

**CITY OF PORT ST. LUCIE  
CONTRACTORS' EXAMINING BOARD MEETING MINUTES  
MAY 10, 2012**

A Regular Meeting of the CONTRACTORS' EXAMINING BOARD of the City of Port St. Lucie was called to order by Vice Chair Zientz on May 10, 2012, at 10:00 a.m., at Port St. Lucie City Hall, 121 SW Port St. Lucie Boulevard, Port St. Lucie, Florida.

**1. CALL TO ORDER**

**2. ROLL CALL**

Members Present:     Martin Zientz, Vice Chairman  
                          Arlene Brown  
                          Robert Cseak  
                          Richard Fopiano  
                          Greg Oldakowski  
                          Jason Parish

Members not  
Present:               Michael Flaxman, Chairman

Others Present:       Donna Noto, Building Permit Specialist,  
  Building Department  
                          Roger G. Orr, City Attorney  
                          Mark Brockway, Licensing Investigator,  
  Building Department  
                          Kevin Pierce, Licensing Investigator,  
  Building Department  
                          Jack Reisinger, Technical Services Manager,  
  Building Department  
                          Carol M. Heintz, Assistant City Clerk

Mr. Reisinger said, "This Board is established by the City of Port St. Lucie City Council, has been assigned specific duties, and operates in accordance with local ordinances, state statutes, and the Florida Building Code. Members of this Board, with the exception of the Building Official's designee, serve without compensation. The Vice Chairman of the Board is Martin Zientz and the Board is represented today by the City Attorney. The Board agenda today consists of eight applications for Competency, a Change of Status application, a list of applications approved by staff, four Citation Hearings, five Disciplinary Hearings, Certification of Fines and Orders to Lien for 12 citations, and several items under Old Business. If the Board has a question of any applicant, the applicant will be asked to come down to the podium to speak on his or her behalf.

Once the application has been approved, you may stay for the remainder of the hearing or you may leave. Approved applicants must wait until Friday, May 11, to come to the Licensing Office of Building B with all documents and fees to receive their Certificate of Competency. Please direct any questions you may have prior to the meeting to the staff table at the front row. As a reminder, this meeting is televised and will be aired on Channel 20 several times during the next month. We ask that you turn off all cell phones, and conduct yourselves accordingly."

**2. SWEARING IN OF STAFF**

The Assistant City Clerk administered the Oath of Testimony to Kevin Pierce, Dennis Millward, Donna Noto, and Mark Brockway.

**3. APPROVAL OF MINUTES - MARCH 15, 2012**

There being no corrections, the minutes were unanimously approved.

**4. APPLICATION FOR CERTIFICATE OF COMPETENCY**

<u>Applicant Name</u>	<u>Trade</u>
Richard Palmer	Reinforcing Steel
Christina Slate	Electrical
Salvatore Flauto	Electrical
Mark Soltis	Electrical
Corey Eskew	Electrical
Robert Vigil	Painting
Matthew Raulerson	Electrical
José Gallegos	Masonry/Concrete

Mr. Cseak **moved** to approve all applicants. Ms. Brown **seconded** the motion, which **passed unanimously** by voice vote. Vice Chair Zientz said, "The electrical contractors must register with the DBPR."

**5. SWEARING IN OF APPROVED CONTRACTORS**

The Assistant City Clerk administered the Oath of Testimony to Richard Palmer, Christina Slate, Salvatore Flauto, Mark Soltis, Corey Eskew, Robert Vigil, Matthew Raulerson, and José Gallegos.

Vice Chair Zientz inquired, "Do you understand that you will be legally responsible for every job undertaken by your business?" The contractors replied in the affirmative. Vice Chair Zientz asked, "Do you understand that you will be financially responsible for every job undertaken by this business?" The

contractors replied in the affirmative. Vice Chair Zientz questioned, "Do you understand that you are required to approve the work done on every job undertaken by this business?" The contractors replied in the affirmative. Vice Chair Zientz asked, "Do you understand your license is dependent upon how seriously you take these responsibilities?" The contractors replied in the affirmative. Vice Chair Zientz said, "In that case, congratulations."

**6. APPLICATIONS FOR CHANGE OF STATUS**

<u>Applicant Name</u>	<u>Trade</u>
Matthew Gray	Painting Qualify an additional entity
Eric Dienemann	Painting

Mr. Cseak **moved** to approve the application of Eric Dienemann. Mr. Parish **seconded** the motion, which **passed unanimously** by voice vote. Ms. Brown **moved** to approve the application of Matthew Gray. Mr. Cseak **seconded** the motion, which **passed unanimously** by voice vote.

**7. APPLICATIONS APPROVED THROUGH ADMINISTRATION (No Board Action Required)**

<u>Applicant Name</u>	<u>Trade</u>
Juan Carlos Macias	Irrigation Sprinkler
William Goess	Window/Door
Adam Derienzo	Garage Door Installation
Simeon Spagnuolo	Garage Door Installation
Paul Romano	Electrical - Change of Status Individual to Qualifying Business

**8. APPLICATIONS APPROVED THROUGH RECIPROCITY (No Board Action Required)**

<u>Applicant Name</u>	<u>Trade</u>	<u>Jurisdiction</u>
Rodney Yavorsky	Painting	St. Lucie County

**9. CITATION HEARINGS**

INVESTIGATOR KEVIN PIERCE

**Citation #15093 - Demetrio Ambris - \$760 - Engage in the business of a contractor without being duly certified or registered.**

**Citation #15106 - Demetrio Ambris - \$760 - Engage in the business of a contractor without being duly certified or registered.**

Mr. Pierce, substituting for Matthew Boettcher, said, "I'm bringing Citation #15093 against Demetrio Ambris. The Florida Statute violated was 489.127(1)(F), and City Code Section 150.530(A)(6), engaging in the business or acting in the capacity of a contractor without being duly registered or having a Certificate of Authority. The scope of work performed was Residential Contracting, and the date of the violation was February 22, 2011. The location of the violation was 440 NW Sandtrap Lane, and the method of service for the citation was certified mail. This is a mandatory hearing based upon previous offenses." Ms. Noto stated, "The citation said February 2011, which is where the date came from. However, it was actually 2012 when the violation occurred." Mr. Ambris noted, "I didn't do any of the work. The homeowner is from Michigan and he told me to find people who can do the work for him. I contacted contractors. I didn't take any money from them or anything." Vice Chair Zientz asked, "Do you understand that by hiring people to do the work. . . ?" Mr. Ambris pointed out, "I didn't hire them." Vice Chair Zientz remarked, "Okay. You put the two parties together." Mr. Ambris said, "He didn't know anyone in the area. I do landscaping and the maintenance on his property." Mr. Pierce stated, "The reason the citation was issued is that Mr. Ambris had been previously cited. This is his fifth citation. I was given copies of checks that he wrote to Lad Scapes, Inc., to pay for the installation. I spoke with the homeowners and they indicated that they paid Mr. Ambris. I spoke with Mr. Ambris and he stated that the homeowners paid him and then he wrote the check to Lad Scapes for the rest of the work."

Mr. Ambris stated, "The amount I paid is the same amount that the homeowner gave me. He sent the check to me, I deposited it, and gave the same amount of money to Lad Scapes." Mr. Parish noted, "The #1 thing that you're doing wrong is writing a check to these sub trades. If you put two parties together that's okay, as long as the owner of that property writes the check to each individual. By you writing the check, that's where you're acting as a contractor." Mr. Ambris commented, "The homeowner was in Michigan, and he was going come down within two months. However, the contractor didn't want to order the material until he had a deposit." Vice Chair Zientz asked, "Couldn't the homeowner have mailed the check to you to give to the contractor?" Mr. Ambris replied, "He mailed it, but he made it out to me." Ms. Brown pointed out, "It sounds reasonable and good except that the bottom line is when you take the money, put it into your account, and write check to the subcontractor or

trades person, it's causing you problems in that you're acting as a contractor." Mr. Ambris remarked, "The homeowner sent me a letter saying that he knew I wasn't doing the work, that I was just trying to help him." Ms. Brown said, "I don't think we're accusing you of doing the work either." Vice Chair Zientz stated, "We understand that you didn't do the work, and we understand that the homeowner was using you to help him. What you don't understand is that by taking the money and writing a check you're acting as a contractor, even if you're not doing the work. Do you understand that?"

Mr. Cseak noted, "The problem is that this isn't the first time. We're really polite with people the first time, but after that we don't have that attitude." Vice Chair Zientz asked, "Who is Demetrio Garcia?" Mr. Ambris replied, "Me. Ambris is my mom's last name." Vice Chair Zientz asked, "What's it going to take for you to understand that you can't do this?" Mr. Ambris replied, "By him sending me the money to give to the contractor, I thought I wasn't doing any of the work." Vice Chair Zientz noted, "All you had to do is call him and tell him to make the check out to whomever." Mr. Ambris commented, "I didn't know that wasn't right." Ms. Brown asked, "Didn't we tell you that before?" Mr. Ambris replied in the negative. Mr. Cseak asked, "I don't remember seeing him here before. Are these things that he has taken care of in the office?" Mr. Pierce replied, "I have been in contact with Mr. Garcia several times. Again, this is his fifth citation. The other citations have been for acting as an electrical contractor and a plumbing contractor, and these citations are all under the same set of circumstances. In the electrical and plumbing, it was admitted to us that Mr. Garcia did do the plumbing. In the other ones, it's the same set of circumstances. He has homeowners. I understand the circumstances. The homeowner wants to deal with one person, but we've informed Mr. Garcia in the past that he simply can't do this." Mr. Cseak pointed out, "You can give referral all you want. However, once you take money from a customer you're breaking the law by acting as a contractor."

Mr. Cseak continued, "The homeowner makes the assumption that you are backing up the job, and you're not." Vice Chair Zientz stated, "Let's say that the people you secured for him did a substandard job and there were problems. Now the homeowner is going to go to the subcontractors, and the subcontractor is going to say that he was obtained through Demetrio. You're putting yourself in a position where there's some liability to you, because you acted as a middleman. This law is in place to protect you as much as it is to protect the homeowner." Ms. Brown said, "Based on the testimony heard today and the evidence produced by the parties of this case, I **move** to submit the

following motion to establish the Findings of Fact: On the date of February 22, 2012, Citation #15093 was issued by City of Port St. Lucie Investigator Kevin Pierce. A copy of the citation was properly served via certified mail. The allegations of the facts as set forth in the citation with any attachments thereto are true and adopted and incorporated herein by this reference." Mr. Cseak **seconded** the motion, which **passed unanimously** by voice vote. Ms. Brown stated, "I **move** that the Contractors' Examining Board, based on the Findings of Fact concludes that the respondent did violate Florida Statute 489.127(1)(f) and Port St. Lucie City Code Section 150.530(1)(6)." Mr. Cseak **seconded** the motion, which **passed unanimously** by voice vote. Ms. Brown said, "Based on the Findings of Fact and Conclusions of Law, I **move** to order the following action: Place a Civil Penalty in the amount of \$760 for the fifth offense." Mr. Parish **seconded** the motion, which **passed unanimously** by voice vote.

Mr. Pierce said, "I'm bringing Citation #15106 to the Board against Demetrio Ambris. The Florida Statute violated was 489.127(1)(f), and City Code Section 150.530(A)(6), engage in the business or act in the capacity of a contractor without being duly registered or having a Certificate of Authority. The scope of the work was residential contracting, and the date of the violation was February 22, 2011. The location of the violation was 441 NW Sandtrap Lane, and the method of service for the citation was certified mail. This is a mandatory hearing based upon previous offenses. As you can see, the addresses are right next to one another. We discovered them on the same day as part of an investigation into a complaint on unlicensed contracting in the area. Part of my investigation was to check specifically on tiki huts and structures that were built out there. Through the process I discovered both of these on the same day. We did not choose to cite Mr. Ambris for willfully and deliberately disregarding." Vice Chair Zientz asked, "Does this homeowner live in Michigan?" Mr. Ambris replied, "Yes. He owns both houses." The City Attorney stated, "He can't hire them." Vice Chair Zientz noted, "I personally don't see the benefit in hitting him twice for \$760. I think finding him guilty of the offense and a minimal fine would be in order just to get it on the record."

Mr. Cseak said, "Based on the testimony heard today and the evidence produced by the parties of this case, I **move** to submit the following motion to establish the Findings of Fact: On the date of February 22, 2012, Citation #15106 was issued by City of Port St. Lucie Investigator Kevin Pierce. A copy of the citation was properly served via certified mail. The allegations of the facts as set forth in the citation with any attachments thereto are true and adopted and incorporated herein by this reference."

Mr. Parish **seconded** the motion, which **passed unanimously** by voice vote. Mr. Cseak stated, "I **move** that the Contractors' Examining Board, based on the Findings of Fact concludes that the respondent did violate Florida Statute 489.127(1)(f) and Port St. Lucie City Code Section 150.530(A)(6)." Mr. Parish **seconded** the motion, which **passed unanimously** by voice vote. Mr. Cseak said, "Based on the Findings of Fact and Conclusions of Law, I **move** to order the following action: Place a Civil Penalty in the amount of \$1." Ms. Brown **seconded** the motion, which **passed unanimously** by voice vote.

**Citation #15315 - Brian Dodd - \$460 - Engage in the business of a contractor without being duly certified or registered.**

**Citation #15317 - Brian Dodd - \$460 - Engage in the business of a contractor without being duly certified or registered.**

Mr. Pierce said, "I'm bringing Citation #15315 to the Board against Brian Dodd. The Florida Statute violated was 489.127(1)(f), and City Code Section 150.530(A)(6), engaging in the business or acting in the capacity of a contractor without being duly registered or having a Certificate of Authority. The scope of work performed was aluminum construction, and the date of the violation was April 13, 2012. The location of the violation was 274 SE Essex Drive, and the method of service for the citation was posting. This is a mandatory hearing based upon previous offenses." The Assistant City Clerk administered the Oath of Testimony to Brian Dodd. Mr. Dodd stated, "I've been in St. Lucie County all of my life. I helped build a number of places in this area from the ground up. After the hurricanes, I was working in the Tradition development. The hurricanes shut me down, so I decided to do something else. I had some background in concrete and aluminum, so I figured I would start doing that. I got my license in St. Lucie County. I've tried about four times to get my contractor's license, but for some reason I can't seem to pass it. I haven't deceived anyone as far as working with customers." Mr. Cseak asked, "Why was he cited?" Mr. Pierce replied, "I have flyers showing that he's available to do porch enclosures, soffit, fascia, vinyl windows, all types of screening, and he issued a proposal to a homeowner to screen in their back porch, to do what's called an infill." Mr. Cseak asked, "Does he have a county license to do screening?" Mr. Dodd replied, "Yes. I've had it for many years." Ms. Noto commented, "It's a business tax receipt. They don't require a contractor's license to do rescreening like we do, but we do require a contractor's license for aluminum construction, which he does not have."

Mr. Dodd noted, "I do have contractors that I work with. They pull the permit and I work under their license and their insurances." Mr. Cseak pointed out, "If you're advertising, you're engaging as a contractor. As you said, you don't have your license. You can't advertise a business that doesn't have a license." Mr. Dodd asked, "Even with my screening license?" Mr. Cseak replied, "No, because it's not covering the scope you're advertising for. Even then, the City requires a different license than the county. Until you pass that test, you can't solicit your business for business." Mr. Dodd asked, "What about my screening business? Are you telling me I can't use the license that I have?" Mr. Cseak asked, "Do you have a City license to do rescreening?" Mr. Dodd asked, "Can I acquire it today?" Ms. Noto replied, "It falls under the scope of work of an aluminum construction contractor. He has to get an aluminum construction license to be able to do rescreening in the City of Port St. Lucie." Mr. Dodd remarked, "I have an exam scheduled for the 9<sup>th</sup> of next month, so I'm very serious about this." Mr. Pierce said, "We believe Mr. Dodd when he says that he's working toward it. We have records that show he's scheduled for exams. He has rescheduled. When people are working toward something, we tell them not to do it anymore. The Board is going to certify two fines against Mr. Dodd at the end of today's hearing. The issue with us is that he's a good guy who's working hard, but he keeps doing it." Mr. Cseak stated, "You are stealing business from certified guys that have spent a lot of money and time, and this Board's job is to protect the consumers from people who are not honest. You may be the most honest guy in the world, but there are a number of guys who aren't."

Ms. Noto commented, "Mr. Dodd stated that he's getting a contractor to pull the permit, and he's working under his license. That again is a violation of the Code. Unless you are an employee of that contractor. . . ." Mr. Dodd noted, "I am." Ms. Noto continued, "You can't do the work. Just because they're pulling the permit doesn't make it in compliance." Mr. Dodd pointed out, "I'm their employee." Ms. Brown asked, "Can he do rescreening in the county?" Ms. Noto replied, "It's a business tax receipt. He doesn't have a license. What used to be referred to as an occupational license has been changed to a business tax receipt. He pays his business tax to be able to do rescreening. However, we regulate it." Mr. Oldakowski remarked, "I think what's in our package, Brian's Rescreening and Concrete Repairs, at the bottom you have licensed and insured, and you're listing several facets that each require their respective licenses." Mr. Dodd said, "I had someone make that for me, and I didn't proof it. The person knew that I did work for other contractors and I was trying to get work for him, because he is paying for his license." Mr. Cseak commented, "Unless they are writing you a

paycheck from their company. . . ." Mr. Dodd pointed out, "They are writing me a paycheck from their company." Mr. Cseak said, "You still can't actively engage in soliciting work. You're not a contractor." Mr. Dodd stated, "I thought I was, because I've held this license for over ten years. If that's the case, I have another business that I have a license for as well, and you're telling me that's no good. I should be compensated for all of the money I've paid. If they aren't worth anything, why does the county have them?"

Mr. Cseak noted, "The work you're performing is not in the county. Part of being a licensed contractor is understanding that every municipality, city, or county you go into has their own set of rules. What I do in Martin County can be different than what I do here. That's why you're supposed to be a licensed contractor. You're supposed to know the rules." Mr. Dodd pointed out, "I've paid for the prep test again, and I have a tutor helping me." Vice Chair Zientz asked, "When did you notice there was a typographical error on the flyer, and what have you done to correct that situation?" Mr. Dodd replied, "I'm not putting anything out. The only time I go to someone is if someone calls me about my screening business in Ft. Pierce. I don't go door to door. I don't put things in mailboxes. I try to be as responsible as I can." Mr. Oldakowski said, "Based on the testimony heard today and the evidence produced by the parties of this case, I **move** to submit the following motion to establish the Findings of Fact: On the date of April 16, 2012, Citation #15315 was issued by City of Port St. Lucie Investigator Kevin Pierce. A copy of the citation was properly served via posting. The allegations of fact as set forth in the citation with any attachments thereto are true and adopted and incorporated herein by this reference." Mr. Cseak **seconded** the motion, which **passed unanimously** by voice vote. Mr. Oldakowski stated, "I **move** that the Contractors' Examining Board, based on the Findings of Fact concludes that the respondent did violate Florida Statute 489.127(1)(f) and Port St. Lucie City Code Section 150.530(A)(6)." Mr. Cseak **seconded** the motion, which **passed unanimously** by voice vote. Mr. Oldakowski said, "Based on the Findings of Fact and Conclusions of Law, I **move** to order the following action: Place a Civil Penalty in the amount of \$460." Mr. Cseak **seconded** the motion, which **passed unanimously** by voice vote.

Mr. Pierce said, "I'm bringing Citation #15317 to the Board against Brian Dodd. The Florida Statute violated was 489.127(1)(i), and City Code Section 150.530(A)(9), willfully or deliberately disregarding or violating any municipal ordinance relating to uncertified or unregistered contractors. The scope of work performed was aluminum construction, and the date of the

violation was April 13, 2012. The location of the violation was 274 SE Essex Drive, and the method of service for the citation was posting. This is a mandatory hearing based upon previous offenses. The reason for this citation is based upon previous conversations and citations issued to Mr. Dodd. It's our belief that Mr. Dodd was well aware of the laws. With that being said, the Board has not technically found him guilty yet of those previous citations. This citation was issued for the proposal and contract to the homeowner at the same address as the previous." Ms. Noto stated, "He was cited on another item on the agenda where we're going to certify the Orders to Lien. When Mr. Dodd was cited previously, we were hoping to be able to abate those citations when he got licensed, because we do want compliance. We prefer to see that the candidate use the money toward getting a license instead of paying the fine. When it came up that he was still out there working and had not passed the exams yet or he hadn't shown up for the March exam, we went ahead and did a Certification of Fine and Orders to Lien." Ms. Brown asked, "Has he lost that option now?" Mr. Pierce replied, "That's the Board's discretion. Mr. Dodd has made several attempts to pass the test. His first test was June 10, 2006, for aluminum construction. The next exam date was August 2006, December 17, 2011, and March 2012. He is currently scheduled for June 9."

Mr. Cseak noted, "Some people don't test well and I understand that. You've done a lot of work out there." Mr. Dodd commented, "I know what I can do. I know I'm doing wrong. All I can say is that I'm sorry." Mr. Cseak pointed out, "You didn't just start six months ago making a mistake. You knew six years ago you were making a mistake, so everything before us does not have a question mark of misunderstanding on it. This is a willful act of contracting work." Mr. Oldakowski asked, "Do you have all of the materials required to take the test?" Mr. Dodd replied in the affirmative. Vice Chair Zientz asked, "When Mr. Dodd says that he does work and it's inspected, was that something you inspected, or was it work done in the county?" Mr. Pierce replied, "No. He would be referring to work that he does as an employee of other contractors. I have never inspected any work that Mr. Dodd has been part of. He has never received any complaints with regard to fraud or substandard work." Mr. Cseak said, "He has two other citations that are going to be read in today. Is that correct?" Mr. Pierce replied, "It's before the Board to certify the Order to Lien." Mr. Cseak stated, "But if I do my math with what we just fined him previously, it's going to be well over \$1,000." Mr. Pierce noted, "Yes." Vice Chair Zientz commented, "Why don't we table this to give him a chance to pass the test. If he passes the test, we would look more favorably. . . ." Mr. Parish pointed out, "He has been trying to pass the

test for six years. I think we have to take action." Mr. Pierce remarked, "We always look to abate if we can." Ms. Noto said, "You could table the ones in the Certification of Fines and Orders to Lien on #12 and hold off to abate those two if he gets a license by a specific date. If he doesn't get licensed by a specific date, then we can certify those fines and Orders to Lien." Vice Chair Zientz stated, "I respect Mr. Parish's opinion as well, and it's not like this just happened. You can't plead ignorance in this case. Let's deal with Citation 15317, and then when we get to the other section we will deal with that."

Mr. Oldakowski said, "Based on the testimony heard today and the evidence produced by the parties of this case, I **move** to submit the following motion to establish the Findings of Fact: On the date of April 16, 2012, Citation #15317 was issued by City of Port St. Lucie Investigator Kevin Pierce. A copy of the citation was properly served via posting. The allegations of fact as set forth in the citation with any attachments thereto are true and adopted and incorporated herein by this reference." Ms. Brown **seconded** the motion, which **passed unanimously** by voice vote. Mr. Oldakowski stated, "I **move** that the Contractors' Examining Board, based on the Findings of Fact concludes that the respondent did violate Florida Statute 489.127(1)(i) and Port St. Lucie City Code Section 150.530(A)(9)." Mr. Cseak **seconded** the motion, which **passed unanimously** by voice vote. Mr. Oldakowski said, "Based on the Findings of Fact and Conclusions of Law, I **move** to order the following action: Place a Civil Penalty in the amount of \$460, and put Fine #8176 in the amount of \$250 and Citation #14450 for \$510 in abeyance based on passing of the test. If he doesn't pass the test, then we have to go forward." Mr. Cseak **seconded** the motion, which **passed unanimously** by voice vote.

#### 10. DISCIPLINARY HEARINGS - TABLED

**City of Port St. Lucie, Matthew Boettcher vs. Kyle Walters, Walden Custom Builders, Inc.**

**VIOLATION OF: FBC 105.4 and Port St. Lucie City Code Section 150.105.4, Conditions of Permits**

Mr. Reisinger said, "This complaint was originally heard on March 15, 2012, and tabled to allow the contractor to obtain compliance by getting a passing inspection. The complaint was filed by City of Port St. Lucie Matthew Boettcher against the license of Kyle Walters, a certified building contractor, doing business as Walden Custom Builders, Inc. The contractor is charged with violating FBC 105.4 and PSL City Code Section 150.105.4, Conditions of Permits." Ms. Noto stated, "Mr.

Boettcher is not available today, and the case will be presented by Mr. Brockway." Mr. Brockway noted, "On May 12, 2010, Permit #1004166 was issued to Kyle Walters of Walden Custom Builders, Inc., to install hurricane shutters at 2474 SE Calais Street. On June 8, 2010, the inspection failed due to the product approval, and shutter plans were not available, not on site. Re-inspection was never requested and the permit expired due to no passed inspections within 180 days. A voice mail message was left in April 2011, by staff for Mr. Walters to contact the Licensing Department to discuss the violation and the requirements to comply. The call was not returned. A Notice of Non-Compliance was sent to the address of record on June 30, 2011, requiring compliance by August 2, 2011. This was returned not deliverable as addressed, unable to forward. Staff left voice mail messages on the contact number of record."

Mr. Brockway continued, "On August 2, 2011, Mr. Walters called Contractor Licensing. Staff e-mailed Mr. Walters the Notice of Non-Compliance and updated his address of record. To date the violation still exists. This was tabled. He pulled a new permit to replace the old one the day before the last hearing. Because the new permit was pulled, we agreed to table it to give him more time. It still hasn't passed inspection. The City did attempt to do an inspection April 17, 2012, and it failed inspection. The shutters weren't up, so we couldn't inspect them." The Assistant City Clerk administered the Oath of Testimony to Kyle Walters. Mr. Walters said, "The first time it failed, she took down the permit. The second time we had gone back to do it she took it down again. Her phone number is now disconnected. I've sent her a certified letter. We just need to get into her garage to see the paste on the panels. We can't get hold of her. We've been to the house, but we can't get into the garage. I've never had this situation before. The lady is scared, because she thinks that the permit being there means that no one is there. We have talked with the inspector and he says all he has to do is get into the garage to see the stamp that the panels are certified." Mr. Cseak asked, "Can't she put one of the panels outside for you?" Mr. Walters replied, "She's very old. She has paid for the job, and the job is complete. I don't understand what her problem is. I have a receipt of the certified letter that Ms. Noto told me to send her."

Ms. Noto commented, "I thought my conversation with your representative Tony was that it was going to be able to be scheduled for next week and she would be available." Mr. Walters noted, "She claims that she would, but we're nervous because we called the same contact number we have for her and the number is no longer available." Ms. Noto pointed out, "I did recommend that they send a certified letter and let her know that they

were trying to get their inspections. She owns many houses and I'm assuming that the house is vacant. She's not renting it, and she doesn't want anyone to know that it's vacant." Vice Chair Zientz asked, "What kind of reputation does Mr. Walters and his business have with the City?" Ms. Noto replied, "I don't have any complaints on workmanship. There were some issues in the past when he had another representative working for the company and he wasn't getting inspections or pulling permits, but that has been resolved." Mr. Oldakowski remarked, "Since it's at the pleasure of the Board, I suggest we wait one more meeting. It seems like Mr. Walters has taken the steps necessary." Mr. Walters asked, "What would you suggest? I've never been in this situation." Mr. Cseak said, "If you can't get it taken care of, I believe there's a form you can get from Ms. Noto called a Hold Harmless form. That will take you out of it." Ms. Noto stated, "I want to be clear about the process. I don't want contractors walking into the office trying to get off the permit. We need all of the evidence that they made every last effort to get the inspection with the certified letters, the phone calls, etc. It's not an easy process to get off."

Mr. Cseak **moved** to table to the next meeting. Ms. Brown asked, "If he gets his inspection does he need to come back here?" Ms. Noto replied, "No. That's what we were hoping for this meeting, but it didn't work out that way." Ms. Brown noted, "We could leave it up to you. If he has his inspection then he's not on the agenda the next time. That's what I would go for." Mr. Cseak **moved** to schedule it for the next meeting, unless he gets it cleared away. Ms. Brown **seconded** the motion, which **passed unanimously** by voice vote. Mr. Reisinger said, "One suggestion was given, and I thought it was a great idea since we are running into this problem with other trades. One contractor came up with the idea of putting it in his contract that he will not offer a warranty or void all warranties if he does not achieve a final inspection. If it's in the contract, it helps both parties." Ms. Noto commented, "For reference the Building Code is 105.4. It's 180 days that they need to have a passed inspection if you want to note that in your contracts." Ms. Brown pointed out, "I would tell them to make sure they understand. Maybe they could even initial that paragraph." Mr. Brockway remarked, "For any homeowners that are out there watching, the entire point of the permit is to get the work that the contractor does inspected. It's for their protection to get this. It's not a bad thing. If they don't cooperate with their contractor, they're going to put themselves in a situation where we may have no choice but to go after and pursue them. It could end up costing them more money that's totally unnecessary."

City of Port St. Lucie, Mark Brockway vs. Edward Louderback, Jr., Sign Connection of the Treasure Coast, Inc.

**VIOLATION OF: FBC 105.4 and Port St. Lucie City Code Section 150.105.4, Conditions of Permits**

Mr. Reisinger said, "This complaint was originally heard on March 15, 2012, and tabled to allow the contractor time to obtain compliance by getting passed inspections. The complaint was filed by City of Port St. Lucie Licensing Investigator Mark Brockway against the license of Edward Louderback, Jr., a registered sign electrical contractor, doing business as Sign Connection of the Treasure Coast. The contractor is charged with violating FBC 105.4 and PSL City Code Section 150.105.4, Conditions of Permits, as well as Florida Statute 489.129(1)(o) and PSL City Code Section 150.520.3(M), proceeding on any job without obtaining the applicable Building Department inspections." Mr. Brockway stated, "We had discussed this as well at the meeting. From June 29, 2010 to April 29, 2011, there were 25 permits issued to Edward Louderback, Jr., to install mostly electrical signs. A total of 11 of those permits didn't receive a passed inspection and expired. The Board tabled the complaint from the last meeting until today to allow him more time to get inspections. He had already applied for new permits for all of the addresses in question. There were some personal issues that may have hindered that process." The Assistant City Clerk administered the Oath of Testimony to Edward Louderback, Jr. Mr. Louderback stated, "On April 1, I had a brain aneurism, so I spent April in the hospital in an induced coma. Then I had to learn how to walk again, so I'm basically just back to work. I have five permits inspected already. I'm trying to do one every day or so." Ms. Cseak **moved** to table to the next meeting. Mr. Oldakowski noted, "I know Mr. Louderback personally. In fact, he does all of our signs and he's a good upstanding gentleman. I have full faith that everything will be handled." Mr. Parish **seconded** the motion, which **passed unanimously** by voice vote.

**11. DISCIPLINARY HEARINGS**

City of Port St. Lucie, Kevin Pierce vs. Frank Balleste, Cisca Construction and Development, Inc.

**VIOLATION OF: FBC 105.4 and PSL Code Section 150.105.4, Condition of Permits**

Mr. Reisinger said, "This complaint was filed by City of Port St. Lucie Licensing Investigator Kevin Pierce against the license of Frank Balleste, a certified general contractor, doing

business as Cisca Construction and Development. A Notice of Non-Compliance was sent regular mail to the address of record on December 7, 2011. The formal complaint was sent to the violator on February 14, 2012. The contractor is charged with violating FBC 105.4 and PSL City Code Section 150.105.4, Conditions of Permits. The contractor has not replied to the charges." Mr. Pierce stated, "Two door permits were issued to Mr. Balleste of Cisca Construction and Development to replace a front door and a side garage entry at 833 SW Koler. Also, Mr. Balleste was issued a window permit and a door permit for 849 SE Sweetbay. All four permits are expired due to no passed inspections within 180 days as required by the FBC. A Notice of Non-Compliance was sent on December 7, 2011, requiring corrective action by January 13, 2012. A courtesy call was made to the contractor on January 25, and the contractor stated he would get back with staff. To date, the violations exist and the contractor has not contacted staff about the status. With reference to the address on Koler, two replacement permits have been obtained by another contractor at the expense of the owner. On both of the addresses, the inspections were never requested, and on Sweetbay the new permits were obtained by another contractor at the expense of the owner." (**Clerk's Note:** Mr. Balleste was not present).

Vice Chair Zientz stated, "Let the record show that Mr. Balleste does not care enough about his license to show up for this hearing." Mr. Pierce noted, "He has been in front of this Board for failure to obtain permits, and for doing work as an electrical and plumbing contractor without a license." The City Attorney commented, "Before you get into that background, let's first find if there's a violation. Then you can look at his record. You can't find him guilty based upon being guilty of something else." Mr. Cseak said, "Based on the testimony heard today and the evidence produced by the parties of this case, I **move** to find that the following facts did occur and the Conclusions of Law are as follows: On the date of February 14, 2012, a complaint was filed by the City of Port St. Lucie against the license of Frank Balleste pursuant to Port St. Lucie City Code Section 150.520.2. Notice was achieved by certified mail. The contractor has been charged with and did violate FBC 105.4 and PSL City Code Section 150.105.4." Mr. Oldakowski **seconded** the motion, which **passed unanimously** by voice vote. Vice Chair Zientz stated, "Noted in his file are the following: September 8, 2011, no permit, \$205 fine; January 28, 2010, plumbing without a license, \$250; August 2, 2011, plumbing without a license, \$510; March 15, 2012, plumbing without a license, \$760; March 15, 2012, electrical without a license, \$760; March 15, 2012, no permits, five year suspension, \$2,005; and March 15, 2012, no permits, \$2,005."

Mr. Cseak said, "Based on the Findings and Fact and Conclusions of Law, I **move** to order the following disciplinary action: Level 4, Revocation of his license." The City Attorney noted, "He's state certified. You can revoke his privilege to pull permits or suspend his permitting privileges here, but his license has to be dealt with by the state." Mr. Cseak asked, "Didn't we already suspend his privileges for five years?" Ms. Noto replied, "Actually it's a total of ten years if you look at the file." Ms. Brown pointed out, "He's from Miami. He's not local. He comes from out of town, wreaks havoc, and then doesn't have the decency to show up for a hearing." Vice Chair Zientz asked, "Do we have a way to contact Miami to let them know what's going on up here?" Ms. Noto replied, "I can send them a copy of the minutes." Vice Chair Zientz asked, "Can we send him a copy of his history as well?" The City Attorney replied, "What's going to be most effective is going to be your recommendation to the state in terms of his certification." Ms. Brown asked, "Didn't we do that before with the suspension? Didn't that go to the state then?" The City Attorney replied, "I'm confident that it did. At some point, they're going to get the message." Mr. Cseak said, "A Level 3, Suspension of Permitting Privileges for another ten years to run consecutively with what he has already been suspended, and pay an administrative fee of \$205." Mr. Oldakowski **seconded** the motion, which **passed unanimously** by voice vote. Mr. Cseak said, "I **move** to recommend to the CILB a Level 4, Revocation of Certification of Registration." Mr. Parish **seconded** the motion, which **passed unanimously** by voice vote.

**City of Port St. Lucie, Kevin Pierce vs. James R. Lundy III, Top of the Line Air & Heat**

**VIOLATION OF: FBC 105.1 and PSL City Code Section 150.105.1, Required Permits**

Mr. Reisinger said, "This complaint was filed by the City of Port St. Lucie Licensing Investigator Kevin Pierce against the license of James R. Lundy III, a certified air conditioning contractor doing business as Top of the Line Air & Heat. The Notice of Non-Compliance was sent regular mail to the address of record on April 11, 2011. The formal complaint was sent to the violator on March 28, 2012. The contractor was charged with violating FBC 105.1 and PSL City Code Section 150.105.1, Required Permits. The contractor's response to the charges is on Page 9 of 20, and also there's an added addendum, where he hand wrote a note requesting a postponement of this hearing." Ms. Brown stated, "It kind of sounds like he has homeowner issues." Mr. Pierce noted, "The issues are that we found the air conditioning unit installed without a permit. We found that Mr.

Lundy's license was still active, so we began to pursue Mr. Lundy, but for reasons we may not want to go into here Mr. Lundy was unavailable to pull the permit. There was an indication that he would not be available to pull the permit. However, he became available. Once he became available, since his state certification is still active, we pursued him for the permit. The case has been going on for some time now. It's just that it was bouncing back and forth between homeowner and contractor. At this point, because Mr. Lundy is an active state certified air conditioning contractor, his standing with the City is registered, he's capable of pulling the permit. Because he did the work, he needs to pull the permit."

Vice Chair Zientz asked, "How long has it been since the job was completed?" Mr. Pierce replied, "It's several years old." Ms. Noto commented, "The case started a year ago." Mr. Pierce pointed out, "Mr. Lundy has one permit in 2008 for a walk-in cooler, one permit in 2008 for commercial air conditioning, and he pulled one after-the-fact permit for an air conditioning change out in 2011." Ms. Noto remarked, "When we started this case, there were several properties that had air conditioners without permits, and because he was unavailable to comply with the violation, three or four of those property owners had to get other contractors to pull those permits." The City Attorney said, "Since he's state certified, I would recommend giving him a continuance anticipating that if you're going to recommend action against the state certification, you don't want to be in a position where he goes to the state and says that he asked for a continuance, and he didn't get a chance to. . . ." Mr. Cseak said, "I **move** to table this to the next meeting." Mr. Oldakowski **seconded** the motion, which **passed unanimously** by voice vote.

**City of Port St. Lucie, Dennis Millward vs. Michael Ewing, Pioneer Cooling & Heating, Inc.**

**VIOLATION OF: Florida State Statute 489.129(1)(o), Port St. Lucie City Code Sections 150.520.(m) and 150.520.3(b), Proceeding without inspections and knowingly violating applicable Building Codes.**

Mr. Reisinger said, "This complaint was filed by the City of Port St. Lucie Licensing Investigator Dennis Millward against the license of Michael Ewing, a registered air conditioning contractor doing business as Pioneer Cooling & Heating, Inc. Since staff has had verbal contact with the contractor and his or her representatives on several occasions regarding this type of violation and how to comply, we can assume that he is aware of the law. The formal complaint was sent to the violator on February 3, 2012. The contractor was charged with violating

Florida State Statute 489.129(1)(o), Port St. Lucie City Code Sections 150.520.(3)(m), proceeding on any job without obtaining the applicable building inspection and 150.520.3(H), knowingly or deliberately disregarding or violating applicable Building Codes or laws of the state or City. The contractor did not respond to the complaint." Mr. Pierce, substituting for Mr. Millard, stated, "On January 24, 2012, Dennis Millard called Michael Ewing of Pioneer Cooling & Heating, Inc., and informed him that he had two expired air conditioning permits due to no inspections within 180 days. One was for 426 SE Walters, and the other was for 2869 SE Peru. While researching the expired permits, staff noted 15 additional permits that had not received a passed inspection within 180 days, and the permits were voided. As of today, Mr. Ewing has 16 expired air conditioning change out permits." Ms. Noto commented, "He reapplied for 16, and there are six left that need inspections. He did pass ten inspections." Mr. Pierce pointed out, "Of those six, I checked this morning and the inspections have not been ordered."

The Assistant City Clerk administered the Oath of Testimony to Michael Ewing. Mr. Ewing remarked, "I really don't see the violations here. These were 16 permits for air conditioning change outs that were just really difficult to get the final inspections. They are all rental properties. It's tough to coordinate the final inspection, because the inspector has to get into the home, look at the breakers, and the indoor air handler. Some of the homeowners live out of state. I did plenty of change outs last year, and received prompt and timely inspections on all of them. The problem always arises when it's a rental property or a tenant. The tenants don't want to miss work. They don't want to make times to get in there to look at the unit. Those 16 that I had a problem with last year expired. In February I renewed them. To renew those 16 permits cost me \$1,300, and that's just to renew and give myself more time. I wasn't looking at throwing the property owner under the bus, send him a hold harmless, do the certified thing, and let it be the City's problem with the property owner. I explained that to Ms. Noto, and she said that's usually the last resort. Most of my work is from property management companies, so the last thing I want to do is throw the property owner under the bus and then he calls the property management company. I would like to give the property owner time, and make provisions to get the inspection on my own. Since February, I've gotten ten inspections. They're really trying to coordinate inspections between tenants and property owners and the Building Department. You can't always request the time frame. You can call an inspector in the morning and ask him to make it first thing, but that's not always the case. He may get five on his ticket that say first thing."

Mr. Ewing continued, "I've had a property owner or tenant wait all day for an inspection. Now they're calling me. It's not an easy task to get the final inspection. I don't think I've ever failed an inspection in the seven years I've been in business other than no entry. The jobs were always done right. I've never let my insurance lapse. I'm offended that I'm here addressing something that looks like I'm in violation or something. I really don't feel I am. These are all current, and I still have two months to do." Mr. Cseak stated, "But they weren't current. They were allowed to expire." Mr. Ewing noted, "They expired and I renewed them. I did maybe forty or fifty of them in the last year. When it's a rental property it's tougher. It's not like I'm doing a final before I got the rough in." Vice Chair Zientz asked, "What time period lapsed between the time the permit expired and the time you renewed them?" Mr. Ewing replied, "Maybe a couple of months. I actually was under the impression that I had a year to get the inspection. These had been voided when they expired sometime in November, but I was still continuing to get permits and do jobs. That was a great idea about the warranty, but the problem with my business is that I can't just tell the customer I'm going to void the warranty on the labor issue. As a dealer of a manufacturer I have to warranty that equipment. I warranty it for two years. The manufacturer insists that as a dealer. . . ." Mr. Reisinger noted, "They want that paperwork, and you could always hold off on the paperwork. You don't even know if it's correctly installed. Once there's a final then you exchange all of the paperwork. You could also offer a rebate or a deposit. Once you get the inspection, you get the rebate back. There are a number of incentives you could come up with."

Mr. Pierce commented, "I want everyone to understand what the offense is. If we have a job that's done without a permit, compliance is obtaining the permit. At that point, you have 180 days to get a passed inspection per the FBC. If the offense is an expired permit, it's because you didn't get an inspection. The only way to comply is to get a passed inspection. You get a new permit, you get an approved inspection, and, in this case, an approved inspection is compliance. The violation is no inspection. The oldest permit he had was issued to him on March 4, 2011, and that was voided in January of this year." Ms. Brown asked, "How invasive are those inspections? Are they just in the garage or are they all over the house?" Mr. Ewing replied, "They take minutes. They just have to look at the air handler to make sure it's installed properly." Ms. Brown asked, "If the homeowner is paying someone to manage those properties, don't they have a key?" Mr. Ewing replied, "Certainly, and that's usually my last resort. I send a letter to the tenant stating that there's going to be an unauthorized entry." Ms. Brown

pointed out, "In my opinion, the property manager would be your key. I believe they collect the rent, so if you were hooked up with the property manager I would think that would be a sure fire way for you to get in and get those inspections." Mr. Ewing remarked, "That's exactly what takes place. However, a number of these tenants aren't through property managers. They're from private homeowners that have a tenant in place."

Ms. Noto said, "Unfortunately, when you don't get an inspection within 180 days, although you're offended by being here, it's still a violation of the Building Code, which is why we're here. We're enforcing that. All of the reasons that you're stating are completely understandable; however, it is your license and it's a violation of the FBC." Mr. Reisinger stated, "It's 180 days that someone didn't look at it to make sure that it was done properly. It could have been incorrectly installed all of that time. You could even schedule the inspection the same day you're there doing the work." Mr. Ewing noted, "I've tried that and he shows up too early." Mr. Reisinger commented, "You did pull the permit. You did do the job, so we're going to hold you accountable for the job instead of just allowing you to do a release and saying that you're going to walk away from this job." Mr. Oldakowski remarked, "I would like to recommend to the Board that we give Mr. Ewing to the next meeting to get all of his inspections. Can you get all six by the next meeting?" Mr. Ewing replied, "I think I still have two months." Ms. Noto pointed out, "The next meeting is in July." Mr. Pierce said, "We voided a number of permits on January 31. He was in the office on February 6 getting reissues." Mr. Cseak stated, "So he's trying. I **move** to table to the next meeting. Mr. Parish **seconded** the motion, which **passed unanimously** by voice vote.

**12. CERTIFICATION OF FINES AND ORDERS TO LIEN**

Mr. Reisinger said, "You have twelve citations before you, and the alleged violators have not requested an administrative hearing, and the citations have not been paid. You will have to leave off the two that were abated." Vice Chair Zientz stated, "In accordance with City Code Section 150.530(A)(6), I **move** to Certify the Fines and Orders to Lien for unlicensed contracting on the following:

<u>Citation</u>	<u>Violator Name</u>	<u>Amt</u>
14936	Matthew Taylor	\$260
14903	Marc Flaxman	\$160
14956	Patrick Lewis	\$160
14860	Charles Fontaine	\$260
15018	Ginger Murphy	\$160

15060 Darrell Matthew Barton \$160  
 The next two, 8176 and 14450 are abated until the next meeting.

15136 William Harvey \$310

Mr. Cseak **seconded** the motion, which **passed unanimously** by voice vote.

Vice Chair Zientz stated, "In accordance with City Code Section 150.530(A)(8), I **moved** to Certify the Fines and the Orders to Lien for commencing or performing work for which a building permit is required without such permits being in effect on the following:

<u>Citation</u>	<u>Violators Name</u>	<u>Amt</u>
14915	Michael Hubbard	\$510
14693	Michael Serra	\$260

Mr. Cseak **seconded** the motion, which **passed unanimously** by voice vote.

Vice Chair Zientz said, "In accordance with City Code Section 150.530(A)(3), I **move** to Certify the Fines and Orders to Lien for presenting as his own the Certificate of Competency of another, Citation #14904, Marc Flaxman, \$260. Mr. Cseak **seconded** the motion, which **passed unanimously** by voice vote.

**13. OLD BUSINESS**

Mr. Reisinger said, "The discussion is at the Board's request to impose fines on tabled hearings when compliance is met." Ms. Noto stated, "At the last meeting you had requested that we consider times when you would table an item or make a motion to dismiss it and pay the fine on a disciplinary action, and you wanted a script for this so that you could read it into the record that you were dismissing the case, but you wanted them to pay the penalty. You can't do that. They have to be deemed guilty in order to be able to impose fines of them. Maybe finding them guilty, no action, \$205 fine on a disciplinary action would probably be the best way to go." Vice Chair Zientz asked, "Is there any way to determine how much in fines we've collected since the last meeting?" Ms. Noto replied, "I could put something together for you. There are a few that haven't paid their fines as yet. When we recommend to the state, and I send out the final order from the Board where you impose a \$205 penalty, a lot of times the state will call me before they have their hearing or they're doing their investigation and ask whether or not he has paid the fine yet. When they get to this

point with that contractor and find that he hasn't paid us yet for the imposed fine, it could hinder the CILB's decision on their investigation in finding probable cause."

**ADDED ITEM**

**14. NEW BUSINESS**

Mr. Reisinger said, "I would like the Board to recognize Mark Brockway. He's our Licensing Investigator. This will be his last hearing as he is moving out of state. He has been a dedicated employee." Ms. Brown stated, "Thank you for all you've done for us." Vice Chair Zientz noted, "We would like to formally recognize Mr. Brockway for the service he has given to the City of Port St. Lucie." Mr. Brockway commented, "It has been my pleasure. There are a number of good people with the City out there doing difficult work, and I appreciate it."

**15. ADJOURN**

There being no further business, the meeting adjourned at 11:40 p.m.

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Martin Zientz, Vice Chair

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Carol M. Heintz, Assistant City Clerk