

CODE ENFORCEMENT BOARD MINUTES
Wednesday, August 10, 2016 – 2:00 p.m.
City Hall, Council Chambers, Vero Beach, Florida

PRESENT: Chairman, Kirk Noonan; Vice Chairman, Frank Pizzichillo; Members: Christopher Bryant, Herbert Whittall, and Alternate Member #1, Eric Price **Also Present:** City Attorney, Wayne Coment; Code Enforcement Officer, Melody Sanderson; Code Enforcement Officer, Tom Ramsey; Indian River County Licensing Inspector, David Checchi, and Deputy City Clerk, Sherri Philo

Excused Absence: Stephen McDonald

Unexcused Absence: Mr. Jeffrey McGann

1. CALL TO ORDER

Today's meeting was called to order at 2:00 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 all witnesses present for today's meeting en masse.

3. PRELIMINARY MATTERS

A) Adoption of Minutes – June 8, 2016

Mr. Pizzichillo made a motion to adopt the minutes of the June 8, 2016 Code Enforcement Board meeting. Mr. Whittall seconded the motion and it passed unanimously.

B) Agenda Additions, Deletions and Adoption

Mr. Tom Ramsey, Code Enforcement Officer, pulled item 5-B) 1e – Indian River Investments Realty, Inc. from today's agenda. He reported that the property is in compliance and the case is closed. He then pulled item 5-B) 1k – Carlos Aguilera from today's agenda. He reported that the citation has been paid and the violator requested an extension to allow time to get the permitting, which has been approved.

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

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

A) Citation Appeals

1. CASE #16-CE-6685 / 919M

VIOLATOR: Beatriz Rey

VIOLATION: Garage enclosed without permits, approval, or certificate of occupancy from the Indian River County Building Department

VIOLATION ADDRESS: 2326 Atlantic Boulevard, Vero Beach, Florida 32960

Ms. Melody Sanderson, Code Enforcement Officer, reported that service was provided by posting of the property. She spoke with the violator, Ms. Beatriz Rey, who expressed hardship in the cost to bring the property into compliance. Ms. Sanderson reported that she advised Ms. Rey that the Planning and Development Department would put both the garage enclosure and the fence on one compliance application and that she would request that they not double the fees as customary in after the fact code compliance applications. She advised Ms. Rey to start the process with the Planning and Development Department and that she would work with her on the time to bring the property into compliance. In a second conversation, Ms. Rey told her that she received cost estimates on the permitting for the enclosed garage, but that she did not have any money. Ms. Sanderson reported that once again she suggested that Ms. Rey start the process with a code compliance agreement or that she could appeal the citation with the Board. A citation appeal was made and is in front of the Board today.

Ms. Beatriz Rey said that she was appealing for financial reasons. She said that she did violate the Code, and this was about seven (7) years ago. She said they did the work themselves in order to save money. The person who did the work has passed away.

Mr. Noonan asked what needs to be done in order to get a permit.

Ms. Sanderson said whatever the Building Department would require, as well as something from the City for the increased living space because the space is now a bedroom.

Mr. Bryant asked is the space currently occupied.

Ms. Rey answered yes, her daughter is living there.

Ms. Sanderson said this case came up because it was advertised as a nightly rental. She issued a warning citation advising that short term rentals were against Code.

Mr. Pizzichillo said Ms. Sanderson stated that it was advertised as a rental and Ms. Rey stated that her daughter was living there. He asked which is it.

Ms. Sanderson said it was advertised as a rental, which was ceased as soon as Ms. Rey found out it was against Code. She reported that the Planning and Development Department agreed

not to double the fees, but she could not speak on behalf of the Building Department. She reported that the Code Compliance Application was started in June, but was not followed through. She suggested that the Board benchmark some time frames to start the Code compliance process.

Mr. Noonan asked are the permit fees due upon application.

Ms. Sanderson said Code compliance is to be paid when it is picked up.

Mr. Noonan asked what about the Building Department.

Mr. David Checchi, Indian River County Licensing Inspector, said permit fees must be paid when the permit application is turned in and the fees are doubled with after the fact permits.

Ms. Sanderson asked that the Board give Ms. Rey until the next Code Enforcement Board meeting to apply for Code Compliance with the City.

Mr. Wayne Coment, City Attorney, said if the Board is inclined to find there was a violation, they should probably do that first and then set it for a status report at their next meeting.

Mr. Pizzichillo made a motion that the Board finds there is a violation and that a status report be given to the Board at their September 14, 2016 meeting. Mr. Price seconded the motion and it passed unanimously.

2. CASE #16-CE-6808 / 943M

VIOLATOR: Leeann Mayes Gothberg and Irene Dineen

VIOLATION: Operating a guest house and transient quarters in a residential zone

VIOLATION ADDRESS: 902 Sandpiper Lane, Vero Beach, Florida 32963

Mr. Nickolas Zbrzezny, Attorney, reported that this case involves the land use guest house and transient quarters in a residential zoning district in which that land use is not permitted. He asked Ms. Sanderson to introduce herself and to state how long she has been a Code Enforcement Officer.

Ms. Sanderson introduced herself stating that she has been a Code Enforcement Officer for approximately seven (7) years.

Mr. Zbrzezny said they were here today for the referenced property located at 902 Sandpiper Court. He asked is that correct. Ms. Sanderson noted that the correct address is 902 Sandpiper Lane.

Mr. Zbrzezny said that he would be putting some exhibits and Code provisions on the overhead noting that copies were provided to the Board Clerk for the record. He asked Ms. Sanderson if she issued a citation for the property located at 902 Sandpiper Lane.

Ms. Sanderson said that she did. Mr. Zbrzezny asked what was the basis of that citation. Ms. Sanderson answered operating a guest house and transient quarters in a residential zone.

Mr. Zbrzezny asked what is that property zoned for. He asked what is the zoning district. Ms. Sanderson answered R-1A) single-family residential.

Mr. Zbrzezny asked is the land use guest house and transient quarters a permitted or conditional use in that zoning district. Ms. Sanderson answered no it is not.

Mr. Zbrzezny asked is it a permitted or conditional use in any residential zoning district. Ms. Sanderson answered no it is not.

Mr. Zbrzezny asked who are the property owners of 902 Sandpiper Court. Ms. Sanderson answered Leeann Mayes Gothberg and Irene Dineen.

Mr. Zbrzezny asked how did you determine this. Ms. Sanderson answered through the Property Appraiser.

Mr. Zbrzezny asked Ms. Sanderson to walk the Board through how she determined, starting from the beginning, that this property was being used for that land use that is not permitted within that zoning district. Ms. Sanderson said the property was found on short-term rental websites advertising for a period of less than 30 days. A check of the property showed out of state vehicles on the site.

Mr. Zbrzezny showed on the doc cam an advertisement and asked Ms. Sanderson if this was the advertisement that she was referencing. Ms. Sanderson answered correct.

Mr. Zbrzezny asked is the website VRBO.com. Ms. Sanderson said correct. Mr. Zbrzezny asked what is that. Ms. Sanderson answered Vacation Rental By Owner.

Mr. Zbrzezny asked if the advertisement that initially brought this property to her attention have a minimum night stay. Ms. Sanderson said it advertised three (3) to 14 minimum nights.

Mr. Zbrzezny asked did the advertisement state how many bedrooms. Ms. Sanderson answered yes, three (3) bedrooms.

Mr. Zbrzezny asked did you verify through the Property Appraiser's website that this property did in fact have less than 10 bedrooms. Ms. Sanderson answered yes.

Mr. Zbrzezny asked did the advertisement also indicate how much it charged on an average nightly basis. Ms. Sanderson said there is a reference averaging nightly of \$252 dollars.

Mr. Zbrzezny asked after you viewed this advertisement and this property was brought to your attention, what happened next. Ms. Sanderson said a citation was issued.

Mr. Zbrzezny asked Ms. Sanderson if she did anything else in reference to the property to verify that this property was being used for a land use that is not permitted in that zoning

district. He asked if she made contact with these individuals or try to rent this property. Ms. Sanderson said an email was sent through the VRBO website requesting to book the property.

Mr. Zbrzeznj asked how was it sent. He asked was it actually through the website to the person who placed the ad. Ms. Sanderson said that is correct.

Mr. Zbrzeznj asked what was the date of the contact. Ms. Sanderson answered approximately June 21, 2016.

Mr. Zbrzeznj placed on the doc cam a copy of the quote. He asked Ms. Sanderson, is this the conversation that you were referring to. Ms. Sanderson replied correct.

Mr. Zbrzeznj asked Ms. Sanderson to briefly explain to the Board the substance of that conversation. Ms. Sanderson said an email inquiry requested to book the property August 5th through August 12, 2016 with a question regarding the proximity to the beach.

Mr. Zbrzeznj asked did the property owner respond. Ms. Sanderson answered yes.

Mr. Zbrzeznj asked who responded. Ms. Sanderson said the email was signed by Leeann Mayes.

Mr. Zbrzeznj asked did she offer to rent that property to you. Ms. Sanderson said she confirmed that yes, the property would be available and that it could be reserved by calling or emailing.

Mr. Zbrzeznj asked was that rental for one week. Ms. Sanderson said correct.

Mr. Zbrzeznj asked what would the total amount be. Ms. Sanderson said the total amount would be \$2,288.65, which includes the nightly rental, cleaning, taxes, damage, and service fees.

Mr. Zbrzeznj asked after you engaged in this inquire, did you do follow up at the residence to observe and look for any vehicles. Ms. Sanderson said vehicles were observed and tags were ran through the Police Department.

Mr. Zbrzeznj asked Ms. Sanderson to explain to the Board what she observed. Ms. Sanderson said that she observed out of state vehicles and the tags were ran and came up to Hertz Rental Car and another leasing agent.

Mr. Zbrzeznj asked is it correct that the tags when she ran them did not belong to the homeowners. Ms. Sanderson said correct. She then corrected herself in that the vehicles that were run at that time were individually owned, not a leasing company.

Mr. Zbrzeznj said those individuals were not the homeowners. Ms. Sanderson said that is correct.

Mr. Zbrzeznj asked how long were those vehicles at the residence. Ms. Sanderson answered for a couple of days.

Mr. Zbrzeznj asked Ms. Sanderson based on the advertisement, her contact, conversation, and observations, if she issued a citation on this matter. Ms. Sanderson answered yes.

Mr. Zbrzeznj showed on the doc cam photos of vehicles and asked are these photographs of vehicles that have plates that belong to someone other than the property owners that she just discussed with the Board. Ms. Sanderson said that is correct.

Mr. Zbrzeznj showed on the doc cam a copy of the citation and asked if this was a copy of the citation issued in this matter. Ms. Sanderson answered yes.

Mr. Zbrzeznj asked how was it served. Ms. Sanderson answered by posting the property.

Mr. Zbrzeznj asked Ms. Sanderson after the citation was posted, did she mail copies of the citation to other addresses that she located belonged to the property owners. Ms. Sanderson said that she mailed a certified copy to the address that she found on the Property Appraiser and later through some research came up with another address and sent a copy to that address as well.

Mr. Zbrzeznj asked did Ms. Mayes ever contact her after she issued the citation. Ms. Sanderson said that she received a telephone message and returned a phone call to Ms. Mayes.

Mr. Zbrzeznj asked did she confirm that she had received the citation. Ms. Sanderson answered yes.

Mr. Zbrzeznj asked what was the date that this citation was to be corrected. Ms. Sanderson said the compliance date was July 4, 2016.

Mr. Zbrzeznj asked Ms. Sanderson if she monitored this property after she issued the citation. Ms. Sanderson answered yes.

Mr. Zbrzeznj asked were there more vehicles observed at this property. Ms. Sanderson said after the vehicles that were originally ran left, other vehicles were observed on the property.

Mr. Zbrzeznj put on the doc cam photos of vehicles. He asked Ms. Sanderson are these some of the vehicles that she observed. Ms. Sanderson said that is correct.

Mr. Zbrzeznj noted that the first page reflects two different Toyotas. He then showed on the doc cam a second page showing photos of a Toyota. He asked who were these vehicles registered to. He asked were they registered to the homeowner. Ms. Sanderson answered no.

Mr. Zbrzeznj questioned the date the photos of the vehicles were taken. He said there is a handwritten note that states June 30, 2016. He asked is that correct. Ms. Sanderson said that is correct.

Mr. Zbrzezny asked is that your handwriting. Ms. Sanderson answered yes it is.

Mr. Zbrzezny showed on the doc cam a photo of a third and different vehicle, which indicates that the photo was taken on July 4, 2016. He asked is that correct. Ms. Sanderson said correct.

Mr. Zbrzezny said that was the date of compliance. Ms. Sanderson said that is correct.

Mr. Zbrzezny asked was this vehicle registered to the homeowner. Ms. Sanderson said no, it was not.

Mr. Zbrzezny said that he knows they were present today to hear Case #16-CE-6808. But, asked subsequent to the issuance of that citation, were other citations issued for the same violation. Ms. Sanderson answered yes.

Mr. Zbrzezny asked subsequent to this citation, did you or other Officers continue to monitor the vehicle influx of this property. Ms. Sanderson answered yes.

Mr. Zbrzezny asked what was observed. Ms. Sanderson said the vehicles were turning over and were registered to others than the homeowner.

Mr. Zbrzezny asked if she also made contact with the tenants subsequent. Ms. Sanderson said at different times she had.

Mr. Zbrzezny asked did they indicate how long they were renting the property for. Ms. Sanderson answered for several days at a time, much less than 30 days.

Mr. Zbrzezny asked did someone indicate a six (6) day period. Ms. Sanderson answered approximately.

Mr. Zbrzezny said that he did not have any further questions at this time.

Mr. Coment noted that the alleged violator has a chance to cross examine.

Ms. Irene Dineen, of Glenview, Illinois, said that they spoke to a lawyer on the way here to preserve their right to appeal if they receive an adverse ruling. She referred to the statement on the Notice of Hearing, *"If your appeal of the citation is to contest the interpretation or application of the Code provision(s) cited as being violated, such appeal must be made in writing to the designated administrative authority of the City as defined in Sec. 2-303 or that appeal is waived."* She thought some of the items that her lawyer suggested that she raise might be those kinds of items. She asked the Board if she should raise them now and then the Board would tell her if she was incorrect in raising an issue. She said it states on the Notice of Hearing that there is a separate appeal.

Mr. Coment said that is correct. He explained that if she was attacking the interpretation of the Code, that is a separate appeal process.

Ms. Dineen said that she might want to file some things. She said from reading the Notice of Hearing, her understanding is that with some of the issues that she will raise might not be appropriate.

Mr. Coment explained that if she is going to raise an issue about the interpretation of the zoning regulations she needs to tell the Board and the Board will suspend this hearing pending the outcome of that appeal.

Ms. Dineen said that she does want to do that. She believed the issues that she wants to raise seem to her, from what was just explained ...

Mr. Coment asked what are her issues.

Ms. Dineen said when they purchased the property they understood the law in Florida allowed short term rentals.

Mr. Coment said ignorance of the law is not an excuse. He said that is not the law everywhere in Florida. It is local laws that come into play.

Ms. Dineen said they feel that the new City Ordinance

Mr. Coment said it is not new. It has not been a permitted use since at least the 1970's.

Ms. Dineen apologized if she was not expressing things in a legal manner. She would understand this if the Police were called because of bad tenants. She wanted to clarify that the Code Officer did not come to their home because there was a disturbance.

Ms. Sanderson said that is correct. She said it is a local Ordinance and the City Council has asked them to aggressively enforce it.

Ms. Dineen said they have had short term renters and yes, they were in violation. But, they also received fines for friends staying on the property. She said because this was starting to be enforced they have to put the house on the market. They are now going to leave Vero Beach when they did have hopes of retiring here. She said they had some friends staying there and they blocked the dates off on the VRBO website. She thought that as a homeowner, she could have friends stay on her property. She didn't know how they were making the distinction between a renter and a friend.

Ms. Sanderson said subsequent citations were issued based on interviews with tenants who stated that they were tenants, were of no relationship to her, and who had rented through the website as a short term rental.

Ms. Dineen said there was one citation when a friend was staying there. She said that she did not know if today's hearing was just for the one violation, which she is testifying that they did have a short term rental.

Mr. Noonan explained that today's hearing is for just the one citation. He said unfortunately she has stumbled into a huge political deal with the City who pretty much tied the Board's

hands in that they are not allowed to interpret anything. He said that if she wants to appeal, she would need to follow the procedure outlined in the Notice of Hearing.

Ms. Dineen referred to the statement in the Notice of Hearing, *“You are responsible for insuring, at your own expense, that a verbatim record of the hearing is made by a Florida certified court reporter should you desire to appeal an adverse decision of the Board to the Circuit Court.”*

Mr. Coment explained that typically when appealing to the Circuit Court the appellee would hire a Court Reporter to take a verbatim word for word record.

Ms. Dineen asked Ms. Sanderson if she made the determination by going to the door and asking the person.

Ms. Sanderson said an interview is conducted.

Ms. Dineen said they made an investment in Vero Beach and want to be good citizens. They care very much about their neighbors and understand that they are allowed to rent for the month. But, she said if there is a difference in renting in that retired people rent for the month and families rent for the week. She felt that this was an anti-family Ordinance.

Mr. Coment explained that those comments would need to go before the City Council.

Ms. Dineen felt what Vero Beach was trying to accomplish was to have safe, good people coming here and enjoying Vero Beach as a vacation spot. She felt that if the Police are called to anyone’s property for a disturbance then there should be a \$500 citation. She thanked the Board for their time.

Mr. Noonan asked Ms. Dineen if she was going to appeal.

Ms. Dineen answered yes.

Mr. Pizzichillo asked Ms. Dineen if she admits that Ms. Sanderson was correct in that she did violate the City Ordinance at that time.

Ms. Dineen said for that date, yes she does.

Mr. Pizzichillo asked if he was correct that she could not appeal unless she was found guilty.

Mr. Coment said that is a different type of an appeal. When she states that she wants to dispute the interpretation of the Code, the Board would postpone the hearing until the outcome of that process. He explained to Ms. Dineen that she would need to present her appeal of the interpretation of the Code to the Planning and Development Director.

Mr. Pizzichillo made a motion that the Board tables this case until the appeal is resolved. Mr. Bryant seconded the motion and it passed unanimously.

VIOLATOR: Michael R. Ludwig; Cathy Kelly Ludwig; James Shaundale Webb

VIOLATION: Oak Tree removed without a permit

VIOLATION ADDRESS: 907 Tropic Drive, Vero Beach, Florida 32963

Ms. Sanderson reported that the violators Michael R. Ludwig and Cathy Kelly Ludwig as property owners and James Shaundale Webb as the Landscape Contractor were cited for the removal of an Oak Tree without permit. The violation has not been corrected and the civil penalty has not been paid. She reported that Mr. Webb would be speaking on behalf of his crew and the homeowners, who were not available.

Mr. Joseph S. Webb reported that the tree was rotten in the middle and was very close to the house with branches falling from it so they did cut it down.

Ms. Sanderson showed on the doc cam a picture of the cut down tree.

Mr. Webb said at first they were hired to cut some of the fallen branches, but once they started they noticed the tree was rotting inside so they decided to cut it down before it fell on the house.

Mr. Noonan said a permit is required to take down a tree and if a tree is cut down without a permit it is required that they get an "after the fact" permit.

Ms. Sanderson said a permit was applied for.

Mr. Coment asked was a permit issued.

Ms. Sanderson answered yes.

Mr. Coment asked then is it now a question of mitigation.

Ms. Sanderson answered yes. She then read into the record an email from Ms. Gayle Lafferty, City Planner, that was sent to the property owner that stated, "*Your After-the-Fact Tree Removal Application has been reviewed. According to Sec. 72.44 (c)(2), when a Specimen Tree is removed without a permit, double mitigation is required. You may either do the tree replacement on site, or make payment in the Tree Mitigation fund. The total mitigation required is 48" caliper. The replacement trees shall of a species on a list recommended by the Florida Urban Forestry Council for Central Florida similar to the tree removed in terms of height and canopy spread at maturity. The trees shall be of a minimum of 3 inches DBH at time of installation, with a minimum height meeting the standards for the particular tree species. If you choose to make a payment into the Tree Mitigation Fund instead the fee will be \$5,088.00.*"

Mr. Pizzichillo asked Mr. Webb if he has ever done business in Vero Beach as far as cutting down a tree.

Mr. Wells said that he hasn't taken down any trees.

Mr. Pizzichillo asked Mr. Webb if he knew a permit was needed.

Mr. Wells answered no.

Mr. Bryant asked did the homeowner ask him to remove the tree once they found that it was rotted out.

Mr. Wells answered yes.

Mr. Bryant asked did they pay him additional money.

Mr. Wells answered yes.

Mr. Coment noted that the Board has the authority to mitigate fines, but not mitigation.

Mr. Noonan questioned the amount of the fine.

Ms. Sanderson said the penalty is \$250.00.

Mr. Coment said if the Board finds there is a violation they technically have a continuing violation until it is mitigated. Therefore, they could order correction by complying with the mitigation requirements within a certain amount of time and if that isn't complied with they could start imposing a similar daily civil penalty until the violation is corrected.

Mr. Noonan asked Mr. Wells if the property owner is aware of all the mitigation.

Ms. Sanderson said that she has a copy of the email that was sent to the property owner on July 29, 2016.

Mr. Noonan said then Mr. Webb is present for the original citation and the \$250 fine.

Mr. Webb said that is correct.

Mr. Bryant said it would be the homeowner's responsibility for the mitigation. Mr. Wells is just responsible for removal of the tree without a permit.

Mr. Noonan said there is a permit, which makes Mr. Webb in compliance.

Ms. Sanderson said they would need to verify that the permit has been picked up and paid for with the Planning and Development Department.

Mr. Pizzichillo said the Board could adjust the civil penalty.

Mr. Coment said they could, but the Board could end up imposing a continuing penalty.

Mr. Noonan said that Mr. Webb didn't cut down the tree until the homeowner told him to.

Mr. Webb said that is correct.

Mr. Whittall asked is any of the tree left.

Mr. Webb said that he has some of the logs.

Mr. Whittall said that Mr. Webb could use them to show the tree was dead.

Mr. Coment suggested that the Board postpone this hearing in order to get some confirmation on the health of the tree.

Mr. Noonan made a motion that the Board tables this case until the September 14, 2016 Code Enforcement Board meeting. Mr. Pizzichillo seconded the motion and it passed unanimously.

B) Non-Compliance / Compliance Reports

1. Request for Board Order

a. CASE #16-CE-6638 / 0974T

VIOLATOR: Chessboard Properties, LLC

VIOLATION: Construction / interior-exterior renovation work constructed without benefit or permitting and/or approvals

VIOLATION ADDRESS: 1861 10th Avenue, Vero Beach, Florida 32960

Mr. Ramsey reported that service of the citation and the stop work order was provided by posting of the property. The work did stop, however the citation remains unpaid and the property remains in violation. There is a cost of enforcement in the amount of \$50.83.

Mr. Noonan made a motion that the Board finds the property remains in violation and that they issue a Board Order to correct, to pay the civil penalty in the amount of \$50 and the cost of enforcement in the amount of \$50.83, along with a continuing civil penalty of \$50.00 per day.

Mr. Coment said there would not be a continuing penalty at this time because the Board is ordering them to correct the violation. Mr. Noonan agreed (to not include the continuing penalty in his motion).

Mr. Pizzichillo seconded the amended motion and it passed unanimously.

b. CASE #16-CE-6651 / 0984T

VIOLATOR: Frank Defelice

VIOLATION: Grass, weeds, and undergrowth in excess of 12"; vehicle on site with expired vehicle registration/tags; pool is green/black and stagnant

VIOLATION ADDRESS: 1405 15th Avenue, Vero Beach,
Florida 32960

(Repeat Violation – \$100 Civil Penalty)

Mr. Ramsey reported that service was provided by certified mail, posting of the property, and by first class mail. This is a repeat violation with a civil penalty in the amount of \$100. He requested that the Board issue a Board order to correct, continuing penalties, to pay the initial civil penalty, and cost of enforcement in the amount of \$59.10.

Mr. Coment explained to the Board that would need to allow time to correct and if it is not corrected by that date they could go back to the retroactive date to begin the continuing penalties.

Mr. Noonan made a motion that the Board finds there is a violation, that the violation continues, and that the Board issue an order of payment of the \$100 civil penalty, \$59.10 cost of enforcement and that the violation be corrected by September 14, 2016 at which time the \$100 continuing penalties would begin on June 22, 2016. Mr. Pizzichillo seconded the motion and it passed unanimously.

c. CASE #16-CE-6681 / 0980T

VIOLATOR: Jose Baez

VIOLATION: Construction on site without Indian River County Building Permit or City of Vero Beach Planning and Development Department approval

VIOLATION ADDRESS: 1916 31st Avenue, Vero Beach,
Florida 32960

Mr. Ramsey reported that the property remains in violation and the civil penalty in the amount of \$50 has not been paid. There is a cost of enforcement in the amount of \$45.20.

Mr. Jose Baez reported that he came to City Hall to try to get a permit and was told that there was a \$50 fine. He was sent to the Building Department to get the permit, but the person at the desk told him that he needed an architect. He then hired an architect who did not show up until yesterday. He showed the Board the business card for MBV Engineering and the check that he paid them.

Mr. Noonan said essentially more time is needed because the Engineer is dragging his feet.

Mr. Baez said that is correct.

Mr. Noonan asked Mr. Ramsey if he was okay with allowing more time for compliance.

Mr. Ramsey answered yes, but there still is the outstanding citation.

Mr. Baez said if they want him to pay the citation he will pay the citation, but he still has to wait for the architect.

Mr. Noonan said that he would have to pay the citation regardless.

Mr. Coment explained to the Board that they could hold off imposing the \$50 civil penalty and issue a Board order to correct if they find there is a violation. They could order that the civil penalty be paid, but if the property is not brought into compliance the Board might eventually order a continuing penalty.

Mr. Whittall said that Mr. Baez went to the Building Department, but they wouldn't allow him to apply for a permit until he had plans from an architect.

Mr. Bryant felt that an extension would be in order.

Mr. Coment said if the Board finds that there is a violation, they could issue an order to correct and allow additional time to correct.

Mr. Bryant suggested that they allow 90 days to correct because there is a possibility that there could be a delay at the Building Department, as well as with MBVEngineering.

Mr. Coment said part of the correction is typically finishing construction and having the final inspection so he might need at least 90 days.

Mr. Whittall said all the Board needs to be concerned with is the permit.

Mr. Coment said if construction is not completed and final inspection is not done, they are technically still in violation.

Mr. Checchi stated that permits are issued in six (6) month increments.

Mr. Ramsey said that he did not know how long the process takes, but he was not sure if the construction was up to Code. Therefore, there could be extenuating circumstances as he goes forward.

Mr. Noonan made a motion that the Board finds there is a violation and that the violation be corrected by the November 9, 2016 Code Enforcement Board meeting and at that point the Board would decide if they would enforce the civil penalty. Mr. Pizzichillo seconded the motion and it passed unanimously.

- d. **CASE #16-CE-2235 / 0910T**
VIOLATOR: Laura L. McCloskey
VIOLATION: Weeds, grass, and undergrowth in excess of 12" in height
VIOLATION ADDRESS: 1606 24th Avenue, Vero Beach, Florida 32960
(Property Found in Compliance on June 28, 2016)

Mr. Ramsey reported that the property was found in compliance on June 28, 2016 and the civil penalty has been paid. He requested that the Board issue an order finding compliance and that the civil penalty has been paid.

Mr. Whittall made a motion that the Board issues a Board order finding compliance. Mr. Bryant seconded the motion and it passed unanimously.

- e. **CASE #16-CE-6810 / 1030T**
VIOLATOR: Indian River Investment Realty, Inc.
VIOLATION: Termite infestation; boat in front yard without a trailer; new fence installed without City of Vero Beach Planning and Development approval or Indian River County Building Department approval
VIOLATION ADDRESS: 1125 17th Place, Vero Beach, Florida 32960

This item was pulled from today's agenda.

- f. **CASE #16-CE-6806 / 942M**
VIOLATOR: Devi P. Samal and Snigdha Sahu
VIOLATION: Weeds, grass, and undergrowth at a height of more than 12 inches
VIOLATION ADDRESS: 2065 39th Avenue, Vero Beach, Florida 32960
(Repeat Violation – \$100 Civil Penalty)

Ms. Sanderson reported that service of the citation was provided by posting the property. The violation has been corrected as of July 13, 2016 and the civil penalty in the amount of \$100 has not been paid. She requested that the Board issue a Board order to pay the civil penalty in the amount of \$100. There is no cost of enforcement.

Mr. Noonan made a motion that the Board finds there was a violation, the violation has been corrected and that the Board issue a Board order to pay the civil penalty in the amount of \$100. Mr. Pizzichillo seconded the motion and it passed unanimously.

- g. **CASE #16-CE-6703 / 923M**
VIOLATOR: Shane and Tara Lynn Wright
VIOLATION: Windows installed without a permit
VIOLATION ADDRESS: 2616 Laurel Drive, Vero Beach, Florida 32960
(Paid \$50 Civil Penalty)

Ms. Sanderson explained to Mr. Wright that all he needed to do was finalize his permit. She then pulled this case from today's agenda.

- h. **CASE #16-CE-6831 / 949M**
VIOLATOR: Virginia O'Neil
VIOLATION: Two single family structures on the property have been converted to four units without approval from the City of Vero Beach Planning and Development Department or permits from the Indian River County Building Department

VIOLATION ADDRESS: 2315 15th Avenue, Vero Beach,
Florida 32960
(Paid \$50 Civil Penalty)

Ms. Sanderson reported that the property was advertised for sale as a quadplex. An anonymous complaint through the County was forwarded to the Code Enforcement office as it was not permitted to be a quadplex, that it was two single family units that was converted without permits or Code compliance. The real estate agent met with the Planning and Development Department explaining that the property has been that way since they purchased it, that they don't know when it was converted. It was recommended that they research through the Building Department to find out if there were ever any permits issued. It was also noted by the Planning and Development Department that the lot size does not support four (4) units so it would need to be converted back to two (2) units. The civil penalty in the amount of \$50 has been paid.

Mr. Fred Kretschmer, Attorney, said that he was present today representing the property owner, Ms. Virginia O'Neil. He requested a 60-day continuance of this hearing in order to give him time to do some research. He reported that the property was part of the Original Town of Vero and there are two (2) buildings on the property. The first building was constructed in 1900 and is a one-story structure. The second building was constructed in 1940 and is a two-story structure. Ms. O'Neil purchased the property in 1987, which at that time it was a four (4) unit property that was advertised and utilized as an income producing four (4) unit property. Ms. O'Neil has used it as an income producing four (4) unit property from 1987 through today's date. In fact, some of the tenants have been there for 20-years. What they are trying to determine was when it became a four (4) unit property. He was certain that it is not in compliance with the current Code or current Building Department requirements, but the question is was it in compliance when the changes were made. He said that he was retained two (2) days ago and requested that the Board grant them a 60-day continuance in order for him to do some research.

Mr. Noonan made a motion that the Board grants a continuance to the October 12, 2016 Code Enforcement Board meeting. Mr. Pizzichillo seconded the motion and it passed unanimously.

- i. **CASE #16-CE-6843 / 951M**
VIOLATOR: Matt Martise / Agent - Outlier Investments, LLC; c/o Isabella's Bridal Company
VIOLATION: Air conditioner unit installed without permit from the Indian River County Building Department
VIOLATION ADDRESS: 2325 18th Avenue, Vero Beach, Florida 32960

Ms. Sanderson reported that service of the citation was provided by posting of the property on July 7, 2016. The violator paid the civil penalty this morning and stated that he would start the permit process if the Board would allow continuance of this case until the Board's next meeting.

At this time, the Deputy City Clerk swore in Mr. Matt Martise, violator.

Mr. Martise reported that he purchased the home several weeks ago and inherited the two (2) problems the Board would be hearing. He said that he would be happy to comply with everything. He said that he could take care of the permitting for the air conditioner right away, but the next case might take a little longer (referring to Case #16-CE-6844 on today's agenda).

Mr. Noonan made a motion to find there is a violation and that the Board issues a Board order to correct by September 14, 2016 and that the civil penalty in the amount of \$50 has been paid. Mr. Pizzichillo seconded the motion and it passed unanimously.

- j. CASE #16-CE-6844 / 952M**
VIOLATOR: Matt Martise / Agent - Outlier Investments, LLC; c/o Isabella's Bridal Company
VIOLATION: Garage apartment is being used as a dwelling unit
VIOLATION ADDRESS: 2325 18th Avenue, Vero Beach, Florida 32960

Ms. Sanderson reported service of the citation was provided by posting of the property on July 7, 2016. She said that she dialogued with the violator, Mr. Matt Martise, and offered to do a Code Compliance Agreement for 60 days immediately after the citation was issued to give the tenant time to leave the apartment. Mr. Martise opted to meet with the Planning and Development Department to try to resolve the violation by combining the units, which he was given three (3) options and none of those options were pursued. She requested that the Board allow 30 days to give the tenant time to vacate the apartment.

Mr. Martise said that he inherited this violation.

Mr. Bryant questioned how did he inherit the violation.

Mr. Martise said the Board already heard a case regarding this property and the garage with the prior owners. He said that he did not know there was an issue when he purchased the property. He reported that his girlfriend moved into the home and her sister moved into the unit in the back. He did not have a problem coming into compliance, but he would like 60 days to give him time to find a place for his girlfriend's sister to rent. He said at some point the back unit was a garage and at some point it was turned into an apartment. He asked as long as they don't occupy it and use it for storage, would that be allowed.

Ms. Sanderson answered yes.

Mr. Pizzichillo asked Mr. Martise if he would be willing to pull the plumbing so that it could not be used as an apartment.

Mr. Martise said currently they are in an interesting situation in that he has owner financing on the home and the previous owners misrepresented in that according to Code Enforcement they signed an affidavit stating that they had to tell the purchaser. He said that his attorney is looking in to this to see if there is a title insurance issue, a liability issue, etc.

Mr. Coment asked if they told him about the Code Enforcement issue.

Mr. Martise answered no.

Ms. Sanderson said the property was not under Code Enforcement when it was sold.

Mr. Martise asked the Board to show some leniency because nothing showed up during the purchase.

Ms. Sanderson said it wouldn't because the previous Code case was closed.

Mr. Noonan suggested that the Board allow 60 days to comply.

Ms. Sanderson asked that the Board allow 30 days to comply. She said the offer for 60 days was on the table from the start so at this point she would like the case brought back in 30 days for a status report.

Mr. Martise said there is a chance that he might not keep the house at this point because it was misrepresented to him during the sale. He said that the tenant would be out of the unit within 60 days.

Mr. Bryant said that Mr. Martise was given several options and chose not to do any of them. Therefore, if Ms. Sanderson suggests allowing 30 days that is what he is in favor of.

Mr. Martise said the three (3) options referred to was what he would have to do if he wanted to come into compliance. He said that Ms. Sanderson did offer him 60 days to come into compliance and he is asking the Board to allow him 60 days from today. He said that he purchased the home thinking that there would be two (2) incomes coming in and now it has been reduced to one (1). To say that he would just comply and keep the house, he would rather speak to his counsel before he would commit to that.

Ms. Sanderson asked the Board to continue this case to their next meeting for a status report and at that time the Board could determine if more time is needed.

Mr. Coment said if the Board finds there is a violation they would issue a Board order to correct within a certain amount of time with the understanding that they might be giving additional time.

Mr. Pizzichillo made a motion that the Board finds there is a violation, and to bring this case back for a status report at their September 14, 2016 meeting. Mr. Whittall seconded the motion and it passed unanimously.

k. CASE #16-CE-6842 / 1036T

VIOLATOR: Carlos Aguilera

VIOLATION: Construction of a shed without an Indian River County Building Department permit or City of Vero Beach Planning and Development approval

VIOLATION ADDRESS: 1506 14th Court, Vero Beach,
Florida 32960

This item was pulled from today's agenda.

I. CASE #16-CE-6601 / 0965T

VIOLATOR: B. Anders Nyquist

VIOLATION: Construction on site without permits or approvals as required by City and County Code

VIOLATION ADDRESS: 1715 19th Street, Vero Beach,
Florida 32960

Mr. Ramsey reported that service of the citation, along with a Stop Work Order, was provided by posting of the property. He reported that there were several things found going on at the home with interior remodels, a hot water heater installation, a new air conditioner installation, a new front porch, etc. He reported that a permit was pulled yesterday, but it was only for the front porch. The property owner, Mr. B. Anders Nyquist, pulled a permit yesterday and requested to be pulled from today's hearing; however the permit was pulled for only the front porch. He reported that he advised Mr. Nyquist that his case was still on for today's hearing. Mr. Ramsey requested that the Board issues a Board order to pay the civil penalty in the amount of \$50, enforcement costs of \$44.37, to come into compliance by getting a permit, and if not in compliance that there would be continuing penalties.

Mr. Noonan made a motion that the Board finds there is a violation, that the violation continues, and that the Board issues a Board order for payment of the \$50 civil penalty, the cost of enforcement of \$44.37 and that the property be brought into compliance by means of obtaining a permit before the next Board meeting of September 14, 2016. Mr. Pizzichillo seconded the motion and it passed unanimously.

Mr. Coment questioned if the Board wanted to impose a \$50 per day continuing penalty if not corrected by September 14, 2016. Mr. Noonan answered yes and the Board members agreed.

6. OLD BUSINESS

None

7. ADMINISTRATIVE MATTERS

None

8. CLERK'S MATTERS

None

9. ATTORNEY'S MATTERS

None

10. CHAIRMAN'S MATTERS

None

11. MEMBER'S MATTERS

None

12. ADJOURNMENT

Today's meeting adjourned at 3:33 p.m.

/sp