

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

Thursday, September 15, 2011, 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:(2:00:12 p.m.)

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

II. Roll Call:(2:00:18 p.m.)

Upon roll call, the following Board members were present: Chairman Timothy Hoffman, Vice Chairman Harris S. Fried, members Joel Koeppel, Larry Ochstein, Madelyn Greenberg, James Ballentine, and alternate members W. Anthony Dowell and Scotch Peloso. Mr. Hoffman announced that Mr. Dowell would be a voting member in the absence of Cynthia Van Buren.

Staff present: Attorney Matthew Ramenda, Code Enforcement Manager Raychel Houston, Lead Code Enforcement Officer Robert Walton, Code Enforcement Officer John Moriarty, Code Enforcement Officer Tim Deffenbaugh and Recording Secretary Joan Dunn.

III. Approval of the Minutes of August 18, 2011(2:00:38 p.m.)

**MOTION BY MR. FRIED TO APPROVE THE AUGUST 18, 2011 MINUTES
SECONDED BY MS. GREENBERG
MOTION PASSED UNANIMOUSLY**

Mr. Hoffman announced Mr. Ramenda would be the counsel for the Town today and thanked Councilman Diamond for his attendance.

IV. Administration of the Oath to Town Staff:(2:01:12 p.m.)

Town Staff who would be testifying were sworn in by Recording Secretary Dunn.

V. Public Hearings:

A. Case # CE 11-1222, 215 Nightingale Trl., U.S. Bank

Violation of Chapter 42, Section 42-86 of the Town of Palm Beach Code of Ordinances, stagnant water or unsanitary conditions prohibited and properties to be maintained in good condition; Violation of Chapter 42, Section 42-87, exterior walls to be reasonably free of cracks or holes and all exterior surfaces to be painted and in good repair

Lead Code Officer Walton reviewed the facts of the case and submitted photographs into evidence. He advised the case resulted from a citizen's complaint and this was a foreclosed property. The Town recommended a finding of non-compliance, administrative costs of \$150.00 and to give them until September 23, 2011 to comply. Manager Houston reviewed her conversations with the representatives of the bank that had foreclosed on the property on 8/31/11 and currently had title to it.

**MOTION BY MR. KOEPEL TO FIND THE VIOLATOR IN NON-COMPLIANCE, ASSESS ADMINISTRATIVE COSTS IN THE AMOUNT OF \$150.00 AND GIVE THEM UNTIL SEPTEMBER 23, 2011 TO COMPLY
SECONDED BY MR. OCHSTEIN
MOTION PASSED UNANIMOUSLY**

B. 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 Officer Walton reviewed the facts of the case and submitted photographs into evidence. He advised the case resulted from a citizen's complaint and that the debris had been cleared from this property. The Town recommended a finding of non-compliance, administrative costs of \$150.00 and to give them until October 14, 2011 to comply.

Realtor Earl Hollis testified that the property is set to close at the end of the month and the new owners are planning on demolishing the house.

**MOTION BY MR. KOEPPEL TO FIND THE VIOLATOR IN NON-COMPLIANCE, ASSESS ADMINISTRATIVE COSTS IN THE AMOUNT OF \$150.00 AND GIVE THEM UNTIL OCTOBER 14, 2011 TO COMPLY
SECONDED BY MR. DOWELL
MOTION PASSED UNANIMOUSLY**

C. Case # CE 11-1231, 324 Royal Palm Way, RP SR Royal Palm Way LLC

Violation of Chapter 22, Section 22-57 and Section 22-58 of the Town of Palm Beach Code of Ordinances, all windows and doors of vacant buildings or buildings under construction located within the commercial zoning district whose windows and doors can be viewed from the public street and expose the interior of the building to provide approved screening in accordance with the revised "Vacant or Under Construction Window Treatment Policy"

Lead Code Officer Walton reviewed the facts of the case and submitted photographs into evidence. He advised the case resulted from a routine inspection and is a vacant commercial property. The Town recommended a finding of non-compliance, administrative costs of \$150.00 and to give them until September 30, 2011 to comply.

**MOTION BY MR. KOEPPEL TO FIND THE VIOLATOR IN NON-COMPLIANCE, ASSESS ADMINISTRATIVE COSTS IN THE AMOUNT OF \$150.00 AND GIVE THEM UNTIL SEPTEMBER 30, 2011 TO COMPLY
SECONDED BY MS. GREENBERG
MOTION PASSED 6-1 WITH MR. OCHSTEIN OPPOSED**

D. Case # CE 11-1142, 249 Royal Palm Way, Merrill Lynch & Peabey Assoc.

Chapter 38 Section 38-35 (b) of the Town of Palm Beach Code of Ordinances, unpaid alarm fines

Manager Houston had asked that this case be postponed to the October 20, 2011 as the corporate office advised the check has been mailed out.

**MOTION BY MS. GREENBERG TO POSTPONE THIS CASE UNTIL THE OCTOBER 20, 2011 HEARING
SECONDED BY MR. DOWELL
MOTION PASSED UNANIMOUSLY**

E. Case # CE 11-1143, 241 Royal Palm Way, Citigroup Private Bank & FJK Tee Jay LTD

Chapter 38 Section 38-35 (b) of the Town of Palm Beach Code of Ordinances, unpaid alarm system fines

Manager Houston asked that this case be postponed to the October 20, 2011 as the business advised the check has been mailed.

**MOTION BY MR. FRIED TO POSTPONE THIS CASE UNTIL THE
OCTOBER 20, 2011 HEARING
SECONDED BY MR. KOEPPEL
MOTION PASSED UNANIMOUSLY**

- F. Case # CE 11-1140, 125 Worth Ave., #100, BB&T and Whalou Properties III LLC
Violation of Chapter 134, Section 134-2372 of the Town of Palm Beach Code of Ordinances, permit required for the erection or installation of any sign within the town.

Lead Code Officer Walton reviewed the facts of the case and submitted photographs into evidence. He advised the case resulted from a referral from the Planning, Zoning and Building Department and it is a commercial property. The Town recommended a finding of non-compliance, administrative costs of \$150.00 and to give them until November 11, 2011 to comply.

Jennifer Ronnenberg from Atlas Sign testified that a permit is being applied for and they are working toward compliance.

**MOTION BY MR. FRIED TO FIND THE VIOLATOR IN NON-
COMPLIANCE, ASSESS ADMINISTRATIVE COSTS IN THE AMOUNT OF
\$150.00 AND GIVE THEM UNTIL NOVEMBER 11, 2011 TO COMPLY
SECONDED BY MR. KOEPPEL
MOTION PASSED UNANIMOUSLY**

- G. Case # CE 11-1241, 350 S. County Rd., Ste. 100, Fiori
Violation of Chapter 114, Section 114-32 of the Town of Palm Beach Code of Ordinances, a business tax receipt for any person who carries on, engages in or conducts an occupation, business or profession enumerated in Chapter 114-43 of the Code

Code Officer Moriarty reviewed the facts of the case and submitted photographs into evidence. He advised the case resulted from a referral from the Planning, Zoning and Building Department. The Town recommended a finding of non-compliance, administrative costs of \$150.00, order a Business Tax Receipt be obtained and pay all required fees and penalties by September 30, 2011.

**MOTION BY MR. KOEPPEL TO FIND THE VIOLATOR IN NON-
COMPLIANCE, ASSESS ADMINISTRATIVE COSTS IN THE AMOUNT OF
\$150.00, ORDER A BUSINESS TAX RECEIPT BE OBTAINED AND PAY
ALL REQUIRED FEES AND PENALTIES BY SEPTEMBER 30, 2011
SECONDED BY MS. GREENBERG
MOTION PASSED UNANIMOUSLY**

H. Case # CE 11-1269, 390 N. Lake Way, E.J. Rosenwald, Jr.

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

Code Officer Moriarty asked that this case be postponed to the October 20, 2011 to give the property owner more time to comply as the original compliance date was combined with a life-safety issue and did not allow for a reasonable amount of time to trim the hedge. He advised the life-safety aspect of this case was taken care of immediately.

**MOTION BY MS. GREENBERG TO POSTPONE THIS CASE UNTIL THE
OCTOBER 20, 2011 HEARING
SECONDED BY MR. OCHSTEIN
MOTION PASSED UNANIMOUSLY**

I. Case # CE 11-952, 140 Seaspray Ave., Lily Rovin

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 Officer Walton advised the fine has been paid. The Town recommended the Board accept payment of the fine and no further action be taken.

**MOTION BY MR. KOEPPPEL TO ACCEPT PAYMENT OF THE FINE AND
NO FURTHER ACTION BE TAKEN
SECONDED BY MR. FRIED
MOTION PASSED UNANIMOUSLY**

J. Case # CE 11-951, 2560 S. Ocean Blvd., 2560 South Ocean Condominium

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 Officer Walton reviewed the facts of the case and submitted photographs into evidence. The Town recommended a finding of non-compliance, administrative costs of \$150.00 and order them to pay the fine of \$250.00.

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

K. Case # CE 11-1109, 3250 S. Ocean Blvd., The Dorchester

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 Officer Walton reviewed the facts of the case and submitted photographs into evidence. The Town recommended a finding of non-compliance, administrative costs of \$150.00 and order them to pay the fine of \$125.00.

**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 THE \$125.00 FINE
SECONDED BY MR. OCHSTEIN
MOTION PASSED UNANIMOUSLY**

- Cases L through N were heard as a group as the violators were not present. The facts remain the same with each case and are as follows:

- Lead Code Officer Walton reviewed the facts of the case and submitted photographs into evidence. The Town recommended a finding of non-compliance, administrative costs of \$150.00 and order them to pay the fine of \$125.00.

L. Case # CE 11-1106, 214 Dunbar Rd., Dreamlife Corp.

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

**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 \$125.00 FINE
SECONDED BY MR. BALLENTINE
MOTION PASSED UNANIMOUSLY**

M. Case # CE 11-1148, 1740 S. Ocean Blvd., Persa Athans

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

**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 \$125.00 FINE
SECONDED BY MR. BALLENTINE
MOTION PASSED UNANIMOUSLY**

N. Case # CE 11-1156, 205 Jamaica Ln., Joshua Leader

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

**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 \$125.00 FINE
SECONDED BY MR. BALLENTINE
MOTION PASSED UNANIMOUSLY**

VI. Fine Consideration

A. Case # CE 11-1024, 1700 S. Ocean Blvd., Estate of Gertrude Maxwell

Violation of Chapter 42, Section 42-86 of the Town of Palm Beach Code of Ordinances, unsightly, unsafe or unsanitary conditions, stagnant water, debris on private property and grass greater than 8" in height prohibited and Chapter 106, Section 106-159 (b) requires a clearance of 18 feet, measured vertically from the edges of the pavement and extending the full width of all streets and roadways is to be maintained at all times for the unobstructed passage of vehicles.

Lead Code Officer Walton briefly reviewed the case. The Town recommends a fine in the amount of \$250.00 a day commence on September 1, 2011 and continue until compliance is achieved.

**MOTION BY MR. KOEPEL TO ASSESS A FINE IN THE AMOUNT OF \$250.00 A DAY, COMMENCING ON SEPTEMBER 1, 2011 AND CONTINUING UNTIL COMPLIANCE IS ACHIEVED
SECONDED BY MR. FRIED
MOTION PASSED UNANIMOUSLY**

B. Case # CE 11-778, 142 Via Palma, Salomon & Ellen Bitton

Violation of Chapter 42, Section 42-86 of the Town of Palm Beach Code of Ordinances, stagnant water or unsanitary conditions prohibited and properties required to be maintained in good condition.

Lead Code Officer Walton briefly reviewed the case. The Town recommends a fine in the amount of \$250.00 a day commence on September 27, 2011 and continue until compliance is achieved.

**MOTION BY MR. FRIED TO ASSESS A FINE IN THE AMOUNT OF \$250.00 A DAY, COMMENCING ON SEPTEMBER 27, 2011 AND CONTINUING UNTIL COMPLIANCE IS ACHIEVED
SECONDED BY MS. GREENBERG
MOTION PASSED UNANIMOUSLY**

C. Case # CE 11-489, 216 Tradewind Dr., Scott M. & Virginia O. Gordon

Violation of Chapter 42, Section 42-228 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

Code Officer Walton advised the generator has not been run since August 11, 2011 and thereby complies with the Code. He said any future violations will result in a citation and fine being issued. He informed the Board that there is not action needed to be taken by the Board at this time.

Property owner Scott Gordon and Ken Smith of ITG Construction testified about the efforts they have made to rectify this situation.

D. Case # CE 11-553, 228 Worth Ave., Malo & Palm V Assoc. Ltd.

Violation of Chapter 42, Section 42-87 of the Town of Palm Beach Code of Ordinances, all exterior surfaces to be kept painted and maintained in good condition.

Code Officer Walton briefly reviewed the case. The Town recommends a fine in the amount of \$150.00 a day commence on September 16, 2011 and continue until compliance is achieved.

Brian Barill with Pyramid Builders of Palm Beach testified on behalf of the business owner that permits have been obtained for this project and asked the Board for a ten day extension.

**MOTION BY MR. FRIED TO GRANT ADDITIONAL TIME TO COMPLY, UNTIL SEPTEMBER 26, 2011 AND IF COMPLIANCE IS NOT ACHIEVED BY THAT DATE, A FINE IN THE AMOUNT OF \$150.00 A DAY WILL COMMENCE RETROACTIVELY STARTING ON SEPTEMBER 16, 2011 AND CONTINUE UNTIL COMPLIANCE IS ACHIEVED.
SECONDED BY MS. GREENBERG
MOTION PASSED UNANIMOUSLY**

VII. Fine Reduction

A. Case # CE 11-395, 2259 Ibis Isle Rd. E., Steffes Investments, Inc.

Violation of Chapter 18, Section 18-747, swimming pools to be surrounded with a minimum four (4) foot high enclosure with gates that self-close and latch; Violation of Chapter 42, Section 42-86 unsightly, unsafe or unsanitary conditions and debris on private property not allowed

Lead Code Officer Walton briefly reviewed the case and advised this case was postponed from last month.

Property Manager Fred Amaya testified and requested a fine reduction.

MOTION BY MR. KOEPPPEL TO REDUCE THE FINE TO \$650.00 WHICH WOULD BE REQUIRED TO BE PAID WITHIN 10 DAYS. HE FURTHER MOTIONED IF THE FINE IS NOT PAID WITHIN 10 BUSINESS DAYS OF THIS ORDER, IT WILL RETURN TO THE ORIGINAL AMOUNT OF \$2,400.00

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

- B. Case # 09-2672, 2842 S. Ocean Blvd., 2401 2301 00 Trust, The Omphoy Ocean Resort Palm Beach

Violation of Chapter 134, Section 134-1702 of the Town of Palm Beach Code of Ordinances, no structure of any nature shall be constructed closer than 150 feet to the designated ocean bulkhead line unless a proper ocean bulkhead exists

Lead Code Officer Walton reviewed this case and advised all administrative costs have been paid.

Michael Nanowsky and Henri Ball testified on behalf of the property owner and requested a fine reduction.

MOTION BY MR. KOEPPPEL TO REDUCE THE FINE BY TWO THIRDS PLUS THE LEGAL FEES, COSTS AND EXPENSES THE TOWN INCURRED FROM THE COURT PROCEEDINGS INVOLVING THIS CASE, UNLESS THOSE HAVE ALREADY BEEN REIMBURSED THE TOWN AND THAT THIS AMOUNT BE PAID WITHIN 10 DAYS OF THE DETERMINATION OF THOSE LEGAL FEES.

**SECONDED BY MS. GREENBERG
MOTION OPPOSED**

ROLL CALL VOTE

MR. KOEPPPEL	YES
MS. GREENBERG	YES
MR. OCHSTEIN	NO
MR. BALLENTINE	NO
MR. FRIED	NO
MR. DOWELL	NO
MR. HOFFMAN	YES

MOTION FAILED 4 TO 3

MOTION BY MR. FRIED TO POSTPONE THIS CASE UNTIL THE OCTOBER 20, 2011 MEETING

**SECONDED BY MR. BALLENTINE
MOTION OPPOSED**

ROLL CALL VOTE

MR. FRIED	YES
MR. BALLENTINE	YES
MS. GREENBERG	NO
MR. OCHSTEIN	YES
MR. KOEPPPEL	NO
MR. DOWELL	YES
MR. HOFFMAN	NO

MOTION PASSED 4 TO 3

- C. Case # 10-2700, 2842 S. Ocean Blvd., 2401 2301 00 Trust, The Omphoy Ocean Resort Palm Beach

Violation of Chapter 134, Section 134-1702 of the Town of Palm Beach Code of Ordinances, no structure of any nature shall be constructed closer than 150 feet to the designated ocean bulkhead line unless a proper ocean bulkhead exists and Chapter 134, Section 134-1473 which does not permit any structures or beach buildings with maximum dimensions greater than 20x25 feet and Section 134-1474 which does not permit more than one beach house structure to be erected

This case heard in conjunction with the above case. See Motion above.

VIII. Board Comments: (4:37:35 p.m.)

Tom Parker addressed the Board and gave his comments reference generator noise.

IX. Adjournment: (4:37:40 p.m.)

The meeting was adjourned without benefit of motion.