

CODE ENFORCEMENT BOARD MINUTES
Wednesday, January 13, 2021 – 1:30 p.m.
City Hall, Council Chambers, Vero Beach, Florida

PRESENT: Vice Chairman, Linda Hillman; Members: Eric Price, Stephen McDonald, Christopher Bryant, Richard Kennedy, Frank Pizzichillo (via GoToMeeting) and Alternate Member#1, Ken Daige **Also Present:** Code Enforcement Officer, Melody Sanderson; City Attorney, John Turner and Deputy City Clerk, Sherri Philo

*Please note that Mr. Frank Pizzichillo was present for today's meeting via GoToMeeting and took part in discussions. However, because he was not physically present, he did not vote on any matters during this meeting.

1. CALL TO ORDER

Today's meeting was called to order at 1:31 p.m.

2. PLEDGE OF ALLEGIANCE

The Vice Chairman led the Board members and the audience in the Pledge of Allegiance to the flag.

The Deputy City Clerk swore in staff and the audience present for today's meeting en masse.

3. ELECTION OF OFFICERS

A) Chairman

Mr. John Turner, City Attorney, called for nominations for Chairman of the Code Enforcement Board.

Mrs. Hillman nominated herself for Chairman of the Code Enforcement Board.

Mr. Price nominated himself for Chairman of the Code Enforcement Board.

There were no other nominations.

Mr. Turner called for a vote on the nomination of Mrs. Linda Hillman for Chairman of the Code Enforcement Board and the nomination failed 4-2 with Mr. Daige and Mr. Bryant voting in favor.

Mr. Turner called for a vote on the nomination of Mr. Eric Price for Chairman of the Code Enforcement Board and the nomination failed 3-3 with Mr. Kennedy, Mr. McDonald and Mr. Price voting in favor.

Ms. Sherri Philo, Deputy City Clerk, suggested that they do a roll call for clarification. She asked should they call for Mrs. Linda Hillman for Chairman first.

Mr. Turner answered yes.

On a roll call vote the nomination of Mrs. Linda Hillman for Chairman of the Code Enforcement Board failed 3-3 with Mr. Daige voting yes, Mr. Kennedy no, Mr. McDonald yes, Mr. Bryant no, Mr. Price no, and Mrs. Hillman yes.

Ms. Philo asked do you want me to ...

Mr. Turner said under Robert's Rules of Order a tie breaker can either be to flip a coin, draw straws, or if a member wants to reconsider their vote they can. He said hearing no one suggesting that, the floor is open if anyone has any other ideas.

Mr. McDonald asked can Mr. Price be the Vice Chairman and move Mrs. Hillman up from Vice Chairman to Chairman.

Mr. Turner answered no.

Mr. Turner said they would do that formally after they select the Chairman.

Mr. Bryant suggested flipping a coin.

Mr. Turner asked Mrs. Hillman to call heads or tails as Vice Chairman of the Board.

Mrs. Hillman called tails.

Mr. Turner flipped the coin and announced it was heads.

Mr. Turner announced that the Chairman of the Code Enforcement Board is Mr. Eric Price.

B) Vice Chairman

Mrs. Hillman nominated Mr. Stephen McDonald for Vice Chairman of the Code Enforcement Board.

Mr. Bryant nominated Mrs. Linda Hillman for Vice Chairman of the Code Enforcement Board.

There were no other nominations.

The Deputy City Clerk performed a roll call on the nomination of Mr. Stephen McDonald for Vice Chairman of the Code Enforcement Board and the nomination passed 4-2 with Mr. Daige voting no, Mr. Kennedy yes, Mr. McDonald yes, Mr. Bryant yes, Mr. Price yes, and Mrs. Hillman no.

4. PRELIMINARY MATTERS

A) Adoption of Minutes – December 9, 2020

Mr. Kennedy made a motion to adopt the minutes of the December 9, 2020 Code Enforcement Board meeting. Mr. McDonald seconded the motion and it passed unanimously.

B) Agenda Additions, Deletions and Adoption

Ms. Sanderson pulled the following cases from today's agenda, Case #20-CE-11308 – JC Rental, Case #20-CE-11309 – JC Rental, and Case #20-CE-11314 – Lion Equity Partners, LC / Michael Buza, Agent. She reported that they all came into compliance after receiving the Notice of Hearing.

Mr. Price made a motion to adopt the agenda as amended. Mr. Daige seconded the motion and it passed unanimously.

Mr. Pizzichillo asked the Chairman to note that he is attending today's meeting via GoToMeeting.

Mr. Turner said we have been trying to eliminate the use of attending meetings by video conferencing or electronically. His recommendation to the Commission/Boards is that if they are allowing a member to appear electronically, but not vote, that the Board approves that so that it is not an unexcused absence. He requested that the Chairman entertain a motion for approval of Mr. Pizzichillo attending through GoToMeeting for today's meeting.

Mr. Price made a motion for today's meeting to allow Mr. Pizzichillo to attend through zoom. Mrs. Hillman seconded the motion and it passed unanimously.

5. UNLICENSED CONTRACTORS/CITATIONS

None

6. EVIDENTIARY HEARINGS

A) Citation Appeals

B) Non-Compliance / Compliance Reports

*Please note that the items on today's agenda were not heard in the order listed.

1. Request for Board Order

a. CASE #20-CE-10639 / 2792M

VIOLATOR: Michael and Virginia Dones

VIOLATION: Public Nuisance / unsafe structure – Code Section 38-31 (a)(b)(8)

VIOLATION ADDRESS: 3502 21st Street, Vero Beach, Florida 32960

(Request for Amended Board Order)

Ms. Sanderson reported that this case is back before the Board to request an amended Board Order because it did not include the initial civil penalty. Since their last meeting, Mr. Michael Dones, Property Owner, contacted her and he would like to address the Board to request additional time to correct the violation.

Mr. Michael Dones, who has been sworn in, explained that the reason he is requesting additional time is because there was an issue with the insurance company in getting the funds to have the property repaired. He reported that he received some estimates to repair the barn and the cost was astronomical so he has decided to empty the barn and have it demolished. He said that he needs more than the three (3) months the Board initially allowed for him to comply in order to get this accomplished. He is in the process of trying to get a check from the insurance company. He explained that the funds are in escrow and he has to show them the contract, costs, etc., for the work. He noted that the barn will be demolished and brought down to a concrete slab when the work is completed.

Ms. Sanderson asked Mr. Dones if he felt this could be done in five (5) months.

Mr. Dones said that he would like six (6) months because the barn is full of stuff that needs to be removed before they can take it down. He is also waiting for the funds to do the work.

Mr. Turner said this is the case where this gentleman was involved in litigation with the insurance company and with COVID there has been a lot of delays. He noted that they did settle their case and this is not of Mr. Dones doing.

Mr. Price made a motion for Case #20-CE-10639 that the Board extends the date of resolution to be resolved by July 12, 2021, to pay the initial civil penalty of \$50 and if not in compliance by July 12, 2021, continuing civil penalties of \$50 per day shall commence on March 17, 2020 (that the Board issues a Board order finding violation, allowing until July 12, 2021, to come into compliance and if not in compliance by that date continuing civil penalties of \$50 shall commence beginning on March 17, 2020 and to pay the initial civil penalty of \$50). Mr. Kennedy seconded the motion and it passed unanimously.

b. CASE #20-CE-11258 / 2985M

VIOLATOR: Kaleigh Rhea Ann Romine

VIOLATION: Sanitary facilities violation - Property occupied without water service – Code Section 22-181; 302.1

VIOLATION ADDRESS: 1413 25th Avenue, Vero Beach, Florida 32960

(Request for Amended Board Order)

Ms. Sanderson reported that this case is back before the Board to amend the Board order to include payment of the civil penalty. It is her understanding that Ms. Kaleigh Romine, Property Owner, is present for today's meeting to address the Board.

At this time, the Deputy City Clerk swore in Ms. Kaleigh Romine.

Ms. Sanderson asked Ms. Romine how long has the property been without water.

Ms. Romine said that she doesn't know, probably a couple of months. She was not sure.

Ms. Sanderson asked do you intend to turn the water back on.

Ms. Romine answered no, she has plans to sell the house.

Ms. Sanderson said the City has received complaints that there has been some transient activity. She asked is the house secured so that no one can come and go.

Ms. Romine answered yes, the house is locked.

Mr. Price asked Ms. Sanderson what she is requesting of the Board.

Ms. Sanderson said the case was brought back before the Board to amend the Board Order because when this case was previously heard there was no one present to testify if the house was vacant or not and according to the Police Department there was transient activity. She said the Board is to decide if they are going to issue a Board Order to have water service.

Ms. Romine questioned what that means.

Ms. Sanderson explained that you can't have a house that is occupied without water or sanitary sewer.

Ms. Romine said there shouldn't be anyone in the house.

Mr. McDonald asked do they know who was in the house. He asked was this complaint generated.

Ms. Sanderson said there have been many calls for service with different people going in and out of the house and she believes that sometimes Ms. Romine was there.

Mrs. Hillman asked how secure is this property. She asked what is there to prevent people from staying there.

Ms. Romine said nothing, just honesty. She that she was there yesterday and there was a broken table in the living room. She said that she does not know how to secure it any more than it is without hiring someone to look after the property. She said it is going to be a vacant home until it is sold. She said that she does not plan on going back there at all.

Ms. Sanderson asked Ms. Romine if she has contracted with a realtor to list the property for sale.

Ms. Romine said it is between her and her grandmother. She said that her grandmother is taking care of it.

Ms. Sanderson asked for the contact information for her grandmother.

Ms. Romine said her grandmother's name is Beth Ann Reighard.

Ms. Sanderson asked is she local.

Ms. Romine said that her grandmother lives in Arizona. She then gave Ms. Sanderson her grandmother's telephone number.

Mr. Daige asked when was the last call for service for the Police to check the property.

Ms. Sanderson answered December 11, 2020.

Mr. Daige asked Ms. Sanderson if she has been by this property within the last few weeks to see how well it is secured.

Ms. Sanderson said that she has been by the property, but has not checked the door to verify that it was locked.

Mr. Pizzichillo said when this case was previously heard the Board asked that the Department of Health get involved.

Ms. Sanderson said that she spoke with the Department of Environmental Health and they said they would not be involved because the property was occupied so it would be under the Building Department to tag the property as being unable to be occupied. She reported that she also reached out to the mortgage company to advise them that the property was occupied without water and sewer, but she has not heard back from them.

Mr. Daige asked did the Building Department tag the home.

Ms. Sanderson said that she does not know. She said that she did turn it over to the Building Department.

Mr. Daige said then this is in the process for the Building Department to go out to the property and to follow up with her.

Ms. Sanderson said that is correct.

Mr. Price said so they have a property that is sometimes occupied because the Police Department is receiving calls about it, but the property owner is stating that it is not intended to be occupied and they are trying to make sure it is sanitary and has water if it is occupied.

Ms. Romine said there hasn't been water for some time. She said that she is on disability and didn't have the money to pay the bill. She had roommates move in and they didn't pay their rent. She befriended a lot of the homeless to try to get them off the street and that didn't work out and she is losing her home because of it. She said that she is renting a house and is no longer living at this property. She said there is no water or power and no one should be there. She said that she was there without power and water for some time and it was very scary. She said that she couldn't pay the bill.

Mr. Bryant asked since the structure is not occupied, can she file to have no trespassing signs posted and have the Police Department arrest anyone on the property.

Ms. Sanderson answered yes.

Mr. Bryant asked would Ms. Ravine file for the no trespassing signs.

Ms. Sanderson answered yes.

Ms. Romine asked how would she know if someone is on the property.

Mr. Bryant said if the Police goes by the property and sees someone on the property they would be arrested for trespassing.

Ms. Sanderson explained to Ms. Ravine that when she leaves today's hearing that she needs to go to the Police Department and tell them that she wants to do a Trespass Affidavit.

Mr. McDonald asked Ms. Sanderson what she is requesting.

Ms. Sanderson asked the Board to issue a Board Order to pay the initial civil penalty of \$50.

Mr. Daige asked can the Board waive the civil penalty.

Mr. Kennedy said that he would be in favor of waving it.

Mr. Turner said they cannot waive the civil penalty if the property is found in violation.

Ms. Romine said that she can pay the \$50.

Mr. Price asked is the property in compliance because it is not occupied.

Mr. Turner said the problem is that there were people living there without water and sewer, which is a serious health problem and it is against the law. The problem is how to address it when there is an absentee owner.

Mr. Price said that he can state in his motion that they are in compliance as long as it is not occupied.

Mr. Turner said the evidence at this point is that it was occupied.

Ms. Sanderson said the last occupant was Ms. Romine and that was on December 11, 2020.

Mr. Price asked what is being asked of the Board.

Ms. Sanderson requested that the Board issues a Board Order to pay the initial civil penalty and a timeframe to comply by either not occupying the property or having the water service restored.

Mr. Turner asked is the property locked and boarded up.

Ms. Romine said it is not boarded up, but it is locked.

Mr. Turner questioned and there is no one there now.

Ms. Romine answered no.

Mr. Turner questioned and there hasn't been for how long.

Ms. Romine answered since December 11, 2020.

Mr. Turner asked Ms. Sanderson for her recommendation.

Ms. Sanderson requested an Order to pay the initial civil penalty, the cost of enforcement of \$44.70, and that they are in compliance.

Mr. Price made a motion for Case #20-CE-11258 that the Board finds it is now in compliance, to pay the civil penalty of \$50 and the cost of enforcement of \$44.70 (that the Board issues a Board order finding compliance and to pay the initial civil penalty of \$50 and the cost of enforcement of \$44.70.) Mr. Kennedy seconded the motion and it passed unanimously.

- c. **CASE #20-CE-11278 / 11278M**
VIOLATOR: 1901 33rd Avenue, LLC / Edward Lechner and Viracity Corp / Michelle Coker
VIOLATION: Public nuisance – Weeds, grass, and undergrowth at a height of more than 12 inches – Code Sections 38-31 (a)(b)(1); 38-32 (a)(1)
VIOLATION ADDRESS: 1901 33rd Avenue, Vero Beach, Florida 32960
(Request for Amended Board Order)

Ms. Sanderson reported that this case is being brought back before the Board to amend a Board Order to include the initial civil penalty. She asked that the Board issues a Board Order finding violation, that the violation continues, to pay the initial civil penalty of \$50, along with the enforcement cost of \$44.70, to correct the violation within 30-days and if not corrected a continuing civil penalty shall commence on November 17, 2020, at \$50 a day.

Mr. Price made a motion for Case #20-CE-11278 that they are not in compliance, that they have 30-days to comply, they need to pay the initial civil penalty of \$50, plus \$44.70 in costs and if not in compliance by the 30-days they will have continuing penalties starting on November 17, 2020 (that the Board issues a Board order finding they are not in compliance, that they have 30-days to come into compliance and if not in compliance continuing civil penalties of \$50 per day shall commence on November 17, 2020, and to pay the initial civil penalty of \$50 and the cost of enforcement of \$44.70). Mrs. Hillman seconded the motion and it passed unanimously.

- d. **CASE #20-CE-10875 / 2150T**
VIOLATOR: Florida East Coast Railroad
VIOLATION: Weeds, grass, or undergrowth at a height of more than 12 inches; buildings and garage doors of buildings on site are presently dilapidated and a safety hazard; Concrete parking areas throughout the property is broken with grass and weeds growing through; Failure to comply with and to continually maintain all elements of an approved site plan – Code Section 38-31 (b)(1); 64.11 (e)
VIOLATION ADDRESS: 1915 Commerce Avenue, Vero Beach, Florida 32960
(Request for Rehearing)

Ms. Sanderson reported that this case was previously heard by the Board and was found in compliance, however there were some issues with the site plan that was cited in the citation.

She asked for a Board order finding that there is a violation, the violation continues, and to pay the initial civil penalty of \$50 and to allow 30-days to correct the violation and if not corrected continuing civil penalties will commence on October 14, 2020.

Mr. Daige said in the backup material there are a number of issues listed. He asked are those issues still occurring.

Ms. Sanderson answered yes. She reported that she spoke with the contractor for the Florida East Coast Railroad yesterday and he also spoke with staff of the Planning and Development Department and now has a clear understanding of what needs to be done to come into compliance.

Mr. Daige asked about the symbols that are all over the building.

Ms. Sanderson said that was also discussed yesterday and she asked them to cover up the graffiti.

Mr. Price made a motion for Case #20-CE-10875 that the Board finds they are not in compliance, that they have 30-days to come into compliance, that they pay the initial civil penalty of \$50 and if not in compliance in 30-days then they are subject to \$50 per day of continuing penalties from October 14, 2020 (that the Board issues a Board order finding that they are not in compliance, that they allow 30-days to come into compliance and if not in compliance continuing civil penalties of \$50 per day shall commence on October 14, 2020, and to pay the initial civil penalty of \$50). Mr. Kennedy seconded the motion and it passed unanimously.

e. **CASE #20-CE-11290 / 3010M**

VIOLATOR: John L. Smith and Tracy S. Roschach

VIOLATION: Garage converted into dwelling unit without City of Vero Beach Planning and Development Department approval or a building permit from the Indian River County Building Department – Code Sections 22-106; 22-181

VIOLATION ADDRESS: 1933 23rd Avenue, Vero Beach, Florida 32960

(Failure to comply; Failure to pay \$50 civil penalty)

Ms. Tracy Roschach approached the dais.

Mr. Bryant said this case was not under appeal, but they will allow her to speak.

Ms. Sanderson reported that Ms. Tracy Roschach and Mr. John Smith were cited for the violation of a garage being converted into a dwelling unit without Planning and Development Department's approval and without building permits. She reported that this was being used as a rental unit. The violation has not been corrected and the civil penalty has not been paid.

Ms. Tracy Roschach, who has been sworn in, reported that the renter moved out on the December 14, 2020.

Ms. Sanderson asked what is their intent for this unit.

Ms. Roschach said the house itself is a rental.

Ms. Sanderson asked what are they going to do with the garage apartment.

Ms. Roschach said to keep it as part of the entire property.

Ms. Sanderson explained that it cannot be used as a rental unit for money. She said if it has been converted to a dwelling unit, they would need proper permitting. She said the Planning and Development Department wants her to work with them and to get after the fact building permits.

Ms. Roschach said it is not the fact that there are issues as far as building goes or that it is not structurally correct. It is because the area is zoned R-1 and not R-2.

Ms. Sanderson said this was done without building permits, which is required.

Ms. Roschach said this was done back in the 1970's or 1980's. She said that she is not going to use the unit as a dwelling unit.

Ms. Sanderson asked what is it going to be used for.

Ms. Roschach said it is part of the property.

Mr. Price questioned for storage.

Ms. Roschach said it could just be empty or used by the people that rent the front house.

Mr. Bryant said it is no longer a garage.

Ms. Roschach said it is a mother-in-law suit.

Mr. Bryant said it needs to be restored and they need to get a permit.

Ms. Sanderson said it needs to either be permitted for making it into a dwelling unit or restored back to a garage.

Mr. McDonald asked are they discussing a remodeling permit or occupancy.

Ms. Sanderson said building permits for electric and water. She said it has a full kitchen and everything.

Ms. Roschach said this was done years and years ago.

Mr. McDonald explained that they will either have to convert it back to a garage or go through the permitting and inspection process.

Ms. Roschach noted that the renters are no longer there.

Mr. Price said they still have water.

Ms. Roschach said they have underground electric and they have sewage.

Mr. Kennedy asked is the issue whether or not it is separately rented as opposed to someone who rents the house and uses the unit.

Ms. Sanderson said the issue is work was done without a permit.

Mr. Kennedy said that is not what he is hearing from Ms. Roschach.

The Deputy City Clerk swore in Mr. Jason Jeffries.

Mr. Jason Jeffries, Planning and Development Director, reported that what they need is the Planning and Development Director's opinion or a zoning verification letter determining that this unit was legally established. He said it is possible, but highly unlikely, that it was legally converted because this is in the R-1 Zoning District and most areas in the City have been R-1 Zoning since 1948. He said the Indian River County Building Department keeps a record of permits and they will show if a permit was issued for a separate unit to be established. He said what they need is a zoning verification letter from him.

Mr. Price asked is it possible to get.

Mr. Jeffries said it takes some time to do the research and they have to get the records from the Building Department. He said the zoning verification letter may only determine that this was only built legally as a single-family home. He cannot say on the record that she will get a verification letter that two (2) units were established. He explained that it is ultimately up to the property owner to establish that it was legally converted to a home. It is the property owner's burden of proof and that is stated in the City's Land Development Code.

Mr. Kennedy questioned giving them 60-days.

Mr. Jeffries said if he was delaying this for verification from the Planning and Development Department, they can do that in 30-days. He asked Ms. Sanderson if she did any research on this.

Ms. Sanderson said that she didn't, but thought that staff of the Planning and Development Department stated that they did some research on this with the Building Department.

Mr. Jeffries said then it appears that to this point the Planning and Development Department has not found that this was legally converted. He again stated that the burden is on the property owner to prove that this was legally converted.

Mr. McDonald asked what are her options.

Mr. Jeffries said the corrective matter is that it doesn't have to go back to a garage, but the full kitchen needs to be removed.

Mr. Price said they can't give them 30-days to comply if they have to remove the kitchen.

Ms. Sanderson explained it would not be removing the kitchen, but removing the 220-volt for the stove and the refrigerator.

Mr. McDonald asked Ms. Roschach is your plan to rent the main house and allow the renters the use of the guest house, but not renting it.

Ms. Roschach answered yes.

Mr. Kennedy noted that if the Planning and Development Department doesn't find there was a permit, she cannot rent the garage apartment in the future.

Ms. Roschach agreed.

Mr. Pizzichillo said that he would like a date sometime in the future where the Code Enforcement Officer can make a final check to make sure that everything has concluded.

Mr. McDonald said the first thing the Board needs to do is to make a motion to give her 30-days to research this and to report back to the Board at their next meeting. He asked does the civil penalty have to be paid now.

Ms. Sanderson asked are you continuing the case.

Mr. McDonald answered yes.

Ms. Sanderson said then no.

Ms. Roschach asked for 60-days.

Mr. Kennedy said that if he makes the motion he will recommend 60-days.

Mr. Price made a motion for Case #20-CE-11290 that the Board finds the property is not in compliance, civil penalties are due, that the violator has 60-days to correct and if not corrected in that time then continuing civil penalties will accrue beginning November 20, 2020.

Ms. Sanderson asked for a Board order to pay the initial civil penalty of \$50 with the timeframe to correct or continuing civil penalties at \$50 a day will commence on November 20, 2020.

Mr. Price added to his motion that the continuing penalties of \$50 per day will commence on November 20, 2020, and to pay the initial civil penalty of \$50 and the 60-days would end on March 8, 2021 (that the Board issues a Board order finding that there is a violation, the violation continues, that they allow 60-days to correct the violation, which would be March 8, 2021, and if not corrected continuing civil penalties of \$50 per day shall commence on March 8, 2021, and to pay the initial civil penalty of \$50). Mr. McDonald seconded the motion and it passed unanimously.

- f. **CASE #20-CE-11270 / 2995M**
VIOLATOR: 1616 24th Avenue, LLC / Barbara Hooker,
Agent
VIOLATION: Fence and brick pavers installed without Code
Compliance Certification from the City of Vero Beach

Planning and Development Department – Code Sections 64.05
(7)(8); 22-181; 22-106
VIOLATION ADDRESS: 1616 24th Avenue, Vero Beach,
Florida 32960
(Failure to comply; Failure to pay \$50 civil penalty)

Ms. Sanderson reported that the violation has not been corrected and the civil penalty has not been paid. She asked that the Board finds there is a violation, the violation continues, and that the Board issues a Board Order to pay the initial \$50 civil penalty, to correct the violation within 30-days and if not corrected a continuing civil penalties of \$50 a day would commence on November 6, 2020.

Mr. Price made a motion for Case #20-CE-11270 that the Board finds that there is a violation, that they must pay the initial civil penalty of \$50, and if the violation is not corrected in 30-days they are subject to \$50 per day starting from November 6, 2020 (that the Board finds there is a violation, the violation continues, and that the Board issues a Board order finding violation, allowing 30-days to correct the violation and if not corrected continuing penalties of \$50 per day shall commence on November 6, 2020, and to pay the initial civil penalty of \$50). Mrs. Hillman seconded the motion and it passed unanimously.

- g. CASE #20-CE-11255 / 2986M**
VIOLATOR: Robert A. Heckler
VIOLATION: Fences installed without Code Compliance Certification from the City of Vero Beach Planning and Development Department or a building permit from the Indian River County Building Department – Code Sections 64.05 (a)(b)(7); 22-181; 22-106
VIOLATION ADDRESS: 1545 20th Avenue, Vero Beach, Florida 32960
(Failure to comply; Failure to pay \$50 civil penalty)

Ms. Sanderson reported that the violation has not been corrected and the civil penalty remains unpaid. She requested that the Board finds that there is a violation, that the civil penalty of \$50 needs to be paid, and that the Board issues a Board order for correction within 30-days and if not corrected within 30-days continuing civil penalties of \$50 per day would commence on November 27, 2020.

Mrs. Hillman made a motion that they are not in compliance, the \$50 fine has not been paid, to give them 30-days from today's date to correct the violation, if not continuing penalties will start on November 27, 2020.

Ms. Sanderson asked for clarification for an order to pay the initial civil penalty of \$50.

Mrs. Hillman added to her motion an order to pay the initial \$50 fine (that the Board issues a Board order finding that there is a violation, the violation continues, to allow 30-days to correct the violation and if not corrected a continuing civil penalty of \$50 per day shall commence on November 27, 2020, and to pay the initial civil penalty of \$50). Mr. Kennedy seconded the motion and it passed unanimously.

h. CASE #20-CE-11297 / 3016M

VIOLATOR: Indian River Sports Complex, Inc. / Derek Mueller, Agent and Highland Homes Roofing, Inc. / Nakia Geller, Agent

VIOLATION: Roofing company truck and trailers stored onsite; Non-operable sports utility vehicle and trailer stored onsite (repeat violation) – Code Sections 62.03; 38-31 (a)(1)

VIOLATION ADDRESS: 2665 12th Avenue, Vero Beach, Florida 32960

(Failure to comply; Failure to pay \$100 civil penalty)

Mr. Derek Mueller approached the dais.

Ms. Sanderson reported that no appeal was made on this citation. She asked the Board if they wanted to hear Mr. Mueller.

Mr. Bryant said that he would like to first hear Ms. Sanderson's recommendations.

Ms. Sanderson reported that this is a repeat violation on the use of the property by storing a roofing company truck and trailer on site and a non-operable vehicle on site. She reported that there also is a boat and trailer being stored on site. She reported that this property is owned by the City and Mr. Mueller is the tenant and he runs youth baseball. She reported that the violation has not been corrected and the civil penalty has not been paid.

Mr. Price asked are there costs of enforcement.

Ms. Sanderson said there is a cost of enforcement of \$62.90.

Mrs. Hillman asked are they continuing to store the truck and trailer on the property.

Ms. Sanderson reported that she checked the property today and the boat was still on site.

Mr. Derek Mueller, who has been sworn in, said this is not a repeat violation. He said the roofing guy stored a bunch of trailers on the site, which they have corrected. He reported that during tournament weekends there is a ton of trash generated so on those weekends they store one (1) truck and one (1) trailer on the site that is used for taking the trash to the dump and the truck and trailer is removed from the site the following Mondays. He said that he uses the boat for team parties, which he could argue that he uses the boat for youth activities. He reported that the citation also states that there is a non-working trailer on the property. He said it is a working trailer in that he uses it to pick up fertilizer, chalk, etc., for the baseball field. He reported that the vehicle that was parked there has been removed. He said everything has been removed from the property with the exception of the boat, which he will remove tomorrow.

At this time, Ms. Sanderson passed out to the Board members photographs of the property (on file in the City Clerk's office).

Mr. Price asked Ms. Sanderson if she works on the weekend.

Ms. Sanderson answered sometimes.

Mr. Price asked were these pictures taken on the weekend or during the week.

Ms. Sanderson answered during the week.

Mr. Price said unless the vehicles are owned by the City they cannot be on the property.

Ms. Sanderson said the boat, the trailer, etc., cannot be stored on the property. She said this is a City Park. She explained that when this was cited previously, the roofing company stated that they were renting storage space and that is the same roofing company that has been on site.

Mr. Daige said the Park is under lease through the City. He thought that the City's leases state that they could not have different companies rent space on City property.

Mr. Turner said that is correct.

Mr. Price asked can the leasee have their own vehicles on the property.

Ms. Sanderson reported that the boat is not registered to Mr. Mueller.

Mr. Daige asked to hear from Mr. Jeffries.

Mr. Jason Jeffries referred to vehicles being permitted on the property. He explained that under the City Code, parking areas are only to be used for the purpose of parking cars, not for storage of vehicles.

Mr. Price said then storage means that vehicles cannot be left on the property overnight.

Mr. Jeffries said that is correct.

Mr. Daige asked doesn't the lease state what the property can be used for. He said to his knowledge the property is to be used for baseball activities.

Mr. Jeffries said that he is not familiar with this lease, but typically the standard language of the City's leases state that they are for any permitted use in the zoning district and they have to be permitted so in this case they have a site plan, which is for the ballfield. He said it is in P-2 Zoning, which does allow for a range of uses, but to change to any other use that is permitted they would have to go through the code compliance permitting process.

Mr. Mueller said the roofing company never paid him rent. He said when the truck and trailer is parked there it is being used just as a dumpster would be used.

Mr. Price asked are dumpsters permitted.

Mr. Jeffries said by Code dumpsters have to be in enclosed areas.

Mr. Mueller said that he is not planning on storing the boat on the property. He said that he can move it today. He reported that they are in the middle of doing a site plan so they are sectioning off an area that would be for the mowers, the trailer, etc. He is not renting out

anything. He noted that when they have a tournament and they bring in 35 teams for the weekend there is no way the dumpster they have can handle all the garbage, which is why they have the dump trailer. He said they bring the trailer in on the weekends and on Mondays it is removed. They are not storing the vehicle on the property.

Mr. Price asked Ms. Sanderson what she is requesting of the Board.

Ms. Sanderson asked that the initial civil penalty of \$100 be paid and that the Board allows 10-days to correct the violation, enforcement costs of \$62.90, and if the violation is not corrected within 10-days continuing penalties of \$100 per day commencing on November 20, 2020.

Mr. Price made a motion for Case #20-CE-11297 that there is a violation, that the violator needs to pay the initial civil penalty of \$100, plus \$62.90 in enforcement costs, that it is a repeat violation and if the violation is not corrected in 10-days then continuing civil penalties will accrue at \$100 per day starting on November 20, 2020 (that the Board issues a Board order finding violation, that they allow 10-days to correct the violation and if not corrected then continuing civil penalties of \$100 per day shall commence on November 20, 2020, and to pay the initial civil penalty of \$100 and costs of enforcement of \$62.90). Mr. McDonald seconded the motion and it passed unanimously.

- i. **CASE #20-CE-11304 / 3023M**
VIOLATOR: Gerald and Joanne Duhaime
VIOLATION: Carport and screen room constructed without Code Compliance Certification from the City of Vero Beach Planning and Development Department or building permits from the Indian River County Building Department - Code Sections 64.05 (a)(b)(9)(b); 22-181; 22-106 (a)(b)
VIOLATION ADDRESS: 1470 33rd Avenue, Vero Beach, Florida 32960
(Failure to comply)

Ms. Julia Graves, Attorney, stated that she is present on behalf of Gerald and Joanne Duhaime. She requested a continuance of the hearing because she is currently in mediation and they are waiting for her to get back. She said they did get one (1) permit and are working on the retroactive permit. She requested a 30-day continuance on this case.

Mr. Turner reported that he contacted the Attorney's office and explained to them that their request for a continuance was not requested in the time permitted so their request could not be granted unless it was approved by the Board. He said that he does not have any objection to their request for a continuance.

Mr. Price made a motion for Case #20-CE-11304 that the Board continues this case to their February meeting. Mr. Kennedy seconded the motion and it passed unanimously.

- j. **CASE #20-CE-11308 / 3027M**
VIOLATOR: JC Rental and Investment, Inc. / James Schlitt, Agent

VIOLATION: Public nuisance and right-of-way encroachment – miscellaneous items stored on the right-of-way (repeat violation) – Code Section 64.05
VIOLATION ADDRESS: 1228 24th Street, #31, Vero Beach, Florida 32960
(Failure to pay \$100 civil penalty)

This item was pulled from today's agenda.

- k. CASE #20-CE-11309 / 3028M**
VIOLATOR: JC Rental and Investment, Inc. / James Schlitt, Agent
VIOLATION: Public nuisance and right-of-way encroachment / miscellaneous items stored on the right-of-way (repeat violation) – Code Sections 38-31 (a)(b)(5); 71.03
VIOLATION ADDRESS: 1228 24th Street, #32, Vero Beach, Florida 32960
(Failure to pay \$100 civil penalty)

This item was pulled from today's agenda.

- l. CASE #20-CE-11306 / 3025M**
VIOLATOR: P. Scott McCracken
VIOLATION: Commercial trailer parked onsite that is not being used in construction on the property that has a valid building permit; dumpster onsite without a valid building permit (repeat violation) – Code Sections 74.82 (a); 64.45 (d)(1)
VIOLATION ADDRESS: 2716 Laurel Drive, Vero Beach, Florida 32960
(Failure to comply; Failure to pay \$150 civil penalty)

Ms. Sanderson reported that this is a repeat violation. The violation has not been corrected and the civil penalty has not been paid. She asked that the Board finds that there is a violation, the violation continues, and to issue a Board Order to pay the initial civil penalty and to correct the violation within 10-days and if not corrected civil penalties of \$150 per day shall commence beginning December 3, 2020. There are no costs of enforcement.

Mr. Pizzichillo said at a previous Board meeting he asked what happens when people do not pay their fines and one (1) Board member suggested that when they come back requesting a permit that they be denied. He said that this gentleman (Mr. Scott McCracken, Violator) has been on their agenda many times. He asked what can they do about this.

Mr. Turner explained that Board orders become a lien on properties and before those properties are sold the liens have to be satisfied. He is currently looking at some method to be adopted that would attempt to have these matters resolved before any future permits, licenses, etc. can be made. He is in the process of drafting a proposed Ordinance to address this.

Mr. Price asked are the liens only on the commercial property involved.

Mr. Turner said the lien would be on the property involved, the violator, and all other personal properties in the name of the violator.

Mrs. Hillman said this gentleman seems to make Vero Beach a big joke and she is appalled that he could do that.

Mr. Turner said it is aggravating and insulting, but they have to be careful on how they proceed with this.

Mrs. Hillman made a motion that the violation has not been corrected, the civil penalty of \$150 has not been paid, they have 10-days to correct the violation or continuing fines of \$150 start on December 3, 2020.

Ms. Sanderson asked for clarification that they are to pay the \$150 civil penalty.

Mrs. Hillman said that is correct (that the Board issues a Board Order that there is a violation, the violation continues, to allow 10-days to correct the violation and if not corrected continuing civil penalties of \$150 per day shall commence on December 3, 2020, and to pay the initial civil penalty of \$150). Mr. Price seconded the motion and it passed unanimously.

- m. **CASE #20-CE-11305 / 3024M**
VIOLATOR: P. Scott McCracken
VIOLATION: Solid waste violation: prohibited act – Code Section 66-8 (12)
VIOLATION ADDRESS: 2716 Laurel Drive, Vero Beach, Florida 32960
(Failure to comply; Failure to pay \$50 civil penalty)

Ms. Sanderson reported that the violation been corrected and the civil penalty has not been paid. She requested that the Board issues a Board order to pay the initial \$50 civil penalty.

Mr. Price made a motion for Case #20-CE-11305 that the Board finds that the property is in compliance and to pay the \$50 civil penalty (that the Board issues a Board order finding compliance and to pay the initial \$50 civil penalty). Mr. McDonald seconded the motion and it passed unanimously.

- n. **CASE #20-CE-11324 / 3042M**
VIOLATOR: P. Scott McCracken
VIOLATION: Solid waste violation: prohibited act – Code Section 66-8 (12)
VIOLATION ADDRESS: 2716 Laurel Drive, Vero Beach, Florida 32960
(Failure to comply; Failure to pay \$50 civil penalty)

Ms. Sanderson reported that this is a repeat violation. The violation has not been corrected and the civil penalty has not been paid. She requested that the Board finds that there is a violation, the violation continues, and to issue a Board order to pay the initial civil penalty of

\$50 and to allow 10-days to correct the violation or continuing civil penalties of \$50 per day commencing on December 22, 2020, will start.

Mr. Daige asked is there a dumpster on the property.

Ms. Sanderson answered yes.

Mr. Daige asked was a permit pulled for the dumpster.

Ms. Sanderson reported that there is not a current building permit.

Mr. Daige asked isn't it in the Code that they have to have a permit for a dumpster.

Ms. Sanderson said that is correct. She noted that was on the citation on the previous case heard by the Board (Case #20-CE-11306).

Mr. Daige said to have a dumpster you have to pull a permit. He asked when there are repeat violations and fines have not been paid, is there a way where if a dumpster is on the property without a permit and the individual went to get a permit that the permit is denied because there are fines on the property.

Mr. Turner said on the same property that is correct.

Mr. Daige said then something can be done.

Mr. Turner said that is correct.

Mr. Price made a motion for Case #20-CE-11324 that the Board finds that they are not in compliance, that the violator is to pay the civil penalty of \$50, that they have 10-days to comply and if not they have to pay \$50 per day of continuing penalties from December 22, 2020 (that the Board issues a Board Order finding violation, that the violation continues, to allow 10-days to correct the violation and if not corrected continuing civil penalties of \$50 per day shall commence on December 22, 2020, and to pay the initial civil penalty of \$50). Mr. McDonald seconded the motion and it passed unanimously.

- o. CASE #20-CE-11314 / 3032M**
VIOLATOR: Lion Equity Partners, LLC / Michael Buza, Agent
VIOLATION: Failure to obtain change of use for the property to be used as a dwelling unit and solid waste violation – Code Sections 64.02; 64.05; 66-12 (c)
VIOLATION ADDRESS: 1440 Highway A1A, Vero Beach, Florida 32963
(Failure to pay \$50 civil penalty)

This item was pulled from today's agenda.

- p. CASE #20-CE-11310 / 3029M**
VIOLATOR: Julia Martina Busch

VIOLATION: Fence installed without Code Compliance Certification or a building permit – Code Section 64.05
VIOLATION ADDRESS: 1935 5th Avenue, Vero Beach, Florida 32960
(Failure to comply; Failure to pay \$50 civil penalty)

Mr. Eddie Dunford, who has been sworn in, stated that Mrs. Julia Martina Busch is his wife and he is the guilty party.

Mr. Bryant said they should first hear from the Code Enforcement Officer noting that this case was not appealed.

Ms. Sanderson reported that they needed to obtain Code Compliance Certification and a building permit for the fence that was installed.

Mr. Price asked Mr. Dunford if he can get this done within 30-days.

Mr. Dunford said that he could get the fence permit as an owner/builder, but he was told it could take four (4) weeks for the covenant.

Mr. Price asked when was this case initiated.

Ms. Sanderson reported that the previous Code Officer initiated a case on this, but closed it when he reigned. She then received another complaint and a new case was initiated so they have had knowledge that permits needed to be obtained.

Mr. Price asked Mr. Dunford, is there a reason this has not been done.

Mr. Dunford said that he had asked their fence contractor to take care of it, but he went missing in action. He said that he is a contractor and felt that it would be easier to do an owner/builder permit.

Ms. Sanderson asked that the \$50 initial civil penalty to be paid in a Board Order with enforcement costs of \$57.22 and to correct the violation within 30-days and if not corrected continuing penalties of \$50 a day commencing on December 4, 2020.

Mr. Bryant suggested that they allow 45-days to correct.

Mr. Price made a motion for Case #20-CE-11310 that they are in violation, to issue a Board order that they pay the \$50 civil penalty plus \$57.22 in enforcement costs, that if it is not in compliance in 45-days continuing penalties shall accrue at \$50 per day beginning on December 4, 2020 (that the Board issues a Board Order finding violation, that the violation continues, to allow 45-days to correct the violation and if not in compliance continuing civil penalties of \$50 per day shall commence on December 4, 2020, and to pay the initial civil penalty of \$50 and enforcement costs of \$57.22). Mr. McDonald seconded the motion and it passed unanimously.

q. **CASE #20-CE-10967 / 2992M**
VIOLATOR: Vero Hotel Management, LLC and Paddles by the Sea, LLC / Chris Woodruff

20 01/13/21 CEB

VIOLATION: Expired beach vendor permit; recreational amenities and trash/debris being left on the beach at the end of the day

VIOLATION ADDRESS: 3500 Ocean Drive, Vero Beach, Florida 32963

(Request from Code Officer to find in compliance on October 31, 2020 and to cease continuing civil penalties, and to pay continuing penalties and costs – Penalties from July 22, 2020 through October 30, 2020 = 101 days x \$50 per day)

Ms. Sanderson reported that this property was cited for the violation of failing to have a Beach Service Use Permit and to abide by the conditions of the permit. She then read item 5) under the permit conditions of the Beach Service Use Permit Application, “*All surf or paddle boards, watercraft, float devices and other similar recreational amenities and all beach chairs, tables, tents, and other beach furniture and accessories shall be removed from the area at time of closing each day and stored off the beach, landward of the dune line or the easternmost building line.*” She reported that this case was previously heard by the Board and the Board issued a Board Order to correct the violation. She reported that they did not come into compliance, however are in compliance as of the end of turtle season, which is October 31, 2020. She asked the Board to find them in compliance as of October 31, 2020, and to pay the cost of the lien and ongoing penalties that have accrued. She reported that Mr. Chris Woodruff is present for today’s hearing. She explained that Mr. Woodruff is a vendor and he has obtained a current Beach Use Permit Application and is aware that he is to remove his items from the beach. The hotel also has items on the beach so when they did not come into compliance that is when the fine started. She reported that she found them in compliance on the last day of turtle season, which was October 31, 2020, so the Board is finding today that the violation was corrected as of that date and ceasing the continuing civil penalties as of that date and to pay.

Ms. Sanderson reported that March 1, 2021, is the beginning of turtle season and if the beach is not cleared they will again be in violation.

Mrs. Hillman asked why has the beach not been cleared.

Ms. Sanderson said that Mr. Woodruff is a vendor of the hotel and cannot speak on behalf of the hotel. She reported that Mr. Woodruff has been in communication with her and is always willing to work with her and has been removing his stuff from the beach nightly.

Mr. McDonald asked who is responsible for payment of the civil penalties.

Mr. Price asked can they amend the Board Order and remove Mr. Woodruff.

Ms. Sanderson said they are here to find the property in compliance.

Mr. Daige asked who is going to pay the fine.

Mr. Price said the fine is to be paid by either Vero Hotel Management, LLC or by Mr. Chris Woodruff.

Mr. Bryant felt that if another citation is issued it should just be under Vero Hotel Management, LLC.

Ms. Sanderson said it would be because Mr. Woodruff has done his best to communicate and cooperate with her.

Mr. McDonald asked can they include that in the Board Order.

Ms. Sanderson answered no. The Board can just find the property in compliance.

Mr. Kennedy asked Mr. Woodruff if Vero Hotel is just unwilling to comply.

Mr. Chris Woodruff, who has been sworn in, reported that he did speak with management and they do want to do better. He felt that they needed to do a site plan for what they are doing. He said they don't want to have disorientation of the turtles.

Ms. Sanderson said that she spoke with the General Manager of Vero Hotel and asked him to come up with a solution and then work with the Planning and Development Department.

Mr. Price made a motion for Case #20-CE-10967 that they are now in compliance as of October 31, 2020, to cease continuing penalties and to pay the continuing penalties from July 22, 2020 through October 30, 2020, and costs, and to cease the continuing penalties on October 31, 2020 (that the Board finds the property in compliance as of October 31, 2020, ceasing continuing penalties as of that date and to pay).

Mr. Daige asked what would be the total amount due to the City.

Ms. Sherri Philo, Deputy City Clerk, reported that the continuing penalties are estimated at \$5,050, plus costs.

Mr. Daige asked who is going is going to pay the City, Vero Hotel or the vendor.

Mr. Turner said that he is not going to say who is going to pay, but more than likely it would be the property owner.

Mr. Daige seconded the motion and it passed unanimously.

7. OLD BUSINESS

None

8. ADMINISTRATIVE MATTERS

None

9. CLERK'S MATTERS

None

10. ATTORNEY'S MATTERS

Mr. Turner introduced Ms. Jenny Flannigan, Assistant City Attorney, to the Board members.

11. CHAIRMAN'S MATTERS

None

12. MEMBER'S MATTERS

13. ADJOURNMENT

Today's meeting adjourned at 3:20 p.m.

/sp