

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

Thursday, November 20, 2014, 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:

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

Chairman Fried acknowledged Town Council Member Townsend in the audience and thanked her for attending the hearing.

II. Roll Call:

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 and Robert G. Donnelley and alternate members Scotch Peloso and Matthew Natale.

Staff present: Town Attorney John Randolph, Police Captain Ann Marie Taylor, Code Enforcement Manager Raychel Houston, Lead Code Enforcement Officer Robert Walton, Code Enforcement Officer John Moriarty, Recording Secretary Joan Dunn, Zoning Administrator Paul Castro and Building Official William Bucklew.

III. Approval of the Minutes of October 16, 2014:

**MOTION BY MS. GREENBERG TO APPROVE THE OCTOBER 16, 2014
MINUTES**

**SECONDED BY MR. DOWELL
MOTION PASSED UNANIMOUSLY**

IV. Administration of the Oath to Town Staff:

The Town staff were sworn in by Recording Secretary Dunn.

V. Public Hearings:

Chairman Fried acknowledged Town Council Member Kleid in the audience and thanked him for attending the hearing.

- A. Case # CE 14-1150, Clarke Beach, Morgan Tone McDonald
Violation of Chapter 74, Chapter 74-191 of the Town of Palm Beach Code of Ordinances, dogs not allowed on public beaches

Lead Code Enforcement Officer Walton presented the facts of the case and submitted evidence into the record. Road Patrol Officer Riley was present at the hearing and testified as to his involvement in the case. The Town recommended the Board find the violator in non-compliance, assess administrative costs in the amount of \$150.00 and order them to pay the \$125.00 fine.

Morgan T. McDonald was at the hearing and testified that the officer did not ask if the dogs belonged to him.

**MOTION BY MR. OCHSTEIN 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 MR. DOWELL
MOTION PASSED UNANIMOUSLY**

Chairman Fried acknowledged Town Council President Pro Tem Diamond in the audience and thanked him for attending the hearing.

- B. Case # CE 14-1174, 200 Blk. Royal Poinciana Way, Jose Rafael Lora & Uber
Violation of Chapter 130, Section 130-61 of the Town of Palm Beach Code of Ordinances, taxi permit required

Lead Code Enforcement Officer Walton presented the facts of the case and submitted evidence into the record. Road Patrol Officer Watson was present at the hearing and testified as to his involvement in the case. The Town recommended the Board find the violator in non-compliance, assess administrative costs in the amount of \$150.00 and order them to pay the \$250.00 fine.

Jose Rafael Lora was at the hearing and testified that he was on a prearranged charter.

**MOTION BY MR. OCHSTEIN TO DISMISS THE CASE
SECONDED BY MR. DOWELL
MOTION PASSED WITH MS. VAN BUREN OPPOSED**

C. Case # CE 14-1175, 200 Blks. Sunset Ave. & Royal Poinciana Way, Vincent M. Allora & Uber

Violation of Chapter 130, Section 130-61 of the Town of Palm Beach Code of Ordinances, taxi permit required

Lead Code Enforcement Officer Walton presented the facts of the case and submitted evidence into the record. Road Patrol Officer Watson was present at the hearing and testified as to his involvement in the case. The Town recommended the Board find the violator in non-compliance, assess administrative costs in the amount of \$150.00 and order them to pay the \$250.00 fine.

Vicent M. Allora and his attorney Christian Kribbs were at the hearing. Mr. Kribbs questioned the definition of a vehicle for hire and testified that his client was on a prearranged charter.

Town Council Member Kleid spoke about the need to review the Town's Ordinances as they pertain to these services.

**MOTION BY MR. BALLENTINE TO DISMISS THE CASE
SECONDED BY MS. GREENBERG
MOTION OPPOSED**

ROLL CALL VOTE

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

MOTION PASSED 4 TO 3

D. Case # CE 14-1205, 200 Blk. Sunset Ave., Nestor Rafael Ochoa Jr. & Uber

Violation of Chapter 130, Section 130-61 of the Town of Palm Beach Code of Ordinances, taxi permit required

Lead Code Enforcement Officer Walton presented the facts of the case and submitted evidence into the record. The Town recommended the Board find the violator in non-compliance, assess administrative costs in the amount of \$150.00 and order them to pay the \$250.00 fine.

Nestor Rafael Ochoa, Jr. was at the hearing and testified that he was on a prearranged charter.

**MOTION BY MR. OCHSTEIN TO DISMISS THE CASE
SECONDED BY MR. BALLENTINE
MOTION PASSED WITH MS. VAN BUREN OPPOSED**

- E. Case # CE 14-1241, 340 S. County Rd., Roosevelt Methelus & J.S. Yellow Cab
Violation of Chapter 130, Section 130-105 of the Town of Palm Beach Code of Ordinances, taxis must park in taxi stands

Lead Code Enforcement Officer Walton presented the facts of the case and submitted evidence into the record. Road Patrol Officer Burgoon was present at the hearing and testified that the parking spaces for taxis did not go into effect until 10:00 p.m. and Mr. Methelus was cited at 9:45 p.m. and was not legally parked. The Town recommended the Board find the violator in non-compliance, assess administrative costs in the amount of \$150.00 and order them to pay the \$75.00 fine.

Roosevelt Methelus was present at the hearing and advised that the taxi stand was full of parked vehicles.

**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 \$75.00 FINE
SECONDED BY MR. DOWELL
MOTION PASSED UNANIMOUSLY**

- F. Case # CE 14-1220, 167 Clarendon Ave., Milton Andrew Taylor III & Certified Management Inc.
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 and submitted evidence into the record. Road Patrol Officer Reed was present at the hearing and testified as to his involvement in the case. The Town recommended the Board find the violator in non-compliance, assess administrative costs in the amount of \$150.00 and order them to pay the \$250.00 fine.

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

**MOTION BY MS. GREENBERG 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**

G. Case # CE 14-1160, 375 S. County Rd., Bricktop's & Three Seventy Five South County Assoc.

Violation of Chapter 134, Section 134-7 of the Town of Palm Beach Code of Ordinances, failure to comply with conditions established in connection with grants of variances or special exceptions

Lead Code Enforcement Officer Walton presented the facts of the case and submitted evidence into the record. Zoning Administrator Castro gave his testimony in the case. The Town recommended the Board find the violator in non-compliance, assess administrative costs in the amount of \$150.00 and give them until November 30, 2014 to comply.

Maura Ziska, attorney for the business owner, was present at the hearing and requested more time as they are going before the Town Council in January to try to resolve this matter.

**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 NOVEMBER 30, 2014 TO COMPLY
SECONDED BY MR. OCHSTEIN**

Discussion ensued and Mr. Ochstein withdrew his second.

MOTION FAILED FOR LACK OF A SECOND

**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 14, 2015 TO COMPLY
SECONDED BY MS. GREENBERG
MOTION OPPOSED**

ROLL CALL VOTE

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

MOTION PASSED 5 TO 2

H. Case # CE 14-1023, 191 Bradley Pl., Meat Market Palm Beach LLC & NDL Palm Beach Property LLC

Violation of Chapter 42, Section 42-228 of the Town of Palm Beach Code of Ordinances, exceeding maximum allowable dBAs for geographical area

Code Enforcement Officer Moriarty presented the facts of the case and submitted photographs into the record. The Town recommended the Board find the violator in non-compliance, assess administrative costs in the amount of \$150.00 and give them until December 12, 2014 to comply.

Maura Ziska, attorney for the business owner, was present at the hearing. Harold Smith, architect for the property owner, was present at the hearing. Ms. Ziska testified they are working towards compliance and requested more time to comply.

**MOTION BY MR. DONNELLEY TO FIND THE VIOLATOR IN NON-COMPLIANCE, ASSESS ADMINISTRATIVE COSTS IN THE AMOUNT OF \$150.00 AND GIVE THEM UNTIL DECEMBER 31, 2014 TO COMPLY
SECONDED BY MS. GREENBERG
MOTION PASSED UNANIMOUSLY**

I. Case # CE 14-1102, 756 Hi Mount Rd., Odette Humphreys Trust

Violation of Chapter 42, Section 42-87 of the Town of Palm Beach Code of Ordinances, exterior surfaces to be kept painted and in good repair and roofs constructed/maintained so as not to leak

Lead Code Enforcement Officer Walton presented the facts of the case and submitted photographs into the record. The Town recommended the Board find the violator in non-compliance, assess administrative costs in the amount of \$150.00 and give them until December 12, 2014 to comply.

Peter Broberg, attorney for the property owner, was present at the hearing, testified they are working towards compliance and requested more time to comply.

**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 31, 2014 TO COMPLY
SECONDED BY MR. DOWELL
MOTION PASSED UNANIMOUSLY**

J. Case # CE 14-1118, 233 Royal Poinciana Way, Jeyanandarajan Sundarampillai Tr.

Violation of Chapter 18, Section 18-241 and 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, alter, repair, remove, convert or replace any electrical, mechanical or plumbing system

Code Enforcement Officer Moriarty presented the facts of the case and submitted photographs into the record. Building Official Bucklew advised the Board of the penalties that the Planning, Zoning and Building Department may enforce for work without permits. The Town recommended the Board find the violator in non-compliance, assess administrative costs in the amount of \$150.00 and give them until November 28, 2014 to comply.

The property owner was not present at the hearing and Code Enforcement Manager Houston directed the Board to read the letter he had sent on his behalf.

**MOTION BY MS. GREENBERG TO FIND THE VIOLATOR IN NON-COMPLIANCE, ASSESS ADMINISTRATIVE COSTS IN THE AMOUNT OF \$150.00 AND GIVE THEM UNTIL NOVEMBER 28, 2014 COMPLY
SECONDED BY MR. DOWELL
MOTION PASSED UNANIMOUSLY**

K. Case # CE 14-1165, 221 Atlantic Ave., An Ro Da Trust

Violation of Chapter 18, Section 18-206 of the Town of Palm Beach Code of Ordinances, sod and irrigation required on sites where reconstruction does not commence 30 days after demolition

Code Enforcement Officer Moriarty presented the facts of the case and submitted photographs into the record. The Town recommended the Board find the violator in non-compliance, assess administrative costs in the amount of \$150.00 and give them until December 12, 2014 to comply.

Russell Palmieri, the general contractor for the property owner, was present at the hearing and testified they are working towards compliance.

**MOTION BY MR. OCHSTEIN TO FIND THE VIOLATOR IN NON-COMPLIANCE, ASSESS ADMINISTRATIVE COSTS IN THE AMOUNT OF \$150.00 AND GIVE THEM UNTIL DECEMBER 12, 2014 COMPLY
SECONDED BY MR. DOWELL
MOTION PASSED UNANIMOUSLY**

VI. Fine Consideration:

A. Case # CE 14-948, 144 Wells Rd., 486426 Ontario Limited

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 any electrical, mechanical or plumbing system

Code Enforcement Officer Moriarty briefly reviewed the case. The Town recommended a fine in the amount of \$100.00 a day commence retroactive to November 18, 2014, and continuing until compliance is achieved.

Gary Greenberg, contractor for the property owner, advised they are working towards compliance and requested more time to comply.

**MOTION BY MS. GREENBERG TO GIVE THEM MORE TIME TO COMPLY, UNTIL DECEMBER 16, 2014. SHE FURTHER MOTIONED IF COMPLIANCE IS NOT OBTAINED BY DECEMBER 16, 2014 THAT A FINE IN THE AMOUNT OF \$100.00 A DAY COMMENCE ON DECEMBER 17, 2014, RETROACTIVE TO NOVEMBER 18, 2014 AND CONTINUING UNTIL COMPLIANCE IS ACHIEVED
SECONDED BY MR. DONNELLEY
MOTION PASSED UNANIMOUSLY**

VII. Fine Reduction:

- 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

Lead Code Enforcement Officer Walton briefly reviewed the case. Code Enforcement Manager Houston reviewed some of the case notes for clarification on the time lines involved in this case.

Raymond Masciarella, attorney for the property owner, gave the reasons they believed a fine reduction was in order.

**MOTION BY MR. BALLENTINE TO REDUCE THE FINE TO \$15,500.00
SECONDED BY MR. DONNELLEY
MOTION PASSED UNANIMOUSLY**

VIII. Foreclosure Hearings:

- A. Case # CE 13-680, 445 Brazilian Ave., Shorehaven LLC
Violation of Chapter 42, Section 42-86 of the Town of Palm Beach Code of Ordinances, discarded building materials or accumulated debris not allowed on private property; Violation of Chapter 18, Section 241 and Section 18-242, building permits required to construct, enlarge, alter, repair, move, demolish or change the occupancy of any building or structure or install, alter, repair, remove, convert or replace any electrical, mechanical or plumbing system

Code Enforcement Officer Moriarty briefly reviewed the case. The Town recommended the Board proceed with its recommendation to the Town Council for foreclosure.

Whitney Carroll, attorney for the property owner, advised that her client was unable to come up with a lump sum payment for the reduced fine and requested the Board consider a payment installment plan that she presented.

**MOTION BY MR. DONNELLEY TO GIVE THEM ADDITIONAL TIME TO PAY THE REDUCED FINE GRANTED ON SEPTEMBER 18, 2014. HE FURTHER MOTIONED THE REDUCED FINE OF \$53,000.00 TO BE PAID AS FOLLOWS: \$10,000.00 TO BE PAID IMMEDIATELY UPON RECEIPT OF THIS BOARD ORDER AND \$8,600.00 TO BE PAID THE FIRST BUSINESS DAY OF EACH MONTH STARTING DECEMBER, 2014 UNTIL THE TOTAL SUM OF \$53,000.00 IS PAID. IN ADDITION, HE MOTIONED THAT IF ANY PAYMENTS ARE NOT MADE AS PRESCRIBED ABOVE, THE FINE WILL RETURN TO THE ORIGINAL AMOUNT OF \$91,750.00 MINUS ANY MONIES RECEIVED IN THE CASE AND THE CASE WILL BE PLACED ON THE TOWN COUNCIL AGENDA FOR FORECLOSURE CONSIDERATION
SECONDED BY MR. DOWELL
MOTIONED PASSED WITH MR. OCHSTEIN OPPOSED**

IX. Old Business:

- A. Case # CE 14-943, Clarke Beach, Mitchell A. Corpe
Violation of Chapter 74, Section 74-193 of the Town of Palm Beach Code of Ordinances, drinking of intoxicating beverages on public beaches not allowed

Code Enforcement Manager Houston testified that the violator had sent the payment for the fine before his Code Board date of September 18, 2014, but a problem with the address caused it to be delayed. The Town recommended the Board accept payment of the fine, rescind the administrative costs imposed on September 18, 2014 and no further action be taken.

**MOTION BY MR. BALLENTINE TO ACCEPT PAYMENT OF THE FINE, RESCIND THE ADMINISTRATIVE COSTS IMPOSED ON SEPTEMBER 18, 2014 AND NO FURTHER ACTION BE TAKEN
SECONDED BY MS. GREENBERG
MOTIONED PASSED UNANIMOUSLY**

X. Board Comments:(05:39:21 PM)

Palm Beach Police Captain Taylor advised the Board that their request to have documents prior to the hearing has been reviewed by the Town Attorney. Starting with the December 2014 Code Enforcement Board hearing, documents that will be included in the Code Board's packets at the

hearing will be sent to them, whenever possible, ahead of the Code Board date for their review. They were reminded that these documents are not to be discussed amongst themselves or with others prior to the hearing.

XI. Adjournment:(05:41:58 PM)

The meeting was adjourned without benefit of a motion.