

CODE ENFORCEMENT BOARD MINUTES
Wednesday, October 9, 2019 – 2:00 p.m.
City Hall, Council Chambers, Vero Beach, Florida

PRESENT: Chairman, Kirk Noonan; Vice Chairman, Eric Price; Members: Linda Hillman, Christopher Bryant, Frank Pizzichillo; Stephen McDonald and Richard Kennedy **Also Present:** City Attorney, John Turner; Code Enforcement Officer, Melody Sanderson; Code Enforcement Officer, Tom Ramsey and Deputy City Clerk, Sherri Philo

1. CALL TO ORDER

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

2. PLEDGE OF ALLEGIENCE

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

The Deputy City Clerk swore in staff and all witnesses present for today's hearing en masse.

3. PRELIMINARY MATTERS

A) Adoption of Minutes – August 14, 2019

Mrs. Hillman made a motion to adopt the minutes of the August 14, 2019 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, pulled Case #19-CE-10268 - Cash Money Holdings, LLC / Michael Buza and Case #19-CE-10346 – Steven W. Abernathy from today's agenda. She reported that both properties are in compliance and the civil penalties have been paid.

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

4. UNLICENSED CONTRACTORS/CITATIONS

None

5. EVIDENTIARY HEARINGS

A) Citation Appeals

1. CASE #19-CE-10315 / 2148M

VIOLATOR: Patricia Harris and Richard Van Epp / Mr. John Unruh, Attorney representing the violator

VIOLATION: Noise violation – Code Sections 38-61; 38-62 (6)

VIOLATION ADDRESS: 2019 Cortez Avenue, Vero Beach, Florida
32960

Ms. Sanderson reported that this citation is being appealed so she would like to give the Board a chronological timeline of what led them here today. She said on December 6, 2019 they received a complaint from a neighbor who lives behind 2019 Cortez Avenue, Mr. Mike Gallagher, regarding a barking dog. The complainant was advised to contact her by the Animal Control Officer, Mr. Scott Lee. After monitoring the property at different times of the day, no dogs were observed or heard barking so the case was closed as unfounded on December 8, 2018. On January 2, 2019, a complaint was again received from Mr. Gallagher regarding a barking dog. She said that she was onsite with Lieutenant Dan Cook and the Animal Control Officer, Mr. Scott Lee. Officer Lee stated that he had been onsite for 45-minutes and no dog was heard barking. Lieutenant Cook knocked on the door of the house in the back unit and received no response. Two (2) dogs came into the yard, an older Corgi that did not bark, and a young fawn colored dog barked upon seeing them. The dog was petted and no further barking was noted. They then went to Mr. Gallagher's house and knocked on his door and dogs in his house were heard barking. Lieutenant Cook called out and the dog at 2019 Cortez Avenue was heard barking, but did not continue to bark. On January 8, 2019, she was advised by Officer Lee that while onsite he heard a dog barking. Officer Lee had previously spoken with Mr. Epp regarding the complaint and suggested some options. Based upon Officer Lee's investigation, a warning citation was issued on January 2, 2019 with a compliance date of January 15, 2019. No further complaints were received and the case was closed on January 15, 2019. On April 24, 2019, she received a complaint from Mr. Gallagher regarding the barking dog. She again began monitoring the property at different times on different days. Officer Lee also monitored the property. While onsite she spoke with Mr. Gallagher regarding his complaint and the actions being taken by Officer Lee and herself. She advised Mr. Gallagher to document the dates and times he heard the dog barking and to provide it to Code Enforcement. Mr. Gallagher stated that the dog barks between 6:00 a.m. and 7:00 a.m., after 5:00 p.m., as well as other times during the day. She and Officer Lee continued monitoring the property and no dog was barking and the case was closed on June 20, 2019. On July 2, 2019, documentation was provided by Mr. Gallagher and a citation was issued on the same date with a compliance date of July 8, 2019. After no further complaints, the case was closed on August 1, 2019. On August 5, 2019, email documentation was again provided by Mr. Gallagher and a citation was issued on August 6, 2019, with a compliance date of August 20, 2019. On August 9, 2019, she returned a call to Attorney Unruh regarding the citation that was issued and a citation appeal was received on August 12, 2019, which is why they are here today. She then called Mr. Gallagher to testify. She provided the Board with written documentation (log) of occurrences (on file in the City Clerk's office).

Mr. Noonan asked Mr. Gallagher if he has been sworn in. Mr. Gallagher answered yes.

Mr. Mike Gallagher stated that the issue of the dog barking started about in the spring of 2018. He said their neighbor has a balcony above them that looks down into their yard. The configuration of the lots has their backyard and porch area very close to Ms. Harris's house so they can look down at them. The dog is a loud young dog and he does not know the breed. He said that he wouldn't call it aggressive barking, but it is a loud bark. When it was younger and had freewill of the upstairs it would look down at them and bark to no end. He said we all have dogs, but what he noticed is that they do their best to stop them from barking as quick as they can. He said this barking goes on for minutes at a time, 20-30 minutes. He

has taken audio recording and videos of it when it is on the balcony. He felt that Officer Lee might have helped resolve that problem because he has noticed that it hasn't been up there much at all lately. But, it seems like anytime that dog is outside it is barking. He said there is a neighbor that walks their dog and Daisy, Mrs. Harris's dog, will bark as that dog goes all the way around the block. He said that he can pull up to his home in the evening and the dog will see his vehicle and it will start barking. He said that he has had discussions with who he guessed was a tenant of Ms. Harris who was living upstairs because the dog would sit up there and bark and whine to get inside that apartment. He said the barking goes on all the time. He said that he can tell there has been some improvement, but it woke them up this morning at 4:30 a.m. barking. He said that they provided this log, which goes back to 2018, and then when he met with Ms. Sanderson she suggested that they keep a log so they started it again. He said that they would start a log and then get tired of it and stop. He said that he also had videos, but when he bought a new phone he didn't worry about transferring the videos over. He thought it was in August where he circled the mornings that they were awakened, which was about eight (8) or nine (9) mornings out of the month that they were awakened. He said this continued on and it got to the point that he just quit writing things down. He said again, it has improved, but they were awakened this morning at 4:30 a.m. The dog owner let it in right away, but his point is that the dog doesn't have manners, it's a young dog, and it needs to be trained. He said if you know your dog is barking it would be nice to wait until 7:00 a.m. to let the dog out and don't let the dog announce when she wants back in. He said they are at their wits end. Yesterday morning he opened his door at 6:00 a.m. and it was barking at him. He said that his wife likes to go out and work with her Orchids and it will sense that she's out there and bark. He said that on Sunday he was working in the yard and the dog was barking at him. He admitted that she gathered the dog up quickly. He said on Saturday he was laying down resting and the dog barked for 20 or 30 minutes.

Mr. McDonald asked is someone at home when this barking is occurring. Mr. Gallagher said Mrs. Harris is at home.

Mr. McDonald asked if he was assuming correctly that Mr. Gallagher has at some point in the past gone up and knocked on the door and had conversations. Mr. Gallagher answered no. He said that he is not the confrontational type.

Mr. McDonald said that he didn't mean a confrontation, but asked have you gone up and asked her if she is aware that her dog is barking. Mr. Gallagher answered yes. He said that he has talked to her over the fence when she has been sitting up on the balcony where the dogs are barking, but there is no discipline at all.

Mr. Gallagher said that he doesn't want to cause an issue, but they have lived in this house for 15 years and they love McAnsh Park, but they didn't get any solutions talking over the fence. He said that he spoke to a Police Sergeant, showed him a video and asked what he can do. He spoke with Officer Lee a few times on the phone and also in person. He said that he came down here twice in person to talk to him. He noted that you can't set your clock by when the dog is going to bark. He said it was suggested that they call the Police, which they did three (3) times and he felt horrible that they were wasting their time. They finally got Ms. Sanderson involved and here they are today.

Mr. McDonald asked what are you asking for. Mr. Gallagher said for someone to train this dog. He said this dog is a young athletic dog that needs exercise and training.

Mr. McDonald asked to hear from the Animal Control Officer.

Mr. Gallagher said their dogs bark and Officer Lee heard them when he walked up to their house, but they were in the house. He said the minute their dogs bark they get involved. He said this situation is getting better and Officer Lee even suggested a collar to train the dog, which he did see on the dog a few times. He said that he has provided Ms. Sanderson with some audio and video recordings and he doesn't know if Ms. Harris realizes it or not, but when she leaves the dogs start barking. He said the dog was barking when they left today.

Mr. Pizzichillo asked to hear from the Officer.

Mr. John Turner, City Attorney, asked the Chairman if the respondents were present. Mr. Noonan thought they were.

Mr. Turner asked are there any questions they might have of this witness.

Mr. Unruh said if it's his turn.

Mr. Noonan said that he can cross examine the witness.

Mr. Noonan asked Mr. Gallagher if he has anything more to add. Mr. Gallagher said other than they found the Code that addresses animals and noise, which is how they got to this point.

Mr. John Unruh, Attorney, said you just testified that you've actually recorded the goings on of your neighbor's house with this barking. He asked is that correct. Mr. Gallagher answered yes.

Mr. Unruh questioned on multiple occasions. Mr. Gallagher said yes.

Mr. Unruh asked both an audio and video recording, correct. Mr. Gallagher answered yes.

Mr. Unruh said that he is looking at a log that Mr. Gallagher provided to the Vero Beach Police Department.

Mr. Turner said they will mark the log as Exhibit 1. He asked the Clerk to date it with the case number.

Mr. Unruh said on this listing of notes, one (1) is dated July 2nd and he assumed that was this year. He said 6:00 p.m. is the first entry. He asked Mr. Gallagher if he has it in front of him. Mr. Gallagher answered yes.

Mr. Unruh said your first entry on that page is July 2nd at 6:00 p.m. and your note appears to say, *barking at people walking their dogs – stopped when the dogs had passed by my house*. He asked is that correct. Mr. Gallagher answered yes.

Mr. Unruh said let's go on down to the middle of that page on July 9th at 7:40 a.m. it says, *started barking – roofers arrived across the street*. He asked is that correct. Mr. Gallagher answered yes.

Mr. Unruh said then on July 10th it says *audio* in parenthesis, so you were audio recording then. He asked is that correct. Mr. Gallagher answered yes.

Mr. Pizzichillo asked is that 6:15 a.m. or p.m. Mr. Gallagher answered p.m.

Mr. Unruh said let's move down a couple days to July 14th at 7:15 a.m. He read *Sunday morning working outside – barking, got all dogs in the neighborhood going*. He asked is that correct. That's what you wrote down and provided. Mr. Gallagher said that his wife wrote that.

Mr. Unruh said but you provided this to the Police Department. Mr. Gallagher said that is correct.

Mr. Unruh said the next page it begins on July 18th. He said there are various entries, but then at 6:00, which he assumed was 6:00 p.m., it says *outside preparing dinner* and it says *audio – Ms. Harris and company sitting there outside while going on*, and then it says *carried on much longer than audio*. Mr. Gallagher said that is correct.

Mr. Unruh asked so were you recording while Ms. Harris and her company were outside and the dog was barking. Mr. Gallagher answered yes.

Mr. Unruh said and you provided that recording, as well as these other recordings via email to the Police Department. He asked is that correct. Mr. Gallagher said yes, but noted that he couldn't say if that is the recording.

Ms. Sanderson said for the record her computer wouldn't play the audio files.

Mr. Unruh referred to an email that Mr. Gallagher sent to Officer Sanderson of August 4th. He said the second to the last sentence of the third paragraph states, *after she lets her back in, it appears that she goes back to bed because the house is dark*. Mr. Gallagher said yes sir.

Mr. Unruh said so you were able to look and see your neighbor's house and the house went dark. Mr. Gallagher said that is correct.

Mr. Unruh said that's how you were able to describe that and you actually attached two (2) recordings. The second or third sentence of the last paragraph of that email states, *I have attached two (2) recordings* and then it describes what you've attached. He said you sent to the Police Department. He asked is that correct. Mr. Gallagher said Ms. Sanderson is part of the Police Department, yes.

Mr. Unruh said then there is another email on July 1st at 6:48 p.m. and again this is from you to the Police Department in which you mentioned *a couple of weeks ago Ms. Harris initiated conversation with me from her balcony*. Mr. Gallagher said that is correct.

Mr. Unruh said and you testified about those as well. He said you spoke to her over the fence. Mr. Gallagher said yes, multiple times.

Mr. Unruh said specifically you mentioned that she initiated conversation with you. Mr. Gallagher said that is correct.

Mr. Unruh said the next paragraph states, *I actually recorded it and attached the recording.* He said and you also attached a video from May 29th. He said that is all in that email. Mr. Gallagher said that is correct.

Mr. Unruh said and you sent that via the internet to the Police Department. He referred to another log of notes. He asked do you have these with you (Exhibit 2). Mr. Gallagher answered yes.

Mr. Unruh said at the bottom of that first page it states, *Saturday, June 15th.* He said either you or your wife wrote, *Ms. Harris spoke to me from the balcony while dogs barking and commented how a common friend of ours was nice.* He said then you told her, *I'm sure she is a nice lady, but I wish she would do something about the barking dogs,* etc. He said the last sentence states, *she went inside with the dogs.* Mr. Gallagher said that is correct.

Mr. Unruh said so that was the conversation where Ms. Harris initiated the conversation with you over the fence. Mr. Gallagher said that is correct.

Mr. Unruh said it was a conversation about how you had a mutual friend that she thought was nice. He asked is that right. Mr. Gallagher said that is correct.

Mr. Unruh said and you brought up the dogs and told her they were bothering you and she went inside with the dogs and you wrote all that down and sent that in your log to the Police Department. He asked is that correct. Mr. Gallagher said okay.

Mr. Unruh said that is all he has for this witness.

Mr. Noonan asked Mr. Unruh if he wants to address the Board.

Mr. Unruh said that he is going to call his client as a witness.

Mr. Turner asked the Chairman if he wants to hear from the Code Enforcement Officer.

Mr. Noonan asked Ms. Sanderson if she has anything more to add. Ms. Sanderson nodded her head no.

Mr. Scott Lee, Animal Control Officer, introduced himself to the Board. He reported that the first interaction he had with this was when he received a call from dispatch saying that there was a dog that was constantly barking. He said that he did make contact with the owner of the animal and explained that they were receiving complaints about the dog constantly barking. He said that he suggested a few things that normally helps in these cases, which one (1) was a bark box. He said that he had a bark box in his truck, which he tried, but it did not work noting that it was a cheaper bark box. He said that he goes out on a lot of these calls and nine (9) times out of ten it gets resolved within a couple weeks. He said that he suggested that and also suggested that when she hears the dog barking that she bring it inside. He reported that at one time she said that she was going to seek a trainer to solve the problem. A few weeks later he received another call about the dog and he spoke to either her roommate or boyfriend and he brought the dog in immediately. Then they were receiving call after call, which is when Ms. Sanderson got involved. He said at different times of the day he would sit where no one could see him and listen for dogs and he did hear dogs

barking in the neighborhood. One (1) was hers a couple times, one (1) was Mr. Gallagher's, and then there was one (1) across the street three (3) houses down. He said when one (1) dog barks others will bark. He said that Ms. Sanderson has the times that he was there. He said at one point the dog was barking for minutes on end, which is when he thought Ms. Sanderson issued the citation.

Mr. Noonan asked the Board, does anyone have any questions. There were none.

Mr. Noonan asked Mr. Unruh, would you like to cross examine.

Mr. Unruh said Officer Lee, it looks like there were multiple times and dates listed that you were on site where you didn't hear any barking that warranted any action. Office Lee said that is correct.

Mr. Unruh said he was looking at five (5) different dates and times at least in this report. Office Lee said yes.

Mr. Unruh said there is possibly more in addition to what you already testified to. Officer Lee said that is correct.

Mr. Unruh said I don't have any other questions.

Mr. McDonald asked Officer Lee, at the time you recommended the bark box was the dog barking. Officer Lee said the dog would come out and bark, but then when you pet it, it would wag it's tail and stop barking. He said the only time that he really had a note about it was when he notified Ms. Sanderson about the dog that did constantly bark for about three (3) or four (4) minutes constant.

Mr. Noonan said Mr. Unruh, you can call your witness.

Mr. Noonan asked maam, were you sworn in. Mrs. Harris said I think so.

Mr. Unruh asked you raised your right hand and you swore to tell the truth so help you God earlier, didn't you. Mrs. Harris said I did.

Mr. Unruh asked Mrs. Harris if she her mother was a teacher for decades at Osceola Elementary School was she not. Mrs. Harris said that is correct.

Mr. Unruh said and she built a house in McAnsh Park on Vero Beach Avenue back in the late 40's early 50's. Mrs. Harris said that is correct.

Mr. Unruh said and you grew up in McAnsh Park pretty much. Mrs. Harris said she did.

Mr. Unruh said you're a 1955 graduate of Vero Beach High School. Mrs. Harris said she was.

Mr. Unruh said your late husband, Charles Wendell Harris, was a three (3) or four (4) generation Vero Beach person himself was he not. Mrs. Harris said that is correct.

Mr. Unruh asked all your adult life you have owned dogs, haven't you. Mrs. Harris said she has had many dogs.

Mr. Unruh asked when you lived at home with your mom you had dogs, didn't you. Mrs. Harris said yes.

Mr. Unruh asked are you 80 plus years old. Mrs. Harris said I am 80 plus.

Mr. Unruh said needless to say you've owned dogs for well over 60 – 65 years. Mrs. Harris said she has.

Mr. Unruh said so you've lived in McAnsh Park, you also lived on Royal Palm, you've owned properties and houses in North Carolina, Brevard County, and here. He asked have you ever had anyone complain about your dogs. Mrs. Harris answered never.

Mr. Unruh asked have you ever had anything like this happen in your whole life. Mrs. Harris said never. I never have and I've lived in neighborhoods all my life except in North Carolina.

Mr. Unruh said but you've owned dogs. Mrs. Harris said she has.

Mr. Unruh said and you love your dogs. Mrs. Harris said she does.

Mr. Unruh said you take good care of them. Mrs. Harris said she does. They are groomed probably once a month and go to the vet probably every six (6) to eight (8) weeks.

Mr. Unruh said let's talk about this house that you purchased not too long ago, three (3) or four (4) years ago here in McAnsh Park. Mrs. Harris said that's correct.

Mr. Unruh said 2019 Cortez Avenue, that's the property we're talking about right now. Mrs. Harris said yes.

Mr. Unruh asked and that's where you live. Mrs. Harris said it is.

Mr. Unruh said before you bought that house you obviously came and looked at it first and looked at the neighborhood. Mrs. Harris said yes.

Mr. Unruh asked and you've had friends who live in McAnsh Park for years and you visited them. Mrs. Harris said she has.

Mr. Unruh asked is it pretty dog friendly. Mrs. Harris said to her knowledge. She said this is the first time she has ever had a problem.

Mr. Unruh asked did you see other dogs being walked, dogs in the yards, dog signs on their mailboxes, etc. Mrs. Harris answered yes.

Mr. Unruh said in fact your next door neighbor has a mailbox with a dog sculpture mounted on it. Mrs. Harris said yes.

Mr. Unruh said part of your interest in buying that house was because it was a dog friendly house. Mrs. Harris said they had six (6) or eight (8) dogs, that's what she was told.

Mr. Unruh said there's a sticker on the door that said in case of fire to notify the fire people that there were six (6) dogs and cats inside the house. Mrs. Harris said that is correct.

Mr. Unruh questioned on the house before you bought it had two (2) separate fenced in enclosures in the back yard specifically to give dogs room to run around and play and be dogs outside. Mrs. Harris said it has gates that will open.

Mr. Unruh said the inside of the house was dog friendly as well. Mrs. Harris said yes.

Mr. Unruh said so all of this contributed to your purchasing the house and moving there in the first place. Mrs. Harris said that is correct.

Mr. Unruh asked since you've been living there, have you noticed that other neighbors have dogs. Mrs. Harris said yes.

Mr. Unruh said you take care of your dogs. You buy them good food, you take them to the vet, you get them groomed, etc. Mrs. Harris said that is correct.

Mr. Unruh said then you received this complaint where the Officers came to your house and said the dog was barking too much. Mrs. Harris said yes.

Mr. Unruh said and you even received a notice to pay a fine. Mrs. Harris said that she paid the fine not knowing that she didn't have to.

Mr. Unruh said so it was your understanding that you had to pay that \$50 fine and you didn't know you had the ability to fight over it. Mrs. Harris said no I didn't.

Mr. Unruh said you just had to pay that. He said since August, you've taken remedial measures to try and placate your neighbor. Mrs. Harris said she has.

Mr. Unruh said and that would include when the dog goes out you try to go out with them. Mrs. Harris said yes, every time the dogs go out.

Mr. Unruh said you try not to leave the dogs outside to run around loose. Mrs. Harris said they are not.

Mr. Unruh said your grandchildren live here in town. Mrs. Harris said they do.

Mr. Unruh said and they've been coming and taking the dogs to the Dog Park several times a week. Mrs. Harris said that is correct.

Mr. Unruh said they give them exercise so they're not just locked in the back yard, neglected, or whatever is being alleged here. He said you also built a third fenced in a portion of your yard. Mrs. Harris said that is correct.

Mr. Unruh said you've also talked to obedience trainers and had obedience trainers come and work with them. Mrs. Harris said she has.

Mr. Unruh said so you've taken these steps to try and comply with these things and to do your best to take care of the dogs even though you've never had complaints before. Mrs. Harris said never.

Mr. Unruh said you have taken these steps because the Officers came to your house and you know it's important to them and to your neighbor. Mrs. Harris said that is correct.

Mr. Unruh said for the record, Mr. Richard Van Epp's name was on this complaint too and he is an old friend of yours. Mrs. Harris said that is correct.

Mr. Unruh said his name was mistakenly on the deed of your house or on the mortgage when it was first purchased. He said that he (Mr. Epp) doesn't own the dogs and doesn't own the house. Mrs. Harris said no he does not.

Mr. Unruh said they have the deed if anyone wants to see it and Mr. Van Epp's name is no longer on the property. He is not an owner. Mrs. Harris said that she doesn't know how his name got there in the first place.

Mr. Unruh said so that's been taken care of. Mrs. Harris said yes.

Mr. Unruh said after he spoke with her about this he suggested that she speak with some of her neighbors. He asked is that correct. Mrs. Harris said she did.

Mr. Unruh said they have five (5) statements (Exhibit 3) that he would like to submit to the Board.

Mr. Noonan asked if they are discussing a \$50 fine. Ms. Sanderson said Mrs. Harris paid the \$50 fine and then when more documentation was provided by Mr. Gallagher, a secondary citation in the amount of \$100 was issued and that's the citation under appeal today.

Mr. McDonald asked what kind of dog are they talking about.

Mrs. Harris said it is a Black Mouth Curr.

Mr. McDonald asked how long she has owned the dog. Mrs. Harris said it will be two (2) years in December.

Mr. McDonald asked and the complaints started when. Mrs. Harris did not know. She thought they started right away.

Mr. McDonald said that he is trying to nail down when the dog was purchased and when the complaints started.

Mr. Mike Gallagher thought Mrs. Harris got the dog in the spring of 2018. He said that he contacted Officer Lee in June or July of 2018.

Mr. McDonald said it looks like all of these times were early in the morning or in the morning and evening. Mr. Gallagher said they are.

Mr. McDonald asked Mrs. Harris are you at home at these times. Mrs. Harris said yes.

Mr. McDonald asked is the dog inside or outside or both when barking. Mr. Gallagher said the dog is outside when it's annoying, but whenever she leaves it barks.

Mr. McDonald asked Mrs. Harris do you know the people who signed these statements. Mrs. Harris said I do.

Mr. McDonald asked do they live next door or immediately adjacent to you. Mrs. Harris said one (1) lives immediately next door, two (2) live across the street, and one (1) lives on the same street as Mr. Gallagher.

Mr. Pizzichillo asked did you ever hire a dog trainer for this particular animal. Mrs. Harris said I did later answered yes.

Mr. Pizzichillo asked what was the result of the training. Mrs. Harris said he said she is fine.

Mr. Pizzichillo said the complainants have given some pretty specific times of the barking. For instance, one (1) is at 3:15 a.m. He referred to the time of 3:15 a.m. and asked were you present at that time and did you hear any barking. Mrs. Harris said that she never lets the dogs out at 3:00 a.m.

Mr. Pizzichillo said there are nine (9) cases before 7:00 a.m. that the dog allegedly barked and one (1) of them was at 3:15 a.m. He asked were you present and did you hear that dog barking at 3:15 a.m. Mrs. Harris said I did not and I was present.

Mr. Pizzichillo asked did you hear your dog barking at 5:20 a.m. on the 8th of July. Mrs. Harris said I might have let the dogs out that early.

Mr. Pizzichillo asked did you hear the dogs barking at 6:00 a.m. on July 10th. Mrs. Harris said I did not.

Mr. Pizzichillo said 6:25 a.m. on the 12th of July. Did you hear the dogs barking at that time. Mrs. Harris said that could have been.

Mr. Unruh did not have any further questions for Mrs. Harris.

Mr. Gallagher said that he just wants a resolution. He said that in his correspondence that he asked for mediation where they could sit down as a group and figure out how to resolve this. He said this is a two (2) year old dog and by now should be trained enough not to be running the show.

Mr. Price said that he didn't think the issue is whether it's a dog friendly neighborhood. The issue is whether it's a bark friendly neighborhood. He didn't think Mrs. Harris is being questioned about whether she is a good caregiver of the dogs. He didn't think that was the issue. The issue is the noise, not the dogs. The other thing is that these statements that were signed by the neighbors, the first one (1) appears to be several houses down the street on the same side and the others are all across the street so these are not neighbors that are up against her property, whereas Mr. Gallagher, the person complaining about the noise, is right next door.

Mr. Gallagher said he invited two (2) neighbors to come to today's meeting. One (1) is to the left of her front house and the other is next door to her. The neighbor that is almost directly across the street has made the comment that as soon as she goes out the front door Daisy starts barking. I come out the front door Daisy can sense it and starts barking.

Mr. Unruh objected stating that is hearsay.

Mr. Price said the point of Mr. Gallagher is to find a resolution.

Mr. Unruh said he knows this is taking a lot of the Board's time over a small matter, a \$100 fine and a barking dog. He said that he knows this is a noise issue versus a dog friendly neighborhood, but the Code refers to normal sensitivity. He said that he hates to be this way but when this City, this Board, or this Government encourages neighbors to jot down notes and look across their fence and peer at their neighbors to see if the lights are on, etc. and email their notes to the Police Department there is a problem, which there is a Florida Statute that it is a criminal act and possibly a felony to record another person's conversations in their backyard, as the witness just admitted to doing here today under oath, without their knowledge and consent.

Mr. McDonald said this is about a barking dog not felonies.

Mr. Price said let's look at the other side of it. We have Mr. Gallagher who is suffering and this is his only recourse.

Mr. Unruh said when he grew up they talked to their neighbors.

Ms. Sanderson said they did request that Mr. Gallagher provide documentation because times that they were on site they were unable to hear anything.

Mr. Unruh said he didn't hear anything from the Police Department suggesting that someone record someone else. He said that he never suggested that. They did ask Mr. Gallagher to keep a log. The issue is with recording.

Mr. Pizzichillo felt that Mr. Unruh was doing an excellent job of defending his client. However, he believes that these people are conscientious people trying to be good neighbors. He has no reason to doubt that they have been awakened at 3:15 a.m. and all those other times noted. As far as he is concerned, these people have told the truth and as human beings they have the right to sleep and have a comfortable quiet enjoyment of their property, which they do not at this time have.

Mr. Price asked if this is strictly about the appeal of the \$100 fine. Mr. Noonan said it is about \$100.

Mr. Price said it doesn't resolve Mr. Gallagher's issue. Mr. Noonan said not at all.

Mr. Pizzichillo said their Attorney did the best he could with this case. He has no reason to doubt the complainant's veracity and truthfulness. Everyone in this Country has the right to quiet enjoyment of their home and property. For whatever reason, nine (9) times before 7:00 a.m., their quiet enjoyment has been disturbed and therefore his vote is in their favor,

Mr. Pizzichillo made a motion that unfortunately Mrs. Harris is guilty and should be fined the \$100. Mr. McDonald seconded the motion.

Mr. Turner suggested that the motion would be properly as to uphold the citation as written and to deny the appeal and impose the fine as stated by Code Enforcement.

Mr. Pizzichillo asked that the suggested motion be repeated.

Ms. Sherri Philo, Deputy City Clerk, stated that the suggested motion was to uphold the citation as written and to deny the appeal and impose the fine as stated by Code Enforcement.

Mr. Pizzichillo put those exact words in the form of a motion. Mr. McDonald seconded the motion and it passed unanimously.

B) Non-Compliance / Compliance Reports

1. Request for Board Order

a. CASE #19-CE-10260 / 2137M

VIOLATOR: Gilbert F. Metz, Jr.

VIOLATION: Weeds, grass or undergrowth at a height of more than 12 inches – Code Section 38-31 (a)(b)(1)

VIOLATION ADDRESS: 816 Cypress Road, Vero Beach, Florida 32963

(Failure to pay \$50 civil penalty)

Ms. Sanderson reported that service of the violation was provided by posting of the property. The violation has been corrected and the civil penalty has not been paid. She requested that the Board finds there was a violation, the violation has been corrected, and that the Board issues a Board order to pay the \$50.00 civil penalty.

Mr. Noonan made a motion that the Board finds there was a violation, the property is now in compliance and that the Board issues a Board order to pay the \$50.00 civil penalty. Mr. Pizzichillo seconded the motion and it passed unanimously.

b. CASE #19-CE-10268 / 2140M

VIOLATOR: Cash Money Holdings, LLC / Michael Buza, Agent

VIOLATION: Boats/Trailers combination stored in the required front yard – Code Sections 74-82 (c)(3); 74.82(d)

VIOLATION ADDRESS: 891 22nd Place, Vero Beach, Florida 32960

(Failure to pay \$50 civil penalty)

This item was pulled from today's agenda.

c. CASE #19-CE-10281 / 2144M

VIOLATOR: Cutting Edge Barber Shop / Michael Burns

VIOLATION: Sign violation – Code Section 38.17 (a)

VIOLATION ADDRESS: 772 21st Street, Vero Beach,
Florida 32960
(Failure to pay \$50 civil penalty)

Ms. Sanderson reported that service of the violation was provided by posting of the property. The violation has been corrected and the civil penalty has not been paid. She requested that the Board finds there was a violation, the property is now in compliance, and that the Board issues a Board order for the payment of the initial \$50.00 civil penalty.

Mr. Pizzichillo put those words in the form of a motion (that the Board finds there was a violation, the violation has been corrected, and that the Board issues a Board order to pay the \$50.00 civil penalty). Mr. McDonald seconded the motion and it passed unanimously.

- d. **CASE #19-CE-10327 / 2011T**
VIOLATOR: Mai Thanh and Thuyen T Le
VIOLATION: Weeds, grass, and undergrowth in excess of 12” – Code Section 38-31 (b)(5)
VIOLATION ADDRESS: 1346 16th Avenue, Vero Beach,
Florida 32960
(Failure to pay \$50 civil penalty)

Mr. Tom Ramsey, Code Enforcement Officer, reported that a citation was issued and correction was made, however the citation is outstanding and due. He requested a Board order for the \$50.00 initial civil penalty.

Mr. Noonan made a motion that there was a violation, the property is now in compliance, and that the Board issues a Board order to pay the \$50.00 civil penalty. Mr. Pizzichillo seconded the motion and it passed unanimously.

- e. **CASE #19-CE-10363 / 2166M**
VIOLATOR: Salon Aura
VIOLATION: Prohibited sign – Code Section 38.17 (k)
VIOLATION ADDRESS: 686 21st Street, Vero Beach,
Florida 32960
(Failure to pay \$50 civil penalty)

Ms. Sanderson reported that service of the citation was provided by posting of the property. The violation has been corrected and the civil penalty has not been paid. She requested that the Board finds there was a violation, the property is now in compliance, and to issue a Board order for the payment of the initial \$50.00 civil penalty.

Mr. Pizzichillo put those words in the form of a motion (that the Board finds there was a violation, the violation has been corrected, and that the Board issues a Board order to pay the \$50.00 civil penalty). Mr. Noonan seconded the motion and it passed unanimously.

- f. **CASE #19-CE-10359 / 2163M**
VIOLATOR: Salon Aura
VIOLATION: Prohibited sign – Code Section 38.17 (k)

VIOLATION ADDRESS: 686 21st Street, Vero Beach,
Florida 32960
(Failure to pay \$50 civil penalty)

Ms. Sanderson reported that service of the citation was provided by posting of the property. The violation has been corrected and the civil penalty has not been paid. She requested that the Board finds there was a violation, the property is now in compliance, and to issue a Board order for the payment of the initial \$50.00 civil penalty.

Mr. Pizzichillo put those words in the form of a motion (that the Board finds there was a violation, the violation has been corrected, and that the Board issues a Board order to pay the \$50.00 civil penalty). Mr. McDonald seconded the motion and it passed unanimously.

- g. CASE #19-CE-10360 / 2164M**
VIOLATOR: Salon Aura, LLC / Henry Short, Agent
VIOLATION: Failure to obtain Business Tax Receipt – Code Section 70.62
VIOLATION ADDRESS: 686 21st Street, Vero Beach,
Florida 32960
(Failure to correct violation; Failure to pay \$50 civil penalty)

Ms. Sanderson reported that service of the citation was provided by posting of the property. 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, and the civil penalty has not been paid and that the Board issues a Board order today to come into compliance within 10 days and if not, continuing civil penalties shall commence back to the original date on the citation for compliance of September 17, 2019.

Mr. Pizzichillo put those words in the form of a motion (That the Board finds there is a violation, the violation continues, and that the Board issues a Board order to come into compliance and to pay the \$50.00 civil penalty within 10 days of today's hearing (10/09/19) or continuing civil penalties in the amount of \$50.00 shall commence on September 17, 2019. Mr. McDonald seconded the motion and it passed unanimously.

- h. CASE #19-CE-10346 / 2157M**
VIOLATOR: Steven W. Abernathy
VIOLATION: Public nuisance – Code Sections 38-31 (a)(b)(1); 38-32 (a)(1)
VIOLATION ADDRESS: 2166 34th Avenue, Vero Beach,
Florida 32960
(Failure to pay \$50 civil penalty)

This item was pulled from today's agenda.

- i. CASE #19-CE-10277 / 2022T**
VIOLATOR: Barbara J. Raines
VIOLATION: Weeds, grass, or undergrowth at a height of more than 12 inches – Code Sections 38-31 (b)(1); 38.32 (a)(1)

VIOLATION ADDRESS: 1820 Lemon Avenue, Vero Beach,
Florida 32960
**(Failure to correct violation; Failure to pay \$50 civil
penalty)**

Mr. Ramsey reported that a warning citation was issued with no response, a citation with a \$50.00 penalty was issued with no response, by first class mail, certified mail, and property posting. He reported that the Notice of Hearing was also posted. The property is not in compliance and the \$50.00 civil penalty has not been paid. He requested a Board order for the \$50.00 civil penalty and for correction to the property. He said that he believes Mrs. Raines has passed away. He said that he has not been able to verify that or find a next of kin. He said that he is doing this so that he could get this on record and move forward with the abatement process.

Mr. Noonan made a motion that there is a violation, the violation continues, and the Board issues a Board order for payment of the \$50.00 civil penalty. Mr. Pizzichillo seconded the motion and it passed unanimously.

Mr. Kennedy asked if she has passed away, what do they do.

Mr. Ramsey said at some point the City will step in and take care of it, but he has to make the request to the City and having this process helps.

The Deputy City Clerk noted that they could include in the Board order that they want the property abated.

Mr. Kennedy said that would move the process along.

Mr. Ramsey asked that the Board issues a Board order to pay the \$50.00 civil penalty and correction be made to the property within 14 days or the City would abate the property.

Mr. Noonan amended the motion that the Board finds there is a violation, the violation continues and if it is not corrected within 14 days, the Board recommends the City to move forward with abatement and appropriate fees and expenses will be assessed and collected in due course. Mr. Pizzichillo seconded the amended motion and it passed unanimously.

- j. CASE #19-CE-9820 / 1950M**
VIOLATOR: RCB Equity Group, LLC / Michael Buza, Agent
VIOLATION: Fence installed without Code Compliance Certification or building permit – Code Sections 64.04 (a)(b)(7); 22-181; 22-106
VIOLATION ADDRESS: 2345 17th Avenue, Vero Beach, Florida 32960

*Please note that a Board order was not prepared following the August 14, 2019 Code Enforcement Board meeting as an error in the date reported to the Board was discovered.

Ms. Sanderson reported that this case came before the Board on August 14, 2019 and the Board issued a Board order to comply and pay within 10 days or continuing penalties would

commence. However, she gave the Board the wrong compliance date so she is bringing this case back before the Board to request that they withdraw the Board order.

Mr. Pizzichillo put those words in the form of a motion. Mr. McDonald seconded the motion and it passed unanimously.

- k. **CASE #19-CE-9548 – 1836M**
VIOLATOR: Scott McCracken
VIOLATION: Commercial trailer parked onsite that is not being used in construction on the property that has a valid permit – Code Section 74.82 (a)
VIOLATION ADDRESS: 2716 Laurel Drive, Vero Beach, Florida 32960

Ms. Sanderson reported that the property was found in compliance on August 4, 2019. She requested that the Board finds there was a violation, the property is now in compliance, and that the Board issues a Board order for payment of the initial civil penalty, the ongoing penalties, and enforcement costs.

Mr. Noonan made a motion that there was a violation, it has been brought into compliance on August 5, 2019 and that the Board issues a Board order for payment of the initial \$50.00 civil penalty and the unpaid continuing penalties up through August 4, 2019, as well as enforcement costs and everything due to the City is now in compliance (that the Board issues a Board order finding compliance, ceasing continuing penalties as of August 5, 2009, and to pay the initial civil penalty, the accrued continuing penalties, and cost of enforcement). Mr. Price seconded the motion and it passed unanimously.

- l. **CASE #19-CE-9549 / 1837M**
VIOLATOR: Scott McCracken
VIOLATION: Interior demolition, alterations, and new windows installed without a building permit – Code Sections 22-181; 22-106; 489.127 (h)
VIOLATION ADDRESS: 2716 Laurel Drive, Vero Beach, Florida 32960
(Code Officer found in compliance on August 5, 2019. Continuing penalties from March 6, 2019 (the day following the original compliance date of March 5, 2019) through August 4, 2019 (the day prior to finding property in compliance) = 152 days x \$500 per day. Initial civil penalty of \$500 remains unpaid, as well as enforcement costs and all costs due to the City.)

Ms. Sanderson reported that the property was found in compliance on August 4, 2019 and the civil penalty has not been paid. She requested that the Board finds there was a violation, the property is now in compliance, that the Board issues a Board order for the payment of the initial civil penalty and the ongoing penalties back to the date of original compliance.

Mr. Noonan made a motion that the Board finds there was a violation, the violation has been corrected and that the Board issues a Board order for payment of the civil penalty

of \$500.00 and the continuing penalties of \$500.00 a day through August 4, 2019, as well as enforcement and collection costs and all other costs due to the City. Mr. McDonald 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

None

12. ADJOURNMENT

Today's meeting adjourned at 3:21 p.m.

/sp