

MINUTES ARE NOT VERBATIM

**OKALOOSA COUNTY CONSTRUCTION COMPETENCY BOARD
MINUTES
July 26, 2017**

The regular meeting of the Okaloosa County Construction Competency Board was held Wednesday, July 26, 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 Fay Seketa, Damian Curtis, Buddy Gordon, Skip Miller, Mike Chesser, Skip Royster and Jimmy Henderson. Randy Wise, Jeremy Stewart and Jason Buck were not present. Linda Flowers arrived during the meeting in progress.

Growth Management staff in attendance were Elliot Kampert, Growth Management Director; Lisa Payton, Code Enforcement Supervisor; Renée Lucas, License Specialist; and Teresa Mullins, Administrative Assistant II. Assistant County Attorney Kerry Parsons was not present.

I. Call to Order

Chairman Damian Curtis called the meeting to order.

a. Roll Call:

Ms. Teresa Mullins conducted roll call.

II. Acknowledge Guests

Chairman Curtis welcomed staff and applicants to the meeting.

III. Approval of Minutes: May 31, 2017:

Motion to approve the minutes as written made by Skip Royster; second by Skip Miller; approved unanimously.

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

V. Announcements:

None

VI. Old Business:

Ms. Renée Lucas stated that staff requests that the old business be moved to Other Business on the agenda so that the applicants can be taken care of first.

Chairman Curtis agreed to staff's request to move the discussion to Other Business.

VII. New Business

a. Swearing in applicants/speakers:

Ms. Mullins swore in all those wishing to address the Board.

b. Candidates for Testing Approval:

1. Christopher Ammons – Residential Contractor

Mr. Christopher Ammons introduced himself to the Board and stated that he was seeking approval to test for a Residential Contractor's license.

Chairman Curtis noted that Mr. Ammons has a company "All About Construction" and asked Mr. Ammons what sort of work he was doing, and if he was working within Okaloosa County.

Mr. Ammons stated that his DBA is "All About Coastal Construction" with the other company preceding his move to Florida approximately a year ago from Kentucky. Mr. Ammons further stated that he wants to do things correctly so he is seeking to be licensed first.

Chairman Curtis asked Mr. Ammons what sort of work he has been doing and with whom.

Mr. Ammons stated that he has been working with Donovan Construction.

Mr. Mike Chesser asked Mr. Ammons to describe the type of work he has been doing for Donovan Construction.

Mr. Ammons stated that he has been laying tile and doing trim work.

Mr. Chesser asked Mr. Ammons if he was trying to be a Residential Contractor building a whole house having done trim and laying tile.

Mr. Ammons stated that he is seeking a Residential Contractor's license. Mr. Ammons stated that he was a Residential Contractor in Kentucky and built houses there, but understands that he must have a license in Florida before doing the same here.

Board Member Linda Flowers joined the meeting in progress.

Mr. Chesser noted that Mr. Ammons had a bankruptcy on his file from 2000 and asked him to explain.

Mr. Ammons stated that before he became a contractor he was an iron worker making \$42.00 an hour and, when laid off he was unable to pay all the bills. Mr. Ammons further stated that he started his construction business in 2012.

Mr. Chesser noted that the Board wants to make sure that those applying will pay for their supplies and sub-contractors and have no financial issues. Mr. Chesser asked Mr. Ammons if he was working with a bookkeeper.

Mr. Ammons stated that his wife takes care of all of the books, payroll and bills. Mr. Ammons further stated that he can't afford to hire an accountant at this point. Mr. Ammons stated that he does honest work and always does what he says.

Chairman Curtis asked Mr. Ammons how long he has been building in Kentucky.

Mr. Ammons stated that he started building in 2012 and moved to Florida in September of 2016.

Chairman Curtis asked Mr. Ammons if he had experience in building a home from the ground up.

Mr. Ammons stated that he had built one custom home completely from the ground up as well as doing structural work like framing, decks, porches, etc.

Ms. Lucas noted that his work experience is denoted in his file with his supervising contractor's signature attesting to its veracity.

A brief discussion ensued.

Motion to approve made by Jimmy Henderson; second by Mike Chesser; approved unanimously.

2. Brian A. Benoit – Landscape Structures Contractor

Mr. Brian Benoit introduced himself to the Board stating that he has a landscape and lawn maintenance business. Mr. Benoit stated that a large part of their business is landscape warranty work for D.R. Horton, which has primarily involved repair or replacement of fencing. Mr. Benoit further stated that he is seeking a Landscape Structures license so that he can do the fencing work himself instead of having to find someone else to do it. Mr. Benoit stated that he wasn't aware that a license was required to do fencing and wants to make sure that they follow the law, even unto making certain that those they hire are licensed to do fencing.

Chairman Curtis asked Mr. Benoit what sorts of structures he is intending to build such as primarily fences or other structures as well.

Mr. Benoit stated that he intends to mostly do fencing; however, he might take on the occasion grill enclosure eventually. Mr. Benoit further stated that 95% of his work will be in fencing.

Chairman Curtis asked staff to remind the Board of the work allowed under a Landscape Structures license.

Ms. Lucas read the definition of a Landscape Structures Contractor into the record:

Landscape structure contractor (local specialty) means a person who is qualified and demonstrates the experience, skill, and expertise to construct, install, repair, and extend structures for exterior site and yard use. This includes fencing, railings, gates, decking at grade (30 inches or below), boardwalks, utility structures (not to exceed 200 square feet), and other similar types of construction. Does not include garages or habitable structures.

Ms. Lucas stated that he would be allowed to build a storage shed that meets the definition, and storage sheds of 200 square feet or less do not require a permit.

Mr. Skip Miller asked if the boardwalks mentioned in the definition are limited to 30 inches or below just as decks are.

Ms. Lucas stated that that is staff's understanding, noting this would be more like a decorative walkway across a small creek. Ms. Lucas further stated that a boardwalk such as a dune walkover would be beyond the scope of a Landscape Structures Contractor's license. Ms. Lucas noted that, when adding handrails, the 30 inch height does not apply to the handrails.

Ms. Fay Seketa expressed concern regarding Mr. Benoit's comment that he wasn't sure that those he hired to build the fences were licensed. Ms. Seketa stated that Mr. Benoit should make sure that every sub-contractor he hires should be licensed and insured.

Mr. Jimmy Henderson agreed, telling Mr. Benoit that he should make sure that everyone has liability and workman's compensation insurance, along with the proper licensure, including the person he works for.

Mr. Benoit stated it was because he didn't know the people the Supervisor had hired he looked into what was required and decided that he would make sure that he was licensed and insured.

Ms. Lisa Payton addressed the Board and Mr. Benoit, informing Mr. Benoit that, once licensed, if Code Enforcement finds an unlicensed person on the job, he will be charged with "aiding and abetting".

Ms. Lucas informed the Board that Mr. Benoit had appeared before the Plumbing Competency Board that morning and had been approved to test for his irrigation license.

A brief discussion ensued.

Motion to approve made by Skip Miller; second by Skip Royster; approved unanimously.

A brief discussion ensued.

VIII. Other Business:

Ms. Lucas stated that the mandatory blower door testing for residential homes went into effect on or after July 1, 2017. Ms. Lucas further stated that nothing submitted prior to or permitted prior to July 1 has to meet this requirement. Ms. Lucas stated that staff have created a form that must be filled out, signed by the person certifying the blower door test results and the signature must be notarized. Ms. Lucas provided the Board with copies of the form created by staff. Ms. Lucas further stated that a list of those certified to carry out the blower door tests is being compiled by staff and there has been at least one individual who submitted for a home occupation as a blower door tester. Ms. Lucas stated that staff have seen the identification card provided to those certified to carry out that testing and Staff will require a copy of that card as well as a copy of the business tax receipt for anyone who is registering to do blower door tests in this County.

Mr. Henderson noted that the Blower Certification form requires that the tester's signature must be notarized which could be a problem.

Ms. Lucas noted that all of the people working the permitting counter, along with several other Department employees, are notaries and can notarize the tester's signature.

a. Unlicensed/Unpermitted Fines Discussion

Ms. Lucas passed out copies of an email sent by Assistant County Attorney Kerry Parsons which she sent in answer to the Board's questions at the last meeting.

Chairman Curtis asked how often a fine of \$2,000.00 for unlicensed contracting is issued.

Ms. Payton stated that Code Enforcement staff issue that fine, and actually, the minimum amount is usually \$2,200.00 because staff adds the fine for unpermitted work on the citation as well, every time they find an active case of unlicensed, unpermitted work.

Chairman Curtis asked Ms. Payton to walk the Board through a case, where Code Enforcement receives a phone call about unlicensed and unpermitted work.

Ms. Payton stated that staff would visit the site, determine what sort of work was being done, and if that work requires a permit and licensed contractor. Ms. Payton further stated that if a permit is required, Code staff will ask to see the contractor's license and will then double check county records for licensure and permits, for which they have mobile access. Ms. Payton stated that if staff finds that the job is unpermitted and the company owner who contracted for and is doing the work is not licensed, then the citation and fine is given on the spot. Ms. Payton further stated if the owner of the business is not present at the jobsite, then staff will arrange a meeting in Code Enforcement's offices and the citation will be issued there. Ms. Payton stated that Code Enforcement gives those so cited an option in terms of payment for the citation. Ms. Payton further stated that those so cited are told that they can pay Code Enforcement staff directly within 10 days or the citation will be sent to the Clerk of Courts for recording and recovery and the payment can be made to them. Ms. Payton noted that the Clerk of Courts charges a fee to handle that payment so most of those cited tend to pay Code Enforcement directly. Ms. Payton stated that those cited also have the right to contest the citation with the Clerk of Courts, however; they still must do so within the 10 day timeframe. Ms. Payton further stated that within the past 2 years, all those so cited have chosen to pay their citation directly to Code Enforcement.

Chairman Curtis asked Ms. Payton how often unlicensed citations are issued.

Ms. Payton stated that this year there have been 5 cases so far, this year being since January. Ms. Payton further stated that, since the beginning of the fiscal year on October 1, 2016, in the fall, there were another 4 cases and 2 of the cases are still on a payment plan. Ms. Payton stated that one has fled the area and the Department of Business and Professional Regulation (DPBR) is in pursuit of that case.

Chairman Curtis asked if interest was charged on the payment plans.

Ms. Payton stated that staff have not been charging interest, noting that, by the time they are caught, they have already spent the funds given for the work they were hired to do. Ms. Payton further stated that staff also provides them with the appropriate paperwork for licensure. Ms. Payton stated that staff had a Deputy from the Sheriff's office who was

helping to prosecute these cases, who has now retired. Ms. Payton further stated that staff is waiting for another Deputy to be assigned to them.

Ms. Seketa asked Ms. Payton for the length of time given for the payment plans.

Ms. Payton stated that the length of time depends on the amount of the payment. Ms. Payton further stated that the payment amount is dependent on the unlicensed person's situation. Ms. Payton stated that staff also always requires that the unlicensed contractor either repay the homeowners or pay that same amount to have a licensed contractor finish the work in addition to Code Enforcement's fine.

Chairman Curtis mentioned a scenario wherein a roofer had pulled the appropriate permit, but upon Code Enforcement inspection, it was found that the owner had removed the drywall and was renovating the interior of the house, and then asked staff if the fine would be issued on the spot at that time.

Ms. Payton stated that the owner would be fined for not pulling a permit, but unlicensed work wouldn't apply in that case as Florida Statute allows homeowners to pull their own permits and do their own work. Ms. Payton further stated that when staff talks to the homeowners in these cases, they are very frequently told "he said he had a license", and there are instances where the homeowner pulls the permit and has this other person to come in to "help", which may or may not be true. Ms. Payton stated that in those sorts of cases, staff makes sure to let the homeowner know that they are the ones responsible for the quality of the work done, as well as in providing the necessary insurances, etc. Ms. Payton noted that, per State Statute, staff must allow a homeowner to correct an issue, and most homeowners in that situation will claim that they didn't know a permit was required. Ms. Payton stated that in homeowner situations, staff will issue a correction notice, tell them to go in and get the required permit(s) and remind them that they will need to schedule the appropriate inspections.

Chairman Curtis stated that he was surprised that staff wasn't charging interest on the payment plans.

Ms. Payton noted that staff does not send out a monthly reminder to those on payment plans and those who are making payments are told that it would be in their best interest to make their payments on time. Ms. Payton stated that one who didn't make his payments was served by Deputies at his place of employment, a school where he worked as a coach.

Mr. Chesser reminded the Board that it is difficult to get money from those who don't have it, and he understands that staff is trying to work so that those fines get paid.

A brief discussion ensued.

Ms. Seketa asked, if an unlicensed contractor is caught tearing out walls, putting in plumbing and new electrical, why that unlicensed person couldn't be charged \$2,000.00 for each trade.

Ms. Payton stated that staff could try, but likely Legal Counsel would prefer that staff pursue it in the way it is currently done, which would be one unlicensed fine of \$2,000.00 plus an individual \$200.00 fine for each permit that was not pulled, which would equal, in the example Ms. Seketa gave, a total fine of \$2,600.00. Ms. Payton informed the Board

that in the case of the perpetrator who ran off to Texas, he had received his third unlicensed violation and had already paid a \$2,700.00 fine for his first citation before he fled.

Mr. Skip Royster asked why the fine couldn't be increased for each additional citation if that unlicensed person is found working in similar conditions at another site.

Ms. Payton noted that in the case of the gentleman who left for Texas, staff didn't become aware of the third case until the man involved had fled to Texas. Ms. Payton reminded the Board that DBPR is pursuing that case.

Mr. Buddy Gordon asked if it would be possible for the County to remove the wording wherein it is a felony to do unlicensed work "in a State of Emergency". Mr. Gordon noted that removing "in a State of Emergency" would make unlicensed contracting a felony all the time.

Mr. Elliot Kampert stated that staff had tried to do that in the past and were stopped by Legal Counsel who said that the County could not remove the statutory requirement that unlicensed contracting is only a felony during a State of Emergency.

Mr. Gordon stated that he believes that any County Ordinance can be more stringent than State Statute, they just cannot be less stringent.

Mr. Kampert stated that if the Statute allows for further stringency, Counties can choose to enact more stringent regulations; however, advice from Legal Counsel several years ago was that further stringency was not allowed in terms of unlicensed contracting.

Mr. Miller noted that the State Statute that refers to unlicensed contracting also refers to unlicensed contracting and proposed that Code Enforcement staff park at Lowes or Home Depot every morning about 6am, and cite all the trucks that advertise that they are licensed and insured without having their license number also displayed.

Mr. Gordon & Mr. Jimmy Henderson concurred and suggested that staff could also go through the yellow pages of the phone book as well.

Mr. Henderson asked if there was anything the Board can do to increase the fines or even make unlicensed contracting a felony in Okaloosa County.

Mr. Kampert stated that staff needed to talk to legal counsel first and stated that they would do so prior to the next meeting.

Mr. Gordon stated that Panama City Beach does not recognize State Registered contractors and Panama City requires a surety bond before allowing a permit to be pulled, which definitely exceeds the requirements of State Statute. Mr. Gordon further stated that several local contractors have been caught by the workman's compensation folks recently.

Mr. Kampert asked about the surety bond, wondering if enacting a surety bond would be seen by the contracting community as overreach by the County.

Mr. Gordon stated that he only brought up the surety bond as a way to show that another jurisdiction had gone above and beyond State Statute.

Mr. Miller stated that maybe the County should post notices at Lowes & Home Depot that notifies those shopping that unlicensed contractors can be fined up to \$2,000.00.

Mr. Kampert stated that staff could try but he didn't believe that the stores would allow staff to post something that could affect their bottom line.

Mr. Gordon noted that insurance companies won't accept a re-roof done by the homeowner for insurance purposes, they require that a licensed roofer do the work.

Mr. Kampert stated that staff would discuss the idea of sitting in the parking lots of the home improvement stores, and would get together with legal counsel to discuss whether County Ordinance can be more stringent in terms of fining, etc.

Chairman Curtis asked Ms. Payton for her advice on the best way to stop the unlicensed contracting.

Ms. Payton stated that the ones caught by Code Enforcement are encouraged to get licensed. Ms. Payton further stated that if the fine is increased that still won't be able to pay the fine, and it might encourage them to go find another unlicensed job to work so that they can pay the fine. Ms. Payton stated that staff have found more homeowners doing unpermitted work when they've been out searching.

Mr. Chesser asked if there was a form available that tells what sort of work requires a license and/or a permit and what doesn't as that might be something he could add to an article he could write for the newspaper.

Ms. Payton stated that the handyman handout describes what a handyman can do, none of which requires a permit or a license. Ms. Payton further stated that, basically, if it requires a permit, it must be done by a licensed contractor.

Mr. Kampert noted that the information Mr. Chesser is seeking is also available on the County website as a Frequently Asked Questions (FAQ) file, but it takes several steps and screens to get to it. Mr. Kampert stated that, while staff would like to see that on the County Main Screen of the website, gaining space there is exceeding difficult.

Ms. Payton stated that she likes Mr. Miller's suggestion regarding putting a Code Enforcement officer in the parking lot. Ms. Payton further stated that Lowes has refused to post a sign in the past, but staff will ask them again.

Ms. Seketa asked if Growth Management could use the electronic sign at the Administration building.

A brief discussion ensued.

Chairman Curtis stated that he would like to move on to the date that he had requested staff pull regarding homeowner pulled permits. Chairman Curtis stated that the information tracks, and he was surprised that only 6 single family home permits were homeowner pulled within a 4 month period. Chairman Curtis further stated that he was surprised by the number of homeowner pulled electrical permits because he thought there would be more. Chairman Curtis wondered if the numbers are similar to the number of unlicensed contractor jobs.

Mr. Henderson noted that it would be difficult to track as the inspectors wouldn't know that it wasn't the homeowner who did the work they were inspecting unless the homeowner or someone else told them.

Ms. Lucas stated that the permit technicians have a form that homeowners are supposed to read and initial that they understand before a permit is issued to them. Ms. Lucas further stated that the form explains that they will be responsible for the work that is done, and if they hire someone that the person should be licensed. Ms. Lucas further stated that most of the homeowner pulled single family homes, the homeowner does the structure and hires electricians, etc. to buy the sub-permits. Ms. Lucas stated that all staff is allowed to do is to advise homeowners, noting that staff do get calls from homeowners asking if permits are required for certain work. Ms. Lucas stated that unfortunately, most homeowners who hire unlicensed contractors don't contact staff until there are problems and the homeowner has already paid out significant funds to the unlicensed contractor.

A brief discussion ensued.

Mr. Skip Royster asked where in Statute it allows a building owner to pull his own permit.

Ms. Lucas quoted, regarding homeowner pulled construction permits 489.103 (7a)-1 Florida Statutes:

(7)(a) Owners of property when acting as their own contractor and providing direct, onsite supervision themselves of all work not performed by licensed contractors:

1. When building or improving farm outbuildings or one-family or two-family residences on such property for the occupancy or use of such owners and not offered for sale or lease, or building or improving commercial buildings, at a cost not to exceed \$75,000, on such property for the occupancy or use of such owners and not offered for sale or lease. In an action brought under this part, proof of the sale or lease, or offering for sale or lease, of any such structure by the owner-builder within 1 year after completion of same creates a presumption that the construction was undertaken for purposes of sale or lease.

Ms. Lucas quoted, regarding homeowner (business owner) pulled electrical permits, from 489.503 exemptions:

Disclosure Statement

State law requires electrical contracting to be done by licensed electrical contractors. You have applied for a permit under an exemption to that law. The exemption allows you, as the owner of your property, to act as your own electrical contractor even though you do not have a license. You may install electrical wiring for a farm outbuilding or a single-family or duplex residence. You may install electrical wiring in a commercial building the aggregate construction costs of which are under \$75,000. The home or building must be for your own use and occupancy. It may not be

built for sale or lease. If you sell or lease more than one building you have wired yourself within 1 year after the construction is complete, the law will presume that you built it for sale or lease, which is a violation of this exemption. You may not hire an unlicensed person as your electrical contractor. Your construction shall be done according to building codes and zoning regulations. It is your responsibility to make sure that people employed by you have licenses required by state law and by county or municipal licensing ordinances.

Ms. Lucas stated that if a person owns a building and the business that is operated out of that structure, then they can buy permits to do work on that structure up to a value of \$75,000.00. Ms. Lucas further stated that staff checks the Articles of Incorporation to make sure that the person pulling the permit is listed.

Ms. Payton noted that an additional issue that staff has regards situations wherein the homeowner says the unlicensed person told them they held a license and showed them a license (business tax receipt usually) but the unlicensed person states that the homeowner knew they were unlicensed and just hired them for help with the labor. Ms. Payton stated that, in that case, staff can't prove the issue one way or another.

Ms. Seketa reminded staff that they were going to discuss erosion control fencing in situations like demolition. Ms. Seketa stated that there were some items that weren't addressed on the form, such as major remodeling, additions and foundation work.

Mr. Kampert stated that in cases where the soil on the site is being disturbed then there is a need for erosion control.

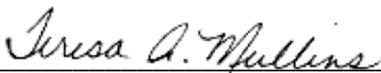
Mr. Miller asked about situations where the lot is completely flat or is angled so that erosion control is really only needed on one side of the lot.

Mr. Kampert stated that staff will be working on it, and the State is pushing it, but it would require additional staff, but it will likely require input from Flood Plain Managers and the NW Florida Water Management folks along with working with the Building Industry Association.

A brief discussion ensued.

IX. Adjournment

Motion to adjourn made by Mike Chesser; second by Skip Miller; approved unanimously.

Prepared by: 
Teresa Mullins, Recording Secretary
8.4.2017