

CONSUMER PROTECTION BOARD MEETING MINUTES

MARCH 15, 2023 9:30 am

PRESENT: Aronofsky, Jill
Clark, Lawrence "Larry"
Daley, Herbert
Flynn, Michael
Green, Ric
Tewari, Ram, (Teams)
Rubalcaba, Jenny

ABSENT: Hugley, Christopher
Moreno, Jean
Morguess, Joseph (Excused)

ALSO PRESENT: Philip R. McChesney - Director, and Assistant Chief Innovation Officer
O'Geen, Joseph – Regulated Business Administrator
Custode, W. Gail – Regulated Enforcement Administrator (Teams)
Navas, Javier – Assistant County Attorney
Apicella, Robert – Supervisor Regulatory Business
Mr. Doug McCrary – Analyst Supervisor
Jerkins, Wendy (Teams)
Barrios, Raven – Environmental Specialist
Cabieses, Carlos – Board Clerk

The meeting was called to order at 9:30 a.m. by Michael Flynn, Chair. The Roll Call was conducted, and a quorum was established. The Chair made a Motion to approve the Board meeting minutes from November 16, 2022. The Motion was then seconded by Ric Green.

Panel sign-up sheet was distributed among members.

CORRESPONDENCE

None.

RESIGNATION AND NEW MEMBERS

Mr. O'Geen stated that the board still needs eight (8) members and asked members to reach out to their Commissioners to appoint new members. He added that Mr. Keith Abel and Mr. Antonio Burgess had been removed from the board, and Mr. Jean Moreno has been appointed.

ANNOUNCEMENT

None.

ADMINISTRATOR'S REPORT/DIVISION'S REPORT

Quarterly Reports

Mr. O'Geen began by informing the board that the number of complaints remained the same as of the last quarter, that the money returned to customers for the previous quarter was \$5,366.00, and that the Division lost one (1) Twitter follower. The report from the 1st Quarter of FY 2023 of the Broward County Consumer Protection Program was distributed among members along with the 2023 hearing attendance.

Mr. O'Geen then added that on November 15, 2022, the county commissioners amended part of the Code regarding what constitutes a quorum. Specifically, he mentioned that to have a quorum, we still need to have half members plus one (1). Any board member can appear virtually or by phone, as long as the chairperson is physically present at the meeting. If the chairperson is not there in person, then there must be at least three board members physically present.

COUNTY ATTORNEY'S REPORT:

Assistant County Attorney, Javier Navas, started by saying that the Office of the County Attorney has finalized the Nuisance Abatement memo and that it is ready to send it to the County Commissioners for approval. Essentially, the memo is advising the Commissioners that some changes need to be made regarding the Nuisance Abatement Ordinance, particularly to subsection 127(g) of the Broward Code of Ordinances. The Chairperson's name is on this memo as the sender.

He also added that at the previous board meeting, there was an issue about whether the preponderance of the evidence is clear and if a convincing standard is necessary. He said that the office looked into that and found out that the Florida Statute requires proper proof of the actual wording, and as a result, this is something they put into the suggested changes.

Chairperson, Michael Flynn, said he had a couple of comments.

First, he too noticed that the Florida State Statutes required proper proof, but he did not find in the State Statute that required the board something beyond a preponderance of the evidence. He is having his law students from NOVA process research nuisance abatement statutes throughout the entire country. This research has not been completed yet, but it will be formalized into a formal law review to be published somewhere.

Secondly, Mr. Flynn stated that he did not have any objection to sending this memo to the County Commissioners, but he felt there was still some more work to do, at least regarding the question of the burden of proof.

Finally, Mr. Flynn asked if the Board was ready to take a vote to see if they are going to go forward on this memorandum to the County Commissioners requesting their approval and work with the

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County Attorney's Office to revise the Nuisance Abatement Ordinance. The Chair made a motion to approve the memo. The motion was then seconded and, via vote, was passed unanimously.

Mr. Flynn wanted to reassure the Board members that they would be fully aware of the process and that was his understanding that the Board will have a hearing to determine whether or not there has been a violation of the Nuisance Abatement Ordinance. And that a result of that, the Consumer Protection Board can impose sanctions, but that sanction is basically a fine.

A lengthy discussion was had regarding the above sections. A question-and-answer session followed.

Board Member, Ram Tewari, thanked Javier and the County Attorney's Office for all the work they have done on this project.

OLD BUSINESS: None

NEW BUSINESS: None

Ms. Custode, W. Gail stated that for the purpose of consistency, she wanted to remind the Board members that when the Board is overturning the Division's denial to please remember to say on the record that there should not be any violation of the County's Code 22½. Sometimes there is no mention of this, and as a result, this cannot be included in the orders later.

Ms. Custode, W. Gail also asked for volunteers for the hearing on March 29th at 9:30 am.

BOARD MEMBERS' CONCERN:

In closing, Mr. O'Geen asked the board to remember to respond to all emails, especially when they come from Board Clerk asking for volunteers.

NOMINATIONS OF OFFICERS:

None.

With no further business, the meeting adjourned at 10:10 a.m.

Respectfully submitted,

Carlos Cabieses
Board Clerk