

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

PRESENT: Chairman, Kirk Noonan; Vice Chairman, Eric Price; Members: Frank Pizzichillo, Chris Bryant, Stephen McDonald and Linda Hillman **Also Present:** Interim City Attorney, Kira Honse; Code Enforcement Officer, Tom Ramsey; Code Enforcement Officer, Melody Sanderson; Indian River County Contractor Licensing Investigator, David Checchi and Deputy City Clerk, Sherri Philo

Unexcused Absence: Jeff McGann

1. CALL TO ORDER

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

2. PLEDGE OF ALLEGIENCE

The Chairman led the Board members and the audience in the Pledge of Allegiance to the flag.

The Deputy City Clerk swore in staff and the audience present for today's meeting en masse.

3. PRELIMINARY MATTERS

A) Adoption of Minutes – January 9, 2019

Mr. Pizzichillo made a motion to adopt the minutes of the January 9, 2019 Code Enforcement Board meeting. Mr. Bryant seconded the motion and it passed unanimously.

B) Agenda Additions, Deletions and Adoption

Mr. Tom Ramsey, Code Enforcement Officer, reported that he is pulling several cases from today's agenda due to compliance. He pulled Case #18-CE-9268 – Janet L. and Harold R. Leh from today's agenda. He then pulled Case #18-CE-9297 – Kim Heon Yong and Case #18-CE-9350 – Kim Heon Yong from today's agenda. He reported that he is still working on these cases. He then pulled Case #18-CE-9351 – Christ Church, Case #19-CE-9352 – Christ Church, Case #18-CE-9353 – Treasure Coast Community Health, Case #19-CE-9406 – Riverside Children's Theater, Case #19-CE-9407 – John M. Hury, Case #19-CE-9378 – St. Paul's Church, Inc., and Case #19-CE-9457 – Countryside Citrus from today's agenda.

Mr. Bryant asked have all these cases settled up.

Mr. Ramsey answered all but two (2) and he is still working on them.

Ms. Melody Sanderson, Code Enforcement Officer, pulled Case #19-CE-9383 – Centerstate Bank of Florida, Case #19-CE-9391 – Centerstate Bank of Florida and Case #19-CE-9392 – Centerstate Bank of Florida from today's agenda. She reported that she received a check for payment; however it was in the wrong amount so the check was returned and they will be

submitting a new check for the correct amount. She then pulled Case #19-CE-9280 – Vance Brinkerhoff / Coldwell Banker Real Estate and Case #19-CE-9295 – Artie Palermo / Coldwell Banker Real Estate from today’s agenda. She reported that both citations have been paid.

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

*Please note that the cases listed on today’s agenda were not heard in the order listed. All evidence submitted is on file in the City Clerk’s office.

4. UNLICENSED CONTRACTORS/CITATIONS

- A) CASE #19-CE-9417 / 0393**
VIOLATOR: James Lee Underwood
VIOLATION: Unlicensed contracting; contracting advertisement violation
VIOLATION ADDRESS: 615 Catalina Street, Vero Beach, Florida 32960

Mr. David Checchi, Indian River County Contractor Licensing Investigator, reported that this is a request for a final order of an unpaid citation for Mr. James Lee Underwood of Grant, Florida. He reported that Mr. Underwood is the owner of Jim Underwood Roofing. He is a roofing contractor whose license was revoked by the Florida Department of Business and Professional Regulation on June 25, 2018, so he was working as an unlicensed contractor for JC Marshall Construction Inc. at the time the citation was issued. He reported that JC Marshall’s case was heard by the Board on December 12, 2018, where they pulled the permit, but Mr. Underwood did the work and required the homeowner to pay the unlicensed contractor directly. He reported that Mr. Underwood was cited \$1,000 for unlicensed contracting and contracting advertising violations (\$500 per violation). Service of the citation was sent to three (3) different addresses with two (2) coming back return to sender, unable to forward. The third was sent to an address provided to him by the Indian River County Sheriff’s office, which was returned unclaimed on January 15, 2019, so service was provided by way of certified return letter, which was unclaimed and an affidavit of first class mailing. As of February 11, 2019, the citation has not been paid.

Mr. Noonan made a motion that the Board upholds the \$1,000 citation (that the Board issues a Board order to pay). Mr. Pizzichillo seconded the motion and it passed unanimously.

5. EVIDENTIARY HEARINGS

- A) Citation Appeals**
 - 1. CASE #19-CE-9412 / 1773M**
VIOLATOR: Kathryn M. Farrell
VIOLATION: False Alarm
VIOLATION ADDRESS: 4770 Bethel Creek Drive, Vero Beach, Florida 32963

Ms. Sanderson reported that Officer Ooley is present today to give testimony. She first would like to give the Board some history on the City’s Alarm Ordinance and why they are

where they are today. She reported that because of the excessive number of false alarm calls, the City's Alarm Ordinance was updated in September, 2017. A brochure regarding the updates to the Alarm Ordinance and the escalating civil penalties associated with each successive false alarm was mailed to every registered alarm user in the City in December, 2017. After several months of educating and advising the citizens of the updates to the enforcement and escalating civil penalties for each successive false alarm she began her enforcement in March, 2018. To date she has had over 370 false alarm cases. She explained that with a first false alarm the property owner is issued a warning citation advising them of the false alarm and that continued false alarms will result in further Code Enforcement action and civil penalties. She reported that in 2018, the Police Department responded to 1,560 false alarm calls.

Ms. Sanderson asked Officer James Ooley how long have you been in law enforcement. Officer Ooley said he is going on his 18th year.

Ms. Sanderson asked what is your current position with the Vero Beach Police Department. Officer Ooley said that he is assigned to the Traffic Enforcement Unit.

Ms. Sanderson asked can you tell us the difference between a Road Patrol Officer and a Traffic Enforcement Officer. Officer Ooley said his primary duties are to respond to traffic crashes, investigate traffic crashes, or conduct traffic enforcement, such as speeding, stop sign runners, red light runners, etc.

Ms. Sanderson questioned so most false alarms would be handled by Road Patrol and you would respond to a call if the Officers were busy. Officer Ooley said that is correct. He said if the Road Patrol Officers are busy then he would be pulled him away from his duties to respond to the call.

Ms. Sanderson asked Officer Ooley to give the Board a general idea of the protocol when he receives a call for an alarm going off. She asked what do you do when you respond. Officer Ooley explained that they try to send two (2) officers if available and they park at least one (1) house away so if there is something serious going on they would have cover for the officer's safety. He said they approach the area on foot and perform a perimeter check to look for any signs of forced entry or entry by someone who is not supposed to have a key and left the building unsecured. Once that is established and there is an opening they would then request backup and go inside the building to be sure there are no perpetrators there who are not supposed to be there.

Ms. Sanderson said then in the interest of safety most alarms are responded to by an officer with another officer for backup and if there was an open door they would then go on radio silence until they cleared the area as safe. Officer Ooley said that is correct.

Officer Ooley explained to the Board that what Ms. Sanderson means by radio silence is that they have a Code that limits the radio traffic on their primary channel to emergency traffic only, which leaves the airway open so once the officers are inside they have primary access to that radio channel.

Ms. Sanderson said in testimony today, they are talking about if responding to residential or small commercial areas. She said the enforcement and protocol on how they would respond would be much different if it was something like a bank. Officer Ooley said absolutely.

Ms. Sanderson asked approximately how much time is involved from the time he gets dispatched to a call, arrives at the scene, assesses the situation and clears the call. Officer Ooley said that depends on the time of day. It could be anywhere from five (5) minutes to 30 to 45 minutes.

Ms. Sanderson asked what is the disposition of a call responded to when the investigation has found that there has not been an actual breaking and entering of the premises. Officer Ooley said that is a false alarm.

Ms. Sanderson asked what are some of the common reasons for false alarms. Officer Ooley said it could be operator error, weather conditions, motion sensors, animals, etc.

Ms. Sanderson said so unless there is an actual breaking and entering by the City's Code definition that is a false alarm. Officer Ooley said that is correct.

Ms. Sanderson showed on the doc cam a photograph of a house. She asked, do you recognize this house. Officer Ooley answered yes.

Ms. Sanderson asked is this a house that you responded to on a false alarm. Officer Ooley answered yes.

Ms. Sanderson asked do you recall the reason for the false alarm. She asked was there something going on. Officer Ooley answered no. He said that he parked north of the residence, made his approach on foot and began to check the residence by walking along the northern exterior of the parameter and once he got to the northeast corner he saw there was a screen porch with no damage that would cause alarm for him in handling the situation. He then walked across the west side of the home and made his way to the south of the home. He then entered the back porch on the south side of the home to check to make sure the residence was secure.

Ms. Sanderson asked how did you clear that call. Officer Ooley answered as a false alarm.

Mr. Louis Farrell said that he is present today in lieu of his wife because she broke her ankle in December and is not getting around very well. He reported that he purchased the alarm, which was made by Simply Safe, in December of this year. He said that he installed the various window switches and door switches that were required. The system has a simple push button control of off, on, and away. There is a numerical keyboard to enter a code system to ensure that it turns off and on as required. He said that he didn't know anything about the system, but he is a victim just as the Police Department because he was awakened at 3:00 a.m. when the alarm went off and then he couldn't shut it off. He said that he ended up burying it in the cushions of the couch. He called the company to try to find out what was causing the alarm to sound off. At about 9:00 a.m., he was still on the telephone talking with them trying to find out why the alarm went off. He said there was nothing that he could do to turn it off.

Ms. Sanderson asked what time did he state the alarm went off. Mr. Farrell said the alarm woke him up at 3:00 a.m.

Ms. Sanderson said the alarm was dispatched on January 10th at 5:04 p.m. Mr. Farrell said that he doesn't know where he was then, but it went off again that night and woke him up. He said that he couldn't turn it off and called the company to try to find out what he could do and after much discussion they finally said they would do something on their end to turn the alarm off, which they did. He said that he doesn't know what they did to shut it off. He reported that a Police Officer was there at the time.

Ms. Sanderson said that was the alarm that went off on January 11th at 10:01 a.m. when he spoke with Officer Chimenti about having a problem with the alarm. Mr. Farrell said yes and the Officer actually spoke with the company. Then a few days later when the alarm went off again and another Police Officer came in response to the alarm that Officer spoke with the company.

Mr. Farrell said this is a problem from the factory and he doesn't know why he is to be responsible for handling this when the problem was at the factory's home office. He said they were able to shut the alarm off. He was not. Since then he called the company and told them not to notify the Police Department under any circumstances ever. He said that he understands the Police Department is spending a lot of money on these false alarms. However, he doesn't know what he could have done or how else he could have acted to prevent this. He again stated that he told the alarm company to never again notify the police. He hoped the Board sees this as he does in that this is a case that fell through the cracks. He does not feel that he is responsible for it and realizes it doesn't help the Police Department. He does not feel it was his fault.

Ms. Sanderson reported that the first false alarm was at 8:26 a.m. and they received a warning citation. On this case the alarm went off at 5:04 p.m. She reported that there were two (2) false alarms where they gave Mr. Farrell the courtesy of not writing a citation because Mr. Farrell stated that he was having a problem with the alarm that he installed. She said they have the option on a first alarm where they are asked to contact the company and to take the Alarm User Class, which will reduce the penalty to \$25 and none of the options were exercised.

Mr. Pizzichillo asked Mr. Farrell did you contact the company that built the system. Mr. Farrell answered yes.

Mr. Pizzichillo asked did they come up with a problem in the system internally. Mr. Farrell answered yes.

Mr. Pizzichillo asked what was the problem. Mr. Farrell said he didn't know. They wouldn't tell him.

Ms. Sanderson said that she researched this company and what is done is you go on line and choose your components for the alarm you want, such as if you want a door sensor, a window sensor, a key pad, a panic alarm, etc. It is a build your own security system and the purchaser installs it. She reported that every alarm at this residence is caused by entry/exit.

Mrs. Hillman asked how many false alarms have there been at this residence. She asked were there four (4).

Ms. Sanderson said at this time they are hearing this case and that they have absolved two (2) false alarms.

Mr. Pizzichillo said then there are a total of three (3). Ms. Sanderson said in this case, yes. She said there is another case to be heard further on in today's agenda.

Mrs. Hillman questioned for the same property. Ms. Sanderson said it is for another false alarm.

Mr. Pizzichillo questioned for the same building. Ms. Sanderson said that is correct.

Mr. Bryant questioned for the same house. Ms. Sanderson said that is correct.

Mrs. Hillman asked Mr. Farrell with the second false alarm when the company was able to shut it off at their end, wouldn't that have signaled concern that there was something wrong with the alarm system and that he should have requested to send it back. Mr. Farrell said he did, but the company said they fixed it.

Mr. Bryant questioned so now your house is unprotected. Mr. Farrell said basically because he told them not to notify the police.

Mr. Bryant asked are you going to get it protected. Mr. Farrell thought that he had this problem fixed because the company won't call the police. He said so far since this happened the alarm has worked fine so whatever the company did might have fixed it for good.

Officer Ooley added for the Board's information, as well as Mr. Farrell's, that often times alarm companies set up a safe word or a pass code with the property owners so if they are away and their alarm goes off when the company calls they can give the company the code and the company will shut off the alarm and that eliminates the Police Department's response. He said that is an option that should have been used to prevent a situation like this. He said often times they do receive alarms where it is something like someone doesn't get into the house fast enough to key the alarm code and then the alarm goes off they call the company and give them the proper code and then there is no harm, no foul. They are not getting charged with a false alarm and the Police Department is not responding. He said that is also something that could be a resolution.

Mr. Farrell said that he initiated a code word when he first purchased the system.

Mr. Noonan felt that Mr. Farrell should have tested the system before he put it online. He said whether or not Mr. Farrell felt it was his fault, the alarm is still installed in his house, which makes him responsible.

Mr. Farrell said there was nothing he could do to shut off the alarm.

Mr. Noonan said that he understands, but he doesn't think that absolves him from having to own up to the false alarm.

Mr. McDonald asked how much is the civil penalty.

Ms. Sanderson answered \$50.

Mr. McDonald felt that after three (3) trips by the Police Department that is a reasonable fine.

Mrs. Hillman noted that there is another case coming up (another case to be heard later on in today's agenda). She asked if she is correct that when the alarm goes off the Police have to respond.

Ms. Sanderson explained that based on the alarm and the setup parameters, when the alarm goes off the alarm company contacts Police Dispatch that they have an alarm at such and such address and request the dispatch.

Mrs. Hillman said in her opinion that is double protection.

Mr. Noonan made a motion that the Board upholds the \$50 civil penalty (that the Board issues a Board order to pay). Mr. McDonald seconded the motion.

Ms. Kira Honse, Interim City Attorney, explained that the motion should be that there was an uncorrectable violation and that the Board upholds the \$50 penalty.

Mr. Noonan amended his motion that there was an uncorrectable violation and that the Board upholds the \$50 penalty (that the Board finds there was an uncorrectable violation and that the Board issues a Board order to pay). Mr. McDonald seconded the motion and it passed 5-1 with Mr. Bryant voting no.

B) Non-Compliance / Compliance Reports

1. Request for Board Order

a. CASE #16-CE-7189 / 1002M

VIOLATOR: Pristine Leasing / Michael Moucheboeuf / 2628 US1 Investments, Inc. / Omar Atway, Registered Agent

VIOLATION: Failure to comply with performance standards for the Industrial Zone District

VIOLATION ADDRESS: 2628 US1, Vero Beach, Florida 32960

(Code Officer found in compliance on January 21, 2019. Continuing penalties from March 7, 2017 through January 20, 2019 = 685 days x \$50 per day = \$34,250. Original civil penalty of \$50 remains unpaid = an estimated total in penalties of \$34,300, plus costs).

Ms. Sanderson reported that this case was initiated in 2016 and the violation was for failure to comply with performance standards. She explained that the property is located in an Industrial Zone District so they have performance standards on the property of where the front yard can be, where the parking is for the customers, and where the display area is, which is what they were cited for. The citation was issued on December 19, 2016 after warning citations were issued to the property owner and to the tenant. She reported that voicemails were received on December 27, 2016 from Mr. Michael Moucheboeuf of Pristine Leasing and from Mr. Tom Daily, Property Manager. In return telephone calls both were advised to meet with the Planning and Development Department regarding the performance

standards required for the Industrial District. Both parties met with Mrs. Cheri Fitzgerald of the Planning and Development Department on December 29, 2016 and received information on performance standards for the District and a site plan application to be completed and returned to the Planning and Development Department for review. The case went before the Board in February of 2017 when no site plan was submitted, the property was in violation, and the citation was not paid. She reported that no enforcement costs were requested and the Board gave them additional time to come into compliance. She reported that they did not come into compliance during the time the tenant was on site. She said periodically while doing other inspections she monitored the property and on January 22, 2019 she noticed that the property had been cleaned up. The case is before the Board today to find the property in compliance as of January 22, 2019.

Mr. Pizzichillo asked what were the performance standards that were not adhered to.

Ms. Sanderson said there were multiple vehicles, machinery, golf carts, etc., throughout the property.

Mr. Barry Siegel, Attorney representing the Property Owner, reported that his client purchased the property in 2014. He said this property is located near Michael Field on US1 and is not what he would call the heart of town or one of the Crown Jewel neighborhoods of the community, but it is on its way to being so. His client purchased this property and the property next door with tenants already in place. The problem tenant, which is also named on the violation, was inherited by his client at that time. The violation was how the tenant was using the property and his client inherited an ancient, antiquated lease, which limits his powers on what he could do with regard to a tenant. He explained that in a landlord/tenant context a lot of times Court orders and lawsuits are needed to get tenants to comply. Since this had become a problem his client got rid of that tenant and has new tenants on the property. He said his client is refurbishing both properties with new paint and a new roof. At this time, he showed on the screen a photograph of the property prior to his client purchasing it. He said the blue roof shown in the photograph is the Chevron Station. He said not technical to his client, but the same family who owns the 2628 US1 property also owns this property (the Chevron Station property). He said they have done a fantastic job refurbishing it and making it a very advantageous property. What they are discussing today is the building far to the north and south of the blue building. He said the picture shows what the property looked like before his client purchased it and they can see why it was right for code enforcement action. He then showed a photograph of the property that he received from the Property Appraiser's office. He said this is what the building looked like when the Property Appraiser's office took the picture. He then showed a photograph of the property that he took on the way to today's meeting. He said they can see that all the offending vehicles that were the issue for code enforcement have been removed, the property has been cleaned up, and some site work has been done to the front of the property to increase its appeal. He said they are not contesting the original \$50 fine. His client will pay the \$50 fine without any objection. He explained that after it was understood what was needed to bring the property in compliance it was completed. He said that it was completed shortly after the last hearing where they were given a grace period of about a month to complete the work. He said the Property Manager, Mr. Tom Daily, is present today to testify that they did the work much sooner than January.

Mr. McDonald asked January of what year.

Ms. Sanderson reported that the property was brought into compliance in January of this year.

Mr. Siegel said it was witnessed by Code Enforcement as being brought into compliance, but what Mr. Daily will tell them is that the property was actually brought into compliance much sooner than that. He said it is very generous that the Code Officer had the knowledge and experience to have that property on her radar and went back to look and took affirmative steps to bring this to a head and they are thankful for that. But, what Mr. Daily can tell the Board is that the property was actually brought into compliance much sooner than that. He said the only reason they are before the Board today is to contest the \$34,000 fine. The money that would have to be paid for this fine would be money that would come out of refurbishing these properties. He said the only thing his client would be guilty of was not knowing that once the work was completed that he was to contact Ms. Sanderson. He said all they are requesting is either a complete reduction or a very significant reduction of the fine. He said something that needs to be borne in mind is that the complaint of activity was not the activity of his client. His client understands that even if he inherits a tenant, he is responsible for that tenant. However, his client has done everything correctly. It is possible that it could have been done faster, but things cost money and work takes time. He said that this client has done everything right to bring the property up to Code. He said it is not what he would call a Crown Jewel of the City and it is not in an extremely desirable location, but it has been brought into compliance. They are asking that the fine be reduced. He said his client would pay the \$50 fine. If the Board felt a \$500 or even a \$1,000 fine should be imposed, his client would happily pay it in order to resolve this matter. He thinks that achieves the purpose of the Code and it has a very good means to an end. He thinks that a \$34,000 fine off of a \$50 per day collection is inappropriate, excessive, and does not achieve the purpose of the Code with the only problem being was that they didn't know to call to report that they fixed the problems.

Mr. Pizzichillo asked Mr. Siegel, what is your contention that his client came into compliance.

Mr. Siegel thought it was probably in June.

Mr. Pizzichillo asked in June of 2018.

Mr. Siegel thought it was in 2017.

Mr. Pizzichillo said it is his contention that the property came into compliance in 2017 and yet two (2) years took place.

Mr. Siegel said had Ms. Sanderson not done her job they would not be before the Board asking for this reduction. He said two (2) things happened. One (1) is they brought the property into compliance and didn't hear anything after that so they thought they were done, not knowing there is actually a closeout procedure in the process and his client is guilty of that. The second is that his client moved and didn't receive some of the last notices because he didn't update his address with the City and so the City innocently and rightfully sent them to the wrong address. He said if his client had received the notices sooner that this was a continuing issue he would have jumped on it sooner.

Ms. Sanderson said there was a problem tenant at the 2626 US1 address and that tenant left. This case is not the property that had the problem tenant. This is a tenant that came later.

Mr. McDonald was having trouble with the timeline. He questioned his client purchased the property in 2014. Mr. Siegel said that is correct.

Mr. McDonald asked and the property is 2628 US1. Mr. Siegel said that is correct.

Mr. McDonald said and you stated that your client had a problem tenant on that property. Mr. Siegel said that is correct.

Mr. McDonald said the lease issues were that he couldn't correct the problems as quickly as he would have liked. He asked is that correct. Mr. Siegel said his client couldn't correct the problems as quickly as if he was the actual user of the property.

Mr. McDonald asked when did the tenant leave the 2628 US1 address. Mr. Siegel thought it was just prior to the hearing in February, 2017.

Ms. Sanderson said the problem tenant was at 2626 US1 and this case is at 2628 US1. This tenant was noticed, the property owner was noticed, and she has certified receipts signed by both the tenant and the owner at the address listed at the Property Appraiser's office. She said that he has since changed addresses and went under a warning citation for the condition of the property when U-haul started using it without site plan approval, which was sent to the address listed at the Property Appraiser's office, which was a different address.

Mr. Price asked doesn't it state on the paperwork that Code Enforcement is to be contacted when in compliance. Ms. Sanderson answered yes. She said that she has photographs from different dates in 2017 and 2018 that didn't show it ever came into compliance. She said this property came into compliance when the tenant, Pristine Leasing, left. She noted that there is still a broken forklift that has been there for years and there is trash, and debris on the property. But, in the interest of stopping the fine she put this case on the agenda for a hearing to stop the continuing penalties. She said the tenant has left.

Mrs. Hillman said so the Board originally heard this case in February, 2017 and the Board gave them 30 days to comply before the continuing penalties would start. She said continuing penalties would be from March 7th and she thought Mr. Siegel said the Board gave them approximately 30 days to clean this up and they are saying that they cleaned it up by March, but never notified Code Enforcement.

Ms. Sanderson said when the case went before the Code Enforcement Board in February, 2017 both the property owner and the tenant received a copy of the Board order specifying that the property was to be brought into compliance by March 6th or face the continuing penalties. She said that Mr. Daily was at that hearing and spoke on behalf of the property owner and he was told to go to the Planning and Development Department, get a site plan, and to work with them. She said they were issued a site plan that was color coated where everything can be. She said from what she could tell it never came into compliance until the tenant left in January, 2019.

Mr. McDonald asked what type of lease issue between 2017 and 2019 prevented them from coming into compliance.

Mr. Siegel said the problem is that you have to get a Court order. You can't do any type of self help activity.

Mr. McDonald said so you mean that the property owner cannot go out and cleanup whatever mess was there. Mr. Siegel said that is correct.

Mr. McDonald asked did he apply for a Court order. Mr. Siegel answered not that he knows of. He thought it might have been one of those situations where a tenant repeatedly says they will take care of it.

Mr. McDonald said at \$50 a day he would make sure the tenant took care of the issue.

Mrs. Hillman said you stated that the owner cleaned up the property within the 30 days of March, 2017 and questioned yet did they not respond with Code Enforcement in two (2) years.

Mr. Segal said he couldn't tell the Board the definitive date that the property was cleaned up. He can tell them that his client never contacted Code Enforcement to say it was resolved. He thought Mr. Price was correct that it probably says in some of the notices that you have to notify Code Enforcement.

Mr. Pizzichillo said, but they were notified that there was a problem in writing. Mr. Siegel said they are not disputing that the notice was there. Their issue is the fine.

Mr. Pizzichillo said it seems to him that if you get something of importance like that you would get on top of it.

Ms. Sanderson said Mr. Daily was at the hearing in February. She said that she can play back the video of Mr. Daily talking to the Board and being told to go to the Planning and Development Department to get the site plan. She said that he (Mr. Dailey) was issued the site plan, he signed off on it, and he knew what needed to be done.

Mr. Pizzichillo said and it wasn't done. He asked is that correct. Ms. Sanderson said that she has pictures of the property showing stuff all over it and not in the display area and then as time went on more stuff started coming and there was a hodgepodge of trucks, vehicles, old ambulances, parts, etc.

Mr. Pizzichillo said so he (Mr. Daily) was duly warned in writing, he came before the Board, made a statement, and nothing became of it. Ms. Sanderson said the property owner and the tenant received warning citations. They received citations with the penalty by certified return receipt that they both signed for. Mr. Daily represented the property owner at the Board hearing.

Mr. Price questioned so your argument is that the owner had no control over resolving the issue because he couldn't touch the tenant's property. Mr. Siegel said that is a factor. He cannot say that there is no control whatsoever, but there is a process. He said yes, in a roundabout way because this was caused by the actions of the tenant. He said his client is not saying that he is not liable for some level of a fine. Mr. Siegel said that he is not going to

fight the Board if they say that some type of fine is required, he just doesn't think that the \$34,000 fine is axiomatic with what the harm, remedy, and ultimate purpose of the Code.

Mr. Price asked Ms. Sanderson if she has a photograph of the property the way it is now.

Ms. Sanderson said that is the picture that Mr. Siegel showed on the doc cam.

Mr. McDonald said that Ms. Sanderson said the property didn't come into compliance until this year. Ms. Sanderson said that is correct. She said that she noticed the property had been cleaned up and realized that the tenant had left.

Ms. Honse asked Ms. Sanderson to show the Board members the photographs of the property that she had taken over the years.

Mrs. Hillman said at one time she had to evict someone and it did take four (4) months. However, it is a process that you have to go through if you want to take control of your property. She said you have to take the right steps to do that and for two (2) years this property was let go. She said the fact that the property owner didn't take responsibility and, in her opinion, didn't go through the right process to evict the tenant, she didn't think \$50 a day was an excessive amount of a fine. She said that he chose not to follow what the Board recommended.

At this time, Ms. Sanderson placed on the doc cam photographs of the property that were taken in 2018.

Mr. McDonald asked are there any photographs after August, 2018. Ms. Sanderson said the most recent photographs were taken in January, 2019 (she did not show these photographs on the doc cam).

Mr. McDonald questioned if the property was in compliance then. Ms. Sanderson said that is when it started to come into compliance.

Mr. McDonald said with allowing four (4) or five (5) months to get a court order to enter the property and correct it and since August, which is six (6) months, and allowing 10 of 24 months that they can actually document, they are looking at 14 months where they have documented violations after the Property Manager signed off in 2017.

Mr. Bryant said 14 months would be less than the 685 days.

Mr. McDonald said 14 months times 30 days.

Mr. Noonan said that would be 420 days times \$50 a day equals \$21,000.

Mr. Siegel said the vehicles shown in the photographs Ms. Sanderson showed were the vehicles of their neighbor at 2626 US1. He said once his client cleaned up their property at 2628 US1 that is when the problem tenant started using his vehicles, which that is a tenant that they did file a suit to evict.

Mr. Pizzichillo felt a compromise was in order. He said there are questions on both sides, but \$34,000 is exorbitant. He said that he heard a number of \$21,000.

Mrs. Hillman made a motion that the property came into compliance on January 21, 2019, that the original penalty of \$50, plus a reduction to \$21,000, plus costs (that the Board issues a Board order finding the property in compliance on January 21, 2019, to pay the initial civil penalty of \$50 along with a reduction in the cost of continuing penalties from \$34,000 to \$21,000 and all costs). Mr. Noonan seconded the motion and it passed 5-1 with Mr. Price voting no.

b. CASE #17-CE-7976 / 1189M

VIOLATOR: Kush Hotels, Inc / Hema Patel, Agent

VIOLATION: Fence installed without a building permit and Code Compliance Certification

VIOLATION ADDRESS: 1021 21st Street, Vero Beach, Florida 32960

(Code Officer found in compliance on January 18, 2019. Continuing penalties from March 27, 2018 through January 17, 2019 = 298 days x \$50 per day = \$14,900, plus costs. Original civil penalty of \$50 has been paid)

Ms. Sanderson reported that this case was before the Board in December, 2017. The Board allowed 45 days to correct the violation with an extension of an additional 45 days at the discretion of the Code Officer. She reported that the request was granted for an additional 45 days and there was no further contact from the owner after that extension. She reported that she followed up monthly to check for permits and code compliance. She reported that code compliance was issued on December 28, 2018, was revised on January 18, 2019 to reflect the height of the fence, and the permit was issued by the Building Department on January 18, 2019.

Mr. Neal Patel, a member of the company, said that he is not present to argue what was just stated. He said they are a small company that took over in 2013. He said that he has had some health issues and lives in Gainesville, which is not an excuse, but wanted to state the facts. He said when they were before the Board they did indicate that they were trying to get someone to take care of this. He said that he contacted Mr. Dustin Waters, of Top Grade Services, who sent him a permit number. He reported that he gave Mr. Waters a deposit in February, 2018 to get the process started. After about three (3) or four (4) months Mr. Waters said that he was going to get the permit, but nothing happened and he couldn't reach him. He said that he did find someone to get the permit and to get the work done. He said the onus was on him to apply for the hearing once they were in compliance.

Mr. Pizzichillo asked why did it take so long. Mr. Patel said that he and his father were having some health issues, which was part of it. The other part was finding someone to do the work.

Mr. Pizzichillo said 298 days is a long time. Mr. Patel said he is not here to make excuses. He is asking for some sort of leniency.

Mr. Bryant asked Mr. Patel what he thinks a fair penalty should be. Mr. Patel said it is at \$50 a day for approximately a year. He said the ballpark being asked for was about \$15,000.

Mr. Bryant asked what do you think is fair. Me. Patel felt a fine of \$2,500 was fair.

Mr. Bryant agreed.

Mr. Noonan questioned so he hired a contractor to resolve this within the timeframe, but the contractor didn't do anything. Mr. Patel said that is correct. He said that he gave him a check for \$1,000 and then another \$300, which he never got back.

Mr. McDonald said you stated the person hired in February had a permit. He asked is that correct. Mr. Patel apologized stating that it was not a permit, but a business license number.

Mr. McDonald asked if he had a contract. Mr. Patel answered no. He said that he was given a price of about \$6,000, which was much lower than anyone else so he gave him a deposit of \$1,000 and then another \$300 to get the permit.

Ms. Sanderson said there is a lot of work that is done without permits. But, a fence is something that can go up and it can come down so they could have stopped the fines at any point by just removing the fence until they received permits and approval.

Mr. Noonan felt a fine of \$2,500 was reasonable.

Mr. Bryant said that he would even go to a fine of \$2,000.

Mr. Noonan made a motion that there was a violation, the violation has been brought into compliance as of January 19th.

Mr. Pizzichillo asked Mr. Patel how fast would he be able to pay the City. Mr. Patel said that he would pay the penalty within 30 days.

Mr. Noonan continued with the motion that there was a violation, the property is in compliance as of January 19, 2019, the original civil penalty has been paid and that the Board issues a Board order for payment of a \$1,500 additional penalty.

Mrs. Hillman thought the Board discussed a penalty of \$2,500.

Mr. Bryant said they lowered it to \$1,500.

Ms. Hillman questioned why.

Mr. Bryant said because he is in compliance and had already shelled out and lost money by some fly by night contractor who took his money.

Ms. Honse asked Mr. Noonan to find compliance as of January 18, 2019.

Mr. Noonan amended the motion that they find compliance on January 18, 2019.

Mrs. Hillman suggested that they amend the motion since they discussed a penalty of \$2,500 with Mr. Patel that they issue a penalty of \$2,000 plus costs.

Mr. Noonan agreed to the amendment to the motion. Mr. Price seconded the motion and it passed unanimously.

- c. **CASE #18-CE-9239 / 1589T**
VIOLATOR: Vero Beach Eats, LLC / dba Moe's Southwest Grill
VIOLATION: Failure to obtain a City of Vero Beach Business Tax Receipt
VIOLATION ADDRESS: 1601 US1, #101, Vero Beach, Florida 32960

Mr. Ramsey reported that the violation has not been corrected and the civil penalty has not been paid. He requested that the Board issues a Board order to comply and pay the \$50 civil penalty.

Mr. Pizzichillo put Mr. Ramsey's suggestion into the form of a motion (that the Board issues a Board order to correct the violation and to pay the civil penalty in the amount of \$50). Mrs. Hillman seconded the motion and it passed unanimously.

- d. **CASE #18-CE-9268 / 1591T**
VIOLATOR: Janet L. and Harold R. Leh
VIOLATION: Boat and trailer located within the front yard setback
VIOLATION ADDRESS: 18 Sea Horse Lane, Vero Beach, Florida 32963

This item was pulled from today's agenda.

- e. **CASE #18-CE-9319 / 1592T**
VIOLATOR: Jill Silcox and Shelly Robertson
VIOLATION: Weeds, grass and undergrowth at a height of more than 12 inches
VIOLATION ADDRESS: 1941 33rd Avenue, Vero Beach, Florida 32960
(Repeat violation - \$250 civil penalty)

Mr. Ramsey reported that there is a triple repeat violation at this property. He said they did come into compliance, however the \$250 civil penalty has not been paid.

Mr. Pizzichillo asked Mr. Ramsey if he is recommending that they pay the \$250. Mr. Ramsey answered yes.

Mr. Pizzichillo put that in the form of a motion (that the Board issues a Board order to pay the \$250 civil penalty). Mr. McDonald seconded the motion and it passed unanimously.

- f. **CASE #18-CE-9345 / 1717M**
VIOLATOR: Mills, Short and Associates
VIOLATION: Failure to register alarm with the Vero Beach Police Department
VIOLATION ADDRESS: 700 22nd Place, #2C, Vero Beach, Florida 32960

Ms. Sanderson reported that the Police Department requires that alarms are registered with the Police Department and the violator was notified by a warning citation that their alarm was not registered. After no response a citation was issued on December 27, 2018 by certified return receipt. The violation has not been corrected and the civil penalty has not been paid. She requested that the Board issues a Board order finding violation, that the violation continues, the civil penalty has not been paid and to come into compliance within 10 days and if not in compliance continuing penalties commence on February 23rd and enforcement costs of \$75.53.

Mr. McDonald put that in the form of a motion (that the Board issues a Board order finding that there is a violation, the violations continue, the violation shall be corrected within 10 days or continuing penalties shall commence on February 23, 2019 until the violation is found to be corrected, and to pay the initial civil penalty of \$50 along with the cost of enforcement in the amount of \$75.53). Mr. Pizzichillo seconded the motion and it passed unanimously.

- g. CASE #18-CE-9297 / 1582T
VIOLATOR: Heon Yong Kim
VIOLATION: False alarm
VIOLATION ADDRESS: 4233 20th Street, Vero Beach,
Florida 32960**

This item was pulled from today's agenda.

- h. CASE #18-CE-9350 / 1614T
VIOLATOR: Heon Yong Kim
VIOLATION: False alarm
VIOLATION ADDRESS: 4233 20th Street, Vero Beach,
Florida 32960
(Repeat violation - \$100 civil penalty)**

This item was pulled from today's agenda.

- i. CASE #18-CE-9351 / 1615T
VIOLATOR: Christ Church
VIOLATION: False alarm
VIOLATION ADDRESS: 667 20th Street, Vero Beach,
Florida 32960
(Repeat violation - \$100 civil penalty)**

This item was pulled from today's agenda.

- j. CASE #19-CE-9352 / 1616T
VIOLATOR: Christ Church
VIOLATION: False alarm
VIOLATION ADDRESS: 667 20th Street, Vero Beach,
Florida 32960
(Repeat violation - \$150 civil penalty / Failure to take
mandatory alarm user awareness class)**

This item was pulled from today's agenda.

- k. CASE #18-CE-9353 / 1617T**
VIOLATOR: Treasure Coast Community Health
VIOLATION: False alarm
VIOLATION ADDRESS: 1555 US1, Suite #103, Vero Beach, Florida 32960
(Repeat violation - \$150 civil penalty / Failure to take mandatory alarm user awareness class)

This item was pulled from today's agenda.

- l. CASE #18-CE-9355 / 1618T**
VIOLATOR: E&G Investments Properties, LLC
VIOLATION: Unsheltered storage of stripped, junked inoperable machinery, furniture or appliances and building materials
VIOLATION ADDRESS: 1825 14th Avenue, Vero Beach, Florida 32960
(Repeat violation - \$250 civil penalty)

Mr. Ramsey reported that this is the third repeat violation on this property. The violator received service by certified mail, but refused to sign so the property was posted for service. The property was found in compliance on January 18, 2019. He asked that the Board issues an order to pay the \$250 civil penalty.

Mr. Noonan made a motion that the Board finds there was a violation, the violation has been corrected, that this is a repeat violation and that the Board issues a Board order to pay the \$250 civil penalty, plus costs. Mr. McDonald seconded the motion and it passed unanimously

- m. CASE #19-CE-9357 / 1758M**
VIOLATOR: Patio Restaurant of Vero Beach, Inc. / William Joseph Brown
VIOLATION: False alarm
VIOLATION ADDRESS: 1103 21st Street, Vero Beach, Florida 32960
(Repeat violation - \$250 civil penalty)

Ms. Sanderson reported that the service of the citation was provided by certified return receipt. The violation is not corrected as it is an uncorrectable violation. The civil penalty has not been paid. She requested that the Board finds there is a violation, the violation continues, the civil penalty has not been paid, that that the Board issues a Board order to come into compliance within 10 days or continuing penalties shall commence on February 23rd and enforcement costs of \$40.08.

Mr. Noonan said it was stated that this is an uncorrectable violation. He asked how could there be continuing penalties until it is corrected.

Ms. Honse said there is not a continuing penalty.

Mr. McDonald put that in the form of a motion.

Mr. Pizzichillo said this gentleman has been before the Board previously.

Ms. Sanderson said that is correct. She noted that the only case they are hearing today is for a repeat violation of an additional false alarm.

Mr. Noonan asked is \$250 the highest penalty or can they go to a higher amount.

Ms. Sanderson answered yes.

Mrs. Hillman questioned the motion.

Mr. Noonan said the motion on the table is that the Board enforces the \$250 civil penalty because there was a violation. Mrs. Hillman seconded the motion and it passed unanimously.

- n. **CASE #19-CE-9383 / 1763M**
VIOLATOR: Centerstate Bank of Florida
VIOLATION: False alarm
VIOLATION ADDRESS: 855 21st Street, Vero Beach, Florida 32960
(Repeat violation - \$150 civil penalty / Failure to take mandatory alarm user awareness class)

This item was pulled from today's agenda.

- o. **CASE #19-CE-9391 / 1765M**
VIOLATOR: Centerstate Bank of Florida
VIOLATION: False alarm
VIOLATION ADDRESS: 855 21st Street, Vero Beach, Florida 32960
(Repeat violation - \$250 civil penalty)

This item was pulled from today's agenda.

- p. **CASE #19-CE-9392 / 1766M**
VIOLATOR: Centerstate Bank of Florida
VIOLATION: False alarm
VIOLATION ADDRESS: 855 21st Street, Vero Beach, Florida 32960
(Repeat violation - \$250 civil penalty)

This item was pulled from today's agenda.

- q. **CASE #19-CE-9406 / 1641T**
VIOLATOR: Riverside Children's Theater
VIOLATION: False alarm

VIOLATION ADDRESS: 3280 Riverside Park Drive, Vero Beach, Florida 32963

This item was pulled from today's agenda.

- r. **CASE #19-CE-9407 / 1642T**
VIOLATOR: John M. Huryn
VIOLATION: False alarm
VIOLATION ADDRESS: 1784 Old Dixie Highway, Vero Beach, Florida 32960

This item was pulled from today's agenda.

- s. **CASE #19-CE-9423 / 1784M**
VIOLATOR: Kathryn M. Farrell
VIOLATION: False alarm
VIOLATION ADDRESS: 4770 Bethel Creek Drive, Vero Beach, Florida 32963

Ms. Sanderson reported that service of the citation was sent by certified return receipt, which was unclaimed. Therefore, the citation was mailed by first class mail and the property was posted. She reported that the civil penalty has not been paid. She asked that the Board finds there was a violation, the civil penalty has not been paid and to issue a Board order to pay the civil penalty in the amount of \$50.

Mr. Pizzichillo put that in the form of a motion (that the Board issues a Board order to pay the \$50 civil penalty). Mr. Bryant seconded the motion and it passed unanimously.

- t. **CASE #19-CE-9378 / 1631T**
VIOLATOR: St. Paul's Church, Inc.
VIOLATION: False alarm
VIOLATION ADDRESS: 999 Flamevine Lane, Vero Beach, Florida 32963

This item was pulled from today's agenda.

- u. **CASE #19-CE-9430 / 1789M**
VIOLATOR: William Eberhardt and Julia Bergan
VIOLATION: Air conditioner system installed without a permit
VIOLATION ADDRESS: 3939 Ocean Drive, #B506, Vero Beach, Florida 32963
(Paid \$50 civil penalty after the Notice of Hearing was mailed)

Ms. Sanderson reported that this case was initiated based on a request from Mr. Ken Johnson, Indian River County Licensing Inspector, who issued a notice of violation in February, 2018 and then turned the case over to her in January, 2019. She reported that the violation has not been corrected and the civil penalty has not been paid. She requested that the Board finds there is a violation, the violation continues, the civil penalty has not been paid and that the

Board issues a Board order to come into compliance within 10 days and if not in compliance continuing penalties shall commence beginning February 23rd.

Mr. Noonan said it is noted on the agenda that the civil penalty was paid after the Notice of Hearing was mailed.

Ms. Sanderson said that is correct. She asked that the Board issues a Board order to find the violation continues, the civil penalty has been paid and to issue a Board order to come into compliance within 10 days or a continuing daily penalty commencing February 23rd.

Mr. McDonald asked if a person was served on February 18th, why doesn't the penalties accumulate from that date.

Ms. Honse noted that the continuing penalties would go back to the date of the citation if they do not come into compliance.

Mr. Noonan felt that 10 days was short because they would not receive the notice until probably six (6) days from today.

Ms. Sanderson said they took receipt of the citation from Mr. Johnson in February of last year.

Ms. Honse said that she would agree on the 10 days for this case because the City Attorney's office is down in staff and would be going down in staff even more so her ability to get these orders out as quickly may go down as well so she would agree in this instance that 10 days is probably not a sufficient length of time.

Mr. McDonald made a motion that the Board puts Ms. Sanderson's request in the form of a motion for the 21 days (that the Board issues a Board order finding that there is a violation, the violation continues, the civil penalty has been paid and that the violation is to be corrected within 21 days or continuing penalties shall commence.) Mr. Pizzichillo seconded the motion and it passed unanimously.

- v. **CASE #19-CE-9457 / 1666T**
VIOLATOR: Countryside Citrus
VIOLATION: False alarm
VIOLATION ADDRESS: 3300 Ocean Drive, Vero Beach, Florida 32963

This item was pulled from today's agenda.

- w. **CASE #18-CE-9280 / 1729M**
VIOLATOR: Vance Brinkerhoff / Coldwell Banker Real Estate
VIOLATION: Oversized and more than one (1) real estate sign on right-of-way
VIOLATION ADDRESS: 4402 Bethel Creek Drive, Vero Beach, Florida 32963
(Complied after the Notice of Hearing was mailed)

This item was pulled from today's agenda.

- x. **CASE #18-CE-9285 / 1737M**
VIOLATOR: Artie Palermo / Coldwell Banker Real Estate
VIOLATION: Oversized and more than one (1) real estate sign on right-of-way
VIOLATION ADDRESS: 2125 32nd Avenue, Vero Beach, Florida 32960

This item was pulled from today's agenda.

6. OLD BUSINESS

None

7. ADMINISTRATIVE MATTERS

None

8. CLERK'S MATTERS

None

9. ATTORNEY'S MATTERS

None

10. CHAIRMAN'S MATTERS

None

11. MEMBER'S MATTERS

Mrs. Hillman reported that the Board had 15 alarm cases on their agenda today. She wanted the public to know that they need to monitor and take care of their alarm systems. She felt that people should be held accountable that their alarms are up to par so they don't jeopardize the Police Officers by responding to these alarms in such a hurry.

Ms. Sanderson reported that in 2017 the Police Department had 1,859 false alarms and in 2018 they had 1,563 false alarms so the Ordinance is working.

12. ADJOURNMENT

Today's meeting adjourned at 3:29 p.m.

/sp