

**BROWARD COUNTY HEALTH AND SANITARY CONTROL BOARD
MINUTES OF BOARD MEETING – October 25, 2012**

The Board meeting was called to order at approximately 9:45 a.m. on Thursday, October 25, 2012 by Chair Stuart Kaufman.

The Clerk called roll and the following members were present:

Stuart Kaufman, Chair
Lily Sayre, Vice Chair
Robert McColgan
Ronald Kaplan
Karen Kaestner
Commissioner Pamela Bushnell

The following member was absent:

Dr. Mark Gendal

Also present were: Patrice Eichen, Attorney for the Board
Paul Eichner, Attorney for the Department
Anthony Vomero, Petitioner Representative

A motion was made by Commissioner Bushnell to approve the September 27, 2012 minutes, which was seconded by Ms. Sayre and unanimously passed.

There was a brief discussion as to the previously discussed refresher session scheduled for the December 6, 2012 hearing.

Mr. Eichner asked that due to the weather conditions, the meeting be delayed in order to give the Respondent in the case being presented before the Board extra time to appear. When no one appeared by 9:50, the hearing was called.

CASE NO. 12-012 OSDS, JONATHON LYNN,

Mr. Eichner appeared on behalf of the Department; Deborah Lynn, who appeared on behalf of her husband, Jonathon Lynn, entered the hearing at 9:55 a.m..

Mr. Eichner read the Complaint on the record, which involved sanitary nuisance on the ground due to a malfunctioning septic system.

Anthony Johnson, Environmental Specialist III, gave sworn testimony in which he indicated that he served the Complaint and Notice of Hearing on Debbie Lynn, Mr. Lynn's wife for which he submitted a Return of Service Affidavit; the Affidavit was entered into evidence. Mr. Johnson stated that he inspected the subject property on September 17, 2012 as the result of a complaint received at the Health Department. During that visit, time he found overflowing sewage from the septic tank. He stated that the property was less than an acre and that there was a distance of approximately 27 feet between the property lines and foundation. [Ms. Lynn entered the hearing at this time, 9:55 a.m., was advised that the Board waited until 9:50 to begin the hearing, and was given a brief synopsis of what had transpired so far.] Mr. Johnson indicated that the sewage was located on the north side of the property and that there was a single family home 25-30 feet from the property line on the north side of the property. He added that the sewage was 30-35 feet from the neighbor's home. Mr. Johnson said he spoke with Ms. Lynn that day and advised her of the violations on her property. He enumerated the laws that were being violated by the nuisance on

the ground. He said that he had given the Respondent ten (10) days to come into compliance with the applicable laws. Mr. Johnson took pictures of the nuisance on that date, which he identified and described; the pictures were entered into evidence as Composite Exhibit "2." Mr. Johnson stated that he returned to the property on October 1, 2012 and found that the situation was unchanged. He again went to the property on October 12, 2012 to serve the Complaint and Notice of Hearing, and found that there had been no change at the property. Mr. Johnson returned to the site on October 15, 2012, finding no change in the condition, and took pictures of the nuisance, which he described; these pictures were entered into evidence as Composite Exhibit "3." He again returned to the site on October 22, 2012 after Mr. Lynn had been to the Health Department claiming that the problem had been abated. During that visit, Mr. Johnson found that the condition had not changed in that he observed sewage overflowing from the septic tank. Mr. Johnson took pictures on that date which he described to the Board, and were entered into evidence as Composite Exhibit "4." Mr. Johnson went back to the property on October 24, 2012 at which he found that direction of the flow changed from west to north and that the nuisance still existed. He took pictures at that time which he identified and entered into evidence as Composite Exhibit "5." Mr. Johnson gave a brief synopsis of how septic systems work. He stated that the sewage in this case appeared to be coming from the septic tank.

Deborah Lynn gave sworn testimony in which she indicated that for the past four months, she had had a \$500 water bill along with the pooling. She and her husband had thought that there was a water leak from within the house and thought that the odor from the sewage was coming from a nearby landfill. Ms. Lynn testified that she had had the septic tank pumped on April 29, 2012 and thought that they had fixed the toilets. She said that the tank had been drained three (3) other times. Ms. Lynn added that the excessive rain had added to the saturation of the drainfield. She said that the tank was pumped on September 22, 2012, at which time she received an estimate for a new drainfield from a contractor. Ms. Lynn said that she was taking care of the drainfield and that she had obtained an estimate for this work. She added that she put Clorox on the affected area.

[From this point on, the recording device was not functioning.]

Ms. Lynn stated that she intended to cooperate with the Department and repair the system by the end of November.

Mr. Johnson stated that the seal on the tank was probably not tight; if it was, the waste would instead be backing up into the house rather than flowing onto the drainfield.

Mr. Eichner made the following recommendations:

1. That the Board find Respondent in violation of the applicable laws.
2. That the Board issue an order:
 - a. That Respondent come into compliance with the law within two weeks.
 - b. That the administrative fee of \$500 be assessed.
 - c. That Respondent apply lime to the affected area as needed.
 - d. That the Board retain 90 day jurisdiction
 - e. That a status hearing be scheduled for the next meeting of the Board.
 - f. That the standard sanction language be included in the order.

Ms. Sayre motioned that Mr. Eichner's recommendations be accepted and that a \$250 civil penalty be assessed if the nuisance is not corrected within the two week period, that fees be assessed for the four re-inspections conducted by the Department.

Mr. Kaufman opined that having a signed contract to replace the drainfield within the two week period should be sufficient rather than expecting the drainfield to be completed within that timeframe. He further stated that if the sewage was no longer on the ground, the nuisance would be abated.

Ms. Sayre amended her motion to state that Respondent shall provide the Environmental Health office with a signed contract within two weeks and repair the system prior to the next meeting of the Board, or a

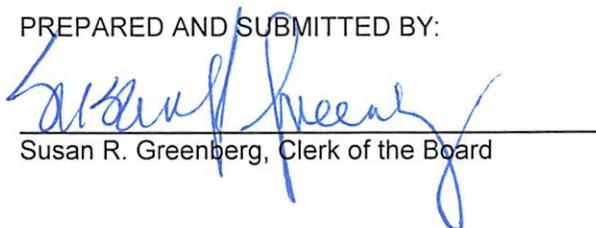
fine will be considered at that time. She added that the Department should inspect the site once a week, and that the area be roped off.

Commissioner Bushnell seconded the motion which passed, 5 to 1, with Mr. Kaufman voting no.

There was then discussion regarding the educational session scheduled for the December 6, 2012 meeting of the Board, which will include the makeup of the Department, how cases get to the Board, and proper procedure at the hearings.

A motion to adjourn the meeting was made by Mr. Kaplan, seconded by Mr. McColgan, and unanimously passed.

PREPARED AND SUBMITTED BY:



Susan R. Greenberg, Clerk of the Board