

MINUTES
MONROE COUNTY CONTRACTORS' EXAMINING BOARD REGULAR MEETING
Tuesday, March 12, 2013, 9:30 a.m.
Marathon Government Center

1. Call to Order/Roll Call

Chairman Rudy Krause called the meeting to order at 9:46 a.m. Present were Alesha Scheuerman, Chris Sante, Bill Miller, Steve Henson, Vice-Chairman Bill Kelly, Chairman Rudy Krause, Code Compliance Attorney Lisa Granger, CEB Attorney Thomas Wright, and Building Official/Secretary Jerry Smith.

Excused were Gary Centonze, Peggy Bankester, Alternate Frank Toppino, and Second Alternate Charlie Miller.

2. Agenda Changes

a. Rudy Krause:

i. Can a Monroe County licensed swimming pool contractor install a chairlift in a pool?

b. Notice to Appear Cases:

i. CE12090008 - Manuel Menendez, Alejandro Menendez, and Eduardo La Casa – Continued to May 14, 2013 per County's request (case originally scheduled for 11/13/12 and rescheduled 3/12/13)

3. Approval of Agenda

Steve Henson made the motion to accept the changes to the agenda and Bill Kelly seconded the motion. No nay votes.

4. Approval of Minutes

a. Regular Meeting: January 8, 2013

Chris Sante made the motion to accept the minutes as written and Alesha Scheuerman seconded the motion. No nay votes.

b. Regular Meeting: November 13, 2012

Steve Henson made the motion to accept the revised minutes as discussed at the 01/08/13 meeting and Bill Kelly seconded the motion. No nay votes.

5. Next Meeting Date

a. May 14, 2013

6. Swearing in of Witnesses to Testify:

Tom Wright sworn in all of those giving testimony

7. Lunch Break

a. 11:45 a.m. to 1:15 p.m.

8. Code Compliance Cases:

9:53 a.m.

a. CE12120058

Notice to Appear

Robert Charles Milligan CBC1251036

Milligan Construction

6-202.(8) Aiding and abetting

6-202.(9) Conspire/allow use of cert. by unlicensed person

6-202.(10) Fraud causing substantial injury

Inspector Bruno

Mr. Milligan was present without legal representation to address the Board and contested the violations. This Case is companion case to CE13010140 issued to Argelio Rivas. Both cases are to be heard the same day with same evidence and exhibits. Present for the County were Eddie Guzman and Maydel Guzman, wife of, and interpreter for, Mr. Guzman. Code Compliance Inspector Bruno was present to address the County; after testimony and evidence was taken from all parties,

CE12120058 / Milligan case continued

MCC 6-202.(8) Aiding and abetting - After discussion, Bill Kelly made the motion to find Respondent IN violation as cited by own testimony and Alesha Scheuerman seconded the motion. Motion approved unanimously.

MCC 6-202.(9) Conspire/allow use of cert. by unlicensed person - After discussion, Steve Henson made the motion to find Respondent IN violation as cited and Bill Kelly seconded the motion. Roll Call Vote: Yes – Alesha Scheuerman, Bill Miller, Steve Henson, Bill Kelly, and Rudy Krause; No – Chris Sante. 5-1 vote. Motion passes.

MCC 6-202.(10) Fraud causing substantial injury - Steve Henson made the motion to find Respondent NOT in violation and Bill Miller seconded the motion. After discussion, Roll Call Vote: Yes – Chris Sante, Bill Miller, and Steve Henson; No – Alesha Scheuerman, Bill Kelly, and Rudy Krause. *Motion FAILS as a result of a tie.*

Bill Kelly made the motion to find Respondent IN violation as cited based on own testimony and Alesha Scheuerman seconded the motion. After discussion, Roll Call Vote: Yes – Alesha Scheuerman, Bill Kelly, and Rudy Krause; No – Chris Sante, Bill Miller, and Steve Henson. *NOT in violation as a result of a tie.*

Attorney Wright advised the Board that the County would like to treat this case as a licensed contractor and not as an unlicensed individual. Attorney Granger advised the costs would be \$174.71, not including Inspector Bruno's time at the hearing. After re-calculating the fees, the new costs would be \$200.00.

Penalty – Motion made by Bill Miller recommending imposition of administrative costs of \$200.00, suspend permit-pulling privileges in Monroe County until Mr. Milligan's suspended state license with Department of Business and Professional Regulation is resolved, and must personally appear before the Contractor's Examining Board prior to reinstatement. Steve Henson seconded the motion with a friendly amendment stating that costs are to be paid within 30 days or lien. Bill Miller accepted Mr. Henson's friendly amendment.

Friendly amendment by Bill Miller recommending further action to Department of Business and Professional Regulation Construction Industry Licensing Board and Chris Sante seconded the motion. Motions carried unanimously.

Chairman recessed meeting for a brief break at 11:06 a.m.

Chairman reconvened meeting at 11:18 a.m. Roll call not called. All present.

b. CE13010140 Notice to Appear
 Argelio Rivas
 6-77 No certificate of competency
 Inspector Bruno

Mr. Rivas failed to appear before the Board and did not have legal representation present. Good service was received at address of record with the County. This Case is companion case to CE12120058 issued to Robert Charles Milligan of Milligan Construction, present. Both cases are to be heard the same day with same evidence and exhibits with additional evidence introduced by the County for this case. Present for the County were Eddie Guzman and Maydel Guzman, wife of, and interpreter for Mr. Guzman. Code Compliance Inspector Bruno was present to address the County; after testimony and new evidence was taken from all parties, discussion took place, and after discussion, Steve Henson made the motion to find Respondent IN violation as cited based on testimony hear here today including all evidence incorporated with the Milligan (CE12120058) case and Chris Sante seconded the motion. After discussion, Attorney Granger stated that she wanted to incorporate all evidence and testimony from the Guzman's, motion carried unanimously.

CE13010140 / Rivas case continued

Penalty – Motion made by Steve Henson and seconded by Chris Sante recommending imposing a penalty fine of \$1,000.00, plus administrative costs of \$209.11, for a total of \$1,209.11, to be paid within 30 days or lien. Motion carried unanimously.

9. Discussion

- a. Rudy Krause asked the Board for permission to speak and no one objected. Mr. Krause asked Attorney Granger about service and what is considered “good service?” Attorney Granger replied that depending on the case, she would do extensive search. She stated they exhaust all resources first to try to locate someone without having to resort to law enforcement research.

Chairman recessed meeting for lunch break at 11:43 a.m.

Chairman reconvened meeting at 1:27 p.m. as the City of Marathon. Roll call not called. All present with the exception of Attorney Granger. Building Official present but not for City.

Chairman recessed as the City of Marathon and reconvened as Monroe County at 3:51 p.m.

10. Staff Reports

- a. Jerry Smith, Building Official/Board Secretary - Nothing to report
- b. Thomas Wright, Contractors' Examining Board Attorney - Nothing to report
- c. Lisa Granger, Code Compliance Attorney –
 1. Proposed amendments of Monroe County Code Chapter 6
 - i. 6-242, 6-198, 6-200(7), 6-270(b), 6-100(a), and 6-23

These items discussed under New Business.

- d. Ronda Norman, Code Compliance Director - Proposed amendments of MCC Chapter 6

Discussed under New Business.

11. New Business

- a. Current Sitting Members Term Expiring

1. Steve Henson, May 19, 2013
2. Gary Centonze, May 19, 2013

Rudy Krause made the motion to recommend the re-appointments of both members and Alesha Scheurman seconded the motion. No nay votes.

- b. Proposed amendments of Monroe County Code Chapter 6 as follow:

1. 6-242 – Clarifying when a certificate of competency license is expired
2. 6-198 – Providing clarification of definition of employee;
3. 6-200.(7) - Clarifying the parameters and restrictions of owners acting as their own contractor;
4. 6-270.(b) – Clarifying the difference between an owner as their own contractor and an unlicensed contractor;
5. 6-100.(a) To increase the building permit exception amounts from \$1000 to \$2500 and to remove tool sheds from the listed exceptions; and
6. 6-23 Amending definition of normal maintenance or repair work for consistency

Note: Chris Sante left the meeting at 4:31 p.m.

New Business / Item B, #6, MCC 6-23 - continued

Discussion of these items started but not finished due to time constraint. Items continued to next available hearing.

Special Meeting to discuss the proposed amendments of Chapter 6 scheduled for April 9, 2013 at 9:30 a.m.

Meeting adjourned at 5:22 p.m.

THE FOLLOWING ITEMS CONTINUED TO NEXT AVAILABLE HEARING.

c. Motion for Imposition of Fines/Liens for Outstanding Citations - Nothing to report

12. Old Business:

a. CBAA:

1. Vacant Seat: Registered Architect

b. Proposed amendment of Monroe County Code Section 6-202 Prohibited Actions

At the November 13, 2012 meeting, the 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.

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

c. Longshoreman's Insurance update (TW)

At the January 8, 2013 meeting, Steve Henson asked Attorney Wright to research Attorney Mercado's January 30, 2007 decision on longshoreman's insurance and report back with findings.

13. Department of Business and Professional Regulation Case Status

a. DBPR Complaint Number: 2013006172

CE12110117 Sean L. Lilly / CEB 01/08/13: Case withdrawn

DBPR Status: Case closed

b. DBPR Complaint Number: 2013006160

CE12120017 Eric F. Salazar / CEB 01/08/13: Not in violation

DBPR Status: Case closed due to insufficient evidence

14. Construction Trades Application Requiring Review

PURSUANT TO FLORIDA STATUTE SECTION 286.0105, be advised that, if a person decides to appeal the decision made by the Contractors' Examining Board (CEB) with respect to any matter considered at today's hearing, that person will need a record of the proceedings, and that, for such purpose, he or she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

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 05/14/2013 [X] "as submitted" or [] "as amended."