



HOME OF PELICAN ISLAND
BUILDING DEPARTMENT
FIRE PREVENTION OFFICE
1225 MAIN STREET • SEBASTIAN, FLORIDA 32958
TELEPHONE: (772) 589-5537 FAX (772) 589-2566

SEBASTIAN CONSTRUCTION BOARD

REGULAR MEETING

May 24, 2022 @ 6:00 P.M.

1. CALL TO ORDER

2. PLEDGE OF ALLEGIANCE

3. ROLL CALL

4. ANNOUNCEMENTS AND/OR AGENDA MODIFICATIONS

Modification and additions require unanimous vote of members. Deletion do not apply

5. APPROVAL OF MINUTES: Meeting from December 6, 2021

6. PUBLIC INPUT

Public Input on items other than on the printed agenda: Limited to 5 minutes; however, it can be extended or terminated by a majority vote of members present.

7. UNFINISHED BUSINESS: QUASI JUDICIAL/PUBLIC HEARING

A. QUASI-JUDICIAL DISCIPLINARY HEARING:

Procedures for appeals which are quasi-judicial public hearings:

- *Chair opens hearing*
- *Attorney reads the Title*
- *Construction Board Members disclose ex-parte communication or conflicts of interest*
- *City Clerk swears in all who intend to offer testimony*
- *Applicant or applicant's agent makes presentation*
- *Staff presents findings and analysis*
- *Board Members asks questions of the applicant and staff*
- *Chair opens the floor to the public for anyone in favor of the appeal*
- *Chair opens the floor to the public for anyone opposing the appeal*
- *Applicant provided opportunity to respond to any issues*
- *Staff summary, if any*
- *Construction Board deliberation*
- *Chair calls for a motion*
- *Construction Board Action*

1. IN THE MATTER OF MR. CHRISTOPHER HALL

D/B/A SEBASTIAN ALUMINUM / SHORELINE SHUTTERS

ALLEGED VIOLATION OF THE FOLLOWING SECTIONS OF THE SEBASTIAN CITY CODE OF ORDINANCES

APPLICABLE CODE SECTION FROM THE CITY CODE OF ORDINANCES:

SECTION 26-172 – CAUSES FOR DISCIPLINARY ACTION

City Code of Ordinance: 26-175 (e) - In addition to the penalties that may be imposed and other remedies that may be available to the city which are provided for elsewhere in this section, the board is authorized to take the following disciplinary actions against the holder of a certificate of competency issued by the board pursuant to this article, where such holder has been found to violate section 26-171 or has engaged in any of the acts or omissions which constitute cause for disciplinary action pursuant to section 26-172.

THE FOLLOWING ACTS CONSTITUTE CAUSE FOR DISCIPLINARY ACTION UNDER THIS ARTICLE:

CITY CODE OF ORDINANCE 26-172 (6) - FAILURE IN ANY MATERIAL RESPECT TO COMPLY WITH THE PROVISIONS OF THIS ARTICLE.

8. NEW BUSINESS: QUASI JUDICIAL/PUBLIC HEARINGS

A. QUASI-JUDICIAL DISCIPLINARY HEARING:

Procedures for appeals which are quasi-judicial public hearings:

- *Chair opens hearing*
- *Attorney reads the Title*
- *Construction Board Members disclose ex-parte communication or conflict of interest*
- *City Clerk swears in all who intend to offer testimony*
- *Applicant or applicant's agent makes presentation*
- *Staff presents findings and analysis*
- *Board Members asks questions of the applicant and staff*
- *Chair opens the floor to the public for anyone in favor of the appeal*
- *Chair opens the floor to the public for anyone opposing the appeal*
- *Appellant provided opportunity to respond to any issues*
- *Staff summary, if any*
- *Construction Board deliberation*
- *Chair calls for a motion*
- *Construction Board Action*

1. IN THE MATTER OF MR. DILLON SLATER

D/B/A SLATER CONSTRUCTION, LLC

ALLEGED VIOLATION OF THE FOLLOWING SECTIONS OF THE SEBASTIAN CITY CODE OF ORDINANCES THAT OCCURRED AT THE FOLLOWING LOCATIONS IN SEBASTIAN:

- **116 ORMOND Ct.**

APPLICABLE CODE SECTION FROM THE CITY CODE OF ORDINANCES:

SECTION 26-172. – CAUSES FOR DISCIPLINARY ACTION

THE FOLLOWING ACTS CONSTITUTE CAUSE FOR DISCIPLINARY ACTION UNDER THIS ARTICLE:

(1) DIVERSION OF FUNDS OR PROPERTY RECEIVED FOR THE COMPLETION OF A SPECIFIED CONSTRUCTION PROJECT OR OPERATION OR AS A RESULT OF THE DIVERSION THE CONTRACTOR IS OR WILL BE UNABLE TO FILL THE TERMS OF HIS OBLIGATION OR CONTRACT.

B. QUASI-JUDICIAL DISCIPLINARY HEARING:

Procedures for appeals which are quasi-judicial public hearings:

- *Chair opens hearing*
- *Attorney reads the Title*
- *Construction Board Members disclose ex-parte communication or conflict of interest*
- *City Clerk swears in all who intend to offer testimony*
- *Applicant or applicant's agent makes presentation*
- *Staff presents findings and analysis*
- *Board Members asks questions of the applicant and staff*
- *Chair opens the floor to the public for anyone in favor of the appeal*
- *Chair opens the floor to the public for anyone opposing the appeal*
- *Appellant provided opportunity to respond to any issues*
- *Staff summary, if any*
- *Construction Board deliberation*
- *Chair calls for a motion*
- *Construction Board Action*

1. IN THE MATTER OF MR. DILLON SLATER D/B/A SLATER CONSTRUCTION, LLC

ALLEGED VIOLATION OF THE FOLLOWING SECTIONS OF THE SEBASTIAN CITY CODE OF ORDINANCES THAT OCCURRED AT THE FOLLOWING LOCATIONS IN SEBASTIAN:

- **104 MARSH ST.**

APPLICABLE CODE SECTION FROM THE CITY CODE OF ORDINANCES:

SECTION 26-172. – CAUSES FOR DISCIPLINARY ACTION

THE FOLLOWING ACTS CONSTITUTE CAUSE FOR DISCIPLINARY ACTION UNDER THIS ARTICLE:

(1) DIVERSION OF FUNDS OR PROPERTY RECEIVED FOR THE COMPLETION OF A SPECIFIED CONSTRUCTION PROJECT OR OPERATION OR AS A RESULT OF THE DIVERSION THE CONTRACTOR IS OR WILL BE UNABLE TO FILL THE TERMS OF HIS OBLIGATION OR CONTRACT.

C. QUASI-JUDICIAL DISCIPLINARY HEARING:

Procedures for appeals which are quasi-judicial public hearings:

- *Chair opens hearing*
- *Attorney reads the Title*
- *Construction Board Members disclose ex-parte communication or conflict of interest*
- *City Clerk swears in all who intend to offer testimony*
- *Applicant or applicant's agent makes presentation*
- *Staff presents findings and analysis*
- *Board Members asks questions of the applicant and staff*
- *Chair opens the floor to the public for anyone in favor of the appeal*

- *Chair opens the floor to the public for anyone opposing the appeal*
- *Appellant provided opportunity to respond to any issues*
- *Staff summary, if any*
- *Construction Board deliberation*
- *Chair calls for a motion*
- *Construction Board Action*

**1. IN THE MATTER OF MR. DILLON SLATER
D/B/A SLATER CONSTRUCTION, LLC**

ALLEGED VIOLATION OF THE FOLLOWING SECTIONS OF THE SEBASTIAN CITY CODE OF ORDINANCES THAT OCCURRED AT THE FOLLOWING LOCATIONS IN SEBASTIAN:

- **133 ADMIRAL CIR.**

APPLICABLE CODE SECTION FROM THE CITY CODE OF ORDINANCES:

SECTION 26-172. – CAUSES FOR DISCIPLINARY ACTION

THE FOLLOWING ACTS CONSTITUTE CAUSE FOR DISCIPLINARY ACTION UNDER THIS ARTICLE:

(1) DIVERSION OF FUNDS OR PROPERTY RECEIVED FOR THE COMPLETION OF A SPECIFIED CONSTRUCTION PROJECT OR OPERATION OR AS A RESULT OF THE DIVERSION THE CONTRACTOR IS OR WILL BE UNABLE TO FILL THE TERMS OF HIS OBLIGATION OR CONTRACT.

9. BOARD MATTERS:

10. BUILDING OFFICIAL MATTERS:

11. ATTORNEY MATTERS:

12. ADJOURN

NOTE: IF ANY PERSON DECIDES TO APPEAL ANY DECISION MADE ON THE ABOVE MATTERS, HE/SHE WILL NEED A RECORD OF THE PROCEEDINGS AND FOR SUCH PURPOSES, HE/SHE MAY NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDINGS IS MADE, WHICH RECORD INCLUDES THE TESTIMONY IN EVIDENCE ON WHICH THE APPEAL IS BASED. TWO OR MORE ELECTED OFFICIALS MAY BE IN ATTENDANCE

You are invited to a Zoom webinar.
When May 24, 2022 6:00 p.m. Eastern Time (US and Canada)
Topic: Special Magistrate

ZOOM INFORMATION

Please click the link below to join the webinar:
<https://us02web.zoom.us/j/83082766965?pwd=em4xWHdLak80K2tnMGdxcENaaE42UT09>

Or tap mobile:

+13017158592,,83082766965#,,,,*758071# US (Washington DC)
+13126266799,,83082766965#,,,,*758071# US (Chicago)

Or Telephone:

Dial(for higher quality, dial a number based on your current location):

+1 312 626 6799 US (Chicago)
+1 929 436 2866 US (New York)
+1 301 715 8592 US (Washington DC)
+1 346 248 7799 US (Houston)
+1 669 900 6833 US (San Jose)
+1 253 215 8782 US (Tacoma)

Webinar ID: 830 8276 6965

Passcode: 758071

Find your local number: <https://us02web.zoom.us/j/83082766965?pwd=em4xWHdLak80K2tnMGdxcENaaE42UT09>

**CITY OF SEBASTIAN
SEBASTIAN CONSTRUCTION BOARD
MINUTES OF REGULAR MEETING
DECEMBER 6, 2021**

I. Call to Order -- Chairman Fortier called the meeting to order at 6:00 p.m.

II. Pledge of Allegiance -- was recited by all

III. Roll Call:

Present

Mr. Wilcher

Mr. Roberts

Mr. Fortier

Mr. Scheskowsky

Ms. Carbano

Also Present

Manny Anon, City Attorney

Wayne Eseltine, Building Director/Fire Marshal

Joseph Perez, AV Technical Assistant

Janet Graham, Technical Writer (Zoom)

IV. Announcements and/or Modifications -- None

V. Approval of Minutes -- 3-19-2021

Mr. Fortier had one correction on Page 5, the third paragraph where it states, "He further explained that lot of these cases..." should read, "He further explained that a lot of these cases..." There being no further changes/corrections, Mr. Fortier called for a motion. A motion to accept the Minutes as amended was made by Mr. Wilcher and seconded by Mr. Scheskowsky.

Roll Call

Ms. Carbano -- Yes

Mr. Roberts

Mr. Scheskowsky -- Yes

Mr. Wilcher

Mr. Fortier

VI. Public Input -- None

VII. Unfinished Business -- None

VIII. New Business -- None

IX. Quasi-Judicial/Public Hearings

A. Public Hearings -- Certificate of Competency

At this point, Mr. Fortier announced that he will move into a public hearing. Mr. Anon read the item into the record.

1. In the Matter of Mr. James Kyle Woodward

CITY OF SEBASTIAN CERTIFICATE OF COMPETENCY NO. 1669
DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION
LICENSE NO. ER 13012850 (STATE LICENSE REGISTRATION BECAME
NULL AND VOID ON 8-31-2010). APPLICABLE CODE SECTION FROM
THE CITY CODE OF ORDINANCES SECTION 26-168 (C)

Mr. Fortier called on City staff to make their presentation.

Mr. Wayne Eseltine identified himself and his position with the City of Sebastian. He reviewed that this case came before the Board on March 9, 2021. Mr. Woodward was seeking Board approval to reinstate his Sebastian electrician license which expired on September 30, 2010 without having to reapply and retake the electrical exam as permissible if approved by the Board in accordance with Section 26-168 (C) of the City Code of Ordinances. At the March 9th meeting Mr. Woodward's case was denied by the Board due to lack of continuing education and lack of showing work experience in the field during the time in which his license was expired. It was deliberated and suggested by some of the Board members at the time that Mr. Woodward should provide more information to the Board regarding his work experience obtained and continuing education to be abreast of the current electrical codes and any current code changes. Mr. Woodward has provided more information as the Board requested and is seeking to bring his case back before the Board for further consideration. Mr. Woodward is present via Zoom. Mr. Fortier then called on Mr. Woodward to speak.

Mr. Woodward stated he has been doing electrical work. He has had some health challenges and took a job in Kentucky. He stated he satisfied the continuing education requirement by doing 14 hours. He has affidavits regarding his work in Kentucky. He worked in Kentucky because of medical issues and insurance. He states he has been working and has done everything the Board asked and more.

Mr. Eseltine stated there are documents in Mr. Woodward's file covering his continuing education with regards to Florida. He has provided testimony from others regarding his work and his ability to do his work and provided some pictures. At this point, Mr. Eseltine said it is up to the Board whether all this information satisfies the requirements regarding reinstating his license.

Mr. Fortier closed the legislative hearing at which time he called for Board deliberation. There was discussion among the Board members.

Mr. Roberts stated that, after reviewing the paperwork provided by Mr. Woodward, he is satisfied with continuing education being sufficient, particularly the updated code changes, which is what the Board has been concerned about.

Mr. Scheskowsky stated he has questions about the continuing education. Mr. Woodward did provide the Board with an update on the 2020 code changes. From his perspective, they are talking about upgrades from the 2016 code, and he has no certificate for that. Prior to that, there was another code change in 2012, and prior to that there were code changes for 2008. Every time the code book is updated these changes are entered into the book. After four years they will come out with a new book, and there will be updates on that. Mr. Scheskowsky opined that Mr. Woodward is lacking certificates for 2008, 2012, and 2016. He would not support the reinstatement of his license at this time.

Mr. Fortier stated he is satisfied with the continuing education. He has also taken into consideration Mr. Woodward's employment history. Mr. Fortier asked Mr. Eseltine if the City is okay, if voted on and the license is reinstated, that those fees each year were not paid. Mr. Eseltine stated in his staff report, in accordance with the code, for every year that the applicant did not renew the license, there is double the annual fee. There is a total of \$861.00 in fees that are due. That would take him up to 2022. Mr. Anon explained that the Board, at its discretion, can require Mr. Woodward to be reexamined. Mr. Fortier called for a motion. According to what the Board had told Mr. Woodward prior, if the \$861.00 fees for the time that he has not been licensed are paid, a motion reinstating Mr. Woodward's license was made by Mr. Fortier and seconded by Mr. Wilcher.

Roll Call

Ms. Carbano -- No

Mr. Scheskowsky -- No

Mr. Fortier -- Yes

Mr. Roberts -- Yes

Mr. Wilcher -- Yes

Vote was 3-2 in favor. Motion carries.

Mr. Eseltine stated that in the past the Board had asked to have the City's code revised regarding this type of thing. Section 26-168 (C) was revised. That was done, and he read to the Board what that section now states.

B. Quasi-Judicial Disciplinary Hearing

**1. In the Matter of Mr. Mathew T. Hall D/B/A Sebastian Aluminum/
Shoreline Shutters**

ALLEGED VIOLATION OF THE FOLLOWING SECTIONS OF THE SEBASTIAN CITY CODE OF ORDINANCES THAT OCCURRED AT THE FOLLOWING LOCATIONS IN SEBASTIAN:

- **105 SEBASTIAN INDUSTRIAL PLACE UNITS 2-5**
- **938 LANCE STREET**

APPLICABLE CODE SECTION FROM THE CITY CODE OF ORDINANCES IS SECTION 26-172 -- CAUSES FOR DISCIPLINARY ACTION

THE FOLLOWING ACTS CONSTITUTE CAUSE FOR DISCIPLINARY ACTION UNDER THIS ARTICLE:

(1) WILLFUL OR DELIBERATE DISREGARD OR VIOLATION OF THE APPLICABLE BUILDING CODES OF THE CITY

(2) FLORIDA BUILDING CODE 105.1: Any **owner** or owner's authorized agent who intends to construct, install, enlarge, alter, **repair**, remove, convert or replace any impact-resistant coverings, electrical, gas, mechanical or plumbing system, the installation of which is regulated by this code, or to cause any such work to be performed, shall first make application to the **building official** and obtain the required **permit**.

Mr. Anon read the item into the record.

Mr. Fortier asked the Board members if any of them have had any ex parte communications with anyone connected to this case. Mr. Fortier disclosed that in his position for his employer, he has hired this company. He does not pay for it; he oversees construction for the company that he works for. It was three to five years ago. He has used them probably three times. All other Board members indicated they had not had any ex parte communications.

All who intended to testify were sworn in by the City Attorney. Mr. Fortier called on the City to present its case.

Mr. Eseltine identified himself and his position with the City. He recited the violations for 105 Industrial Place Units 2-5. On May 8, 2020, an electrical inspection was performed under Permit No. 21-1258 for a new 200-amp electrical panel and one receptacle. He personally did that inspection. The panel was placed in unit 3 at 105 Industrial Place. At that time, installation of large storage racks against the far wall had just begun. Mathew Hall who is the owner of Shoreline Shutters stated he intended to expand into vacant units 2-5 to start manufacturing new products for his storm protection company. He was informed by the building official that it would require plans and building permits before making the expansion into the vacant space. Mr. Hall assured the building official he would comply. The meter was granted for that electrical connection. The second inspection of the building on the property was on June 4, 2020. It revealed that the expansion of the Shoreline Shutters business was in process. The business had previously occupied units 6-10, and they expanded materials, equipment and operations in the vacant units 2-5 without obtaining the required building permits. Units 2-5 were vacant units, and the building shell had never been completed, never had a certificate of occupancy for those units. On June 4, 2020 a notice of violation was written to Shoreline Shutters with instructions to stop all the work in new areas units 2-5. A third site visit on November 20, 2020 revealed the expanded area was fully occupied, stocked with materials, and manufacturing work was being conducted in violation of the stop work order issued on June 4, 2020. The plans and application for a building permit were received on December 23, 2020. On January 27, 2021 the City wrote a notice of unsafe structure which was delivered to the contractor declaring the expansion in units 2-5 was an unsafe structure per the City Code of Ordinances for work without a permit or inspection. The unsafe structure notice was amended on January 29, 2021 and provided 60 days to make corrections to the plans submitted, to obtain the permit, and 180 days to complete all the work and final inspections. After multiple plan reviews, the permit for the business expansion was finally approved on July 6, 2021. Final inspections were conducted on July 9, 2021 and August 19, 2021. Both of those inspections failed. To date, the permit remains open with minor corrections that need to be addressed and reinspected in order to close out that permit.

Mr. Eseltine requested to read the narrative of the violation for 938 Lance Street as follows: The owner of 938 Lance Street made an inquiry to the Building Department in search of records of a permit for the storm shutters that were installed by Shoreline Shutters in July of 2019. No record was found for the storm protection permit at this address. After providing the required product approval which the owner was able to obtain from Shoreline Shutter installation, the owner was subsequently issued an

owner/builder permit on June 18, 2021. On June 22, 2021 inspection was performed on the shutter installation and failed because the product was not labeled per the building code requirements. The owner was provided with labels by Shoreline Shutters, and a second inspection was performed on June 28, 2021. Upon further investigation into the product approval for the shutters that were not labeled correctly, it appears the Department of Business and Professional Regulation did not grant the full approval of the shutters, which incidentally are manufactured by Shoreline Shutters--that is under Product Approval Number FL 31180—until December 16, 2020. It appeared at the time that Shoreline Shutters was selling and installing this product at this address in July of 2019, when in fact the product approval did not come out until December 16, 2020. Shutters must be labeled, so Mr. Eseltine questioned the fact that these were not labeled. He opined it was because Mr. Hall did not possibly have the labels because they had not been approved by the state yet. That concluded Mr. Eseltine's report.

Mr. Fortier asked the City Attorney if the representative of Mr. Hall can discuss both of the cases at the same time.

Mr. Rhodeback identified himself as representing Mathew Hall d/b/a Shoreline Shutters and provided written material to all the Board members. He is requesting that the Board not rule on any of the alleged violations tonight because his client was not notified until December 1st of this meeting. When notified on December 1st, Mr. Hall immediately contacted Mr. Rhodeback's office. The soonest available date that Mr. Rhodeback could meet with Mr. Hall was on December 3rd. After meeting with Mr. Hall, Mr. Rhodeback did contact the City Attorney's office and Mr. Eseltine to request a continuance of tonight's hearing. That request was rejected. The only two witnesses who could testify on behalf of Shoreline Shutters and Mr. Hall are character witnesses basically. None of them has any personal knowledge of these projects or what was done with respect to these projects that are at issue. The reason why Mr. Hall could not be available tonight for this hearing is because he serves as a firefighter for Osceola Fire Rescue, and he is on duty tonight and is not permitted to attend a hearing while on duty, either in person or via Zoom. Mr. Rhodeback would like to have Mr. Hall here to defend himself with respect to some of these allegations. He is prepared to make certain legal arguments tonight, but he is respectfully requesting that this be continued to a future hearing.

With respect to the legal defenses, he has provided printouts of relevant code sections, relevant statutes and things that he suggests are applicable to this case. The allegation here is that his client should be disciplined or fined for a willful disregard of the applicable zoning code of the City. He addressed that code and opined that the applicable building code of the City is not quite clear with respect to these cases. He further addressed Section 26-31 specifically and argued his points as to why a building permit was not

required. He further addressed Section 489.113(4.d), which discusses local government's authority to impose penalties, citations, etc. upon a certificate holder. His third defense was discussed as to restitution and the history of this company. He feels that the recommended fines and/or penalties are excessive in this case. The witnesses he has present tonight are strictly character witnesses. He called for questions/comments from the Board. There being none, Mr. Fortier called for questions of staff by the Board members.

Mr. Fortier addressed the timing of this hearing on such short notice. He believes that the interpretation of the rules and regulations should be considered. He opined that a lot of the discussion is not germane to what the Board is to weigh in on. He does see a propensity for Mr. Hall's company not to care about compliance. That is his concern.

Mr. Roberts asked if there is a copy of the City Ordinance 26-34.08 regarding the industrial complex. Mr. Eseltine stated he did not include that ordinance in the Board's packet for tonight. He reviewed his knowledge of that section of the code and how it impacted these units. He also stated when his department did the inspections they found many electrical issues that needed to be addressed. He opined that it did not look like a licensed electrician did the work. Those things needed to be corrected. There were subsequent inspections, and there are only some minor items remaining. Mr. Eseltine also addressed some of the items that Mr. Rhodeback talked about regarding state law and city ordinances and the length of time that this problem remained. Mr. Eseltine stated that letters were sent to Shoreline Shutters via Certified Mail on November 19th to the two addresses that were on file. No one was present to receive the notices, but a notice was left at the Vero Beach address that a certified letter was to be picked up. That was on November 22nd. Because the certified letter was not being delivered to the Sebastian address, the Building Department hand-delivered the letter last Wednesday to make sure that they definitely received the notice of this hearing. He added that Mr. Hall has also been before the Special Magistrate in the past, and he described that case. Mr. Roberts also asked what the Board's options are regarding probation. Mr. Eseltine said he is not certain that it is defined anywhere. It is his opinion that it is up to the Board how long probation would be.

Mr. Fortier also discussed how the laws and ordinances affect different municipalities. He feels it is egregious that Shoreline Shutters was unwilling to move forward to arrive at a point where the Building Department could sign off on the projects. He would like to have seen Shoreline Shutters make a more positive effort to try and complete this project. However, he does not feel that this elevates to suspension of the Shoreline Shutters' license. He feels that a fine as determined by the City should be imposed and is warranted. Mr. Fortier also asked if probation means that this company cannot do

business in the City of Sebastian during the period of probation. Mr. Anon stated that there are three options according to Section 26-175 (e.1, 2, and 3) and reviewed those options.

Mr. Wilcher stated that when a stop-work order is issued, the contractor is supposed to stop work. Mr. Eseltine stated that is correct. Mr. Wilcher added that if the contractor puts in approved plans, the contractor cannot do anything until those plans have been approved. From his reading of the material, it appears that the contractor went on with the work and disregarded the instructions from the Building Department.

(SHORT BREAK TAKEN)

All witnesses having been sworn, Mr. Fortier opened the floor to anyone from the public who wished to speak in favor of Shoreline Shutters. **Mr. Derek Rudasil** is employed as the Operations Manager at Shoreline Shutters. He has been with the company for approximately five years. This company has been in business since the 1980s. He feels that the company does everything they can to conduct their business appropriately. There appeared to be no one from the public wishing to speak in opposition to Shoreline Shutters, and Mr. Fortier moved to the next step of the hearing.

Mr. Rhodeback spoke in response to some items that were addressed during the City staff's presentation. He reviewed that, as far as 105 Industrial Place is concerned, there was an architect who was working closely with City staff. It was not that the City was ignored and there was not a willingness to work with the City to get the concerns addressed. It appears that there was an issue with an inexperienced architect that resulted in a delay in getting the necessary approvals by the City. He also stated that there is no dispute that a building permit is accounted for under the code which specifically provides for structures and buildings—and that is it. That is all the City Code of Ordinances describes with respect to getting a building permit. When the issues were discovered, they were addressed immediately. There was no intent whatsoever to disregard the City's Code of Ordinances as it applies to this particular contractor. He added that he does think it is important for Mr. Hall to be here to discuss his side of the case with respect to the factual allegations, as they differ from Mr. Eseltine's to a certain extent. Mr. Roberts asked if it is Mr. Rhodeback's position that Shoreline Shutters did not know if a permit needed to be pulled or not. Mr. Rhodeback stated that one of the projects was an oversight. Regarding the other one, they did not think it was needed because it was in their opinion a decorative shutter. He added that he was told during a meeting with Shoreline Shutters that, "Any time we pound in a nail from now on, we are getting a permit from the City."

Mr. Eseltine summarized the City's position on these matters.

Mr. Fortier called on the Board members for discussion/comments. Hearing nothing from anyone else on the Board, Mr. Fortier stated he found it difficult to think that this company had no intent to disregard the City of Sebastian and what they were told. He sees that this has been ongoing for an extended period of time, and he finds some malice here. However, he does not think this elevates to a suspension. Ms. Carbano asked, if the Board finds against Shoreline Shutters, instead of a suspension could the Board impose that they not be allowed to apply for any more permits until the fine is paid. Mr. Eseltine stated that the owner/builder permits have already been issued. There are only a couple of minor issues that need to be corrected and closed at the 105 Sebastian Industrial Place address. Mr. Fortier opined that the Board should move to levy fines, and if the contractor fails to pay those fines, the Board could reconvene and impose probation or suspension and language to that effect be contained in any motion this evening. He further stated that, without any recommendation from the City, this Board move to fine the contractor the maximum allowable. Mr. Wilcher asked the City Attorney if he needs to review the information that was provided by Mr. Rhodeback before the Board makes a decision. Mr. Anon stated he has not seen that information before today. The Board heard Mr. Rhodeback present his case. Mr. Anon knows Mr. Rhodeback and trusts him as a lawyer. It is entirely up to the Board to decide this case. Mr. Roberts stated he thinks the City has been more than generous in giving the contractor adequate time to complete the project. He thinks that is sufficient and the Board needs to move on to fines. Mr. Scheskowsky stated that once the contractor pays the fines that will be assessed, they will rethink regarding not pulling permits in the future. If they do not pull the permits, they will be back before this Board. Mr. Fortier agreed. He stated that, if this contractor does not follow the code in the future, this Board can convene an emergency meeting that will notify the contractor that they are no longer allowed to pull permits in the City of Sebastian until this Board is satisfied. There being no further general discussion, Mr. Fortier called for a motion.

A motion that the Board follow staff's recommendation for a maximum fine of \$500.00 for each occurrence as well as \$100.00 for fees covering the costs that the City incurred relating to this case for a total of \$1,100.00 was made by Mr. Scheskowsky and seconded by Mr. Roberts.

Roll Call

Mr. Fortier -- Yes
Mr. Roberts -- Yes
Mr. Wilcher -- Yes

Mr. Scheskowsky -- Yes
Ms. Carbano -- Yes

Vote was 5-0 in favor. Motion carries.

2. In the Matter of Mr. Christopher Hall d/b/a Sebastian Aluminum/Shoreline Shutters

ALLEGED VIOLATION OF THE FOLLOWING SECTIONS OF THE SEBASTIAN CITY CODE OF ORDINANCES THAT OCCURRED AT THE FOLLOWING LOCATIONS IN SEBASTIAN:

- 589 REDWOOD CT.

APPLICABLE CODE SECTION FROM THE CITY CODE OF ORDINANCES IS SECTION 26-172 -- CAUSES FOR DISCIPLINARY ACTION

THE FOLLOWING ACTS CONSTITUTE CAUSE FOR DISCIPLINARY ACTION UNDER THIS ARTICLE:

(1) WILLFUL OR DELIBERATE DISREGARD OR VIOLATION OF THE APPLICABLE BUILDING CODES OF THE CITY

(2) FLORIDA BUILDING CODE 105.1: Any **owner** or owner's authorized agent who intends to construct, install, enlarge, alter, **repair**, remove, convert or replace any impact-resistant coverings, electrical, gas, mechanical or plumbing system, the installation of which is regulated by this code, or to cause any such work to be performed, shall first make application to the **building official** and obtain the required **permit**.

Mr. Anon read the item into the record.

Mr. Rhodeback, who represents Mr. Hall in this case also, stated that the arguments with respect to these violations are essentially the same. He again requests a continuance, the reason being that notification occurred on December 1st, 2021 pursuant to a hand delivery at the office, as the certified mailings were not picked up. That was the week of Thanksgiving, and people frequently are not home during that holiday. He did not have an opportunity to meet with Mr. Hall until December 3rd, which would have been this last Friday. He made the request to the City Attorney and Mr. Eseltine, and that request for a continuance was denied. The defenses for this particular case are the same as asserted in the previous case. He briefly reviewed these defenses. He does not believe a suspension or any imposition of fines or penalties is warranted in this case, as stated in the prior case.

Mr. Eseltine reviewed the staff report. He also stated that the notices were sent properly.

There was also a hand-delivered notice presented to the applicant on December 1st. As far as the building code is concerned, the City's Code of Ordinances adopts the Florida Building Code except for Chapter 1 that comes with the Code. So a local jurisdiction is permitted according to the state statutes to adopt another version of Chapter 1. The BOAF edition was used, which is the recommended edition, and it contains 105.1 which specifically states that a permit is required for impact-resistant coverings. He added that the reason this case lists Christopher Hall and not Mathew Hall is because they are father and son, and both qualify that company. Christopher Hall has a license as well, which is a local license. The actual complaint and the attached invoice from the owner had Mr. Christopher Hall's name on it. That is the reason why staff chose to bring Christopher Hall into this case and not Mathew Hall. Mr. Fortier called on the Board for comments/questions.

Mr. Fortier asked if the shutters are functional. Mr. Eseltine stated yes. So they do need to have the stickers per the Florida Statute. Mr. Fortier asked if Mr. Hall was noticed properly, and Mr. Eseltine stated staff believes he was. Mr. Fortier's opinion is that this case is almost the same as the prior case. He does not think a suspension is needed here, but he does think that there is a fine that needs to be levied. He further stated that if this company comes back here before this Board in the future, he will have a completely different opinion as to how this Board decides.

Mr. Roberts also stated that in the file is information that this happened to other properties on the same block. It seems that this is a pattern of not issuing permits, which is one of the reasons why you hire a professional company. He feels that this case is more egregious than the first case.

Mr. Scheskowsky stated his concern is, if the Board gets complaints from the other homeowners in the area that no permits have been pulled, he feels that maybe then a suspension would be in order. He opined, however, that if the company gets fined for not having permits for these jobs that are the subject of this meeting, they will then go out and pull the permits in the future.

Ms. Carbano stated that she thinks the homeowner should be compensated for the expenses that were incurred by her as well. Mr. Fortier questioned whether this Board has the authority in that regard. Mr. Anon agreed. Mr. Eseltine stated that one of the homeowners was reimbursed.

General discussion among the Board members having ended, Mr. Fortier called on Mr. Rhodeback for additional input. Mr. Rhodeback confirmed that restitution was made in this case.

Mr. Fortier called on anyone else from the public who wished to speak for or against Shoreline Shutters. Mr. Dan Brognano stated that he is a builder in the area, and Shoreline Shutters has probably worked on 2,000 homes for him in the last 40 years in 3 different counties. He stated that never once have they ever done a job for him without a permit. It is a respectable and competent company. Mr. Eseltine replied to what Mr. Brognano said. He builds many houses in Sebastian. The storm shutter permit is included with the house; it is not a separate permit.

Mr. Fortier suggested that there should be something included in a motion that talks about a suspension if this process continues of not pulling permits. A motion that the Board follow staff's recommendation for a maximum fine of \$500.00 as well as \$100.00 for fees covering the costs that the City incurred relating to this case as well as consideration of a license suspension if this process of not pulling permits continues in the future was made by Mr. Scheskowsky and seconded by Mr. Roberts. There being no further discussion, Mr. Fortier called for a roll call vote.

Roll Call

Mr. Wilcher -- Yes
Mr. Roberts -- Yes
Mr. Fortier -- Yes

Ms. Carbano -- Yes
Mr. Scheskowsky -- Yes

Vote was 5-0 in favor. Motion carries.

Mr. Anon suggested that Mr. Rhodeback will want to incorporate his packet into the record, and likewise the City would like to incorporate its packet into the record without any objections. There being no objection, those documents were entered into the record.

X. Board Matters -- None

XI. Building Official Matters -- None

XII. Attorney Matters -- None

XIII. Adjourn -- There being no further business, a motion to adjourn was made by Mr. Wilcher, and seconded by Mr. Scheskowsky.

Roll Call

Mr. Wilcher -- Yes
Mr. Roberts -- Yes
Mr. Fortier -- Yes

Mr. Scheskowsky -- Yes
Ms. Carbano -- Yes

Vote was 5-0 in favor. Motion carries.

There being nothing further, the meeting was adjourned at 7:50 p.m.