

CODE ENFORCEMENT BOARD MINUTES
Wednesday, September 9, 2020 – 2:00 p.m.
City Hall, Council Chambers, Vero Beach, Florida

PRESENT: Vice Chairman, Linda Hillman; Members: Eric Price, Christopher Bryant, Stephen McDonald, Frank Pizzichillo (via GoToMeeting) and Alternate Member #1, Ken Daige **Also Present:** Code Enforcement Officer, Melody Sanderson; City Attorney, John Turner and Deputy City Clerk, Sherri Philo

Excused Absences: Kirk Noonan and Richard Kennedy

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 the audience present for today's hearings en masse.

3. PRELIMINARY MATTERS

A) Adoption of Minutes – August 12, 2020

Mr. Pizzichillo made a motion to adopt the minutes of the August 12, 2020 Code Enforcement Board meeting. Mr. McDonald seconded the motion and it passed unanimously.

B) Agenda Additions, Deletions and Adoption

Ms. Melody Sanderson, Code Enforcement Officer, who has been sworn in, pulled Case #20-CE-10961 – Gino A. and Terri L. Abbate, Owners and Michael A. Miller, Tenant, from today's agenda. She reported that the property came into compliance this morning. She asked the Board to hear items 5-A) 1b and 5-A) 1c first on today's agenda.

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

4. UNLICENSED CONTRACTORS/CITATIONS

None

5. EVIDENTIARY HEARINGS

A) Citation Appeals

None

B) Non-Compliance / Compliance Reports

1. Request for Board Order

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

- 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
(Case rescheduled from the July 8, 2020 CEB Hearing - Failure to pay \$50 civil penalty)

Ms. Sanderson reported that service of the citation was by property posting. She requested that the Board makes a motion finding that the property is not in compliance, that the initial civil penalty has not been paid, to allow 10-days to correct the violation from the date of today's hearing for a compliance date of September 18, 2020 or continuing civil penalties shall commence on May 8, 2020, for the days the property is not in compliance.

Mr. McDonald made a motion that the Board finds the property is not in compliance, the civil penalty has not been paid, that they have 10-days from today to come into compliance, which will be September 18, 2020, and if not in compliance then civil penalties shall accrue effective May 18, 2020, (that the Board issues a Board order finding that there is a violation, the violation continues, to allow 10-days (September 18, 2020) to come into compliance or continuing civil penalties of \$50 per day shall commence on May 18, 2020, and to pay the initial civil penalty of \$50) Mr. Bryant seconded the motion and it passed unanimously.

- b. CASE #20-CE-10951 / 2985M**
VIOLATOR: Indian River Sports Complex / Derek Mueller, Tenant
VIOLATION: Wood fence installed onsite after Stop Order issued and without Code Compliance Certification or a Building Permit / Code Sections 64.05 (a)(b)(7); 22-181; 22-106
VIOLATION ADDRESS: 2665 12th Avenue, Vero Beach, Florida 32960
(Failure to comply; Failure to pay \$50 civil penalty)

Ms. Sanderson reported that this property is owned by the City of Vero Beach and Indian River Sports Complex, Mr. Derek Mueller, is the tenant. The violation was for a wood fence that was installed on the property on July 13, 2020, after a Stop Order was issued on April 6, 2020, as well as for failure to obtain Code Compliance Certification from the City of Vero Beach Planning and Development Department and building permits from the Indian River County Building Department. Service of the citation was provided by certified mail. No request for a hearing on the citation was received so a hearing to contest the citation has been waived and the violation is deemed admitted by the violator. She requested that the Board makes a motion finding that the property is not in compliance, that the civil penalty has not

been paid, and to allow 30-days to correct the violation from the date of today's hearing for a compliance date of October 9, 2020, or continuing civil penalties shall commence on July 28, 2020, for the days the property is not in compliance.

Mr. Derek Mueller, Tenant, who has been sworn in, said that he runs Indian River Sports Complex and they are in the process of doing the site plan through MPV Engineering, but the problem is that he is not made of money. He said COVID-19 has hurt them in that everything they have is based off of player's fees and no one has been playing baseball. The biggest problem he has is that he received a verbal okay last year from Mr. Tim McGarry, previous Planning and Development Director, on everything they are doing. The new Planning and Development Director came in and wants everything on the site plan. He said that costs thousands of dollars and he had it done through MPV Engineering. He just needs more time. He said that he had paperwork signed by Mr. McGarry when they originally built the artificial turf field and the other field. The hang up right now is because they are going back and forth with the Engineering Department. He said they had to do ADA parking per the County. He said the City didn't require it, but the County did. He said there used to be a road in-between the fields, but that was a safety issue with the kids going back and forth. That was two (2) or three (3) years ago. They had it on the site plan and it was stamped by the City that it was okay to have parking there. Now, the Planning and Development has an issue because the parking is on the grass and they want a driveway or an apron to it so he is working that out with the Engineering Department. He said the site plan has been done for a while and that is the holdup on getting everything approved. He thought that a month would be enough time to get this taken care of.

Ms. Sanderson said the reason this is before the Board is because when the project was approved by Mr. McGarry the work was done. But, another field was added on the northeast corner without a site plan and in looking at the property, handicap parking came up. She noted that this case is for a wood fence that was installed when the new field had a Stop Work Order. She said this is City owned property and Mr. Mueller is the tenant and he has to get approval from the City and obtain permits for the work that he does through the Building Department.

Mr. McDonald asked will the situation be rectified if a permit is obtained and the civil penalty is paid.

Ms. Sanderson said if he would work with the Planning and Development Department and submit a site plan that would be a start.

Mr. Mueller said that he has a site plan, but he cannot submit it until he works out the parking issue with the Engineering Department. He said that he has emails where he asked if he could go ahead with everything else while they are working out the parking issue. He said the new field does not impact the ADA parking at all.

Ms. Sanderson said that Mr. Jeffries is present and can explain what needs to be done.

Mrs. Hillman asked is the site plan for the new field.

Mr. Mueller answered yes. He said they had another field that they built with the approval of Mr. McGarry. He said that he personally asked Mr. McGarry if he needed a permit and Mr. McGarry said no because they had four (4) fields before and they put in two (2) new fields.

Mr. Mueller said that Mr. McGarry didn't really care. He said Mr. McGarry's quote was "stay 25-feet off the road." He said that he doesn't think this is going to be a big deal and a month should be enough time to come into compliance.

Mr. Daige asked Mr. Mueller if he feels 30-days is enough time.

Mr. Mueller answered yes.

Ms. Sanderson wanted it on the record that this started in March in having conversations through emails with Mr. Jeffries. She said for him to just show good faith and submit the application. She understands the engineering takes time, but said for him to just start the process, submit the application, and start working with the City.

Mrs. Hillman asked before you had the fence installed, did you apply for a permit or just install it.

Mr. Mueller said that he didn't apply for permits. He said there used to be a backstop there and he drew this on paper for Mr. McGarry last year and asked if it is okay.

Mr. McDonald said then you were operating under the assumption that you met the obligation.

Mr. Mueller answered yes. He said that he was told to go ahead and to stay 25-feet from the road.

Mr. Jason Jeffries, Planning and Development Director, reported that he has been with the City since 2018. He said that Mr. Tim McGarry is his predecessor who left the City in September of 2018, and he came to the City in November of 2018. He found it disingenuous for someone to say there were verbal discussions with a previous Planning and Development Director, especially a previous Planning and Development Director who is no longer alive to verify this information. He said that since he has been with the City he has never had anyone state that they had verbal agreements with Mr. McGarry. He said that any non-profit that has to do work in the City, even on City property, still has to get permits. He said it is in their lease agreements and is clearly understood. Every non-profit that leases property from the City still has to go through the appropriate permitting process for any type of project they do. This is how the Code is written. He has never heard a previous staff member ever say that there were verbal agreements and he has never had a non-profit come to him saying that they had verbal agreements to do work without permits. He said they may have had discussions about what is possible, but at the end of the day they have to submit permits. He said that he addressed this starting in March with Mr. Mueller. He said this is not about a new guy coming to the City and changing the rules. This is about following the process that has always been in the City.

Mr. McDonald said there was a question about an application. He asked has the application been filed.

Mr. Jeffries gave some history on this property. He reported that in 2017, they did a minor site plan, which Mr. McGarry did sign off on. From what he can tell from the aerial photographs at that time, there were four (4) small fields on the northern part of this property and they received site plan approval to take those four (4) fields and turn them into two (2)

fields. That is what was approved in 2017. What has happened since then is they were going to install two (2) new fields, which changes the site layout so it needs to be documented and they need a minor site plan. To date there has not been an application submitted. Now they are putting in a smaller practice field that will require a minor site plan and the fence needs a Code Compliance permit. He noted that they also could do everything under one (1) site plan and get it approved at one (1) time.

Mr. Bryant asked Mr. Mueller if he has everything ready to go or would he need 60-days.

Mr. Mueller said that he has the plans. Where MPB Engineering left off is when they were discussing what to do about the ADA parking spaces. He said that he is waiting on this so he can do everything in one (1) shot.

Mr. Pizzichillo said according to the violation, a wood fence was installed after a Stop Order was issued. He said everything they are doing is great for the kids and for the community. However, if someone in authority issues a Stop Order, you must comply.

Mr. Mueller said that he was out of town and there were some people who were building on the other site and they thought they would help out. He said as soon as he saw the work being done, he stopped it. He said the proposed fence is on the site plan and he will pull a permit for it, as well as pay the fine.

Mr. Daige said then you will have everything on one (1) set of plans and bring it to the Planning and Development Director.

Mr. Mueller answered yes. He said that they will do the minor site plan as discussed.

Mr. Pizzichillo asked Mr. Turner in reference to the wood fence being installed after a Stop Order was issued, if the Board finds him guilty can they waive the penalty.

Ms. Sanderson answered no. She said work was done without a permit.

Mr. Turner said work was done without a permit even after a Stop Work Order was issued so no, there is no leeway for that at this point.

Mr. Daige asked Mr. Jeffries if it would be okay if the Board allows 60-days for Mr. Mueller to bring everything to him.

Ms. Sanderson said no. She said it would be 60-days to obtain the necessary permitting. He would go through the process and have a final permit within 60-days.

Mr. Jeffries questioned 60-days to have a permit.

Ms. Sanderson said that is correct.

Mr. Jeffries said apparently there is an issue with the ADA parking with the Public Works Department. He said that he doesn't know how close Mr. Mueller is to having that resolved. He said it would depend on how soon Mr. Mueller thinks he would be submitting everything to the Planning and Development Department. His staff can review everything within 60-days, but getting their issues resolved may take longer than 60-days.

Mr. McDonald asked Mr. Jeffries for his recommendation. He asked if the Board continued this case to their next meeting, would that give him time to meet with Mr. Mueller to figure this out.

Mr. Jeffries said yes, they can do that.

Ms. Sanderson answered no. She asked why don't they just give him the time that he needs.

Mr. Bryant suggested 90-days.

Mr. McDonald said 90-days would make more sense.

Mr. Daige said that he does not have a problem with giving him 90-days to comply.

Ms. Sanderson said then it would be 90-days to complete the permitting process and obtain the final permits.

Mr. McDonald made a motion that the property is not in compliance, the civil penalty has not been paid, that they allow 90-days to obtain final permitting, and to pay the \$50 civil penalty that is due. Mr. Daige seconded the motion.

Ms. Sanderson added or continuing civil penalties commencing on July 28, 2020.

Mr. McDonald added to the motion or continuing civil penalties shall commence on July 28, 2020 (that the Board issues a Board order finding that there is a violation, the violation continues, to allow 90-days (December 9, 2020) to come into compliance or continuing civil penalties of \$50 per day shall commence on July 28, 2020, and to pay the initial civil penalty of \$50). Mr. Pizzichillo seconded the motion and it passed unanimously.

- c. **CASE #20-CE-10950 / 2984M**
VIOLATOR: Indian River Sports Complex / Derek Mueller, Tenant
VIOLATION: Failure to obtain site plan approval for the property
VIOLATION ADDRESS: 2665 12th Avenue, Vero Beach, Florida 32960
(Failure to comply; Failure to pay \$50 civil penalty)

Ms. Sanderson reported that this case is for failure to obtain a site plan for a new ballfield that was added to the northeast corner. She asked that the Board makes the same motion, that the property is not in compliance, the civil penalty has not been paid, to allow 90-days to correct the violation for a compliance date of December 9, 2020, or continuing penalties shall commence on August 11, 2020, for the days the property is not in compliance.

Mr. McDonald made a motion that the property is not in compliance, the civil penalty of \$50 has not been paid, that they allow 90-days to complete the site plan application or civil penalties will begin to accumulate effective August 11, 2020 ...

Mr. Price questioned site plan application.

Mr. Bryant said it would be 90-days for final permitting.

Mr. Price thought Mr. McDonald stated site plan application.

Mr. McDonald continued with the motion noting that they allow 90-days to receive “final permitting” otherwise civil penalties will begin to accumulate effective August 11, 2020, (that the Board issues a Board order finding violation, to allow 90-days (December 9, 2020) to come into compliance or continuing civil penalties of \$50 per day shall commence on August 11, 2020, and to pay the initial civil penalty of \$50). Mr. Bryant seconded the motion and it passed unanimously.

d. CASE #20-CE-10955 / 2988M

VIOLATOR: Florida Irish American Society, Inc. / Winnie Thompson, Agent

VIOLATION: Trailer does not have a temporary use permit from the City of Vero Beach Planning and Development Department or permits from the Indian River County Building Department / Code Sections 64.12; 22-181; 22-106 (a)(b)(c)

VIOLATION ADDRESS: 1314 20th Street, Vero Beach, Florida 32960

(Failure to pay \$50 civil penalty)

Ms. Sanderson reported that a food trailer was installed onsite without a temporary use permit or building permits for electric work and deck installation. She reported that service of the citation was provided by certified mail. No request for a hearing on the citation has been received so a hearing to contest the citation has been waived and the violation is deemed admitted by the violator.

Mr. Derek Thompson, who has been sworn in, Club Manager of the Irish American Club, said that he would like to pass out to the Board, pictures of other organizations and companies that have a lot more egregious look to it than what he has. He said that he had a Journeyman Electrician hook up the electric and a plumber do the plumbing work, who used to work for the Fire Marshal. He said they are members of the Irish American Club and did not charge him money, but they did the work. He said they own this property and everything was hooked up the way it was supposed to be.

Mr. Price questioned how do they know that. He said that is the purpose of permitting.

Mr. Thompson said that he walked the Fire Marshal through his whole plan before he did it. He said that they applied for permits years ago when they built their kitchen and the Fire Marshal changed the status on the type of hood system they had so they could not cook inside the building anymore so they were just trying to solve a problem that they did not create. He said when you try to hire someone to construct something it is very expensive and he cannot close the doors to have them come inside the building and destroy the kitchen in order to build it because that would close them down for months. In making this trailer, he got the heaviest pieces of iron that he could get and they built this beautiful trailer. He said that he would like to show the Board members the pictures that he has. He said that he still wants to do more landscaping around it to make it prettier. He said that he didn't know that

he was doing anything wrong. When he received the citation he called the City and tried to get a permit so they could have the trailer there all the time. They have been in discussions and he is still trying to figure out exactly what to do to make this perfect. He said that he will do everything that he can to make it nice for the community. He is a very community minded person and has tried to make the back alley of the Irish American Club nice.

Mr. Price said it is the community we are protecting too. He said that he is not sure what he (Mr. Thompson) is saying is true. He is sure it is, but they need verification.

At this time, Ms. Sanderson passed out to the Board photographs of the trailer and the deck (on file in the City Clerk's office). She reported that this case originated from a complaint received from the Fire Department regarding the trailer.

Mr. Price asked Mr. Thompson if he can get a temporary permit.

Mr. Thompson said that he has to get it approved by the City so he can get the Health Department and the Fire Marshal to inspect it.

Mr. Daige asked who owns the right-of-way.

Ms. Sanderson said that she doesn't know, but that would be picked up when an application is submitted.

Mr. Bryant said it is a service alley that runs north and south and as you are going south you can get into the lot behind the Irish American Club.

Mr. Thompson said that is correct. He had a surveyor come out and survey the property and the trailer is located on their property.

Mr. Daige said his concern is that nothing was submitted to the Building Department to see if it meets the tie-down standards, sanitary conditions with the plumbing, etc. He said that he does question how it is put together. Also, where it is serving people, they do have people that sometimes go down the alleyway so they do have to make sure this is safe.

Mr. Price questioned so the purpose of this was to solve a problem of not being able to afford to put a new hood in the building.

Mr. Thompson said they don't have a way to put a seven (7)-foot hood in the building without completely gutting it.

Mr. Bryant felt that they needed to get site plan approval from the City of Vero Beach, after the fact permits from the Building Department, a tie-down inspection, a plumbing inspection, an electric inspection, Fire Marshal final, etc.

Ms. Sanderson asked that they allow Mr. Jeffries to speak at this time.

Mrs. Hillman asked if she is correct that the City does not allow food trucks.

Mr. Jason Jeffries explained that the complaint is about a trailer and the way the City approves trailers is through a Temporary Use Permit. The only way they allow food trucks

or trailers for temporary uses is through a Temporary Use Permit and they are only allowed on site for a maximum of 30-days, three (3) events at a maximum of 30-days. What they are attempting to do is use a food truck or a trailer on a permanent basis, which is prohibited. The City cannot issue a Code Compliance Permit because it doesn't comply. He said that he has had discussions with the Fire Marshal and the Building Official and it sounded to him that they would not be able to issue permits for how this is being used.

Mr. Daige asked Mr. Jeffries if this was brought to his attention through the Fire Marshall.

Ms. Sanderson said the complaint came through the Fire Department.

Mr. Jeffries thought he heard that the Health Department got with the Fire Department, who then went to Code Enforcement.

Mr. Daige said that there were two (2) complaints from two (2) outside agencies who came to the City and the City's Code does not permit it. It is as simple as that.

Mr. Pizzichillo assumed the trailer has been there for a long time so he doesn't think it is temporary so it doesn't meet that criteria. More importantly, when they discuss fire and plumbing that is very serious. He said if they were to absolve this Club, maybe the City would be held responsible because they should not overrule what the Fire Department has to say. He said fire safety is the most important thing.

Mr. Thompson said the reason he can't get the Fire Marshal to look at it is because of this situation, because of the City's Code. He said this is probably the nicest food truck they have ever seen. He said that he understands the City's Code, but felt there should be some way to be able to go into a service alley where they have had a restaurant license for 13-years.

Mr. McDonald said the issue here is a Temporary Permit. He would recommend that he pays the \$50 civil penalty, applies for the permit, and let the process begin.

Mr. Bryant said the permit would end in 30-days and then that is it.

Mr. McDonald said that he is looking for a way so they can start the permit process.

Mr. Bryant said it is not allowed in the City of Vero Beach.

Mr. McDonald said then this issue before them is mute. He asked Mr. Turner what does the Board do with this.

Mr. Turner said if at this point they have been operating under these conditions for several months from the time they were cited, that is one (1) thing to consider. Second, if there is going to be a correction of the problem, the only way that can happen is for them to cease and desist from operating. He explained that there is no way for them to obtain approval from the City under the current conditions. What it amounts to is they are going to have to change their operation in order to comply with the City's ordinances and regulations.

Mr. Thompson said that he would like to solve the problem and would like to have a kitchen.

Mr. Daige explained that they are here as a Code Board and a violation was found that was brought to the attention of the Code Enforcement Officer by the Health Department and the Fire Department and it doesn't meet the Code. What they are doing now is not in compliance.

Mr. Bryant said they may have to put in a new hood at the restaurant.

Mr. Thompson said that will shut them down. He said if he knew what he was doing was in violation of the Code, he would not have done it. He asked if he was able to get the Health Department and the Fire Department to inspect and approve it, is there any way that he could change the zoning.

Mr. Daige said that he would need to speak with the Planning and Development Department about that.

Mr. Thompson asked the Board to look at the information that he has so they can understand what the City has allowed in the past. He said they will see that his food truck is nowhere close to an eyesore and it is safe and friendly. He said it is safer than his kitchen has ever been.

Ms. Sanderson asked Mr. Thompson to leave that information with the Planning and Development Department so they can look at it.

At this time, a gentleman approached the dais.

Mr. Turner said that he knows this is informal, which it should be, but he would recommend that if they have someone else coming in at this time, it is late in the hearing. He said there is an opportunity for the violator to set his case for hearing as to whether or not there was a violation and they waived that right.

At this time, the Deputy City Clerk swore in Mr. Edward Hunter (spelling may be incorrect).

Mr. Edward Hunter, who has been sworn in, said that he is a local chef and this is not a food truck situation, it is more of a situation where it is a community where local people go to have lunch. He said with the Coronavirus, his industry was destroyed. He said the chefs went from cooking 70 hours a week to nothing. What they are providing with the trailer wasn't like someone coming up with a food truck to make money. It was more of servicing the community, continuing the catering process, etc. It is a community trailer. It is not someone coming in with a food truck trying to make sales. He said that he understands the City prohibits food trucks, but that is not what this is. It is more of them keeping the Irish Club going as a means of providing food and work to people. He felt there should be some way for them to be able to continue to serve the community.

Mrs. Hillman suggested that if they don't want it to be considered a food truck, there has to be some way that they could work with the Planning and Development Department to make it permanent and to go through the process of getting permitting and approval. She said you can't just put something there and think that no one has to approve it or that it would be allowed.

Mr. Turner said after they were hit with the Governor's Executive Orders restricting businesses, which restaurants were part of, the Planning and Development Department was very aggressive in finding ways to allow restaurants to operate. It is not like it is something that they just shut down. He said the City had many takers who came in for temporary permits to operate in such a way and this organization did not.

Mr. Jeffries noted for the record that the City does not prohibit food trucks. He explained that the City allows them through Special Event Permits, which has certain restrictions. He said it could be changed, but that would be up to the City Council.

Mr. McDonald felt the only motion the Board can make is that they are in violation and that they are to pay the civil penalty. He asked are there recurring fines associated with this case.

Ms. Sanderson answered no. She asked the Board that they allow 30-days to correct the violation.

Mr. McDonald made a motion that the property is in violation, the violation continues, that the civil penalty of \$50 has not been paid, that they have 30-days to rectify the situation and to pay the civil penalty. Mr. Pizzichillo seconded the motion.

Mr. Turner asked if the violation is not corrected in 30-days then the civil penalty would be effective as of what date.

Ms. Sanderson said the continuing civil penalties would commence effective August 12, 2020.

Mr. McDonald amended the motion so that if the violation isn't corrected within 30-days, civil penalties will begin to accrue on August 12, 2020. Mr. Bryant seconded the amended motion.

Mr. Daige felt that because of the virus situation and what the restaurant has been going through, he would like to allow 90-days.

Mr. McDonald questioned if they could go beyond the 30-days with the temporary permitting situation.

Mr. Turner explained that if the Board feels it is appropriate under the circumstances to extend it to 60-days or 90-days they can make that amendment.

Ms. Sanderson noted that this was installed without permits so they would be allowing this to go on for an additional 90-days where they don't know how the electric was wired, they don't know how the plumbing was done, etc.

Mr. McDonald asked does the Board have the authority to issue a cease and desist order.

Mr. Daige asked can the Board allow 90-days for them to try to correct the situation, but with a cease and desist on what they are doing now.

Mr. Turner said they are not in compliance and there is no way for them to comply other than to cease and desist the operation. He felt it was a matter of closing the operation or opening up an operation that is authorized.

Mrs. Hillman asked Mr. Jeffries if they came in within 30-days, would it be possible for them to find a way to make this a permanent building.

Mr. Jeffries answered no because of the provision in the Code. The only thing they could do is issue a Temporary User Permit that they have been allowing because of the Coronavirus, but that would have to be a more temporary structure than this structure because this structure is more of a permanent structure in that the electrical wiring and the plumbing has been attached to the main building.

Mr. McDonald withdrew his motion.

Mr. McDonald made a motion that the property is in violation, that the civil penalty has not been paid and they allow 90-days to rectify the situation with whatever they can work out with the Planning and Development Department and the Engineering Department and to pay the civil penalty of \$50.

Ms. Sanderson added and to obtain permits for electric and plumbing.

Mr. McDonald added to the motion to obtain permits for all applicable situations and if not in compliance, continuing penalties would begin to accrue on August 12, 2020.

Mrs. Hillman said before they get everything approved, they must understand that they must cease the operation.

Mr. Pizzichillo said that he would like to keep it at 30-days and if they have to get an extension, that would be fine. He felt that they should hold their feet to the fire. His concern is fire safety. He feels for them and would love to help them, but fire safety is very important. He said that he is going to vote no if they allow 90-days.

Ms. Sanderson asked Mr. McDonald if he is stating in his motion that they cannot use it during the timeframe they are allowing to comply.

Mr. McDonald said that is correct. He said under normal circumstances he would agree with Mr. Pizzichillo, but with the Coronavirus things are not normal.

Mr. Daige noted that they cannot operate.

Mr. McDonald said they cannot operate so there is no threat.

Mr. Pizzichillo said as long as they cannot operate he would change his vote.

Mrs. Hillman asked Mr. McDonald to restate the motion.

Mr. McDonald said the motion is that the violation, that the civil penalty has not been paid, that they allow 90-days to straighten out the situation with the Planning and Development Department and the Engineering Department, that they pay the \$50 civil

penalty and if this is not rectified that civil penalties will accrue effective August 12, 2020.

Ms. Sanderson added and that they cannot operate within that 90-days.

Mr. McDonald added to the motion that all operations must cease during that 90-day period (that the Board issues a Board order finding that there is a violation, the violation continues, to allow 90-days (December 7, 2020) to come into compliance and if not in compliance continuing civil penalties of \$50 per day shall commence on August 12, 2020, and to pay the initial civil penalty of \$50). Mr. Daige seconded the motion and it passed 5-1 with Mr. Bryant voting no.

- e. **CASE #20-CE-10984 / 2995M**
VIOLATOR: Vero Hotel Management, LLC
VIOLATION: Sea Turtle lighting / Code Sections 46-109
(a)(1)(a)(b)
VIOLATION ADDRESS: 3500 Ocean Drive, Vero Beach,
Florida 32963
(Failure to comply; Failure to pay \$250 civil penalty)

Ms. Sanderson explained that turtle nesting season begins March 1st and runs through October 31st. During turtle season no visible light source can be viewed from the beach or illuminate the beach because they disorient the turtles and they go landward instead of to the ocean. Vero Hotel Management, LLC was cited for disorientation of sea turtles caused by their lighting. The citation was issued on July 31, 2020, with service of the citation issued by certified mail. She requested that the Board make a motion finding the property is not in compliance, that the civil penalty of \$250 has been paid and that they allow 10-days from the date of today's hearing for a compliance date of September 18, 2020, or continuing civil penalties shall commence on August 3, 2020, for the days the property is not in compliance.

Mr. Price asked are they exterior lights or room lights.

Ms. Sanderson said sometimes they are caused by recessed ceiling lights and sometimes it is stairway lights.

Mrs. Hillman said that she has walked the beach and seen lights where turtles turned in that direction. She asked has anything been recorded where turtles have been found.

Ms. Sanderson answered yes. She said this was based on a disorientation report submitted by Coastal Conservation.

Mr. McDonald made a motion that this property is not in compliance, that they have paid the \$250 civil penalty, that they have 10-days to come into compliance, which would be September 18, 2020, and if they do not then continuing penalties will occur effective August 3, 2020, (that the Board issues a Board order finding that there is a violation, the violation continues, to allow 10-days (September 18, 2020) to come into compliance and if not in compliance continuing civil penalties of \$250 per day shall commence on August 3, 2020, and that the initial civil penalty has been paid).

Ms. Sanderson said that she was on site this morning and spoke with the General Manager and she believes that they have a solution.

Mr. Bryant seconded the motion and it passed unanimously.

- f. **CASE #20-CE-11010 / 2993M**
VIOLATOR: Vero Hotel Management, LLC
VIOLATION: Sea Turtle lighting / Code Sections 46-109
(a)(1)(a)(b)
VIOLATION ADDRESS: 3500 Ocean Drive, Vero Beach,
Florida 32963
(Failure to comply)

Ms. Sanderson reported that this was another disorientation of the turtles. She requested that the Board finds that the property is not in compliance, that the civil penalty has been paid, that they allow 10-days to correct the violation from the date of today's hearing for a compliance date of September 18, 2020, or continuing civil penalties shall August 19, 2020, for the days the property is not in compliance.

Mr. McDonald made a motion that the property is not in compliance, that they have paid the civil penalty, they have 10-days to come into compliance, which would be September 18, 2020 and if they do not come into compliance civil penalties would begin to accrue on August 19, 2020 (that the Board issues a Board order finding that there is a violation, the violation continues, that they allow 10-days to come into compliance (September 18, 2020) and if not in compliance continuing civil penalties of \$250 per day shall commence on August 19, 2020 and that the initial civil penalty has been paid). Mr. Daige seconded the motion and it passed unanimously.

- g. **CASE #20-CE-11011 / 2994M**
VIOLATOR: Vero Hotel Management, LLC
VIOLATION: Sea Turtle lighting / Code Sections 46-109
(a)(1)(a)(b)
VIOLATION ADDRESS: 3500 Ocean Drive, Vero Beach,
Florida 32963
(Failure to comply)

Ms. Sanderson reported that the citation was issued on August 14, 2020. She asked that the Board finds the property is not in compliance, the initial civil penalty has been paid, that they allow 10-days to correct the violation from the date of today's hearing for a compliance date of August 19, 2020, or continuing civil penalties shall commence August 20, 2020, for the days the property is not in compliance.

Mr. McDonald made a motion that the property is not in compliance, that they have paid the civil penalty, that they have 10-days to come into compliance, which is September 18, 2020, or civil penalties shall accrue effective August 20, 2020, (that the Board issues a Board order finding that there is a violation, the violation continues, that they allow 10-days to come into compliance (September 18, 2020) and if not in compliance continuing civil penalties of \$250 per day shall commence on August 20, 2020 and that the initial civil penalty has been paid) Mr. Daige seconded the motion and it passed unanimously.

h. CASE #20-CE-10967 / 2992M

VIOLATOR: Vero Hotel Management, LLC and Paddles by the Sea / Chris Woodruff

VIOLATION: Beach vendor permit expired last year; recreational amenities and trash/debris being left on the beach at the end of the day / Code Sections 64.05 (a)(b)(14)

VIOLATION ADDRESS: 3500 Ocean Drive, Vero Beach, Florida 32963

(Failure to comply)

Ms. Sanderson reported that beach vendors are required to have an annual beach vendor permit, which has conditions that they are to meet. This citation was for not having a current beach vendor permit, which was obtained by Mr. Chris Woodruff, violator. She explained that he has long paddle boards and the hotel has lounge chairs that are left on the beach so a condition of the permit is that they have to be secured during turtle season. She reported that Mr. Woodruff spoke with Mr. Jeffries today and they are working on a storage solution to clear the beach in the evenings. She requested that the Board finds that the property is not in compliance, that the initial civil penalty has been paid, that they allow 30-days to correct the violation from the date of today's hearing for a compliance date of October 9, 2020, or continuing civil penalties shall commence on July 22, 2020, for the days the property is not in compliance.

Mr. Chris Woodruff, who has been sworn in, said that he wanted to make sure they were doing the right things and putting things in the right places. He reported that he actually heard about this from the hotel so he did not know about it until later on.

Ms. Sanderson reported that Mr. Woodruff reached out to her from the start. She reported that he paid the civil penalty and renewed his permit. He is now at the mercy of working with the hotel for a longer term storage solution during turtle season.

Mr. Price questioned so the permit was renewed.

Mr. Woodruff answered yes.

Ms. Sanderson reported that Mr. Woodruff immediately renewed the permit. She said it was just an oversight.

Mr. McDonald made a motion that the property is not in compliance, that the civil penalty has been paid, that they allow 30-days to come into compliance, which the effective date is October 9, 2020, otherwise civil penalties will accrue effective July 22, 2020, (that the Board issues a Board order finding that there is a violation, the violation continues, that they allow 30-days to come into compliance (October 9, 2020) and if not in compliance continuing civil penalties of \$50 per day shall commence on July 22, 2020 and that the initial civil penalty has been paid). Mr. Bryant seconded the motion and it passed unanimously.

i. CASE #20-CE-10961 / 12989M

VIOLATOR: Gino A. and Terri L. Abbate, Owners and Michael A. Miller, Tenant

VIOLATION: Utilizing the property for boat and trailer storage is not a permitted use of the property and right-of-way encroachment / Code Sections 60.06; 61.05; 61.02; 61.03
VIOLATION ADDRESS: 1260 29th Street, Vero Beach, Florida 32960
(Failure to comply)

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

Mr. McDonald asked Mr. Turner how he was doing on the Abbassi case.

Mr. Turner reported that the City received over \$440,000 from escrow.

Mr. Daige asked what account was it deposited in.

Mr. Turner said it currently is in the City's General Fund. He reported that there are some other matters that he needs to research so that he feels comfortable with the final disposition of the funds.

10. CHAIRMAN'S MATTERS

None

11. MEMBER'S MATTERS

None

12. ADJOURNMENT

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

/sp