

STEVE R. HENSON, CHAIRMAN

MINUTES  
OF THE MONROE COUNTY  
CONTRACTORS' EXAMINING BOARD  
MARATHON, FLORIDA

February 8, 2011

**9:50 A.M. Present for Roll Call**

Steve R. Henson, Chairman  
Bill Kelly, Vice-chair  
Peggy Bankester  
Gary Centonze  
Rudy Krause  
Joseph Vetrick  
Joseph Paskalik, Building Official, Secretary to the Board  
Lisa Granger, Attorney to Code Enforcement  
Thomas Wright, Attorney to Board  
Odalys Mayan, Contractor's License Coordinator

**Excused Absent**

Frank Toppino, Alternate  
Charlie Miller, Second Alternate

**ADDITIONS/DELETIONS/ANNOUNCEMENTS**

No changes to agenda.

End of announcements.

**9:50 A.M. Mr. Wright administered oath.**

James D. Burns, Bee Brothers Development, Inc., addressed the Board regarding his expired Engineering Contractor I certificate of competency license number ENG I 257 as required by M.C.C. 6-240.(b). Staff advised Board that Mr. Burns' license in fact was not expired and that there was a misunderstanding. Mr. Burns was provided with a new license and was the Board apologized for the misunderstanding.

Jeffrey A. Jacobs, A.M. Construction Concepts, Inc., addressed the Board regarding his expired General Contractor certificate of competency license number GC 398A (10/31/2009) as required by M.C.C. 6-240.(b). After discussion, Board unanimously reinstated Mr. Jacobs' certificate of competency license with back fees of \$190.00.

Armand H. Messina addressed the Board regarding his Aluminum Specialty Construction Trades application. Mr. Messina holds an active Monroe County Electrical Contractor (EC 1187) license. The Board advised Mr. Messina that the application would be

reviewed later in the meeting and that he would be contacted if additional documentation would be required.

David Montagano, Bayshore Landscape & Nursery, Inc., addressed the Board regarding his expired Landscaping Specialty certificate of competency license number SP 3322 (10/31/2009) as required by M.C.C. 6-240.(b). After discussion, Board unanimously reinstated Mr. Montagano's certificate of competency license with back fees of \$190.00.

**10:06 A.M.** Recess.

**10:09 A.M.** Reconvened.

**10:10 A.M. CE10010030 NOTICE OF APPEAL**  
Alisha L. Knapp

Inspector out of office. Will return to this case later. **(REFER TO 10:15AM)**

**10:10 A.M.** James D. Hayden, Hayden & Sons, Inc., addressed the Board regarding his expired licenses. **HIS CASE WILL BE HEARD A LATER TIME (10:54AM).**

**CASE CONTINUED FROM ABOVE (10:10AM)**

**10:15 A.M. CE10010030 NOTICE OF APPEAL**  
Alisha L. Knapp  
6-6-202.(5) Violation of workers compensation laws

Mr. Krause disclosed that he knows the Knapp's and that he did some work for them in the past. There are currently no financial ties between the two parties and he does not have a problem hearing this case. County did not object.

Ms. Knapp appeared before the Board without legal counsel. Brian Knapp, father of Ms. Knapp, present as a witness for Respondent. Ms. Knapp did contest citation. Code Enforcement Inspector Hayes (f/k/a Inspector Tsouchlos) present for the County. After testimony and evidence was taken from all parties, motion was made by Joseph Vetrick and seconded by Peggy Bankester to find Respondent **in violation** and deny appeal based on past experiences. Motion carried unanimously.

**Penalty:**

Motion made by Gary Centonze and seconded by Bill Kelly to reduce fine from \$500.00 to \$250.00, with no administrative fee, for a total of \$250.00. Roll call was taken with Joseph Vetrick voting no and Peggy Bankester, Gary Centonze, Rudy Krause, Bill Kelly, and Steve Henson voting yes; 5-1 vote; motion passes.

**10:39 A.M. CE10020113 NOTICE TO APPEAR**

Juan Abreu  
6-32 Working through a stop work order

Mr. Abreu appeared before the Board without legal counsel. Yaima Abreu (daughter) and Bert Hernandez (translator/facilitator) present as witnesses for Respondent. Mr. Abreu did not contest citation. Sr. Code Enforcement Inspector Nancy Dowling present for the County. After testimony and evidence was taken from all parties, motion was made by Gary Centonze and seconded by Rudy Krause to find Respondent **in violation**. Motion carried unanimously.

**Penalty:**

Motion made by Gary Centonze and seconded by Rudy Krause to fine Respondent \$1,000.00 plus \$100.00 administrative fee, for a total of \$1,100.00, which must be paid within thirty (30) days of date of imposition, or a certified copy of the order issuing the fine shall be filed in the public records of the county thereby creating a lien. Rudy Krause accepted amendment.

**CASE RECONVENED FROM ABOVE – 10:10AM.**

**10:54 A.M.** James D. Hayden, Hayden & Sons, Inc., addressed the Board regarding his expired Painting & Decorating (SP 3300), Cabinet & Millwork (SP 3832), Tile & Marble (SP 3867), and Flooring (SP 3868) (all expired 10/31/2009) certificate of competency licenses as required by M.C.C. 6-240.(b). After discussion, Board unanimously reinstated Mr. Hayden's certificate of competency licenses with back fees of \$190.00 per license renewal, for a total of \$760.00.

**10:56 A.M. CE10020164 NOTICE TO APPEAR**

John G. Mann GC 420B  
All Keys Construction, Inc.  
6-202.(11)a Work without benefit of a permit

Mr. Mann appeared before the Board without legal counsel. Mr. Mann did contest citation. Code Enforcement Inspector Hayes (f/k/a Tsouchlos) present for the County. After testimony and evidence was taken from all parties, motion was made by Bill Kelly and seconded by Peggy Bankester to find Respondent **not in violation**. After discussion, motion carried unanimously.

**CE06060265 6-39(g)(1)(2) - John G. Mann**

The Respondent did not contest or file a Notice of Appeal on this citation.

The Board unanimously agreed County's request to file a lien of unpaid citation if fine of **\$150.00** is not paid within thirty (30) days of date of imposition, or a certified copy of the

order issuing the fine shall be filed in the public records of the county, thereby creating a lien.

- 11:20 A.M.** Frank Spicciati Jr. addressed the Board regarding his electrical contractor application via from Brevard County via reciprocity agreement. Mr. Spicciati's reciprocity letter indicated that Mr. Spicciati had previously received a citation and had to appear before the Board. After discussion, Board approved Mr. Spicciati's electrical application.
- 11:34 A.M.** William Guthrie, Growing Concern Tree & Landscape, Inc., addressed the Board regarding his expired Landscaping Specialty certificate of competency license number SP 3140 (10/31/2009) as required by M.C.C. 6-240.(b). After discussion, Board unanimously approved to reinstate Mr. Guthrie's certificate of competency license with back fees of \$190.00.
- 11:36 A.M.** Ernest Forrest, Flagship Construction Company of South Florida, Inc., addressed the Board regarding his expired Building Contractor certificate of competency license number GC 422B (10/31/2009) as required by M.C.C. 6-240.(b). After discussion, Board approved to reinstate Mr. Forrest certificate of competency license with back fees of \$190.00.
- 11:38 A.M. CE08110080 (Amended) NOTICE OF APPEAL**  
Robert Demauro  
6-66(8)(a) Aiding and abetting

This case is back before the Board as a re-hearing case from the November 9, 2010 CEB hearing since Mr. Demauro did not receive proper service for the 11/09/10 hearing.

Motion made by Gary Centonze and seconded by Peggy Bankester to VACATE prior Order dated November 9, 2010 and re-hear the matter; approved unanimously.

Mr. Demauro appeared before the Board without legal counsel. Mr. Demauro did contest citation. Code Enforcement Inspector Hayes (f/k/a Inspector Tsouchlos) was present for the County. After testimony and evidence was taken from all parties, motion was made by Bill Kelly and seconded by Joseph Vetrick to find Respondent **in violation** based on testimony and **deny appeal**. Motion carried unanimously.

**Penalty:**

Motion made by Bill Kelly and seconded by Peggy Bankester to keep fine at \$500.00 with no administrative fine. Fine must be paid within thirty (30) days of date of imposition, or a certified copy of the order issuing the fine shall be filed in the public records of the county thereby creating a lien. Motion carried unanimously.

- 12:03 P.M.** Alfred (Al) C. Wicht, Pool Designs, addressed the Board regarding his expired Swimming Pool certificate of competency license number SPC 1508 (10/31/2009) as required by M.C.C. 6-240.(b). After discussion, motion was made by Gary Centonze and

seconded by Rudy Krause to reinstate Mr. Wicht's certificate of competency license with back fees of \$190.00 contingent that Mr. Wicht first pays outstanding citation numbers CE09020063 for \$500.00 and CE06120214 for \$500.00 for a total of \$1,000.00.

After discussion, roll call was taken with Steve Henson voting no and Joseph Vetric, Peggy Bankester, Gary Centonze, Rudy Krause, and Bill Kelly voting yes; 5-1 vote; motion passes.

**12:15 P.M.** Mr. Bowerman was sworn-in. Donald L. Bowerman, Don L. Bowerman Builders, Inc., addressed the Board regarding his expired Cabinet & Millwork certificate of competency license number SP 3602 (10/31/2009) as required by M.C.C. 6-240.(b). After discussion, Board unanimously approved to reinstate Mr. Bowerman's certificate of competency license with back fees of \$190.00.

**12:18 P.M.** Kim Benseman, Kim's Custom Carpentry, Inc., addressed the Board regarding his expired Cabinet & Millwork certificate of competency license number SP 2248 (10/31/2009) as required by M.C.C. 6-240.(b). After discussion, Board unanimously approved to reinstate Mr. Benseman's certificate of competency license with back fees of \$190.00.

**12:18 P.M.** Richard Riehl, Riehl Services, LLC., addressed the Board regarding his expired Tile, Terrazzo, and Marble (SP 3214) and Cabinet & Millwork (SP 3543) certificate of competency licenses (10/31/2009) as required by M.C.C. 6-240.(b). After discussion, Board unanimously approved to reinstate Mr. Riehl's both certificate of competency licenses with back fee of \$190.00 per license.

**12:19 P.M.** Lunch break.

**1:40 P.M.** Reconvene. All present for roll call.

**1:40 P.M.** Mr. Wright administered oath.

**CE10030072**

**NOTICE OF APPEAL**

Angel A. Hernandez

Angel's Home Service & Repair

6-234.(a) No certificate of competency and advertising

Mr. Hernandez appeared before the Board without legal counsel. Mr. Hernandez did contest citation. Code Enforcement Inspector Hayes (f/k/a Inspector Tsouchlos) was present for the County. After testimony and evidence was taken from all parties, motion was made by Gary Centonze and seconded by Joseph Vetric to find Respondent **in violation** based on testimony and **deny appeal**. After discussion, motion carried unanimously.

**Penalty:**

Motion made by Gary Centonze and seconded by Bill Kelly to reduce the fine from \$500.00 to \$250.00 plus \$25.00 administrative fee, for a total of \$275.00, which must be paid within thirty (30) days of date of imposition, or a certified copy of the order issuing the fine shall be filed in the public records of the county thereby creating a lien. Roll call was taken with Joseph Vetrick voting no and Bill Kelly, Gary Centonze, Peggy Bankester, Rudy Krause, and Steve Henson voting yes; 5-1 vote; motion passes.

**1:59 P.M. CE10010009 NOTICE OF APPEAL**  
**(Amended)** Paul Fraga PC 398  
Pipes Plumbing, Inc.  
6-202.(5) Violation of workers compensation laws

Mr. Fraga failed to appear before the Board and did not have legal counsel present on his behalf. Mr. Fraga did contest citation. Mr. Fraga called board member Gary Centonze to say that he was not attending the hearing. Code Enforcement Inspector Hayes (f/k/a Inspector Tsouchlos) was present for the County. After testimony and evidence was taken from all parties, motion was made by Rudy Krause and seconded by Bill Kelly to find Respondent **in violation** and **deny appeal**. Motion carried unanimously.

**Penalty:**

Motion made by Rudy Krause to reduce fine from \$500.00 to \$250.00 plus \$25.00 administrative fee, for total of \$275.00. Motion died for lack of second.

New motion made by Joseph Vetrick and seconded by Peggy Bankester recommending fine stands at \$500.00. Mr. Vetrick amended his motion to include a \$100.00 administrative fee, for a total of \$600.00. Peggy Bankester accepted amendment.

Follow-up motion to above motion made by Steve Henson and seconded by Joseph Vetrick recommending that fine/costs be paid within thirty (30) days of date of imposition, or a certified copy of the order issuing the fine shall be filed in the public records of the county thereby creating a lien. Motion carried unanimously.

**2:14 P.M. CE10020007 NOTICE OF APPEAL**  
Larrie Busloff  
Leaping Lizard Tree Service, Inc.  
6-234.(a) No certificate of competency and advertising

Mr. Busloff failed to appear before the Board and did not have legal counsel present. Mr. Busloff did contest citation. Code Enforcement Inspector Hayes (f/k/a Tsouchlos) was present for the County. After testimony and evidence was taken from all parties, motion was made by Peggy Bankester and seconded by Bill Kelly to find Respondent **in violation** based on evidence and **deny appeal**. Motion carried unanimously.

**Penalty:**

Motion made by Bill Kelly and seconded by Peggy Bankester recommending fine to remain at \$500.00 plus \$100.00 administrative fee, for a total of \$600.00, which must be paid within thirty (30) days of date of imposition, or a certified copy of the order issuing the fine shall be filed in the public records of the county thereby creating a lien. Roll call was taken with Joseph Vetrick voting no and Peggy Bankester, Gary Centonze, Rudy Krause, Bill Kelly, and Steve Henson voting yes; 5-1 vote; motion passes.

**2:31 P.M. CE08040230**

**NOTICE OF APPEAL**

Ed Cowart

Docks & Decks

6-77 No certificate of competency

6-57.(a) No certificate of competency and advertising

Mr. Cowart failed to appear before the Board and did not have legal counsel present on his behalf. Mr. Cowart did contest citation. Code Enforcement Inspector Hayes (f/k/a Inspector Tsouchlos) was present for the County.

**M.C.C 6-77**

After testimony and evidence was taken from all parties, motion was made by Rudy Krause and seconded by Bill Kelly to find Respondent **in violation** and **deny appeal**. Motion carried unanimously.

**Penalty:**

Motion made by Rudy Krause and seconded by Bill Kelly recommending \$1,000.00 fine plus \$100.00 administrative fee, for a total of \$1,100.00, which must be paid within thirty (30) days of date of imposition, or a certified copy of the order issuing the fine shall be filed in the public records of the county thereby creating a lien. Bill Kelly accepted amendment; AND

**M.C.C. 6-57.(a)**

After testimony and evidence was taken from all parties, motion was made by Bill Kelly and seconded by Peggy Bankester to find Respondent **in violation** and **deny appeal**. Motion carried unanimously.

**Penalty:**

Motion was made by Bill Kelly and seconded by Joseph Vetrick recommending \$1,000.00 fine plus \$100.00 administrative fee, for a total of \$1,100.00, which must be paid within thirty (30) days of date of imposition, or a certified copy of the order issuing the fine shall be filed in the public records of the county thereby creating a lien. After discussion, motion carried unanimously.

2:42 P.M. CE10080243

**NOTICE TO APPEAR**

Bernardo Gatica  
Ber. & M. Berny, Corp.  
6-77 No certificate of competency  
6-202.(5) Violation of workers compensation laws

Assistant County Attorney Lisa Granger advised that she was treating this citation as a mandatory notice to appear since this citation was mailed with Citation Number CE10080246 and good service was received.

Mr. Gatica failed to appear before the Board and did not have legal counsel present on his behalf. Code Enforcement Inspector Hayes (f/k/a Inspector Tsouchlos) was present for the County.

**M.C.C. 6-77**

After testimony and evidence was taken from all parties, motion was made by Steve Henson and seconded by Bill Kelly to find Respondent **in violation** based on testimony. Motion carried unanimously.

**Penalty:**

Motion made by Steve Henson and seconded by Rudy Krause recommending fine to remain at \$500.00 with no administrative fee to be paid within thirty (30) days of date of imposition, or a certified copy of the order issuing the fine shall be filed in the public records of the county thereby creating a lien. Motion carried unanimously.

**M.C.C. 6-202.(5)**

After testimony and evidence was taken from all parties, motion was made by Bill Kelly and seconded by Peggy Bankester to find Respondent **in violation** based on evidence. Motion carried unanimously.

**Penalty:**

Motion made by Bill Kelly and seconded by Peggy Bankester recommending fine remain at \$500.00 with no administrative fees to be paid within thirty (30) days of date of imposition, or a certified copy of the order issuing the fine shall be filed in the public records of the county thereby creating a lien. Motion carried unanimously.

CE10080246

**NOTICE TO APPEAR**

Bernardo Gatica  
Ber. & M. Berny, Corp.  
6-32 Working through a stop work order

Mr. Gatica failed to appear before the Board and did not have legal counsel present on his behalf. Code Enforcement Inspector Hayes (f/k/a Inspector Tsouchlos) was present for the County. After testimony and evidence was taken from all parties, motion was made

by Rudy Krause and seconded by Bill Kelly to find Respondent **in violation** based on evidence. Motion carried unanimously.

**Penalty:**

Motion made by Rudy Krause and seconded by Bill Kelly recommending \$1,000.00 fine plus \$100.00 administrative fee, for a total of \$1,100.00, which must be paid within thirty (30) days of date of imposition, or a certified copy of the order issuing the fine shall be filed in the public records of the county thereby creating a lien. Motion carried unanimously.

**3:11 P.M.** Recess.

**3:20 P.M.** Reconvened.

WOLFGANG NOACK'S SETTLEMENT AGREEMENT

Mrs. Granger introduced Mr. Noack's signed settlement agreement with Monroe County for Code Enforcement Citation Numbers CE09050105, CE09050108, CE09090121, CE08060020, CE08050113, and CE08080172 to the Board for their review and approval.

Mr. Noack will pay \$3,000.00 in fines plus \$1,500.00 in costs associated with the above-referenced citations, for a total of \$4,500.00. The fines and costs are to be paid out in installments over three (3) month period; first payment of \$1,500.00 due 02/28/11, 03/20/11, and 04/20/11 plus other conditions in the settlement agreement. Six (6) month probation begins 02/08/2011. Settlement agreement was unanimously approved as presented.

NOVEMBER 9, 2010 MINUTES:

Motion made by Bill Kelly and seconded by Peggy Bankester approving minutes as presented. Motion carried unanimously.

NEXT CEB HAERING:

April 12, 2011

BOARD DISCUSSION

Steve Henson addressed the Board regarding the meeting he had with Christine Hurley, Lisa Granger, Tom Wright, Joseph Paskalik, Mary Tucker, and Odalys Mayan on Monday, February 7, 2011 regarding:

- CEB hearing dates.
- Other agencies should coordinate accordingly to CEB dates.

Tom Wright addressed the Board and discussed:

- CEB docket (no backlog at this time).
- Tom Wright's contract is being amended and supposed to go before BOCC for approval in March, 2011. Once contract has been amended, Mr. Wright will start drafting and amending ordinances.
- The Board is a quasi-judicial board. Need to refrain from trying to prosecute cases
- The Board needs to remain impartial and be careful not to give the Respondent the impression that their minds are already made up.
- The Board is no longer receiving evidence/cases prior to hearing date; just agenda
- It is not appropriate for members to conduct their own investigation. A member may become a witness if they try to share their knowledge of the case/evidence.
- Any member that has any discussion regarding a case with anybody, the member will be required to disclose it at hearing.

Lisa Granger addressed the Board and discussed:

- COMPLAINTS. If any member wants to file a complaint, the complaint should be directed to the appropriate code enforcement administrative person rather than the code enforcement inspector directly.
- If a member filed a complaint, it would be appropriate for the member to recuse himself/herself once the case comes before the Board.
- The court has ruled that we (Monroe County) have two conflicting codes. And until we can straighten out the two codes, we cannot hear state certified contractors. M.C.C. 6-56 is the Code that needs to be amended. It will read: "The Board of Appeals and Adjustment is not our local construction board but the CEB is our Board." Another "That Board shall be no less than 7 members and no more than 10 members and can be comprised of the members of the CEB." This will be addressed once Tom Wright's contract is amended.

Gary Centonze addressed the Board with concerns whether or not the code was violated for the Board not meeting on the specified date as required by M.C.C. 6-267.(a) where it states that the CEB must hold four regular meetings each fiscal year during the fourth week in January 25, April 26, July 26, and October 25.

Mr. Wright advised that yes, but there is truly no harm holding a hearing on a day in a month no designated in the M.C.C. 6-267.(a). Mr. Wright did advise that this is another code that needs to be amended.

Joseph Paskalik addressed the Board regarding Christine Hurley and explained how she understands the problems that the Board has been facing and that she is working diligently and she willing to work and resolved the problems.

M.C.C 6-240.(B) EXPIRED CERTIFICATE OF COMPETENCY LICENSES

Tom Wright addressed the Board regarding setting a time certain of 1:30 P.M. to hear contractor's with expired certificate of competency licenses rather than hearing them throughout the day, giving more free time to Lisa Granger to tend to business. After discussion, it was agreed

Rudy Krause addressed the Board with concerns regarding cases that attorneys are involved and they get heard first over other people already waiting. After discussion, it was concluded that while it is not fair to move and hear cases with attorneys over cases that are not represented by attorneys, it benefits the County in the long run. It is not beneficial for the County to have an attorney sitting in all day listening and possibly soliciting clients. It is also a professional courtesy to the attorneys. In addition, the County may be liable for attorney fees and court reporter fees if they County ever lose an appeal.

Lisa Granger: If someone hires an attorney well in advance, the attorney knows to file a Notice of Appearance prior to hearing date.

Steve Henson addressed the Board recommending that the notices to appear include language stating that if an attorney is going to be present, they must file a Notice of Appearance with the County Attorney at least one week in advance for a time certain. Mr. Wright stated that if there is a time-certain procedure, the argument could be made they were properly notified of procedure and that way the County will not be liable for all the waiting time. Mr. Vetrick pointed out that while it is mandatory for federal and state courts for attorney's to file a Notice of Appearance, it is not mandatory for our type of boards.

M.C.C. 6-240.(B) EXPIRED CERTIFICATE OF COMPETENCY LICENSES

Mr. Kelly addressed the Board and the idea of setting a time-certain at 1:30PM for people wishing to address the Board when their license(s) has expired for more than one (1) year and that he believes that the current Code 6-240.(b) where it requires contractors to appear before the Board after their license(s) has expired for more than one (1) year should not be changed.

VACANT SEATS & EXPIRING TERMS

Peggy Bankester's term expires May, 2011. Peggy Bankester requested to be an alternate instead of a full-time member due to personal endeavors. Mrs. Bankester will not be present for the May hearing.

Joseph Vetrick's term expires May, 2011. Mr. Vetrick agreed to remain on the Board as a full-time member.

Frank Toppino's term expires May, 2011. Board instructed staff to contact Mr. Toppino.

Board instructed staff to advertise the air conditioner and/or mechanical vacancy seat for Upper Keys district in the newspaper. Lisa Granger advised that we should look for two (2) lay people and a/c contractors can be from *any* part of the County.

Lisa Granger addressed the Board regarding state certified contractors. Mrs. Granger advised that when an inspector issues a citation to a state certified contractor that they can contact the contractor to offer a settlement in lieu of appearing before the Board to cover the gap. In the meantime, Code Enforcement Inspector Lynn Hayes (Tsouchlos) will be submitting state contractor complaints directly to Department of Business and Professional Regulation.

Bill Kelly addressed the Board regarding Armand Messina's Aluminum Specialty contractor. And he would like for Applicant to appear before the board for questioning regarding his application and reference letters. The Board did not approve Mr. Messina's application earlier in the day when Mr. Messina addressed the Board. Furthermore, discussion took place regarding absentee (ghost) qualifiers and how it is up to the qualifier to ensure that his/her license gets renewed in a timely manner.

The following items were discussed:

- The term "supervision" term in the code be toughened up
- Qualifiers are the only one who can sign a building permit application; not agents

Peggy Bankester advised that she will not be available for the May hearing.

**4:25 P.M.** Adjourned.

**4:51 P.M.** Odalys Mayan read into the record applications that went before the Board requiring Board's approval.

**5:00 P.M.** End.

CD of hearing on file at the Marathon Government Center.

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Odalys Mayan, Coordinator  
Contractor's License  
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Cc: CEB  
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