

FLAGLER COUNTY CONTRACTOR REVIEW BOARD
Flagler County Government Services Building
Board Chambers
Board Minutes
Wednesday, October 19, 2011
5:00 PM
MINUTES APPROVED NOVEMBER 16, 2011

Members Present: Luis Mederios - Chairman, Ted Johnson – Vice Chairman, Glen Torre, Sandra Mason, Joseph Pozzuoli, Roy Waldhauer, Frank Dudley, Glenn Kehle, Barry Martin

Members Absent: None

Staff Present: Gary Hiatt-Chief Building Official; Ramona Zavacky–Licensing Manager;

City of Palm Coast: Barbie Bembry, Jay Maher

1. Roll Call:

The roll was called at 5:00 a quorum was present.

2. Pledge of Allegiance:

Chairman Mederios led the group in the Pledge of Allegiance.

3. Approval of the September 21, 2011 Meeting Minutes

A MOTION was made by Glenn Torre and SECONDED by Sandra Mason to approve the Meeting Minutes of the September 21, 2011 Contractor Review Board.

MOTION CARRIED unanimously.

4. Old Business:

5. New Business:

A. Medeiros, Avelino

Avelino Medeiros was present having been properly served by facsimile delivery.

Mr. Medeiros and Mr. Mahr were sworn in for testimony.

Jay Mahr reviewed Exhibits M1-M9 with the Board

M1 Copy of Notice to Appear dated 10/04/11

M2-M3 Copy of Administrative Complaint dated 10/04/11

M4 Copy of certified mail deliver track and confirm document

M5 Copy of email delivery notification dated 10/17/11

M6 Copy of facsimile delivery report dated 10/17/11

M7 Copy of Palm Coast code enforcement action order report for 41 Bassett Lane

M8 Copy of work order/invoice dated 06/02/11 from Sharp Image to Hector Rodriguez

M9 Copy of Sharp Image Maintenance business card

M10 Copy of Better Business message to Hector Rodriguez

M11 Copy of Sharp Image Lawn Maintenance Invoice for lawn maintenance

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M12	Copy of Palm Coast code enforcement action order report for 55 Mt. Vernon Lane
M13	Copy of property search record for 55 Mt. Vernon Lane
M14	Copy of work order/invoice for 55 Mt. Vernon Lane dated 06/31/11
M15	Copy of payment checks from Ms. Bromirski to Sharp Image Maint.
M16	Copy of paver information presented to owners
M17	Copy of Sharp Image business card
M18-M19	Copy of letter from owners of 55 Mt. Vernon Lane to Mr. Avelino Medeiros
M20	List of Florida Statutes, Florida Building Codes and Flagler County Ordinance relating to Building and Licensing regulations and penalties for Violations

Chairman Medeiros informed the Board Avelino Medeiros talked to him previously about contracting this project. At the time he told Avelino Medeiros it is required he contract directly with the owner, adding he could not work on the project while under Avelino Medeiros was in an illegal contract with the owner. Mr. Avelino Medeiros called him again today at which time Chairman Medeiros told him he could not discuss this case. Mr. Dudley stated he gave an estimate for repairs on the project at 41 Bassett Lane and completed some electrical work. He would recuse himself from this case. Mr. Mahr stated the project for the patio with fountain and lighting at 55 Mount Vernon Lane were not started and the owners are requesting their money back. Mr. Avelino Medeiros stated he sent a refund check for \$1,600.00 to the owners last week when he was in New Jersey, they should receive soon. He will forward the balance of \$1,600.00 as soon as possible. He explained the job did not include plumbing. The project at 41 Bassett Lane included new sod and repairing the irrigation system. Mr. Mahr stated at least six sprinkler heads were dug up, repaired and relocated. Mr. Avelino Medeiros disagreed stating he did not relocate irrigation sprinkler heads. Mr. Mahr informed the Board the owners had to replace the sod since the initial sod died as a result of the sprinkler system not working correctly. Mr. Mahr asked the Board to required Mr. Avelino Medeiros to refund the owner of 41 Bassett Lane for the costs incurred to replace the sod. Mr. Mahr stated the owners paid Mr. Avelino Medeiros \$2,691.05. The Board then asked Mr. Avelino Medeiros if he resolved any of the previous Board Orders. Mr. Medeiros stated he would need to get a copy of those and look into them. He told the Board he would try to make immediate restitution to the owners of 55 Mount Vernon Lane and 41 Bassett Lane. He would then work on resolving the case from last month and the initial case filed against him last fall. Mr. Mahr stated other avenues of resolve would be used if no action is seen on Mr. Avelino Medeiros' behalf. He has already forwarded information from previous Board hearings to other agencies for review. Ms. Zavacky informed the Board the State Dept. of Business and Professional sent a letter June 15, 2011 to Mr. Avelino Medeiros to Cease & Desist unlicensed contracting activity, so the next complaint will be considered for a more stringent discipline. The complaint from last month and tonight will be forwarded to the State with the Board's recommendation.

A MOTION was made by Mr. Waldhauer and SECONDED by Mr. Dudley following Board discussion showing findings of facts through Exhibits M1 to M20 the Administrative Complaint citing violation of FS 489, Flagler County Ordinance 2008-23 and the Florida Building Code by continuing to offer services and performing unlicensed irrigation sprinkler installations and repairs, electrical and installation of pavers. The Respondent, Mr. Avelino Medeiros shall be assessed a fine in the amount of \$4,000.00 (Four thousand dollars), \$1,000.00 (One thousand dollars) per Count I, II, III and IV to be paid no later than June 20, 2012. Mr. Avelino Medeiros shall pay restitution in the amount of \$1,600.00 (One thousand six hundred dollars immediately to the owner(s) of 55 Mt. Vernon Lane and submit proof

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to the Board. Mr. Avelino Medeiros shall also present proof of reimbursement check previously sent to the owners at 55 Mt. Vernon Mr. Avelino Medeiros shall pay restitution in the amount of \$2,691.05 (Two thousand six hundred ninety one dollars and five cents) to the owner(s) of 41 Bassett Lane and submit proof to the Board.

MOTION CARRIED unanimously.

B.Smith, Wayne

Wayne Smith was not present having been properly served by certified mail delivery.

Mr. Mahr was sworn in for testimony.

Jay Mahr reviewed Exhibits S1-S26 with the Board

S1	Copy of Notice to Appear dated 10/04/11
S 2	Copy of Administrative Complaint dated 10/04/11
S3	Copy of certified mail delivery receipt
S4	Copy of Notice to Appear dated 08/24/11
S5	Copy of Administrative Complaint dated 10/04/11
S6	Copy of certified mail delivery receipt
S 7	Copy of Palm Coast Code Enforcement warning dated 06/20/11
S8	Copy of City of Palm Coast code case delivery report dated 06/21/11
S9-S10	Copy of Code Enforcement report by Jay Maher dated 06/21/11
S11	Copy of proposal from Wayne Smith to Hollie Nguyen dated 06/11/11
S12-S13	Copy of check's from Nguyen's to Wayne Smith dated 06/11/11& 6/13/11
S14-S15	Copy of emails from Hollie Nguyen to Mark Walton dated 07/11/11
S16-S25	Coy of site pictures
S26	List of Florida Statutes, Florida Building Codes and Flagler County Ordinance relating to Building and Licensing regulations and penalties for Violations

Exhibits presented at hearing:

Nguyen exhibit #1	Proposal from Palmetto Electric dated 08/03/11
Nguyen exhibit #2	Proposal from Lancia Custom Homes dated 07/25/11
Nguyen exhibit #3	Estimate from Karen Bergin for cleaning dated 06/18/11

Mr. Mahr reviewed the exhibits stating the owner has incurred more costs to repair and complete work started by the unlicensed contractors Mr. Smith and Mr. Ross. Mr. Dudley stated he gave an estimate for electrical repairs on the project at 8 Ripley Place and completed some electrical work. He would recuse himself from this case. Mr. Mahr stated the conversation with Mr. Ross regarding the electrical work is in his exhibits. Mr. Ross spoke to Mr. Mahr during his site visit showing him electrical work he had already performed. Mr. Mahr described the events as explained by the owner, he thought they would be present this evening. The payment checks are made out to Mr. Smith who invited Mr. Ross onto the project to perform the electrical work. He explained the owner of 8 Ripley Place called Mark Walton a contractor listed in the online Yellow Pages. The contractor Mark Walton was reported to be on active military duty. They then spoke to Mr. Smith regarding the project and were told they would not need a permit for the work. The owner had no idea Mr. Smith was not working with the licensed contractor Mr. Walton. Mr. Smith is the father of Mark Walton's wife with whom the owner originally spoke with,

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although as seen in the emails Mrs. Walton is stating Walton Inc. did not send anyone to the home to work under Mr. Walton's license. As work commenced the owners called concerning possible unlicensed contractors working on their home. Mr. Mahr stated he met with the owners and determined the individuals working on the project, Mr. Smith and Mr. Ross were not licensed. Mr. Smith brought Mr. Ross who is also unlicensed onto the project to perform the unpermitted electrical work. Checks were made out to Mr. Smith for the remodeling and electrical work. The Board was concerned with Mr. Ross not being served and performing electrical. Ms. Zavacky stated the electrical case would still be pursued and forwarded to the State as part of this case. The Board stated the owners should be reimbursed for the monies paid to Mr. Smith.

A MOTION was made by Mr. Martin and SECONDED by Mr. Torre following Board discussion showing findings of facts through Exhibits S1 to S26 and Nguyen exhibits 1, 2 and 3 citing violation of FS 489, Flagler County Ordinance 2008-23 and the Florida Building Code by engaging in unlicensed building and electrical contracting. The Respondent, Mr. Smith shall be assessed a fine in the amount of \$2,000.00 (Two thousand dollars) \$500.00 (Five hundred dollars) per Count I, II, III and IV, to be paid within thirty days of the Board Order. Mr. Smith shall immediately make restitution in the amount of \$2,828.00 (Two thousand eight hundred and twenty eight dollars) to the owner(s) of 8 Ripley Place and submit proof of payment to the Board. The Board recommends the state CILB review the case for further disciplinary action against both unlicensed individuals Mr. Smith and Mr. Ross.

MOTION CARRIED unanimously.

C.Ross, Gary

Gary Ross was not present –staff did not make delivery notice of hearing. Ms. Zavacky informed the Board delivery of the Notice to Appear was not confirmed. She stated she has been unable to reach Mr. Ross, but will continue to reach out and try to locate him for a future hearing.

D.Berwaldt, Charles

Charles Berwaldt was not present having been properly served by certified mail delivery.

Mr. Zavacky and Mr. Hiatt were sworn in for testimony.

Ramona Zavacky reviewed Exhibits B1-B14 with the Board

- B1 Copy of Notice to Appear dated 10/12/11
- B2 Copy of Administrative Complaint dated 10/12/11
- B3 Copy of certified mail receipt
- B4 Copy of property search records from Property Appraiser
- B5 Copy of Code Enforcement violation order for 1448 Honeytree Street dated 10/10/11
- B6-B7 Copy of site pictures of 1448 Honeytree Street
- B8 Copy of payment slip for monies received by Chuck Berwaldt
- B9-B10 Copies of delivery tickets from Fogelman Builders Supply to Chuck
- B11 Copy of Building Permit application from Tally's Construction
- B12 Copy of NOC showing Tally's Construction as contractor

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- B13 Copy of complete Building Permit history for permit application #2011090112
B14 List of Florida Statutes, Florida Building Codes and Flagler County Ordinance relating to Building and Licensing regulations and penalties for Violations

Ms. Zavacky informed the Board this case concerns unlicensed roofing activity by Mr. Berwaldt. Mr. Berwaldt contracted and performed the installation of roofing on two structures. Mr. Berwaldt then contacted Mr. Tallaksen a licensed roofer to obtain the permit for the work. Mr. Tallaksen was brought before the local Contractor Review Board previously and it was noted he had one roofing permit application approved at the building department for issuance. When Mr. Tallaksen did not obtain the permit the codes inspector was sent to the site to verify if the work was completed without the permit. The work was completed and a call was made to the owners who informed the building department they did not contract with Mr. Tallaksen to roof the structures. The owner presented a payment slip to Mr. Berwaldt showing payment in cash in the amount of \$1,200.00. Ms. Zavacky informed the Board at the time she spoke with the owner's mother, Mrs. Krupsky she admitted her husband had paid Mr. Berwaldt for the labor portion and forwarded the delivery tickets from Fogelman Builders Supplies for the materials ordered and delivered. The delivery tickets named "Chuck" as the person who ordered the supplies and the person they were shipped to at 1448 Honeytree Street. The Board questioned if Mr. Berwaldt had appeared before the Board previously. Ms. Zavacky stated he was before the Board recently for the same offense. This case information would also be presented to the State. The Board discussed the fines and determined the owners had to have known Mr. Berwaldt was unlicensed as they paid him in cash and worked without the permit. Ms. Zavacky agreed the owner should have known because the mother stated she is a Realtor and the son is somehow involved in some type of engineering. The mother also stated they had received several bids for the work and chose to go with Mr. Berwaldt.

A MOTION was made by Ms. Mason and SECONDED by Mr. Kehle following Board discussion showing findings of facts through Exhibits B1 to B14 and the Administrative Complaint citing violation of FS 489, Flagler County Ordinance 2008-23 and the Florida Building Code by offering and engaging in unlicensed roofing contracting activity. The Respondent, Charles Berwaldt shall be assessed a fine in the amount of \$1,500.00 (One thousand five hundred dollars) per Count I, II, and III to be paid within thirty days of the Board Order. The Board also recommends the state CILB assess a fine in the amount of \$5,000.00 (Five thousand dollars) as this is the second case unlicensed case involving Mr. Berwaldt.

MOTION CARRIED unanimously.

E. Tallaksen, Thomas

Thomas Tallaksen was not present having been properly served by Email delivery.

Mr. Zavacky and Mr. Hiatt were sworn in for testimony.

Ramona Zavacky reviewed Exhibits T1-T10 with the Board

- T1 Copy of Notice to Appear dated 10/12/11
T2 Copy of Administrative Complaint dated 10/12/11
T3 Copy of email delivery confirmation dated 10/12/11
T4 Copy of payment slip to Chuck Berwaldt for \$1200.00
T5-T6 Copies of delivery tickets from Fogelman Builders Supply to Chuck
T7 Copy of Code Enforcement violation order dated 10/10/11

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T8-T9 Copy of site pictures of 1448 Honeytree Street
T10 List of Florida Statutes, Florida Building Codes and Flagler County Ordinance relating to Building and Licensing regulations and penalties for Violations

Mr. Hiatt informed the Board the project involved in this case was discussed last month during a case against Mr. Tallaksen. He reminded the Board their Order included a roofing permit ready for pick up by Mr. Tallaksen. It was the only permit allowed to be issued as the Board placed Mr. Tallaksen's permitting privileges under his roofing license on suspension. When Mr. Tallaksen didn't pick up the permit, questions arose. A code officer visited the site to reveal the roofing work was complete. Ms. Zavacky spoke with Mr. Berwaldt and Mr. Tallaksen. Mr. Tallaksen visited the building department in the following days to pick up the permit at which time Ms. Zavacky informed him the work was complete and performed by an unlicensed contractor. She asked him if he had a contract with the owners, he stated he did not but would make sure he did before he returned to pick up the permit. He did not return and obtain the permit. Mr. Hiatt informed the Board if Mr. Tallaksen had obtained the permit on time, staff would probably have not known Mr. Tallaksen did not perform the work.

A MOTION was made by Mr. Pozzuoli and SECONDED by Mr. Martin following Board discussion showing findings of facts through Exhibits T1 to T10 and the Administrative Complaint citing violation of FS 489, Flagler County Ordinance 2008-23 and the Florida Building Code by assisting an unlicensed contractor by applying for a permit for. The Respondent, Mr. Tallaksen's permitting privileges shall continue being suspended for license CCC1327743. The Board makes recommendation to the State CILB to assess a \$5,000.00 (Five thousand dollars) and Revocation of Mr. Tallaksen's state certified roofing license.

MOTION CARRIED unanimously.

F.Russell, H. Randy

H. Randy Russell was present having been properly served by certified mail delivery.

Mr. Russell, Ms. Zavacky and Mr. Hiatt were sworn in for testimony.

Ramona Zavacky reviewed Exhibits R1-R7 with the Board

R1 Copy of Notice to Appear dated 10/04/11
R2 Copy of Administrative Complaint dated 10/04/11
R3 Copy of email delivery receipt dated 10/04/11
R4-R6 Copy of site pictures for 107 Ocean Way
R7 List of Florida Statutes, Florida Building Codes and Flagler County Ordinance relating to Building and Licensing regulations and penalties for Violations

Mr. Russell informed the Board he is not from this area but visits his family and occasionally house sits for a friend. Through a friend in Atlanta, he met with the owners and moved forward on reviewing the work already started by a previous contractor and investigating what needed to be done. Mr. Hiatt informed the Board the first contractor called the office about doing investigative work and the building department visited the site to monitor the removal of the damaged wood in areas to determine what would need to be permitted. Mr. Russell was on the site when the code officer visited. Mr. Russell stated he was not licensed and immediately left the site. The Board questioned who placed the

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scaffolding on site. Mr. Russell stated he had the scaffolding installed so he could try to determine the scope of work that would need to be done and to get the site organized. Mr. Waldhauer questioned the proof that Mr. Russell was contracting illegally. Ms. Zavacky stated he was on site, physically working when the code officer appeared. Mr. Russell is now working with the owners to hire a licensed contractor. Ms. Zavacky stated she had no concerns for the owners, they originally had a licensed contractor who they chose to let go, subsequently going with Mr. Russell. Mr. Waldhauer asked Mr. Russell if he was licensed in Kansas. He stated he has had licenses in four states but is retired and does not plan to get into contracting here. Mr. Johnson stated Mr. Russell removed the existing scaffolding then ordered and erected his own scaffolding noting that the intent was to perform some work on the site but not defraud the owners.

A MOTION was made by Mr. Waldhauer and SECONDED by Mr. Torre following Board discussion showing findings of facts through Exhibits R1 to R7 and the Administrative Complaint citing violation of FS 489, Flagler County Ordinance 2008-23 and the Florida Building Code by engaging in unlicensed contracting activity. The Respondent, Howard Randy Russell shall be assessed a fine in the amount of \$250.00 (Two hundred and fifty dollars) per Count I, to be paid within thirty days of the Board Order.

MOTION CARRIED – Ayes –Mr. Dudley, Mr. Pozzuoli, Mr. Kehle, Mr. Medeiros, Mr. Johnson, Mr. Waldhauer, Mr. Torre
Nays – Ms. Mason, Mr. Martin

G.Kluth, Don

Don Kluth was present having been properly served by certified mail delivery.

Mr. Kluth, Mr. Mahr and Mr. Parris (homeowner) were sworn in for testimony.

Jay Mahr reviewed Exhibits K1-K12 with the Board

K1	Copy of Notice to Appear dated 10/04/11
K2	Copy of Administrative Complaint dated 10/04/11
K3	Copy of certified mail receipt
K4	Copy of Code Enforcement Action Order Report
K5	Copy of City of Palm Coast Building Permit Application #2011050133
K6	Copy of Building Permit History for permit #2011050133
K7	Copy of KDK invoice dated 04/14/11 to owner Jim
K8	Copy of checks – payment to KDK Concrete
K9-K11	Copy of KDK web pages
K12	List of Florida Statutes, Florida Building Codes and Flagler County Ordinance relating to Building and Licensing regulations and penalties for Violations

Mr. Kluth stated he has worked in Flagler County for years under licensed contractors. He did not realize he could not work directly for owners. He stated he worked with Mr. Scaglione in the past and asked him to permit the project not realizing it was illegal. Chairman Mederios informed Mr. Kluth he is working illegally when he is contracting directly with the public and then has to hire someone to obtain the permit. Mr. Mahr brought the Board's attention to the Volusia County specialty license noted in the advertisements shown in the exhibits. Mr. Kluth stated he had no idea a local license was now

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required. He stated he visited the City of Palm Coast building department to apply for a permit when he was informed a licensed is required to permit and perform the work. At that time, he had to hire a licensed contractor to obtain the permit. Mr. Maher stated the permit has not been finalized, the final inspection did not pass and action can be taken against the owner if the permit expires. Mr. Parris, the homeowner informed the Board he has tried repeatedly to contact Mr. Kluth to get him to complete the job. A lien was placed against the property for the materials, which Mr. Parris has since paid and had the lien removed. Mr. Parris then found out the project had not had the required final inspection. He stated Mr. Kluth met with him after and admitted he did not have the money to complete the job. He has had many concerns with Mr. Kluth and thinks he should not receive money for services he cannot and is not licensed to perform. Mr. Parris added he just wants his project completed and the permit finalized. Mr. Martin voiced concerns with the contract price and the permit valuation given by the contractor. The owner paid \$3,295.00 but the contractor placed the amount of \$1,800.00 as the job value.

A MOTION was made by Mr. Waldhauer and SECONDED by Mr. Torre following Board discussion showing findings of facts through Exhibits K1 to K12 and the Administrative Complaint citing violation of FS 489, Flagler County Ordinance 2008-23 and the Florida Building Code. The Respondent, Don Kluth did offer and perform unlicensed contracting. Mr. Kluth shall be assessed a fine of \$500.00 (Five hundred dollars) per Count I to be paid within 30 days of the Board Order. Mr. Kluth shall pay restitution immediately in the amount of \$15.00 (Fifteen dollars) to the owner(s) of 39 Fenhill Lane. Mr. Kluth shall present proof to the Board of payment and release of the lien placed on the property.

MOTION CARRIED unanimously

H.Scaglione, Tom

Mr. Scaglione was present having been properly served by certified mail delivery.

Mr. Scaglione and Mr. Mahr were sworn in for testimony.

Jay Mahr reviewed Exhibits S1-S13 with the Board

- S1 Copy of Notice to Appear dated 10/04/11
- S2 Copy of Administrative Complaint dated 10/04/11
- S3 Copy of email delivery receipt dated 10/17/11
- S4 Copy of Code Enforcement Action Order dated 09/01/11
- S5 Copy of City of Palm Coast Building Permit application
- S6 Copy of complete permit history for permit # 2011050133
- S7 Copy KDK Concrete estimate dated 04/14/11
- S8 Copy of checks to KDK Concrete
- S9-S12 Copy of KDK web pages and advertisement
- S13 List of Florida Statutes, Florida Building Codes and Flagler County Ordinance relating to Building and Licensing regulations and penalties for Violations

Mr. Mahr stated the owner Mr. Parris was completely unaware of Mr. Scaglione being the contractor of record on the building permit. Mr. Mahr stated the payment checks were made out to KDK Concrete. Mr. Scaglione informed the Board Mr. Kluth had worked for him in the past so he had no concerns when he came to him to permit the job. He did not realize he was doing anything wrong until he was

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informed by the City. Chairman Mederios asked him if he had concerns since he did not have a contract with the owner and Mr. Kluth could not be reached. The Board also questioned the amount of the contract being much more than the price stated on the permit. Mr. Scaglione answered he was not informed of the contract price so he guessed the value of the work. Chairman Mederios also questioned the need for the NOC, advising Mr. Scaglione of the concerns for not filing one. Mr. Parris stated Mr. Scaglione has been on the job to try to bring the job to a close. The owner informed the Board he is completely satisfied with Mr. Scaglione but has many concerns with Mr. Kluth's business practices. Ms. Mason stated her biggest concern is that a certified contractor doesn't know the laws involved with licensing and permitting. Ms. Zavacky informed the Board contractors do not get tested or taught permitting and licensing regulations. They are tested on some business and law regulations but do not get into the permitting until they are licensed and ready to go to work. Ms. Zavacky informed the Board she had heard so many individuals state "they are licensed contractors, they should know the laws". She stated this is such a misconception.

A MOTION was made by Mr. Dudley and SECONDED by Mr. Kehle following Board discussion showing findings of facts through Exhibits S1 to S13 and the Administrative Complaint citing violation of FS 489, Flagler County Ordinance 2008-23 and the Florida Building Code by aiding and abetting an unlicensed contractor. The Respondent, Thomas Scaglione did permit work for unlicensed contractor Don Kluth. Mr. Scaglione shall complete the project at 39 Fenhill Lane and obtain an approved final inspection. Mr. Scaglione shall receive a Warning by the Board to be placed in his local licensing file.

MOTION CARRIED unanimously.

6. Adjournment

A MOTION was made by Mr. Kehle and SECONDED by Mr. Pozzuoli to adjourn.

MOTION CARRIED unanimously.

The Meeting was adjourned at 7:55 PM.

Next meeting of the Contractor Review Board is Wednesday, November 16, 2011 at 5:00 PM.

Respectfully Submitted
Ramona Zavacky