

**CODE ENFORCEMENT BOARD MINUTES**  
**Wednesday, November 13, 2019 – 2:00 p.m.**  
**City Hall, Council Chambers, Vero Beach, Florida**

**PRESENT:** Vice Chairman, Eric Price; Members: Linda Hillman, Christopher Bryant, Frank Pizzichillo, Stephen McDonald and Richard Kennedy **Also Present:** City Attorney, John Turner; Code Enforcement Officer, Melody Sanderson; Code Enforcement Officer, Tom Ramsey; Indian River County Contractor Licensing Investigator, David Checchi and Deputy City Clerk, Sherri Philo

**Excused Absence:** Kirk Noonan

**1. CALL TO ORDER**

Today's meeting was called to order at 2:00 p.m.

**2. PLEDGE OF ALLEGIENCE**

The Vice 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 hearing en masse.

**3. PRELIMINARY MATTERS**

**A) Adoption of Minutes – October 9, 2019**

Mrs. Hillman referred to the second sentence on page two (2) of the October 9, 2019 Code Enforcement Board minutes. She said "December 6, 2019" should be "December 6, 2018."

**Mr. Price made a motion to adopt the minutes of the October 9, 2019 Code Enforcement Board meeting as amended. Mr. Pizzichillo seconded the motion and it passed unanimously.**

**B) Agenda Additions, Deletions and Adoption**

Ms. Melody Sanderson, Code Enforcement Officer, pulled Case #19-CE-10413 – G&S Investments of IRC, Inc. / Charles Sullivan, Jr., agent from today's agenda. She reported that they are working with the Planning and Development Department to come into compliance. She then pulled Case #19-CE-9765 – Steven W. Abernathy from today's agenda. She reported that the property is in compliance and the civil penalty has been paid. She then pulled Case #19-CE-10417 – Timothy B. Young from today's agenda. She reported that she just met with Mr. Young and they have come to an agreement to give him more time to come into compliance. She also pulled Case #19-CE-10431 – TGM, LLC / VB Properties, LLC / IRC Investor Services, LLC from today's agenda.

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

**4. UNLICENSED CONTRACTORS/CITATIONS**

- A) **CASE #19-CE-10427 / 0343**  
**VIOLATOR:** Riverside Cigar Bar, LLC – c/o Michael Catalano  
**VIOLATION:** Licensed contractor or owner builder hiring unlicensed contractor; Failure to apply for permit – Code Sections 400.01(6)22-86(f) and 400.02/22-106  
**VIOLATION ADDRESS:** 3001 Aviation Boulevard, Vero Beach, Florida 32960

Please note that item 4B)-1f was heard first on today's agenda.

Mr. David Checchi, Indian River County Contractor Licensing Inspector, reported that he approached the owner of the business, Mr. Michael Catalano, on August 15, 2019, after he observed possible construction. Mr. Catalano invited him inside and he observed demolition and construction spanning three (3) storefronts. Mr. Catalano stated that his General Contractor was Mr. Cameron Leudke, however staff was unable to locate any contractor under that name at the local level or the state level. He noted that he did confirm with Mr. Catalano the spelling of Mr. Leudke's last name. A Stop Work Order was issued on August 15, 2019 and a citation was issued on August 20, 2019 for work being done without a permit and for hiring an unlicensed contractor. The Notice of Violation was issued on August 21, 2019. Service of the citation was received on September 9, 2019 per United States Postal Service (USPS) tracking, however the certified return receipt was not returned. He said staff feels service was given based on the USPS tracking website. He reported that as of today the citation amount of \$1,000.00 has not been paid. He requested that the Board issue a Board order to pay.

Mr. Kennedy asked is USPS tracking good enough for service or do they have to receive the green card (certified return receipt).

Mr. John Turner, City Attorney, said by preponderance of the evidence he feels that is sufficient for service.

Mr. Checchi noted that the backup for that tracking information and the numbers that he used for USPS tracking is on file in the City Clerk's office.

Mr. Kennedy asked Mr. Checchi for his recommendation.

Mr. Checchi said to uphold the fine.

**Mr. Kennedy made a motion that the Board adopts Mr. Checchi's recommendation (that the Board issues a Board order to pay the \$1,000 penalty). Mr. Pizzichillo seconded the motion and it passed unanimously.**

## 5. EVIDENTIARY HEARINGS

- A) **Citation Appeals**
- B) **Non-Compliance / Compliance Reports**
1. **Request for Board Order**

- a. **CASE #19-CE-10409 / 2019002134**  
**VIOLATOR:** Pablo Nunez  
**VIOLATION:** Noise – Code Section 38-61  
**VIOLATION ADDRESS:** 1546 14<sup>th</sup> Court, Vero Beach,  
Florida 32963  
**(Failure to pay \$50 civil penalty)**

The Deputy City Clerk explained that this citation was issued by a Police Officer and is before the Board for a Board order to pay the civil penalty.

**Mr. Price made a motion for Case #19-CE-10409, Mr. Pablo Nunez, that they have not yet paid the civil penalty and \$50.00 is due (that the Board issues a Board order to pay the \$50.00 civil penalty). Mr. Bryant seconded the motion.**

Mr. Pizzichillo asked if Mr. Nunez does not pay, when do they kick in penalties.

Mr. Tom Ramsey, Code Enforcement Officer, explained that the citation was hand delivered by the Police Officer at the time of the infraction and the violator was afforded 30-days to pay. He didn't know if they had a system in place to do anything beyond the citation itself.

Mr. Pizzichillo asked what would happen if the violator refused to pay. He asked what do they do they do as a Board.

Mr. Turner said his understanding from the Ordinance is once this person receives a violation issued by the Police Department and they want to set the matter for hearing, the violator has 10-days after issuance of the infraction. If they do not appear before the Board then the Board has the authority to proceed as they would in any case. This is not exclusive for the Board or an area in which the Board cannot act. He noted that the violator has waived his right to a hearing, but if the Board wants to hear this case, they can set it for their next meeting.

Mr. Price said a penalty could be assessed against a violator for each day of the violation, but because this is just for that one (1) day then he would think it would be just the \$50.00 penalty.

Mr. Turner explained that if there is going to be a hearing then the Police Officer has to be present. It is up to the violator to set the matter for hearing (to appeal). If the violator doesn't set the matter for a hearing then they don't want the Police Officer present because that would add additional costs.

Mr. Price said the question was until the violator pays the civil penalty, are there any other fees the Board can assess until the civil penalty is paid.

Mr. Turner said that he was not aware of anything else the Board can do other than access the civil penalty.

Mr. Ramsey said his understanding is that the Board would assess the \$50 civil penalty and that is where they stop.

**The motion passed unanimously.**

- b. CASE #19-CE-10415 / 2183M**  
**VIOLATOR:** Terri and Gino Abbate  
**VIOLATION:** Boats and trailers stored on the right-of-way – Code Sections 60.06 (a); 61.02; 61.03; 71.03  
**VIOLATION ADDRESS:** 1260 29<sup>th</sup> Street, Vero Beach, Florida 32960  
**(Failure to comply)**

Ms. Sanderson reported that service of the citation was provided by certified return receipt and property posting. The violation has not been corrected and the civil penalty has been paid. She requested that the Board finds there is a violation, that the violation continues, and to issue a Board order to correct the violation within 10 days and if not, civil penalties shall commence beginning October 11, 2019 and enforcement costs of \$34.61.

Mr. Kennedy asked is this the first time that the violators have been before the Board, or is this a reoccurring violation or the first time this has happened with these violators.

Ms. Sanderson said this is a repeat violation on this property.

Mr. Kennedy asked what happens when these fines don't get paid.

Mr. Price noted that the civil penalty has been paid.

Mr. Bryant said the violators have 10-days to come into compliance back to the original compliance date of October 11, 2019. He asked what is the amount of the continuing penalties.

Ms. Sanderson said it because it is a repeat violation the penalty would be \$100.00 per day.

Mr. Pizzichillo asked what is the recommendation.

Ms. Sanderson said to allow 10-days to correct or go back to the original compliance date and the cost of enforcement.

**Mr. Pizzichillo put those words in the form of a motion (that the Board issues a Board order to correct the violation within 10-days or continuing civil penalties of \$100 per day shall commence on the original compliance date of October 11, 2019 until corrected and to pay the cost of enforcement of \$34.61). Mrs. Hillman seconded the motion and it passed unanimously.**

- c. CASE #19-CE-10350 / 2158M**  
**VIOLATOR:** Jesus Cruz / City of Vero Beach  
**VIOLATION:** Deck installed without Code Compliance Certification or a building permit – Code Sections 64.05, 22-181, 22-106  
**VIOLATION ADDRESS:** 13 Lamplighter Lane, Vero Beach, Florida 32960  
**(Failure to comply)**

Ms. Sanderson reported that Code compliance has been obtained, the civil penalty has been paid, and they do not have a building permit. She asked that the Board finds there is an ongoing violation and to issue a Board order to correct within 30-days and if not in compliance the civil penalty shall commence on September 5, 2019.

**Mr. Kennedy put that in the form of a motion (that the Board issues a Board order to correct the violation within 30-days or continuing penalties of \$50.00 per day shall commence on the original compliance date of September 5, 2019 until corrected). Mr. Pizzichillo seconded the motion and it passed unanimously.**

- d. **CASE #19-CE-10428 / 2191M**  
**VIOLATOR:** P. Scott McCracken  
**VIOLATION:** Public nuisance - Code Sections 38-31  
(a)(b)(1)  
**VIOLATION ADDRESS:** 2716 Laurel Drive, Vero Beach,  
Florida 32960  
**(Failure to pay \$50 civil penalty)**

Mr. Kennedy asked if the Board just fined Mr. McCracken \$75,000 at their last meeting. He asked what is going on with this gentleman. He said Mr. McCracken is a contractor and has to come to the City time and time again to get permits. He asked does the City just keep giving him a permit.

Ms. Sanderson explained that Mr. McCracken's prior case was before the Board to find the property in compliance and to set a fine, which the violation was for doing work without a permit.

Mr. Bryant asked what was the public nuisance.

Ms. Sanderson answered overgrowth.

Mr. Kennedy said that he would put that in the form of a motion and recommend that the Board...

Ms. Sanderson said that she would give the Board the motion and then they can put that in the form of a motion. She asked that the Board finds that there is a violation, the violation has been corrected, but the fine has not been paid. She asked for a Board order for the initial civil penalty and enforcement costs.

**Mr. Kennedy said that's his motion (that the Board finds there was a violation, the violation has been corrected and to pay the initial civil penalty of \$50.00 along with the enforcement costs of \$55.96). Mr. Pizzichillo seconded the motion and it passed unanimously.**

Mr. Pizzichillo asked with this gentleman or with anybody, generally, where down the road do they go with this. He asked for some insight on what happens for failure to pay.

Mr. Turner explained that failure to pay will eventually result in a lien being placed on the property and after a period of time the lien will be foreclosed and the City will go after their funds through the sale of the property subject to existing mortgages, other claims, etc.

Mr. Pizzichillo asked when would this process kick in, based on the \$75,000. He asked has anyone filed papers.

Mr. Turner explained that the process has to start here (before the Board). Then there will be a notice to the violator that unless they come in and take care of it there will be a lien placed on their property. If the violator has corrected the violation then he needs to come in and advise the Board.

Mrs. Hillman asked is there any way the Board can make a recommendation to the Planning and Development Department that they do not issue any more permits until these fines are paid.

Mr. Turner said whether the Planning and Development Department can refuse to issue a license or a permit based on existing liens and existing amounts due to the City they would have to be careful because the answer is not always yes you can or no you can't. It would be on a case-by-case basis. He doesn't know if the City has ever done that before and he is not aware of any provision in the Code that allows the Board to do that.

- e. **CASE #19-CE-10413 / 2179M**  
**VIOLATOR:** G&S Investments of IRC, Inc. / Charles Sullivan, Jr., Agent  
**VIOLATION:** Boats and trailers stored on the right-of-way – Code Sections 64.06 (a)(e)(8)(h); 71.03  
**VIOLATION ADDRESS:** 1305 29<sup>th</sup> Street, Vero Beach, Florida 32960  
**(Failure to comply)**

This item was pulled from today's agenda.

- f. **CASE #19-CE-10418 / 2185M**  
**VIOLATOR:** Sunny Investors, LLC / Alexis Carroll, Agent / Bobbie Jo Olson, Tenant  
**VIOLATION:** Public nuisance – Code Sections 38-31 (a)(b)(1)(5); 38-32 (a)(1)  
**VIOLATION ADDRESS:** 2725 Atlantic Boulevard, Vero Beach, Florida 32960  
**(Failure to comply; Failure to pay \$50 civil penalty)**

\*Please note that this item was heard first on today's agenda.

Ms. Sanderson reported that the violation has been corrected as of today by documentation provided by Ms. Olson and the civil penalty has not been paid. She requested that the Board issues a Board order finding the violation has been cured and to pay the initial civil penalty and the enforcement costs of \$56.79.

Ms. Bobbie Jo Olson said that her friend left his car on the property because it didn't work and was going to come back and dispose of it. Then the tags expired so she put the car in her name and got the tags.

**Mr. Pizzichillo made a motion that the Board accepts the recommendation of Officer Sanderson (that the Board issues a Board order finding compliance and to pay the initial civil penalty of \$50.00 along with the cost of enforcement in the amount of \$56.79). Mr. Bryant seconded the motion.**

Mr. Price asked if they want to restate the whole thing (to state the motion in its entirety).

Mr. Turner said it is up to the Board.

**Mr. Price made a motion that Case #19-CE-10418 is now in compliance and that they pay the civil penalty plus enforcement costs of \$56.79.**

Mr. Pizzichillo said they already have a motion and a second.

Mr. Price explained that he was clarifying the motion.

**The motion passed unanimously.**

At this time, the Board went to item 4-A) on today's agenda.

- g. CASE #19-CE-10417 / 2184M**  
**VIOLATOR:** Timothy B. Young  
**VIOLATION:** Public nuisance – Code Section 38-31 (a)(b)(1)  
**VIOLATION ADDRESS:** 2512 Atlantic Boulevard, Vero Beach, Florida 32960  
**(Failure to comply; Failure to pay \$100 civil penalty)**

This item was pulled from today's agenda.

- h. CASE #19-CE-9765 / 1973M**  
**VIOLATOR:** Steven W. Abernathy  
**VIOLATION:** Watercraft and trailer combination stored in the front yard –Code Section 74-82 (3)(4)  
**VIOLATION ADDRESS:** 756 Silver Shores Road, Vero Beach, Florida 32963  
**(Failure to pay \$50 civil penalty)**

This item was pulled from today's agenda.

- i. CASE #19-CE-10431 / 2193M**  
**VIOLATOR:** TGM, LLC / VB Properties, LLC / IRC Investor Services, LLC, Agent  
**VIOLATION:** Salon Aura, LLC (Henry Short, Agent) tenant of 686 21<sup>st</sup> Street has not obtained Business Tax Receipt  
**VIOLATION ADDRESS:** 686 21<sup>st</sup> Street, Vero Beach, Florida 32960

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

This item was pulled from today's agenda.

- j. CASE #19-CE-10111 / 2060M**  
**VIOLATOR:** Andrew F. Zaleski  
**VIOLATION:** Fence replaced without Code Compliance Certification or building permit – Code Sections 64.05 (a)(b)(7); 22-181; 22-106  
**VIOLATION ADDRESS:** 2726 22<sup>nd</sup> Street, Vero Beach, Florida 32960  
**(Failure to comply; Failure to pay \$50 civil penalty)**

Ms. Sanderson reported that service of the citation was provided by posting of the property. She reported that the violation has not been corrected and the civil penalty has not been paid. She asked that the Board finds there is a violation, the violation continues, and the civil penalty has not been paid and that the Board issues a Board order to come into compliance within 30-days and if not in compliance, continuing penalties shall commence beginning on October 29, 2019 and enforcement costs of \$72.84.

**Mrs. Hillman put that in the form of a motion (that the Board issues a Board finding there is a violation, the violation continues and to correct the violation within 30-days or continuing civil penalties of \$50.00 per day shall commence as of October 29, 2019 and to pay the initial civil penalty of \$50.00 along with the cost of enforcement in the amount of \$72.84). Mr. Pizzichillo seconded the motion and it passed unanimously.**

- k. CASE #19-CE-10390 / 2030T**  
**VIOLATOR:** Gregory Lee and Elizabeth Ann Hines  
**VIOLATION:** Inoperable and unlicensed motor vehicle on site – Code Section 38-32 (a)(1)  
**VIOLATION ADDRESS:** 812 Dahlia Lane, Vero Beach, Florida 32963  
**(Failure to pay \$150 civil penalty)**

Mr. Ramsey reported that the property is in compliance and the civil penalty has not been paid. He requested a Board order to pay the \$150.00 with no continuing penalty as the violation has been corrected.

**Mr. Pizzichillo put that in the form of a motion (that the Board issues a Board order to pay the civil penalty of \$150.00). Mr. McDonald seconded the motion and it passed unanimously.**

**6. OLD BUSINESS**

Mr. Kennedy said the Board fined someone \$400,000 for violation of the rental Code a few months ago. He asked where does the City stand on collection of that fine.

Mr. Turner reported that case is being appealed to the Circuit Court.



Mr. Kennedy asked will the Board have any further responsibilities on this case.

Mr. Turner said it would depend on the decision of the Circuit Court so the Board may or may not deal with this case again. He said that he anticipates a successful outcome for the City.

Mr. Kennedy said it is very important that they adhere and uphold the rental rules. He felt the Board should be continuously advised on where they stand.

**7. ADMINISTRATIVE MATTERS**

None

**8. CLERK'S MATTERS**

None

**9. ATTORNEY'S MATTERS**

None

**10. CHAIRMAN'S MATTERS**

None

**11. MEMBER'S MATTERS**

None

**12. ADJOURNMENT**

Today's meeting adjourned at 2:29 p.m.

/sp