

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

Thursday, June 21, 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:(1:59:31 p.m.)

The meeting was called to order by Chairman Hoffman at 2:00 p.m. He welcomed and thanked Deputy Chief Szarszewski and Councilman Diamond for their presence at the hearing.

II. Roll Call:(1:59:39 p.m.)

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

Staff present: Town Attorney John Randolph, Code Enforcement Manager Raychel Houston, Lead Code Enforcement Officer Robert Walton, Code Enforcement Officer John Moriarty, Training/Community Relations Coordinator Hess and Recording Secretary Joan Dunn.

III. Approval of the Minutes of May 17, 2012 (2:00:24 p.m.)

**MOTION BY MS. GREENBERG TO APPROVE THE MAY 17, 2012 MINUTES
SECONDED BY MS. VAN BUREN
MOTION PASSED UNANIMOUSLY**

IV. Administration of the Oath to Town Staff: (2:00:47 p.m.)

The Town staff were sworn in by Recording Secretary Dunn.

Mr. Hoffman advised of a change in the order of the agenda and requested a motion to move Old Business to the first item of the agenda.

**MOTION BY MR. OCHSTEIN TO MOVE OLD BUSINESS TO THE FIRST ITEM
OF THE AGENDA
SECONDED BY MS. GREENBERG
MOTION PASSED UNANIMOUSLY**

Mr. Hoffman advised that Mr. Dowell would be a voting member today and Mr. Peloso would be a voting member until the arrival of Mr. Fried.

VIII. Old Business:(2:01:20 p.m.)

A. Case # 10-2705, 332 S. County Rd., 332 South County Road

Violation of Chapter 42, Section 42-86 of the Town of Palm Beach Code of Ordinances, it is unlawful to have any building or other structure which is in dilapidated condition, an accumulation of debris on private property and grass in excess of 8 inches high, Chapter 42, Section 42-87, exterior walls to be kept painted and in good repair and appurtenances such as walls and canopy awnings to be kept in a safe and good state of repair and Chapter 18, Section 18-241, plumbing and electrical wiring to be maintained in a safe condition and in compliance with the Florida Building Code and the National Electrical Code

Town Attorney Randolph advised the Board that the Town Council had entered into a settlement with Mr. Roddy which stated that upon the filing of a building permit to construct a certain number of units on the property, the fines would stop and they recommended all remaining fines be waived as consideration for this settlement.

**MOTION BY MS. GREENBERG TO WAIVE THE REMAINING FINE IN
THIS CASE
SECONDED BY MR. PELOSO
MOTION PASSED UNANIMOUSLY**

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

V. Public Hearings:

A. Case # CE 11-1738, 203 S. Lake Trl., Gerald Jordan

Violation of Chapter 24, Section 42-86(7) of the Town of Palm Beach Code of Ordinances, docks, walls or other structures in a failing or dangerous condition not allowed

Code Enforcement Officer Moriarty 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 give them until August 15, 2012 to comply.

Ed Monahan, contractor for the homeowner, was present at the hearing, testified they are working toward compliance and requested more time to comply.

**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, 2012 TO COMPLY
SECONDED BY MR. DOWELL
MOTION PASSED UNANIMOUSLY**

B. 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

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 give them until July 31, 2012 to comply. Planning Administrator John Lindgren gave his testimony reference this case.

Marni Propp, property owner/manager, was present at the hearing and testified that she was unaware of the ARCOM requirements and had not been told that by Mr. Lindgren.

Raymond Royce, attorney for the Brazils Homeowner Association, advocated his clients' position and requested a short compliance time and an interim measure to restore the privacy barrier. Mrs. Whitney Schneider, a member of the Brazils Homeowner Association, spoke about the lack of privacy this situation had created for their property.

**MOTION BY MR. OCHSTEIN TO FIND THE VIOLATOR IN NON-COMPLIANCE, ASSESS ADMINISTRATIVE COSTS IN THE AMOUNT OF \$150.00 AND GIVE THEM UNTIL JULY 31, 2012 TO COMPLY
SECONDED BY MR. DOWELL
MOTION PASSED UNANIMOUSLY**

Mr. Hoffman advised Mr. Fried had arrived and would now be a voting member in place of Mr. Peloso.

C. **Case # CE 12-857, 216 Tradewind Dr., Scott & Virginia Gordon**

REPEAT Violation of Chapter 42, Section 42-288 of the Town of Palm Beach Code of Ordinances, a maximum permissible emission of noise level is established by use of a sound level meter and is set at a maximum of 61 dBA for day and 55 dBA for night (between 7:00 p.m. and 9:00 a.m.) for the geographic area

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 give them until July 13, 2012 to comply.

Ken Smith, general contractor for the property owner, was present at the hearing and testified they believe they have a solution to this problem and requested more time to comply. Mr. Smith said they are contracting with a company to build a container around the generator and they have received assurances it will reduce the noise levels to meet the Town codes.

**MOTION BY MR. FRIED TO FIND THE VIOLATOR IN NON-COMPLIANCE, ASSESS ADMINISTRATIVE COSTS IN THE AMOUNT OF \$150.00 AND GIVE THEM UNTIL SEPTEMBER 1, 2012 TO COMPLY
SECONDED BY MS. GREENBERG
MOTION PASSED UNANIMOUSLY**

D. **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 reviewed the facts of the case, submitted photographs into evidence advised the violation was discovered by a patrol officer who was doing a security house check of the property and realized the windows were new. The Town recommended the Board find the violator in non-compliance, assess administrative costs of \$150.00 and give them until July 13, 2012 to comply. Coordinator Hess explained the security house check program to the Board.

The property owner was not present at the hearing.

**MOTION BY MR. BALLENTINE TO FIND THE VIOLATOR IN NON-COMPLIANCE, ASSESS ADMINISTRATIVE COSTS IN THE AMOUNT OF \$150.00 AND GIVE THEM UNTIL JULY 13, 2012 TO COMPLY
SECONDED BY MS. GREENBERG
MOTION PASSED UNANIMOUSLY**

E. **Case # CE 12-762, 210 Fairview Rd., John J. Forma Trust**

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. The Town recommended the Board find the violator in non-compliance, assess administrative costs of \$150.00 and give them until July 13, 2012 to comply.

Mark Sessa was present on behalf of the homeowner, testified that they are working toward compliance and requested more time to comply as they may have to seek a variance to leave the shed where it is on the property.

**MOTION BY MR. FRIED TO FIND THE VIOLATOR IN NON-COMPLIANCE, ASSESS ADMINISTRATIVE COSTS IN THE AMOUNT OF \$150.00 AND GIVE THEM UNTIL SEPTEMBER 17, 2012 TO COMPLY
SECONDED BY MS. GREENBERG
MOTION PASSED UNANIMOUSLY**

F. **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 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 give them until July 13, 2012 to comply. Neither the property owner nor the business owner were present at the hearing.

**MOTION BY MS. GREENBERG TO FIND THE VIOLATOR IN NON-COMPLIANCE, ASSESS ADMINISTRATIVE COSTS IN THE AMOUNT OF \$150.00 AND GIVE THEM UNTIL JULY 13, 2012 TO COMPLY
SECONDED BY MS. VAN BUREN
MOTION PASSED UNANIMOUSLY**

G. **Case # CE 12-682, 230 Palmo Way, Dig It Construction and Joan J. Zeeman Tr.**

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. The Town recommended the Board find the violator in non-compliance, assess administrative costs of \$150.00 and give them until July 13, 2012 to comply. Neither the property owner nor the business owner were present at the hearing.

MOTION BY MR. OCHSTEIN TO FIND THE VIOLATOR IN NON-COMPLIANCE, WAIVE THE ADMINISTRATIVE COSTS AND GIVE THEM UNTIL JULY 13, 2012 TO COMPLY
MOTION FAILED FOR LACK OF A SECOND

**MOTION BY MS. GREENBERG TO FIND THE VIOLATOR IN NON-COMPLIANCE, ASSESS ADMINISTRATIVE COSTS IN THE AMOUNT OF \$150.00 AND GIVE THEM UNTIL JULY 13, 2012 TO COMPLY
SECONDED BY MR. DOWELL
MOTION PASSED UNANIMOUSLY**

H. **Case # CE 12-725, 2270 Ibis Isle, Mark Remson**

REPEAT Violation of Chapter 42, Section 42-86(3) of the Town of Palm Beach Code of Ordinances, unsightly, unsafe, unsanitary conditions and grass greater than 8" in height not allowed

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 pay a \$50.00 a day fine for the 17 days out of compliance for a total fine of \$850.00.

Mark Remson was present at the hearing and testified that he is establishing a more routine maintenance on the property and asked the Board to waive the fine.

**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 A FINE OF \$50.00 A DAY FOR THE 17 DAYS OUT OF COMPLIANCE FOR A TOTAL FINE OF \$850.00
SECONDED BY MS. GREENBERG
MOTION PASSED 6 to 2 WITH MS. VAN BUREN AND MR. HOFFMAN OPPOSED**

I. **Case # CE 12-695, 200 block of Royal Poinciana Way, Reliable Cab & Car Service #10**

Violation of Ordinance No. 5-2012 of the Town of Palm Beach Code of Ordinances, taxis required to park in taxi stand and not cruise for fares

Lead Code Enforcement Officer Walton advised the patrol officer wrote the citation was not available to testify and that Training/Community Relations Coordinator Hess

would be presenting the case. Coordinator Hess reviewed the facts of the case and the taxi ordinance as it pertains to cruising. The Town recommended the Board find the violator in non-compliance, assess administrative costs of \$150.00 and pay the \$250.00 fine.

Mr. Renaldo Montour, owner of Reliable Cab & Car Service #10, testified that he was looking for a parking spot and did not consider that cruising. He requested the Board waive the costs and fines.

The Board members discussed the taxi ordinance as it pertained to this case.

MOTION BY MR. FRIED TO FIND THE VIOLATOR IN NON-COMPLIANCE,
ASSESS ADMINISTRATIVE COSTS IN THE AMOUNT OF \$150.00 AND
WAIVE THE FINE

SECONDED BY MS. VAN BUREN

DISCUSSION ON MOTION ENSUED AND MR. FRIED AMENDED HIS
MOTION

**AMENDED MOTION BY MR. FRIED TO FIND THE VIOLATOR IN NON-
COMPLIANCE, WAIVE THE ADMINISTRATIVE COSTS AND ORDER
HIM TO PAY A FINE OF \$100.00**

SECONDED BY MR. BALLENTINE

**MOTION PASSED 6 TO 2 WITH MS. GREENBERG AND MR. HOFFMAN
OPPOSED**

Lead Code Enforcement Officer Walton requested permission to take some cases out of order so that the persons who showed up for the hearing could get their cases heard as it was getting late and some had planes to catch. Mr. Hoffman granted that permission.

(Heard out of order)

VII. Fine Reduction

B. Case # CE 11-1349, 230 Esplanade Way, L.E. Bierly and Christopher Drake

Violation of Chapter 42, Section 42-86 of the Town of Palm Beach Code of Ordinances, unsightly, unsafe or unsanitary conditions and grass higher than 8" in height not permitted

Lead Code Enforcement Officer briefly reviewed the case and advised the property owner was present at the hearing.

Christopher Drake was present at the hearing and testified as to the reasons why he did not know this violation was ongoing and requested a fine reduction.

**MOTION BY MR. FRIED TO REDUCE THE OUTSTANDING FINE OF \$6,000.00 TO \$2,000.00
SECONDED BY MR. BALLENTINE
MOTION OPPOSED**

ROLL CALL VOTE

MR. FRIED	YES
MR. BALLENTINE	YES
MS. GREENBERG	NO
MR. OCHSTEIN	NO
MS. VAN BUREN	NO
MR. DOWELL	YES
MR. HOFFMAN	YES
MOTION PASSED 4 TO 3	

(Heard out of order)

VI. Fine Consideration

A. Case # CE 11-1610, 8 Golfview Rd., Ellen G. Geyer

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

Lead Code Enforcement Officer Walton briefly reviewed the case. Mr. Walton advised that Mr. Geyer was present to request more time. He advised the Town was not opposed to additional time but requested a fine ensue at the end of the additional time granted.

Mr. Wyndham Geyer, son of the property owner, was present at the hearing and testified that after further review, they will be taking the wall down to four feet which would bring the wall into compliance. He requested more time to comply.

**MOTION BY MR. FRIED TO GIVE THEM ADDITIONAL TIME TO COMPLY, UNTIL JULY 31, 2012. HE FURTHER MOTIONED THAT IF COMPLIANCE IS NOT ACHIEVED AS PRESCRIBED BY THE BOARD A FINE IN THE AMOUNT OF \$250.00 A DAY WILL COMMENCE ON AUGUST 1, 2012 AND CONTINUE UNTIL COMPLIANCE IS ACHIEVED
SECONDED BY MS. GREENBERG
MOTION PASSED UNANIMOUSLY**

(Heard out of order)

VII. Fine Reduction

A. Case # CE 11-1232, 1191 N. Ocean Way, Mocking Bird Trust

Violation of Chapter 42, Section 42-87 of the Town of Palm Beach Code of Ordinances, roofs to be maintained in a condition so as not to leak, exterior walls to be reasonably free of cracks or holes through which weather elements can enter the building or structure, all exterior surfacing material to be painted and in good repair and appurtenances such as fences to be maintained in a good state of repair; Violation of Chapter 42, Section 42-86, unsightly, unsafe or unsanitary conditions and the storage of debris on private property is prohibited; Violation of Chapter 126, Section 126-32, all coconut trees in the Town to be trimmed free of coconuts and dead or dying fronds by August 1st of each year.

Lead Code Enforcement Officer Walton briefly reviewed the case and advised that Ed Clement, contractor for the new homeowner, was present to request a fine reduction.

Ed Clement testified that the new homeowners were not aware of the outstanding code case or the stipulation agreement signed by the previous property owner when they postponed the demolition of this property. Mr. Clement further advised that at the request of the neighbors who came to the ARCOM meeting when they appeared for approval, ARCOM put a condition that the property could not be demolished until May 1, 2012.

**MOTION BY MR. OCHSTEIN TO WAIVE THE FINE OF \$7,500.00
SECONDED BY MS. GREENBERG
MOTION PASSED 7 TO 1 WITH MR. DOWELL OPPOSED**

Mr. Hoffman advised that Mr. Ballentine needed to take a phone call and Mr. Peloso would be a voting member until his return.

(Returning to the agenda order)

J. Case # CE 12-729, 1080 N. Ocean Blvd., Tucker's Tree Service

Violation of Chapter 102, Section 102-45 of the Town of Palm Beach Code of Ordinances, yard trash in right of way ahead of schedule not allowed

Code Enforcement Officer Moriarty 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 \$125.00 fine. The violator was not present at the hearing.

**MOTION BY MS. FRIED 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. OCHSTEIN
MOTION PASSED UNANIMOUSLY**

K. **Case # CE 12-499, 340 Royal Poinciana Way, Alan Bohane & Sotheby's International Realty**

Violation of Chapter 114, Section 114-31 and 114-32 of the Town of Palm Beach Code of Ordinances, business tax receipt required

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 obtain the required business tax receipt.

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 OBTAIN THE REQUIRED BUSINESS TAX RECEIPT

SECONDED BY MR. OCHSTEIN

MOTION PASSED UNANIMOUSLY

L. **Case # CE 12-545, 340 Royal Poinciana Way, Suite 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

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 obtain the required business tax receipt.

MOTION BY MR. OCHSTEIN TO FIND THE VIOLATOR IN NON-COMPLIANCE, ASSESS ADMINISTRATIVE COSTS IN THE AMOUNT OF \$150.00 AND ORDER THEM TO OBTAIN THE REQUIRED BUSINESS TAX RECEIPT

SECONDED BY MR. FRIED

MOTION PASSED UNANIMOUSLY

M. **Case # CE 12- 565, 340 Royal Poinciana Way, Suite 311, Veronica Ulloa & 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

Violation of Chapter 114, Section 114-31 and 114-32 of the Town of Palm Beach Code of Ordinances, business tax receipt required

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 obtain the required business tax receipt.

MOTION BY MR. OCHSTEIN TO FIND THE VIOLATOR IN NON-COMPLIANCE, ASSESS ADMINISTRATIVE COSTS IN THE AMOUNT OF \$150.00 AND ORDER THEM TO OBTAIN THE REQUIRED BUSINESS TAX RECEIPT
SECONDED BY MS. GREENBERG
MOTION PASSED UNANIMOUSLY

N. **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 he has had contact with the violator and the check has been mailed. The Town recommended the Board postpone this case.

MOTION BY MR. FRIED TO POSTPONE THIS CASE UNTIL THE JULY 19, 2012 HEARING
SECONDED BY MS. VAN BUREN
MOTION PASSED UNANIMOUSLY

O. **Case # CE 12-628, 158 Dunbar Rd., Jay & Kirsten Johnston**

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 fine of \$125.00. The property owner was not present at the hearing.

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 \$250.00 FINE
SECONDED BY MR. DOWELL
MOTION PASSED UNANIMOUSLY

P. **Case # CE 12-700, 156 Peruvian Ave., James & Emily Clifford**

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 proof of repairs was supplied to staff just prior to the hearing. The Town recommended the Board dismiss this case due to this evidence.

**MOTION BY MR. FRIED TO DISMISS THE CASE
SECONDED BY MR. OCHSTEIN
MOTION PASSED UNANIMOUSLY**

VI. Fine Consideration

B. Case # CE 12-424, 756 Hi Mount Rd., Odette L. Humphreys Tr.

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 grant additional time to comply until July 16, 2012. The property owner was not present at the hearing.

**MOTION BY MR. FRIED TO GRANT ADDITIONAL TIME TO COMPLY
UNTIL JULY 16, 2012
SECONDED BY MR. DOWELL
MOTION PASSED UNANIMOUSLY**

IX. Board Comments: (5:35:48 p.m.)

Ms. Van Buren presented information to the Board that she had received from the ethics training held by Town Attorney Randolph.

X. Adjournment: (5:49:48 p.m.)

The meeting was adjourned without benefit of a motion.