



MINUTES – October 05, 2023
Indian River County Environmental Control Hearing Board

Minutes of the Environmental Control Hearing Board held in the
Indian River County Administration Complex – Building A
Board of County Commission Chambers
1801 27th Street, Vero Beach FL at
12:30 pm on Thursday, October 05, 2023

5 voting members / 3 required for quorum

Call to Order

Kevin Rollin, Chair, called the October 05, 2023 meeting of the Indian River County Environmental Control Hearing Board to order at 12:30 pm.

Roll Call

Members Present:

Kevin M. Rollin, Chair
Patrick Walther, Vice-Chair
Dr. Richard Baker
Anna Kirkland

Members Absent:

Dr. Norman Meyer

Also Present:

Julianne Price, RS, Environmental Control Officer
Jennifer Peshke, Attorney to the Board
Susan Prado, Assistant County Attorney
Holly Roberson, FDH Inspector
Travis Stevens, FDH Environmental Specialist

The Recording Secretary called the roll and advised the Board a quorum was present.

Additions or Deletions to the Agenda

None.

Swearing-In for those who will Testify

The recording secretary administered the testimonial oath to those present who wished to testify at the hearing.

Overview of Board Purpose and Procedures

Chair Kevin Rollin gave a brief overview of the Board's procedures and purpose of this civil proceeding.

Approval of Minutes from the August 03, 2023 ECHB Meeting:

ON MOTION by Patrick Walther, SECONDED by Kevin Rollin, the members voted unanimously to approve the Minutes of the August 03, 2023 ECHB meeting as presented.

HEARINGS

CASE NO: 600-23

RESPONDENT(S): FN INVESTMENTS, LLC

LOCATION: 4630 54th Drive, Vero Beach, FL 32967

Alleged Violation:

Section 384.061, Florida Statutes: The creation, maintenance, or causing of any condition capable of breeding flies, mosquitoes, or other arthropods capable of transmitting diseases, directly or indirectly to humans; and,

Rule 64E-8.002, Florida Administrative Code: No person shall construct a new water well to supply a Limited Use Public Water System unless a well construction permit has been issued by the appropriate water management district or their delegated well permitting agents.

Presentation from Staff: Florida Department of Health (FDOH) Environmental Control Officer Julianne Price, RS, sworn, was present and provided a brief background regarding current violations at the subject property. Two Notice to Correct Violations were issued by Florida Department of Health Inspectors. Inspector Holly Roberson who is present today issued one notice on August 09, 2023.

Ms. Price noted for the record that there is a previous stipulation which was imposed on the prior owner, O&N Investments, wherein the Respondents agreed that on or before December 03, 2012, that they shall connect all plum structures on the subject property to the County water and sewer systems. This has not yet been complied with. The prior owner and current owner have principals in common, specifically, Mr. Hassan, who is present here today.

Florida Department of Health Inspector Travis Stevens initiated an investigation on August 17, 2023 due to a complaint record.

FDOH Environmental Specialist Travis Stevens was present and provided a summary of his investigation at the subject property. Mr. Stevens performed an inspection on the limited use system on August 17, 2023. Notably, there were construction standards that the system was not compliant with. Mr. Stevens explained that as part of his inspection, he performed a water test on the system which failed. A re-sample was done per the code within one business day. The re-sample also failed. The test used was a coliform test, which is used to determine whether or not there is groundwater intrusion in the well and associated plumbing. A third sample was taken time and that test also failed.

Mr. Stevens went in to detail regarding the well that was first identified back in 1977 when the property was known as Country Trailer Park. The well was assumed to have been the supply well for the water system. During an inspection on August 21, 2023, it was discovered that the well was a PVC well, and was not constructed to standards and was constructed without a permit. This well could have been constructed any time between the mid-1980's and now. As a result, a boil water notice was issued, and the non-functioning well and the unpermitted well need to be abandoned. A new public supply well needs to be installed until such a point in time as they can make a connection to the municipal water source. The boil water notice is still in place and will remain standing until the new well is installed and sampling is cleared.

The current owner has submitted applications for abandonment which were approved at the end of September, but a variance had to be submitted with the permit to construct (which was submitted and approved today). It's the position of F&N Investments that they don't know when the well was installed or who installed it.

There are currently eight septic tanks that need to be hooked up to sewer and a well that needs to be replaced with a properly permitted well until the property can be properly hooked up to municipal water.

Eight septic tanks removal, sewer connection, and municipal water connection is required to be in compliance. At this time the Respondent has made application for county water and sewer services including paying the deposit fees for the connections.

Response from Respondent:

Respondent, Neil Nashat Hasan was present and stated that he was overseas and did not return until August 16. Mr. Hasan stated that he immediately contacted Reliable Septic for the tank that was leaking.

Respondent Frank Firas Al Sayed was also present and stated that he too was overseas and returned on August 03. Mr. Al Sayed stated that Mr. Stevens had emailed him the Notice of Violations. The tank that was leaking was repaired by Reliable Septic on August 14. Mr. Al Sayed provided background to the best of his ability. The impact fee was paid to utilities for the water and sewer hookups. Reliable will be bringing the water line up to

the property line so that they can hook up asap. He would like to do both water and sewer at the same time, but is planning on doing water first, then sewer.

Mr. Hasan stated that he was told by Utilities that it would take approximately three weeks for the department to bring the water line and meter to the correct side of the property which will allow them to connect.

Both Respondents confirmed to Chairman Rollin that they fully intend to comply and correct all items on the Notice of Violations, connect to municipal water, install a temporary well, and connect all septic tanks to sewer as soon as the contractors are available to do the work.

Mr. Stevens confirmed for the Board that the sanitary lines have already been installed. Utilities needs to install the water line.

Comments from the Board:

The Board inquired if they could just keep the boil water notice in place until they connect to public water. Staff explained that they would have to continue to sample and they have no confirmation of the integrity of the alterations that have been done. There are too many unknowns. It would not be a preference to sample an illegal system.

Mr. Steven's stated that the issue is that the FDOH cannot grant permission for the Respondents to use an illicit well. The new well can require monthly testing. Any well that applies for a variance, typically comes with provisions for things like connecting to county water; drill to a specific case depth; it has to be cemented top to bottom; etc. They come with requirements, and one of those requirements could also be monthly sampling, but that would only be for the new well moving forward.

Discussion:

The Board discussed potential issues and penalties.

ON MOTION by Kevin Rollin, SECONDED by Richard Baker, that the Respondent is ordered to cure the violations with regard to the limited use well within thirty (30) days from the date of today's hearing or appear at the next regularly scheduled meeting to show cause why a suspended penalty of \$500 per day beginning today, October 05, 2023 until the date of compliance should not be imposed.

The Respondent is further ordered to remedy the remaining outstanding violations on the property within 45 days of today, October 05, 2023 or appear at the next regularly scheduled meeting to show cause why a suspended penalty of \$500 per day, per violation should not be imposed from today, October 05, 2023 until the date that each of the remaining violations are remedied.

The Board retains jurisdiction in this cause to enter such further Orders as may be appropriate.

The Board continued discussion regarding the testing on the new well. Kevin Rollin amended his motion as follows:

ON MOTION by Kevin Rollin, SECONDED by Richard Baker, that:

1. The Environmental Control Hearing Board will reserve its right to impose sanctions related to staff time expended on the case in light of some of the violations of the Respondent such as failure to timely provide 'boil water' notice to the residents;
2. Respondents will be required to do monthly coliform testing, at their own expense on the limited use permit well, completed by a State of Florida NEALAB certified laboratory and for those results to be immediately turned over to the Environmental Control Hearing Board Officer, Julianne Price RS;
3. Respondent is required to appear at the next regularly scheduled meeting on Thursday, December 07, 2023.
4. Respondent is ordered to cure the violations with regard to the limited use well within thirty (30) days from the date of today's hearing or appear at the next regularly scheduled meeting to show cause why a suspended penalty of \$500 per day beginning today, October 05, 2023 until the date of compliance should not be imposed.
5. Respondent is further ordered to remedy the remaining outstanding violations on the property within 45 days of today, October 05, 2023 or appear at the next regularly scheduled meeting to show cause why a suspended penalty of \$500 per day, per violation should not be imposed from today, October 05, 2023 until the date that each of the remaining violations are remedied.
6. The Board retains jurisdiction in this cause to enter such further Orders as may be appropriate.

The motion passed unanimously.

BOARD MATTERS DISCUSSION

None.

ADJOURNMENT

Being no further business, Chair Kevin Rollin adjourned the meeting at 1:42 PM.

Respectfully submitted,

Maura Stokes

Recording Secretary