

CODE ENFORCEMENT BOARD MINUTES
Wednesday, June 10, 2020 – 2:00 p.m.
City Hall, Council Chambers, Vero Beach, Florida

PRESENT: Chairman, Kirk Noonan; Vice Chairman, Linda Hillman; Members: Eric Price, Christopher Bryant, Stephen McDonald, Richard Kennedy, Frank Pizzichillo (present via telephone), Alternate Member #1, Ken Daige and Alternate Member #2, Sharon Gorry **Also Present:** Code Enforcement Officer, Melody Sanderson; Code Enforcement Officer, Tom Ramsey; City Attorney, John Turner 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 the audience present for today's meeting en masse.

At this time, the Deputy City Clerk called the roll.

3. PRELIMINARY MATTERS

A) Adoption of Minutes –May 13, 2020

Mrs. Gorry referred to page nine (9) of the May 13, 2020, Code Enforcement Board minutes. She noted that the word "*annunciation*" should be "*enunciation*." She then referred to page 23 of the minutes stating that the word "*grates*" should be "*grades*."

Mrs. Hillman made a motion to adopt the minutes of the May 13, 2020 Code Enforcement Board meeting as amended. The motion was seconded and it passed unanimously.

B) Agenda Additions, Deletions and Adoption

Ms. Melody Sanderson, Code Enforcement Officer, pulled Case #20-CE-10761 – Mulligan's Vero Acquisition, LLC / George Hart, Manager from today's agenda. She reported that they are in compliance and the civil penalty has been paid. She then pulled Case #19-CE-10548 – James Lewis from today's agenda. She then pulled Case #20-CE-10745 – Kara A. Schmidt from today's agenda. She reported that the property is now in compliance.

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

4. UNLICENSED CONTRACTORS/CITATIONS

None

5. EVIDENTIARY HEARINGS

A) Citation Appeals

1. CASE #20-CE-10641 / 2794M

VIOLATOR: Charles E. Fitz

VIOLATION: Public nuisance - unsafe structure / Code Section 38.31 (a)(b)(8)

VIOLATION ADDRESS: 766 Fiddlewood Road, Vero Beach, Florida 32963

(Case continued from the May 13, 2020 hearing)

Ms. Sanderson reported that this case is continued from the May 13, 2020 Code Enforcement Board meeting. The property is still in violation and the civil penalty has not been paid. She said that Mr. Fitz reported to the Board at the May 13, 2020, hearing that he was in the process of doing a deed in lieu of foreclosure.

Mr. Charles Fitz, Property Owner, has been sworn in. He stated that the status on the deed in lieu of foreclosure is still pending. He said they are waiting for the updated title report.

Mrs. Hillman said she reviewed the minutes of the last meeting when his case was heard. She asked was this a vacation rental.

Mr. Fitz said it was his homestead.

Mrs. Hillman said you stated it was a vacation rental and then you went back and stated that it was your homestead.

Mr. Fitz thought it was the Board who stated it was a vacation rental. He said it was his homestead and he had rented it as a vacation rental.

Mrs. Hillman asked when was it a vacation rental.

Mr. Fitz thought it was in 2018.

Ms. Sanderson recommended that the Board issues a Board order finding that the property is not in compliance, the initial civil penalty has not been paid, and to allow 14-days to correct the violation from the date of today's hearing or continuing civil penalties will commence on March 17, 2020.

Mr. Kennedy asked why two (2) weeks.

Ms. Sanderson said because this has been ongoing, it has been an income producing property and her concern is a deed in lieu of foreclosure is different than the bank taking the certificate of title. If the bank takes the deed in lieu of foreclosure and it is administered in Mr. Fitz's name, there is no recourse. When a bank takes possession and does a certificate of title then the bank is responsible. But, typically the bank doesn't take that next step to put the property in their name. This has been a problem that has been in existence since August, 2018, it is located on central beach, and the neighbors are tired of looking at it.

Mr. Pizzichillo put Officer Sanderson's recommendation in the form of a motion.

Mrs. Hillman explained that they need to actually make a motion and not put someone else's words in the form of a motion. They have to actually state the motion.

Mr. Pizzichillo said that he heard what Ms. Sanderson said, but he didn't write it down. If someone wants to repeat her exact words and make that motion, he would be happy to second it (motion withdrawn).

Mrs. Hillman made a motion that it has not been complete ...

Mr. John Turner, City Attorney, asked Ms. Sanderson to go through her recommendation one (1) by one (1) so that it can be repeated.

Ms. Sanderson said that she would like the Board to find that the property is not in compliance, the civil penalty has not been paid, that they have 14-days to correct the violation from the date of today's hearing or continuing civil penalties will commence on March 17, 2020, for the days the property is not in compliance.

Mrs. Hillman made a motion that the Board finds that the property is not in compliance, the civil penalty has not been paid, that the Board issues a Board order to allow 14-days to bring the property into compliance and if the property is not in compliance within 14-days they would continue the penalty from March 17, 2020.

Ms. Sanderson said that the property owner has 14-days to correct the violation from the date of today's hearing.

Mrs. Hillman added to her motion that the property owner has 14-days to correct the violation from today's hearing.

Ms. Sanderson said that the Board issues an order to pay the initial civil penalty.

Mrs. Hillman added that the Board issues an order to pay the initial civil penalty.

Ms. Sanderson said that continuing civil penalties commencing on March 17, 2020, for the days the property is not in compliance.

Mrs. Hillman added to her motion continued civil penalties from the date the property is not in compliance on March 17, 2020 (that the Board finds there is a violation, the violation continues, that the Board allows 14-days to correct the violation or continuing civil penalties shall commence on March 17, 2020, and to pay the initial civil penalty). Mr. Pizzichillo seconded the motion and it passed unanimously.

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

B) Non-Compliance / Compliance Reports

1. Request for Board Order

a. CASE #20-CE-10628 / 2280M

VIOLATOR: Robert Dechellis

VIOLATION: Failure to obtain stormwater management plan for dirt added to the property / Code Section 64.05

VIOLATION ADDRESS: 525 Banyan Road, Vero Beach, Florida 32963

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

Ms. Sanderson reported that the property owner contacted Mr. Richard Mutterback, City Engineer, on December 16, 2019, regarding ponding and drainage on his property. The owner was advised by Mr. Mutterback if he was interested in proposing a solution for his property to submit a permit for improvements to the drainage pattern. Mr. Mutterback offered to meet with the property owner on site to discuss options, but the property owner never scheduled a follow-up meeting. After a complaint was received on February 11, 2020, fill dirt had been added to the property and additional stormwater runoff was being directed towards the neighboring property, a follow-up inspection was conducted. No permit has been obtained for the fill dirt added or the grading of the property. The property owner needs to restore the site to the previous condition or obtain an after-the-fact permit to meet all applicable codes. To date, no action has been taken by the property owner. She noted that the property is currently for sale. She asked that the Board finds the property is not in compliance, that the civil penalty has not been paid, and that they allow 30-days to correct the violation from the date of today's hearing or continuing civil penalties will commence on March 20, 2020 for the days the property remains in violation.

Mr. McDonald made a motion that the Board finds the property is not in compliance and the civil penalty has not been paid and that they allow 30-days from the date of today's hearing to bring the property into compliance and if not in compliance continuing civil penalties shall commence on March 20, 2020. Mr. Noonan seconded the motion and it passed unanimously.

b. CASE #20-CE-10764 / 2927M

VIOLATOR: Maureen Miller

VIOLATION: Stagnant unsecured swimming pool / Code Section 38.31 (a)(b)(7)

VIOLATION ADDRESS: 3655 Flamingo Drive, Vero Beach, Florida 32963

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

Ms. Sanderson reported that service of the citation was provided by property posting. She reported that the pool has been cleaned, but remains unsecured. She asked that the Board finds there is a violation, the civil penalty has not been paid and to allow 14-days from the date of today's hearing or continuing penalties shall commence on May 12, 2020 for the days the property remains in violation and to pay the initial civil penalty.

Mr. Noonan made a motion that the Board finds there is a violation, the property remains in violation, and that the Board issues a Board order to bring the property into compliance and pay the civil penalty of \$50 within 14-days of today's date and if not continuing civil penalties shall commence on May 12, 2020. Mr. McDonald seconded the motion and it passed unanimously.

c. CASE #20-CE-10761 / 2925M

VIOLATOR: Mulligan's Vero Acquisition, LLC / George Hart, Manager
VIOLATION: Sea Turtle lighting / Code Sections 46.109 (a)(1)(a)(b)(b)(1)(c)(1)
VIOLATION ADDRESS: 1025 Beachland Boulevard, Vero Beach, Florida 32963
(Failure to pay \$150 civil penalty)

This item was pulled from today's agenda.

- d. **CASE #19-CE-10548 / 2236m**
VIOLATOR: James R. Lewis
VIOLATION: Code Compliance Certification and building permit required for vinyl fence / Code Sections 64.05 (9)(b)
VIOLATION ADDRESS: 5 Aero Lane, Vero Beach, Florida 32960
(Failure to comply; Failure to pay \$50 civil penalty)

This item was pulled from today's agenda.

- e. **CASE #20-CE-10759 / 2924M**
VIOLATOR: Dolphin Property Holdings, LLC / Michael Buza, Agent
VIOLATION: Oak Tree removed without a permit / Code Section 72.44 (a)
VIOLATION ADDRESS: 2450 Cortez Avenue,, Vero Beach, Florida 32960
(Failure to comply; Failure to pay \$50 civil penalty)

Ms. Sanderson reported that service of the citation was provided by certified mail return receipt. She asked that the Board finds there is a violation, the civil penalty has not been paid, that they have 10-days to correct the violation from the date of today's hearing or continuing civil penalties shall commence on May 11, 2020 for the days the property is not in compliance and to pay the initial civil penalty.

Mr. Noonan made a motion that the Board finds there is a violation, the violation continues, and that the Board issues a Board order to comply within 14-days of today's date and to pay the \$50 initial civil penalty, if not then continuing civil penalties shall commence on May 11, 2020. Mr. Pizzichillo seconded the motion and it passed unanimously.

- f. **CASE #20-CE-10742 / 2919M**
VIOLATOR: Kara A. Schmidt
VIOLATION: Windows installed without a permit from the Indian River County Building Department / Code Sections 22-181; 22-106 (a)
VIOLATION ADDRESS: 1443 and 1445 24th Street, Vero Beach, Florida 32960
(Failure to comply)

Ms. Sanderson showed on the screen a summary of events and two (2) photographs of the property (on file in the City Clerk's office). She briefly went over the summary with the Board members. She reported that the violation has not been corrected and the civil penalty has been paid.

Ms. Kara Schmidt, Property Owner, who has been sworn in, reported that the property address for this building is 2356 15th Avenue. She said that she made the mistake of installing windows without a permit and by trusting workers who said they knew the Code. She has hired a contractor and an architect, who should have the drawings completed next week and she has contacted an air conditioner man. She said this should all be completed within a month. She said that she has everything lined up to be completed and that she will never do this again without a contractor.

Mr. Daige asked who is the contractor.

Ms. Schmidt answered Bruce Wyman (spelling may be incorrect). She explained that he has not started the work yet because they have not received the permit. She further explained that the architect is in the process of doing the drawings and once that is complete and she receives what she needs for the air conditioner, the contractor will be able to pull the permits and do the work.

Mr. Daige asked who is the architect.

Mrs. Schmidt answered Janet Dunlap.

Mr. Noonan asked is 30-days long enough to get all of this completed.

Mr. Bryant said that she (Ms. Schmidt) is going to have to get permits so 30-days sounds optimistic to him.

Ms. Schmidt said unless there is a problem pulling a permit, she is hoping to get everything done within a month.

Mr. Daige asked is the contractor an engineer as well.

Ms. Schmidt answered yes.

Ms. Sanderson asked who started the work before she received the citation.

Ms. Schmidt said it was a gentleman that she knew who has worked for contractors before and she thought he knew the Code.

Ms. Sanderson said they have had work done on these properties before without permits so she knows that permits are required.

Ms. Schmidt said she will not do it again.

Mr. Daige asked what is a reasonable time to get the permits.

Ms. Sanderson suggested 60-days.

Mrs. Hillman asked Ms. Schmidt if the permits have been applied for.

Ms. Schmidt answered not yet. She explained that once the drawings are complete and the air conditioning work is completed the contractor will pull the permits.

Mr. Kennedy asked does the Board have a meeting in August.

Ms. Sanderson said she is going to ask for a Board order today to allow 60-days to correct the violation.

Mr. Price said she has two (2) other cases. He questioned if the Board is giving her more time for this violation, are they setting precedence for the other two (2) cases.

Mr. Noonan asked Ms. Schmidt if the same people are working on all three (3) cases.

Ms. Schmidt answered yes.

Mrs. Gorry asked what are the addresses.

Ms. Schmidt felt the best address to use is 2356 15th Avenue because that is the whole property address.

Mr. Kennedy asked can't the Board hear all the facts in each case and vote on them separately.

Mr. Turner said that is okay as long as they make sure to vote on each case separately.

Mr. Noonan made a motion that the Board finds there is a violation, the violation continues, and that the Board issues a Board order to comply within 90-days to the day prior to the September Code Enforcement Board meeting or continuing civil penalties will commence...

Mrs. Gorry asked what is the exact address this applies to.

Ms. Schmidt said the property address is 2356 15th Avenue.

Mrs. Gorry asked what is the address of 1443 – 1445 24th Avenue that is shown on the screen.

Ms. Schmidt said that is one (1) of the three (3) buildings.

Mr. Pizzichillo said that Mr. Noonan wants to give Ms. Schmidt until September to correct the violations. He said the Board meeting is scheduled for September 9th. He asked Mr. Noonan if he is correct that he wants to allow to September 8th to comply.

Mr. Noonan answered yes.

Mr. Turner said that is not what the motion was. The motion was for 90-days. He asked the Deputy City Clerk if that is correct.

Ms. Sherri Philo, Deputy City Clerk, read the start of the motion, which was that the Board finds there is a violation, the violation continues and that the Board issues a Board order to come into compliance in 90-days.

Mr. Noonan continued with the motion. He said his intent in his motion is to allow to the day before the September Code Enforcement Board meeting to correct the violation, which is the 8th of September, and if the property is not in compliance by that date then the continuing civil penalties shall commence on April 29, 2020 (that the Board finds there is a violation, the violation continues, and that the Board issues a Board order allowing additional time to correct the violation (September 8, 2020) and if not in compliance continuing civil penalties shall commence on April 29, 2020). Mr. McDonald seconded the motion and it passed unanimously.

- g. CASE #20-CE-10780 / 2933M**
VIOLATOR: Kara A. Schmidt
VIOLATION: Windows installed and enclosure of back of units without permits from the Indian River County Building Department / Code Sections 22-181; 22-106
VIOLATION ADDRESS: 1433 and 1435 24th Street, Vero Beach, Florida 32960
(Failure to comply)

Ms. Sanderson reported that this is a secondary duplex that after a citation was issued for the previous case, they installed windows at this address knowing that the property was under a citation and that they needed a permit for work to be done.

Mr. McDonald asked what is the date of the citation.

Ms. Sanderson reported that the citation was issued on May 7, 2020, as well as a Stop Work Order.

Mr. Kennedy asked was anyone living in these duplexes.

Ms. Sanderson said they are rental duplexes.

Ms. Kara Schmidt, who has been sworn in, answered not at this time.

Ms. Sanderson noted that the property is for sale so they probably are not occupied.

Ms. Schmidt said some of the duplexes are occupied.

Ms. Sanderson said if they were to sell in this 90-day timeframe, she will have to notify the new owner that there is an outstanding violation on the property and they would have to correct it.

Mr. Kennedy said arguably the property will not sell if it's not complete.

Ms. Schmidt said most likely not, but there is a possibility where someone might purchase it and do the work themselves.

Mr. Kennedy asked would the Board order be binding on the purchaser.

Ms. Sanderson answered no. She said the new owner would have to be noticed and cited.

Mr. McDonald asked Ms. Schmidt if he is correct that she was cited at one (1) property for installing windows without a permit and then she installed windows without a permit on this property.

Ms. Schmidt said it is the same property. She thought as long as she was working on getting a permit that she could continue to do the work. Then the Code Officer told her that she could not do the work and issued the Stop Work Order. She said that she did stop doing the work when the Stop Work Order was issued.

Ms. Sanderson explained that there are two (2) duplexes and this duplex is next door to the duplex for the case that the Board just heard.

Mr. Noonan assumed that the circumstances are the same in that she has the same contractor and architect and they are working on getting the after the fact permits.

Ms. Schmidt answered yes. She said it is the same property. There are three (3) buildings on the same parcel of land at 2356 15th Avenue.

Mr. Pizzichillo asked if this property is sold before it is fixed up, would the new owner be responsible.

Ms. Sanderson said if the property sells, Ms. Schmidt is to notify the Code Officer and it will be between Ms. Schmidt and the new owner on who continues to correct the violation.

Mr. Daige asked how is that enforced. He said a citation does not run with the property so there is no way to enforce it.

Mrs. Gorry asked are the citations searchable.

Ms. Sanderson said generally when a property is going to closing, the title company will reach out to the City to find out if there are any outstanding liens or Code violations.

Mr. Noonan suggested that they allow 90-days to correct.

Mr. Daige asked are they going to allow 90-days to correct per building.

Mr. Noonan said 90-days for all three (3) cases.

Mr. Daige clarified that it is a total of 90-days for all the units.

Mr. Noonan made a motion that the Board finds there is a violation, the violation continues, and that the Board issues a Board order to bring the property into compliance by September 8, 2020 or continuing civil penalties shall commence as of May 21, 2020. Mr. McDonald seconded the motion and it passed unanimously.

- h. CASE #20-CE-10745 / 2920M**
VIOLATOR: Kara A. Schmidt
VIOLATION: Two (2) protected Oak Trees removed without a permit from the City of Vero Beach Planning and Development Department / Code Sections 72.41 (a); 72.3 (a); 72.44 (a)(b)
VIOLATION ADDRESS: 2356 15th Avenue, Vero Beach, Florida 32960
(Failure to comply)

This item was pulled from today's agenda.

- i. CASE #20-CE-10779 / 2932M**
VIOLATOR: Kara A. Schmidt
VIOLATION: Windows installed and enclosure of back of units without permits from the Indian River County Building Department / Code Sections 22-181; 22-106
VIOLATION ADDRESS: 2354 and 2356 15th Avenue, Vero Beach, Florida 32960
(Failure to comply)

Ms. Sanderson reported that windows were installed and the back of the unit was enclosed without permits. The violation continues and the civil penalty has been paid. She requested that the Board allows 90-days to correct the violation from the date of today's hearing or continuing civil penalties will commence on May 21, 2020.

Mr. Noonan made a motion that the Board finds there is a violation, the violation continues, and that the Board issues a Board order to bring the property into compliance by September 8, 2020 and if not continuing civil penalties shall commence on May 21, 2020. The motion was seconded and it passed unanimously.

- j. CAES #20-CE-10760 / 042720-19**
VIOLATOR: Alix M. Norris
VIOLATION: Panhandling / Code Section 316.2045
VIOLATION ADDRESS: 1925 US1, Vero Beach, Florida 32960 (McDonalds)
(Failure to pay \$50 civil penalty)

Mr. Tom Ramsey, Code Enforcement Officer, reported that this citation was written by a Police Officer of the Vero Beach Police Department for panhandling. He requested a board order to pay the \$50 civil penalty.

Mr. Daige asked how do they handle a case like this since it is about an individual whose address is the Source.

Mr. Ramsey said the individual is homeless.

Mr. Daige said that is his point. Obviously this is an individual who has no way to pay for things. He asked how do they collect this if the Board issues an order to pay. He asked is there something else the Board could do.

Mr. Turner said the Board does not have any other options under the Ordinance.

Mr. Daige said then the Ordinance would have to be changed. He said in some cases people can work off their fine, but the City does not have that option.

Mr. Turner said that is correct.

Mr. McDonald made a motion that the Board upholds the violation and to pay the \$50 civil penalty. Mr. Bryant seconded the motion and it passed unanimously.

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 asked not acting as a Board member, but as a civilian who is constantly seeing work being done without permits, are they allowed to ask someone if they have a permit. She said her neighborhood is 75% rentals and every weekend there is something being done. She asked how do they approach this.

Mr. Noonan said there is an online form to report Code violations.

Mr. Bryant said she could also call the Indian River County Building Department.

Mrs. Hillman noted that they are not open on the weekend.

Mr. Turner said Code Enforcement can assist with complaints. He would not recommend that she individually approach anyone. She could take down information on the vehicles, take photographs, keep a calendar on what she observes, etc.

12. ADJOURNMENT

Today's meeting adjourned at 2:49 p.m.

/sp