



# City of Venice

401 West Venice Avenue  
Venice, FL 34285  
www.venicegov.com

## Meeting Minutes Code Enforcement Board

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Thursday, February 28, 2019

9:00 AM

Council Chambers

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### Special Meeting

#### I. Call to Order

A Special Meeting of the Municipal Code Enforcement Board was held this date in Council Chambers at City Hall. Chair Robert Young called the meeting to order at 9:00 a.m.

#### II. Roll Call

**Present** 5 - Chair Bobby Young, Judith Keeler, Patrick Reilly, Nick Flerlage and Ernest Booker

**Absent** 2 - Jon Preiksats and Greg Novack

#### Also Present

Liaison Mayor John Holic, City Attorney Kelly Fernandez, Development Services Director Jeff Shrum, Code Enforcement Supervisor Jim Davis, Code Enforcement Inspector George Nixon, and Recording Secretary Mercedes Barcia.

#### III. Audience Participation

No one signed up to speak.

#### IV. Unfinished Business

Case No.  
18-714

998 Laguna LLC, 998 Laguna Dr: Violation of the City of Venice Code of Ordinance Chapter 86, Land Development Code, Article V, Use Regulations, Division 2, Resource and Conservation Zoning Districts, Section 86-71, MP Marine Park District and Division 3, Residential Zoning Districts, Section 86-81, RSF Residential Single-Family District

Ms. Fernandez noted this is a continuation hearing for Case Nos. 18-714 and 18-727, and requested Mr. Booker confirm he reviewed the December 6, 2018 meeting. Mr. Booker confirmed he reviewed the meeting and is ready to participate.

Ms. Fernandez queried board members on ex-parte communications and conflicts of interest since the last hearing. There were none.

Mr. Young re-opened the public hearing.

Mr. Nixon, being duly sworn, provided an update on compliance to include violations remain at the property.

Jeffery Boone, representing respondents, being duly sworn, noted the Freedom Boat Club will stipulate that they continue to operate and charge boats owned by the Freedom Boat Club.

Dan Lobeck, representing owners of the adjacent property, being duly sworn, noted agreement with stipulation.

Mr. Shrum, being duly sworn, requested to correct the record on his testimony at the prior hearing regarding the certificate of zoning compliance, and stated there is a certificate of zoning compliance at the building permit stage.

Mr. Boone questioned Mr. Shrum on his prior testimony regarding the certificate of zoning compliance and building permits for docks.

Discussion took place on following order of procedure.

Mr. Boone stated objection to following order of procedure.

Ms. Fernandez noted all parties will have an opportunity to provide rebuttal and closing statements.

Mr. Young stated objection is noted.

Mr. Boone spoke to working with city staff and interpretation of city code.

Jim Collins, Planner with the Boone Law Firm, being duly sworn, responded to Mr. Boone's questions regarding his occupation and years of employment with the Boone Law Firm, qualifications to provide expert testimony at legal proceedings, types of matters worked on, working with the city's zoning code, participation in meetings and discussions with city staff on this matter, and notices of violations to include whether he is in agreement with staff's position.

Mr. Collins spoke to permitted uses and structures in the Marine Park (MP) district, the term "accessory" defined in the city's code, and aerial map of property (entered as Exhibit A).

Mr. Boone questioned Mr. Collins regarding the definition of accessory use in the code, his understanding of how the dock and contiguous property is used by the marina, parking by marina customers on the contiguous lot,

marina customers utilizing contiguous lot to access boats, Fisherman's Wharf redevelopment project to include MP district, Mr. Shrum's statement at a planning commission hearing on the city revising MP regulations, and his opinion on the zoning code allowing the present use of property by the Freedom Boat Club.

Mr. Boone requested to follow order of procedure.

John Shamsey, Special Counsel for the City, cross examined Mr. Collins on his testimony regarding contiguous property use.

Mr. Boone objected and noted this is not the first time the city has heard this argument.

Mr. Shamsey cross examined Mr. Collins regarding dock parcel zoning, MP usage, the city's code on accessory use, and commented on Mr. Collins' argument.

Mr. Boone objected to Mr. Shamsey making a statement and not asking a question.

Mr. Shamsey cross examined Mr. Collins regarding Florida law on properties with separate limited liability company (LLC)s owned by the same entity, and noted there is probably a reason for separate LLCs.

Mr. Boone objected to Mr. Shamsey's statement on reason for separate LLCs.

Mr. Shamsey stated properties are owned by separate LLCs under Florida law and are separate entities.

Mr. Boone noted Mr. Shamsey is arguing with the witness.

Mr. Young stated so noted.

Mr. Lobeck cross examined Mr. Collins on the MP district zoning code, definition of accessory, acknowledging the Freedom Boat Club is a marina boat yard, zoning of upland property abutting the MP district, establishing the MP district in this proceeding is the water abutting the residential lot, and his testimony on these proceedings objecting to the Freedom Boat Club having boats adjacent in the water of the marina.

Mr. Boone objected to question asked and answered.

Mr. Lobeck cross examined Mr. Collins on the issue being the MP district

abutting the water of the residential lot.

Mr. Boone stated objection to improper cross examination.

Mr. Lobeck cross examined Mr. Collins regarding boats being moored in a residential lot, MP abutting upland property, property lot lines, and commented on determining the accuracy of Exhibit A.

Mr. Boone noted objection to Mr. Lobeck's comment on determining the accuracy of Exhibit A.

Mr. Lobeck questioned Mr. Collins on the property lot line, location of boats being moored, abutting properties of the MP district including marina property, upland properties abutting the MP district, and whether his testimony is that the MP district in these proceedings is the entire Intracoastal Waterway (ICW).

Mr. Boone objected to Mr. Lobeck's question regarding the MP district being the entire ICW and noted question has been asked and answered.

Mr. Young noted Mr. Lobeck may ask the question.

Mr. Lobeck cross examined Mr. Collins on code interpretation and whether the MP district is the entire ICW.

Mr. Boone objected and noted parcel is not in the ICW.

Mr. Lobeck requested Mr. Collins to point on Exhibit A the location of upland properties abutting the MP district where piers and dock accessories to marinas, boat yards, and boat deliveries are a permitted use.

Mr. Boone objected to asking witness repetitive question in different ways.

Mr. Lobeck questioned Mr. Collins on the upland properties adjoining the MP district and requested Mr. Collins to point on Exhibit A where the commercial, general (CG) upland property abuts the MP district.

Mr. Boone objected to asking and answering question.

Mr. Collins responded to board questions regarding upland properties abutting the MP district, ownership of both properties, marine activity being contiguous to the adjoining property, and code requirement for contiguous.

Mr. Boone commented on case law and statutory definition on contiguity.

Mr. Collins responded to board questions regarding the county's aerial map.

Mr. Boone questioned Mr. Collins on the use of the term "contiguous" for the meaning of land use and zoning matters.

Mr. Boone questioned John Giglio, Freedom Boat Club, being duly sworn, regarding the dock in question and the house located on the property north of the marina to include business customers coming onto the property where the house is located, business customers or staff parking on the property, policies prohibiting parking on the property, customers embarking and debarking from boats on the dock, dock access, boat return location, and boat repairs at the dock.

Mr. Shamsey cross examined Mr. Giglio on the dock's use by the business, LLC property ownership, length of time 998 Laguna has been on the property, reason for separate LLCs, and his attorney's advice on LLCs.

Mr. Boone objected to questioning Mr. Giglio's attorney's advice on LLCs and noted Mr. Shamsey is going beyond the scope of direct.

Ms. Fernandez explained Mr. Giglio does not need to divulge the conversation he had with his attorney.

Mr. Shamsey cross examined Mr. Giglio regarding the property zoning of 998 Laguna Drive at the time of purchase.

Mr. Lobeck cross examined Mr. Giglio on purpose for purchasing 998 Laguna Drive, boat storage, customers and staff going onto the property, parking on the property, parking frequency at the marina, and property and LLC ownership.

Mr. Boone objected to Mr. Lobeck's question on LLC ownership and noted question calls for a legal degree.

Mr. Lobeck cross examined Mr. Giglio on residential lot and dock usage, staff's use of the residential property to access dock, mooring boats for the marina at the dock, and the upland property abutting the dock.

Mr. Boone objected to Mr. Lobeck's question on the upland property abutting the dock, noted question is beyond the scope of direct, instructed Mr. Giglio not to answer any questions on planning and zoning matters, and emphasized his client's due process rights would be negatively impacted if he was subject to answer questions about planning and zoning matters.



Mr. Lobeck commented on the foundation to the question and stated he is asking a fact question from a fact witness.

Ms. Fernandez suggested allowing Mr. Lobeck to continue his question.

Mr. Lobeck cross examined Mr. Giglio on the upland property abutting the dock and the meaning of abutting.

Mr. Boone objected to Mr. Lobeck's question on the meaning of abutting.

Mr. Giglio responded to board questions regarding date of property ownership, inquiring on permitted uses of property, intent of property use and purchase, gate location, staff's access to boats, staff radio communication, maximum number of boats stored on 998 Laguna Drive, number of potential boats docked during the day, and boat rental space at Fisherman's Wharf.

Recess was taken from 10:21 a.m. until 10:29 a.m.

John Sorber, 1000 Laguna Drive, being duly sworn, spoke regarding his property, the commercial use of 998 Laguna, boat rentals and storage next to his dock, noise and boat traffic, staff's use of the dock, installation of cleats and dock pads, and 998 Laguna property having two docks, Zillow listing from previous property owner, and survey affidavit.

Mr. Boone stated objection and noted the violation notices only involve one dock and the other dock is not part of today's proceeding.

Mr. Lobeck disagreed with testimony going beyond the scope of direct.

Mr. Boone argued staff's case is closed and the testimony and evidence presented did not include the second dock.

Mr. Lobeck noted staff provided evidence of commercial use in both properties.

Ms. Fernandez read the notice of violation for the 998 Laguna Drive property.

Discussion followed on enforcing whether the property in question is in violation and not the number of docks.

Mr. Sorber testified both docks are being use commercially by the Freedom Boat Club.

Mr. Boone objected going beyond scope of direct.

Mr. Sorber responded to board questions regarding the survey affidavit.

Mr. Lobeck questioned Mr. Sorber on the survey affidavit to include if the legal description encompasses both residential lots.

Mr. Boone objected to Mr. Lobeck's question on the affidavit encompassing both lots and Mr. Sorber's testimony on the surveyor as hearsay.

Mr. Young stated so noted.

Mr. Lobeck questioned Mr. Sorber on the survey and requested him to point at the property lines and docks in question.

Mr. Boone objected to basis of survey stating it does not support Mr. Sorber's testimony and expands notice of violation.

Mr. Lobeck explained notice of violation is inclusive to docks on the property in question.

Mr. Sorber spoke regarding the Freedom Boat Club storing inventory at 998 Laguna Drive, customers and staff parking at the property, and comments made by the previous property manager.

Mr. Boone objection to hearsay testimony.

Ms. Fernandez explained hearsay testimony in quasi-judicial proceedings.

Mr. Sorber spoke to the Freedom Boat Club operating under a submerged lands lease, boat mooring, noise and traffic increase, and enforcing zoning code.

Mr. Lobeck commented on two notices of violation.

Mr. Boone objected and noted Mr. Lobeck testified the legal argument based on the testimony and evidence of Mr. Sorber's letter.

Mr. Sorber responded to questions regarding concern with 996 Laguna Drive, written statement letter, whether the marina was operating at the time residence was purchased, activities on 998 Laguna Drive, ability to hear ship to shore radio communication from his property, frequency and number of boats docked at 998 Laguna Drive during the day, and boat

house at 1000 Laguna Drive.

Mr. Boone cross examined Mr. Sorber on survey, observed number of boats docked at the marina and 998 Laguna Drive, and noise derived from ship to shore radios.

Mr. Sorber responded to questions regarding the observed number of boats being moored at 998 Laguna Drive.

No one signed up to speak.

Discussion followed on rebuttal and closing arguments.

Mr. Shamsey spoke to zoning code interpretation.

Mr. Boone objected to Mr. Shamsey presenting an argument instead of rebuttal.

Mr. Shrum spoke to respondent's code interpretation of the MP zoning districts, city's zoning map, split zoning designation, Section 86-71(b) of the city's Code of Ordinances, protections of residential uses, criterias for accessory uses and structures, zoning code intent, and the term "abutting".

Discussion followed regarding code language, permitting docks in the MP district, and notice of violations for 996 and 998 Laguna Drive.

Mr. Boone cross examined Mr. Shrum on 998 Laguna Drive property zoning, split zoning, length of time employed with the city, time spent communicating with the Boone Law Firm regarding interpretation of the zoning code, MP zoning code language and interpretation, property owner's right to rely on the zoning code, rewriting the MP zoning language, 996 Laguna Drive notice of violation, certificate of zoning compliance, building permit application, contiguous lots, and 996 and 998 Laguna Drive property ownerships.

Mr. Boone questioned Mr. Giglio regarding 849 Laguna Drive property use and ownership, second dock, gate, VFH marine radios, and number of boats docked at the property and allowed by the Florida Department of Environmental Protection (FDEP).

Mr. Lobeck questioned Mr. Giglio on ship to shore radio noise, mooring of ship to shore radio boats on 998 Laguna Drive, and commented on Mr. Giglio being a good neighbor.

Mr. Boone objected to Mr. Lobeck's comment on Mr. Giglio being a good



neighbor.

Mr. Lobeck questioned Mr. Giglio on purchasing property for commercial purposes.

Mr. Boone objected and noted Mr. Giglio has already answered the question.

In response to Mr. Boone's question, Mr. Giglio confirmed he would agree to a stipulation in the code enforcement order to be a good neighbor.

Mr. Lobeck spoke regarding zoning code interpretation, residential zoned property being used for commercial purposes, Mr. Giglio's testimony on purchasing 998 Laguna Drive for commercial purposes, staff using property to access boats, dock being used by the adjacent marina, definition of accessory uses and structures, different LLC ownerships, MP zoning code definition of abutting, and imposing penalties.

Mr. Boone spoke to the city's zoning code to include interpretative issues, dock being in the MP zoning district, split zoning, zoning code language, marinas in the city, properties contiguous to marinas, setting a precedent, definition of contiguous, and responded to board questions on the legal definition of abutting and LLC ownerships.

Mr. Boone spoke regarding the 998 Laguna Drive property and dock being more disruptive on the neighboring property if used residentially, respondent agreeing to stipulations restricting activities on the property, Mr. Giglio's character and testimony, and present use of property.

Mr. Shamsey spoke to the city agreeing with Mr. Lobeck's arguments, split zoning, Mr. Giglio's purpose for purchasing the property, 998 Laguna Drive property being used commercially, LLC ownerships, zoning code interpretation, contiguous factor, dock structure attached to residential property, and definition of accessory use.

Mr. Young closed the public hearing.

**A motion was made by Mr. Reilly, seconded by Mr. Booker, that based on the sworn testimony and evidence presented, the Board finds Respondent in violation of Sections 86-71 and 86-81 of the City's Code of Ordinances, and that the Respondent be given until May 1, 2019 to correct the violation by ceasing the operation of a commercial business on the property by removing all boats for hire by the Freedom Boat Club on 998 Laguna Drive. Should the Respondent fail to comply with this order within the timeframe set forth herein, a fine may be imposed of up to \$250.00 per day for each day the violation continues beyond the time specified herein for compliance. This case will be heard at the May 2, 2019 Code Enforcement Board meeting beginning at 10:00 a.m. to determine if the order has been complied with and whether a fine should be imposed.**

Discussion followed regarding interpretation of the zoning code, MP code language, common ownership, the term "abutting", use of property to store boats, definition of contiguous, city's testimony on respondent using residential portion of the property commercially, LLC ownerships, city's best interest, Mr. Giglio's testimony, and staff going onto the property to access boats.

**The motion carried by the following vote:**

**Yes:** 4 - Chair Young, Vice Chair Keeler, Mr. Reilly and Mr. Booker

**No:** 1 - Mr. Flerlage

**Absent:** 2 - Mr. Preiksats and Mr. Novack

[Case No.  
18-727](#)

Gulf View Marina Holdings LLC, 996 Laguna Dr: Violation of the City of Venice Code of Ordinance Chapter 86, Land Development Code, Article V, Use Regulations, Division 2, Resource and Conservation Zoning Districts, Section 86-49, Site and Development Plan and Zoning Reviews

This case was discussed under Case No. 18-714.

**A motion was made by Mr. Reilly, seconded by Mr. Booker, that based on the sworn testimony and evidence presented, the Board finds Respondent in violation of Section 86-49 of the City's Code of Ordinances, and that the Respondent be given until May 1, 2019 to correct the violation by ceasing the extension of its commercial business onto the property located at 998 Laguna Drive by removing all boats for hire on 998 Laguna Drive. Should the Respondent fail to comply with this order within the timeframe set forth herein, a fine may be imposed of up to \$250.00 per day for each day the violation continues beyond the time specified herein for compliance. This case will be heard at the May 2, 2019 Code Enforcement Board meeting beginning at 10:00 a.m. to determine if the order has been complied with and whether a fine should be imposed. The motion carried by the following vote:**

**Yes:** 4 - Chair Young, Vice Chair Keeler, Mr. Reilly and Mr. Booker

**No:** 1 - Mr. Flerlage

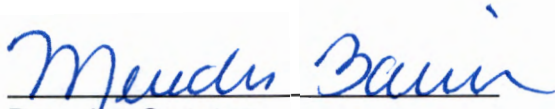
**Absent:** 2 - Mr. Preiksats and Mr. Novack

Mr. Davis provided an update on the Moose Lodge case and noted the March and April meetings will be cancelled.

**V. Adjournment**

There being no further business to come before this Board, the meeting was adjourned at 1:00 p.m.

  
Chair

  
Recording Secretary