternate Board Member Andrew Ross. Board Member Michael Urbas was absent.

**ALSO PRESENT WERE:** Attorney for the City Tim Garding, Deputy City Clerk Jeannie Barlow, Code Compliance Director Joe Gross, Deputy Housing Official Captain Andrew Muzzy, Code Compliance Officers Tom Borroni, Sal Scrozzo and Len Valenti, Code Compliance Secretary Shana Hunt, Ellen Statz, Dennis Statz, Sandy Nedd, Jill Ficarrotta, Cady Ficarrotta, Mary Johnson, Sikree Ravencraft, K.D. Ravencraft, and several other persons.

Chairman Pogorilich called the meeting to order at 7:00 p.m. and, following the Pledge of Allegiance to the flag, outlined the procedures the Board would follow. All persons wishing to give testimony were sworn in by the Deputy City Clerk.

**HEARINGS:**

Noting the presence of interested parties, Chairman Pogorilich announced that cases would be taken out of order to accommodate respondents and witnesses present at tonight's meeting.

**CASE NO. 10-2147 – City vs. Gilchrist Nedd and Sandy Nedd - 9304 Rolling Ridge Place-Sections 25.760.2(a) – Parking on a Non-Durable Surface; 25.750.3(b)(c) – Recreational Vehicles, Boats and Trailers in Residential Zoning Districts; and 25.750.4 – Material and Equipment Storage in Residential Zoning Districts.**

Attorney Garding introduced the case, and confirmed with the Deputy City Clerk that the Notice of Violation, Notice of Hearing, and evidence of receipt were part of the record and were properly served on the violators. Code Compliance Officer Borroni, who was duly sworn, provided testimony with respect to the manner in which notification of the alleged violations had been served to the alleged violators. He provided testimony regarding the alleged violations, noting that the violations had originated on August 30, 2010. He stated his inspection revealed two inoperative vehicles in the respondents' driveway with expired registrations.

Officer Borroni stated he left a violation warning door hanger on the property establishing a re-inspection date of September 6, 2010, and, upon his return on September 9, 2010, a re-inspection of the property revealed one vehicle with an expired registration still parked in the driveway. He commented that a Notice of Violation was prepared and issued on September 9, 2010, establishing a compliance deadline of September 17, 2010. Officer Borroni noted his re-inspection revealed that the vehicle had been removed from the driveway and the case was subsequently closed. He indicated on September 22, 2010, he received a complaint through the Police Department from the respondents' neighbor stating that inoperative vehicles were, once again, parked in the respondents' driveway.

Officer Borroni stated he revisited the property on September 22, 2010, and discovered a utility trailer parked in the driveway and an inoperative vehicle parked on a non-durable surface on the north side of the respondents' home. As a result, he said a Notice of Violation was prepared on September 27, 2010, and hand-delivered to the respondents' friend, establishing a compliance deadline of October 7, 2010. He commented a re-inspection on October 8, 2010, revealed no change except that the inoperative vehicle had been relocated to the driveway. He submitted photographic evidence of the alleged subject violations, labeled Exhibits 1-6, establishing a violation of Code Sections 25.760.2(a), 25.750.3(b)(c) and 25.750.4, which the Board accepted. Officer Borroni noted his final inspection on November 10, 2010, revealed the property was in compliance and he submitted an Affidavit of Compliance, which the Board accepted. The respondents were present.

Sandy Nedd, 9304 Rolling Ridge Place, who was duly sworn, approached the podium to address the Board. Ms. Nedd explained the inoperative vehicle belonged to her son, who, due to financial problems, had been delayed in registering and obtaining a tag for the vehicle, but noted the vehicle was now legal. She explained the second vehicle was inoperative due to mechanical failure, but it had since been repaired. She explained the utility trailer belonged to a friend who had recently removed the vehicle from the property.

Chairman Pogorilich cautioned if a violation occurred again in the future, it would become a repeat violation, and he explained that a fine for a repeat violation was higher than a first-time violation because a repeat violation was considered a second offense.

Based on the testimony of Code Compliance Officer Borroni and Sandy Nedd, and the documentary evidence received by the Board, upon motion of Board Member Lear, seconded by Board Member Ross, the Board **FOUND Gilchrist Nedd and Sandy Nedd in Case No. 10-2147** to be **GUILTY** of violating Sections **25.760.2(a), 25.750.3(b)(c), and 25.750.4** of the City Code, but because the property was brought into compliance before the date of this hearing, no fine would be assessed. Vote on the motion being: Chairman Pogorilich and Board Members Gibson, Lear, Newkirk, Schmidt, Ruyle, and Ross voting "aye", no "nay." Board Member Urbas was absent and did not vote.

**CASE NO. 10-2521 – City vs. Dennis Statz and Ellen Statz, Property Owners, and Jill Ficarrotta, Tenant - 407 Druid Hills Road – Sections 4.410 – Animals or Fowl that Disturb Neighbors or Damage Property Declared a Nuisance and Prohibited; and 4.425.1(a) – Animals Running At Large.**

Attorney Garding introduced the case, and confirmed with the Deputy City Clerk that the Notice of Violation, Notice of Hearing, and evidence of receipt were part of the record and were properly served on the violators. He explained the owners of record were Dennis and Ellen Statz and the occupant of the property was Jill Ficarrotta. Code Compliance Director Joe Gross, who was duly sworn, provided testimony with respect to the manner in which notification of the alleged violations had been served to the alleged violators. He provided testimony regarding the alleged violations, noting that the violations had been referred to Code Compliance by the Police Department on September 28, 2010. He stated this case involved roaming and unrestrained cats which created a nuisance and disturbed the neighborhood. He explained the cats had been sleeping on carports and vehicles, making noise, generating waste and killing birds.

Director Gross stated the Police Department had initiated contact with the respondents in June, as reported in Police Department Case 10-2299 and Case 10-3553. He continued a police "courtesy call" to the residence had not resolved the case, and a subsequent Affidavit circulated by the affected neighbors had not resolved the case. He explained the case had then been referred to Code Enforcement for resolution.

Director Gross indicated a Notice of Violation had been issued on October 5, 2010, establishing a compliance deadline of October 18, 2010. He stated, in response to the Notice of Violation, the tenant indicated she was working with Hillsborough County Animal Services to develop a humane trapping plan in order to rid the neighborhood of the feral cats. However, he noted, as of October 22, 2010, no noticeable improvements had been made to the situation, so the case had been referred to the Code Board.

Director Gross reported since that time, corrective steps have been made. He explained the property owners and the tenant have been in continual contact with him to ensure that the problem would eventually be resolved. He stated he was hesitant to issue an Affidavit of Compliance at this time, since although the situation had improved, the cat problem was still evident. He indicated the respondents had requested one month (until the Board's next meeting) to resolve the problem. He also noted several neighbors were present to provide testimony tonight. The respondents were also present.

Board Member Gibson questioned if the cats had caused any damage, to which Director Gross responded the problem was not about monetary damage, but was nuisance oriented. He explained the cats were howling at night, leaving messes, killing birds, and sleeping on cars and in carports.

Chairman Pogorilich confirmed the respondents were not in compliance, to which Director Gross concurred, but indicated they could probably be in compliance by the Board's next meeting. Chairman Pogorilich questioned how many cats were involved, to which Director Gross responded there were approximately three cats that were kept inside the home, but he explained that in this particular situation, the fact that the cats were being fed was what attracted the other cats to the area. He felt although initial intentions might have been to only help out a cat or two, other cats had gravitated to the area to reap the food benefits. He did not know the extent to which the cats were fed, but he indicated there was culpability on the part of the tenant regarding the number of cats that were now living in the neighborhood.

K.D. Ravencraft, of 412 Deer Park Avenue, who was duly sworn, approached the podium to address the Board. He explained the cat problem had been occurring for over a year, and it recently had become progressively worse. He noted he lodged a complaint with the Police Department because the cats were waking him up several times a night, and using his yard as a litter box, among other things. However, he admitted that over the past week there have appeared to be fewer cats in the area. He indicated he harbored no grudges against the respondents; he merely desired the cats to be removed from the area as their presence could be considered a health hazard.

Chairman Pogorilich questioned how many cats were involved, to which Mr. Ravencraft responded there were approximately three or four black cats wandering about the neighborhood.

Board Member Gibson questioned which cats were feral and which could be considered as pets, to which Mr. Ravencraft responded that the cats did not wear tags to indicate any ownership.

Board Member Ross questioned why the neighbors suspected Ms. Ficarrota was feeding the feral cats, to which Mr. Ravencraft responded that when he chased the cats off his property, they usually ran into Ms. Ficarrota's yard.

Mary Johnson, of 410 Deer Park Avenue, who was duly sworn, approached the podium to address the Board. She explained she lived directly behind the house where all the cats stayed. She explained, in answer to the question regarding the number of cats involved in this situation, there weren't that many at present, but she had counted as many as ten cats in the past. She stated she had not complained about the cat problem initially because she kept thinking the situation would improve, but, until last week, the situation had become progressively worse. She said the cats had been sleeping on her car, messing in her carport, yowling at night, and creating a health hazard.

Board Member Gibson queried as to which cats were feral and which were pets, to which Ms. Johnson responded she could not tell the difference as she had seen as many as ten cats in the respondents' yard.

Jill Ficarrota, of 407 Druid Hills Road, who was duly sworn, approached the podium to address the Board. She explained she had not been cognizant of a cat problem in her neighborhood until recently. She indicated the property adjacent to hers had been vacant for approximately four years and she felt this probably attributed to the large number of cats in her neighborhood since she had discovered four cats living in the bushes on the property of the vacant house. Ms. Ficarrota explained she found homes for the four cats, which could not be confused with her house cats because her house cats were much larger in size than the feral cats living on the property next door to her.

Chairman Pogorilich questioned why neighbors felt there were up to ten cats at one time living in the neighborhood. Ms. Ficarrota explained an alleyway was located next to her property and she thought animals used this alleyway as a "pass-through" because there were two vacant homes on each side of the alleyway. She thought this set-up attracted cats to the area as it provided a safe place for cats to exist. She noted she had placed food on her back porch for her cats, which the outside cats would eat from as well, but since her neighbors had started complaining, she had ceased feeding the cats outside. She also stated she had removed the water from a birdbath in her yard to discourage the cats from loitering on her property.

Board Member Lear indicated the neighbors had stated the cat situation had improved recently, and she questioned why this happened. Ms. Ficarrota responded she decided to search for the cats the neighbors complained about, and she found four cats living in the bushes at the vacant residence next door to her house, and subsequently found homes for the cats. Board Member Lear questioned if anyone else in the neighborhood was feeding feral cats to her knowledge, to which Ms. Ficarrota responded that she could not be sure.

Board Member Ross desired clarification that the cats in question were not living on Ms. Ficarrota's property, to which she replied she thought they were living in the alleyway between the two vacant houses, but they would need to cross her yard to get to the alleyway. She confirmed the cats did not belong to her.

Board Member Ross questioned if she felt the cats were a nuisance, to which Ms. Ficarrota replied they did not constitute a nuisance to her.

Dennis Statz, of 410 Druid Hills Road, who was duly sworn, approached the podium to address the Board. He explained the cats had been a problem in the neighborhood, and had been a constant presence for at least the twenty-three years he had lived in the neighborhood, and he emphasized the cats did not belong to Ms. Ficarrota. He indicated they lived behind her yard in the alleyway, and noted she only owned three cats, although she had been trying to allay the neighbors' complaints by helping to control the cat situation. Mr. Statz also noted that a park around the corner from the neighborhood contained an abundance of feral cats, which could also explain the large number of cats in his neighborhood.

Chairman Pogorilich questioned why Mr. Statz felt he had so many cats in his neighborhood, to which Mr. Statz replied he did not have an answer to that question, but he stated he did not feed stray cats, and, as a matter of fact, he stated he did not even particularly like cats.

Ellen Statz, of 410 Druid Hills Road, who was duly sworn, approached the podium to address the Board. She explained she learned about the violation on October 5, 2010, after Ms. Ficarrota received the Notice of Violation. She and Ms. Ficarrota had been working on the problem since then by setting traps and trying to ascertain where the cats' point of origin was located. She stated cats had always been in her yard too, and she was perplexed as to how to properly resolve the problem.

Chairman Pogorilich indicated the house cats should wear collars to differentiate them from the feral cats. He also felt since Ms. Ficarrota was not feeding the cats and had even removed the water from the bird bath in her yard, he could not think of anything else to be done to dissuade the feral cats from roaming the neighborhood. He suggested that all the neighbors become involved with this problem and stated he felt it was not Ms. Ficarrota's sole responsibility to have the cats removed. Chairman Pogorilich suggested perhaps Hillsborough County Animal Control could be contacted to help with the situation.

Ms. Statz remarked Animal Control no longer picked up stray cats due to budget constraints. She commented Animal Control accepted stray cats brought to its facility and would hold them for five days but, if not claimed, the animals were euthanized after that five day period. She also stated she wished the neighbors would call her directly if they felt there was a cat problem, and she would do her best to rectify the situation.

Chairman Pogorilich reiterated he felt Mr. and Mrs. Statz and Ms. Ficarrota were not solely responsible for the abundance of cats in the neighborhood, especially if the neighborhood had experienced a cat problem for at least twenty-three years.

Board Member Ross asked Director Gross to explain why the neighborhood felt that Mr. and Mrs. Statz and Ms. Ficarrota were responsible for the cat problem. Director Gross responded all the cats could not be attributed to the respondents, but, he explained, at no point did the respondents ever deny responsibility for the cats that had accumulated in Ms. Ficarrota's yard, and, they even indicated they would do what they could to alleviate the problem. Director Gross remarked, originally, when the Police Department received the initial complaints about the problem in June, the number of cats in the area had been attributed to a feeding issue, although, he explained the current problem could not be linked to that same issue. While he felt initially there was some culpability involved, he explained there was no quick solution to the current cat problem, and he concurred the entire neighborhood should participate in trying to alleviate the problem. Director Gross suggested if it could be determined this cat problem was specifically a feral cat problem, then it could be addressed by a group called Mission Meow.

Board Member Lear inquired if Code Enforcement had the ability to elicit action on the part of Hillsborough County Animal Control to reign in the cat problem in this particular neighborhood, to which Director Gross responded that Animal Control's policies had changed and feral cats were no longer collected by Animal Control vehicles, as had been the policy in the past. He indicated he could notify Animal Control to apprise them of the situation, but he felt that the City's request to assist in controlling the cat problem would be secondary to citizen requests.

Board Member Ruyle remarked that the root of the problem could be determined by locating the food source. Director Gross concurred and noted the neighborhood song birds could be considered an integral part of the problem.

Based on the testimony of Code Compliance Director Gross, K.D. Ravencraft, Mary Johnson, Jill Ficarrota and Dennis and Ellen Statz, and the documentary evidence received by the Board, upon motion of Board Member Ross, seconded by Board Member Ruyle, the Board **FOUND Dennis Statz and Ellen Statz, Property Owners, and Jill Ficarrota, Tenant, in Case No. 10-2521 to be NOT GUILTY** of violating Sections **4.410 and 4.425.1(a)** of the City Code. Vote on the motion being: Chairman Pogorilich and Board Members Gibson, Lear, Newkirk, Schmidt, Ruyle, and Ross voting "aye", no "nay." Board Member Urbas was absent and did not vote.

**CASE NO. 10-1942 – City vs. John M. Kennedy, Trustee, and Vicki Kennedy, Trustee - 13102 N. 56<sup>th</sup> Street - Sections 11.120.10 – Occupants and Owners of Abutting Property to Keep Parkways Clean; 11.120.9 – Sanitation – Duty to Keep Premises Clean; and 25.780.13 – Sight Distance for Landscaping and Buffering Adjacent to Public Right-Of-Way and Points of Access.**

Attorney Garding introduced the case, noted the property was a vacant lot, and confirmed with the Deputy City Clerk that the Notice of Violation, Notice of Hearing, and evidence of receipt were part of the record and were properly served on the violators. Code Compliance Director Gross, who was duly sworn, provided testimony with respect to the manner in which notification of the alleged violations had been served to the alleged violators. He provided testimony regarding the alleged violations, noting that the violations had originated on August 9, 2010, based on his discovery of overgrown conditions on the corner of a perimeter parkway that impaired a sidewalk and obstructed view of the right-of-way.

Director Gross commented he notified the property owner, John Kennedy, on August 9, 2010, who subsequently agreed to coordinate a mowing effort to resolve the problem. He explained during a follow-up visit to the property, Mr. Kennedy had explained to him that the individual contracted for the job had not performed the work and he was in the process of hiring another individual to mow the grass. Director Gross explained a difficulty existed in this mowing work due to a sizable swale that was located between the pavement and the property line off 56<sup>th</sup> Street, and finding a contractor willing to tackle this particular mowing job proved difficult. Director Gross noted, due to the delay, a Notice of Violation was prepared on October 7, 2010, and received by the respondent on October 21, 2010, establishing a compliance date of October 18, 2010, but, because the Notice was received after the deadline, the re-inspection of the property had been delayed. He stated a re-inspection revealed partial work had been performed along E. 131<sup>st</sup> Avenue, but the overgrown conditions remained on N. 56<sup>th</sup> Street as of October 25, 2010.

Director Gross submitted photographic evidence of the alleged subject violations, labeled Exhibit 1, establishing a violation of Code Sections 11.120.9, 11.135.1 and 25.780.13, which the Board accepted. He commented an additional inspection on November 10, 2010, showed the property had been mowed and was now in compliance. He submitted an Affidavit of Compliance, which the Board accepted. The respondent was not present.

Based on the testimony of Code Compliance Director Gross, and the documentary evidence received by the Board, upon motion of Board Member Gibson, seconded by Board Member Newkirk, the Board **FOUND John M. Kennedy, Trustee, and Vicki Kennedy, Trustee, in Case No. 10-1942 to be GUILTY** of violating Sections **11.120.10, 11.120.9, and 25.780.13** of the City Code, but because the property was brought into compliance before the date of this hearing, no fine would be assessed. Vote on the motion being: Chairman Pogorilich and Board Members Gibson, Lear, Newkirk, Schmidt, Ruyle and Ross voting “aye”, no “nay.” Board Member Urbas was absent and did not vote.

**CASE NO. 10-1996 – City vs. Paul Dean and Debbie Dean - 5206 Blane Drive - Sections 11.120.9 – Sanitation – Duty to Keep Premises Clean; 11.135.1 – Sanitation – Grass/Weeds 150’; and 11.135.2 – Sanitation – Grass/Weeds.**

Attorney Garding introduced the case, noted the property was unoccupied, and confirmed with the Deputy City Clerk that the Notice of Violation, Notice of Hearing, and evidence of receipt were part of the record and were properly served on the violators. Code Compliance Director Gross, who was duly sworn, provided testimony with respect to the manner in which notification of the alleged violations had been served to the alleged violators. He provided testimony regarding the alleged violations, noting that the violations had originated on August 10, 2010, based on a report of overgrown conditions at an unoccupied townhouse.

Director Gross commented a violation warning door hanger was left at the property on August 10, 2010, and a Notice of Violation was prepared on August 27, 2010, and received by the respondents on September 1, 2010, establishing a compliance date of September 10, 2010, but he indicated no change was noted as of September 24, 2010. He submitted photographic evidence of the alleged subject violations, labeled Exhibit 1, establishing a violation of Code Sections 11.120.9, 11.135.1 and 11.135.2, which the Board accepted.

Director Gross stated this case had been originally scheduled for last month’s agenda, but had been withdrawn temporarily based on a request from Mr. Dean due to his involvement in bankruptcy proceedings. Director Gross explained the Attorney for the City had reviewed the case and concluded the City could proceed in prosecuting the Code violations and Mr. Dean had been advised accordingly. He stated a re-inspection on November 10, 2010, noted no change, and suggested the Board allow Mr. Dean one month to bring his property into compliance indicating he would explain to Mr. Dean that mowing his grass would alleviate the need for the City to place a lien on his property. The respondent was not present.

Board Member Lear questioned if an association was involved in property caretaking responsibilities since the respondent resided in a townhouse, to which Director Gross responded that, regrettably, there were no caretaking entities associated with this particular townhouse.

Director Gross explained Mr. Dean had surrendered the property as part of his bankruptcy proceedings, because his attorney had advised him that once he surrendered his property, his liability would be limited; however, Director Gross continued that he had told Mr. Dean the Hillsborough County Property Appraiser's website still identified him as the owner of the property, so the City would pursue him as such.

Board Member Ruyle questioned if the property was a townhouse in which the land was owned fee simple or was it a condominium in which the owner only possessed ownership of the bricks and mortar, to which Director Gross responded the first scenario was accurate as the property owner owned both the land and the building.

Based on the testimony of Code Compliance Director Gross, and the documentary evidence received by the Board, upon motion of Board Member Lear, seconded by Board Member Ruyle, the Board **FOUND Paul Dean and Debbie Dean in Case No. 10-1996** to be **GUILTY** of violating Sections **11.120.9, 11.135.1 and 11.135.2** of the City Code, and gave the respondents until December 8, 2010, to come into compliance with the Code Sections in question. If the property was not brought into compliance by that date, a fine of \$100.00 per day would begin to accrue on December 9, 2010, and continue to accrue until the date that the violators provided the City with evidence that the property had been brought into compliance. Vote on the motion being: Chairman Pogorilich and Board Members Gibson, Lear, Newkirk, Schmidt, Ruyle and Ross voting "aye", no "nay." Board Member Urbas was absent and did not vote.

**CASE NO. 10-2180 – City vs. John E. Davis and Ja'nette Davis – 11204 N. 61<sup>st</sup> Street - Sections 11.120.9 – Sanitation – Duty to Keep Premises Clean; 11.135.1 – Sanitation – Grass/Weeds 150'; 11.135.2 – Sanitation – Grass/Weeds; and 25.750.4 – Material and Equipment Storage in Residential Zoning Districts.**

Attorney Garding introduced the case, noted the property was unoccupied, and confirmed with the Deputy City Clerk that the Notice of Violation, Notice of Hearing, and evidence of receipt were part of the record and were properly served on the violators. Code Compliance Director Gross, who was duly sworn, provided testimony with respect to the manner in which notification of the alleged violations had been served to the alleged violators. He provided testimony regarding the alleged violations, noting that the violations had originated on August 31, 2010, and involved overgrown conditions and an inoperable vehicle at an unoccupied residence and stated foreclosure proceedings had been initiated against the property owners last May.

Director Gross commented a violation warning door hanger was left at the property on August 31, 2010, and re-inspections during the month of September revealed only the front yard had been mowed, and the inoperable vehicle remained. He stated a Notice of Violation was prepared on October 8, 2010, and subsequently posted on the property and at City Hall, establishing a compliance date of October 18, 2010. He indicated a re-inspection noted no change to the yard or the inoperable vehicle. He submitted photographic evidence of the alleged subject violations, labeled Exhibits 1 - 4, establishing a violation of Code Sections 11.120.9, 11.135.1, 11.135.2, and 25.750.4, which the Board accepted. The respondents were not present.

Director Gross commented he would recommend the Board allow the respondents until the next Board meeting to come into compliance and, if they were not successful, he would then present the resulting Order to the lender and any other interested party in anticipation that someone with an interest in the property would bring it into compliance by the deadline.

Board Member Gibson questioned the ownership of the inoperable vehicle parked on the property, to which Director Gross responded his department had lost its ability to identify ownership of unoccupied vehicles as the Legislature had classified this information as “restricted” as of October 1, 2010. He explained the Police Department had recommended his department work with private vendors to obtain this information, but there would be costs involved with this avenue of approach.

Board Member Ruyle indicated he had notified the police regarding a suspicious car parked on his property some time ago. He stated officers ran the tag to determine ownership of the vehicle. He thought if the vehicle in this particular case seemed suspicious, the Police should be called. Director Gross indicated he would follow-up on this issue.

Based on the testimony of Code Compliance Director Gross, and the documentary evidence received by the Board, upon motion of Board Member Gibson, seconded by Board Member Newkirk, the Board **FOUND John E. Davis and Ja’nette Davis in Case No. 10-2180** to be **GUILTY** of violating Sections **11.120.9, 11.135.1, 11.135.2, and 25.750.4** of the City Code, and gave the respondents until December 8, 2010, to come into compliance with the Code Sections in question. If the property was not brought into compliance by that date, a fine of \$100.00 per day would begin to accrue on December 9, 2010, and continue to accrue until the date that the violators provided the City with evidence that the property had been brought into compliance. Vote on the motion being: Chairman Pogorilich and Board Members Gibson, Lear, Newkirk, Schmidt, Ruyle and Ross voting “aye”, no “nay.” Board Member Urbas was absent and did not vote.

**CASE NO. 10-2437 – City vs. Robert Everett Brown – 8207 Broward Place – Section 25.750.4 – Material and Equipment Storage in Residential Zoning Districts.**

Attorney Garding introduced the case and confirmed with the Deputy City Clerk that the Notice of Violation, Notice of Hearing, and evidence of receipt were part of the record and were properly served on the violator. Code Compliance Officer Sal Scrozzo, who was duly sworn, provided testimony with respect to the manner in which notification of the alleged violation had been served to the alleged violator. He provided testimony regarding the alleged violation, noting that the violation had originated on September 28, 2010, based on his discovery of a Dodge Ram Charger with three flat tires stored on the respondent’s property. Officer Scrozzo commented he left a violation warning door hanger at the property on September 28, 2010, establishing a compliance deadline of October 4, 2010. He indicated his re-inspection of the property on October 6, 2010, revealed no change and a Notice of Violation was prepared establishing a compliance date of October 17, 2010. He stated since he was unsuccessful in his attempts to contact the property owner, the Notice of Violation was posted on the property and at City Hall and mailed to the property owner by certified and regular mail. He stated a re-inspection on October 21, 2010, noted no change, and he submitted photographic evidence of the alleged subject violation, labeled Exhibits 1 - 4, establishing a violation of Code Section 25.750.4, which the Board accepted. The respondent was not present.

Officer Scrozzo indicated a subsequent re-inspection on October 26, 2010, revealed both rear tires had been repaired, but the right front tire still remained flat. He continued re-inspections until today revealed no change to the front tire and, as a result, the property remained out of compliance.

Chairman Pogorilich questioned if the property was occupied, to which Officer Scrozzo described his unsuccessful attempts to contact the property owner, but, as luck would have it, he met Mr. Brown during today's final inspection, and Mr. Brown apologized to him for the violation and informed him that the inoperable vehicle would be towed from his property within the next few days.

Based on the testimony of Code Compliance Officer Scrozzo, and the documentary evidence received by the Board, upon motion of Board Member Gibson, seconded by Board Member Schmidt, the Board **FOUND Robert Everett Brown in Case No. 10-2437 to be GUILTY** of violating Section **25.750.4** of the City Code, and gave the respondent until December 8, 2010, to come into compliance with the Code Section in question. If the property was not brought into compliance by that date, a fine of \$50.00 per day would begin to accrue on December 9, 2010, and continue to accrue until the date that the violator provided the City with evidence that the property had been brought into compliance. Vote on the motion being: Chairman Pogorilich and Board Members Gibson, Lear, Newkirk, Schmidt, Ruyle and Ross voting "aye", no "nay." Board Member Urbas was absent and did not vote.

**UNFINISHED BUSINESS/PRIOR CASE HEARINGS:**

**Status Report of Compliance/Non Compliance with previously issued ORDERS:**

Noting the presence of interested parties, Chairman Pogorilich announced that cases would be taken out of order to accommodate respondents and witnesses present at tonight's meeting.

**CASE NO. 10-0158 – City vs. Stuart J. Zook, Registered Agent, Normandy Acquisition LP– 11110 North 56<sup>th</sup> Street - Sections 8.815(b) – Florida Building Code - Applicability; 8.830(a)(1) – Permits – Required; and 25.780.5 – Maintenance.**

Attorney Garding re-introduced the case and indicated that Director Gross would provide a progress update.

Director Gross stated the Attorney for the City had an Affidavit of Compliance for this property. Board members expressed their relief that, after eight months of extensions, the property had finally been brought into compliance.

Attorney Garding introduced an Affidavit of Compliance, prepared by Code Compliance Director Gross, dated October 20, 2010, for compliance with Sections 8.815(b) and 8.830(a)(1), which the Board accepted.

At this juncture, Director Gross referenced Case No. 10-2180, regarding the inoperable vehicle on property located at 11204 N. 61<sup>st</sup> Street, and relayed information he had just received from the Police Department indicating the vehicle parked on the property had not been reported as stolen.

**CASE NO. 10-1286 – City vs. Kalid Mohammed – 9239 Overlook Drive – Sections 11.135.1 – Sanitation – Grass/Weeds 150’; and 25.755.10 – Pools – Duty to Maintain.**

Director Gross stated there were several organizations in the area that assisted homeowners in need with their distressed properties, and, in this particular case, several individuals had mowed the front yard of the property so that the yard appeared well-kept from the street. However, Director Gross explained, the back and side yard still remained out of compliance, although the respondent had until midnight tonight to come into compliance with the Code.

**CASE NO. 10-1845 – City vs. Federal Home Loan Mortgage Corporation, c/o Bank of America – 7807 E. 113<sup>th</sup> Avenue – Sections 25.755.10 – Pools – Duty to Maintain; 11.120.10 – Sanitation – Occupants and Owners of Abutting Property to Keep Parkway Clean and Sanitary; 11.135.1- Sanitation – Accumulation of Weeds, Grass, and Underbrush Prohibited; and 11.135.2 – Sanitation – Grass/Weeds.**

Attorney Garding introduced an Affidavit of Compliance, prepared by Code Compliance Director Gross, dated October 7, 2010, for compliance with Section 25.755.10, which the Board accepted.

**CASE NO. 10-1920 – City vs. Christian Rodriguez – 7466 Terrace River Drive – Sections 11.120.9. – Sanitation – Duty to Keep Premises Clean; and 27.750(u) – Mold and Mildew.**

Attorney Garding indicated the deadline for compliance for this case was today, November 10, 2010, at midnight.

**CASE NO. 10-1991 – City vs. Robert Barber and Kristin Barber – 5204 Blane Drive – Sections 11.120.9 – Sanitation – Duty to Keep Premises Clean; 11.135.1 – Sanitation – Grass/Weeds 150’; and 11.135.2 – Sanitation – Grass/Weeds.**

Attorney Garding indicated the deadline for compliance for this case was today, November 10, 2010, at midnight.

**CASE NO. 10-2028 – City vs. Jermaine O. Donaldson and Laqueata Donaldson – 803 West River Drive – Sections 11.135.2 – Sanitation – Grass/Weeds; and 11.130.7(b) – Unauthorized Accumulation of Solid Waste/Trash/Refuse.**

Director Gross stated the Rotary Club had assisted the property owners in this particular case with clean-up of the property to bring the violations, stemming from overgrown conditions, into compliance. However, he noted, the property remained out of compliance due to the amount of debris which had accumulated on the property, and had not been addressed. He indicated the deadline for compliance for this case was today, November 10, 2010, at midnight.

**CASE NO. 10-5011 – City vs. John E. O’Brien – 210 Temple Valley Drive – Section 27.726(a) – Failure to Obtain Annual Rental Permit.**

Attorney Garding introduced an Affidavit of Non-Compliance, prepared by Captain Andy Muzzy, Deputy Housing Official, dated October 7, 2010, for non-compliance with Section 27.726(a), which the Board accepted.

**CASE NO. 10-5029 – City vs. Luis A. Ramos and Sonia Ramos – 13243 Sanctuary Cove Drive, #204 – Section 27.726(a) – Failure to Obtain Annual Rental Permit.**

Attorney Garding introduced an Affidavit of Compliance, prepared by Captain Andy Muzzy, dated October 7, 2010, for compliance with Section 27.726(a), which the Board accepted.

At this juncture, Attorney Garding indicated there were several additional Affidavits of Compliance for cases not on tonight's agenda which he would like to present to the Board.

**CASE NO. 08-1811 – City vs. Michael L. and Martine B. Miller – 610 Courtney Drive – Section 11.135.2.**

Attorney Garding introduced an Affidavit of Compliance, prepared by Code Compliance Officer Scrozzo, dated November 8, 2010, for compliance with Section 11.135.2, which the Board accepted.

**CASE NO. 10-1137 – City vs. Michael P. Mercer – 7610 Gulf Court - Sections 27.750(m)(14), 27.750(m)(15), 27.750(m)(8), 11.120.9, 27.750(a), 27.750(b), 27.750(j), 27.726(a), 25.750.5(b)(7), and 27.750(n)(1).**

Attorney Garding introduced an Affidavit of Compliance, prepared by Code Compliance Director Gross, dated October 11, 2010, for compliance with Sections 27.750(m)(14), 27.750(m)(15), 27.750(m)(8), 11.120.9, 27.750(a), 27.750(b), 27.750(j), 27.726(a), 25.750.5(b)(7), and 27.750(n)(1), which the Board accepted.

**CASE NO. 10-1718 (Repeat) – City vs. William H. Peavy Jr. and Holly Jean Peavy - 101 Druid Hills Road - Sections 11.135.2, 11.120.9, and 25.755.10.**

Attorney Garding introduced an Affidavit of Compliance, prepared by Code Compliance Officer Borroni, dated October 18, 2010, for compliance with Section 25.755.10, which the Board accepted.

**CASE NO. 10-2154 (REPEAT) – City vs. Natalie Anderson – 105 Deer Park Avenue – Section 25.755.10 – Pools – Duty to Maintain.**

Attorney Garding introduced an Affidavit of Compliance, prepared by Code Compliance Officer Borroni, dated October 15, 2010, for compliance with Section 25.755.10, which the Board accepted.

**OTHER BOARD ACTION:**

Attorney Garding reviewed several cases which had received Affidavits of Non-Compliance under the Rental Housing Program, and, because the property owner still had not come into compliance with the Code in these particular cases, liens were now in effect on each of the six properties owned by this individual, Joaquin Hernando Cadavid. He continued the fines on these properties had been assessed at \$200.00 per unit per day and, as of November 10, 2010, had accrued to \$12,600.00 per property. Due to the considerable fines accruing on each of Mr. Cadavid's six properties, Attorney Garding recommended the Board consider capping the fines at \$12,600.00 per property in light of the general purpose of the Rental Housing Program.

Chairman Pogorilich questioned the reason for capping the fines, to which Attorney Garding responded that capping the fines would be based on Chapter 162 as well as the purpose of the rental program, which did not involve health, safety or welfare issues, but addressed permit requirements. He referenced **Case No. 10-5011, the City vs. John E. O'Brien**, and indicated the Board had assessed a fine in the amount of \$50.00 per day against this individual who had been found to be not in compliance with the Housing Rental Program, and whose fine would be capped when it accrued to \$200.00 for 2008, \$200.00 for 2009, and \$300.00 for 2010. Attorney Garding explained Mr. O'Brien's total fine would not exceed \$750.00.

Chairman Pogorilich questioned the status of the cases regarding Joaquin Hernando Cadavid, to which Captain Muzzy responded his office had not had any contact with the owner, although Mr. Cadavid had signed for the certified mail that the City had sent to him regarding his non-compliance with the Rental Housing Program. Captain Muzzy explained he had visited Mr. Cadavid's properties in October, but stated there was no indication that the properties were being rented or not being rented and his office had no way to ascertain this fact unless occupants could be viewed entering and/or exiting the properties.

Chairman Pogorilich questioned if the amount of the lien would cover the City's expenses if any health, safety or welfare issues were to develop at Mr. Cadavid's properties which the City would need to address. Captain Muzzy responded the lien money would cover repairs to the properties, but he did not know how much money it might cost the City to prosecute these cases in a court of law.

Attorney Garding stated he felt Chairman Pogorilich's concern was very valid and he indicated that he, Attorney Connolly and Director Gross had participated in a teleconference this afternoon to discuss the situation regarding Mr. Cadavid's properties and they had determined the amount of the lien per property, if capped at \$12,600.00, would be sufficient to cover any potential costs that could develop.

Board Member Ruyle requested this item, and a corresponding status update, be placed on a subsequent agenda.

Upon **motion** by Board Member Gibson, seconded by Board Member Newkirk, the accruing fines were **CAPPED** at \$12,600.00 per property for each of the following cases regarding the City of Temple Terrace vs. Joaquin Hernando Cadavid: Case No. 10-1140, Case No. 10-1146, Case No. 10-1147, Case No. 10-1155, Case No. 10-1158, and Case No. 10-5007, and this item would be placed on next month's agenda. Vote on the motion being: Chairman Pogorilich and Board Members Gibson, Lear, Newkirk, Schmidt, Ruyle and Ross voting "aye", no "nay." Board Member Urbas was absent and did not vote.

#### **NEW BUSINESS:**

Chairman Pogorilich indicated, due to his new position as Council Member for the City of Temple Terrace, he would be resigning from the Municipal Code Enforcement Board effective November 16, 2010, and noted it had been an honor and a pleasure serving on this Board. He commented since he would no longer be serving as Chairman, the Board should elect a new Chairman and Vice-Chairman.

At this juncture, Board Member Lear stated she would not be seeking re-appointment to the Municipal Code Enforcement Board once her term expired on February 5, 2011; however, she would gladly consider serving as an alternate member to the Board. She also commented it had been an honor and a pleasure to serve on the Municipal Code Enforcement Board.

Board Member Ruyle nominated Board Member Gibson to serve as Chairman of the Municipal Code Enforcement Board. Vote on the nomination being: Chairman Pogorilich and Board Members Gibson, Lear, Newkirk, Schmidt, Ruyle and Ross voting “aye”, no “nay.” Board Member Urbas was absent and did not vote.

Board Member Ruyle nominated Board Member Schmidt to serve as Vice-Chairman of the Municipal Code Enforcement Board. Vote on the nomination being: Chairman Pogorilich and Board Members Gibson, Lear, Newkirk, Schmidt, Ruyle and Ross voting “aye”, no “nay.” Board Member Urbas was absent and did not vote.

**APPROVAL OF MINUTES:**

Upon **motion** of Board Member Gibson, seconded by Board Member Newkirk, and unanimously carried, the **MINUTES** of the October 6, 2010, regular meeting were **APPROVED**.

There being no further business to come before the Board, the meeting was adjourned at 8:30 p.m.

Submitted by,

Jeannie Barlow  
Deputy City Clerk