

Thursday, September 15, 2022, 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 from the item via the Town’s website at www.townofpalmbeach.com or may obtain an audio recording of the meeting by contacting the Code Enforcement Board Secretary at (561)227-7080. 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: (2:00:02)

II. Roll Call: (2:00:47)

Bram Majtlis, Chairman
Scotch Peloso, Vice Chairman
Martin Klein
Chris Larmoyeux
Pamela Saba
John McGowan
Harris S. Fried, Alternate Member
Pamela Davies, Alternate Member

Board Secretary Marcote informed the Chairman that Ms. Wartow was excused from this hearing. Chairman Majtlis informed the board that Mr. Fried would be the voting member in Ms. Wartow absence.

III. Approval of the Minutes of the August 18, 2022, Minutes: (2:00:51)

**MOTION BY MR. KLEIN TO APPROVE THE AUGUST 18, 2022, MINUTES.
SECONDED BY MR. FRIED.
MOTION PASSED UNANIMOUSLY.**

IV. Administration of the Oath to Town Staff (2:01:07)

The Town staff were sworn in by Secretary Marcote.

V. Code Statistics: (2:02:28)

- 1619 Year to date Code Enforcement cases.
- 139 cases initiated since the last Code Board Hearing
- 80 cases officer generated
- 59 cases were received (not self-initiated)
- 46 cases set to appear at the September Code Board
- 26 cases achieved compliance before the hearing
- 17 new cases to be heard today
- 0 fine consideration cases to be heard today
- 2 fine reduction cases to be heard today
- 1 old business case to be heard today

VI. Public Hearing: (2:03:00)

A. Case # CE 22-760, 1435 N. Ocean Blvd., Palm Beach Holdings LLC: (2:02:34)

Violation of Chapter 18, Section 18-233 of the town of Palm Beach Code of Ordinances adopts the Florida Building code which requires building permits 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. Chapter 18, Section 18-175 requires ARCOM approval prior to the issuance of certain permits.

Mr. McGowan Jr. recused himself from the proceedings.

Chairman Majtli informed the board that Ms. Davies would be a voting member for this case.

All board members declared ex parte communications that they have read the materials and emails that were sent to them prior to the hearing.

Officer Felix presented the facts of the case and entered evidence into the record.

Wayne Bergman the Building Official/Director of PZB gave testimony in the case.

Mr. Michael Brenann was present on behalf of the property owner and gave testimony in the case.

MOTION BY MR. LARMOYEUX OF NON-COMPLIANCE, ASSESS ADMINISTRATIVE FEE IN THE AMOUNT OF \$150.00 TO BE PAID WITHIN 30 DAYS OF THIS ORDER AND TO COME INTO COMPLIANCE BY REMOVING THE GATE BY SEPTEMBER 22, 2022. ONCE THE GATE IS REMOVED ALL NECESSARY PERMITS AND APPROVALS MUST BE OBTAINED PRIOR TO THE GATE BEING REPLACED.

MOTION SECONDED BY MR. KLEIN.

MOTION PASSED UNANIMOUSLY.

B. Case # CE 21-1334, 1435 N Ocean Way, Platinum Palm Beach Holdings LLC: (2:32:35)

Chapter 18, Section 18-88 of the Town of Palm Beach Code of Ordinances states no person shall construct, modify or repair any retaining walls in the town without having first submitted to the building official detailed plans and specifications for the construction of such retaining walls, which detailed plans and specifications shall bear the approval of a professional engineer registered in the state. Upon review of the plans, the applicant may be required to submit a storm water management plan. Retaining walls shall not occupy easements or road rights of way.

Chapter 18-277(b) of the Town of Palm Beach Code of Ordinances states where public has established an accessway through private lands to lands Seward of mean high tide or water line prescription, perspective easement, or other legal means, development or construction shall not interfere with such right of access unless a comparable alternative accessway is provided. The property owner or developer shall have the right to improve, consolidate, or relocate such public accessways so long as they are:

(1) Of substantially similar quality and convenience to the public.

(2) Approved by the local government and approved by the Florida Department of Environmental Protection (DEP) whenever improvements are involved seaward of the coastal construction control line; and (3) Consistent with the coastal management element of the local comprehensive plan adopted pursuant to F.S. 163.3178.

Mr. McGowan Jr. recused himself from the case and Ms. Davies was a voting member.

All board members declared ex parte communications that they have read the materials and emails that were sent to them prior to the hearing.

Officer Felix presented the facts of the case and entered evidence into the record.

Mr. Michael Brenann was present on behalf of the property owner and gave testimony in the case.

Mr. Dottery, Mr. Metzger, Ms. Metzger, David Lambert and Susan Gary spoke in regard to this case and presented evidence to the board.

MOTION BY MR. LARMOYEUX OF NON- COMPLIANCE TO ASSESS ADMINISTRATIVE FEE OF \$150.00 TO BE PAID WITHIN 30 DAY OF THIS ORDER.

VIOLATION 18-88 THE PROPERTY OWNER MUST OBTAIN A PERMIT BY OCTOBER 14, 2022 OR REMOVE THE RETAINING OBARDS TO COME INTO COMPLIANCE.

VIOLATION 277(B) HAS BEEN DEFERRED TO THE DECEMBER 15, 2022, HEARING.

MOTION SECONDED BY MR. KLEIN.

CHAIRMAN MAJTLIS CALLED FOR A ROLL CALL VOTE.

MR. KLEIN – YES

MS. SABA – YES

MR. LARMOYEUX – YES

MR. FRIED – YES

MS. DAVIES – YES

MR. PELOSO – YES

MR. MAJTLIS – YES

MOTION PASSES UNANIMOUSLY.

C. Case # CE 22-1486, 102 Reef Road, Garden Couture: (3:52:21)

Violation of Chapter 43, Section 42-230 of the Town of Palm Beach Code of Ordinances states lawn maintenance in the town shall be limited to the hours outlined for construction work at section 42-199 which states work is allowed Monday thru Friday. Heavy equipment or other outdoor construction related, and lawn maintenance noise shall not be permitted before 9:00 am. Only quiet interior work from 8:00 am to 9:00 am is permitted.

Code Enforcement Officer Felix presented the facts of the case and entered evidence into the record.

The business owner was not present and there was a finding of proper notice.

MOTION BY MR. KLEIN OF NON-COMPLIANCE TO ASSESS ADMINISTRATIVE FEE IN THE AMOUNT OF \$150.00 AND A FINE OF \$250.00 TO BE PAID WITHIN 30 DAYS OF THIS ORDER.

MOTION SECONDED BY MS. SABA.

MOTION PASSED UNANIMOUSLY.

D. Case # CE 22-1445, 221 El Vedado Road, Hedrick Brothers Construction Company Inc:(4:48:57)

Violation of Chapter 42, Section 42-199 of the Town of Palm Beach Code of Ordinances states work is allowed Monday thru Friday. Heavy equipment or other outdoor construction related, and lawn maintenance noise shall not be permitted before 9:00 am only quiet interior work from 8:00 am to 9:00 am is permitted.

Officer Felix requested that this case be dismissed since Hedrick Brothers Construction paid the violation citation just prior to the hearing.

MOTION BY MR. KLEIN TO DISMISS THE CASE

SECONDED BY MR. McGOWAN JR.

MOTION PASSED UNANIMOUSLY.

E. Case # CE 22-1440, 1305 N. Ocean Way, Rogers Construction Contracting Corp.: (4:49:27)

Violation of Chapter 42, Section 42-199 of the Town of Palm Beach Code of Ordinances states work is allowed Monday thru Friday. Heavy equipment or other outdoor construction related, and lawn maintenance noise shall not be permitted before 9:00 am only quiet interior work from 8:00 am to 9:00 am is permitted.

Officer Felix requested that this case be dismissed since Rogers Construction paid the violation citation just prior to the hearing.

MOTION BY MR. PELOSO TO DISMISS THE CASE.

SECONDED BY MR. McGOWAN JR.

MOTION PASSED UNANIMOUSLY.

F. Case # CE 22-1371, 120 Dunbar Road, 120 Dunbar Road Trust: (4:50:04)

Violation of Chapter 42, Section 42-126 of the Town of Palm Beach Code of Ordinances states it shall be unlawful for any person to have, keep, maintain, cause or permit within the town any collection of standing or flowing water in which mosquitoes breed or are likely to breed, unless such collection of water is treated so as effectually to prevent such breeding.

Officer Felix presented the facts of the case and entered evidence into the record.

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

MOTION BY MR. KLEIN OF NON-COMPLIANCE, ASSESS ADMINISTRATIVE FEE IN THE AMOUNT OF \$150.00 TO BE PAID WITHIN 30 DAYS OF THIS ORDER AND TO COME INTO COMPLIANCE BY OCTOBER 1, 2022.

MOTION SECONDED BY MR. McGOWAN JR.

MOTION PASSED UNANIMOUSLY.

G. Case # CE 22-1303, 2285 Ibis Isle Road, Global One Investment Group LLC: (4:53:01)

Violation of Chapter 42, Section 42-126 of the Town of Palm Beach Code of Ordinances states it shall be unlawful for any person to have, keep, maintain, cause or permit within the town any collection of standing or flowing water in which mosquitoes breed or are likely to breed, unless such collection of water is treated so as effectually to prevent such breeding.

Officer Felix presented the facts of the case and entered evidence into the record.

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

MOTION BY MR. FRIED OF NON-COMPLIANCE, ASSESS ADMINISTRATIVE FEE IN THE AMOUNT OF \$150.00 TO BE PAID WITHIN 30 DAYS OF THIS ORDER AND TO COME INTO COMPLIANCE BY OCTOBER 1, 2022.

SECONDED BY MR. KLEIN.

MOTION PASSED UNANIMOUSLY.

THE HEARING RECESS (4; 44:01)

THE HEARING RECONVIENED (4:48:40)

H. Case # CE 22-1301, 230 S. Ocean Blvd., Melisa Ceriale: (4:55:07)

Violation of Chapter 42, Section 42-199 of the Town of Palm Beach Code of Ordinances states work is allowed Monday thru Friday. Heavy equipment or other outdoor construction related, and lawn maintenance noise shall not be permitted before 9:00am. Only quiet interior work from 8:00 am to 9:00 am is permitted.

Officer Felix presented the facts of the case and entered evidence into the record.

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

MOTION BY MR. KLEIN OF NON-COMPLIANCE, ASSESS ADMINISTRATIVE FEE IN THE AMOUNT OF \$150.00 AND TO PAY A FINE OF \$250.00 WITHIN 30 DAYS OF THIS ORDER.

MOTION SECONDED BY MR. McGOWAN JR.

MOTION PASSED UNANIMOUSLY.

I. Case # CE 22-1280, 142 Casa Bendita, Greenz Pro: (4:57:42)

Violation of Chapter 42, Section 42-197(12)(b) of the Town of Palm Beach Code of Ordinances states the use of gasoline powered leaf blowers is prohibited within the town, which is less than one acre in size. Effective May 1, 2022, gasoline powered leaf powered leaf blowers shall be prohibited on any size property within the town.

Officer Felix presented the facts of the case and entered evidence into the record.

The business owner was not present and there was a finding of proper notice.

MOTION BY MR. KLEIN OF NON-COMPLIANCE, ASSESS ADMINISTRATIVE FEE IN THE AMOUNT OF \$150.00 AND TO PAY A FINE OF \$400.00 WITHIN 30 DAYS OF THE ORDER.

MOTION SECONDED BY MR. FRIED.

MOTION PASSED UNANIMOUSLY.

J. Case # CE 22-748, 210 Via Del Mar, Beachboyz Development LLC: (5:02:57)

Violation of Chapter 54, Section 54-71(a) of the Town of Palm Beach Code of Ordinances states no landmark nor any building or site planning feature, including but not limited to landscaping, garden walls, pools, fountains, etc., on a landmark site or within an historic district shall be erected, altered, restored, moved or demolished until after an application for a certificate of appropriateness as to exterior architectural features has been submitted to and approved by the commission. Similarly, if earthworks or historical or archaeological importance exist in an historic district, or on a landmark site, there shall be no excavating or moving of earth, rock or subsoil in or about such earthworks without a certificate of appropriateness. For the purpose of this article, "exterior architectural features" shall include but not be limited to the architectural style, scale, general design and general arrangement of the exterior of a building, including the kind and texture of the building material and type and style of roofs, windows, doors and signs. The style, scale, design, materials and location of advertising signs and bill posters on a landmark site or within an historic district, if located or plainly visible from out-of-doors, shall be under the control of the commission.

Officer Felix presented the facts of the case and entered evidence into the record.

The Mr. & Mrs. Fischel the property owners and their architect Kevin Parker were present and gave testimony in the case.

MOTION BY MR. FRIED TO DISMISS THE CASE.

NO SECOND WAS MADE; THE MOTION FAILED.

MOTION BY MR. FRIED TO DEFER THIS CASE TO THE JANUARY 19, 2023, CODE BOARD HEARING.

MOTION SECONDED BY MR. McGOWAN.

MOTION PASSED UNANIMOUSLY.

K. Case # CE 21-1540, 168 Reef Road, Leas Butler: (5:17:35)

Violation of Chapter 18, Section 18-233 of the Town of Palm Beach Code of Ordinances adopts the Florida Building Code which requires building permits 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.

Officer Felix presented the facts of the case and entered evidence into the record.

The property owner was not present and there was a finding of proper notice. A member of the property owners staff presented the Board Secretary Ms. Marcote with a letter 30 minutes prior to the hearing that the property owner wanted placed into the record. Board Secretary Ms. Marcote read the letter to the board and entered the letter into evidence.

MOTION BY MR. KLEIN OF NON-COMPLIANCE, ASSESS ADMINISTRATIVE FEE OF \$150.00 TO BE PAID WITHIN 30 DAYS OF THIS ORDER AND TO COME INTO COMPLIANCE BY OCTOBER 17, 2022.

MOTION SECONDED BY MS. SABA.

MOTION PASSED UNANIMOUSLY.

L. Case # CE 22-1770, 240 Oleander Ave., PTMJM Florida Investment Properties LLC: (5:23:22)

Violation of Chapter 88, Section 88-16(L) of the Town of Palm Beach Code of Ordinances prohibits vegetation infested with pests such as whitefly.

Officer Rodriguez presented the facts of the case and entered evidence into the record.

The property owners were not present and there was a finding of proper notice.

MOTION BY FRIED OF NON-COMPLIANCE, ASSESS ADMINISTRATIVE FEE IN THE AMOUNT OF \$150.00 TO BE PAID WITHIN 30 DAYS OF THIS ORDER AND TO COME INTO COMPLIANCE BY OCTOBER 17, 2022.

MOTION SECONDED BNY MR. KLEIN.

MOTION PASSED UNANIMOUSLY.

M. Case # CE 22-1054, 400 Seaspray Ave., 400 Seaspray Ave LLC: (5:25:31)

Violation of Chapter 106, Section 106-159 of the Town of Palm Beach Code of Ordinances 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 others using such sidewalks and bike trails. Violation Chapter 88, Section 88-16(L) of the Town of Palm Beach Code of Ordinances prohibits vegetation infested with pests such as whitefly.

Officer Rodriguez presented the facts of the case and entered evidence into the record.

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

MOTION BY MR. McGOWAN JR. OF NON-COMPLIANCE, ASSESS ADMINISTRATIVE FEE IN THE AMOUNT OF \$150.00 TO BE PAID WITHIN 30 DAYS OF THIS ORDER AND TO COME INTO COMPLIANCE BY OCTOBER 17, 2022.

MOTION SECONDED BY MS. SABA

MOTION PASSED UNANIMOUSLY.

N. Case # CE 22-1475, 247 Worth Ave., Batten Construction: (5:27:15)

Violation of Chapter 106, Section 106-4 of the Town of Palm Beach Code of Ordinances states the director of public works shall establish and maintain a manual pertaining to construction standards and town policy concerning work within road rights-of-ways and easements. This manual shall be titled “Standards Applicable to Public Rights -of-Way and Easements Within the Town of Palm Beach” and shall be binding upon contractors, utility companies, residents, and others with respect to construction and maintenance activities within the town’s rights-of-way and easements. The rights-of-way manual shall be adopted and amended as necessary by resolution of the town council.

Officer Moriarty presented the facts of the case and entered evidence into the record.

Gregg Batten the company owner was present and gave testimony in the case.

MOTION BY MR. LARMOYEUX TO DISMISS THE CASE.

MOTION SECONDED BY MR. KLEIN.

MOTION PASSED UNANIMOUSLY.

O. Case # CE 22-1046, 304 S. County Road, Thomas Campaniello: (5:33:00)

Violation of Chapter 88, Section 88-16(C) of the Town of Palm Beach Code of Ordinances states sidewalks, walkways, stairs, driveways, parking spaces and similar areas shall be kept in a proper state of repair and maintained free from hazardous conditions.

Officer Moriarty presented the facts of the case and entered evidence into the record.

David McPherst was present on behalf of the property owner and gave testimony in the case.

MOTION BY MR. LARMOYEUX OF NON-COMPLIANCE, ASSESS ADMINISTRATIVE FEE IN THE AMOUNT OF \$150.00 TO BE PAID WITHIN 30 DAYS OF THIS ORDER AND TO OBTAIN ALL NECESSARY PERMITS TO COME INTO COMPLIANCE BY NOVEMBER 14, 2022.

MOTION SECONDED BY MS. SABA.

MOTION PASSED UNANIMOUSLY.

P, Case # CE 22-871, 3360 S. Ocean Blvd., 3360 South Ocean Condo Association:(3:57:05)

Violation of Chapter 88, Section 88-18 of the Town of Palm Beach Code of Ordinances states that the exterior of a structure shall be maintained in good repair, structurally sound and sanitary so as not to pose a threat to the public health, safety and welfare.

Officer Moriarty presented the facts of the case and entered evidence into the record.

Fire Marshall Martin Deloach, Senior Building Inspector Craig Johns gave testimony.

Steven Braden was present on behalf of the property owners and gave testimony.

MOTION BY LARMOYEUX THAT THE PROPERTY OWNER SUPPLY THE BUILDING DEPARTMENT WITH A NEW STRUCTURAL ENGINEERING REPORT BY OCTOBER 17, 2022, AND TO KEPP THE BUILDING OFFICIAL WAYNE BERGMAN INFORMED OF PROGRESS BEING MADE TO COME INTO COMPLIANCE AND TO DEFER THIS CASE UNTIL THE OCTOBER 20, 2022 HEARING. THE BUILDING OFFICIAL WAYNE BERGMAN WILL KEEP THE CODE ENFORCEMENTUNIT INFORMED OF ANY PROGRESS AND IF THE BUILDING COMES INTO COMPLIANCE. MR. BERGMAN WILL NOTIFY CODE ENFORCEMENT IN WRITING OF THE COMPLIANCE DATE. COMPLIANCE CONSISTS OF PROVIDING THE BUILDING OFFICIAL WAYNE BERGMAN WITH AN UPDATED STRUCTURAL REPORT AND OBTAIN ALL NECESSARY PERMITS FOR THE REPAIR WORK. THIS CASE WILL RETURN BEFORE THE BOARD ON OCTOBER 20, 2022.

THE CHAIRMAN CALLED FOR A ROLL CALL VOTE.

MR. KLEIN – YES

MS. SABA – YES

MR. McGOWAN JR. – YES

MR. LARMOYEUX – YES

MR. FRIED – YES

MR. PELOSO – NO

MR. MAJTLIS – YES

THE MOTION PASSED BY A VOTE OF 6 TO 1.

Q. Case # CE 22-1623, 269 Jamaica Lane, Marrano Holdings: (5:42:27)

Violation of Chapter 2, section 2-428 of the Town of Palm Beach Code of Ordinances states if the code inspector has reason to believe a violation presents a serious threat to public health, safety and welfare, or if the violation is irreparable or irreversible in nature, the code inspector shall make a reasonable effort to notify the violator and may proceed directly to the procedure in section 2-432 without notifying the violator. Violation of Chapter 42, Section 42-126 of the Town of Palm Beach Code of Ordinances states shall be unlawful for any person to have, keep, maintain, cause or permit within the town any collection of standing or flowing water in which mosquitoes breed or are likely to breed, unless such collection of water is treated so as effectually to prevent such breeding.

Officer Rodriguez presented the facts of the case and entered evidence into the record.

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

MOTION BY MR. KLEIN OF NON-COMPLIANCE, ASSESS ADMINISTRATIVE FEE IN THE AMOUNT OF \$150.00 TO BE PAID WITHIN 30 DAYS OF THIS ORDER AND TO COME INTO COMPLIANCE BY OCTOBER 3, 2022.

SECONDED BY MR. FRIED

MOTION PASSED UNANIMOUSLY.

VII. Fine Reduction: (5:46:06)

A. Case # CE 22-183, 250 Worth Ave., Frank Aubert Jewelry: (5:46:10)

Violation of Chapter 18, Section 18-233 of the Town of Palm Beach Code of Ordinances adopts the Florida Building Code, which requires building permits to construct, enlarge, alter, repair, move convert or replace any electrical, mechanical or plumbing.

Officer Moriarty represented the facts of the case.

Christopher Kaufman the business owner was present and gave testimony.

MOTION BY MR. FRIED TO REDUCT THE FINE AMOUNT TO \$5,000.00 AND TO BE PAID WITHIN 30 DAYS OF THIS ORDER OR THE FINE WILL REVERT BACK TO THE ORIGINAL AMOUNT.

MOTION SECONDED BY MR. LARMOYEUX

MOTION PASSED UNANIMOUSLY.

B. Case CE 21-511, 425 Chilean Ave., Lorraine S. Charman: (5:58:08)

Violation of Chapter 66, Section 66-23(a) of the Town of Palm Beach Code of Ordinances vegetation removal permits not sought in conjunction with building permits, shall be obtained by making application prior to removal, relocation or replacement of the building official or his designee, at least ten working days prior to the proposed date of removal.

Officer Moriarty represented the facts of the case.

Mr. Frank Lynch was present on behave of the homeowner and gave testimony.

MOTION BY MR. KLEIN TO REDUCE THE FINE TO \$10,000.00 TO BE PAID WITHIN 30 DAYS OF THE ORDER OR THE FINE WILL REVERT BACK TO THE ORIGINAL AMOUNT.

MOTION SECONDED BY MR. FRIED.

MOTION PASSED UNANIMOUSLY.

VIII. Old Business:

A. Case # CE 18-400, 2840 S. Ocean Blvd. #223, Husnija Spahic: (6:12:33)

Violation of Chapter 18, Section 18-233 of the Town of Palm Beach Code of Ordinances adopts the Florida Building Code, which requires building permits to construct, enlarge, alter, repair, move, convert, or replace any electrical, mechanical or plumbing system.

Board Secretary Carla Marcote presented this case to the Board for consideration to take further civil action for outstanding fines and bring the property into compliance. Board Secretary Carla Marcote updated the Board on the progress of the case.

IT WAS THE DECISION OF THE BOARD BASED ON THE INFORMATION PRESENTED TO HOLD OFF ON ANY FURTHER CIVIL ACTION AT THIS TIME SINCE THE PROPERTY OWNER IS CURRENTLY WORKING TO COME INTO COMPLIANCE.

IX. Board Comments: (6:12:33)

There were no board comments.

X. Adjournment: (6:23:21)

MOTION TO ADJOURN BY MR. McGOWAN.

MOTION SECONDED BY MS. SABA

MOTION PASSED UNANIMOUSLY.