

**MINUTES
OF THE COLLIER COUNTY
CONTRACTORS' LICENSING BOARD**

August 16, 2017
Naples, Florida

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

Chairman: Richard Joslin

Vice Chair: Michael Boyd

Members: Elle Hunt
Kyle Lantz
Gary McNally
Matthew Nolton

Excused: Terry Jerulle
Robert Meister
Patrick White

ALSO PRESENT:

Everildo Ybaceta – Supervisor, Contractors' Licensing Office
Kevin Noell, Esq. – Assistant Collier County Attorney
Jed Schenck, Esq. – Attorney for the Contractors' Licensing Board
Reggie Smith – Contractors' Licensing Compliance Officer

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

I. ROLL CALL:

Chairman Richard Joslin opened the meeting at 9:01 AM and read the procedures to be followed to appeal a decision of the Board.

Roll Call was taken; a quorum was established; **six (6) voting members** were present.

II. AGENDA- ADDITIONS OR DELETIONS:

Addition:

- Under **Item VI, “Discussion”** – Review of a new category for Certificate of Competency

III. APPROVAL OF AGENDA:

Kyle Lantz moved to approve the Agenda as amended. Gary McNally offered a Second in support of the motion. Carried unanimously, 6 – 0.

Chairman Joslin noted that Item VI, “Discussion,” would be heard at the end of the meeting to avoid inconveniencing the participants who were present for a specific case.

IV. APPROVAL OF MINUTES – JULY 19, 2017:

Elle Hunt moved to approve the Minutes of the July 19, 2017 meeting as submitted. Gary McNally offered a Second in support of the motion. Carried unanimously, 6 – 0.

V. PUBLIC COMMENT:

(None)

VII. REPORTS:

(None)

VIII. NEW BUSINESS:

A. Orders of the Board:

Gary McNally moved to approve authorizing the Chairman to sign the Orders of the Board. Kyle Lantz offered a Second in support of the motion.

Carried unanimously, 6– 0.

(Note: The individuals who testified in the following cases in under Item VIII, “New Business,” were first sworn in by the Attorney for the Board.)

B. Jude Hubbard, d/b/a “Jude Hubbard Pool Service, Inc.” – Contesting Citation

Citation Number: 14982 (*Unlicensed Internet Advertisement*)

Date Issued: July 7, 2017

Amount of Fine: \$1,000

Violation:

Engage in the business or act in the capacity of a Contractor, or advertise self or business organization as available to engage in the business or act in the capacity of a Contractor without being duly registered or certified:

Jude Hubbard provided background information:

- He is the holder of Collier County Certificate of Competency #201300002150 and is licensed to clean pools
- Mr. Hubbard’s cousin suggested that he create a Face Book page to advertise his pool cleaning business. When Mr. Hubbard stated he didn’t have time, the cousin did it for him, using the page of another pool company as the model
- The Face Book page advertised the following services: pool cleaning, repair, and installation of heating equipment
- As soon as he received the Citation, he deleted the incorrect information from the Face Book page

Elle Hunt questioned Reggie Smith, Contractors’ Licensing Compliance Officer:

Q. Was the false advertising noted anywhere other than the Face Book page?

A. I would stay away from the use of the word, “false.” It’s unlicensed advertisement. The complaint that was received was about the Face Book page. There were some slight references to repairs and installing heaters. It’s not the worst one that I have seen but I did contact Mr. Hubbard. He explained he was attempting to obtain his State license at the time. I told him he had to remove the advertisement and he did.

Chairman Joslin questioned Reggie Smith:

Q. Was the license applied for prior to the Citation was issued?

A. He has been eligible for the exam with the State for some time now. But his current license with the County is for pool cleaning only which, as you know, does not allow him to advertise for repairs or the installation of heaters. But, yes, I believe he has applied to the State to get his Certified Pool/Spa Contractor license.

Jude Hubbard clarified: It’s the “Class A” test.

Chairman Joslin questioned Mr. Hubbard:

Q. The Pool/Spa Repair License?

A. It’s actually the top one – it’s the Commercial Contractor to build, repair – do everything.

Q. Who have you worked for in the past doing pool construction?

- A. I've worked for Collier Pools. I have experience with Classic Pools of Naples – that's it.
- Q. What jobs did you do? Were you a Superintendent or were you ever in the construction business?
- A. No.
- Q. So, you have no experience in construction then?
- A. I just worked along with Classic Pools – looking at jobs and stuff like that. I have no real experience in construction.
- Q. That may present a problem.
- A. Okay.

Kyle Lantz: I searched the internet last night while I was reading this [information packet] and it brought me right to a Face Book page that said, “repair service.”

Jude Hubbard: It still said that?

Kyle Lantz: Yes.

Jude Hubbard: I thought I deleted it. I mean, I apologize – I ...

Elle Hunt: It could be cached – did you google onto the Face Book page or did you just see the results of that?

Kyle Lantz: I went to the Face Book page.

Elle Hunt: Oh.

Kyle Lantz: There were thirty pictures ... and one of the pictures had a sign that said pool/spa servicing – heating – or something to that effect.

Reggie Smith: That maybe something that I overlooked myself. In your packets, there are arrows pointing to the areas referencing pool heating – those are the ones I was double-checking that had been removed. I am sure Mr. Hubbard is interested – will remove the remaining if we did find more...

Jude Hubbard: Absolutely.

Reggie Smith: I did want to reiterate that upon his removing all the advertisement – that basically abates the violation for us as far as why the Citation was issued. And if he was to obtain a State license, that's just ... positive progress. It's not what he needs to abate the violation.

Chairman Joslin: I'm reading the case summary for the Citation which states:

“07-07-17: Met with Mr. Hubbard to issue a Citation, he advised he will be obtaining his State of Florida Certified Commercial Pool License very soon. Administrative Supervisor Jason Bridwell joined the meeting and advised he may contest the Citation by abating the violation upon *obtaining* his State licensure.”

That hasn't happened yet.

Reggie Smith: That would be an incorrect statement in the narrative – I do apologize for that. With the system that we have – the software system called CityView – I'm not able to go back and correct my own narratives. I did see that and think it might come up today, but I'm not able to edit previous entries to complete the activity. But that would be an incorrect statement at this time. Jason Bridwell and I did discuss that after the

fact. We did agree that he abated the violation just by removing the advertisement. I'm surprised to hear that Mr. Lantz did find some additional advertisement pertaining to – you say there was a sign in a picture or something like that?

Kyle Lantz: I'm not a "Face Book" person but there are a whole bunch of pictures – family pictures – and it looked like someone in a basement making a sign that looked like an advertisement.

Jude Hubbard: I apologize – I didn't see that.

Chairman Joslin questioned Mr. Hubbard:

Q. Have you done any work outside the scope of your license?

A. No.

Vice Chairman Michael Boyd: So what you are telling us, Reggie, is that you feel it has been abated?

Reggie Smith: With Mr. Lance's last statement, I'd like to see the Face Book page myself – I don't know – and leave this to the Board's decision.

Elle Hunt: I'll show you. It's one picture – it's an older picture of yours (holding up her cell phone) – but it does have your logo on it. And it says, "Weekly maintenance, repairs, pool heating."

Jude Hubbard: I see it. I apologize.

Elle Hunt: It's just a photo. It doesn't show it under "Services offered."

Reggie Smith: Are you trying to tell us it's not a printed text?

Elle Hunt: It's not a printed text. It's a photo of printed text ... like signage.

Reggie Smith: Obviously, that's something else he will have to remove.

Elle Hunt: Yes – he has a couple of them with different logos but only one that claims the services that he cannot perform.

Chairman Joslin asked Everildo Ybaceta, Contractors' Licensing Office Supervisor, for the County's recommendation. To abate the Citation, the advertising was to have been removed, but it has not. Will he be given a time limit to do it?

Jude Hubbard: I can do it in two seconds.

Everildo Ybaceta: We can continue this for thirty days – until the next meeting to make sure he does remove it.

Jude Hubbard: I can't do it right now, but I will take care of that.

Elle Hunt: He doesn't have verbiage anywhere on the site that says it.

Reggie Smith: That's what I thought it was and I apologize.

Matthew Nolton: It's just a photo – it's cache – it's left over.

Elle Hunt: It's like – when you set up a Face Book page, you pick out a variety of things to initially set up new business and – probably oversight – they didn't remove that one piece.

Jude Hubbard: I see it right here.

Elle Hunt: But I didn't see – there was nothing else talking about services like that at all. At least, not currently.

Kevin Noelle, Assistant County Attorney: The difference between what he was cited for in our packet is what is before the Board today. So, that [language] has been removed and it has been confirmed. That's the issue before the Board.

Chairman Joslin: Okay.

Jude Hubbard: If you want to check it again, I just deleted it.

Chairman Joslin: In all honesty, we would like to see it removed.

Assistant County Attorney Noelle: If there are additional violations, then certainly, the Investigators will do their part to give him due process challenge any additional advertising that is not allowed.

Chairman Joslin: Okay.

Elle Hunt: (Holding up her cell phone) “Photos are no longer available.” So, it has been removed.

Reggie Smith: I would just like to make sure that Mr. Hubbard understands there are no other forms of advertisement allowed – business cards, vehicle magnets – anything like that. I know we’ve already talking about this. He expressed to me that he doesn’t have those items out there.

Chairman Joslin moved to approve dismissing Citation #14982 due to abatement of the violation by removing the advertising from the Face Book page.

Jed Schenck, Esquire, Attorney for the Board: Procedurally, for the purposes of the motion, I would request that the language be withdrawn. You can make a Finding that the violation was abated but the Ordinance doesn’t necessarily apply to State licenses. The abatement language only applies to County-issued Certificates of Competency. Technically, we cannot abate the application process through the County but you can find an abatement and withdraw the Citation.

Reggie Smith noted it is a County-issued license. He confirmed Mr. Hubbard was not yet the holder of a State license. His status is “eligible for the exam.” He clarified that Mr. Hubbard was the holder of a Collier County-issued Pool Cleaning license. He further stated: In our office, we use the word, “abate” – he “abated” the violation.

Elle Hunt: What our attorney is saying is that we have procedural requirements and we need to leverage those and abatement isn’t a procedural requirement for this particular matter at hand.

Attorney Schenck: The abatement of the violation is fine. But as far as, procedurally-wise, technically, for removing the citation, I would use the language withdrawn – “I withdraw the Citation due to abatement.”

Chairman Joslin moved to approve withdrawing Citation #14982 due to abatement.

Elle Hunt offered a Second in support of the motion.

Motion carried, “5 – Yes” / 1 – “No.” Matthew Nolton was opposed.

Chairman Joslin noted the terminology was confusing and had not been used in the past.

C. Dawn Kuypers – Review of Credit
(d/b/a “Harrock Services, LLC.”)

Chairman Joslin noted there were some issues on Ms. Kuyper’s credit report and asked her to provide the Board with a synopsis of the derogatory items.

Dawn Kuypers:

- Our house went into foreclosure but we are in the process of getting it back. We have already made an agreement with the bank, we have gone through the trial period and are waiting for the final mortgage to come back through.
- A couple of years ago, when we weren’t making enough money, we were going to file for bankruptcy but we decided not to follow through with that and we are trying to work out our credit by ourselves.

Chairman Joslin asked Ms. Kuypers if she could provide any documentation that she was working with her bank to modify or re-issue a mortgage.

A. I didn’t bring anything with me. We are working with the Bank of America and went through the trial period. Since July 16th, Bank of America sold the mortgage to CPS and they are following through with the same thing. We just made the last payment to them and they are going to send us a new mortgage. They said in the next six weeks.

Chairman Joslin stated he wished to disclose that he knows Kevin Kuypers very well. (Kevin is the Applicant’s son.)

Dawn Kuypers: You know there are two Kevin Kuypers. My husband’s brother is with Neapolitan Pools.

Chairman Joslin: That’s who I know.

Dawn Kuypers: He’s my brother-in-law.

Kyle Lantz questioned the Applicant:

Q. I have a question because I am not used to see this before – on the credit report where it says, “bankruptcy dismissed” – I was under the impression that it meant you went through bankruptcy. Is that wrong?

A. No, we decided not to follow through with the bankruptcy so they dismissed the case. We stopped the bankruptcy and we are working with our creditors by ourselves.

Q. So, do you still owe Di-Tech, Bank of America, and Calvary Port?

Elle Hunt: Right now, it says that she has a twelve thousand – approximately – past due only on Bank of America. Di-Tech looks as if its current, Capital One looks as if its current; SYNCB was closed with a zero balance. Something at the very top of the page has a past due of \$96.00.

Kyle Lantz: So, “bankruptcy dismissed” means you still owe?

Elle Hunt: Yes, because she didn’t complete her bankruptcy. There is no outstanding bankruptcy. They are now doing their own credit management.

Dawn Kuypers: Correct. And the twelve thousand that’s outstanding is the reason why

the house went into foreclosure. But we're working on that. It still shows as Bank of America, I believe, because maybe the paperwork hasn't made it through the system yet, but it has changed to CPS.

Chairman Joslin: Bank of America sold the mortgage to CPS basically?

Dawn Kuypers: Yes.

Chairman Joslin: So now you're going to have to work with CPS to continue.

Dawn Kuypers: Correct. Yes, I've already been speaking with them.

Elle Hunt: The things that we want resolved to see who you talked to and what you worked out regarding the bankruptcy. You also have a couple of collections – Capital One is in collection for \$807.00 and Direct TV is in collection for \$146.00 – so some type of resolution on those. They show as “currently owed and in collections” – and they affect your credit score.

Dawn Kuypers: I'll have to look into Direct TV.

Elle Hunt: And the other one is – the original creditor was Capital One for the \$807 but it's now under Calvary Port.

Dawn Kuypers: I just received a letter, so I'm ...

Elle Hunt: Okay.

Chairman Joslin: The normal procedure when someone comes in with a credit problem – and many people have that same issue – but what we look for is some type of written plan or proof that you contacted these people and have worked out a payment schedule with them ... something that shows us that you are paying off the debts that show as derogatory. At the moment, you have nothing. Noting the millwork that you have done, you are asking for a cabinet and millwork license to be granted. On the experience level, it doesn't show a lot of cabinet work that you have done. It shows the business portion of it but not really the whole picture.

Dawn Kuypers: When I was in business, I mostly supervised – I didn't physically do stuff back in the '90s when I had the business. But I've seen people working – I can build a cabinet myself – I have the ability to put a cabinet together and install it. I can design it and do all of that just by working with them for the amount of years that I did. I also worked for Collier Builders for a long time – four years before we had the cabinet business. So, I am a little bit familiar with the building business also.

Chairman Joslin: That's not really the issue that is here before us – the main issue is the credit. I would ask the Board for some input or should we table this and have her come back with more information?

Elle Hunt: Yes. I think she's going to have to come back. (To the Applicant) As you contact these people, you should get the agreement in writing and that is what we want to see – that these companies have agree to something with you and you now have a plan in place that will address the collections and the Bank of America or whomever is handling the mortgage issue.

Dawn Kuypers: Okay.

Matthew Nolton: Is there another possibility that we could make a motion that we would approve her application but she would have to provide that information to the County before they would follow-through with that? So then she wouldn't have to come before us again.

Kyle Lantz: I have a few more issues.

Matthew Nolton: But she's only here before us about the credit – right?

Kyle Lantz: When I went through her application, I found some issues.

Matthew Nolton: I guess we should ask Staff, then, if we can bring that up.

Kyle Lantz: We have in the past – once we have the application.

Elle Hunt: It's kind of an open book at that point.

Chairman Joslin: Right.

Matthew Nolton: Okay.

Chairman Joslin (to the Applicant): I would say rather than open up what Kyle may be bringing out would be for you to make a decision – to withdraw this application and then in maybe thirty days comes back – to contact your creditors ...

Elle Hunt: Well, either way, she's going to have to come back. There is no way we are going to resolve this in thirty or sixty or ninety days. It's not going to be paid off. So, she's going to have to come back. Kyle's concerns will apply in thirty days.

Kyle Lantz: One issue that I have is now that you have a Workers' Comp exemption for yourself – in the packet, it states your husband is your partner – so I want to see either a Workers' Comp policy or a Workers' Comp exemption for your husband because I'm going to assume it's not just you – you are a 50/50 partner with your husband?

Dawn Kuypers: Yes.

Kyle Lantz: We need something for him – to show Workers' Comp coverage for him. And more important for me than the credit is actual physical experience doing the work because I hate coming to a job and having a Qualifier who knows nothing about the trade and who is the Qualifier for the company. Even if you have been a professional engineer for twenty-five years, if you want to become a General Contractor, you need to have done the work – not just the design. And that should apply all the way down. I want something to prove to us that you know a bit about cabinets and millwork. It's more than just the business aspect and it's more than just overseeing it. I need something to reassure me that you're a Cabinet and Millwork Contractor – not just that you've scheduled people and you've ordered the material. I want to know that *you* know how to do the take-offs, how to design cabinets, what fillers are, and what angles to cut stuff at – I want to know that you know you are a Cabinet and Millwork Contractor.

Dawn Kuypers: Okay.

Kyle Lantz: And so, when the time comes if you don't have it documented, that's okay. I don't know about anybody else but me, personally, I'll be asking you lots of questions if you don't have it documented to prove to me that you understand the trade, more than just the business aspect.

Dawn Kuypers: Okay.

Elle Hunt: I know there was something in the packet about the Business and Law exam score but is there a trade test for this license? There is not. Okay, thank you.

Gary McNally: I'm going to echo Kyle. I am interested in both the credit issue where we can see the documentation but I'm also interested in the actual experience that you had and document said experience. I just want to bring up – if she hasn't anything on this credit and won't receive the paperwork for roughly six weeks which she indicated

for the mortgage – even if she were to contact them, she’s not going to have anything in her hand to show the transfer in the thirty-day time frame. I’m wondering if we couldn’t push it out to sixty days only because she won’t have the paperwork available to her to present to us.

Kyle Lantz: I think if she has some kind of paperwork that shows that she’s in communication with them – even if it’s not finalized – the fact that she’s working on it..

Gary McNally: Yes, okay. I was concerned that we wouldn’t have given her ...

Kyle Lantz: ... obviously the mortgage she won’t have but if she doesn’t have it all in thirty days, she’s more than welcome to extend it longer.

Gary McNally: Okay.

Chairman Joslin: Since there is going to be a switch of mortgage companies, it will take time for the paperwork to go through but she’ll have something from the other mortgage company – they are not going to wait too long for their money.

Gary McNally: I agree with that. Thank you.

Elle Hunt: I would like some understanding from the County on your approval, with the exception of the credit, of the license. My understanding is that she is not here for us to review her experience. I would like some clarification on how the County validated that her experience met the criteria of license.

Kyle Lantz: There is a signed affidavit that says she worked for somebody for two years.

Elle Hunt: And that’s enough? Two years of working for somebody – that’s currently what the County requires?

Everildo Ybaceta: Yes.

Elle Hunt: And there’s no validation – just that signed affidavit?

Everildo Ybaceta: On occasion, we do call them – the companies.

Elle Hunt: Okay. Just to verify that it was them and it’s correct? Okay. But that is all that we look for? We don’t ask any qualitative questions or any additional information beyond that?

Everildo Ybaceta: No, ma’am.

Elle Hunt: Okay. Thank you.

Vice Chairman Michael Boyd questioned the Applicant:

Q. Was your husband licensed previously?

A. No.

Chairman Joslin questioned the Applicant:

Q. You said you had a cabinet license before or you were in the cabinet business?

A. I was in the cabinet business with two other people. I was a partner and then I had a cabinet license for a couple of years at the end of the ‘90s – Shoreline Cabinets of SW Florida.

Q. You have been licensed before?

A. Yes.

Elle Hunt: Here in Collier County?

A. Yes.

Matthew Nolton: This license – the same license that you are applying for?

A. Yes.

Matthew Nolton: Well then that changes everything.

A. Well we decided to quit the business. My husband went back to work for a builder for quite a few years. We decided to try again. Right now, we have a home watch business and I currently work for Publix part-time to help make ends meet. As we are getting clients for the home watch business, we are seeing the need for a cabinet business rising a lot. So that's the reason why we decided to do this again.

Kyle Lantz: And the license was in your name?

A. Yes.

Chairman Lantz: How long ago was that?

A. '97 or '98.

Q. And you just let you license lapse?

A. Yes. I didn't realize that I should have ...

Q. Put it dormant?

A. Yes.

Matthew Nolton: The affidavit that's in here from The Monorca Construction Group, Inc., says you have experience in the construction and installation of cabinets, and the installation of baseboard and crown [molding]. Is that what you physically did?

A. Yes, I did that, yes.

Kyle Lantz: How do you cut your crown molding? Do you cut it at an angle or do you cut across?

A. At an angle.

Vice Chairman Boyd: Based on the fact that she's had a license previously, I think we should consider giving her a probationary license until she can come back in thirty or sixty days to prove that she's working on her outstanding bills because we have approved people for probationary licenses with a lot more credit issues than she has. She has just one or two outstanding and we've seen people with ten or twelve.

Chairman Joslin: And considering that's she's working on them already ... if the Board approved it, it could be done I'm sure.

Kyle Lantz: The only question I have -- typically, when there is an expired license, there is a different set of fees and you end up paying a lot more money for letting your license expire – although I don't agree with those fees, that is the process that happens. So would her fees be changed?

Everildo Ybaceta: We will not charge the reinstatement fee.

Elle Hunt: Even though it's fifteen plus or twenty years ago? How far back do you go for the reinstatement fees?

Everildo Ybaceta: Three years.

Kyle Lantz: And I'd still like to see the Workers' Comp policy for your husband.

Dawn Kuypers: Okay.

Kyle Lantz: I mean – I don't have to physically see it ...

Dawn Kuypers: I have a paper I can bring in and the policy also.

Kyle Lantz: You have a Comp policy as well as an exemption?

Dawn Kuypers: I have a General Liability.

Kyle Lantz: Workers Comp is different than General Liability.

Dawn Kuypers: I have both.

Kyle Lantz: Okay.

Elle Hunt: Does the County have a recommendation to make?

Everildo Ybaceta: No.

Kyle Lantz: Have you verified that she had the Shoreline Cabinetry?

Everildo Ybaceta: Yes. It appears to be correct.

Elle Hunt: It was twenty years ago.

Chairman Joslin: It may not be in the system anymore.

Everildo Ybaceta: The County has two or three systems for paperwork.

Elle Hunt: Yes – don't worry about it.

Chairman Joslin: I think, under the circumstances, that would – to the Board's satisfaction – probably account for the experience factors ... because she has been in business before. So "experience" would be out of the picture as far as what we require or asked her for. The only question that we still have is the credit situation – with the contacting of the creditors. So one of two things, I guess, either we grant the license on a probationary period and have her bring those things in, or she can withdraw her application until she gets the information and comes back before us, or she could probably take it to Staff. I assume that would be the best way to do it.

Dawn Kuypers: I would like not to withdraw – I would like to come back in thirty days with whatever I can accomplish.

Chairman Joslin: Okay, then, the best way to do it would be to withdraw and then come back in thirty days with the information and we will look at the whole packet. If you bring in the information, you will probably walk out with a license.

Dawn Kuypers: Okay.

Chairman Joslin: Rather than to go through the proceeding now – unless we try to put you on a probationary period for thirty days. Can you have this information in thirty days – that's the question – because it may take longer.

Dawn Kuypers: I have already received paperwork from CPS so I'm sure I can get something from them stating that we're working together on my mortgage.

Chairman Joslin: Okay.

Dawn Kuypers: And the other two shouldn't be any more than a phone call and the paperwork sent – to make sure that I have the paperwork in hand when I come back.

Everildo Ybaceta: Instead of thirty days, I would give her a little longer – sixty or ninety days. I don't think thirty days is enough time to put everything together.

Chairman Joslin: So, if we give her ninety days to bring the paperwork back to Staff?

Everildo Ybaceta: Yes.

Chairman Joslin: And then Staff can make the determination – if it is sufficient? And in the meanwhile, she can have a temporary license during the probationary period?

Everildo Ybaceta: Yes.

Chairman Joslin: And after ninety days, it would become a full license?

Everildo Ybaceta: Yes. I don't think that thirty days is enough time to improve her credit score.

Elle Hunt: I don't think her credit score will improve that much.

Elle Hunt moved to approve the application of Dawn Kuypers for a Cabinet and Millwork Contractor's License on a probationary basis for ninety days. She is to bring proof to the County that she has an agreement to address the Calvary Port/Capital One collection in the amount of \$807.00, the Diversified/Direct TV collection in the amount of \$146.00, and the Bank of America mortgage regardless of who currently owns it for approximately twelve thousand dollars.

Elle Hunt explained to the Applicant: We are expecting to see a written agreement from them stipulating the terms agreed to on those items.

Kyle Lantz added: As well as Workers' Comp.

As well as a Workers' Comp policy and any other insurance coverage that she has obtained for her husband and other employees.

Dawn Kuypers: There are no others ...

Elle Hunt: It's just to cover our bases.

Dawn Kuypers: Thank you.

Kyle Lantz offered a Second in support of the motion.

Chairman Joslin noted there was a motion and a second on the floor. He asked if there was any discussion.

Vice Chairman Boyd: Yes – the way I read the Direct TV ... it's been paid.

Elle Hunt: It still shows as a collection ...

Vice Chairman Boyd: It states, "Paid – Collection" right underneath "Direct TV" on the next line.

Elle Hunt: Okay – paid ... collection. My mistake. I'm going to remove the requirement for the Diversified/Direct TV.

Everildo Ybaceta: What about if she doesn't meet the criteria?

Elle Hunt: Then the license will go into a suspended mode and she will have to appear before us to re-apply.

Chairman Joslin asked Ms. Kuypers if she understood the motion and her response was, "Yes."

Chairman Joslin called for a vote on the motion. Carried unanimously, 6 – 0.

IX. OLD BUSINESS:

(None)

X. PUBLIC HEARING:

(None)

VI. DISCUSSION:

Chairman Joslin: We have information sent to us by Michael Ossorio, Director of Code Enforcement, concerning Soil Compaction and Tamping Licenses. I assume this is something the Board of County Commissioners has asked us to review and discuss?

Everildo Ybaceta: Yes.

Chairman Joslin: Who wants to give a synopsis on this? There are quite a few things on here that are confusing. The main one is that soil compacting and tamping normally, in my experience, has been done by a licensed engineer.

Everildo Ybaceta: The tests are done by a geo-tech firm to make sure that it meets the criteria for compaction. I have been asked by the Commissioners and by my Supervisor to bring this to the Contractors' Licensing Board for discussion. The idea behind it is on residential properties, the specialty license of "tamping" for bringing up the house pads and also for bringing in the dirt and all the fill and the procedures that go along with it to set up the pads themselves.

Kyle Lantz: Only for residential?

Everildo Ybaceta: For residential, yes.

Elle Hunt: So what kinds of problems have we been seeing in regard to complaints and lawsuits that would tie back to this – solving that problem?

Everildo Ybaceta: In the past, from the discussions that have been had with DSAC ("Development Services Advisory Committee") and the CBIA ("Collier Construction and Building Association"), there have been pad failures. There will always be some type of pad failures due to human error – but it has been very minimal. I don't have specific numbers with me and I do apologize for that. It isn't something that has been available to me at this time.

Elle Hunt: So when you ask us for a discussion – do you expect us to opine on anything?

Everildo Ybaceta: Yes, definitely.

Elle Hunt: What kind of opinion are you looking for – our endorsement?

Everildo Ybaceta: Yes.

Elle Hunt: Okay.

Everildo Ybaceta: ... or whatever you feel might be pertinent to this. Part of the conversation that I've had in researching this, I reached out to ProV Testing is the only testing company that does this. On the second page of the document is the criteria that is used for the exam for the Soil Compaction and Tamping Engineering Contractor. The test has been used specifically in Miami-Dade County ...

Elle Hunt: Who is "they"?

Everildo Ybaceta: ProV Testing. ProV created this test specifically for Miami-Dade County because Miami-Dade County wanted to license the utility contractors that they were using for road work, for site development when it comes to government entities. The test is really not used for anything else, according to ProV.

Chairman Joslin: For road work – that would be something that would be more so than residential.

Everildo Ybaceta: Yes, sir. But that is the only ...

Elle Hunt: It doesn't really apply to what you're asking us to ...

Everildo Ybaceta: No, it does not.

Elle Hunt: So it's irrelevant. Okay.

Everildo Ybaceta: But it is the only testing that we've found that does show up – as far as that goes. There is another license – it's the Excavation Contractor's License – that also does cover tamping but that's an excavator. They do have that already in their license criteria.

Elle Hunt: Okay.

Matthew Nolton: I'm still not clear what we're trying to do here. ProV is a company that creates tests – licensing tests. And what we're trying to do is change what tests that current licensees have to take?

Everildo Ybaceta: To add a new category – a new specialty license of Tamping.

Matthew Nolton: ... the specialty category of tamping.

Everildo Ybaceta: Right now, Mr. Ossorio who prepared this document, is saying basically that we do have a specialty license and this would be a second one.

Matthew Nolton: And this license is specifically for just what?

Everildo Ybaceta: Tamping – the site preparation for house pads.

Matthew Nolton: So the licensee would just be able to – not bring in the fill – just to come in and compact it?

Kyle Lantz: He can already bring in the fill now – any trucker can bring in fill. Right?

Everildo Ybaceta: Yes.

Matthew Nolton: And any trucker can compact it right now.

Everildo Ybaceta: Yes, sir.

Matthew Nolton: And the County requires that testing be done to show that it has been compacted.

Everildo Ybaceta: Correct.

Elle Hunt: So that's already being done?

Everildo Ybaceta: Yes, ma'am.

Kyle Lantz: So do you guys do compaction tests?

Matthew Nolton: Sure – engineering firms, we do compaction tests.

Kyle Lantz: Do you see many failures?

Matthew Nolton: We see failures that have occurred but the failures were back when different municipalities weren't clear on what they required for compaction testing and they were allowing it just to be the top rather than ... if you're putting in four feet of fill – they'd allow them just to test the top and say it's okay. That's not what the Code says and municipalities are starting to enforce that you have to compact all the way up. That has eliminated the failures that were occurring. You have to test every twelve inches now. And that's what the Building Code has always been. But back – several years ago – most municipalities were allowing them to come in and there were firms out there that were only testing surface and would call four feet of fill "good." They just tested the top twelve inches. I understand in my business that it is not allowed anymore – we've never done that anyway – we've always tested every single foot going up. But that's where the failures occurred. It wasn't as if there wasn't testing being done ... it was that unscrupulous people, again, were trying to cut corners. It wasn't about licensing.

Elle Hunt: Right. It was nothing that could have been regulated – right?

Matthew Nolton: Those people – having another license – doesn't mean that they still couldn't get around the testing issues and the compaction issues. I know every excavator out there wants to bring in all the fill at one time and run his front-end loader over it and call it "good." That's what they want to do.

Chairman Joslin: Okay – one last question on the paperwork that we have here – it shows four different licenses ... do we need four different people to do this type of work?

Everildo Ybaceta: The referenced licenses were included just to see some specialty licenses.

Chairman Joslin: Okay – they are not the ones that are going to be ...

Everildo Ybaceta: No.

Chairman Joslin: ... applying for this license?

Matthew Nolton: They are just examples of specialty licenses.

Everildo Ybaceta: Right.

Chairman Joslin: Okay – last question then. What type of experience is someone going to have to be able to get this license? Are they going to have to be an engineer or have been hauling dirt forever or – I don't understand where the excavation is going to come in.

Everildo Ybaceta: I believe that would be something that we would have to talk about in a future workshop.

Chairman Joslin: Okay.

Kyle Lantz: You have listed 130 or so companies. Are they people who are currently doing the work or think they might possibly do work ... ?

Everildo Ybaceta: Some of them do have tractor services that – minor tractor services. There are some in there who are lawn maintenance people but just because we did the search and the word “tractor” – we basically just made a notation that they are minor types of services ... not that they are going to be able to do it.

Kyle Lantz: So if they have been doing this for the last twenty years, now they need to get a license? If there are 130 people in there – what does it cost to get the license? \$300? So that's a big chunk of revenue. Are we down that low in the County that we have to start regulating trades that haven't been regulated forever?

Everildo Ybaceta: I can't comment on that.

Matthew Nolton: And just to clarify – I think they already have licensed this – right? “Grading services” – they already have a license ... so we're going to require them to have an *additional* license?

Elle Hunt: Aren't we already doing a County test in order to ensure that ...

Kyle Lantz: So they'd have to take a business test and an excavation test?

Everildo Ybaceta: The business test would already apply.

Kyle Lantz: Some of these tractor services – they are not Contractors – they are just business tax, so they are not in your system. They just walked into the Tax Collector's Office and got their zoning and paid their fifty bucks – right?

Everildo Ybaceta: If they have not taken a business test, they would have to.

Kyle Lantz: There are an awful lot of them that say, “tractor service” or “grading service.” Those aren't licensed now – right? So it's \$300 in revenue a year for the County which is a big chunk of change but think about the poor guy's pocket who has to pay the \$300 every year, who has to pay a fee to take the test, and pay for the credit report. It's got to cost \$1,000 to get a license, I would think. By the time you are done buying books and taking tests, that's – I don't know – that doesn't sound very business-friendly to me for something that we don't have a lot of ... if it was something that was failing every day, I might think otherwise.

Elle Hunt: And we already have County-required tests to solve for this. I'm not seeing – what are we trying to solve for?

Matthew Nolton: That has been my question – I am not clear on what we’re trying to solve.

Elle Hunt: What are we trying to solve for here?

Everildo Ybaceta: That’s a good question.

Chairman Joslin: Can we make it a “one-stop shop” where these tractor firms or people who are in the soil business can not only just deliver the soil and grade it out, but they can do the soil test at the same time?

Matthew Nolton: They will never be able to do the soil test because it has to be signed off by engineers. But for compaction – they currently do that now.

Elle Hunt: They can already do that now – but they still have to get an engineer to ensure that it was done right. So additional licensing to ensure quality for the client is not going to be solved by this. The County already has a way to solve for qualitative issues. I am not seeing a qualitative impact that would require the additional bureaucracy of licensing as well as the additional business expense. I don’t see it.

Gary McNally: I have two really quick questions. First, has the County seen major issues with the pads on these homes?

Everildo Ybaceta: Not that I know of, sir.

Gary McNally: Not that you know of ... so there have been no actual, critical issues whatsoever so the County can’t say ... “look at this ... look at that?” There’s been none of that? Okay. My second question is – and Kyle just brought it up – if in fact you’re going to impose \$1,000 approximately on each and every one of these 130 people here, then that is, as Kyle said, that is not business-friendly to businesses in Collier County. My question is – in most cases – are you going to grandfather in each and every one of these businesses so they don’t get clobbered with fees because they have been doing it already? You can’t penalize them for not having a license for something they have been doing for twenty years. So in reality, if you’re going to set up new rules, laws, and regulations – they need to be grandfathered in to the level of what they have already been doing. This to me, personally, is an unfriendly situation for the businesses here in Collier County.

Chairman Joslin: You know, I have to say I don’t know if I agree with that or not because a tractor service does not do tamping. Well, they do because their tractor runs over it. But as far as actually being a certified tamper – to come in and bring it to a certain level of compaction so you can go and test it – they don’t. They bring in dirt and grade it to the specs according to what the engineer has set for the grade, and they move on.

Elle Hunt: If it doesn’t pass, there is already a means to ensure the quality of that work. There’s already a means in place with Collier County in regard to engineer testing and this license doesn’t require the engineering element of it. So it’s not necessarily assuring us better quality or – it doesn’t ensure the customer or Collier County residents any value from this license.

Chairman Joslin: It would mean bypassing an engineering firm – no?

Elle Hunt: No – because that test is still required. So there’s no bypass. This is – you still have to do the work ... you still have to get it tested ... but now you need a license to do the work before you get it tested.

Matthew Nolton: Technically, it is the cross-over to a pool contractor who is now backfilling around a pool who would now need to have a *tamping* license so he could tamp the soil around the pool as he puts it back. See – there you go.

Elle Hunt: You know, I think the main question when we look for impact to a business is what kind of quality is it going to bring to the constituents of Collier County. Right now, Collier County can't articulate that. You can't express to us the monetary and qualitative benefits brought to Collier County residents because of this. My opinion would be not to institute a new Collier County license because we're not solving for anything – we're increasing spending by the County because now they are going to have to manage that as well as increasing spending by our Contractors while solving for nothing.

Chairman Joslin: And putting another cost on them that ...

Elle Hunt: Costs on both ends .. costs on the County and costs on the Contractor while solving for nothing that anybody can articulate at this point.

Kyle Lantz: And, ultimately, it gets passed on to the consumer.

Elle Hunt: Absolutely ... while not solving anything.

Chairman Joslin: Are you asking this Board for a decision?

Everildo Ybaceta: I was asking for a discussion –

Elle Hunt: That's what I asked for upfront – do you want us to opine?

Everildo Ybaceta: Yes. I wanted your opinion on it. I did bring it up to DSAC and also to CBIA. We asked for their opinions on this issue and it was met with the same ...

Elle Hunt: "But" ??

Everildo Ybaceta: Yes, the same "but."

Chairman Joslin: How did this come about? Just because of Miami-Dade County?

Everildo Ybaceta: No, sir.

Chairman Joslin: No?

Everildo Ybaceta: It was a discussion the County Commissioners had on this issue.

Matthew Nolton: Seriously? How did they even know to bring it up for discussion when there haven't been any failures? Who put it in their ear – ProV?

Everildo Ybaceta: I'm sorry – I can't – don't know. They were pretty much unaware of this until we contacted them. I am not sure how this came to be.

Chairman Joslin: Well, I would say that that's the end of discussion for the moment. Now if you can bring us more information or possibly another avenue that we can look at that gives us a really good idea of why this should happen ...

Everildo Ybaceta: I would ask for a workshop on this.

Kyle Lantz: So do you want a motion from us to give our opinion, or is what you've gotten enough?

Everildo Ybaceta: I think what I've gotten is good.

Kyle Lantz: Okay.

Elle Hunt: I would suggest if you're going to spend time and/or money, or whether it's individuals who are volunteering their time on some type of workshop, that you first articulate what you are trying to solve because I already see this as spending a great deal of time solving for nothing. You need to understand your end-goal – whether it's the County's end goal and why would you want to do this licensing. You may make \$300 to \$350 per year from it, but you're going to be spending more in the management of these licenses. Do we have a Cost/Benefit Analysis on this? These are things that need to be understood prior to spending a lot of time and money in a "workshop" to better understand how we would license it. Our first question should always be "Why?"

Chairman Joslin: Let me ask one last question since we have an engineer on the Board, when you do a compaction test now – are you doing it now in 12-inch lifts where a tractor grader comes in and brings in dirt, lays it out and ...

Matthew Nolton: That's the only way we've ever done it.

Chairman Joslin: ... then you come in and you test it?

Matthew Nolton: That's the only way we've ever done it.

Chairman Joslin: So they tamp it again and you test it again?

Matthew Nolton: Yes.

Chairman Joslin: And then they put twelve more inches on ...?

Matthew Nolton: They have to have passing tests and we have to actually sign off, and they have to provide that to the County before they can continue on.

Chairman Joslin: So is this a way then to – maybe the Commissioners are thinking about trying to bypass or making it more efficient to happen? Because if it doesn't pass, they can do it again at the same time that they are putting the dirt in?

Matthew Nolton: I don't see any change.

Chairman Joslin: Is this engineer testing at each twelve-inch lift of ...

Matthew Nolton: It doesn't matter if it's done as they are putting it on or if it's done afterwards – we make them dig down in spots and we test every foot. So they can put it all on at once, but we will make them dig down and test every foot. And if it doesn't pass, then it's their issue to compact it.

Elle Hunt: It would be the same way for the Tamping Contractor – there's no difference.

Chairman Joslin: Okay – so much for our discussion, right? Hope we helped you.

Everildo Ybaceta: Thank you very much.

Chairman Joslin: My last comment will be that I heard today that one of our Board members is about to leave us ... Gary McNally.

Gary McNally: Yes, I am.

Chairman Joslin: I just want to pass along that it has been a pleasure working along with you.

Gary McNally: My pleasure, also.

Chairman Joslin: From the time you got on the Board, you have been a good man. I don't know what the issues are – if you need a ride or something, I can pick you up.

(General laughter)

Gary McNally: No, it has a lot to do with ... my father-in-law just went into hospice at my house and he could be there for six months. My wife is going to have double knee surgery - replacement surgery – at the end of September and I'm still trying to get my hand back from the elbow surgery that I had two months ago. So, with all of that stuff that is going on – family comes first.

Chairman Joslin: I'll go buy a van if that's what it takes.

Gary McNally: Thank you. (Laughing) I have to say, I want to thank everybody here – it has been a real pleasure – both with the members of the Board and Staff – to be working with you. I have learned a whole lot about the process by being here and it's been a true privilege for me to be up here on this Board with everybody. And I want to thank you.

Chairman Joslin: Thank you for being with us.

NEXT MEETING DATE:

WEDNESDAY, SEPTEMBER 20, 2017

BCC Chambers, 3rd Floor – Administrative Building “F”,
Government Complex, 3301 E. Tamiami Trail, Naples, FL

There being no further business for the good of the County, the meeting was adjourned by order of the Chairman at 10:30 AM.

**COLLIER COUNTY CONTRACTORS’
LICENSING BOARD**

RICHARD JOSLIN, *Chairman*

The Minutes were approved by the Chairman on _____, 2017,
“*as submitted*” [___] - **OR** - “*as amended*” [___]