

MINUTES
CITY OF KEY COLONY BEACH
CODE ENFORCEMENT BOARD

Wednesday, May 11th, 2022 - 9:30 a.m.
City Hall Auditorium & virtually via Zoom Conferencing

1. Call to Order, Pledge of Allegiance, and Roll Call: *The Code Enforcement Board Meeting of the City of Key Colony Beach was called to order by Chair Joey Raspe at 9:30 a.m. followed by the Pledge of Allegiance and Roll Call.*

Present: *Chair Joey Raspe, Vice-Chair John Dalton, Kimmeron Lisle, George Lancaster, Tom DiFransico.*

Also Present: *City Administrator Dave Turner, City Attorney Gaelan Jones, Code Board Attorney James Dorl, Building Official Gerard Roussin, Chief Kris DiGiovanni, Code Enforcement Officer Stacy Stahl, Administrative Assistant Christine McLeod, Administrative Assistant Barbie Morales, City Clerk Silvia Gransee*

City Attorney Gaelan Jones stated that the stipulation agreement from the April 13th Code Hearing on the agenda needs to be supported by a Code Board Order. City Attorney Gaelan explained that he drafted a resolution that states, that in the event of a duly executed stipulation agreement between the city and a resident who has been charged with a code enforcement action, that the board grants the board chair, or in the chair's absence the vice-chair, the authority to review these stipulation agreements and issue an order of approving the same. City Attorney Gaelan stated that it is the Board's choice to consider the resolution but drafted one in case the Board is interested. Chair Joey Raspe asked City Attorney Gaelan if he is looking for a vote today, if the board would agree to adhere to himself or the vice-chair, to be able to agree to the stipulation agreement. City Attorney Gaelan Jones explained that, for example, the 141 10th Stipulation Agreement up for review by the Board today, instead of the case coming in front of the board, the chair, or vice-chair in his absence, would have the authority to review these stipulation agreements and issue an order of approving them. City Attorney Gaelan Jones stated all these stipulation agreements are notarized and duly executed by the resident and the city. Board Member George Lancaster stated that he would like to make a motion to approve the resolution which City Attorney Gaelan explained that first it must be determined if there is cause to add the item to the agenda. Vice-Chair Dalton asked if this applies to the future which the City Attorney confirmed. City Attorney Gaelan Jones further stated that the Board will have a chance to see the 141 10th Street case since the case is already in front of the Board but there might be future agreements that this resolution fall to. Board Member George Lancaster asked City Attorney Jones if he needs a motion to add the item to the agenda which City Attorney Jones confirmed.

MOTION: *Motion made by George Lancaster, seconded by John Dalton, to add the Resolution to the agenda.*

DISCUSSION: *None.*

ON THE MOTION: *Roll call vote. Unanimous approval.*

City Attorney Gaelan Jones additional suggested adding to the agenda the swearing in of Board Members Kimmeron Lisle and Freddie Foster as Code Board Members.

City Clerk Silvia Gransee read the oath of office to Freddie Foster and Kimmeron Lisle, and both were sworn in as new Code Enforcement Board Members.

The Code Board Chair and City Attorney agreed to add the new agenda item under Item 7.

2. Approval of Minutes: *None.*

3. Swearing in of Witnesses to Testify: *City Clerk Silvia Gransee administered the oath of witness to all that were testifying.*

4. Notice of Ex-Parte Communication

An ex-parte communication is defined as any contact, conversation, communication, writing, correspondence, memorandum or any other verbal or written communication that takes place outside of a public hearing between a member of the public and a member of a quasi-judicial board regarding matters which are to be heard and decided by said quasi-judicial board. Site visits and expert opinions are also considered ex-parte communications. In the event that someone contacts a Board Member about a quasi-judicial matter outside of a public meeting, at such time that a particular issue is brought before the board; the Board Member should state on the record the existence of an ex-parte communication, the nature of the communication, and the party who originated the ex-parte communication. Similarly, any correspondence received by a board Member must be forwarded to the City Clerk. You should also state whether the ex-parte communication affects your ability to impartially consider the evidence presented.

Chair Joey Raspe asked the Board Members if there has been any ex-Parte communication which there was none.

5. Cases for Hearing:

A. Citation No. 22-000283: 1000. W. Ocean Drive – Owner: China Beach LLC – Ordinance No. 284, Sec. 6-32; 6-34- Unit Dwelling; Dangerous Building. The Property constitutes a ‘dangerous building’ as defined by Sec. 6-32(c) and Sec. 6-34 of the City Code and presents an imminent danger to the safety of City Residents.

a) Affidavit of Mailing & Posting were accepted as sufficient.

b) City Attorney Gaelan Jones stated that Mr. Simmons is attending the meeting via Zoom and is representing the owners. City Attorney Jones explained that the existence of the violation is no longer in dispute and that the stipulation agreement that was reached with the owner was included in the agenda packet. City Attorney Jones explained that the property was severely damaged during Hurricane Irma and is attached to an adjacent dwelling that is occupied by Mr. Orlando Fernandez. City Attorney Jones explained that the city attempted to work through the stipulation agreement but unfortunately the owners failed to comply with the agreement. City Attorney Gaelan Jones stated that the case was brought back to the Code Board for a further hearing, but the owners submitted a permit to demolish the structure which will satisfy the city’s desire to protect the resident next door. City Attorney Gaelan Jones turned the meeting over to Mr. Simmons and stated, that the city is asking for a supplement to the demolition permit with an engineer’s report that ensures the protection of Mr. Fernandez’ property next door, along with updating the permit with a requirement to block the party wall in between the two structures. City Attorney Jones stated that the attorney for the owner has indicated that this will not be a problem and they are prepared to submit within 10 days of today’s court order. City Attorney Gaelan Jones further reported the owner is asking for 30 days to complete the demolition and that the city is asking for 15 days. City Attorney Gaelan Jones stated he will entertain taking testimony from the owner, or Mr. Simmons, on why 30 days is appropriate and have Building Official Roussin explain why the city thinks 15 days is appropriate. City Attorney Jones explained that fines have started accruing as a result of the violation of the stipulation agreement and stated that he is asking for a fine of \$500.00 a day to be imposed in the event that the owners fails to submit the engineering report and not obtaining the permit within 10 days of the Code Board order today, as well as an additional fine that will start to accrue from the moment that they fail to complete the work in whatever period of time the Code Board is willing to give today. Chair Joey Raspe asked if the Building Official or the Code Enforcement Officer had additional comments before Mr. Simmons made his remarks. City Attorney Gaelan Jones clarified that Mr. Simmons did not have to be sworn in to make arguments for his client, but if he will be testifying for his client he must be sworn in as

a witness. Building Official Roussin stated that the City Attorney had summed up all the issues with the property. The Building Official further updated that late Monday afternoon an application was received for a demolition permit for the property and that they are looking for a couple extra items to be added to the permit and the Building Department is looking forward to closing the case. City Attorney Gaelan Jones stated that if Mr. Fernandez is attending the meeting that he might want to testify as well. Mr. Fernandez replied that he believes that the best way to move forward is to demolish the structure, and that five years is a long time but that he appreciates the effort. The Code Enforcement Officer and Building Official did not have any additional comments. Chair Joey Raspe asked on the set number of days to apply for the permit for Spalling repairs and pole shoring which has not been completed and stated that the owner is already 30 days late on what was stipulated in the agreement and asked the City Attorney if the fine per day has started to accumulate. City Attorney Jones confirmed that according to his calculations the fine is up to \$9,500.00 currently, and in his opinion, the fines will continue to accrue on the terms of the stipulation agreement. City Attorney Gaelan Jones explained that the draft order for this case states that the fine will continue to accrue until the new stipulation agreement has been complied with and the old agreement will become null and void without any of the fines being affected under the old stipulation agreement. The City Attorney stated that the fines will become a lien on the property once the new order has been recorded with the clerk of courts, which the city can collect at any time. City Attorney Jones further explained that typically a payment plan will be made with the owner, but in case of non-payment the city has the right of foreclosure to the property. Upon questioning, Building Official Roussin explained that he believes three working weeks would be sufficient for the demolition, but does not know where the working crews for the owner are coming from. Building Official Gerard Roussin further stated that he gave a number of days that shows the work has to be done as soon as possible but said that he is willing to entertain a different time frame. Mr. Simmons recounted that the agreement with the city was entered to avoid a Code Board Hearing and to renovate the structure, but the structural engineer for the owner recommended removing the structure instead. Mr. Simmons further stated this is the reason behind the demolition permit and that the engineering report should be available within 10 days. Mr. Simmons continued saying that the work can be done withing 15 days but due to logistical problems more time is requested, and 30 days would be desired. Chair Raspe stated that in his opinion 15 days should be sufficient since the owner had already time to get the logistics figured out and it is not the city's responsibility to figure out the demolition crews logistics. The Board discussed the time frame of 15 days, which Building Official Roussin further explained that it is predicted to be a very busy storm season and they would like to have the project completed before the first named event in the season. Building Official Gerard Roussin continued saying that the Building Department is willing to work on the time frame and that the permit will be issued as soon as possible and that they are willing to help. Chair Joey Raspe asked the Building Official if he believes the project can be completed by the end of the month which the Building Official stated he does not believe. Building Official Roussin said that the middle of June is realistic even though he would like to see a shorter time frame. Building Official Gerard Roussin explained that he believes middle-ground can be found between the 15 and 30 days but believes the sooner the better. Chair Joey Raspe asked if June 10th would be acceptable which the Building Official confirmed. Building Official Roussin stated that he requested a couple more items for the demolition permit which still need to be addressed but stated as soon as he has a report in hand in addition to payment, he will issue the permit. Chair Joey Raspe asked Mr. Simmons if they owners crew has experience with demolitions which Mr. Simmons denied. Kimmeron Lisle asked for clarification if 10 days are needed for an engineering report, which Building Official Roussin stated that he does not know the time frame for the report, but that the owner was made aware of it immediately after submitting the demolition application. City Attorney Gaelan Jones stated that Mr. Simmons had informed him that 10 days are sufficient for supplying the requested items for a complete permit application which Mr. Simmons confirmed. The Board further discussed with Mr. Simmons the needed time frame to produce the engineers report and when it would be submitted. City Attorney Gaelan Jones presented a draft order to the Board and explained the details of time requirements. City Attorney Jones explained that within 10 days of the order the full permit application must be submitted including the engineers report and blocking in of the fire

door, in event of failure to do so the fine would be \$250.00 per violation per day until the report has been submitted. The City Attorney further explained that within 21 calendar days of permit issuance all work must be completed, failure to do so would continue for fines to accrue after. Building Official Roussin confirmed that inspections can be completed as requested by the owners with no problems. City Attorney Gaelan Jones stated that a report submitted by Mr. Fernandez would not be sufficient to pass an inspection. Building Official Roussin explained that he could not accept reports by Mr. Fernandez on 1000 W. Ocean as he is not the owner of that property but understands that he has interest. The Board asked Mr. Simmons if he agrees with the dates as written which Mr. Simmons confirmed. The Board did not have any additional questions.

MOTION: Motion made by George Lancaster, seconded by Kimmeron Lisle, to accept the agreement on 1000 West Ocean.

DISCUSSION: None.

ON THE MOTION: Roll call vote. Unanimous approval.

B. Citation No. 22-000389: 680 11th Street – Owner: Dick Harper – Ordinance No. 284, 6-10-93; Ord. No. 289, 10-28-93; Ord. No. 331-1999, 10-4-99; Ord. No. 332-2000, 2-10-2000; Ord. No. 2019-461, 6-27-19). New Construction: Required performance and permit expiration; Requirements for new construction.

a) Affidavits of Mailing & Posting were accepted as sufficient.

b) City Attorney Gaelan Jones gave a brief overview on the case. City Attorney Jones reported that the case stems from an expired permit that was issued September 16, 2019, and that city requirements are that all work under that permit must be completed within 15 months of start of construction. City Attorney Jones stated that it is a little unclear on when Mr. Harper started construction but said that construction had commenced by the first inspection by the city on November 8, 2019. City Attorney Gaelan Jones further recalled that COVID started shortly after, and a State of Emergency was declared by the State Florida, which was renewed seven times over the next two years and ended on June 26, 2021. City Attorney Jones explained that these dates are important since Florida Law holds the expiration of any permits that fall under a State of Emergency and for six months after. City Attorney Gaelan Jones further explained that the owner is required to put the city on notice 90 days after the State of Emergency is expired if a six-month extension is desired, which would have been September 24, 2021. City Attorney Jones stated that Mr. Harper submitted his request for extension on October 14, 2021. City Attorney Jones continued saying that the City kept the permit alive until October 28, 2021, when the City granted Mr. Harpers permit extension starting October 28, 2021. City Attorney Gaelan Jones confirmed that work has not been completed but the property has been cleaned up considerably since the code notice, however, the work is incomplete and the permit expired April 28, 2022. City Attorney Gaelan Jones explained that the city requires an order of continuation of a construction permit, which is provided under city code, and carries a 15% monthly permit fee as a penalty for having failed to complete the work. The City Attorney further stated that the Code Board would be authorized to impose an administrative fine that would start immediately or within a certain amount of time. City Attorney Gaelan Jones explained that Mr. Tobin, Mr. Harpers attorney, is not stipulating to violations which would have to be proven today but believes Mr. Harper's goal is to work out an agreement to complete the work, which the city's goal is the same. Attorney Andy Tobin stated for the record that he was hired yesterday which is the reasoning behind not stipulating to violations, since he had not had a chance to go through the specifics. Mr. Tobin further stated that he appreciates the City's Code Enforcement Board and stated for the record the purpose of the Code Board, which is to promote and protect the health, safety, and welfare of the citizens by providing an equitable, expeditious, and effective, and inexpensive method of enforcing the ordinances of the City of Key Colony Beach. Mr. Tobin stated that the keyword of this purpose is equitable, and that the city's time frame is short for completion of construction in 15 months. Mr. Tobin continued saying that the State of Florida and the city have 180 days inspection requirements, and that if inspections are done every six months, at the third

inspection you are out of time. Mr. Tobin stated that his client will testify on what he is trying to do to finish construction. City Attorney Gaelan Jones presented the permit on screen to which Building Official Roussin explained is the original permit application by Mr. Harper. Building Official Roussin stated that the permit application was submitted on September 16, 2019, and it was issued on September 25th, 2019. Building Official Roussin further explained that Mr. Harper took over construction after the initial contractor had finished with the shell of the building and that the Building Department is looking forward to completion of the project. City Attorney Jones further showed photographs of the property as it sits today and focused on the third photograph. Building Official Roussin explained that the photograph shows construction and storage debris from inside the unit, and he is happy to say that a lot of the debris around the property has been cleaned up. After questioning by City Attorney Jones, Building Official Roussin stated that the picture was taken shortly after the (cancelled) April 11th meeting after the stop-work-order was posted. City Attorney Jones further asked if it was fair to say that the third photograph was taken when the stop-work-order was posted on April 29, 2022, which the Building Official confirmed. Building Official Roussin further confirmed that the picture was taken after the permit expired on April 28th, 2022, and that construction does not appear to be complete at Mr. Harper's property. City Attorney Jones shared additional pictures which he explained were not included in the agenda packet, as there were just taken yesterday. The City Attorney explained that the photographs are a demonstration of what the Building Official and Mr. Tobin had stated about the property being cleaned up significantly since the stop-work-order was posted on April 29, 2022. City Attorney Gaelan Jones shared an additional picture of the back of the house which shows incomplete construction but being cleaned up after the stop-work-order was issued. Building Official Roussin explained that the pictures of the house were taken by the city's Building Inspector Gerald Leggett via drone and no property lines were crossed. The Building Official further confirmed that the pictures are from the property located at 680 11th Street. City Attorney Gaelan Jones shared section 6-7 of the city code on screen and read Sub-Section B to the Board and explained, that the City Commission has the discretion to grant extensions for an expired permit that may not exceed one year with a 10% permit fee payable per month for such an extension. City Attorney Gaelan Jones continued reading Sub-Section E for a continuation of construction permit and stated that the applicable fee for the continuation of the permit is 15% payable per month of the original permit fee, impact fee, and sewer connection fee per month. City Attorney Jones continued by addressing Section 6-2 of the City Code and explained that section of the code which states that the most restrictive code shall apply. City Attorney Jones continued by reporting on Executive Order 20-52 which was issued March 9, 2020, and asked Attorney Tobin to authenticate the order which the attorney did. City Attorney Gaelan Jones further asked Attorney Tobin to stipulate to Executive Order 21-94, issued April 27, 2021, which extended the State of Emergency for 60 days past April 27, 2021, which Attorney Tobin confirmed. City Attorney Gaelan Jones further shared an email from Mr. Harper to the City of Key Colony Beach dated October 14, 2021, which Mr. Harper confirmed on having sent. City Attorney Jones stated that the email contained a request for a permit extension effective October 14, 2021. City Attorney Jones continued screensharing minutes from the October 28, 2021, City Commission Hearing, which documents Mr. Harper attending the Commission Hearing and requesting a six-month extension from October 28 for his permit to continue, which the City Commission granted. City Attorney Gaelan Jones stated that this concluded his exhibits and he turned the floor over to Attorney Tobin. Attorney Tobin turned the floor to Mr. Harper to explain his side of the story and why it is taking so long to finish construction. Mr. Harper stated to the Board that it took two years to receive the permit in question and explained that this was not a permit for new construction but an "Irma-Rebuilt" permit. Mr. Harper stated that his contractors started working October 1st and have put in hundreds of hours, and further stated that everyone knows that he is personally rebuilding his home. Mr. Harper continued listing the different jobs he performed on his house and that he has been "twiddling his thumb waiting for stuff" like many other people. Mr. Harper stated that due to the pandemic and other factors the house did not "get dried in until March of this year". Mr. Harper continued saying that work was underway when the city stopped work with the stop-work-order. Mr. Harper stated that all inspections were current through the entire process and that progress was being made up until the stop-work-order was issued. Mr. Harper explained his

impression of the permit under Florida law was, that it was still active since his inspections were current. Mr. Harper stated that the good news is that they are dried in but the bad news is that they have not been able to complete the rebuilt. Mr. Harper continued saying that all inspections had been passed but the canal side doors had been delayed. Mr. Harper stated that in January the Building Official inspected and passed the roof installation which Mr. Harper assumed reset the clock on the permit. Mr. Harper further explained that the doors arrived in March and were installed March 30th, further work was completed on April 21st, and Mr. Harper stated he requested a screw inspection that day. Mr. Harper said that on the same day, the Building Official send an email copying the law firm stating that his extension of the permit would expire on the 26th. Mr. Harper stated that the screw inspection was passed April 22nd and that he was current on inspections. Mr. Harper stated that this should answer the questions and he was making progress and believes that the permit is active. Mr. Harper continued explaining project timelines, and necessary contractors working on the building, in addition to himself. Mr. Harper stated that there are only a few inspections left to get to the certificate of completion, and he stated that since most of the materials are in, he does not see any huge delays left and he should be done by the end of the year. Mr. Harper said that he hopes to be finished earlier than that but does not believe realistically he will. Mr. Harper stated that he did not have materials to finish before. Mr. Tobin stated that this concludes the testimony from Mr. Harper. City Attorney Gaelan Jones asked Building Official Roussin if it is correct that the six-month inspections change the 15-month timeline for completing permits before expiration which Building Official Roussin denied. City Attorney Gaelan Jones presented his closing arguments and summarized the case at hand. City Attorney Gaelan Jones asked that at this time the city is looking for the Code Board to issue an order that imposes a fine of \$250.00 per day until work is completed. City Attorney Jones continued saying that this would require Mr. Harper to file a continuation of construction permit with a monthly permit fee of 15% of the original fee. City Attorney Gaelan Jones asked the Code Board to consider an additional administrative fine which could be given a grace period before the fines will start to accrue. City Attorney Jones stated that the city is asking, that within ten days of the effective date of the Code Board order Mr. Harper be required to apply for a continuation of construction permit, and that the Code Board considers an additional administrative fine for every day the work is not completed starting whichever date the Code Board feels is appropriate. Chair Joey Raspe asked for the amount of the sewer connection fees on the original permit, which Building Official Roussin explained were none. City Attorney Gaelan Jones explained the possible fines that could be imposed on Mr. Harper to the Board. Board Member Kimmeron Lisle asked what date the attorney was recommending starting with the imposing of fines, which City Attorney Gaelan Jones explained is up to the Board, with no preference having been stated other than the city's goal for Mr. Harper to finish the project as soon as possible. City Attorney Jones stated that Mr. Tobin had asked if the City could only impose the 15% monthly permit fee. City Attorney Gaelan Jones said that this concerns him, since no fees accrue in form of a lien on the property, which in his opinion is a penalty that does not have sufficient teeth for the city to enforce the completion of the project and to enforce the code. Attorney Tobin stated that he agrees with pretty much everything that has been said today but that he reads the code different then City Attorney Jones does. Mr. Tobin read part of the city's code and explained his interpretation of the code. Mr. Tobin continued by explaining his understanding of the code, penalties, and permit fees. Mr. Tobin further stated that this case is a technical violation and not a deliberate violation that occurred because of Covid, as well as Mr. Harper doing the work himself, and materials not being delivered. Attorney Tobin stated that according to Florida Statue, the Board is supposed to provide an equitable decision and that the Board knows that Mr. Harper is a well-respected member of the community that missed a deadline. Attorney Tobin asked that the Board could consider a different administrative fee of perhaps a dollar per day and that he does not believe the Board needs teeth to force Mr. Harper to get a permit. Mr. Tobin stated that Mr. Harper wants to get back into his house and that Mr. Harper does not need to be coerced, and he asked the Board to exercise their equitable jurisdiction and to not impose an administrative fine or perhaps just a one dollar a day. City Attorney Gaelan Jones screenshared the section of the code that was applicable to what Mr. Tobin had said. City Attorney Jones continued explaining his interpretation of the code and explained the purpose of enforcing the code and how it applies to Mr. Harpers

case. Mr. Tobin stated that the Board is charged with making sure that people do not violate the code and for compliance. Attorney Tobin further explained his understanding of compliance and timelines. Chair Joey Raspe stated his understanding of the continuation permit. City Attorney Gaelan Jones stated to Chair Raspe that as a procedural matter he is representing the city as general counsel, which is considered prosecution on behalf of the city, and that any questions on interpretation of code should be directed to Attorney James Dorl to provide legal advice to the Code Board. Attorney Dorl stated that at the start of the hearing Attorney Tobin had denied that his client had violated the statute and recommended that technically the Board must find that there is a violation and depending on findings decide on penalties. Chair Joey Raspe asked the Board if there is any discussion on violation. Board Member Kimmeron Lisle asked Building Official Gerard Roussin if there were any additional permit fees with the six-month extension. Building Official Roussin stated that at that time the City Commission had decided on a 10% one-time fee of the total permit fee that would be refundable if work was completed by the end of the six-month extension. Building Official Roussin confirmed that the fee was paid and has not been refunded. Board Member Tom DiFransico asked Building Official Roussin if there is a distinction between an "Irma Rebuilt" Permit and a regular building permit. Building Official Roussin explained that initially the permit was issued and then it was reissued to rebuild the structure at an elevated level and that the permit is a substantially damaged rebuild. City Attorney Gaelan Jones asked Building Official Gerard Roussin if there is a differentiation between a "Rebuild Permit" and a "Building Permit" with respect to deadlines of completing construction. Building Official Roussin stated that both come with the same time frame with the only difference being the permit fees are different for new construction. Chair Joey Raspe asked Building Official Roussin if he recalled the date the project became before the Planning & Zoning Board for review. Board Member George Lancaster asked Attorney Dorl if the Board can use their knowledge of past proceedings in this case. Attorney Dorl stated that the Board can make their decisions based on the evidence that was presented and in past cases the Board has interpreted the code in certain ways. Board Member George Lancaster clarified that some of the Code Board members are also members of the Planning & Zoning Board when the case was presented to that Board and they have knowledge that they would not have had from that hearing. Attorney Dorl stated that he does not think that the Code Board should use that knowledge to make their determination because not every person on the Board has the same knowledge. Attorney Dorl stated that the Board should make their decision based on the evidence and testimony presented in today's hearing. Building Official Roussin answered Chair Raspe's previous question on the Planning & Zoning Board Harmonious Review and stated that it was August 21, 2019, which went to the City Commission after which should have been the first week in September for the same project. Chair Joey Raspe asked what administrative costs the city had occurred at this time. Building Official Roussin stated that he had not calculated his costs at this time. City Attorney Gaelan Jones stated that the city can seek cost of prosecution and asked for a moment to confer with City Administrator Turner. City Attorney Jones stated that the city is asking for costs on prosecution to be awarded today with an exact amount to be determined at a later date either by stipulation of both parties, or by an order of the Code Board. Chair Joey Raspe stated that the first order is to issue a motion to determine if a violation has occurred.

MOTION: Motion made by John Dalton, seconded by Kimmeron Lisle, that Dick Harper, the owner of 680 11th Street is in violation of the City Code to complete construction under his building permit within fifteen calendar months of the commencement of construction, and the extensions thereof.

DISCUSSION: None.

ON THE MOTION: Roll call vote. Unanimous approval.

The Board continued the discussion on applicable fees. Board Member Tom DiFransico stated based on what Mr. Harper had said that this is almost a force-majeure situation as a result of the pandemic, Irma, and the difficulty of finding materials, which was discussed at a prior Commission meeting. Board Member DiFransico continued saying to penalize Mr. Harper is adding flames to the fire and suggested it might be

appropriate to give a grace period regarding accrual of fines. Chair Joey Raspe asked Building Official Roussin if the continuation permit has deadlines to which the Building Official stated that the Code Board can make a recommendation on the deadline to the Commission for final approval. Code Board Member Kimmeron Lisle stated that she agrees with a lot with what Board Member DiFransico said but stated that the neighbors have to be thought of as well, and that it is Mr. Harper's choice to perform the work himself. Board Member Lisle stated that this needs to be considered in the discussion and the incentive to complete the work. Chair Joey Raspe asked Mr. Harper why some of the work could not have been done while he was waiting for windows. Mr. Harper stated that many of the delays were not just because of the windows but other factors like electrical parts coming from Mexico and not being available. Mr. Harper stated that he spent a lot of time sourcing materials and further explained that it would not have made sense to complete some of the projects prior to being dried in. Mr. Harper continued saying that this was the stall point and once the doors were installed, he was trying to continue interior work. Board Member Kimmeron Lisle asked Mr. Harper what the square footage of his house is to what Mr. Harper stated he believes it to be around 1,152 square feet. Chair Raspe asked the Board if in addition to the continuation permit fee, a daily fine should be issued or a grace period for a certain period of time, and if work will not be completed on time the fine could be retroactive back to today. Attorney Dorl stated that the Board can impose a fine that can be taken away later upon completion of the project. Attorney Dorl further explained the purpose of the fine and the Board continued discussing the purpose and setup of the fine. City Attorney Jones explained that the city is seeking an order for Mr. Harper to apply for the continuation of construction permit within 10 days, and in the event of failure to submit the permit application that a fine would start to accrue immediately until such an application were submitted. City Attorney Gaelan Jones stated that he does not believe this will be an issue but believes the daily fine should be included to make sure the permit application is applied for promptly. City Attorney Jones further stated that the Code Board seems to be inclined to give Mr. Harper a grace period but asked that the Board give Mr. Harper a daily fine from the day the grace period expires and construction has not been completed. Vice-Chair John Dalton stated that he would like to make a motion to that. Board Member George Lancaster asked Code Enforcement Officer Stacy Stahl if trash would be able to accumulate like it did before or if the Code Officer would be able to enforce the issue. Code Enforcement Officer Stahl stated that she will be able to control the situation and issue citations if necessary. Building Official Roussin stated with a building permit certain items are allowable like construction materials and debris on the property but confirmed that it has to be in an organized manner. Vice-Chair Dalton stated that he would like to make a motion to resolve the issue and stated that Mr. Harper said that construction can be done by the end of the year which would be in six month and two weeks. Vice-Chair Dalton continued saying that the neighbors have to be thought of as well but stated to give Mr. Harper the permit to the end of the year and if work is not completed by then to impose fines. City Attorney Gaelan Jones stated that if the Board has a consensus on the structure the Board can take different motions on the deadlines and amount of fines. City Attorney Jones further recommended that the Code Board reach a recommended finding that Building Official Roussin can act on and then be ratified by the Commission. Chair Joey Raspe asked Mr. Harper if he understood the urgency of the situation and that this is only an extension of his expired permit. The Board discussed with each other what fines should be imposed. City Administrator Dave Turner was sworn in by City Clerk Silvia Gransee as a witness. City Administrator Dave Turner stated that the project had been going on a long time and prior to him being the City Administrator. City Administrator Turner stated that he has received numerous letters, emails, and calls from neighbors on the property, including complaints that Mr. Harper is staying in the RV on property as well as staying in the downstairs of the building. City Administrator Turner suggested to the Board to include in today's findings that the RV has to be removed from the property, the downstairs walls have to be removed, and that Mr. Harper cannot stay on the property as police records show he has. City Administrator Turner stated that Mr. Harper staying on property is a safety hazard and that the property is also a construction site. Board Member DiFransico asked if Mr. Harper is not allowed to stay in the RV as this was done quite extensively during Irma. Building Official Roussin stated that there is a code in the city's LDR's that states no living in a motorhome on property. Building Official Roussin stated that the

City Commission granted special permission after Hurricane Irma for living in an RV up to six months while a house was being prepared, but per code no one is allowed to live in an RV on property. City Attorney Gaelan Jones stated that the issue of living in an RV was not part of the citation that was issued to Mr. Harper prior to the hearing and he believes the lack of notice would cause the ruling to be overturned if appealed. Attorney Tobin stated that he understands that the Board is looking for teeth in the findings, but the notion of a future Board may waive tens of thousands of dollars of penalties is contrary to the equitable provision of statute and ordinance. Attorney Tobin and the Board discussed the intentions of the order and procedure and possible dollar amount of fines. City Attorney Gaelan Jones asked the Board if consensus was reached for a certain period of time to apply for the continuation of construction permit before the fines start to accrue on that.

MOTION: *Motion made by Kimmeron Lisle, seconded by George Lancaster, to approve the time frame of 10 days for Dick Harper to apply for the continuance of a construction permit.*

DISCUSSION: *None.*

ON THE MOTION: *Roll call vote. Unanimous approval.*

MOTION: *Motion made by George Lancaster, seconded by Kimmeron Lisle, to impose a fine of \$50.00 per day for every day that passes if the continuation of construction permit has not been applied for within 10 days.*

DISCUSSION: *None.*

ON THE MOTION: *Roll call vote. Unanimous approval.*

MOTION: *Motion made by Tom DiFransico, seconded by Joey Raspe, to recommend to the City Commission a duration for the continuance of the construction permit to December 31, 2022.*

DISCUSSION: *None.*

ON THE MOTION: *Roll Call vote. Unanimous approval.*

The Board decided to change the date to December 30th as the last Friday of the year as the expiration of the continuance of construction permit.

MOTION: *Motion made by John Dalton, seconded by Tom DiFransico, to amend the previous motion revising the date of the expiration of the continuance of construction permit from December 31, 2022, to December 30, 2022.*

DISCUSSION: *None.*

ON THE MOTION: *Roll Call vote. Unanimous approval.*

The Board discussed the amount of fine, accrual, and waiving of fines if construction is completed by December 30, 2022.

MOTION: *Motion made by Kimmeron Lisle, seconded by George Lancaster, to set a fine of \$25.00 per day, which will accrue starting on May 11, 2022, but will be waived if construction is completed by December 30, 2022.*

DISCUSSION: *None.*

ON THE MOTION: *Roll Call vote. Unanimous approval.*

The Board discussed to award the cost of prosecution and decided to put a cap on a possible monetary award.

MOTION: *Motion made by Kimmeron Lisle, seconded by Joey Raspe, to award a cost of prosecution by the city, with a monetary cap of \$3,000.00, to be determined at a later date.*

DISCUSSION: None.

ON THE MOTION: Roll Call vote. Unanimous approval.

City Attorney Gaelan Jones stated that at this time the city is not seeking an order to remove the motorhome from the property as Mr. Harper is entitled to notice and due process. The Board and City Attorney had nothing further on the business of 680 11th Street.

C. Stipulated Agreement for 141 10th Street

City Attorney Gaelan Jones explained that the city has a variety of floating docks that were never issued a building permit and that the city code states that the Commission has the authority to approve a building permit which has not been done yet. City Attorney Jones further stated that the owner of the property, Mr. Von Borke, has agreed to remove the floating dock within 90 days, and is required to have the floating dock removed by the end of July. City Attorney Jones said that what is in front of the Board today is to review and approve the stipulation agreement. City Attorney Gaelan stated that he drafted an order that states a fine of \$250.00 per day past the 90 days if the floating dock is not removed. Board Member Kimmeron Lisle asked if this order is not contingent on the owner's new seawall being built which City Attorney Jones confirmed. Building Official Roussin stated that he believes the Army Corp has approved submittals but was not sure on DEP approval and stated that the Building Department does not have paperwork at this time. City Attorney Gaelan Jones explained the stipulation agreement process and asks that all that is needed from the Code Board today is a motion and approval to ratify the stipulation agreement. City Attorney Jones further stated that next the Board will be considering a Resolution that effectively will give the Chair and Vice-Chair the authority to review stipulation agreements without having to convene the Code Board. The Board and City Attorney discussed the details of the stipulation agreement.

MOTION: Motion made by John Dalton, seconded by George Lancaster, to approve the stipulation agreement for 141 10th Street.

DISCUSSION: None.

ON THE MOTION: Roll call vote. Unanimous approval.

6. Updates: Building Official Roussin updated that the Schmitt property is underway and the property at 160 10th Street is moving forward to completion.

7. Discussion Items:

Resolution 2022-001: A Resolution Of The Code Board Of The City Of Key Colony Beach, Florida, Authorizing The Board Chair To Review And Approve Duly Executed Code Enforcement Stipulation Agreements, And Providing For An Effective Date.

City Attorney Gaelan Jones read Resolution 2022-001 into the record. Code Board Member Tom DiFransico asked when a violation needs a stipulation. City Attorney Jones explained when a case is set for hearing, or when a time period for compliance has expired. The City Attorney further explained the purpose of the proposed resolution. Board Member asked on the issue of the floating docks to which Building Official Roussin explained that currently five or six floating docks have been identified with letters having been sent out. Building Official Roussin further stated that these floating docks will come before the Commission to ask for approval for an after-the-fact permit, which can be issued or denied. Board Member Kimmeron Lisle stated that in the spirit of transparency issues should come in front of the public to be reviewed. City Attorney Gaelan Jones stated that all stipulation agreements have to be recorded with the Clerk of Courts and are not secret agreements. The Board discussed publishing stipulation agreements on the city website to inform residents. City Administrator Turner stated that monetary costs will be higher with no stipulation agreements.

City Attorney Gaelan Jones stated that he added a section in the Resolution that requires the publication of stipulated agreements on the city website for at least one year.

MOTION: *Motion made by George Lancaster, seconded by Joey Raspe, to approve Resolution 2022-001.*

DISCUSSION: *None.*

ON THE MOTION: *Roll call vote. Unanimous approval.*

8. Adjournment – *The meeting adjourned at 11:41 a.m.*

Respectfully submitted,

Silvia Gransee

City Clerk

ADOPTED: July 13, 2022

Silvia Gransee

City Clerk