

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

**Thursday, July 20, 2017, 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](http://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:(02:00:37 PM)**

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

**II. Roll Call:(02:01:15 PM)**

Upon roll call, the following Board members were present: Chair James Ballentine, Jr., Vice Chair Cynthia Van Buren, Members Robert G. Donnelley, Matthew Natale, Scotch Peloso, Jay N. Nisberg, Daniel McDonnell, Alternate Members Donald B. Scott, Jr. and Rosemary G. Carpenter.

Staff present: Attorney for the Town Jamie Gavigan, Code Enforcement Manager Benjamin Alma, Code Enforcement Officer John Moriarty, Code Enforcement Officer Felix, Building Official Bill Bucklew, Fire Marshall Martin DeLoach and Recording Secretary Joan Dunn.

**III. Approval of the Minutes of June 15, 2017:(02:01:17 PM)**

**MOTION BY MR. DONNELLEY TO APPROVE THE JUNE 15, 2017 MINUTES  
SECONDED BY MR. MCDONNELL  
MOTION PASSED UNANIMOUSLY**

**IV. Approval of the Minutes of the June 29, 2017 Special Hearing:(02:01:31 PM)**

**MOTION BY MR. MCDONNELL TO APPROVE THE JUNE 29, 2017 SPECIAL  
HEARING MINUTES  
SECONDED BY MR. NISBERG  
MOTION PASSED UNANIMOUSLY**

**V. Administration of the Oath to Town Staff:(02:01:50 PM)**

The Town staff were sworn in by Recording Secretary Dunn.

**VI. Code Statistics(02:02:13 PM)**

Code Enforcement Officer Felix reviewed the Code Enforcement statistics for the month as follows:

- 838 - year-to-date Code Enforcement cases
- 131 cases initiated since last Code Board Hearing
  - 69 cases self initiated
  - 62 cases received (not self initiated)
- 31 cases set to appear at July Code Board
- 23 achieved compliance before Hearing
- 4 new cases to be heard today
- 1 fine considerations to be heard today
- 2 foreclosure considerations to be heard today
- 1 old business to be heard today

**VII. Public Hearings:**

**A. Case # CE 17-456, 89 Middle Rd., 89 Middle Road LLC**

Violation of Chapter 18, Section 18-233 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 18, Section 18-175 ARCOM approval required prior to the issuance of certain permits

Code Enforcement Officer Moriarty advised this case was postponed from last month's meeting and is now in compliance. The Town recommended this case be dismissed for compliance.

The attorney for the property owner was present at the hearing but due to the dismissal, no testimony was required of him.

**MOTION BY MR. NATALE TO DISMISS THIS CASE FOR COMPLIANCE  
SECONDED BY MR. PELOSO  
MOTION PASSED UNANIMOUSLY**

B. Case # CE 17-617, 306 Worth Ave., Love 300

Violation of Chapter 42, Section 42-86 of the Town of Palm Beach Code of Ordinances, conditions which provide harborage for vermin not allowed

Code Enforcement Officer Moriarty requested a postponement of this case due to the property owner's ability to access to the apartment was being limited by the complainant.

Mr. DePeyster, the complainant, was present at the hearing.

MOTION BY MS. VAN BUREN TO HEAR THE CASE  
SECONDED BY MR. NATALE  
MOTION OPPOSED

ROLL CALL VOTE

|                |     |
|----------------|-----|
| MS. VAN BUREN  | YES |
| MR. NATALE     | YES |
| MR. DONNELLEY  | NO  |
| MR. PELOSO     | NO  |
| MR. NISBERG    | NO  |
| MR. MCDONNELL  | NO  |
| MR. BALLENTINE | NO  |

MOTION FAILED 5 TO 2

**MOTION BY MR. DONNELLEY TO POSTPONE THE CASE TO THE AUGUST 17, 2017 HEARING  
SECONDED BY MR. MCDONNELL  
MOTION OPPOSED**

**ROLL CALL VOTE**

|                       |            |
|-----------------------|------------|
| <b>MR. DONNELLEY</b>  | <b>YES</b> |
| <b>MR. MCDONNELL</b>  | <b>YES</b> |
| <b>MS. VAN BUREN</b>  | <b>NO</b>  |
| <b>MR. NATALE</b>     | <b>YES</b> |
| <b>MR. PELOSO</b>     | <b>YES</b> |
| <b>MR. NISBERG</b>    | <b>YES</b> |
| <b>MR. BALLENTINE</b> | <b>YES</b> |

**MOTION PASSED 6 TO 1**

The Board allowed Mr. DePeyster to speak about this case and advised him that the case will be back on the agenda next month and he or his representative could attend that hearing as well.

C. Case # CE 17-363, 264 Seminole Ave., TP Seminole Ave. LLC

Violation of Chapter 18, Section 18-233 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 Felix presented the facts of the case and submitted photographs into evidence. Building Official Bucklew gave his testimony in the case. The Town recommended a finding of non-compliance, assess administrative costs in the amount of \$150.00 and give them until August 9, 2017 to comply.

Ertram Crocker was present at the hearing on behalf of the property owner, gave his testimony in the case and advised he believed they could comply by August 9, 2017.

**MOTION BY MR. PELOSO TO FIND THE VIOLATOR IN NON-COMPLIANCE, ASSESS THE ADMINISTRATIVE COSTS IN THE AMOUNT OF \$150.00 AND GIVE THEM UNTIL AUGUST 9, 2017 TO COMPLY  
SECONDED BY MR. DONNELLEY  
MOTION PASSED UNANIMOUSLY**

D. Case # CE 17-706, 237 Brazilian Ave., Florida Capital Mgmt. LLC

REPEAT Violation of Chapter 42, Section 42-86 of the Town of Palm Beach Code of Ordinances, grass/weeds over 8 inches in height not allowed, accumulations of vegetative debris not allowed, stagnant water on a property not allowed; REPEAT 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; Violation of Chapter 42, Section 42-86 (22), infestations by pests such as whitefly not allowed

Code Enforcement Officer Moriarty presented the facts of the case and submitted photographs into evidence. The Town recommended a finding of non-compliance for the whitefly violation and a finding of REPEAT non-compliance for the remaining violations, assess administrative costs in the amount of \$150.00 and a daily fine to commence on June 30, 2017, amount to be determined by the Board not to exceed \$500.00 a day.

**MOTION BY MR. DONNELLEY TO FIND THE VIOLATOR IN NON-COMPLIANCE FOR THE WHITEFLY VIOLATION AND FIND THE VIOLATOR IN REPEAT NON-COMPLIANCE FOR THE REMAINING VIOLATIONS, ASSESS THE ADMINISTRATIVE COSTS IN THE AMOUNT OF \$150.00 AND ASSESS A FINE IN THE AMOUNT OF \$500.00 A DAY COMMENCING ON JUNE 30, 2017 AND CONTINUING UNTIL COMPLIANCE IS ACHIEVED  
SECONDED BY MS. VAN BUREN  
MOTION PASSED UNANIMOUSLY**

**VIII. Fine Considerations:**

- A. Case # CE 17-122, 150 Worth Ave. #234, Costa Palm Beach LLC & Wilson 150 Worth LLC

Violation of Chapter 18, Section 18-233 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. Building Official Bucklew gave his testimony in the case. Fire Marshall DeLoach gave his testimony in the case. The Town recommended a fine in the amount of \$250.00 a day commence on June 24, 2017 and continue until compliance is achieved.

Tabatha Taylor was present on behalf of the business owner and gave her testimony in the case.

**MOTION BY MR. DONNELLEY TO ASSESS A FINE IN THE AMOUNT OF \$250.00 A DAY COMMENCING ON JUNE 24, 2017 AND CONTINUING UNTIL COMPLIANCE IS ACHIEVED**

**SECONDED BY MR. NISBERG**

**MOTION PASSED UNANIMOUSLY**

**IX. Foreclosure Considerations:**

- A. Case # CE 16-680, 232 Cherry Ln., Joshua & Celeste Leader

Violation of Chapter 18, Section 18-233 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, convert or replace any electrical, mechanical or plumbing system

Code Enforcement Officer Moriarty advised this case has just come into compliance today. The Town recommended to dismiss the foreclosure hearing on this case.

David Kline was present at the hearing for the property owner and gave his testimony in the case.

**MOTION BY MR. DONNELLEY TO POSTPONE THE FORECLOSURE HEARING ON THIS CASE AND SCHEDULE THIS CASE FOR FINE REDUCTION CONSIDERATION AT THE AUGUST 17, 2017 HEARING. A FORECLOSURE RECOMMENDATION WILL BE INCLUDED IN THE AUGUST 17, 2017 BOARD ORDER SHOULD COMPLIANCE WITH THE FINE REDUCTION MOTION NOT BE ACHIEVED**

**SECONDED BY MR. NISBERG**

**MOTION PASSED UNANIMOUSLY**

- B. Case # CE 16-709, 353 Seaspray Ave., Cornelia M. Lorentzen  
Violation of Chapter 42, Section 42-86 of the Town of Palm Beach Code of Ordinances, accumulations of vegetative debris and overgrown grass not allowed

Code Enforcement Officer Moriarty reviewed the case history and advised the property remains out of compliance. The Town recommended the Board recommend this case to the Town Council for foreclosure consideration.

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

**MOTION BY MR. DONNELLEY TO RECOMMEND THIS CASE TO THE  
TOWN COUNCIL FOR FORECLOSURE CONSIDERATION  
SECONDED BY MS. VAN BUREN  
MOTION PASSED UNANIMOUSLY**

**X. Old Business:(03:37:06 PM)**

- A. Case # CE 14-1212, 160 Royal Palm Way, 160 Royal Palm LLC  
Violation of Chapter 134, Section 134-326(b) of the Town of Palm Beach Code of Ordinances, application for site plan review must be filed and approved by the Town Council prior to the altering of the use of any land; Violation of Chapter 134, Section 134-7, compliance with requirements of grants of variances or exceptions required; Violation of Chapter 134, Section 134-226, compliance with Declaration of Use Agreements required

Code Enforcement Officer Moriarty advised that this property is requesting another 120 days of fine abatement.

Greg Glickstein, receiver for the property, was at the hearing, gave his testimony and requested the Board give this case another 120 day fine abatement. He advised he will be asking the court to release money to pay the current fine total.

**MOTION BY MR. PELOSO THAT UPON THE REQUEST OF THE RECEIVER  
TO EXTEND THE ABATEMENT OF THE DAILY RUNNING FINE FOR AN  
ADDITIONAL 65 DAYS, THE BOARD HEREBY AGREES TO ABATE THE  
DAILY RUNNING FINE FOR AN ADDITIONAL 65 DAYS BEGINNING FROM  
THE EXPIRATION DATE OF THE PREVIOUS BOARD ORDER ABATEMENT.  
THIS ABATEMENT IS CONDITIONED UPON THE RECEIVER BEING  
SUCCESSFUL IN SECURING THE FUNDING NECESSARY TO COMPLETE  
THE WORK THE TOWN IS REQUESTING TO BE CONDUCTED AT THE 160  
ROYAL PALM WAY PROPERTY AND UPON THE RECEIVER PAYING THE  
CURRENT OUTSTANDING CODE ENFORCEMENT FINE BALANCE OF  
\$188,550.00 WITHIN 30 DAYS OF THIS BOARD ORDER. IN THE EVENT SAID**

**FUNDING IS NOT SECURED WITHIN THE PERIOD FOR WHICH THIS ABATEMENT HAS BEEN GRANTED OR THE FINE BALANCE IS NOT PAID WITHIN THE 30 DAYS, THE ABATED FINE SHALL BE DUE AND PAYABLE RETROACTIVE TO THE DATE THE FINE WAS FIRST ABATED, I.E. NOVEMBER 17, 2016. THIS IS AN ABATEMENT ONLY AND DOES NOT RELIEVE THE PROPERTY OWNER OR RESPONSIBLE PARTY FROM THE OBLIGATION TO PAY THE FULL AMOUNT OF THE CODE ENFORCEMENT FINE IMPOSED PURSUANT TO THE ORIGINAL ORDER OF THIS BOARD.  
SECONDED BY NATALE  
MOTION OPPOSED**

**ROLL CALL VOTE**

|                       |            |
|-----------------------|------------|
| <b>MR. PELOSO</b>     | <b>YES</b> |
| <b>MR. NATALE</b>     | <b>YES</b> |
| <b>MS. VAN BUREN</b>  | <b>YES</b> |
| <b>MR. DONNELLEY</b>  | <b>YES</b> |
| <b>MR. NISBERG</b>    | <b>NO</b>  |
| <b>MR. MCDONNELL</b>  | <b>YES</b> |
| <b>MR. BALLENTINE</b> | <b>YES</b> |

**MOTION PASSED 6 TO 1**

**XI. Board Comments:(04:19:36 PM)**

Mr. Ballentine reminded the Board members that they should not be visiting the violation sites nor having extended conversations with the parties involved in Code cases as this Board is tasked with making their decisions solely based on the testimony heard at the at the public hearing.

**XII. Adjournment:(04:20:59 PM)**

**MOTION BY MR. NATALE TO ADJOURN THE HEARING  
SECONDED BY MR. DONNELLEY  
MOTION PASSED UNANIMOUSLY**