

**BUILDING BOARD
MEETING
AUGUST 25, 2009**

MEMBERS PRESENT: Mary Fleenor, Chairman
John Burrage, Thomas Cavanaugh, Peter Coccaro,
James McClary, David Reeves, Larry Sandles

OTHERS PRESENT: Randy Cole, Building Official
Suzy Russell, Permit Supervisor
Charles Roth, Ander Roth

CALL TO ORDER/ANNOUNCEMENTS

- A. Roll Call
- B. Introduction of Board Attorney
- Discussed under Item A, Unfinished Business.

APPROVAL OF MINUTES

- A. Meeting of May 26, 2009
- Mr. Burrage MOVED, Mr. Cavanaugh SECONDED approval of the May 26, 2009 minutes.
MOTION CARRIED UNANIMOUSLY.

UNFINISHED BUSINESS

- Recording Secretary Kelly swore in all participants.
- A. Robert Adamo (Ideal Homes) vs. the City of Punta Gorda and City of Punta Gorda Building Board (Circuit Court Case #07-1644-CA)
- Mr. Randy Cole, Building Official, announced this case would be postponed until a Board attorney was retained.
- Ms. Fleenor questioned the timing for same.
- Mr. Cole explained an attorney had actually been selected; however, a problem arose relative to potential conflicts of interest.
- Ms. Fleenor confirmed there was no specific time in which the Board must act on this case.
- Mr. Burrage clarified Mr. Robert Adamo's permitting privileges remained revoked.
- B. Certificate of Competency Application for UDI Underground, Ander Roth, Qualifier
- Ms. Suzy Russell, Permit Supervisor, provided a brief review of this case, as delineated in the Board's May 26, 2009 minutes, stating the Board had denied the Certificate of Competency (COC) application of Mr. Ander Roth, Qualifier for UDI Underground, for failure to provide documentation from the Department of Business & Professional Regulation (DBPR) as requested by staff. She continued Mr. Roth also had not re-submitted his application which had been returned to him for correction.

- Mr. Charles Roth, UDI Underground, confirmed members had been provided with correspondence from UDI Underground, explaining UDI was a communications contractor with Mastec which worked for Embarq. He continued UDI placed telephone cables and service wires to homes but did not contract to individual homeowners. He noted Mastec had been granted a COC, adding UDI worked as an employee of Mastec as opposed to a sub-contractor. He advised UDI had submitted the necessary permit fee in an effort to act as a good neighbor; however, his attorney had advised against submitting personal credit histories, adding their check was then returned along with an explanation of why their COC application had been denied. He stated Ms. Russell had indicated if DBPR informed her UDI was covered under Mastec's license, this would be sufficient; however, he had only been able to obtain same verbally. He asserted he did not believe UDI was covered under general, building or residential contractors.
- Ms. Fleenor questioned the difference between a contractor and an employee.
- Ms. Russell displayed an overhead of the section of City Code defining same.
- Ms. Fleenor asked who paid UDI Underground.
- Mr. Charles Roth replied Mastec.
- Ms. Fleenor asked if Mastec deducted taxes such as FICA for UDI employees.
- Mr. Charles Roth replied UDI paid their own employees.
- Ms. Fleenor concluded UDI was a contractor per the above mentioned definition.
- Mr. Charles Roth countered they did not contract with individuals, adding UDI also maintained liability insurance; however, they were supervised by and worked for Mastec.
- Ms. Fleenor pointed out this made sense as UDI was working as a sub-contractor, stating Mastec had a responsibility to supervise all of UDI's work as the general contractor.
- Mr. Ander Roth interjected the only item UDI was unable to provide was personal credit histories, reiterating same was on the advice of their attorney. He explained any documentation provided to the City became public record, adding they also did not have any open accounts with local suppliers as all material was provided by Mastec. He stated they could not provide any other references as they worked only for Mastec.
- Ms. Fleenor countered UDI had not provided a reference even from Mastec. She observed the application requested five years of work history to which Mr. Ander Roth responded "not applicable," disagreeing with same.
- Mr. Charles Roth stated he had worked in the telecommunications business for 31 years.
- Ms. Fleenor reiterated UDI had not provided the information requested by the City.

- Mr. Ander Roth asked exactly what the City required to remedy this situation.
- Mr. Coccaro interjected it seemed the application was incomplete. He suggested if UDI had no open supply accounts, a response such as “materials supplied by general contractor (Mastec)” would be appropriate.
- Mr. Sandles explained the City was simply looking for some longevity and history.
- Mr. Ander Roth commented the City was looking for previous clients or architects, confirming he could provide non-local data.
- Mr. Charles Roth stated UDI worked over a 6,000 square mile area; thus, he had some concern with regard to this type of fee being required in the numerous municipalities within that area. He expressed understanding of the City’s position with regard to protecting its citizens; however, most communications companies such as UDI were exempt per Florida Statute.
- Ms. Russell interjected Embarq was exempt and hired UDI to perform excavation/digging work. She pointed out the required permit was provided at no cost, adding Embarq was not required to carry a license. She clarified Embarq retained Mastec who in turn retained UDI; thus, UDI was a sub-contractor of a sub-contractor.
- Mr. Sandles requested clarification of the permitting process.
- Ms. Russell replied Embarq pulled the permit on each project.
- Mr. Sandles clarified all others acted as sub-contractors.
- Ms. Fleenor asked if Mastec was required to have a COC.
- Ms. Russell replied affirmatively, confirming same was in place. She noted Mastec was State licensed and certified.
- Mr. Charles Roth stated he had understood UDI would work under Mastec’s State license and State certification.
- Mr. Coccaro asked how same fell under Federal communication guidelines.
- Ms. Russell displayed an overhead of a section of UDI’s contract with Mastec, page 4 of 22, which clearly stated UDI was responsible for permits or licensing.
- Messrs. Charles and Ander Roth both testified they had never been required to pull any permits but rather same were always provided by Mastec.
- Mr. Sandles asked if all sub-contractors under Embarq must be licensed, acknowledging he was unfamiliar with the communications industry.
- Ms. Russell explained the City’s concern was related to equipment digging on property.
- Mr. Sandles requested direction from staff.
- Mr. Cole replied the situation was clear to staff in that a company was considered either an employee or an independent contractor.
- Mr. Sandles clarified UDI was obviously a sub-contractor and thus needed a license.

- Mr. McClary reiterated UDI's contract with Mastec obliged them to obtain all necessary permits and licenses.
- Mr. Reeves clarified the City would not be able to confirm UDI held liability insurance if not for the COC.
- Mr. Cole agreed, stating they would not be required to carry same if they were employees only.
- Discussion ensued with regard to the exact requirements for issuance of a COC to UDI.
- Ms. Russell requested a new, complete application clearly depicting the Board's requests.
- Ms. Fleenor questioned staff's feelings with regard to the applicants being unwilling to provide personal, financial information.
- Ms. Russell replied she had no difficulty with same at the Board's direction provided Mastec submitted a letter stating they were financially responsible for the work being done by UDI.
- Mr. Reeves clarified UDI would be required to hold liability insurance and update same each year.
- Mr. Coccaro MOVED, Mr. Burrage SECONDED to require a new, complete application with the exception of personal financial information but including a statement from Mastec relative to their financial responsibility, after which the City would issue a COC. MOTION CARRIED UNANIMOUSLY.

OTHER BUSINESS

- A. Announcements from Building Official
 - 1. Green Building Update
 - 2. Green Futures Expo & Energy Options Conference
- Mr. Cole announced Charlotte County recently adopted a green building ordinance and drew members' attention to a proposed City ordinance, as denoted within the agenda material, noting same was similar to the County's. He pointed out the ordinance proposed green building to be primarily marketing incentive based, voluntary for the private sector and third party certified. He provided a PowerPoint presentation, as delineated in the agenda material, describing the City's plans on providing information to the public. He announced a Green Futures Expo/Energy Options Conference would be held at the Event Center on November 1-2, 2009. He confirmed the Board had been provided with a flyer advertising same, urging members' attendance.
- Mr. Burrage questioned the incentive behind green building.

- Mr. Sandles replied green building was currently a huge marketing initiative nationwide, stating members of a certain generation tended to have a higher conscience level of sustainability.
- Mr. Cole added the City could not provide financial incentives in light of the current economic climate.
- Discussion ensued with regard to the environmental benefits of green building.
- Mr. Sandles MOVED, Mr. Coccaro SECONDED to support the green building ordinance. MOTION CARRIED UNANIMOUSLY.
- Ms. Fleenor commended staff on their efforts in this area.
- Mr. Burrage asked if permit numbers had increased.
- Mr. Cole replied affirmatively.

ADJOURNMENT

- Meeting Adjourned: 9:46 a.m.

Mary Fleenor, Chairman

Mary Kelly, Recording Secretary