

CODE ENFORCEMENT BOARD MINUTES
Wednesday, September 14, 2016 – 2:00 p.m.
City Hall, Council Chambers, Vero Beach, Florida

PRESENT: Chairman, Kirk Noonan; Vice Chairman, Frank Pizzichillo; Members: Christopher Bryant, Stephen McDonald, Jeffrey McGann, and 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: Herbert Whittall

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 – August 10, 2016

Mr. Pizzichillo made a motion to adopt the minutes of the August 10, 2016 Code Enforcement Board meeting. Mr. McDonald seconded the motion and it passed unanimously.

B) Agenda Additions, Deletions and Adoption

Mr. Tom Ramsey, Code Enforcement Officer, requested that item 5-B) 1b - Chesserboard properties, be pulled from today's agenda. He said that he rescinded the citation because there has been a change in ownership.

Mr. Wayne Coment, City Attorney, said the Board issued a Board Order on this case so it would need to stay on today's agenda in order for the Board to rescind the order.

Mr. Ramsey pulled item 5-B) 1h – B. Andres Nyquist, from today's agenda. He reported that Mr. Nyquist has requested a rehearing on his case.

Mr. Coment said the Board would need to take action on this case to set it for a rehearing on October 12, 2016.

Mr. Pizzichillo asked what is the basis for Mr. Nyquist's request for an extension.

Mr. Ramsey explained that Mr. Nyquist is not asking for an extension, but a rehearing because there was some confusion with the Notice in that Mr. Nyquist thought that he (Mr. Ramsey) cancelled his case. Mr. Ramsey felt that because of the confusion, the proper thing to do would be to rehear this case.

Ms. Melody Sanderson, Code Enforcement Officer, pulled items 5-B) 1a – Craig A. Watson and Theresa J. Watson, 5-B) 1j – Maxwell Properties, Inc. and Unknown Tenant of Bay 1, and 5-B) 1m – Omar Atway from today's agenda. She reported that they were all in compliance.

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

4. UNLICENSED CONTRACTORS/CITATIONS

None

5. EVIDENTIARY HEARINGS

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. Sanderson reported that this case was before the Board at their August meeting and the Board found that a violation exists. She reported that this case is before the Board today for a status report. She said that Ms. Beatriz Rey, property owner, obtained Code Compliance for the fence from the Planning and Development Department, but needs to complete the process by obtaining a permit from the Indian River County Building Department, as well as permit approval and Certificate of Occupancy for the enclosure of the garage. She reported that Ms. Rey is present for today's hearing. Also present for today's hearing is Ms. Dora Colon, employee of the City of Vero Beach, who is present to translate to ensure there is no language barrier.

Ms. Beatriz Rey reported that the County wants \$1,500 up front. She said that the County also told her that she would need to hire an Architect to do the measurements, which would be another cost. She thought that she was only going to have to pay \$400, but she was told that the impact fees were \$960. She said that is above her budget and she doesn't know what to do.

Mr. Pizzichillo asked when was the garage enclosed. Ms. Rey answered approximately seven (7) years ago.

Mr. Pizzichillo asked if it was occupied. Ms. Rey said it is occupied by her daughter.

Mr. Pizzichillo asked is she the only person occupying it. Ms. Rey answered yes.

Mr. Bryant asked would it be too difficult to dismantle what was done. Ms. Rey answered yes.

Mr. Pizzichillo asked is it too difficult to pay the fines. Ms. Rey answered yes.

Mr. Noonan noted that the Board has not set a fine.

Mr. Pizzichillo said Ms. Rey stated that she can't dismantle what was done and she can't pay for it, which is a problem.

Mr. McDonald asked how is it that this was done seven (7) years ago and it is just now coming up. Ms. Sanderson explained that the property was picked up by being on a short term rental site and when issuing the warning citation it was found that the garage was enclosed for additional living space and a fence was installed without permits.

Mr. Pizzichillo asked was this picked up from an advertisement for a short term rental. Ms. Sanderson reported that it was advertised and when Ms. Rey received the warning citation she immediately stopped advertising and she has not rented it as a short term rental.

Mr. Pizzichillo asked Ms. Rey when her daughter started living there. Ms. Rey said her daughter has lived there since it was enclosed.

Mr. Coment said it might not have been that room that was being advertised to rent. He said maybe Ms. Rey could give an estimate on the time she would need to correct the issue.

Mr. McDonald asked what is the cost of the license, permits, etc., that are required. Ms. Rey answered \$1,500.

Mr. Bryant said that cost is for the permitting.

Ms. Rey said they want \$1,500 up front and then have an Architect to try to figure out how it was done. She said they even told her that she might have to take down some of the walls.

Mr. Noonan asked Ms. Rey if she felt allowing more time would help her. He explained that there is nothing the Board can do about permit fees or impact fees. He asked would allowing more time help or did she want to try to resolve this today.

Mr. Coment said the problem is there is a violation that has not been corrected. The only thing the Board can do is order correction by a date certain and impose fines.

Ms. Sanderson said maybe they could extend the time and stay within the time frame of the Code Compliance so it doesn't expire.

Mr. Coment asked what is the time period of the Code Compliance. Ms. Sanderson thought it was six (6) months. She suggested that the Board allow 90 days.

Mr. Pizzichillo felt that six (6) months was too long. He was in agreement with allowing 90 days.

Mr. Noonan explained that Ms. Rey has a Code Compliance agreement with the City, which allows six (6) months.

Mr. Coment asked is the Code Compliance agreement for the fence or the enclosed garage. Ms. Sanderson said it is for the fence.

Mr. Coment asked what is happening with the fence. Ms. Sanderson said a building permit is required.

Ms. Sanderson felt they would be best served to extend the time 90 days to give Ms. Rey time to start the process. She said they don't want the Code Compliance to expire.

Ms. Sanderson asked Ms. Colon to explain to Ms. Rey that the Board is discussing allowing her 90 days to get the process started and that the Code Compliance will expire in six (6) months. She asked Ms. Colon to ask Ms. Rey if she felt that she would be better prepared to start the process of permitting if given an additional 90 days.

Ms. Colon explained the question to Ms. Rey. Ms. Rey said that she will try.

Mr. Bryant said it might be cheaper for her to tear apart the garage. Ms. Rey said that is not an option.

Mr. Bryant explained that the option would be \$1,500 for permitting, she would have to hire an architect who will change walls, etc., to bring it up to Code, and she would have to hire a contractor to fix anything that is not up to Code. He said that she could be looking at a cost of \$10,000. He told Ms. Rey that she needs to think about it and weigh her options.

Mr. Pizzichillo asked Ms. Rey what she was planning to do in the next 90 days. Ms. Rey said that she didn't know.

Mr. Price asked what happens if she doesn't do anything.

Mr. Coment explained that the Board could order correction by a date certain and if it is not corrected fines could start accruing daily.

Mr. Noonan asked is the property homesteaded. Ms. Rey answered yes.

Mr. McGann asked Ms. Rey if she has a mortgage. Ms. Rey answered no.

Mr. McGann asked if she owns the property free and clear. Ms. Rey answered yes.

Mr. McGann said it was his understanding that Ms. Rey was having trouble coming up with the money. Ms. Rey said that is correct.

Mr. McGann asked will 90 days help or will she be coming back before the Board still not having any funds. Ms. Rey said that she didn't know, but she would try.

Mr. Bryant explained to Ms. Rey that she might have to go to a bank to get a loan in order to make these corrections.

Mr. Noonan made a motion that the Board will review this case again in 90 days (at the December 14, 2016 Code Enforcement Board meeting). Mr. Pizzichillo seconded the motion.

Mr. Pizzichillo said that he would like Ms. Rey to sit down with the City to come up with a game plan. He said 90 days is a long time and he didn't want her to come back before the Board after 90 days stating that she didn't know what she was going to do. He said that he would like to amend the motion.

Mr. Coment asked was there a second to the motion. Mr. Pizzichillo said that he seconded the motion. Mr. Coment felt that it would be better for the Board to finish with the original motion and then make another motion.

The motion passed unanimously.

Mr. Pizzichillo made a motion that Ms. Rey sit down with the City within the next 30 days to come up with a game plan.

Mr. McGann asked do they have to be specific with who in the City Ms. Rey is to sit down with.

Mr. Noonan said it would be a County issue.

Mr. Pizzichillo amended his motion that Ms. Rey sit down with the County to come up with a game plan within 30 days.

Mr. Noonan asked can the Board order that. Mr. Coment said the Board could ask her. But, order her to sit down with County staff, he didn't know how that would go over.

Mr. Pizzichillo withdrew his motion.

Mr. Pizzichillo asked Ms. Rey to consider sitting down with the proper County officials within 30 days in order to come up with a game plan for her own benefit.

Ms. Colon explained this information to Ms. Rey.

2. CASE #16-CE-6820 / 947M

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 this case was continued from the August Code Enforcement Board hearing.

Mr. Coment explained that the Board continued the hearing to allow the violator time to find some proof that the tree that was cut down was dead or dying, which would not need mitigation. He noted that the issue would still have to go to the Planning and Development Department to make that determination as well.

At this time, the Deputy City Clerk swore in Mr. Joseph S. Webb.

Mr. Webb submitted into the record photographs that he took of the logs from the tree that he took down.

Mr. Coment read from the Board Order Continuing Hearing, *“in light of the violators’ dispute of the condition of the subject Oak Tree when it was removed, it would be appropriate to continue this hearing to allow the violators additional time to have an arborist confirm their defense to the required mitigation that the tree was dead or dying when removed.”*

Mr. Pizzichillo asked Mr. Webb if he had someone look at the tree. Mr. Webb answered yes.

Mr. Pizzichillo asked is it in writing. Mr. Wells answered no.

Mr. Noonan asked Mr. Webb if he has been in touch with the Planning and Development Department. Mr. Wells answered no.

Mr. Noonan explained to Mr. Webb that meeting with the Planning and Development Department needs to be the next step. He thought the Board intended for him to take care of that prior to today’s hearing.

Ms. Sanderson submitted into evidence a photograph that she took of the tree.

Mr. McDonald asked if that was the same tree. Ms. Sanderson said that it is the tree that was documented on site as being removed from that address.

Mr. Pizzichillo asked Mr. Webb if he was sure this was the same tree. Mr. Webb said the tree that he took pictures of was the tree.

Mr. McDonald said the tree in Ms. Sanderson’s picture does not even resemble the tree in the pictures that Mr. Webb submitted.

Mr. Bryant thought that Mr. Webb was directed by the property owner to take down the tree.

Mr. Coment asked if Mr. Michael Ludwig or Mrs. Cathy Ludwig were present today. Mr. Webb said they are in Colorado.

Mr. Pizzichillo said in comparing Mr. Webb's pictures and Ms. Sanderson's picture, it is a different tree. One picture shows a large hole in the middle and in looking at the stumps he doesn't see that. The circumference does not look similar and the bark of the tree does not look similar.

Mr. Ramsey said that he was present at the time Ms. Sanderson took the pictures and knows they are true and accurate. He does not know what Mr. Webb's pictures depict, but it does not appear to be the same tree to him.

Mr. McDonald asked Mr. Webb if he owns a tree service. Mr. Webb answered yes.

Mr. McDonald asked if it is here in Vero Beach. Mr. Webb answered yes.

Mr. McDonald asked Mr. Webb how long he has had the tree service. Mr. Webb said they have been in service for over 12 years. He said they have a lawn service, but they do some tree trimming.

Mr. McDonald asked if no one in the business is aware that they can't cut down an Oak Tree without a permit.

Mr. Webb said a live Oak Tree, but not a dead Oak Tree.

Mr. Coment said a permit is still needed if the tree is dead or dying. Mr. Wells said that he did not know that.

Mr. Coment said the only issue is about mitigation, which Mr. Webb still needs to discuss with the Planning and Development Department.

Mr. Noonan said that is not for the Code Board to decide.

Ms. Sanderson explained that mitigation can be done by paying into the Tree Fund or replacing the tree. She reported that Ms. Gayle Laferty of the Planning and Development Department sent an email to Mrs. Kelly (Cathy Kelly Ludwig) on July 29, 2016 and she received an email yesterday afternoon, which stated: "*Mrs. Ludwig called stating that she was not going to do the required mitigation in that she had the tree removed because it was growing into wires. That she has not received any further information from her whether she was doing the required mitigation on site or paying into the Tree Replacement Fund.*"

Mr. Noonan asked what was the civil penalty on the original citation. Mr. Coment said it was \$250.

Mr. Coment explained that the violation is not considered corrected until mitigation is taken care of or the Planning and Development states that mitigation is not required.

Mr. Pizzichillo asked Ms. Sanderson to read the email again.

Ms. Sanderson read into the record an email from Ms. Laferty to Mrs. Kelly (Cathy Kelly Ludwig) dated July 29, 2016, "*Your After-the-Fact Tree Removal Application has been*

reviewed. According to Section 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 into the Tree Mitigation Fund. The total mitigation required is 48" caliper. The replacement trees shall be 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 a minimum of 3 inches DBH at time of installation, with a minimum height meeting the standards for the particular tree species in Grades and Standards for Nursery Plants. Replacement tree shall be Florida Grade No. 1 or better (Section 72.43). If you choose to make a payment into the Tree Mitigation Fund instead the fee will be \$5,088. Ms. Sanderson reported that Ms. Laferty forwarded her this email yesterday along with the email that she (Ms. Sanderson) previously quoted.

Mr. Pizzichillo said the last part of that was interesting because it was stated that in Ms. Ludwig's conversation, she stated that she removed the tree because it was growing into the wires. At no point did she state that the tree was dead or dying.

Mr. McGann referred to the letter from Mrs. Ludwig dated July 13, 2016 where it stated, *"The limbs were intertwined in our above ground electrical lines. Upon further inspection, the tree had termites eating it, hollowing it out."*

Mr. McGann reminded Mr. Webb that he was under oath. He asked Mr. Webb if he looked at the pictures submitted.

Mr. Webb said that he saw the pictures that he provided.

Mr. McGann showed Mr. Webb the picture that Ms. Sanderson took and the pictures that he (Mr. Webb) submitted. He asked Mr. Webb in his professional opinion, is it possible it is the same tree. Mr. Webb answered yes.

Mr. McGann asked Mr. Webb to explain to the Board what he sees in the pictures. Mr. Webb said the diameter of a tree is not the same throughout the whole tree. He referred to one of the pictures stating that he could see some rot, which tells him that it seems like it was getting worse and worse as they get lower to the trunk.

Mr. McDonald asked Mr. Webb when did he take the pictures that he submitted. Mr. Webb answered yesterday.

Mr. McDonald asked Ms. Sanderson when she took her pictures. Ms. Sanderson answered June 27th.

Mr. McDonald said then these logs have been laying in the yard for that period of time. Mr. Webb said that is correct.

Mr. Pizzichillo said at minimum, there was no permit. Ms. Sanderson said no permit has been issued.

Mr. Pizzichillo said whether they agree or disagree about the diameter of the tree, the rotting of the tree, etc., there was no permit pulled and to him that is a violation.

Mr. Coment said the issue is the correction by mitigation. Typically what the Board would do is order correction by taking care of the mitigation by a certain date and if it is not done by that date the Board would establish an amount of the civil penalty going forward from that date.

Ms. Sanderson explained that mitigation can be replacement trees or payment into the Fund. She said it might be that replacement trees would cost considerably less than payment into the Mitigation Fund. But, because they don't have any input from the property owner no permit has been prepared because they don't know which direction the property owner wants to go.

Mr. McDonald said it was reported that the property owner was not going to participate in mitigation.

Mr. Noonan made a motion that the Board finds there is a violation, the violation continues, and that the Board issues a Board Order to correct by October 11, 2016 (the day prior to their next meeting). Mr. Pizzichillo seconded the motion and it passed unanimously.

3. CASE #16-CE-6872 / 957M

VIOLATOR: Joseph R. Daniels, Sr. and Donna M. Daniels

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

VIOLATION ADDRESS: 3815 Silver Palm Drive, Vero Beach, Florida 32963

Ms. Christy Pickerill introduced herself to the Board.

Mr. Noonan explained to Ms. Pickerill that Mr. Zbrzezny would speak first.

Mr. Nickolas Zbrzezny, Attorney, reported that this case involves a citation that was issued with respect to a property being utilized as a guest house and transient quarters in a residential zoning district in which that use is not permitted. A citation was issued by Ms. Sanderson based on advertisements on line, her observation of out of state vehicles on the property for a one-week period, and contact that was made by a Police Officer with one of the tenants.

Mr. Zbrzezny asked Ms. Sanderson to introduce herself. Ms. Sanderson introduced herself stating that she is a Code Enforcement Officer for the City of Vero Beach.

Mr. Zbrzezny asked are they here today in reference to the property located at 3815 Silver Palm Drive. Ms. Sanderson said that is correct.

Mr. Zbrzezny asked did you issue a citation for this property. Ms. Sanderson answered yes.

Mr. Zbrzezny asked for what. Ms. Sanderson answered for operating a guest house and transient quarters in a residential zone.

Mr. Zbrzeznj asked what zoning district was that property located in. Ms. Sanderson answered R-1A.

Mr. Zbrzeznj asked is that land use guest house and transient quarters a permitted or conditional land use in that particular zoning district. Ms. Sanderson answered no.

Mr. Zbrzeznj asked is it a permitted or conditional use in any residential zoning district. Ms. Sanderson answered no.

Mr. Zbrzeznj asked who are the property owners at 3815 Silver Palm Drive. Ms. Sanderson answered according to the Property Appraiser, Joseph and Donna Daniels.

Mr. Zbrzeznj said and you determined this via the Property Appraiser's website. Ms. Sanderson said that is correct.

Mr. Zbrzeznj asked how did you determine that the property was being utilized for this impermissible land use. Ms. Sanderson said it was found on the short term rental website as vacation rental by owner.

Mr. Zbrzeznj asked what is vacation rental by owner. Ms. Sanderson answered it is a clearing house for rental properties where owners advertise and rent the property and tenants make contact to rent.

Mr. Zbrzeznj showed on the screen a copy of the printout of the advertisement. He asked is this the advertisement you were referencing. Ms. Sanderson answered yes.

Mr. Zbrzeznj asked does it state the minimum for the nights that a person has to stay at this property if they rent it. Ms. Sanderson answered it says minimum stay one night.

Mr. Zbrzeznj asked are you familiar with VRBO.com (the website referred to). Ms. Sanderson answered that they have been working a lot on the websites in monitoring them.

Mr. Zbrzeznj asked is that minimum nights stay something that the person who puts the advertisement up can change. Ms. Sanderson answered yes.

Mr. Zbrzeznj asked how many bedrooms does this property have based on the advertisement. Ms. Sanderson answered that it is advertised with four (4) bedrooms.

Mr. Zbrzeznj asked is this what you referenced. Ms. Sanderson answered yes.

Mr. Zbrzeznj showed on the screen photographs in the advertisement. He asked does this particular advertisement have photographs. Ms. Sanderson answered yes.

Mr. Zbrzeznj asked do you recognize these photographs. Ms. Sanderson answered yes. She said that she recognized it as a property that has been in violation before as a short term rental.

Mr. Zbrzeznj said so you are familiar with this particular property and able to identify 3815 Silver Palm Drive as the property depicted in this advertisement. He asked is that correct. Ms. Sanderson answered yes.

Mr. Zbrzeznj said so based on that previous encounter you know who the property owners are as well. He asked is that correct. Ms. Sanderson answered yes.

Mr. Zbrzeznj asked after the advertisement, what did you do. Ms. Sanderson answered that she checked the property and observed vehicles and requested that contact be made by an Officer.

Mr. Zbrzeznj asked did you take some photographs when you inspected the property. Ms. Sanderson answered yes.

Mr. Zbrzeznj said that he has a composite exhibit of some photographs. He showed on the screen a picture that was taken on July 2, 2016. He asked Ms. Sanderson what does this picture depict. Ms. Sanderson said it shows no vehicles on site.

Mr. Zbrzeznj asked was the property vacant on July 2, 2016. Ms. Sanderson answered yes.

Mr. Zbrzeznj asked what was the next date you took photos. Ms. Sanderson answered July 4, 2016.

Mr. Zbrzeznj showed on the screen photographs dated July 4, 2016. He asked are these the photos you took. Ms. Sanderson answered yes.

Mr. Zbrzeznj asked what do these photos depict. Ms. Sanderson said these are the tags of the vehicles that were on site.

Mr. Zbrzeznj asked how many vehicles. Ms. Sanderson answered three (3) vehicles.

Mr. Zbrzeznj asked where were the vehicles from. Ms. Sanderson answered the State of Ohio.

Mr. Zbrzeznj asked all three (3) of them. Ms. Sanderson answered yes.

Mr. Zbrzeznj asked did you run the plates. Ms. Sanderson answered yes.

Mr. Zbrzeznj asked did any of the vehicles come back to the property owners. Ms. Sanderson answered no.

Mr. Zbrzeznj asked does this property have a property manager that you are familiar with. Ms. Sanderson answered yes.

Mr. Zbrzeznj asked who is it. Ms. Sanderson answered Christy Pickerill.

Mr. Zbrzeznj asked did any of these vehicles come back as hers. Ms. Sanderson answered no they did not.

Mr. Zbrzeznj showed another photograph on the screen. He asked what is the next date. Ms. Sanderson answered July 5, 2016.

Mr. Zbrzeznj asked what did you observe on July 5th. Ms. Sanderson said there were vehicles on site with one new vehicle.

Mr. Zbrzeznj asked did you run that tag. Ms. Sanderson answered yes.

Mr. Zbrzeznj asked who did that tag belong to. Ms. Sanderson answered a car rental company.

Mr. Zbrzeznj asked not the property owner. Ms. Sanderson answered no.

Mr. Zbrzeznj asked not the property manager. Ms. Sanderson answered no.

Mr. Zbrzeznj asked what was the next day that an additional vehicle arrived on site. Ms. Sanderson said it was observed on July 5, 2016.

Mr. Zbrzeznj said initially there were three (3) vehicles and a fourth vehicle arrived on July 5th. He asked was there a point in time when a fifth vehicle arrived on site. Ms. Sanderson answered yes.

Mr. Zbrzeznj asked what day. Ms. Sanderson answered July 9th.

Mr. Zbrzeznj showed on the screen more pictures of vehicles on site. He said the date is July 8th and shows the same four (4) vehicles. Ms. Sanderson said that is correct.

Mr. Zbrzeznj showed on the screen another set of pictures of vehicles on site. He said the date is July 9th and asked is that when the fifth vehicle arrived. Ms. Sanderson said that is correct.

Mr. Zbrzeznj asked did you run that plate. Ms. Sanderson answered yes.

Mr. Zbrzeznj asked did it belong to the property owners. Ms. Sanderson answered no. She said it came back as belonging to a car leasing company.

Mr. Zbrzeznj questioned, it didn't belong to the property manager either. Ms. Sanderson answered no.

Mr. Zbrzeznj asked what was the next date you took a picture. Ms. Sanderson answered July 11th.

Mr. Zbrzeznj showed on the screen another picture. He asked is this the picture that you took on July 11th. Ms. Sanderson answered yes.

Mr. Zbrzeznj asked if the property was vacant on that date. Ms. Sanderson answered yes.

Mr. Zbrzeznj asked no other vehicles. Ms. Sanderson answered no.

Mr. Zbrzeznj asked was there a point in time when you had a Police Officer contact the residents or tenants on that property. Ms. Sanderson answered yes.

Mr. Zbrzeznj asked which officer. Ms. Sanderson answered Officer Vasquez.

Mr. Zbrzeznj asked do you know who he made contact with. Ms. Sanderson answered Mr. Coman.

Mr. Zbrzeznj asked is his name Vasile Coman. Ms. Sanderson answered yes.

Mr. Zbrzeznj asked where is Mr. Coman from. Ms. Sanderson answered Ohio.

Mr. Zbrzeznj asked did he advise you that he was renting that property for one (1) week. Ms. Sanderson answered yes.

Mr. Zbrzeznj asked did he indicate that he found it on the internet. Ms. Sanderson answered yes.

Mr. Zbrzeznj said you stated that you ran all five (5) plates. He asked did any of the plates on the vehicles you observed belong to Mr. Coman. Ms. Sanderson answered yes.

Mr. Zbrzeznj asked was that one (1) of the Ohio plates. Ms. Sanderson answered yes. She said it was the plate on the Toyota.

Mr. Zbrzeznj asked based on the advertisement, your observation of the vehicles and Officer Vasquez's contact with Mr. Coman, did you issue a citation for this property. Ms. Sanderson answered yes.

Mr. Zbrzeznj asked how did you serve the citation. Ms. Sanderson answered by posting of the property and by certified mail.

Mr. Zbrzeznj said you stated that you are familiar with the property owners. He asked is one of the property owners Donna Daniels. Ms. Sanderson answered yes.

Mr. Zbrzeznj asked did she contact you subsequent to the issuance of the citation and confirm that she did receive it. Ms. Sanderson answered yes.

Mr. Zbrzeznj said that he did not have any further questions for Ms. Sanderson. He said that he does have one (1) other witness. He asked the Board members if they had any questions for Ms. Sanderson.

Mr. McDonald asked if he was correct that this is a repeat violation. Ms. Sanderson answered yes.

Mr. McDonald asked what was the original violation. Ms. Sanderson said operating as a guest house.

Mr. McDonald asked approximately when. Ms. Sanderson said it was last year.

Mr. Coment said at this point Ms. Pickerill would have a chance to cross-examine the Code Officer. He noted that it would only be to ask the Code Officer questions, not for Ms. Pickerill's testimony.

Ms. Pickerill introduced herself to the Board. She said if she can speak later she would wait. She asked if she could ask follow up questions later as well. Mr. Noonan answered yes.

Ms. Pickerill said that she would wait to speak.

Mr. Zbrzezni asked Officer Vasquez to introduce himself. Officer Vasquez introduced himself to the Board.

Mr. Zbrzezni asked how long have you been a Law Enforcement Officer. Officer Vasquez answered approximately seven (7) years.

Mr. Zbrzezni asked are you familiar with the property located at 3815 Silver Palm Drive. Officer Vasquez answered yes.

Mr. Zbrzezni asked did you assist Code Enforcement with an issue regarding a short term rental at that address. Officer Vasquez answered yes.

Mr. Zbrzezni asked do you recall when that was. Officer Vasquez said it was in the evening hours of July 4, 2016.

Mr. Zbrzezni asked did you go on the property and knock on the door. Officer Vasquez answered yes.

Mr. Zbrzezni asked who did you speak with. Officer Vasquez answered Mr. Coman.

Mr. Zbrzezni asked did he come to the door by himself or were other people with him. Officer Vasquez said that Mr. Coman opened the door. He said that he initiated a conversation with him (Mr. Coman) at which point he asked what his name was and that is how he came to know him (Mr. Coman).

Mr. Zbrzezni said there were other people with him. Officer Vasquez said that is correct. He said if he recalled correctly, there were two (2) females that came to the door with him.

Mr. Zbrzezni asked did he indicate that he was renting that property. Officer Vasquez answered yes. Officer Vasquez said that he asked, based on his call to the house, if he was the property owner and was advised that he was not, that he was renting weekly. Officer Vasquez said that he reiterated that question a few times to make sure that it was a weekly rental. He said that he was told that he (Mr. Coman) was visiting Vero Beach for one (1) week trying to enjoy the City.

Mr. Zbrzezny asked to clarify, did he say that he was renting weekly or that he was renting for a week. Officer Vasquez said that he was renting for a week.

Mr. Zbrzezny asked where is he from. Officer Vasquez answered Cleveland, Ohio.

Mr. Zbrzezny asked did he tell you how he found the residence for rent. Officer Vasquez answered yes. He said that he asked him (Mr. Coman) how he came about finding the residence and was told that he found it on the internet.

Ms. Pickerill said that she does not have any questions for Officer Vasquez.

Mr. Zbrzezny thought that before he does his summation that Ms. Pickerill can present her case to the Board.

Ms. Pickerill said that she met Mrs. Donna Daniels about five (5) years ago and she remodeled and designed her home. She said since then Mrs. Daniels' husband passed away. She said this was not meant to be used as a vacation home at all. It was going to be a home for them and their family to stay to get away. She said that because she owns properties Mrs. Daniels asked her if she would help her. She said that Mrs. Daniels lets her stay there whenever she wants noting that she does not pay to stay there. Ms. Pickerill said that she thought that this was a new Ordinance and in speaking with property owners on the beach they are unhappy with it. She said that she didn't know how old the Ordinance is or what the rules are. She said that Mrs. Daniels called the City last year when this first came about and was told, in her understanding (Ms. Pickerill), that she could not rent it to more than two families in a one-month period. Ms. Pickerill said so as long as they had one (1) tenant for the month of July that would be okay. That they couldn't stack it up and have two (2) different families coming in and staying two (2) separate weeks. She said that they have never had any problems or had the Police come to the residents besides for Code Enforcement. She said that she needs more clarification on what is allowed and what is not allowed. She said that she would like to know when the Ordinance started and would like to have clear rules so that she doesn't have this issue again.

Mr. McGann asked are you actually renting the property. Ms. Pickerill said that Mrs. Daniels rents it on VBRO (website) and when she (Ms. Pickerill) can she will meet people on the property with the keys.

Mr. McDonald said then you really have nothing to do with the mechanics of listing this property on the internet, collecting money, etc. Ms. Pickerill answered no. She said it is all done through VBRO.

Mr. Noonan said this Ordinance has been around a long time.

Ms. Pickerill said then you (the City) are just enforcing it. Mr. Noonan said exactly.

Mr. Noonan said the definition of transient or short term rental is less than 30 days so if they rent the property for 31 days that would be allowed.

Ms. Pickerill said if someone pays to rent the property for 30 days and chose to leave in 15 days, she could not make them stay.

Mr. Noonan again stated that it is legal if it is rented for 31 days.

Mr. Coment said if they leave after 15 days and then the house is rented again for the other 15 days they might have a problem.

Ms. Pickerill said that she understood. She said that she does go over there and enjoy the pool, walk the beach, etc. It was her understanding that friends and family are permitted as long as it is not being paid for.

Mr. Noonan thought that was okay as long as she was not renting it.

Ms. Sanderson asked Ms. Pickerill to speak with Mrs. Daniels because she did sign a compliance agreement, she is aware of what the guidelines are, and when the Ordinance started being enforced last year.

Mr. Pizzichillo felt that the City has made their case. He found that there has been a violation and felt the Board has to do something about it.

Mr. Zbrzezny said that because Ms. Pickerill essentially testified, he would ask what they were charging a week for this property. He said compliance is two-fold in that whether or not they are still renting it, as well as the \$500 penalty has not been paid. It was his understanding that the property has not been brought into compliance.

Mr. Coment asked Ms. Sanderson is the property continuing to be rented on a short term basis. Ms. Sanderson said it has had tenants, but complied after this.

Mr. Coment said there have been subsequent violations. Ms. Sanderson said nothing has been cited.

Mr. Zbrzezny clarified that he wasn't suggesting that there was subsequent violations, but his understanding is that the \$500 penalty has not been paid and that is part of coming into compliance.

Ms. Sanderson felt that it should be \$500 a day for every day they were in violation.

Mr. Coment said the Board can't back track until there has been a Board Order to Correct.

Mr. Noonan said they would be issuing an order to pay. Mr. Coment said that is correct. He said the Board would find that there was a violation and to pay the civil penalty.

Mr. Noonan asked is there a cost of enforcement. Ms. Sanderson answered no.

Mr. McGann made a motion that the Board finds that they should pay the \$500 civil penalty in order to come into compliance. Mr. McDonald seconded the motion and it passed unanimously.

B) Non-Compliance / Compliance Reports

1. Request for Board Order

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

- a. **CASE #16-CE-6947 / 971M**
VIOLATOR: Craig A. and Theresa J. Watson
VIOLATION: Operating a guest house and transient quarters in a residential zone
VIOLATION ADDRESS: 903 Sandpiper Lane, Vero Beach, Florida 32963

This item was pulled from today's agenda.

- b. **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. Coment said this is the case that Mr. Ramsey reported to the Board that he was withdrawing the citation. Mr. Coment said that his recommendation would be that the Board rescinds their prior Order to Correct and Pay. He explained that the property is not owned by Chessboard Properties, LLC and the Code Officer would be starting a new case with the new property owner.

Mr. Noonan made a motion that the Board rescinds the previous Board Order. Mr. Pizzichillo seconded the motion and it passed unanimously.

- c. **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

Mr. Ramsey reported that this case was before the Board at their August meeting. He said there has been no change and the property remains in violation.

Mr. Coment reported that the Board entered an Order to Correct establishing a continuing penalty if the Board finds the violation has not been corrected. Therefore, the Board Order would be to impose the continuing penalties.

Mr. Noonan made a motion that the Board finds the violations continue and that the Board issues an order to pay the \$100 civil penalty, the \$59.10 cost of enforcement and continuing penalties (\$100 a day). Mr. McDonald seconded the motion and it passed unanimously.

Mr. Pizzichillo said that he was very concerned about the breeding grounds for mosquitoes. He would hope in the near future that someone corrects this, whether Mr. Defelice does it or the City.

Mr. Coment explained that it is up to Code Enforcement, not the Board.

Mr. Ramsey said at this point, their only remedy would be to request abatement from the City Manager.

Mr. Pizzichillo felt that they needed to do something.

- d. 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
(Paid \$50 Civil Penalty)

Mr. Coment reported that the Board previously issued a Board Order to correct the violation and to pay the civil penalty.

Ms. Sanderson reported that this case was before the Board last month and the property owner, Mr. Matt Martise, said that he would pull a permit. She reported that as of today the property remains in violation as no permit has been pulled. She said the initial civil penalty in the amount of \$50 has been paid. She asked the Board to issue a Board Order with daily continuing penalties.

Mr. Coment reported that the Board issued a Board Order to correct by September 14, 2016. Therefore, if the Board issues a Board Order with continuing penalties, the penalties would start on September 15, 2016.

Mr. Noonan made a motion that the Board finds there is a violation, that the violation continues, that they issue a Board Order to correct the violation, that the payment of the initial civil penalty in the amount of \$50 has been paid, and that a continuing penalty in the amount of \$50 a day commence tomorrow (September 15, 2016). Mr. Bryant seconded the motion and it passed unanimously.

- e. 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

(Paid \$50 Civil Penalty)

Ms. Sanderson reported that this case was before the Board at their August meeting and the Board found the property in violation and allowed the property owner 30 days to correct and he was to come before the Board at today's hearing to give a status report. She reported that the apartment is still occupied by a tenant, which is an unpermitted use. She requested continuing penalties in this case. She asked Mr. Coment if the continuing penalty would start the day prior to the original compliance date.

Mr. Coment said the Board issued a Board Order for a hearing on the status of corrective action. The Board did not order correction by a date certain.

Ms. Sanderson said at last month's hearing, she asked Mr. Martise to enter into a compliance agreement with the City and they would extend 60 days at that point, but Mr. Martise opted not to.

Mr. Coment suggested that the Board establish an actual correction date with a civil penalty amount that would commence the day after the correction date.

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 to correct by October 11, 2016 at which time a continuing penalty in the amount of \$50 per day would commence. Mr. Pizzichillo seconded the motion and it passed unanimously.

f. **CASE #16-CE-6968 / 852M**

VIOLATOR: Matt Martise / Agent – Outlier Investments, LLC

VIOLATION: Air conditioner installed without a permit from the Indian River County Building Department

VIOLATION ADDRESS: 2325 18th Avenue, Vero Beach, Florida 32960

Ms. Sanderson reported that the property owner, Mr. Matt Martise, changed the air conditioner back and was issued a citation that it was done without a permit.

Mr. Noonan said then he put in a new air conditioner without a permit, received a citation, at which time he took the new one out and put the old one back in.

Ms. Sanderson said after Mr. Martise appeared before the Board and stated that he would pull a permit; he chose not to pull a permit and to change it out once again without a permit.

Mr. Bryant said so he put the old air conditioner back in. Ms. Sanderson said most likely it was the old one.

Mr. Coment noted that there was no request for a hearing so the violation is admitted. He said if the Board chooses, the Board could issue a Board Order to correct by obtaining permits by a date certain and if not corrected then start assessing a civil penalty.

Mr. Noonan asked how would this case affect the previous case.

Ms. Sanderson explained that Mr. Martise would only need to pull one (1) permit.

Mr. Noonan made a motion that the Board finds there is a violation, and that the Board issues a Board Order to correct by obtaining permits by October 11, 2016 and if not in compliance that a continuing penalty in the amount of \$100 a day would commence and to pay the initial civil penalty in the amount of \$100. Mr. Pizzichillo seconded the motion and it passed unanimously.

- g. 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
(Paid \$50 Civil Penalty)

Mr. Ramsey reported that he pulled this case from last month's Code Enforcement Board agenda to allow the property owner more time for permitting. He reported that he has not heard from the property owner and no permits have been pulled.

Mr. Noonan made a motion that the Board issues a Board Order to correct by obtaining permits by October 11, 2016 and if not in compliance that continuing penalties of \$50 a day would commence. Mr. Pizzichillo seconded the motion and it passed unanimously.

- h. 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
(Violator Wants Case Reheard)

Mr. Ramsey asked that this case be pulled from today's agenda and rescheduled as a rehearing on October 12, 2016.

Mr. Coment said the Board previously entered a Board Order, which would be held in abeyance until the October 12, 2016 rehearing, if that is what the Board chooses.

Mr. Noonan made a motion that the Board rehears this case at the October 12, 2016 Code Enforcement Board meeting. Mr. Pizzichillo seconded the motion and it passed unanimously.

- i. CASE #16-CE-6914 / 2016002050**
VIOLATOR: Benjamin Elias Daum
VIOLATION: Pedestrian violation
VIOLATION ADDRESS: 17th Street and U.S.1, Vero Beach, Florida 32960

Ms. Sanderson reported that service of the citation was provided by hand delivery by Officer Evans. She reported that the civil penalty in the amount of \$50 has not been paid.

Mr. Noonan asked what was the violation.

Ms. Sanderson said the violator was interfering with traffic at an intersection.

Mr. Coment said this is a one (1) time violation so the Board would issue an Order to pay.

Mr. McDonald asked does the violator have a residence. Ms. Sanderson answered no. She explained that the citation and Notice of Hearing was served to the violator when he was incarcerated.

Mr. Noonan made a motion that the Board issues a Board Order to pay the civil penalty in the amount of \$50. Mr. Pizzichillo seconded the motion and it passed unanimously.

- j. CASE #16-CE-6881 / 964M**
VIOLATOR: Maxwell Properties, Inc. and Unknown Tenant of Bay 1
VIOLATION: Failure to obtain Business Tax Receipt
VIOLATION ADDRESS: 1146 21st Street, Vero Beach, Florida 32960

This item was pulled from today's agenda.

- k. CASE #16-CE-6879 / 963M**
VIOLATOR: Maxwell Properties, Inc.
VIOLATION: Unlicensed, non-operable vehicles, motors, and parts on the north side of the property; failure to maintain site plan (landscaping) plants along U.S.1 are dead
VIOLATION ADDRESS: 1146 21st Street, Vero Beach, Florida 32960

Ms. Sanderson reported that the service of the citation was provided by posting of the property and by certified receipt. 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 as admitted by the violator. She said the violation has not been corrected as of September 14, 2016 and

the civil penalty has not been paid. She noted that the photographs provided were taken yesterday.

Mr. Mark Perusi (spelling may be incorrect), Manager of Maxwell Properties, reported that 90% of the work has been done.

Ms. Sanderson asked 90% of what was corrected. She asked are the buckets gone. Mr. Perusi answered yes.

Ms. Sanderson asked about the frontend loader that was on blocks. Mr. Perusi said the tenant now has their State and City license to do the work on it. He said it is still there and is being repaired.

Ms. Sanderson questioned the vehicles without tags. Mr. Perusi said they all have tags.

Ms. Sanderson asked all the vehicles along the back of the property. Mr. Perusi answered yes. He noted that Mr. Maxwell's truck does not have a tag. All the trailers and all the vehicles along the back have tags.

Mr. Noonan asked if this was a business. Mr. Perusi answered yes. He said there are about six (6) mechanic shops, which they need to have some stuff outside because not all the work can be done in their bays. He reported that they all now have their State and City licenses.

Ms. Sanderson questioned the trailers by the new garbage enclosure. Mr. Perusi said they were being pulled out today.

Ms. Sanderson asked will all the trailers that do not have tags be removed. Mr. Perusi answered yes.

Ms. Sanderson asked will the dead landscaping be replaced. Mr. Perusi said they replanted the landscaping and watered it daily, but because the City made them plant them too early in the summer, they burned up from the heat. He said that he did not think they would have this problem if they could wait until spring.

Ms. Sanderson questioned the overgrowth that was choking the landscaping. Mr. Perusi said they have not trimmed that back yet. They felt it would hold some of the water in because the heat is burning the plants up.

Mr. Noonan said they are making an effort, but are still not in compliance.

Ms. Sanderson said there are several businesses on the opposite side of the bays who feel this is an impact on them. She said this is an ongoing complaint.

Mr. Pizzichillo asked what is in the yellow barrel that is shown in one of the pictures provided. Mr. Perusi said that is the contained oil drop.

Mr. Richard Maxwell, property owner, said the mechanic who works out of one (1) of the bays works on heavy equipment, pulls engines, etc., and can't put everything inside the bay. Mr. Maxwell said that he could put up a fence.

Mr. McGann asked were all the vehicles that did not have tags, vehicles that were being worked on. Mr. Perusi answered yes. He said they were being pulled for parts and once they are finished pulling the parts the vehicles are taken to the scrap yard.

Mr. McGann asked how long do the vehicles sit there. Mr. Perusi said sometimes a month and sometimes a month and a half.

Mr. Maxwell said they could put up a four-foot fence to block the view.

Mr. McDonald asked what about the trailers that are full of trash. Mr. Perusi said that he does work on the weekends and Mr. Maxwell allows him to keep them there. He said they are usually empty, but he did not have a chance to dump them.

Mr. Pizzichillo asked at the present time, how many vehicles do not have tags.

Mr. Maxwell said there is a jeep that they are using for parts, a camper-truck that is for sale, and a Winnebago, which all belong to him. He said the Winnebago is under a dealer, who has a license to sell it. He explained that a vehicle under a dealer does not require a tag.

Mr. Perusi said there is one other vehicle on the property that does not have a tag, which is being used for parts.

Mr. Pizzichillo asked how many vehicles do not have tags.

Mr. Perusi said maybe four (4) or five (5) total.

Mr. Ramsey questioned the trailers. Mr. Perusi said all the trailers have tags, which were put on yesterday. He said that he owns a trailer that does not have a tag, but it is located on the other side of the property and cannot be seen.

Mr. McDonald asked what are the particulars regarding tagging vehicles.

Ms. Sanderson said vehicles that are for sale are not required to have a tag.

Mr. Pizzichillo asked what can they you do to be good neighbors to the people who are being offended.

Mr. Perusi said they would put up a fence so they can't see it.

Mr. Noonan said the correction date was July 29th.

Ms. Sanderson said they checked the property yesterday and have had no contact from them.

Mr. Perusi said that he was there this morning and the property is clean.

Mr. McDonald asked what did the property look like yesterday. Ms. Sanderson said the pictures submitted were taken yesterday.

Mr. Bryant said when the Code Officer was there yesterday they were not in compliance.

Mr. Perusi said the last time there was an issue the Code Officer was there the morning of the hearing.

Mr. Noonan felt the idea of putting up a fence was a good one and one that they should pursue.

Mr. Perusi said if he could get a permit today, he would put the fence up today.

Mr. Pizzichillo asked Mr. Maxwell what his plan is to get this corrected.

Mr. Maxwell said that he would pull a permit to put up a fence and he would keep in contact with Mr. Perusi to make sure that the tenants put their stuff inside their bays.

Ms. Sanderson asked that the door on the camper be secured.

Mr. Perusi said that he would screw the door shut today and remove the camper this weekend.

Mr. Noonan asked was the civil penalty paid. Ms. Sanderson answered no.

Mr. Coment said the Board might want to consider issuing a Board Order to Correct by a date certain, to pay the civil penalty, and bring the case back before the Board for a Compliance Hearing.

Mr. Noonan asked if they could come into compliance in a month.

Mr. Maxwell answered yes.

Mr. Coment said they do have the issue with the landscaping.

Mr. Perusi asked if they could wait to plant new plants until it gets cooler outside.

Mr. Maxwell noted that not all the plants are dead and some might come back.

Mr. Noonan asked the Code Officer if she would be okay with allowing some leeway for them to come into compliance with the landscaping. Ms. Sanderson said that she would agree with allowing 30 days to come into compliance with the landscaping.

Mr. Noonan made a motion that the Board issues a Board Order to come into compliance with all issues prior to the October 12, 2016 Code Enforcement Board meeting. Mr. Pizzichillo seconded the motion and it passed unanimously.

- I. CASE #16-CE-6716 / 927M**
VIOLATOR: Russell W. and Karen O'Brien
VIOLATION: Failure to obtain permit to repair seawall
VIOLATION ADDRESS: 701 Tides Road, Vero Beach,
Florida 32963

Ms. Sanderson reported that the property remains in violation and the civil penalty in the amount of \$50 has not been paid.

Mr. Coment noted that because there is no request for a hearing, the violation is admitted.

Mr. Russell O'Brien, property owner, reported that they had a catastrophic failure with the seawall because of a storm that caused over 11 inches of rain. Since that time, and immediately following that time, he tried to contact a number of seawall contractors. He said that he had a company, Summerlin Marine, who was going to do the job. They provided him with an estimate for the job, which he thought was May 26, 2016 noting that date was prior to the original citation date. He said since that time, he contacted six (6) or eight (8) different seawall companies and he does have a contract with one (1) of them. The information was provided to the Code Officer prior to the compliance date of August 2, 2016. He said as part of that contract, the contractor is obligated to do the permitting on his behalf. He said that he paid the contractor with a check, which has been cashed so he does have a bonafied contract. He reported that the contractor told him that he is on the calendar for December or January. He said that is as soon as they can get to it. He reported that the contractor was worried about filing for a permit now because if there is a storm this project would be pushed back. Mr. O'Brien said it his understanding that permits expire in six (6) months. He said the contractor will pull the permit when he feels it is appropriate to get the job done. He reported that they do have to permit with the County, the City, and the Florida Department of Environmental Protection (FDEP). He asked the Board for an extension on the permitting.

Mr. Pizzichillo asked how long of an extension.

Mr. O'Brien said that he called the contractor late last week asking if they could push the permitting process ahead and that is when he was told that the contractor was worried about the six (6) month window in case there is a storm.

Mr. Noonan said it sounds like the property was brought into compliance before the compliance date.

Ms. Sanderson reported that Mr. O'Brien dropped off a copy of a proposal from Wilco Construction with Code Officer Ramsey on August 5, 2016, and submitted a hard copy of a contract that was signed on August 28, 2016, which was well after the compliance period.

Mr. Bryant said what Mr. O'Brien is stating is true and accurate in that they do need this time. He said if they have a storm seawall contractors are in very high demand. He felt that the Board should allow the extension. The Board members agreed.

Mr. Pizzichillo felt that Mr. O'Brien was on very solid ground in doing what he is doing. He just wanted to know what the length of time might be.

Mr. O'Brien said that he would be grateful for any extension. He said that he is at the contractor's mercy and he would hope that within 90 days the Contractor would begin the permitting process.

Ms. Sanderson suggested that the Board allow Mr. O'Brien time and issue an Order to pay the civil penalty.

Mr. O'Brien said it was impossible for him to have the permitting done in that it was part of his contract with the contractor. He said that Ms. Sanderson mentioned the date of August 5, 2016, and his records show that he gave the information to Mr. Ramsey on July 29, 2016, which was a Friday. Mr. Ramsey told him that Ms. Sanderson was not in the office that afternoon that he came by and he provided him with the information.

Mr. Ramsey said that he did not recall the date. But, he does remember that it was a Friday and that he gave the information to Ms. Sanderson first thing Monday morning. As far as the date, Ms. Sanderson would know better than him.

Ms. Sanderson said the contract was actually a legal contract when it was signed on August 28, 2016. Before then, it was just a proposal.

Mr. Pizzichillo asked is the question on the floor to waive the \$50 civil penalty.

Ms. Sanderson answered no. She reported that a warning citation was issued with 30 days to comply and then a citation was issued. She is asking for the \$50 civil penalty to remain.

Mr. Pizzichillo felt that Mr. O'Brien was doing his best under the circumstances.

Mr. Pizzichillo made a motion that the Board allows a 90 day extension and in the spirit of working together that they negate the \$50 penalty.

Mr. Coment suggested that they wait to see if the property is brought into compliance.

Mr. Pizzichillo amended his motion that the Board grants the 90 day extension and that this case be brought back at the December 14, 2016 Board meeting. Mr. McDonald seconded the motion and it passed unanimously.

- m. **CASE #16-CE-6967 / 851M**
VIOLATOR: Omar Atway / 2628 U.S.1 Investments, Inc.
VIOLATION: Non-operable vehicles, trailer(s), and golf carts stored on the property. If property is used for business the business requires Site Plan Approval and a Business Tax Receipt
VIOLATION ADDRESS: 2628 U.S.1, Vero Beach, Florida 32960
(Paid \$50 Civil Penalty)

This item was pulled from today's agenda.

- n. **CASE #16-CE-6919 / 970M**
VIOLATOR: PennyMac Holdings, LLC / Chris White
VIOLATION: Stagnant swimming pool; weeds, grass undergrowth at a height of more than 12 inches
VIOLATION ADDRESS: 3865 Indian River Drive East, Vero Beach, Florida 32963

Ms. Sanderson reported that service of the citation was provided by posting of the property and by certified return receipt. The property remains in violation and the civil penalty in the amount of \$50 has not been paid. She requested that the Board finds a violation exists and issue a Board Order to pay the initial civil penalty in the amount of \$50 and continuing penalties for the days the property has been in violation.

Mr. Noonan asked is there a cost of enforcement. Ms. Sanderson answered no.

Mr. Pizzichillo said the stagnant swimming pool scares him because of all the different things that could happen. He said this should have been taken care of. He said they need to push the full extent of the law to make these people do what is right by others. To him, waiting 30 days would not be the answer.

Mr. Coment said a lot of times this happens because electricity is turned off and there is no way to run the pool pump.

Mr. Pizzichillo felt there were other ways they could kill larva or mosquitoes by putting something in the water. He said that he would speak to the Code Officers about what they did in New Jersey.

Mr. Coment asked is this property in foreclosure. Ms. Sanderson answered no. She said they have a certificate of title.

Mr. McGann said it states on the citation that the water would need continuous filtration or the pool be covered.

Mr. Coment said this is another case where the Board could issue a Board Order to correct by a date certain and if it is not corrected to start imposing civil penalties. In the meantime, if the Code Officer chooses to see if the City can do something about it they can.

Mr. McDonald asked is it correct they know for a fact that PennyMac Holdings is the property owner. Ms. Sanderson answered yes. She said they have a certificate of title.

Mr. Noonan made a motion that the Board finds there is a violation, the violation continues, and that the Board issues a Board Order to correct by October 11, 2016 at which time a \$50 per day continuing penalty would commence and to pay the initial civil penalty in the amount of \$50. Mr. McGann seconded the motion and it passed unanimously.

6. OLD BUSINESS

None

7. ADMINISTRATIVE MATTERS

a. 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. Coment explained that the Board postponed the hearing on this case because the violators wanted to appeal the interpretation of the Code on the land use regulations. The violators have been given the interpretation and did not appeal. He reported that the civil penalty has been paid on all citations regarding this property, which is an admission of guilt. There is no action by the Board needed as this case is now closed.

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 3:52 p.m.

/sp