

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

Thursday, October 20, 2011, 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:(1:59:53 p.m.)

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

II. Roll Call:(2:00:11 p.m.)

Upon roll call, the following Board members were present: Chairman Timothy Hoffman, Vice Chairman Harris S. Fried, members Joel Koeppel, Larry Ochstein, Madelyn Greenberg, Cynthia Van Buren, James Ballentine, and alternate member W. Anthony Dowell. Alternate member Scotch Peloso arrived shortly after roll call completed at 2:02 p.m.

Staff present: Town Attorney John Randolph, Code Enforcement Manager Raychel Houston, Code Enforcement Officer Nick Gerry, Code Enforcement Officer John Moriarty, Code Enforcement Officer Tim Deffenbaugh and Recording Secretary Joan Dunn.

III. Approval of the Minutes of September 15, 2011(2:00:34 p.m.)

**MOTION BY MR. FRIED TO APPROVE THE SEPTEMBER 15, 2011 MINUTES
SECONDED BY MR. KOEPPEL
MOTION PASSED UNANIMOUSLY**

IV. Administration of the Oath to Town Staff:(2:00:46 p.m.)

Town Staff who would be testifying were sworn in by Recording Secretary Dunn.

Mr. Hoffman welcomed and thanked Deputy Chief Szarszewski and Councilman Diamond for attending the meeting.

V. Public Hearings:(2:01:25 p.m.)

A. Case # CE 11-1296, 129 Woodbridge Road, Neil Shepard

Violation of Chapter 78, Section 78-101 (1) of the Town of Palm Beach Code of Ordinances, permit required for the solicitation of contributions for any charitable purpose in the Town of Palm Beach

Code Enforcement Officer Gerry presented the facts of the case and advised the case resulted from a complaint called into the Police Department Communications Center. He turned the podium over to Officer Bryant Weymer. Officer Weymer testified about his involvement in 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 fine of \$250.00.

**MOTION BY MR. KOEPPEL 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 MR. FRIED
MOTION PASSED UNANIMOUSLY**

Mr. Hoffman acknowledged Councilman Kleid and thanked him for his attendance.

B. Case # CE 11-1369, 1 Southern Blvd. (Causeway), Elaina L. Dahl

Violation of Chapter 10, Section 10-43 of the Town of Palm Beach Code of Ordinances, allowing dog to run at large

Code Enforcement Officer Gerry reviewed the facts of the case and submitted photographs into evidence. He advised the case resulted from a 911 call into the Police Department Communications Center. He turned the podium over to Officer Lori Minot. Officer Minot testified about her involvement in 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 fine of \$75.00.

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

C. Case # CE 11-1142, 249 Royal Palm Way, Merrill Lynch & Peabey Assoc.

Chapter 38 Section 38-35 (b) of the Town of Palm Beach Code of Ordinances, unpaid alarm fines

Code Enforcement Officer Gerry advised this case was postponed from the previous month and requested this case be dismissed for compliance at this time.

MOTION BY MS. GREENBERG TO DISMISS THIS CASE FOR COMPLIANCE
SECONDED BY MR. KOEPPPEL
MOTION PASSED UNANIMOUSLY

- D. Case # CE 11-1143, 241 Royal Palm Way, Citigroup Private Bank & FJK Tee Jay LTD

Chapter 38 Section 38-35 (b) of the Town of Palm Beach Code of Ordinances, unpaid alarm system fines

Code Enforcement Officer Gerry advised this case was postponed from the previous month and requested this case be dismissed for compliance at this time.

MOTION BY MR. KOEPPPEL TO DISMISS THIS CASE FOR COMPLIANCE
SECONDED BY MS. GREENBERG
MOTION PASSED UNANIMOUSLY

- E. Case # CE 11-1269, 390 N. Lake Way, E.J. Rosenwald, Jr.

Violation of Chapter 106, Section 106-159, 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

Code Enforcement Officer Moriarty advised this case was postponed from the previous month and requested this case be dismissed for compliance at this time.

MOTION BY MR. FRIED TO DISMISS THIS CASE FOR COMPLIANCE
SECONDED BY MR. KOEPPPEL
MOTION PASSED UNANIMOUSLY

- F. Case # CE 11-930, 232 Cocoanut Row, Elizabeth S. Thompson

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 shall be maintained at all times for the unobstructed passage of pedestrians and others using such sidewalks and bike trails and Chapter 42, Section 42-87 of the Code, all exterior surfaces to be kept painted and maintained in good condition.

Code Enforcement Officer Gerry reviewed the facts and requested the violation of Chapter 106, Section 106-159 be dismissed for compliance. He requested that the remaining violation be postponed to the next Code Enforcement Board meeting as they are working toward compliance and were delayed by the recent rains.

**MOTION BY MR. KOEPEL TO DISMISS THE VIOLATION OF CHAPTER 106, SECTION 106-159 AND POSTPONE THE REMAINING VIOLATION UNTIL THE NOVEMBER 17, 2011 HEARING
SECONDED BY MS. GREENBERG
MOTION PASSED UNANIMOUSLY**

G. Case # CE 11-1343, 270 Queens Lane, Thomas A. Miller

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.

Code Enforcement Officer Moriarty presented the facts of the case and advised it originated from a citizen's complaint. The Town recommended the Board find the violator in non-compliance, assess administrative costs of \$150.00 and give them until November 10, 2011 to comply.

Paul Melvin of Florida Pool Company agreed that the facts were accurate in this case and testified reference his involvement in this case.

**MOTION BY MR. OCHSTEIN TO FIND THE VIOLATOR IN NON-COMPLIANCE, ASSESS ADMINISTRATIVE COSTS IN THE AMOUNT OF \$150.00 AND GIVE THEM UNTIL NOVEMBER 10, 2011 TO COMPLY
SECONDED BY MS. VAN BUREN
MOTION PASSED UNANIMOUSLY**

H. Case # CE 11-1349, 230 Esplanade Way, L.E. Bierly, Jr.

Violation of Chapter 42, Section 42-86 of the Town of Palm Beach Code of Ordinances, unsightly, unsafe or unsanitary conditions and grass higher than 8" in height not permitted

Code Enforcement Officer Moriarty presented the facts of the case and advised it originated from a citizen's complaint. The Town recommended the Board find the violator in non-compliance, assess administrative costs of \$150.00 and give them until October 27, 2011 to comply.

**MOTION BY MR. FRIED TO FIND THE VIOLATOR IN NON-COMPLIANCE, ASSESS ADMINISTRATIVE COSTS IN THE AMOUNT OF \$150.00 AND GIVE THEM UNTIL OCTOBER 27, 2011 TO COMPLY
SECONDED BY MR. BALLENTINE
MOTION PASSED UNANIMOUSLY**

I. Case # CE 11-1257, 221 Ocean Terrace, Robert Ficalora

Violation of Chapter 122, Section 122-53 of the Town of Palm Beach Code of Ordinances, watering outside of allowable days/hours of the emergency water restrictions

Code Enforcement Officer Gerry reviewed 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.

**MOTION BY MR. GREENBERG 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. KOEPEL
MOTION PASSED UNANIMOUSLY**

J. Case # CE 11-1256, 130 Dolphin Road, Virginia Bussey

Violation of Chapter 122, Section 122-53 of the Town of Palm Beach Code of Ordinances, watering outside of allowable days/hours of the emergency water restrictions

Code Enforcement Officer Gerry reviewed 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.

Milly O'Rourke appeared on behalf of the property owner's grandson and advised the property owner was deceased and requested that this violation be waived.

**MOTION BY MR. FRIED 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
MOTION FAILED DUE TO LACK OF A SECOND**

**MOTION BY MR. KOEPEL TO FIND THE VIOLATOR IN NON-COMPLIANCE, ASSESS ADMINISTRATIVE COSTS IN THE AMOUNT OF \$150.00 AND WAIVE THE \$125.00 FINE
SECONDED BY MS. GREENBERG
MOTION PASSED UNANIMOUSLY**

K. Case # CE 11-1251, 222 El Brillo Way, David Wetherell

Violation of Chapter 122, Section 122-53 of the Town of Palm Beach Code of Ordinances, watering outside of allowable days/hours of the emergency water restrictions

Code Enforcement Officer Gerry reviewed 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.

**MOTION BY MR. KOEPPEL 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. FRIED
MOTION PASSED UNANIMOUSLY**

VI. Fine Consideration

A. Case # CE 11-1222, 215 Nightingale Trl., U.S. Bank

Violation of Chapter 42, Section 42-86 of the Town of Palm Beach Code of Ordinances, stagnant water or unsanitary conditions prohibited and properties to be maintained in good condition; Violation of Chapter 42, Section 42-87, exterior walls to be reasonably free of cracks or holes and all exterior surfaces to be painted and in good repair

Code Enforcement Officer Moriarty briefly reviewed the case. The Town recommended the violation of Chapter 42, Chapter 42-86 be dismissed for compliance and a fine in the amount of \$250.00 a day commence on September 24, 2011 and continue until compliance is achieved on the remaining violation.

**MOTION BY MR. KOEPPEL TO DISMISS THE VIOLATION OF CHAPTER 42, SECTION 42-86 FOR COMPLIANCE AND ASSESS A FINE IN THE AMOUNT OF \$250.00 A DAY, COMMENCING ON SEPTEMBER 24, 2011 AND CONTINUING UNTIL COMPLIANCE IS ACHIEVED ON THE VIOLATION OF CHAPTER 42, SECTION 42-87
SECONDED BY MR. OCHSTEIN
MOTION PASSED UNANIMOUSLY**

B. Case # CE 11-1232, 1191 N. Ocean Way, Mocking Bird Trust

Violation of Chapter 42, Section 42-87 of the Town of Palm Beach Code of Ordinances, roofs to be maintained in a condition so as not to leak, exterior walls to be reasonably free of cracks or holes through which weather elements can enter the building or structure, all exterior surfacing material to be painted and in good repair and appurtenances such as fences to be maintained in a good state of repair; Violation of Chapter 42, Section 42-86, unsightly, unsafe or unsanitary conditions and the storage of debris on private property is prohibited; Violation of Chapter 126, Section 126-32, all coconut trees in the Town to be trimmed free of coconuts and dead or dying fronds by August 1st of each year.

Code Enforcement Manager Houston briefly reviewed the case and advised a stipulation agreement has been signed by the current property owner. The Town recommended the Board accept the stipulation agreement between the Town and Mocking Bird Trust.

Realtor Earl Hollis testified on behalf of the property owner and testified that the sale of this property is imminent.

**MOTION BY MR. KOEPEL TO ACCEPT THE STIPULATION
AGREEMENT BETWEEN THE TOWN AND MOCKING BIRD TRUST
SECONDED BY MS. GREENBERG
MOTION PASSED UNANIMOUSLY**

VII. Fine Reduction

- A. Case # 09-2672, 2842 S. Ocean Blvd., 2401 2301 00 Trust, The Omphoy Ocean Resort Palm Beach

Violation of Chapter 134, Section 134-1702 of the Town of Palm Beach Code of Ordinances, no structure of any nature shall be constructed closer than 150 feet to the designated ocean bulkhead line unless a proper ocean bulkhead exists

Code Enforcement Manager Houston advised the property owner has withdrawn their request for a fine reduction and no action was required by the Board.

- B. Case # 10-2700, 2842 S. Ocean Blvd., 2401 2301 00 Trust, The Omphoy Ocean Resort Palm Beach

Violation of Chapter 134, Section 134-1702 of the Town of Palm Beach Code of Ordinances, no structure of any nature shall be constructed closer than 150 feet to the designated ocean bulkhead line unless a proper ocean bulkhead exists and Chapter 134, Section 134-1473 which does not permit any structures or beach buildings with maximum dimensions greater than 20x25 feet and Section 134-1474 which does not permit more than one beach house structure to be erected

Code Enforcement Manager Houston advised the property owner has withdrawn their request for a fine reduction and no action was required by the Board.

- C. Case # CE 10-670, 105 N. County Road, PB 105 LLC

Violation of Chapter 18, Section 18-241 of the Town of Palm Beach Code of Ordinances and adopted 2004 Florida Building Code, Section 105, building permit required to construct, enlarge, alter, repair, move or demolish any building or structure and Violation of Chapter 42, Section 42-87 exterior walls to be kept reasonably free of cracks or holes through which weather elements can enter the building or structure and all exterior surfacing material to be painted and in good repair

Code Enforcement Manager Houston briefly reviewed the case and advised Attorney Bill Jacobson was present on behalf of the property owner to request a fine reduction. Attorney Jacobson reviewed the amount of time that his client had possession of this property.

MOTION BY MR. KOEPPEL TO REDUCE THE FINE TO \$3,000.00 WHICH WOULD BE REQUIRED TO BE PAID WITHIN 10 DAYS. HE FURTHER MOTIONED IF THE FINE IS NOT PAID WITHIN 10 BUSINESS DAYS OF THIS ORDER, IT WILL RETURN TO THE ORIGINAL AMOUNT OF \$6,100.00

SECONDED BY MR. FRIED

MOTION PASSED UNANIMOUSLY

VIII. Board Comments: (3:26:38 p.m.)

Mr. Koepfel suggested that cases that are going to be dismissed are designated as such at the beginning of the case so as to avoid any need for recusals by the Board.

IX. Adjournment: (3:27:52 p.m.)

The meeting was adjourned without benefit of motion.