



MINUTES

MUNICIPAL CODE ENFORCEMENT BOARD MEETING Wednesday

November 29th, 2023, 2:00 P.M.

CITY OF ST. AUGUSTINE BEACH, 2200 A1A SOUTH, ST. AUGUSTINE BEACH, FLORIDA 32080

I. CALL TO ORDER

Chairman Kevin Mr. Sweeny called the meeting to order at 2:01 P.M.

II. PLEDGE OF ALLEGIANCE

III. ROLL CALL

BOARD MEMBERS PRESENT: Chairman Mr. Sweeny, Mr. Pritchett, Ms. Gilpin, Mr. Lovett, Mr. Wilson, Mr. Mariutto, Ms. Odom.

STAFF PRESENT: Building Official Mr. Law, Code Enforcement Officers' Mr. Timmons, and Mr. Ferris, Permit Technician Mr. Fowler, City Attorney Mr. Blocker, Recording Secretary Ms. Pierotti.

IV. APPROVAL OF MINUTES OF SEPTEMBER 27TH, 2023, MEETING

Motion: to approve September 27th, 2023, meeting. Moved by Ms. Odom, seconded by Mr. Pritchett, passed 7-0 by unanimous voice-vote.

V. NEW BUSINESS

- A. Notice to appear issued to Big Splash Restaurant Group owner of 125 Pope Rd., parcel 1630320000 for St. Augustine Beach City Code, Sec. 8.00.10. Nonconforming signs, (4) Signs discontinued.
- B. Noticed to appear issued to Ancient City Endeavors owner of 210 F Street, Units A & B, parcel 1713000000 for violation of St. Augustine Beach City Code Chapter 6-Building and Building Regulation. Sec. 105-Permits. Florida Building Code 105.1, failure to obtain permits.
- C. Notice to appear issued to AGK FL1 Holdings LLC owner of 11 13th St., parcel 1677300000 for the violation of St. Augustine Beach City Code Chapter 6-Building and Building Regulation. Sec. 105-Permits. Failure to obtain permits.
- D. Notice to appear to Attorney Whitehouse representing owner of 56 Willow Dr., parcel 1640900000 for St. Augustine Beach City Codes: 1: FL. Building Code 105.1 failure to obtain permits for construction of a carport. 2: Failure to obtain rights-of-way permit.

Mr. Sweeny: Okay. Members and staff, good afternoon. By my iPhone it's 2:01. My Garmin says two o'clock so I'm going to go ahead call this meeting to order. With quorum members, I ask you to now move to number four on our agenda by taking a minute or two to look at the minutes and I'll accept a motion to approve the minutes.

Motion: Approval of September 27th, 2023, minutes. **Moved by:** Ms. Odom, and **Seconded by:** Mr. Pritchett, **Passed 7-0** by the board unanimous voice vote.

Mr. Sweeny: Let's move on to the new business. Letter A, we've got a notice to appear to Big Splash Restaurant Group LLC. Owner of a parcel. It appears they have some non-conforming signs. So, who will lead us in this discussion today?

Mr. Ferris: I will, Mr. Chair. This issue has been resolved; the owner came by the Building Department yesterday. The owner has opted to have the signs covered up.

Mr. Sweeny: Good job members. Let's move to B, we've got a notice to appear to Ancient City Endeavors. They have failed to obtain permits, among other things, perhaps. Who is going to lead us in this one, Mr. Ferris?

Mr. Ferris: Yes, Mr. Chair. 210 F Street was found to be performing interior and exterior work without permits resulting in a stop work order being posted on September 20th. We sent out a certified letter to comply on October 12th, 2023, but we never heard anything back other than receiving a signature from the certified mail. They did receive it, but we still never reached out to the Building Department, even though they got a certified letter requesting them to obtain permits. On November 7th they were sent certified mail of this date to appear before the board. I did not receive anything back confirming if they received the letter or not.

Ms. Gilpin: Do you have a stop work order in place?

Mr. Ferris: Yes, but from the pictures, it looks like they pretty much gutted the whole house. This was a two-unit home, and they took down the divider wall, and just completely gutted it, insulation, everything, walls taken down. As I said, it appears they received the first certified letter. After that, there's been no contact. They haven't reached out to the building department whatsoever. They're local so I don't know. I'm not sure why.

Mr. Sweeny: Further questions. Okay, members we've got failure to obtain, but it appears work stopped once they got the first letter. We could start down the path of fines. Is that something you suggest? Mr. Law, you're recognized?

Mr. Law: Thank you. Given the work has stopped as you've mentioned, I believe all the work was done before we even sent the letters. There's a series of issues with this. We can't get in there to see if the electrical system is safe. The building inspector, I believe, noted this on a routine inspection down the street, and then we sent Mr. Fowler out to investigate as he's now looking into unpermitted work in the city.

We don't know the condition of the electrical system. They removed a demising wall separating the two halves which is more than just a building code at play here. Now it's affecting the trash, are they paying two separate fees, what is their intent with the building? How does this affect the tax roll and so on and so on? We don't know the condition of the interior of the building other than its gutted. Is it even a safe structure we can't get in there? As far as fines are concerned the work has stopped, but I believe code enforcement and Mr. Fowler have determined the board needs to be aware of this condition because this does require permitting and licensing. So, we don't even know who did the work.

Mr. Sweeney: Are we looking at a letter from the attorney that would push them towards allowing us access?

Mr. Blocker: I mean that's certainly something we can do, Mr. Chairman. We can send them a letter and make them aware of it. Yes, there's some details that we don't have because we haven't been able to get access to it. It would be helpful if we were able to gain access and have more details that might change the dynamics a little bit. The Board has a clear violation of what is in front of them; there is some permanent work so you all can decide now on that. It appears the work has stopped, but again, what you have in front of you now is a violation. You all can decide and assess a fine as we investigate, we can come back and report back to the board what additional details we were able to find out. I think the lack of communication has really been the issue here from my understanding of the matter.

Mr. Sweeney: What can the Board provide to get you inside?

Mr. Law: The Building Official does have the authority to remove power. However, we may not want to do that. We don't want buildings sitting without climate control, whether it be the summer or the winter. Obviously, the building is uninhabitable. This may be something that I decide on pending the outcome of this, that we give, maybe through the holidays, and then maybe a nudge from the attorney via letter to the legal owner. If we still don't have any communication, I can then call FPL and remove the electrical service, so I at least don't have to worry about what they did inside the electrical panel. As you all know, our lots are very tight. I'd hate to see any one structure, have a spark, and suddenly catch fire, because now there's no fire protection to protect the wood.

Mr. Wilson: Is that partition wall load bearing? Do we know?

Mr. Law: No, it doesn't appear to be by the direction of the roof trusses. It would have just been a fire break all the way to the roof deck. Is there intent to make one house out of it? We don't know because they won't call us back.

Ms. Gilpin: You said they're local. Do you know who it is?

Mr. Ferris: Endeavor. They have a local address.

Ms. Gilpin: Okay. But they have not responded at all.

Mr. Ferris: They only signed for the certified mail.

Ms. Gilpin: I'm sure they know they are in default.

Mr. Sweeny: Okay members, any further discussion, any motions? Would anyone like to make a motion? A path forward here? I'll start, then at least suggest, I appreciate that they stopped building. But I think when we start to assess fines, it gets people's attention. So, while I certainly appreciate staff's thoughts on the fines, I think fining people at times will help us get to the resolution we hope to get. So, I won't suggest a maximum fine, but I'd like to start at \$150 a day until they obtain the permit, thus allowing staff access to the building. I'd also like to request a letter from the city attorney demanding if that's not too strong a word that we have access to this structure due to security and safety reasons. That will be my motion.

Ms. Gilpin: I second.

Mr. Sweeny: Hearing a second. Okay, any discussion on that motion?

Mr. Pritchett: How often do you guys go by their house? Just once he stopped working, he can still go back and start working. Now, how often do you go about the property?

Mr. Ferris: Actually. Yesterday, it looked the same, looks like nothing's been going on at all. I could see right through the house.

Mr. Chair: Okay. All right. I hear a motion and seconds, all in favor of the motion staff. Were you clear on my rambling? Okay. All in favor of the motion? Say, aye. All oppose nay. The aye's have it.

Motion: 210 F Street to be fined one hundred and fifty (150) dollars a day until permit/s obtained and access to building granted. **Moved by:** Mr. Sweeny, **Seconded by** Ms. Gilpin, **Passed 7-0** by unanimous voice vote.

Mr. Sweeny: Let's move on to letter C, AGK FL One Holdings LLC of 11 13th Street. Also, a failure to obtain a permit. You are recognized Mr. Ferris.

Mr. Ferris: This started back on July 26th. I believe Mr. Fowler, our building inspector, placed a stop work order at this residence. This involved decks, siding, and I believe windows. It appears there may be some other work going on at the house. A certified letter was sent to the owner requesting permits to be obtained on October 13th. We were requesting these permits to be obtained by the 31st of October. No communication was received through code enforcement, and we never received a response to the certified mail. On 11/6, Code Enforcement was informed that another stop work order was posted after work on the house had started again since the last stop work order. On November 7th, we sent out another certified letter for the owner to appear before the code board. Code enforcement hasn't received anything, but the owner and/or the contractors have been in touch with the building department trying to get this straightened out recently. Just prior to November 2nd, First Impression Contractors reached out to the Building Department to inquire what was needed to obtain compliance. They have submitted two separate applications that I am aware of which were both denied due to being incomplete and/or inaccurate. The last application was submitted on November 16th.

Mr. Sweeny: I have a question if I may. When they are coming in to fill out the permits or whatever they're trying to do, is it negligence on their part? Are they ignorant of the process? Or are they just trying to be funny, in your professional opinion?

Mr. Ferris: I would have to turn this over to Mr. Fowler for a better understanding of the application process.

Mr. Sweeny: If you're not comfortable answering that question, I understand. I want to know if you feel like they are playing games with us, or if they just don't understand how to fill out a permit.

Mr. Fowler: I'm a permit technician. I've been working with the city for 4 to 5 years now. I enjoy the job. Not necessarily out to get anybody, I will say that.

Mr. Sweeny: Very good. Excellent.

Mr. Fowler: On to the matter at hand, negligence, potentially, the contractor that appeared to be selected seemed like they had a major background in roofing as per their first submission. They simply filled out what was necessary for a reroof, which we informed them was incorrect documentation. At the same time, the notice of commencement that was applied stated deck work while the application stated reroof. The second course of applications, the submittal was inconsistent information which was all over the place. I would say that they are probably new to the scope that they were attempting to apply for. It appeared that their licensing was in order, so they were just new to the process in this case. But still no further communication in between, no replies to any assistance provided by staff for the most part.

Mr. Sweeny: Have you worked with this company before? Or is this the first time?

Mr. Fowler: Personally, no, sir, I believe this was the first time. It appears this is the first time they have worked in our jurisdiction since we had to add them to our system.

Mr. Sweeny: Members, any questions for Mr. Fowler? Thank you, Mr. Fowler. I appreciate it. Okay, so, are we essentially looking at the same thing we looked at under Item B? Are they continuing this work? Or do you believe they've stopped?

Mr. Ferris: It looks like it has stopped now. There was some work done after the first stop work order and a second stop work order was posted. I've gotten no response from the certified letters. However, they have reached out to Mr. Fowler with these applications they've been submitting. It appears no other work has been performed since the posting of the second stop work order.

Ms. Gilpin: Did they bring any money when they came and filled out the wrong, or did they pay any money?

Mr. Ferris: Not that I'm aware of.

Mr. Fowler: No, ma'am, we don't accept payments unless we have a complete submission that does not require an interview. This is an instance that would require an interview.

Mr. Wilson: When was the last permit attempt issued?

Mr. Ferris: November 16th which was our last point of contact with them.

Mr. Wilson: Is it possible they are trying to get their ducks in a row and do it right this time?

Mr. Ferris: It's possible.

Mr. Wilson: They haven't been back in contact with you, correct?

Mr. Ferris: No, they haven't.

Ms. Gilpin: Have they asked, when you say this is wrong, have they asked what is wrong with it? Or like what did I not do right? Have they asked that question at all? I don't know why you keep coming back and not do it right.

Mr. Ferris: Mr. Fowler would be the one they would be in contact with regarding the process.

Mr. Fowler: They submitted both times by email in which case staff had illustrated what they would need to at least start the permitting process. Again, the first time they submitted a re-roof, which was not correct in any shape, or form. We did pose the question of whether they had meant to apply for a re-roof, which they didn't necessarily respond to. They just sent the second application, which was a better attempt. They had some of what they needed, but again, the information was very inconsistent, in which case we went into further detail to clarify what they would need, and no response whatsoever. As for if they're getting their ducks in a row, it's speculation at this point. They haven't communicated that they're trying. They haven't stated anything apart from their applications. No.

Mr. Mariutto: So, this is just for a re-roof?

Mr. Fowler: That's what they had originally applied for the application and documents that they submitted originally stated a re-roof for the property. The notice of commencement stated a single deck and siding repair, which, again, inconsistent information. Upon questioning there was no response, and then they did a second application which was regarding the siding and deck repair. Still inconsistent information as they supplied two hand-drawn decks, the description of work was for a single deck and siding. It was just inconsistent.

Mr. Mariutto: And they're going to do the roof too, and the decks?

Mr. Fowler: They didn't clarify; it's been all over the place.

Mr. Mariutto: A roof is probably one of the easier permits to get, to fill out.

Mr. Fowler: And on that part, they didn't necessarily reply to the first failed application attempt and question as to what was going on with their submittal. They just later supplied documentation for the siding and deck repair. So, I'm assuming that the roof was an error on their part. But again, it seemed or appeared as though

this contractor mainly had their license or background in roofing. Their licensing was for a general contractor so they could potentially do the work, it's new in their scope at this point, especially adding to the fact that they are new in our jurisdiction.

Mr. Mariutto: I'm looking at the pictures here, and I can see where they're going to try to do the siding.

Mr. Pritchett: It appears to me they're playing games with the building department, though. It's just if you're a contractor you know what's got to be in a permit. It just appears he's playing games.

Mr. Fowler: We offer as much assistance as we can, but again, as much as we have clarified, there have been no responses at all apart from the submissions. The city staff can't necessarily assist any further if they don't ask questions or communicate.

Mr. Sweeny: Okay, members. I'm going to go ahead in motion unless there's any more questions or comments. Please, this one looks a little more egregious than the previous one. So, I'm going to suggest that we subject them to a \$200 per day fine. Along with a strongly worded letter from our attorney stating, we would like access and that they get the permits right away. That's my motion.

Ms. Odom: Do we add when that starts, the \$200 a day, is that today?

Mr. Sweeny: Start it today.

Ms. Odom: I second that.

Mr. Sweeny: We have a second. Any discussion? Alright. And I will also remind everyone that certainly with these fines, when they become excessive, we've certainly allowed people to come back and ask for some help, and I think we've always tried to do that when applicable. So, even if these fines start to be excessive, hopefully, they will do the right thing and come. So, with that, I'll call the vote all in favor of the motion say, aye. All oppose nay. The aye's have it.

Motion: AGK FL 1 Holdings LLC of 11 13th Street to be fined two hundred dollars a day until permits obtained and letter from attorney requesting access to building. **Moved by:** Mr. Sweeny, **Seconded by:** Ms. Odom, **Passed 7-0** by unanimous voice vote.

Mr. Sweeny: Okay. Let's move on to New Business D, notice to appear to Attorney Whitehouse, who is representing the owner of 56 Willow Drive. We've been over this one a few times. Sorry to keep you waiting for Attorney Whitehouse, but we've been waiting for you. I'll turn it over to you, Mr. Ferris.

Mr. Ferris: Most recently we received an email on November 13th from Mr. Whitehouse that the carport was coming down. It appears the carport was taken down on November 9th which puts the fines at \$31,000. The pavers have not been removed yet as they are still working on calculating how many will have to be removed for the ISR with planning and zoning. As of today's date, the fine for the additional driveway/pavers is \$36,000. Mr. Whitehouse is present today if you have any questions for him.

Mr. Sweeny: Any more questions for Mr. Ferris before we call up Attorney Whitehouse? I'm going to recognize Mr. Law.

Mr. Law: If I would, because the building is down, and if I recall correctly, the board has issued two separate fines. So, the building division, which represents the Florida Building Code, no longer has any input regarding the pavers or the deck. The city is in receipt of an application yesterday afternoon regarding a variance for the pavers and the additional right of way more than 18 feet. So, I would ask that the board settle the fine if any fine at all on the structure.

Mr. Sweeny: The \$31,000?

Mr. Law: I'll defer to Mr. Ferris on that for the structure.

Mr. Ferris: Yes, \$31,000 for the structure.

Mr. Law: Personally, I have no interest in a fine on that building as the Florida Building Code has been satisfied. But I do leave that up to this board.

Mr. Sweeny: I will ask this question. When were they first notified that that structure was out of code?

Mr. Law: I'll default that back to code enforcement.

Mr. Sweeny: Back in May? Did it take 4 months to take down the structure?

Mr. Ferris: May 9th.

Mr. Sweeny: May 9th, they were notified to take down the structure.

Ferris: May 9th. That's when the case was opened, and permits were asked to be obtained.

Mr. Sweeny: For the structure?

Mr. Ferris: For the structure. Inquiring about it going up and permits would have to be obtained.

Mr. Sweeny: The structure was up by May 9th, so it went up sometime before May 9th and finally came down four months later. Is that correct Mr. Ferris?

Mr. Ferris: Yes.

Mr. Chair: Okay. Members, before we bring the attorney up, any questions for Mr. Ferris? I want to make sure everybody's clear on the structure and the \$31,000 fine.

Mr. Wilson: One question. The whole time that was going on, he was trying to keep the structure. So, he was working with the city, contacted the city, trying to get the permits, trying to see how he can make it right?

Mr. Ferris: Through his attorney, yes.

Mr. Law: If I may. Mr. Whitehouse was in communication with the planning and zoning division for a pending variance for several months since this began. So, there has been communication between their attorney and the planning and zoning division. Ms. Miller just walked through the door. She's been handling this case along with Ms. Thompson. So, if there's any zoning questions about the variance, Ms. Miller can answer.

Mr. Sweeny: Okay. So, I'm going to ask a further question then. It appears paperwork I'm looking at, I could be wrong, that the discussion on the variance for the structure did not come until the last day of July. Which would mean the structure was up for almost more than two months, two, and a half months before a variance application was submitted. Is that correct?

Mr. Law: It appears based on the information provided that July 31st, Mr. Whitehouse submitted a variance application for the detached structure and that is timestamped from the software the city uses.

Mr. Sweeny: Again, that would be two and half months the structure stood without a permit, out of code.

Mr. Law: It appears so.

Mr. Sweeny: I found it down to two and a half months. Members, any other questions so far? Whitehouse. Welcome. It's good to see you again.

Attorney Whitehouse: Good to see you. Good afternoon, Mr. Chair, board members for the record, James, Whitehouse, Saint John's Law Group 104 Sea Grove Main Street here in Saint Augustine Beach, Florida. As you know, I'm here on behalf of the owners of 56 Willow. There were several, obviously, actions that were taken prior to my involvement in this case. They hired some contractors. And for the record, I don't have a doctor's note or anything like that, but they are elderly people, and they have several medical issues, hence the issues going on with the variants. But that's part of the explanation, I think, from sometime in May when they... and they're not here all the time, they're back and forth. I think it's Maryland, but I don't want to say, something like that. So, the point is that I don't know if they knew, it may not be an excuse, but I don't know if they knew. Some time until late May into June, I was contact sometime in June, and I had conversations with the city. I think starting sometime in June. Yes, that application wasn't filed for a variance until the end of July, but that's because there were other discussions as to the code and the interpretations of the code leading up to those variance applications. And ever since that date, there's been constant communication with the city and city staff in all departments as to the different issues on the property we have. As you know, and you heard from code enforcement, several weeks ago, we did work with them and finally got contractors to come out and take down the carport itself. Obviously, they would have liked to have kept the carport, and we were moving forward with the variance on that, but pursuant to my discussions with staff and trying to work with staff on this instance, I concluded that was probably the best on their part to take it out and then we could move forward.

The variance that was filed just recently is not because I filed the day... it appears that it was filed the day

before today, but that's not why we've been working all along, and this is to remove several of the pavers. In fact, almost 800 square feet of the pavers of that pad. And this isn't really the issue that's before code enforcement today, but I want to put it and let you know, you understand the full landscape. They have handicaps and part of it is, I don't know if all that area, it's right over here. It's Oak and Willow and Lake Shore, it's very hilly. And their house is built up in a fashion where...

Mr. Sweeny: Now hold on attorney Whitehouse. You're an attorney.

Attorney Whitehouse: Yes, sir.

Mr. Sweeny: And the state of Florida forces you to tell the truth.

Attorney Whitehouse: Yes, sir.

Mr. Sweeny: We live in Florida on the beach.

Attorney Whitehouse: Yes, sir.

Mr. Sweeny: It's not that hilly.

Attorney Whitehouse: Yeah. No. I think my point is that what I was getting to was not that it's hilly and has anything to do with the carport, it has to do with the fact that they need a flat surface for the wheelchair to be out of the car. And really, and again, my reference to the area is because if you drive through there more than 50% of the houses and they all have circular driveways or two or three or four accesses going to the houses, which will all come up for the variance, it has nothing to do with today, but I just wanted to show the landscape.

It's not that these people are trying to play games. They hired me way back when and I've been trying to deal with it ever since trying to get this squared away. I don't necessarily know if it's proper to fine them tens of thousands of dollars, especially because your attorney can tell you this, the point with code enforcement is to gain compliance, it's not to punish people. And the point is here, I think we have gained compliance with the carport itself. We are gaining compliance with everything else. There's an interpretation by the staff that if you have two driveways they have to be a maximum accumulated amount of 18 feet, I respectfully disagree with that particular interpretation in the code, but I respect their judgment on that.

As I said, there's a number of other houses in the same particular area, and their driveways clearly are more than 18 feet accumulated. I'll get to where we're going Mr. Chair, I'm sorry.

Mr. Sweeny: Before you go too far, I just want to say this in relations to your last comment. We are certainly aware, especially those who have served for a long time, why code enforcement is here. As you might note, when we first started this case, back in May, nothing happened until the very day after we started to fine your client.

All I want to say is sometimes it takes fining, as you sat and listened to us fine the previous three. That's what it takes to get people to come in and come up to code. So, you are perhaps correct. We're not trying to access excessive fines but as you have just proved here before us, June 28th, \$250 a day, suddenly, within 24 hours of that fine, we finally received an email from somebody to get something done. So, I just wanted to note that because it seemed like you thought we were just up here fining people excessively. So, I just want to push back a little on that.

Attorney Whitehouse: No and I apologize, Mr. Chair. I did not mean to cast aspersions at all. I understand. I've been a city attorney in many jurisdictions.

Mr. Sweeny: I will always defend the code. I just will defend this Code Board.

Attorney Whitehouse: Yes, sir. If it sounded like I was casting aspersions, I was not. My point to say was that, and I think it goes back to your point exactly, which is that if they had ignored the fact that fines had been put in, and it had gone on for days before you heard something, I think you said it was immediately that day or thereafter that had happened. So, if there's a fine, it should be a minimal fine.

I don't really want to talk about the fine right now. If there's a fine, it should be a minimal fine, because they did go out and hire an attorney who's certified as an expert in the State of Florida, city county, and local government law and I've been trying to take care of it ever since. I think you heard that from your building official. So, the fact is that we are before the board, we have gained compliance and probably through full respect to the board because of your actions previously, and like I said, as you heard from the building official, they have no necessary interest in a fine because the structure has gone, and that's in compliance.

Now we're moving forward. The point is that the plan now that has pushed... that is public record, because it's going to be before the planning and zoning board here coming up is a variance of the ISR not to ask for some huge amount, but to ask for an increase so they can have these pavers which were installed by a licensed contractor as well as the carport. I'm not here to cast aspersions on them either. The fact of the matter is that these people are elderly people, they have lots of ailments, and they were just trying to find a way to have handicapped accessibility. And really, I think we're coming as far as I think there's 2 claims on the board here. One is the construction of the carport, which is, as you heard, is gone so that's not really anything to move forward on.

The second one is obtaining the right of way permit. And we will need to put that on hold pending the... In fact, I'd ask you to dismiss that pending because I'm going to tell you right now that if they get the variance, we'll do that. If not, they're going to have to take it out. So, it doesn't really... one way or the other. You can keep it on your agenda if you want. I'll come back next time. But I think the fact of the matter is, and it wouldn't, it be after whenever that variance hearing is, but I don't necessarily know that either thing is going to be outstanding at all because there is full action. And there really has been full action on that since June.

Mr. Sweeny: I'm going to suggest to the board that you keep the outstanding \$36,000 on the pavers to see how that works its way through. I'd rather just keep the continuation. So, members, any questions for Attorney Whitehouse?

Mr. Pritchett: When did he contact you for the attorney?

Attorney Whitehouse: I think it was sometime in June. I will tell you this, as you heard from Mr. Chair, I'm a bar attorney, I must tell you the truth. That's why I don't have to be sworn in. The fact of the matter is they contacted me prior to the time when you guys started issuing fines.

Ms. Gilpin: It's here our record show that they hired Attorney Whitehouse May 23rd. That's what our records show.

Attorney Whitehouse: That may have been the case.

Ms. Gilpin: And then on the 30th of May you called.

Attorney Whitehouse: Yes, ma'am. I think that we've been trying to work through this. There were several issues with this. It was because of the actions, maybe not of them, but of their contractors and the people they hired who they're responsible for. So, I'm not trying to get them out of it, but these are people not... they really weren't trying to avoid or play games.

Mr. Sweeny: Further questions?

Ms. Odom: I'm not trying to be ugly, but we're asking for forgiveness not permission anymore, that's where it bothers me, I guess. And I appreciate the elderly, I do. I'm there, okay. But that's just my comment on it. I know, I agree with you. I think the \$36,000 will stay going before planning and zoning, Mr. Whitehouse you know we've got to have a hardship for that.

Mr. Sweeny: Members, further questions of Attorney Whitehouse?

Attorney Whitehouse: Thank you, sir.

Mr. Sweeny: All right any further questions for Attorney Whitehouse, or staff?

Mr. Pritchett: It appeared to me that going back to May, May 9th is when everything started rolling in. It took him this long and he's got letter after letter after letter to either remove it or approve it, or get a permit or whatever, and never made a motion to come in and do anything until we started doing all the fines.

Mr. Sweeny: Mr. Ferris. Let me ask Mr. Ferris first, and I'll work my way up. When we first send the letter, do we send it to the company who put the carport up, or do we send it to the homeowner? Did we tell the homeowner it was out of code and needed to be taken down? Did we tell them it was out of code; they needed to come and fill out proper permits? Did we tell them it was out of code; they need to fill out proper permits and come before code enforcement? Walk us through how that happened.

Mr. Ferris: Okay. So, when the case was first opened that went to the homeowner.

Mr. Sweeny: But what went to the homeowner? What were they told to do or asked to do?

Mr. Ferris: To acquire the proper permits.

Mr. Sweeny: Okay. So, they weren't asked to take it down at that point. Just permits.

Mr. Ferris: Not at that point, no. To acquire the proper permits.

Mr. Sweeny: Any other questions members? Mr. Law, would you like to add?

Mr. Law: I would like to just reiterate one more time that Mr. Whitehouse has been in constant communication with us. This is not an easy case, because of the impervious surface, the multiple land development code violations that applied. He was working with staff since the beginning. Yes, it has been several months but once again, the Florida Building Code has been satisfied in regarding the structure.

Mr. Sweeny: I would also like to ask, what was the amount time? Mr. Timmons, this might be a question for you. How much staff time was put into having to continually go back, trying to get these people to come before the board? We used to get a list of the number of hours staff applied to a case and the cost. I would like to know what it costs the city of St. Augustine Beach just to deliver letters. Check on what was in code, out of code. I'm going to guess there's attorney time that probably needs to be taken into consideration.

Mr. Timmons: Yes, there is a formula we use to create a total of these services rendered, such as like you said, certified mail, hours of staff, attorney fees, time on the phone emails, just general labor fees. We have not included it in this fine, though. I have not done the math for this case.

Mr. Sweeny: Members here's where I'm going. So please stop me with the majority if you don't want me to go down this route. I think the \$31,000 is too much in my opinion, but I am willing to be outvoted if you all disagree. I believe a fine should be given even if it is just city time. Mr. Timmons, can you give me just a rough estimate of your time? Or maybe, Mr. Ferris, Mr. Law, and our attorney can huddle over there in 2 minutes and come up with a general idea of what it costs the city of St. Augustine Beach to go through this. We can then discuss that number if that is a number that Attorney Whitehouse will work with us on. This is something that we could consider one way or the other to get us out of the \$31,000 fine.

Mr. Timmons: Yes.

Mr. Sweeny: Is that okay, members? Do you have just a few minutes to bear with us?

Ms. Odom: How much is for the apply for the variance?

Mr. Law: I was going to bring that up and then present it to you. But I will tell you now, while we're talking about it, I'm going to instruct my staff not to include planning and zoning time on a variance, because Mr. Whitehouse has paid the fees for that variance. We are simply looking at code enforcement; the building inspector saw the structure and reported it. We turned it over to code enforcement; the building division has no interest in money, nor recouping any fees because they are so minimal. Planning zoning fees are picked

up through the application for the variance that Mr. Whitehouse did provide to the city when he submitted for the initial variance.

Mr. Sweeney: I'm sure Attorney Blocker would like to pro-bono his work to the beach, but I would like that to be counted as well. I'm sure there was some attorney work done. Even if it was just signing a letter. Whatever that might be. So, I would like to include everything possible.

Mr. Blocker: Mr. Chairman, I think we've come up to what the staff time is, and Mr. Whitehouse has agreed to that.

Mr. Sweeney: Can you fill us in?

Mr. Blocker: So, the accumulated staff time, is going to be coming in from the planning and zoning which will be approximately a couple hundred dollars, about \$200.

Mr. Sweeney: All total it costs the city of St. Augustine Beach \$200.

Mr. Blocker: That's correct. Give and take again.

Mr. Sweeney: Yes.

Mr. Blocker: This is a quick analysis here.

Mr. Sweeney: Okay, members I'm going to motion that we set the fine at \$200 from the \$31,000. We have a second. Discussion?

Mr. Pritchett: I thought it's too low a plan. Hold that level. We have had this situation since May 9th, \$31,000. Let's fine him \$10,000 and get it over with.

Ms. Odom: I understand that I just think that if we look at what's happened here, they have paid attention and they contacted the attorney. It takes time, and I'm not making excuses by any means. I don't think like the previous people they just decided not to talk to us or do anything. These people, I feel, have at least made some effort. I'm not justifying the 200 or discounting your 10,000.

Ms. Gilpin: I seconded the motion because the homeowner came in to obtain the permit on May 10th after receiving the violation on May 9th so there's been contact. It wasn't like some other cases we heard early where the people just ignore you. I know Mr. Whitehouse is not free, so I think \$200 is plenty considering the situation.

Mr. Mariutto: Well, I was just thinking maybe \$10,000 is too much and \$200 a little too little. Maybe I don't know, \$200 times 3, \$600 bucks.

Mr. Sweeney: There's a motion on the floor so I'm going to call this one to a vote, and if it goes down it goes

down.

Mr. Blocker: Mr. Chair, before you go on, if I can just make the board aware. Just to be clear on this and this is not to persuade the board either way, I just want to make the board aware, that Mr. Whitehouse did make some strong legal arguments.

Now, obviously, the staff and myself, there was not agreement on that, but there was some legal dispute analysis that went into this, and we eventually disagreed with that. I feel compelled as your counsel to make you aware there was some discussion and back-and-forth trying to dig into it. There was a little bit of gray area; however, I do believe the staff got this correct. Mr. Whitehouse did raise some issues that need to be considered.

The situation we have experienced is unique. We've experienced others with some being on the agenda today where there's complete disregard, staff is having to hunt them down, track them down. Mr. Whitehouse quickly started engaging with me and with staff. I want the board to have a complete picture of that. Again, not to persuade one way or the other, but just so you have an accurate picture of what happened.

Mr. Sweeny: Okay. Members with that motion on the floor to reduce the fines from \$31,000 to \$200. It's been motioned, and seconded, all in favor say aye, all oppose say nay. The aye's have it.

Motion: Fine for the carport structure reduced from \$31,000 to \$200. **Moved by:** Mr. Sweeny, **Seconded by:** Ms. Gilpin, **Passed 6-1 by:** unanimous voice vote.

Attorney Whitehouse: We're going to keep the \$36,000 on the agenda?

Mr. Sweeny: We are keeping the \$36,000 on and go through the proper process.

Attorney Whitehouse: Yes sir, thank you.

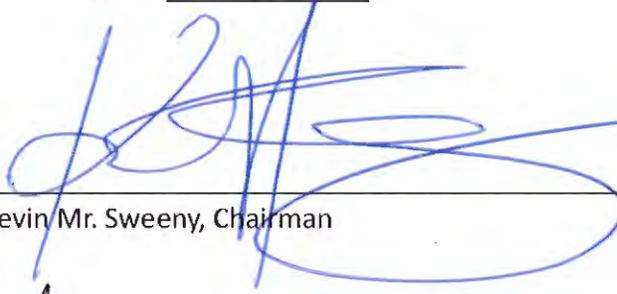
Mr. Sweeny: Staff, anything else for us? Members. Thank you all for coming. I hope I get to see you in December, but if I don't, I hope you all have a great holiday and a fantastic 2024. Thank you. And with that Vice Chair moves, we rise.

[END]

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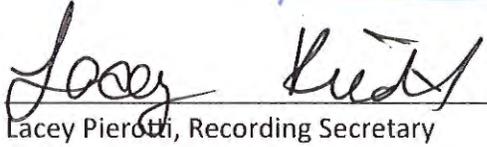
VI. BOARD COMMENT

V. VII. ADJOURNMENT



Kevin Mr. Sweeny, Chairman

2/28/2024



Lacey Pierotti, Recording Secretary

(THIS MEETING HAS BEEN RECORDED IN ITS ENTIRETY. THE RECORDING WILL BE KEPT ON FILE FOR THE REQUIRED RETENTION PERIOD. COMPLETE AUDIO RECORDING CAN BE OBTAINED BY CONTACTING THE CITY MANAGER'S OFFICE AT 904-471-2122.)