

February 16, 2022

MINUTES
OF THE COLLIER COUNTY
CONTRACTORS' LICENSING BOARD MEETING

February 16, 2022

Naples, Florida

LET IT BE REMEMBERED that the Collier County Contractors Licensing Board, having conducted business herein, met on this date at 9:00 a.m. in **REGULAR SESSION** in Administrative Building F, 3rd Floor, Collier County Government Center, Naples, Florida, with the following members present:

Chair:	Kyle Lantz
Vice Chairman:	Terry Jerulle (excused)
	Matthew Nolton
	Richard E. Joslin
	Patrick G. White
	Todd Allen
	Robert Meister III
	Elle Hunt
	Stephen Jaron

ALSO PRESENT:

Kevin Noell, Esq., Contractor Licensing Board Attorney
Timothy Crotts, Contractor Licensing Supervisor
Colleen Kerins, Assistant Collier County Attorney
Michael Governale, Collier County Licensing Compliance Officer

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

1. ROLL CALL:

Chairman Kyle Lantz opened the meeting at 9:01 a.m.

Roll call was taken; seven members were present in the BCC Chambers at roll call.

Mr. Crotts said Board Member White would arrive late and that Vice Chairman Jerulle was unable to make it and asked that his absence be excused.

2. ADDITIONS OR DELETIONS:

Mr. Crotts asked that the following be postponed until the March 6, 2022, meeting at the applicant's and respondent's requests:

- 8.E. Mark E. Berkley, HomeAway Home Watch LLC, Swimming Pool/Spa Servicing Contractor, Review of Experience.
- 10.B. 2022-02 – Kenneth D. Carter dba Carter Fence Company Inc. (CEMIS20220000242).
- 10.C. 2022-03 – Kenneth D. Carter dba Carter Fence Company Inc. (CEMIS20220000241)

3. APPROVAL OF AGENDA:

Board Member Joslin moved to approve the agenda, with the above changes. Board Member Hunt seconded the motion. It was carried unanimously, 7-0.

4. APPROVAL OF MINUTES:

A. Approval of Minutes for January 19, 2022

Board Member Nolton moved to approve the January 19, 2022, meeting minutes. Board Member Joslin seconded the motion. The motion carried unanimously, 7-0.

5. PUBLIC COMMENTS:

None

6. DISCUSSION:

None

7. REPORTS:

None

8. NEW BUSINESS:

A. ORDERS OF THE BOARD

Board Member Joslin made a motion to have the Chairman sign the Orders of the Board. Board Member Nolton seconded the motion. The motion was carried unanimously, 7-0. The Orders of the Board were approved.

[Board Member White joined the meeting at 9:03]

B. Julio F. Francisco – Chely’s Cleaning Solutions LLC – Painting Contractor - Review of Experience

Chairman Lantz called Mr. Francisco to the podium and he was sworn in.

Mr. Crofts reported that Mr. Francisco is applying for a painting contractor license, which requires 24 months of experience. He submitted a firm application and during the review process by staff, Mr. Francisco provided a resume outlining his experience while employed by three golf courses/golf clubs, where he was a maintenance superintendent and painting was part of his responsibilities.

Mr. Francisco has submitted letters of reference from former and current golf course employers. However, staff has been unable to confirm the information in the letters of reference. It is the opinion of staff that Mr. Francisco does not meet the requirements under Ordinance 2006-46 1.6.3.30 to be a painting contractor.

Mr. Francisco is being referred to the Board under Section 2.5.2, Referral of Application to the Contractor Licensing Board For a Decision.

Chairman Lantz asked Mr. Crofts if he was questioning Mr. Francisco’s experience because he received his experience at a golf course, or because he couldn’t verify the information.

Mr. Crofts said staff was unable to verify the information he provided, such as the quality of painting, the type of painting, whether it was interior or exterior.

Board Member White asked if the references were attested to.

Mr. Crofts said only the signature was attested to, that it was his.

Board Member White asked if the document didn’t purport to say that what it contained was true and accurate. He said the Board would need testimony under oath.

Chairman Lantz told Mr. Francisco this was his opportunity to convince the board. He asked him to tell the board about his painting experience.

Mr. Francisco testified that he’s been in business since 1999, working on different golf courses since high school. He went to college, where he studied golf course science, but always worked at golf courses. He was at Tiburon from 2007 to 2013 and oversaw full bathrooms, maintenance, chemicals and fertilizers. He maintained buildings, pressure washed and painted them and they painted interior and exterior every three or four years.

He said Tiburon has a huge cafeteria that’s painted at least once a year because it needs it, including touching up light switch areas, as well as some exterior painting. They didn’t paint the whole building, just what needed touching up.

He left Tiburon to go to Twin Eagle in 2013 and had the same duties, fine-tuning and painting buildings. They host a tournament in one building so that building needs to be painted yearly, along with bridges that need to be sealed and painted by him and a crew of about 27. Now he's at High Point Country Club, where's been since 2018 and he cleans and paints buildings when needed.

Chairman Lantz asked if he worked 2,000 hours a year, how many hours would be dedicated to painting and overseeing painting?

Mr. Francisco said 20 hours. He said he's also worked at other golf courses he didn't mention, such as Miromar Lakes Golf Club. He estimated that he painted 20 hours multiplied by four years, but that was just an estimate.

Board Member White pointed out that it added up to only 400 hours over 20 years and he needs 48,000 hours. He didn't even have 10%.

Board Member Jaron said he has about 10% of what's needed.

Board Member Nolton asked if he had nine buildings, would it take one to five days? So, if he was painting at Tiburon, it would probably be 30 days of painting a year, which added up to a lot more, about 20 hours.

Board Member Hunt said that would be about 16 hours.

Mr. Francisco said he might not be explaining himself well.

Board Member Nolton asked if he was working at a golf course now.

Mr. Francisco said he was the grounds superintendent and just painted a half-mile fence.

Board Member Nolton asked about his cleaning company.

Mr. Francisco said he operates that with his wife.

Board Member Nolton asked if that was on the side.

Mr. Francisco said it was, that he and his wife want to do it right. If they're successful, they want to set up their own business and paint.

Chairman Lantz asked how a fence is painted, what the steps are.

Mr. Francisco said he cleans, pressure washes, primes and paints.

Chairman Lantz asked what else he paints.

Mr. Francisco said buildings and bridges. Every four or five years, they are touched up.

Board Member Nolton asked when he was painting walls and buildings, what does he do with the cracks?

Mr. Francisco said he fixes the cracks. If they're in windows, he'd caulk, prime and paint.

Board Member Nolton asked what type of paint he uses.

Mr. Francisco said he uses Sherwin Williams.

Board Member White said they wanted to know what type of paint, if it was latex or enamel.

Mr. Francisco said he uses latex for exteriors and if it's metal, he'd use something different.

Board Member Nolton asked what he used when he seals bridges. Is it water-based?

Mr. Francisco said he uses water-based paint.

Chairman Lantz asked why he wanted a license in Collier County if he lives in Lee County.

Mr. Francisco said it's because most of his customers are in Collier County. When he does high-end exterior work at the club, members ask if he could do it for them.

Chairman Lantz said he was on the fence on this application but was more convinced that Mr. Francisco had the experience.

Board Member White asked Mr. Crofts if he'd been able to verify the experience listed in Mr. Francisco's resume, would he be here now?

Mr. Crofts said the only question would have been the experience with interior versus exterior. He seems to have done more exterior.

Board Member Hunt asked Mr. Francisco to explain the difference between exterior and interior painting, the preparation and materials.

Mr. Francisco said the preparation is different. On interior, he covers the carpet and furniture and touches up areas before painting.

Board Member Hunt said the Board needs as much detail as possible. She said they know he has 20 years of experience, but the Board needs more information. She said many people know how to cover furniture, but what would he do if he found a stain on the wall, or water damage?

Mr. Francisco said if there was water damage, he'd call a water restoration company to determine the cause.

Board Member Hunt asked what he'd do if he found a stain.

Mr. Francisco said he'd prime it. He said oil always resurfaces so if it's on drywall, it would have to be cut out and patched. If it's a huge area, he might hire someone else to patch it.

Board Member White said he was making a motion to approve his application.

Board Member Nolton asked if he wanted any probation.

Board Member White said no.

Board Member White made a motion to grant the application for a painting contractor license. Board Member Hunt seconded the motion. The motion passed unanimously, 8-0.

C. Thomas R. Bowein – Bowein, Thomas R (Journeyman Electrical) – Waiver of Exam
Chairman Lantz called Mr. Bowein to the podium and he was sworn in.

Mr. Crofts reported that Mr. Bowein has submitted an application for the issuance of a Certificate of Competency as a journeyman-electrician, a license that requires four years as an apprentice. As part of the review process, Mr. Bowein received his journeyman license in 1994. He took the exam for journeyman on August 27, 1994 and received a score of 76.5. Mr. Bowein remained active until 2019, when his license was not renewed and it went into canceled status, effective January 1, 2022, for non-renewal.

Mr. Bowein has submitted an application for the issuance of his journeyman certificate of competency. However, under Ordinance 2006-46, Section 1.4, Renewal of a Certificate of Competency Subsection 1.4.9 states in part, that as of the date of the receipt of the new application, if three years have passed since the most recent examination, the individual will be required to take a retest.

Mr. Bowein is here today asking under 2.5.2, Referral to the Contractors Licensing Board For A Decision, for a waiver of this required exam.

Chairman Lantz said his understanding is that a journeyman license has zero continuing ed

requirements. Is that correct?

Mr. Crotts said there is a requirement with the state.

Chairman Lantz asked, journeyman?

Mr. Bowein said it's required, but in Dade County, where he worked for the school system there, it has never been required. Continuing education costs about \$50 a year.

Chairman Lantz said he didn't believe it was required.

Board Member Hunt asked Mr. Crotts if Mr. Bowein had renewed his license before January 2022, he wouldn't be here?

Mr. Crotts said that was correct.

Chairman Lantz asked if he's continued to work consistently in the trade.

Mr. Bowein said he's been working part time with friends who have their own electrical contractor business. He had worked 35 years for the school system and then retired. He'd been a journeyman since 1994, then retired, so he hasn't been a journeyman the whole time. He didn't plan on working but has to go back to work for a while due to certain circumstances. The district wants to rehire him for the same job, but they want him to get the license.

Board Member White asked why he needed the license from Collier County to work in Metro Miami-Dade County.

Mr. Bowein said back then, he couldn't take the test in Dade because they didn't count the maintenance and CIF program at the school, whatever they required to get the Dade County license. But the school system will accept a license from Dade, Collier, Monroe or Broward counties, so that's why he came to Collier County for a license.

Board Member Allen made a motion to waive the exam retest requirement. Board Member White seconded the motion. The motion passed unanimously, 8-0.

D. Mario A. Montano-Rima – Suncoast Patio Services LLC – Review of Experience
Chairman Lantz called Mr. Montano to the podium and he was sworn in.

Mr. Crotts said Mr. Montano has submitted an application for the issuance of a Certificate of Competency as an aluminum-with-concrete contractor, a license that requires 24 months of experience. As part of the review process by staff, Mr. Montano submitted two verifications of experience by former employers. These employers were contacted and information was noted.

Mr. Montano worked part-time as a subcontractor from July 2018 to December of 2021 at Renovations Plus of Naples, which is a CGC. Work included screen repair, construction of screen enclosures and no concrete work.

The second verification of experience was Shell Home Services, which is a CBC. He worked as a subcontractor from June 2019 to December 2021. Work included some repair work on two or three footers and screen-enclosure repairs.

Yesterday, we received a third verification of experience on his resume from Perception Buildings, which is a CGC. He worked for that company from 2019 to 2021. Mr. Montano was an employee on payroll and the company estimates that he has done several screen enclosures, including some concrete work, but the company rep was unable to say exactly how much

concrete. He did say that the concrete work did include some flat work and footers.

Mr. Montano is here today being referred to the board under Section 2.5.2, Referral of the Application to the Contractors' Licensing Board for Decision.

Chairman Lantz asked Mr. Montano to explain his experience.

Mr. Montano said he does screen enclosures and lays footers. Sometimes he lays a footer because people want to extend their pool patio area. In the last couple of years, he's successfully passed about 20 inspections with Perception Building Inc., laying 12-by-12 footers or 8-by-8 footers with No. 5 rebar epoxied into the foundation. He's just looking for that concrete part now for the licensing.

Chairman Lantz asked if he already has a license to do the basic aluminum work.

Mr. Montano said he's working on that, as well.

Chairman Lantz asked whether he had no license right now.

Mr. Montano said that was correct.

Chairman Lantz asked how he was working as a subcontractor.

Mr. Montano said he works as a subcontractor on screen repair work and is on the payroll at Perception Building Inc.

Chairman Lantz asked how long he'd worked for them.

Mr. Montano said two years, from 2019-2021, and before that he worked from 2016-2019 with SuperView Screen, on their payroll, but they went out of business, and he has no contact with them because the business owner moved to North Carolina.

Board Member Nolton asked Mr. Crofts if Mr. Montano had just applied for an aluminum license, would he not be here before the Board?

Mr. Crofts said that was correct. He has the experience required for aluminum license. The question is the concrete.

Board Member Hunt asked if he got a concrete license, could he do anything, such as sidewalks, culverts, patios?

Mr. Crofts said, No, this would only be for the concrete work that's ancillary to the building of a screen cage. He would need a concrete-forming and placing license to do sidewalks, patios and driveways.

Board Member Nolton said so at the most, this is a footing for a screen enclosure, maybe a slab for the area the screen enclosure is going to sit on?

Mr. Crofts said that is correct, what's composed of the slab and the footers that are required in the slab.

Board Member White asked Mr. Crofts for his opinion on how much of the license's timing requirement must be 100% demonstrating concrete work, knowing that in the field it isn't always something that's required. Does he have to prove he has the full amount of time doing the concrete work? The concrete work would be ancillary to whatever the job required over the time period that the code requires for experience.

Mr. Crofts said that was correct. For concrete, as far as the staff's definition and concern, it would be that the correct concrete is used, the correct rebar is used for the footers, and if there's a slab that has to be attached to another slab, that it is correctly done as part of the inspection process. That is the staff's concern as far as the construction of the cement side.

Chairman Lantz asked if a contractor could spec that out in Collier County or does it have to be designed by an engineer?

Mr. Crotts said he was not sure on the permitting aspect, but he believed that if he has the license that includes concrete, he can make that part of the application for the specs of the permit.

Chairman Lantz: For a screen enclosure?

Mr. Crotts: Correct.

Board Member White asked, and that would still go to Plan Review to make sure it's spec'd properly?

Mr. Crotts: Plan Review and Inspections.

Board Member Nolton said he believed it would still have to be signed and sealed by engineering, for the footing, for the foundation. Walk us through what you're going to do in a back area if you're going to install a screen enclosure. Walk us through the concrete part of it so we understand your experience and we know you know what to do.

Mr. Montano said if there's an existing patio there, we would have to extend the form to build. First of all, we have to get it engineered, so either it's a monolithic or ribbon footing. Then it's most likely to be about a 12-by-12-footer, 12 inches by 12 inches deep. We'll have to form it, install the No. 5 rebar six inches or 6-8 inches into the foundation with a strong-setting/fast-setting epoxy. Then get it inspected before we pour. Then we pour the concrete in. After that, we remove the form boards. Give it about a day or two for the exothermic reactions to occur and harden, and then either pavers will be set on top of it and then we would put in the screen enclosure about three inches from the edges, for the Tapcons into the footer.

Board Member Nolton said that all sounds perfect, but what was the prep that he left out before that?

Mr. Montano said there would be excavation, digging to remove the fill, remove anything like that. Before that we would have to look for all the pipes and irrigation systems, either cap them or reroute them so there would be no water leakage under the slab or the concrete foundation.

Board Member Nolton asked if they required any kind of density test or compaction tests.

Mr. Montano said not here, not that he recalled. He said they check the strength of the epoxy in the rebar in the foundation to make sure it doesn't come out, but aside from that he didn't believe inspectors do anything like that.

Board Member White asked what would happen if the engineer requires it?

Mr. Montano said so far, he hadn't seen anything like that. He said he passed all the inspections for it and hasn't been rejected for any density testing.

Board Member Joslin asked if he'd done many pool-cage renovations, where you're going to extend the pool cages?

Mr. Montano said he had. What would you like to know about that?

Board Member Joslin asked if he gets a survey to see you're not going into ...

Mr. Montano: Yes, any setbacks, like that? Yes, we do make sure there are no setbacks or encroachments. Let's say if it's on a golf course and there are neighbors' setbacks and elevation, as well.

Board Member Joslin: How about grounding of the steel when you put No. 5 rebar in?

Mr. Montano: Excuse me?

Board Member Joslin asked if it's a pool deck, how do you ground the steel?

Mr. Montano said copper wire. Copper to the ground to the pool cage.

Board Member White asked what size.

Mr. Montano said he'd use No. 5 rebar, half-inch, quarter-inch.

Board Member White: What wire?

Mr. Montano: 12-gauge, I believe.

Board Member Joslin. No. No. 8. And you'd be grounding it to the screen enclosure?

Mr. Montano: to the screen enclosure, yes.

Board Member White: Bonding.

Board Member Joslin asked when you do that and you add a screen enclosure to an existing screen enclosure, what are you going to do when you're tearing down the whole screen enclosure and just rebuilding a new one? Or do you just add on to the existing screen enclosure when you make the pour?

Mr. Montano said it depends on whether the customer wants a new screen enclosure or not. So if they want a new screen enclosure, we tear down the old one and put the new one on. If they want to extend their existing screen enclosure, then we'll take it down and, according to engineers, we will add the proper-sized beams to the new screen enclosure. Most of the grounding wires already have been provided onsite because usually it's connected to a pool, so we use the same existing ground wire and connect it right back to the screen enclosure for the new one.

Board Member Joslin: OK.

Chairman Lantz: I'm happy.

Board Member White made a motion to grant the application for a painting contractor license. Board Member Joslin seconded the motion. The motion passed unanimously, 8-0.

9. OLD BUSINESS:

A. Luis Patino – The Oasis Group of SWFL Inc. dba Oasis Renovations & Pools

Mr. Patino was not present.

Mr. Crotts said that previously, Mr. Patino appeared before the Contractors' Licensing Board on June 16, 2021, due to a review of his credit worthiness. At that hearing, Mr. Patino was placed on a six-month probationary period and ordered to come back before the board to show proof of a payoff and/or a satisfactory close of loans of creditors and to supply an updated credit report. A copy of the order is in the Board packet.

On February 2, he contacted, Mr. Patino to advise him that he had not supplied any of the proof that was required by the Board. Mr. Patino said he was going to need more time because he needed to wrap his head around what was required. He spoke to Mr. Patino again a few days ago and he again stated that he really needed more time. He wasn't sure he understood what was needed. As of yesterday, he has received no information from Mr. Patino.

Chairman Lantz asked what his recommendation was.

Mr. Crotts said he recommends that Mr. Patino's license be put in suspended status until he can show proof that the issues brought before the Board on June 16, 2021, have been satisfied and a new credit report has been given, and that Mr. Patino appears before the Contractors' Licensing Board to explain the issues and how they've been corrected.

Chairman Lantz asked if he's recommending that he be suspended until he does all those things and he then comes back to the Board?

Mr. Crotts said that was correct. And he would not come back in front of the Board until staff has received the documentation required in the June 16, 2021, Board order. Part of that order had three loans that had to be paid off, and he thought the order said if those weren't paid off he had to come back before the Board.

Chairman Lantz asked if he could come back before the Board with his status and a plan, but didn't necessarily have to have all three paid off. If he doesn't have them paid off, he has to come back and show that he has a plan worked out with those creditors for payment.

Mr. Crotts said that was correct.

Chairman Lantz asked what the Board's preference was.

Board Member White made a motion to accept the staff recommendation that Mr. Patino's license be suspended until he provides proof, including a new credit report, that the issues brought before the Board on June 16, 2021, have been satisfied and he must appear before the Board to explain the issues and how they've been corrected. Board member Nolton seconded it. The motion passed unanimously, 8-0.

10. PUBLIC HEARINGS:

A. 2022-01 – Charles C. Willey (CEMIS20210012865)

Chairman Lantz called **Mr. Willey** to the podium and he and his attorney, **James Chillemi**, were sworn in.

Board Member Allen made a motion to open the hearing. Board member White seconded it. The motion passed unanimously, 8-0.

Chairman Lantz asked if the County wanted to introduce the Administrative Complaint into evidence.

Investigator Governale said a copy of the hearing preamble was given to and read by the respondent, who signed and dated the copy. He asked that the preamble and packet for Case 2022-01 be entered into evidence.

Board Member White made a motion to move the preamble and case packet into evidence. Board Member Joslin seconded the motion. The motion was carried unanimously, 8-0. The preamble and case packet were accepted into evidence.

Chairman Lantz asked if the County wanted to present opening remarks.

Investigator Governale gave an opening statement:

The respondent, Charles C. Willey, a Collier County licensed paving contractor with Issuance No. 27398, is the qualifier for and owner of B & W Paving Contractors of Southwest Florida Inc.

Mr. Willey contracted with the property owner and received payment for the asphalt resurfacing

and striping of the parking lot at 380 9th St. North, in the City of Naples, without a permit, when one is required. Mr. Willey is in violation of the Code of Laws and Ordinances of Collier County, Florida, Section 22-20118, which states, in pertinent part, that it is misconduct by a holder of a Collier County Certificate of Competency to proceed on a job without obtaining applicable permits or inspections from the City Building and Zoning Division of the Collier County Building Plan Review & Permitting Department.

Mr. Willey's attorney, James Chillemi, gave an opening statement:

I'm here for Charles Willey in an advisory role, but also in an advocacy role as his attorney. I'm here today to lay out exactly what the timeline was on this site permit, which my client claims he didn't know he needed, simply because there was no right-of-way, so no permit was required. I have several documents, or documentation evidence, the first of which is an email that has been acknowledged by Investigator Governale that I'd like to enter into evidence as Respondent's Exhibit A.

[Investigator Governale had no objection.]

Board Member White made a motion to enter Respondent's Exhibit A into evidence. Board Member Joslin seconded it. The motion passed unanimously, 8-0. Respondent's Exhibit A was entered into evidence.

Attorney Chillemi said the email was sent to his client on December 14, 2021, asking him to get a permit. As you can see in the email, that same day, my client applied for a Site Work Permit Application, which I'd like to enter into evidence as Respondent's Exhibit B.

Board Member White: So moved. He asked if Mr. Chillemi had any other documents to enter and said he should do them all combined.

Attorney Chillemi said he had several and submitted Composite Exhibit B:

- The Site Work Permit Application
- The Notice of Commencement
- The Corrections Notice.

Board Member White made a motion enter Respondent's Composite Exhibit B into evidence. Board Member Joslin seconded it. The motion passed unanimously, 8-0. Respondent's Composite Exhibit B was entered into evidence.

Attorney Chillemi said Mr. Willey will explain exactly what the timeline is on when these documents were sent, what was done, and when the work was performed. His main argument is that when the Corrections Notice was sent to him by Margaret Perry at Zoning, a Zoning Permit was issued. However, the City Building Department's Mr. Craig Molé alerted him that he needed a handicapped sign, even though it's shared parking.

My client's record speaks for itself. He's been a contractor here for 30 years, he's been in front of this board not even a handful of times, so I think the benefit of the doubt goes to his experience and what he's about to tell you. So, if I could, I'm going to ask my client to come up at this time.

February 16, 2022

Board Member White said this was just opening statements. Is that all you have for opening statements?

Attorney Chillemi said it was.

Chairman Lantz said Investigator Governale would first present the County's case.

Investigator Governale said that on December 13, 2021, the Collier County Licensing Department received a complaint from the City of Naples Building Department regarding asphalt resurfacing and striping of a commercial parking lot without an issued permit at 380 9th St. N., City of Naples. Upon investigation, it was discovered that on December 3, 2021, B & W Paving Contractors of Southwest Florida Inc. entered into a contract with Gianni Vitiello for the asphalt resurfacing and striping of the parking lot at 380 9th St. N., Naples.

The contracted amount was for \$5,500. This was paid in full with a check made payable to B & W Paving Contractors of Southwest Florida Inc. However, Gianni Vitiello later stopped payment on the check due to the underlying permit issue. On December 13, 2021, while onsite, Investigator Michael Governale reviewed City of Naples records, which revealed no building permits were applied for regarding asphalt resurfacing and striping of the parking lot at that address. A Stop-Work Order was issued for commencing work without an issued permit.

On December 14, 2021, City of Naples Chief Building Official Craig Molé reviewed pictures from the site visit and reaffirmed that a permit was required for the asphalt resurfacing and striping of a parking lot. Previously, on October 20, 2021, the Collier County Contractors' Licensing Board held a formal discipline hearing in which the board placed Charles C. Willey's license on a 12-month probationary period for working outside the scope of his license, workmanship and commencing work without an issued permit.

Chairman Lantz asked if Investigator Governale had any witnesses.

Investigator Governale said City of Naples Chief Building Official Craig Molé is here.

Board Member Joslin said he had one question. On December 13, you mentioned that after reviewing the records that no permit was issued, he was cited for commencing the work, so that work had already started on the 13th?

Officer Governale said work was already finished by the 13th.

Board Member Joslin: Finished?

Investigator Governale: Yes.

Board Member Joslin: OK, thank you.

[Mr. Molé was sworn in.]

Attorney Noell said that procedurally, the attorney for the respondent also would have an opportunity to ask him questions.

Attorney Chillemi said he had no cross-examination for Investigator Governale.

Mr. Molé: Good morning, Craig Molé, Building Official, the City of Naples.

Board Member White asked Mr. Molé to clarify what Attorney Chillemi said in his opening

statement. Can you walk us through the relationship between Ms. Perry's role, the SDPI and the Building Permit process? What I and the Board are particularly interested in is understanding the sequence and timing of events relative to when a contractor should request whichever approvals they need from the City, whether it's the SDPI end or the Building Permit end, relative to when these documents we've been provided took place.

As far as I can tell, the Notice of Commencement was dated December 15, when it was executed and recorded, and the Site Work Permit Application was dated December 14, and the email between the County's investigator and Respondent was on December 14, requesting that the application be made no later than December 17. Testimony says work was completed by December 13.

Mr. Molé confirmed those dates and said the process for resurfacing commercial lots in the City is that you submit an application for a Site Work Permit, which is required because the Building Department wants to make sure that if there are handicapped spaces there, that they're preserved. If there are no handicapped spaces and this is an older lot, we want to bring it up to code and have new handicapped spaces provided, as required by the code.

Along with our review, the Building Department's Review, Planning reviews these permits because we have very strict parking zoning ordinances in the City, and we certainly don't want a parking lot losing spaces that are required for that occupancy. A lot of times owners want to take a few parking spaces out, put trees and landscaping in, and if they go under the required parking for that occupancy, then Planning wants to know about it, and won't allow it. We need to have that Site Work Permit, too.

We do two reviews simultaneously. There is no zoning permit or planning permit. It's a Site Work Permit. Now, if you do resurfacing in the right-of-way, then a right-of-way permit is also required.

Chairman Lantz asked: But you would need a site work permit regardless if you're touching a right-of-way? And if you're doing right-of-way, it's a site requirement as well as a right-of-way permit?

Mr. Molé said that was correct.

Board Member White asked if one of the concerns from the Planning side, regardless of whether there's any landscaping or some other thing that would take up square footage of a previous parking area, have the City's parking widths for a spot changed in a way where that could change the overall number of spaces or reduce it?

Mr. Molé said yes, Planning also reviews for the size of the parking space to make sure it's in compliance with the City Ordinance.

Board Member White asked so all of that's required before the work begins?

Mr. Molé said that's correct.

Board Member Joslin asked if there are so many parking spaces, whether they're handicapped or regular, that are required per square foot of commercial property.

Mr. Molé said there are building code requirements for accessible spaces in parking lots.

Board Member Joslin asked whether it was for each individual kind, I mean each individual

commercial area? Say it's a dentist office, do you have to have so many parking spaces and so many handicapped spaces?

Mr. Molé said it's based on the number of parking spaces in the parking lot.

Board Member White: Right, it's not tied to use, it's tied to the number of spaces that are required by the use.

Board Member Joslin: Right, that's what I meant. OK.

Mr. Molé said the permit was submitted. He spoke to Mr. Willey yesterday and it's been rejected by Planning & Building because there is no handicapped space provided, so he believes Mr. Willey is going to put in a correction. Once that correction is uploaded in the system, then it'll be reviewed and, hopefully, approved and issued.

Chairman Lantz: So the permit was applied for on December 14th-15th-ish?

Mr. Molé: Correct.

Chairman Lantz asked when it was rejected.

Mr. Molé said he didn't have that information in front of him,

Chairman Lantz asked if it was in four or five days, five weeks?

Mr. Molé said that once the permit is submitted, it takes one to two days, depending on how busy we are, to get processed into the system. Then we're on a five-business-day level of service, so it would have been reviewed within seven business days.

Chairman Lantz: Even with the Christmas holidays? If we were to say December 31, it would have been rejected before then?

Mr. Molé said at times, we go over our level service, especially in Planning because they're very busy. But most of the time, we're within that level of service.

Chairman Lantz asked if it was fair to say that it's been six weeks since it's been rejected.

Mr. Molé said Mr. Willey would know the permit time frame. He believed it was rejected more than once.

Chairman Lantz: Oh, OK.

Investigator Governale: I could answer that. The last rejection notice was the 14th of January.

Chairman Lantz: And it's been rejected more than once?

Investigator Governale said he believed it was rejected twice.

Chairman Lantz said OK, what he's getting at is it didn't just sit there for six weeks. He's been actively working on trying to get the permit approved.

Mr. Molé said he believed he has. They worked through the handicapped space issue. He said he took a quick look at it as he was on the phone with Mr. Willey yesterday and he saw a couple of rejections. Mr. Willey just wanted verification of what he had to resubmit.

Board Member Allen asked if the parking lot was shared by several tenants.

Mr. Molé said it could be. He didn't look that closely.

Board Member Allen asked if it was a strip shopping center.

Investigator Governale said he could answer that. It's a small parking lot that abuts up to another parking lot, so it is adjoined to a commercial storefront parking lot on Tamiami Trail.

Board Member Joslin asked how long the property had been there. I'm just curious if there was no handicapped parking then. There's never been a handicapped spot there in the past?

Mr. Molé said there could have been a handicapped spot. It could have been resurfaced without a permit and the spot, gone. That's why we want a permit for site work.

Board Member Joslin: OK.

Chairman Lantz asked if there were any other questions from the board. Could they now go to cross-examination?

Attorney Chillemi said the cross would be both for Investigator Governale and Mr. Molé. This first question is for Mr. Molé. How many spaces did my client resurface?

Mr. Molé said he didn't have that information. He didn't look at the plan.

Attorney Chillemi said OK. Is there any time that a site work permit is not required for resurfacing?

Mr. Molé said, no, even with a shared-parking spaces site, a Site Work Permit is still required if resurfacing is being performed in the City of Naples.

Attorney Chillemi said he previously testified it takes about five days to to issue the permit, five business days.

Mr. Molé said it's a five-business-day level of review, so the reviews are done within that five-day period and then if it's approved, it'll take one to two days to be processed out.

Attorney Chillemi said, OK, and the original permit was applied for on December 14th?

Mr. Molé said that's what he's been told.

Investigator Governale said that is correct.

Attorney Chillemi said, so Investigator Governale, the original permit was on December 14th. When was the first rejection?

Investigator Governale said he didn't know. He'd have to look. He said he believed it was between seven to 10 days after that.

Attorney Chillemi asked if his client, Mr. Willey, resubmitted his plans for the permit.

Investigator Governale said that as of 9 a.m. this morning, it was back in Plan Check, so I'm assuming he did.

Attorney Chillemi said he had no further questions.

Chairman Lantz asked if Investigator Governale had any other witnesses.

Investigator Governale said the County had nothing else.

Attorney Chillemi said he would now have his client explain his side of the story.

Mr. Willey said that prior to starting the job, he called the City Building Department and talked to Right-of-Way. He said he thought he needed a right-of-way (permit) for the lot into the alley. He was then told by the owner that it was a shared lot and there was no handicapped parking. There was nothing there and it's all people parked there, regardless of whether they're in Trinity Plaza or over at Dunkin' Donuts, so he proceeded on whenever he didn't hear anything about a Right-Of-Way Permit because they said nothing was needed going into the alley.

So he went ahead and did the job, put it back like he was supposed to. That's basically it. So, upon finding out about the violation and that he needed a Site Work Permit, that's when he applied for it. He said he was given up to December 17, which he complied with, and he has followed up with the requirements and has been there several times. He said Margaret Perry would attest to that. He said Craig Molé also had been very helpful. He's busy, so he reached out to Margaret Perry a few times and she said her side approved it, but Mr. Molé has to look at it to see if they're going to lose the space. And they will lose the space if they put the handicapped in correctly but it's up to him and the Building Department to decide that. He said that's where he left it.

Board Member White said that was fine and he was glad to see that he knew he was right on it when he was asked to apply for the approvals he needed. Were there any other jobs he'd done in

the City that are similar to this, where this type of a permit, the Site Planning Permit, was required?

Mr. Willey said he hadn't done that many jobs in the City. In the County he has, but you just have to put it back like it is, usually, unless it's a Right-Of-Way Permit. That's what he mainly is told. He did a job for the City of Naples with Heritage Utilities. He did the parking lot from 5th to 7th Avenue North. He did a couple of lots in there. Of course, whatever was done was already under that City Permit, so he wasn't aware that a Site Work Permit was needed.

Board Member White said it was his experience that the City exempts itself. He said his point was simply knowing whether in the past he'd been in a similar circumstance where he would have been aware that these types of approvals are needed in the City.

Mr. Willey said only a Right-Of-Way. Usually, that's it. He said he'd also spoken to (City Right-of-Way Inspector) Ian Jackson a couple of times on different things and he told him to call if he had any questions. He wasn't there that day, but he talked to a woman who told him that he did not need a Right-Of-Way Permit going into an alley. So, he didn't think he would need a Site (Work) Permit.

Board Member White said his attorney can challenge this, but he understood his defense to be "ignorance of the law," meaning he didn't know he needed one, so he didn't ask for or get one, right?

Mr. Willey said he'd never gotten a Site Permit in the City of Naples.

Board Member White said, all right.

Chairman Lantz asked if a Site Work Permit would be required in the County to do the work.

Mr. Willey said he hadn't gotten one in the County.

Chairman Lantz asked if it wasn't required, or he didn't ask.

Mr. Willey said he'd never been cited for that.

Chairman Lantz asked Mr. Crotts if he could answer that.

Mr. Crotts said he couldn't answer that, it would be a question for the Building Department.

Chairman Lantz asked if the Board had any other questions.

Board Member White said Mr. Willey and his counsel recall that he was before the Board last year, that he's on probation and one of the counts was failing to get a permit. He said he was challenged to understand why, in this state of heightened scrutiny, that he could expect that Mr. Willey wasn't more diligent in asking whether any other permits may have been needed.

He said he appeared before the Board and he said he has worked with him. Perhaps if you'd had a one-on-one conversation, he may have mentioned, "Oh, by the way, don't forget you need this." But at the end of the day, the obligation is always on the contractor to inquire and to drill down to the level of detail to be absolutely certain you don't need whatever the local government approvals are, especially when you're in this circumstance of being on probation, where today, you end up back in front of the Board that put you on probation. He said he was offering those comments to give him a chance to explain more what his side of the story is.

Mr. Willey said that under the previous administration, City officials he dealt with included (City Engineer) George Archibald, who now is retired, and he would sometimes come out and George had said once before that most of this was shared parking in different areas, like downtown on Fifth Avenue and things like that. And that if you're going to do anything, you might need a

permit, but Right-Of-Way is important for the drainage and stuff like that. But it's not necessary in some cases and in some cases it is. But this was a long time ago. And the last time George Archibald, I don't know how long he's been gone, but I've dealt with him a few times and he usually answered the question or asked him what he needed to get. So that's what he relied on, some of the people down there. But a Site Permit? Generally, it was if you had to get any kind of a Construction Permit that you were doing something for someone and they already had that built into the plan. Maybe I don't know, or you're doing something for another contractor.

Board Member White, it sounded like some of the information that he relied on was provided by the property owner, about shared parking. Is there anything there that kind of influenced or impacted your thinking about whether you would have needed some other type of permit besides a Right-Of-Way Permit?

Mr. Willey said, not really. Not at all. The Right-Of-Way (Permit) is the most important thing if it goes in the alley. He said he understood it's in the drainage part. There was a parking lot that was done behind the Trinity Plaza, and they never got a permit for anything and it was all striped and done incorrectly. But they never got a permit for it, no site permit or anything prior to when he did his job. He doesn't know about other contractors. All he was concerned about was himself and he basically thought it was a Right-Of-Way. That's where he was wrong.

Board Member White thanked him.

Chairman Lantz asked if they were ready for cross-examination.

Attorney Chillemi said the only thing he wanted to add before cross is that the record should reflect that since his client found out about the Site Work Permit requirement, he's made every attempt to try to obtain it as quickly as possible. Now we can go to cross.

Chairman Lantz asked Investigator Governale if he had any questions for cross-examination.

Investigator Governale said he did not. The only thing he wanted the Board to know is that before he got involved, the City's Code Enforcement Division apparently had seen the work going on the day before and he was specifically directed by an email from Deputy Building Official Tom Tucker to post a Stop-Work Order at that location prior to his arrival.

Board Member White said he understood. That was because they could determine from the record that no permit had been applied for.

Investigator Governale said that was correct.

Board Member White said that's why the Stop Work Order went up.

Board Member Hunt asked, But the Stop Work Order was issued after completion?

Investigator Governale said that was correct, upon his site visit. When he got there the work was already finished and it was posted at that time.

Board Member White said that the point was that no remedial work could be done without the proper approvals from local government.

Chairman Lantz asked if there were any more questions from the Board, any recommendations for restitution, closing arguments?

[Neither Investigator Governale nor Attorney Chillemi had closing arguments.]

Chairman Lantz asked for a motion to close the public hearing.

Board Member White made a motion to close the public hearing. Board Member Joslin seconded it. The motion passed unanimously, 8-0. The public hearing was closed.

Attorney Noell said the first consideration for the Board is to determine whether the Board believes that there is substantial, competent evidence; that the burden of proof is clear and convincing that the violation has occurred, or not. And then once that determination has been made, that will either be dispositive and resolve the issue or the Board would continue on to consider sanctions if the respondent was found guilty.

Chairman Lantz asked if there was any discussion from the Board.

Board Member Joslin asked if he heard in testimony that when Mr. Willey spoke to Ian Jackson, that Ian wasn't there, and then there was another young lady who told him that he didn't need a site permit. I'm sorry, a Right-of-Way Permit. Did she mention anything about any other permits he might have needed?

Board Member White said there was no testimony in that regard, nor was there a question asked by Mr. Willey.

Board Member Joslin said he was curious as to why, if Mr. Willey asked whether a Right-of-Way Permit was needed, why wouldn't that representative have said, "No, but you do need a Site [Work Permit]," if it's part of the City of Naples Ordinance? I'm questioning why he wasn't told.

Board Member White said that in his experience, unless you ask, it's almost irresponsible for staff to put themselves in a position of being an advocate for, or an agent of, an applicant.

Board Member Joslin said it's part of the process that you need both permits all the time. That's what testimony said. Then it would be part of the question.

Board Member Allen said that Board Member White's point is she was asked whether a Right-of-Way Permit was needed, and she answered no, and that was the extent of the question. Now had Mr. Willey asked if there were any other permits required, she could probably have directed him to a different department within the City. But she answered the question that was asked.

Board Member Hunt said the contractor should know what permit is required for any work that he does. That's why we license them, that's we hold them up in this regard. They should know what is required of their job.

Board Member White said that's especially true in this circumstance where he's on probation. And to reinforce my earlier point about staff being kind of adopted as an agent for an applicant, how much of a defense would it be if someone who doesn't handle site permits or building permits would have told him he didn't need one, when their area of responsibility is simply for Right-of-Way Permits. I still would come down on the side that says you have a duty to ask the people who are responsible for issuing that type of approval. You don't go and talk to someone in Zoning about the electrical code on a Building Permit. Even in the pool business ...

Board Member Joslin (finished the sentence) the same person doesn't handle the same questions.

Board Member White said that even at the size and scale of the City, which isn't as large as the County, there still are very specific areas of plan review, inspection, permitting, zoning. I've worked with Ms. Perry multiple times, as well as Mr. Molé, and I can tell you there are fine lines in the obligation, especially when I'm acting as an agent for property owners, to ask with a degree of diligence in differences of degree. And then I document it, that I did have a conversation and what the substance of it was. Because to come here in front of us or in front of the Code Enforcement Board or the BZA or the Board of Adjustment and Appeals for a permit, if you don't

have that kind of documentation, even though our standards for evidence are pretty informal, you have to have a leg to stand on. So, from my perspective, other than appreciating the immediate effort and continuing effort to get the permits and approvals that are needed, we don't have any other option than to find that there's a violation.

Board Member Joslin said he tends to agree, but was questioning the fact because he wasn't aware there were two different departments that handled two different products.

Board Member Allen said he thought behavior that the Board noticed is that Mr. Willey assumed that he needed a Right-of-Way Permit and acted on that assumption without really doing any additional steps to verify what else was necessary. So I think I have to make a finding or make a motion of finding that a violation did occur.

Board Member Allen made a motion to find that a violation occurred, a finding of guilt. Board Member White seconded it. The motion passed unanimously, 8-0.

Attorney Noell said the Board will move on to the sanctions to be imposed, if any, on Page 165 of the packet. He asked that Page 165 be put on the visualizer to show the range of sanctions that may be imposed. When the Board considers the different level of sanctions, the Board can consider a number of factors:

- the gravity of the violation;
- the impact of the violation on public health, welfare and safety;
- any actions taken by the violator to correct the violation;
- any previous violations committed;
- and any other evidence presumed at the hearing relevant to the sanctions that are appropriate in this case, given the nature of the violation.

Board Member Allen asked if the County had any recommendations.

Mr. Crotts said the County would recommend:

- A \$2,000 fine, to be paid within 90 days. Failing to pay within 90 days will result in an automatic revocation of the respondent's license;
- that the probationary period be continued for 12 months, to run concurrent with the probation that was placed previously in October 2021;
- and that the respondent complete the permitting process within 90 days. Failure to complete the permitting process within 90 days will result in the respondent appearing back in front of the Contractors' Licensing Board to explain why.

Board Member White asked what the County's position would be with respect to a suspension of the license for a period of time.

Mr. Crotts said right now, the Board should stick with the fine. If there is a third offense while he's on probation then the Board would be discussing either suspension or revocation of the license.

Chairman Lantz asked if he was recommending that 12 months of probation be run concurrently. His current probation ends when?

Mr. Crotts said October 2022.

Chairman Lantz asked if he was saying that now he would be on probation until February of 2023.

Mr. Crotts said that was correct.

Board Member Nolton asked if the Board wants to change that to add 12 months to the existing probation, rather than have them run concurrently since there is a history of issues here with working without a permit. In our packet, there are several other issues that have gone on with Mr. Willey.

Board Member White said that also was his concern. At what point does the requirement to appear before this Board, the imposition of sanctions raise the level of diligence on the part of the contractor to inquire with a degree of detail to protect himself in the business? That's why I'm asking the question about a suspension. If there's nothing more than basically paying a \$2,000 fine, it's the cost of business. I don't know that the message is getting through. I thought we were there in October. And I'm kind of disappointed that we find ourselves having to again admonish a contractor for essentially the same violation. It's one of three in the prior case.

Chairman Lantz asked, How about 10 hours of required continuing education, with a focus on business and law, as well as retake the business and law tests?

Board Member White said if it was a business-law-financial harm-restitution case, he'd say "Yes." This is more the notion of understanding the administrative processes of the governmental jurisdictions you're working in, and having an understanding of your own responsibility as a contractor to inquire with a degree of precision. How hard is it to ask the question: Are there any other permits or approvals I may need in order to do this work? And to ask that question before you start the job, or even before you sign the contract?

Board Member Nolton said that in his contracting experience, he always believes a permit is required unless he gets proof otherwise.

Board Member White: Absolutely.

Chairman Lantz said he always goes to the top. I ask Craig Molé, I ask (Collier County Chief Building Official) Jon Walsh. I inundate them with stupid emails.

Board Member White said they're not stupid.

Board Member Nolton said it's to protect themselves, to know. That's the reason I go into this option of "permits required," unless I have something that I can prove that it wasn't.

Board Member White said you're not just protecting yourself. As the City's consumer advocate, the point is that you're also protecting the person you're doing the work for. It's one thing for an owner to tell you, "Well, you know everything is fine, it's a shared-use permit, you know it's joint parking, everybody is happy. But you're being paid to do a job and although I like to believe what my clients tell me, it's Ron Reagan: "Trust but verify." And I just don't see the degree of verification and diligence when you're on probation.

So OK, let's say we extend it, whether it's February or October of 2023, he pays a fine and unless this is going to impact his bottom line in a way where he's harmed, he's not in a position to be able to do the jobs for a period of time, I don't think he's going to go bankrupt if he's handcuffed for 30 days. I just believe we need to send a stronger message.

Chairman Lantz asked if there were any other comments from the Board.

Board Member Hunt said she seemed to hear that a change may need to be done due to some type of handicapped parking spaces. Can somebody clarify whether the contractor is going to have to redo this work to add in handicapped spaces? Does anybody know?

Board Member White said that was his understanding. It seems based on the number of parking

spaces and the ratio of handicapped to parking spaces, one would have to be redone. And of course, it would be redone at the contractor's expense.

Board Member Hunt said that's what she'd like, to make sure that ...

Board Member White said Mr. Willey won't be able to get the permit closed out because one of the recommendations, the third, was that he would close the permit out in 90 days. He won't pass inspection unless he's got what the Plan Reviews' requirements for a handicapped space would set forth.

Investigator Governale clarified that documents were submitted sometime prior to 9 a.m. today and after yesterday afternoon, so some corrections were submitted and it's in Plan Check again.

Board Member Hunt said she saw that, but didn't know the details.

Chairman Lantz said there is no reason to think that he's not working to pursue it. I think after the issue, he's been doing everything in his power to correct it. I think our issue is well before.

Board Member Hunt said she wanted to make sure the consumer doesn't have additional expenses, because had Mr. Willey gotten the permit beforehand, he would have known the requirements and it would have been done right the first time. I want to make sure that the consumer isn't having to pay for this mistake. That's my concern.

Chairman Lantz said the check was canceled and he didn't believe Mr. Willey was paid.

Mr. Crotts said that was correct.

Chairman Lantz said it was in Mr. Willey's best interest to get this settled so that he can get paid for the job. Anybody want to make a motion?

Board Member White said he'd make a motion consistent with the County's recommendation of those three elements, but would add a fourth, that the license would be suspended for 30 days, effective today.

Chairman Lantz asked how long he'd be on probation.

Board Member White said he'd be fine under those circumstances with February 2023 date, so it would be concurrent rather than consecutive.

Chairman Lantz said OK.

Attorney Noell asked if that included barring him from taking on any new work. Would he still be able to proceed with closing out this permit?

Board Member White said he could finish existing work. But if we come back and see that he's signed a contract, began work, pulled a permit in the next 30 days, we're going to be seeing him again.

Chairman Lantz said so if he's already scheduled to be somewhere tomorrow, he could still go?

Board Member White said that's correct. He can finish existing contracts and existing permits.

Board Member Nolton asked if there would be a problem policing that.

Mr. Crotts said there was. If the license is under suspension, then he would not be able to work at all.

Board Member White said the Board could create a suspension with exceptions, or you could if we have the authority to create a suspension. I believe we have the authority to create an exception to that.

Mr. Crotts said they also could mandate that he not be allowed to enter into any new contracts or any other work for a period of 30 days, but he can continue what he has currently.

Board Member White said those seemed to be equivalent statements of suspension.

Attorney Noell said, so essentially a restriction for 30 days? I understand it's kind of word games, but I think that that gets to the heart of what Mr. White said.

Board Member White said that given that Sanction No. 2 on the visualizer shows suspension, I don't know how we would otherwise word it so that it's consistent with what our authority is under the jurisdiction we have. It's a suspension, essentially, with exceptions for ongoing work and currently permitted work under contract. Anything that's under contract. He understands that may be a challenge on the enforcement side, but he said he was pretty sure that all anyone would have to do is ask the owner when the contract was signed.

Mr. Crofts said that from staff's perspective, it would be cleaner if the Board did a revocation of permit-pulling privileges for 30 days. That would prevent him from entering into new contracts or applying for new permits for a period of 30 days.

Board Member White said what he heard him saying and what he needed him to put on the record if it's true, is that every job in the County or the City, including Everglades City, requires a permit.

Mr. Crofts said, No, only if a permit is required. If you're going to put him on suspension, then he cannot work at all.

Board Member White said that was exactly the intent, no new work for 30 days. Pause.

Board Member Nolton said to Mr. Crofts that it sounds like the finite or a slight difference here is you're saying he can't work at all if he's suspended, regardless of existing contracts.

Mr. Crofts said that is correct.

Board Member White said that wasn't the form of his motion, or the intent. The intent is that he's precluded for 30 days from taking on new work, whether a permit is required or not.

Chairman Lantz said if he calls Mr. Willey tomorrow and says he needs his driveway resurfaced, he can't do it. But if he was in contact with him yesterday, then he's already scheduled to come out on Friday.

Board Member White said he could tell the caller to call back in a month.

Board Member Nolton said he understood the intent, but he was trying to understand the County's position.

Chairman Lantz said it would be difficult to enforce.

Board Member White said understood that, but there is a line. He didn't want to put thoughts in any one side from the County or the Respondent's perspective. The point is, "Gee whiz, you dated the contract 31 days from today. As long as you didn't start the work and try to sneak under and say, "Oh, it's work that I had a contract for before," Mr. Willey would be in a position to be able to demonstrate to the Board, with appropriate evidence, as has been done by the investigator today, whether there is, in fact, a violation of the order that's anticipated by my motion to be approved. I think there's a clear way to be able to police it. My hope is you won't have to. He noted that in the packet there was a sign put up at the job, informing the public that this is a job being done by the Respondent's company.

Chairman Lantz said they have a motion and a second. Any more discussion?

Board Member Joslin asked what the motion would actually say and how is the Board going to enforce it?

Chairman Lantz said the motion is a \$2,000 fine payable within 90 days and if it's not paid, his license is revoked; he'd be placed on probation until February of 2023; this permit would be closed out within 90 days; and he can do no new work for 30 days from today ...

Board Member White: ... because his license is suspended in that regard. And the only other thing on the 90 days is that if it's not done within 90 days, he would reappear before the Board.

Chairman Lantz asked if there were any more questions and called for a vote.

Board Member White made a motion to order the Respondent to pay a \$2,000 fine within 90 days and if it's not paid within 90 days, his license will be revoked; he will be placed on probation until February 2023; the permit for this job must be closed out within 90 days and if it's not closed out within 90 days, the Respondent must come back before the Board; the Respondent's license is suspended for 30 days, but the Respondent can continue all existing work and existing contracts. Board Member Allen seconded it. The motion passed 7-1; Board Member Nolton opposed.

Chairman Lantz said they can now move onto findings of fact. Upon consideration of all testimony received under oath, evidence received, and arguments presented by the parties during the public hearing, the board issues the following findings and conclusions:

- Service of the amended Administrative Complaint and notice was legal, sufficiently provided and in compliance with the applicable law.
- The Respondent is the holder of the license set forth in the Administrative Complaint.
- The Respondent was present at the hearing and was represented by counsel.
- The Respondent is a license holder as set forth in the Administrative Complaint.
- The Board has jurisdiction over the Respondent and subject matter raised in the Administrative Complaint.

The Respondent committed the violations as set forth in Count 1:

- A. Under a review of the City of Naples permitting records, a Building Permit was never issued prior to commencing work, and a permit was required to perform the subject work.
- B. Charles Willey was in violation of Collier County Municipal Code Section 22-201.18, which states, in pertinent part, that it is misconduct by a holder of a Collier County Certificate of Competency to proceed on any job without obtaining applicable permits or inspections from the City Building and Zoning Division or the County Building Review & Permit Department.

On the Administrative Complaint, therefore, by a vote of 8-0, the Respondent is found guilty of the violation set forth in Count 1 of the Administrative Complaint and the Board imposes the following sanctions against the respondent:

- A \$2,000 fine payable within 90 days. If it's not paid within 90 days, the license is revoked.
- Probation until February 2023.
- The permit for this particular job needs to be closed out within 90 days. If it's not closed out within 90 days, the Respondent comes back to the Board.
- The license is suspended for 30 days; however, all existing work and contracts can continue being done.

This concludes the order of the Board in this matter.

11. **NEXT MEETING DATE:** **WEDNESDAY, March 16, 2022**
Commissioners' Chambers, Third Floor,
Administrative Building F, Collier County Government Center,
3299 E. Tamiami Trail, Naples, FL

Board Member White made a motion to adjourn. Board Member Hunt seconded the motion. The motion carried unanimously, 8-0.

There being no further business for the good of the County, the meeting was adjourned at 10:36 a.m.

Collier County Contractors' Licensing Board



Kyle Lantz, Board Chairman

These minutes were approved by the Chairman or Vice-Chairman of the Contractors' Licensing Board on 3-16-22, (check one) as submitted or as amended .