

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

Thursday, August 21, 2014, 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:(01:58:33 PM)

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

II. Roll Call:(01:58:40 PM)

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

Staff present: Town Attorney John Randolph and Attorney Kelly Gardner, Code Enforcement Manager Raychel Houston, Lead Code Enforcement Officer Robert Walton, Code Enforcement Officer John Moriarty and Recording Secretary Joan Dunn.

Town Attorney John Randolph introduced the Board to Attorney Kelly Gardner from his law firm.

III. Approval of the Minutes of June 19, 2014:(01:58:58 PM)

**MOTION BY MR. DONNELLEY TO APPROVE THE JUNE 19, 2014 MINUTES
SECONDED BY MS. GREENBERG
MOTION PASSED UNANIMOUSLY**

IV. Administration of the Oath to Town Staff:(01:59:24 PM)

The Town staff were sworn in by Recording Secretary Dunn.

V. Public Hearings:

- A. Case # CE 14-784, 300Blk S. Ocean Blvd., Frank R. Pultrone
Violation of Chapter 74, Section 74-196 of the Town of Palm Beach Code of Ordinances, presence on public beach during closed hours

Lead Code Enforcement Officer Walton presented the facts of the case and submitted evidence into the record. Road Patrol Officer Bido was present at the hearing to answer questions from the Board. 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.

The violator 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 ORDER THEM TO PAY THE \$75.00 FINE
SECONDED BY MS. GREENBERG
MOTION PASSED UNANIMOUSLY**

- B. Case # CE 14-785, 300Blk S. Ocean Blvd., Heidi D. Franklin
Violation of Chapter 74, Section 74-196 of the Town of Palm Beach Code of Ordinances, presence on public beach during closed hours

Lead Code Enforcement Officer Walton presented the facts of the case and submitted evidence into the record. Road Patrol Officer Bido was present at the hearing to answer questions from the Board. 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.

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

- C. Case # CE 14-883, Brazilian Ave. & S. Lake Dr., Clarel Jean Louis & Sunshine Teens
Violation of Chapter 78, Section 78-39 of the Town of Palm Beach Ordinances, solicitation permit required

Lead Code Enforcement Officer Walton presented the facts of the case and submitted evidence into the record. Road Patrol Officer Bido testified about her involvement in this case and answered questions from the Board. 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.

Clarel Jean Louis was present at the hearing on behalf of the company and testified that he did not believe he was in violation of the Town Ordinances and requested the fine be waived.

**MOTION BY MR. BALLENTINE TO FIND THE VIOLATOR IN NON-COMPLIANCE, ASSESS ADMINISTRATIVE COSTS IN THE AMOUNT OF \$150.00 AND ORDER THEM TO PAY A \$100.00 FINE
MOTION FAILED FOR LACK OF A SECOND**

**MOTION BY MS. GREENBERG TO FIND THE VIOLATOR IN NON-COMPLIANCE, WAIVE THE ADMINISTRATIVE COSTS AND ORDER THEM TO PAY A \$100.00 FINE
SECONDED BY MR. NATALE
MOTION PASSED UNANIMOUSLY**

- D. Case # CE 14-916, Clarke Beach, Samuel Heard
Violation of Chapter 74, Section 74-193 of the Town of Palm Beach Code of Ordinances, intoxicating beverages on public beaches prohibited

Lead Code Enforcement Officer Walton presented the facts of the case and submitted evidence into the record. Road Patrol Officer Kelly was present at the hearing to answer questions from the Board. 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.

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

- E. Case # CE 14-925, Seminole Ave. & N. Ocean Blvd., Andres Fanjul
Violation of Chapter 10, Section 10-43 of the Town of Palm Beach Code of Ordinances, dog running at large

Lead Code Enforcement Officer Walton advised the fine for this case was paid just prior to the hearing. The Town recommended the Board accept the guilty plea and payment of the fine and no further action be taken.

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

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

- F. Case # CE 14-348, 80 Middle Rd., Gregory Dryer Tr Titl Hldr & Joseph & Nancy Dryer

Violation of Chapter 42, Section 42-87 of the Town of Palm Beach Code of Ordinances, roofs to be maintained in a state of good repair so as not to leak

Code Enforcement Officer Moriarty advised this case is now in compliance. The Town recommended the Board dismiss the case for compliance.

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

**MOTION BY MR. DONNELLEY TO DISMISS THE CASE FOR
COMPLIANCE
SECONDED BY MR. PELOSO
MOTION PASSED UNANIMOUSLY**

- G. Case # CE 14-700, 235 Sunrise Ave., #1101 AKA MZ-A, HPA Solida Inc.

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 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 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 MR. NATALE 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**

H. Case # CE 14-716, 401 Australian Ave., Patricia Yunghanns

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 other using such sidewalks and bike trails

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 REPEAT non-compliance, assess administrative costs in the amount of \$150.00 and order them to pay a fine of \$100.00 a day for the 21 days out of compliance for a total of \$2250.00.

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 REPEAT NON-COMPLIANCE, ASSESS ADMINISTRATIVE COSTS IN THE AMOUNT OF \$150.00 AND ORDER THEM TO PAY A \$100.00 A DAY FINE FOR THE 21 DAYS OUT OF COMPLIANCE FOR A TOTAL OF \$2250.00
SECONDED BY MS. GREENBERG
MOTION PASSED UNANIMOUSLY**

I. Case # CE 14-726, 209 Worth Ave., Gregory James

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

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 REPEAT non-compliance, assess administrative costs in the amount of \$150.00 and order them to pay a fine of \$500.00.

Bruce Beattie was present at the hearing on behalf of the violator and advised the plants are placed at that location in order to water them and then are forgotten.

**MOTION BY MR. BALLENTINE TO FIND THE VIOLATOR IN REPEAT NON-COMPLIANCE, ASSESS ADMINISTRATIVE COSTS IN THE AMOUNT OF \$150.00 AND ORDER THEM TO PAY A \$500.00 FINE
SECONDED BY MR. PELOSO
MOTION PASSED UNANIMOUSLY**

J. Case # CE 14-727, 169 Everglade Ave., Keith Frankel

Violation of Chapter 126, Section 126-31 of the Town of Palm Beach Code of Ordinances, vegetative growth located within the vicinity of any above ground utility line that has reached a height or is in a condition that might render it dangerous to the public utility line prohibited

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 September 15, 2014 to comply.

Peter Kutsukos was present at the hearing on behalf of the property owner and testified that Asplundh tree service is scheduled to trim the trees.

**MOTION BY MS. GREENBERG TO FIND THE VIOLATOR IN NON-COMPLIANCE, ASSESS ADMINISTRATIVE COSTS IN THE AMOUNT OF \$150.00 AND GIVE THEM UNTIL SEPTEMBER 15, 2014 TO COMPLY
SECONDED BY MR. BALLENTINE
MOTION PASSED UNANIMOUSLY**

K. Case # CE 14-786, 300Blk S. County Rd., Bricktops

Violation of Chapter 134, Section 134-7 of the Town of Palm Beach Code of Ordinances, failure to comply with conditions established with #21-2012 Special Exception

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 order them to pay a \$150.00 fine.

John Becker and Jason Flores were present on behalf of the business and testified they would make sure this does not occur in the future.

**MOTION BY MR. BALLENTINE TO FIND THE VIOLATOR IN NON-COMPLIANCE, ASSESS ADMINISTRATIVE COSTS IN THE AMOUNT OF \$150.00 AND ORDER THEM TO PAY A \$150.00 FINE
SECONDED BY MR. DONNELLEY
MOTION PASSED UNANIMOUSLY**

- L. Case # CE 14-806, 2300 S. Ocean Blvd. S., Ronald A. Farrington Est.
Violation of Chapter 42, Section 42-87 of the Town of Palm Beach Code of Ordinances, all exterior surfaces to be painted and in a good state of repair

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 September 15, 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 SEPTEMBER 15, 2014 TO COMPLY

**SECONDED BY MS. GREENBERG
MOTION PASSED UNANIMOUSLY**

- M. Case # CE 14-826, 249 Worth Ave., Maje
Violation of Chapter 38, Section 38-35, alarm system users with fines not paid within thirty (30) days of first billing shall be referred to the Town's Code Enforcement Board

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 outstanding alarm fines.

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 OUTSTANDING ALARM FINES

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

- N. Case # CE 14-839, 246 Park Ave. AKA 242 Park Ave., Rhonda Nasser
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; Violation of Chapter 134, Section 134-1668 gates to be installed with the required setbacks

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 September 15, 2014 to comply.

Rhonda Nasser was present at the hearing and testified that she has removed the gates and is working with a company to obtain permits.

MOTION BY MR. BALLENTINE TO FIND THE VIOLATOR IN NON-COMPLIANCE, ASSESS ADMINISTRATIVE COSTS IN THE AMOUNT OF \$150.00 AND GIVE THEM UNTIL SEPTEMBER 15, 2014 TO COMPLY

**SECONDED BY MS. GREENBERG
MOTION PASSED UNANIMOUSLY**

- O. Case # CE 14-849, 340 Royal Poinciana Way, Ste. 330, Michel Piranesi
Violation of Chapter 58, Section 58-76 of the Town of Palm Beach Code of Ordinances, special detail services not paid within 30 days of first billing shall be referred to the Town's Code Enforcement Board

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 overdue special detail bill and any penalties accrued.

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 OVERDUE SPECIAL DETAIL BILL AND ANY PENALTIES ACCRUED

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

- P. Case # CE 14-891, 150 Royal Poinciana Plaza, National Arts Institute d/b/a Palm Beach Performing Arts Center
Violation of Chapter 134, Section 134-1257 (b) of the Town of Palm Beach Code of Ordinances, office use without prior special exception approval

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 give them until September 15, 2014 to comply by obtaining the required special exception and business tax receipt.

Pamela Stark Thomas was present at the hearing on behalf of the organization and testified that they were not conducting business at this location.

**MOTION BY MR. BALLENTINE TO FIND THE VIOLATOR IN NON-COMPLIANCE, ASSESS ADMINISTRATIVE COSTS IN THE AMOUNT OF \$150.00 AND GIVE THEM UNTIL SEPTEMBER 15, 2014 TO COMPLY BY OBTAINING THE REQUIRED SPECIAL EXCEPTION AND BUSINESS TAX RECEIPT
SECONDED BY MR. DONNELLEY
MOTION PASSED UNANIMOUSLY**

VI. Fine Consideration:

- A. Case # CE 14-501, 1230 S. Ocean Blvd., SMM Realty LLC
Violation of Chapter 42, Section 42-87 of the Town of Palm Beach Code of Ordinances, all appurtenances such as private roadways to be kept in a state of safe and good repair

Code Enforcement Officer Moriarty briefly reviewed the case. The Town recommended the Board assess a fine in the amount of \$150.00 a day commencing on July 12, 2014 and continuing until compliance is achieved.

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

**MOTION BY MR. NATALE TO ASSESS A FINE IN THE AMOUNT OF \$150.00 A DAY COMMENCING ON JULY 12, 2014 AND CONTINUING UNTIL COMPLIANCE IS ACHIEVED
SECONDED BY MS. GREENBERG
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

Raymond Masciarella II, Esq., attorney for the property owner, was present at the hearing and presented evidence and argument in support of his client's Motion for Relief and requested the Board vacate and re-enter its order dated August 16, 2012. Property owner Marni Propp was present at the hearing but did not testify.

Timothy Hanlon, Esq. was present as attorney for the Code Enforcement staff and presented evidence and argument in opposition to Park Centre's Motion for Relief.

Attorney Kelly Gardner gave the Board a brief summary of the issues they would be considering in this case.

Lead Code Enforcement Officer Walton testified in response to questions from both attorneys and the Board.

**MOTION BY MR. DONNELLEY TO DENY PALM BEACH PARK CENTRE'S MOTION FOR RELIEF AND TO DENY PALM BEACH PARKE CENTRE'S REQUEST TO VACATE AND RE-ENTER THE BOARD'S ORDER DATED AUGUST 16, 2012
SECONDED BY MR. NATALE
MOTION PASSED UNANIMOUSLY**

VIII. Fine Reductions:

A. Case # CE 14-190, 252 Oleander Ave., Oleander Ventures LLC

Violation of Chapter 42, Section 42-87 of the Town of Palm Beach Code of Ordinances, all windows and doors to be constructed and maintained in such a condition as to exclude weather elements or insects from entering, appurtenances such as stairs and decks to be maintained in a safe and sound condition and in good repair and interior walls to be structurally sound; Violation of Chapter 18, Section 18-241 and Section 18-242, building 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 systems; Violation of Chapter 42, Section 42-86, vegetation infested with pests such as whitefly not allowed

Code Enforcement Officer Moriarty briefly reviewed the case and advised the Board that a representative for the property was present to request a fine reduction.

Sammy Diament was present on behalf of the property owner and testified as to the reasons why they believed a fine reduction should be considered. He requested a reduction to \$500.00.

**MOTION BY MR. NATALE TO REDUCE THE FINE TO \$5,000.00. MR. NATALE FURTHER MOTIONED THAT PAYMENT BE MADE WITHIN 30 DAYS OR THE FINE RETURNS TO THE ORIGINAL AMOUNT OF \$9,000.00
SECONDED BY MR. DONNELLEY
MOTION OPPOSED**

ROLL CALL VOTE

MR. NATALE	YES
MR. DONNELLEY	YES
MS. GREENBERG	NO
MR. BALLENTINE	NO
MR. FRIED	YES
MR. PELOSO	YES

MOTION PASSED 4 TO 2

- B. Case # CE 12-315, 211 Caribbean Rd., James R. Thompson Est.
Violation of Chapter 42, Section 42-86 of the Town of Palm Beach Code of Ordinances, stagnant water or unsanitary conditions not allowed

Lead Code Enforcement Officer Walton briefly reviewed the case and advised the Board that a representative for the bank-owned property was present to request a fine reduction.

Barbara Hooker was present on behalf of the bank-owned property and testified as to the reasons why they believed a fine reduction should be considered. She requested a reduction to zero.

MOTION BY MR. NATALE TO REDUCE THE FINE TO \$50,000.00. MR. NATALE FURTHER MOTIONED THAT PAYMENT BE MADE WITHIN 30 DAYS OR THE FINE RETURNS TO THE ORIGINAL AMOUNT OF \$64,500.00

SECONDED BY MR. DONNELLEY
MOTION PASSED UNANIMOUSLY

IX. 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 the foreclosure action.

Whitney Carroll, attorney for the property owner, was present at the hearing and testified as to the progress being made on this property. She requested a

postponement of the foreclosure proceeding as they believed they will be able to reach compliance by the next Code Board Hearing.

**MOTION BY MS. GREEBERG TO POSTPONE THE FORECLOSURE
HEARING UNTIL THE SEPTEMBER 18, 2014 MEETING
SECONDED BY MR. BALLENTINE
MOTION PASSED UNANIMOUSLY**

X. Board Comments:(05:52:29 PM)

Ms. Greenberg had a question about a property and was advised she could discuss it with a code officer after the meeting.

XI. Adjournment:(05:53:44 PM)

The meeting was adjourned without benefit of a motion.