

**Town of Palm Beach
Code Enforcement Board
Minutes**

Thursday, December 19, 2013, 02:00 p.m.

Please be advised that in keeping with a recent directive from the Town Council, the minutes of all Town Boards and Commissions will be "abbreviated" in style. Persons interested in listening to the meeting, after the fact, may access the audio of that item via the Town's website at www.townofpalmbeach.com or may obtain an audio recording of the meeting by contacting Joan Dunn, Secretary to the Code Enforcement Board at (561) 227-6388. As a point of reference, you will find the recording times listed on these minutes at the beginning of each item.

I. Call to Order:(02:00:59 p.m.)

The meeting was called to order by Chairman Fried at 2:00 p.m.

II. Roll Call:

Upon roll call, the following Board members were present: Chairman Harris S. Fried, Members Larry Ochstein, Madelyn Greenberg, Cynthia Van Buren, W. Anthony Dowell, Robert G. Donnelley and alternate members Scotch Peloso and Matthew Natale. Vice Chairman James Ballentine was absent (unexcused).

Mr. Fried congratulated Mr. Donnelley on his appointment as a regular member and welcomed Mr. Natale as a new alternate member. Mr. Fried thanked and welcomed Councilman Diamond to the meeting.

Staff present: Town Attorney John Randolph, Code Enforcement Manager Raychel Houston, Lead Code Enforcement Officer Robert Walton, Code Enforcement Officer John Moriarty and Recording Secretary Joan Dunn.

IV. Code Enforcement Board Member Oath:(02:02:55 p.m.)

Recording Secretary Dunn administered the Oath of Service to newly appointed alternate member, Matthew Natale

III. Approval of the Minutes of November 21, 2013:(02:03:40 p.m.)

MOTION BY MS. GREENBERG TO APPROVE THE OCTOBER 17, 2013 MINUTES

SECONDED BY MR. DONNELLEY

MOTION PASSED UNANIMOUSLY

V. Administration of the Oath to Town Staff:(02:04:00 p.m.)

The Town staff were sworn in by Recording Secretary Dunn.

VI. Public Hearings:

A. Case # CE 13-965, 111 Atlantic Ave., Sandell Corp.

REPEAT Violation of Chapter 106, Section 106-159 of the Town of Palm Beach Code of Ordinances, a clearance of 8 feet, measured vertically from the edges and extending the full width of all sidewalks and bike trails in the Town to be maintained at all times for the unobstructed passage of pedestrians and others using such sidewalks and bike trails; Violation of Chapter 42, Section 42-86, unsafe, unsanitary or unsightly conditions and grass in excess of 8" in height not allowed

Code Enforcement Officer Moriarty presented the facts of the case and submitted photographs into evidence. He advised the property is now in compliance. The Town recommended the Board find the violator in REPEAT non-compliance, assess administrative costs of \$150.00 and order them to pay a \$500.00 a day fine for the 5 days they were not in compliance after the date specified by the Code Officer for a total of a \$2,500.00 fine.

Mr. John Patelli was present at the hearing on behalf of the property owner and testified that health issues prevented him from coming into compliance sooner.

**MOTION BY MR. DOWELL TO FIND THE VIOLATOR IN REPEAT NON- COMPLIANCE, ASSESS ADMINISTRATIVE COSTS IN THE AMOUNT OF \$150.00 AND ORDER THEM TO PAY THE \$2,500.00 FINE
SECONDED BY MR. DONNELLEY
MOTION PASSED UNANIMOUSLY**

B. Case # CE 13-1052, 201 List Rd. AKA 1066 N. Ocean Blvd., John S. Beeson

Violation of Chapter 126, Section 126-31 of the Town of Palm Beach Code of Ordinances, trees and hedges located within the vicinity of any building or public utility facility or above ground utility line that have reached a height or are in a condition that might render them dangerous to such buildings or public utility facilities or above ground utility lines in the event of high winds or hurricanes or

other storm event are declared to be public nuisances and dangerous to buildings, persons and property in vicinity

Lead Code Enforcement Officer Walton presented the facts of the case and submitted photographs into evidence. The Town recommended the Board find the violator in non-compliance, assess administrative costs of \$150.00 and give them until February 14, 2014 to comply. Booker Washington, a representative from FPL, testified about his involvement in the case.

John Beeson was present at the hearing and testified that he was going to remove the trees and believed he could have them removed by the time given by the Board.

**MOTION BY MS. GREENBERG TO FIND THE VIOLATOR IN NON-COMPLIANCE, ASSESS ADMINISTRATIVE COSTS IN THE AMOUNT OF \$150.00 AND GIVE THEM UNTIL FEBRUARY 14, 2014 TO COMPLY
SECONDED BY MR. DONNELLEY
MOTION PASSED UNANIMOUSLY**

C. Case # CE 13-979, 326 Chilean Ave., Sylvia Hemingway

Violation of Chapter 106, Section 106-40 of the Town of Palm Beach Code of Ordinances, discharge of water from any premise onto the public right of way prohibited

Code Enforcement Officer Moriarty presented the facts of the case and submitted photographs into evidence. The Town recommended the Board find the violator in non-compliance, assess administrative costs of \$150.00 and give them until January 10, 2014 to comply.

The property owner was not present at the hearing and there was a finding of proper notice.

**MOTION BY MR. OCHSTEIN TO FIND THE VIOLATOR IN NON-COMPLIANCE, ASSESS ADMINISTRATIVE COSTS IN THE AMOUNT OF \$150.00 AND GIVE THEM UNTIL JANUARY 10, 2014 TO COMPLY
SECONDED BY MS. VAN BUREN
MOTION PASSED UNANIMOUSLY**

D. Case # CE 13-1025, 401 Australian Ave., Patricia Yunghanns

Violation of Chapter 42, Section 42-86 of the Town of Palm Beach Code of Ordinances, vegetation infested with pests such as whitefly not allowed; Violation of Chapter 106, Section 106-159 requires a clearance of 8 feet, measured vertically from the edges and extending the full width of all sidewalks and bike trails in the Town to be maintained at all times for the unobstructed passage of pedestrians and other using such sidewalks and bike trails

Code Enforcement Officer Moriarty presented the facts of the case and submitted photographs into evidence. He advised the hedge was brought into compliance prior to the hearing but after the date specified by the Code Enforcement Officer and pursuant to Chapter 2, Section 2-427 the Board may still consider the violation. He advised the violation of Chapter 42, Section 42-86 is still out of compliance.

The property owner was not present at the hearing and there was a finding of proper notice.

**MOTION BY MS. VAN BUREN TO FIND THE VIOLATOR IN NON-COMPLIANCE, ASSESS ADMINISTRATIVE COSTS IN THE AMOUNT OF \$150.00 AND GIVE THEM UNTIL JANUARY 10, 2014 TO COMPLY
SECONDED BY MR. DOWELL
MOTION PASSED UNANIMOUSLY**

E. Case # CE 13-1153, 325 Garden Rd., 325 Garden Road LLC

Violation of Chapter 42, Section 42-86 (8) of the Town of Palm Beach Code of Ordinances, conditions which provides harborage for rats, mice or other vermin not allowed; Violation of Chapter 42, Section 42-86 (9), any building or structure that is in such a dilapidated condition that it is unfit for human habitation not allowed; Violation of Chapter 42, Section 42-86 (15), accumulation of stagnant water on a property not allowed. Violation of Chapter 18, Section 18-206 if construction is not to begin within thirty days subsequent to demolition, the lot shall be completely sodded and irrigated

Lead Code Enforcement Officer Walton presented the facts of the case and submitted photographs into evidence. He advised the violations of Chapter 42, Section 42-86(8), Chapter 42, Section 42-86(9) and Chapter 42, Section 42-86(15) were now in compliance. The Town recommended the Board find the violator in non-compliance for the violation of Chapter 18, Section 18-206, assess administrative costs of \$150.00 and give them until January 13, 2014 to comply.

The property owner was not present at the hearing and there was a finding of proper notice.

**MOTION BY MR. OCHSTEIN TO DISMISS THE VIOLATION OF
CHAPTER 42, SECTION 42-86(8), SECTION 42-86(9) AND SECTION 42-
86(15) AND FIND THE VIOLATOR IN NON-COMPLIANCE FOR THE
VIOLATION OF CHAPTER 18, SECTION 18-206, ASSESS
ADMINISTRATIVE COSTS IN THE AMOUNT OF \$150.00 AND GIVE
THEM UNTIL JANUARY 13, 2014 TO COMPLY
SECONDED BY MS. GREENBERG
MOTION PASSED UNANIMOUSLY**

F. Case # CE 13-1157, 340 Garden Rd., 340 Garden Road LLC

Violation of Chapter 42, Section 42-86 (8) of the Town of Palm Beach Code of Ordinances, conditions which provides harborage for rats, mice or other vermin not allowed; Violation of Chapter 42, Section 42-86 (9), any building or structure that is in such a dilapidated condition that it is unfit for human habitation not allowed; Violation of Chapter 42, Section 42-86 (15), accumulation of stagnant water on a property not allowed. Violation of Chapter 18, Section 18-206 if construction is not to begin within thirty days subsequent to demolition, the lot shall be completely sodded and irrigated

Lead Code Enforcement Officer Walton presented the facts of the case and submitted photographs into evidence. He advised the violations of Chapter 42, Section 42-86(8), Chapter 42, Section 42-86(9) and Chapter 42, Section 42-86(15) were now in compliance. The Town recommended the Board find the violator in non-compliance for the violation of Chapter 18, Section 18-206, assess administrative costs of \$150.00 and give them until January 13, 2014 to comply.

The property owner was not present at the hearing and there was a finding of proper notice.

**MOTION BY MR. OCHSTEIN TO DISMISS THE VIOLATION OF
CHAPTER 42, SECTION 42-86(8), SECTION 42-86(9) AND SECTION 42-
86(15) AND FIND THE VIOLATOR IN NON-COMPLIANCE FOR THE
VIOLATION OF CHAPTER 18, SECTION 18-206, ASSESS
ADMINISTRATIVE COSTS IN THE AMOUNT OF \$150.00 AND GIVE
THEM UNTIL JANUARY 13, 2014 TO COMPLY
SECONDED BY MS. VAN BUREN
MOTION PASSED UNANIMOUSLY**

G. Case # CE 13-1158, 211 Ocean Terr., 211 Ocean Terrace LLC

Violation of Chapter 42, Section 42-86 (8) of the Town of Palm Beach Code of Ordinances, conditions which provides harborage for rats, mice or other vermin not allowed; Violation of Chapter 42, Section 42-86 (9), any building or structure that is in such a dilapidated condition that it is unfit for human habitation not allowed; Violation of Chapter 42, Section 42-86 (15), accumulation of stagnant water on a property not allowed. Violation of Chapter 18, Section 18-206 if construction is not to begin within thirty days subsequent to demolition, the lot shall be completely sodded and irrigated

Lead Code Enforcement Officer Walton presented the facts of the case and submitted photographs into evidence. He advised the violations of Chapter 42, Section 42-86(8), Chapter 42, Section 42-86(9) and Chapter 42, Section 42-86(15) were now in compliance. The Town recommended the Board find the violator in non-compliance for the violation of Chapter 18, Section 18-206, assess administrative costs of \$150.00 and give them until January 13, 2014 to comply.

The property owner was not present at the hearing and there was a finding of proper notice.

**MOTION BY MR. OCHSTEIN TO DISMISS THE VIOLATION OF CHAPTER 42, SECTION 42-86(8), SECTION 42-86(9) AND SECTION 42-86(15) AND FIND THE VIOLATOR IN NON-COMPLIANCE FOR THE VIOLATION OF CHAPTER 18, SECTION 18-206, ASSESS ADMINISTRATIVE COSTS IN THE AMOUNT OF \$150.00 AND GIVE THEM UNTIL JANUARY 13, 2014 TO COMPLY
SECONDED BY MS. GREENBERG
MOTION PASSED UNANIMOUSLY**

H. Case # CE 13-1159, 208 Angler Ave., 208 Angler LLC

Violation of Chapter 42, Section 42-86 (8) of the Town of Palm Beach Code of Ordinances, conditions which provides harborage for rats, mice or other vermin not allowed; Violation of Chapter 42, Section 42-86 (9), any building or structure that is in such a dilapidated condition that it is unfit for human habitation not allowed; Violation of Chapter 18, Section 18-206 if construction is not to begin within thirty days subsequent to demolition, the lot shall be completely sodded and irrigated

Lead Code Enforcement Officer Walton presented the facts of the case and submitted photographs into evidence. He advised the violations of Chapter 42, Section 42-86(8) and Chapter 42, Section 42-86(9) were now in compliance. The Town recommended the Board find the violator in non-compliance for the violation of Chapter 18, Section 18-206, assess administrative costs of \$150.00 and give them until January 13, 2014 to comply.

The property owner was not present at the hearing and there was a finding of proper notice.

**MOTION BY MR. OCHSTEIN TO DISMISS THE VIOLATION OF CHAPTER 42, SECTION 42-86(8) AND SECTION 42-86(9) AND FIND THE VIOLATOR IN NON-COMPLIANCE FOR THE VIOLATION OF CHAPTER 18, SECTION 18-206, ASSESS ADMINISTRATIVE COSTS IN THE AMOUNT OF \$150.00 AND GIVE THEM UNTIL JANUARY 13, 2014 TO COMPLY
SECONDED BY MR. DONNELLEY
MOTION PASSED UNANIMOUSLY**

I. Case # CE 13-1130, 766 Hi Mount Rd., Xavier T. Willis

Violation of Chapter 78, Section 78-39 of the Town of Palm Beach Code of Ordinances, Solicitation without a permit

Lead Code Enforcement Officer Walton presented the facts of the case. Road Patrol Officer Walley gave his testimony about the case. The Town recommended the Board find the violator in non-compliance, assess administrative costs of \$150.00 and order them to pay the \$250.00 fine. Code Manager Houston gave a brief explanation of the solicitation permitting process.

The violator was not present at the hearing and there was a finding of proper notice.

**MOTION BY MR. DONNELLEY TO FIND THE VIOLATOR IN NON-COMPLIANCE ASSESS ADMINISTRATIVE COSTS IN THE AMOUNT OF \$150.00 AND ORDER THEM TO PAY THE \$250.00 FINE
SECONDED BY MS. VAN BUREN
MOTION PASSED UNANIMOUSLY**

VII. Fine Consideration:

- A. Case # CE 13-621, 235 Sunrise Ave., The Palm Beach Hotel Condo Assn.
Violation of Chapter 42, Section 42-228 of the Town of Palm Beach Code of Ordinances, maximum permissible dBA noise level exceeded for geographic area

Code Enforcement Officer Walton briefly reviewed the case and advised a representative was present for the property owner to speak to the Board. He advised the Town was not opposed to more time as long as a fine would ensue if compliance is not achieved after the additional time.

Randy Inman, General Manager for the hotel, was present at the hearing on behalf of the property owners. He reviewed the issues they have had with reducing the noise and requested more time to comply.

**MOTION BY MR. PELOSO TO GIVE THEM ADDITIONAL TIME TO COMPLY, UNTIL MAY 9, 2014. HE FURTHER MOTIONED THAT THE PROPERTY OWNER OR HIS REPRESENTATIVE RETURN TO THE APRIL 17, 2014 CODE ENFORCEMENT BOARD HEARING TO REPORT ON THEIR PROGRESS
SECONDED BY MR. DONNELLEY
MOTION PASSED UNANIMOUSLY**

- B. Case # CE 13-768, 50 Middle Rd., Joseph & Lauren Pizza
Violation of Chapter 18, Section 18-242 of the Town of Palm Beach Code of Ordinances, building permits required to construct, enlarge, alter, repair, move, demolish or change the occupancy of a building or structure or install, alter, repair, remove, convert or replace any electrical, mechanical or plumbing system; Violation of Chapter 18, Section 18-175, ARCOM approval required prior to the issuance of certain permits

Code Enforcement Officer Moriarty briefly reviewed the case and advised that he was expecting a representative for the property owners to be at the hearing. The Town recommended a \$100.00 day fine commence retroactively to November 26, 2013.

The property owner was not present at the hearing.

**MOTION BY MR. DOWELL THAT A FINE IN THE AMOUNT OF \$100.00 A DAY COMMENCE RETROACTIVELY TO NOVEMBER 26, 2013
SECONDED BY MS. GREENBERG
MOTION PASSED UNANIMOUSLY**

The property owner's representative arrived shortly after this vote and the Board was asked if they would vote on re-hearing this case.

**MOTION BY MR. OCHSTEIN TO RE-HEAR THIS CASE
SECONDED BY MS. GREENBERG
MOTION PASSED UNANIMOUSLY**

Benno Janssen was present on behalf of the homeowner and advised there had been some difficulty getting the final inspection and the door may have to be dismantled in order to get that inspection. He requested more time to comply.

**MOTION BY MR. PELOSO TO GIVE THEM MORE TIME TO COMPLY, UNTIL JANUARY 15, 2014. HE FURTHER MOTIONED IF COMPLIANCE IS NOT ACHIEVED BY JANUARY 15, 2014, A FINE IN THE AMOUNT OF \$100.00 A DAY WILL COMMENCE RETROACTIVELY FROM NOVEMBER 26, 2013 AND CONTINUE UNTIL COMPLIANCE IS ACHIEVED
SECONDED BY MR. DONNELLEY
MOTION PASSED UNANIMOUSLY**

VIII. Board Comments:(03:42:30 p.m.)

Manager Houston advised the Board that the Town Council's July 2014 meeting was moved and it would conflict with the Code Enforcement meeting. She said the Board could either vote on a new date for the July 2014 meeting or vote not to have a July 2014 meeting.

**MOTION BY MR. DONNELLEY TO FORGO THE JULY 2014 CODE ENFORCEMENT BOARD MEETING
SECONDED BY MS. VAN BUREN
MOTION OPPOSED**

ROLL CALL VOTE

MR. DONNELLEY	YES
MS. VAN BUREN	YES
MS. GREENBERG	YES
MR. OCHSTEIN	NO
MR. DOWELL	YES
MR. PELOSO	YES
MR. FRIED	YES

MOTION PASSED 6 TO 1

IX. Adjournment:(03:56:55 p.m.)

**MOTION BY MR. DONNELLEY TO ADJOURN THE MEETING
SECONDED BY MS. GREENBERG
MOTION PASSED UNANIMOUSLY**