

**MINUTES**  
**CITY OF KEY COLONY BEACH**  
**CODE ENFORCEMENT BOARD HEARING**  
Wednesday, January 11<sup>th</sup>, 2023 - 9:30 a.m.  
City Hall Annex & virtually via Zoom Conferencing

**1. Call to Order, Pledge of Allegiance, and Roll Call:** *The meeting was called to order by Vice-Chair John Dalton at 9:30 am followed by the Pledge of Allegiance and rollcall. **Present:** Kimmeron Lisle, George Lancaster, Tom DiFransico, Larry Mills, John Dalton. **Also Present:** City Administrator Dave Turner, City Clerk Silvia Gransee, City Attorney Ryan Benninger, City Attorney Janette Smith (virtual), Code Board Attorney Jim Dorl, police Corporal Jamie Buxton, Officer Ross Bethard, Code Officer Barry Goldman. **Public Attendance: 17***

**2. Swearing in of Newly Elected and Re-appointed Board Members:** *City Clerk Gransee administered the Oath of Office to Tom DiFransico and Larry Mills.*

**3. Election of Chair & Vice-Chair:** *City Clerk Gransee asked for nominations for Chair. George Lancaster nominated John Dalton. There were no other nominations. City Clerk Gransee asked for a show of hands in support of John Dalton as Chair. All members raised their hands. City Clerk Gransee asked for a nomination for Vice-Chair. George Lancaster nominated Tom DiFransico for Vice-Chair. There were no other nominations. City Clerk Gransee asked for a show of hands in support for Tom DiFransico for Vice-Chair. All members raised their hand.*

**4. Approval of Minutes:** *The Code Enforcement Board meeting minutes from July 13, 2022, were accepted as written.*

**5. Swearing in of Witnesses to Testify:** *City Administrator Turner administered the Oath of Witness to all witnesses.*

**6. Notice of Ex-Parte Communication:** *Code Board Attorney Jim Dorl noted communications with Mr. Rodriguez but stated that the conversation will have no impact on the legal advice the Board will receive today. Chair Dalton reported on receiving communications not pertaining to the day's hearing.*

**7. Cases for Hearing:**

**A. (C) Property Address: 760 12<sup>th</sup> Street – Violation: Discharge into Waters Restricted, relative to the structure located at 760 12<sup>th</sup> Street (Ordinance 5-7)**

*City Attorney Ryan Benninger asked for Agenda Item C to be presented first. The Board had no objection. City Attorney Ryan Benninger stated the case for the record and called City Clerk Gransee as his first witness. The witness was not called.*

*Code Officer explained that a stipulation might be in order by the respondent. Mr. Camacho, the representative for the respondent, stated acceptance of guilt and asked for reconsideration of proposed fine and to mitigate to a lesser amount.*

*Code Officer Barry Goldman explained the violation and accrual of fines to the board. It was clarified to the Board that Mr. Camacho was presenting the respondent in the hearing. A Power of Attorney was presented as Exhibit A.*

*The Board and Code Board Attorney had no objections to the Power of Attorney as Exhibit A. Tom DiFransico asked if negotiations were undertaken with the respondent. Code Officer Goldman explained prior negotiations with the respondent to the Board.*

*Code Officer Goldman explained the negotiation process in stipulation agreements. A brief discussion followed on the process. Code Board Attorney Dorl explained discussions on responsibility took place after the last meeting. Tom DiFransico asked if a DEP violation occurred. Code Officer Goldman explained that the DEP was contacted which referred the matter to the Code Officer for local jurisdiction. The Code Officer further explained the process of the DEP.*

*Chair Dalton asked about the details on the violation. Code Officer Goldman recalled the day in question and his observations. Mr. Goldman further stated that the respondent accepted responsibility. Mr. Camacho agreed with the Code Officers recollection of events.*

*The Board asked about accumulation of fees which Code Officer Goldman gave his opinion on.*

*Mr. Camacho addressed the Board and apologized on behalf of the owners and offered a payment of fine of \$2,500.00 plus a \$1,000.00 fee.*

*Chair Dalton stated that the damage was done and there is a mandated fine.*

*Discussion followed on the assessment of fine.*

*Kimmeron Lisle asked what the City is asking the Board to consider.*

*City Attorney Benninger explained the Code that was violated and stated a \$500.00 per day fine until remediated. City Attorney Benninger stated that the issue cannot be mitigated due to the nature of the violation and further stated that this leads to the decision of the maximum penalty and the city is asking the Board to consider \$5,000.00 plus the fees of the City.*

*The Board had no questions. Chair Dalton gave his thoughts on the case and asked for a motion.*

***MOTION:*** *Motion made by Tom DiFransico, seconded by George Lancaster, to assess a fine of \$5,000.00 plus the cost of prosecution.*

***DISCUSSION:*** *Discussion followed if a finding of violation is needed.*

***ON THE MOTION:*** *Motion withdrawn by Tom DiFransico.*

***MOTION:*** *Motion made by Tom DiFransico, seconded by John Dalton, that a violation had occurred.*

***DISCUSSION:*** *None.*

***ON THE MOTION:*** *Rollcall vote. Unanimous approval.*

***MOTION:*** *Motion made by Tom DiFransico, seconded by John Dalton, to award a fine in the amount of \$5,000.00 plus the cost of prosecution in the amount of \$1,068.76.*

***DISCUSSION:*** *None.*

***ON THE MOTION:*** *Rollcall vote. John Dalton – Yes. Kimmeron Lisle – No. George Lancaster – No. Larry Mills – No. Tom DiFransico – Yes. The Motion failed.*

*Kimmeron Lisle stated her opinion on the case and asked the Chair for further discussion.*

*George Lancaster stated his opinion on the case and his thoughts on the fine.*

*Mr. Camacho addressed the Board and asked the Board to vote on the offer of the respondent.*

*City Attorney Benninger asked the Chair for a recess. There were no objections.*

*After a brief recess the hearing continued.*

*Mr. Camacho continued addressing the board and offered the payment of a fine in the amount of \$2,500.00 plus the cost of prosecution.*

*John Dalton gave his point of view on the offer.*

*Code Board Attorney Jim Dorl explained the available options for the Board to continue the hearing.*

*Mr. Camacho explained the respondent's absence from the hearing.*

*The City Attorney's clarified Code Board Attorney Jim Dorl's role in the hearing.*

*City Attorney Benninger stated the current situation to the Board.*

**MOTION:** *Motion made by Kimmeron Lisle, seconded by Tom DiFransico, to reconsider the fine in the amount of \$5,000.00 plus the cost of prosecution in the amount of \$1,068.76.*

**DISCUSSION:** *None.*

**ON THE MOTION:** *Rollcall vote. Kimmeron Lisle – Yes. George Lancaster – Yes. Tom DiFransico – Yes. Larry Mills – No. John Dalton – Yes. The motion passed.*

*City Attorney Benninger stated that an order will be prepared to be circulated.*

**B. (A) Property Address: 331 10<sup>th</sup> Street - Violation: Illegal Dumping Code Section 7-12.**

*City Attorney Ryan Benninger stated the case to the Board and explained the violation that occurred.*

*City Clerk Gransee was called as the City's first witness.*

*Code Enforcement Officer Goldman declared that the owners stipulate to the violation and recalled the events of the case. Code Officer Goldman further explained the DEP involvement and chain of events.*

*Code Officer Goldman further recalled facts of the case to the Board.*

*Discussion continued on the question if a permit was required for the clean-up and possible maximum amount of fine and fees to the City.*

*Code Officer Goldman confirmed that the City is satisfied with the respondent's response to the case.*

*The respondent, Armando Rodriguez, owner of 331 10<sup>th</sup> Street, addressed the Board and stated his case including the instructions he received from the DEP. The respondent's wife, Vivian Rodriguez, stated her recollection of the case and recalled that the violation occurred around the holiday. Mrs. Rodriguez recalled the details of the case and her opinion of what went wrong.*

*City Attorney Ryan Benninger explained the City's understanding of the respondent's intentions and asked the owners if they agree that a violation occurred. After a brief discussion, the owner's wife agreed that a violation had occurred.*

**MOTION:** *Motion made by George Lancaster, seconded by John Dalton, to accept the stipulation that a violation has occurred.*

**DISCUSSION:** *City Attorney Benninger explained the nature of the stipulation.*

**ON THE MOTION:** *Rollcall vote. Unanimous approval.*

*Chair John Dalton stated his opinion on days for the assessment of fines. Discussion followed on how many days the fines should be assessed for.*

*The respondent gave the dates of events from the notice of violation to final clean-up to the Board.*

*Mr. Rodriguez explained the expectations he had from the contractor regarding debris. Mr. Goldman explained how the debris was discharged into the water.*

*Mr. Rodriguez gave testimony on who performed the work on his property.*

*Building Official Leggett recalled his recollection of the violation and chain of events that included the issuance of a stop work order. Code Officer Goldman gave further recollections of the incident. The*

*respondents gave testimony that they were in Miami preparing for a hurricane and having receipts for debris removal. Kimmeron Lisle stated her thoughts on the violation and that it is the owner's responsibility to make sure the work is done correctly.*

*Mr. Rodriguez gave further testimony on his recollection of events and reasoning behind the violation. Code Officer Goldman explained to the Board the layout of the dock.*

*Building Official Leggett gave further information on the violation that occurred.*

*George Lancaster gave his thoughts on the case and the question on the assessment of a fine.*

*Discussion followed on when the DEP issued the letter on when work can start. Code Officer Goldman gave his opinion on the debris that was discharged in the water.*

*Chair Dalton gave his thoughts on the violation that occurred, the question on assessment of days, and whether it was done in ignorance.*

*City Attorney Benninger stated the facts the City relies upon.*

*Further discussion followed on the days of violations and on what days the notices were sent to the respondents.*

*City Attorney Benninger gave the cost of prosecution for the case as \$797.27.*

*The respondent's wife gave further testimony on the case.*

*Discussion followed on the use of hearsay to help stipulate a fine. Code Board Attorney Dorl gave his opinion. George Lancaster asked if a building permit violation had taken place. Building Official Leggett stated that a violation was found, and an after-the-fact permit was applied for and resolved.*

*The respondent gave further testimony on the use of the duplex for private use and as a vacation rental.*

*Further testimony followed by the respondents on the work that was performed and by whom it was done.*

*City Attorney Benninger stated that the City is prepared to withdraw its original assessment of days to a 34-day violation period, a consideration of a fine be imposed at a value of \$500.00 per day in addition to \$797.20 cents for the cost of prosecution for a total of \$17,797.20.*

*Discussion followed on the assessment of fines.*

*Code Officer Goldman gave his opinion on the case and asserted that this case is a deliberate act.*

*The respondent's wife gave testimony to the Board on alleged promises of negotiations.*

*Code Officer Goldman gave his statement on the respondent's wife testimony.*

*Chair John Dalton explained the meaning of mitigation. Kimmeron Lisle stated her opinion of the case and her thoughts of the homeowner's responsibility. Kimmeron Lisle further gave her thoughts on deliberate intent and no communications from the homeowner with the city. Kimmeron Lisle stated that she agrees with the City on the assessment of days.*

*The owners' wife gave further testimony on the violation that had occurred.*

*Code Board Attorney Jim Dorl stated that the Board can cut discussion and can move forward with their decision making.*

**MOTION:** *Motion made by George Lancaster, seconded by Kimmeron Lisle, to assess the City's estimate of 34 days and assess a fine in the amount of \$17,000.00 plus the cost of prosecution in the amount of \$797.20.*

**DISCUSSION:** *A brief discussion followed on the assessment of fines and assuming responsibilities. George Lancaster explained his thought process on the motion.*

**ON THE MOTION:** *George Lancaster withdrew his motion.*

**MOTION:** Motion made by Larry Mills, to accept 34 days at \$500.00 as the City recommended in addition to the fine to the City in the amount of \$797.20. There was no second.

**DISCUSSION:** Discussion followed on the daily assessment of fine.

**ON THE MOTION:** Motion failed.

The Board continued discussing the protocol on the assessment of fines and the ability to change the daily fee. Code Officer Goldman gave further thoughts to the respondent on compromises the City has accepted. The respondent asked the Board to reconsider the number of days to be assessed. City Attorney Benninger stated the respondents right to appeal today's decision if not satisfied.

The Board and Code Board Attorney Dorl further discussed the assessment of days for a daily fine.

Code Officer Goldman suggested for the respondent to make an offer of compromise. Code Board Attorney Dorl confirmed that an offer can be made by the respondents and the matter can be stipulated and settled at any time. Mrs. Rodriguez made an offer for three days and to waive the right to appeal. City Administrator Turner stated not to be prepared to make a comment on the offer. Code Officer Goldman gave further input on the offer with Kimmeron Lisle supporting the City.

Chair Dalton stated his understanding on the assessment of days and fines, and his thoughts on how to move forward.

The respondent asked if the Board can accept a fine of \$5,000.00. Code Board Attorney Dorl confirmed the Board has the ability to accept the offer as a settlement discussion.

City Attorney Benninger reiterated the City's position on an assessment of fines for 34 days at \$500.00 per day in addition to the cost of prosecution in the amount of \$797.20.

Chair Dalton gave further thoughts and expressed his understanding to Mrs. Rodriguez.

City Attorney Benninger reminded the Board that the City compromised from 48 days to 34 days in the assessment of days. Further discussion followed. Code Board Attorney Dorl explained that the appeal from today's decision has to go to the Appeals Court but he believes the respondent can talk to City Counsel. The Board further talked on the appeals process with City Attorney Benninger clarifying that the appeal has to go to the Circuit Court of Monroe County. Further discussion followed on the possibility of the mitigation of a lien with the City.

**MOTION:** Motion made by George Lancaster, seconded by Kimmeron Lisle, to assess a fine for 34 days at \$500.00 per day in the amount of \$17,000.00 in addition to the cost of prosecution in the amount of \$797.20.

**DISCUSSION:** None.

**ON THE MOTION:** Rollcall vote. Unanimous approval.

Chair Dalton called for a recess for lunch for one hour.

The Code Board Hearing reconvened at 1:00 pm.

**C. (B) Property Address: 908 W. Ocean Drive – Violation: Construction Activities without a Permit (two counts).**

Chair John Dalton called the meeting back to order. City Clerk Gransee called for roll with all Board members accounted present and administered the Oath of Witness to all testifying. No ex-Parte communications were reported.

*City Attorney Benninger called City Clerk Gransee as his first witness. City Administrator Turner administered the Oath of Witness to City Clerk Gransee. The City Clerk testified to her name, job responsibilities, and compiling the hearing's agenda packet. City Attorney Benninger asked for the agenda packet to be submitted as Exhibit A. There were no objections or questions for the City Clerk from the opposing counsel.*

*City Attorney Benninger called Code Enforcement Officer Barry Goldman as his next witness. Code Officer Goldman testified to his name, job and explained the violations by the respondent and chain of events. Code Officer Goldman explained the layout of the respondent's property and recalled conversations and encounters with the respondent regarding the code violation. Code Officer Goldman updated on permits and applications and explained the roofline issue. Code Officer Goldman restated the facts presented by the City and confirmed he had not heard from the respondent regarding mitigating the problem. Code Officer Goldman explained that a separate violation was noticed concerning the dock and sea wall. Code Officer Goldman explained the violation concerned utility lines running under the dock with no permit found.*

*The Code Officer further reported on an application received from Superior Electric to install a GFI outlet on the dock.*

*Code Officer Goldman confirmed impact to human health and safety due to the nature of the code violation and asked to enforce the notice of violation penalty and for corrective action to have the dock and roof repaired including an Army Corp's and DEP study for water and electric for the dock.*

*City Attorney Benninger had no further questions.*

*Cross examination by the opposing counsel followed. Code Officer Goldman testified to the properties and layout of the buildings, Florida Statutes on permits and issued permits, as well the location of the property lines. Cross examination by the opposing counsel continued.*

*The Property Appraisers Card for the property located at 908 West Ocean Drive was entered into the record as Exhibit B.*

*The opposing counsel continued further cross examination of Code Enforcement Officer Goldman on ingress and egress for the property owners, titled interests, easements, and deed restrictions.*

*The respondent's counsel and Code Officer Goldman continued discussion.*

*Cross examination continued on the removal of the metal roof, stucco, and where the property lines run, and the question if a surveyor was engaged by the city.*

*Code Officer Goldman further testified to Mrs. Tremblay's ability to enter and exit the property in correlation to the removal of the roof or stucco.*

*Further cross examination continued on the property appraiser card for the property in question, permit application, prior ownership of the property, prior permits issued, and completed inspections.*

*City Attorney Benninger objected opposing counsels questioning due to lack of foundation and prior questions answered.*

*Cross examination continued on the purpose of the permit, Florida Statutes on underground utility lines, and the owner being out of the country in Puerto Rico,*

*The opposing counsel had no further questions.*

*Code Board Attorney Dorl asked if the City had a redirect.*

*City Attorney Benninger asked Code Enforcement Goldman on the issue of prior permits issued and if permits are issued verbally.*

*City Attorney Benninger had no further questions. Code Board Attorney Dorl reminded opposing counsel of no re-cross or re-direct unless directed by the Code Board Chair. Chair Dalton allowed the re-direct. The opposing counsel asked about the possibility of permits written but not issued to which Code Officer Goldman was not aware of.*

*City Attorney Benninger reserved the right for rebuttal.*

*City Attorney Benninger called Terrence Justice as his next witness. Code Board Attorney Dorl explained the process of questioning witnesses. Code Enforcement Officer Goldman explained the requirements of permits to Board member Tom DiFransico.*

*Chair Dalton asked questions on building regulations which the Code Officer stated should be answered by the Building Official.*

*The Board continued asking the Code Officer questions on the case including questions on a party wall agreement for the property in question.*

*Code Officer Goldman continued testifying on behalf of the City. The opposing counsel had no further questions.*

*City Attorney Benninger called Terrence Justice as his next witness. Terrence Justice testified to his name, prior job responsibilities, and explained his involvement in the case and described his recollection of findings. Terrence Justice testified on the topic of permits, engineering drawings, and to permit requirements for roofs and the distinction of the property in question as a townhome.*

*Terrence Justice continued testifying on the submerged electrical lines and explained the Florida Building Code requirements. Continued testimony followed on the electrical permit application by Superior Electric.*

*Examination continued on the permit mentioned in earlier testimony.*

*A scanned copy of permit No. 11274 was entered into the record as Exhibit C.*

*Terrence Justice explained the detail of the permit and his understanding of the scope of work as well as correspondence with and decisions made by the former Building Official. After further testimony by Terrence Justice the City Attorney had no further questions.*

*The opposing counsel cross examined Terrence Justice about when he was the acting Building Official and his work relationship with Code Officer Goldman. Terrence Justice explained the roles of Building Official and Code Officer and testified to Florida Statutes, permit questions, and missing elements on the engineering report.*

*Cross examination continued. Terrence Justice further testified on questions on jurisdiction and procedures for sub-aqueous electric lines.*

*The opposing counsel had no further questions.*

*City Attorney Benninger gave Terrence Justice a brief re-direct on DEP, or Army Corps of Engineering, acknowledgments, permit dates, Florida Statutes, and the impact on human health and safety.*

*City Attorney Benninger had no further questions.*

*Board member Kimmeron Lisle asked about the classification of the structure as a townhome. Terrence Justice explained the designation of the property in question and applicable rules regarding Florida Statutes, permits, and contractors.*

*City Attorney Benninger called Chris Corso as his next witness. Chris Corso testified to his name and address and his understanding on being a witness at today's hearing. Mr. Corso stated his recollection of events and testified to observing the violation and when it occurred. Mr. Chris Corso further testified to the recollection of events with his neighbor.*

*City Attorney Benninger had no further questions.*

*The opposing counsel cross examined Mr. Chris Corso. Chris Corso testified to his recollection of events. Cross examination continued of Mr. Chris Corso including his understanding of junction boxes, observing the neighboring property, underwater electrical lines, and when underwater electrical work was performed.*

*The opposing counsel had no further questions. The City Attorney had no re-direct.*

*Chair John Dalton called for a brief recess. The Hearing continued afterwards.*

*City Attorney Benninger called Mrs. Tremblay as his next witness. Mrs. Tremblay testified to her name, address, and history of ownership. Mrs. Tremblay testified to the removal of the roof and events that followed. Mrs. Tremblay further testified that no repairs have taken place and that no approval was given for the removal of the roof.*

*City Attorney Benninger had no further questions and passed the witness for cross examination.*

*Mrs. Tremblay testified on the existence of electrical lines and when pictures were taken to prove of their existence. Further examination continued including the ingress and egress for the property, questions on the relevance to the roof removal, and ownership of the roof.*

*Cross examination continued. Code Board Attorney Dorl granted City Attorney's Benninger objection to questions on having filed a lawsuit. Further discussion followed by the Code Board Attorney and opposing counsel on relevance.*

*Continued examination by the opposing counsel continued on when the roof was removed and the relevance of a text from the respondent in December 2021. Mrs. Tremblay further testified on the events of the day and the interaction with former Building Official Roussin.*

*City Attorney Benninger had no redirect.*

*Upon questioning by the Board, Mrs. Tremblay explained the location and size of the section of the roof that was removed. Further discussion followed including the size and overall impact on the roof, and the question of impact on ingress and egress.*

*City Attorney Benninger had no further questions and closed their case.*

*The opposing counsel called the respondent Jody Cox to testify. Mr. Jody F. Cox testified to his name and address. Jody Cox testified on having no agreements with Mrs. Tremblay other than the easement for egress and ingress. Mr. Cox testified on applying for a building permit and his intentions of installing solar panels. Mr. Cox gave further testimony on his understanding of receiving verbal approval.*

*Mr. Cox testified to the events of the day and the removal of the roof and stucco and gave testimony on engineering drawings and additional timeline of events.*

*Jody Cox testified that no water damage occurred from Hurricane Ian and further testified towards his accreditations.*

*Mr. Jody Cox continued testifying on plans of reapplying for a permit and testified on sharing permit fees with the previous property owner for electrical work for underground utilities. The respondent further testified to being previously employed by FKEC as was the previous owner. Testimony followed on completed work, after-the-fact permits, and inspections by Ed Borysiewicz's inspection crew and by Superior Electric. Jody Cox continued testifying on his understanding that no DEP or Army Corps of Engineers approval was required for man-made canals and requested requirements for code compliance from the Building Department.*

*City Attorney Benninger cross-examined Jody Cox on applications for building permits and on having received a permit for the roof. Jody Cox gave testimony towards his accreditations, their validity in Monroe County, doing work on his house, and the nature of Permit No. 11274.*

*Further cross examination followed on the nature of the permit 11274, a text message from December 2021, communications with Mrs. Tremblay, and the before mentioned installation of solar panels on the house.*

*City Attorney Benninger had no further questions.*

*The opposing counsel redirected Jody Cox on the subject of the shared dock and slip deeds.*

*Upon questioning by the Board, Jody Cox confirmed the scope of completed work included electrical,*



water, and dock work. Code Officer Goldman confirmed that no permit was issued for the work. Jody Cox further testified to the hiring of an outside contractor for roofing work and the intention of hiring a solar company once the roof was completed.

Further testimony followed on the before mentioned slip deed and the deed being recorded in the courthouse but not in his name. Code Board Attorney Dorl advised the Board that the testimony can be evaluated and gave his opinion regarding unrecorded deeds. Discussion followed on the validity of the deed.

The opposing counsel asked to call an additional witness and explained the relevance of the testimony. Code Board Attorney Dorl advised that the Board can allow the testimony. City Attorney Benninger reserved his objection for relevance of the witness. The opposing counsel stated understanding of the limited scope of the witness. The witness still showed online but apparently had stepped away from the computer.

The opposing counsel had no further witnesses and rested.

City Attorney Benninger asked for Code Officer Goldman as his rebuttal witness. Code Officer Goldman testified on having completed a deed search and no slip deed was recorded with the county. Further testimony followed on work done without a permit which violated federal and local regulations, and options for the respondent to resolve the problem.

Code Board Attorney Dorl advised the Code Board on the ability to ask Code Officer Goldman questions on testimony that was given. The Board had no questions.

City Attorney Benninger asked for Building Official Lenny Leggett as a rebuttal witness. Building Official Leggett testified on his role as the acting Building Official of Key Colony Beach, his awareness of the pending code violations, and having undertaken investigation on permit applications that were reportedly made on the property. Building Official Leggett further testified on no records of solar panels in the received application.

The opposing counsel had no further questions.

Upon questioning by the Board, Building Official Leggett clarified the received permit application and that no permit was issued.

Code Board Attorney Dorl advised that both sides had rested and recommended closing arguments of no more than five minutes each.

City Attorney Benninger presented his closing arguments to the Board.

Following closing arguments discussion followed on the assessment of days for when the violation had occurred.

Code Board Attorney Dorl advised for opposing counsel to present his closing argument.

The opposing counsel presented his closing argument to the Code Board.

The Board and Code Enforcement Officer Goldman continued discussion on the assessment of days.

Code Board Attorney Dorl recommended on rules of procedures on asking witnesses questions.

Board member Kimmeron Lisle asked on the finding of a violation prior to the assessment of a fine. City Attorney Benninger asked for separate findings on the violations.

**MOTION:** Motion made by Tom DiFransico, seconded by John Dalton, to find that a roof violation occurred.

**DISCUSSION:** Discussion followed on whether a verbal communication was issued that a permit will be issued. The Board verified correspondence in the agenda packet from the prior Building Official that no permission was given to remove the roof.

**ON THE MOTION:** Rollcall vote. Unanimous approval.

**MOTION:** Motion made by Kimmeron Lisle, seconded by George Lancaster, to find the respondent in violation of the second count in working without a permit on his dock, by installing a new dock, and running electric and water lines to the dock without a permit.

**DISCUSSION:** None.

**ON THE MOTION:** Rollcall vote. Unanimous approval.

Code Enforcement Officer Goldman advised the Board on the determination of fines to be at the Board's discretion and explained timelines of occurrence and establishing set dates of violation.

After further consultation, Code Officer Goldman recommended August 16<sup>th</sup>, 2022, as the origination date for the violation on the roof, and October 8<sup>th</sup>, 2022, as the origination date for the violation on the dock. Further discussion followed.

Code Board Attorney clarified the assessment of days of violations for the roof from August 16<sup>th</sup>, 2022, to December 14<sup>th</sup>, 2022, and the assessment of days of violations for the dock from October 8<sup>th</sup> to December 14<sup>th</sup>, 2022. The total number days for the roof violation was clarified as 120 days, and for the dock violation as 67 days. The cost of prosecution was stated as \$1,047.15 for each violation.

Chair Dalton asked for a motion.

**MOTION:** Motion made Kimmeron Lisle, seconded by George Lancaster, to find for an assessment of days on the roof violation from August 16<sup>th</sup>, 2022, to December 14<sup>th</sup>, 2022, for a total of 120 days in the amount of \$30,000.00, plus the cost of administrative fees in the amount of \$1,047.15.

**DISCUSSION:** The Board discussed the assessment of days for the violation. Code Board Officer Goldman and Code Board Attorney gave their input to the Board. The Board had further discussion on past and future violation assessments. City Clerk Gransee confirmed that there was no further discussion and called to roll.

**ON THE MOTION:** Rollcall vote. Unanimous approval.

Code Board Attorney Dorl stated that the next motion will be on compliance.

**MOTION:** Motion made by George Lancaster, seconded by Tom DiFransico, to request the work on the roof to be finished within 30 days, and a fine of \$250.00 will accrue and forgiven if complied within 30 days, otherwise from today's date a fine of \$250.00 a day going forward will accrue.

**DISCUSSION:** Code Officer Goldman suggested an amendment to the motion.

**AMENDED MOTION:** George Lancaster modified his motion to allow 30 days to apply for a permit and 30 days to complete the work. Tom DiFransico seconded the motion.

**DISCUSSION:** Further discussion followed on the requirements of a permit and days allowed to complete the work, and how the work should be completed. Further discussion followed on the expectance on the completed work. Code Officer Goldman gave his advice. City Clerk Gransee repeated the current motion as allowing for 30 days to apply for a permit and 30 additional days to complete the work as close to its original condition as practicable, with a fine accruing at \$250.00 a day which will be forgiven if the work is completed on time and will accrue if not.

**ON THE MOTION:** Rollcall vote. Unanimous approval.

**MOTION:** Motion made by Kimmeron Lisle, seconded by George Lancaster, to find the owner in violation of working without a permit on the dock and assess a fine of \$250.00 a day from October 8<sup>th</sup>, 2022, to

December 14<sup>th</sup>, 2022, for a total of 67 days in the amount of \$16,750.00, plus the additional administrative fees of \$1,047.15.

**DISCUSSION:** None.

**ON THE MOTION:** Rollcall vote. Unanimous approval.

Code Officer Goldman gave his thoughts on the ability to obtain Army Corps or DEP approval for the dock and stated his request for the assessment of fines. Discussion followed with the Board and Code Officer Goldman on the removal or disconnection of the electrical lines from the dock. Further discussion followed.

**MOTION:** Motion made by George Lancaster, seconded by Tom DiFransico, to allow the owner 30 days to apply for a permit and 30 days to complete the work to remove the electrical lines from the house to the water and the pole; a fine will accrue at \$250.00 a day which will be forgiven if work is completed in the allowed time.

**DISCUSSION:** Discussion followed on the removal of the electrical lines.

**AMENDED MOTION:** George Lancaster amended his original motion to add the disconnection of the electrical feed to the dock immediately; 30 days to apply for a permit and 30 days to complete the removal of the utilities from the house to the dock, with a fine accruing of \$250.00 days which will be forgiven if work is completed within the time given.

**DISCUSSION:** Code Officer Goldman clarified that no DEP or Army Corps of Engineering Study is required to remove the dock.

**ON THE MOTION:** Rollcall vote. Unanimous approval.

**7. Updates:** None.

**8. Discussion Items:** None.

**9. Adjournment:** The meeting adjourned at 5:29 pm.

Respectfully submitted,

*Silvia Gransee*

City Clerk

**ADOPTED: March 8, 2023**

*Silvia Gransee*

City Clerk