



MINUTES

Joint Workshop with City Commission and Code Enforcement Board

5:00 PM – Monday, February 13, 2023 – City Hall

CALL TO ORDER: 5:18 P.M.

ACKNOWLEDGEMENT OF QUORUM AND PROPER NOTICE

PRESENT: Commissioner Gary Ashcraft, Commissioner Nan Cobb, Commissioner Willie Hawkins, Vice Mayor Emily Lee and Mayor Michael Holland

ALSO PRESENT: Code Enforcement Board members George Asbate, Richard Bartzler, Ryan Benaglio, Stephanie Carder, Karen Sartele, Brad Shelley and Chairman Alan Paczkowski

1. WORKSHOP ITEM WITH DISCUSSION, PUBLIC INPUT AND DIRECTION: CODE ENFORCEMENT

Tom Carrino, City Manager, explained the process for the evening to hear from staff and the Code Enforcement Board (CEB) in a general discussion on code enforcement and then signage regulations and enforcement.

Eric Martin, Code Enforcement Supervisor, reviewed the general purpose of code enforcement: to promote the health, safety, comfort, convenience and general welfare of the public, to protect the environment, to prevent the spread of disease, and the creation of nuisances, and to protect property values. He commented on Chapter 162 of the Florida Statutes regarding board membership requirements and specifics for the Code Enforcement Board. He explained the enforcement procedure for citizen complaints (reactive enforcement for which anonymous complaints are no longer permitted), neighborhood surveillance (proactive enforcement), and referrals from another City Department, State or Federal Agency. He reviewed the goals of Code Enforcement to ensure property/business owners comply with City codes through voluntary compliance and formal enforcement methods and reviewed the formal enforcement process initiated when informal methods do not obtain voluntary compliance. Mr. Martin reviewed fines and explained that state statutes establish maximum fine amounts depending on the number of violations that can be imposed by the Code Enforcement Board. He also indicated that the fines may be dependent on several factors: the gravity of the violation; any actions taken by the violator to correct the violation; and any previous violations committed by the violator. Mr. Martin reviewed the types of violations which get the maximum fine, including Building Code Violations (i.e., unsafe structures, faulty electrical wiring), Life Safety Violations (i.e. missing/damaged pool barriers, airtight appliances), Fire Code Violations, and Public Nuisances. He explained liens may be levied if compliance is not achieved by the deadline given by the Board. An Order Imposing Fine may be recorded in public records and thereafter shall constitute a lien against the land on which the violation exists and upon any other real or personal property owned by the violator. Mr. Martin commented on liens and the party with the authority to reduce a lien. He discussed alternative enforcement methods for the local governing code and fine reductions. Mr. Martin reviewed fine reductions for when fines are reduced and the process for achieving compliance and special circumstances. He noted when assessed fines may be reduced, including to have a better chance of collection, to recover expenses, to save money in legal expenses

(cost of foreclosure), and to promote goodwill between property owners and the City. He noted that, generally, the Board will not hold a new owner responsible for the shortcomings of a previous owner.

Commissioner Cobb asked about the retrieval of fines with Mr. Martin explaining that if there is no surplus then there is nothing to recover from unless the City obtains a judgement against the property owner. He noted that the City has, on occasion, done a partial release of lien for the property sold but the lien stays intact on any additional property the original property owner may own. He explained the lien is good for 20 years and attaches to any other property they own.

Board member Asbate added that if they have a lien then they may not be able to turn the utilities on for another property.

Mr. Martin explained why liens may be reduced and stated that a property owner has 30 days to appeal any action by the CEB with the Circuit Court. He indicated that liens are not generally reduced to less than the actual costs incurred by the City.

Commissioner Cobb asked about 1131 E. Bates Avenue with Mr. Martin explaining a judge can issue an injunctive relief which provides the property owner with a certain number of days to correct a violation or they give the City authorization to access the private property to remove private property. He explained the City does not access private property to seize private property without a court order. He explained that if that owner does not comply then the City will have to contract with someone to remove the property. He stated the case has been ongoing since 2012 with additional action occurring in 2018.

Discussion was held regarding how long it may take to obtain compliance or enforce a violation.

Mr. Martin explained the overall process and presented pictures of notices of violation, certified mail notices, property record cards, affidavit of service for physical posting and mailing to address, order of enforcement issues by the CEB, notice of hearing, order of abatement, sample code cover letters, order imposing fine, and cover letter for notice of recording of fine. He noted ample notice is provided to the property owners of the process for code enforcement.

The Commission asked about the handling of anonymous complaints with Mr. Martin noted that the complaints are subject to the public records law.

Police Chief Craig Capri indicated that staff can observe violations and report those themselves. He stated they would not tolerate someone threatening retaliation.

Mr. Martin indicated they would have to be careful about reporting violations themselves as they don't want to give someone the opportunity for an appeal.

Chief Capri commented on how they can approach a resident and request compliance. He suggested the creation of a nuisance abatement board to assist with the complaints that may not represent specific code enforcement issues. He commented on a recent issue and how they encouraged the owner to bring a property into compliance.

The Commission questioned how they can insure a business has obtained their Business Tax Receipt (BTRs) and whether they can be shut down due to the lack of a BTR.

CEB Chair Alan Paczkowski commented on businesses in violation and suggested they lose their BTR if they do not bring their property into compliance.

CEB Attorney Kevin Rossi stated that the only mechanisms he is aware of are the regular code enforcement process and, in the case of a required professional license, contacting the state licensing board to see if they will become involved.

Discussion was held regarding various issues with businesses and code enforcement.

Mr. Martin explained that some of the businesses in the report are actually home-based businesses. He further explained how the City used to utilize the County's BTR list to identify people operating a home business in the City.

Chief Capri commented on a need for the City to be more aggressive with enforcement issues. He stated that the goal is to gain compliance and move forward by being polite and firm but fair. He expressed concern regarding the high accumulated fines. He cited the need for an additional code enforcement officer and a designated police officer.

The Commission asked about collecting unpaid fines now totaling almost \$5 million.

Chairman Paczkowski explained that 48.6% of the liens are on homestead property. He stated the lien is on the books and is valid for 20 years. He noted the need for the three entities to work together including the City Code Enforcement Department, the Code Enforcement Board and the City Commission.

Mr. Carrino commented on the collection of fines. He questioned whether or not overdue fines can be sent to a collection agency.

The Commission asked who is in charge of collections. They discussed how a business property can be foreclosed on including foreclosing against the property owner when a business is out of compliance.

Mike Sheppard, Finance Director, commented on water bill enforcement and collections. He explained that after eight days the City can shut off the water. He stated they recently took someone who was on light duty and had her make phone contacts to try and get the monies collected. He noted that collection agencies are not typically efficient.

Mr. Carrino asked Mr. Sheppard if the collection of code enforcement fines might be a Finance function with Mr. Sheppard noting they have never done that. He indicated that the larger fines are usually liens on homestead which can't be collected until the property is sold.

The Commission, Chief Capri, and Code Enforcement Board discussed the collection of fines process. Chief Capri suggested sending letters under the Police Chief's name.

Discussion was held regarding the status of the Racetrack sign with Mr. Martin indicating the sign is actually on the Lake Hills Shopping Center property. He noted that the property manager was concerned about the businesses in the center suing him for removal of the sign. He confirmed there is a lien in place. He stated other issues for the plaza have been resolved so the only remaining issue should be the sign.

The Commission discussed hiring someone dedicated to collections and fine mitigation.

Attorney Lewis Stone commented on the Florida Statutes designating who is responsible for compliance issues. He cited homestead issues that do not allow for foreclosure. He indicated that once the lien is placed, the Code Board is out of the picture and the responsibility belongs to the City.

Chairman Paczkowski stated that fine accumulation is not acceptable. He noted that until the Board levies a fine on a property, there is no fine.

Further discussion was held regarding the handling of violations prior to being taken to the Code Board.

Mr. Martin explained the Code Enforcement statute does not address collection of the fines and emphasized that the administration and Commission have never provided direction regarding collection of the fines.

Chief Capri commented on the need to establish a nuisance abatement board rather than using code enforcement. He emphasized the need for an additional code enforcement person.

Commissioner Ashcraft commented on the need to educate the public regarding permits.

Board member Asbate explained that when someone is brought to the Code Enforcement Board they are given anywhere from 30 to 90 days to comply; however, some people ignore the warnings. He cited a case where the violator had received six certified letters and yet they claimed they didn't know about it.

Chairman Paczkowski added that the Code Enforcement staff also provides them with time to comply prior to bringing them to the Board.

Chief Capri cited the need to focus on the biggest offenders and properly prioritize the violations.

Mr. Carrino committed to reviewing the list and creating a plan for dealing with it.

The Commission asked about an apparent \$27,000 utility bill with Mr. Carrino indicating staff would look at that.

Mr. Sheppard explained that there is always an availability charge and, once the tenant leaves, the bill reverts to the property owner. He indicated that if the availability charges accumulate, they may remove the meter. He proposed establishing a City collection department. He reported that, currently, they pay \$15 per account to a collection agency and they are not very effective. He discussed the process for BTRs and State law requirements. He stated that the City cannot withhold a BTR based on a business owner not doing something. He further noted they have to send out the BTR renewals in August based on state law and then there are late fees in October, November and December requiring additional notices being mailed. He suggested someone call them in October to determine if they are still in business. He indicated he is having his staff prepare a report on how much they have collected.

Commissioner Cobb asked about towing issues on private properties. Chief Capri stated the property owner has to have the vehicle towed. Mr. Martin stated the property in question is contracted with Almand's. He indicated he spoke with Almand's and let them know the sign they installed is not statutorily correct. Almand's responded it doesn't have to be as they don't do predatory towing but only respond to phone calls by the property owner.

Mr. Martin indicated the signs in question are not statutorily correct with Chief Capri responding he would check on it. Chief Capri commented on the possibility of utilizing personnel on light duty to work on collections.

Mayor Holland asked that Commissioner Cobb, Mike Sheppard, Chief Capri and Tom Carrino work on a policy regarding collections and creating a nuisance abatement board to be brought back to the Commission.

Board member Carder noted that a lot of the cases are for mowing grass, removing limbs, etc. She suggested that a nuisance abatement person be assigned those types of cases so that the Code Enforcement personnel can focus on the more serious cases.

Chief Capri stated that overgrown grass should not go before the Code Board. The City should mow the grass and bill the owner.

Commissioner Cobb commented on a code enforcement success case on Grand Island Shores Road and how well it was cleaned up.

Board member Asbate asked if the water meter is pulled for nonpayment is the new property owner penalized with Mr. Sheppard indicating they bought the property as is and would have to pay for installation of a new meter.

Board member Carder asked that they receive the Code Enforcement Board agendas or cases prior to the meeting with Chairman Paczkowski requesting that they receive the minutes ahead of time as well.

Mr. Martin explained they have recently hired a new administrative assistant and they will be working on bringing the minutes up to date.

Attorney Lewis Stone stated the Code Enforcement Board members should not be investigating cases ahead of the Board meetings.

Discussion was held regarding the minutes being completed in a more timely manner.

Board member Asbate asked about a discussion from the Commission retreat regarding an architecture review board with Mayor Holland indicating that is something the City Manager is working on and there will be future discussion on it.

Board member Shelley noted he is with the Lake County Fire Department and suggested they utilize the Fire Department to communicate with the Code Enforcement staff regarding issues they may observe regarding nuisance properties. He commented on safety issues they will observe while responding to calls. He noted a situation where they found a dilapidated deck in the backyard that was a safety issue. He added there are often issues that present a safety problem for the firefighters.

Chief Capri expressed support for including the Fire Department in the meetings.

Discussion was held regarding the need for communication between code enforcement, building department, fire and police.

Chairman Paczkowski thanked the other members of the CEB for their service to the City and commented on how serious they take their responsibilities.

Commissioner Hawkins expressed appreciation to the Code Board.

Commissioner Cobb noted that sometimes the Commission does not receive all of the background information regarding a code case that winds up before them.

Vice Mayor Lee commented that the workshop provided a valuable learning process.

Mayor Holland closed the code enforcement portion of the of meeting at 6:37 p.m.

2. WORKSHOP ITEM WITH DISCUSSION, PUBLIC INPUT AND DIRECTION: SIGNAGE

Mayor Holland resumed the meeting at 6:48 p.m.

Mike Lane, Development Services Director, reviewed the sign ordinance and size requirements pursuant to the code. He presented to the Commissioners copies of the sign regulation pamphlet. He noted that most of the conditional use permits for signs deal with the size of the signs due to the limitations in the code.

Mayor Holland asked Commissioner Cobb to detail her concerns regarding the sign ordinance.

Mr. Carrino explained that he had asked Mike Lane to break the discussion into two parts: existing regulations and code issues. He noted the goal is to reduce the conditional use requests and then to discuss preferences.

Commissioner Cobb expressed support for leaving it up to the Development Services Director's discretion. She stated that the sizes in the code are too small.

Mr. Carrino responded that they would need to impose guidelines and limits for the Development Services Department. He indicated they would always need to bring some things to the Commission.

Mr. Lane cited an issue elsewhere with Academy Sports which resulted in a 420 sq.ft. primary sign. He noted they also wanted a number of smaller signs which would have totaled over 500 sq.ft. He indicated they had the frontage to do that.

Commissioner Cobb suggested the regulations provide "up to" sizes for guidelines.

Mr. Carrino cited the Big Lots sign which he believes is too small. He indicated that from 441 you cannot see the sign. However, they did not want to go before the Commission to request something larger. He recommended that staff bring back a recommendation and noted that it will require a code amendment.

Commissioner Hawkins asked about basing the size on the building frontage and the overall size of the business.

Mr. Lane reviewed various examples of signs. He commented on comparing what is acceptable versus what the code allows stating that it is also very subjective. He added that the Code refers to a monument sign with an enclosed base and cited the new 7-Eleven sign which is not a monument sign.

Discussion was held regarding issues with monument signs obstructing the view.

Mr. Martin indicated there is a provision in the code that addresses nonconforming signs and those damaged more than 50%.

Kevin Rossi, CEB attorney, cautioned the City needs to ensure they are not doing selective enforcement.

Mr. Lane noted the desire for the department to be consistent, fair and predictable.

Mr. Carrino stated staff would develop something and bring it back to the Commission for consideration.

Discussion was held regarding visual pollution, blade signs and "wiggly men".

Mr. Martin explained that the "wiggly men" are not permitted; however, the blade signs are.

Chief Capri commented on the possibility of allowing temporary signage when a business is newly opened.

Further discussion was held regarding time frames to allow for special grand opening signs.

Mr. Martin explained that temporary signs are allowed for one year. He reviewed various other sign regulations and cited the sidewalk permits required for certain signs. He commented on certain questions regarding the temporary signs and blade signs.

Mr. Carrino stated that they have handled the blade signs that, if there are multiple tenants, the signs can be closer than 50 feet if there are multiple businesses.

Mr. Martin then asked about offsite signage. He stated that the City has never allowed offsite signage; however, the code now says "unauthorized signs are prohibited on public property, private property without the owner's permission". He questioned whether or not that now allows offsite signs. He stated that appears to be conflicting.

Chief Capri recommended establishing time limits for certain signage. He stated the code needs to be amended and simplified so everyone is treated the same.

Mr. Martin presented some photos of blade signs noting they are right on top of one another. He noted that the current code does not require removal of an existing sign structure. He added that the code prohibits placing a sign on the fence but what if it is an owner identification sign and there is nowhere else to put it, what should they do.

Mr. Martin noted some signs on bollards. He stated there are owner identification signs, product signs and signs that are put up by the road to attract traffic to the property. He indicated that the code has a setback requirement and if a sign doesn't meet the setback then he has to make them move it which can be a waste of staff time. He cited other issues that present problems regarding whether or not they should be enforced.

Commissioner Hawkins expressed concern regarding enforcing certain regulations on private property.

Mr. Martin asked about public signs and cited the code pertaining to public signs. He cited the food pantry signs and indicated he would be reluctant to pull those signs unless directed by the City Manager or Commission.

Discussion was held regarding various signs that may be protected under freedom of speech and removal of various snipe signs.

Chief Capri commented that signs in the right of way should be removed and there should be a difference between business signs and private signs.

Further discussion was held regarding the need for conformity with Commissioner Hawkins noting there needs to be some diversity in signs.

Discussion was held regarding the Big Orange Tire sign and its historical value.

Discussion was held regarding non-conforming signs and the City not paying for improvements to non-conforming signs with the gateway grants with Mr. Carrino stating the City can pay to bring a non-forming sign up to code.

Mr. Martin noted that City code does not have performance standards.

Mr. Carrino suggested that Development Services work on producing a re-write of the sign code and they provide some options for Commission comment. He commented on Economic Development teaming up with Development Services and Code Enforcement.

Commissioner Cobb commented on previous visits to businesses to get to know the community. She cited the benefits to the program and the businesses.

Mayor Holland summarized stating that Al Latimer, Mike Lane and Tom Carrino would work together to bring back some suggestions for changes to the sign ordinance to a workshop with the policy to then go to the Commission. He cited the need for different corridors to require different signage.

Chairman Paczkowski asked that Code Enforcement hold off bringing any sign violations to the CEB while the changes are in progress.

Mr. Carrino responded they can hold off on sign enforcement but staff will need to keep code issues brought to the Commission on an as needed basis.

Commissioner Cobb expressed support for the City to go into the businesses with copies of the new sign ordinance.

Commissioner Hawkins asked about the mural on the Countryside Diner with Mr. Carrino indicating they got Commission approval.

Mr. Martin commented that the Daytona Beach ordinance calls them graphics but they stipulate they cannot include any commercial signage.

Mr. Carrino stated the current code reads that, if it is a sign or product in any way, then you have to consider the entire square footage. He indicated that staff would develop some options.

Board member Asbate suggested they consider the square footage of the building as well.

Board member Carder suggested the City also require approval of the graphics.

Board member Asbate indicated that the City of Cocoa Beach considers the building square footage, linear footage of roadway and number of occupants.

Mr. Martin noted the need to have sufficient signage for all of the tenants and cited current issues that exist.

Board member Asbate commented that on the UCF building he would like to see signage for UCF, Lake Sumter, and Lake Tech.

3. ADJOURNMENT: 7:40 P.M.

**These minutes reflect the actions taken and portions of the discussion during the meeting. To review the entire discussion concerning any agenda item, go to www.eustis.org and click on the video for the meeting in question. A DVD of the entire meeting or CD of the entire audio recording of the meeting can be obtained from the office of the City Clerk for a fee.*

CHRISTINE HALLORAN
City Clerk

MICHAEL L. HOLLAND
Mayor/Commissioner