

# BOARD OF CODE STANDARDS AND APPEALS MINUTES

October 3, 2011

**Members:** Francisco Banuelos, Randy Coonrod, Daryl Crotts, Brad Doeden, Randy Harder, Russ Redford, Larry Webb, Gregg Wilhite, Warren Willenberg

**Present:** Banuelos, Crotts, Doeden, Harder, Redford, Webb, Wilhite, Willenberg

**Staff Members Present:** Kurt Schroeder, Deb Legge, Penny Bohannon, Elaine Hammons (Central Inspection); Jeff Van Zandt (Law Dept.)

In the absence of Chairman Coonrod, Vice Chairman Harder presided over the meeting.

The regular meeting of the Board of Code Standards and Appeals was called to order by Vice Chairman Harder on Monday, October 3, 2011, at 1:30 p.m. in the 1<sup>st</sup> floor Board Room, City Hall, 455 N. Main, Wichita, Kansas.

## **Approval of the September 12, 2011, minutes.**

Board Member Banuelos made a motion to approve the September 12, 2011, minutes. Board Member Willenberg seconded the motion. The motion was approved. (Board Member Crotts was not present during this vote.)

Vice Chairman Harder requested that the Board and City Staff introduce themselves to the public in attendance.

## **Approval of the October 2011 license applications as follows:**

<u>Applicant Name</u>	<u>Company Name</u>	<u>Class</u>
Belden Bowman	Dalo Construction, Inc.	Class B
Dru Coulson	Dru Coulson dba Dru Coulson Construction	Class A
James Duncan	L. Booze Roofing, Inc.	Roofing
Shane Estell	J/P Painting and Exteriors, LLC	Class B
Berry Harvey	Harvey Remodeling	Class B
Rob McLemore	Millennium Roofing & Construction, Inc.	Class C
Robert Richmond	Robert Richmond dba Robert Richmond Construction	Class B
Tony Tuthill	RCE, LLC	Class B

Mr. James Duncan was present on behalf of his request for approval of his application for a Roofing Contractor's License. Finding his application and accompanying documents in order, Board Member Banuelos made a motion to approve Mr. Duncan's request. Board Member Willenberg seconded the motion. The motion carried. (Board Member Crotts was not present during this vote.)

After reviewing the information packets, Board Member Banuelos made a motion to approve the remaining contractor license applications. Board Member Willenberg seconded the motion. The motion was approved. (Board Member Crotts was not present for this vote.)

## **Request to Change Company Name – L. Travis Cunningham dba LTC Enterprises (Class B)**

Mr. Cunningham requested to change the name of his business to Tip Top Construction to reflect the nature of the business. As of the date of the Board meeting, Mr. Cunningham had five open permits and one expired permit that were unresolved.

Board Member Wilhite made a motion to table the matter until Mr. Cunningham could appear before the Board to answer questions regarding his request and resolve the issue with the permits. Board Member Willenberg seconded the motion. The motion was approved.

**Request for Second License – Chuck Thorpe currently the Qualified Person for Shirley Construction LLC (Class B)**

Mr. Thorpe requested that he be permitted to be the Qualified Person for a second Class B license. The name of the second company will be Thorpe Construction, Inc. There were no unresolved permits for the current license. Because of questions about the license application and confusion about some of the paperwork submitted by Mr. Thorpe, Board Member Crotts made a motion to table the discussion and refer action until such time that Mr. Thorpe appeared before the Board. Board Member Willenberg seconded the motion. The motion passed without opposition.

**Request to Change Company Name – Gregg Vance – Vance Construction, Inc. (Class B)**

Mr. Vance requested that he be permitted to change his company name to Construction Management, Inc. The reason for the name change was Mr. Vance's intent to be more involved in the management aspect of construction. Still listed as an active entity on the State of Kansas Business website, Vance Construction, Inc., also had three unresolved permits.

Board Member Wilhite made a motion to approve the request for the name change pending the resolution of the open and expired permits. Board Member Banuelos seconded the motion. The motion passed.

**Condemnation Hearings:**

**Review Cases:**

**1. 1546 N. Grove**

There was no representative for the property present.

About 44 x 24 feet in size, this one- and one-half story frame dwelling is vacant and open. This structure has shifting and cracking concrete block basement walls; sagging composition roof; deteriorated front porch; and the wood trim and framing members are deteriorated.

The property was first before the Board at the April 4, 2011, hearing. At the September 12, 2011, meeting, the owner, Mr. James Fairley, was granted until the October meeting to contact Deb Legge and schedule an on-site meeting with Ms. Legge so she could assess the stability of the foundation and clarify the remaining repairs needed. Mr. Fairley was to reappear before the Board at the October meeting to update the Board on the status of repairs, maintaining the property in a clean and secure condition in the interim.

Mr. Fairley did not contact Ms. Legge to arrange an on-site meeting prior to the October 3, 2011, meeting.

Board Member Willenberg made a motion to refer the property to the City Council with a recommendation of condemnation, with ten days to begin demolition and ten days to complete the removal of the structure. Board Member Crotts seconded the motion. The motion was approved.

**2. 1711 N. Madison**

Caster Berry, owner, was present.

A one-story frame dwelling, the structure is approximately 42 x 29 feet in size. Vacant for at least five years, this structure has a cracking block foundation; missing brick, hardy plank siding; badly deteriorated composition roof, with holes and areas of missing shingles; and rotted soffits, fascia and wood trim.

This property was presented to the Board at the July 11, 2011, hearing. At that time, Mr. Berry was granted until the October meeting to repair the roof and reappear before the Board to provide an update on the status of the repairs. The taxes are current and there are no Special Assessments against the property. The site is maintained in a clean and secure condition. There have been no repairs made on the structure.

Mr. Berry told the Board that he had been cleaning up the premises. A permit for the roof repair was issued in May 2011, and Mr. Berry said he was informed at the time that he obtained the permit that he had six months to complete the work on the roof. Believing that he had six months to finish the roof, Mr. Berry said he concentrated on cleaning up the site and mowing the grass.

Mr. Schroeder explained that the six-month time allowance was strictly for the life of the permit and did not pertain to the Board action for code enforcement.

Mr. Berry said he had hired a contractor to work on the roof. Board Member Wilhite asked when Mr. Berry anticipated having the project completed. Mr. Berry replied that he really needed until the first part of December due to financial considerations and asked if that would be a problem. Vice Chairman Harder stated that 120 days was the maximum the Board could allow a property to remain in non-compliance, and only if some progress was being made on the repairs. Mr. Berry told the Board that he did not understand why allowing him the extra time would be an issue since the taxes were current and he was maintaining the site in a clean and secure condition. Vice Chairman Harder reminded Mr. Berry that in its current condition, the property was an eyesore. Mr. Berry agreed that it was an eyesore.

Board Member Banuelos inquired why Mr. Berry had not had the roof repaired in the time previously granted by the Board. Mr. Berry explained that he could not do the work himself and had to hire a contractor. Because he is unable to occupy the house and has to pay rent for a temporary residence, Mr. Berry said it has put him in a bind financially as far as paying for materials and labor for the house.

Board Member Crotts made a motion to allow until the December meeting to have the roof completed or at least have made significant progress. Board Member Willenberg seconded the motion. The motion carried.

### **Reconsidered - Request for Second License – Chuck Thorpe currently the Qualified Person for Shirley Construction LLC (Class B)**

Mr. Thorpe arrived at the meeting and asked to appear before the Board. Board Member Crotts made a motion to remove the item from the table and consider it at the current meeting. Board Member Banuelos seconded the motion. The motion carried.

Mr. Van Zandt explained to the Board that the application submitted by Mr. Thorpe for the change of name request had confusing verbiage regarding the type of company that Mr. Thorpe had formed. Originally set up as Advanced Contractors, Mr. Thorpe had received approval from the Board to change his company name to Shirley Construction, LLC. The limited liability corporation documents were not filed with the State of Kansas; therefore, Shirley Construction, LLC, was not actually an entity. To remedy the situation, Mr. Thorpe decided to change the name to Thorpe Construction, Inc., and forego any use of the name Shirley Construction, LLC. With the new development, a second license was unnecessary. All documentation supporting the request for a license to be issued to Thorpe Construction, Inc., was submitted to and reviewed by the Board. Finding that the application and supporting documentation were in order, Board Member Wilhite made a motion to approve Mr. Thorpe's request to change his company name to Thorpe Construction, Inc. Board Member Crotts seconded the motion. The motion was approved.

### **Review of ICC tests as related to requirements for retesting if license is expired/not renewed.**

Mr. Schroeder quickly reviewed his findings regarding the issue of ICC tests and whether the Board had the authority to require retesting where a license is expired or not renewed for an extended interval. After researching the

Kansas State Laws and consulting with Mr. Van Zandt, it was determined that the Board did not have authority to require retesting. An applicant's passing ICC test score must be accepted even if the test was taken in a previous code cycle.

**Presentation of rules/regulations as related to Board protocol.**

Providing a brief overview of Board protocol for the benefit of the newly appointed members, Mr. Van Zandt explained that the Board meetings are run according to Roberts Rules of Order. The Board meetings are public meetings and must follow the State of Kansas Laws pertaining to open meetings. The Open Meeting Act requires that in order to hold a meeting, the intent to do so must be announced, and an agenda must be published prior to the meeting. A meeting cannot be held apart from what has been published as a meeting date and time for the public to attend. This also prohibits more than three Board Members getting together and discussing matters that pertain to Board business because doing so could be deemed a meeting. Serial meetings, the practice of one Member e-mailing another Member and then that Member e-mailing another Member, etc., to discuss matters pertaining to Board business is also prohibited.

Section 9 of the by-laws of the Board of Code Standards and Appeals and Kansas Law requires that if a Board Member encounters a conflict of interest regarding an item being presented to the Board, the Board Chairman must be notified prior to discussion of the agenda item. The Board Member must refrain from any discussion of or voting on the item in which there is a conflict of interest. The Board must operate under a quorum, which requires that at least five Members be present in order to conduct business.

Up to three Board Members can be appointed to a sub-committee, and those Board Members are still eligible to vote on approval of the recommendation of sub-committee findings as a policy when it is presented to the Board.

Mr. Van Zandt encouraged the Board to contact him with any questions or concerns relating to rules and/or regulations regarding Board conduct or protocol.

With no other business to conduct, Board Member Willenberg made a motion to adjourn the meeting. Board Member Banuelos seconded the motion. The motion was approved.

The meeting adjourned at 2:05 p.m.