

CODE ENFORCEMENT BOARD MINUTES
Wednesday, April 14, 2021 – 1:30 p.m.
City Hall, Council Chambers, Vero Beach, Florida

PRESENT: Chairman, Eric Price; Vice Chairman, Stephen McDonald; Members: Linda Hillman, Christopher Bryant, Richard Kennedy, Frank Pizzichillo (arrived at 1:31 p.m.) and Ken Daige **Also Present:** Code Enforcement Officer, Melody Sanderson; City Attorney, John Turner and Deputy City Clerk, Sherri Philo

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.

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

3. PRELIMINARY MATTERS

Mr. Kennedy reported that he has a voting conflict and will not be participating in Case #21-CE-11496 – Portales De Vero, Inc.

Mr. John Turner, City Attorney, said that he (Mr. Kennedy) is not entitled to be excused from voting unless a decision in the matter could possibly be to his financial benefit or loss. He asked Mr. Kennedy to state for the record the nature of his conflict.

Mr. Kennedy reported that he serves on the Board of Directors of the Homeowner's Association, which is adjacent to Portales De Vero, Inc., and the allegation is that their contractors removed the trees.

Mr. Turner asked Mr. Kennedy if his Association would be liable in some way for costs.

Mr. Kennedy answered yes.

Mr. Turner said then that is the issue; that this could cost his Association some money.

Mr. Kennedy said that is correct.

Mr. Pizzichillo said that he is the Vice President of his Homeowner's Association and Mr. Charles McKinnon is their attorney (Mr. McKinnon is listed as the Agent of Record for this case). He felt that he should recuse himself from voting.

Mr. Turner said that is not a conflict. He said that Mr. Pizzichillo made the disclosure, which is all that he needed to do.

At this time, Mr. Kennedy submitted to the Deputy City Clerk his Voting Conflict form (attached to the original minutes).

A) Adoption of Minutes – March 10, 2021

Mr. Pizzichillo made a motion to adopt the minutes of the March 10, 2021 Code Enforcement Board meeting. Mr. Daige seconded the motion and it passed unanimously.

B) Agenda Additions, Deletions and Adoption

Ms. Melody Sanderson, Code Enforcement Officer, pulled Case #21-CE-11503 – Christopher Dold and Case #21-CE-11504 – Christopher Dold from today's agenda. She reported that these cases have been postponed in that the Police Officer who is to provide testimony is out of town. She then pulled Case #21-CE-11417 – Dan Cornell and Case #21-CE-11506 – Barry Simon from today's agenda. She reported that both properties are in compliance.

Ms. Sanderson reported that the Property Manager of Portales De Vero, Inc., is not present at this time. She asked that the Board hear this case later on in today's meeting.

Mr. Pizzichillo made a motion to adopt the agenda as amended. Mrs. Hillman seconded the motion and it passed unanimously.

4. UNLICENSED CONTRACTORS/CITATIONS

None

5. EVIDENTIARY HEARINGS

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

A) Citation Appeals

1. CASE #21-CE-11496 / 3202M

VIOLATOR: Portales De Vero, Inc. / Charles McKinnon, Agent

VIOLATION: Eight (8) Palm Trees removed without a permit – Code Sections 72.43; 72.44

VIOLATION ADDRESS: 2855 Ocean Drive, Vero Beach, Florida 32963

Ms. Sanderson reported that Ms. Jody Simon, Property Manager, is present for today's appeal hearing on behalf of Portales De Vero, Inc.

The Deputy City Clerk swore in Ms. Jody Simon.

Ms. Jody Simon, of Lambert Commercial Real Estate, who has been sworn in, reported that on February 25, 2021, she received telephone calls from very irate tenants of the Portales De Vero building questioning why they were not notified that they were taking down the trees. She then went to the site and found that their adjacent neighbors were taking down the trees. She called Code Enforcement for assistance and Ms. Sanderson came out and they were cited for taking down the trees. She said they do not feel it is their fee. She reported that they received an estimate to replace the trees and obtained an after the fact permit. She said that she also has letters from an arborist.

Mr. Price asked who took the trees down.

Ms. Sanderson said it was the adjoining condominium association.

Mr. Price questioned so because the trees were on the Portales De Vero property they are the ones who receives the citation.

Ms. Sanderson said that is correct. She explained that their option is to pursue the matter civilly between the neighbors because the fine goes against the owner of the property where the trees were removed.

Mr. Price asked Ms. Simon if they are pursuing this civilly.

Ms. Simon said that they were waiting to see what happens today. She said that they have over \$2,000 in fines for the trees being removed, they had arborists there, they have a cost of over \$2,600 from CW Willis Family Farms to replace the trees, there are irrigations costs, etc.

Mr. McDonald asked what is the total cost to them.

Ms. Simon said the citation is in the amount of \$2,050.

Mr. McDonald asked how much did it cost for the arborist, the trees, etc.

Ms. Simon reported that the cost for the arborist was \$250, her cost supervision will be about \$750, and the cost for CW Willis Family Farms is \$2,600.

Mr. McDonald said one (1) of the unfortunate parts of the Board's job is that the property owner gets slammed and it is up to the property owner to recover their costs in court. He asked can the Board delay the fine in order to give them time to go through the courts.

Ms. Sanderson said that she received emails from an attorney who is representing the adjoining association who stated that they want to work with Portales De Vero, Inc.

Mr. Bryant asked can the Board continue the case for 60-days in order to give them time to work this out.

Ms. Sanderson asked Ms. Simon if she has had any contact with them or their attorney.

Ms. Simon answered not for about three (3) weeks. She said that she did receive a drawing and they wanted to put in Foxtail Palms, which she declined. She said that she has the tree permit and the City told her to replace the trees with Sable Palms.

Mr. Daige said it is unfortunate that the citation does go against the property owner. In this case he is not in favor of doing away with the citation and it is up to the property owner to deal with the people who took the trees down. He said that he could see allowing 60-days to give them time to work it out, but the fine should stand.

Ms. Sanderson asked Ms. Simon what she feels the Board's action should be. She asked does she want a continuance on this case or does she want to have the penalty assessed so they could pursue their options.

Ms. Simon felt that was the best way to go about it. She said obviously someone is going to have to pay for this. She is present today to make sure the Board understood it was not Portales De Vero who took down the trees. Someone came on their property, parked in their parking lot, and took down the trees. She said they understand there is a fine and someone should pay it, which they will pursue.

Mr. Turner suggested that the fine be imposed and to let the parties go through their demands and responses. He said the Board order would be filed in due course and then they would have it as evidence.

Mr. Pizzichillo asked what is the policy for remediation.

Ms. Simon said they are replacing the trees with 13 to 14-foot Cabbage Palm Trees.

Mr. McDonald asked is 60-days enough time.

Ms. Simon said the trees will be installed on Monday.

Ms. Sanderson said they have the permit and are in compliance. She asked that the Board impose the fine and allow 30-days to have the new trees installed.

Mr. McDonald moved that the Board finds there is a violation, the violation continues, that the Board issues a Board order to correct the violation within 30-days from the date of the Board order or continuing civil penalties in the amount of \$50 per day shall commence on the original compliance date of March 16, 2021, until corrected and to pay the initial civil penalty of \$2,050. Mr. Pizzichillo seconded the motion and it passed 6-0 with Mr. Kennedy abstaining from the vote.

2. **CASE #21-CE-11503 / 2021000475 / 3209M**
VIOLATOR: Christopher Dold
VIOLATION: Noise violation – Loud music and noise – Code Section 38-61
VIOLATION ADDRESS: 611 East Causeway Boulevard, Vero Beach, Florida 32963

This item was pulled from today's agenda.

3. **CASE #21-CE-11504 / 20211000476 / 3210M**
VIOLATOR: Christopher Dold
VIOLATION: Noise violation – Loud music – Code Section 38-61
VIOLATION ADDRESS: 611 East Causeway Boulevard, Vero Beach, Florida 32963

This item was pulled from today's agenda.

B) Non-Compliance / Compliance Reports

1. Request for Board Order

a. CASE #19-CE-9526 / 1704T

VIOLATOR: Roger A. Jacquelin, Jr. and Maureen K. Jacquelin

VIOLATION: Construction without a permit or approvals – Code Sections 22-106 (a); 64.02 (a)(1)

VIOLATION ADDRESS: 1715 29th Avenue, Vero Beach, Florida 32960

(Property found in compliance as of April 25, 2019. The initial civil penalty of \$100 has been paid. There are continuing penalties of \$100 per day that commenced March 15, 2019 for 41 days x \$100 = \$4,100 plus costs due to the City)

Ms. Sanderson reported that this is a case of Mr. Tom Ramsey, previous Code Enforcement Officer, where the violators were cited for construction of a fence without a permit. The citation was issued on February 13, 2019, and the case went before the Code Enforcement Board and the Board found them in violation and gave them additional time to correct the violation. The violation was corrected on April 17, 2019, and the civil penalty was paid on February 25, 2019. She reported that the violator was cited as a repeat violation with a civil penalty of \$100. However, this was not a repeat violation and the civil penalty should have been \$50, not \$100. She said when this case came before the Board in April, 2019, the Board issued a Board order finding them in violation and allowed time to correct and if not corrected continuing penalties of \$100 per day would commence on March 15, 2019. She reported that no further action was taken by Mr. Ramsey and the daily penalties continued. Earlier this year Mrs. Maureen Jacquelin (property owner) was notified by the title company that there was a lien on the property. Ms. Sanderson said due to the fact that there was no follow-up by the previous Code Enforcement Officer from April 19, 2019, she would request that the Board waive the continuing penalties and find the property in compliance.

Mr. Pizzichillo asked Ms. Sanderson to explain the timeline on this case.

Ms. Sanderson said after this case was brought before the Board there was no further action taken by the previous Code Enforcement Officer to see if the property was brought into compliance, which the property did come into compliance and the continuing penalties continued to accrue. She asked that the Board finds the property in compliance and to waive the penalties.

Mr. McDonald moved that the Board finds that the property is in compliance, to waive the continuing penalties, and to pay costs. Mr. Daige seconded the motion and it passed unanimously.

b. CASE #20-CE-11288 / 3009M

VIOLATOR: Paver Overlays, LLC / Atlantic Hardscape Supply, Inc. / Biran C. Herndon, Agent / John L. and Penny C. Eshleman

VIOLATION: Failure to obtain Code Compliance Certification / Right-of-Way Agreement for installation of pavers – Code Section 64.05 (9)(a)

VIOLATION ADDRESS: 4701 Bethel Creek Drive, Vero Beach, Florida 32963

(Property found in compliance on March 12, 2021. The initial civil penalty of \$50 has been paid. There are continuing penalties of \$50 per day that commenced on November 20, 2020 for 112 days x \$50 = \$5,600 plus costs due to the City)

Ms. Sanderson asked that the Board finds the property in compliance as of March 12, 2021, to cease the continuing penalties, and to issue a Board order to pay the accrued penalties and costs.

Mr. Eduardo Diaz, who has been sworn in, reported that his company did a paver driveway, which required a right-of-way permit and Code Compliance Certification, which unfortunately was not pulled. He said they are a growing company and somehow this fell through the cracks. He reported that the first initial letter that he received was through Mr. Biron Herndon, Agent, who has not had contact with his company for some time. Mr. Diaz explained that his company is in the process of changing their Registered Agent. He said that when he read through the documentation he found that there were a few conflicts, such as the date of when the documents were mailed and the date and timestamp of the United States Postal Service. He reported that the first mailing was by certified mail, which requires a signature and he never received it and has no confirmation that the letter was received. He reported that one (1) document states that it was issued on November 6, 2019, with a pay-by-date of November 20, 2020, but the timestamp on the envelope from the Orlando Post Office is November 25, 2020. He said that he is trying to understand if he was given enough time to comply.

Mr. Price asked when was he aware of the violations.

Mr. Diaz said December 27th or December 28th was when he started receiving the notices, which is also when they started the process of correcting the violations. Between the time that it was recorded with the City to when it was actually notarized, there was a weeks gap and during that weeks gap they were fined \$50 per day. He said they are probably looking at a fine of \$6,000 or \$7,000 fine on a footer permit that originally would have cost them \$50.

Mr. Price asked Ms. Sanderson if he is correct that the notifications were sent to everyone listed on the citation.

Ms. Sanderson reported that the citation was sent to the Agent that was on file, which was Mr. Herndon and he signed it on November 9, 2020. She said that she also emailed the paperwork for Code Compliance Certification to Paver Overlay's, LLC on October 20, 2019, with the explanation that this application was required for the work they were doing. On October 23, 2020, she followed up on it and spoke with Mr. Diaz and advised him that Code Compliance Certification was required.

Mr. Diaz said if the Board finds there is a fault, they will pay the fine and move on. He is not present today to fight this. He just felt that based on some of the notices they were not given the allotted time to correct the violation.

Mr. Pizzichillo said it was stated that the Orlando office received something on November 25, 2019.

Mr. Diaz said that is correct.

Mr. Pizzichillo said that is an internal matter and his company was officially notified. If someone in their company is slow, that is not the City's problem. He sees this is the company's problem.

Ms. Sanderson reported that the Notice of Hearing was mailed to the Ft. Pierce address, the owner's address, and to the local address.

Mr. Diaz asked do you have a record of them being received. He reported that the only one (1) that he received was from Mr. Herndon, which was late.

Mr. McDonald asked what is the date of the letter.

Mr. Diaz said the envelope was time stamped on November 25, 2019.

Mr. McDonald asked how many days are you contesting. He said there are penalties that accumulated from November 20, 2019, through March 12, 2021.

Mr. Diaz answered 30-days for the days between when it was filed, notarized, and mailed to them.

Mr. Daige said as he understands it, the certified letter was sent to their Orlando office.

Mr. Diaz answered no. His office is based out of Ft. Pierce. What he was stating is that the letter that he received had a \$50 fine with the pay-by-date of November 20, 2020, but he did not receive the letter by that date based on the timestamp of the Orlando Post Office.

Mr. Daige asked are you the contractor of record.

Mr. Diaz answered no, he is the manager.

Mr. Daige asked who is the contractor.

Mr. Diaz answered Mr. Richard Barry.

Mr. Kennedy asked what are you asking of the Board.

Mr. Diaz asked for leniency of the fines. He understands that they didn't get the permit and that has been corrected.

Ms. Sanderson noted that the Code Compliance Certification application was emailed to the business on October 20, 2020, and she followed up on this with a telephone call on October 23, 2020.

Mr. Pizzichillo said the Code Enforcement Officer has done her due diligence and he does not believe there is a need for leniency. He said they received a written notice in the mail and they received an email.

Mr. Diaz said the notice was not delivered on time based on their timetable. He said that he would need to confirm the email with his office and that is something that they will need to work on.

Ms. Sanderson asked is there a reason why he didn't attend the Code Enforcement Board hearing when his case was heard in December.

Mr. Diaz said if he was aware of the situation he would have paid the \$50 penalty and called it a day. He said that he is asking the Board for some leniency on the fees. They are talking about a \$6,000 or \$7,000 cost.

Mr. Daige said that he understands what Mr. Diaz is stating and it is unfortunate, but it sounds to him that there is an internal problem at the top and it is up to them to make sure the people in the field receives the paperwork. He said it would be difficult for him to waive the fees. He said the Code Enforcement Officer did her job and followed through on the paperwork.

Mr. Pizzichillo said the pivotal point for him is that an email was sent on October 20, 2020, so there was plenty of notice.

Mr. McDonald moved that the Board finds that there was a violation, that the violation has been corrected and that the Board issues a Board order to pay the amount due listed as \$5,600 and the cost of enforcement.

Ms. Sherri Philo, Deputy City Clerk, asked is she correct that the Code Officer is requesting that the Board cease the continuing penalties.

Ms. Sanderson said that is correct.

Mr. McDonald continued with his motion that the Board finds the property in compliance as of March 12, 2021, to cease the continuing penalties of \$50 per day, and to pay the accrued continued penalties and costs. Mr. Kennedy seconded the motion and it passed unanimously.

- c. **CASE #20-CE-11287 / 3008M**
VIOLATOR: Acacia Treasure Coast, LLC / Erol R. Atamer, Agent
VIOLATION: Public nuisance; Weeds, grass, or undergrowth at a height of more than 12 inches – Code Section 38-31 (a)(b)(1)
VIOLATION ADDRESS: 1110 Royal Palm Boulevard, Vero Beach, Florida 32960
(Property found in compliance on January 6, 2021. The initial civil penalty of \$100 and costs of enforcement of \$55.96 have not been paid. There are continuing penalties of \$100 per day that commenced on November 20, 2020 for 47 days x \$100 = 4,700, plus \$155.96, plus costs due to the City)

Ms. Sanderson reported that Dr. Atamer would like to request a continuance in that he is in the process of working with the City on a Code Compliance Agreement on an unsafe structure on his property. She asked that the Board continues this case to their May meeting.

Mr. Pizzichillo asked how unsafe is the structure.

Mr. McDonald said this case is for a violation of weeds, grass, or undergrowth.

The Deputy City Clerk swore in Mr. Jason Jeffries.

Mr. Jason Jeffries, Planning and Development Director, who has been sworn in, reported that he was on site with the Building Official and the violator is in the process of working with the City on a Compliance Agreement that relates to both the grass and the unsafe structure. The building is not any threat to public safety. It is secure according to the Building Official. He reported that he has been working with the property owner for the past two (2) years. According to the Historic Preservation Commission this site is potentially historic. He said that he has been working with staff in terms of finding a way the building could be preserved.

Mr. McDonald said before the Board grants a continuance, he would like to know if the violation has been corrected.

Ms. Sanderson reported that that the property is in compliance.

Mr. Daige asked is the property for sale.

Mr. Jeffries said the property is listed for sale. He reported that there is another case on this property that is scheduled to be heard by the Board at their May meeting in which the Board will hear both cases. He said they will have a Compliance Agreement and the property owners may have a potential buyer at that time that could be a party to the Compliance Agreement.

Mr. Kennedy moved to grant the continuance (that the Board grants a continuance on this case to the May Code Enforcement Board meeting). Mr. Daige seconded the motion and it passed unanimously.

- d. CASE #16-CE-6432 / 0826M**
VIOLATOR: High Tide Auto Wholesale, Inc.
VIOLATION: Repair and sales of vehicles without business tax receipt and site plan approval – Code Sections 70.62 (a)(1)(2)(3); 64.06 (a)
VIOLATION ADDRESS: 2626 U.S. Highway 1, Vero Beach, Florida 32960
(Property found in compliance as of October 17, 2016. The initial civil penalty of \$50 has not been paid. There are continuing penalties of \$50 per day that commenced on March 22, 2016 for 209 days = \$10,450, plus \$50, plus costs due to the City)

Ms. Sanderson reported that the property came into compliance on October 17, 2016. She asked that the Board finds the property in compliance and to waive the penalties. She noted that the property is no longer occupied by this tenant.

Mr. McDonald moved that the Board finds that there was a violation, the violation has been corrected, and that the Board issues a Board order to waive all penalties and to pay associated costs. Mr. Pizzichillo seconded the motion and it passed unanimously.

- e. **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); 22-181; 22-106
VIOLATION ADDRESS: 1616 24th Avenue, Vero Beach, Florida 32960
(Property found in compliance as of March 19, 2021. The initial civil penalty of \$50 has not been paid. There are continuing penalties of \$50 per day that commenced on November 6, 2020 for 133 days = \$6,650, plus \$50, plus costs due to the City)

Ms. Sanderson reported that this case was cited for brick pavers and a fence installed without Code Compliance Certification or a building permit. The citation was issued on October 23, 2020, with service of the citation provided by property posting and first class mail. The violation was corrected on March 19, 2021, and the civil penalty has not been paid. She requested that the Board finds the property in compliance as of March 19, 2021, to cease the continuing penalties, and to pay the initial civil penalty and costs.

Mr. Bryant noted for the record that this case is before the Board at the request of the Code Enforcement Officer for a Board order. It is not before the Board under an appeal.

The Deputy City Clerk swore in Mrs. Barbara Hooker and Mr. Michael Hooker en masse.

Mrs. Barbara Hooker, who has been sworn in, said that she was confused because she thought that they were not getting fined. She said they did not know about the permitting process for the footers. They normally work in the County and this is the first property that they worked on in the City. She said they went ahead and pulled a permit with the County for the fence. She said that they did not realize they did anything wrong by replacing the fence because the old fence was rotted. She said that she did not realize they were getting fined. She thought they had time to get their permit, which was held up at the County. She reported that they have received the permit. She said that they still have to call in for their final inspection.

Ms. Sanderson reported that the Code Compliance had some conditions from the City Public Works and Engineering Department on what needed to be done and that was issued on November 12, 2020. This case came before the Board to find the property in violation on January 13, 2021, and at that time nothing was in compliance, the permit had not been applied for, and the Code Compliance Certification had not been completed.

Mr. Price asked why is the Board hearing this case again.

Mrs. Hooker said when this case was previously heard she had Covid. She said that when she emailed Ms. Sanderson she must have misunderstood. She said that she was on it and pursuing the permits, but the City took time, the County took time, then Covid, etc.

Mr. Pizzichillo asked Ms. Sanderson what is the date that she first inspected this property.

Ms. Sanderson reported that the original violation date was October 22, 2020.

Ms. Sanderson asked Mrs. Hooker if she works for the BMI Group.

Mrs. Hooker answered yes.

Ms. Sanderson asked what is The BMI Group.

Mrs. Hooker said now they are doing pools.

Mr. Daige asked what is BMI.

Ms. Sanderson said it states that they are a general contracting company.

Mrs. Hooker said that pays their bills.

Ms. Sanderson said they have to know what the requirements are.

Mrs. Hooker said the requirements are different in the County and in the City.

Mr. Michael Hooker, who has been sworn in, said before he called Ms. Sanderson he spoke with the County and they said they were not aware of what he was talking about. He said no one knew about this until he spoke with Ms. Sanderson and she told him that the footer needed to go at the base where the asphalt meets the pavers. He then spoke to a couple paver companies and they told him that he could put the pavers over the top. He said the concrete will be poured tomorrow and he is waiting on the inspection. He said they did not know they were being fined.

Mr. Bryant asked did they call the County or the City for the inspection.

Mr. Hooker said they called the County for the fence and the City for the footer.

Mrs. Hooker said they have to speak with Mr. Jeffries before they can get their final inspection.

Mr. McDonald said the particulars are not in question. He asked how did they go from November 6, 2020, to March 19, 2021, and not know they were in violation.

Mrs. Hooker said they were doing everything, but they got hit with Covid.

Mr. McDonald asked were you in communications with anyone.

Mrs. Hooker answered yes. She said that she was emailing Ms. Sanderson and her husband was calling her. She said they didn't get their permit until March.

Mr. McDonald asked were you here for the Board meeting when their case was heard.

Mrs. Hooker answered no. She said that she was very sick and she spoke with Ms. Sanderson who told her it was okay, that the Board gave them extra time to comply.

Ms. Sanderson reported that Mrs. Hooker called her the day after the hearing and requested that their case be rescheduled and she explained to Mrs. Hooker that the Board had already heard her case and she told her what the Board ordered.

Mr. McDonald said so she was aware then of the penalties.

Ms. Sanderson reported that the Board order was mailed to Mrs. Hooker through the City Clerk's office.

Mr. Pizzichillo asked Ms. Sanderson if she stated that she received the telephone call from Mrs. Hooker the day after the Board hearing.

Ms. Sanderson said that is correct because she had Covid.

Mr. Daige asked do they have contractor of record doing the work or are the homeowners acting as contractors. He asked is this their personal house.

Mr. Price said the property is a rental.

Mr. Daige asked is a licensed contractor pulling the permits or is it the homeowner.

Mrs. Hooker said it is in a corporate name.

Mr. Daige asked who is the contractor of record.

Mrs. Hooker answered BMI. She said they do a lot of work in the County and this is the first property in the City.

Mr. Daige said BMI is the contractor of record that holds the license to do the work. He asked is that a person or an entity.

Mrs. Hooker said both.

Mr. Daige said to his knowledge it has to be a live person that holds the license. He asked who holds the license for the work.

Mrs. Hooker answered her company.

Mr. Daige questioned so you hold the contractor's license.

Mrs. Hooker answered yes.

Ms. Sanderson said if there was a delay in getting the permit through the Building Department it was because it was for an after the fact permit for the fence and those tend to take more time.

Mr. McDonald asked when did they apply for the permit.

Ms. Sanderson reported that the permit was issued on March 19, 2021, which is the date she complied the case.

Mrs. Hooker reported that the application was submitted sometime in February. She said that she had no idea about the fines, although she did not read everything on the documentation.

Mr. Daige asked Mrs. Hooker what license she holds in the State Florida.

Mrs. Hooker said they have a qualifier and they work under him.

Mr. McDonald said considering the Covid issue and the time that the permitting process takes, he could see a recommendation for a reduction in the total fine.

Mr. Pizzichillo agreed.

Mr. Price asked Mrs. Hooker when she had Covid. Was it before or after the violation was to be corrected. He was told at the time of their January 12th Board meeting.

Mr. Price said the original citation was in October and she didn't have Covid until January.

Mrs. Hooker said that she had two (2) children who also had Covid.

Ms. Sanderson reported that the comments from the City Planner were emailed to Mrs. Hooker on November 19, 2020, telling her that their comments had to be addressed before Code Compliance Certification could be obtained.

Mr. McDonald suggested that the Board waive 30-days of the accrued penalties and charge them for 100 days at \$50 per day, which would reduce the penalties from \$6,650 to \$5,000.

Mr. Pizzichillo felt that Mr. McDonald's gesture should be sternly considered based on the information they heard today with one (1) of the overriding factors being Covid. He said that they don't know what horrible things they had to go through. He is amenable to reducing the fine. He felt it was reasonable in this case.

Mr. McDonald moved that the Board finds there was a violation, the violation has been corrected, that the Board issues a Board order reducing the continuing penalties from \$6,650 to \$5,000 and to pay the reduced penalties along with the cost of enforcement and the \$50 initial civil penalty. Mr. Pizzichillo seconded the motion and it passed unanimously.

- f. **CASE #20-CE-11301 / 3020M**
VIOLATOR: Stephen D. Boyles
VIOLATION: Front deck constructed without Code Compliance Certification or building permit – Code Sections 64.05 (a)(b)(9)(b); 22-181; 22-106
VIOLATION ADDRESS: 2626 11th Avenue, Vero Beach, Florida 32960
(Failure to comply)

Ms. Sanderson reported that service of the citation was provided by property posting and first class mail. The violation has not been corrected and the civil penalty has been paid. She asked that the Board finds that there is a violation, the violation continues, and 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 \$50 per day shall commence on the original compliance date of February 8, 2021, until corrected, that the civil penalty has been paid and there are costs of enforcement of \$78.47.

Mr. McDonald moved that the Board finds that there is a violation, 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 \$50 a day shall commence on the original compliance date of February 8, 2021, until corrected and to pay the cost of enforcement of \$78.47. Mr. Pizzichillo seconded the motion and it passed unanimously.

- g. CASE #20-CE-11380 / 3096M**
VIOLATOR: John Desjardins
VIOLATION: Shed installed without Code Compliance Certification or building permit – Code Sections 64.05 (a)(b)(9)(b); 22-181; 22-106
VIOLATION ADDRESS: 2675 10th Court, Vero Beach, Florida 32960
(Failure to comply)

Ms. Sanderson reported that the citation was issued on January 7, 2021, as a repeat third time violation for work being done without a permit. Service of the citation was provided by certified mail. The violation has not been corrected and the civil penalty has been paid. There are enforcement costs of \$63.00. She reported that a Code Compliance Certification application was received by the Planning and Development Department. The Planning and Development Department emailed the property owner requesting more information. No information was provided so she called the property owner on May 4, 2021, and told him that additional information was required to complete the application and she has not heard from him since then.

Mr. McDonald asked what is the original date of the violation.

Ms. Sanderson answered January 7, 2021.

Mr. John Banbean (spelling may be incorrect), of Ft. Pierce, who has been sworn in, stated that Mr. John Desjardins, Property Owner, emailed him the information that was sent to him, along with a copy of two (2) checks that were paid. He said that he doesn't know what this is about.

Mr. Price said they don't have proof of compliance.

Ms. Sanderson thought the two (2) checks were for the payment of the civil penalty and the cost of the Code Compliance Certification application.

Mr. Banbean said one (1) check was in the amount of \$110 and the other check was in the amount of \$150.

Ms. Sanderson said the check for \$150 was for the civil penalty and the check for \$110 was for the application.

Mrs. Hillman asked Ms. Sanderson to explain the three (3) time repeat violation.

Ms. Sanderson reported that this is the third time the property owner has been cited for work without a permit.

Ms. Sanderson asked Mr. Banbean if he was the contractor.

Mr. Banbean answered no. He said that Mr. Desjardins is out of town, his attorney passed away, so Mr. Desjardins asked him to step in for him today.

Mr. Turner asked what relation he is to the violator.

Mr. Banbean said that he is just a good friend.

Mr. Turner asked are you his attorney.

Mr. Banbean answered no.

Mr. Turner said there is not much they can do if Mr. Banbean is not a representative of the violator.

Ms. Sanderson reported that the property owner was emailed on January 21, 2021, telling him that his application was incomplete and what he needed to do was provide a sketch showing the shed.

Mr. Daigne said that he understands a friend attending today's hearing and trying to help, but he agrees with Mr. Turner in that Mr. Banbean is not the registered agent, is not the contractor of record, and he is not an attorney. He said that they were negotiating with a friend and he is not in favor of that.

Mr. Price said they are not negotiating. What he was trying to do was to finish the case amongst the Board members and to let Mr. Banbean know what was required if he wanted to pass along the information to Mr. Desjardins.

Mr. Daigne said that he is not interested in doing that. Mr. Desjardins is not present and he didn't send an attorney.

Mr. Pizzichillo said as far as he is concerned, this is a failure to appear.

Mr. Turner said that is correct. He said this gentleman (Mr. Banbean), as nice as he is to come in and assist his friend, is not a legal representative of the violator. Therefore, any action taken with an appearance of someone on behalf of the violator is non-effective because they are not an agent or someone recognized under the City's Code to speak on behalf of the violator.

Mr. Price said that he wanted to tell Mr. Banbean to let Mr. Desjardins know that he needs to contact Ms. Sanderson.

Ms. Sanderson repeated for the record that an email was sent to Mr. Desjardins on January 21, 2021, telling him that he needed to submit a sketch.

Mr. Banbean said that he took some measurements of the property and sent them to Mr. Desjardins. He asked did Mr. Desjardins submit it to the City.

Ms. Sanderson said that she does not show that anything has been done to complete the process.

Mr. Daige said that he is in agreement with the City Attorney. Mr. Desjardins is not present, no contractor of record is present, and he did not send an attorney. He said it is Mr. Turner's advice that they don't take any action. He said that he is going to go with the advice of the Attorney.

Mr. McDonald asked if they do that, what would the Board request. He asked could they assess continuing penalties on this case.

Mr. Turner said it is the same as non-appearance.

Ms. Sanderson asked that they allow 90-days to complete the process or continuing penalties would commence on the original compliance date.

Mr. Turner said the Board is to enter a Board order on this case because this case was scheduled to be heard today. He said the property owner did not appear legally by a representative so anything Mr. Banbean stated is not admissible evidence. He said the Board is to enter a Board order, which will contain certain statements and conditions, but there would not be any response noted.

Mr. McDonald moved that that the Board finds there is a violation, 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 \$150 per day shall commence on the original compliance date of January 21, 2021, and that the initial civil penalty has been paid and to pay the cost of enforcement of \$63.00. Mr. Pizzichillo seconded the motion and it passed unanimously.

- h. CASE #21-CE-11468 / 3174M**
VIOLATOR: 1901 33rd Avenue, LLC and Sunshine Corporate Filings, LLC
VIOLATION: Public nuisance: stagnant swimming pool – Code Section 38-31 (b)(7)
VIOLATION ADDRESS: 1901 33rd Avenue, Vero Beach, Florida 32960
(Failure to comply)

Ms. Sanderson reported that service of the citation was provided by certified mail. The civil penalty has been paid. She asked that the Board finds that there is a violation, the violation continues and to issue a Board order to correct the violation within 30-days from the date of the Board order or continuing civil penalties in the amount of \$50 per day shall commence on the original compliance date of March 20, 2021, until corrected and that the initial civil penalty has been paid. The City is not requesting costs of enforcement.

Mr. McDonald moved that the Board finds there is a violation, the violation continues, and that the Board issues a Board order to correct the violation within 30-days from the date of the Board order or continuing civil penalties in the amount of \$50 per day shall commence on the original compliance date of March 2, 2021, until corrected and that the initial civil penalty has been paid. Mrs. Hillman seconded the motion and it passed unanimously.

Mr. Pizzichillo said that he is interested in the health factor of mosquitos, etc. He asked at what point can the City step in if a person does not comply with a health problem, which he sees is a possibility with a stagnant pool.

Ms. Sanderson said this is a vacant piece of property so the City could possibly abate it.

Mr. Pizzichillo questioned so in 30-days if it is not corrected the City could do something.

Ms. Sanderson said they will try to move forward in that regard.

i. CASE #21-CE-11441 / 3172M

VIOLATOR: John Martin Monko, Jr.

VIOLATION: Failure to obtain a building permit for the enclosed structural wall and the AC mini-split system installed

VIOLATION ADDRESS: 442 Conn Way, Vero Beach, Florida 32963

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

Ms. Sanderson reported the violator was cited for failure to obtain a building permit for the enclosed structural wall and the AC mini-split system that was installed. The citation was issued on February 15, 2021. The violation has not been corrected and the civil penalty has not been paid.

Mr. Michael Collins, of the Indian River County Building Department Contractor Licensing, who has been sworn in, stated that the Notice of Violation from the Building Department was posted on November 16, 2020. As of today, no permits have been pulled.

The Deputy City Clerk swore in Mr. John Monko.

Mr. John Monko, Property Owner, who has been sworn in, said that he purchased the house a year ago and he is currently waiting on the permits from Jimmy's A/C. He reported that in the beginning of March, 2019 they replaced the front door, which had a window that was framed in. He said that he is willing to pay the fine and is currently waiting on the two (2) permits.

Mr. Price said the violation is for failure to obtain a permit for the wall.

Mr. Monko explained that there was a door window that was framed into the wall. In March of last year there was a rainstorm and it started leaking. He said that Jimmy's A/C is pulling the permit.

Mr. Price asked Mr. Monko when he thinks he could be in compliance.

Mr. Monko asked that the Board give him a month to bring the property into compliance. He said that he would have the permits by June 15, 2021.

Mr. Price suggested the compliance date of June 8, 2021.

Ms. Sanderson asked that the Board allow 30-days to come into compliance.

Mr. Price questioned so he would need a building permit for the wall to come into compliance.

Mr. Monko said there are two (2) violations, the wall and the split air conditioning unit.

Ms. Sanderson asked that the Board allow 30-days from the date of the Board order to correct the violations.

Mr. McDonald asked Mr. Monko if he has any idea on when the permits will be issued.

Mr. Monko said that he should receive the air conditioning permit in the next day or so.

Mr. McDonald asked what about the permit for the door.

Mr. Monko said the contractor is working on pulling the permit.

Mr. Bryant suggested that they give him until June or July to comply. He said that he applied for a driveway replacement permit in January and he still has not received it.

Ms. Sanderson suggested that the Board allow 90-days from the date of the Board order to comply. She asked that the Board order includes that the initial civil penalty has not been paid and there are enforcement costs of \$44.70.

Mr. Monko asked who he is to make the payment to. He has his checkbook and will pay it today.

Mr. McDonald moved that the Board finds there is a violation, the violation continues, that the Board issues a Board order to correct the violation within 90-days from the date of the Board order or continuing civil penalties in the amount of \$50 per day will commence from the original compliance date of February 26, 2021, until corrected and to pay the initial civil penalty of \$50 and the enforcement costs of \$44.70. Mr. Daige seconded the motion and it passed unanimously.

- j. CASE #21-CE-11490 / 3196M**
VIOLATOR: Christopher Dean and Jenifer Stepanek
VIOLATION: Pine trees removed without a permit – Code Sections 72.41; 72.44
VIOLATION ADDRESS: 2635 Victory Boulevard, Vero Beach, Florida 32960
(Failure to comply)

Ms. Sanderson reported that service of the citation was by provided certified mail. She reported that the violation has not been corrected and the civil penalty has been paid. There is a cost of enforcement in the amount of \$51.66.

Mr. Chris Stepanek, Property Owner, who has been sworn in, said when he received the first citation in the mail, the box that states it is a correctable offense was not checked so he didn't think that he had to do anything but pay the fine, which he paid immediately.

Mr. McDonald moved that the Board allows 30-days to secure a permit (that the Board issues a Board order allowing 30-days to secure a permit). Mr. Daige seconded the motion and it passed unanimously.

Mr. Stepanek questioned what he needed to do to comply.

Ms. Sanderson explained that there is a tree permit application in the lobby of City Hall that he needs to complete, along with the application fee of \$40, which can be submitted through the drive-through window of the Utilities Department or it can be dropped off in the yellow bin that is also located in the lobby of City Hall.

- k. CASE #21-CE-11483 / 3189M**
VIOLATOR: 827 22nd Street, LLC / Fred Piumelli, Agent
VIOLATION: Failure to obtain Code Compliance Certification or building permit – Code Section 64.05 (a)(b)(9)(b)(10)(a) – Repeat violation
VIOLATION ADDRESS: 827 22nd Street, Vero Beach, Florida 32960
(Failure to comply; Failure to pay \$100 civil penalty)

Ms. Sanderson reported that service of the citation was provided by property posting. The violation has not been corrected and the civil penalty was paid on April 12, 2021. There are enforcement cost of \$61.58. She asked that the Board finds that there is a violation, the violation continues, and to issue a Board order to correct the violation within 45-days from the date of the Board order or continuing civil penalties in the amount of \$100 per day shall commence on the original compliance date of March 9, 2021, until corrected and that the civil penalty has been paid and to pay the enforcement costs of \$61.58.

The Deputy City Clerk swore in Mr. Fred Piumelli.

Mr. Fred Piumelli, Property Agent, who has been sworn in, reported that the civil penalty has been paid and the permits have been applied for.

Ms. Sanderson reported that Mr. Piumelli has purchased several properties throughout the City and is enthusiastic on the rehab of them. She said with this property he put the cart before the horse. She said that he is doing everything that he can to come into compliance and needs more time to complete the process.

Mr. McDonald asked is 45-days enough time.

Ms. Sanderson asked that the Board allow 90-days because it involves a fence permit.

Mr. McDonald moved that the Board finds that there is a violation, the violation continues, that the Board issues a Board order to correct the violation within 90-days days from the date of the Board order or continuing civil penalties of \$100 a day shall commence on the original compliance date of March 9, 2021, until corrected, that the

initial civil penalty has been paid and to pay the costs of enforcement of \$61.58. Mr. Pizzichillo seconded the motion and it passed unanimously.

I. CASE #21-CE-11491 / 3197M

VIOLATOR: Robenson Juste, LLC / Cottrell Tax and Accounting, LLC, Agent

VIOLATION: Trees removed without a permit – Code Sections 72.41; 72.44

VIOLATION ADDRESS: 5075 Highway A1A, Vero Beach, Florida 32963

(Failure to comply; Failure to pay \$800 civil penalty)

Ms. Sanderson reported that service of the citation was provided by certified mail. Mr. Robenson Juste immediately contacted her upon receipt of the citation and explained the situation that he was in.

Mr. Robenson Juste, Violator, who has been sworn in, reported that he hired Mr. Elias Mendoza, of The American Pavers Contractor, Inc., to do the paving work. He said there were two (2) existing concrete parking spots on the property and he wanted them to add two (2) paver driveways on the side of the two (2) parking spots. He reported that Mr. Mendoza started the work and impeding him were three (3) Cabbage Palm Trees. Mr. Mendoza had the three (3) trees removed and that is when he (Mr. Juste) received the citation. He said that he immediately contacted Ms. Sanderson and explained that he thought Mr. Mendoza did everything that he needed to do. He said that he then obtained the permit paperwork, filled it out, and gave it to Mr. Mendoza to turn in. He said there is an \$800 fine for the tree removal and a \$50 fine for the pavers.

Ms. Sanderson explained that there are two (2) cases on this property and the Board is currently hearing the case regarding the trees. She asked did Mr. Mendoza hire a contractor to remove the trees.

Mr. Juste reported that Mr. Mendoza hired Mr. George Bolon, of Reliable Tree and Lawn Service, to do the tree work.

Mr. McDonald asked Mr. Juste if Mr. Mendoza told him a permit was not required.

Mr. Juste answered no. He said that he didn't want to be in this position, which is why he hired a contractor. He said that he made two (2) mistakes. The first mistake was hiring Mr. Mendoza and the second mistake was paying him.

Mr. McDonald asked if the fine has been paid.

Mr. Juste said that he immediately applied for the permit and he thought that he would have time with the fine, but he can pay what needs to be paid.

Ms. Sanderson thought that he would need to pay the fines and pursue the matter civilly to get his money back from the contractor.

Mr. Pizzichillo asked Mr. Juste if he would be replacing the trees.

Mr. Juste answered yes.

Ms. Sanderson reported that there were two (2) permit applications in the City Planning and Development Department for review. One (1) permit is for the trees and one (1) permit is for the pavers. The applications have been under review for several weeks, which means that they probably contacted Mr. Mendoza requesting additional information. She suggested that Mr. Juste contact the Planning and Development Department to find out the status.

Mr. McDonald asked how much time should the Board give him to comply.

Ms. Sanderson suggested that the Board allow 60-days to comply.

Mr. McDonald moved that the Board finds there is a violation, the violation continues, and that the Board issues a Board order to correct the violation within 60-days of the Board order or continuing penalties in the amount of \$50 per day shall commence on the original compliance date of March 10, 2021, until corrected and to pay the initial civil penalty of \$50, plus costs, plus the \$800 fine. Mr. Pizzichillo seconded the motion and it passed unanimously.

m. CASE #21-CE-11492 / 3198M

VIOLATOR: Robenson Juste, LLC / Cottrell Tax and Accounting, LLC / The American Pavers Contractors, Inc. / Elias Mendoza, Agent

VIOLATION: Pavers installed without Code Compliance certification from the Vero Beach Planning and Development Department – Code Section 64.05 (11)

VIOLATION ADDRESS: 5075 Highway A1A, Vero Beach, Florida 32963

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

Ms. Sanderson reported that service of the citation was provided by certified mail. She stated that there are enforcement costs of \$68.54 and the initial civil penalty has not been paid. She requested that the Board allow 60-days to comply.

Mr. McDonald questioned so he just never got the permit.

Mr. Juste said that Mr. Mendoza did not, but he came in immediately and filled out the paperwork.

Ms. Sanderson said the application was submitted, but it was held up because additional information was required.

Mr. Juste said that Mr. Mendoza is the only one who could give the City the information needed because he is the contractor.

Ms. Sanderson said at this point they would have Mr. Juste work with the Planning and Development Department to see how they can get the application completed.

Mr. McDonald moved that the Board finds there is a violation, 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 \$50 per day shall commence on the original compliance date of March 10, 2021, until corrected, and to

pay the initial civil penalty of \$50 and any associated costs, along with enforcement costs of \$68.54. Mr. Daige seconded the motion and it passed unanimously.

- n. **CASE #21-CE-11417 / 3131M**
VIOLATOR: Dan R. Cornell
VIOALTION: Sewer use restrictions – Code Section 78-83 (a)(4)
VIOLATION ADDRESS: 1802 Ocean Drive, Vero Beach, Florida 32963
(Failure to comply)

This item was removed from today's agenda.

- o. **CASE #21-CE-11506 / 3212M**
VIOLATOR: Barry Simon
VIOLATION: Oak tree removed without a permit – Code Sections 72.41; 42.43; 72.44
VIOLATION ADDRESS: 1655 30th Avenue, Vero Beach, Florida 32960
(Failure to pay \$300 civil penalty)

This item was pulled from today's agenda.

- p. **CASE #21-CE-11500 / 3206M**
VIOLATOR: Ryan C. Scarpa
VIOLATION: Driveway 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 Section 64.06 (a)(2)(d)
(Failure to comply)

Ms. Sanderson reported that service was provided by certified mail. The violation has not been corrected and the civil penalty has been paid. She reported that she spoke with Mr. Ryan C. Scarpa, Property Owner, this morning and was told that he submitted the Code Compliance Certification application on April 7, 2021. She asked that the Board allow 90-days to come into compliance or continuing civil penalties of \$50 per day shall commence on the original compliance date of March 19, 2021, until corrected and that the civil penalty has been paid.

Mr. McDonald moved that the Board finds there is a violation, the violation continues, that the Board issues a Board order to correct the violation within 90-days from the date of the Board order or continuing civil penalties in the amount of \$50 per day shall commence on the original compliance date of March 19, 2021, until corrected and that the initial civil penalty has been paid. Mr. Pizzichillo seconded the motion and it passed unanimously.

6. OLD BUSINESS

None

7. ADMINISTRATIVE MATTERS

None

8. CLERK'S MATTERS

A) Code Penalty Information

Mr. Turner referred to the code enforcement cases with outstanding fines that was provided in their backup material (on file in the City Clerk's office). He reported that the City Attorney's office is in the process of going through the information to determine which cases would be appropriate to bring before the Board and then to the City Council for possible collection. He hoped that he would have a list of these cases to present to the Board at their May meeting.

9. ATTORNEY'S MATTERS

None

10. CHAIRMAN'S MATTERS

None

11. MEMBER'S MATTERS

None

12. ADJOURNMENT

Today's meeting adjourned at 3:26 p.m.

/sp