

MINUTES

CHARLOTTE COUNTY CONSTRUCTION INDUSTRY LICENSING BOARD 18500 Murdock Circle, Room 119, Port Charlotte, Florida 33948

April 6, 2023 at 4:00 pm

Charlotte County Board of County Commissioners does not discriminate on the basis of disability. This nondiscrimination policy involves every aspect of the County's functions, including access to and participation in meetings, programs, and activities. FM Sound Enhancement Units for the Hearing Impaired are available at the Front Security Desk, Building A of the Murdock Administration Complex. Anyone needing other reasonable accommodation or auxiliary aids and services please contact our office at 941.743.1381, TDD/TTY 941.743.1234, or by email to David.Lyles@charlottecountyfl.gov.

A. **CALL TO ORDER**

Michael Melton, Chairman calls meeting to order at 6:00PM

B. **PLEDGE OF ALLEGIANCE**

Michael Melton, Chairman

C. **ROLL CALL**

Maria Di Pompo, Clerk to the Board

ROLL CALL

Michael Melton
Robert Elie
Charles Rand
Dianne Quilty
Matthew Jones

NOT PRESENT:

Christopher Knight
Michael Ferrara

STAFF PRESENT:

Robert H Berntsson, Board Attorney
Jean Stasio, Assistant County Attorney
Jack McStravic, Deputy Building Official
Shawn Horton, Code Enforcement & Licensing Manager
Gail Gursky, Supervisor, Code Compliance
Maria Di Pompo, Senior Administrative Assistant and Clerk to the Board
Tom Atkinson, Certified Licensing Officer
Ken Garcia, Certified Licensing Officer
Ben Bailey, Community Development Director

D. **OPENING STATEMENT**

Michael Melton, Chairman

E. **NEXT MEETING DATE**

June 1, 2023, at 4:00 pm

F. APPROVAL OF MINUTES

February 2, 2023

MOTION to approve February 2, 2023, minutes: Dianne Quilty made motioned to approve the minutes from February 2, 2023. Charles Rand seconds. Motion was passed unanimously.

G. AGENDA CHANGES

Jean Stasio, Assistant County Attorney: Discipline case For William B. Underwood has been continued.

H. SWEARING IN OF ALL THOSE GIVING TESTIMONY

No one gave testimony

I. CONSENT – AFFIDAVITS OF NONCOMPLIANCE FINES

All matters listed under this item are considered to be routine and action will be accomplished by one motion without separate discussion of each item. If discussion is desired by a member of the Board, that item(s) will be removed from the Consent Agenda and considered separately. **Upon Board approval of the affidavits of Noncompliance, each case will be assessed with an additional \$20.00 for the cost of recording a lien.**

	Name	CIT No.	Case #	Amount	Officer Name	
1	Juan C. Ramirez	6117	CIL-23-00300	\$1,000	Ken Garcia	Lien Assessed
2	Ari F. Gomez	6116	CIL-23-00301	\$1,000	Ken Garcia	Lien Assessed
3	Oscar Perez	6115	CIL-23-00302	\$1,000	Ken Garcia	Lien Assessed
4	Jason W. Tart	6102	CIL-23-00303	\$1,000	Ken Garcia	Lien Assessed
5	Jason W. Tart	6104	CIL-23-00304	\$1,000	Ken Garcia	Lien Assessed
5	Jason W. Tart	6065	CIL-23-00306	\$1,000	Ken Garcia	Lien Assessed
6	Ivar E. Perez	6118	CIL-23-00305	\$1,000	Ken Garcia	Lien Assessed

MOTION: Matthew Jones motioned to accept the fines as stated in the Affidavit of Non-Compliance. Robert Elie seconds. Motion was passed unanimously.

J. OLD BUSINESS

1. Discussion: USL&H - Longshore Insurance and Workers Compensation
 - Appendix J.1 **Brief Response**
 - **Conclusion:** No further follow up required, motion died for lack of a second.
2. Approved future meeting times / dates

CILB 2023
Hearing Dates
Proposed Time 4pm
April 6, 2023
June 1, 2023
August 3, 2023
October 5, 2023
December 7, 2023

K. DISCIPLINE CASES

1. WILLIAM B. UNDERWOOD
Window World of Southwest Florida And
Skyhawk Enterprises Inc d/b/a Window World
Certified Specialty Contractor
License No. SCC131151205
CASE NO. CIL-20-00461

Tom Atkinson

Continued Date TBD

L. NEW BUSINESS

M. REPORT FROM THE LICENSING MANAGER

Shawn Horton: Code Enforcement & Licensing Manager

- 6-7 citations almost all for unlicensed contracting
- Code officers busy investigating high volume of unlicensed contractor activity
- Working with workman comp and DBPR
- Help needed – BOCC approved higher of contractor licensing officer
- Statistics will be shared by Jack McStravic

N. REPORT FROM THE BUILDING DEPARTMENT

Jack McStravic, Deputy Building Official:

- We currently have 35,000 storm related permits and 26,000 of which are roof permits
- Utilizing five outside firms to help to inspect roofs
- Staffing update: 13 inspectors (2 hires) and 1 electric, 2 building and 2 residential
- Plans examiner positions being interviewed for
- Open positions: 2 permit techs, 4 plans reviewer
- Lobby hours: Lobby closes at 3PM and last customer taken at 2:30. 3-5 is catch up time.
- Inspection time cut off is 8PM – Average of 1300-1500 inspections a day
- Inspector averages 30-35 stops a day
- We are still using 5 engineering firms to help with inspections

O. REPORT FROM THE ASSISTANT COUNTY ATTORNEY

Jean Stasio, Assistant County Attorney: Nothing to report

P. BOARD ATTORNEY COMMENTS

Robert H Berntsson, Board Attorney: Nothing to report

Q. REPORT FROM CONSTRUCTION INDUSTRY LICENSING BOARD MEMBERS

Michael Melton, Chairman

- 2 Vacancies: General Contractor and Licensed Mechanical Contractor

R. ADJOURNMENT

Any person who decides to appeal a decision of this Board will need a record of the proceedings pertaining thereto, and therefore may need to ensure that verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

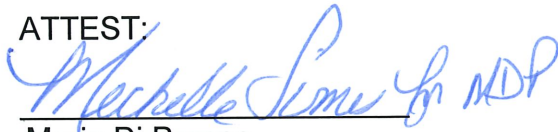
MOTION: Matthew Jones motioned to adjourn the hearing. Dianne Quilty seconds. Motion was passed unanimously. Michael Melton, Chairman adjourned at 5:06 PM.

CHARLOTTE COUNTY
CONSTRUCTION INDUSTRY LICENSING BOARD
MINUTES OF April 6, 2023
READ AND APPROVED on June 1, 2023



Michael Melton, Chairman

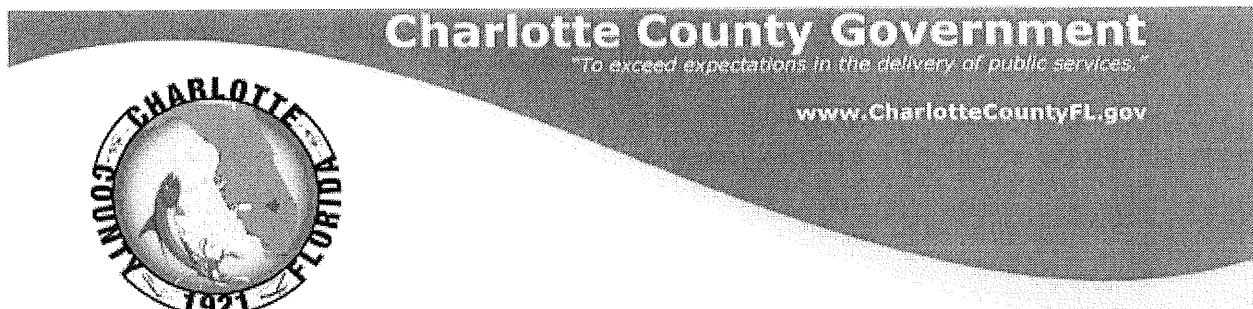
ATTEST:



Maria Di Pompo
Sr. Administrative Assistant
Community Development Department
Code Enforcement and Contractor Licensing Division

Complete files of all cases, as well as taped recordings of all proceedings of this meeting, are kept in the Community Development Department and are available to the public.

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MEMORANDUM

Date: April 4, 2023 OPI 2023-0264
To: Shawn Horton
Community Development
From: Jean Stasio, Assistant County Attorney *JSt*
Through: Janette S. Knowlton, County Attorney *JSK*
Subject: Longshoreman Insurance for Permitting and Licensing

Issue:

Whether Charlotte County Code of Ordinances ("Code"), Section 3-2-42(g)(1), authorizes the Charlotte County Construction Industry Licensing Board (CILB) to add additional workers' compensation or federal insurance requirements to minimum standards for certificates of competency for local and registered contractors.

Brief Response:

CILB is not authorized to amend the Code to add additional workers' compensation or federal insurance requirements to minimum standards for certificates of competency for local and registered contractors. Only the Board of County Commissioners (BOCC) has the authority to amend the Code, and even though the BOCC may amend the Code, any amendments must not be inconsistent with state law.

Discussion:

Charlotte County is a home rule charter county, and, except as may be limited by its charter, has all county and municipal powers of self-government granted now, or in the future, by the constitution, not inconsistent with general law, or with special law approved by vote of the electors. A local government enactment, such as a local ordinance, is inconsistent with state law if (1) the legislature has expressly or impliedly preempted a particular subject area, or (2) the local enactment conflicts with a state statute.

OFFICE OF THE COUNTY ATTORNEY
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Florida Statutes §125.01(2)(t) authorizes BOCC to "Adopt ordinances and resolutions necessary for the exercise of its powers and prescribe fines and penalties for the violation of ordinances in accordance with law". Charlotte County's charter requires that "The adoption of all ordinances shall require the affirmative vote of a majority of the total membership of the board of county commissioners".

CILB was created to make policy recommendations to the BOCC with respect to the functioning, supervision, and administration of the simultaneously created Charlotte County Building Construction Services Department. Despite the broad, dated, and somewhat conflicting language of the Code, regarding certificates of competency, the BOCC cannot delegate its ability to adopt ordinances and resolutions to the CILB.

The BOCC has adopted current competency qualifications which are codified in the Code at Section 3-2-22 and, separately, the requirements of the Workers' Compensation Law of the State of Florida (codified in Section 3-2-48) and general liability insurance requirements.

The CILB may make a recommendation to the BOCC to adopt additional longshoreman's and harbor worker's compensation insurance as a condition of a certificate of competency; however, the proposed imposition is improper, where, as of July 1, 2021, licensing of occupations is expressly preempted to the State of Florida and supersedes any local government licensing requirements. Local licensing for occupations as of July 1, 2021 will sunset on July 1, 2023, and a local government may not add additional licensing requirements to the existing licensing requirements during this time. Florida Statutes §163.211.

Therefore, the proposed enactment of an ordinance to add longshoreman's and harbor worker's compensation insurance as a condition of a certificate of competency is inconsistent with state law where the legislature has expressly preempted the licensing of occupations and prohibited the BOCC from imposing additional licensing requirements.

The Florida Department of Business and Professional Regulation (DBPR) is the government agency responsible for licensing and regulating (including enforcement) businesses and professionals in the State of Florida. Contractor violations of the Florida Administrative Code requirements to maintain the applicable workers' compensation and general liability insurance as required by state and federal law including, but not limited to, the provisions of the Longshore and Harbor Workers' Compensation Act may be reported directly to DBPR.

Conclusion

The Code does not authorize the CILB to amend the Code to add additional workers' compensation or federal insurance requirements to minimum standards for certificates of competency for local and registered contractors. Only the BOCC has the authority to amend the Code, and even though the BOCC may amend the Code, state law prohibits the BOCC from imposing additional licensing requirements.