

**CITY OF ST. CLOUD**  
**CODE ENFORCEMENT MEETING**  
**August 19, 2020**

**MINUTES**

- I. CALL TO ORDER** - Special Magistrate Smith called the meeting to order at 3:00 P.M.
- II. PLEDGE OF ALLEGIANCE**

Magistrate Smith asked the City if they wanted to conduct the meeting in the order of the agenda or hear the case of the respondent that was present first.

Attorney Morgeson stated that they were okay with hearing the respondent's case first who was present.

At this time, Magistrate Smith introduced himself to the audience and all those intending to testify were sworn in by Magistrate Smith.

- III. PUBLIC HEARINGS -**

**CASE #2020-701 ADMC Designs, Owners**

**Location of Violation:** 1033 New York Avenue, St. Cloud Florida

**Violation:** St. Cloud City Code 13.3 and Land Development Code, Sections 3.3.1 (F)

**Description of Violation:** Failure to prohibit but rather allowed construction prior to obtaining a permit,

Code Enforcement Officer Dianna Durbin presented the case in narrative form and provided an evidence packet and a PowerPoint presentation. At the conclusion of her presentation, she noted that the respondent was present. Officer Durbin recommended that the property be found in violation of failure to prohibit but rather allowed construction without an active permit. She recommended that the Respondent be given until September 1, 2020 to obtain a permit or pay a fine of \$250.00 per day. She further recommended the Respondent pay the administrative cost in the amount of \$213.60 to be paid within seven days of the written order of the Special Magistrate.

Natasha Santon stated she is the general manager for the property. She stated that she would like to apologize that they did not think they needed a permit and they have been unable to find a contractor who wants to touch the work.

Magistrate Smith asked what issues have the contracted given.

Ms. Santon stated that they seem to be concerned about other issues that might come up and not willing to get involved. She spoke with Joe Dupriest from City Hall who stated

he would talk to the companies but was still unable to get someone who wanted to do the work.

Magistrate Smith stated that she was no closer now when you started.

Ms. Santon stated that she emailed Mr. Dupriest asking the question, what if she just ripped it all out and board it up.

Magistrate Smith requested the City to come up. He stated to the City that they have heard the respondent's issue and he is sensitive to it because they are working with the City to resolve it. He stated the he cannot do much because ultimately they have to have a code compliance permit and he cannot tell her the right thing to do as that is up to the Building Department decision that might require permits. He stated that the City gave a compliance date of August 31<sup>st</sup> and he doesn't believe it is a reasonable time under the circumstances.

Attorney Morgeson stated that he would propose that the City would be comfortable with a finding of non-compliance and a compliance date be set for the end of September which would allow enough time within reasonably for one of two avenues to go, to find a candidate to help them obtain the permit or alternatively work with the City's building official to do a reconstruct take down or board up until such time that they can commence the process and that would give them essentially five weeks. He stated that that way the City gets their finding and ample time for the respondent.

Magistrate Smith asked the Respondent if September 30<sup>th</sup> would work for her which would give her ample time to find a solution and work would the City.

Respondent stated she is happy to work with it the City. She asked if taking the door down and boarding it would they be allow to apply for a permit.

Magistrate Smith stated that that would be a question for the building officials.

Officer Durbin stated that originally it was the building officials who put a stop work order and that is how she got involved because there was no permit and passed to her.

Attorney Morgeson asked to make a suggestion, that there will be another scheduled meeting before the compliance date of September 30<sup>th</sup>, and if there were any issue then it can come before him at that time to explain what is going on.

Magistrate Smith stated that if there were no objections from the City, ordinarily the City ask him to enter an order to allow him to impose fines upon a presentation of an affidavit, at which point the respondent would have an opportunity to appeal to the order. He would like to go ahead and set up a preorder Massey hearing so he can hear what is going on with the property.

Attorney Morgeson stated that the City has no objection to that.

Magistrate Smith found in favor of the City. He found that the property is in non-compliance in violation of the Land Development Code section 3.3.1 and Code of Ordinance section 13.3 due to the lack of permits for the door that was installed and order the Respondent cure the violation by September 30, 2020 if not brought into compliance by that date a fine of up \$250.00 per day could be imposed but he will not order those fines on this case until after the Massey hearing if there is not a compliance. Magistrate Smith entered an ordered the respondent to pay the City for administrative cost in the amount of \$213.60 to be paid within seven days of the Magistrate's written order.

**CASE #2020-218 Progress Orlando, LLC., Owners**

**Location of Violation:** 4593 Baler Trails Dr., St. Cloud Florida

**Violation:** St. Cloud Land Development Code, Sections 3.3.1 (f) & 13.3

**Description of Violation:** Failure to prohibit but rather allow a fence to be installed at this location prior to obtaining a permit.

Code Enforcement Officer Alexandra Miller presented the case in narrative form and provided an evidence packet and a PowerPoint presentation. At the conclusion of her presentation, she noted that the Respondent was not present. Officer Miller recommended that the property be found in violation of failure to prohibit but rather allow a fence to be installed at this location prior to obtaining a permit. She recommend that the Respondent be given until August 31, 2020 to obtain the proper permit or remove the fence, or pay a fine in the amount of \$250.00 a day until compliance is met. She further recommended that the Respondent pay the administrative cost in the amount of \$214.40 to be paid within seven days of the written order of the Special Magistrate.

Magistrate Smith asked if the property was occupied.

Code Enforcement Officer Alexandra Miller stated that it was.

Magistrate Smith asked if the fence was the piece in the front all that was installed

Code Enforcement Officer Alexandra Miller stated that it was the whole perimeter.

Magistrate Smith found in favor of the City. He found the Respondent in violation Land Development Code section 3.3.1 and section 13.3 for failure to obtain necessary permits in relation to the fence that was constructed and ordered the Respondent to cure the violation by August 31, 2020. If not brought into compliance by that date a fine of \$250.00 per day shall run for each day that the property remains in noncompliance with his order. He ordered the respondent to pay the city for administrative cost in the amount of \$214.40 to be paid within seven days of the Magistrate's written order.

**CASE #2020-528 Nancy Caceres, Owners**

**Unique Browne, Tenant**

**Location of Violation:** 1408 Florida Avenue, St. Cloud Florida

**Violation:** St. Cloud City Code, Sections 24-52 (A)

**Description of Violation:** Failure to prohibit but rather allow an abandoned vehicle at this location.

Code Enforcement Officer Pam Neal presented the case in narrative form and provided an evidence packet and a PowerPoint presentation. At the conclusion of her presentation, she noted that the Respondent was not present. Officer Neal recommended that the property be found in violation of failure to prohibit but rather allowed an abandoned vehicle at this location. She further recommended that the Respondent pay the administrative cost in the amount of \$237.90 to be paid within seven days of the written order of the Special Magistrate.

Magistrate Smith asked if the tire was filled.

Code Enforcement Officer Pam Neal stated that it was filled.

Magistrate Smith found in favor of the city. He found that the Respondent was in violation for having abandoned vehicles at the property. Found that the violation was cured after the date of notice of violation for cure. He ordered the respondent to pay the city for administrative cost in the amount of \$237.90 to be paid within seven days of the Magistrate's written order.

**CASE #2020-716 Edward Thurman, Owners**

**Location of Violation:** 316 Pennsylvania Avenue, St. Cloud Florida

**Violation:** Land Development Code, Sections 3.3.1(F) & 13.3 and the International Property Maintenance Code, sections 308.1, 304.15, 605.1, 604.3, 302.5, 302.1, 704.1, 305.6, 102.2, 603.1, 601.2, 301.2, 704.2.

**Description of Violation:** Failure to prohibit but rather allowed the residential dwelling to be lived in without proper maintenance and repairs and failure to obtain the proper permits for the two structures built at this location..

Code Enforcement Officer Pam Neal presented the case in narrative form and provided an evidence packet and a PowerPoint presentation. At the conclusion of her presentation, she noted that the Respondent was not present. Officer Neal recommended that the property be found in violation of failure to prohibit but rather allowed the residential dwelling to be lived in without proper maintenance and repairs and failure to obtain the proper permits for the two structures built at this location. She recommend that the Respondent be given until August 31, 2020 to have the maintenance and obtain the proper permit for the two structures or remove the structures, or pay a fine in the amount of \$100.00 a day until compliance is met. She further recommended that the respondent pay the administrative cost in the amount of \$361.20 to be paid within seven days of the written order of the Special Magistrate.

Magistrate Smith asked that on the portion of the violation related to allowing to live in the dwelling without proper maintenance and repairs, what proper maintenance and repairs needs to be performed.

Code Enforcement Officer Pam Neal stated that there is rotten wood everywhere extension cords hanging, numerous things plugged in to one extension, all kinds of violation like that. She stated that the evidence clerk took the original pictures inside as this was during COVID and code enforcement was not working at the time.

Magistrate Smith asked Code Enforcement Office Neal if she knew what authority the evidence clerk had to enter the property and collect evidence.

Code Enforcement Officer Pam Neal stated that she had authority with the Police Department who was there on a warrant.

Magistrate Smith asked Attorney Jack to come up. He stated that there was no one there to raise an objection but he had concerns of the authority of the City to collect the evidence, under the circumstances and the Police collecting the evidence under Police authority as opposed to Code Enforcement collecting evidence under Code Enforcement. He believes that the opinions of the Attorney General have been fairly clear that Code Enforcement can only collect evidence with a warrant or evidence. He asked if the City have an argument to present for the evidence of the interior of the property.

Attorney Morgeson stated that the Code Enforcement works hand in glove with the Police Department, the Police Department carried out based on probable cause their warrant and made what they found in plain view available by way of photographs to Code Enforcement. He stated that he thinks that this is an acceptable chain of evidence in support of the Code Enforcement action based upon that there is no poisonous tree type of violation. He stated that that would be the City's argument with regards to those findings internally.

Magistrate Smith stated that there was enough evidenced from the exterior to fine the violations to the exterior and if this case moves forward, they will probably need to do a re-inspection anyways but he does have concerns of the interior collection, concerns with the fact that the police executing a police warrant and not an inspection warrant. He stated that they are wearing their police hat and again the opinion is clear that when they are wearing their police hat, they cannot be acting as Code Enforcement Officers. He stated that he has concern on the interior of the property. He stated that the photograph are visible from the right away, which gives him enough to fine the violations. He stated that he wants to make everyone aware that he has concerns and if this case proceeds he may have concerns entering an order, if that order is based entirely of what is happening in the interior of this structure, unless there has been more to get an interior inspection of that structure than Police being there executing a Police warrant.

Attorney Morgeson stated that understandably the City, as the Magistrate suggested will be following up with a re-inspection, probably in a tandem effort between Code Enforcement and the Police Department if not solo to satisfy the Magistrates concerns.

Code Enforcement Officer Pam Neal stated that she does not think that the owner will let them in just for Code Enforcement to go.

Magistrate Smith stated that that is a challenged for Code Enforcement to go because they have a hard time getting administration warrants when it is a resident structure being occupied.

Attorney Morgeson stated that that is certainly something the Code Enforcement will be working with other city departments to address for purposes of moving forward hereafter

Magistrate Smith stated based on the evidence and testimony presented he does find sufficient evidence even when limited to consider the exterior evidence to define that the sighted violations exist on the property .The other issue he has with staff's recommendations is the August 31<sup>st</sup> date. He stated that this is where the violation is bad enough probably more time needed than 10 days to get that cured. He order the Respondent to cure the violation by September 15, 2020 He found the Respondent in violation of the exterior violations and will include the staff recommendation in his order. He ordered the respondent to pay the city for administrative cost in the amount of \$361.20 to be paid within seven days of the Magistrate's written order.

**CASE #2020-1087 Diamond Homes LLC, Owners**

**Location of Violation:** 1106 Oregon Avenue, St. Cloud Florida

**Violation:** St. Cloud City Code, Sections 24-162 (A)

**Description of Violation:** Failure to prohibit but rather allowed high grass/weeds over a height of 8 inches at this location.

Code Enforcement Officer Melissa Howes presented the case in narrative form and provided an evidence packet and a PowerPoint presentation. At the conclusion of her presentation, she noted that the Respondent was not present. Officer Howes recommended that the property be found in violation of failure to prohibit but rather allowed high grass/weeds over a height of 8 inches at this location. She further recommended that the respondent pay the administrative cost in the amount of \$239.25 to be paid within seven days of the written order of the Special Magistrate.

Magistrate Smith found in favor of the city. He found the Respondent in violation of failure to prohibit but rather allowed high grass/weeds over a height of 8 inches at this location. He found that the Respondent cured the violation but cured after the time set on notice of violation for cure. He ordered the respondent to pay the city for administrative cost in the amount of \$239.25 to be paid within seven days of the Magistrate's written order.

**CASE #2020-1281 Jeremy A. Bell, Owners REPEAT VIOLATION**

**Location of Violation:** 1001 Vermont Avenue, St. Cloud Florida

**Violation:** St. Cloud City Code, Sections 24-162 (A)

**Description of Violation:** Failure to prohibit but rather allowed high grass/weeds over a height of 8 inches at this location.

Code Enforcement Officer Dianna Durbin presented the case in narrative form and provided an evidence packet and a PowerPoint presentation. At the conclusion of her presentation, she noted that the Respondent was not present. Officer Durbin

recommended that the property be found in violation of St. Cloud City Code, Sections 24-162 (A) as a repeat violation for high grass/weeds over a height of 8 inches at this location. She recommend a flat fine of \$500.00. She further recommended that the respondent pay the administrative cost in the amount of \$194.35 to be paid within seven days of the written order of the Special Magistrate.

Magistrate Smith found in favor of the city. He found the Respondent in violation of failure to prohibit but rather allowed high grass/weeds over a height of 8 inches at this location. He found that it was a repeat violation and will adopt the City's recommendation of a flat fee of \$500 and will include in his order recognition of the fact that for the period of July 7<sup>th</sup> through July 31<sup>st</sup> a fee of \$500 a day comes out to a potential fine of \$12,000.00, he thinks the Respondent's attention needs to be gotten and the city is being gracious in offering the \$500 fine and this could have been much greater fine. He ordered the respondent to pay the city for administrative cost in the amount of \$194.35 to be paid within seven days of the Magistrate's written order.

**IV. UNFINISHED BUSINESS - None**

**V. NEW BUSINESS – None**

**VI. NEXT SCHEDULED MEETING – September 16, 2020**

**VII. ADJOURNMENT - Magistrate Smith adjourned the meeting at 3:50 p.m.**

Submitted by \_\_\_\_\_  
Claudia Klockars, Clerk to the Magistrate

Date \_\_\_\_\_