

**CODE ENFORCEMENT BOARD
REGULAR MEETING
APRIL 12, 2021**

The City of Lake Wales Code Enforcement Board held a hybrid virtual and in person meeting on April 12, 2021 at 5:30 p.m. in the City Commission Chamber located in the City Administration Building.

ATTENDANCE

**Code Enforcement Board Members
(Shaded area indicates absence):**

Chairperson Ralph Marino	Vice-Chair Wilena Vreeland	Sara Jones <u>Acting Chairperson</u>	Dwight Wilson	Rodney Cannon	Bruce Austell	Julia Paul
-----------------------------	----------------------------------	--	------------------	------------------	------------------	---------------

Albert (Chuck) Galloway, Jr. – City Attorney Appeared Remotely - Virtually

City Staff: Development Services Department
Jose Lozada– Code Compliance Officer Fany Lozano – Recording Secretary Mark J. Bennett – Development Services Director

City Staff: Information Technology Department
Kevin Sunderland – IT Manager Daniel Gonzalez– IT Technician II Johnny Ramirez – IT Technician I

Ms. Lozano made the following statement before the meeting was called to order:

Let the record show that when the Chairperson or Vice Chairperson is absent. The role of Chairperson is taken up by the Board Member with seniority. Although Vice Chairperson Ms. Vreeland is present, she has asked that Ms. Jones be acting Chairperson for tonight’s meeting. Ms. Jones has accepted to be acting Chairperson for tonight’s meeting. Ms. Jones you may call the meeting to order.

- 1) **CALL TO ORDER** – Meeting called to order at 5:35 pm
- 2) **ROLL CALL** – A quorum was present, five members attended in person, zero members attended virtually.

3) **COVID STATEMENT/HYBRID MEETINGS** – Chairperson

Ms. Jones read into the record the hybrid meeting statement for virtual meetings.

Mr. Galloway read into the record the instructions on how to participate in the virtual meetings.

4) **EXPLANATION OF PROCEDURES** – Chairperson

Ms. Jones explained the procedures for the meeting and her statement was as follows:

“Good Evening, welcome you to the April 12, 2021 Code Enforcement Board Meeting for the City of Lake Wales. This meeting is an evidentiary hearing. During this evidentiary hearing, we will hear testimony from property owners and the city’s Code Compliance Division about whether a property is in violation of the city code. We will hear testimony from the City’s Code Compliance Division even if a property owner who has received notice of this hearing fails to appear. A property owner, who arrives late after his or her case has been called, heard, and decided by this board, will not have a right to be heard.

This hearing will be conducted as follows:

The city shall present its case first. After each witness has testified, the property owner may, through the chairperson of the board, cross-examine or ask questions of the witnesses. When the city has presented all of its case, the property owner may present his or her case. An attorney or some other representative may represent you. You can present evidence under defense either through witnesses or your own testimony. If you present photographs or written documents as evidence, they must be submitted to the board’s recording secretary for the case file. The city will be able to cross-examine you and each of your witnesses. You have the right to remain silent and your silence will not be held against you. You have the right to testify and your testimony considered under the same standards as that of other witnesses. The board may ask questions of the witnesses on both sides as the evidence is presented. This is not a criminal proceeding. Strict rules of evidence are not applied in the proceedings. After the board has heard all testimony from both sides, the board will entertain a motion and may enter a closed discussion at this time. During the closed discussion among the board, no additional testimony from the city or the property owner may be heard. Based upon the testimony and the evidence presented, the board will decide whether or not a violation exists and whether the violation as been corrected. If the board finds that there is a violation that has not been corrected, the board will order the property owner to correct the violation in a specific time period and a daily fine to accrue there or after for failure to comply. Failure to correct the violation within the specified time will result in a fine for each day the property is not in compliance after that time period. After the board has made its decision, a copy of the board’s finding and order will be mailed to the property owner of record. The correction of violations must occur before midnight of the deadline set for compliance. If the corrections are not made by the deadline, the fine will be imposed for each day any uncorrected violation continues after that deadline.

PLEDGE OF CIVILITY as posted on the Podium

We will be respectful of one another even when we disagree.

We will direct all comments to the issues.

We will avoid personal attacks.”

5) **APPROVAL OF MINUTES – Regular Meeting – March 8th, 2021**

Ms. Vreeland made a motion to approve the minutes. Mr. Wilson seconded the motion. All voted in favor. The motion passed unanimously.

6) **ADMINISTER OATH/MISCELLANEOUS ITEMS**

6.1 Administer Oath:

Board secretary administered the oath to staff.

Ms. Jones administered the oath to Board Secretary Fany Lozano

7) **REVISIONS**

Ms. Jones asked Ms. Lozano if there were any revisions to the agenda. Ms. Lozano responded that there are no revision to tonight’s agenda.

8) **CASE(s) NEW BUSINESS**

8.1 Case # 2020-00302

City of Lake Wales VS Robert L. Richardson & Gloria Story Richardson

309 Sessoms Ave W

PID: 27-30-02-000000-034020

Violation(s): 12-230.04 – Unlawful Structure

Robert Richardson, Respondent/Property Owner was present to provide testimony.

Glory Richardson, Respondent/Property Owner was present to provide testimony.

Robert Richardson Jr, Respondent/Representative Owner was present to provide testimony.

Tarshonda Rihcardson, Respondent/Representative Owner was present to provide testimony.

Ms. Lozano administered the oath to all persons mentioned above.

Code Compliance Officer Jose Lozada presented the case. He stated that this case is for an unlawful structure, a shed like structure without permits. He stated that he had a pleasant conversation with Mr. Richardson and that a permit was applied for and the deadline for compliance with the Notice of Violation was extended. He stated that the structure is too large and it does not meet setbacks and the structure needs to be removed as the permit has been denied. He stated that :

STAFF REQUESTS THE BOARD:

- 1) Find that all cited violations were allowed to exist past the date for correction and
- 2) Find that Proper Notice has been afforded to the Property Owner and,
- 3) Find that all Procedural requirements have been met.

AND STAFF RECOMMENDS THE BOARD:

- 1) Impose a fine in the amount of \$75.00 (per day), every day the violation exists effective today and
- 2) Authorize an Administrative Lien be placed against the property until such time as all violations are corrected, and an Affidavit of Compliance is issued by a representative acting for the city and restitution is made for all fines and costs incurred by the city to present this case.

Mr. Richardson Jr. addressed the Board and stated that everything that Mr. Lozada has stated is just about true. He stated that he had decided to let the structure go but that the Code Compliance Division went about everything wrong. He stated that he is trying to improve the community and he originally intended to place the structure on the lot behind the home. He stated that he contacted a company to remove the structure but that his contact person was fired and he was unable to comply by removing the structure. He stated that he has invested over \$56,000 in the structure. He stated that he could not get any answers because of COVID and the administration building being closed. He stated that the Mayor is on his side and expressed concerns about neighboring properties that are possibly out of compliance. He stated that he is pissed that the city would place a sign outside of his father's house who is 80 years old. He requested an extension and stated that by June 12th he will have the funds to get things going to get the structure approved. Ms. Vreeland asked staff if the Mayor reached out. Mr. Lozada, Mr. Bennett and Mr. Galloway all responded that they have not had contact with the Mayor about this property. Mr. Wilson asked Mr. Richardson Jr how he uses the building. Mr. Richardson Jr. replied that he wants to barbeque outside of the shed and sell food. Ms. Vreeland stated, "You can't have a restaurant." Ms. Paul asked what is the intension with the shed? Mr. Richardson Jr stated that he would like to turn it into an apartment. Ms. Vreeland asked if that is allowed. Mr. Lozada stated that Mr. Richardson will need Planning and Zoning approval. Ms. Jones asked Mr. Bennet what his thoughts are on this matter? Mr. Bennett stated that the Mayor asked him for information on fines, liens, etc on the surrounding properties and that there is a process of special exception for accessory dwelling units that Mr. Richardson would have to submit an application for, and pay fees so that his request can be presented to the Planning and Zoning Board for action. Ms. Jones asked how long that process can take? Mr. Bennet responded two or three months and that the earliest Board meeting would be in May or June. Ms. Jones made a motion to

accept staff recommendations but amended the deadline for compliance until September 1st, 2021. Ms. Paul seconded the motion. All voted in favor. The motion passed unanimously. Ms. Jones suggested to Mr. Richardson that he contacts the Planning and Zoning Department.

8.2 Case # 2018-00121

City of Lake Wales VS Richard S. Kenney

622 10TH Street South

PID: 27-30-12-918500-001100

Violation(s): 12-233.1 – Sanitation and storage of materials

12-233.4 – Weeds, Grass, Overgrowth

12-233.5 – Dead Trees, Limbs Branches and accumulated landscaping materials

12-71 – Motor Vehicle or Vessel(s)

Richard Kenney, Respondent/Property Owner was present to provide testimony.

Reilly Sullivan, Respondent/Representative was present to provide testimony.

Code Compliance Officer Jose Lozada presented the case. He stated that this case has several violations with sanitation, high grass and vehicles. He stated that he has gone over the violations with the property owner and that the property owner and his son have been resistant and combative to suggestions for compliance. He stated:

STAFF REQUESTS THE BOARD:

- 1) Find that all cited violations were allowed to exist past the date for correction and
- 2) Find that Proper Notice has been afforded to the Property Owner and,
- 3) Find that all Procedural requirements have been met.

AND STAFF RECOMMENDS THE BOARD:

- 1) Impose a fine in the amount of \$150 (per day), every day the violation exists effective today and
- 2) Authorize an Administrative Lien be placed against the property until such time as all violations are corrected, and an Affidavit of Compliance is issued by a representative acting for the city and restitution is made for all fines and costs incurred by the city to present this case and

Mr. Kenney addressed the Board and explained that he has cleared up the title to the property, as the property was previously owned by him and his sister. He stated that once he knew about the violations he made immediate contact with the Division and that he has made some improvements, and that the value of the home has gone up. He apologized for the inconveniences that he has caused but that he has issues with the Code Officer's assessment.

Mr. Sullivan, son of Mr. Kenny addressed the Board. He stated the he is the sole caregiver for his father and that he challenges the comment made of no progress. He stated the officer is uncommunicative and seems to find more issues as he has lists and stated that he has addressed all of the items on the lists. He stated that he is doing his best to address any pending violations specifically the mulch piles which he feels is the issue with Mr. Lozada.

Ms. Jones asked Mr. Lozada when was the last visit to the premises. Mr. Lozada responded today and that progress has been made but property is still in violation. Mr. Sullivan stated that he disagrees. Ms. Vreeland asked what is the overgrowth? Mr. Lozada responded that there are bushes in front of the house and bushes encroaching onto the road. Mr. Kenney stated that on the first two initial visits there were no issues with the mulch and that the trailers are on the other side of the yard. He stated that they are all licensed and all have decals. Mr. Sullivan stated that all violations have been addressed and that there are no derelict cars or trailers and that one of the vehicles has a car fitted cover. Mr. Sullivan stated that he would like more time to have the trailers sold if he must get rid of them. He requested at least a month. Ms. Vreeland asked if the property owners can have mulch. Mr. Lozada responded that accumulation of landscaping material is prohibited. Mr. Sullivan stated that it is organic matter to keep the premises watered. Ms. Jones asked Mr. Sullivan if he disagrees that there are items on the property that still need to be cleaned up? Mr. Sullivan started to respond that items visible from the road and Ms. Jones interrupted and asked Mr. Lozada if he can clarify what visible from the road means? Mr. Lozada responded that normally we can violate things that we can see from the right of way unless we are somewhere where are legally allowed to stand like a neighbor's house or neighboring property. He stated that if it can be seen from the road it is a violation. There was open discussion about arranging another visit to provide Mr. Kenney with a list of items that need to be corrected as it appears that it is not clear what Mr. Kenney needs to do to correct the violations. Mr. Lozada stated that the issue is that Mr. Kenney and Mr. Sullivan are not receptive to suggestions and that there is justification for the items that are being pointed out and that there is a disconnect in communication. Mr. Kenney stated that the resistance has only been with the trailers on the side of the house. Mr. Sullivan stated that there is no resistance and that Mr. Lozada seems to find new items when he visits the premises. Ms. Lozano stated both Mr. Kinney and Mr. Sullivan had a pleasant conversation with her in which they discussed what items may still be pending when they came to the office on a day that Mr. Lozada was out of the office. Ms. Lozano stated that she told the property owners that she would get back with them after she spoke with Mr. Lozada about what was still pending, and get them a list of items that still needed to be corrected. She stated that she visited the property with Mr. Lozada and wrote down all of the violations observed and called Mr. Sullivan and gave him the list over the phone. She stated that Mr. Sullivan requested for Mr. Lozada to go back to the property to inspect for compliance and let him know if anything was still in violation. Ms. Lozano stated that she went with Mr. Lozada on that inspection and that as she and Mr. Lozada started to explain and point out items still in violation there was resistance and justification to all the items being pointed out as Mr. Lozada has already stated. Ms. Jones asked if the list provided was a list of violations or specific items. Ms. Lozano responded specific items and that she tried to explain to Mr. Sullivan that staff is allowed to observe from the road, but as he corrected one of the violations, there was a violation behind it that was not observed before, and that now that those items can now be seen, the new items being observed become part of the existing violation of sanitation. Ms. Lozano stated that there has been visible progress and that some of the items on the list that she provided were addressed but violations still remain. Mr. Wilson asked if the mulch piles can be covered with a tarp and if that would be acceptable. Mr. Lozada responded No. Ms. Jones made motion to accept staff recommendations but to allow 60 days (6/11/2021) to achieve compliance, and for a list to be provided to the property owners as to what still remains in violation. Ms. Vreeland seconded the motion. All voted in favor the motion passed unanimously.

8.3 Case # 2020-00298
City of Lake Wales VS Jaquetta W. Gant & Herbert Gant III
1102 Yarnell Ave
PID: 28-30-06-940810-001200
Violation(s): 12-233.1 – Sanitation and storage of materials
12-71 – Motor Vehicles or Vessel(s)
12-233.4 Weeds, Grass, and Overgrowth

Jaquetta Williams Bennett, Respondent/Property Owner was present to provide testimony.

Kenneth Darwin Bennett, Respondent/Representative was present to provide testimony.

Ms. Jones stated that she has a professional relationship with the property owner that does not involve this property and asked Mr. Galloway if that would be an issue. Mr. Galloway responded that it is not an issue.

Code Compliance Officer Jose Lozada presented the case. He stated this premises has violations that include sanitation, high grass and vehicles. He stated that there has not been any communication with the property owner. He stated that:

STAFF REQUESTS THE BOARD:

- 1) Find that all cited violations were allowed to exist past the date for correction and
- 2) Find that Proper Notice has been afforded to the Property Owner and,
- 3) Find that all Procedural requirements have been met.

AND STAFF RECOMMENDS THE BOARD:

- 1) Impose a fine in the amount of \$ 75 (per day), every day the violation exists effective Today and
- 2) Authorize an Administrative Lien be placed against the property until such time as all violations are corrected, and an Affidavit of Compliance is issued by a representative acting for the city and restitution is made for all fines and costs incurred by the city to present this case and

Ms. Bennett was present and addressed the Board. She stated that she is not sure about a derelict vehicle, but that if it is a vehicle in the back yard she will make sure to remove it. She stated that back in 2020 her daughter was diagnosed with a blood clot and that anytime a letter is sent, they try to address it right away. She stated that her husband has been trying to work more and that she has been trying to work less to provide care for her daughter. She stated that something always needs to be corrected and that once one thing is corrected another thing comes up and that she knows her neighbor is the one complaining and it's a bit frustrating. She stated that her husband is a truck driver and that she left the letter for him prior to his last trip and thought that her husband had gotten the letter, but he must of missed it because he had to go back on the road. She stated that she has lost the letter and requested more time to comply. Ms. Jones asked how much time she would need. Mr. Bennett responded 30 days would be enough. Mr. Bennet also stated that he does not understand where the overgrowth is and that overgrowth along the fence line is a tree. Ms. Vreeland stated that the tree has to be trimmed.

Ms. Jones made a motion to accept staff recommendations but to allow 45 days (5/27/2021) to achieve compliance. Ms. Paul seconded the motion. All voted in favor. The motion passed unanimously.

- 8.4** Case # 2019-00178
City of Lake Wales VS Hassane Benjamaa
1037 Highview Dr
PID: 27-30-01-892600-003040
Violation(s): 12-233.1 – Sanitation and storage of materials
12-233.4 – Weeds, grass and overgrowth
12-233.5 – Dead trees, limbs, branches, and accumulated landscaping materials
23-521 – Garaging and parking of vehicles, trailers, recreational and noncommercial vehicles, and boats.

Hassane Benjamaa, Respondent/Property Owner was present to provide testimony.

Code Compliance Officer Jose Lozada presented the case. He stated that this premises has violations that include sanitation, grass and weeds, dead trees and garaging of vehicles. He stated that there has not been communication with the property owner and violations still exist. He stated that:

STAFF REQUESTS THE BOARD:

- 1) Find that all cited violations were allowed to exist past the date for correction and
- 2) Find that Proper Notice has been afforded to the Property Owner and,
- 3) Find that all Procedural requirements have been met.

AND STAFF RECOMMENDS THE BOARD:

- 1) Impose a fine in the amount of \$ 150 (per day), every day the violation exists effective Today and
- 2) Authorize an Administrative Lien be placed against the property until such time as all violations are corrected, and an Affidavit of Compliance is issued by a representative acting for the city and restitution is made for all fines and costs incurred by the city to present this case and

Mr. Benjamaa was present and addressed the Board. He stated that he never received notice and that he got notice last week that the premises is in violation. He stated that he has cleaned up the yard and that the person he bought the home from, he is allowing him to use the back yard for scrap metal that he takes to Viking to make a living. He stated that he is still working to get everything fixed. Ms. Jones asked Mr. Benjamaa if he agrees that there are violations. Mr. Benjamaa responded yes and that he will take care of the violations. Ms. Jones asked Mr. Lozada when was the last time he was out to the property. Mr. Lozada responded today and that there are pictures being displayed of what the premises looks like today. Mr. Benjamaa stated that those are old pictures. Ms. Vreeland stated that the pictures are time

stamped 4/12 and that the premises is a mess. Mr. Lozada stated that the box truck is not allowed in the front yard. Ms. Jones asked Mr. Benjamaa how much time he needs to correct the violations. Mr. Benjamaa stated 90 days. Ms. Jones asked why 90 days. Mr. Benjamaa stated that he has arthritis and that some days he cannot move. There was discussion by the Board and that cutting the grass should not take 90 days. Ms. Jones made a motion as follows:

To accept staff recommendations, but allow for 7 days (4/19/2021) to cut the grass otherwise a fine in the amount of \$50.00 a day will be assessed.

To allow 60 days (6/11/2021) to bring all other violations into compliance otherwise a fine of \$150 per day will be assessed. Ms. Lozano asked for clarification. It was clarified that the \$50 a day fine will roll over at the 60 day deadline, but the daily fine will not exceed \$150 per day at the 60 day deadline. Ms. Vreeland seconded the motion. All voted in favor. The motion passed unanimously.

9) COMMENTS AND PETITIONS/OTHER BUSINESS

Ms. Jones opened the floor for public comments.

Ms. Lozano checked to see if there was anyone online to make statements and stated that there was no one online that made any comments.

Ms. Lozano asked in the chambers if anyone would like to make comments.

Mr. Eddie Robertson of 303 E Street. Addressed the Board and stated he would like to submit a complaint about a car wash across the street from his house. He stated that he has contacted the Police Department but nothing has been done. Ms. Jones stated that she is not sure how he needs to file the complaint. Mr. Lozada stated that the Division has the complaint and that it has been looked into and that the Division is working with Chief Velasquez on the matter and that unfortunately the ordinances in place do not have a lot of teeth, and that we are looking for ways to attack the situation. Mr. Robertson stated that this has been going on since December. Ms. Vreeland asked if this is in a residential section. Mr. Robertson stated yes, right across the street from where he lives on the road and that every morning that he wakes up it is like he is waking up in a construction zone. Ms. Vreeland asked if that is illegal. Mr. Lozada responded yes. Mr. Lozada stated that they are operating on a vacant parcel and all violations will be sent to the property owner of the vacant parcel. Mr. Wilson asked if a permit is needed to be at least be on the street in a residential zone. Ms. Vreeland stated that she has seen a lot of these types of businesses pop up, as well as people selling food. Ms. Jones suggested to Mr. Bennett that maybe they can get together and talk about advising the owner of the car wash to move somewhere, where it would be legal for them to be. Mr. Bennett agreed. Ms. Jones stated that this way the car wash owner can continue to make a living and residents can sleep peacefully in their homes. Mr. Wilson stated that we need to understand that the car wash is moving around and that mobile means mobile and that you don't just sit in front of somebody's residence and that the owners of these car washes should do this at their own residences. Mr. Wilson stated that residents should not have to wait for ordinances to be done to get action when they are not washing on the vacant lot, they are actually on the street. He stated that the mobile owners need to be educated and that he is all about business and that it needs to be done quick, fast and in a

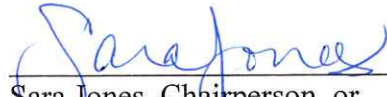
hurry, and not get passed around between departments. Ms. Jones stated that she will like to get with Mr. Bennet and discuss possible educational solutions and maybe take some ordinance changes to City Commission. Mr. Wilson stated that the issue gets passed along to the Police Department and then the Police Department sends the issue to Code Enforcement and that the bottom line is that the issue needs to be addressed. Mr. Wilson stated that is not about putting these businesses out of business but mobile means mobile. Mr. Wilson stated that setting up shop and placing lawn chairs on a vacant lot is unacceptable. Mr. Bennett stated that it's frustrating for staff because it is on the right of way and we as Code Compliance do not have an opportunity to regulate it. Mr. Bennett stated it is not an excuse but it is frustrating. Mr. Wilson stated that working together we may come up with something that will be beneficial to the business owners. Mr. Wilson stated that stationary car washes have to follow rules and so do the mobile car washes. Mr Bennett stated that staff is looking into possibly creating a registration process or system similar to the food truck registration program to identify where they are going to be.

Mr. Bennett stated that he had two items to discuss. He stated that he wanted to acknowledge Commission Elect Fitzgerald's presence in the chambers. Secondly he stated that he left the chambers when the case for Yarnell Ave was presented as he considers it a conflict of interest because he lives in that neighborhood and that if they see him leave in the future this is the reason why.

Mr. Wilson stated that he also has two items to discuss. He stated that we just had a yard clean up day but that Republic did not pick up all of the items that they said they would. Tires and paint were not picked up. He inquired as to how this can be remedied and suggested that on future clean up days there can be some sort of drop off center for the items that Republic will not take or start to include these things. Mr. Wilson stated that on his second item somewhere down the line an ordinance may need to be established and he provided the Board members with a Police Call report for an apartment complex on Jewel Street and Washington ave. He stated that the LWPD has been out to this complex 72 times in the last two years and there needs to be some change. He stated that he is feeling like he is getting the run around. He stated that this owner needs to be notified that they have these many calls and that they need to do something about it. Mr. Lozada stated that there used to be a Nuisance Abatement Board that would handle these issues, but that Board has been repealed. Mr. Wilson asked if there is a way that this owner can be notified that this issue exists. He stated that no one has to speak on it but that he wants it out on the record, and for the public, that 75 calls in two years is not acceptable and that there are some things that are probably Code Violations.

10) **ADJOURNMENT**

With no further business to discuss, the meeting was then adjourned at 7:09pm.



Sara Jones, Chairperson or
Wilena Vreeland, Vice Chairperson

Attest:



Fany Lozano, Recording Secretary