

CODE ENFORCEMENT BOARD MINUTES
Wednesday, October 12, 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, Eric Price, and Herbert Whittall
Also Present: City Attorney, Wayne Coment; Code Enforcement Officer, Melody Sanderson; Code Enforcement Officer, Tom Ramsey, and Deputy City Clerk, Sherri Philo

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 – September 14, 2016

Mr. Pizzichillo made a motion to adopt the minutes of the September 14, 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, pulled item 5-B) 1f – Barbaralee Monday from today's agenda. He reported that the property is in compliance and the civil penalty has been paid. He then pulled item 5-B) 1h – Joshua Jordan / Chef Jordan Cuisine and Catering from today's agenda. He reported that the property is in compliance and therefore, he rescinded the citation.

Ms. Melody Sanderson, Code Enforcement Officer, pulled item 5-B) 1g – Daniel L. Hendrickson and Deidre Lynn Vanover from today's agenda. She reported that they were applying for their Building Permit today. She then pulled item 5-B) 1i – 821 Dahlia, LLC / Kite Tax Lien Capital, LLC from today's agenda. She reported that they have applied for an after the fact tree permit.

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

None

B) Non-Compliance / Compliance Reports

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

1. Request for Board Order

a. 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 at last month's hearing, the Board found the property in violation and gave a correction date of October 11, 2016. She reported that the permit was applied for, but has not been picked up. She reported that the property is now vacant.

The Deputy City Clerk swore in Mr. Joseph Webb.

Mr. Webb said that he brought with him a letter from Mrs. Ludwig and a copy of the check for the permit (information on file in the City Clerk's office).

Mr. Pizzichillo asked what is the status of the \$250 civil penalty.

Ms. Sanderson said it has not been paid.

Mr. Pizzichillo said that he would like to make a motion to collect the \$250 civil penalty if that is proper.

Mr. Wayne Coment, City Attorney, reported that at last month's hearing, the Board issued an Order finding violation and to correct the violation by mitigation. He said paying the permit fee has nothing to do with the mitigation.

Ms. Sanderson reported that mitigation has not been done, the permit has been paid for, but has not been picked up.

Mr. Noonan asked is there any way the Board can extricate Mr. Webb from the violation.

Mr. Coment said the Board could state that Mr. Webb is not responsible and that it is the responsibility of the property owner. He noted that it was Mr. Webb who took down the tree. He noted that the civil penalty has not been paid and mitigation has not been done.

Mr. Noonan felt that Mr. Webb was following instructions given by the property owner.

Mr. Bryant agreed. He felt that the Board should exonerate Mr. Webb and that they should impose the \$250 civil penalty and order correction within 30 days.

Mr. Coment explained that the Board already ordered correction by mitigation. He said the only thing the Board could do at this point is to start accessing continuing penalties, which would be in the amount of \$250 a day.

Mr. Pizzichillo said that he didn't like the hopscotch down the road on these 30-day increments. He felt that the Board was allowed to order correction in a shorter period of time.

Mr. Coment explained that the Board already issued that it be corrected by October 11, 2016. He said the Board could start imposing the continuing penalty as of today's date. He said it is the Board's call.

Mr. Pizzichillo felt that a continuing penalty from today on was in order.

Mr. Bryant suggested that they allow five (5) days because of the recent storm (Hurricane Matthew).

Mr. Noonan suggested that the motion include that the property owner is the violator and will be fined and not the contractor.

Mr. Pizzichillo made a motion that the Board finds that Mr. Webb is in no way liable, that the property owners are totally liable, that they pay the initial civil penalty in the amount of \$250, that in lieu of the fact that there was a hurricane that the Board give the property owners five (5) days from today to bring the property into compliance and if not in compliance that they access a continuing civil penalty of \$250 per day. Mr. McGann seconded the motion and it passed unanimously.

b. 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 at their last meeting, the Board agreed to rehear this case because there was some confusion with the Notice in that Mr. Nyquist thought that his case was cancelled and therefore was not present when his case was heard. Since that time, Mr. Nyquist paid the citation and is now in compliance.

Mr. Coment explained that because the Board did issue a Board order finding a violation and ordering correction, the Board would need to withdraw the order.

Mr. Ramsey reported that he withdrew the costs of enforcement.

Mr. Noonan made a motion that the Board finds there was a violation, the violation has been corrected, and to issue a Board order to pay the civil penalty in the amount of \$50, which has been paid, and to delete the cost of enforcement from the original order. Mr. Pizzichillo seconded the motion and it passed unanimously.

c. 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 showed the Board members photographs of the property that were taken today (on file in the City Clerk's office).

The Deputy City Clerk swore in Mr. Mark Perusi (spelling may be incorrect), Manager of Maxwell Properties, and Mr. Richard Maxwell, property owner, en masse.

Ms. Sanderson reported that the Board previously issued a Board order to correct by today's hearing. She reported that there are still untagged vehicles and trailers on site. Therefore, the property remains in violation.

Mr. Perusi said the tenant is a licensed mechanic and has a license from the City. He said that he is permitted to have unlicensed vehicles that he is working on.

Ms. Sanderson said at the last hearing, Mr. Maxwell and Mr. Perusi said they would work with the Planning and Development Department in order to fence in the area.

Mr. Maxwell said that he has the fence, but when he went to get the permit he was told that he needed a two-foot setback and shrubs planted in order to put up the fence. He said this was not going to work because he would have to take out some of the parking area. He would not have a problem if he could put the fence up on the property line.

Mr. Pizzichillo said the photographs show cinderblocks and pallets thrown about, tires, other automobile accessories, a station wagon with junk next to it, etc. He said they came a long way, but were still not in compliance.

Mr. Perusi said the jeep was being towed from the property today.

Mr. Pizzichillo questioned all the junk on the property.

Mr. Maxwell said the recent hurricane blew off the tarp that was covering the auto parts.

Mr. Perusi said they moved them to the corner of the property so no one could see it from any road.

Mr. Pizzichillo said it could be harborage for rodents.

Mr. Perusi said a lot of what is shown in the photographs is located in the dumpster enclosure. He said that he would remove it.

Mr. McDonald said this has been going on for about two (2) months.

Mr. Perusi said they were over 90% in coming into compliance.

Mr. McDonald said the photographs submitted doesn't indicate that anything has been cleaned up. He said there are still unlicensed vehicles on the property and the fact that the man is a mechanic doesn't change the law.

Mr. Perusi said then he didn't need a State license.

Mr. McDonald said they need some clarification on this.

Mr. Perusi reported that the mechanic received a State license and a City license.

Ms. Sanderson said they need to work with the Planning and Development Department on where the cars that he is working on are permitted.

Mr. McDonald said they have been aware of the problem since July 21st.

Mr. Pizzichillo felt that the Board has been very patient.

Mr. Maxwell didn't understand why he was not permitted to have vehicles and trailers on his property that he owns. He also didn't understand why vehicles that were being worked on were not permitted.

Mr. Ramsey said vehicles have to be licensed and tagged.

Mr. Maxwell said that he would have his vehicles removed. He said the camper and the motor home on the property are for sale.

Mr. Ramsey said they would be allowed if they were on a sales lot with a license to sell them.

Mr. Maxwell said there is one (1) trailer that does not have a tag.

Mr. Ramsey said there were several trailers that were untagged.

Mr. Pizzichillo said the citation was issued on July 21st and today is October 12th. He said the Board has been lenient and has tried to work with them, but they keep getting excuses. He felt that they had more than enough time to bring this property into compliance. He said if someone makes a motion to allow another 30 days, he would be voting against it.

Ms. Sanderson noted that the Board issued an order to correct by October 11, 2016.

Mr. Whittall suggested that they allow an additional five (5) days to correct.

Mr. Noonan was not clear if the untagged vehicles were allowed if a mechanic was working on them.

Ms. Sanderson said they need to work with the Planning and Development Department to try to come up with a designated area for vehicle sales if vehicle sales are permitted.

Mr. Price asked if they have a fence would there still be violations.

Mr. Maxwell said that he was trying to get this resolved. He asked who they would speak with to try to get permission for a fence without having to put in shrubs and without the two-foot easement.

Mr. Bryant answered the Planning and Development Department.

Mr. McDonald asked Mr. Maxwell when did he become aware there was a problem with putting up the fence.

Mr. Maxwell said when he went for a permit. He said that he has the paperwork for the permit, but did not submit it because of the two-foot easement.

Mr. McDonald made a motion that the Board allows five (5) business days to put up a fence, to do something about the untagged vehicles, and if not brought into compliance within five (5) business days that a continuing daily penalty in the amount of \$50 would commence.

Mr. Noonan did not think the Board could require a fence.

Mr. Coment said they are not required to have a fence, but they need to comply with the zoning regulations and their site plan. They would need to work this out with the Planning and Development Department.

Mr. Whittall seconded the motion.

Mr. Coment said the motion is to bring the property into compliance with whatever they were cited for.

The motion passed unanimously.

- d. 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 reported that she pulled this case from the August agenda because Mr. Wright told her that he was in the process of getting his permit. She reported that she has not had any contact with Mr. Wright since then and the permit has not been finalized. She requested that the Board issue a Board order to obtain the final permit within 30 days.

Mr. Coment explained that the Board order would be to correct by a set date and to impose a continuing penalty of \$50 per day if not corrected by that date.

Ms. Sanderson said that she would like to allow 30 days to come into compliance because Mr. Wright has obtained the permit, but it has not been finalized.

Mr. Pizzichillo made a motion that the Board issues a Board order to correct by November 4, 2016 and if not corrected that a \$50 per day civil penalty be assessed, and to pay the initial civil penalty of \$50, which has been paid. Mr. Whittall seconded the motion and it passed unanimously.

- e. **CASE #16-CE-6831 / 949M**
VIOLATOR: Virginia O'Neill (TR)
VIOLATION: Two single family structures converted into four units without development approval or building permits
VIOLATION ADDRESS: 2315 15th Avenue, Vero Beach, Florida 32960
(Paid \$50 Civil Penalty)

Ms. Sanderson reported that the Board heard this case in August and continued it for 60 days. She said there are two (2) units on the property that were converted into four (4) units. She said they have documentation for the two (2) units, but they do not have documentation that the additional two (2) units were ever approved.

Mr. Fred Kretschmer, Attorney representing the property owner, gave the Board members a package of exhibits that he was submitting into evidence (on file in the City Clerk's office). He reported that the property owner, Ms. Virginia O'Neill, is in her 80's and is currently living in New Hampshire and was unable to attend today's hearing. He said that he would be calling a few witnesses to testify today. They are Ms. Lauren Kelly of the Building Department and Mr. Richard Richmond who is a friend of Mrs. O'Neill and has been familiar with the property for the past 30-40 years. Mr. Kretschmer reported that the property is located in the Original Town neighborhood and consists of two (2) buildings. One building has been utilized as far back and he can see, to house two (2) family units, one family in the front and one family in the back. The other building is two (2) stories that may have always been used to house two (2) family units. He said it does today and as far as they can tell it has for the last 30 to 60 years. He said that Ms. O'Neill purchased the property in 1987 and at that time the property was being utilized as a four (4) family unit income producing structure. He said that is what it is being used as today. Ms. O'Neill has not made any changes to the property since she purchased it. He said that Mr. Richmond will testify today that in the mid 1980's it looked like if there was a conversion it would have been done 20-30 years prior to then. Mr. Kretschmer said if there was ever a violation it would have occurred probably 60 years ago. But, they won't know from the Building Department because they don't have any records. He said because of the lack of records the City can't

prove there is a violation and he can't prove there isn't a violation. He said the construction did comply with the City's Zoning Ordinances back in the 1950's, it met the density requirements, and as far as they can tell it met the family living requirements. He said this is a property that should be grandfathered in. He understood that it doesn't comply with what is required today, but it did comply back in the 1950's or 1960's.

At this time, Mr. Kretschmer called Ms. Lauren Kelly to testify.

Mr. Noonan asked Ms. Kelly if she was sworn in. Ms. Kelly answered yes.

Mr. Kretschmer asked Ms. Kelly to state her full name and her employer. Ms. Lauren Kelly stated her name and that her employer is the Indian River County Building Department.

Mr. Kretschmer asked how long have you been employed at the Building Department. Ms. Kelly answered 11 years.

Mr. Kretschmer asked what is your title. Ms. Kelly answered Permit Clerk.

Mr. Kretschmer asked does one of your duties include performing archive research. Ms. Kelly answered yes.

Mr. Kretschmer asked do you locate building permits, approved plans, and specifications. Ms. Kelly answered yes.

Mr. Kretschmer asked Ms. Kelly to turn to tab four (4) of the materials submitted into evidence. He asked Ms. Kelly if she sees the archive request form dated August 11, 2016. Ms. Kelly answered yes.

Mr. Kretschmer asked is that an archive request form that she received from him on or about that date to look at the property located at 2315 15th Avenue to determine any and all permits, plans, approvals, and history of the property. Ms. Kelly answered yes.

Mr. Kretschmer asked Ms. Kelly to tell the Board what she did after receiving the request. Ms. Kelly said their records only go back to 1936 so when she first did the research she looked up the year it was built and it was built in the 1920's. The only thing she found was what looked like some kind of an addition plan, but the quality was so bad she couldn't tell what it was.

Mr. Kretschmer asked is the next page of tab four (4) the email that she sent him with the information that she found. Ms. Kelly answered yes.

Mr. Kretschmer asked is the following page a copy of the approved plan that she found. Ms. Kelly answered yes. She said the entire thing was black and she couldn't copy it.

Mr. Kretschmer asked if he was correct that Ms. Kelly didn't have an original document to look at. Ms. Kelly said it was a picture, not an original.

Mr. Kretschmer asked was the best picture that she had available any more readable than what is being presented today. Ms. Kelly answered no. She explained that it was old microfilm.

Mr. Kretschmer asked if she found other permits from 2003 and 2015. Ms. Kelly answered yes, they were for over the counter electric and windows.

Mr. Kretschmer asked if he told her that the buildings were built in 1900 and 1940, would it be unusual for there not to be plans at the Building Department. Ms. Kelly said it would not be unusual. She noted that they wouldn't have any plans before 1936.

Mr. Kretschmer asked as far as the 1940 structure, does that strike her as unusual that there wouldn't be any plans. Ms. Kelly said they could be there, but are hard to find.

Mr. Kretschmer asked if he was correct that as far as working for the Building Department, she did the best job that she could to try to locate the plans and this is all she could locate. Ms. Kelly answered yes.

At this time, Ms. Kelly was excused as Mr. Kretschmer had no further questions and the Board members had no questions.

Mr. Kretschmer called Mr. Richard Richmond to testify.

The Deputy City Clerk swore in Mr. Richard Richmond.

Mr. Kretschmer asked Mr. Richmond to state his full name and his address. Mr. Richmond introduced himself to the Board stating that he resides in Melbourne, Florida.

Mr. Kretschmer asked what is your current occupation. Mr. Richmond said that he owns a computer service.

Mr. Kretschmer asked how long has he resided in the Melbourne area. Mr. Richmond said Melbourne and Vero Beach, over 33 years.

Mr. Kretschmer asked as a result of residing in the Melbourne and Vero Beach area, do you have some familiarity with the property located at 2315 15th Avenue. Mr. Richmond answered yes. He said that he lived in Vero Beach and during part of that time he lived in one of the buildings. He noted that he was familiar with the property well before he lived there in that he knew the previous property owner, Ms. Helen Reichardt (spelling may be incorrect).

Mr. Kretschmer asked approximately what year did he first become familiar with this property. Mr. Richmond answered 1982. He said that he was looking for real estate in the downtown Vero area. He said that he used to frequent the Patio Restaurant, which is where he met Ms. Helen Reichardt who owned a number of properties in Downtown Vero Beach. He said that he asked her about this property in particular in that he thought it had good income potential in that it was four (4) units in 1982. He said that he spoke with Ms. Reichardt for about an hour and she told him that she purchased it as a four (4) unit in 1972.

He said about two years later there was a fire in one of the units and after that he approached Ms. Reichardt about purchasing the property. He said they could not come to a deal at that point in time. A few years later he met Ms. O'Neill and a few of her friends who told him they were interested in purchasing multi-unit properties. He showed this property to Ms. O'Neill, but there was not a for sale sign on the property. They later found in the newspaper that the property was for sale.

Mr. Kretschmer asked Mr. Richmond to turn to tab five (5) of the materials submitted into evidence. He said it is a copy of the classified newspaper ads from the Vero Beach Press Journal from February 25, 1987. He asked is the highlighted advertisement the advertisement he referred to as to the sale of the four (4) unit older property with a convenient City location. Mr. Richmond answered yes.

Mr. Kretschmer asked does the same hold true on the following page as far as the advertisements dated February 26, 1987. Mr. Richmond said it is the same add, yes.

Mr. Kretschmer asked when you looked at the property at that time, did it appear that there had been any recent renovations to the property. Mr. Richmond answered no. He said it was quite clear that she did not change the shape of the structures in any way. He said when negotiations started, he was able to point out the age of the property and it was his belief that it had been built in the 1930's. He said it was a packing house in the early days.

Mr. Kretschmer asked did it appear that any renovations that had been done to the property had been done 20 to 30 years before 1987. Mr. Richmond said that he does a lot of construction work and his assumption would be that it predated 1987.

Mr. Kretschmer asked did you assist Ms. O'Neill with purchasing the property. Mr. Richmond answered yes. He said years later he moved into the property and lived there for six (6) years.

Mr. Kretschmer asked Mr. Richmond to turn to tab two (2) of the materials submitted into evidence. He said this is the contract for sale and purchase of this property in 1987. The last page is the addendum, which shows four (4) units being referenced with lease amounts for each unit in the contract. He asked Mr. Richmond is that in accord with his recollection. Mr. Richmond answered yes.

Mr. Kretschmer asked is it your understanding that Ms. O'Neill purchased the property in accord with that contract on or about April 30, 1987. Mr. Richmond answered yes.

Mr. Kretschmer asked Mr. Richmond to turn to tab two (2) of the materials submitted into evidence. He said it appears to be the Warranty Deed by which Ms. O'Neill purchased the property in April of 1987. He asked is that in accord with his recollection. Mr. Richmond answered yes. He said that he was there when it happened.

Mr. Kretschmer asked did Ms. O'Neill at any time increase the number of living units on the property from 1987 through today's date. Mr. Richmond answered no. He noted that he was well aware that there were electric meters there for the units. He said meters don't get on the property by themselves; therefore someone from the City had to put them there. He said they

were there when he was living there. During the time he was living there, there was a fire at one of the meters in the back of the building and he was the person who worked with a City Board (he noted that he wasn't sure which Board) and was told that they had to upgrade the electricity. He said that he contracted a local contractor to do the work.

Mr. Kretschmer asked approximately what year was that. Mr. Richmond thought it was in 2003.

At this time, Mr. Richmond was excused as Mr. Kretschmer had no further questions and the Board members had no questions.

Mr. Kretschmer asked the Board to turn to tab five (5) of the materials submitted into evidence. He noted that this piece of property consists of 9,375 square feet according to the records of the Property Appraiser. Also according to the records of the Property Appraiser, the front house was built in 1900 and the rear house was built in 1940. He said these are the only official records they have anywhere that gives them any inkling of when these buildings were built as there is nothing on file in the Building Department.

Mr. Kretschmer showed the Board members the City's Zoning Map that was done in 1925 and updated in 1981 (on file in the City Clerk's office). He said in looking at the zoning map, they would see that the property in question is in the R-2 zoning through 1981, which is High-Density. He explained that R-2 zoning is High-Density Residential Multiple Family District. He said that he did some research in the Planning and Development Department in going through some historic zoning Ordinances. He said that pages 14 and 15 under tab eight (8) of the materials submitted into evidence shows that the only square footage of land required for a multiple family dwelling, such as what is in front of the Board today, is 2,000 square feet of land area per family on the ground floor unit. Therefore, that would require only 4,000 square feet of land and what they have is over 9,000 square feet. He said they met the density requirements at that time. He said it is difficult for him to prove when this property was built or when the renovations to the property were made because they don't have any records. He said the buildings could have been this way from the beginning. He said there is something in the law that is called "*Latches*," which he explained that if a party waits too long to exercise their rights, they lose the ability to exercise their rights. This is kind of what they have before them today. He said there has been a long delay in the City prosecuting any type of change made to this property. The delay has been at least 30 years and could be 40, 50, 60, or 70 years. He said that his client cannot prove if there was ever compliance, but the City cannot prove there wasn't. This is one of those situations where the Board can, and should, make a determination in that his client (Ms. O'Neill) was an innocent purchaser and did nothing wrong. He said if this had been prosecuted one (1), two (2), five (5) or ten years after Ms. O'Neill purchased it, maybe they could have gone back to see what happened. But, 30 years after she purchased it they don't have the opportunity to do that. He said it would be unfair of the Code Board to prejudice her and say that she can't utilize this property in the manner in which it has been utilized for the past 60 years because of an alleged violation. He agrees that it is not in compliance with the current code. But, it was in compliance back in the 1950's and she should be grandfathered in because of that. He referred to tab 10 of the materials submitted into evidence. He said a recent case that came out from the Second District earlier this year states that Code Enforcement Boards can consider *Latches* as a defense to a Code Enforcement violation. He felt that the Board should

make the determination that this property is a non-conforming use, that it is legal and grandfathered in, and that Ms. O'Neill should not be required to obtain any further permits or approvals for the property because she is using it as it has been used for the past 50 to 70 years.

Mr. Price asked Ms. Sanderson if she knew when the Code was established that would have made this an unpermitted use.

Ms. Sanderson answered no.

Mr. Tim McGarry reported that the zoning is RM/10-12, which is multi-family and it has specific limits on lot size.

Mr. Price said then they could have four (4) units as long as the lot was larger. Mr. McGarry said that is correct. He said under the R-2 zoning they were allowed to have more on the property than what is currently allowed.

Mr. Noonan made a motion that the Board finds this is a non-conforming use, that there is no violation because of the timeframe of when the house was built, and that the City missed their window to prosecute this case.

Mr. Coment asked the Board to include in the Board order that the City will reimburse Ms. O'Neill the \$50 civil penalty.

Mr. Noonan added to his motion that the City will reimburse Ms. O'Neill the \$50 civil penalty that has been paid. Mr. Whittall seconded the motion and it passed unanimously.

- f. **CASE #16-CE-6869 / 1044T**
VIOLATOR: Barbaralee Monday
VIOLATION: Public Nuisance, excessive exterior storage
VIOLATION ADDRESS: 811 Gayfeather Lane, Vero Beach, Florida 32963

This item was pulled from today's agenda.

- g. **CASE #16-CE-7003 / 979M**
VIOLATOR: Daniel L. Hendrickson and Deidre Lynne Vanover
VIOLATION: Fence installed without Code Compliance or building permit
VIOLATION ADDRESS: 1242 17th Place, Vero Beach, Florida 32960
(Paid \$50 Civil Penalty)

This item was pulled from today's agenda.

- h. **CASE #16-CE-7008 / 1048T**

VIOLATOR: Joshua Jordan / Chef Jordan Cuisine and Catering

VIOLATION: Operating a business without an active Business Tax Receipt

VIOLATION ADDRESS: 1615 U.S.1, Vero Beach, Florida 32960

This item was pulled from today's agenda.

i. CASE #16-CE-6988 / 975M

VIOLATOR: 821 Dahlia, LLC – c/o Kite Tax Lien Capital LLC

VIOLATION: Protected Palm Trees removed without a permit

VIOLATION ADDRESS: 821 Dahlia Lane, Vero Beach, Florida 32963

(Paid \$1,250 Civil Penalty)

This item was pulled from today's agenda.

j. CASE #16-CE-7034 / 984M

VIOLATOR: Maxwell Properties, Inc. / James R. Maxwell, Agent

VIOLATION: New and existing businesses on-site require site plan approval for repair, sale and storage of vehicles, equipment, and supplies

VIOLATION ADDRESS: 1146 21st Street, Vero Beach, Florida 32960

(Repeat Violation \$100 Civil Penalty)

Ms. Sanderson reported that the citation was issued on September 13, 2016. She said they need to work with the Planning and Development Department on where they can store the equipment and vehicles they are working on.

Mr. Noonan asked what is under the current site plan.

Ms. Sanderson said there have been auto mechanics in the back bays before, but the new business needs to have the vehicles that contained in the area that he is working.

Mr. Pizzichillo asked if he was correct that this was out of the Board's purview and the Planning and Development Department can resolve this issue.

Mr. Noonan said that this is not a new use.

Mr. Maxwell said it has been a car lot since 1960.

Mr. Pizzichillo made a motion that the Board finds that there is a violation, and not to assess any fines in that he would like to see this resolved and brought back before the Board.

Mr. Coment said it has become a continuing problem where the Board keeps bringing cases back before them. He said there was no request for a hearing so the hearing was waived and the violation admitted. He said if the Board wants to allow more time for correction they should set that date and establish the amount of the continuing civil penalty if not corrected by that date.

Ms. Sanderson said this could come under the site plan on the previous case heard today. She said if the Board orders the same five (5) day correction as their previous case, she would rescind the \$100 citation if it is corrected.

Mr. Pizzichillo said that is where he was going with his motion in that they allow five (5) days.

Mr. Noonan said that he was still unclear on if there was a violation.

At this time (2:38 p.m.), Mr. Tim McGarry, Planning and Development Director, entered the meeting and was sworn in.

Mr. McGarry explained that in order to screen the maintenance work from the public right-of-way they would need a five-foot fence, which means they would need a two-foot landscape buffer.

Mr. Noonan said then they would have to remove some of the pavement.

Mr. McGarry said they might have to, but this is not a use that is really appropriate for the commercial district. He said if they sit down with staff they will be told exactly what needs to be done to bring them into compliance.

Mr. McDonald asked do they have a motion before them.

Mr. Noonan said there was a motion, but it died for lack of a second.

Mr. McDonald asked was the motion on the floor to allow five (5) days to come into compliance and if not the fines would begin to accumulate and they have to work with the Planning and Development Department to get this straightened out.

Mr. Pizzichillo said that was his motion. Mr. Whittall seconded the motion and it passed 6-1 with Mr. Noonan voting no.

- k. **CASE #16-CE-7033 / 983M**
VIOLATOR: Maxwell Properties, Inc. / James R. Maxwell,
Agent
VIOLATION: Construction of fuel tank enclosure without
code compliance or building permit

VIOLATION ADDRESS: 1146 21st Street, Vero Beach, Florida 32960

Ms. Sanderson showed the Board members photographs of the property that were taken today (on file in the City Clerk's office).

Mr. Mark Perusi, Property Manager, noted that it was not a fuel tank, but a disposal tank.

Mr. Whittall asked is it buried.

Mr. Perusi said it is above ground and they put block around it in order to contain it. He noted that they did not have a permit to put the block around it so they had to tear it out.

Mr. Noonan asked is he now in compliance.

Ms. Sanderson answered yes. She noted that there is a civil penalty in the amount of \$50.

Mr. Noonan made a motion that the Board finds that there was a violation, the violation has been corrected, and to issue a Board order to pay the \$50 civil penalty. Mr. Pizzichillo seconded the motion and it passed unanimously.

I. CASE #16-CE-7029 / 1056T

VIOLATOR: Horner Xpress – Jordan King

VIOLATION: Failure to comply with and to continually maintain all elements of an approved site plan

VIOLATION ADDRESS: 1680 Old Dixie Highway, Vero Beach, Florida 32960

Mr. Ramsey reported that this citation was for failure to comply with and to continually maintain all elements of an approved site plan. He did not think that Mr. Jordan King was present today to contest this, but wanted to ask for additional time.

Mr. Jordan King, owner of Horner Xpress, reported that he received the citation and notice to appear on the same day. He said that he was in full understanding that the original \$50 citation needed to be paid, which he would be paying it today. He said that he didn't pay it before because he was not sure if there would be additional costs. He reported that they planted shrubs twice and both times they died because of irrigation issues. He said they are currently in the process of getting irrigation in order to keep the shrubs alive. But, they need to get a permit for the plumbing and he unsure of the time frame in receiving it.

Mr. Coment asked Mr. King if he was sworn in. Mr. King answered yes.

Mr. Noonan asked Mr. Ramsey if he had any recommendations.

Mr. Ramsey asked that Mr. King submit payment of the \$50 civil penalty, that the Board allow 60 days to come into compliance, and if not in compliance that a \$50 per day continuing civil penalty be assessed.

Mr. Coment suggested that December 9, 2016 be the compliance date.

Mr. Whittall made a motion that the Board allows to December 9, 2016 to come into compliance, that the \$50 civil penalty be paid, and if not in compliance by December 9, 2016 that a continuing civil penalty of \$50 per day would commence on December 10, 2016. Mr. Noonan seconded the motion and it passed unanimously.

6. OLD BUSINESS

None

7. ADMINISTRATIVE MATTERS

A) Hearing Procedures

Mr. Coment briefly explained the hearing procedures to the Board members (attachment on file in the City Clerk's office).

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 3:36 p.m.

/sp