

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

Thursday, November 21, 2013, 2:00 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:(2:02:16 p.m.)

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

II. Roll Call:(2:02:49 p.m.)

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

Mr. Fried advised Mr. Peloso that he would be a voting member today.

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.

Deputy Chief Daniel Szarszewski was present at the hearing and introduced Lieutenant Ann Marie Taylor who is the newly appointed Lieutenant of Support Services.

III. Approval of the Minutes of October 17, 2013:(2:03:14 p.m.)

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

SECONDED BY MR. OCHSTEIN

MOTION PASSED UNANIMOUSLY

IV. Administration of the Oath to Town Staff:(2:03:47 p.m.)

The Town staff were sworn in by Recording Secretary Dunn.

V. Public Hearings:

A. Case# CE 13-930, 253 Royal Poinciana Way, M B Ventures of Palm Beach

Chapter 18, Section 18-241 and Section 18-242 of the Town of Palm Beach Code of Ordinances, permits required to construct, enlarge, alter, repair, move, demolish or change the occupancy of a building or structure or install, repair, remove, convert or replace any electrical, mechanical or plumbing system and requires smoke alarms; Violation of Chapter 42, Section 42-87(4), all windows and doors to the outside to be constructed and maintained in such a condition as to exclude weather and elements or insects from entering; Violation of Chapter 42, Section 87(6 & 7), all appurtenances and stairs to be constructed so as to be safe and in good repair and in conformance with the building code; Violation of Chapter 42, Section 42-87(17), conditions that constitute a fire hazard not allowed; Violation of Chapter 46, Section 64-66 which adopts NFPA 70, electrical components such as wiring to be maintained in a safe manner and in compliance with the National Electrical Code; Violation of Chapter 42, Section 42-86(18), worn-out, scrapped or discarded materials not allowed to be stored on private property

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 February 16, 2014 to comply.

Leslie Evans was present at the hearing, advised they are working toward compliance, agreed that they could put up a temporary safety barrier on the second floor and requested more time to comply.

**MOTION BY MR. OCHSTEIN TO FIND THE VIOLATOR IN NON-COMPLIANCE, ASSESS ADMINISTRATIVE COSTS IN THE AMOUNT OF \$150.00 AND GIVE THEM UNTIL FEBRUARY 16, 2014 TO COMPLY
SECONDED BY MS. VAN BUREN
MOTION PASSED UNANIMOUSLY**

B. Case # CE 13-934, 242 Country Club Rd., Bruce A. Rosenfeld Tr. & Suzanne Schoch Rehl Et Al Tr Hldrs

Violation of Chapter 42, Section 42-87 of the Town of Palm Beach Code of Ordinances, all exterior walls/windows to be reasonably free of cracks or holes through which weather elements can enter the building structure and required to be kept painted and in good repair

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 13, 2014 to comply.

Mark Sessa was present on behalf of the property owners, testified that permits had been issued today and believed they could be in compliance by January 13, 2014.

**MOTION BY MR. BALLENTINE TO FIND THE VIOLATOR IN NON-COMPLIANCE, ASSESS ADMINISTRATIVE COSTS IN THE AMOUNT OF \$150.00 AND GIVE THEM UNTIL JANUARY 13, 2014 TO COMPLY
SECONDED BY MR. DOWELL
MOTION PASSED UNANIMOUSLY**

C. Case # CE 13-957, 3230 S. Ocean Blvd., #103, Ljubo Skrbic

Violation of Chapter 18, Section 18-242 and Section 18-241 of the Town of Palm Beach Code of Ordinances, permits required to construct, enlarge, alter, repair, move or demolish any structure or building

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 December 13, 2013 to comply.

Ljubo Skrbic was present at the hearing, testified he was not aware that he needed permits and that he is currently working toward compliance.

**MOTION BY MS. GREENBERG TO FIND THE VIOLATOR IN NON-COMPLIANCE, ASSESS ADMINISTRATIVE COSTS IN THE AMOUNT OF \$150.00 AND GIVE THEM UNTIL DECEMBER 13, 2013 TO COMPLY
SECONDED BY MS. VAN BUREN
MOTION PASSED UNANIMOUSLY**

D. Case # CE 13-959, 270 S. County Rd., Key to Life Therapies & 270 South County Road Corp.

Violation of Chapter 134, Section 134-2372 of the Town of Palm Beach Code of Ordinances, permit required for the erection or installation of any sign within the Town

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 December 13, 2013 to comply.

Thomas Tomas was present at the hearing for the business, testified that he was unaware that permits were not obtained by the sign company and advised they assumed permits had been obtained as the invoice from the sign company showed payment for permits. Jamie Tomas was also present, but did not testify at the hearing.

MOTION BY MS. VAN BUREN TO FIND THE VIOLATOR IN NON-COMPLIANCE, WAIVE THE ADMINISTRATIVE COSTS AND GIVE THEM UNTIL DECEMBER 13, 2013 TO COMPLY

SECONDED BY MR. DOWELL

MOTION OPPOSED

ROLL CALL VOTE

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

MOTION PASSED 4 TO 3

E. Case # CE 13-962, 250 Bradley Place, Lake Towers Condominium

Violation of Chapter 134, Section 134-1700 of the Town of Palm Beach Code of Ordinances, walls/fences within 25 feet of the easterly right-of-way of the Lake Trail not to exceed 4 feet in height above the lowest grade on either side of the fence; Violation of Chapter 134, Section 134-1728 pool equipment not to be located closer than five feet from the side or rear property line and equipment placed within 10 feet of the side or rear property must be completely screened from the neighboring property with a wall as high as said equipment

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 December 13, 2013 to comply. Paul Castro, Zoning Administrator, gave his testimony in this case.

Maura Ziska, attorney for the property owners, advised they did not believe they were in violation as permits had been obtained for the fence and pool heater many years prior and believed they should be grandfathered.

Mr. Burton Sultan, the owner of the neighboring property, gave his testimony.

As the Board discussed the case, they felt more time may be needed to obtain permits and approvals to come into compliance. The Code Officer had no objection to this additional time and revised the recommended compliance date to February 17, 2014.

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 17, 2014 TO COMPLY
SECONDED BY MS. VAN BUREN
MOTION OPPOSED

ROLL CALL VOTE

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

MOTION PASSED 6 TO 1

F. 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 advised the property owner in this case had sent a letter requesting a postponement and asked the Board to vote on whether or not to postpone. The Town did not support a postponement.

MOTION BY MR. PELOSO TO POSTPONE THIS CASE UNTIL THE DECEMBER 19, 2013 MEETING
MR. FRIED PASSED THE GAVEL TO MR. BALLENTINE AND SECONDED THE MOTION
MOTION OPPOSED

ROLL CALL VOTE

MR. PELOSO	YES
MR. FRIED	YES
MS. GREENBERG	YES
MS. VAN BUREN	YES

MR. OCHSTEIN NO
MR. BALLENTINE YES
MR. DOWELL NO

MOTION PASSED 5 TO 2

G. Case # CE 13-978, 137 El Vedado Rd., T & P Pavers

Violation of Chapter 42, Section 42-164 of the Town of Palm Beach Code of Ordinances, fugitive dust not allowed

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 order them to pay the fine of \$125.00

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

MOTION BY MR. DOWELL TO FIND THE VIOLATOR IN NON-COMPLIANCE, ASSESS ADMINISTRATIVE COSTS IN THE AMOUNT OF \$150.00 AND ORDER THEM TO PAY THE \$125.00 FINE
SECONDED BY MS. VAN BUREN
MOTION PASSED UNANIMOUSLY

H. Case # CE 13-988, 265 Emerald Ln., Peter, Pauline, Paul & Louise Stephaich & Peggy Guinness

Violation of Chapter 18, Section 18-241 and 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 and electrical, mechanical or plumbing system

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 13, 2014 to comply.

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

MOTION BY MR. BALLENTINE TO FIND THE VIOLATOR IN NON-COMPLIANCE, 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

- I. 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 requested a postponement of this case as the property owners were out of Town and the fronds affecting the power lines had been removed by FPL.

**MOTION BY MR. OCHSTEIN TO POSTPONE THIS CASE UNTIL THE
DECEMBER 19, 2013 MEETING
SECONDED BY MS. VAN BUREN
MOTION PASSED UNANIMOUSLY**

VI. Fine Reduction:

- A. Case # CE 13-317, 2842 S. Ocean Blvd., 2842 S. Ocean LLC & Omphoy Hotel
Violation of Chapter 18, Section 18-241 and 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; Violation of Chapter 42, Section 42-228 maximum permissible noise levels exceeded

Lead Code Enforcement Walton briefly reviewed the case and advised representatives were present for the property owner to request a fine reduction. The Town had no recommendation. Building Administrator Castro gave his testimony as to the changes that occurred in the building.

Joe Ruggeri and Tom Mulroy were present on behalf of the property owner and gave their testimony as to why compliance had not been achieved by the date ordered by the Board. They requested the fine be reduced to \$5,000.00

**MOTION BY MR. OCHSTEIN TO REDUCE THE FINE TO \$19,250.00.
HE FURTHER MOTIONED THAT IF THE REDUCED FINE OF
\$19,250.00 WAS NOT PAID BY DECEMBER 17, 2013 THE FINE WOULD
RETURN TO THE ORIGINAL AMOUNT OF \$29,250.00
SECONDED BY MR. BALLENTINE
MOTION PASSED UNANIMOUSLY**

VII. Old Business:

- A. Case # CE 12-854, 440 Royal Palm Way, Palm Beach Park Centre 1-6 LLC
Violation of Chapter 18, Section 18-175(a) of the Town of Palm Beach Code of Ordinances, changes in materials or appearance to an approved ARCOM plan requires additional ARCOM approval

Town Attorney Randolph addressed the Board and advised them to consider a deferral of this case until the appeal of the case of Palm Beach Park Center 4 LLC is decided in the Fourth District Court of Appeal or until such event of an agreement between the Board's Attorney and the property owner's attorney is reached.

Raymond Masciarella, attorney for the property owner, and Marni Propp testified at the hearing that they believed they did not get proper notice and requested to be re-noticed.

**MOTION BY MR. DOWELL TO DEFER THIS CASE FOR FURTHER CONSIDERATION OF THIS REQUEST UNTIL THE APPEAL OF THE CASE OF PALM BEACH PARK CENTER 4 LLC, NOW PENDING BEFORE THE FOURTH DISTRICT COURT OF APPEAL, HAS BEEN DECIDED OR UNTIL THE BOARD'S ATTORNEY AND THE PROPERTY OWNER'S ATTORNEY HAVE REACHED AN AGREEMENT TO BRING BACK TO THE BOARD FOR FURTHER CONSIDERATION
SECONDED BY MS. GREENBERG
MOTION PASSED UNANIMOUSLY**

VIII. Board Comments:(5:04:30 p.m.)

None

IX. Adjournment:(5:04:34 p.m.)

**MOTION BY MR. DOWELL TO ADJOURN THE MEETING
SECONDED BY MR. BALLENTINE
MOTION PASSED UNANIMOUSLY**

