



VOLUSIA COUNTY CODE ENFORCEMENT BOARD MINUTES

February 28, 2018

Chairman Chad Lingenfelter called the regularly scheduled, Code Enforcement Board Meeting to order at 9:30 a.m. in the County Council Chambers, Second Floor, Thomas C Kelly Administration Building

MEMBERS PRESENT

**Harry Wild, Jr., Vice-Chair
Chad Lingenfelter, Chair
Gerard Smith
Donald Needham
Charles Cino, Board Attorney
Pete Zahn
Tom Wright**

MEMBERS ABSENT

Kenneth Runge

STAFF PRESENT

**Chris Hutchison, Zoning Compliance Manager
Margaret Godfrey, Zoning Compliance Officer
Debbie Zechnowitz, Zoning Compliance Officer
Beverly Abrahamson, Building Compliance Officer
Russ Brown, Assistant County Attorney
Meghan Lindsey, Code Enforcement Board Clerk
Mike Nelson, Building and Zoning Director
Kerry Leuzinger, Chief Building Official
Michael Mazzola, Zoning Compliance Officer**

* * * * *

APPROVAL OF MINUTES

Chair Lingenfelter asked if there were minutes to be approved. There were no minutes to be approved.

* * * * *

All parties and witnesses who were to provide testimony were sworn in by the Clerk prior to any testimony being presented.

* * * * *

February 28, 2018

CEB2018065-SANCHEZ ROBERT J

Sheriff Served

Complaint No. 20171116018

Violation of VOLUSIA COUNTY CODE OF ORDINANCES, CHAPTER 22-2, SECTIONS 105.1 AND 109.3 Construction without the required permit(s) and/or inspection approval(s). (Seawall, metal carport/storage type structure, small shed and barn shaped shed

Property Location: 174 Poinciana Rd, Edgewater 32141

Parcel No. 84480000120

Zoning: R-4W

Building Compliance Officer - Beverly J Abrahamson

Property owner was first notified of the violation on December 8, 2017

The respondent was present for the hearing. Mr. Sanchez contested the violation.

Beverly J Abrahamson, Compliance Officer, presented the case. Today we are here regarding the property located at, 174 Poinciana road in Edgewater. Beverly said that there are going to be multiple violations. Beverly listed the alleged violations that staff found on the property.

Charles Cino, Board Attorney, discussed the order that the cases would be heard in with Chair Lingenfelter.

Beverly showed the board a pictometry picture of the overlay of the property from 2015; the following slides showed a three year progression.

The respondent gave his name and address for the record. Chair Lingenfelter asked Mr. Sanchez if he wanted to give information or contest the violation. Mr. Sanchez said that he wanted to contest the violation. Beverly showed a picture of what the property looked like on January 19, 2018. She said construction without the required permits; the next slide showed the construction of multiple seawalls. She showed a picture of a metal carport/storage structure that was built without the required permits or inspection approvals. She also showed a small metal shed that was built without permits or inspection approvals.

Beverly next showed the board a picture of the electrical service and it's placement on the house. The next picture showed that the electrical service, had been moved from the house and attached to a temporary pole. Beverly stated that this was done without permits or inspection approvals. She next showed the board a picture of a detached garage with multiple alterations. She said that these are the violations that we have, regarding construction without the required permits.

Mr. Sanchez asked if the board was handling all the cases at the same time; Chair Lingenfelter explained the way that the cases would be heard. The Chair explained the violation that staff had presented on, and stated that they would go down the agenda.

February 28, 2018

Chair Lingenfelter asked if the board had any questions for staff. Member Wild asked, with all of the construction, there was not a permit pulled for any of it. Beverly said that is correct.

Mr. Sanchez said that that the detached garage was built in the 50's-69. He said that they were collecting taxes on it since the 70's. He said that the pump-house was also built in the 60's or 70's. Mr. Sanchez said that, you guys have been collecting taxes on it since then. Mr. Sanchez said that he would like to know when Beverly got involved in it, because the last time that she was on my property, was the first time she was there. He said that it seemed to him when he got there, after they had come onto his property without permission; that they knew they were trespassing. He said that she was running through his property taking all kinds of pictures that you see. Mr. Sanchez said that she was not welcome there.

He said that Beverly was never involved with any of the county, on his property before. He said that she showed up that day, with the specific mission to give me as many violations; he said right now, I think there's 15. Mr. Sanchez said, she had 20 of them that she gave me. He said 20 violations. He stated that the mission statement of Volusia County Environmental, that they say this code enforcement does; is a primary function of building and zoning compliance is to identify and correct violations of the Volusia County Zoning Ordinance and other similar regulations; such as those dealing with lot maintenance and junk vehicles. Our staff operates primarily on a reactive basis. That means we concentrate on responding to citizen complaints, rather than randomly searching for violations. Mr. Sanchez said that she was on the property randomly, searching for violations to go after me. He said that you cannot see any of these violations from the street. He said there's almost three acres of property.

Mr. Sanchez said that he tried to pull a fence permit, with the county and that they didn't respond to him for over thirty days.

Beverly stated that the fence doesn't have a thing to do with this case. Brenda Borgiet, Environmental Management Certified Arborist, said that it did, it got pulled. Mr. Sanchez said that there's history here. He said that if there is time to hear the history, then we'll get to it.

Chair Lingenfelter said that it's your response to the heavy renovations of a detached garage, the shed and carport is that it's all old construction. Mr. Sanchez said that everything is old construction except the seawall; which is a retaining wall not a seawall, and the carport. He said that he has the Florida sealed stamp that it is engineered for Florida. He said that only that company could put that up, so they already had the approval from the state of Florida; to put them anywhere in the state of Florida. Chair Lingenfelter said but in Volusia County and in the entire state, you need to pull a permit to build a structure. Mr. Sanchez said that he understood that and that he tried to pull a permit for his

February 28, 2018

fence; he said that if they didn't give him a permit for a fence...he said that he already had word that Brenda was not going to issue the permit for the seawall/retaining wall. Mr. Sanchez said that she said that the canal is not a canal, but actually a ditch and that it was never meant for boats. Mr. Sanchez said that Brenda told him, that she had worked there for 15 years and if he wanted to apply for the permit to go ahead and do it, but that she was going to turn it down.

Mr. Sanchez said that's why he subpoenaed Kate from the state, and Aaron to be here today. He said that they were worried about their scheduling and their time; instead of the people's time. He said that's why you guys have all these frivolous suits against me.

Chair Lingenfelter said to Mr. Sanchez, that the situation before him is, construction of a seawall and carport and it is your testimony that you constructed this retaining wall without a permit. Mr. Sanchez said that there is an exemption for him, if the board would look at it. Mr. Sanchez said that it states that anything prior built to 1969, which I would like to ask; Beverly just got involved, but I would like to ask her, if she knows what the codes were in 1969 or prior to 1970. What the codes required, to do a retaining wall like that.

Chair Lingenfelter asked when the respondent built the retaining wall. Mr. Sanchez said that we built the retaining wall last year. Chair Lingenfelter said that's not 1969. Mr. Sanchez said that he knew that, but that there's a special cut-out exemption for him. Member Wild said that Mr. Sanchez would have to show where that is. Mr. Sanchez said that he's asking Beverly what it is, since she had to get ready for the case. He said that they're the code officers-inspectors for all these violations and they should know what was grandfathered in; he said they should know that, just by looking at the property record. Chair Wild said that it is your responsibility, to put together a case on your behalf; he said that if you're saying something was supposed to be there in 1969, then let's see the evidence that shows that it was there in 1969. Mr. Sanchez said that he's not saying that it was there in 1969, but that it was plotted in 1969; he said that when they came up with these new wetland codes, that they exempted everybody prior to that. Member Wild replied not in the way of new construction. Mr. Sanchez said that it was in the way of new construction and that it's in there. Member Wild asked Mr. Sanchez to show it.

Member Wild asked to see an aerial picture of the property. He asked Mr. Sanchez if he owned all of the property in the picture. Mr. Sanchez said that he did. Member Wild asked if Mr. Sanchez was saying, that none of the pictures that were taken, could be taken from the street. Mr. Sanchez said that none of the pictures that were taken, were taken from the street; except the one that wasn't theirs, from prior when they showed you the back apartment. He said that one was taken from the street. Member Wild said this aerial, obviously is not trespassing; quote-unquote. He asked Beverly to use the aerials to show the sheds that she had been discussing in her presentation. Member Zahn asked for the date on the photo. Beverly said it was January 17, 2015. She said in this photograph you can't see the structures. She used the picture to show where the structures would be.

February 28, 2018

Beverly said that you could see it in the newest photo. Chair Lingenfelter asked about a structure in the western corner of the photograph. Beverly said that it's not a structure and that they would get to that later.

Mrs. Sanchez said that there is the pump house, that's right next to the barn-shaped house. Mr. Sanchez said right where the green dot is at. He said that's a barn and that they said that was built without a permit too. Beverly said that the barn has been there since 1990 and that the Property Appraiser has been assessing that from 1990. Mr. Sanchez said that's when they assessed it. Beverly said that's not a part of this violation; that's the next violation. Mr. Sanchez said oh that's the next violation and that Beverly did say pump house, earlier but that's okay. Beverly said yes. Mr. Sanchez said that Beverly said barn-shaped-type whatever. Beverly said yes we did, but that violation has been withdrawn.

Mrs. Sanchez asked Beverly if she could reiterate what has been withdrawn. Beverly said that the barn-shaped shed has been withdrawn. Mr. Sanchez asked why. Mrs. Sanchez asked where documentation is stating that; she said that she didn't receive it. Meghan Lindsey, Code Enforcement Board Clerk, said that they would be getting a letter in the mail for that. Mrs. Sanchez said what else, is there anything else that has been withdrawn. Beverly said that the fence case has been withdrawn. Mr. Sanchez asked why the case was withdrawn. Mrs. Sanchez asked if she was made aware of that. Beverly said right now, they are going to discuss the other violations that are on site.

Mr. Sanchez said they yanked his wife's license from this county; her general contractor and this is my property. Mr. Sanchez asked the board if he could explain the picture that was on the projector. The Chairman said he could. Mr. Sanchez said that all the water that you see there, was already there. He said that canal was already there. Chair Lingenfelter asked if they had a survey. Mr. Sanchez said we have surveys; you guys have surveys. Chair Lingenfelter asked if the respondents have a survey of their property, which shows the wetland jurisdictions and the water; the tow of bank. Beverly said right now, the water is not a violation; she said the seawall is the violation that we're discussing now.

Chair Lingenfelter asked Mr. Sanchez if it is his testimony that they built a seawall within this last year, which you call a retaining wall. Mr. Sanchez said yes sir. Chair Lingenfelter asked if it was his testimony that he built a metal carport; even though it's a certified state of Florida building, and did not pull a permit to erect that on the property. Mr. Sanchez answered with reason, yes. But it is your testimony that it was erected without a building permit. Mr. Sanchez said with reason, yes.

Member Wild asked what the reason was. Mr. Sanchez said back in 2016, he started pumping out the biggest area there; closest to the South that abuts Hacienda Del Rio. He said he started dredging out the muck there. Member Wild said that they're not talking about the dredging. Mr. Sanchez said that he understands that. Mrs. Sanchez said that you asked the reason. Chair Lingenfelter said the question is, for clarification purposes, the

February 28, 2018

reason that you built a metal carport without pulling a permit from Volusia County is. Mr. Sanchez said back in 2016 he was dredging, Brenda came out and gave me a \$1,000.00 a day threat for dredging without a permit and a \$1,000.00 a day fine, for clearing a vacant lot. He said he wasn't clearing a vacant lot, the creek went right through my lot. Mr. Sanchez said that it looks like two lots but it's not, it's one lot. He said Brenda thought it was two lots and that she didn't look at her own records. He said that when his wife opened the two letters she miscarried that baby, because of that fear. He said that they just got done being broke in 2008. Mr. Sanchez said the state did the investigation and gave me the approval. He said it was the state's waterway and that they said he had an exemption. Mr. Sanchez produced a letter from the state of Florida that he submitted as an exhibit.

Mr. Sanchez said that the letter thanked him for doing that mound, that Brenda called a landfill; the landfill that she fined me a \$1,000.00 dollars a day for. He said that he state actually thanked him. Mr. Sanchez said that Brenda did not accept the state's approval, in this letter. He said behind the scenes, Brenda kept the \$1,000.00 a day fine for the dredging, for the whole year she had it on there. He said that we could not see it because it was behind. He stated that you couldn't see it on the clerk of the court, so if anybody tried to buy it, they would buy it with those violations. Mr. Sanchez said that Brenda told the state and himself that the canal is not is not a canal.

Chair Lingenfelter said that he's waiting for the carport. Mr. Sanchez said the carport is, if she said she wasn't going to give me a permit for a retaining wall; so apply for it and she'll deny it, spend 80 grand but she'll deny it. He said now we get to now, I try to pull a fence permit; people are going into my property and they are stealing and I needed to put up a fence. So I apply for the permit to put up a fence; several e-mails back and forth and they never replied. When they did reply there was shenanigans going on there and we have proof of that; if you want to see that, the corruption and the cover-up, which they're trying to do. He said that the reason that they did not give the permit for the fence, was the open violation for the dredging; if they were not going to give him a permit for the fence, then they were not going to give him a permit for the carport. Mr. Sanchez said that he was not going to be held hostage by his government; to build up and protect my private property. He said that they have no right to do that with a vendetta. So that is why, I didn't pull a permit for the carport; they weren't going to give it to me and it was proven when they didn't give me the fence permit and the reasoning behind that.

Member Wild said because you were in violation for dredging, according to Brenda, regarding dredging or widening the canal or whatever.

Mr. Sanchez interrupted Member Wild and said that we didn't widen the canal but go ahead. He said you don't want to throw out assumptions or accusations like that; widening the canal is a serious thing. Mr. Sanchez said that we did not widen the canal and asked that it be taken off the record. Member Wild told Mr. Sanchez that he's making suppositions also. Member Wild said because you were in potential violation for something

February 28, 2018

else, you're saying that was the reason that the county wasn't going to issue you a permit for anything else. Member Wild asked Mr. Sanchez if that was accurate. Mr. Sanchez said that's what happened. Member Wild said that's your statement. So as a result of your assumption that the county wasn't going to issue you a permit, you were able to go ahead and build because you knew you weren't going to get a permit anyhow. Mr. Sanchez said it wasn't an assumption; he said they tried to get a fence permit and they did not give it to us. I didn't assume that, it's actually what happened.

Member Wild said, I think your testimony was the reason they denied it, was because of the other potential violation. He asked Mr. Sanchez if that was accurate. Carrie Sanchez said it was not that they denied it; we kept submitting the information that they were requesting and then they quit responding. She said they put the permit application in a cancelled status. Mr. Sanchez said that they did it without even talking to them and it had been 30 days. Mr. Sanchez said that you go in and you get a permit on the way out.

Member Zahn asked if we were talking about something that didn't happen. Chair Lingenfelter said yes. Mrs. Sanchez asked Member Zahn what he meant. Member Zahn said that fence wasn't constructed. Mr. Sanchez said that they fence is up. Member Zahn said but you didn't have a permit; you tried to get a permit and regardless of having a permit or not, you installed the fence. Mr. Sanchez said he did and that he had to fire his wife because she couldn't get the permit. Mrs. Sanchez said because they would not reply to us submitting everything that they requested, how long are you supposed to wait. She asked if you're supposed to wait indefinitely; you can't do anything until we get permission. Mrs. Sanchez asked what the guidelines were. Member Zahn said that he did not have an answer for that.

The Board Attorney, Charles Cino, said that they needed to go back to the violation. Chair Lingenfelter agreed and repeated what the violation was for.

Member Needham looked at the aerial photos and asked where the water was in the picture. Mr. Sanchez said it's on the Eastern part of the house. He said that the trees covered it all and that they had two hurricanes since this picture. He said those hurricanes gave them extensive damage out there and flooding. Mrs. Sanchez said just for the record, she requested all the public information on this property and from Volusia County she received the information from the previous owner, who applied for a roof permit; he had to submit a survey. She said that the survey shows the water that was on the property. Mrs. Sanchez took out the survey for the board.

Beverly said that's not the violation that's in front of us right now. The respondents said that Member Needham is asking about the water on the property. Member Needham asked if they submitted that to the county. Mrs. Sanchez said that the county gave it to her.

February 28, 2018

Member Wild asked if this was in regard to the seawall. Chair Lingenfelter said it was in regard to placement of water. Mrs. Sanchez said that Member Needham had asked about the water on the property because you can't see it in the picture. Member Wild said that the survey does not show the seawall. Mrs. Sanchez said that is correct that the survey does not show the seawall. Mr. Sanchez said there was an old seawall made of wood there.

Chair Lingenfelter asked if the county has any other testimony. Beverly said no. Mrs. Sanchez asked what would make you pull the barn-shaped storage unit off this violation. Beverly said because it was constructed in 1990, our records are not as clear back in 1990.

Mike Nelson, Building and Zoning Director, stated that our records are not complete prior to 1985 as far as permitting is concerned; so we can't just suppose that was the first day that that structure was there, when the property appraiser added it. So, we didn't have adequate evidence and we dropped it.

Mr. Sanchez said that he also for reasoning of not pulling that permit, have history with Volusia County. He said that his father tried to do the same thing, with these violations. Mr. Sanchez said that somebody called and said he was doing a seawall at his house and he was repairing his dock. He said Beverly came out and gave him 10 infractions. Mr. Sanchez said it was on stuff that were built in 82', 70's, 80's and 90's. He said his dad bought the house in 2004 and retired up here. Mr. Sanchez said that staff his father that he needed to go get drawings and all of these things; he said they came back to the county five times. He said they got engineer, structural, architectural and a survey. He said that the second they came back and they submitted the plan for approval, she right away said it's too close to the property line for the carport. So then they had to get a variance for things that were built 20 years before my father bought the property. Mr. Sanchez said that the property has been assessed by the county the entire time; he said for decades you guys have been collecting taxes and now they're going to come up that it's a violation.

Chair Lingenfelter said that happens very often. The Chair and Mrs. Sanchez discussed why Beverly withdrew the barn-shaped structure from the violation that they were currently discussing. The Chairman reiterated what the violation was for and stated that the chair would entertain a motion.

Mr. Sanchez said that it was built without permits, because you guys wouldn't give them to us. He said how long should we have to wait for the county to give us a permit; when a fence permit that takes one day, they didn't even give it to us in a month. Mr. Sanchez said what are we supposed to do and with the history of my father, plus what happened with Brenda saying that. Mr. Sanchez said he came to that assumption and knew that they were not going to give me that permit. He said that he should not have to wait for that. Mr. Sanchez said we are endowed, the people are; we created this council. He said you guys are servants and you guys should not think that you have the power, to look down on us and tell us when and where we're going to improve these properties. He said especially

February 28, 2018

since we went and tried to do it the right way he said and you guys still have the nerve to do that. And up here with my father, what the council did and there's no protection for the people. Mr. Sanchez said that his father did everything right and we even had people on this council that wanted to double his fines because of his attitude. So I guess you guys are going to want to triple mine today, I can tell you that.

Chair Lingenfelter said we're not hearing fines today. We're seeing if there is evidence to prove that these violations exist and you've admitted that these violations exist. Mr. Sanchez said that he admits that he was violated by his county government. He said that he does admit that. Mr. Sanchez said that we could get into it further if the Chair would let him.

Mr. Sanchez said he would like to know if these are Beverly's violations. Chair Lingenfelter said they're your violations. He said that they're assumed violations. Mr. Sanchez asked the Chair why he would roll his eyes. Chair Lingenfelter said assume you admitted to building the seawall, what violations are we assuming; you said I built this retaining wall. Mr. Sanchez said that he was talking about the whole package and that she gave him 20 of them. He said obviously there was some, because she just admitted that she pulled some off.

Mr. Sanchez said that he wanted to know when Beverly got involved with this case. Member Wild said that it doesn't matter. Mr. Sanchez said it does; if she works for the county and she has a vendetta against the family, then she would run out there straight away when she heard something and start giving me all of these violations, while trespassing.

Member Wild said that he appreciates Mr. Sanchez's concern, but he doesn't think that it's very realistic. He said that we're not county employees, we're an independent board. Mr. Sanchez asked who pays them. Member Wild said nobody; we're all volunteers. Mr. Sanchez thanked the board. Member Wild explained that the board is there to listen to whatever the county's charge is, we're here to listen to your testimony, we're here to then determine in our minds whether or not there's a violation or not. If the county can't prove the violation then we dismiss, if the county can prove it then we go ahead and have a finding of non-compliance.

Mr. Sanchez said then it doesn't matter if these findings of violations, we're found in error and illegally obtained. He said he's saying by law, if these violations were illegally obtained and put against me, should it even be in the council hearing. Member Wild said we're not the council. Mr. Sanchez said for code enforcement you are. Member Zahn said we don't actually take that into account, if a violation appears before this board we hear the testimony from county, we hear the testimony from the respondent, we make a determination on the board, under discussion of whether we feel a violation has occurred or not-occurred; that's all. That's the extent of what we're doing here today.

February 28, 2018

Member Needham said to clarify, we do not represent the county or you. We are here to determine the validity of the charges and your response. Mr. Sanchez said so you guys would look out for the people. Member Needham said a lot of things have been alleged and we have to use our best judgement. Mr. Sanchez said he had two years of this. He said his wife lost a baby and I got on blood pressure medicine.

Member Lingenfelter asked if there were any more questions for staff or the respondent. Mr. Sanchez said that he just wanted to go on the record; if these violations should have never been obtained, because they were obtained illegally that doesn't matter now. So we are above the law on this council.

Member Needham asked if the county went out there without justification and try to find violations, which you've alleged. He said to Mr. Sanchez, which is not the way things work. Mr. Sanchez said that you're asking her a question, can she answer it. Member Needham said that someone has to have complained and then the county has to follow through. Member Needham asked if that was the case with this situation; is it any different.

Member Zahn said that he didn't think that was material today. He said that process is a process that occurs once it hits a violation and it comes to this board; he explained that the board's responsibility is to listen to the testimony, give you an opportunity to listen to what the county says, and present your own evidence to the contrary if you have it. Member Zahn said we are a quasi-judicial board, which means that we are essentially judge and jury. You will then have opportunities later to appeal this, if you wish. So, we hear the testimony under oath from both sides, and then we use our judgement to determine if we feel a violation has occurred or not. The process before that, is a process that is immaterial to how it appears before us; once it's gone through due process it's here.

Mr. Sanchez said so there's no law in this council. Member Zahn said we don't seek fault. Mr. Sanchez said there's no law. Member Zahn said that's something you seek in a different venue. Member Zahn said I'm an engineer not a lawyer, that's way over my head.

Mrs. Sanchez asked the board if they were property owners in Volusia County. Member Zahn stated that he was born and raised in Volusia County and that he has his business in Volusia County. He said that his father and grandfather did as well.

Member Needham stated that the board has to be appointed by the county council; disclosure of any kind of connection and annually we have to make a financial disclosure, to see that there's no conflict. Mr. Sanchez said so it's just the county council then, you're not voted in. Member Needham said no, we're appointed by the county council. Mr. Sanchez asked how long the appointments last. Member Needham said 3 years and then it would have to be renewed. Mr. Sanchez asked if it could be indefinite. Member Needham said that it won't be indefinite. Mr. Sanchez said of course we all have to die sooner or

February 28, 2018

later.

Mr. Sanchez said that his father came to these chambers back in 2010 and that's why he's asking. Mr. Sanchez said that there was nobody looking out for him and that he tried to do everything right; he said that he came here several times and submitted all the paperwork that they asked for. Mr. Sanchez said his father couldn't afford an attorney and nobody looked out for him and you guys ruled to put those liens on my father. He said that there has to be some kind of a last resort and somebody has to be looking out for folks.

Member Needham stated that his father's experience has nothing to do with the cases before them today. Mr. Sanchez said that it does and that's why he couldn't get a fence permit.

Chair Lingenfelter asked if any of the board members were ready to present a motion. Mr. Sanchez asked again, when Beverly got involved with the case. Member Wild said that it doesn't matter as far as the determined facts, in regard to the case.

Mr. Sanchez said just for the record, all the facts were obtained illegally. Member Wild stated that you need to explain, that you've made that statement 3 or 4 times; he asked what are you determining to be the illegal part.

Mr. Sanchez said that when they came to the property, the police report says that we arrived at 174 Poinciana and there was a not a no trespassing sign posted; so we went inside. Mr. Sanchez said that there was a sign and that he has pictures of that stain, once they removed it.

Member Wild asked what police report. Mr. Sanchez stated that staff went out with the County Sheriff. He said they had a couple deputies out there threatening us with arrest, which is intimidation and is not allowed. Mr. Sanchez said that there was a whole lot of illegal stuff that happened that day.

Board Attorney, Charles Cino, said this is not the proper venue to discuss that; whether or not there's a violation, that's all that's in front of us today. Whether the police were there, whether they weren't there; whether civil rights were violated that's not an issue for today.

Member Needham said those are things that we have no control over; we're here to see if, with accordance to the code, there is a violation. Mr. Sanchez said that the board should be aware that staff is bringing this information before them maliciously. Member Needham said you're alleging that, and I've been on the board many years and I've never seen a case where that is so.

Mr. Sanchez asked Mrs. Sanchez for the police report. Member Wild said that's immaterial to the case. Mr. Sanchez asked if Member Wild had asked him about the trespassing. Mr. Sanchez said that they came to his property with the Sheriff's Department, two deputies.

February 28, 2018

He said that we have it on film and that he would like to play that, as well. Mr. Sanchez said they said that he didn't have a no trespassing sign, but that when they came onto the property, one of his friends said they were trespassing and he was threatened with arrest; before any pictures were taken, they were told by a human being that they were trespassing and that they had to leave. Mr. Sanchez reiterated that they threatened him with arrest.

Member Smith explained that they're getting far away from the issues and that he'd like to make a motion. He stated that Mr. Sanchez has already admitted that he created the issues by doing something that he shouldn't have done without permits.

Chair Lingenfelter asked Beverly if there was electricity to the carport. Beverly said that she believes that there is.

Mrs. Sanchez said that there has been electricity on the carport since it was purchased and it's been there since 1969. Chair Lingenfelter said this is a carport that you've admitted to building in the last year. Mrs. Sanchez said that she was sorry and that she misunderstood.

Chair Lingenfelter reiterated the motion made by Member Smith and added the condition that an affidavit that an electrical contractor certified for the new carport and shed be submitted.

Beverly said no this is the electricity on everything. She said that they pulled the whole service away from the house itself. Mr. Sanchez said that was the hurricane. Beverly repeated that the service was pulled away from the house and is sitting on what appears to be a temporary pole. Chair Lingenfelter asked if that issue was covered in any of the other cases. Beverly said it's in this one.

Mr. Sanchez said that we're lumping all these things together. Chair Lingenfelter said the reason for his question, is so that we're not lumping them together. He said what's before us on this case of 065 is seawall, metal carport and electrical service to the entire property.

Mr. Sanchez said the electrical service for the entire property was permitted. He said you can look at it and they gave it to the title company. He said when they bought the house, they went through a title company and they sent Volusia County a letter asking if there were any encumbrances that might approach. He said they said no except the electric. Mr. Sanchez said it had an open permit that was then closed out. He said after Hurricane Irma is when the electric got messed up.

Board Attorney, Charles Cino, said that we have a motion without a second at the present time. Russ Brown, Assistant County Attorney, said that he was not clear and he asked for a specific motion. Member Smith asked if they wanted him to restate it. Chair Lingenfelter said yes.

February 28, 2018

Based on the evidence and testimony provided, Member Smith **MOVED to issue an Order of Non-Compliance with a compliance date of March 30, 2018 and a Hearing to Impose Fine/Lien to be scheduled for the April 18, 2018 hearing for Violating Volusia County Code of Ordinances, Chapter 22-2 Sections 105.1 and 109.3.** The board further ordered, that all electrical installations on this property be inspected by a licensed electrical contractor or State of Florida licensed engineer or architect and an acceptable affidavit be submitted to the Chief Building Official within 10 days; stating that the electrical installations are in a safe working condition. If this approved affidavit is not received within 10 days, the electrical service to the property is to be disconnected and the building be vacated. After Member Needham **SECONDED** the motion, it **CARRIED** unanimously by voice vote.

Mr. Sanchez said that there should be two pre-typed recommendations. He indicated the staff recommendations from Beverly's presentation; he said that one is clearly in favor of the county, he said do you have the paper up there that's in favor of the citizen. He asked if there was another paper that you guys have there.

Member Zahn said just so you understand, if we choose to change those dates, we do it. Mr. Sanchez said that he understood that the dates could be changed. He said there's already a letter typed up in favor of the county, was there one in favor of me, just in case you guys ruled in my favor. Chair Lingenfelter said it would be very short and it would say we find no violation. Chair Lingenfelter indicated the staff recommendation portion of Beverly's presentation and said that the alternative to it, would be that we found no violation.

Mr. Sanchez said that the electrical happened after Irma. Chair Lingenfelter said that's a very standard statement, when we have electrical work that's been done without a permit or something of that nature. The board established that they already voted on the case. Chair Lingenfelter said you'll see these recommendations but we have the ability to go further than that recommendation or all the way to we find no violation on the property. He said there is another version for you, and it is no violation. Mr. Sanchez asked if the board had the heavier or any other version here. The chairman stated that as we receive evidence we see what is appropriate. Mr. Sanchez said it was already typed up before it was received. The chairman stated that its standard practice; many cases over many months. Mr. Sanchez asked if the recommendation presented was the only one, not any less severe not any more severe; just that one. He said just for the record, he would like to know if that is the only one. The chairman said there will be a recommendation for each case, based upon the evidence that they've gathered and our interpretation of it. Mr. Sanchez said but it was already typed up and no other recommendations were typed up.

Member Wild said the severity actually comes in our next hearing, not the next case; the

February 28, 2018

April 18th hearing is when the severity comes in, because that's when the fines would start if that's deemed required.

Mrs. Sanchez asked to see who Mr. Kerry Leuzinger is. It was established that Mr. Leuzinger stepped out of the room. Mrs. Sanchez wanted to know when Mr. Leuzinger signed the documents that she was holding. Beverly told her that the documents were dated and that's when they were signed. Beverly explained the county's recommendation and explained when Mr. Leuzinger signed it. She explained that she would have shredded it if the board had not gone along with it. Mr. Sanchez said that they shred what they like to.

CEB2018066-SANCHEZ ROBERT J

Sheriff Served

Complaint No. 20171116020

Violation of CODE OF ORDINANCES, COUNTY OF VOLUSIA, CHAPTER 72 ARTICLE II DIVISION 7 SECTION 72-241 Heavy equipment stored/parked where not permitted. (Back hoe)

Property Location: 174 Poinciana Rd, Edgewater 32141

Parcel No. 844800000120

Zoning: R-4W

Building Compliance Officer - Beverly J Abrahamson

Property owner was first notified of the violation on December 8, 2017

The respondent was present for the hearing. Mr. Sanchez contested the violation.

Beverly J Abrahamson, Compliance Officer, presented the case. Beverly directed the board to her pictures and explained that there's a backhoe on the property. She said that the backhoe is not allowed in R-4 zoning.

Chair Lingenfelter asked from what vantage point was the photo taken. Beverly said that the vantage point is looking from the west to the east.

Member Wild asked under what conditions a backhoe would be on the property and for how long. She said that she imagined if there was a permit for construction, the backhoe would be allowed on the property.

Mr. Sanchez said with the zoning pre-1969, that's when it was platted, I'm grandfathered in. Member Wild said you're not grandfathered in with regard to zoning, just because the lot was platted prior to 1969.

Mr. Sanchez said that he understands that, but he has property that was grandfathered in on U.S. 1, because it was built prior to that; he said we were granted Residential-Commercial zoning. Chair Lingenfelter said that's a land use; he asked if you don't have an open permit, why do you have construction equipment.

February 28, 2018

Mr. Sanchez said he was renting that; he said that he was moving stuff around his yard. He held up a letter, that he asked to submit as evidence and said that he had permission from the state to get rid of the toxic waste; which the county and the state left there, for the last 30 years.

Member Wild said to Chair Lingenfelter, that Mr. Sanchez will have a chance, once the county finishes with their presentation. Mr. Sanchez said that he was just letting the board know, that the backhoe was there because of his approval to move the waste from there.

Chair Lingenfelter said that it was good information and then asked if the board had any questions for Beverly. He asked Mr. Sanchez, if he would allow the board to put the letter up on the overhead viewer.

Chair Lingenfelter asked Mr. Sanchez, if his reason for the backhoe being on the property on December 8, 2017, was to do the work that is stated in the letter, that we're about to see. Mr. Sanchez agreed.

The letter was placed on the overhead viewer. Chair Lingenfelter said that the letter is dated April 26, 2016, and that the FDEP visited the property on March 30, 2016. He read from the letter that following an inspection, it was determined to be in compliance. Chair Lingenfelter asked Mr. Sanchez, why the backhoe was still on the property a year later.

Mr. Sanchez said that he's still doing it. He said he's working as a contractor and we had the two hurricanes. He also stated that since this was not maintained properly, for the last 30 years; he clarified the county and the state's portion of this property. Mr. Sanchez said that all his land and the stuff that he did since the water came on the property; since the canal system didn't work properly because of neglect, it pushed everything back in and he's continuing to dig. He said that the county convinced the state that he's digging further than he's supposed to, off his property; he said that the state is upset about that. He said that the state was supposed to be here today as witnesses, but that the county doesn't want that because they'd be witnesses against the county.

Chair Lingenfelter said to Mr. Sanchez, that his testimony is that the backhoe is there. He asked Mr. Sanchez if the backhoe is there today. Mr. Sanchez said yes sir. He said that it's rented.

Chair Lingenfelter said that Mr. Sanchez, was doing the work that's being discussed in this letter from the state, dated April 26, 2016. Mr. Sanchez said correct.

Mrs. Sanchez said that she has the final report from when the state finished their investigation. Mrs. Sanchez said that the report lists their sightings, if you would like to read that.

February 28, 2018

Chair Lingenfelter said yes for the projector.

Beverly said our ordinances are county ordinances and our zoning ordinances are completely different. Mr. Sanchez said they were asking why the backhoe was there, and that's why the backhoe is there. Chair Lingenfelter said they will read the report, but the respondent admitted that the backhoe is there at the moment; at the time of this hearing.

Chair Lingenfelter asked Beverly if there was state permitted work and asked if it would require a county earthmoving work; some type of grating permit from the county. Beverly said yes.

Mr. Sanchez said the reason that the work is taking so long, is that he's doing it all himself. He said that he tried to get contractors for the retaining walls and they would get to the county and they would look at the information and say absolutely; we'll get a permit don't worry about it, we handle this all the time and then there would be no call backs. He said when he calls back on different numbers, he would be told that they can't touch it. Mr. Sanchez explained that's why he had to start doing it himself. He said he couldn't get a seawall contractor to do it.

Chair Lingenfelter explained that the report that Mrs. Sanchez provided, was a site inspection report, dated March 30, 2016; he said it looks like they were there in response to a complaint. He asked how March 30, 2016 is the inspection date, but they talk about April 11, 2016 in the narrative.

Mrs. Sanchez said it's a follow-up visit. She said there's a community behind us that constantly calls in and submits complaints to Volusia County and to the state. She said that the state is just saying that they're following up because of all the complaints; she also said that the state is being inundated by this.

Chair Lingenfelter said he's puzzled by the document itself, not the situation; it says inspection date March 30th, yet the complaint date is March 30th. He said then they're talking about a day in the future, where a follow-up visit was conducted. Chair Lingenfelter reiterated that he's confused by the documentation. He said that he understands the timeline and the situation, but he's confused as to why the document is dated one thing, and then talking about the future according to the document.

Mr. Sanchez said we didn't forge it.

Mrs. Sanchez said that they issued a subpoena for her, but she's on maternity leave, so we can't speak on why she worded it the way she did; she had to follow up because of multiple complaints.

Mr. Sanchez said that we also subpoenaed several other people, which they didn't

February 28, 2018

subpoena for some reason.

Chair Lingenfelter said the violation before us is heavy equipment stored on the property, in a zoning or a use that doesn't allow heavy equipment. He asked if there were any other questions for staff or the respondent.

Mr. Sanchez said just for the record, it's allowed to be there because of the maintenance dredge on the canals; he said they have to be there to be maintained, if not it kills the Indian River. He said that's what's been happening for the past several decades. He said you guys have been polluting the waterways and it was supposed to be there, because I have approval from the state. He said that because it was platted pre-1970, he didn't need the approval from the county to do the maintenance dredge. He said that he didn't touch county property at all.

Member Wild asked Beverly if in addition to the DEP permit for maintenance dredging, does the county require a permit for maintenance dredging. Beverly said that she is not with environmental management, so I can't answer that question.

Brenda Borgiet, Environmental Management Certified Arborist, said yes they do.

Member Wild said they need both the county and the state permits.

Brenda said even if the state has an exemption, the county will require a permit. Member Wild said in this instance, the county would require a permit.

Brenda said absolutely. Member Wild said there has been no permit received. Brenda said that we will get to that. Member Wild said I understand, but that was the reason for the backhoe; to do maintenance dredging, for which there is no permit. Member Wild asked if that was accurate. Brenda said that's what he's alleging, yes.

Mr. Sanchez asked to see that paperwork, where it shows that I need to get permission from the county to maintenance dredge, on property that's not the county's; which was platted before 1970.

Member Wild said there is another case, where we'll have that. Chair Lingenfelter said I'm sure staff, would provide you with a section number regarding that requirement.

Mr. Sanchez said we can't get that on the record now; you guys are telling me I have to have my information here, my proof and I don't have it. He said I would like to see her proof that the county requires that.

Member Zahn asked to make a comment. He said its Brenda Borgiet's testimony that it is a requirement of the county; it is a public record and it's going to be in the land development

February 28, 2018

code and the permit requirements for that. I would like to say that, your response is the backhoe is here, because in your mind you had a permit from DEP to construct. He said I understand that and I see where your belief is coming from, when you think that you're okay on that issue. Member Zahn said I've been on the board for a long time and I've seen a lot of cases that are similar to this; where we've got DEP permitting and county permitting. The county permit is not set aside because you have a DEP permit. It happens to be another step in the process, typically that is why one hires an attorney, engineer, environmentalists and all these people, for this permit process, because it is so complicated.

He said on one hand, I agree with you on your assumption that you're okay with the backhoe, based on a permit letter from DEP for maintenance dredging. Often, there's more to the situation and when we get into permitting, there's often much more data or requirements associated with it. You didn't find out about it for two years because it didn't become an issue with the county and you thought you were doing okay along the way.

Mr. Sanchez said it was an issue back then with the county, which was cleared.

Member Zahn said I was going by the 2016 letter that you presented from DEP, saying that you could do the maintenance dredging.

Mr. Sanchez said absolutely.

Member Zahn said the point here is, the county has rules and regulations under the Land Development Commission, which requires a permit as well. He said that's where we're coming from; the violation with the backhoe onsite.

Mr. Sanchez said that he understands that and thought that it was taken care of because the county was out there in 2016. He said Brenda was out there in 2016 and that's when she gave me the \$1,000.00 per day fine, for clearing the vacant lot.

Member Zahn said I'll tell you how you know it's resolved; you'll have a permit.

Mr. Sanchez said not if you have a special exemption.

Member Zahn said, then you'll have some correspondence that will associate that, between the county and the state requirements. Member Zahn said I'm a civil engineer and I do this kind of work, so I'm familiar with it. He said you'll always end up with some kind of document that will show permission to do this or that.

Chair Lingenfelter told Mr. Sanchez that Brenda has the section. Brenda read Section 72.884 from the Wetland Ordinance to Mr. Sanchez and into the record. Mr. Sanchez said that he didn't see that up there, indicating the projector. Brenda put the section from the

February 28, 2018

ordinance on the projector for the respondent. Mr. Sanchez asked for a copy of that, because he said it was very small.

Mrs. Sanchez asked with land in Volusia County, are there not exemptions or variances that are already established in some land.

Chair Lingenfelter said there are exemptions but they have to be granted. Member Zahn said those are handled through the permit process. All the permitting agencies have sections on exemptions and if one pursues those sections and can prove that one qualifies for an exemption, then one can get one. He said you have to have the data to meet the requirements for those exemptions.

Mr. Sanchez said that's what we supplied to the state and since they were working together, they came out and inspected together. He said all the stuff that they were doing together, once the state gave us that...

Member Zahn said he saw the letter from the state saying that they came out and that they came out and made a second inspection. He said it's just that the section of the land development code that was just shown, which is now part of the record, is that section that shows a permit is required from the county.

Mr. Sanchez said we didn't see that read and we don't know if it's prior to that; you see there's language to all these rules and regulations and ordinances that we have. He said prior to that it would say properties platted prior to 1970, would have a special exemption.

Member Zahn said that he agreed with Mr. Sanchez, but its part of the permit process. He said if you go through the permit process and you have the evidence to show, that certain things occurred to grant you an exemption, then you by law are allowed to achieve it; but you have to present the data to prove it.

Mr. Sanchez said he did; he said he presented it to Brenda that it was a canal and she denied it. She said it wasn't and that she could tell; Mr. Sanchez said Brenda told him that he could apply and get engineer drawings and surveys, like you guys were asking for but she would still deny it.

Brenda said that's not true.

Member Zahn said it takes more information than that. Member Lingenfelter said the possible violation before us, is a backhoe parked on the property. He asked if there were any more questions for staff or the respondent, if not he would entertain a motion.

Based on the evidence and testimony provided, Member Zahn **MOVED to issue an Order of Non-Compliance with a compliance date of March 30, 2018 and a Hearing to**

February 28, 2018

Impose Fine/Lien to be scheduled for the April 18, 2018 hearing for Violating Volusia County Code of Ordinances, Chapter 72 Article II Division 7 Section 72-241. After Member Needham **SECONDED** the motion, it **CARRIED** unanimously by voice vote.

Mr. Sanchez asked how the board ruled on that one; that I was in violation. Chair Lingenfelter said not yet we haven't voted on that one yet.

Member Needham asked if any of the other people present that were sworn in wanted to offer testimony. Member Zahn said that he thought that Beverly would know. Member Zahn told Mr. Sanchez if at any time, he'd like to call a witness that he may. Mr. Sanchez said that he wanted to call his father, but that case was already closed out. He said with the backhoe I don't have anybody to call; he said he would have called the DEP, because Aaron agreed with him. Mr. Sanchez said that the stated came out to the property on President's Day and they said that they were misled. He said that DEP said that they see what he's doing there and to them, he has the exemption, not only for the dredging but also for the retaining walls and the county and you are exempt. Mr. Sanchez explained that's why he subpoenaed Aaron from the DEP.

Member Needham asked the Chairman what the other people that were sworn in, had anything to say. Member Zahn said it's just a point of order; we have a motion, a second and a call for question. Chair Lingenfelter informed the respondents, that if they have witnesses to call, they may do so during each case. He said that anyone that wants to testify, must be sworn in.

The board voted on the motion and it carried unanimously, by voice vote.

CEB2018067-SANCHEZ ROBERT J

Sheriff Served

Complaint No. 20171116027

Violation of CODE OF ORDINANCES, COUNTY OF VOLUSIA, CHAPTER 72 ARTICLE II DIVISION 8 SECTION 72-277 You have failed to observe the required setbacks. (Unpermitted accessory structures may not meet setbacks)

Property Location: 174 Poinciana Rd, Edgewater 32141

Parcel No. 84480000120

Zoning: R-4W

Building Compliance Officer - Beverly J Abrahamson

Property owner was first notified of the violation on December 8, 2017

The respondent was present for the hearing. Mr. Sanchez contested the violation.

Beverly J Abrahamson, Compliance Officer, presented the case. She said the R-4 zoning of this property has setback requirements. Beverly stated that the seawall and the three unpermitted structures on the property, do not meet the setbacks.

February 28, 2018

Member Zahn said as a point of order, that Mr. Sanchez gets the opportunity to respond either to contest or provide information; he said that before the county begins their presentation the respondent has that opportunity.

It was established that Mr. Sanchez wanted to contest the violation. Member Zahn explained that staff presented first and then Mr. Sanchez would be allowed to provide testimony.

Beverly said that the structures along the south-side of the property, do not meet the required 20 foot rear-yard setbacks.

Member Wild asked if Beverly knew approximately, how far off they are. She said that the seawall looks like its right up against the property line. The garage, now that it has an overhang to the south, also looks as if its right up against the property line.

Member Zahn said typically that's why a survey comes in, preferably with a permit application before the work is done. The survey shows, on the ground, where things are. He said there's no guesswork or pacing off where something is.

Mr. Sanchez said that the apartment-garage has been there since the 60's. Member Zahn said a previous survey would demonstrate that; that's easy.

Mr. Sanchez said how the setbacks can meet; that's what I'm saying about exemptions and grandfathered in because what were the setbacks, on this property back in 1969. Or 1946, when the guy built the house. He asked what the setbacks were back then.

Mrs. Sanchez said that she had a survey, from when she submitted her fence application. Mr. Sanchez said that overhang was there; you could see it. Mrs. Sanchez went onto say that the survey is a little light. She gave the survey to the board so that they could put it on the projector.

Mr. Sanchez said Hacienda Del Rio just put up their privacy fence because we were having issues; they were calling the county and the state, hundreds of times a day. He said when they did that, they put the fence closer to the building, closer to their property line. Mr. Sanchez said that the owner that owned my parcel, sold it to Hacienda Del Rio and obviously they had some kind of agreement because they built the fence way to the south, off of the property. He said that was decades ago. He said when they came to put a new fence in now, they were trying to get it closer and that where they come up with that. Mr. Sanchez said that was back in the 60's.

Chair Lingenfelter said they'd be allowed to put their fence wholly within their property. Mr. Sanchez said that's correct, but since it's been on my property for so long, we were maintaining it for 20-something-years; this parcel. He said since they bought that property,

February 28, 2018

back then and they agreed to have the house that close, they would have had to get some kind of exemption, as well because it was built in the 60's.

Chair Lingenfelter referred to the survey, provided by Mrs. Sanchez. Mr. Sanchez said if we don't know the setbacks back then; the setbacks back then were different than today, for the record. Mr. Sanchez said that the survey also shows the waterway, as well.

Member Zahn asked where the structure that they're talking about was on the survey. Mr. Sanchez pointed at the survey and said it was at the bottom of the south side. Member Zahn asked the date on the survey. It was established that the survey was from 2015.

The respondents talked amongst themselves. Mr. Sanchez said that they have a survey that was given to them by the previous owner, when they were applying for a roof permit. Mrs. Sanchez said she didn't know if you guys have a better copy. Member Wild asked if that was a date of 2014. Mr. Sanchez said yes.

Member Zahn said that the survey established, that the building was there in 2014.

Mr. Sanchez said property records have been attached to it, since the 70's. The appraiser's office assessed it, called it an improvement and then the other people collected taxes on it; for the last 20-something-years.

Mrs. Sanchez asked when the gentleman that owned the property before us, pulled a permit for his roof, it shows that survey was from 2002. Member Zahn says that takes you back to 2002, at least.

Mr. Sanchez asked if it would bring them back to the 1970's because of the property appraisers; call it an improvement, they assessed it and they taxed it since the 1970's. He said that they have that paperwork, if the board would like to see it.

Member Zahn said the structure that we're talking about, as far as potential setback; it says unpermitted structure.

Mr. Sanchez said again, they didn't have any permits back then.

Beverly said that structure, would have been a non-conforming structure since the property appraiser has been assessing it, since 1970. She said since they did alterations to the structure itself, which would require a variance for the new roof that they put on, that hangs over to the south of the structure now. She said also that seawall that's right along the south side was built without permits, it does not meet the required setbacks.

Member Zahn said as far as the shed goes, it would be a non-conforming use and it can remain a non-conforming use as long as it's not expanded. Beverly said that's correct. He said when you come in and do some renovation and expand it, you cant expand beyond

February 28, 2018

the original structure. Nobody's arguing that it wasn't there a long time, but there's some requirements.

Mr. Sanchez said that they didn't expand it.

Chair Lingenfelter asked if they added an overhang to the south. Mr. Sanchez said no we didn't; the overhang was there. He said it shows it on these surveys. He said after the storms they fixed it up. He said after the first storm they had toxic waste from the canal or drainage ditch, go inside our house. He said the second hurricane as well. He said he already has close to \$300,000.00 in fixing that apartment because the state wouldn't maintain their portion and the county did not maintain their portion; the drainage ditch for the county and the canal for the state. He said they have not maintained it for decades and it's going in my personal property and damaging it. He said we did not add to the footprint for that apartment at all.

Mike Nelson, Building and Zoning Director, said well if it's an apartment not a garage, then that was a change of use and that would have to meet setbacks and it would've needed to be permitted to change of use. He also said that it would have gone through the process for a garage-apartment, if it's allowed in that zoning.

Mr. Sanchez said it's been like that since day one, when they made it back in the 1960's.

Member Needham asked if there was any implied approval of anything, when it is taxed. Beverly said no. Member Needham said if something's on the tax roll, is that implied, in any way that it's an okay structure.

Charles Cino, Board Attorney, said the implication is that if it's been taxed that it would show up on the property appraiser's, it doesn't make it right.

Member Needham said that's been brought up a couple of times, but there's no implied approval then by virtue of being taxed. Mr. Sanchez began to speak, but Member Needham informed him that he was asking the lawyers.

Russ Brown, Assistant County Attorney, said no sir that is correct.

Mr. Sanchez asked where the money is at for the taxes collected because he could use the money. He said they have collected taxes for decades.

Member Zahn said I'm afraid nobody's ever going to find that out. He said when they go out to assess they do pull dimensions across a lot and show that on the website; he said you can at least see the dimensions for a structure. He said that provides some evidence of at least as far back as those records were kept of the size of the building. Member Zahn asked if that would be accurate.

February 28, 2018

Russ Brown, Assistant County Attorney, said yes sir that's accurate.

Mrs. Sanchez said as was mentioned by someone, permitting records weren't kept prior to 1969. Member Zahn explained why they were two different things to the respondents. He explained that the Building Department and taxes don't correlate one to another. If there's no permit application, and no set of drawings on file, the Building Department doesn't have any knowledge of it. So what often comes before this board is improvements have been made to the property without permits and the Building Department has no clue that that's happened. Someone complains or an expansion comes up and that's when the Building Department comes in. They're just two different departments that aren't talking to each other.

Mr. Sanchez said for the record there is no expansion. He said that he sees Mr. Needham up there laughing and chuckling and shame on him. Mr. Sanchez said he is that same one that wanted to double-add a fine to my father. He said that Mr. Needham said that he didn't like Mr. Sanchez's father's attitude so I think the fine should be \$500.00. He said so shame on you for doing that to him.

Member Needham said that he doesn't remember the incident. Mr. Sanchez said we have the minutes if you would like to see it.

Mr. Sanchez asked the board if they were able to double and triple the fine because they don't like someone's attitude.

Member Smith asked Mike Nelson, Building and Zoning Director, in this particular case 2018067 the allegation is, that Mr. Sanchez failed to observe the required setbacks and then it goes onto say unpermitted accessory structures may not meet setbacks; is this a proper charge against him if we're not sure whether they do or do not meet setbacks.

Member Zahn said they need a survey. Mr. Sanchez said just for the record, we do have a survey and it's been there since the 60's.

Chair Lingenfelter said that the question was for Mr. Nelson.

Mr. Nelson said we're convinced that it doesn't meet the setbacks but without us having a survey and actually knowing where the property line is and checking it ourselves personally, we can't guarantee.

Mr. Sanchez asked for the setbacks from the 1960's. He asked Beverly for them and then remarked since she was accusing him of putting it too close. He repeated his question.

Member Wild said recognize that there are two different things; one is land use, which is

February 28, 2018

zoning. The zoning ordinance didn't come into effect until. I think the 80's or so. But recognize that the property appraiser has been here since, well some of their records go back to the 1800's. Mr. Sanchez said it's there on file; I'm being taxed. Member Wild said yeah.

Mr. Sanchez asked how it come back 40 years later and say it doesn't meet the setbacks today, when it was built in the 60's.

Member Zahn said we've already established that you can have a non-conforming use when a structure has been constructed and it's been there, prior to zoning regulations coming in. However, the requirements of a non-conforming structure cannot be expanded; so, if there is a change of use from storage to apartment, or an expansion then it no longer meets the requirements for non-conforming use.

Mr. Sanchez said I understand.

Member Zahn said if you have evidence of that, we'll hear the case and perchance we find in violation and later you can bring that evidence to show.

Mr. Sanchez interjected that you guys have seen the square footage and you guys have the survey now, so we've proven that it was there from the beginning; you can see it on the survey with the overhang, so there was no expansion to that building. Mr. Sanchez indicated Beverly and said how about her evidence that I expanded it; I would like to see that. He said if I have to prove myself, she has to prove herself.

Chair Lingenfelter said I have a question for her, along those lines. He asked Beverly if she indicated in the photo, for this case, where the unpermitted accessory structures may not meet setbacks are. Beverly circled the structures on the monitor.

Chair Lingenfelter said so that is the small building that we saw in the survey and the construction of the seawall or what you call a retaining wall. Beverly said its what the property appraiser is calling a garage and a seawall.

He asked Mr. Sanchez if he sees what she has indicated.

Mr. Sanchez said that he sees what she has indicated, but she has proven that I did an expansion because there was no expansion to it.

The chairman asked within the area that she's indicated, did you construct either one of those. Mr. Sanchez said the retaining wall yes. He said if you look at the property line, we own both sides of the canal but the canal is also retaining the people to south side of this property. The storms were eating it up; these hundred year storms, is really bad for the environment.

February 28, 2018

The chairman asked what's been termed a garage by the property appraiser, is also in that area that she indicated. Mr. Sanchez said that is correct. The chairman said that's what we saw on the 2002 survey. Mr. Sanchez said that is correct, it has never been expanded; the area of that is exactly the same since the 60's.

Member Needham said to Mr. Sanchez, you know the motions; we find them in violation based on what we have but nothing happens until a future date. In between and at that time, you can present evidence and bring forth things that put you on record that we have found these in violation by looking at the statutes.

Mr. Sanchez said that he understood that but just because we're doing it at a later date, it still doesn't give you the right to laugh and chuckle up there; this was serious to us. It caused great harm to my family over the past few years; to our health and to our lives. And it's not really a laughing matter, especially when the county went out there the way they did, illegally. The environmentalists are killing all the wildlife, it's just backwards.

Member Wild indicated a structure on the projector and asked if this is the shed that we're talking about. Mr. Sanchez said yes sir. Member Wild said and you're saying the garage door has been there since the 1960's. Mr. Sanchez said no. He said it's not a new door but it hasn't been there since the 1960's. He said I don't know, that's how it looked when I bought it.

Member Zahn said so the building was built in the 1960's, regardless of the door. Mr. Sanchez said yes sir.

Member Wild said he was just wondering if the door was an improvement. Member Zahn said if it doesn't expand the non-conforming use, then I don't believe it's an issue.

Mr. Nelson said so this photograph shows that there was no overhang. Mr. Sanchez said this is from after the hurricane. Mr. Nelson said this is the building that's been renovated and the prior picture is from two years ago.

Member Zahn said I have a technical question for Mr. Nelson. Does the roof overhang constitute an expansion. Mr. Nelson said the testified use as an apartment, changes the use and yes, a roof overhang constitutes an expansion.

Mr. Sanchez said it had a bathroom, kitchen and everything in it when they built the property; and its own septic system.

The chairman asked if the property appraiser's information showed that. That, that small structure had a kitchen and bathroom because that's what they look for in finding value in property.

February 28, 2018

Mr. Sanchez said that he's not sure, I didn't look at that. He said when he bought the place it already had it; it was old.

Member Needham asked if they put the overhead door in. Mr. Sanchez said that the overhead door was there when they bought it.

The chairman indicated the sliders on the door in the picture. Mr. Sanchez said that we put that in there right now, after Irma. He said we had it in there three months prior to Irma and we had to redo a lot of it after Irma. He said we had to take down all the drywall because of the toxic waste that was in there, because the system was not working properly.

The chairman said so what we have on the screen then, based on the property appraiser's website is a 630ft garage built in 1970.

Mr. Sanchez said I guess. I didn't see that. He said that's what they're classifying it as but it had everything back there; the system on it and everything. It had an apartment, it had green tile. He said they redid it in the 1960's or something because it was old. He said he has pictures as well.

Mrs. Sanchez said that she'd like to know, when you buy something and you get it through a realtor and title insurance is obtained; they call the county and ask if there's any concerns with the property prior to the closing. They said something about an open permit, which got taken care of; there were no other issues with the property, when we purchased the property. The title policy confirmed that there was nothing wrong. It was listed showing that, that garage had the kitchen.

Member Wild said recognize that's between the owner and the title insurance company. It's not uncommon for us to see cases where somebody has bought something and unfortunately the violation runs with the land, not with the person. So when you buy a piece of property you inherit whatever violations there maybe. Now the title insurance is giving you their opinion as to what it is and it's not binding as far as the county is concerned. But if you have a problem with what the title insurance company did and they did something in error, then you go back to the title insurance company. It doesn't give you any rights with regard to the county and the permitting.

Mrs. Sanchez said if the county was aware there was an open permit, how are they not seeing any other problems to consider. Someone can go to a property and decide this was done without a permit from many years before and then turn around and give violations. The chairman said the title company asks certain questions of a local planning agency; are there any outstanding permits, are there any applications, but it's up to the disclosure of the seller and the due-diligence of the buyer to root out if there are any violations on the

February 28, 2018

property that we're done without permits. The county may have had no knowledge of these violations and probably weren't even asked by the title company, because I've been on the receiving end of that phone call before. As to are there any outstanding permits; I don't go into I've heard that there's an unpermitted fireplace. We don't get into it without actual evidence. We only share factual information, not perceptions of things that might be on the property. It's up to the due diligence of the person selling to disclose it; that the person buying it knows the setbacks, the zoning and know that I've got this garage at the property line.

Mr. Sanchez said can I ask a question. Charles Cino, Board Attorney, said no; we're not supposed to be directing them about what they should or shouldn't do. He advised that the board stay on point.

The chairman said we have a structure that was built in 1970, according to the information before us, the evidence before us states that it was possibly expanded to the south with an overhang without a permit and that there is a retaining wall, seawall that's been placed within the setbacks along the south property line. Those are the two structures that are within the rear yard setback of this property.

Mr. Sanchez asked if he could see the setbacks in Volusia County for this zoning, when the structure was constructed.

Member Wild said it doesn't matter. What they're saying is...

The chairman said the structure is a legal nonconforming structure as long as it's not expanded; the term grandfathering. The term grandfathering means legal nonconforming.

Member Wild said once it gets expanded, it then has to meet the current standards. Mr. Sanchez said okay. The chairman said you can't expand it in a nonconforming way.

Mr. Sanchez said the overall area of that building, has not been expanded. He said it had an overhang, prior to me buying the house and there's pictures of it, from when it was for sale. We have the pictures with the overhang; Hurricane Mathew did that.

Chair Lingenfelter said they may have expanded it without a permit.

Mr. Sanchez said but it was on the appraiser's website with it there; way back then.

The Chairman said that the appraiser doesn't approve the setbacks or approve that it was done properly.

Based on the evidence and testimony provided, Member Wright **MOVED to issue an Order of Non-Compliance with a compliance date of March 30, 2018 and a Hearing to**

February 28, 2018

Impose Fine/Lien to be scheduled for the April 18, 2018 hearing for Violating Volusia County Code of Ordinances, Chapter 72 Article II Division 8 Section 72-277. After Member Wild **SECONDED** the motion, it **CARRIED** unanimously by voice vote.

CEB2018069-SANCHEZ ROBERT J

Sheriff Served

Complaint No. 20171207058

Violation of CODE OF ORDINANCES, COUNTY OF VOLUSIA, CHAPTER 72 ARTICLE II DIVISION 7 SECTION 72-241 Excavation without the required permits, exemptions and/or approvals (dredging a canal)

Property Location: 174 Poinciana Rd, Edgewater 32141

Parcel No. 844800000120

Zoning: R-4W

Building Compliance Officer - Beverly J Abrahamson

Property owner was first notified of the violation on December 8, 2017

The respondent was present for the hearing. Mr. Sanchez said that he would contest the dredging, but provide information on the without the permit portion of the violation.

Assistant County Attorney, Russ Brown, asked the Chairman if we could skip this case and go to the next one and do a couple more after that, as it would be a little quicker.

The Chairman said okay.

Mrs. Sanchez asked if we were in a rush.

Beverly said no.

Mrs. Sanchez said that she was just curious, because we have a whole lot of violations against us.

The Chairman said we're not taking a recess or anything. He read CEB2018071 into the record and that case was presented.

Beverly J Abrahamson, Compliance Officer, presented the case. As shown in the photographs here, you cannot excavate on an R-4W zoned property without a permit. Indicating her pictures, Beverly said on the left-hand side you can see the property has been excavated on. On the right-hand side you can see that he has excavated for the dredging and putting up the seawalls.

Mr. Sanchez said that was combined I guess; the dredging and the seawalls.

The Chairman said the case before is for dredging not the seawall. He asked Beverly if she had anything to add. She said no.

February 28, 2018

Mr. Sanchez said for the dredging again, I got approval from the state. If you look at that paperwork that they have, they thanked me because I'm containing the toxic materials from going back into the water system. He pointed to Beverly's picture and said that right now is polluting; you guys and the state's property is polluting. He said I did everything proper there. That is to contain the toxic waste.

Mr. Sanchez provided the board with a letter. The Chairman said that this letter is different from the letter from DEP from 2016. He said this is a letter from January 2018, from DEP. He asked Mr. Sanchez if he'd like to explain; this is your exhibit.

Mr. Sanchez said yeah. He said this is from when they came out to the property that day, with the county and the Sheriff's Department. He said they were misled by the county and we'll watch that video in a little while; so you can see all the spots where they were misled. Mr. Sanchez said when they trespassed, they were going to send someone from the DEP here but they decided not to; he said that he's not done with this case yet. Mr. Sanchez said you should have that letter as well, that e-mail. Mr. Sanchez said his finding is in my favor; that it wasn't. Everything that they told the state was incorrect. He said they were misled and they're not happy about it.

Mrs. Sanchez said since that letter he has come to our property and re-evaluated everything on that letter and said that, that letter is incorrect.

Mr. Sanchez said that was President's Day that DEP came out to see what's going on. He said that he wanted to know why the State wasn't present as they were originally called by the county. He asked why the county pulled them.

The Chairman asked if the letter was saying that there's not dredging on the property.

Mr. Sanchez said that there is and that there's all this stuff wrong with it. He said they gave him a \$30,000.00 warning. He said that the State apologized.

Member Wild asked Mr. Sanchez if he had anything in writing explaining what he is talking about.

Mr. Sanchez said yes and then asked Mrs. Sanchez if they have that e-mail.

Member Wild said that you are saying that this letter was withdrawn effectively and it was replaced by another letter. He asked if they had a copy of the other letter.

Mrs. Sanchez said no. She said that the State has not given them another letter. She said it was verbal.

February 28, 2018

Mr. Sanchez said it's under investigation as we speak. He added that the State e-mailed the county. The e-mail said that there was more information that was brought to light and that they're not done with their investigation.

Member Wild said what you're saying now, is that the investigation is still open.

Mrs. Sanchez said that he said it may even possibly be closed.

Member Wild said but you haven't gotten anything in writing, saying that everything's okay.

Mrs. Sanchez said no.

Member Wild said you've just gotten something that says they're investigating further.

Mr. and Mrs. Sanchez both said correct.

Mr. Sanchez said that the state inspected the property President's Day, which was the Monday before last. He said that there's a little bit of proof because the county had them as witnesses and now they don't; something happened there.

Member Needham said it was all verbal then.

Mr. Sanchez said there was e-mails.

Member Zahn said where going to take your testimony, or at least I will; that they went out there and rescinded this letter. He said we still have the situation where the county has its own requirements. He said even though you pursued this with D.E.P and you thought you were okay with cleaning the canal out. You have to be very careful with those things because it could be a very limited aspect of what is approved. The county still has oversight for the entire process and so even though you have one permit; we do many projects that require multiple permits. So just because we have site plan approval from Volusia County doesn't rule out, St. John's, D.O.T, D.E.P and all these other agencies. He said you need to keep in mind that while you thought you were on the right path, and you had this permit it's not 100%. The county still has oversight for it as well.

Mr. Sanchez and Member Zahn discussed what the letter established. He said that there is a pond on my property and all I was doing was getting the muck out of it. He said that it doesn't connect to any state property and it doesn't connect to any county property.

Member Wright stated the purpose of today's hearing and said that he was ready to make a motion.

Mr. Sanchez said that he was providing information, and that the violation was not cut and dry. He said that he asked the county for a lot of information in preparation for this hearing,

February 28, 2018

which he still hadn't received yet. He said that witnesses were also supposed to be subpoenaed that were not. He said that he contacted the Property Appraiser and that he said he would come down to the hearing if necessary. Mr. Sanchez said that he would like to ask him a question.

Mr. Sanchez explained the Property Appraiser, Larry Bartlett's, opinion on the issue of the code violations on the property. He said that Mr. Bartlett didn't believe that it was fair.

Mr. Sanchez asked to have a copy of the ordinance that Brenda attempted to read into the record.

The Chairman said that he was given a copy and pointed to where it was at the table, that the respondent was sitting at.

Mrs. Sanchez asked how they could be right with the state, and Brenda is still saying to the state, that they can pull permits but that she is not going to permit it. She asked about Brenda changing the definition from a ditch to a canal.

The Chairman said told the respondents that they still have to have a permit from the county, to perform dredging. He said D.E.P permits a number of things but there's still home rule; Volusia County still has the authority to issue or deny a dredging permit.

Mrs. Sanchez said even though it's platted and the survey calls it a ditch, because Brenda says it's a canal we're not going to permit it.

Mr. Sanchez asked about the ordinance. He read the word unlawful in the ordinance and said that he has several e-mails to the county asking for a lawyer. He said he should have had a lawyer retained to me.

Member Wild said what.

Mr. Sanchez pointed to the ordinance and said that it said unlawful. He repeated that he should have had a lawyer retained.

Charles Cino, Board Attorney, said okay you don't get a lawyer; its Civil not Criminal.

Mr. Shanchez said what do you mean it's not a criminal case; it says unlawful.

The Chairman said its Civil.

Mr. Sanchez said but the violation is unlawful but its Civil.

Member Wright told Mr. Sanchez that he had allowed him his one question and that it had been asked.

February 28, 2018

Mr. Sanchez said 72-22 can I have it. Beverly said that she would get it for him.

The Chairman said that he would request that staff give him it.

Mr. Sanchez said that there has been a lot of stuff, that they haven't given me.

The Chairman said they've been handing you a lot of stuff this whole time.

Mr. Sanchez said that it's nice that they're giving it to us now but we've been asking for the information for months.

Beverly said that all of our ordinances are online. The board explained that it's all public record.

Based on the evidence and testimony provided, Member Wright **MOVED to issue an Order of Non-Compliance with a compliance date of March 30, 2018 and a Hearing to Impose Fine/Lien to be scheduled for the April 18, 2018 hearing for Violating Volusia County Code of Ordinances, Chapter 72 Article II Division 7 Section 72-241.** After Member Needham **SECONDED** the motion, it **CARRIED** unanimously by voice vote.

CEB2018071-SANCHEZ ROBERT J

Sheriff Served

Complaint No. 20171215061

Violation of CODE OF ORDINANCES, COUNTY OF VOLUSIA, CHAPTER 72 ARTICLE II DIVISION 8 SECTION 72-287(B) Maintaining a r/v, boat and/or trailer without current tags/validation sticker

Property Location: 174 Poinciana Rd, Edgewater 32141

Parcel No. 84480000120

Zoning: R-4W

Building Compliance Officer - Beverly J Abrahamson

Property owner was first notified of the violation on December 21, 2017

The respondent was present for the hearing. Mr. Sanchez contested the violation.

Beverly J Abrahamson, Compliance Officer, presented the case. This violation consists of maintaining an R.V, boat and/or trailer without current tags or validation stickers. Beverly showed the board her photograph of an R.V without a tag. The next photograph showed two boats with expired tags and the trailer underneath the one boat. She showed a photograph of four additional trailers. Beverly explained to the board the four types of trailer present on the property. She indicated which trailers did not have validation stickers to the board.

Mr. Sanchez said these trailers and boats cannot be seen from the street. He said that he's

February 28, 2018

on two and a half acres and they were there when he bought the property. They were there from whenever the previous owner bought them. He said that the dump trailer is his and that he was moving debris and he said the other one is a yard trailer.

The Chairman said what about the recreational vehicle.

Mr. Sanchez said that the recreational vehicle is a homeless person's. He was not able to keep it where he was camping anymore. Mr. Sanchez said that he allowed him to put it there and that he is almost ready to move it. He said that the homeless man has started working with him and he's saved up some money. He said that it's almost ready to go back on the street and go to a campground.

The Chairman said that the pictures were taken in December. He asked Mr. Sanchez if the conditions were still the same.

Mr. Sanchez said the R.V. yes. He said that the constitution car trailer is not there anymore. He also said that the blue trailer is not there anymore. He stated that there's no debris on the yard trailer. The dumpster may or may not be there today. He said that he didn't think the boat trailer was there, as well. Mr. Sanchez indicated two other items to the board; he said that they were there when he bought the property. He said nobody can see those; I'm on two and a half acres.

The Chairman said that residential zoning doesn't allow you to store road vehicles or trailers and vehicles without current tags. He said unless they're inside an enclosed structure.

Mr. Sanchez said do you mean I'd have to get a registration and tag for every single one of those things. He said even if you're trying to fix them.

The Chairman said they have to be operable and have current tags.

Mrs. Sanchez asked what if they're inoperable.

The Chairman said then they need to be inside a structure.

Mr. Sanchez said so you can't have an R.V. and start doing work on it. He said like an old classic car, you have to have it registered.

The Chairman reiterated, inside a structure or registered. Mr. Sanchez repeated what the Chairman told him back.

Mr. Sanchez asked what kind of harm it is, if no one can see it. He said the only way she saw that was trespassing.

February 28, 2018

The Chairman said that we're not here to interpret the why on the regulations, just the fact that it's a violation.

Mr. Sanchez said just for the record, those were there when I bought the property. He pointed to the picture and said that one has been there since '82. He said that there was never a problem before.

The Chairman asked when they bought the property.

Mr. Sanchez said in 2016.

The Chairman asked if there were any questions of staff or for the respondent. There were none.

After the board moved to issue an Order of Non-Compliance Mr. Sanchez asked if everybody just motioned that on this council; you gave me a fine for those little boats right there. He said not to give me the fines but that I was in violation.

The Chairman said yes, we found you in violation and you have until March 30, 2018 to comply. He said you may call the county at any time to do an inspection and to see if the violation remains. He said on April 18th would be a hearing, to hear the cases that are still not in compliance and to determine what fine would begin and when it would begin.

Mr. Sanchez said I gotcha.

Based on the evidence and testimony provided, Member Wild **MOVED to issue an Order of Non-Compliance with a compliance date of March 30, 2018 and a Hearing to Impose Fine/Lien to be scheduled for the April 18, 2018 hearing for Violating Volusia County Code of Ordinances, Chapter 72 Article II Division 8 Section 72-287 (B).** After Member Smith **SECONDED** the motion, it **CARRIED** unanimously by voice vote.

CEB2018072-SANCHEZ ROBERT J

Sheriff Served

Complaint No. 20171215062

Violation of CODE OF ORDINANCES-COUNTY OF VOLUSIA CHAPTER 118-TRAFFIC & VEHICLES ARTICLE II ABANDONED VEHICLES, SEC. 118.34 Vehicle(s) that is inoperative and/or without current state license tag

Property Location: 174 Poinciana Rd, Edgewater 32141

Parcel No. 84480000120

Zoning: R-4W

Building Compliance Officer - Beverly J Abrahamson

Property owner was first notified of the violation on December 21, 2017

February 28, 2018

The respondent was present for the hearing. Mr. Sanchez contested the violation.

Mr. Sanchez said just for the record it's not that they're inoperable its that the Jeep right now it's the same person's vehicle; he's homeless and he doesn't have the money to do it. He's trying to get back on his feet and he's almost ready to put it out there.

Beverly J Abrahamson, Compliance Officer, presented the case. This violation consists of inoperative and vehicles without a current state license tag. She indicated the gray Jeep Cherokee in the pictures and said that it has two flat tires and an expired tag on it.

The Chairman asked if there were any questions for Beverly.

Mr. Sanchez said Like I said, both of those vehicles were from the same person and he just didn't have the money. He asked if he doesn't have the money now, I'm already helping him out as it is, what I do with the vehicles. Do we have to take them to the dump? If I don't want to register it in my name, or give him the money to register it in his name, so he can just drive off.

Board Attorney, Charles Cino, said that we're not supposed to advise you on what to do or not do; that's not our responsibility.

The Chairman explained that Mr. Cino was raising a point of order; within the realm of what we are supposed to be handling up here. We are not to give you advice on how to cure the violations. He asked if a truck in Beverly's photograph was a part of the violation.

Beverly said it doesn't have a tire; yes, it's inoperative.

The Chairman recapped what the board had seen in photographs.

Mr. Sanchez said it had a flat tire that day but it was fixed after that. He said that's an everyday vehicle; it's registered and insured. It just had a flat tire that day.

The Chairman said so this might already be taken care of but the issue of the Jeep remains today. Do you think by March 30th it could be done.

Mr. Sanchez said I just don't know where to put it. He said with the Winnebago there, I cannot fit it any structure that I have. He said I don't know what to do with this guy; I feel bad for him. He's almost back on his feet, I do that with a lot of kids with no homes or moms and dads. He said there's a lot of orphans in that city.

The Chairman reiterated what would need to be removed from the property my March 30th. The board explained that the vehicles would either need to be tagged and operable or housed in a structure.

February 28, 2018

Mr. Sanchez said if I can't get the Winnebago tagged or put indoors, what do I have to do; get rid of it. The board said yes.

The Chairman said off the property, but you can't just move it back on it on April 19th.

Based on the evidence and testimony provided, Member Wright **MOVED to issue an Order of Non-Compliance with a compliance date of March 30, 2018 and a Hearing to Impose Fine/Lien to be scheduled for the April 18, 2018 hearing for Violating Volusia County Code of Ordinances, Chapter 118 Article II Section 118.34.** After Member Needham **SECONDED** the motion, it **CARRIED** unanimously by voice vote.

CEB2018073-SANCHEZ ROBERT J

Sheriff Served

Complaint No. 20171215063

Violation of CODE OF ORDINANCES, COUNTY OF VOLUSIA, CHAPTER 72 ARTICLE II DIVISION 7 SECTION 72-241 Converting a shipping container(s) to an accessory structure and using it for storage

Property Location: 174 Poinciana Rd, Edgewater 32141

Parcel No. 84480000120

Zoning: R-4W

Building Compliance Officer - Beverly J Abrahamson

Property owner was first notified of the violation on December 21, 2017

The respondent was present for the hearing. Mr. Sanchez contested the violation.

Beverly J Abrahamson, Compliance Officer, presented the case. As shown in the pictures, we have two shipping containers on the property, which are being used as accessory structures or they have been converted into accessory structures.

The Chairman asked if any power was being run to the structures. Beverly said that she didn't know.

Mr. Sanchez said that he brought them there for the construction and they're storing his tools and a lot of materials. He said it's like a storage pod. He said people rent the pods and bring them into their yards; I just didn't want to rent one for that long. He said I don't know when I'm going to be done with construction or if I'm ever going to be done with construction on that place.

Member Needham asked if Mr. Sanchez bought them. Mr. Sanchez said yes sir. He said that they won't remain in the future; they're either going to another property I have, or I'll sell them.

February 28, 2018

Under discussion Member Wild asked, if Mr. Sanchez were doing legal, permitted construction would these containers be able to be used as storage.

Mike Nelson, Building and Zoning Director, said if he has open active permits; yes, it would allowed to be on site.

Mr. Sanchez asked what if they moved; he said that you see people that are moving use the pods and they move from house to house.

Mr. Nelson said we're discussing shipping containers on this property, and the answer to your question is yes they would be allowed to be there, if they have open, active Volusia County permits.

Mr. Sanchez said they're allowed to be there if somebody moved. Mr. Nelson said again, we're not addressing that.

Mr. Sanchez said can I please see it in the code, where it shows that they're not allowed. Mr. Sanchez said I couldn't find it and I'm not a lawyer. I don't have the resources the county does; unlimited resources.

The Chairman said it's actually stated on the agenda, the section where this is in violation of.

Member Wild said it happens to be the zoning.

The Chairman reiterated that the zoning for the property does not allow a shipping container or a pod on a piece of property, as an accessory structure.

Mr. Sanchez said it's not an accessory structure; it's a temporary structure.

The Chairman asked how long they've been there. Mr. Sanchez said about six months or so.

Member Zahn reminded the board that there was a motion that was seconded. He said we've already reviewed the case.

Mr. Sanchez said you guys didn't seem like you reviewed it; I see pods all over the place.

The Chairman said what we see before us are two shipping containers on a residential property without an active construction permit.

Mr. Sanchez asked what can I have on the property.

February 28, 2018

The Chairman said that zoning has a list of the things that you can have.

Based on the evidence and testimony provided, Member Zahn **MOVED to issue an Order of Non-Compliance with a compliance date of March 30, 2018 and a Hearing to Impose Fine/Lien to be scheduled for the April 18, 2018 hearing for Violating Volusia County Code of Ordinances, Chapter 72 Article II Division 7 Section 72-241.** After Member Needham **SECONDED** the motion, it **CARRIED** unanimously by voice vote.

CEB2018064-SANCHEZ ROBERT J

Sheriff Served

Complaint No. 20180119034

Violation of CODE OF ORDINANCES, COUNTY OF VOLUSIA, CHAPTER 72, ARTICLE III, DIVISION 10 SECTION 72-834(1-5) Description: Removal of any tree without first obtaining a tree removal permit from the County Forester

Property Location: 174 Poinciana Rd, Edgewater 32141

Parcel No. 84480000120

Zoning: R-4W

Environmental Specialist II - Brenda Borgiet

Property owner was first notified of the violation on February 7, 2018

The respondent was present for the hearing. Mr. Sanchez contested the violation.

The Chairman asked Mr. Sanchez if he understood that this is a violation of the tree ordinance.

Mr. Sanchez said that he had the hurricanes. He said there were two hurricanes that damaged the trees that were there. He said he took down some scrub trees and that none of them were protected trees.

Brenda Borgiet, Environmental Management Certified Arborist, presented the case. This is for a tree violation, for the removal and destruction of the majority of the trees located on the non-owner occupied parcel. Meaning by tree ordinance if its non-owner occupied, any tree that's removed that's six inches or larger would have required a tree removal permit. What we consider to be removals would be cut down, dug up, destroyed, effectively destroyed or unlicensed relocation of a tree permit. When you look at the definition of effectively destroyed it is to cause, suffer or allow/permit any activity that will cause a tree to die, or go into a period of unnatural decline; especially within a period of two years from the date of the action.

Brenda said that Mr. Sanchez obviously lives at 135 Poinciana Road; the parcel is not owner-occupied, so again, any tree removal would have required a permit.

The Chairman asked if that was based upon homestead exemption.

Brenda said correct.

February 28, 2018

Brenda explained the historic oak in her slides. She explained its size and the excavation that had taken place under the drip line of the tree. She directed the board's attention to the fill material and root working that had happened under the tree. Brenda explained a tree's root system to the board. She said that you would have to go out one foot for every inch diameter in that tree, just so you're not impacting that tree. She said that you can see the damage goes right up to the trunk; particularly on the trunk collar; there's mechanical damage as well. She said that all of this activity would have declared the tree effectively destroyed.

Brenda showed the board a second live oak with the same issues. She directed the board to the slide and said you can see that it's impacted up to the trunk of the tree. She showed the board additional mechanical damage to the root system. She said the tree is considered effectively destroyed. So it would have required permits at that time. Right now, it would require D.R.C approval for historic tree removal but its past that point. Brenda said as far as the remaining trees on the parcel, note that the construction activity that's happened out there; all of the trees have mechanical damage, they have filling material, they have been root raked and we would again, consider all of these trees effectively destroyed and removed.

Member Wild asked if that included palm trees.

Brenda said yes sir, palm trees are under our tree ordinance.

Brenda explained that her next slide, showed the destruction of the remaining trees on the property.

Mr. Sanchez said that all of the trees in the pictures are alive and well. He said the trees are doing magnificent and they're going to continue to do magnificent. The trees that were moved was due to the erosion of the bank, after both hurricanes. He said more after hurricane Irma. One tree was rotted and that came down in the hurricane. The trees are all doing fine and well.

Brenda said as a certified arborist, I can tell you those trees are not fine and well. They are damaged and considered effectively destroyed, per our definition they are effectively destroyed.

Mr. Sanchez said they're not destroyed; they're actually doing pretty good.

Member Wild asked when the work was done to fill.

Mr. Sanchez said we didn't fill anything, we excavated.

Member Wild asked when the excavation was done.

February 28, 2018

Mr. Sanchez said it's been going on since 2016. You can see the berm; you can see it progressively getting bigger and bigger. He said they thought I went into that state property on the canal and that's how the state got involved. He said they saw on President's Day that wasn't the case. All those trees are still there doing well.

Member Wild said to Brenda that she had some overhead slides that were original, which showed the property. He asked her, if she could show where the trees that you see here aren't.

Brenda explained the placement of the historic oaks on the property, using the pictures in her slides.

Member Wild said I think there was another slide that showed a lot of the construction.

Brenda showed the direction that the construction was taking place in.

Mr. Sanchez said as you can see, those oaks are still there.

Brenda said that she could see that a lot of trees had been removed.

Member Wild asked other than the historic, how many were 6 inches or greater.

Mr. Sanchez said that he didn't take out any of those, just the ones that were up against the erosion of the bank. He said if you go to the property at the East of me, you're going to see trees down all over the place from this hurricane. He said we had extensive damage out there. Mr. Sanchez pointed to one of the pictures and said that right there is just overgrowth of the trees and the branches. He said the storms cleaned out the thickness of those branches. He asked if the picture was taken in the winter time. He said you see that the leaves are gone; you can see over the water right there. You can see all those branches above the lagoon.

Member Wild said he sees a lot of what looks like dirt, there to the right of the pond.

The respondents explained why the leaves were missing from the trees. They assured the board that the leaves are coming back.

Mr. Sanchez pointed to a tree in the slides and said that it came down in the hurricane.

Brenda said if we look at these two photos, the fact that they're both taken in January; leaf coverage is not a valid point. Brenda showed pictures of the trees from January of 2015 and 2018.

February 28, 2018

The respondents said that there had been two hurricanes since then.

Brenda said and a lot of construction activity.

Mr. Sanchez said we're talking about trees now and there has been two severe hurricanes; one hundred year storms have been through there.

The Chairman asked if when something like this, occurs near a tree is there something you can do.

Brenda said you can hire an arborist to come up with a tree protection plan or zone. She said usually if you compromise more than 20% of the root-zone then you are effectively destroying the tree. She said it will decline over time, particularly a historic oak.

The Chairman asked for Brenda's recommendation for the board.

Brenda recommended a finding of non-compliance, with a compliance date of 3/30/2018 to obtain all necessary permits.

Member Needham asked if the landowner wants some help determining what to do with a tree is there a cost if somebody comes out and gives them advice.

Brenda said they can hire an arborist and they can walk them through the process. It was explained that there would be a cost.

Member Zahn said that we've pulled a tree permit and there's a lot of calculations associated with it; a lot of numbers. He said it's a very detailed process.

Mr. Sanchez said that most of those trees are gone from the hurricane.

Member Zahn explained the process and that an after-the-fact permit would be needed.

Member Needham asked if Brenda obtained the pictures herself.

She said that she did.

Mr. Sanchez said that they were obtained illegally.

Based on the evidence and testimony provided, Member Zahn MOVED to issue an Order of Non-Compliance with a compliance date of March 30, 2018 and a Hearing to

February 28, 2018

Impose Fine/Lien to be scheduled for the April 18, 2018 hearing for Violating Volusia County Code of Ordinances, Chapter 72 Article III Section 72-834 (1-5). After Member Needham **SECONDED** the motion, it **CARRIED** unanimously by voice vote.

CEB2018070-SANCHEZ ROBERT J

Sheriff Served

Complaint No. 20160401026

Violation of CODE OF ORDINANCES, COUNTY OF VOLUSIA, CHAPTER 72, ARTICLE III, DIVISION 11 SECTION 72-884 Description: Altering any Volusia County jurisdictional wetland and/or wetland buffer without first obtaining a wetland alteration permit.

Property Location: 174 Poinciana Rd, Edgewater 32141

Parcel No. 844800000120

Zoning: R-4W

Environmental Specialist II - Brenda Borgiet

Property owner was first notified of the violation on April 4, 2016

The respondent was present for the hearing. Mr. Sanchez contested the violation.

Brenda Borgiet, Environmental Management Certified Arborist, presented the case. This violation is for the impacts to wetlands or wetland buffers, on this property without proper permitting. This case started in 2015. Brenda showed a picture of the original conditions. She indicated to the board where the wetlands are located on the property, due to wetland buffers and surface water. She showed the board a picture taken in 2016. She said when you go to 2016, you can see better where the impacts are starting. She explained that in 2016, the complaint/violation started. Brenda showed some dredge material starting to be placed in the upland portion of the property.

Brenda showed pictures from 2017. She said that you can notice a much wider wetland connection to the canal. She showed the board pictures from 2018, and explained the changes that had taken place since the case began.

She said that the original complaint came in 2016. She showed what the canal that came up into the parcel, originally looked like. She explained that it wasn't very navigable and very shallow. Brenda said that the respondents were told to stop work and she was asked to leave the property. She showed the board, in what way dredging was conducted in the canal.

Mr. Sanchez asked if it was a canal or a ditch.

Brenda said this is a canal.

Mr. Sanchez said it's a canal; now it's a canal.

Using her pictures, Brenda explained that there was further dredging up into what is now listed as a ditch on the survey that Mr. Sanchez provided.

February 28, 2018

Brenda explained the fact that the ditch has a connection to the canal and that it doesn't matter if you call it a canal or a ditch; she said it's considered a surface water in a wetland. Brenda said regardless of whether you call it a ditch or a canal, it's still considered a wetland, and a wetland alteration permit would have been required for the original dredging activity that was done. She said that she sent Mr. Sanchez a notice of violation, in which he was told that he needed a permit for that dredging activity. The dredging activity would have been permissible had he provided the permit information. He would have had to come up with the necessary documentation, to prove that he was not widening or expanding what you currently see on site. She said it would have to be dredged back to its original condition.

Member Needham asked when Brenda notified Mr. Sanchez of that fact.

She said it was on April 1, 2016.

Brenda said that Mr. Sanchez kept mentioning a \$1,000.00 a day fine, which is the standard language in our letter; he was never verbally told he was getting a fine every day. Brenda explained what the standard letter says to the board.

Mrs. Sanchez asked the board to repeat what they just said.

Member Zahn said this language references that the board has the ability to levy a fine, up to \$1,000.00 per day. He explained that it has to go through due process before that ever happens.

Mr. Sanchez said with these 15 infractions, that you guys are saying we're not in compliance with them, going up to \$15,000.00 a day; when do you think this would warrant an attorney from me. Are we just going to take this civilian's property? When does it come to a point where, I mean its criminal what's going on with the county, to me?

Member Needham said that you're asking us legal questions; we're determining whether or not you're in violation.

Brenda continued with her presentation. She said obviously we have 25ft buffers that come off of these wetlands; she used her pictures to show the location of the buffers in proximity to the canal. She showed the buffers in relation to the ditch. Brenda said that all these buffers have been altered. Effectively, all the vegetation has been removed and everything has been destroyed. She showed the board the pictures of the destroyed wetland buffers and explained that's what you would have needed a permit for.

Brenda said that when she met Mr. Sanchez out there in April, he was told that the original dredging activity could have been permissible. She said but that was within the canal; not

February 28, 2018

all of this vegetation removal in the buffer. She said that is not dredging.

Mr. Sanchez said there was no vegetation removed.

Brenda indicated her pictures and asked Mr. Sanchez if he could explain the piles of debris.

Mr. Sanchez said everything was overgrown and they were cut limbs. He said in that picture right there, no vegetation has been removed. He said if you went there right now, you'd see that one palm tree to the right, that was removed and that's it; in that picture. Mr. Sanchez said that was the only one removed and that was because of the erosion of my bank. He said if you go there right now, all the trees in the picture are there, except for the palm tree. He said one oak tree was cracked and it came down.

Member Zahn asked Brenda what is the typical buffer outside of a defined wetland.

Brenda said it depends on whether you're in a natural resource management overlay. It could be as big as 50ft or less. She said in this case, since it's a man-made canal it would have only been 25ft.

Member Zahn said so it's not only the canal itself, the water surface, but 25ft outside of that would be considered jurisdictional as well.

Brenda said yes sir.

Mr. Sanchez said only for properties platted after 1970. He said I have the exemption here, if you'd like to see it.

Brenda said her jurisdiction is for wetlands not surface waters; they are wetlands.

Member Needham asked for clarification, if the opening on the retaining wall on the right-hand side had a boat ramp.

Brenda said that there are several boat ramps. She showed the board the location of the other boat ramps.

Mr. Sanchez discussed one of the pictures. He explained that they just launched a boat off that ramp and that it was overgrown and covered.

Brenda said that several stop work orders were issued, verbally in April of 2016. She said another stop work order was issued in May of 2016, by another staff member when more complaints were received; stating that work was still taking place. The site was posted in 2017 and then again in December of 2017. She said work still continues to this day.

February 28, 2018

Mr. Sanchez said he's not working on any of these violations right now. He said he's only doing work that he's allowed to do. He said he is still dredging because he has the approval from the state; he said beside that and the seawall.

The Chairman asked if there were Mangroves or Brazilian Pepper.

Brenda said some Mangroves along the shoreline. D.E.P stated that he was not allowed to remove the mangroves.

The respondents said that they did not remove any mangroves.

Member Zahn asked to see a photo from April 1, 2016, in comparison to a recent photo.

Mr. Sanchez said looked at the photo from April 1st and said that the property still looks like that. He indicated that the property with the mangroves is state property. They said that they didn't touch it.

Brenda said its still wetlands.

Member Needham left the room, but the motion carried as there was still a quorum.

Mrs. Sanchez said all of these violations that you're giving us 30 days to resolve, there's a multitude of them, it doesn't seem like that's a reasonable amount of time.

The Chairman said what typically happens, is we get updates from staff and if they see progress made, they may come before us and say this is the progress that is being made. He said you can come back and then we get into first amended orders which are extensions, but we have to see progress being made. If we don't see any progress being made, then we move on to a hearing to impose fine.

The Chairman gave examples of what progress could be.

Mr. Sanchez we applied for a permit and they wouldn't give us one.

The Chairman said that was for a fence.

Mrs. Sanchez said it was cancelled and it took a year for them to reply back and put it back in pending status.

Mr. Sanchez said and now it's back in pending status because we had a violation of a \$1,000.00 per day, its back in pending status because they know that they did wrong and they're telling the people at their office to lie for them. I had them subpoenaed, but they did

February 28, 2018

not bring anyone that I subpoenaed.

The Chairman said there could have been a scope worked out, with Environmental to permit some of that dredging. So there was a permissible activity that you wanted to perform.

Mr. Sanchez said Brenda said she would never give me a permit for that; she said she was there for 15 years and she just wouldn't.

The Chairman said her testimony during that case, was that it was permissible activity. Her testimony was that she explained it to you.

Based on the evidence and testimony provided, Member Zahn **MOVED to issue an Order of Non-Compliance with a compliance date of March 30, 2018 and a Hearing to Impose Fine/Lien to be scheduled for the April 18, 2018 hearing for Violating Volusia County Code of Ordinances, Chapter 72 Article III Division 11 Section 72-884.** After Member Wild **SECONDED** the motion, it **CARRIED** unanimously by voice vote.

CEB2018074-SANCHEZ ROBERT J

Sheriff Served

Complaint No. 20180130038

Violation of CODE OF ORDINANCES, COUNTY OF VOLUSIA, CHAPTER 72, ARTICLE III, DIVISION 16 SECTION 72-1100 and 72-1101 Description: Less than thirty-five percent (35%) of the lot contains native vegetation.

Property Location: 174 Poinciana Rd, Edgewater 32141

Parcel No. 84480000120

Zoning: R-4W

Environmental Specialist II - Brenda Borgiet

Property owner was first notified of the violation on February 7, 2018

The respondent was present for the hearing. Mr. Sanchez contested the violation.

Brenda Borgiet, Environmental Management Certified Arborist, presented the case. This violation is a violation of the Indian River Lagoon surface water overlay, which is a class 2 designated waterway by the state of Florida. This is for the protection of the Indian River Lagoon and any and all, shellfish harvesting waters. This parcel falls in that overlay, so it does connect into it.

Brenda showed the board a picture of the property from 2015. She said as you can see in the 2015 aerial there's quite a bit of vegetation; this parcel definitely would have met the 35% native vegetation retention requirement. However, after improvements anything over 250sqft of an improvement would require that you show and get a permit; stating that you still have 35% native vegetation retention on the property. Brenda showed a current picture of the property. She said as you can see, the site currently doesn't meet the 35% native

February 28, 2018

vegetation retention.

Mr. Sanchez asked to go back to the previous picture. He said look at the trees across the street from Poinciana; he said look at the growth and stuff like that. He said remember, we had two hurricanes. Mr. Sanchez directed the board's attention to the trees across the street from Poinciana in Brenda's pictures.

Mrs. Sanchez asked where's all their trees?

Brenda said those are owner-occupied.

Mr. Sanchez said I'm not saying that; I'm saying it dwindled down a little bit during these storms and I know that, because they put all their stuff on my side of the street. He said he had to get rid of it, which is fine, there was a hurricane. He said the county didn't come for months to pick it up.

Member Wild said I was looking at that lot, 492 and it looks like palm trees are still there. That just happened to be the one I was looking at, when they showed the picture. He said it looks like most of the vegetation is still there.

Mr. Sanchez asked if that is to the south of the property or the north.

Member Wild said the north and indicated which property in the aerial that he was referring to.

Mr. Sanchez said that's a big difference. The difference is the vegetation on the tree. He said it looks way different to the south or the north.

Member Wild said I see the vegetation there at the corner, I'm just looking at 3974492. I see the vegetation in the lower left hand corner. I see palm trees; I see some vegetation next to the driveway and when you flip to the next slide that they were showing, I see the vegetation to the left and I see the vegetation to the right of the driveway. I don't see any real difference.

Mr. Sanchez said the yard over there, directly across is covered because he had some come down during the hurricanes.

Mrs. Sanchez said I'm not saying the vegetation does not exist, its saying their leaves and everything become bare as it did on our property. The oak trees are still there, the leaves aren't there so it makes it look barren.

The Chairman asked the size of the property.

February 28, 2018

The respondents said 2 ¼ acres.

The Chairman said a third of that would have to be native; less than an acre.

Mr. Sanchez said it wasn't when we bought the property. He said there was a hedge up here, where the ConX is now; that we took down because it was halfway on their yard and halfway on ours.

Mrs. Sanchez said if you look to the property on the right of us; the property that we do not own, do you see how it's all kind of barren? There's trees there but it's not as thick. She asked the board to look at previous pictures to illustrate her point. She said it's because hurricanes impacted the land.

Mr. Sanchez directed the board to a different picture in the presentation. He said do you see the property to the east? Boom, its barren just like mine. He said it looks like that guy, went in there and knocked down all the trees. He said if you go back to the original one before that; boom, its solid. I mean there was two hurricanes.

Mrs. Sanchez said if you go there now, there's tons of trees. She said that property to the east of us, there are tons of trees down.

Member Wild said the way to show that, is a tree survey. A survey that goes in there and identifies the trees and shows the 35% vegetation; which is something that you would have to do when you get a land permit anyway.

Mr. Sanchez said he has no problem with that. If they would have issued me the permit, we wouldn't be here.

Member Wild said right, if you would have applied.

Mr. Sanchez said I at least responded; why aren't you issuing us a permit. If they would have done that, we wouldn't be here today. But that and the history of my father and the history of Brenda telling me she wouldn't, made me decide they're going to play these shenanigans and it already cost me a lot of money.

Now she was talking about the oysters and the shellfish, let me explain, they have no maintained this canal. Just like what happened in Broward; they have these fish kills. He said whenever there's a heavy rain and a high tide it pollutes our Indian River. The environmentalists here are actually a detriment to the shellfish and the environment. He said when there is a heavy rain and high tide, the toxic waste goes onto his property; like during the hurricanes. He said he saved the whole neighborhood from flooding during the storm, by cleaning out all that stuff and getting it to drain properly from the county's creek. He said it was all backed up. He said he had to remove a lot of that stuff and if I hadn't

February 28, 2018

done that, there would have been a lot of property damage.

The Chairman said that we'll be looking forward to seeing the follow-up from DEP.

Mr. Sanchez said they're going to show you. He said that he wanted to present the video that we have, the CD as evidence.

The Chairman said I'll let you do that. He asked Brenda how she determined that there is less than 35% native vegetation on the site.

Brenda said just from being there and seeing the aerials as well. She said anything over 250sqft of construction requires the site to be in compliance with the 35% native vegetation retention.

The Chairman asked what if the property had less than that.

Brenda said we would not look at class 2. It has to have a building permit of 250sqft or more, or cleared prior to 1987.

The Chairman said so it's been in place since 1987.

Brenda said correct. She said the activity is recent, so that's how we're looking at it.

Member Needham said when you met with him on the 1st of April, you met with him. Member Needham indicated Mr. Sanchez.

She said correct.

Member Needham asked if it was her testimony that you properly apprised the land owner, of what he could do or not do and what the process was.

Brenda said yes.

Member Needham asked if there was any doubt in her mind that there should have been any question remaining. Did you answer all the questions that he did ask or could have asked?

Brenda said yes; at the time, he was strictly in the canal dredging. That was the only thing that I noted at that time.

Member Needham said is it your testimony that when you left, he should have had all of the information necessary to comply.

February 28, 2018

Brenda said correct. She said we were under the assumption that he was going to try to do that, per some e-mails from Mrs. Carrie Sanchez to Ginger Adair; who is our director. The e-mails asked what they needed to do, so it was no longer a violation.

Member Needham asked after that contact, were there any calls made to by Mr. Sanchez to see what he needed to do.

Brenda said I have some timelines and that she could look the information up for you. Brenda put an e-mail up, it was to Ginger Adair from Carrie Sanchez. Brenda explained that it basically asked what they needed to do to remedy the violation. She explained Ms. Adair's explanation to Mrs. Sanchez.

Member Needham asked if the e-mail was based off Brenda's site visit.

Brenda said yes.

Member Needham asked Mr. Sanchez if he recalled receiving this e-mail.

Mr. Sanchez said he did not, that it was his wife.

Member Needham asked if Mrs. Sanchez if she recalled receiving the e-mail.

Mrs. Sanchez said that she did.

Member Needham asked Mrs. Sanchez if after receiving that e-mail, if there were any questions in her mind that would have required her to call for clarification.

Mrs. Sanchez said she received it and after that, they were notified by the DEP that we were in compliance.

Member Needham asked did you communicate with the other authorities on it and tell them that you were in receipt of that.

Mrs. Sanchez said many times.

Member Needham asked what their response was.

Mrs. Sanchez said that Robert and I had a conversation with Brenda, on the phone after.

Member Needham asked when, after the receipt of this.

The respondents both said yes.

February 28, 2018

Brenda explained what was discussed over the phone with Mr. and Mrs. Sanchez. She told the respondents that they were not grandfathered in.

Mr. Sanchez said that the state told him that as long as he was on his property, that he could dredge; once he moved outside of his property lines, he was told that he must contact the state to continue dredging. He said he explained this to Brenda and she told him as long as he stayed on his property he could dredge. He said he thought that was resolved after this letter.

Member Needham asked if that was her recollection of the conversation.

Brenda said no. She said she told Mr. Sanchez that it was perhaps a permissible activity, as long as he applied for a permit. She said she explained what documents he would need to obtain one. She said Mr. Sanchez said he would apply for a permit on Monday. Brenda said there was further confusion so Ginger Adair e-mailed for further clarification.

The respondents said that the e-mails took place before the phone call. Mr. Sanchez said that the conversation resolved it for them because you said that we could dredge if he remained on our property. Mr. Sanchez said that Brenda said it in front of his wife.

Member Needham said I think she testified that you needed a permit.

Brenda said your wife was never there.

Mr. Sanchez said he was told that he would have to get a permit to go outside of his property lines into the waterway. She keeps saying canal, we did not go into the canal at all. We still haven't and the state was out there' we proved that to them the other day.

Mrs. Sanchez said on multiple occasions, Robert had correspondence with Brant Kruger, Environmental and requested that he come visit the property.

Mr. Sanchez said that they were get all these letters with a \$1,000.00 a day fines and he called Environmental and he got Brant. He said that he thought he was a supervisor, but he wasn't sure who he was. Mr. Sanchez said he begged him to come out, to get a second set eyes from the county out there; he said this was before Brenda said that he could dredge if he stayed within his property lines.

Member Needham said Robert, are you aware that the verbiage saying that you could be is advisory; it's not an indication that it's going to be.

Mr. Sanchez said it's a threat and it's pretty serious.
Member Needham said it's a statement of the law.

February 28, 2018

Mr. Sanchez said in the beginning I had 20; so that's pretty much a threat. He asked the board to present evidence.

Member Wild asked Mr. Sanchez to read the first line from the letter on the projector. The letter was from Volusia County. Mr. Sanchez read, if you are dredging a canal in Volusia County you need to attain a county wetland permit.

Mr. Sanchez said he never dredged. He said it's a ditch; when you go back there it's a ditch. He said he never got into the canal. He said you guys can go out there yourselves; you guys are welcome to go out there.

The Chairman asked what were the floating dredges in the canal, in the photos we saw.

Mr. Sanchez said that wasn't in the canal, which was inside my portion of the property, inside the lagoon.

Board Attorney, Charles Cino, said that issue in front of us is the 35%; that's what in front of us right now.

Mr. Sanchez said that he wanted to show his video to the board.

Brenda said may I finish the second half of the violation. She said there are two parts. She explained that we've done the 35% native vegetation but we need to move onto the storm water retention that's required on the parcel as well.

Mr. Cino said that's not on the agenda.

The Chairman said I don't have that.

Brenda said it falls under 1101.

Brenda explained the ordinance to the board and reiterated that it has two parts. She explained with the amount of construction, that in addition to the 35% native vegetation that storm water retention is also required.

Brenda said as you can see from the photos, with all this construction activity, there is no retention to prevent runoff from going into the waterway. She said that we do have additional photos of construction on the property and the erosion it has caused. Brenda went on to say, that the entire parcel would have to be brought into compliance.

Mr. Sanchez said with the storm water going back into the canal, obviously that's not to pollute the waterway. He said we have a catastrophe out there with the county and the state property. He said it's not maintained and they're polluting the water, every single day.

February 28, 2018

The Chairman said if I'm understanding 1101 correctly, if you construct something that's impervious of 250sqft you must store a half inch of rainfall in that same area.

Brenda said over the entire parcel.

The Chairman said that means a depression as opposed to a berm.

Brenda said the retention has to be 6 inches in depth.

The Chairman said that's outside of any compensatory storage, due to any filling within the flood plain. He asked Brenda if that was correct.

The Chairman addressed Mr. Sanchez; he said so that's what's before you. You added to the impervious, but you did not provide for retention of that storm water run-off.

Mr. Sanchez said for the storm water run-off, we have a ditch in the front of the property.

The Chairman asked Mr. Sanchez if it was in the road right of way.

The respondents said yes.

The Chairman said it has to be on your property.

Mr. Sanchez said some of it's on my property; half of it's in my property, half of its not. He said it runs the full length of my property and then cuts into my property and goes to that little lagoon area. He said that's what they thought I was trying to dredge and I wasn't trying to dredge that.

The Chairman said so that's where we went from ditch to a canal.

Mr. Sanchez said that's right. He said they didn't get that right away; I was never in the canal.

The Chairman asked how long the video is.

Mr. Sanchez said not long, like 5 minutes. He explained that there was two videos; one from each deputy. He said we only need to see one, from one deputy. He explained this is when they came onto the property and found all of these violations.

The Chairman asked Mr. Sanchez if he felt that the board needed to see the entire video. Mr. Sanchez said the first two or three minutes should be good. He said it would be nice for you to see it, so you can see that people are dishonest on their original statements; with

February 28, 2018

the police and the police reports. That what they're saying today is completely different. So, they're being dishonest and you should know that these county employees are dishonest sometimes.

The Chairman asked if the videos were queued up and ready to go. He explained that staff was working on presenting the video. He asked Mr. Sanchez to inform staff if the video being played is not the correct one.

Mr. Sanchez said that the video playing was the right one.

Staff showed the body cam video, provided by the Volusia County Sheriff's Department.

Mr. Sanchez explained what he wanted the board to take notice of.

While the video was playing, Mr. Sanchez said that it was not the correct video. He said the other video was part one.

Staff put on the other video and Mr. Sanchez confirmed that it was the correct one. Mr. Sanchez said the video will not have sound for the first 45 seconds or so. The video began playing. Mr. Sanchez asked the board to observe the fence. He said that it's impossible to view any of the violations through the fence.

While the video was playing, Mr. Sanchez indicated that one of his friends told staff and the deputies that they had to leave the property. He said right there, they shouldn't be on the property. He said you've got a couple deputies threatening everybody.

Mrs. Sanchez said we weren't even on the property at that time.

Mr. Sanchez said that's all I wanted you to see; we don't have to waste any more time with the video. Staff stopper playing the video.

Mr. Sanchez said that shows right there, every infraction that she gave me was after this. He said everything was obtained illegally folks; so unless we don't have law any more in this country, since they went on my property illegally with every one of these violations, they cannot bring them up.

Member Wright told Chairman Lingenfelter that he would like to make a motion. The Chairman stated that there was a Volusia County deputy that would like to give testimony.

Volusia County Deputy, Charles Stewart, gave his name for the record. Deputy Stewart pointed out that he was one of the deputies in the video. He said when arrived on scene, as you can see, the gate was open. There was no, no trespassing sign posted there at the time.

February 28, 2018

Mr. Sanchez began to speak.

Deputy Stewart told Mr. Sanchez not to interrupt him and stated that Mr. Sanchez had interrupted people all day.

Deputy Stewart said that once we go onto the property, once we see a violation we have legal right and standing to be there at that point and time. There were violations pointed out to me at that point in time, we had legal right to be there. The gentleman on the property is not the homeowner; by law when it comes to trespassing, he cannot ask us to leave. He said the homeowner has to do that. When Mr. Sanchez showed up on scene, we were already off the property. When Mr. Sanchez said that Brenda could not go back on the property, she adhered to that and walked back onto the road; she never went back on the property. So that's why we had the legal right to be there, at that point in time once we saw the violations on scene. Anyone who is working on the property does not have the legal right to tell us to leave the property. He is not the homeowner and has no rights to the property whatsoever. That's why we're allowed to be there.

Member Needham asked Deputy Stewart, how he happened to be there for this event.

Deputy Stewart said we were called by the state and the county code enforcement, to do what is called a civil standby. He explained that the civil standby is to basically keep the peace because Mr. Sanchez has had hostilities in the past with code enforcement.

Member Needham said so you were properly asked to be there.

Deputy Stewart said yes.

Member Needham asked if there was some sort of record of the visit with the precinct.

Deputy Stewart said the body cam video but that civil standby doesn't require a standard report; he said that a note is entered into their system.

Member Needham said so there would be some sort of record of you being requested to be there.

Deputy Stewart said yes.

Member Wild said this video if from a body camera.

Deputy Stewart said that the video was from his trainee, at the times, body camera. He said that he had some kind of medical issue and was not able to be here today. Deputy Stewart said he was my trainee, under my direction. My body camera was on and running

February 28, 2018

as well. He said they received those videos as well. Deputy Stewart explained that the camera is on the collar or on a headset depending on who it is. He said we both, at the time, had them on our collars; so where are shoulders go, the video goes.

Mrs. Sanchez said I would like to see the video that shows, we're doing so much illegal stuff.

Deputy Stewart said you can request that, it's not a problem.

Mrs. Sanchez said we have that.

Mr. Sanchez said I don't think that's going to get us anywhere.

Mr. Sanchez said that he had a question for Deputy Stewart.

Mr. Cino asked if it was about the case before us.

Mr. Sanchez asked when you go to my property, did you tell any of my guys that they would be arrested if they continued to do what they are doing.

Deputy Stewart said if it's on the body cam footage; whatever's on there. I'm not going to attest to anything right here.

Mr. Sanchez asked Deputy Stewart what his mission statement is, with these civil matters.

Deputy Stewart asked Mr. Sanchez if he knew it.

Mr. Sanchez said how you conduct yourself, is to stay neutral and out of it whatsoever.

Deputy Stewart asked Mr. Sanchez if he'd like him to give our mission statement.

Member Zahn and Member Wright said that this is not part of the case.

Deputy Stewart said it's not, but can I give the mission statement of the Sheriff's Office.

Member Wright said he could.

Deputy Stewart read the mission statement of the Volusia County Sheriff's Office into the record.

The Chairman explained to Mr. Sanchez that the issue of trespassing would have to be addressed in a different venue.

February 28, 2018

Based on the evidence and testimony provided, Member Wright **MOVED to issue an Order of Non-Compliance with a compliance date of March 30, 2018 and a Hearing to Impose Fine/Lien to be scheduled for the April 18, 2018 hearing for Violating Volusia County Code of Ordinances, Chapter 72 Article III Division 16 Section 72-1100 and 72-1101** After Member Needham **SECONDED** the motion, it **CARRIED** unanimously by voice vote.

- A. Tally Sheets (Quarterly)**
- B. As Entertained by Chairman**
- C. As Entertained by Board Attorney**
- D. As Entertained by Staff Attorney**
- E. As Entertained By Staff**

* * * * *

ADJOURNMENT

There being no further business to discuss before the Board, the meeting adjourned at 12:43 p.m.

Respectfully submitted,

Meghan Lindsey
Code Enforcement Board Clerk

February 28, 2018

CERTIFICATE

**STATE OF FLORIDA:
COUNTY OF VOLUSIA:**

I, Meghan Lindsey, Code Enforcement Board Clerk, do hereby certify that the foregoing pages constitute a true and accurate transcript of the minutes of the Volusia County Code Enforcement Board taken on _____, at 123 West Indiana Avenue, Deland, Florida.

WITNESS MY HAND this _____ day of _____, 2017, in the City of DeLand, County of Volusia, State of Florida.

**Meghan Lindsey
Code Enforcement Board Clerk**

February 28, 2018