

CODE ENFORCEMENT BOARD MINUTES
Wednesday, August 11, 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, Christopher Bryant and Ken Daige **Also Present:** Code Enforcement Officer, Melody Sanderson; Code Enforcement Officer, Jamila McGee; City Attorney, John Turner and Deputy City Clerk, Sherri Philo

Excused Absence: Richard Kennedy

1. CALL TO ORDER

Today's meeting was called to order at 1:31 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 – June 9, 2021

Mr. McDonald made a motion to adopt the minutes of the June 9, 2021 Code Enforcement Board meeting. Mrs. Hillman seconded the motion and it passed unanimously.

B) Agenda Additions, Deletions and Adoption

Ms. Jamila McGee, Code Enforcement Officer, pulled case #21-CE-11619 – Luis A. and Desiree E. Guzman from today's agenda. She reported that they are in compliance and the civil penalty has been paid.

Ms. Melody Sanderson, Code Enforcement Officer, pulled from today's agenda, Case #21-CE-11623 – RENT88 LLC / G. Baigorria Agent, Case #21-CE-11628 – William E. and Ruth E. Eyre / Auto Exchange of Indian River, LLC / Alecia Spencer, Agent, Case #21-CE-11629 – A. Spencer and R. Eyre / Auto Exchange of Indian River, LLC / Alecia Spencer, Agent, and Case #21-CE-11632 – Stephen D. Boyles. She reported that they all came into compliance after receiving the Notice of Hearing.

Ms. Sherri Philo, Deputy City Clerk, requested that they add under Clerk's Matters, rescheduling of the September meeting.

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

4. UNLICENSED CONTRACTORS/CITATIONS

None

5. EVIDENTIARY HEARINGS

A) Citation Appeals

1. CASE #21-CE-11636 / 3312M

VIOLATOR: Marie K. Magaro

VIOLATION: Two (2) Palm Trees removed without a permit from the Vero Beach Planning and Development Department– Code Section 72.41; 72.42; 72.43

VIOLATION ADDRESS: 2655 10th Court, Vero Beach, Florida 32960

Mr. Antonio Magaro introduced himself to the Board members stating that he is speaking on behalf of his mother, Marie Magaro.

Ms. Sanderson handed out to the Board members photographs of the property (on file in the City Clerk's office). She reported that the violation has been corrected and the civil penalty has not been paid. They are present for today's hearing to appeal the citation.

Mr. Antonio Magaro, who has been sworn in, stated that they purchased this property about four (4) or five (5) years ago and they had an issue with parking in that there really was not a driveway. There was an empty lot beside them and they made a deal with the property owner that if they took care of the lot they could park their vehicles there. Then someone purchased the property and are currently building a home. This left him with no option but to remove the trees so they would have room to park his vehicle, his wife's vehicle, and his mother's vehicle. Before he removed the trees he called the County to see if he needed a permit and was told that if he lives in Indian River County and his property is less than one (1) acre then he would not need a permit to cut down the trees. He said that he did not know that the City had a building department and he wasn't told that by the County. He said that he is not denying that he cut down the trees, but he didn't think that he needed a permit. He asked that the Board reduce the fine or that they waive the fine.

Ms. Sanderson reported that the citation was in the amount \$550 because there was a fine of \$250 per tree and a civil penalty of \$50 for not obtaining a permit.

Mr. Magaro reported that they did obtain an after the fact permit.

Ms. Sanderson reported that the property is in compliance.

Mr. Bryant asked were two (2) new trees planted.

Ms. Sanderson reported that when the after the fact permit was issued they did not request mitigation.

Mr. McDonald asked who did you speak with at the County.

Mr. Magaro said that he did not remember her name. He reported that he didn't personally go to the County, but he spoke with them on the telephone and they did not tell him that he needed to obtain a permit from the City.

Mr. McDonald questioned and you live in the City.

Mr. Magaro said that he lives near the Country Club.

Mr. Daige asked when you were speaking with the County, did she ask “if you live in the County.”

Mr. Magaro said that he told her that he needed to cut down two (2) trees that were basically connected to each other and asked if he needed a permit. She asked how big his property is, which he told her that it was probably less than a quarter of an acre. She told him that in the County a permit is not needed to cut down trees if the property is under one (1) acre.

Mr. Price said that he would think it was the County’s responsibility to find out if the property is located in the City or not.

Mr. Daige questioned, but you do know that you live in the City.

Mr. Magaro answered no.

Ms. Sanderson reported that the moment the citation was posted they immediately contacted her and obtained their permit.

Mr. Bryant felt that the County should have asked him his address. He felt that this was a communication error.

Mr. Pizzichillo felt that they did right by obtaining their after the fact permit, but questioned if everyone came in stating that they called the County and not the City...

Mr. Magaro said that he sees Mr. Pizzichillo’s point, but they had a bunch of people telling them different things. He said before you do any project you do your due diligence and he did his due diligence, but he didn’t know that this department in the City existed. If he had known, he would have called and he would have filed a permit.

Mr. Pizzichillo said down the road they could have cases come before them where the violator tells the Board the same thing, that the County is giving them misinformation. In his opinion they can’t just let him off the hook that easily.

Mr. Magaro said that he is not asking to get off the hook. He is asking for a reduced fine. He felt that \$500 for two (2) trees was ridiculous.

Mr. Price said that he didn’t think the Board had any control over reducing fines.

Mr. John Turner, City Attorney, said ignorance of the law is no defense. If Mr. Magaro is requesting mitigation of the fine based on his quick response and the acknowledgement of the Code Officer that it was handled quickly and efficiently after the fact then that is going to be up to the Board to determine if it is appropriate. He said that he would not recommend a waiver based upon a claim that Mr. Magaro was not aware of the Ordinances.

Mr. Magaro said that he understands that ignorance is not an excuse.

Mr. Price questioned if the Board could do partial mitigation.

Mr. McDonald questioned so the trees were very close together and basically one (1) tree.

Ms. Sanderson submitted a photograph of the trees (on file in the City Clerk's office).

Mr. Magaro said the trees were in the way and they had to remove them. In hindsight he wished that he would have called the City, but he didn't know the department existed. He is just asking for a reduced fine.

Mr. Pizzichillo felt that Mr. Magaro has been very truthful and he would be in favor of some kind of modification. He suggested a reduction of 50%.

Ms. Sanderson suggested that if they were going to go that route that they should uphold the \$250 fine for one (1) tree and the \$50 civil penalty for not having a permit.

Mr. McDonald made a motion that the Board reduces the fine by \$250 and that Mr. Magaro is to pay \$250 for one (1) tree, plus the \$50 civil penalty (reducing the civil penalties of \$550 to \$300). Mr. Pizzichillo seconded the motion and it passed unanimously.

B) Non-Compliance / Compliance Reports

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

1. Request for Board Order

- a. CASE #21-CE-11619 / 0051J**
VIOLATOR: Luis A. and Desiree E. Guzman
VIOLATION: Mobile Home parking at property; boats and trailers are not to be stored in the front yard or on the right-of-way – Code Section 74-82 (a)(b)
VIOLATION ADDRESS: 1925 33rd Avenue, Vero Beach, Florida 32960
(Failure to comply; Failure to pay \$50 civil penalty)

This item was pulled from today's agenda.

- b. CASE #21-CE-11686 / 0150J**
VIOLATOR: Ferguson Peters, Jr.
VIOLATION: Sewer use restrictions – Code Section 78-83 (a)(4)
VIOLATION ADDRESS: 706 Silver Shores Road, Vero Beach, Florida 32963
(Failure to comply; Failure to pay \$50 civil penalty)

Ms. McGee asked that the Board finds there is a continued violation and that the Board issues a Board order that the violation is to be corrected within 10-days from the date of the Board order or continuing civil penalties of \$50 per day commencing on the original compliance date of July 20, 2021, until corrected and to pay the initial civil penalty of \$50.

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 10-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 July 20, 2021, until corrected

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

- c. CASE #21-CE-11562 / 3264M**
VIOLATOR: Indigo Vero LLC / Yane Zana, Agent
VIOLATION: Sign violation – Code Section 38.11 (a)
VIOLATION ADDRESS: 805 46th Place, East, 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 and posting of the property. No request for a hearing has been received so a hearing to contest the citation has been waived and the violation is deemed admitted by the violator. 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 three (3) 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 June 16, 2021, until corrected and to pay the initial civil penalty of \$50 and costs of enforcement of \$113.24.

Mr. Price 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 three (3) 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 June 16, 2021, until corrected and to pay the initial civil penalty of \$50 and \$113.24 in costs. Mr. McDonald seconded the motion and it passed unanimously.

- d. CASE #21-CE-11570 / 3272M**
VIOLATOR: NIC Management LLC / Corporate Creations Network, Inc.
VIOLATION: Sheds and new asphalt installed without Code Compliance Certification or a building permit – Code Sections 64.05 (a)(b)(9)(a); 22-181; 22-106
VIOLATION ADDRESS: 2456 Cortez Avenue, Vero Beach, Florida 32960
(Failure to comply)

Ms. Sanderson reported that no request for a hearing on the citation was received within the 10-day time frame so a hearing to contest the citation has been waived and the violation is deemed admitted by the violator. Service of the citation was by certified mail and posting of the property. The violation has not been corrected and the civil penalty has not been paid. She reported that the Code Compliance Certification was issued yesterday and a building permit is also required. She asked 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 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 June 1, 2021. There are costs of enforcement of \$101.99.

The Deputy City Clerk reported that the civil penalty has been paid.

Ms. Sanderson said that is correct.

Mr. Rubin Rizoosky (spelling may be incorrect), who has been sworn in, said there was an existing shed, which he thinks was built in the 1950's, and he added another shed and did not know that he needed a permit. He is in the process of correcting it. He said that he would be going to the Building Department Thursday or Friday of this week.

Mr. Price moved 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 June 1, 2021, until corrected and to pay the enforcement costs of \$101.99. Mr. Daige seconded the motion and it passed unanimously.

- e. **CASE #21-CE-11410 / 3124M**
VIOLATOR: James Shaw
VIOLATION: Sewer use restrictions – Code Section 78-83 (a)(4)
VIOLATION ADDRESS: 1505 Coral Avenue, Vero Beach, Florida 32963
(Failure to comply; Failure to pay \$50 civil penalty)

Ms. Sanderson reported that no request for a hearing on the citation was received so a hearing to contest the citation has been waived and the violation is deemed admitted by the violator. She asked that the Board finds that there is a violation, 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 \$50 shall commence on the original compliance date of June 17, 2021, until corrected and to pay the initial civil penalty.

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 10-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 June 17, 2021, until corrected and to pay the initial civil penalty of \$50.

- f. **CASE #21-CE-11623 / 3292M**
VIOLATOR: RENT88 LLC / G. Baigorria, Agent
VIOLATION: Shed, pergola and brick pavers installed without Code Compliance Certification or a building permit – Code Sections 64.05; 22-181; 22-106
VIOLATION ADDRESS: 1936 4th Avenue, Vero Beach, Florida 32960
(Failure to comply)

This item was pulled from today's agenda.

- g. **CASE #21-CE-11625 / 3294M**
VIOLATOR: Thomas and Gina Quick
VIOLATION: Fence installed without Code Compliance or a building permit – Code Sections 64.05 (a)(b)(7); 22-181; 22-106
VIOLATION ADDRESS: 703 Bahia Mar Road, Vero Beach, Florida 32963
(Failure to comply; Failure to pay \$50 civil penalty)

Ms. Sanderson reported that the penalty has not been paid. Service of the citation was provided by posting of the property. No request for a hearing on the citation was received so a hearing to contest the citation has been waived and the violation is deemed admitted by the violator. 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 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 June 2, 2021, until corrected and to pay the initial civil penalty of \$50.

Mr. Daige 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 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 June 2, 2021, until corrected, and to pay the civil penalty of \$50. Mr. Pizzichillo seconded the motion and it passed unanimously.

- h. CASE #21-CE-11628 / 3297M – Repeat Violation**
VIOLATOR: William E. and Ruth E. Eyre / Auto Exchange of Indian River LLC / Alecia Spencer, Agent
VIOLATION: Public nuisance - non-operable vehicle(s) – Code Sections 38-31 (a)(b); 38-32 (a)(1)
VIOLATION ADDRESS: 2666 11th Court, Vero Beach, Florida 32960
(Failure to pay \$100 civil penalty)

This item was pulled from today's agenda.

- i. CASE #21-CE-11629 / 3298M**
VIOLATOR: A. Spencer and R. Eyre / Auto Exchange of Indian River LLC / Alecia Spencer, Agent
VIOLATION: Business does not have a current Business Tax Receipt – Code Section 71-62
VIOLATION ADDRESS: 2410 US Highway 1, Vero Beach, Florida 32960
(Failure to comply; Failure to pay \$50 civil penalty)

This item was pulled from today's agenda.

- j. CASE #21-CE-11632 / 3301M**
VIOLATOR: Stephen D. Boyles
VIOLATION: Landscape debris left on right-of-way – Code Section 71.03 (a)
VIOLATION ADDRESS: 2626 11th Avenue, Vero Beach, Florida 32960
(Failure to pay \$50 civil penalty)

*Please note that this item was mistakenly pulled from today's agenda and at the request of the Code Officer the Board approved hearing this case.

Ms. Sanderson reported that service of the citation was provided by property posting. No request for a hearing to contest the citation has been received so a hearing to contest the citation has been waived and the violation is deemed admitted by the violation. She

requested 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. Turner noted that this was a case that was set to be heard today and no one appeared on behalf of the violator so the Board may proceed.

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. McDonald seconded the motion and it passed unanimously.

- k. CASE #21-CE-11647 / 3307M – Repeat Violation**
VIOLATOR: Jill Silcox and Shelly Robertson
VIOLATION: Public nuisance – weeds, grass, or undergrowth at a height of more than 12-inches throughout the property – Code Section 38-31 (a)(b)(1)
VIOLATION ADDRESS: 1941 33rd Avenue, Vero Beach, Florida 32960
(Failure to comply; Failure to pay \$500 civil penalty)

Ms. Sanderson asked Ms. Robertson who is Ms. Jill Silcox.

Ms. Robertson answered her mother.

Ms. Sanderson reported that this is a repeat violation. Service of the citation was provided by property posting. The civil penalty has not been paid and the violation has not been corrected. There are costs of enforcement in the amount of \$61.58. No request for a hearing on the citation has been received so the hearing to contest the citation has been waived and the violation was admitted by the violator.

Ms. Shelly Robertson, who has been sworn in, stated that she is not going to make any excuses, but her mother does not communicate with her and she does not receive any paperwork to know what is going on. She said that she has been the one (1) who has to come four (4) hours down to take care of the property and mow it, which has been very difficult with Covid and everything that is going on. She said that she needs to know exactly what is going on so that she can come here to take care of the property.

Ms. Sanderson said from when the Notice of Hearing that was mailed and until today the property has still not been mowed.

Ms. Robertson said for some reason her mother does not receive her mail until after the due date and so she (Ms. Robertson) doesn't know what is going on. She said that she did have a man who was going to sell the property for her and she was told that he went to court and was going to have the fines paid. She said that is all she has to go on because she hasn't received any paperwork from him yet. She said that she would have the paperwork on Friday.

Ms. Sanderson reported that the citations that are sent by certified mail were not claimed so the property was posted and the citations were sent by first class mail.

Ms. Robertson questioned so she (Ms. Silcox) is not accepting the certified mail.

Ms. Sanderson answered no.

Mr. Daige asked does your mother have a lawn care service.

Ms. Robertson answered no.

Mr. Daige asked why.

Ms. Robertson said because of financial reasons. She said that she does not have any way to pay for it.

Mr. Daige asked what solution does she have to put on the table that this would be taken care of in the future.

Ms. Robertson said that she does it herself. She said they do not have the money to hire someone.

Mr. Pizzichillo asked at the earliest when will the grass be mowed.

Ms. Robertson said that she would need at least a couple of weeks.

Mr. Pizzichillo said that is unacceptable.

Ms. Robertson said that she lives four (4) hours away.

Mr. Pizzichillo said this is a repeat violation. He said grass grows and with high weeds there are animals, bugs, etc. and the Board is here to protect the health and safety of the community so they cannot wait four (4) or five (5) weeks to correct this situation.

Ms. Robertson said that she is not asking for five (5) weeks, she is asking for two (2) weeks.

Ms. Sanderson asked that the Board makes a motion finding that there is a violation, the violation continues, and that the Board issues a Board order to correct the violation within three (3) weeks of the date of the Board order or continuing civil penalties in the amount of \$500 per day shall commence on the original compliance date of June 10, 2021, until corrected and to pay the initial civil penalty of \$500 and the enforcement costs of \$61.58.

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 three (3) weeks, 21-days, from the date ...

Ms. Sanderson said no, it is three (3) days from the date of the Board order.

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 three (3) days from the date of the Board order or continuing civil penalties in the amount of \$500 per day shall commence on the original compliance date June 10, 2021, until corrected and to pay the initial civil penalty of \$500 and the enforcement cost of \$61.58. Mrs. Hillman seconded the motion and it passed unanimously.

Mr. Pizzichillo said Ms. Robertson is claiming that her mother is not receiving the mail so he felt that the Board should give her a date certain.

Ms. Robinson asked if the Board order can be mailed to her (Ms. Robinson) instead of her mother.

Ms. Sanderson asked that she supply her mailing address and the Board order will be sent to both her and to her mother.

Mr. Daige asked is your mother staying in the home.

Ms. Robinson reported that no one is living in the home. It has been vacant for about seven (7) years.

- I. **CASE #21-CE-11648 / 3308M**
VIOLATOR: Indian River Sports Complex, Inc. / Derek Muller, Agent
VIOLATION: Sign violation – Code Section 38-11 (a)
VIOLATION ADDRESS: 2665 12th Avenue, Vero Beach, Florida 32960
(Failure to comply; Failure to pay \$50 civil penalty)

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

At this time, the Deputy City Clerk swore in Mr. Derek Mueller.

Mr. Derek Muller, Agent, who has been sworn in, stated that since 1953 no Little League has ever pulled a permit to have sponsorship banners on their outfield fence. He asked why he was getting hit with this. He questioned if other ballfields were getting cited. He felt that he was being targeted. He said that the banners that were on the back fence of his field faced the field and not the road. There are other fields that have advertisement banners that face the road. He doesn't know why all of a sudden this is a new policy.

Ms. Sanderson reported that the permit for a temporary sponsorship banner is dated August of 2012, so it has been required at least since then and it does state that they have to be affixed to the fence, a permit is required, the banners are to be placed during a regular school calendar year, no more than 45 banners, and they shall not be lighted. She said that she knows that there are other places that have them and Ms. McGee is looking and addressing sponsorship banners at other ballfields.

Mr. Daige said this property is one (1) of our Charter protected properties and this sports complex has use of property under a City lease. He asked isn't it in the lease that they have to be in compliance at all times.

Mr. Turner stated that he did not have the lease in front of him and does not have any specific recollection as to the provisions of the lease, but normally all of the City's leases have requirements that the lessees comply with all Ordinances, land development code regulations, State regulations, and County regulations.

Mr. Daige said as a renter it is their responsibility to stay up with the current Codes and changes.

Ms. Sanderson reported that a warning citation was issued advising him of the Code.

Mr. Price asked why did you ignore the warning.

Mr. Muller said that he received the warning citation three (3) or four (4) days later and he took down the banners.

Mr. Pizzichillo said in this case, knowing the mail, he is willing to bend a little bit.

Ms. Sanderson reported that the citation was issued and posted on the property and the banners were not removed.

Mr. Pizzichillo asked how many days were there between when Mr. Muller said that he received the warning citation and when he stated that he removed signs.

Ms. Sanderson reported that she found that the signs were removed on August 3, 2021.

Mr. Daige felt that the Code Officer did her job, she gave them reasonable amount of time, and the civil penalty should stand.

Mr. Price asked what is the cost of obtaining a permit.

Ms. Sanderson said there is a \$10 application fee.

Mr. Price questioned and that covers all the banners for the whole year.

Ms. Sanderson said that would be a question for the Planning and Development Department.

Mr. Muller said there is a \$50 fine and it would have been the same if he had pulled a permit. He said that he is fine with it as long as he knows that it is a code issue.

Mr. McDonald moved that the Board finds there was a violation, the violation has been corrected, that the Board issues a Board order to pay the initial civil penalty of \$50. Mr. Daige seconded the motion and it passed 5-1 with Mr. Pizzichillo voting yes, Mr. Daige yes, Mr. Bryant no, Mrs. Hillman yes, Mr. McDonald yes, and Mr. Price yes.

- m. CASE #21-CE-11737 / 3323M – Repeat Violation**
VIOLATOR: Indian River Sports Complex, Inc. / Derek Muller, Agent and Nakia Geller
VIOLATION: Prohibited use of the property – Watercraft and trailers stored on the property – Code Section 62.03
VIOLATION ADDRESS: 2665 12th Avenue, Vero Beach, Florida 32960
(Failure to pay \$150 civil penalty)

Ms. Sanderson reported that this is a repeat violation. Service of the citation was provided by posting of the property. The violation has been corrected and the civil penalty has not been paid. The violation was for storage of jet skis on the property.

Mr. Muller said that he highly objects to this because it states in his lease that it is for recreational purposes and when he operates summer camps they take the children out to either the ocean or the river once a week. The jet skis are there for a few days during the week when they are going to use them. He explained that the jet skis are dropped off and it

depends on the weather as to what day they are going to take them out. He said it was not just the jet skis that he was cited for. He was also cited for trailers being stored on the property. He said there is a trailer there now because they are cutting some Palm fronds and are loading the trailer with them.

Ms. Sanderson said the citation is not for that trailer. It is for the jet ski trailers.

Ms. Sanderson felt that because this property has an ongoing violation for the site plan approval for the ballfield that was added that it would be good for Mr. Muller while he is here to go up to the Planning and Development Department and close that out and while he is there he could discuss storage of watercraft on the property when he has a camp.

Ms. Sanderson requested that the Board upholds the civil penalty and the enforcement costs and that they strongly urge Mr. Muller to meet with the Planning and Development Department.

Mr. McDonald felt that they needed to throw out the concept of “storing” them because they bring in the jet skis, use them, and then they are removed so they are not “storing” anything.

Mr. Muller said the lease states for recreational purposes and jet skis are for recreational purposes.

Mr. McDonald proposed that the Board puts this on hold until they hear from the Planning and Development Director. If they go in Mr. Muller’s favor then he doesn’t know if a fine would be appropriate.

The Board agreed.

Mr. McDonald made a motion that this case be put on hold until Mr. Muller has the opportunity to meet with the Planning ...

Mr. Turner said they would need a motion to continue this case to the Code Enforcement docket. He thought that the Board was not going to meet in September.

The Deputy City Clerk explained that she was going to be requesting that the Board reschedule their September meeting to be held a week later, which would be September 15, 2021.

Mr. McDonald made a motion to continue this case until Mr. Muller has had the opportunity to meet with the Planning and Development Director and clear up the ambiguity about storage versus not storage and recreational versus non-recreational.

Mr. Turner said the continuation date is September 15th at 1:30 p.m.

Mr. McDonald added to his motion the date of September 15th. Mr. Pizzichillo seconded the motion and it passed unanimously.

- n. **CASE #21-CE-11658 / 3311M**
VIOLATOR: Yin Xinjing
VIOLATION: Three (3) Oak Trees, one (1) Pine Tree, and Three (3) Palm Trees removed without a permit – Code Sections 72.41; 72.42; 72.43

VIOLATION ADDRESS: 2326 Bonita Avenue, Vero Beach,
Florida 32962
(Failure to comply)

Ms. Sanderson showed the Board photographs of the property (on file in the City Clerk's office). She reported that no request for a hearing on the citation has been received so a hearing to contest the citation has been waived and the violation is deemed admitted by the violator. Service of the citation was provided by certified mail and posting of the property. The civil penalty has been paid and the violation has not been corrected. She reported that mitigation is required.

Ms. Xinjing Yin, Property Owner, who has been sworn, said that she has had this property for almost two (2) years and are trying to make it nice for this community. She said when she first purchased the property it looked like a jungle and her friends and family helped her with trying to clean it up. She said that she now knows that she was doing it the wrong way and has learned a hard lesson.

Mr. Price asked have you started mitigation.

Ms. Yin answered no. She said that she was speaking with the Code Officer and asked for more time because she needs to have her water hooked up in order to water the trees that are mitigated.

Ms. Sanderson reported that the civil penalty has been paid and mitigation is required, which could be paid or the trees could be replaced.

Mr. Daige said that he does not have a problem with allowing 90-days to resolve the mitigation issues.

Mr. Price moved that the Board finds that there was a violation, the violation continues, and 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 ...

Mr. Price questioned are there continuing penalties on mitigation.

Ms. Sanderson said the continuing penalties were set on the citation. She asked Mr. Turner would it be in the amount of \$1,800 or could it be the ...

Mr. Turner said it would be \$1,800.

Mr. Price said so there are no continuing civil penalties.

Ms. Sanderson said the continuing penalties would be in the amount of \$1,800 if not corrected in 90-days going back to the original compliance date of June 16, 2021.

Mr. Price questioned \$1,800 per day.

Ms. Sanderson said that is the amount of the penalty on the citation.

Ms. Sanderson asked do you think you could do this in the 90-day time frame.

Ms. Yin said that she would do her best.

Ms. Sanderson suggested that the Board allows 120-days to correct the violation.

Mr. Price moved that the Board finds that there was a violation, the violation continues, that the Board issues a Board order to correct the violation within 120-days from the date of the Board order or continuing civil penalties in the amount of \$1,800 shall commence on the original compliance date of June 16, 2021, until corrected and that the initial civil penalty has been paid. Mr. Daige seconded the motion and it passed 4-2 with Mr. Pizzichillo voting no, Mr. Daige yes, Mr. Bryant no, Mrs. Hillman yes, Mr. McDonald yes and Mr. Price yes.

- o. CASE #21-CE-11761 / 3330M**
VIOLATOR: Yin Xinjing
VIOLATION: Interior demolition and alterations without a building permit – Code Sections 22-181; 22-106
VIOLATION ADDRESS: 2326 Bonita Avenue, Vero Beach, Florida 32962
(Failure to comply)

Ms. Sanderson reported that service of the citation was by posting of the property. The civil penalty has been paid and the violation has not been corrected.

Ms. Yin said that she went to the Building Department and was given some forms to fill out and bring back to them. She then met with her engineer.

Mr. McDonald asked Ms. Sanderson for her recommendation.

Ms. Sanderson suggested that the Board allows 60-days to correct the violation.

Mr. McDonald asked are there continuing penalties.

Ms. Sanderson answered no.

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 60-days from the date of the Board order and that there are no continuing penalties ...

Mr. McDonald asked are there any fees.

Ms. Sanderson answered no.

Mr. McDonald continued with the motion that the initial civil penalty has been paid.

Ms. Sanderson added that if the violation is not corrected within 60-days continuing civil penalties shall commence on the original compliance date of July 7, 2021.

Mr. McDonald questioned at \$50 per day.

Ms. Sanderson said that is correct.

Mr. McDonald added to the motion that if the violation is not corrected civil penalties will continue to accrue effective July 7, 2021, at \$50 per day. Mr. Daige seconded the motion and it passed unanimously.

- p. CASE #21-CE-11705 / 3315M**
VIOLATOR: Compassion Health / Timothy McNamee
VIOLATION: Sign violation – Code Section 38.17 (a)
VIOLATION ADDRESS: 1818 Commerce Avenue, Vero Beach, Florida 32960
(Failure to pay \$50 civil penalty)

Ms. Sanderson reported that no request for a hearing on the citation was received so a hearing to contest the citation has been waived and the violation is deemed admitted by the violator. Service of the citation was provided by posting of the property. 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 they issue a Board 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. Pizzichillo seconded the motion and it passed unanimously.

Mr. Daige said they are seeing these sign violations often. He asked when people apply for their Business Tax License, could they be given a copy of the sign ordinance so they know what is allowed.

Ms. Sanderson reported that when a warning citation is issued she includes information that if they want signage for their business that they need to contact the Planning and Development Department so they know what is and is not permitted.

- q. CASE #21-CE-11714 / 3316M – Repeat Violation**
VIOLATOR: The American Pavers Contractor, Inc. / Elias Mendoza, Agent
VIOLATION: Pavers installed without Code Compliance Certification from the Vero Beach Planning and Development Department
VIOLATION ADDRESS: 2655 Tropical Avenue, Vero Beach, Florida 32960
(Failure to comply)

Ms. Sanderson showed the Board photographs of the property (on file in the City Clerk's office). She reported that no request for a hearing on the citation has been received so a hearing to contest the citation has been waived and the violation is deemed admitted by the violator. Service of the citation was provided by certified mail. The civil penalty has been paid and the violation has not been corrected. 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 three (3) 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 June 24, 2021 until corrected. There are enforcement costs of \$88.37.

The Deputy City Clerk sworn in Mr. Elias Mendoza.

Mr. Elias Mendoza, Violator, who has been sworn in, stated that he sent his secretary to City Hall twice. He said that she told him that he needed to pay the fine, which he did. He then received the Notice of Hearing and asked her what was going on and she told him that he needed to appear to today's meeting, which is why he is present today.

Ms. Sanderson said that she spoke with his secretary about two (2) weeks ago and explained that she needed to complete the Code Compliance application. She asked Mr. Mendoza while he is here today to go to the Planning and Development Department and fill out the Code Compliance application.

Mr. Mendoza agreed.

Mr. McDonald asked if the form is filled out today would that bring him in compliance.

Ms. Sanderson said that he would be in compliance once the Planning and Development Department issues the Code Compliance Certification.

Mr. Price 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 three (3) 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 June 24, 2021, until corrected, that the original civil penalty has been paid and to pay the enforcement cost of \$88.37. Mr. McDonald seconded the motion and it passed unanimously.

- r. **CASE #21-CE-11717 / 3326M – Repeat Violation**
VIOLATOR: Timothy B. Young
VIOLATION: Public nuisance – Weeds, grass, or undergrowth at a height of more than 12 inches – Code Section 38-31 (a)(b)(1)
VIOLATION ADDRESS: 2512 Atlantic Boulevard, Vero Beach, Florida 32960
(Failure to comply; Failure to pay \$150 civil penalty)

Ms. Sanderson reported that no request for a hearing on the citation was received so a hearing to contest the citation has been waived and the violation is deemed admitted by the violator. Service of the citation was provided by posting of the property. The violation has not been fully corrected and the civil penalty has not been paid. She requested that the Board finds that there was a violation, the violation continues, that the Board issues a Board order to correct the violation within five (5) 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 July 5, 2021, until corrected, and to pay the initial civil penalty of \$150.

Mr. Price moved that the Board finds that there was a violation, the violation continues, that the Board issues a Board order to correct the violation within five (5) 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 July 5, 2021, until corrected and to pay the initial civil penalty of \$150. Mr. McDonald seconded the motion and it passed unanimously.

- s. **CASE #21-CE-11719 / 3318M**
VIOLATOR: B. Rotermund and W. Colwell (TRS) / fbo The Ralph W. Rotermund Revocable Trust

VIOLATION: Failure to obtain site plan approval for the development of the property from the City Planning and Development Department – Code Section 64.06 (e)(1)

VIOLATION ADDRESS: 766 Fiddlewood Road, Vero Beach, Florida 32963

(Failure to comply)

Ms. Sanderson showed the Board a photograph of the property (on file in the City Clerk's office). She reported that no request for a hearing to contest the citation has been received so a hearing to contest the citation has been waived and the violation is deemed admitted by the violator. Service of the citation was provided by posting of the property. The civil penalty has been paid and the violation has not been corrected.

Mrs. Jennifer Peshke, Attorney, stated that she is present on behalf of the violator. She said that she only became aware that this case was on the docket because she was going to be attending for another client so in seeing this she then confirmed with her client that he would like her to attend in his place because he is currently at his other residence in Connecticut. She is requesting an additional 30-day extension to get the building site plan approved. Her client was under the impression that his builder was taking care of this.

Ms. Sanderson reported that when a property has fill dirt added there is a site plan approval process that has to be in place prior to the fill dirt being added. She said that Mr. Rotermund was cited as the property owner and without a site plan they did not have any information on the contractor, which has now been identified. She reported that two (2) weeks after receiving the citation they did apply for site plan approval. She suggested that the Board allows 45-days to complete the process and come into compliance.

Mr. Price moved that the Board fines 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 in the amount of \$50 per day shall commence on the original compliance date of June 11, 2021, until corrected and that the initial civil penalty has been paid. Mr. Pizzichillo seconded the motion and it passed unanimously.

t. **CASE #21-CE-11791 / 3243M**

VIOLATOR: James B. Schlitt

VIOLATION: Failure to obtain site plan approval for the property – Code Section 64.06 (e)(1)

VIOLATION ADDRESS: 2020 Delmar Avenue, Vero Beach, Florida 32960

(Failure to comply)

Ms. Sanderson reported that no request for a hearing on the citation was received within the 10-day timeframe so a hearing to contest the citation has been waived and the violation is deemed admitted by the violator. Service of the citation was provided by posting of the property. The violation has not been corrected and the civil penalty has been paid. She requested that the Board finds that there was a violation, the violation continues, and that the Board issues a Board order to correct the violation within seven (7) 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 July 7, 2021, until corrected and that the initial civil penalty has been paid.

Mr. Price moved that the Board finds that there was a violation, the violation continues, that the Board issues a Board order to correct the violation within seven (7) 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 July 7, 2021, until corrected and that the initial civil penalty has been paid. Mr. McDonald seconded the motion and it passed unanimously.

- u. CASE #21-CE-11806 / 3248M**
VIOLATOR: Casa Investimento Per Nicholas LLC / Tyler Gold, Agent
VIOLATION: Public nuisance – Weeds, grass, or undergrowth at a height of more than 12 inches; dead tree limb(s) in Oak Tree in the front yard; used oil stored in container – Code Section 38-31 (a)(b)(1)(4)(8)
VIOLATION ADDRESS: 1748 23rd Street, Vero Beach, Florida 32960
(Failure to comply; Failure to pay \$50 civil penalty)

Ms. Sanderson reported that she met with the violator, who showed her documentation this morning that the violation was corrected and he paid the civil penalty. This case was pulled from today's agenda.

- v. CASE #21-CE-11826 / 3251M**
VIOLATOR: Stephen B. Cooke
VIOLATION: Failure to obtain site plan approval; public nuisance – weeds, grass or undergrowth at a height of more than 12 inches – Code Sections 73.22 (a-e); 38-31 (a)(b)(1)
VIOLATION ADDRESS: 411 Holly Road, Vero Beach, Florida 32963
(Failure to pay \$50 civil penalty)

Ms. Sanderson reported that this item was pulled from today's agenda.

- w. CASE #21-CE-11812 / 3249M**
VIOLATOR: Richard D. Boga
VIOLATION: Deck installed without Code Compliance Certification or a building permit – Code Sections 64.05 (a)(b)(9)(c); 22-181; 22-106
VIOLATION ADDRESS: 11 Sailfish Road, Vero Beach, Florida 32960
(Failure to comply)

Ms. Sanderson reported that no request for a hearing on the citation has been received so the hearing to contest the citation has been waived and the violation was admitted by the violator. Service of the citation was provided by certified mail. The civil penalty has been paid and the violation has not been corrected. There are enforcement costs of \$68.54. She reported that Mr. Richard Boga, violator, hired Mr. Barry Segal as his Attorney. She spoke with Mr. Segal today regarding a time frame to complete the process. She requested 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 90-days from the date of 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 July 20, 2021, until corrected and to pay the enforcement costs of \$68.54.

Mr. Price 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 July 20, 2021, until corrected that the initial civil penalty has been paid, and to pay the costs of enforcement in the amount of \$68.54. Mr. Daige seconded the motion and it passed unanimously.

- x. **CASE #21-CE-11452 / 3162M**
VIOLATOR: Melvin and Maureen Miller
VIOLATION: Sewer use restrictions – Code Section 78-83 (a)(4)
VIOLATION ADDRESS: 3655 Flamingo Drive, Vero Beach, Florida 32963
(Failure to comply; Failure to pay \$50 civil penalty)

Ms. Sanderson reported that service of the citation was provided by property posting. No request for a hearing on the citation has been received so the hearing to contest the citation has been waived and the violation was admitted by the violator. 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 10-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 June 17, 2021, until corrected and to pay the initial civil penalty of \$50.

Mr. Price 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 10-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 June 17, 2021, until corrected, and to pay the initial civil penalty of \$50. Mr. Daige seconded the motion and it passed unanimously.

At this time, Ms. Sanderson reported that she mistakenly pulled Case #21-CE-11632 – Stephen D. Boyles from today’s agenda.

Mr. Turner explained that the Board has been requested by staff to add an additional matter for consideration, which was served and set for today, but through inadvertence it was left off of the agenda. He said at the approval of the Board they may proceed with the matter.

The Board agreed to hear Case #21-CE-11632 – Stephen D. Boyles at this time.

- y. **CASE #21-CE-11718 / 3319M – Repeat Violation**
VIOLATOR: P. Scott McCracken
VIOLATION: Solid waste violation – Code Section 66-8 (12)
VIOLATION ADDRESS: 2716 Laurel Drive, Vero Beach, Florida 32960
(Failure to pay \$150 civil penalty)

Ms. Sanderson read into the record Code Section 66.8 (12) - Contractor’s refuse or waste, *“It shall be unlawful for any person acting in the capacity of contractor, including but not limited to a lawn maintenance operator, commercial tree trimmer, tree surgeon, landscaper,*

mechanical contractor, electrical contractor, building contractor, handyman or any other paid laborer or contractor, to produce or accumulate any refuse or waste material on a site without removing same to an authorized dump or landfill, subject to the provisions of this chapter, the rules and regulations pertaining to solid waste, and any other governing law or ordinance of the city, state or federal government.” She reported that the violator owns property where debris, concrete material, etc., is going into that dumpster instead of being removed. No request for a hearing of the citation was received within the 10-day time frame so a hearing to contest the citation has been waived and the violation is deemed admitted by the violator. Service of the citation was provided by posting of the property. The civil penalty has not been paid and the violation has been corrected. There are enforcement costs of \$61.58.

Mr. Scott McCracken, Property Owner, who has been sworn in, took exception to how the Code was being interpreted. He said there has been a dumpster on site the entire time that construction has been going on. He read from the Code in part, *“any refuse or waste material on a site without removing same to an authorized dump or landfill...”* He said that has been done. He said in one (1) citation (Citation #21-CE-11569), the Code Enforcement Officer even added their own verbiage to the Code, which stated, *“Materials and other items being brought from other sites and dumped in dumpster on site.”* He said to him, that is not what the Code says.

At this time, the Board took a 10-minute recess and reconvened at 3:11 p.m.

Ms. Sanderson requested that before they get started with Mr. McCracken’s testimony she would like to call Mr. Fields to the stand.

At this time, the Deputy City Clerk swore in Mr. John Fields.

Ms. Sanderson asked are you a nearby resident of this property.

Mr. John Fields, who has been sworn in, stated that he lives on Laurel Drive and has lived there for 35 years.

Ms. Sanderson asked you are aware of this property.

Mr. Fields answered yes.

Ms. Sanderson asked have you ever seen any activity on the property other than building.

Mr. Fields answered yes. He stated that there has been two (2) trailers on the property and they were operating a business out of the garage storing building supplies. He said the big thing is that there was a large orange dumpster on the property for multiple years. He said it got to the point where it was whose turn was it to call Code Enforcement. Pictures were provided, a video was supplied, etc., which showed waste and building supplies being dumped into the trailer from another site.

Mr. Bryant questioned into a trailer or into a dumpster.

Mr. Fields explained that it was being dumped from a trailer into a dumpster. He said this property has been a sore spot for their street and their community. He said at one point there were small children on the property so he called Code Enforcement because the site had openings with no floors and children could get hurt. He said this is an issue that has been

going on and there has been aggressive behavior. He said that he takes care of a senior citizen who feels intimidated. One (1) thing that was stated was “don’t worry, mind your own business because when I get done your property values are going to improve.” Mr. Fields said this has been a nightmare for over five (5) years. Ms. Sanderson knows all of the neighbors on this street in that she receives telephone calls from them regularly. He said the disregard for the neighborhood, for the neighbors, for the City, and for Code Enforcement is completely unacceptable.

Mr. Price asked is there construction taking place on this property.

Mr. Fields said there was a while ago when they were cutting trees and taking away debris. He said it was his understanding that Mr. McCracken is a General Contractor so he knows the rules and he is in complete defiance of the rules, to the community, the neighborhood, the City, and Code Enforcement. He said this is completely unacceptable.

Mr. Pizzichillo said it was stated that there were dumpsters on the property and there were trucks pulling up dumping refuse and waste into the dumpsters on the property.

Mr. Fields said that he supplied Ms. Sanderson with a video on that.

Mr. Pizzichillo said that he just wanted it on the record.

Mr. Fields said yes, he saw it.

Mrs. Peshky reported that she is the Attorney for Mr. McCracken.

Mrs. Hillman asked Ms. Peshke for her background.

Mrs. Peshke reported that she is primarily a real estate attorney and is working on some other transactional matters. She was retained by Mr. McCracken when he received a specific performance complaint for a different piece of property that he is under contract to sell. So she pulled title on the property to what the problem was as to see why he couldn’t sell the property, which was the reason that he didn’t go forward with that contract and she discovered these code enforcement liens that the City has. She said that is how she became involved and she worked with Mr. McCracken to get him to resolve as many of the liens that he could and he has come in and paid a number of the fines. She reported that she is the County Code Enforcement Board’s attorney so she does understand Code Enforcement Boards. She noted that this is not a conflict because this is a City Code Enforcement Board. She said they are here to work to resolve this and there are some substantial fines. She stated that Mr. McCracken would like to get a partial lien release for the 2312 Vero Beach Avenue property so they can get that property sold. She said if the Board would entertain a lien release for that property they would be able to work towards a resolution of these liens because there would be some avenue to do that. She said that she does not know about anything that Mr. Fields just testified to. She said that she doesn’t have any information about that or any of that background. She said that she would imagine that the Board would proceed with fundamental due process, but the rules of evidence don’t technically apply to these proceedings. She asked is that accurate.

Mr. Turner asked Ms. Peshke to repeat the question.

Mrs. Peshke said that she knows that typically Code Enforcement Boards would fundamentally follow the principles of due process, but does not follow the hard and fast evidence rules that would be followed in a courtroom. She asked is that correct.

Mr. Turner said that is correct.

Mrs. Peshke said for the record, she has not seen the video, she doesn't have any information, and she doesn't know how Mr. Fields got the video, if he took it, or how the video got to the City. But, they are here to talk about a resolution and working out some compliance. There are very substantial fines on this property with a number of violations. There are three (3) cases before the Board today and a number of the other violations, she believes, have been moved out of this realm and into the Circuit Court with a Claim of Lien Foreclosure action, which she will be working with the City Attorney on. Today, they would like to discuss what they could do to resolve this matter and move along. She reported that Mr. McCracken has worked on the property and has been trying to complete the work. She noted that anyone who has been doing construction or anything with their home knows that this past year has caused delay. It is very hard to get supplies. She said one (1) of the citations that she saw was from September, 2019 and they all know what happened in March of 2020.

Mr. Pizzichillo said they are talking about 2716 Laurel Drive and that particular case. They are not talking about any other case at this time.

Mr. Price pointed out that they are discussing this case only. The Board has to take each case individually.

Mr. McCracken said that he can clearly understand that the neighbors are upset. He said this has been going on for a long time, not just with him, but prior to him purchasing the house it was in bank foreclosure for about seven (7) years. He said from day one (1) the neighbors have been upset. A number of the neighbors spoke with him and said that he should tear it down and he didn't want to. He said that he is a General Contractor and he seen the value in the home. The house is 100-years old and he feels it is a piece of history in Vero Beach and needs to be saved. He said this has become a project five (5) times harder than even he could have seen, which is why there is a delay. He said the expense has gone up exponentially and the time has dragged on quite a bit, but he felt it was worth saving. He said that he would like to take the proceeds from a different house that he is trying to sell and put it into this house. He understands the impatience of the neighbors, but thinks that when it is completed it would be a nice addition to the neighborhood.

Mr. Pizzichillo said it was stated that there are photographs and videos of trailers dumping things into the dumpsters on the property. He said this is in contradiction to Mr. McCracken's opening statement.

Mr. McCracken disagreed. He said that he doesn't see anywhere in the Code where it states that you can't bring building materials from another job site.

Mr. Pizzichillo asked are you admitting that you did that.

Mr. McCracken said on a few occasions, yes. He stated that he had a rental house and the tenants moved and left their furniture, so yes, on a few occasions that did happen.

Mr. McDonald asked is the house at 2716 Laurel Drive under construction.

Mr. McCracken said there is an active building permit on it, but he has not done any work on it in quite a while.

Mr. McDonald questioned so you have a dumpster on site, but you are not doing any work.

Mr. McCracken said not currently. He said there is not a dumpster or a trailer on the site. They have all been removed.

Mr. McDonald asked when were they removed.

Ms. Sanderson reported that the dumpster was removed on June 11, 2021.

Mr. McDonald asked how long was the dumpster there.

Mr. McCracken said a couple of years as the construction was ongoing.

Mrs. Hillman questioned the construction on the house was ongoing, but you are admitting that you put other construction materials from other homes into the dumpster.

Mr. McCracken reported that tenants from another house left their furniture and he did place that furniture into the dumpster.

Mr. Daige said you stated that you have an open permit. He asked what is the date of the permit.

Mr. McCracken said it has been renewed a number of times.

Mr. Daige asked what was the first date of the permit.

Mr. McCracken said that he didn't have that information.

Mr. Daige asked was it more than two (2) years ago.

Mr. McCracken answered yes.

Mr. McCracken asked Mr. Turner for his input about the issue that was raised by Mr. McCracken in his opening statement that he thought dumping materials on the site was allowed (interpretation of the Code).

Mr. Turner reported that Code Enforcement interprets this as a violation.

Ms. Sanderson reported that she spoke with Mr. Jason Jeffries, Planning and Development Director, about this Code section and his interpretation is that debris or construction materials could go into the dumpster from this site, but not from other locations.

Mrs. Peshke said that she knows ignorance of the law is not a defense, but when compliance was achieved the dumpster was removed about the time that she was retained and made her client aware of what was out there and what he needed to do to comply. He did not understand that the fine was running by the day for all of these different cases. She felt that a substantial amount of compliance has been achieved since about the middle of June. She asked that the Board bare that in mind.

Ms. Sanderson reported that the reason the dumpster was removed was because the City's Solid Waste Department reached out to the franchisee of the dumpster and asked that it be removed.

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 civil penalty of \$150, along with enforcement costs of \$61.58. Mr. McDonald seconded the motion and it passed unanimously.

z. CASE #20-CE-11306 / 3025M

VIOLATOR: P. Scott McCracken

VIOLATION: Commercial trailer parked onsite that is not being used in construction on property that has a valid building permit; dumpster onsite without a valid building permit – Code Sections – 74.82 (a); 64.45 (d)(1)

VIOLATION ADDRESS: 2716 Laurel Drive, Vero Beach, Florida 32960

(Property found in compliance by Code Officer on 6/8/21. Continuing civil penalties of \$150 per day times 187 days (12/3/20 through and including 6/7/21) equals \$28,050, plus initial \$150 civil penalty = \$28,200 plus costs due to the City)

Ms. Sanderson reported that this case came before the Board on January 13, 2021, and the Board issued a Board order to correct the violation within 30-days from the date of the Board order and to pay the initial civil penalty. She reported that the civil penalty has not been paid and the violation was corrected on June 8, 2021, when the permit was issued. She asked that the Board finds the property in compliance as of June 7, 2021, to cease the continuing penalties as of that day, and to pay the accrued continued penalties and costs.

Mrs. Peshke asked is there any opportunity for any sort of a fine reduction. She said that the County has a process for that. She said that she heard on their first case that they did a fine reduction and they are seeking to comply.

Mr. Price said this is a repeat violation.

Ms. Sanderson reported that this is the third time for this violation.

Mr. McDonald said the problem that he would have for a reduction is that this has been going on for a long time. He (Mr. McCracken) has been sent many notices, the property has been posted, etc., and he has never showed up or responded.

Mrs. Hillman said that Mr. McCracken has never shown up and never put up a defense for himself.

Mr. Turner explained that under the City's Ordinance, this Board does not have jurisdiction to take any action regarding civil penalties that have become a lien by recording of a certified copy of the Board order in the public records. The only way a reduction could be addressed is through an application to the City Council.

Ms. Sanderson asked the Board to issue a Board order finding compliance as of June 7, 2021, ceasing the continuing penalties and to pay the accrued civil penalties and costs.

Mr. Price moved that the Board finds that the property is in compliance as of June 8, 2021, ceasing the continuing penalties as of June 7, 2021, and to pay the accrued continued penalties and costs. Mrs. Hillman seconded the motion and it passed unanimously.

- aa. CASE #21-CE-11569 / 3271M**
VIOLATOR: P. Scott McCracken
VIOLATION: Solid waste violation – Code Section 66-8 (12)
VIOLATION ADDRESS: 2716 Laurel Drive, Vero Beach, Florida 32960
(Property found in compliance by Code Officer on 6/16/21. Continuing civil penalties of \$100 per day times 47 days (4/30/21 through and including 6/15/21) equals \$4,700, plus initial \$100 civil penalty, plus cost of enforcement of \$44.70 = \$4,844.70 plus costs due to the City)

Ms. Sanderson reported that this case came before the Board on May 12, 2021, and the Board issued a Board order to correct the violation within 30-days from the date of the Board order and to pay the initial civil penalty. The violator did not appear or appeal the citation. The initial civil penalty has not been paid and the violation was corrected on June 15, 2021. There are costs of enforcement of \$45.02. She asked that the Board finds the property in compliance as of June 14, 2021, to cease the continuing civil penalties, and to pay the accrued continued penalties and costs.

Mr. Turner asked Mrs. Peshky if she wanted to address the Board on this case.

Mrs. Peshke answered no. She felt that Mr. Turner was clear in his last statement that the City Council would have the authority to address any fine reduction at this point since it is a recorded lien.

Mr. Price moved that the Board finds the property in compliance as of June 15, 2021, to cease the continuing penalties as of June 14, 2021, and to pay the accrued continuing penalties and costs. Mr. McDonald seconded the motion and it passed unanimously.

Mrs. Peshke asked does this Board have the authority for partial lien releases or is that the City Council as well.

Mr. Turner asked what was the question.

Mrs. Peshke asked does this Board have the authority for partial lien releases or super liens.

Mr. Turner answered no.

- bb. CASE #20-CE-11364 / 3079M**
VIOLATOR: Juan Fernando Bailey, Trustee of the Swink Family Irrevocable Trust dated December 7, 2018
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

**(Property found in compliance by Code Officer on 7/15/21.
Continuing civil penalties of \$50 per day times 119 days
(3/18/21 through and including 7/14/21) = \$5,950 plus costs
due to the City)**

Ms. Sanderson reported that this case came before the Board on May 12, 2021, and the Board issued a Board order to correct the violation within 45-days from the date of the Board order and to pay the initial civil penalty. The initial civil penalty has been paid and the violation was corrected on July 15, 2021, which was past the deadline. This case is before the Board today to find the property in compliance as of July 15, 2021, to cease the continuing civil penalties as of July 14, 2021, and to pay the continued penalties and costs.

Mr. Justin Swink, Violator, who has been sworn in, stated that they did everything they could to get the property in compliance in time, but it just took a little longer than expected. He asked the Board for some leniency if possible. He said that he runs multiple companies in town and it was just hard to get there and get the work done. He said they had to dig out a lot of fill, which had to be done by hand. They also had to dig up all the grass that was there and then replace it. He said there was a lot to be done and it just took more time than they expected.

Mr. McDonald asked what was the original deadline.

Ms. Sanderson said 45-days from the date of the Board order, which was July 3, 2021.

Mr. Price said then he only missed the deadline by 12-days.

Mr. Pizzichillo explained to Mr. Swink that whatever happens here, he has the right to appeal it to the City Council.

Mr. Price said that he made a good effort.

Mr. McDonald agreed.

Mr. McDonald asked the Board if they would agree to a penalty of 12-days at \$50 per day.

The Board members agreed.

Mr. Turner explained that there is a Board order, which is now a lien so Mr. Swink's avenue for seeking relief has expired in front of this Board. He will have to go before the City Council.

Mr. McDonald said but the minutes of today's hearing could be presented to the City Council.

Mr. Turner explained that the Board can make a recommendation, but they cannot change it.

Mr. Price asked what could he have done to prevent this.

Mr. Turner said that he should have taken care of his obligations at the time. If he was late then he should have petitioned at the time.

Mr. Price noted that the Board didn't meet last month.

Mr. Turner said they have to realize that once the Board enters their orders, unless something comes up that sets them aside, then any amounts due needs to go before the City Council.

Mr. McDonald asked can the Board put in a strongly worded recommendation for the City Council to consider reducing the fine to 12-days at \$50 a day.

Mr. Turner explained that the Board needs to go through the process so that everyone is treated the same. They could put in their Board order that they are in compliance, but that they would support reasonable mitigation as determined by the City Council and Mr. Swink would have to go before the City Council. He noted that there are costs involved.

Mr. McDonald moved that the Board finds that the property is in compliance as of July 15, 2021, to cease the continuing penalties as of July 14, 2021, and to pay the accrued continuing penalties and costs, however the Board strongly recommends that the City Council consider mitigating this fine and the Board's recommendation is 12 days at \$50 a day. Mr. Daige seconded the motion and it passed unanimously.

- cc. **CASE #18-CE-8400 / 1341M**
VIOLATOR: Mary E. Boozer
VIOLATION: Wood deck installed on the front of the house without Code Compliance or a permit – Code Sections 64.05 (a)(b)(9)(b); 22-181; 22-106
VIOLATION ADDRESS: 2201 Bonita Avenue, Vero Beach, Florida 32960
(Property found in compliance by Code Officer on 6/22/21. Continuing civil penalties of \$50 per day times 1,117 days (6/1/18 through and including 6/21/21) equals \$55,850, plus \$50 initial civil penalty = \$55,900 plus costs due to the City)

Ms. Sanderson showed the Board a photograph of the property (on file in the City Clerk's office). She reported that this case came before the Board on August 8, 2018, and they issued a Board order to correct the violation within 30-days and to pay the initial civil penalty. The violator did not appear or appeal the citation. The Code Compliance Certification was applied for on September 11, 2018 and was issued on September 17, 2018. No building permit was applied for or issued and the deck remained. The building permit was not applied for until June 16, 2021, and was issued on June 22, 2021. She reported that the initial civil penalty has not been paid. She requested that the Board finds the property in compliance as of that date (June 22, 2021), to cease the continuing penalties, and to pay the accrued civil penalties and costs.

Mr. Joran Ulrich, Attorney, who has been sworn in, stated that he is present today on behalf of Ms. Mary Boozer, Violator, who is also present for today's hearing. He stated that the reason he is here today is for the Board to find the property in compliance, ceasing the continuing penalties, as well as to appeal for a reduction of the total amount. He stated that the person who constructed the deck was a laborer that Ms. Boozer found online. She assumed by doing this that he would be the person responsible to obtain the necessary permits and insuring that it was code compliant. He reported that Ms. Boozer has lived in this community for six (6) years and is in the process of selling her property. He reported that he is a local Real Estate Attorney and is the one who found that this violation existed. They worked with Ms. Boozer and her real estate agent to get the property in compliance. He reported that Ms. Boozer had a stroke in 2015 and has been suffering with a lot of issues

since then. The way her property existed at the time was there was a step down when you went out the front door and as a result of her stroke she has to use a walker and a wheelchair at times. This was not a patio deck, but a walkway to allow her wheelchair and walker to go down smoothly. Since her stroke, she has been dealing with a lot of health conditions. To her benefit she has had family members help her because at times she has been unable to work or perform daily activities. He said that Ms. Boozer thought that she had done everything to be in compliance. She was not aware that further actions were taken because she was not the one who was in discussions because of her health circumstances. He noted that ignorance of the law is not a defense. He said that he is seeking to ask the Board to have some sympathy regarding the circumstances. As soon as he informed Ms. Boozer that this was still an issue she was very prompt in working with her professionals to get this resolved and was surprised to find that this was an issue that still existed. Had she known she would have had this resolved much sooner.

Mr. Price questioned so there were three (3) years of non-compliance and you are stating that the property owner didn't know it wasn't in compliance.

Mr. Ulrich said someone on behalf of the property came to City Hall to make the application.

Ms. Sanderson explained that she has a note stating that she spoke with the applicant's mother and gave her the Code Compliance application, which was applied for and issued and then there was no follow-up for the building permit. However, since this came up the realtor on the property owner's behalf was able to obtain Code Compliance and a building permit in two (2) weeks.

Mr. Price said because there is a lien, all the Board can do is make a recommendation to the City Council. He asked Mr. Ulrich if he was asking that the Board make a recommendation.

Mr. Ulrich asked that they first find the property in compliance and cease the continuing penalties and for a recommendation of the civil penalty of \$50.

Mr. McDonald said the accrued penalties were \$55,900 plus costs.

Mr. Daige asked if he is correct that Ms. Sanderson posted the property and put out notices in the past.

Ms. Sanderson said that is correct, there was a warning citation and the citation. The case came before the Board and no one appeared and the citation was not appealed. She then had a conversation with the applicant's mother, gave her the Code Compliance application, and told her what needed to be done.

Mr. Daige asked when she spoke to her mother did she let her know that there were fines accruing.

Ms. Sanderson explained that the fines were not accruing at that point.

Mr. Bryant said that she did complete one (1) part of the process.

Ms. Sanderson said that is correct. She noted that the realtor did the entire process in two (2) weeks so this could have been done.

Mr. Pizzichillo asked why wait 1,117 days to fix this problem when they could have settled the issue for nothing. He asked what took 1,117 days.

Mr. Ulrich said there were exigent health circumstances that made it much more difficult to get it resolved.

Mr. Pizzichillo would hope when they appeal this that the Attorney mentions the extenuating circumstances as being part of the problem.

Mr. Ulrich asked for the Board recommendation to the City Council that they reduce the total amount of fines to the original civil penalty of \$50.

Mr. Daige asked is the house currently on the market.

Mr. Ulrich said it is under contract.

Mr. Daige asked what is the listing price of the home.

Mr. Price reported that the listing price is listed on the photograph.

Mr. Daige said it states under the photograph that it is under contract for \$350,000. He said the accumulated penalties is \$55,900.

Mr. Ulrich noted that Ms. Boozer is on a fixed income. He asked that the Board takes that into account.

Mr. McDonald said that he did not have a problem with reducing the penalty to \$50.

Mr. Daige said that he was not in favor of reducing the penalty from \$55,000 to \$50.00.

Mr. McDonald explained that the Board cannot reduce the penalty, but they can recommend to the City Council that they mitigate the amount.

Mr. Turner said that he would not recommend that the Board puts in the amount. He said to let the applicant make a recommendation. The Board can recommend that based upon what was presented that there is a basis for mitigation. He does not think recommending a dollar amount by this Board is appropriate.

Mr. Daige agreed.

Mr. Price moved that the Board finds the property in compliance as of June 22, 2021, to cease continuing penalties as of June 21, 2021, to pay the accrued continuing penalties and costs, and to make a recommendation to the City Council to consider mitigating this case as they see fit.

Mr. Turner stated that if the matter is brought to the City Council for a reduction, this Board would support that.

Mr. McDonald seconded the motion and it passed unanimously.

**dd. CASE #20-CE-11103 / 2949M
VIOLATOR: Randall Dehmer**

VIOLATION: Failure to obtain Code Compliance Certification or a permit for the shed – Code Sections 64.05 (9)(b); 22-181; 22-106

VIOLATION ADDRESS: 6 Lamplighter Lane, Vero Beach, Florida 32960

(Property found in compliance by Code Officer on 5/14/21). Continuing civil penalties of \$50 per day times 218 days (10/8/20 through and including 5/13/21) equals \$10,900, plus \$50 initial civil penalty, plus cost of enforcement of \$72.51 = \$11,022.51 plus costs due to the City)

Ms. Sanderson reported that the civil penalty has not been paid and the violation was corrected on May 14, 2021. There are enforcement costs of \$56.28. She reported that this case was before the Board in December of 2020. This case is brought before the Board today to find the property in compliance and to cease the continuing penalties.

Mr. Price moved that the Board finds the property in compliance as of May 14, 2021, to cease continuing penalties as of May 13, 2021, and to pay the accrued penalties and costs. Mr. Daige seconded the motion.

Mrs. Hillman asked Mr. Dehmer why he didn't comply.

Mr. Price withdrew his motion.

Mr. Randall Dehmer, who has been sworn in, said it was not the fault of Ms. Sanderson. He said that she came to his place of work and asked him to take care of it. She did everything she could above and beyond. It was him not taking care of it. He said that he has no excuse other than that he owns a business that was closed by this County and he gave his tenant eight (8) months free rent. He said that he does not have any excuses whatsoever. Ms. Sanderson kept warning him and he didn't do anything about it.

Mr. Pizzichillo said that he appreciates Mr. Dehmer's honesty and hopes that he appeals this to the City Council and that the City Council would see some of his arguments. He recommended that Mr. Dehmer follow through on this and appeal.

Mr. Dehmer said that he would.

Mr. Turner noted that it is not an appeal, but a request to reduce the amount of the penalty.

Mr. McDonald felt that the board should strongly recommend to the City Council that they consider mitigating this fine because of the extraordinary circumstances brought on by COVID.

Mr. Daige said some of the fines are substantial and they don't want to completely wipe everything out. He said the City Council is going to look for something from this Board so if they feel there is merit in what Mr. Dehmer is telling them they can let the City Council know that there is merit to this. He said that he is not going to ask the City Council to wipe out the entire fine or even insinuate that.

Mr. Dehmer said that he appreciates this, but the Board does not have to give him a recommendation. He said it was his fault and he is going to tell that to the City Council and see what they do. He said that he might like to have a little recommendation from the Board.

Mr. Price moved that the Board finds the property in compliance as of May 14, 2021, to cease the continuing penalties as of May 13, 2021, and to pay the civil penalty and the accrued continuing penalties and costs. The Board also recommends that the City Council consider mitigation if possible. Mr. McDonald seconded the motion and it passed unanimously.

- ee. CASE #19-CE-10111 / 2060M**
VIOLATOR: Andrew F. Zaleski
VIOLATION: Fence replaced without Code Compliance Certification or a building permit – Code Sections 64.05 (a)(b)(7); 22-181; 22-106
VIOLATION ADDRESS: 2726 22nd Street, Vero Beach, Florida 32960
(Property found in compliance by Code Officer on 6/9/21. Continuing civil penalties of \$50 per day times 643 days (9/5/19 through and including 6/8/21) equals \$32,150 plus costs due to the City)

Ms. Sanderson reported that the civil penalty has not been paid and the violation was corrected on June 8, 2021. There are costs of enforcement of \$151.97. This case came before the Board in November of 2019 and the Board allowed 30-days to correct the violation. She requested that the Board finds compliance as of that date, ceasing the continuing penalties and to pay the accrued continued penalties and costs.

Mr. Price moved that the Board finds the property in compliance as of June 9, 2021, to cease the continuing penalties as of June 8, 2021, and to pay the accrued continuing penalties and costs. Mr. McDonald seconded the motion and it passed unanimously.

- ff. CASE #21-CE-11468 / 3174M**
VIOLATOR: 1901 33rd Avenue LLC / Sunshine Corporate Filings LLC, Agent / c/o Viracity Corp.
VIOLATION: Public nuisance – stagnant swimming pool – Code Section 38-31 (b)(7)
VIOLATION ADDRESS: 1901 33rd Avenue, Vero Beach, Florida 32960
(Property found in compliance by Code Officer on 7/2/21. Continuing civil penalties of \$50 per day times 122 days (3/2/21 through and including 7/1/21) equals \$6,100 plus costs due to the City)

Ms. Sanderson reported that the civil penalty has been paid and the violation was corrected on July 2, 2021. She asked that the Board finds the property in compliance, to cease the continuing penalties and to pay the accrued penalties and costs.

Mr. Price moved that the Board finds the property in compliance as of July 2, 2021, to cease the continuing civil penalties as of July 1, 2021, and to pay the accrued continuing penalties and costs. Mr. McDonald seconded the motion and it passed unanimously.

- gg. CASE #20-CE-11191 / 2961M**
VIOLATOR: United Against Poverty, Inc. / Gwendolyn Butson, Agent

VIOLATION: Illicit drainage of compactor seepage into City storm drain – Code Section 73.45

VIOLATION ADDRESS: 1400 27th Street, Vero Beach, Florida 32960

(Property found in compliance by Code Officer 6/15/21. The initial civil penalty has been paid. The Board issued a Board Order Finding Violation, Allowing Additional Time for Compliance; Deferring any Action for Eight (8) Months (August 1, 2021) and the Board to Receive Periodic Updates on the Progress) – Request for Board Order Finding Compliance and that the Civil Penalty has been Paid (Closing this case)

Ms. Sanderson reported that the civil penalty has been paid and the violation has been corrected as of June 15, 2021. She asked that the Board finds the property in compliance as of June 15, 2021.

Mr. Price moved that the Board finds the property in compliance as of June 15, 2021. Mr. Daige seconded the motion and it passed unanimously.

6. OLD BUSINESS

None

7. ADMINISTRATIVE MATTERS

None

8. CLERK’S MATTERS

Ms. Sherri Philo, Deputy City Clerk, requested that the Board reschedule their meeting of September 8, 2021, to Wednesday, September 15, 2021, at 1:30 p.m.

The Board agreed to reschedule their meeting to be held on Wednesday, September 15, 2021, at 1:30 p.m.

9. ATTORNEY’S MATTERS

Mr. Turner reported that the Clean Hands Ordinance has been approved by the Planning and Zoning Board and will be going before the City Council for adoption. He explained that this Ordinance relates to people pulling permits with the City and if they have any outstanding obligations where they owe anything to the City that would have to be taken care of before they are issued any permits.

Mr. Turner reported that he received a telephone call today regarding one (1) of Mr. McCracken’s properties and he will be discussing with the City Council at their meeting about accepting a recommendation for releasing a lien on a particular piece of property because of a sale. He does not have all the details yet, but if that goes through it looks like the City would be receiving some money.

10. CHAIRMAN’S MATTERS

None

11. MEMBER'S MATTERS

Mr. Daige asked the Board members if they all received a copy of the information from the State regarding Code Enforcement (Senate Bill 60). He asked the Board members to request a copy from the City Clerk's office if they did not receive a copy.

Mr. Pizzichillo said that he did not receive it.

12. ADJOURNMENT

Today's meeting adjourned at 4:56 p.m.

/sp