

MINUTES

MONROE COUNTY CONTRACTORS' EXAMINING BOARD REGULAR MEETING

Tuesday, November 13, 2012, 9:30 a.m.

Marathon Government Center

1. Call to Order:
9:50 am
Present for roll call were Peggy Bankester, Gary Centonze, Chris Sante, Steve Henson, Bill Miller, Bill Kelly, Rudy Krause, Steve Williams (for Lisa Granger), and Tom Wright.

Excused Absence
Alesha Scheuerman

Not required to attend
Frank Toppino, Alternate
Charlie Miller, Second Alternate
2. Additions/Deletions/Corrections:
 - a. Addition
 1. Rudy Krause
 - i. Is it legal for inspectors to request identification from people on job sites
 - ii. Longshoreman insurance
3. Approval of Agenda
Approved by Steve Henson and seconded by Gary Centonze; no nay votes.
4. Approval of Minutes
 - a. September 11, 2012
Approved by Steve Henson and seconded by Gary Centonze; no nay votes
5. Swearing in of Witnesses to Testify:
Tom Wright
6. Code Compliance Cases:
9:54 am
 - a. CE12080137* Notice of Appeal
 Omar Granda CGC1515324
 Prime One Construction Corp
 6-202.(8) Aiding and abetting
 6-202.(11)a Work without benefit of a permit
 Inspector Bruno

Mr. Granda appeared before the Board without legal representation and contested the violations. Code Compliance Inspector Bruno and Link present for the County; after testimony and evidence was taken from all parties,

6-202.(8) aiding and abetting – motion was made by Gary Centonze and seconded by Bill Kelly to find Respondent IN violation as cited based on evidence and DENY APPEAL. Motion carried unanimously.

CE12080137- Omar Granda – continued

6-202.(11)a work without benefit of a permit – motion was made by Steve Henson and seconded by Peggy Bankester to find Respondent IN violation as cited based on evidence and DENY APPEAL. Motion carried unanimously.

Penalty – Motion made by Chris Sante and seconded by Rudy Krause recommending no further action to the Construction Industry Licensing Board and ordering administrative costs of \$116.75 to be paid within 30 days or lien. No nay votes.

*Respondent was found in violation as a contractor. Citation treated as a Notice to Appear.

Note: Jerry Smith entered the meeting at 10:00am

b. CE12080130* Notice of Appeal
 Victoriano Herrera
 6-77 No certificate of competency
 Inspector Bruno

Mr. Herrera appeared before the Board without legal representation and contested the violations. Omar Granda, companion Code Case # CE12080137, present as a witness and interpreter. After a brief recess, Myra Tezano, County Staff, served as interpreter for Respondent due to language barrier. Code Compliance Inspector Bruno presents for the County. Inspector Bruno put it on the record that MCC violations 6-202.(5) and 6-202.(11)a were dismissed by County staff. After testimony and evidence was taken from all parties, motion made by Chris Sante and seconded by Steve Henson to find Respondent IN violation as cited based on own admittance and DENY APPEAL.

County lowered administrative costs from \$262.35 to \$140.75 due to mitigating circumstances.

Penalty – motion made by Steve Henson and seconded by Chris Sante recommending reducing fine to \$150.00, plus administrative costs of \$140.75, for total of \$290.75, to be paid within 30 days or lien. Roll Call Vote: Yes: Peggy Bankester, Gary Centonze, Chris Sante, Steve Henson, Bill Miller, Bill Kelly; No: Rudy Krause. 6-1 vote. Motion passes.

*At the hearing, Respondent admitted to the violation and asked for leniency.

c. CE12080129 Notice to Appear
 Michael Peter Frascella
 6-77 No certificate of competency
 Inspector Bruno

Mr. Frascella appeared before the Board without legal representation and did contest the violation. Code Compliance Inspector Bruno presents for the County. Inspector Bruno put it on the record that MCC violations 6-202.(5) and 6-202.(11)a were dismissed by County staff. After a brief recess, testimony, and evidence was taken from all parties, motion made by Chris Sante and seconded by Bill Miller to find Respondent NOT in violation and GRANT APPEAL.

CE12080129 – Michael Peter Frascella – continued

After discussion, motion carried unanimously.

- d. CE12090054 Notice of Appeal
David Cunningham
Islandscaping, Inc.
6-234.(c) Advertising without a license
Inspector Bruno

Respondent appeared before the Board without legal representation and did contest the violation. Code Compliance Inspector Bruno presents for the County; after testimony and evidence was taken from all parties, motion made by Steve Henson and seconded by Peggy Bankester to find Respondent IN violation as cited based on testimony and DENY APPEAL. Motion carried unanimously.

Penalty – Motion made by Steve Henson and seconded by Bill Kelly recommending fine to remain at \$500.00, plus administrative costs of \$116.75, for total of \$616.75, to be paid within 30 days or lien. Motion carried unanimously.

- e. CE12040034 Notice of Appeal
Richard Kornahrens (*citation issued as Kornhrens*)
6-202.(8) Aiding and abetting*
Inspector Bruno

Respondent appeared before the Board without legal representation and did contest the violation. Code Compliance Inspector Bruno presents for the County; after testimony and evidence was taken from all parties, motion made by Chris Sante and seconded by Bill Miller to find Respondent NOT in violation, dismiss case, and GRANT APPEAL.
Roll Call Vote: Yes: Peggy Bankester, Gary Centonze, Chris Sante, and BM; No: Steve Henson, Bill Kelly, and Steve Henson. 4-3 vote. Motion passes.

*Code was amended at hearing to MCC 6-270.(b) Notice to Cease and Desist

Chairman adjourned as the County and reconvened as the City of Marathon at 12:40 pm. Roll call was not taken; everyone present.

Lynn Hayes, City of Marathon Code Compliance Inspector, addressed the Board with an update for the Board regarding Douglas McDuff of McDuff Construction LLC, GC 426C, Code Case # C2010-0406, per signed Final Order dated 05/10/2011. Ms. Hayes advised the Board that Mr. McDuff has paid his fines/costs to the City of Marathon.

Chairman adjourned as the City of Marathon and reconvened as the County at 12:43pm. Roll call was not taken; everyone present.

Code Compliance cases – continued

- f. CE12090008 Notice to Appear
Eric Vogel CRC1328525
Stone Systems of Orlando, Inc.
6-202.(11)a Work without benefit of a permit
6-144.(7)a Failure to obtain final inspections
Inspector Bruno

Respondent failed to appear before the Board and did not have legal representation. County requested case to be continued. Motion made by Chris Sante and seconded by Steve Henson GRANTING County's request for a continuance. No nay votes.

- g. CE12090008 Notice to Appear
Manuel Menendez, Alejandro Menendez, and Eduardo La Casa
6-202.(8) Aiding and abetting
Inspector Bruno

Respondent failed to appear before the Board and did not have legal representation. County requested case to be continued. Motion made by Steve Henson and seconded by Chris Sante GRANTING County's request for a continuance. No nay votes.

8. Staff Reports and Discussions

a. Ronda Norman

1. Complaint Process

- i. Instructions on how to proceed with a complaint was passed out
- ii. Business cards – If a complaint is generated by a business card, more information and background information is needed in order for staff to research the complaint

2. Citations for Repeat Violators

- i. Someone is not considered a repeat violator if it is determined that the fine was paid out of convenience. It is only considered a repeat if there is an order on file.

3. State Contractors and Citations

- i. If violation is corrected in a timely manner, a state certified contractor will be issued only a warning only pursuant to F.S. 489.

4. Stipulated Agreements

- i. Stipulated agreements does count as a repeat/first offense

5. Unlicensed Contractors

- i. As of today, unlicensed contractors can only be cited with MCC 6-77 - no certificate of competency license

6. MCC 6-202.(8) Aiding and Abetting

- i. Property owners' will no longer be issued a citation under MCC 6-202.(8) aiding and abetting, as MCC Section 6-202 pertains only to contractors. The new Code property owners' will be issued under will be MCC 6-270.(b) notice to cease and desist.

7. Citation Updates

- i. Citations that are paid and not appealed do not come before the CEB

Staff Reports and Discussions – continued

b. Rudy Krause

1. Warnings for non-life threatening work to property owners, contractors, and unlicensed contractors. After discussion, it was established that unlicensed contractors will not be issued a warning, and if the permit is an owner/builder permit, it will not be issued until the Building Official speaks with the property owner to ensure that they know what they are doing.

After a second discussion, Board recommended that the legal team (Steve Williams) work on changing MCC Section 6-202 – Prohibited Actions to include homeowners, owner/builders, and unlicensed persons to the article to read:

It shall be unlawful for any homeowner, owner-builder, ~~or~~ contractor, or unlicensed person as defined by this article, operating anywhere within the county, licensed individually or as a firm contractor, officers, directors, or qualified representative of a firm contractor, to commit any one or more of the following acts or omissions. no nay votes.

(CODING: Words ~~stricken~~ are deletions; words underlined are additions)

c. Tom Wright

1. Complaints Filed by a Board Member

i. If a board member files a complaint with Code Compliance then that board member shall disqualify his/herself from the case.

9.

New Business and Discussions

a. Ronda Norman

1. After-the-Fact Permit Fees

Code Compliance now charges \$500.00 or 10% whichever is greater on permit

b. Jerry Smith

1. After-the-Fact Permit Fees can be higher for habitual offenders.

i. Fee Schedule change has to be presented to the BOCC for review/approval.

ii. County is looking to getting an outside company to review and work on the Fee Schedule.

c. Stipulation Agreements

1. Motion made by Chris Sante and seconded by Peggy Bankester approving CE12060096 (Chico-Ortez), CE12100031 (Phillips), and CE12060115 (Liner) as a bulk item; no nay votes.

d. May 8th 2012 CEB Cases Update

1. CE12020019 sent for recording for non-payment

2. CE12030051 costs paid in full

3. CE12030099 costs paid in full

e. Motion for Imposition of Fines/Liens for Outstanding Citations

New Business and Discussions / Motion for Imposition of Fines/Liens – continued

1. Motion made by Steve Henson and seconded by Bill Kelly approving the Motion of Imposition of Fines/Liens including administrative costs and filing fees as a bulk item

for CE12100009, CE12080099, CE12090055, CE12080072, CE12080071, CE12060128, CE12060041, CE12080127*, CE12100080, and CE12100079; no nay votes.

**stipulated agreement pending*

10. Old Business and Discussions

a. CBAA

1. Registered Architect needed

b. Rudy Krause

1. Longshoreman Insurance (item added at meeting)

Rudy Krause addressed the Board regarding the requirements of this insurance. Regular workers compensation insurance does not cover work along the water. Longshoreman does not cover building a house – only work adjacent to water. Jones Act covers work over the water.

The Board would like to see the Building Department require USL&H insurance and Jones Act for any work adjacent to or over the water prior to permits being released.

Monroe County Building Department Permit for Docks Affidavit reviewed. After discussion, legal team was asked to review the law and return with findings.

2. Requesting Identification on Job Sites (item added at meeting)

Rudy Krause addressed the Board asking whether it is legal to enforce people present/carry identifications with them. After discussion, legal advised that it is ok to ask someone for identification while at a jobsite, but not to demand.

3. Meetings

If possible, Board should meet every month rather than every other month.

4. Businesses in an Improved Subdivision

Rudy Krause addressed the Board and asked the question whether the Planning Department allow a construction company to do business in an improved subdivision. Ray Ortiz from the Planning Department said yes, as long as there are no signs, customers do not go to the house, house still needs to look like a house, and no excessive noise, and a home occupational license is obtained from the Planning Department.

c. Bill Kelly

1. Advertising

After discussion, legal team advised that any form of advertising even if there is only a phone number and no address is a form of advertising and communication.

d. Lynn Bruno

1. Business Cards

Old Business and Discussions / Lynn Bruno continued

Inspector Bruno advised the Board that business card complaints must be referred to Code Compliance Administrative Assistant, and the business cards she was in receipt of the case were dismissed. If an individual is licensed, they will receive a 30-days warning, but no warnings for unlicensed individuals.

Steve Williams reiterated to the Board if a member of the board brought the complaint forward, then that person must recuse from the board.

11. Department of Business and Professional Regulation – Nothing to report

Meeting adjourned at 3:49pm.

Construction Trades application read into the record.

Odalys Mayan, License Coordinator

To request a copy of this hearing, please visit Monroe County website at www.monroecounty-fl.gov
> Residents > Channel 76. <http://fl-monroecounty.civicplus.com/index.aspx?nid=121>

The Board approved the Minutes on 03/12/2013,
[___] “as submitted” or [x] “as amended”