



1015 Cultural Park Blvd.
Cape Coral, FL

AGENDA

CAPE CORAL CONSTRUCTION REGULATION BOARD

May 22, 2019	6:00 PM	Conf PW Green/Room A200
---------------------	----------------	------------------------------------

- 1. Meeting Called to Order**
- 2. Roll Call**
 - A. Burgos, Classon, Colley, Joseph, Moomjian, Phillips, Prince, Rist, Shedd, and Sinclair
- 3. Review of License Applications as presented for approval or rejection**
- 4. Approval of Minutes**
 - A. March 27, 2019 Meeting Minutes
- 5. Comments from the Public**
- 6. New Business**
 - A. Full, formal disciplinary hearing: William Guilday, McGil Fence of Southwest Florida, Inc., Lic #12580, Probable Cause: Violating 6-9(a)(12); 6-9(a)(17); FCB 105.4.1.1; FBC 105.1; FCB 110.3, FBC 110.5
- 7. Old Business**
- 8. Comments from Assistant City Attorney**
- 9. Comments from Attorney for the Board**
- 10. Date and Time of Next Meeting**
 - A. The next meeting of the Construction Regulation Board will be held on Wednesday, July 24, 2019, at 6:00 p.m. in Council Chambers.

11. Adjournment

In accordance with the Americans with Disabilities Act and Section of 286.26, Florida Statutes, persons with disabilities needing special accommodation to participate in this meeting should contact the Office of the City Clerk at least forty-eight (48) hours prior to the meeting. If hearing impaired, telephone the Florida Relay Service Numbers, 1-800-955-8771 (TDD) or 1-800-955-8770 (v) for assistance.

If a person decides to appeal any decision made by the Board/Commission/Committee with respect to any matter considered at such meeting or hearing, he will need a record of the proceedings, and for such purpose, he may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is based.

Item Number: 4.A.
Meeting Date: 5/22/2019
Item Type: Approval of Minutes

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

March 27, 2019 Meeting Minutes

SUMMARY:

ADDITIONAL INFORMATION:

ATTACHMENTS:

Description	Type
□ March 27, 2019 Meeting Minutes	Backup Material

**MINUTES OF THE CAPE CORAL
CONSTRUCTION REGULATION BOARD REGULAR MEETING**

WEDNESDAY, MARCH 27, 2019

Council Chambers

6:00 p.m.

Meeting called to order by Acting Chair Joseph at 6:01 p.m.

Roll Call: Burgos, Joseph, Phillips, Prince, Rist, Shedd, and Sinclair were present. Classon, Colley, and Moomjian were excused.

Also Present:

Hal Eskin, Attorney for the Board
John Naclerio, Assistant City Attorney
Paul Gates, DCD/Code Compliance Officer/Licensing Investigator
Sean Dowd, DCD/Code Compliance Officer
Priscilla Rodriguez, DCD/Code Compliance/Licensing Customer Service Representative

(APPOINTMENT OF ACTING CHAIR TO CONDUCT MEETING)

Attorney for the Board Eskin announced that the Chair and the Vice Chair were not in attendance at the meeting and technically the Board members would need to nominate a member to temporarily chair the meeting. He mentioned that the Election of Chair and Vice Chair was an item on the agenda that would be addressed later in the meeting.

Board Member Rist moved, and seconded by Board Member Phillips, that William Joseph runs tonight's meeting. Voice Poll: All "ayes." Motion carried.

**REVIEW OF LICENSE APPLICATIONS AS PRESENTED
FOR APPROVAL OR REJECTION**

Acting Chair Joseph performed the roll call of all the applicants and stated that the Board will identify which applicants would be further questioned.

Board Member Rist moved, seconded by Board Member Prince, to approve the following license applications, as presented:

APPLICANT	COMPANY NAME	CATEGORY
1. Laury Contao	Discover Marble & Granite II Inc	Cabinet & Millwork
4. Danny Ortega	Executive Flooring Contractor Inc	Tile, Terrazzo & Marble
5. Danny Ortega	Executive Flooring Contractor Inc	Finish Carpentry
6. Richard Guerra	Richard Guerra LLC	Cabinet & Millwork
7. James Hanner	Twin Metals LLC	Aluminum Structural
8. Andrea Jeria	A & J Painting Fort Myers & Renovations LLC	Painting
9. Jake Bruni	Level Line Installations LLC	Cabinet & Millwork
10. Jason Molinaro	Apollo Paint & Stain LLC	Painting

12. Abner Costa	Zno Inc	Painting
13. Abner Costa	Zno Inc	Finish Carpentry
14. Abner Costa	Zno Inc	Tile, Terrazzo & Marble

Board polled as follows: Burgos, Joseph, Phillips, Prince, Rist, Shedd, and Sinclair voted “aye.” All “ayes.” Motion carried 7-0.

The applicants approved were informed of license approval and instructed to obtain their license the next day.

Board Members stated they had questions for the following applicants and they were interviewed as follows:

APPLICANT	COMPANY NAME	CATEGORY
2. Kevin Moore	Secure Fence LLC	Fence Erection
3. Aaron Wilkison	R. C. Rider Inc	Aluminum Non-Structural
11. Sergio Silva	Irrigation Innovators A Sprinkler Service Co LLC	Irrigation
15. James Waldron	Jim Waldron Company	Cabinet & Millwork – Name Change

Kevin Moore was present and sworn in by Attorney for the Board Eskin.

Discussion held regarding the following:

- Letters of Recommendation – only two submitted instead of three required letters
- Waiting for third letter from contractor in Denver, Colorado
- Policy of three Letters of Recommendation
- Probability of applicant providing the additional letter
- Applicant agreed to follow-up with contractor and request letter
- Board discussed policy of requiring the three Letters of Recommendation
- Discussion of granting license on probationary period until production of third letter

Board Member Rist moved, seconded by Board Member Prince, that Board grants him (Kevin Moore) a probationary license (Fence Erection) based on producing the third letter within 60 days. If he does, then his license becomes active immediately. If he doesn't, then he would need to come in front of the Board again. The Board is delegating Staff to approve the letter—producing the third letter, he is good to go.

Board polled as follows: Burgos, Joseph, Phillips, Prince, Rist, Shedd, and Sinclair voted “aye.” All “ayes.” Motion carried 7-0.

Acting Chair Joseph inquired from Mr. Moore, if he understood the outcome.

Mr. Moore responded in the affirmative.

Discussion held to clarify the action that would be taken if third letter is produced or not produced. As soon as Mr. Moore produces the third letter, he must submit it to Licensing

from any contractor. In the event that the letter is not provided within 60 days, the license would be deemed void. It was mentioned that the Board only meets every other month.

Aaron Wilkison was present and sworn in by Attorney for the Board Eskin.

Board Member Phillips questioned Mr. Wilkison about the multiple licenses in the same company at R. C. Rider, Inc., as he applied for a new Aluminum Non-Structural license, but he inquired about the business owner's licensing.

Mr. Wilkison responded that the R.C. Rider, Inc. owner had an Aluminum Structural license.

Discussion held regarding:

- Business holding two similar licenses
- Mr. Wilkison planning to take over business; focusing on screenings
- Permitting and current business jobs

Board Member Rist informed that it was common to have multiple licenses within the same company and one of the licenses would be used as the dominant license. He had a question about Mr. Wilkison's recommendation letter where it states that he was doing subcontractor work without a license.

Mr. Wilkison clarified that he was employed by R.C. Rider, Inc.

Discussion held regarding the following:

- Reference letter
- Subcontractor vs. employee of R.C. Rider Inc.
- If license approved, how would applicant show that he could maintain finances
- Maintaining financial stability and working toward paying debt
- Troublesome financial history and presentation of additional debt payments
- Future planning, license is not required for work at this time

Board Member Phillips moved, seconded by Board Member Rist, that he (Aaron Wilkison) provides documentation to the City of Cape Coral for the Board's review, within 60 days, could be updated, to see if he is making progress towards those items.

Assistant City Attorney Naclerio requested clarification about the type of documentation that the Board is requesting.

Board Member Phillips responded that the documents being requested are financial backup of what Mr. Wilkison has stated about paying his debt.

Attorney for the Board Eskin inquired if the Board was approving a probationary license or a hold on the license.

Board Member Phillips requested to hold Mr. Wilkison's license until the next Board meeting, which is 60 days from now.

Assistant City Attorney Naclerio clarified that the motion was not to grant the license at this time and additional documentation has been requested.

Discussion held regarding the documentation to be provided as proof of debt payments.

Acting Chair Joseph questioned Mr. Wilkison about his actual working title. He opined that it seemed as if the applicant was a separate entity working for the company and requesting a license. The concern was based on the applicant's ability to pull permits if license was granted. He inquired about the applicant's receipt of W-2 and paychecks from the company.

Mr. Wilkison stated that he received a 1099.

Discussion held regarding the following:

- W-2 vs. 1099 employment statements
- 60 days to provide proof of financial status
- As of 2019 applicant changed to W-2
- Receiving paychecks from company and company withdrawing taxes

Recording Secretary Castillo clarified the second part of the motion on the floor as follows:

The motion was amended to add that the applicant, Aaron Wilkison, provide financial backup amending the financial status before the next meeting in 60 days. Both the motion maker and second agreed.

Board polled as follows: Burgos, Joseph, Phillips, Prince, Rist, Shedd, and Sinclair voted "aye." All "ayes." Motion carried 7-0.

Acting Chair Joseph inquired if Mr. Wilkison understood what has been requested.

Mr. Wilkison responded in the affirmative.

Acting Chair Joseph reiterated that his license is not being approved today and informed him that the next board meeting would be in May.

Mr. Wilkison inquired if he would need to attend the next meeting.

Acting Chair Joseph responded in the affirmative and stated that the Staff would inform him of the date and time.

Discussion held regarding applicant's best interest to attend the meeting in-person.

Sergio Silva was not present at the meeting.

Discussion held regarding non-appearance and the Board inquired if the Staff received any information from the applicant.

Acting Chair Joseph stated that he had a “big” question mark for this applicant.

Discussion held regarding postponing this item until the next meeting to allow the applicant to appear for questioning.

Board Member Prince moved, seconded by Board Member Shedd, to keep Sergio Silva’s license (Irrigation) on hold until the next meeting to see if he shows up for any questions.

Board polled as follows: Burgos, Joseph, Phillips, Prince, Rist, Shedd, and Sinclair voted “aye.” All “ayes.” Motion carried 7-0.

James Waldron was present and sworn in by Attorney for the Board Eskin.

Board Member Phillips questioned about the possible typographical error on the paperwork showing that the type of license he applied for was printed as Fence Erection – Name Change.

Mr. Waldron clarified that it should state Cabinet/Millwork.

Discussion held regarding the business change of name, applicant restarting business, and error on the paperwork.

Board Member Rist moved, seconded by Board Member Sinclair to approve his (James Waldron) license (Cabinet/Millwork).

Board polled as follows: Burgos, Joseph, Phillips, Prince, Rist, Shedd, and Sinclair voted “aye.” All “ayes.” Motion carried 7-0.

The Clerk’s office received correspondence from Licensing correcting the Name Change for Cabinet & Millwork for the applicant, James Waldron, after the meeting.

Approval of Minutes

The minutes of the meeting of the Cape Coral Construction Regulation Board for July 25, 2018, September 26, 2018, October 24, 2018, November 14, 2018, November 28, 2018, and January 23, 2019 were presented for approval.

Board Member Rist moved, seconded by Board Member Prince, to approve Items A through F (Meeting Minutes for July 25, 2018, September 26, 2018, October 24, 2018, November 14, 2018, November 28, 2018, and January 23, 2019), as presented.

Board polled as follows: Burgos, Joseph, Phillips, Prince, Rist, Shedd, and Sinclair voted “aye.” All “ayes.” Motion carried 7-0.

COMMENTS FROM THE PUBLIC

None.

NEW BUSINESS

Election of Chair and Vice Chair

Acting Chair Joseph announced that the current Chair was Gary Colley and the Vice Chair was Wayne Moomjian. He opened the floor for nominations for the Chair.

Board Member Phillips moved to nominate Brian Rist as the Chair. Motion failed due to lack of a second.

Board Member Rist moved to nominate Matthew Sinclair as the Chair. Motion failed due to lack of a second.

Acting Chair Joseph moved to keep the Chair as Gary Colley and Vice Chair as Wayne Moomjian. Motion failed due to lack of a second.

Assistant City Attorney Naclerio and Attorney for the Board Eskin both stated that one motion must be addressed at a time.

Board Member Prince moved, seconded by Board Member Burgos, to nominate Matthew Sinclair as the Chair.

Discussion held regarding nominations for the Chair and clarification that the motion was to elect Board Member Sinclair as Chair.

Board polled as follows: Burgos, Phillips, Prince, Rist, Shedd, and Sinclair voted "aye." Joseph voted "nay." 6 "ayes," 1 "nay." Motion carried 6-1.

Acting Chair Joseph inquired about having a quorum with the members present and the Board's ability to vote on the election of the Chair and the Vice Chair.

Attorney for the Board Eskin and Assistant City Attorney Naclerio both responded that there was a quorum present, therefore, the Board could vote.

Discussion held regarding election of members without their presence and risk of not being re-elected if not present at a meeting.

Board Member Phillips moved, seconded by Board Member Sinclair, to nominate Brian Rist as the Vice Chair.

Acting Chair Joseph moved to nominate himself as the Vice Chair. Motion failed due to lack of a second.

Recording Secretary Castillo restated that the motion was to appoint Brian Rist as the Vice Chair. Motion was made by Phillips and seconded by Sinclair.

Board polled as follows: Burgos, Joseph, Phillips, Prince, Rist, Shedd, and Sinclair voted "aye." All "ayes." Motion carried 7-0.

2019 Meeting Schedule

Assistant City Attorney Naclerio informed the Board that the 2019 Meeting Schedule required their approval. He pointed out that the May meeting date was proposed for the 5th Wednesday and not the 4th Wednesday of the month. Mr. Naclerio would not be available on that date and requested that the meeting be kept on May 22nd due to the possible formal disciplinary hearing. He further informed the Board that the Council Chambers is not available on May 22nd and the other room available for the meeting would be the PW Conference Green Room A200 located in the Nicholas Annex at Public Works.

Board Member Rist moved to approve the schedule (2019 Meeting Dates), as amended. Motion failed due to lack of a second.

Discussion held regarding the meeting dates, different schedules, and keeping the May meeting on the 22nd which would be the 4th Wednesday in the Green Room.

Board Member Phillips read the meeting dates into the record as follows:

- May 22, 2019
- July 24, 2019
- September 25, 2019
- November 20, 2019

Board Member Phillips moved, seconded by Board Member Rist, to approve the 2019 Meeting Schedule dates, as amended.

Acting Chair Joseph inquired if everyone understood that the meeting would be on May 22nd and not on May 29th.

Assistant City Attorney Naclerio reiterated that the May 22nd meeting will be held across the street in the Green Room (A200).

Attorney for the Board Eskin stated that there needs to be a vote on the motion as amended.

Board polled as follows: Burgos, Joseph, Phillips, Prince, Rist, Shedd, and Sinclair voted "aye." All "ayes." Motion carried 7-0.

**Probable Cause Action for William Guilday,
McGil Fence of Southwest Florida, Inc. Lic #12580 Fence Erection
Violations: 6-9(a)(12); 6-9(a)(17); FCB 105.4.1.1; FBC 105.1; FCB 110.3, FBC 110.5**

Code Compliance Officer Dowd was sworn in by the Attorney for the Board Eskin.

Officer Dowd distributed information regarding this item. He read into the record the detailed outline for the probable cause action against William Guilday under CE18-014502.

Officer Dowd summarized that the probable cause does exist per Florida Building Code and he proceeded to read each violation into the record. The request was made by Officer Dowd that the Board find probable cause against William Guilday and that a disciplinary hearing be scheduled before the Board at the next scheduled meeting.

Discussion held regarding:

- No open permits and any remaining expired permits
- No new permits requested in the past 4-5 months
- No discipline taken yet and suspension without hearing not permitted
- No response from Mr. Guilday to current notices
- Proper notice provided to Mr. Guilday to appear at this hearing
- Process of proper service of notice
- Multiple attempts of notice
- Notices sent via certified and regular mail
- Procedurally need to find probable cause and then schedule hearing
- Hearing could be scheduled for next meeting on May 22, 2019
- City needs to present evidence first before deciding
- Fairness to citizens that Mr. Guilday would be able to pull new permits
- Due process required to take any action
- Expired permits status
- Suspension inability by the City Building Official
- 60-days procedural period
- City Building Officials and State authorities

Board Member Rist moved, seconded by Board Member Prince, that the Board find probable cause against William Guilday.

Board polled as follows: Burgos, Joseph, Phillips, Prince, Rist, Shedd, and Sinclair voted "aye." All "ayes." Motion carried 7-0.

Assistant City Attorney Naclerio reiterated that the Notice of Hearing (May 22, 2019) should clearly state the other room (Annex Nicholas-City Public Works Building, Conf PW Green/Room A200, 815 Nicholas Parkway, Cape Coral, FL 33990).

**Proposed Ordinance to Amend Section 6-10.1,
City Code of Ordinances, Disciplinary Proceedings**

Compliance Officer/Licensing Investigator Gates stated that the purpose of this proposed amendment was to streamline the disciplinary adherence. The Ordinance has been redrafted to eliminate the probable cause determination. Officer Gates distributed information regarding this item for the Board to review.

Assistant City Attorney Naclerio summarized that the intent would be to minimize unnecessary steps and timeframe with the focus on streamlining the probable cause and disciplinary procedures.

Discussion held regarding:

- Service of formal notice
- Current policy takes three meetings/several months to obtain an Order
- Law requirements vs. City Code requirements
- Probable cause would still occur under the new Ordinance draft
- Staff would meet with City Attorney's Office and meet with Building Officials
- Administratively they would decide if there is a case to proceed to a formal hearing
- Eliminating couple months in the process
- Code provisions for formal notice via certified mail
- Tonight's case received formal notice, hearing held on probable cause, and next formal disciplinary hearing on May 22nd
- Presenting Ordinance before May 22nd to the City Council
- Ordinance change would only apply to new cases moving forward once approved
- Board's recommendation that the Ordinance be presented/passed by City Council
- Assistant City Attorney and Staff worked on the redraft of the Ordinance
- Language changes: strikethrough to eliminate and underline new additions

Board Member Rist moved, seconded by Board Member Phillips, to recommend to the City Council that the Ordinance be approved, (titled Draft 10/10/18).

Board polled as follows: Burgos, Joseph, Phillips, Prince, Rist, Shedd, and Sinclair voted "aye." All "ayes." Motion carried 7-0.

OLD BUSINESS

Board Member Prince mentioned that at the last meeting the Board discussed making a written policy change requiring the submission of three Letters of Recommendation.

Discussion held regarding:

- Ordinance or application change
- Language change on application that three Letters of Recommendation are required
- No formal vote on recommendation at the last meeting
- Board's discussion of making it a policy
- Various past discussions on this topic

Customer Service Representative Rodriguez stated that in her fifteen years of experience, the applications have been reviewed and approved by the Board by motion.

Board Member Prince moved, seconded by Board Member Rist, to make it specific that the applicants need three Letters of Recommendation to mandate for the application process.

No formal vote taken.

Further discussion held regarding:

- Prior discussion on this topic
- Understanding policy
- Written policy on the application
- Instructing Staff of Board's expectations
- Applicants could still submit two Letters of Recommendation
- Board's discretion to review and make final decision

Recording Secretary Castillo requested clarification on the motion.

Acting Chair Joseph restated the motion as follows:

Board request explanation in writing (on application) that applicants are required to provide three Letters of Recommendation during the course of the application process.

Assistant City Attorney Naclerio suggested to remove the word "required."

Discussion held regarding Board's discretion to accept one or two Letters of Recommendation from a particular applicant due to special circumstances.

Acting Chair Joseph reiterated the wording of the motion:

It is the Board's policy that applicants provide three notarized Letters of Recommendation in the course of the application process.

Discussion held regarding who could provide a Letter of Recommendation on behalf of the applicant and continue the process of the Board to review and decide if letter would be acceptable. It was agreed by the Board that letters could be provided by:

- Industry Partners
- Clientele/Customers
- Suppliers

Board Member Sinclair moved, seconded by Board Member Burgos, to approve a Letter from industry partner, vendor, or client and could be reviewed and voted on by Board members.

No formal vote taken.

Recording Secretary Castillo reiterated that the first motion was moved by Board Member Prince and seconded by Board Member Rist. She further stated that the roll call was not taken for the first motion.

First motion Board polled as follows: Burgos, Joseph, Phillips, Prince, Rist, Shedd, and Sinclair voted "aye." All "ayes." Motion carried 7-0.

Recording Secretary Castillo summarized the second motion verbiage as follows:

Motion to approve Letters of Recommendation provided by the applicant from any industry partner, clientele/customers, and suppliers, which would be reviewed and voted upon by the Board.

Discussion held regarding the acceptance of Letters of Recommendation from family members. Board agreed not to include family members in the list.

Recording Secretary Castillo reiterated that the second motion was moved by Board Member Sinclair and seconded by Board Member Burgos.

Second motion Board polled as follows: Burgos, Joseph, Phillips, Prince, Rist, Shedd, and Sinclair voted "aye." All "ayes." Motion carried 7-0.

Comments from Assistant City Attorney

None.

Comments from the Attorney for the Board

None.

DATE AND TIME OF NEXT MEETING

The next meeting of the Construction Regulation Board originally scheduled for Wednesday, May 29, 2019, at 6:00 p.m. in Council Chambers will be held on Wednesday, May 22, 2019, at 6:00 p.m. in the Nicholas Annex, Conf PW Green/Room A200, as agreed upon by the Board.

Acting Member Joseph reminded the Board members to attend the Volunteer Appreciation Luncheon (April 26, 2019 @ 12:00 p.m. to be held at Palmetto Pine).

ADJOURNMENT

There being no further business, the meeting adjourned at 7:08 p.m.

Submitted by,

Betty Castillo
Recording Secretary