

**BUILDING BOARD
MEETING
JANUARY 27, 2009**

MEMBERS PRESENT: John Burrage, Chairman
Thomas Cavanaugh, Peter Coccaro,
Mary Fleenor, Larry Sandles

MEMBERS ABSENT: James McClary, Al Villalobos

OTHERS PRESENT: Suzy Russell, Permit Supervisor
Randy Cole, Building Official
John Smith, Plans Examiner
Stephen Weiss, Matt Johnston

CALL TO ORDER/ANNOUNCEMENTS

A. Roll Call

APPROVAL OF MINUTES

A. Meeting of November 25, 2008

- Mr. Sandles MOVED, Ms. Fleenor SECONDED approval of the November 25, 2008 minutes. MOTION CARRIED UNANIMOUSLY.

UNFINISHED BUSINESS

- Recording Secretary Kelly swore in all participants.
- Mr. Burrage requested an update on the case involving Mr. Stephen Busbee.
- Ms. Suzy Russell, Permit Supervisor, replied Mr. Busbee had not pursued his application nor had he returned any of her telephone calls.
- Mr. Burrage questioned the status of the ERS Construction case, specifically with regard to restitution.
- Mr. Randy Cole, Building Official, replied there had been no activity, stating Charlotte County had begun to take action. He mentioned the Board's actions had been forwarded to the Department of Business & Professional Regulation (DBPR).
- Mr. Burrage requested a status report on the \$10,000 fine ordered to be paid by PGA ,LLC.
- Ms. Russell replied the fine had not been paid. She mentioned the qualifier's spouse had unsuccessfully attempted to renew his license. She advised Charlotte County was working on a case as well.

NEW BUSINESS

A. Complaint filed against Direct Heating & Cooling

- Mr. Cole reminded the Board of an investigative hearing held several months earlier, stating while there did not seem to be any licensing violations, there was a possibility

of poor business practices, which fell under the Board's purview. He drew members' attention to correspondence from Mr. Ray Leibensperger, homeowner, as delineated in the agenda material, alleging high pressure sales tactics, stating neither Mr. Leibensperger nor a Direct Heating & Cooling representative were able to be present at this meeting. He clarified he simply wished to keep the Board up to date on this case, confirming the investigation remained open.

- Ms. Fleenor MOVED, Mr. Cavanaugh SECONDED to request all parties to appear at the Board's next meeting.
 - Mr. Coccaro asked if the City wished to pursue the issue at this time or did they desire more time.
 - Mr. Cole replied this type of investigation allowed all parties to present their side. He pointed out Direct Heating & Cooling was active in the community.
 - Mr. Burrage requested legal representation at the Board's next meeting.
 - MOTION CARRIED UNANIMOUSLY.
- B. Charges filed against Weiss Construction, Stephen H. Weiss, Qualifier
- Mr. Coccaro disclosed he had contracted with Weiss Construction in the past; however, he clarified he would not benefit or be harmed in any way from voting on this item.
 - Mr. John Smith, Plans Examiner, announced five open permits from 2005 had existed when charges were filed in this case, specifically 1371 Thrasher Drive, 2804 Via Paloma, 1265 Pine Siskin Drive, 1415 Grebe Court and 2790 Luna Court. He stated he had been working with Mr. Matt Johnston, Weiss Construction's aluminum division manager, adding final, approved inspections were done at 1265 Pine Siskin Drive and 1371 Thrasher Drive the previous week. He announced an inspection was scheduled this date for 2804 Via Paloma, leaving two open permits. He briefly reviewed the following violations: Florida Statute (FS) 489.129(1)(j), 5 counts; FS 489.129(1)(m), 5 counts; City Code Section 7-13(a)(3), 5 counts; City Code Section 7-13(a)(6), 5 counts; City Code Section 7-32(a)(2), 5 counts. He noted the above violations were spelled out in the Board's agenda material.
 - Mr. Sandles questioned the period of time in which there was no action on these jobs.
 - Mr. Smith estimated at least one year.
 - Ms. Fleenor asked what action the City had taken in the past four years to gain compliance from the respondent.
 - Mr. Smith explained the subject permits stemmed from post-Hurricane Charley work, stating staff had only recently been able to thoroughly review these types of cases.

- Mr. Cole noted Mr. Smith had successfully closed out over 2,000 permits, stating in a number of cases work was completed but a final inspection never done. He mentioned Charlotte County was dealing with over 20,000 cases of this kind.
 - Mr. Burrage clarified the contractor was responsible to finish out a permit by calling for the proper inspections.
 - Mr. Sandles asked when Weiss Construction was notified of the open permits under discussion this date.
 - Mr. Smith replied within the past year.
 - Mr. Sandles questioned the status of the remaining two permits.
 - Mr. Smith replied one required a plans change as it was not built to original specifications, adding the other required corrections.
 - Mr. Stephen Weiss, qualifier, deferred any questions to Mr. Johnston.
 - Mr. Johnston stated he believed the problems related to the two outstanding permits could be fixed, the first at 1415 Grebe Court where a 2'x4' was used instead of a required 2'x6'. He explained the homeowners did not wish to see any part of the pool cage changed; thus, he hoped he would be allowed to add an additional piece of metal. He commented on 2790 Luna Court, which was built with 2'x8's but required 2'x10's, stating he had permitted same for the former but the spans were incorrect; thus, he planned to install two inches of metal on the pool cage. He noted this would require new engineering, expressing willingness to obtain same within the next month.
 - Mr. Burrage asked if the company was experiencing financial difficulty.
 - Mr. Johnston replied the economy had affected them significantly.
 - Mr. Burrage asked if the homeowners at these various homes were dissatisfied.
 - Mr. Johnston replied they were not but rather had been happy to have a pool cage again so soon after Hurricane Charley hit the area in August 2004.
 - Mr. Weiss clarified all of the cages were built shortly after permits were pulled.
 - Mr. Sandles expressed understanding of the economy's effect on contractors; however, applicants were responsible to maintain contact with the Building Division.
 - Mr. Sandles MOVED, Ms. Fleenor SECONDED to require Weiss Construction to finalize all outstanding permits within 30 days or report back to the Board at their next meeting. MOTION CARRIED UNANIMOUSLY.
 - At Mr. Cole's request, Mr. Weiss and Mr. Johnston both acknowledged the Board's action this date served as their notice to appear on February 24, 2009, if all permits were not cleared.
- C. Charges filed against Supreme Contracting Inc., Sandra K. Jelliff, Qualifier
- Mr. Burrage confirmed the qualifier, Ms. Sandra Jelliff, was not present.

- Mr. Smith announced Supreme Contracting had seven open permits at Buttonwood Mobile Home Park, 701 Aqui Esta Drive, Lots 8, 52, 54, 84, 85, 149 and 154. He stated several attempts to contact a representative of Supreme Contracting over the past year had all been met with minimal response, adding there had been no contact for at least three months before they were served with notice for this hearing. He mentioned all jobs had been inspected and disapproved because of deficiencies. He noted Mr. Andrew Jelliff had telephoned him on January 15, 2009, from the job sites to ask what needed to be done to rectify the situation; however, there had been no further contact for the past 12 days nor had the problems been eliminated. He reviewed the following charges being brought against Supreme Contracting: FS 489.129(1)(j), 7 counts; FS 489.129(1)(n), 7 counts; City Code Section 7-13(a)(3), 7 counts; City Code Section 7-13(a)(6), 7 counts; City Code Section 7-32(a)(2), 2 counts; City Code Section 7-13(a)(2), 7 counts.
- Mr. Burrage commented the agenda material indicated eight counts on each of the above charges.
- Mr. Smith explained same was simply a miscalculation on his part.
- Ms. Russell confirmed Ms. Jelliff had been properly noticed for this hearing via personal service by a process server on January 15, 2009, at 9:00 a.m., as she had been unable to attain service through certified mail.
- Ms. Fleenor commented it seemed the violations were being avoided, asking if the Board could act with the qualifier not present.
- Mr. Cole responded this was a State licensed contractor; thus, the Board could only revoke their City permitting privileges, advise the DBPR of same and ask them to discipline the qualifier.
- Ms. Fleenor asked if the Board could impose fines at this time or if the case should be continued.
- Mr. Burrage agreed, stating the qualifier was not able to present a defense.
- Ms. Fleenor countered she did not feel this was a case of being unable to present a defense but rather the situation was being avoided; however, continuing the case provided the qualifier one more opportunity.
- Mr. Cole countered fines could be considered discipline; however, costs could not, stating the City could request reimbursement for costs incurred through attempts to serve the qualifier.
- Ms. Fleenor MOVED to suspend Supreme Contracting's licensing/permitting privileges until an appearance before the Board and to proceed with revocation if the qualifier failed to appear.

- Mr. Burrage asked if there were any other outstanding jobs in the City.
- Mr. Smith replied there were not.
- Mr. Coccaro clarified Supreme Contracting was not active at all.
- Mr. Smith agreed, stating their place of business had been vacated.
- Mr. Cole asserted these were serious infractions, citing an example of a screen enclosure torn off during a storm event and subsequently damaging the mobile home roof. He explained the homeowner's insurance company would not approve such a claim.
- Mr. Coccaro asked if the City would advise the homeowners accordingly.
- Mr. Smith replied the homeowners had not been notified as of this point as staff was still attempting to work directly with the contractor.
- Mr. Burrage questioned the extent of the deficiencies.
- Mr. Smith opined same could be rectified within a two week period; however, Mr. Jelliff had advised they did not have adequate funds to finish these jobs.
- Mr. Cavanaugh asserted his belief the homeowners should be notified sooner rather than later to allow them the option of retaining another contractor.
- Mr. Cole responded staff would do so, acknowledging these problems would fall back on the property owner.
- Ms. Fleenor expressed agreement the City should be proactive, stating perhaps an irate homeowner may have more effect than the Board.
- Mr. Smith explained Supreme Contracting's business line was no longer in service.
- Mr. Coccaro SECONDED.
- Mr. Coccaro suggested immediately proceeding to the State level as opposed to waiting 30 days.
- Ms. Fleenor WITHDREW her MOTION.
- Mr. Coccaro WITHDREW his SECOND.
- Mr. Sandles MOVED, Ms. Fleenor SECONDED to revoke the permitting privileges for Supreme Contracting, Inc., to advise DBPR of same, including all counts denoted in the agenda material, to recommend DBPR impose the fines associated with those counts, and to notice Supreme Contracting, Inc. to appear before the Board on February 24, 2009.
- Mr. Cavanaugh asked if homeowners would be advised of specific deficiencies.
- Mr. Smith replied they would be notified their screen enclosures were not in compliance.
- MOTION CARRIED UNANIMOUSLY.

- D. Charges filed against Stevar Property Developers, Inc., Eric M. Langer, Qualifier
- Ms. Russell announced the City had been unable to attain service on this qualifier, asserting \$95 had been expended thus far attempting same.
 - Mr. Coccaro asked what type of license was held by the qualifier.
 - Ms. Russell replied Mr. Eric Langer, qualifier, was a State certified general contractor.
 - Mr. Coccaro pointed out the Construction Industry Licensing Board (CILB) required any contractor to report an address change within ten days. He asked if the City could move forward and notify DBPR.
 - Ms. Russell replied affirmatively, stating she had also notified Charlotte County the previous day.
 - Ms. Fleenor MOVED, Mr. Coccaro SECONDED to inform DBPR of Mr. Langer's failure to report an address change, to notify DBPR of each violation depicted in the agenda material, to recommend DBPR impose applicable fines and to suspend the qualifier's permitting privileges in the City. MOTION CARRIED UNANIMOUSLY.
- E. Charges filed against Powell Building Contractors, Inc., Robert S. Powell, Qualifier
- Ms. Russell announced all fees had been paid.
- F. Charges filed against Frederick Hall (former qualifier of Florida Exterior & Roofing)
- Mr. Smith announced Florida Exterior & Roofing performed work without a permit, adding after verification of same, they were advised of the requirement to pay four times the fee. He noted a permit application was submitted but then rejected as the engineering had expired. He explained since that time he had been unable to contact anyone other than the "permit runner," adding there was no working telephone number other than for the runner. He confirmed the qualifier was served for this hearing. He concluded with a review of the charges associated with work at 435 Sorrento Court, as outlined in the agenda material.
 - Ms. Russell mentioned while Mr. Hall was only being charged with one count per violation, this was not his first case before the Board.
 - Mr. Coccaro noted Mr. Hall had a Cape Coral address, asking if the City had notified the Cape Coral Building Department.
 - Ms. Russell replied they did not but rather simply notified DBPR and Charlotte County.
 - Mr. Cole commented he and representatives of other municipalities contacted DBPR with regard to setting up a State-wide notification program, especially with regard to non-State certified contractors; however, DBPR had advised they did not wish to coordinate such a program.
 - Ms. Fleenor opined neighboring communities should be notified.
 - Mr. Cole concurred.

- Mr. Sandles MOVED, Mr. Coccaro SECONDED to suspend the qualifier's permitting privileges in the City, to notify DBPR of the counts listed in the agenda material and to request Mr. Hall's appearance before the Board on February 24, 2009. MOTION CARRIED UNANIMOUSLY.

OTHER BUSINESS

- Mr. Burrage announced Election of Chairman and Vice Chairman would be held at the February 2009 meeting.
- Mr. Cole announced Recreational Vehicle (RV) parking, garage sale, boat maintenance and temporary parking in the right-of-way (ROW) permits were now available by electronic mail through the Code Compliance Division.
- Ms. Fleenor questioned the allowable times an RV could be parked in the street.
- Ms. Russell replied seven days in a thirty day period.
- Ms. Fleenor asked if the permit must be prominently displayed.
- Ms. Russell replied affirmatively, stating the permit was 8 ½"x11" in size and must be able to be viewed from the street.
- Mr. Sandles interjected he did not believe RVs could be parked in the street.
- Ms. Russell agreed they could not; however, the permit must be displayed in a window facing the street.
- Ms. Fleenor mentioned she was personally aware of at least one ongoing violation.
- Mr. Cole noted allowance was made for an RV owner who arrived in town very late; however, he agreed an ongoing situation was not allowed.
- Mr. Burrage commented the Planning Commission had been reviewing this particular section of City Code along with City staff.
- Mr. Sandles then announced the Revitalization Committee had been following a situation involving negative appearance of mobile homes located immediately outside City limits, stating there had been a great deal of discussion as to what entity was responsible for enforcement of appearance regulations. He asked Mr. Cole if he had been involved or was aware of same.
- Mr. Cole replied he had not; however, he expressed willingness to look into the situation at the County's request. He then commented on the cases heard this date, stating Ms. Russell and Mr. Smith had been working diligently on such cases for the past 18 months and had closed out over 2,000 open permits.
- Mr. Smith noted approximately 700 permits remained open at this time.
- Ms. Fleenor commended Mr. Smith, Ms. Russell, Mr. Cole and the entire Building Division on a job well done.

ADJOURNMENT

- Meeting Adjourned: 10:06 a.m.

John Burrage, Chairman

Mary Kelly, Recording Secretary