

CODE ENFORCEMENT BOARD MINUTES
Wednesday, April 13, 2022 – 1:30 p.m.
City Hall, Council Chambers, Vero Beach, Florida

PRESENT: Chairman, Eric Price; Vice Chairman, Linda Hillman; Members: Stephen McDonald, Frank Pizzichillo, Christopher Bryant and Ken Daige **Also Present:** Code Enforcement Officer, Melody Sanderson; Code Enforcement Officer, Jamila McGee; City Attorney, John Turner and Senior Administrative Assistant, Rita Chartier

1. CALL TO ORDER

Today's meeting was called to order at 1:30 p.m.

2. PLEDGE OF ALLEGIENCE

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

Mr. John Turner, City Attorney, swore in staff and the audience present for today's meeting en masse.

3. PRELIMINARY MATTERS

A) Adoption of Minutes

1. March 9, 2022

Mr. Price made a motion to approve the minutes of the March 9, 2022 Code Enforcement Board meeting. Mr. Daige seconded the motion and it passed unanimously.

B) Agenda Additions, Deletions and Adoption

Ms. Jamila McGee, Code Enforcement Officer, pulled Case #22-CE-12205 – Michael Mitchell / Maureen O'Brien from today's agenda. She stated that she received a request for postponement from Mr. Mitchell, which was approved by the Chairman.

Ms. Melody Sanderson, Code Enforcement Officer, noted on Case #22-CE-12338 that the civil penalty was paid on March 28, 2022, but the case is going forward.

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

4. UNLICENSED CONTRACTORS/CITATIONS

None

5. EVIDENTIARY HEARINGS

A) Citation Appeals

- 1. CASE #22-CE-12205 / 0396J**
VIOLATOR: Michael Mitchell / Maureen O'Brien
VIOLATION: Sewer use restrictions – Code Section 78-83 (a)(4)
VIOLATION ADDRESS: 3902 Sabal Palm Drive, Vero Beach, Florida 32963

This item was pulled from today's agenda.

- 2. CASE #22-CE-12296 / 3439M**
VIOLATOR: John A. Webster and Leigh Ann Harrison
VIOLATION: Management of vegetative matter – Code Section 38-109
VIOLATION ADDRESS: 4904 Sunset Drive, Vero Beach, Florida 32963

Ms. Sanderson reported that this case was initiated by a complaint with photos from a neighbor on February 19, 2022 and the citation was issued February 24, 2022. She explained that there was a prior complaint and a warning was issued on June 16, 2020. The citation was provided by certified mail. The civil penalty of \$50.00 has not been paid and the citation is being appealed today by Mr. John Webster.

Mr. Daige asked if there were any photos pertaining to this case.

Ms. Sanderson stated that photos will be entered into the record by the person who made the complaint, because he is the person who took the photos. She stated that she had not met Mr. Webster prior to him coming in to appeal the case.

Mr. John Webster, violator, who has been sworn in, said the pictures he received from Ms. Sanderson show him blowing leaves off the road into a driveway so they could be picked up by Campos Lawn Design. He explained that his neighbor had a tree trimmed that day and he was helping him clean up the leaves.

Mr. Price asked if the neighbor who reported him was the same neighbor who had the tree trimmed.

Mr. Webster replied no. It was a different neighbor.

Mr. Bryant asked Mr. Webster if he or any of his neighbors use a lawn service or do they take care of their own lawns.

Mr. Webster replied that most of the neighbors use a lawn service, but the person who made the complaint takes care of his own lawn.

Mr. Bruce Nason, witness, who has been sworn in, stated that Mr. Webster and the other neighbor use the same landscaping company that picks up their leaves, so there was no reason for him to blow the leaves into the driveway. The main issue he has is that Mr. Webster blows the leaves from his yard down into the road or onto his property and this occurs on a weekly basis.

Mr. Pizzichillo said the allegation is that Mr. Webster takes his leaves and puts them on his neighbor's property, is that correct.

Mr. Webster replied absolutely not. He blows his leaves off his lawn then he picks them up and throws them away. In the photos of this particular event a neighbor had his tree trimmed and there was a huge amount of leaves on the road. He was helping to clean it up by blowing them into the owner's driveway so they could be picked up.

Mr. Bryant asked if the only other time he had an issue with a neighbor was a couple of years ago.

Mr. Webster replied yes.

Mr. Daige asked Ms. Sanderson why she issued a citation.

Ms. Sanderson replied because he received a warning in the past.

Mr. McDonald made a motion that this be dismissed.

Mr. Turner suggested they wait until the discussion has been fully vetted and all of their questions have been answered.

Mr. McDonald withdrew his motion.

Mr. Daige clarified that the Code Enforcement Officer was sent photos and the Officer was not on site to take photos. He understands that this is an appeal and there will still be an upset neighbor, because this can happen again. He said as a Board member, it is difficult for him to see this through with keeping the citation on the record. He can also see this going forward because Mr. Webster was cited before. He would like to see the neighbors respect one another and watch the situation with the leaves. He believes that Mr. Webster is well aware of what not to do in the future and if it happens again he would like to have the Code Officer take the pictures.

Mr. Price said he can see this coming back to them again very soon.

Mr. Daige asked Mr. Nason how many times has this situation affected him.

Mr. Nason replied at least 20 times since the first infraction, but this time he was able to take pictures.

Mr. Price stated that they might need more proof.

Mr. Turner said of the evidence that is presented to the Board there has to be proof of a Code violation. There are times the Code Officer will not witness the violation, so they have to rely on the complaining witness, as in this case. They need to take the testimony of the witness and what the defendant said to determine if there has been a violation. Their job is to do that and make a decision.

Mr. Daige asked to see the evidence package again.

Mr. McDonald said from the pictures it looks like the leaves are in the street and not in anyone's driveway.

Mr. Bryant stated that leaves blow in the road all the time and there is nothing they can do about that. The violator has never been caught by the Code Officer and he has only been photographed by the neighbor.

Mr. Price said he would like to see stronger evidence and some backup by the Code Officer if this comes before them again.

Mr. Daige said there are leaves in the road and based on what he sees from the evidence presented there are not large piles of leaves. He can't tell where the leaves are being blown to, so to him the evidence is not that strong.

Mr. McDonald made a motion finding of no violation. Mrs. Hillman seconded motion and it passed unanimously.

B) Non-Compliance / Compliance Reports

1. Request for Board Order

a. CASE #22-CE-12226 / 0416J

VIOLATOR: Donna Fairbanks and Jordan Roberts

VIOLATION: Private wastewater disposal system violation – Code Section 78-83 (a)(4)

VIOLATION ADDRESS: 1401 31st Avenue, Vero Beach, Florida 32960

(Failure to comply; Failure to pay \$50.00 civil penalty)

Ms. McGee reported that the property came into compliance after the notice of hearing was received. The civil penalty of \$50 has not been paid and there was no request for a hearing to contest the citation or the civil penalty.

Mr. Bryant asked if they missed their appeal.

Ms. McGee replied yes.

Mr. Turner swore in Ms. Donna Fairbanks.

Ms. Fairbanks said she acknowledged receiving the notice. She said she had the septic done, but she was not aware that the contractor had to do a special inspection. She contacted Hebert Septic and she paid them for doing the inspection. She explained that the form was submitted to the City, but it got returned to her because the septic company neglected to complete a two (2) part question. Between March 7th and March 21st she made 10 calls trying to resolve this. The corrected report was finally sent to the City, but it was too late. She has no problem paying the fine, but it was not something she intentionally disregarded.

Mr. Pizzichillo asked how long has she has owned this house.

Ms. Fairbanks stated that they closed on it April 21, 2021 and she arrived in Florida in May 2021.

Mr. McDonald asked to clarify that the tank was pumped, an inspection was done, and the paper work has been filed.

Ms. Fairbanks replied that is correct.

Ms. McGee stated that it came into compliance as of March 24, 2022. The warning citation was sent out on February 7, 2022, but she did not hear from anyone and the citation was issued on March 7, 2022.

Mr. Bryant said Ms. Fairbanks might have assumed the contractor was taking care of the inspection report and sending it in.

Mr. Pizzichillo said he believes she just got caught up in a snafu, but he thinks she has been totally honest. He said he would suggest dismissing the fine.

Mr. Price moved that the Board finds there was a violation, the violation has been corrected and the Board orders the penalty to be suspended. Mr. McDonald seconded the motion and it passed unanimously.

- b. CASE #22-CE-12231 / 3418M**
VIOLATOR: Windkiss Ranch LLC / Janet Jansen, Agent
VIOLATION: Land Development Code violation – Code Section 60.21 (b)(1)
VIOLATION ADDRESS: 2146 31st Avenue, Vero Beach, Florida 32960
(Failure to comply; Failure to pay \$50.00 civil penalty)

Ms. Sanderson reported that service of the citation was provided by property posting. On February 17, 2022 she met with the property owner in the Planning Department to start the permitting process with the City. On February 21, 2022 the Code Compliance was issued. On March 30, 2022 she spoke with the owner and advised her that she was scheduled for a hearing, because no building permits had been obtained. As of today, the fence has been permitted and is waiting for a final inspection. The porch has not been permitted and the civil penalty has not been paid. She requests that the Board finds the violation continues, that the Board issues a Board notice to correct the violation within 90-days of the Board order or continuing penalties in the amount of \$50.00 per day will commence on the original compliance date of February 22, 2022 until corrected and to pay the initial civil penalty of \$50.00.

Mr. Daige asked to see the pictures of the porch.

Ms. Janet Jansen, violator, who has been sworn in, stated that she has started the permitting process for the porch. She said no one is living in the home, because they also have a permit for the septic system. The inspection on the fence was scheduled for Monday, but they did not show up so she will contact them again. She also has a call into Mr. Jason Short, Engineer, to ensure that the fence was installed properly and he informed her that they needed drawings. She said 90-days is more than enough time for her to get this finalized. She asked about the \$50.00 continuing fee.

Ms. Sanderson explained that she paid the \$110.00 application fee, but she did not pay the \$50.00 citation to the City Clerk's office.

Mr. Bryant suggested they extend the time allowed to at least 120-days, because the Building Department is so far behind.

Mr. Daige asked who built the porch.

Ms. Jansen replied that she and her stepbrother built it.

Mr. Price asked if the original porch was brick.

Ms. Jansen stated that the steps were made of concrete and were falling apart. The overhang was falling off the house and was leaking.

Mr. Pizzichillo said the citation indicates she is the agent.

Ms. Jansen explained that Windkiss Ranch is her horse company. She is now the only owner, so she had to change the deed to show herself as the owner.

Mr. Price moved that the board finds that there is a violation, that the violation continues, that the Board issues a Board order to correct the violation within 120-days from the date of the Board order or continuing penalties in the amount of \$50.00 per day will commence on the original compliance date of February 22, 2022 until corrected and pay the initial civil penalty of \$50.00. Mr. Daige seconded the motion and it passed unanimously.

- c. **CASE #22-CE-12338 / 3457M**
VIOLATOR: Ralph W. Rotermund (TR) (owner) and Dunlap Construction LLC / Robert A. Dunlap III, Agent
VIOLATION: Land Development Code violation – Code Section 60.21 (b)(5)
VIOLATION ADDRESS: 766 Fiddlewood Road, Vero Beach, Florida 32963
(Failure to comply; Failure to pay \$300.00 civil penalty)

Ms. Sanderson reported a citation was issued March 10, 2022 and service was provided by certified mail. The compliance date was March 24, 2022 and civil penalty was \$50.00 for not having a permit and \$250.00 for the tree. An after the fact permit was submitted March 28, 2022 and the civil penalty was paid after receiving the notice of hearing. The permit needs to be issued and mitigation will be required. She requests that the Board find that there is a violation, and that the violation continues.

Mr. Price moved that the Board finds that there is a violation, that the violation continues, that the Board issues a Board order to correct the violation within 15-days from the date of the Board order or continuing civil penalties in the amount of \$50.00 per day shall commence on the original compliance date of March 24, 2022 until corrected and that the initial civil penalty of \$300.00 has been paid. Mr. Daige seconded the motion and it passed unanimously.

- d. **CASE #22-CE-12239 / 3420M**
VIOLATOR: Harold Joseph Lilly
VIOLATION: Land Development Code violation – Code Section 60.21 (b)(2)

VIOLATION ADDRESS: 2065 30th Avenue, Vero Beach,
Florida 32960
(Failure to comply)

Ms. Sanderson reported that the complaint came in from the Police Department. The citation was issued February 8, 2022 and service was provided by certified mail and property posting. The compliance date was February 22, 2022 and the civil penalty was \$500.00. She had a conversation in the City Clerk's office with Mr. Robert Carter, a tenant of the property, and with Mr. Harold Lilly, property owner. The owner indicated he would pay the fine and Mr. Carter would permit the shed. The civil penalty has been paid, but no permit application has been applied for with the City. She requests the Board finds there is a violation, that the violation continues and that the Board issues a Board order to correct the violation within 30-days. She said the shed cannot remain a dwelling unit as this is a single family residential property, so it has to be restored to a shed. It will require permits from the City and the County.

Mr. Priced asked about the other sheds on the property.

Ms. Sanderson replied that they will do a code compliance on this shed and include the other sheds on the property.

Mr. Turner swore in Mr. Robert Carter.

Mr. Carter stated that Mr. Lilly has been a mentor for him since he was seven (7) years old when his parents got divorced. He said Mr. Lilly is a Vietnam Veteran and bought this home on a VA loan, which had several inspections. He has lived with Mr. Lilly for about eight (8) years. He is considered a son to Mr. Lilly and the house will go to him when Mr. Lilly passes away. He explained that the gentleman who purchased and lived in the shed was a neighbor who lost his wife and he did not want to live alone or go live in a nursing home. Based on what he understands is that the gentleman paid \$10,000 to a company to have the shed installed and it is anchored down on a concrete slab. The other sheds were on the property and were approved through the VA loan when it was purchased. The shed in question is where his neighbor lived before he died of a heart attack at the age of 73. The shed was there for four (4) years before anything was ever questioned.

Mr. Price stated that the property is zoned for a single family resident, so it needs to be converted back to a shed and the \$500 civil penalty has been paid.

Ms. Sanderson reported that none of the sheds on the property had permits pulled, so they would like to include them on the code compliance.

Mr. Turner asked Mr. Carter what his relationship is to Mr. Lilly.

Mr. Carter replied he is not blood related, but he is Mr. Lilly's son. He is Mr. Lilly's Power of Attorney and it is all written in his will.

Mr. Turner said that his testimony today will impact Mr. Lilly because he owns the property.

Mr. Carter replied that he understands and Mr. Lilly is aware he is representing him today.

Mr. Turner asked if he had the written Power of Attorney with him.

Mr. Carter replied no, but he could provide that tomorrow if he needs to.

Mr. Pizzichillo stated that everything has to come out of the shed including the electrical service.

Ms. Sanderson explained that per the Building Official, when electric is removed they will be asked to obtain a permit so they can confirm that it is done safely. She stated that Mr. Carter will start with the City in doing a code compliance, then he will get a permit to remove the electric and then obtain the tie down permits for the sheds.

Mr. Daige asked how many sheds are on the property.

Ms. Sanderson replied that there are four (4).

Mr. Daige that there are setbacks on the property, so when it is looked at per the Code they might not be able to have all four (4) sheds.

There was a discussion on how many days would be allowed to correct the violation.

Mr. Price moved that the Board finds that there is a violation, that the violation continues, that the Board issues a Board order to correct the violation within 60-days from the date of the Board order or continuing civil penalties in the amount of \$500.00 per day shall commence on the original compliance date of February 22, 2022 until corrected and that the initial civil penalty of \$500.00 has been paid. Mr. McDonald seconded the motion and it passed unanimously.

- e. **CASE #22-CE-12240 / 3421M**
VIOLATOR: Harold Joseph Lilly and Robert Carter, Sr.
VIOLATION: Business Tax Receipt violation – Code Section 70-62 (a)
VIOLATION ADDRESS: 2065 30th Avenue, Vero Beach, Florida 32960
(Failure to comply; Failure to pay \$50.00 civil penalty)

Ms. Sanderson reported that the citation was issued on March 8, 2022 with a compliance date of March 22, 2022 and service was provide by certified mail. The civil penalty was \$50.00. The civil penalty has not been paid and the home occupational business license has not been obtained.

Mr. Price moved that the Board finds that there is a violation, that the violation continues, that the Board issues a Board order to correct the violation within 7-days from the date of the Board order or continuing civil penalties in the amount of \$50.00 per day shall commence on the original compliance date of March 22, 2022 until corrected and to pay the initial civil penalty of \$50.00. Mr. Daige seconded the motion and it passed unanimously.

- f. **CASE #22-CE-12247 / 3426M**
VIOLATOR: First United Methodist Church of Vero Beach, Inc. / Lynn Kiefer, Agent

VIOLATION: Deck and stairs installed without a permit from the Indian River County Building Department – Code Sections 22-181; 22-106

VIOLATION ADDRESS: 2065 18th Avenue, Vero Beach, Florida 32960

(Failure to comply)

Mr. Price stated that one (1) of the violators in this case is a client of his, so he asked how does he proceed.

Mr. Turner explained that if he has a financial interest or business relationship with this person or organization he must excuse himself and pass the gavel to the Vice Chairman.

Mrs. Hillman took the gavel at this time and continued with Case #222-CE-12247.

Ms. Sanderson reported that the citation was issued March 2, 2022 with a compliance date of March 16, 2022 and service was provided by certified mail. The civil penalty was \$50.00. An after the fact permit has been applied for, but it is still being finalized.

Mr. Turner swore in Mrs. Lynn Kiefer, violator, and Mr. Don Seither, First United Methodist Church Facilities Manager.

Mrs. Kiefer explained that Mr. Seither did not believe that a permit was required because they rebuilt the existing steps with a slight modification. They have since found out that a permit was required and it has been applied for. She said she immediately paid the \$50 fine and they have been working diligently on getting the permit and moving through the process.

Mr. Daige asked who is the architect.

Mrs. Kiefer replied that is Mr. Robert Gaskill.

Ms. Sanderson asked what is the size of the deck that was installed.

Mr. Seither replied that it is 7-feet by 7-feet.

Mr. Bryant recommended allowing them 120-days to get it squared away.

Mrs. Hillman moved that the Board finds that there is a violation, that the violation continues, that the Board issues a Board order to correct the violation within 120-days from the date of the Board order or continuing civil penalties in the amount of \$50.00 per day shall commence on the original compliance date of March 16, 2022 until corrected and that the initial civil penalty of \$50.00 has been paid. Mr. Bryant seconded the motion and it passed unanimously.

At this time the gavel was passed back to Mr. Price.

g. CASE #22-CE-12263 / 3434M

VIOLATOR: Studio Gabriel, Inc. / Fran Novak, Agent

VIOLATION: Land Development Code violation – Code Section 60.21 (b)(8)

VIOLATION ADDRESS: 4893 Highway A1A, Vero Beach,
Florida 32963
(Failure to pay \$50.00 civil penalty)

Ms. Sanderson reported that the citation was issued February 15, 2022 with a compliance date of February 16, 2022. The civil penalty of \$50.00 has not been paid and the violation has been corrected.

Mr. Price motioned that the Board finds that there was a violation, the violation has been corrected and that the Board issues a Board order to pay the initial civil penalty of \$50.00. Mr. Pizzichillo seconded the motion and it passed unanimously.

6. OLD BUSINESS

None

7. ADMINISTRATIVE MATTERS

None

8. CLERK'S MATTERS

None

9. ATTORNEY'S MATTERS

None

10. CHAIRMAN'S MATTERS

None

11. MEMBER'S MATTERS

Mrs. Hillman asked where can she find the new City Ordinance pertaining to signs.

Ms. Sanderson replied it can be found under Chapter 38 and it breaks down the size requirements for residential and commercial signs.

Mr. Daige stated that he would like to request they discuss regulations on travel trailers and recreational vehicles (RVs) that are parked on residential properties and not tagged. He asked why are they not being noticed by the Code Officers. He would like to know what the parking regulations are for travel trailers and RVs. He has also noticed people are putting additions onto sheds, but he cannot find anything in the City Code if that is allowed and if so, what is required.

Mr. Turner explained that some of it is per the County Building Codes as well as our City Codes. He stated that he is here as the Board's Attorney to answer questions regarding the Code or legal matters that might come up on their cases, but not to give his legal opinion on matters in general. He said the Code Enforcement Officers are very knowledgeable on all those matters and they enforce the Code when complaints are made.

Mr. Daige stated that he will contact Mr. Jason Jeffries, Planning Director, to get clarification on his questions.

Ms. Sanderson stated if a vehicle is untagged it is a public nuisance, which is a violation and it is addressed. It also has to be an operable vehicle.

12. ADJOURNMENT

Today's meeting adjourned at 3:13 p.m.

/rc