

MINUTES ARE NOT VERBATIM

**OKALOOSA COUNTY CONSTRUCTION COMPETENCY BOARD
MINUTES**

January 25, 2017

The regular meeting of the Okaloosa County Construction Competency Board was held Wednesday, January 25, 2017, at 3:00 p.m. at the Okaloosa County Administration Complex, 1250 Eglin Parkway N., first floor Commissioner's Chambers, Shalimar, Florida. Board members in attendance were Mike Chesser, Linda Flowers, Buddy Gordon, Randy Wise, Jason Buck, Skip Miller, Skip Royster and Jimmy Henderson. Mike Dean, Fay Seketa and Damian Curtis were not present.

Growth Management staff in attendance were Lisa Payton, Code Enforcement Supervisor; Renée Lucas, License Specialist; and Teresa Mullins, Administrative Assistant II. Assistant County Attorney Kerry Parsons was also present.

I. Call to Order

Chairman Mike Chesser called the meeting to order.

a. Roll Call:

Ms. Teresa Mullins conducted roll call.

II. Acknowledge Guests

Chairman Chesser welcomed staff and applicants to the meeting.

III. Approval of Minutes: November 16, 2016:

Motion to approve the minutes as written made by Jason Buck; second by Linda Flowers; approved unanimously.

IV. OPEN TO PUBLIC (For any item not Quasi-Judicial on this Agenda)

V. Announcements:

None

VI. Old Business:

a. Unlicensed Contracting:

Ms. Renée Lucas noted that the Agenda was revised to add this item just prior to the meeting and apologized to the Board for staff's failure to add this item onto the original Agenda as requested by the Board at their November, 2016 meeting.

Ms. Lisa Payton was present to answer questions from the Board.

Mr. Skip Miller, stated that, to the best of his recollection, Mr. Damian Curtis was interested in raising the fine for unlicensed contracting or if there were additional fines that could be levied.

Ms. Payton informed the Board that the current fine for unlicensed contracting is \$2,000.00, and that amount is mandated by the State. Ms. Payton stated that Code Enforcement staff currently have 4 open cases for unlicensed contracting. Ms. Payton further stated that staff just received a check for \$2,200.00 for unlicensed, unpermitted work from one person, has 2 others on payment plans and one has left the area so staff is dealing with the parent company in that case. Ms. Payton stated that staff is out daily handling complaints and looking for unpermitted work. Ms. Payton further stated that all Code Enforcement Officers have laptops and can immediately search to see if a permit has been pulled for that site. Ms. Payton further stated that the Code Enforcement division now has its own Administrative Assistant, so she is able to go out into the field more often. Ms. Payton informed the Board that she and the Code Officers are also going out 1 weekend a month, to a different area of the County, looking for unlicensed, unpermitted work. Ms. Payton further informed the Board that all of the issues they have found recently have been due to their field work and not from calls coming in to the office.

Mr. Miller stated that Mr. Curtis was also wondering about whether licensed contractors and licensed sub-contractors could help out by reporting the issues they see when they're out and about to Code Enforcement. Mr. Miller asked if there was a "best" way to get in touch with Code Enforcement to report those issues.

Ms. Payton stated that she has openly shared her cell phone number, and answers calls as she is able, but she also checks messages and will respond to those as well, so please leave a message, especially on the weekends. Ms. Payton further stated that, during the work week, Code Enforcement now has an Administrative Assistant to answer the phones and pass reported issues and complaints directly on to the Code Officers. Ms. Payton stated that Code Enforcement's goal, usually met, is to deal with every issue within 24 hours. Ms. Payton further stated that she has provided her cell phone number to the Sheriff's Office and the Building Industry Association (BIA), and it is also available on the County website.

Ms. Lucas stated that contractors can also call or email her as she has the ability to look up licensure as well as search for permits.

Mr. Randy Wise asked if staff has any feeling regarding support for fining the homeowners who hire the unlicensed contractors.

Ms. Payton stated that from what she has heard, there is no support for fining a homeowner, especially given that the homeowners who knowingly hire the unlicensed are taking the risk on themselves.

Mr. Jimmy Henderson noted that part of the problem with gaining convictions in court for unlicensed contracting are difficult because a copy of the contract must be produced for legal reasons and that contract must show the name of the person being charged with unlicensed contracting.

Ms. Payton noted that the people who are working as unlicensed contractors are slick operators, noting that the contracts frequently avoid mention of any work that would require a contractor's license and permits, even though work of that sort is being done. Ms. Payton explained, stating a contract may show replacement of cabinets or installation of flooring, but then a homeowner complains, staff investigates and discovers that a load

bearing wall has been moved or plumbing fixtures have been moved to a new location, etc.

A brief discussion ensued.

Mr. Miller asked Board Counsel for a legal opinion regarding raising the fine for unlicensed contracting.

Assistant County Attorney Kerry Parsons stated that the current fine of \$2,000.00 is equal to the Statutory requirements and to exceed that amount would require a change to the County Code of Ordinances. Attorney Parsons further stated that making that request is not within the jurisdiction of this Board but is, rather, within the purview of the Code Enforcement Board.

VII. New Business

a. Swearing in applicants/speakers:

Chairman Chesser swore in all those wishing to address the Board.

b. Candidates for Testing Approval:

1. Joseph E. Birr – Marine Contractor

Ms. Lucas informed the Board that Mr. Joseph Birr is present seeking Board approval for a Marine Contractor's Competency Card. Ms. Lucas stated that Mr. Birr's work experience affidavit shows that he has experience installing and maintaining boat lifts, which is only part of the definition of a Marine Contractor as found in the Okaloosa County Code of Ordinances, Chapter 6, Article VIII, Division 1, Section 6-274 and Florida Administrative Code, Rule #61G4-15033:

Marine contractor means a person who is qualified and demonstrates the experience, skill and expertise to construct, install, repair, and extend seawalls, bulkheads, docks, piers, wharves, and other marine structures, including pile driving, shoring, and under-pinning.

Ms. Lucas stated that Mr. Birr is seeking a Marine Contractor's license; however, since he only exhibits experience in one specific area, staff is recommending to the Board that a restriction be placed on his license limiting him to the installation, replacement and maintenance of boatlifts only, until Mr. Birr can provide staff with experience that meets all facets of this license. Ms. Lucas further stated that once Mr. Birr has provided the required experience to staff, he should then have to reappear before this Board in order to have the restriction on his license removed from his Competency Card. Ms. Lucas stated that on his Board application, Mr. Birr indicated that he had been convicted of a felony in the past and included an explanation which stated that when he was 15, he was arrested for theft and received 2 years of Community Control along with 3 years of probation but no jail time. Ms. Lucas informed the Board that, since that time, Mr. Birr has had no additional infractions; the charges have been expunged from his record and all of his rights have been restored. Ms. Lucas stated that documentation of this has been provided in Mr. Birr's file. Ms. Lucas reminded the Board that, per Okaloosa County Code of

Ordinances, Chapter 6, Article VIII, Division 3, Section 6-313 Eligibility, Licensure by Examination, (b):

The applicant shall have no outstanding judgments or have been convicted of a felony. This requirement may be waived by the board on a case-by-case basis with appropriate documentation.

Ms. Lucas informed the Board that Mr. Birr is present to answer any questions the Board may have. Ms. Lucas asked if the Board had any questions for staff.

Mr. Miller asked, given that this request is for marine contracting, if he could get some clarification, regarding requirements for marine contractors to carry USL&H or Longshoreman's insurance.

Ms. Lucas stated that Okaloosa County does not require Marine Contractors or any other Division 1 contractors, for whom marine contracting is within their scope of work, to carry longshoreman's insurance. Ms. Lucas further stated that staff contacted the City of Destin and the City of Destin does require longshoreman's insurance. Ms. Lucas stated that staff spoke with the Department of Business and Professional Regulation (DBPR) and were told that longshoreman's insurance is required and is through the workman's compensation insurance. Ms. Lucas further stated that this insurance is required in the inter-coastal waterways; however, it is not required in shallow bodies of water like bays, lakes, ponds, etc. Ms. Lucas stated that a marine contractor's insurance company, so long as they have knowledge of the type of work done, should know that longshoremen's insurance is required to be included with the workman's compensation insurance. Ms. Lucas again stated that the County does not require proof of longshoreman's insurance.

Attorney Parsons noted that having longshoreman's insurance is a Federal requirement as well as being a requirement of most States; however, the County does not require it.

Mr. Miller asked who regulates and provides enforcement if a contractor is building a dock or other construction on the inter-coastal waterway does not have longshoreman's insurance.

Attorney Parsons commended Mr. Miller for the excellence of his question and stated that Growth Management staff along with legal staff have been working to find an answer to exactly that question with little success thus far.

Mr. Miller suggested that it might be the Coast Guard.

Attorney Parson stated that the Coast Guard Captain of the Port generally regulates the areas near their facilities and would likely be the enforcers for this area.

Mr. Skip Royster asked why the County wouldn't go ahead and add that requirement to contractors registering with the County.

Attorney Parsons stated that Growth Management staff and legal staff are looking at that possibility already.

A brief discussion ensued.

Ms. Lucas reminded the Board that all Division 1 contractors are allowed to build marine structures, limited only by the limits of the scope of work allowed by their licensure; for example, residential contractors can build residential docks for single family residential, general contractors can build commercial docks. There are no restrictions regarding a Division 1 contractor building a dock within their scope of work, at either the State or County Level.

A brief discussion ensued.

Mr. Joseph Birr was present to answer questions from the Board.

Chairman Chesser asked Mr. Birr to explain why he is trying to get this license given that it will have to be so limited in scope.

Mr. Birr stated that his company was installing boatlifts for a marine construction company and was told by that company that his company wouldn't get any more bids unless he had longshoreman's insurance coverage and became a licensed Marine Contractor. Mr. Birr stated that, although he has been told that he does not need to hold a Marine Contractor's license in order to install boat lifts, he has obtained the longshoreman's insurance and now is seeking the Board's approval to test for his Marine Contractor's license so that he can keep installing boat lifts locally.

Chairman Chesser asked Mr. Birr to provide the Board with some of his background experience.

Mr. Birr stated that he has been installing boat lifts since 2008 and all his experience is in the installation of boat lifts. Mr. Birr further stated that he has never built boathouses, installed pilings or any other facet of a Marine Contractor's scope of work. Mr. Birr further stated that he is aware that the test he will have to take covers the entire scope of the license, but he is just looking to be able to continue to install boatlifts.

Ms. Lucas stated that staff is recommending that, should the Board approve Mr. Birr's request, a restriction should be placed on Mr. Birr's license until such time as he has gained sufficient experience in those other facets to return to the Board to ask for the removal of the restriction. Ms. Lucas informed the Board that staff met with the Building Official, who determined that Mr. Birr did not have to have a license so long as he was working under an appropriately licensed contractor; however, it became apparent that the company he was working on wanted him to be separately licensed. Ms. Lucas stated that staff looked carefully at the situation and with the Building Official's approval, have brought Mr. Birr before this Board for approval to test for a license that will be restricted only to the installation and service/maintenance of boatlifts. Ms. Lucas further stated that staff has explained this to Mr. Birr and he is very aware of the restriction and the reason why it is necessary. Ms. Lucas noted that the Marine Contractors license is a local specialty license and there is no requirement for continuing education.

A brief discussion ensued.

Motion to approve in a limited capacity as suggested by staff made by Skip Royster; second by Randy Wise; approved unanimously.

2. Phillip J. Vlahos – Building Contractor

Ms. Lucas informed the Board that Mr. Vlahos holds a current Residential Contractor's license and has met all of the requirements to seek his Building Contractor's license. Ms. Lucas reminded the Board that Mr. Vlahos appeared before them to see approval to test for his Residential Contractor's license almost 4 years ago.

Mr. Phillip J. Vlahos was present to answer questions from the Board.

Chairman Chesser asked Mr. Vlahos to tell the Board what he has done for the past 3 or so years.

Mr. Vlahos stated that for the past 3 years he has been building spec houses for Legendary, Inc.

A brief discussion ensued.

Motion, based on the experience in his file, to approve made by Skip Miller; Second by Jason Buck; approved unanimously.

A brief discussion ensued.

VIII. Other Business:

a. Chairman/Vice-Chairman Election

Ms. Lucas informed the Board that only those present can be nominated as Chairman or Vice-Chairman; however, staff is in receipt of written consent from Mr. Damian Curtis in which he agrees to allow his nomination for office in his absence, and, further, that if nominated he will accept the nomination.

Chairman Chesser opened nominations for Chairman.

Motion to nominate Damian Curtis as Chairman made by Skip Royster; Second by Jimmy Henderson.

There being no further nominations, Chairman Chesser closed nominations for Chairman.

Damian Curtis approved as 2017 Chairman by unanimous vote.

A brief discussion ensued.

Chairman Chesser opened nominations for Vice-Chairman.

Motion to nominate Linda Flowers as Vice-Chairman made by Jimmy Henderson; Second by Skip Royster.

Ms. Flowers accepted the nomination.

There being no further nominations, Chairman Chesser closed nominations for Vice-Chairman.

Linda Flowers approved as 2017 Vice- Chairperson by unanimous vote.

b. Board Renewals

1. Buddy Gordon

Mr. Gordon agreed to serve another 3 year term on the Board.

2. Skip Royster

Mr. Royster agreed to serve another 3 year term on the Board.

Ms. Lucas noted that the seat vacated by Mr. Ray Buck is still open. Ms. Lucas stated that staff is actively looking for a replacement for that Consumer Representative seat but if anyone on the Board knows of someone who is not in the industry and would be willing to serve on this Board, please let staff know.

Ms. Lucas asked if there were any questions for staff.

Mr. Randy Wise stated that he would like to go back to the unlicensed discussion that began the meeting. Mr. Wise stated that, in his experience, it has been the permitting department's policy that a licensed contractor is only required when structural work is being done, as opposed to when kitchen cabinets, flooring and countertops are being installed. Mr. Wise further stated that he believes that defining a contractor within those limits is completely wrong based on Chapter 489 of Florida Statutes. Mr. Wise stated that contracting is more than just knowing how to size a beam as there is the whole business side that really has become even bigger than knowing how to size that beam. Mr. Wise further stated that when a person contracts to install cabinets, countertops, flooring and sheetrock the County says that no contractor's license is required to do that work. Mr. Wise stated that, per Chapter 489 of Florida Statutes, a contractor is one who is acting in the capacity of doing business as a contractor even to the point of selling those services prior to getting a signature on a contract.

Attorney Parsons noted that Okaloosa County Code reflects the same information as found in State Statute.

Ms. Lucas stated that the County Code follows Florida Statutes regarding the definition of a contractor and the interpretation of that definition. Ms. Lucas further stated that staff does not permit the replacement of cabinets or the installation of flooring.

Mr. Wise stated that if they have contracted for a fee to replace the cabinets, flooring, countertops and sheetrock, then they are working as contractors.

Ms. Lucas stated that interpretation of the Code is up to the Building Official; therefore, making any such determination regarding Mr. Wise's assertion would be within the purview of the Building Official. Ms. Lucas stated that it might be best to have the Building Official as well as the Department Director appear at the next Board meeting to discuss this issue.

Mr. Wise suggested that it might be a good idea for the Department to hold a workshop.

Chairman Chesser asked if staff has a list of the types of work that require a contractor's license.

Ms. Lucas stated that she does not believe that there is such a list other than what is listed in Statute.

Chairman Chesser suggested that such a checklist might be helpful so that staff will know what sorts of work a homeowner can do and what sort of work requires a license.

Mr. Miller suggested that he also believes that a Workshop would be helpful; although it is always a struggle to find a time that is convenient for all to attend.

Attorney Parsons stated that, as Code Enforcement is responsible for the enforcement of licensing issues, the request for a workshop should originate from Code Enforcement Board as opposed to this Board.

Ms. Lucas stated that she would inform both the Building Official and the Department Director that this Board has requested their presence at the next meeting.

Attorney Parsons stated that she would be meeting with the Department Director regarding the definition of a contractor within the next month.

A brief discussion ensued.

Mr. Miller asked staff how the search for a new building inspector is progressing as it is currently taking sometimes 3 to 4 days before an inspection is completed.

Ms. Lucas stated that she believes that the one that had applied and been interviewed opted to take a position elsewhere. Ms. Lucas further stated that she does not know if there have been any further applicants. Ms. Lucas stated that the inspector's position is still listed in the job openings list on the County website so no one has been hired yet. Ms. Lucas further stated that she believes that the inspector's position requires that that an applicant must obtain the necessary certifications within one year.

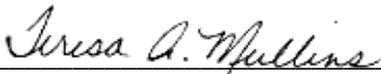
Mr. Miller asked if the injured inspector was back at work yet.

Ms. Lucas stated that he is back; however he is working primarily in the North end of the County and is medically limited in the types of inspections that he is allowed to do. Ms. Lucas further stated that Mr. Chaney is trying to help keep the South end inspections caught up. Ms. Lucas stated that the Department has been especially busy this year during a time when we typically have slowed down which makes things difficult.

A brief discussion ensued.

IX. Adjournment

There being no further business before the Board, Chairman Chesser declared the meeting adjourned.

Prepared by: 
Teresa Mullins, Recording Secretary
2.2.2016