

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

Thursday, September 19, 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:(1:59:48 p.m.)

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

II. Roll Call:(1:59:59 p.m.)

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

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.

III. Approval of the Minutes of August 15, 2013:(2:00:06 p.m.)

**MOTION BY MR. GOLBORO TO APPROVE THE AUGUST 15, 2013 MINUTES
SECONDED BY MS. VAN BUREN
MOTION PASSED UNANIMOUSLY**

IV. Code Enforcement Board Member Oath:

Recording Secretary Dunn administered the Oath of Service to newly appointed alternate member, Robert G. Donnelley.

V. Administration of the Oath to Town Staff:(2:02:04 p.m.)

VI. Public Hearings:

A. Case # CE 13-815, 340 Royal Poinciana Way, Ste. 330, Jay Villa Inc. DBA JV Wood Floors

Violation of Chapter 42, Section 42-199 of the Town of Palm Beach Code of Ordinances, construction work outside allowable days (non-season)

Lead Code Enforcement Officer Walton presented the facts of the case and advised Road Patrol Officer Nault and Badolatti were present to answer any questions from the Board. Officer Nault 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 \$250.00 fine.

The violator was not present 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 ORDER THEM TO PAY THE \$250.00 FINE
SECONDED BY MR. BALLENTINE
MOTION PASSED UNANIMOUSLY**

B. Case # CE 13-813, 172 Worth Ave., Jalis Construction, Inc.

Violation of Chapter 106, Section 106-1 of the Town of Palm Beach Code of Ordinances, obstruction of Right-of-Way

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 \$125.00 fine.

Ronald Rindler was present on behalf of the company and did not dispute the violation.

**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 MR. BALLENTINE
MOTION PASSED UNANIMOUSLY**

C. Case # CE 13-822, 172 Worth Ave., Jalis Construction

Violation of Chapter 106, Section 106-1 of the Town of Palm Beach Code of Ordinances, obstruction of Right-of-Way

Code Enforcement Officer Moriarty presented the facts of the case and submitted photographs from the first violation into evidence as he believed the position of the equipment was the same. He advised Road Patrol Officer Marsigliano was present to answer any questions from the Board. Officer Marsigliano 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 \$250.00 fine.

Ronald Rindler was present on behalf of the company and advised he did not believe the pictures were representative of what occurred on this violation and asked that the pictures be stricken from the record. He testified that he did not believe he was in violation of the Town ordinances on this day.

Mr. Fried requested a motion from the Board to consider the pictures in this case.

**MOTION BY MS. VAN BUREN TO CONSIDER THE PICTURES FROM
CASE CE 13-813 FOR ANY PROBATIVE VALUE THEY MAY PROVIDE
IN RELATION TO THIS CASE
SECONDED BY MR. DOWELL
MOTION OPPOSED**

ROLL CALL VOTE

MS. VAN BUREN	YES
MR. DOWELL	YES
MR. GOLBORO	NO
MR. BALLENTINE	YES
MR. PELOSO	NO
MR. DONNELLEY	YES
MR. FRIED	YES

MOTION PASSED 5 TO 2

Harrison Lacquey, a worker for Jalis Construction, gave his testimony to the Board and advised he did not believe they were in violation.

**MOTION BY MS. VAN BUREN 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. BALLENTINE
MOTION OPPOSED**

ROLL CALL VOTE

MS. VAN BUREN	YES
MR. BALLENTINE	YES
MR. GOLBORO	YES
MR. DOWELL	YES

MR. PELOSO	NO
MR. DONNELLEY	YES
MR. FRIED	YES

MOTION PASSED 6 TO 1

D. Case # CE 13-699, 209 Via Linda, Kristoff Gintowt

Violation of Chapter 18, Section 18-747 of the Town of Palm Beach Code of Ordinances, enclosure around a swimming pool must be inaccessible to small children with self-latching gates with latches placed four feet above the underlying ground

Code Enforcement Officer Moriarty advised the property owner is in the process of getting permits. The Town recommended this case be postponed until the October 17, 2013 meeting.

**MOTION BY MR. BALLENTINE TO POSTPONE THIS CASE UNTIL
THE OCTOBER 17, 2013 HEARING
SECONDED BY MR. DOWELL
MOTION PASSED UNANIMOUSLY**

E. Case # CE 13-726, 240 Angler Ave., 240 Angler Ave. LLC

Violation of Chapter 42, Section 42-86 of the Town of Palm Beach Code of Ordinances, grass/weeds over 8" in height 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 give them until September 27, 2013 to comply.

The property owner 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 GIVE THEM UNTIL SEPTEMBER 27, 2013 TO
COMPLY
SECONDED BY MS. VAN BUREN
MOTION PASSED UNANIMOUSLY**

F. Case # CE 13-587, 400 Chilean Ave., The Maison Trois Condominium Assoc., Inc.

Violation of Chapter 18, Section 18-964 of the Town of Palm Beach Code of Ordinances, appropriate street numbers to be placed on a property and displayed of the size and type that they may be easily read from the adjacent street

Lead Code Enforcement Officer Walton advised the property owner was unable to attend the hearing. The Town recommended this case be postponed until the October 17, 2013 meeting.

**MOTION BY MR. GOLBORO TO POSTPONE THIS CASE UNTIL THE
OCTOBER 17, 2013 HEARING
SECONDED BY MR. DOWELL
MOTION PASSED UNANIMOUSLY**

G. Case # CE 13-777, 160 Royal Palm Way, 160 Royal Palm LLC

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

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 October 14, 2013 to comply.

Attorney Leslie Evans was present on behalf of the property owner. He testified that they are working toward compliance and believed the work could be completed by the October 14, 2013 date.

**MOTION BY MR. DONNELLEY TO FIND THE VIOLATOR IN NON-
COMPLIANCE, ASSESS ADMINISTRATIVE COSTS IN THE AMOUNT
OF \$150.00 AND GIVE THEM UNTIL OCTOBER 14, 2013 TO COMPLY
SECONDED BY MR. GOLBORO
MOTION PASSED UNANIMOUSLY**

H. Case # CE 13-790, 738 S. County Rd., Janice Diamond Trust

Violation of Chapter 122, Section 122-78 of the Town of Palm Beach Code of Ordinances, watering outside allowable days during non-emergency water restrictions

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 \$75.00 fine.

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 ORDER THEM TO PAY THE \$75.00 FINE
SECONDED BY MR. DOWELL
MOTION PASSED UNANIMOUSLY**

I. Case # CE 13-819, 209 Worth Ave., Gregory James

Violation of Chapter 106, Section 106-1 of the Town of Palm Beach Code of Ordinances, obstruction of Right-of-Way

Lead Code Enforcement Officer Walton advised the violator had paid the fine just prior to the hearing. The Town recommended the Board accept payment of the fine and take no further action.

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

**MOTION BY MS. VAN BUREN TO ACCEPT PAYMENT OF THE FINE
AND NO FURTHER ACTION BE TAKEN
SECONDED BY MR. DONNELLEY
MOTION PASSED UNANIMOUSLY**

J. Case # CE 13-859, 209 Worth Ave., Gregory James

Violation of Chapter 134, Section 134-1262 of the Town of Palm Beach Code of Ordinances, potted plants/removable planters may only be placed adjacent to the building

Lead Code Enforcement Officer Walton presented the facts of the case and submitted photographs into evidence. He advised that although the violation was corrected prior to the hearing, it was not corrected by the time specified by the Code Enforcement Officer and pursuant to Article V, Division 3, Section 2-426 it could still be presented to the Code Board for consideration. The Town recommended the Board find the violator in non-compliance, assess administrative costs of \$150.00 and no further action be taken.

**MOTION BY MR. DONNELLEY TO FIND THE VIOLATOR IN NON-COMPLIANCE, ASSESS ADMINISTRATIVE COSTS IN THE AMOUNT OF \$150.00 AND NO FURTHER ACTION BE TAKEN
SECONDED BY MS. VAN BUREN
MOTION PASSED UNANIMOUSLY**

VII. Fine Consideration:

A. Case # CE 13-362, 301 Chapel Hill Rd., Hollis M. Baker Tr.

Violation of Chapter 42, Section 42-87 of the Town of Palm Beach Code of Ordinances, all appurtenances to be kept in a state of safe and good repair and painted

Lead Code Enforcement Officer Walton briefly reviewed the case.

Chris Smith was present on behalf of the property owner. He testified they are working toward compliance and requested more time to comply.

MOTION BY MR. GOLBORO TO GIVE THEM ADDITIONAL TIME TO COMPLY, UNTIL OCTOBER 15, 2013. HE FURTHER MOTIONED THAT IF COMPLIANCE IS NOT ACHIEVED BY OCTOBER 15, 2013, A FINE IN THE AMOUNT OF \$250.00 A DAY WILL COMMENCE ON OCTOBER 16, 2013 AND CONTINUE UNTIL COMPLIANCE IS ACHIEVED

SECONDED BY MR. DOWELL

MOTION PASSED UNANIMOUSLY

B. 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 a fine in the amount of \$250.00 a day commence on September 14, 2013 and continue until compliance is achieved.

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

MOTION BY MR. DONNELLEY THAT A FINE IN THE AMOUNT OF \$250.00 A DAY COMMENCE ON SEPTEMBER 14, 2013 AND CONTINUE UNTIL COMPLIANCE IS ACHIEVED

SECONDED BY MR. BALLENTINE

MOTION PASSED UNANIMOUSLY

C. Case # CE 13-634, 2560 S. Ocean Blvd., 2560 S. Ocean Blvd. Condo Assoc. Inc.

Violation of Chapter 42, Section 42-87 of the Town of Palm Beach Code of Ordinances, all exterior walls to be reasonably free of cracks and all exterior surfacing material to be painted and in a good state of repair

Lead Code Enforcement Officer Walton briefly reviewed the case.

Michael Foelster was present on behalf of the property owners. He testified that they are working on a stipulation agreement and requested more time to present it to the Board, until the October 17, 2013 hearing.

MOTION BY MR. GOLBORO TO GIVE THEM ADDITIONAL TIME, UNTIL THE OCTOBER 17, 2013 HEARING, TO PRESENT A MUTUALLY AGREED UPON STIPULATION AGREEMENT. HE FURTHER MOTIONED THAT SHOULD THIS STIPULATION AGREEMENT NOT BE PRESENTED AS PRESCRIBED BY THIS ORDER, A FINE IN THE AMOUNT OF \$250.00 A DAY WILL

**COMMENCE ON OCTOBER 18, 2013 AND CONTINUE UNTIL
COMPLIANCE IS ACHIEVED
SECONDED BY MR. PELOSO
MOTION PASSED UNANIMOUSLY**

VIII. Fine Reduction:

A. Case # CE 12-761, 264 Bahama Ln., BOAG

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 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 had no recommendation.

Town Attorney Randolph had to leave the room to take a call and Robert Moore, who was present on behalf of the homeowner, requested that additional discussion of this case be held until Mr. Randolph returned. In lieu of taking a recess, the Board proceeded to hear case B.

B. Case # CE 13-136, 184 Sunset Ave., #39, 184 Sunset LP

Violation of Chapter 18, 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

Code Enforcement Officer Moriarty briefly reviewed the case. The Town had no recommendation.

Thais Boucher was present on behalf of the homeowner, testified as to the reasons she believed the fine should be reduced and requested a fine reduction to zero.

**MOTION BY MR. PELOSO TO REDUCE THE OUTSTANDING FINE TO
\$10,000.00.**

**SECONDED BY MR. DOWELL
MOTION OPPOSED**

ROLL CALL VOTE

MR. PELOSO	YES
MR. DOWELL	YES
MR. GOLBORO	YES
MS. VAN BUREN	NO
MR. BALLENTINE	NO

MR. DONNELLEY	YES
MR. FRIED	NO

MOTION PASSED 4 TO 3

Code Enforcement Officer Walton asked whether or not the Board would like to put a time limit on how long the violator had to pay the reduced fine as they have done in past cases. Mr. Fried agreed and asked for a motion.

MOTION BY MR. PELOSO THAT IF THE REDUCED FINE OF \$10,000.00 IS NOT PAID WITHIN 10 DAYS, THE FINE WILL RETURN TO ITS ORIGINAL AMOUNT OF \$22,250.00
SECONDED BY MR. GOLBORO
MOTION OPPOSED

ROLL CALL VOTE

MR. PELOSO	YES
MR. GOLBORO	YES
MS. VAN BUREN	NO
MR. BALLENTINE	NO
MR. DOWELL	YES
MR. DONNELLEY	YES
MR. FRIED	YES

MOTION PASSED 5 TO 2

Case A resumed with Mr. Randolph's return

A. Case # CE 12-761, 264 Bahama Ln., BOAG - Continued

Leslie Evans, Jason Evans and Robert Moore were present with Karl Wattenhofer, the property owner, and testified about why they believed the fine should be reduced and requested a fine reduction to zero.

Mr. Fried passed the gavel to Mr. Ballentine in order to make a motion.

MOTION BY MR. FRIED TO REDUCE THE OUTSTANDING FINE TO \$37,000.00. HE FURTHER MOTIONED IF THE REDUCED FINE AMOUNT IS NOT PAID WITHIN 30 DAYS, THE FINE WILL RETURN TO ITS ORIGINAL AMOUNT OF \$91,250.00
SECONDED BY MR. BALLENTINE
MOTION PASSED UNANIMOUSLY

Mr. Ballentine left the meeting after the vote.

C. Case # CE 12-1522, 1070 N. Lake Way, Sidney & Dorothy Kohl

Violation of Chapter 42, Section 42-86 and Chapter 62, Section 62-77 of the Town of Palm Beach Code of Ordinances, seawalls required to be maintained in a state of good repair so as not to allow the erosion of the adjacent land

Lead Code Enforcement Officer Walton briefly reviewed the case. The Town had no recommendation.

Joseph Mendina was present on behalf of the property owners, testified about the reasons he believed there should be a fine reduction and requested the fine be reduced to zero.

MOTION BY MS. VAN BUREN TO REDUCE THE OUTSTANDING FINE TO \$1,000.00.

SECONDED BY MR. DONNELLEY

MOTION OPPOSED

ROLL CALL VOTE

MS. VAN BUREN	YES
MR. DONNELLEY	YES
MR. GOLBORO	NO
MR. DOWELL	NO
MR. PELOSO	NO
MR. FRIED	NO

MOTION FAILED 4 TO 2

With no benefit of another motion, the fine remained at the original amount of \$2,000.00.

D. Case # 07-2230, 1640 S. Ocean Blvd., Philip Steinberg

Violation of Chapter 122, Section 122-53 of the Town of Palm Beach Code of Ordinances, the Town Council authorizes the Director of Public Works to order curtailment of the use of water for certain nonessential purposes including specifying certain days and hours when lawns and shrubbery may be watered

Lead Code Enforcement Officer Walton briefly reviewed the case. The Town had no recommendation.

Philip Steinberg was present at the hearing, testified as to his reasons why he believed the fine should be reduced and requested the administrative costs be waived.

MOTION BY MS. VAN BUREN TO WAIVE THE FINE AND THE ADMINISTRATIVE COSTS OF \$150.00 ARE TO BE PAID. SHE FURTHER MOTIONED THAT IF THE ADMINISTRATIVE COSTS ARE NOT PAID WITHIN 10 DAYS, THE FINE WILL RETURN TO ITS

**ORIGINAL AMOUNT OF \$100.00 IN ADDITION TO THE \$150.00
ADMINISTRATIVE COSTS
SECONDED BY MR. DONNELLEY
MOTION PASSED WITH MR. GOLBORO OPPOSED**

E. Case # 07-2385, 1640 S. Ocean Blvd., Philip Steinberg

Violation of Chapter 122, Section 122-53 of the Town of Palm Beach Code of Ordinances, the Town Council authorizes the Director of Public Works to order curtailment of the use of water for certain nonessential purposes including specifying certain days and hours when lawns and shrubbery may be watered

Lead Code Enforcement Officer Walton briefly reviewed the case. The Town had no recommendation.

Philip Steinberg was present at the hearing, testified he did not believe this was a third violation. He testified as to his reasons why he believed the fine should be reduced and requested a reduction of the fine.

**MOTION BY MS. VAN BUREN TO REDUCE THE FINE TO \$200.00 AND
THE ADMINISTRATIVE COSTS OF \$150.00 ARE TO BE PAID. SHE
FURTHER MOTIONED THAT IF THE REDUCED FINE AND
ADMINISTRATIVE COSTS ARE NOT PAID WITHIN 10 DAYS, THE
FINE WILL RETURN TO ITS ORIGINAL AMOUNT OF \$300.00 IN
ADDITION TO THE \$150.00 ADMINISTRATIVE COSTS
SECONDED BY MR. DOWELL
MOTION PASSED UNANIMOUSLY**

IX. Board Comments:(4:57:15 p.m.)

Mr. Fried advised that Ms. Van Buren shared an article with him that she found in reference to the priority of code enforcement liens and requested Recording Secretary Dunn forward it to the other Board Members.

Mr. Dowell commented that he agreed with Mr. Golboro's earlier comment about the time frames given to contractors to complete projects.

X. Adjournment:(4:58:43 p.m.)

**MOTION BY MS. VAN BUREN TO ADJOURN THE HEARING
SECONDED BY MR. GOLBORO
MOTION PASSED UNANIMOUSLY**