

**MINUTES  
FORT MYERS BEACH  
Code Enforcement**

Town Hall  
2525 Estero Boulevard  
Fort Myers Beach, FL 33931

**Wednesday, August 31, 2016**

**Hearing Examiner - Special Magistrate:** Mr. Joe Madden

Mr. Madden swore in those providing testimony.

**Property Owner:** First Baptist Church of Fort Myers Beach  
**SUBJECT:** LDC Section:10 - 122 Violation of Development Order DOS 91-11-008.00D  
**LOCATION:** 130 – 138 Connecticut  
**STRAP NO:** 29-46-24-W1-00151.0010  
**CODE OFFICER:** Molly Jacobs  
**REFERENCE NO:** CE16-0019

Ms. Jacobs inspected the property on January 25, 2016 and she discussed requirements of the DO for the Baptist Church. She did a courtesy inspection on February 3, 2016 and there were no changes. She discussed vegetation requirements with the Church. Ms. Jacobs did a courtesy inspection on March 4, 2016 and multiple shrubs (approximately 100) had been planted on one island adjacent to Connecticut Street. She did a courtesy inspection on May 9, 2016 and there were no changes. She inspected the property on May 27, 2016 and approximately 20 trees had been planted. The Church requested a time extension and one was granted for June 10, 2016. To correct the violation, replace all required vegetation per the DO requirements within 60 days of receipt of the notice of violation. Notice of violation/hearing was provided to the property owner via certified mail on June 10, 2016 and it was claimed.

Ms. Jacobs took pictures on January 25, 2016, May 9, 2016 and May 27, 2016. The pictures accurately reflect the condition of the property. She inspected the property again on August 30, 2016 and the violation still existed. If the hearing found a violation, the Town requested a finding of fact, install trees and shrubs in accordance with the DO, or revise the DO by November 4, 2016. Otherwise, a fine per day pursuant to Code with \$239.00 in administrative costs.

Stuart Pepper, representing Mr. Critser, approached the bench and stated that trees and shrubs in the DO were not clearly defined. Ms. Jacobs clarified the vegetation plan within the DO and stated there had been multiple complaints against the property. She indicated they needed to plant approximately 22 more trees and over 100 more shrubs. The DO could be revised and the Town did not have a revised landscape plan on record.

Mr. Pepper requested that the notice of code enforcement be dismissed because it was vague and ambiguous; it was a due process violation. He stated his client did not know what he did wrong or how to rectify it. He noted the condition existed for 14 years.

Mr. Madden did not agree that the DO was vague. Ms. Jacobs provided a copy of the DO to Mr. Pepper. Mr. Madden stated that the DO was a general landscape plan with minimum requirements. He indicated that since there was an approved amendment, that it was unfair to

*condition violates  
LDC sec 10-122(a)*

make a finding based upon what the plan said. Ms. Jacobs noted that she approached Lee County and they did not have anything on record indicating that an amendment was approved. Mr. Critser was agreeable to revising the DO. Mr. Madden would like to continue the matter and inventory the site. He stated the Town and Mr. Critser would have to work together to figure out what was there, what was required and how to come into compliance. The site would have to be maintained in perpetuity.

Mr. Madden will continue the matter specifically so the Town and Respondent could count the trees and vegetation and illustrate what was required, if anything. He noted the case would be on the November 30, 2016 agenda at 9:00 a.m.

**Property Owner:** First Baptist Church of Fort Myers Beach (Recurring)  
**SUBJECT:** Ord. 12-04 SEC 22-2 Special Event W/O Permit  
**LOCATION:** 130-138 Connecticut  
**STRAP NO:** 29-46-24-W1-00151.0010  
**CODE OFFICER:** Molly Jacobs  
**REFERENCE NO:** CE16-0422

Ms. Jacobs inspected the property on August 3, 2016 and the Farmer's Market was occurring. Mr. Critser signed the recurring notice of violation and notice of hearing. She provided the previous notice of violation and previous special event permit. Based on the August 10, 2016 advertising, the Town presumed they conducted the market. Ms. Jacobs did not visit the site. The site was inspected on August 17, 2016 and August 24, 2016 and the Farmer's Market was occurring. To correct the violation, cease all Farmer's Market activities and obtain a special event permit. Notice of violation was hand delivered to the Respondent on August 3, 2016 and claimed. Ms. Jacobs presented pictures from August 3, 2016, August 17, 2016 and August 24, 2016 and accurately reflected the condition of the property. She inspected the property on August 31, 2016 and found the violation had been abated.

If the hearing found a violation, the Town requested a finding of fact, cease all Farmer's Market activities until a special event permit was obtained, a fine for every day the Farmer's Market was conducted since August 3, 2016 and every day it continues pursuant to Code with \$275.00 in administrative costs. Ms. Jacobs noted that the permit was applied for on August 10, 2016 but it was not complete and could not be presented to Council. Ms. Jacobs noted the original special events permit expired in May of 2016.

Mr. Pepper cited Section 22-3 under Ordinance 12-04 as a defense to dismiss the case. He stated that the Church was exempt from the permit requirement because the Farmer's Market was conducted entirely on property owned by the Church.

Ms. Jacobs stated that they previously had a special events permit and deemed it did not apply for that particular entity. She noted that the market was being conducted in the aspect that the vendors paid for their booths and kept the money. Mr. Madden dismissed the case based on the fact that the event was held completely on property owned by the Church.

**Property Owner:** Liveringhouse, Mark  
**SUBJECT:** LDC Section: 34-2032 Flooding Neighbor  
**LOCATION:** 215 Palermo Cr.  
**STRAP NO:** 19-46-24-W4-0060G.0130  
**CODE OFFICER:** Molly Jacobs

*one violation  
violates  
Tent Ord 12-04  
Sec. 22-2 Permit  
Required*

*\$207.00*

**REFERENCE NO: CE16-0251**

as defined in  
LDC Sec. 10-605

Condition  
violates  
LDC Sec.  
34-2032

Ms. Jacobs inspected the property on June 9, 2016. On June 16, 2016, the property owners requested more time. They indicated they would be in town July 10, 2016 and would set up a meeting with the Town. They did not. Ms. Jacobs inspected the property on July 15, 2016. She found the following: not retaining water on property, flooding neighbor. To correct the violation, retain all water on property by utilizing appropriate BMPs per LDC Section 10-605. Notice of violation was provided to the property owner via certified mail on June 15, 2016 and it was claimed. Notice of hearing was provided via certified mail on July 22, 2016 and it was claimed.

34-2032

Hannum

Ms. Jacobs presented pictures she took on June 9, 2016 and by Stephanie Panum on June 6, 2016. The pictures accurately reflected the condition of the property. She inspected the property on August 30, 2016 and found the violation still existed. If the hearing found a violation, the Town requested a finding of fact, adjust swale or utilize appropriate BMPs to alleviate neighboring property from further erosion by October 21, 2016; otherwise a fine per day pursuant to code with \$175 administrative costs.

Christine Kaiser understood that someone from the Town was supposed to contact them. They just purchased the house and were unaware of any issues. Mr. Liveringhouse provided a video of the property that showed no water drained into the neighbors yard. Water from the neighbor's yard drained into Mr. Liveringhouse's property. Ms. Jacobs commented that the flooding was in the back yard at the end of the sea wall. Mr. Liveringhouse stated that a drainage pipe was sinking and there was no evidence that water was coming from his property. Ms. Kaiser noted that the neighbors had drainage issues due to vegetation.

Mr. Madden continued the matter for 30 days. Mr. Madden suggested that the Town inspect the property during a rain event. The case will appear on the September 28, 2016 agenda at 9:00 a.m. if needed.

Molly Jacobs

**Property Owner:** James W Sollars  
**SUBJECT:** LDC Section: 6-111 Interior Remodel Adoption of Florida Building Code 105.1 Required  
**LOCATION:** 5621 Lewis St.  
**STRAP NO:** 33-46-24-W2-00001-0100  
**CODE OFFICER:** Molly Jacobs  
**REFERENCE NO:** CE16-0206

Ms. Jacobs inspected the property on May 23, 2016 and July 12, 2016. She found work being done without a permit on an interior remodel. To correct the violation, secure the required permit and associated inspections. Notice of violation was provided to the property owner via certified mail on June 16, 2016 and was unclaimed. It was posted on the property and at Town on June 17, 2016. Notice of hearing was provided to the property owner via certified mail on July 20, 2016 and was unclaimed. It was posted on the property and at Town July 21, 2016.

Ms. Jacobs presented pictures she took on May 23, 2016. Ms. Jacobs had not had contact with the Respondent.

If the hearing found a violation, the Town requested a finding of fact, obtain a permit and pass all subsequent inspections by October 31, 2016; otherwise a fine per day pursuant to code with \$207 administrative costs.

Mr. Madden found that a violation existed and ordered administrative costs of \$207. In the event that the violation continues past October 31, 2016, a \$200 per day fine will be imposed. Ms. Jacobs indicated that they applied for a permit but it was denied.

*MJ*  
**Property Owner:** George & Mary Jane Nygaard  
**SUBJECT:** LDC Section: 6-111 A/C Change Out Adoption of Florida Building Code 105.1 Required  
**LOCATION:** 4341 Bay Beach Ln.  
**STRAP NO:** 03-47-24-W1-06100-0542  
**CODE OFFICER:** Molly Jacobs  
**REFERENCE NO:** CE16-0276

Ms. Jacobs inspected the property on June 25, 2016 and July 20, 2016. She found that the AC was changed out without a permit. To correct the violation, secure the required permit and associated inspections. Notice of violation was provided to the property owner on July 16, 2016 and was claimed. Notice of hearing was provided to the property owner on August 1, 2016 and was unclaimed. It was posted on the property August 4, 2016 and at Town August 2, 2016.

Ms. Jacobs presented pictures she took on July 20, 2016. She inspected the property on August 30, 2016 and she found the violation still existed.

If the hearing found a violation, the Town requested a finding of fact, obtain a permit and pass all subsequent inspections by October 9, 2016; otherwise a fine per day pursuant to code with \$191 administrative costs. Ms. Jacobs submitted an email into the record.

Mr. Madden found that a violation existed and ordered the Respondent to pay administrative costs of \$191 by **October 16, 2016**; otherwise a \$75 per day fine will be imposed.

*MJ*  
**Property Owner:** Estero Island Yacht & Racquet  
**SUBJECT:** LDC Section: 10-257 Dumpster Enclosure  
**LOCATION:** 220 Lenell Rd.  
**STRAP NO:** 03-47-24-W1-03400.00CE  
**CODE OFFICER:** Molly Jacobs  
**REFERENCE NO:** CE16-0174

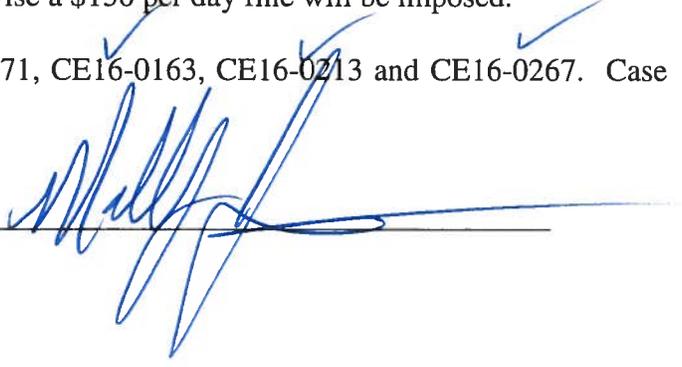
Ms. Jacobs inspected the property on May 2, 2016, June 13, 2016 and July 1, 2016. She found that the dumpster recycling area was not adequately shielded. To correct the violation, shield the dumpster recycling area, obtain any required permits. Notice of violation was sent to the property owner via certified mail on June 17, 2016 and was claimed. Notice of hearing was provided to the property owner via certified mail on July 19, 2016 and it was refused. It was posted to the property on July 20, 2016 and at Town on July 19, 2016. Ms. Jacobs presented pictures she took on May 2, 2016 and July 1, 2016. The pictures accurately reflected the condition of the property. She inspected the property on July 30, 2016 and found the condition still existed.

If the hearing found a violation, the Town requested a finding of fact, shield the dumpster recycling area on three sides, obtain a permit if required and pass all subsequent inspections by September 16, 2016; otherwise a fine per day pursuant to code with \$175 administrative costs.

*Condition Violates LDC Sec. 10-257*

Mr. Madden found that a violation existed and ordered the Respondent to pay administrative costs of \$175 by September 16, 2016; otherwise a \$150 per day fine will be imposed.

The following cases were abated: CE16-0371, CE16-0163, CE16-0213 and CE16-0267. Case number CE16-0249 was continued.

Vote: \_\_\_\_\_ Signature: 

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