

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

Thursday, February 20, 2014, 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 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:(02:02:41 p.m.)

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

II. Roll Call:(02:03:02 p.m.)

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

Mr. Fried welcomed Councilman Diamond and Kleid to the meeting.

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

III. Approval of the Minutes of January 16, 2014:(02:03:22 p.m.)

MOTION BY MS. GREENBERG TO APPROVE THE JANUARY 16, 2013 MINUTES

SECONDED BY MR. BALLENTINE

MOTION PASSED UNANIMOUSLY

IV. Administration of the Oath to Town Staff:(02:03:44 p.m.)

The Town staff were sworn in by Recording Secretary Dunn.

V. Public Hearings:

A. Case # CE 14-54, 270 El Dorado Ln., J.M. Contracting Group

Violation of Chapter 42, Section 42-199 of the Town of Palm Beach Code of Ordinances, Construction outside permitted days (in season)

Code Enforcement Officer Moriarty presented the facts of the case, submitted photographs into evidence and advised Road Patrol Officers Alber and Stubblebine were present to answer any questions from the Board. 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. Building Official Bucklew gave his testimony in the case.

Joseph Clements was present on behalf of the company, testified he was not aware the workers were there on a Saturday as they had made arrangements with the property owner without his knowledge. He agreed that as the contractor for the job, he is ultimately responsible and would pay the administrative costs and fine.

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

B. Case # CE 13-1128, Vacant Lot S. Ocean Blvd., M&C Properties LLC

Violation of Chapter 42, Section 42-87 of the Town of Palm Beach Code of Ordinances, appurtenances such as walls to be kept in a good state of repair and painted

Lead Code Enforcement Officer Walton presented the facts of the case and submitted photographs into evidence. He advised the Board a stipulation agreement has been reached with the property owner. The Town recommended the Board find the violator in non-compliance, assess administrative costs of \$150.00 and accept the mutually agreed upon stipulation agreement.

Frank Lynch, attorney for the property owner, was present at the hearing, testified they are working toward compliance and asked the Board to accept stipulation agreement.

**MOTION BY MR. DONNELLEY TO FIND THE VIOLATOR IN NON-COMPLIANCE, ASSESS ADMINISTRATIVE COSTS IN THE AMOUNT OF \$150.00 AND ACCEPT THE MUTUALLY AGREED UPON STIPULATION AGREEMENT
SECONDED BY MS. VAN BUREN
MOTION PASSED UNANIMOUSLY**

C. Case # CE 13-1129, 910 S. Ocean Blvd., PBC Realty

Violation of Chapter 42, Section 42-87 of the Town of Palm Beach Code of Ordinances, appurtenances such as walls to be kept in a good state of repair and painted

Lead Code Enforcement Officer Walton presented the facts of the case and submitted photographs into evidence. He advised the Board a stipulation agreement has been reached with the property owner. The Town recommended the Board find the violator in non-compliance, assess administrative costs of \$150.00 and accept the mutually agreed upon stipulation agreement.

Frank Lynch, attorney for the property owner, was present at the hearing, testified they are working toward compliance and asked the Board to accept stipulation agreement.

**MOTION BY MR. OCHSTEIN TO FIND THE VIOLATOR IN NON-COMPLIANCE, ASSESS ADMINISTRATIVE COSTS IN THE AMOUNT OF \$150.00 AND ACCEPT THE MUTUALLY AGREED UPON STIPULATION AGREEMENT
SECONDED BY MS. GREENBERG
MOTION PASSED UNANIMOUSLY**

D. Case # CE 13-1152, 124 Cocoanut Row, 124 Cocoanut Row LLC

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

Code Enforcement Officer Moriarty advised he is working with the property owner and FPL on this case. The Town recommended the Board postpone this case until the April 17, 2014 meeting.

The property owner was not present at the hearing.

**MOTION BY MR. DONNELLEY TO POSTPONE THIS CASE UNTIL THE APRIL 17, 2014 MEETING
SECONDED BY MS. GREENBERG
MOTION PASSED UNANIMOUSLY**

E. Case # CE 13-1182, 123 Chilean Ave., Nancy E. Shubert

Violation of Chapter 42, Section 42-87 of the Town of Palm Beach Code of Ordinances, all appurtenances and exterior surfaces to be painted and in a good state of repair so as not to allow weather elements or insects to enter the building

Lead Code Enforcement Officer Walton presented 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 March 14, 2014 to comply.

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 MARCH 14, 2014 TO COMPLY
SECONDED BY MR. DONNELLEY
MOTION PASSED UNANIMOUSLY**

F. Case # CE 13-1199, 256 Seaspray Ave, John & Teresa Garofalo

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 evidence. The Town recommended the Board find the violator in non-compliance, assess administrative costs of \$150.00 and give them until March 14, 2014 to comply.

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 GIVE THEM UNTIL MARCH 14, 2014 TO COMPLY
SECONDED BY MR. DONNELLEY
MOTION PASSED UNANIMOUSLY**

G. Case # CE 14-44, 305 Indian Rd., Antos Glogowski

Violation of Chapter 42, Section 42-87(7) of the Town of Palm Beach Code of Ordinances, all appurtenances to be maintained in a state of safe and good repair; Violation of Chapter 18, Section 18-747, enclosures around pools to be sufficient to make the area inaccessible to small children and gates to be not less than four feet in height and to be self-closing and latching; Violation of Chapter 42, Section 42-87(2), all exterior surfaces to be kept painted and in good repair; Violation of Chapter 42, Section 42-86(4), dead or dying trees not allowed

Lead Code Enforcement Officer Walton presented the facts of the case and submitted photographs into evidence. He advised the violation of Chapter 42, Section 42-86(4) no longer exists but the other violations remain. The Town recommended the Board dismiss the violation of Chapter 42, Section 42-86(4) and

find the violator in non-compliance for the remaining violations, assess administrative costs of \$150.00 and give them until February 28, 2014 to comply. Building Official Bucklew gave his testimony in the case.

Pat Dwyer of Greenscape Landscaping was present on behalf of the property owner, advised they are working toward compliance and requested additional time as the property owner was out of town and wanted to be present when the painting took place.

Mr. Dowell left the meeting and Mr. Peloso was advised by Chairman Fried that he would be a voting member for this case.

**MOTION BY MR. OCHSTEIN TO DISMISS THE VIOLATION OF CHAPTER 42, SECTION 42-86(4) FOR COMPLIANCE AND TO FIND THE VIOLATOR IN NON-COMPLIANCE FOR THE REMAINING VIOLATIONS, ASSESS ADMINISTRATIVE COSTS IN THE AMOUNT OF \$150.00 AND GIVE THEM UNTIL FEBRUARY 28, 2014 TO COMPLY SECONDED BY MS. GREENBERG
MOTION PASSED UNANIMOUSLY**

Mr. Dowell returned to the meeting.

- H. Case # CE 14-52, 205 Worth Ave. AKA 201 Worth Ave., Lendan Inc.
Violation of Chapter 42, Section 42-87 of the Town of Palm Beach Code of Ordinances, appurtenances such as awning covers to be kept in a good condition required

Lead Code Enforcement Officer Walton presented 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 February 28, 2014 to comply.

Paul Thibadeau of TRH Management was present on behalf of the property owner, testified they have applied for both their building permit and right-of-way permits and believed they could be in compliance by the date set by the code officer at the hearing.

**MOTION BY MR. DONNELLEY TO FIND THE VIOLATOR IN NON-COMPLIANCE, ASSESS ADMINISTRATIVE COSTS IN THE AMOUNT OF \$150.00 AND GIVE THEM UNTIL FEBRUARY 28, 2014 TO COMPLY SECONDED BY MR. BALLENTINE
MOTION PASSED UNANIMOUSLY**

VI. Fine Consideration:

A. Case # CE 13-930, 253 Royal Poinciana Way, MB Ventures of Palm Beach

Violation of Chapter 18, Section 18-241 and Section 18-242 of the Town of Palm Beach Code of Ordinances, 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 system and requires smoke alarms; Violation of Chapter 42, Section 42-87(4), all windows and doors to the outside to be constructed and maintained in such a condition as to exclude weather and elements or insects from entering; Violation of Chapter 42, Section 87(6 & 7), all appurtenances and stairs to be constructed so as to be safe and in good repair and in conformance with the building code; Violation of Chapter 42, Section 42-87(17), conditions that constitute a fire hazard not allowed; Violation of Chapter 46, Section 64-66 which adopts NFPA 70, electrical components such as wiring to be maintained in a safe manner and in compliance with the National Electrical Code; Violation of Chapter 42, Section 42-86(18), worn-out, scrapped or discarded materials not allowed to be stored on private property

Code Enforcement Officer Moriarty briefly reviewed the case. He advised the violations of Chapter 42, Section 42-86(17) and Chapter 46, Section 46-66 no longer exist but the other violations remain. The Town recommended the Board dismiss the violation of Chapter 42, Section 42-86(17) and Chapter 46, Section 46-66 and assess a fine in the amount of \$250.00 a day for the remaining violations, commencing February 17, 2014 and continuing until compliance is achieved. Building Official Bucklew gave his testimony in the case.

Leslie Evans and Jason Evans were present at the hearing, testified that they have been working toward compliance and requested more time to comply.

MOTION BY MS. GREENBERG TO DISMISS THE VIOLATION OF CHAPTER 42, SECTION 42-86(17) AND CHAPTER 46, SECTION 46-66 FOR COMPLIANCE AND ASSESS A FINE IN THE AMOUNT OF \$250.00 A DAY FOR THE REMAINING VIOLATIONS, COMMENCING ON FEBRUARY 17, 2014 AND CONTINUING UNTIL COMPLIANCE IS ACHIEVED

SECONDED BY MR. OCHSTEIN

MOTION PASSED 6 TO 1 WITH MS. VAN BUREN OPPOSED

B. Case # CE 13-962, 250 Bradley Place, Lake Towers Condominium

Violation of Chapter 134, Section 134-1700 of the Town of Palm Beach Code of Ordinances, walls/fences within 25 feet of the easterly right-of-way of the Lake Trail not to exceed 4 feet in height above the lowest grade on either side of the fence; Violation of Chapter 134, Section 134-1728 pool equipment not to be located closer than five feet from the side or rear property line and equipment

placed within 10 feet of the side or rear property must be completely screened from the neighboring property with a wall as high as said equipment

Lead Code Enforcement Officer Walton briefly reviewed the case. The Town recommended the Board assess a fine in the amount of \$250.00 a day commencing on February 18, 2014 and continuing until compliance is achieved.

Ralph Mc Elvenny, condominium president, was present at the hearing, testified they are working toward compliance and requested more time to comply.

MOTION BY MR. DONNELLEY TO GIVE THEM ADDITIONAL TIME TO COMPLY, UNTIL FEBRUARY 27, 2014. HE FURTHER MOTIONED THAT IF COMPLIANCE IS NOT ACHIEVED BY FEBRUARY 27, 2014 , A FINE IN THE AMOUNT OF \$250.00 A DAY WILL COMMENCE ON FEBRUARY 28, 2014 RETROACTIVE TO FEBRUARY 18, 2014 AND CONTINUE UNTIL COMPLIANCE IS ACHIEVED

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

C. Case # CE 13-1052, 201 List Rd. AKA 1066 N. Ocean Blvd., John S. Beeson

Violation of Chapter 126, Section 126-31 of the Town of Palm Beach Code of Ordinances, trees and hedges located within the vicinity of any building or public utility facility or above ground utility line that have reached a height or are in a condition that might render them dangerous to such buildings or public utility facilities or above ground utility lines in the event of high winds or hurricanes or other storm event are declared to be public nuisances and dangerous to buildings, persons and property in vicinity

Lead Code Enforcement Officer Walton briefly reviewed the case. The Town recommended the Board assess a fine in the amount of \$250.00 a day commencing on February 15, 2014 and continuing until compliance is achieved.

L. Louis Mrachek, attorney for the property owner, was present at the hearing, testified they are working toward compliance and requested more time to comply.

MOTION BY MS. GREENBERG TO GIVE THEM ADDITIONAL TIME TO COMPLY, UNTIL FEBRUARY 27, 2014. SHE FURTHER MOTIONED THAT IF COMPLIANCE IS NOT ACHIEVED BY FEBRUARY 27, 2014 , A FINE IN THE AMOUNT OF \$250.00 A DAY WILL COMMENCE ON FEBRUARY 28, AND CONTINUE UNTIL COMPLIANCE IS ACHIEVED

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

VII. Fine Reductions:

The three fine reduction cases were heard as a group as they involve the same property.

A. Case # 07-2089, 151 Chilean Ave., Erik Gilbertson

Violation of Chapter 42, Section 42-86 of the Town of Palm Beach Code of Ordinances, accumulation of debris not allowed; Violation of Chapter 42, Section 42-87, all windows, doors, roofs and exterior structures to be maintained as to exclude weather elements or insects from entering, kept in a state of safe repair and painted

See Case C for notes and motion

B. Case # 08-2478, 151 Chilean Ave., E. Nordin Gilbertson

Violation of Chapter 134, Section 134-889 of the Town of Palm Code of Ordinances, commercial use of land in the R-B low density residential district not allowed

See Case C for notes and motion

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

Violation of Chapter 18, Section 18-241 of the Town of Palm Beach Code of Ordinances, permits required to construct, enlarge, alter, repair, move or demolish any structure or building

Lead Code Officer Walton briefly reviewed the cases and advised that the attorney for the property owner was present to request a fine reduction in these cases. The Town had no recommendation. Town Attorney Randolph answered questions from the Board and gave his guidance.

Chet Weinbaum, attorney for the property owner, was present at the hearing and advised there is a possible sale pending on the property and requested a fine reduction in order to facilitate this sale and resolve the liens on the property. E. Nordin Gilbertson gave his testimony in the case.

MOTION BY MS. VAN BUREN TO REDUCE THE FINES FROM ALL THREE CASES TO A TOTAL OF \$575,000.00. SHE FURTHER ORDERED THE FOLLOWING:

1. **THE \$575,000.00 SHALL BE PAID TO THE TOWN IN THE FORM OF A CASHIER'S CHECK FROM THE PROCEEDS OF THE SALE OF THE PROPERTY**
2. **SAID AMOUNT SHALL BE PAID TO THE TOWN NO LATER THAN MARCH 24, 2014**

3. **IN THE EVENT THE FUNDS ARE NOT PAID AS STATED ABOVE, THE FINE REDUCTION SHALL BE CONSIDERED NULL AND VOID AND THE FINES SHALL BE RESTORED TO THEIR ORIGINAL AMOUNT AND DAILY ACCRUAL**

**SECONDED BY MR. BALLENTINE
MOTION PASSED 6 TO 1 WITH MR. OCHSTEIN OPPOSED**

VIII. Board Comments:(04:49:04 p.m.)

Manager Houston advised the Board there was information from the Town Manager's office in their packets in reference to public records and e-mails.

IX. Adjournment:

**MOTION BY MR. DOWELL TO ADJOURN THE MEETING
SECONDED BY MR. OCHSTEIN
MOTION PASSED UNANIMOUSLY**