

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

Thursday, July 19, 2012, 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:(1:59:28 p.m.)

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

II. Roll Call:(1:59:53 p.m.)

Upon roll call, the following Board members were present: Chairman Timothy Hoffman, Vice Chairman Harris S. Fried, Members Larry Ochstein, Madelyn Greenberg, Cynthia Van Buren, James Ballentine, and alternate members W. Anthony Dowell and Scotch Peloso.

Staff present: Attorney Matthew Ramenda for the Town, Code Enforcement Manager Raychel Houston, Lead Code Enforcement Officer Robert Walton, Code Enforcement Officer John Moriarty, Patrol Officer David Nault and Recording Secretary Joan Dunn.

Mr. Hoffman welcomed and thanked Councilman Diamond for his presence at the hearing.

III. Approval of the Minutes of June 21, 2012 (2:00:06 p.m.)

**MOTION BY MS. GREENBERG TO APPROVE THE JUNE 21, 2012 MINUTES
SECONDED BY MR. FRIED
MOTION PASSED UNANIMOUSLY**

IV. Administration of the Oath to Town Staff: (2:00:09 p.m.)

The Town staff were sworn in by Recording Secretary Dunn.

Mr. Hoffman welcomed and thanked Deputy Chief Szarszewski for his presence at the hearing.

V. Public Hearings:

A. Case # CE 12-571, 138 Chilean Ave., Daniel J. Fairbanks

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

Lead Code Enforcement Officer Walton advised this case was postponed from the June 21, 2012 hearing. He advised payment has been received. The Town recommended the Board dismiss this case for payment.

**MOTION BY MR. OCHSTEIN TO DISMISS THE CASE
SECONDED BY MS. VAN BUREN
MOTION PASSED UNANIMOUSLY**

B. Case # CE 12-959, 150 Worth Avenue, Lopez Group

Violation of Chapter 42, Section 42-230 of the Town of Palm Beach Code of Ordinances, leaf blower noise before allowable hours

Lead Code Enforcement Officer Walton briefly reviewed the facts of the case and advised Officer Nault was present to testify about the violation. Officer Nault reviewed the facts of 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 \$500.00 fine. The violator was not present at the hearing.

Mr. Fried asked about the first violation.

**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 \$500.00 FINE
SECONDED BY MS. VAN BUREN
MOTION PASSED UNANIMOUSLY**

C. Case # CE 12-960, 420 Royal Palm Way, Alligator Landscaping

Violation of Chapter 42, Section 42-230 of the Town of Palm Beach Code of Ordinances, leaf blower noise before allowable hours

Lead Code Enforcement Officer Walton briefly reviewed the facts of the case and advised Officer Nault was present to testify about the violation. Officer Nault reviewed the facts of 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 \$500.00 fine. The violator was not present at the hearing.

Mr. Fried asked about the progression of warnings and fines. Mr. Dowell clarified that he is a voting member today.

**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 \$500.00 FINE
SECONDED BY MR. OCHSTEIN
MOTION PASSED UNANIMOUSLY**

Mr. Hoffman welcomed and thanked Councilman Kleid for his presence at the hearing.

D. Case # CE 11-1327, 300 Worth Ave. AKA 306 Worth Ave., Love 300

Violation of Chapter 42, Section 42-87 of the Town of Palm Beach Code of Ordinances, all exterior surfaces to be painted and in good repair and windows to be maintained in good condition and free of cracks or holes to prevent weather elements or insects from entering; Violation of Chapter 42, Section 42-86, unsightly, unsafe or unsanitary conditions and conditions which provide harborage for vermin not allowed

Lead Code Enforcement Officer Walton reviewed the facts of the case and submitted photographs into evidence. He advised it was a result of a routine inspection and the delay in bringing it to a hearing was due to the inability of the property owner to get a right of way permit until after the season. The Town recommended the Board find the violator in non-compliance, assess administrative costs of \$150.00 and give them until August 10, 2012 to comply.

Jane Rankin was present on behalf of the property owner. She testified they have been working on these violations, but have been working on the roof to rectify the water leakage problem first and then will be working their way down the building with repairs. Due to the building height, she is hiring a crane to access the sides of the building and they are in the process of getting the necessary right of way permits. She requested more time to comply, approximately 60 days.

Various Board members asked about the history of this case and verified that Ms. Rankin has a contract for the crane.

**MOTION BY MR. FRIED TO FIND THE VIOLATOR IN NON-COMPLIANCE, ASSESS ADMINISTRATIVE COSTS IN THE AMOUNT OF \$150.00 AND GIVE THEM UNTIL AUGUST 10, 2012 TO COMPLY
SECONDED BY MR. DOWELL
MOTION PASSED UNANIMOUSLY**

E. Case # CE 12-902, 231 Kenlyn Rd., Robert A. Roddy

Violation of Chapter 42, Section 42-87 of the Town of Palm Beach Code of Ordinances, all exterior surfaces to be painted and in good repair; Violation of

Chapter 42, Section 42-86 dead or dying vegetation or accumulation of debris on private property not allowed; Violation of Chapter 42, Section 42-87(7), all appurtenances such as swimming pools to be kept in a safe and good state of repair; Violation of Chapter 18, Section 18-617, swimming pool filters shall be capable of maintaining the clarity of the water

Lead Code Enforcement Officer Walton reviewed the facts of the case and submitted photographs into evidence. He advised the case was a result of 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 August 10, 2012 to comply.

George Ord, attorney for the property owner, was present at the hearing, verified that Mr. Roddy is living at the house and testified that some of the violations have been addressed. He stated there was a sump pump in the pool which had malfunctioned and was now in working condition. He questioned whether or not the pool needed to be returned to a running condition or if it could be maintained by continual draining by the sump pump. He requested additional time to comply, until September 14, 2012.

Mr. Hoffman asked if this was a repeat offense. Mr. Walton said it was not as previous violations were corrected before they came to the Code Board. Mr. Walton advised he had allowed Mr. Roddy to drain the pool in the past however, since routine draining had not occurred as agreed upon, the pool must be returned to a working condition.

**MOTION BY MR. FRIED TO FIND THE VIOLATOR IN NON-COMPLIANCE, ASSESS ADMINISTRATIVE COSTS IN THE AMOUNT OF \$150.00 AND GIVE THEM UNTIL AUGUST 10, 2012 TO COMPLY
SECONDED BY MR. OCHSTEIN
MOTION PASSED UNANIMOUSLY**

F. Case # CE 12-873, 167 Seaview Ave., C. Oliver Burt III

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 reviewed the facts of the case and submitted photographs into evidence. He advised this case was a result of 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 August 10, 2012 to comply. He stated the property owner has contracted with a company which has applied for permits.

C. Oliver Burt III was present at the hearing and testified that interior demolition permits have been applied for and plans for construction will commence shortly.

Vernon Hull, contractor for the homeowner, testified about the changes that will be made to the home.

Ms. Van Buren asked why the work started without permits. Mr. Burt advised the walls were originally opened up to find water damage and it expanded into more of an interior demolition.

**MOTION BY MR. FRIED TO FIND THE VIOLATOR IN NON-COMPLIANCE, ASSESS ADMINISTRATIVE COSTS IN THE AMOUNT OF \$150.00 AND GIVE THEM UNTIL AUGUST 10, 2012 TO COMPLY
SECONDED BY MR. BALLENTINE
MOTION PASSED UNANIMOUSLY**

G. Case # CE 12-910, 130 Dolphin Rd., Virginia O. Bussey Est.

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 reviewed the facts of the case and submitted photographs into evidence. He advised the case was a result of a routine inspection. He stated that permits have been applied for at this time. The Town recommended the Board find the violator in non-compliance, assess administrative costs of \$150.00 and give them until August 10, 2012 to comply.

Edwin Bussey, son of the property owner, was present at the hearing and testified that he did not believe he needed a permit for this type of work but has now applied for a permit. He requested that this case be dismissed as the Notice was sent to Virginia O. Bussey Estate and this property has not been accepted into the estate at this point and is under guardianship. He was informed that the Code Enforcement's legal requirement is to serve the name stated on the Palm Beach County tax record. Mr. Bussey agreed that the tax record does state Virginia O. Bussey Estate.

**MOTION BY MS. VAN BUREN TO FIND THE VIOLATOR IN NON-COMPLIANCE, ASSESS ADMINISTRATIVE COSTS IN THE AMOUNT OF \$150.00 AND GIVE THEM UNTIL AUGUST 10, 2012 TO COMPLY
SECONDED BY MR. GREENBERG
MOTION PASSED UNANIMOUSLY**

H. Case # CE 12-824, 312 Cherry Ln., Calico Air Conditioning

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 advised that a permit was issued on July 18, 2012 and is pending final inspections. The Town recommended the Board postpone this case until the August 16, 2012 hearing.

**MOTION BY MR. FRIED TO POSTPONE THIS CASE UNTIL THE
AUGUST 16, 2012 HEARING
SECONDED BY MS. VAN BUREN
MOTION PASSED UNANIMOUSLY**

- I. Case # CE 12-879, 210 Brazilian Ave., John Haas & Jeffrey Ray & Assoc.
Violation of Chapter 114, Section 114-31 and Section 114-32 of the Town of Palm Beach Code of Ordinances, business tax receipt required

Code Enforcement Manager Raychel Houston stated there was a delay with the broker contacting Mr. Haas and he has mailed a check to the Town. The Town recommended the Board postpone this case until the August 16, 2012 hearing.

**MOTION BY MS. GREENBERG TO POSTPONE THIS CASE UNTIL THE
AUGUST 16, 2012 HEARING
SECONDED BY MR. FRIED
MOTION PASSED UNANIMOUSLY**

- J. Case # CE 12-803, 1554 N. Ocean Way, Quinn Stepan
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

Lead Code Enforcement Officer Walton 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 \$250.00 fine.

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

VI. Fine Consideration

- A. Case # CE 12-769, 178 N. County Rd., Tropical Cleaners & Laundry and Troy G. Arnold, Jr.
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 briefly reviewed the facts of the case. The Town recommended the Board assess a fine in the amount of \$100.00 a day starting July 14, 2012 and continue until compliance is achieved.

Mr. Philip Cohen, president of the business, advised that he was not aware that a permit was necessary. He stated that he has applied for permits and requested 60 more days to comply.

Mr. Fried asked what work remains to be done at this property. Mr. Cohen advised there was not much more work to be done however, they will need to remove the walls in order to inspect behind them.

MOTION BY MR. OCHSTEIN TO GRANT THE VIOLATOR ADDITIONAL TIME TO COMPLY, UNTIL SEPTEMBER 14, 2012. HE FURTHER MOTIONED IF COMPLIANCE IS NOT ACHIEVED BY SEPTEMBER 14, 2012 A FINE IN THE AMOUNT OF \$100.00 A DAY WILL COMMENCE ON SEPTEMBER 15, 2012 AND CONTINUE UNTIL COMPLIANCE IS ACHIEVED

SECONDED BY MS. GREENBERG

MOTION PASSED UNANIMOUSLY

B. 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 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. The Town recommended the Board assess a daily fine in the amount of \$250.00 commencing July 14, 2012 and continue until compliance is achieved.

Magdalena Martin was present at the hearing on behalf of the property owner. She advised she did not find the notice until after the first hearing date and the owners were not aware that a permit was needed for this type of work. She testified the window glass was replaced in 2003 and requested more time to comply.

Mr. Moriarty advised the Board it has now been established that ARCOM approval will be needed before permits can be issued. He stated the deadline to apply to ARCOM is August 27, 2012. After discussion Mr. Moriarty amended his recommendation to include additional time for compliance based on the ARCOM application deadline.

MOTION BY MR. BALLENTINE TO GRANT THE VIOLATOR ADDITIONAL TIME TO COMPLY, UNTIL AUGUST 27, 2012 TO APPLY FOR ARCOM APPROVAL AND PURSUANT TO ARCOM APPROVAL, GIVE THEM UNTIL OCTOBER 31, 2012 TO COMPLY. HE FURTHER

MOTIONED IF ARCOM APPROVAL IS NOT APPLIED FOR BY AUGUST 27, 2012 A \$250.00 A DAY FINE WILL COMMENCE ON AUGUST 28, 2012 AND CONTINUE UNTIL COMPLIANCE IS ACHIEVED. FURTHERMORE, IF ARCOM APPROVAL IS OBTAINED AND COMPLIANCE IS NOT ACHIEVED BY OCTOBER 31, 2012 A \$250.00 A DAY FINE WILL COMMENCE ON NOVEMBER 1, 2012 AND CONTINUE UNTIL COMPLIANCE IS ACHIEVED.

Mr. Hoffman handed the gavel to Mr. Fried

**SECONDED BY MR. HOFFMAN
MOTION OPPOSED**

ROLL CALL VOTE

MR. BALLENTINE	YES
MR. HOFFMAN	YES
MS. GREENBERG	NO
MR. FRIED	NO
MS. VAN BUREN	NO
MR. OCHSTEIN	YES
MR. DOWELL	YES

MOTION PASSED 4 TO 3

VII. Foreclosure Hearing:

A. Case # CE 11-105, 151 Chilean Ave., E. Nordin Gilbertson

Violation of Chapter 42, Section 42-86, Chapter 42, Section 42-87 of the Town of Palm Beach Code of Ordinances, accumulation of outside yard debris, inoperable boat trailer in side yard and inoperable fiberglass boat, vehicles parked on grass, shed structure not maintained in good condition, peeling paint and deteriorating wood trim not allowed; Violation of Chapter 134, Section 134-889, commercial use of land in the R-B low density residential district, installation of brick pavers and renting parking spaces not allowed; Violation of Chapter 18, Section 18-241 and Florida Building Code, Section 105, permits required to construct, enlarge, repair, move or demolish any structure or building

Lead Code Enforcement Officer Walton requested this case be postponed due to an issue with proper service.

**MOTION BY MR. GREENBERG TO POSTPONE THIS CASE UNTIL THE
AUGUST 16, 2012 HEARING
SECONDED BY MR. DOWELL**

Motion was not voted on as a discussion ensued as to the reason for the proper service issue. Mr. Walton advised that a new state statute went into effect which lengthens the time allowed for service.

**MOTION BY MR. FRIED TO POSTPONE THIS CASE UNTIL THE
AUGUST 16, 2012 HEARING
SECONDED BY MR. BALLENTINE
MOTION PASSED UNANIMOUSLY**

VIII. Old Business:

- A. Case # CE 11-1610, 8 Golfview Rd., Ellen G. Geyer Est.
Violation of Chapter 42, Section 42-87 of the Town of Palm Beach Code of Ordinances, walls, gates and fences to be kept in a safe and good state of repair

Mr. Walton advised that Mr. Geyer contacted him just prior to the hearing and requested to be removed from the agenda. He stated this case will be withdrawn and no motion is needed.

- B. Case # CE 12-545, 340 Royal Poinciana Way, Ste. 311, Francesco Desiderio & Mirsky Valore Real Estate
Violation of Chapter 114, Section 114-31 and 114-32 of the Town of Palm Beach Code of Ordinances, business tax receipt required

Code Enforcement Manager Houston advised that Mr. Desiderio was not properly notified by Mirsky Valore Real Estate and he was not aware of this violation. She stated that Mr. Desiderio has left the area and his license has been de-activated. The Town recommended the administrative costs previously assessed in this case be rescinded.

**MOTION BY MR. FRIED TO RESCIND THE ADMINISTRATIVE COSTS
ASSESSED ON JUNE 21, 2012 FOR THIS CASE
SECONDED BY MR. OCHSTEIN
MOTION PASSED UNANIMOUSLY**

IX. Board Comments: (3:45:45 p.m.)

Mr. Hoffman thanked the Board for their diligence today. Ms. Houston announced the current Code Enforcement Board opening will be on the Town Council Agenda for August and will be filled at that time. Mr. Walton complimented the Board on their professionalism.

X. Adjournment: (3:45:51 p.m.)

The hearing was adjourned without benefit of a motion.