



1015 Cultural Park Blvd.
Cape Coral, FL

AGENDA

CAPE CORAL CONSTRUCTION REGULATION BOARD

July 25, 2018	6:00 PM	Council Chambers
----------------------	----------------	-------------------------

- 1. Meeting Called to Order**
 - A. Chair Colley
- 2. Roll Call**
 - A. Burgos, Classon, Colley, Joseph, Miller, Moomjian, Phillips, Prince, Rist, and Sinclair
- 3. Review of License Applications as presented for approval or rejection**
- 4. Approval of Minutes**
 - A. May 23, 2018 meeting minutes
- 5. Comments from the Public**
- 6. New Business**
 - A. Disciplinary Action: Nella K LLC, Lic #63600
- 7. Old Business**
 - A. Sergei Komienko, AVS Construction, CBC #63214
- 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, September 26, 2018, at 6:00 p.m. at 815 Nicholas Parkway, Conference Room A200.

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: 7/25/2018
Item Type: Approval of Minutes

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

May 23, 2018 meeting minutes

SUMMARY:

ADDITIONAL INFORMATION:

ATTACHMENTS:

Description	Type
▫ May 23, 2018 meeting minutes	Backup Material

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

WEDNESDAY, MAY 23, 2018

Council Chambers

6:00 p.m.

Meeting called to order by Chair Colley at 6:04 p.m.

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

Also Present: Hal Eskin, Attorney for the Board
John Naclerio, Assistant City Attorney
Jim Litterello, Code Compliance Officer
Paul Gates, Code Compliance Officer
Milagros Nunez, Licensing Customer Service Representative

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

Vice Chair Moomjian moved, seconded by Board Member Classon, to approve the following license applications as presented:

Mario	Mendoza	Genesis Pavers Inc.	Paver Block
Mirta	Medina	Ferrara Painting Services LLC	Painting
Michael	Warwick	Mike's Ceramic Tile LLC	Tile, Marble & Terrazzo
Chad	Williamson	All Phase CPI Inc.	Concrete Coatings
Eduir	Silva Jr.	ANC Specialty Services LLC dba Platinum Pavers	Paver Block
Chad A.	Peterman	CP Tile & Marble Plus LLC	Tile, Marble & Terrazzo
Thomas	Voss	Voss Carpentry Inc.	Carpentry
Liz J.	Cano	Canos Tile and Marble LLC	Tile, Marble & Terrazzo

Board polled as follows: Classon, Colley, Joseph, Miller, Moomjian, Phillips, and Prince voted "aye." Seven "ayes." Motion carried 7-0.

Board Members stated they had questions for the following applicants:

Peter	Houlihan	N/A	Carpentry
Joseph	Ansaroff	Prime Drywall and Painting Inc.	Painting

Peter Houlihan was present and sworn in.

Discussion held regarding the following:

- Impressive application
- Intention to do all carpentry
- Florida Building Code, Held Virginia Business License

Board Member Joseph moved, seconded by Vice Chair Moomjian, to approve the license for Peter Houlihan for Carpentry.

Board polled as follows: Classon, Colley, Joseph, Miller, Moomjian, Phillips, and Prince voted "aye." Seven "ayes." Motion carried 7-0.

Joseph Ansaroff was present and sworn in.

Discussion held regarding the following:

- Application completed, everything provided that was requested
- Three letters of references at Board's discretion, not a requirement

Board Member Classon moved, seconded by Board Member Phillips, to approve the license for Joseph Ansaroff for Painting.

Board polled as follows: Classon, Colley, Joseph, Miller, Moomjian, Phillips, and Prince voted "aye." Seven "ayes." Motion carried 7-0.

Approval of Minutes

The minutes of the meeting of the Cape Coral Construction Regulation Board for March 28, 2018, were presented for approval.

Vice Chair Moomjian moved, seconded by Board Member Phillips, to approve the minutes as presented.

Board polled as follows: Classon, Colley, Joseph, Miller, Moomjian, Phillips, and Prince voted "aye." Seven "ayes." Motion carried 7-0.

COMMENTS FROM THE PUBLIC

None

NEW BUSINESS

**Full, formal disciplinary hearing:
Sergei Kornienko, AVS Construction, CBC #63214,
Probable Cause: Violating 6-9(a)(12)), 9-69(a)(1)b.1 and 9-69(a)(1)b.2**

Code Compliance Officer Litterello was present and sworn in.

Officer Litterello stated we were here two months ago with regard to some of the building infractions that the builder was not abiding by which related to dumpsters, permit boards, and enclosures. Officer Litterello stated he went out on April 4th there were three jobs: 505-507 Nicholas Parkway, 505-511 Nicholas Parkway, and 513-515 Nicholas Parkway. There were no dumpsters, no permit boards, and no port a john on site. He sent Mr. Kornienko an email informing him of this with the addresses. He came and spoke to him. Mr. Kornienko stated all he needed was a phone call, give him a couple of days, and he would have corrected the issue. He told Mr. Kornienko what had taken place at the previous meeting and went back out on May 21st. He went to four of his locations: 4106 and 4110 Skyline, 3727, 3729 Skyline, 3931, 3933 Chiquita, and 203, 205 SE 12th Terrace. Those lots had just been issued their permit boards. The sites were all graded. The sites had fences up. There were dumpster enclosures. There were permit boards and permits in them. There was a port a john in each and every one of those sites.

Assistant City Attorney Naclerio asked if he wanted to read into the record the specific Code violations Mr. Kornienko has committed.

Officer Litterello read the Code violations that Mr. Kornienko has committed:

- 6-9(a)(12)) – Prohibited acts and penalties, willfully or deliberately disregarding and violating the applicable building codes or laws of the state or of any municipalities or counties thereof.
- 9-69(a)(1)b.1 – failure to maintain the permit boards on site; regulations for the storage;
- 9-69(a)(1)b.2 – construction refuse collections

Assistant City Attorney Naclerio asked Officer Litterello how the notice was served to Mr. Kornienko.

Officer Litterello responded it was sent by email, certified green card, and at the counter personally. Mr. Kornienko was also present at the last meeting.

Vice Chair Moomjian asked staff what their recommendation was for the Board.

Officer Litterello stated he has quite a few permits that are currently in the issued status. If the license is suspended, he would have to correct those. There are several in the “under review” category. He would like to see a definite probation, but it’s all up to the Board.

Vice Chair Moomjian asked what the guidelines would be for the probation.

Officer Litterello stated it would be a minimum of one year.

Vice Chair Moomjian asked what the stipulations would be.

Officer Litterello stated one would be to come to every meeting.

Assistant City Attorney Naclerio stated for the record since Mr. Kornienko is a state certified contractor, the powers of this Board are the following: suspend his permit pulling privileges, revoke his permit pulling privileges or you can make a recommendation to the State as far as his license.

Officer Litterello stated out of those three options, he would like to see it suspended.

Discussion held regarding Mr. Kornienko having his license suspended, getting everything straightened out, and coming back to the Board.

Discussion held regarding not being able to put him on probation since he is a state-licensed contractor.

Board Member Phillips asked if there were any fines imposed on this bad habit.

Officer Litterello stated fines were issued for:

- Willfully and deliberately disregarding - \$1,000 which was paid
- Willfully and deliberately disregarding at another address - \$1,000 which was paid
- Not having a dumpster on site at another address which is willfully and deliberately disregarding - \$1,000 which was paid

Attorney for the Board Eskin asked about the dates of those citations.

Officer Litterello noted they were within the last 12 months:

- 11/22/17 – paid on 12/23/17 for \$1,012.00
- 11/22/17 – paid on 12/21/17 for \$1,012.00
- 11/22/17 – paid on 12/21/17 for \$1,012.00.

Discussion held regarding the following:

- Mr. Kornienko willfully disregarding the Code.
- Suspend his permit pulling privileges are only for new permits.
- Is there a set timeframe given to a contractor to correct violations prior to a fine?
- Depends on how cooperative the violator is
- First violation, Licensing would educate that contractor
- Goal is compliance; not to fine someone in a monetary issue
- This situation continued.

- Being a state certified contractor does not go under the same guidelines that we have for a local contractor.
- Could complain to the State and not do anything else.
- Mr. Kornienko using up a lot of the City's resources.

Officer Litterello noted at one point Mr. Kornienko stated all the violations were due to Hurricane Irma which was not even close.

Board Member Phillips questioned how many open permits did Mr. Kornienko have.

Officer Litterello stated he did not know. He estimated approximately 60 to 80. He added approximately 10 are under review.

Attorney for the Board Eskin stated immediate suspension would kibash those under review.

Officer Litterello stated any permit that has not been issued will not be able to be issued. He questioned what happens to those customers who have actually given Mr. Kornienko money. Can we just let them sit and wait until his suspension comes back in? He noted there was a new process in place.

Vice Chair Moomjian questioned if staff would report him to the State.

Officer Litterello responded in the affirmative but it would have to be part of the Board's recommendation.

Assistant City Attorney Naclerio stated if the Board votes to revoke or suspend his permit pulling privileges today, an order will come back for the Board's signature. If a decision tonight includes suspension or revocation, it goes into effect tomorrow.

Attorney for the Board Eskin stated even though he may be suspended, all the current jobs that he is going to complete and even though he is violation, you can still fine him for each one of those.

Discussion held regarding if the suspension would get his attention in order to have inspections scheduled.

Board Member Joseph asked if there has been any type of precedence on this type of activity.

Officer Litterello stated he has not experienced any.

Code Compliance Officer Gates stated as a result of complaints they have received from Code Officers out in the field, they always seem to be going back to Mr. Kornienko. He explained the process change in the Ordinance. Our Ordinance allows us to notify the contractor of violation, give him 48 hours to correct it, and if not, we go out and post a

stop work order and a \$200 per day fine. If it happens a second time on the same site, it is \$500 per day.

Board Member Classon stated those ten under review will get his attention, as well as a letter from the DBPR (Department of Business and Professional Regulation).

Attorney for the Board Eskin stated one of the things that the Board can do is to suspend him for a period of time and require that he come back here and report to the Board.

Officer Litterello asked the Board if those applications that are in and under review and have not been reviewed yet, can we hold those?

Board Member Classon agreed that should be part of the Board's recommendation.

Discussion held regarding suspending his permit pulling privileges.

Officer Litterello stated internally we can place them on hold, but that has to come from the Board.

Board Member Joseph questioned if those ten customers whose permits are in review would get a refund.

Board Member Classon stated if it stays under review and we suspend him, that homeowner can go to the investors. She questioned if the investors could do a change of a contractor, but then they would have to start all over with engineering.

Discussion held regarding putting them on hold would be a better interest for the investors.

Discussion held regarding each of those homeowners or investors would have to be notified by Mr. Kornienko.

Board Member Classon stated one of their recommendations should be to suspend his permitting privileges. She noted the second one would be to put a hold on all of the existing permits under review.

Discussion held regarding lifting the suspension at any time, no matter how long we make it.

Board Member Classon stated the third recommendation would be that Mr. Kornienko comes to our next meeting through his suspension.

Discussion held regarding whether or not to put a date on the suspension.

Vice Chair Moomjian questioned if part of the motion could be that Code Compliance would get with the Board every two months.

Officer Gates stated the Board could require Mr. Kornienko to request personally to have his permitting privileges reinstated.

Discussion held regarding an indefinite suspension.

Attorney for the Board Eskin stated the Board could have the suspension in place until Mr. Kornienko cleans up his current violations and comes back to the Board.

Board Member Classon stated that would be the first recommendation.

Attorney for the Board Eskin stated you can suspend it for one year, unless he comes back before the Board and proves he has cleaned up the violations.

Board Member Classon questioned why there has to be a date.

Attorney for the Board Eskin stated a date is needed; otherwise, you would have to revoke it.

Discussion held regarding issuing a one-year suspension and if he comes back and proves his record, the suspension can be released.

Vice Chair Moomjian stated what he had so far in the way of a motion: Pull permitting privileges until he cleans up the current violations and comes back to the Board.

Attorney for the Board Eskin added one year or whatever happens earliest and to the Board's satisfaction.

Discussion held regarding adding to hold any existing permits that are under review, when would they be released from the hold?

Board Member Phillips questioned wasn't it by default that once you suspend his license the permitting part falls in line.

Board Member Classon stated there are ten already under review, so those would go through.

Attorney for the Board Eskin clarified that his license would not be suspended; his permitting pulling privileges would be suspended.

Officer Litterello stated the permits would still go through the system, be reviewed, approved, and ready to be released. Those will have to be placed on hold. We can release that hold once that investor of that individual comes in to do a completion permit and then let it go through the system.

Discussion held regarding the verbiage until the suspension is removed.

Attorney for the Board Eskin stated the investor can change the contractor.

Discussion held regarding releasing the hold on the permit.

Board Member Classon stated the third recommendation would be to notify the DBPR.

Attorney for the Board Eskin stated all that has to be done is to provide DBPR a copy of the signed order.

Discussion held regarding the verbiage to report to the DBPR of current infractions, current findings, or the Board's orders.

Officer Litterello stated those customers whose permits are under review will be charged a \$125 completion permit fee. Then there would be a civil issue between that customer and the contractor.

Vice Chair Moomjian moved that to suspend current permit pulling privileges for one year or until he cleans up current violations and comes back to the Board for their satisfaction.

Assistant City Attorney Naclerio stated to include in the motion that the Board finds that he is in violation of the Codes as presented by staff.

Attorney for the Board Eskin stated it is a finding that he is in violation of the Code.

Vice Chair Moomjian added to the motion: findings of the Board.

Attorney for the Board Eskin stated the violations were cited by the City. He stated a formal order will be eventually drafted by him.

Assistant City Attorney Naclerio stated it would go into effect tomorrow regarding permitting, but the Board will see the order and sign off on it at the next meeting.

Officer Litterello stated it would be suspended for one year or until he comes back in and applies again. We will place the holds on the permits and notify the DBPR.

Vice Chair Moomjian moved, seconded by Board Member Classon, that due to the findings of the Board that Sergio Kornienko is in violation of 6-9(a)(12), 9-69(a)(1)b.1 and 9-69(a)(1)b.2. 1) Suspend permit pulling privileges for one year or until he cleans up current violations and comes back to the Board for the Board's satisfaction; 2) hold any existing permits that are in Permitting under review until suspension is removed or permit is transferred. 3) City to report to DBPR his current infractions for Sergio Kornienko.

Officer Litterello asked for the first part to be restated again. He questioned if the first recommendation was to suspend.

Vice Chair Moomjian stated it was to suspend permit pulling privileges until he cleans up current violations and comes back to the Board for the Board's satisfaction.

Discussion held regarding for one year or whichever occurs first.

Discussion held regarding adding compliance with all Building Codes.

Board polled as follows: Classon, Colley, Joseph, Miller, Moomjian, Phillips, and Prince voted "aye." Seven "ayes." Motion carried 7-0.

Discussion held regarding what happens to local contractors that are put on probation. What happens to them after a year? If there any way that the Board can get a follow up report every 3 or 6 months.

OLD BUSINESS

None

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 will be held on Wednesday, July 25, 2018, at 6:00 p.m. in Council Chambers.

ADJOURNMENT

There being no further business, the meeting adjourned at 6:57 p.m.

Submitted by,

Barbara Kerr
Recording Secretary