

**CODE ENFORCEMENT BOARD**  
**AUGUST 23, 2007**  
**3:00 P.M.**

The meeting was called to order at 3:07 p.m. by Chairman Richard Harris.

Roll Call:

Richard Harris	Present
John Hehn	Present
Michael Daughtry	Present
Kevin Johnson	Present
Jim Lorenz	Present
Dominique Reiter	Present
Thomas Walkowiak	Present
John Watters (Alternate)	Present
Charles Weinreich (Alternate)	Present

The Pledge of Allegiance was led by Chairman Richard Harris.

The minutes of the July 26<sup>th</sup> meeting are available for approval. It was moved by Ms. Reiter and seconded by Mr. Lorenz to approve the minutes as corrected. Upon roll call the vote to approve as corrected was unanimous.

There was no old business.

There was no new business.

Ms. Kiefer opened a discussion regarding procedures.

Mr. Harris asked for clarification on the timing of finding people in compliance or non-compliance, and the dates that the fines would start. Ms. Kiefer stated that at the first hearing the respondent has either complied, or they have not. If they have complied with the city's deadline they can be adjudicated and assessed a \$75 administrative fee. If they have not come into compliance they are given time to comply. That is the Board's deadline. At the return, or second hearing, you decide if they have complied with the board's deadline. The fine starts running at the end of the board's deadline. This applies even if they are in compliance as of the date of the second hearing, so long as they were not in compliance on the board's deadline.

Ms. Kiefer explained some criteria for the assessment of fines. Some of the things to consider are the seriousness of the offense, what was done to correct the violation, and how many incidences of violations there have been.

Ms. Reiter asked about exparte communications. Ms. Kiefer stated that should be included on the agenda at each meeting.

Mr. Johnson asked if it is legal to reduce a fine for someone who's fine is large and they pay in a timely manner. Ms. Kiefer stated that they can do anything that it is legal, and that is a decision of the board.

A question was asked about making motions. Ms. Kiefer suggested that there be a standard format read by the Chairman calling for a motion. Mr. Lorenz asked a question about "memorializing" the actions of the meeting. Ms. Kiefer stated that that is what is done in the executive order. She suggests a standard form with check boxes that can be signed by the chairman at the end of each meeting. Mr. Lorenz asked about the procedure for filing a lien. Ms. Kiefer explained that a copy of the order is filed with the county by the clerk. After three months foreclosure can occur for non-payment if the property is not homesteaded. The City Commission is the only entity that can release the lien. Mr. Schwartz gave further explanation about the foreclosure procedure.

Mr. Harris asked for a description by City staff of the procedure when a citizen complaint is received. Mr. Schwartz explained that the complaint is recorded and entered into their BDMS system by address. That enables them to track it. They then inspect the property. If they find a violation they give a courtesy letter giving them 10 days to respond. If they do not respond they start the Code Enforcement procedure. They would be issued a notice of hearing giving them 10 days to comply. They are required to attend even if they are in compliance. They would be adjudicated at that time. Mr. Harris stated that part of the confusion in the past was the city's deadline vs the code enforcement board's deadline. That was explained earlier.

Mr. Harris made brief comments on "mobile" violations. They are difficult to track and enforce. These can change on a daily basis. Another difficulty is multiple violations on the same property.

Ms. Kitts asked how long it takes from day of complaint to first hearing at the code board. Mr. Schwartz stated that it could be between 60 and 90 days, depending on the violation. Mr. Harris thanked the staff for their reports and their ability to clear so many cases. Most are cleared up without needing a hearing. Ms. Kiefer commented on the "mobile" violations. She stated that they can give a "reasonable" amount of time to comply, which in some cases can be one day, depending on the violation.

Mr. Daughtry asked a question about what constitutes notice, and who should receive them. Ms. Kiefer stated that according to Florida law legal notices can be sent to a registered agent. City ordinance states that they should be sent to the legal owner. Mr. Daughtry suggested that all notices go to the legal owner. Ms. Kiefer stated that it is up to city staff. Mr. Schwartz stated that there is a difference between what staff does to prepare for the code board meeting, and what the code board does. Staff sends certified letters, and regular letters to the owner of record, the corporation, if applicable, and to the address of the property, if it is not a vacant lot. They also post the property. Mr. Daughtry asked if they should send letters to the registered agents as well. Mr. Schwartz answered in the affirmative.

Ms. Reiter asked a question about the costs stated in on page six of the rules and regulations. She interprets that to read that there is a minimum fine, and an administrative fee. Ms. Kiefer suggested that the entire second sentence be deleted. Mr. Lorenz asked who's rules and regulations they were. Ms. Kiefer stated that they are the Code Board's rules, and as such, they could change them.

Ms. Kiefer gave a brief summary of a document that she had put together as a checklist for a complicated case.

Ms. Reiter asked what a Special Magistrate means. Ms. Kiefer stated that state statute allowed for cases to be heard by either a board, or a special magistrate, which takes the place of the board. Mr. Hehn asked who picks the special magistrate. Ms. Kiefer stated that it is the Commission. They had someone interested, but he is a special magistrate for another community, and did not want to give up that position. You are only allowed to hold this position in one community. Mr. Lorenz asked if municipal judges fell under the same rules. Ms. Kiefer stated that they do not.

Mr. Walkowiak stated that there were no page numbers on the agenda and requested that they be added.

Mr. Lorenz asked about needing a quorum to hold a meeting. He stated that the rules state that when a meeting goes forward to another meeting the same people must hear the case. If we do not have enough people, could a person view the tapes of a meeting, and would that make them eligible to vote at a future meeting? Ms. Kiefer stated that she didn't know of a provision of the law that allowed that. It is the lack of participation that makes that problematic. It was stated that it is a good idea to have the alternates attend every meeting, rather than just when someone will not be in attendance.

Ms. Reiter asked for an explanation of what is allowed and not allowed as far as exparte communications. Ms. Kiefer stated that just driving by a property is ok, but you can not stop at the property, or talk to people about it. Ms. Reiter asked if it was allowed to call the code enforcement staff. Ms. Kiefer stated that it is not allowed. Mr. Harris asked what they could do if they noticed a violation. Ms. Kiefer stated that they can lodge a complaint, but if it goes before the board they should recuse themselves.

Mr. Daughtry asked if staff members should be asked their opinions about situations, such as the attitude of the person in violation. Ms. Kiefer stated that one of the criteria for issuing a fine is the efforts that have been made to comply. She feels that it is an appropriate question for staff. The decision to adjudicate, or the amount of the fine, is not up to staff – it is up to the board. The information provided by staff should be used by the board to make their decision.

Mr. Hehn asked the board what they felt the object of the board was. When he started the object was to bring people into compliance. He now feels that the direction is changing, and the object is to fine them. Mr. Harris stated that it is on a case by case basis, and we

don't hear 99% of them. He stated that if they are being cooperative, or there have been misunderstandings, then that should be taken into consideration. Sometimes a heavier hand is needed to get someone's attention. Ms. Reiter asked where the fines went when paid and what they were used for. Mr. Schwartz stated that they go into the general fund. Mr. Lorenz stated that when someone comes before the board they have two strikes against them. They have already had repeated interaction with city staff. If they are at a second hearing they are not in compliance. Mr. Hehn stated that we should figure out the cost of city staff to deal with them, and that should be their fine. Mr. Lorenz stated that if it is unattractive enough and a large enough business expense, they will pay more attention. Mr. Schwartz stated that we interpret the code, but the property owner might disagree, and the process is to bring it to a hearing. That is the due process, and it is their right to state their case to the board. Mr. Hehn stated that if they are brought back a second time they should be fined a larger amount, but the first time should be just to recoup the city's cost. Ms. Kiefer stated that you are supposed to be completely neutral, and then apply the law to the facts as proved to you with evidence. Ms. Reiter stated that the violator has the right to come back and ask for a reduction.

Mr. Weinreich asked Mr. Schwartz about what happens when you can not get the violation cleared up within the time frame, but are attempting to comply but there are extenuating circumstances such as a hurricane that makes it difficult to get materials or someone to do the work.

Mr. Weinreich asked about the "mobile" violations, and whether it can be considered a return violation if the person moves a trailer from one address to another on a daily basis. Ms. Kiefer stated that it is governed by an existing ordinance on the books.

Under miscellaneous business, Mr. Harris mentioned the terms that were expiring. Ms. Kiefer stated that the members were reappointed at the last Commission meeting.

Two phone numbers were corrected.

Ms. Kiefer asked if revising the rules was going to be placed on the next meeting agenda.

The meeting was adjourned at 4:18 by Chairman Richard Harris.