

CODE ENFORCEMENT BOARD MINUTES
Wednesday, May 12, 2021 – 1:30 p.m.
City Hall, Council Chambers, Vero Beach, Florida

PRESENT: Chairman, Eric Price; Vice Chairman, Stephen McDonald; Members: Linda Hillman, Frank Pizzichillo and Ken Daige **Also Present:** Code Enforcement Officer, Melody Sanderson; Indian River County Contractor Licensing Investigator, Rick Dunkerley; City Attorney, John Turner and Deputy City Clerk, Sherri Philo

Excused Absences: Richard Kennedy and Christopher Bryant

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

A) Adoption of Minutes – April 14, 2021

Mr. Daige referred to the minutes of the April 14, 2021, Code Enforcement Board meeting. He said when looking at those present for the meeting, after Mr. Pizzichillo's it states that he arrived at 1:31 p.m., and then his name is listed, which makes it look like he also arrived late. He asked that this be changed.

Mr. Price made a motion to adopt the minutes of the April 14, 2021 Code Enforcement Board meeting. Mr. Pizzichillo seconded the motion and it passed unanimously.

B) Agenda Additions, Deletions and Adoption

Ms. Melody Sanderson, Code Enforcement Officer, pulled Case #21-CE-11449 – Maureen Sarah O'Brien from today's agenda. She then pulled Case #21-CE-11453 – Charles and Livia Wilson, Case #21-CE-11531 – Christopher L. Barrington, Case #21-CE-11535 – IRT Partners LP, Case #21-CE-11557 – Barrier Island Management Consultants, Inc. / C. Garris, Agent from today's agenda. She reported that they all were in compliance. She then pulled Case #21-CE-11556 – James Cranston Dozier from today's agenda. She reported that they requested a continuance on this case and the continuance was approved by the Chairman.

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

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

4. UNLICENSED CONTRACTORS/CITATIONS

A) CASE #21-CE-11522 / 3873

VIOLATOR: Lozano Brothers Painting and Decorating LLC

VIOLATION: Licensed contractor or owner builder hiring unlicensed contractor (s) - Code Section 400.01(6); 22-86(f)

VIOLATION ADDRESS: 1260 Olde Doubloon Drive, Vero Beach, Florida 32963

(Failure to pay \$500 civil penalty)

Mr. Rick Dunkerley, Indian River County Contracting Licensing Investigator, reported that on December 18, 2020, staff responded to a complaint of an unlicensed contractor painting a single-family home. He reported that Lozano Brothers Painting and Decorating, LLC had hired the contractor who was doing the work and was not in active status at the time of the citation. Service was provided by certified mail receipt. He asked the Board for a Board order to pay the \$500 penalty.

Mr. Daige asked does the entire \$500 go to Indian River County.

Mr. Dunkerley answered yes.

Mr. John Turner, City Attorney, questioned the administration fees.

Ms. Sherri Philo, Deputy City Clerk, explained that if payment to the County is received after the Board order is recorded, the City would receive recording costs and costs for the City Attorney to prepare a Release of Lien.

Mr. Alberto Lozano, who has been sworn in, said they have everything paid by auto pay through email with their accountant. He thought there was an issue with the Indian River County because the licensing is done by regular mail. He said they hired a subcontractor, Mr. Abelino Solis, and the violation states it was for an unlicensed contractor, but he is active.

Mr. Dunkerley said the citation was for hiring an unlicensed contractor.

Mr. Lozano asked can't they use subcontractors.

Mr. Dunkerley said they have to be licensed.

Mr. Lozano thought that a lot of companies were using form 1099 in order to do jobs.

M. Dunkerley said it has to be a licensed contractor.

Mr. Lozano said then a lot of contractors were in the wrong because they have the idea that if someone has a 1099 they could do the job and don't have to be licensed.

Mr. Daige explained that in this County if a contractor hires a subcontractor, the subcontractor has to be licensed in the trade they are working under. He said form 1099 is a tax form. He asked Mr. Dunkerley if he is correct that the subcontractor in question does not have a license to work in Indian River County.

Mr. Dunkerley said that is the next case he has coming before the Board.

Mr. Daige said then they were citing the contractor of record for hiring an unlicensed contractor and the contractor that was not licensed is still not licensed.

Mr. Dunkerley said that is correct.

Mr. Price asked what is the difference between hiring a temporary employee versus hiring a subcontractor.

Ms. Sanderson answered a tax benefit.

Mr. Price questioned according to the Code.

Ms. Sanderson explained that according to Code, when a contractor hires a subcontractor, the subcontractor has to be licensed.

Mr. Price asked what is the difference between a subcontractor and a temporary employee.

Mr. Dunkerley noted that he was listed as a subcontractor.

Mr. Pizzichillo said the fact of the matter is that a license is needed.

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 and to pay the \$500 civil penalty. Mr. Daige seconded the motion and it passed unanimously.

- B) CASE #21-CE-11523 / 3872**
VIOLATOR: Abelino Solis
VIOLATION: Unlicensed contracting – Code Section 400.01(1); 22-86(a)
VIOLATION ADDRESS: 1260 Old Doubloon Drive, Vero Beach, Florida 32963
(Failure to pay \$500 civil penalty)

Mr. Dunkerley reported that on December 18, 2020, staff responded to a complaint of unlicensed contracting. The citation was issued by certified mail. He requested that the Board issues a Board order to pay the \$500 civil penalty.

Mr. Daige asked even if the Board wanted to, they could not reduce the amount of penalty.

Mr. Turner said that he did not know if the Board had the jurisdiction to reduce the fine.

Mr. Price asked do they have jurisdiction to negate it entirely.

Mr. Turner said the Board could enter a finding of no liability or a finding of not guilty that he didn't violate the Ordinance, etc., but they could not change the amount of the fine.

Mr. Daige said the citation states the violation is for unlicensed contracting and it gives Code Section 400.01. He asked is that a County or State Code.

Mr. Dunkerley said it is a State Code. The citation was written under Code Section 22-86 (a), which is under the City's Ordinance.

Mr. Daige asked Mr. Turner is that the City's Code.

Mr. Turner said that is not a City Code. He said it might be a State Building Code.

Mr. Daige said if it is a State Building Code then the Board could not reduce or waive the penalty. He said if it was a County Code, could the Board reduce the penalty.

Mr. Turner said it is his opinion that the Board could not. He said the jurisdiction is for enforcement of the County Ordinance from the Building Department. It is not the City's Code Enforcement action.

Mr. Pizzichillo said as much as he would like to help, he does not see how they could because of the Statute and the law. Unfortunately they are going to have to pay the fine.

Mr. McDonald moved that the Board finds that there is a violation, that the violation has not been corrected, and that the Board issues a Board order to pay the \$500 penalty. Mr. Pizzichillo seconded the motion and it passed unanimously.

5. EVIDENTIARY HEARINGS

A) Citation Appeals

1. 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

Ms. Sanderson reported that the violation cited was for a noise violation. She read into the record Code Section 38.61, *"It shall be unlawful for any person to make, continue, or cause to be made or continued any excessive, unnecessary, or unreasonable loud noise which disturbs the peace or quiet of any neighborhood or which causes discomfort or annoyance to any reasonable person of normal sensitivity."* She reported that the citation was issued on March 6, 2021, as a repeat violation. Service of the citation was an amended hand delivered citation. This case is before the Board under appeal. She then called Officer Fonseca to the dais.

Ms. Sanderson asked Officer Fonseca how long he has been with the Vero Beach Police Department.

Mr. Giovanni Fonseca, Police Officer, who has been sworn in, answered three (3) and a half years.

Ms. Sanderson asked what is your position.

Officer Fonseca said that he is a Patrol Officer.

Ms. Sanderson asked on March 6, 2021, did you get a call for service for noise on East Causeway Boulevard.

Officer Fonseca answered yes. He reported that he responded to a noise complaint at 611 East Causeway Boulevard.

Ms. Sanderson asked what transpired during that call.

Officer Fonseca reported that on March 6, 2021, at 8:08 p.m., he was dispatched to 611 East Causeway Boulevard in reference to a noise disturbance. While on the property he attempted to make contact with a representative of the property, the property owner, or the tenant and was unsuccessful. He reported that a female advised him from their window that the owner of the property or a representative would not sign the citation and that he could mail the citation to them at a later date.

Ms. Sanderson questioned was the citation issued because of the noise.

Officer Fonseca answered yes. He reported that while in the area he heard loud yelling and loud music, which is why the citation was issued. He said they have had numerous complaints about this property and he has been out to the property many times. He said this is the first time that he issued a citation.

Mr. Christopher Dold, property owner, who has been sworn in, stated that he no longer lives at this address. He reported that he was having a pool party for his friends 30th Birthday and no one told him that they were unhappy with the noise. He didn't think it was unreasonable at all. He said that he didn't know that he was getting a citation. He stated that he had a Christmas party on December 23rd and the Police came at 10:01 p.m. and told him that they received a complaint and asked that they slow the party down, which they did. He reported that the Police Officer explained to him that the rule is that you have to quiet it down after 10:00 p.m. He said this citation was issued at 8:08 p.m. He reported that on this occasion he made sure everyone was clearing out as the time was reaching 10:00 p.m. because he learned his lesson when he had the Christmas party. He is asking that this citation be dismissed.

Mr. McDonald asked Mr. Turner what is the law on noise.

Mr. Turner said it is not just black and white.

Ms. Sanderson said there are two (2) parts to the Noise Ordinance. There is Code Section 38.61, which is the Code Section that she read to the Board, and there is Code Section 38.62, which lists multiples and one (1) of those lists radios, television sets, and musical instruments, which is listed after 10:00 p.m. This noise violation occurred prior to 10:00 p.m., but it was loud enough for a neighbor to call in a complaint and because the Officer could hear it, he issued the citation.

Mr. Price asked how much is the fine.

Ms. Sanderson said it is a repeat violation with a fine of \$100. She explained that another Officer issued a citation in December, 2020.

Mr. Pizzichillo asked how loud was the music by decibels. He said maybe someone's ears are offended and maybe some someone's ears are not offended. This is a subjective matter and they need object ability to measure noise.

Officer Fonseca said there is no device that they use to measure decibels. However, they do have the discretion and he has responded to this property many times and this is the first time that he has issued a citation.

Mr. Pizzichillo said loud noise at 8:08 p.m. is a little different than loud noise after 10:00 p.m. He said that he doesn't know how loud it was or who was offended. He said it has to be more concrete than that.

Mr. Price said they are not here to judge if it was loud or not. They are here to determine if the Police Officer was right.

Mr. Pizzichillo said that is not his question or his thought process.

Officer Fonseca said they do not have a device to measure decibels.

Mr. McDonald asked Officer Fonseca if Mr. Dold had answered the door, was he still going to issue a citation.

Officer Fonseca said that he was going to issue a citation regardless based on the numerous complaints they have had.

Mr. McDonald questioned how many complaints.

Officer Fonseca said there were about eight (8) complaints.

Mr. McDonald asked and you were involved in them.

Officer Fonseca said that he was involved in about five (5) of them.

Mr. Daige said obviously there was a problem. He thinks after hearing from the Officer that there have been numerous complaints, this is justified and they should stick with the fine.

Mr. Turner said as a standard, if there is a noise violation alleged, in order to meet the due process requirements and also to consider the claim that the Ordinance, if it doesn't have a standard or an objective way to determine it, the Courts could find it vague and that it allows too much discretion not only with enforcement, but in trial action. He said to say it offended me because it was too loud, there is no objectively way to determine that. That is what the general noise requirements are. In this case, if it is a violation because of complaints that might be different. They don't have anyone here claiming that they were complaining about it. The only person testifying is the Police Officer.

Mr. Price asked if he was correct that the sound laws do not require the use of a measuring device.

Mr. Tuner didn't think there was a requirement in the City's Noise Ordinance.

Ms. Sanderson said not to her knowledge.

Mr. Daige asked Mr. Price how many noise complaints have there been since he has been on the Board.

Mr. Price said this is the first one (1) that he has seen come before the Board.

Ms. Sanderson said this is the first one (1) because it is being appealed. Other citations that have been issued were paid.

Mr. Price said that he doesn't want to say that Mr. Dold is guilty because people complained, but they do have to take the Officer's judgement into consideration and the past history. He asked Officer Fonseca if he notes the times when he went to the property, but didn't issue a citation.

Officer Fonseca explained that when he gets dispatched, he does not receive the information on who made the complaint. He responds to the general area of the call and will park his vehicle and if he can hear it from where he is parked then he knows it is loud.

Mr. Price asked do you make a record of the incident even though a citation was not issued.

Officer Fonseca said that he writes a report.

Mr. Price said then somewhere there is a measurable listing of these other instances.

Officer Fonseca said there might be more instances, but he was talking about the calls that he had received. He was not sure how many other Officers have responded to this residence.

Mr. Pizzichillo feels that there is an awful burden on the Officer to make a determination on what is loud and what is not loud. He would urge the City to buy the meter necessary and to write an Ordinance on what is loud and what is not loud based on the hours of the day.

Mr. Daige asked Officer Fonseca, if he has had the opportunity to speak with the occupants of the home.

Officer Fonseca said that he has in the past.

Mr. Daige felt the Officer did his job and did it thoroughly and he was still okay with keeping the fine as it is.

Mr. Dold said that he was having a pool party in the backyard and he doesn't know why the Officer didn't just walk around to the back to tell him there was a problem. He said that his 18-month old daughter was sleeping when the party was taking place. He said there was one (1) incident when he had company and they were in the hot tub and an Officer came and asked that they turn down the music, which they did. Then they had a Christmas party and an Officer came at 10:01 p.m. and explained the Ordinance to him and issued him a \$50 citation, which he paid because he felt it was reasonable. This time he didn't think that he was loud at all. He said that after he received the citation he contacted his neighbors and they told him that he was not loud at all. For him, the \$100 citation is not a big deal, but he

would like to know the rules. He has one (1) Officer telling him that he has to quiet down at 10:00 p.m. and then another Officer telling him that he was too loud at 8:00 p.m.

Mr. Price said it was stated that there were two (2) Ordinances with one (1) covering after 10:00 p.m. and the other covering everything else.

Mr. Turner explained that there is a procedure in their Ordinances that if there is a public nuisance at a residence there are steps that can be taken to address that issue. He said it could come about by neighbors complaining where they file the necessary information to have the public nuisance abated and then there are ones that are alleged noise violations, which is what this allegation is under and that is the one (1) that he is having problems with because there is not an objective standard as to what is a noise violation. He said it might be a noise violation to one (1) person, but not another person. It doesn't have anything to do with what the Officer is testifying to. There is no reason to disbelieve the Officer's testimony. He is a credible witness. The issue is what is the standard that has to be addressed by an Ordinance change.

Mr. Price said basically it comes down to do they believe the Officer or not.

Mr. Turner said it is not a question of believing the Officer. The question is can you look at the Ordinance and say based upon an objective standard I can find that there is a noise violation after 8:00 p.m. He said there is not that he can tell.

Mr. Price said the Officer is here and he heard the noise that he is a witness to.

Mr. Daige asked Mr. Dold if he ever had a conversation with the Officer who is testifying.

Mr. Dold answered no. He said that he received two (2) citations on the same night and he didn't know he was getting them. He said based on the conversation that he had with the Officer in December, he thought that he had to shut things down at 10:00 p.m.

Ms. Sanderson asked Officer Fonseca why he didn't speak with Mr. Dold.

Officer Fonseca reported that a female appeared at the window and stated that the homeowner wasn't going to sign anything and for him to mail it. He said that he has spoken with Mr. Dold on other occasions with other Officers on scene, whether Mr. Dold remembers it or not.

Mr. Daige asked about how many times did he speak with Mr. Dold.

Officer Fonseca said approximately eight (8) times.

Mr. Turner asked for a 10-minute break in order for him to discuss this matter with staff.

The Board took a break at 2:30 p.m. and reconvened at 2:39 p.m.

Mr. Turner reported that the parties discussed this and Code Enforcement is willing to dismiss one (1) of the citations and the violator is going to pay the other citation in order to resolve this matter.

Ms. Sanderson asked the Board for a motion to dismiss this case.

Mr. Turner noted that payment of \$100 including costs will be made for the next case. He asked Mr. Dold if that is agreeable.

Mr. Dold answered yes.

Mr. McDonald asked if the motion can cover both cases.

Mr. Turner responded yes.

Mr. McDonald moved that Case #21-CE-11503 be dismissed and for Case #21-CE-11504 the fine of \$100 be paid plus costs. Mr. Pizzichillo seconded the motion and it passed unanimously.

2. 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

*Please note that the following motion was made under Case #21-CE-11503, which also covered Case #21-CE-11054.

Mr. McDonald moved that Case #21-CE-11503 be dismissed and for Case #21-CE-11504 the fine of \$100 be paid plus costs. Mr. Pizzichillo seconded the motion and it passed unanimously.

3. CASE #21-CE-11581 / 3279M

VIOLATOR: Neil Rumbolt (owner) and Rachelle Travis (tenant)

VIOLATION: Noise violation – Animal noises – Code Sections 38-61; 68-62(6)

VIOLATION ADDRESS: 713 Royal Palm Place, Vero Beach, Florida 32960

Ms. Sanderson reported that the violation was for animal noise. She read Code Section, 38.62(6), *“It shall be unlawful to keep or maintain any animal or bird within residential zones of the City without providing and maintaining adequate sound control techniques to eliminate any excessive, offensive, and unnecessary noise.”* She reported that the warning citation was issued on February 2, 2021. Based on a complainant coming in and providing documentation, a citation was issued on April 22, 2021. Service of the citation was provided by property posting. She reported that the citation is under appeal and the first to speak will be the tenants followed by the complainant.

The Deputy City Clerk swore in Mr. Chris Travis.

Mr. Chris Travis, who has been sworn in, said that he tried to pay the fine, but was advised not to pay it because there were Officers that came to the property several times and didn't hear anything and if he paid it once and there was another complaint he would have to pay another fine that would be double. He said there were two (2) days in a row while his wife

was out of town that he left the doggie doors open and he is fully aware that they were barking the majority of that time. He said that there was a note from their neighbor about it and since that time it has been taken care of. He said they no longer leave the kitchen door open that leads to the garage when they leave the home. He said his dogs are very docile, laid back, and old. He said the Officer that has come by a few times stated that the dogs don't even bark when he is knocking on the door. He admitted that there were two (2) days that he left the door open and he knows the dogs were barking because they were barking when he got home. He said that it hasn't happened since then because they leave the door shut when they are out of the house.

Ms. Sanderson explained that their protocol for a complaint of dogs barking is that they ask the complainant to keep a log of dates and times that they hear the dogs barking. She said that she and the Animal Control Officer will go by the property at different times and park and listen. She reported that she has not heard the dogs barking and the Animal Control Officer told her that he has not heard the dogs barking. She reported that the complainant is present today to tell the Board his side of when he thinks the dogs were barking and will provide the Board with his documentation. She reported that she instructed Mr. Travis to appeal the citation because if he just pays the fine and a complaint comes in again, the fine will continue to accrue so they are before the Board to ask for their finding.

Mr. Robert Martin, who has been sworn in, said this started at the end of last year and he has been documenting different dates and times.

Mr. Price asked is this documentation to be submitted to the Board.

Mr. Martin said that he gave a copy to Ms. Sanderson.

Mr. Turner asked Mr. Martin if he has a copy to file with the Board Clerk.

Mr. Martin answered yes. He said the Police have been there a few times and he has a copy of that as well.

Mr. Price said the question is, can the City have a copy of the documentation.

Mr. Martin said that he gave Ms. Sanderson a copy of the information a few weeks ago.

Ms. Sanderson explained that based on the complaints, a warning citation was issued and that is when the Animal Control Officer spoke with the tenants and that is when they explained that they were away and the door was open and the dogs were out. From February to April, there were no further complaints. Then Mr. Martin came in with documentation and she explained that the past is the past and to provide documentation from this time going forward and Mr. Martin provided a sheet for the date of the violation, which was April 9, 2021. Based on that documentation of April 9, 2021, when the dogs were barking, a citation was issued. The only documentation that she received from Mr. Martin was from April 9, 2021.

Mr. Price asked Mr. Martin if he has documentation from April 9th on.

Mr. Martin said that his documentation starts in the beginning of last year.

Mr. Pizzichillo asked are the times and dates documented on when the dogs were barking.

Mr. McDonald asked what time were the dogs barking.

Mr. Martin referred to his documentation and reported that on April 8, 2021, the dogs were barking out loud non-stop on and off.

Mr. McDonald asked what time was that.

Mr. Martin referred to his documentation stating at 11:00 a.m., two (2) dogs were barking 15 plus minutes, then more barking 15 plus minutes on and off, then at 12:01 p.m. 20-minutes of barking, at 3:20 p.m. and 4:20 p.m. dogs barking. He stated that on Saturday, April 10, 2021, they took the dogs somewhere because it was very quiet. On April 5, 2021 ...

Ms. Sanderson said they are not going back before April 9, 2021. She asked Mr. Martin to report on the dates following April 9, 2021.

Mr. Price said that he doesn't want all of this read to him. He questioned could they receive a copy of the documentation.

Mr. Turner explained that it would be nice to have a copy, but Mr. Martin needs to testify to support the allegation.

Mr. Price explained to Mr. Martin to focus on April 9, 2021 and after.

Mr. Martin said there was some documentation on when the Police came.

Mr. McDonald asked what was that date.

Mr. Price explained that the Board might ask him to report on dates prior to April 9th, but at this time they want him to focus on any dates after April 9, 2021.

Mr. Martin said a Police Officer came and made a report on November 6, 2020.

Mr. Daige said that he would like to ask the Animal Control Officer a question after Mr. Martin is finished with his testimony.

Ms. Sanderson said based on the warning and then no complaints until the complaint was made, another citation was issued so at that point they were put on notice that there was a problem.

Mr. Turner said so they were given notice on April 9, 2021, from Code Enforcement that there was a problem and if it wasn't taken care of a citation would be issued. He said on or after April 9, 2021, are the relevant dates for purposes of this hearing.

Mr. Martin said then anything before that date it wasn't a sin and anything after that was a sin.

Mr. Turner said that is not what he is saying. What he is saying is what is relevant to today's hearing.

Mr. Martin said it was an ongoing thing.

Mr. McDonald asked do you have any other instances after April 9, 2021.

Mr. Martin said on April 9th at 11:00 a.m. there were two (2) dogs barking for 15-minutes and it goes on and on all day that day. He said on April 10th and April 11th there were no dogs.

Mr. Price said that he was going to give Mr. Martin a few minutes to sit down and go through his documentation to see if he can come up with other dates and then call him back up to the dais.

Ms. Sanderson asked Mr. Travis to come back to the dais. She asked Mr. Travis how far away he lives from Mr. Martin.

Mr. Travis said there is one (1) house between them. He said when they received the notice on April 9th that is when his wife was out of town and the dogs were barking for two (2) days. Since then, they have corrected the problem, which is why Mr. Martin doesn't have a log of the dogs barking any longer.

At this time, Mr. Scott Lee, Animal Control Officer, came to the dais.

Mr. Daige asked Officer Lee if he went to the property prior to April 9th.

Animal Control Officer Scott Lee, who has been sworn in, answered yes. He said that he was on the property on several occasions. He reported that on one (1) occasion the dogs were laying in front of the door and just looked at him. There was no barking or anything. The second time he was on the property he rang the doorbell and knocked on the door and the dogs walked up to the door and didn't bark at all. He said that he did make contact with the tenants a few times and discussed with them some devices that could be used for anti-barking, such as recall collars. He said that they admitted that the dogs were barking on that one (1) weekend and since then he believes that the issue has been corrected. He said that he has not received any more calls on it.

Mr. Daige asked Office Lee if he has been on the property since April 9th.

Officer Lee answered no. He said that he didn't know if Ms. Sanderson has.

Ms. Sanderson reported that she has not heard the dogs barking any time that she has been able to go out and sit there.

Mr. Pizzichillo asked has there been any complaints since then.

Ms. Sanderson reported that the only complaint she has received is from Mr. Martin.

Mr. Price questioned appealing a case that has been admitted.

Mr. Daige said that he understands from the Code Officer that the dogs could bark one (1) more time and the fines could be doubled, which is why the Code Officer recommended that they come before the Board and make their case. He said as he heard it, there were problems

prior to April 9th and the residents were issued paperwork that they needed to do something to quiet the animals down and they are hearing from the tenant that they did quiet them down and the Animal Control Officer has not been to the property since April 9th. He understands that the noise is a concern to the neighbor, which is why he kept a log.

Mr. Martin reported that on April 12, 2021, Officer Lee was not there and Ms. Sanderson called him, and the dogs were barking then. He said the dogs were barking nonstop on and off on April 8th.

Mr. Price asked do you hear the dogs barking every day.

Mr. Martin answered no, but they do get going pretty good. He said that he has a chain link fence between his yard and their yard and one (1) day he was working in the yard and the dogs came charging out of his house.

Mr. Pizzichillo asked Mr. Martin if he is stating that his property is directly next to them.

Mr. Martin answered yes. He said that his property abuts their property.

Mr. Pizzichillo said that is contradictory to the testimony that they were one (1) house away.

Mr. Price asked does your entire backyard butt up against their backyard.

Mr. Martin said not the whole section.

Mr. Price said so at some point it touches a little bit.

Mr. Martin said that is correct. He said this has been an ongoing problem. He said if he doesn't get any results here then he will be going back to the same situation.

Mr. Daige said the Code Officer recommended to the tenant that they appeal so obviously there is a little wiggle room. He heard loud and clear from Mr. Martin that it has been a problem for him in the past. He thinks that both the property owner (Mr. Martin) and the tenant understands that if there is a problem in the future it would be addressed with a penalty. Because the Code Officer recommended that they appeal, he is okay with dropping this case.

Ms. Sanderson asked Mr. Travis if he was aware of any other dogs in the proximity of his home and the complainant's home.

Mr. Travis said there is a dog in the house that is located between them and that dog barks constantly and can be heard outside.

Ms. Sanderson said that is the reason she suggested that they appeal this so the Board could determine this because she has not been able to prove it. She knows that Mr. Martin has expressed great concern that he hears the dogs, but she cannot pinpoint whose dog is barking.

Mr. Pizzichillo said you are neighbors and suggested from today on that they start a new slate. He said Mr. Martin can keep his log, but he has to find out whose dog is barking. He is asking that they get together and work this out.

Mr. Martin said anything to get this resolved.

Mr. Pizzichillo made a motion to dismiss. Mr. Price seconded the motion and it passed unanimously.

B) Non-Compliance / Compliance Reports

1. Request for Board Order

a. CASE #21-CE-11525 / 3227M

VIOLATOR: Acacia Treasure Coast LLC / Erol Atamer,
Agent

VIOLATION: Public nuisance; Unsafe structure – Code
Section 38-31 (a)(b)(8)

VIOLATION ADDRESS: 1110 Royal Palm Boulevard, Vero
Beach, Florida 32960

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

Mr. Jason Jeffries, Planning and Development Director, reported that there were two (2) cases regarding this property on today's agenda. This case is regarding an unsafe structure and the second case is regarding a public nuisance, which staff has found in compliance.

Mr. Price explained that the Board needs to hear each case separately.

Mr. Jeffries reported that they have a Compliance Agreement, which covers both cases, but it mainly deals with the unsafe structure. He reported that the property owner has the property under contract to sell it to someone who is willing to bring the building back into compliance. He reported that the Compliance Agreement provides for the correction of the unsafe structure. He gave a brief overview of the agreement with the Board. He stated that they would have to submit a minor site plan application with the Planning and Development Department to confirm the continuance of 10 permitted apartment units, provide sufficient parking and provide on-site stormwater management. They also will have to submit a building permit application for the existing building with an Engineer's report and building plans for Level 3 alteration for a complete renovation of the structure that will correct the violations by the Building Inspector. He reported that these are all noted in the Compliance Agreement. They have agreed to pay a certain cost and what the City would do is defer the \$4,700 of outstanding fines that could be waived. It is noted in the agreement that they would have to complete the work by June 30, 2022. He said that the building would have to have a Certificate of Occupancy that all issues have been addressed.

Mr. Price asked is Acacia Treasure Coast, LLC the original violator.

Mr. Jeffries said they are the current owners and the ones who the citations were issued to.

Mr. Price asked are these changes being made prior to the sale.

Mr. Jeffries reported that the new property owner would be bringing the property into compliance. He said both parties are present for today's hearing if the Board has any

questions. He said the current owner does have the property under contract with someone who seems to be viable to reconstruct the building.

Mr. McDonald asked Mr. Jeffries what he is asking of the Board.

Mr. Jeffries asked for the Board's approval of the Compliance Agreement.

Mr. Daige asked are the people who currently own the property the violators.

Ms. Sanderson answered yes.

Mr. Daige asked how long ago did she note that there were violations on the property.

Ms. Sanderson reported that the public nuisance citation (Case #20-CE-11287) was issued on November 6, 2020, and was found in compliance on January 6, 2021. The unsafe structure citation (Case 21-CE-11525) was issued on March 24, 2021, and is still open.

Mr. Pizzichillo asked is there an agreement between the two (2) parties in case there is a violation between now and when the work is completed. He asked who would be responsible, the current owner or the new property owner.

Ms. Sanderson reported that the closing is scheduled next Friday.

Mr. Pizzichillo said so the new property owner would be the person responsible.

Ms. Sanderson said that is correct.

Mr. Pizzichillo asked Ms. Sanderson if she is proposing that the Board dismiss this violation.

Ms. Sanderson explained that she is proposing that the Board accepts the Code Compliance Agreement entered into between the Planning and Development Department and the current owner.

Mr. Pizzichillo asked are they looking for the Board to drop the penalty of \$50.

Mr. Jeffries explained that the \$50 civil penalty is included in the \$317.96 identified in the Compliance Agreement. He said the \$4,700 penalty for the other case could be waived if they complete the process by the compliance date noted in the Compliance Agreement.

Mr. Daige questioned if they don't complete the process by the compliance date would the penalty kick back in.

Mr. Jeffries answered yes and new fines would start accruing.

Mr. Daige said that he was okay with it.

Mr. Jeffries reported that one (1) of the issues is that this is a potential historic site and there has been interest within the Historic Preservation Commission. He thought that the new property owner was looking to possibly designate the building as historic.

Mr. Daige said that he went through the Compliance Agreement and if they don't do what they are supposed to do then the fines kick back in.

Mr. McDonald made a motion that the Board accepts the Code Compliance Agreement as stated. Mr. Daige seconded the motion and it passed unanimously.

- b. **CASE #20-CE-11287 / 3008M (Case continued from the April 14, 2021 Code Enforcement Board Hearing)**
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)

Mr. McDonald made a motion that the Board accepts the Code Enforcement Agreement (Compliance Agreement) as stated. Mr. Daige seconded the motion and it passed unanimously.

- c. **CASE #21-CE-11364 / 3079M**
VIOLATOR: Juan Fernando Bailey (Trs)
VIOLATION: Brick pavers installed without obtaining site plan approval from the Vero Beach Planning and Development Department – Code Section 64.05 (e)(2)(d)
VIOLATION ADDRESS: 1735 24th Avenue, Vero Beach, Florida 32960
(Failure to comply)

Ms. Sanderson reported that service of the citation was by property posting. The violation has not been corrected and the civil penalty has been paid. She asked that the Board finds that there is a violation, that 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 18, 2021, until corrected.

Mr. Justin Swank, property owner, who has been sworn in, stated that he has been going back and forth with the City for a couple of months and he is really close to coming into compliance. He said the ball is currently in the City's court to finalize the release of easement.

Ms. Sanderson said if that is the testimony then she would like to have someone from the Public Works Department testify. She then stepped out of the Chambers in order to contact the Public Works Department.

Ms. Sanderson reported that the problem in the delay in trying to resolve this is because it is all being done after the fact.

The Deputy City Clerk swore in Ms. Danessa Chambers and Mr. Austin Linville en masse.

Ms. Danessa Chambers, Assistant City Engineer, who has been sworn in, reported that staff recently sent back comments on the after the fact permit application they received. She explained that there were some outstanding stormwater information they need based on the paving that was completed and part of it was completed within an existing easement. In order for the pavement to remain in the easement, the City will need a Covenant of Removal, which essentially states that none of the utility providers that have rights to that easement are in need of it so therefore the paving can remain, but if for some reason it has to be removed in the future it would be at your cost and at your risk. Staff is still waiting on the Covenant of Removal request and to have it approved by all the utility owners and then revisions to the permit application to address drainage.

Ms. Sanderson said staff would like to propose that the Board gives him 30-days to come into compliance and the Public Works Department has stated that they could issue a conditional approval because of the time delay in getting all the different utilities to respond back on the Covenant of Removal.

Mr. Price said the covenant is not required if he does not mind removing the pavement if he has to.

Ms. Chambers said if he wanted to resubmit his application and address the drainage and remove the area that is within the easement then he would not need the Covenant of Removal. If he wants to keep the paving in the easement then he would need to submit the Covenant of Removal. She explained that because of all the different entities it could sometimes be time consuming to get responses back from everyone, so what staff can do in that situation is give him a conditional approval of his permit, which would bring him into compliance with Code Enforcement.

Mr. McDonald asked is 30-days enough time.

Mr. Swank asked for 60-days because it was just stated that it is very time consuming.

Ms. Sanderson said that is the reason they would issue a conditional permit, which would bring him into compliance.

Mr. Price said so it would be 30-days for the conditional permit.

Ms. Chambers explained that it would be 30-days for him to resubmit a plan that staff can approve and to submit the Covenant of Approval request.

Ms. Sanderson said the understanding would be that he wants the paving to remain.

Mr. Swank said that is correct, which is why he submitted to the City the release of easement.

Ms. Chambers said that would act as the Covenant of Removal. She said if the release of easement was submitted to the City then the only outstanding item is to address the drainage concerns.

Ms. Sanderson suggested that they allow 45-days to correct the violations.

Mr. Swank said that he was under the impression that he needed to have the release of easement finished before he could submit his paperwork for final review. He asked is that correct.

Ms. Chambers answered no. She explained that he can resubmit the revisions for the other portions of the permit while the release of easement is being reviewed concurrently. She said if he has any questions about staff's comments or he needs staff to meet him onsite they would be happy to because of the time constraints.

Mr. McDonald moved that the Board finds that there is a violation, that the violation continues, and that the Board issues a Board order to correct the violation within 45-days from the date of the Board order or continuing civil penalties of \$50 per day shall commence on the original compliance date of March 18, 2021, until corrected and that the initial civil penalty has been paid. Mr. Pizzichillo seconded the motion and it passed unanimously.

- d. CASE #21-CE-11449 / 3159M**
VIOLATOR: Maureen Sarah O'Brien
VIOLATION: Sewer use restrictions – Code Section 78-83(a)(4)
VIOLATION ADDRESS: 330 Holly Road, Vero Beach, Florida 329623
(Failure to comply; Failure to pay \$50 civil penalty)

This item was pulled from today's agenda.

- e. CASE #21-CE-11453 / 3163M**
VIOLATOR: Charles and Livia Wilson
VIOLATION: Sewer use restrictions – Code Section 78-83(a)(4)
VIOLATION ADDRESS: 3706 Indian River Drive, Vero Beach, Florida 32963
(Failure to pay \$50 civil penalty)

This item was pulled from today's agenda.

- f. CASE #21-CE-11457 / 3167M**
VIOLATOR: Olivia Holmes
VIOLATION: Sewer use restrictions – Code Section 78-83(a)(4)
VIOLATION ADDRESS: 3706 Indian River Drive, Vero Beach, Florida 32963
(Failure to comply; Failure to pay \$50 civil penalty)

*Please note that the violation address for this case is 406 Indian Lilac Road. The Notice of Hearing was mailed to the correct address.

Ms. Sanderson reported that service of the citation was by certified mail. The violation has not been corrected and the civil penalty has not been paid. She is asking that 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 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 April 6, 2021, until corrected.

Mr. Daige 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 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 April 6, 2021, until corrected and to pay the initial civil penalty of \$50. Mr. Pizzichillo seconded the motion and it passed unanimously.

- g. CASE #21-CE-11484 / 3190M**
VIOLATOR: 835 22nd Street, LLC / Fred Piumelli, Agent
VIOLATION: Oak Trees and Strangler Fig Tree removed without tree removal permit – Code Sections 72.41; 72.32
VIOLATION ADDRESS: 854 22nd Street, Vero Beach, Florida 32960
(Failure to comply)

Ms. Sanderson reported that service of the citation was provided by property posting. The violation has not been corrected and the civil penalty has been paid. There are enforcement costs of \$55.95. She asked 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 10-days from the date of the Board order or continuing penalties in the amount of \$100 per day shall commence on the original compliance date of March 31, 2021, until corrected and enforcement costs of \$55.95 be paid.

Mr. Price moved that the Board finds there is a violation, that the violation continues, that the Board issues a Board order to correct the violation within 10-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 31, 2021, until corrected and to pay the enforcement costs of \$55.95.

Ms. Sanderson noted that the original compliance date was March 30, 2021.

Mr. Price amended his motion that the original compliance date is March 30, 2021. Mr. Daige seconded the motion and it passed unanimously.

- h. CASE #21-CE-11531 / 3234M**
VIOLATOR: Christopher L. Barrington (Trs)
VIOLATION: Solid waste violation – Code Section 66-11 (6)
VIOLATION ADDRESS: 1865 40th Avenue, Vero Beach, Florida 32960
(Failure to comply)

This item was pulled from today's agenda.

- i. **CASE #21-CE-11529 / 3232M**
VIOLATOR: Val Apts LLC / Stephen J. Ramich, Agent
VIOLATION: Solid waste violation – Code Section 66-11(6)
VIOLATION ADDRESS: 1825 40th Avenue, Vero Beach,
Florida 32960
(Failure to comply)

Ms. Sanderson reported service of the citation was provided by certified mail. The violation has not been corrected and the civil penalty has been paid. She reported that Mr. Ramich is present for today's hearing.

Mr. Stephen Ramich, Agent, who has been sworn in, reported that there was about a two (2) week lag in him receiving the citation because his business partner moved and the citation was mailed to the old address. He reported that he paid the civil penalty and spoke with Ms. Sanderson who advised him that he needed to find out what the current construction standards were. He then spoke with the Engineering Department to get those standards. He reported that he received one (1) quote for the work yesterday and is getting another quote today.

Mr. Price asked how much time does he think that he would need to come into compliance.

Mr. Ramich said probably 45-days.

Ms. Sanderson suggested that they allow 60-days because of the permitting process.

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 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 April 13, 2021, until corrected and that the initial civil penalty has been paid. Mr. Daige seconded the motion and it passed unanimously.

- j. **CASE #21-CE-11530 / 3233M**
VIOLATOR: John M. Pickerill
VIOLATION: Solid waste violation – Code Section 66-11(6)
VIOLATION ADDRESS: 1835 40th Avenue, Vero Beach,
Florida 32960
(Failure to comply)

Ms. Sanderson reported that service of the citation was provided by certified mail. The violation has not been corrected and the civil penalty has been paid. She reported that when she checked the property this morning, the only thing left for them to come into compliance is installing the doors on the enclosure.

Mr. John Pickerill, who has been sworn in, said that he asked his secretary to call Ms. Sanderson to request more time to bring the property into compliance.

Mr. Price asked how much time does he think he would need to come into compliance.

Mr. Pickerill said that he would be fine if they do the same as what they did with the previous case.

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 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 30, 2021 until corrected and that the initial civil penalty has been paid.

Ms. Sanderson noted that the original compliance date was April 13, 2021.

Mrs. Hillman amended her motion that the original compliance date is April 13, 2021. Mr. Pizzichillo seconded the motion and it passed unanimously.

k. CASE #21-CE-11534 / 3254M

VIOLATOR: Vero Lodge #250 of Free and Accepted Masons / Vero Beach Chamber of Commerce and Mendoza(s) Brick Pavers

VIOLATION: Failure to obtain Code Compliance Certification for installation of brick pavers – Code Section 64.05(b)(11)(a)

VIOLATION ADDRESS: 1957 – 1959 14th Avenue, Vero Beach, Florida 32960

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

Ms. Sanderson reported that a Stop Order was placed on the job site because they began the work without approval on April 7, 2021. Service of the citation was provided by certified mail, as well as in conversation that day with Mendoza's Brick Paver's Crew Leader and the owner of the business. The violation has not been corrected and the civil penalty has not been paid. There are enforcement costs of \$58.60. She asked that the Board finds that there is a violation, that the violation continues, and that the Board issues a Board order to correct the violation within 10-days from the date of the Board order or continuing civil penalties in the amount of \$50 per day that shall commence on the original compliance date of April 12, 2021, until corrected and to pay the initial civil penalty and enforcement costs of \$58.60. It is her understanding that the Planning and Development Department received the application for Code compliance yesterday.

Mrs. Jane Burton, who has been sworn in, said that she is present today representing the Vero Beach Chamber of Commerce. They apologize for the fact that they did not know they needed to fill out the paperwork for the Planning and Development Department. She said they are willing to pay the fine immediately.

Ms. Sanderson asked why isn't Mendoza Brick Pavers paying the fine or applying for Code compliance.

Mrs. Burton said they are at an impasse. She doesn't know why they are not cooperating with the City or with the Vero Beach Chamber of Commerce. She said that is not her issue. Her issue today is to try to get this resolved so they can move forward. She reported that this

is a project that Sunrise Rotary is doing, which she is also responsible for, and they just want to get this done.

Ms. Sanderson said then Mendoza Brick Pavers gets a pass if the Vero Beach Chamber of Commerce pays the fine.

Mr. Daige asked who is doing the work.

Ms. Sanderson reported that Mendoza Brick Pavers is the contractor of record and they had a Stop Order issued for non-compliance.

Mr. Daige said this really goes against the contractor. He said it is unfortunate that the Vero Beach Chamber of Commerce was listed on the citation.

Mrs. Burton said the citation also lists the Masonic Lodge. She said as soon as she receives some documentation on how to write the check she will pay the penalty.

Mr. Daige asked who owns the property.

Ms. Sanderson reported that the Masons own the property so they were brought into it. The work is being done for the Vero Beach Chamber of Commerce so they were brought into it. She said Mendoza Brick Pavers are the ones who should be liable as the contractor who knows what is required. She doesn't think the Vero Beach Chamber of Commerce should have to pay the fine.

Mrs. Robin Pelensky, who has been sworn in, said that she is present today representing the Sunrise Rotary. She said part of the reason this is complicated is because they have a lot of different entities involved. She explained that the Sunrise Rotary provided a grant of \$2,000 to pay for 200 square feet of pavers for the Vero Beach Chamber of Commerce as a thank you for letting them use the Chamber for their meetings during COVID. She said Sunrise Rotary contracted with Mendoza Brick Pavers because she, as a Landscape Architect, uses them frequently on different projects. She said that she spoke with Mendoza Brick Pavers today and told them that they needed to attend today's hearing. She said that Sunrise Rotary has not paid them and it is going to be her suggestion that they pay them minus any costs involved in this.

Ms. Sanderson asked Mr. Turner if they could find the violator just being Mendoza Brick Pavers and hold them responsible.

Mr. Turner asked is he correct that they were given notice of this hearing and failed to appear.

Ms. Sanderson answered yes.

Mr. Turner said the evidence so far is that the Rotary Club donated funds for this project and is not the owner and the Mason's Lodge owns the building and by definition they would be the violator along with Mendoza Brick Pavers. He asked is the Vero Beach Chamber of Commerce the ones who were in a contract with Mendoza Brick Pavers.

Mrs. Burton answered no, it was Sunrise Rotary.

Mr. Daige questioned so the Vero Beach Chamber of Commerce should not be listed on the citation.

Ms. Sanderson explained that at the time the Stop Order was issued they knew that Mendoza Brick Pavers were doing the work because they dialoged with them. The Mason's own the building and the Vero Beach Chamber of Commerce is the tenant. It wasn't until Mrs. Burton reached out to Lieutenant Pederson that they knew that the Sunrise Rotary was involved.

Mr. Pizzichillo said it seems to him that Mendoza Brick Pavers failed to appear and should have appeared. He felt that Mendoza Brick Pavers should be responsible.

Mr. Turner asked the Board if they want to put it in their motion that they are not a violation, that the only violator is Mendoza Brick Pavers.

Mr. Pizzichillo made a motion that the Vero Beach Masons Lodge #250, the Vero Beach Chamber of Commerce are not guilty of anything in regards to this matter and that this be referred to Mr. Mendoza and his failure to appear.

Mr. Price said that he didn't know that Mr. Mendoza could be forced to pay because he didn't know what they would be putting a lien on.

Mr. Turner said that he might need to research the Ordinance. He asked the Board if they could table this matter.

Mr. Daige made a motion that the Board tables this case. Mr. Pizzichillo seconded the motion.

Mrs. Burton asked does that mean that they have to come back before the Board.

Mrs. Pelensky asked how do they finish the paving job.

Mr. Pizzichillo asked can they make a motion to resolve these groups.

Mr. Turner asked that the Board table this case and bring it back before the Board at their next meeting.

Mr. Price said that is not the point, they want to finish the paving job.

Mrs. Burton said they filed the Code Compliance paperwork with the City yesterday. She asked if it is approved, can they move forward with the project.

Mr. Turner asked the Board to continue this case to the end of today's agenda in order to allow him time to research the Ordinance.

Mr. Daige and Mr. Pizzichillo withdrew their motions.

Mrs. Pelensky said that her first understanding of this was that it was a Building Code violation and then realized that it was a City Code violation. She reported that City Code

Section 64.05(b)(11)(a), states that if there is an increase of 1,500 square feet or less of new impervious surface area it requires this application (Code Compliance Certification). She questioned where does it stop. She asked if they start with 1,500 square feet or less, does that mean that 10 square feet still needs an application. She said it seems very vague to her.

Mr. Daige said that would be a question for the Planning and Development Director to answer.

Ms. Sanderson explained that if it is 1,500 square feet or less it requires Code Compliance certification and if it is 1,500 square feet or more it requires site plan approval.

Mrs. Pelensky said they are talking about 200 square feet of pavers.

Mr. Daige asked do they have to have a Code Compliance permit.

Ms. Sanderson said that is the way the Code was interpreted. It would be up to the Planning and Development Director if they want to pursue this further.

Mrs. Pelensky said that she designs hardscape all the time and 200 square feet is pretty small.

Mr. Turner recommended that the Code action be amended to delete any references to the Vero Masons Lodge and the Vero Beach Chamber of Commerce and list only Mendoza Brick Pavers as the violator. He asked do they have the company's full name.

Ms. Sanderson reported that she could not find the information on Sunbiz.

Mrs. Burton said that she has information that she will email to Ms. Sanderson.

Mr. Turner explained to the Board that their first motion would be to remove the other parties from being the violators and their second motion would be to find the violation against Mendoza Brick Pavers. He explained that the Board would be requesting that the citation be amended to remove any reference to the other parties. The only violator would be Mendoza Brick Pavers, however that would be completed on the Board order, which would be entered reflecting the entities true and correct name.

Mrs. Burton asked if the Code Compliance certification is approved, can they move forward with their project or would they have to find another contractor.

Ms. Sanderson said the Code Compliance certification was submitted so they should be able to move forward.

Mr. Turner said that is a question for the Planning and Development Department.

Ms. Sanderson suggested that they contact the Planning and Development Department and ask them to expedite the application for Code Compliance certification.

Mr. McDonald made a motion that in Case #21-CE-11534 that the Vero Masons Lodge and the Vero Beach Chamber of Commerce be removed from the complaint and that Mendoza Brick Pavers name be amended in the final order as the party to be held responsible. Mr. Daige seconded the motion and it passed unanimously.

Ms. Sanderson asked that the Board finds that there is a violation, that the violation continues, and that the Board issues a Board order to pay the initial civil penalty of \$50 and come into compliance within 10-days of the Board order or continuing civil penalties will commence on April 12, 2021, and to pay enforcement costs of \$58.60.

Mr. Price moved that the Board finds there is a violation, that the violation continues, that the Board issues a Board order to correct the violation within nine (9) 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 April 12, 2021, until corrected and to pay the initial civil penalty of \$50 and \$58.60 in costs. Mr. Daige seconded the motion and it passed unanimously.

- i. CASE #21-CE-11535 / 3237M**
VIOLATOR: IRT Partners LP
VIOLATION: Failure to obtain Code Compliance Certification or a building permit for the donation drop box on the property – Code Sections 64.05; 22-181; 22-106
VIOLATION ADDRESS: 405 21st Street, Vero Beach, Florida 32960
(Failure to pay \$50 civil penalty)

This item was pulled from today's agenda.

- m. CASE #21-CE-11553 / 3255M**
VIOLATOR: Manor Auctions LLC / Paul Barattini, Agent
VIOLATION: Sign violation – Code Section 38.17(a)
VIOLATION ADDRESS: Right-of-Way of Beachland Boulevard / Ocean Drive
(Failure to pay \$50 civil penalty)

Ms. Sanderson reported that the violation has been corrected and the civil penalty has not been paid. She asked 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 initial civil penalty of \$50.

Mr. Price moved that the Board finds there was a violation, that the violation has been corrected and that the Board issues a Board order to pay the initial civil penalty of \$50. Mr. Daige seconded the motion and it passed unanimously.

- n. CASE #21-CE-11561 / 3263M**
VIOLATOR: Cravings / J. Martin and Mary Sue Walker
VIOLATION: Awning installed without Code Compliance Certification or a building permit – Code Sections 64.06; 22-181; 22-106
VIOLATION ADDRESS: 3149 Ocean Drive, Vero Beach, Florida 32963
(Failure to comply)

Ms. Sanderson reported that the violation has not been corrected and the civil penalty has been paid. She reported that Code Compliance has been issued and their next step is to

follow up with a building permit. She reported that a sign permit is also required for the signage on the awning.

Ms. Mary Sue Walker, who has been sworn in, said the signage Ms. Sanderson is referring to has been there. She explained that they put a small extension to the existing awning, but the extension does not have signage.

Mr. Price asked what do they need to do to come into compliance.

Ms. Sanderson said they need to follow up with the Building Department. She asked that the Board allows 30-days to come into compliance.

Ms. Walker asked how long does it take to get a building permit.

Mr. Daige suggested that the Board allows 60-days to come into compliance.

Mr. Price moved that the Board finds 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 \$50 per day shall commence on the original compliance date of April 30, 2021, until corrected and that the initial civil penalty has been paid. Mr. Daige seconded the motion and it passed unanimously.

- o. CASE #21-CE-11566 / 3268M**
VIOLATOR: Carol Kahle (Trs)
VIOLATION: Wood deck and fence installed without Code Compliance Certification or a building permit – Code Section 64.05(b)(7)(9)(b)
VIOLATION ADDRESS: 1802 23rd Avenue, Vero Beach, Florida 32960
(Failure to comply; Failure to pay \$50 civil penalty)

Ms. Sanderson reported that service of the citation was provided by certified mail. The violation has been corrected and the civil penalty has not been paid. She asked that the Board finds that there was a violation, the violation has been corrected and issues an order to pay the initial civil penalty of \$50.

Mr. Price 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 initial civil penalty of \$50. Mr. Daige seconded the motion and it passed unanimously.

- p. CASE #21-CE-11569 / 3271M**
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 \$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 has not been paid. There are enforcement costs of \$44.70. She asked 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 30-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 April 30, 2021, until corrected and to pay the initial civil penalty of \$100.

Mr. Pizzichillo said that he is very familiar with this name. He asked has any of the past citations have been paid.

Ms. Sanderson reported that there were citations on other addresses of Mr. McCracken's that have been paid.

Mr. Daige asked what is on the property, construction materials or is there a dumpster.

Ms. Sanderson reported that this property is not occupied. Currently there is a dumpster and a utility trailer on the property, which requires an active building permit. The way the Ordinance reads is that in the capacity of a contractor you have to remove the trash and debris from the site. Complaints from the neighbors come in that there is no work being done on the property, there is not a current building permit, and employees are bringing trash and debris to the dumpster on the site.

Mr. Daige thought that Mr. McCracken was cited for this before.

Ms. Sanderson said it is a repeat violation.

Mr. Daige asked is there a way to find out when the dumpster was placed on the property.

Ms. Sanderson reported that the dumpster has been on site for a long time.

Mr. Daige questioned for months.

Ms. Sanderson said that she would say longer than months.

Mr. Daige asked even if they find the property in violation, the dumpster is still going to stay on the property. He asked how do they issue an order where the dumpster has to be removed.

Ms. Sanderson reported that there is another case regarding the dumpster where the Board found that there was a violation and there are continuing penalties accruing because the dumpster has not been removed.

Mr. Daige asked Mr. Turner what type of ruling could be made to have the dumpster removed.

Mr. Turner asked is this property in a residential zone.

Ms. Sanderson answered yes.

Mr. Turner said there is nothing they could do short of liens. He said with this individual and his past performances, some injunctive relief might be available. He said that would require action from the City Council to direct some type of research in attempting to get this dumpster removed through Court action.

Mr. Daige said that is what he is looking for since this is an ongoing problem. He said the dumpster needs to be removed from the property.

Mr. McDonald said that he did not know why they would give 30-days to correct. He would suggest that they allow five (5) business days and then the continuing penalties would start to accrue.

Mr. Turner said dumpsters are usually not owned by contractors, but by the waste company. He questioned trying to contact the waste company to remove it.

Ms. Sanderson noted that there are currently ongoing fines for the dumpster and the construction trailer.

Mr. Turner said the point is that the dumpster and the trailer have been there illegally and there needs to be a way to protect the residential zoned area to get them off the property, whether it is from a public nuisance declaration from the City Manager or a law suit. He said that they might want to have a public nuisance declared through the City Manager's office. He said the Board could direct staff to go before the City Council to request that they look into legal action against the company and/or have the Code Enforcement Officer contact the City Manager's office about executing a public nuisance directive to see if that would resolve the problem.

Mr. McDonald 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 five (5) business 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 April 16, 2021, until corrected and to pay the initial civil penalty of \$100 plus costs of \$44.70. Mr. Pizzichillo seconded the motion.

Ms. Sanderson reported that the original compliance date is April 30, 2021.

Mr. McDonald amended his motion that the compliance date is April 30, 2021. Mr. Pizzichillo seconded the amendment to the motion and it passed unanimously.

Mr. Daige asked Mr. Turner if he heard him correctly that he is going to talk to the City Council about the matter of the dumpster being removed from the property and to go through the legalities on what has to be done.

Mr. Turner said that he thinks that is the way to handle it and is the direction that he will seek from the City Council.

Mr. Pizzichillo asked Mr. Turner if a motion is needed.

Mr. Turner answered no. He said at the Board's direction, he would approach the City Council at a public meeting to obtain their direction, which he would try to bring before them at a meeting in June.

- q. **CASE #21-CE-11557 / 3259M**
VIOLATOR: Barrier Island Management Consultants, Inc. / C. Garris, Agent
VIOLATION: Palm and Pine Trees removed without a permit – Code Sections 72.42; 72-43; 72-44
VIOLATION ADDRESS: 1605 40th Avenue, Vero Beach, Florida 32960
(Failure to comply; Failure to pay \$1,300 civil penalty)

This item was pulled from today's agenda.

- r. **CASE #21-CE-11556 / 3258M**
VIOLATOR: James Cranston Dozier
VIOLATION: Shed and wood fence installed without Code Compliance Certification or building permits – Code Section 64.05 (b)(7)(9)(b)
VIOLATION ADDRESS: 910 Royal Palm Place, Vero Beach, Florida 32960
(Failure to comply)

This item was pulled from today's agenda.

- s. **CASE #21-CE-11521 / 3225M**
VIOLATOR: FDCHFV LLC / Fred Piumelli, Agent
VIOLATION: Oak and Palm Trees removed without a permit – Code section 72.44
VIOLATION ADDRESS: 705 19th Place, Vero Beach, Florida 32960
(Failure to comply)

Ms. Sanderson reported that service of the citation was provided by certified mail and property posting. She reported that the violation has not been corrected and the civil penalty has been paid. She requested 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 April 2, 2021, until corrected and that the civil penalty has been paid.

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 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 April 2, 2021, until corrected and that the initial civil penalty has been paid. Mr. Pizzichillo seconded the motion and it passed unanimously.

6. OLD BUSINESS

A) Update on Case #20-CE-11191 / 2961M – United Against Poverty, Inc. – Ms. Melody Sanderson, Code Enforcement Officer

Ms. Sanderson reported that this case came before the Board in December, 2020, and the Board gave them time to come into compliance. She reported that their contact has since left their employment. She reported that staff did receive an email containing some of the information that was requested by the Public Works Department. However, sufficient documentation has not been provided showing that they are continuing to work to come into compliance.

Mr. Daige asked that Ms. Sanderson give the Board another update at their next meeting.

7. ADMINISTRATIVE MATTERS

None

8. CLERK'S MATTERS

None

9. ATTORNEY'S MATTERS

Mr. Turner reported that when liens are paid off his office prepares the Release and Satisfaction of Liens and the violator is required to pay the City Attorney fees. However, the City Attorney's office does not receive these fees. They are paid along with the fines and are included in the Police budget. He felt that these fees should go into the City Attorney's budget fund. He would like to go before the City Council to request their approval to separate the City Attorney fee and any cost that the City Clerk's office incurs to be put into separate funds and not into the Code Enforcement Fund.

Mr. Pizzichillo agreed. He said they keep taking money out of their fund, but are not replenishing it.

Mr. Daige said when the City Attorney's office is involved there is a cost and that needs to be recaptured. He said the City Attorney's office and the City Clerk's office does work on these cases. He said the City Attorney's office and the City Clerk's office should receive their fair amount of costs for the amount of time they put into this.

Mr. Price asked Mr. Turner if he is looking for a motion.

Mr. Turner explained that he just wanted to bring this before the Board so that he could tell the City Council that he spoke with them and that the Board did not have any objections.

Mr. Daige said he has their blessing.

Mr. Pizzichillo felt that the City Attorney's office and the City Clerk's office should be reimbursed penny for penny.

10. CHAIRMAN'S MATTERS

None

11. MEMBER'S MATTERS

Mr. Pizzichillo reported that he misplaced the list of violators that the Board members previously received (on file in the City Clerk's office). He asked the Deputy City Clerk to send him another copy and to also send the information to the City Council. He then asked Mr. Turner if anything has occurred in moving forward to capture the monies owed.

Mr. Turner reported that staff is working on this.

12. ADJOURNMENT

Today's meeting adjourned at 4:29 p.m.

/sp