

CONTRACTOR'S EXAMINING BOARD

Minutes

December 10, 2009

BOARD MEMBERS:

EMIGDIO GIL, CHAIRPERSON, present

NICK REEB, CO-CHAIR, present

FRANK BALBUENA, absent

PAUL MAROTTE, present

PETER PIKE, absent

NORMAN WOOD, present

MERRELL SANDS, present

JOHN WOODSON, CHIEF BUILDING OFFICIAL, present

DIANE NICKLAUS, RECORDING SECRETARY, present

ASSISTANT CITY ATTORNEY RON RAMSINGH, present

CODE ENFORCEMENT REPRESENTATIVE, Jim Young

OLD BUSINESS:

1. Approval of minutes for August 13, 2009

It was moved by Nick Reeb, seconded by Merrell Sands, to approve the minutes. Motion carried.

Request for Add On:

Chairman Emigdio Gil requested the addition of an item to the agenda concerning Danny Acevedo and son Danny Acevedo, roofing contractors. Assistant City Attorney Ronald Ramsingh verified that this was not currently a case. Recording Secretary Diane Nicklaus replied in the negative stating that the son, Danny Acevedo, had just obtained his contractor's license and now there were two qualifiers on one license. It was merely a subject for discussion.

NEW BUSINESS:

1. Members Terms Expiring

Three members terms will be expiring at the end of December, Chairman Emigdio Gil, Paul Marotte, and Peter Pike. Recording Secretary Diane Nicklaus stated that it was up to them to contact the Mayor and either request renewal for their position or inform the Mayor that they were not wishing to renew their terms and he should have someone new appointed.

2. Meeting dates for 2010

Recording Secretary Diane Nicklaus stated that she had provided a list of dates for the up-coming year. She stated that there were a lot of dates. She knew that the Board wanted to be more active.

Frank Balbuena arrived and took his seat.

Diane Nicklaus stated that they had to have four meetings a year. She had picked every other month, leaving out July and August for vacations and December when everyone was busy with the holidays.

Nick Reeb questioned the authority of the Board. If they were going to turn the testing over to the County, did they even get to approve who tested? Chief Building Official John Woodson stated that the County approved the testing and the City reciprocated with the County. Nick questioned if the County was going to take the City's recommendation. John Woodson replied in the affirmative. Mr. Reeb questioned if the Board was going to approve of the people testing. Chief Building Official John Woodson replied in the negative. He stated that by State Statute in order to have a Building Department, they had to have a Contractor's Examining Board. The Board didn't understand why they would need to have so many meetings if they were giving up their responsibilities. Possibly this item should be placed at the end of the meeting.

3. Moving of testing to the County.

Recording Secretary Diane Nicklaus stated that she had provided a copy of the minutes where she and Chief Building Official John Woodson had gone to a County Contractor's Examining Board meeting to ask if they would be willing to take on the responsibility of testing for the City and the County since there were so few people applying to test with the City. It was no longer cost effective for the City to continue providing testing. Only registered Contractor's will have to test with the County. A Certified Contractor tests with the State. Paul Marotte agreed and questioned why they wouldn't want the County to provide testing.

The County's only request was that we had an Interlocal Agreement to govern the responsibility.

Paul Marotte questioned what they were gaining by keeping the testing in the City. Chairman Emigdio Gil stated that they could discuss the add-on at this time and it would show why the City needed to maintain the responsibility of testing.

Danny Acevedo (Jr.) came to the City and asked to be tested for a registered roofing contractor. He was approved to do so, took the test, passed the Business and Law, but failed the remainder of the test. He came back again and took the test and failed. He then came before the Board and requested to take the Limited Roofing License. Mr. Gil stated that he questioned the designation at the time. He now understands what this title encompasses. The application was approved. Emigdio Gil spoke highly of Mr. Acevedo (Jr.). Mr. Gil stated that a Limited exam was a temporary license. It allows someone to complete one job and then the license expires. Neither the City of Key West or Monroe County recognizes Limited Roofing Contractor. He stated there was no such thing as a temporary license. Mr. Acevedo (Jr.) takes the Limited Roofing test and passes it. Mr. Acevedo (Jr.) got his City license and when he went to the County was told that they did not have a Limited Roofing License category. The City of Key West Licensing Department then wrote a letter to Monroe County Licensing stating that she had made a mistake and had given him the wrong exam. Mr. Gil stated that she did not make a mistake, the Limited Roofing exam was the exam that they had applied for, been approved to take, took, and passed. The Acevedo's then went to the County Contractor's Examining Board with a proctor and stated that the only difference between a Registered Roofing exam and a Limited Roofing exam was the slope of the roof. That one little thing may not be very important, but there was a big difference between a flat roof and a pitched roof. Because the County had seen that the City had signed approval for the taking of the test, they moved forward, approved his testing, and Mr. Acevedo (Jr.) was given a license. Mr. Gil's complaint is that the City was never involved. Assistant City Attorney Ronald Ramsingh stated that the County gave Mr. Acevedo a Registered Roofing License based on what the City had told them. The City's mistake generated an additional mistake by the County. Mr. Gil stated that the State of Florida issued a Registered Roofing License to Mr. Acevedo (Jr.) in November. Mr. Gil just wanted the Board to be aware of what had taken place. Did they want to do something about this?

Norman Wood responded that Mr. Acevedo (Jr.) needed to be informed that he had been given the wrong license, he can't have it, the City needed to take it back, Mr. Acevedo (Jr.) needed to be told he can't have the Registered Roofing License.

Paul Marotte questioned if they could request Mr. Acevedo (Jr.'s) presence so that he could explain what had taken place. The response was in the affirmative. Mr. Marotte questioned if someone obtained a license from the County and came to the City for licensing and the City had an objection, would the Contractor's Examining Board still have the authority to block the issuance of a license. Chief Building Official John Woodson responded in the affirmative. He stated that the City had the right to issue them a Competency Card. Paul Marotte verified that the City could refuse to issue a license. John Woodson agreed.

Emigdio Gil questioned what the costs were to the City for the processing of testing. Recording Secretary Diane Nicklaus responded by stating that she thought the price of the test was \$180 and the price for the proctor was maybe \$250. When the City had lots of people applying to take tests because the construction industry was booming, the City actually needed to do their own testing because people didn't want to wait to get into business. Now it was beginning to cost the City money to provide the testing and because the City could reciprocate the testing, it would save the City the expense of providing testing for the few people who apply to the City. Mr. Gil questioned why the City wouldn't just charge more for the testing, thereby continuing to allow the Board to approve of the applicants. Recording Secretary Diane Nicklaus stated that the Board had much more to do than just approve applications for testing, and they needed to begin to do those things. If the Board was doing their primary function of disciplining contractors and work being done, they would be meeting much more often.

Nick Reeb brought up the issue of the Contractor's Board responsibility for enforcement having been given over to the Special Master. If the Board didn't need to approve of the testing applications, and the Board no longer dealt with the infractions, why was there a Contractor's Examining Board. Chief Building Official John Woodson stated that in order to have a Building Department, there needed to be a Contractor's Examining Board by State Statute.

Assistant City Attorney Ronald Ramsingh suggested that Mr. Overby be requested to attend the next meeting so that the Board could have a discussion with him and request information to be forwarded to the Contractor's Examining Board. Communication between the Code Enforcement Board and the Contractor's Examining Board had stopped. It was noted that Mr. Overby had been requested to attend meetings in the past and had not attended.

Nick Reeb stated that he had a problem with someone going before the Special Master and having to pay a fine and then having to come before the Contractor's Examining Board and again having to pay a fine. He stated that he didn't think anyone should be fined twice for the same violation.

Jim Young stated that it used to be that if the Code Enforcement Board saw someone (a contractor) twice for a violation, they were supposed to be referred to the Contractor's Examining Board for further action. At that point the Contractor's Examining Board could decide whether or not to suspend or revoke the license. Recording Secretary Diane Nicklaus stated that the problem was that there was no communication between the Code Enforcement Board and the Contractor's Examining Board. For the time that Mr. Young had been gone from the City, no information had been forwarded to the Contractor's Examining Board for action.

Nick Reeb questioned if they could revoke or suspend someone's license as long as it was not State Certified. Chief Building Official John Woodson replied in the affirmative, also stating that the Contractor's Examining Board could also suspend a State Certified license, just not revoke it. Mr. Reeb then stated that if that was the case, then the dollar amount wasn't important because the Contractor's Examining Board could suspend/revoke the license which would do more damage. He really didn't see the need for them to change that.

Chief Building Official John Woodson stated that if the Board would just give them (John Woodson and Jim Young) direction, they worked very well together and they would begin bringing offenders before the Board if direction was given as to when they wanted to be seen.

It was moved by Merrell Sands, seconded by Frank Balbuena, to move testing to the County. Motion carried.

4. Review procedures for disciplinary action and/or fines and approval of Executive Summary to be forwarded to the City Commission for action.

Does the Board want to stay the same or they need to direct the City to do an Executive Summary to change the Code. Do they want the Special Master to be at the next meeting, does the Board want to begin hearing offenders. Please give direction.

It was moved by Nick Reeb, seconded by Merrell Sands, to have the Code

Jim Young stated that previously after the first offense which was heard by Mr. Overby, if there was a second offense, that person was brought before the Contractor's Examining Board for action. They could suspend or revoke the license. In the case of the State Certified contractor, they could only suspend the ability to pull permits. Assistant City Attorney Ronald Ramsingh felt that the Board needed to establish a policy as to when they wanted to have someone brought before them for action.

Paul Marotte felt that every red tag and every offense referred to the Code Enforcement Board needed to be referred to the Contractor's Examining Board for their determination as to whether or not they wanted that person to be brought before the Board for action.

Recording Secretary Diane Nicklaus stated that the problem has been that once a person had been before the Code Enforcement Board, that information had not been referred to the Contractor's Examining Board.

Diane also stated that something that had become an issue in the Building Department because of the drop of economy was the number of permits that had never been closed out (the permits which never received final inspection). Some contractors never got a final inspection. They pulled the permit, did the work, and moved on. She stated that she would like to be able to refer such a contractor to the Contractor's Examining Board for action. The Board directed that they agreed that they needed to be hearing such cases, but they also needed to be aware of setting a specific date.

Jim Young questioned if the Board wanted to see the Red Tags that were going before Judge Overby. The Board wanted to see all Red Tags. Jim Young stated that the State was going to be more proactive about unlicensed contractors. Paul Marotte felt that the Building Department needed to provide better/more education to the homeowners who, he felt, were not aware that they were doing something against the law.

Diane Nicklaus suggested they meet on January 21, 2010 at which time she would request the presence of Judge Overby. Member renewals should be complete at that point. Red tags issued between this meeting and January 21 will be brought to the Board. Paul Marotte stated that he would be out of town on January 21. John Woodson stated he would like all members present at the next meeting. The previous Thursday was January 14 and Diane would check the Old City Hall calendar and confirm the date. Diane stated that future meetings would have similar packets delivered the Friday before the meeting so information could be reviewed prior to the meeting. Diane reminded the retiring Board Members that if

they intended to request continuation of their position, they needed to speak to the Mayor soon and get their letters of renewal to the Mayor in time for the City Commission agenda.

5. Peter Pike – Comments

Mr. Pike was not present.

A copy of his comments are attached.

6. Member Comments

Diane stated that she felt that if anyone had any further comments other than what had already been said at this meeting, she felt that they should do so now. It was the end of the year and time to clear the air and move forward.

Paul Marotte stated that he was fully prepared to resign his position depending on what took place at this meeting. However, he was pleased with the decisions made at this meeting and would like to continue his position. He stated that this was a public service and if anyone was bored or didn't have the time to devote to this Board, they should step down. They were here for the public, not for themselves.

Emigdio Gil stated they were present because their trades had to do with public safety. That was their responsibility on the Board.

Paul Marotte stated that he was happy with the people working with this Board at this time. He felt that everyone was coming together and had the same vision.

Nick Reeb talked about the people who were not licensed contractors who were building additions when maybe they were only licensed to do cabinet work. He stated these people were doing this work under a homeowner's permit. Mr. Reeb stated that he wasn't naming names.

Paul Marotte stated that if it bothered him that much, he should state the names and take action. Jim Young agreed, stating they couldn't do their job if they didn't have the information. John Woodson reminded them that even though those offenders may have Workmen's Comp for their trade, they were not covered for any other work they may be doing. Diane Nicklaus reminded them that most often the homeowner's was unaware of the particulars. The person addressing the homeowner said he was licensed and insured and it ended there. The Board agreed, stating that in some cases they had never been asked to produce their insurance coverage.

Paul Marotte stated that he believed that the County had a person now who did nothing but follow up homeowner permits and the respective insurances. John Woodson stated that there was a specific fee charged on each permit to cover this service.

Jim Young stated that John Woodson had been giving him several names each weekend that they had been checking that were homeowner pulled. Paul Marotte stated that they were on the streets every day and whether they named the offenders or called in anonymous complaints, they had to report them some manner in order for action to be taken.

ADJOURNMENT:

There being no further business, the meeting was adjourned.

Respectfully submitted,
Diane Wilson Nicklaus
Recording Secretary