

**BUILDING BOARD  
MEETING  
SEPTEMBER 23, 2008**

**MEMBERS PRESENT:** John Burrage, Chairman  
Mary Fleenor, James McClary, David Reeves,  
Larry Sandles, Albert Wiker

**MEMBERS ABSENT:** Peter Coccaro, Al Villalobos

**OTHERS PRESENT:** Randy Cole, Building Official  
David Levin, City Attorney  
John Polk, Board Attorney  
John Smith, Plans Examiner  
Suzy Russell, Permit Supervisor  
Ray Blashill, Roberto Loiacono, Scott Davis

**CALL TO ORDER/ANNOUNCEMENTS**

A. Roll Call

**APPROVAL OF MINUTES**

A. Meeting of August 26, 2008

- Ms. Fleenor MOVED, Mr. McClary SECONDED approval of the August 26, 2008 minutes.  
MOTION CARRIED UNANIMOUSLY.

**UNFINISHED BUSINESS**

- Recording Secretary Kelly swore in all participants.
- A. Complaint filed against ERS Construction, Roberto Loiacono, Qualifier
  - Mr. Randy Cole, Building Official, reminded members this case had been continued from the Board's previous meeting. He announced the Building Division continued to stand by the original charges against Mr. Roberto Loiacono, qualifier.
  - Mr. Burrage recalled the Board had asked Mr. Loiacono and the complainant, Mr. Ray Blashill, to meet and hopefully come to some type of financial agreement.
  - Mr. Cole drew members' attention to additional documentation provided by Mr. Blashill, stating same had been submitted into the record.
  - Mr. Blashill stated he had proposed the following settlement, adding same was detailed in his correspondence to Mr. Loiacono dated September 3, 2008: (1) payment from ERS of \$4,783.55 for the payment to Exotic Pools in excess of the contract balance; (2) ERS to supply all Lexan hurricane shutters, associated brackets and mounting hardware for all windows as provided in original contract. He clarified ERS had no obligation to install the shutters but rather simply deliver the materials to his property. He then pointed out Mr. Loiacono's response dated September 12, 2008, as delineated in the

agenda material, concluding they were not able to come to an agreement. He reiterated he had fulfilled every aspect of the contract with ERS for which he was responsible in terms of on-time payments, progressive draws, etc.

- Mr. Burrage confirmed the parties had not worked with an arbitrator as had been suggested at the previous meeting.
- Mr. Blashill responded he had considerably pared back what he felt he was due.
- Mr. Cole questioned the status of the Lexan shutters.
- Mr. Blashill replied he spoke with Mr. Loiacono seven days after the last Board Meeting, at which time he was advised the shutters had been sold. He expressed disbelief regarding same in that the shutters were measured specifically for his home. He mentioned he then asked Mr. Loiacono for copies of the bills of sale and lading for the shutters; however, he had not been provided with same.
- Ms. Fleenor questioned the total amount Mr. Blashill was seeking to make him "whole."
- Mr. Blashill replied \$4,783.55, the amount paid over and above the contract, plus the dollar value of the Lexan shutters minus the installation charge.
- Mr. Sandles confirmed Mr. Blashill stood by his proposed settlement agreement.
- Mr. Loiacono agreed no settlement agreement had been reached, stating he had not retained the Lexan shutters as Mr. Blashill already had other shutters installed on his home. He mentioned his own home had been foreclosed upon in the interim period, stating the shutters had been laying in his driveway while he was packing and moving out, at which time someone driving by offered to purchase same for \$800. He contended he had not acted in a deliberately malicious manner, adding he would accept the Board's decision. He acknowledged he owed Mr. Blashill the cost of the shutters; however, he took issue with some of his other contentions.
- Mr. Cole confirmed Mr. Loiacono was financially unable to fulfill his obligations at this time. He asked if Mr. Loiacono was still attempting to contract in Punta Gorda and Charlotte County.
- Mr. Loiacono replied affirmatively, stating he currently had one open contract.
- Mr. McClary questioned the value of the shutters which were sold.
- Mr. Loiacono replied the shutters were 20 feet in length at \$6 per foot, adding the home required 18 shutters.
- City Attorney David Levin summarized the Board had been presented with alleged violations; thus, he respectfully requested the Board make a finding with respect to whether or not the City had proven its case and to take appropriate action with respect to those findings.

- Ms. Fleenor MOVED to find the City had proven its case against Mr. Loiacono with regard to the violations outlined in the agenda material, to order restitution in the amount of \$4,783.55 plus the cost of the shutters in the amount of \$2,592 to be paid to the complainant and to recommend suspension of permitting privileges and revocation of license until such time Mr. Loiacono appealed same to the Board.
  - City Attorney Levin clarified restitution was a pre-condition of reinstatement of Mr. Loiacono's permitting privileges. He advised Mr. Blashill the Board's Order was not enforceable in Civil Court.
  - Board Attorney John Polk clarified this Board did not have the authority to order restitution, adding complainants would typically seek restitution through Circuit Court. He cautioned against setting a monetary amount of restitution.
  - City Attorney Levin reminded Board Attorney Polk City that ordinance allowed the Board to request restitution before reinstatement.
  - Mr. Cole clarified Mr. Loiacono was not a certified contractor; thus, this action represented a license revocation. He explained Mr. Loiacono would be allowed to complete the job for which he held an open permit.
  - Mr. Reeves asked if the Department of Business & Professional Regulation (DBPR) would be advised of the Board's action this date.
  - Mr. Cole replied affirmatively; however, DBPR had no jurisdiction as Mr. Loiacono was a registered contractor; thus, this would be handled at the local level. He confirmed Charlotte County would be notified accordingly.
  - Mr. McClary SECONDED.
  - MOTION CARRIED UNANIMOUSLY.
- B. Charges filed against PGA, LLC (formerly known as Punta Gorda Aluminum), Jeffery Scott Davis, Qualifier
- Mr. Cole reminded the Board of an existing Cease & Desist Order against Mr. Jeffery Scott Davis, qualifier, stating same had been provided in the agenda material. He announced Mr. Davis had a record with the City of license and permitting violations dating back to July 1986.

**Note: A 10 minute recess was called at 9:24 a.m.**

- Mr. John Smith, Plans Examiner, stated Mr. Davis currently held eight open permits dating back to 2005, including repairs which were completed after Hurricane Charley in August 2004, adding these permits were not complete. He explained some of the final inspections had failed, there had been no inspections on some of the jobs and work was completed on two jobs prior to issuance of permits. He reported Mr. Davis came to the Building Division the previous day, September 22, 2008, and paid some re-

inspection fees and one permit fee, adding one permit remained in “plans check,” which could not be picked up and paid at this point in time; however, the work had been completed. He noted he personally visited all of the job sites and could verify his statements made this date. He mentioned he had attempted to work with Mr. Davis over the past two years to close out the open permits and complete inspections; however, his efforts had been to no avail.

**Note: Mr. Cavanaugh arrived at the meeting at 9:38 a.m.**

- City Attorney Levin asked Mr. Smith to identify the properties at which the City was alleging violations of Florida Statute (FS) 489.129(1)(J), Abandoning a construction project in which the contractor is engaged or under contract as a contractor.
- Mr. Smith responded as follows: 3436 Nighthawk Court; 1478 Raven Court; 3530 Whippoorwill Boulevard; 2181 El Cerito Court; 2799 Rio Court; 3505 Whippoorwill Boulevard; 2822 La Mancha Court; 1137 Treasure Cay Court.
- Mr. Burrage clarified same was interpreted as eight counts.
- City Attorney Levin asked what evidence was available indicating Mr. Davis had abandoned those jobs.
- Mr. Smith replied there had been no movement on the projects in at least one year.
- City Attorney Levin asked Mr. Smith to identify the properties at which the City was alleging violation of FS 489.129(1)(o), Proceeding on a job without permit(s) or inspection(s).
- Mr. Smith responded as follows: 3530 Whippoorwill Boulevard; 2799 Rio Court. He reiterated one of those permits was picked up and paid for the day prior to this meeting, adding the other permit remained in “plans check.”
- City Attorney Levin asked if Mr. Smith had re-inspected those two properties.
- Mr. Smith replied affirmatively, stating the work had been completed.
- City Attorney Levin asked Mr. Smith to identify the properties at which the City was alleging violation of City Code Section 7-13(a)(3), Abandonment of any contract without legal excuse or justification.
- Mr. Smith responded as follows: 3436 Nighthawk Court; 1478 Raven Court; 3530 Whippoorwill Boulevard; 2181 El Cerito Court; 2799 Rio Court; 3505 Whippoorwill Boulevard; 2822 La Mancha Court; 1137 Treasure Cay Court.
- City Attorney Levin asked what evidence was available indicating those contracts had been abandoned.
- Mr. Smith replied there had been no activity for approximately one year.
- City Attorney Levin asked Mr. Smith to identify the properties at which the City was alleging violation of City Code Section 7-13(a)(6), Willful and deliberate disregard or

negligent violation of the City building code, City zoning ordinances or other City ordinances regulating building or construction, and/or the regulations of the Department of Business Regulations and Florida Industry Licensing Board.

- Mr. Smith responded as follows: 3436 Nighthawk Court; 1478 Raven Court; 3530 Whippoorwill Boulevard; 2181 El Cerito Court; 2799 Rio Court; 3505 Whippoorwill Boulevard; 2822 La Mancha Court; 1137 Treasure Cay Court.
- City Attorney Levin asked what evidence was available as to those violations.
- Mr. Smith replied there had been no activity on the projects.
- City Attorney Levin asked Mr. Smith to identify the properties at which the City was alleging violation of City Code Section 7-32(a)(1), Begin construction of any building or structure regulated by the building code without first obtaining a permit and paying the fee as prescribed therein.
- Mr. Smith responded as follows: 3530 Whippoorwill Boulevard; 2799 Rio Court.
- City Attorney Levin asked if Mr. Smith had personal knowledge of construction at those two locations.
- Mr. Smith replied affirmatively, confirming permits had not been obtained prior to commencement of construction. He then stated with regard to Section 7-32(a)(1), the Code Enforcement Board issued a Cease & Desist Order to Mr. Davis on June 23, 2004, for the same violations.
- Mr. Burrage asked why so many violations had been allowed to go on unchecked for such a lengthy period of time.
- Mr. Smith replied approximately two years earlier, after start of the downturn in the economy, he was directed to review all of the older permits dating back to Hurricane Charley and attempt to close out same. He reiterated he had tried to work with Mr. Davis in this effort, unfortunately to no avail.
- Ms. Fleenor asked if any of the homeowners had been negatively impacted financially.
- Mr. Smith replied only one homeowner, adding that job was completed.
- Mr. Cole interjected this was an ongoing practice of Mr. Davis. He asserted the only time permits were obtained was when Mr. Davis was faced with action such as that being sought this date.
- Ms. Fleenor opined Mr. Davis had shown blatant disregard for rules and regulations.
- Mr. Davis testified Mr. Smith was correct, stating his company had constructed approximately 200 pool cages in Punta Gorda Isles (PGI) alone; however, permitting for same had been missed. He respectfully requested the Board grant 90 days to address these matters.
- Mr. Sandles asked how many were permitted out of the 200 jobs.

- Mr. Davis replied all were permitted.
- Ms. Fleenor clarified Mr. Davis had been provided with more than one year but was now asking for an additional ninety days.
- Mr. Burrage pointed out some of the violations could not be fixed.
- Mr. Wiker expressed confusion as to why Mr. Davis could not have sorted these matters out prior to now.
- Mr. Davis replied he had been recently working on a number of jobs in Charlotte County, adding he had not worked in Punta Gorda for approximately one year.
- Mr. McClary confirmed Mr. Davis had problems at the County level as well.
- Mr. Davis responded he had done a significant number of pool enclosures, adding some “slipped through” following Hurricane Charley. He acknowledged he was to blame for those errors.
- Mr. McClary requested staff’s recommendation.
- Mr. Smith recommended revocation of license and permitting privileges until such time as all permits were closed out, after which Mr. Davis could request reinstatement of his license from the Board. He further requested a \$500 fine on each count of Section 7-32(a)(1), for which Mr. Davis was issued a Cease & Desist Order in June 2004.
- Ms. Fleenor questioned staff’s recommendation with regard to fines for the other violations.
- Mr. Smith deferred same to the Board’s discretion.
- Mr. Burrage announced the maximum fine was \$3,500 plus the cost of the 2 permits plus probation.
- Mr. Cole interjected Mr. Davis was a registered as opposed to State certified contractor; thus, licensing was handled at the local level.
- Ms. Fleenor then stated her calculations with regard to fines totaled much higher than that stated by Mr. Burrage. She explained a fine of \$1,000 for each of the 8 counts of violation of FS 489.129(1)(j) alone equaled \$8,000.
- Mr. Burrage agreed that was correct.
- Mr. Reeves stated he was not interested in putting Mr. Davis out of business; however, he felt these violations were very serious. He recommended imposing a fine which gained the qualifier’s attention.
- Ms. Fleenor announced the Board could technically impose fines totaling \$28,000.
- Ms. Fleenor MOVED to find Mr. Davis liable for the 28 counts identified, to impose a fine of \$10,000 to cover all counts, to revoke Mr. Davis’ licensing and permitting privileges, to advise the DPBR of the Board’s action and to require payment of all monies due before consideration of license reinstatement.

- Mr. Cole clarified approval of the motion would prohibit Mr. Davis from becoming licensed anywhere in the State of Florida until such time he successfully sought reinstatement.
- Ms. Fleenor clarified she was not interested in putting anyone out of business; however, Mr. Davis had shown blatant disregard for the rules of the building industry.
- Mr. McClary SECONDED.
- Mr. Cole clarified Mr. Davis' license would be suspended until such time as the Board's conditions were met, adding a reappearance before the Board would be required before the suspension was lifted.
- MOTION CARRIED UNANIMOUSLY.

**ADJOURNMENT**

- Meeting Adjourned: 9:49 a.m.

---

John Burrage, Chairman

---

Mary Kelly, Recording Secretary