

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

Thursday, May 19, 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:(2:00:23 p.m.)

II. Roll Call:

Upon roll call, the following Board members were present: Chairman Timothy Hoffman, Vice Chairman Harris S. Fried, Joel Koepfel, Larry Ochstein, Madelyn Greenberg, Cynthia Van Buren, James M. Ballentine, Jr. 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 and Recording Secretary Joan Dunn.

Mr. Hoffman acknowledged and thanked Councilman Kleid and Councilman Diamond for their attendance at the meeting.

III. Approval of the Minutes of April 21, 2011(2:01:04 p.m.)

**MOTION BY MR. KOEPPEL TO APPROVE THE APRIL 21, 2011 MINUTES
SECONDED BY MS. GREENBERG
MOTION PASSED UNANIMOUSLY**

IV. Administration of the Oath to Town Staff:(2:01:17 p.m.)

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

V. Public Hearings:

A. Case # CE 11-361, 234 Australian Ave., Rabbi Zalman Levitin and Giuseppe Panobianco

REPEAT Violation of Chapter 134, Section 134-945 of the Town of Palm Beach Code of Ordinances, churches, synagogues and other houses of worship in the R-C zoning district require special exception and site plan approval

Lead Code Enforcement Officer Walton presented the facts of this repeat violation and advised it was a result of a citizen's complaint. He submitted items into evidence. The Town recommends a finding of non-compliance for the repeat violation of Chapter 134, Section 134-945, administrative costs of \$150.00 and an order to immediately stop operating the Palm Beach Jewish Center and Chabad Jewish Center of Palm Beach at 234 Australian Ave. The Town further recommends an order to cease holding religious services, classes and operating as a synagogue at 234 Australian Ave. without obtaining all required Town Council special exception approvals and required site plan approvals. Zoning Administrator Castro and Code Enforcement Manager Houston gave their testimony in regard to this case.

Attorney Frederick H. Nelson appeared on behalf of Rabbi Zalman Levitin and stated he believed his client was now in compliance.

Several Board members and Attorney John Randolph discussed the issues surrounding this violation.

MOTION BY MR. FRIED TO POSTPONE THIS CASE UNTIL THE JUNE 16, 2011 MEETING

SECONDED BY MR. OCHSTEIN

MOTION OPPOSED

ROLL CALL VOTE:

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

MOTION FAILED 4 TO 3

MOTION BY MR. KOEPEL TO FIND THE VIOLATOR IN NON-COMPLIANCE, ASSESS ADMINISTRATIVE COSTS IN THE AMOUNT OF \$150.00 AND ORDER THEM TO IMMEDIATELY STOP OPERATING THE PALM BEACH JEWISH CENTER AND CHABAD JEWISH CENTER OF

PALM BEACH AT 234 AUSTRALIAN AVE. MR KOEPPEL FURTHER MOTIONED TO ORDER THEM TO CEASE HOLDING RELIGIOUS SERVICES, CLASSES AND OPERATING AS A SYNAGOGUE AT 234 AUSTRALIAN AVENUE WITHOUT OBTAINING ALL REQUIRED TOWN COUNCIL SPECIAL EXCEPTION APPROVALS AND REQUIRED SITE PLAN APPROVALS.

**SECONDED BY MS. VAN BUREN
MOTION OPPOSED**

ROLL CALL VOTE:

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

MOTION PASSED 4 TO 3

- B. Case # CE 11-210, 2100 S. Ocean Blvd., Kay-Dee Sportswear, Inc. & Sloan's Curve Homeowners Assoc. Inc.

Violation of Chapter 134, Section 134-623 of the Town of Palm Beach Code of Ordinances, the only permitted land use allowed in a PUD are uses permitted in the RC medium density district; Violation of Chapter 114, Section 114-32, business tax receipt required

Lead Code Enforcement Officer Walton presented the facts of the case and submitted photographs into evidence. The Town recommends dismissing the violation of Chapter 134, Section 134-623 as evidence was produced that the pro shop was allowed. The Town further recommends a finding of non-compliance for the violation of Chapter 114, Section 114-32, no administrative costs and to give them until June 10, 2011 to comply. Zoning Administrator Castro advised the Board that based on conversations with the attorney for the Association and Gene Lawrence, the architect for the project, he was able to find old documentation that a tennis club and an accessory retail operation was approved. It was for the benefit of the residents and their on-site guests and would not allow for outside tennis lessons on the property.

Attorney Eleanor Halperin wanted clarification that the facilities could be used for the residents and bona fide guests for both tennis use and tennis lessons, even if the resident was not present at the time and the guest was not staying on the property. A discussion ensued as to what constitutes a "bona fide guest". Mr. Robert Davidow explained why this issue is important to the Sloan's Curve Homeowners Association.

Mr. Randolph advised that the case could be postponed so that staff could further research the original approval of the PUD.

MOTION BY MR. KOEPPPEL TO POSTPONE THIS CASE IN UNTIL THE JUNE 16, 2011 MEETING

SECONDED BY MR. FRIED

MOTION PASSED UNANIMOUSLY

(Mr. Hoffman called for a short break at this time. The Board re-convened after this break)

C. Case # CE 11-316, 95 N. County Rd., Little Broad Beach Partners, LP

Violation of Chapter 42, Section 42-87 of the Town of Palm Beach Code of Ordinances, all exterior surfaces and windows to be kept painted and in good repair and irrigation systems to be in working condition

Lead Code Enforcement Walton presented the facts of the case and said it was a result of numerous citizen complaints. He submitted photographs into evidence. The Town recommends a finding of non-compliance, administrative costs of \$150.00 and to give them until June 10, 2011 to comply.

Architect Mark Marsh spoke about the new owner's inability to have total access to this property and requested 90 days to obtain permits to begin working.

MOTION BY MR. FRIED TO FIND THE VIOLATOR IN NON-COMPLIANCE, ASSESS ADMINISTRATIVE COSTS IN THE AMOUNT OF \$150.00 AND GIVE THEM UNTIL JULY 18, 2011 TO COMPLY

SECONDED BY MR. BALLENTINE

MOTION PASSED UNANIMOUSLY

D. Case # CE 11-145, 191 Bradley Pl., The Palm Beach Steakhouse

Violation of Chapter 42, Section 42-228 of the Town of Palm Beach Code of Ordinances, permissible emission of noise level is set at a maximum of 64 dBA for day and 58 dBA for night (between 7:00 p.m. and 9:00 a.m.)

Lead Code Enforcement Walton presented the facts of the case and said it was a result of a citizen complaint. He submitted photographs into evidence. The Town recommends a finding of non-compliance, administrative costs of \$150.00 and to give them until July 10, 2011 to comply.

Attorney John O'Neil testified and advised his client is 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 JULY 10, 2011 TO COMPLY

SECONDED BY MR. KOEPPPEL

MOTION PASSED UNANIMOUSLY

- E. Case # CE 11-548, 2300 S. Ocean Blvd., Gail Trink
REPEAT Violation of Chapter 42, Section 42-86 of the Town of Palm Beach Code of Ordinances, stagnant water or unsanitary conditions not allowed

Lead Code Enforcement Walton presented the facts of the case and said it was a result of a routine inspection and it was a repeat violation. He submitted photographs into evidence. The Town recommends a finding of non-compliance, administrative costs of \$150.00 and to give them until May 24, 2011 to comply. Due to this being a repeat violation, the Town also recommends a fine of \$500 a day commence on May 25, 2011 if compliance is not achieved.

**MOTION BY MR. FRIED TO FIND THE REPEAT VIOLATOR IN NON-COMPLIANCE, ASSESS ADMINISTRATIVE COSTS IN THE AMOUNT OF \$150.00 AND GIVE THEM UNTIL MAY 24, 2011 TO COMPLY. MR FRIED FURTHER MOVED IF COMPLIANCE IS NOT ACHIEVED BY MAY 24, 2011 TO ASSESS A FINE IN THE AMOUNT OF \$500.00 A DAY, COMMENCING ON MAY 25, 2011 AND CONTINUING UNTIL COMPLIANCE IS ACHIEVED
SECONDED BY MS. VAN BUREN
MOTION PASSED UNANIMOUSLY**

- F. Case # CE 11-416, 350 S. County Rd., Three 50 Realty Corp.
Violation of Chapter 42, Section 42-87 of the Town of Palm Beach Code of Ordinances, appurtenances to be kept in a good condition

Lead Code Enforcement Walton presented the facts of the case and said it was a result of a citizen's complaint. He submitted photographs into evidence. The Town recommends a finding of non-compliance, administrative costs of \$150.00 and to give them until June 10, 2011 to comply.

**MOTION BY MR. OCHSTEIN TO FIND THE VIOLATOR IN NON-COMPLIANCE, ASSESS ADMINISTRATIVE COSTS IN THE AMOUNT OF \$150.00 AND GIVE THEM UNTIL JUNE 10, 2011 TO COMPLY
SECONDED BY MS. GREENBERG
MOTION PASSED UNANIMOUSLY**

- G. 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 Enforcement Walton presented the facts of the case and said it was a result of a citizen's complaint. He submitted photographs into evidence. He advised that the pool has been returned to a sanitary condition and the vegetation has been cut back. The only violation remaining is the missing enclosure around the pool. The Town recommends a finding of non-compliance, administrative costs of \$150.00 and to give them until June 10, 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 JUNE 3, 2011 TO COMPLY
SECONDED BY MR. FRIED
MOTION PASSED UNANIMOUSLY**

H. Case # CE 11-543, 300 Dunbar Rd., Dean O'Hare

Violation of Chapter 112, Section 112-53 of the Town of Palm Beach Code of Ordinances, irrigation outside of allowable hours

Lead Code Enforcement Officer Walton recommended to accept payment of the fine and no further action be taken.

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

I. Case # CE 11-155, 424 Chilean Ave., Double L Family Limited Partnership

Violation of Chapter 42, Section 42-87 of the Town of Palm Beach Code of Ordinances, appurtenances such as parking lots to be maintained in good condition

Lead Code Enforcement Walton presented the facts of the case and said it was a result of a citizen's complaint. He submitted photographs into evidence. The Town recommends a finding of non-compliance, administrative costs of \$150.00 and to give them until June 10, 2011 to comply. Mr. Walton advised the property owner was present at the meeting but had to leave.

**MOTION BY MR. KOEPPEL TO FIND THE VIOLATOR IN NON-COMPLIANCE, ASSESS ADMINISTRATIVE COSTS IN THE AMOUNT OF \$150.00 AND GIVE THEM UNTIL JUNE 10, 2011 TO COMPLY
SECONDED BY MS. VAN BUREN
MOTION PASSED UNANIMOUSLY**

J. Case # CE 11-529, 101 Dunbar Ave., Michael Rubinoff

Violation of Chapter 112, Section 112-53 of the Town of Palm Beach Code of Ordinances, irrigation outside of allowable hours

Lead Code Enforcement Officer Walton recommended to accept payment of the fine and no further action be taken.

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

VI. Fine Reduction

A. Case # CE 10-359, 516 S. Ocean Blvd., 516 Ocean Blvd. LLC

Violation of Chapter 42, Section 42-86 (3) and Section 42-86 (18) of the Town of Palm Beach Code of Ordinances, unsightly, unsafe or unsanitary conditions, grass in excess of 8 inches in height and the storage of trash and debris on private property not permitted, Violation of Chapter 42, Section 42-164 which prohibits fugitive dust and blowing sand, Chapter 18, Section 18-206 (4) which requires any site in which reconstruction does not commence within 15 days after demolition to be irrigated and sodded and Chapter 42, Section 42-87, appurtenances such as driveways to be maintained in good condition

Lead Code Officer Robert Walton briefly reviewed the case and said the Town had no recommendation. He advised that Michael Perry was present to address the Board.

Mr. Perry testified that new homeowners did work toward compliance but it took longer to achieve than the time given.

**MOTION BY MR. KOEPPEL TO REDUCE THE FINE TO \$3,375.00 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
\$6,750.00**

**SECONDED BY MR. HOFFMAN
MOTION OPPOSED**

ROLL CALL VOTE:

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

MOTION FAILED 5 TO 2

MOTION BY MR. OCHSTEIN TO REDUCE THE FINE TO \$6,000.00 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 \$6,750.00

SECONDED BY MR. KOEPPPEL

ROLL CALL VOTE:

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

MOTION PASSED 4 TO 3

VII. Old Business

- A. Case # CE 10-182, 237 Brazilian Ave., Florida Capital Management LLC
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 such a dilapidated condition that it is unfit for human habitation and Chapter 42, Section 42-87 of the Town of Palm Beach Code of Ordinances which requires foundations and structural members to provide a firm and substantial base and support for the structure and interior walls and ceilings to be structurally sound and for exterior walls to be kept painted and in good repair and appurtenances such as walls, fences and balconies to be kept in a safe and good state of repair

Lead Code Enforcement Officer Walton advised this case was put on the agenda at the request of Mr. Hoffman.

Mr. Hoffman requested to re-open this case for discussion with the Board about the decision surrounding the fine imposed in this case at the last meeting.

Frederick Keitel, the property owner, was present and said he would be selling the property soon.

MOTION BY MR. KOEPPPEL TO EXTEND THE TIME FRAME FOR PAYMENT OF THE REDUCED FINE ASSESSED IN THE AMOUNT OF \$24,750.00 TO JUNE 15, 2011. HE FURTHER MOTIONED IF THE FINE IS NOT PAID BY JUNE 15, 2011, IT WILL RETURN TO THE ORIGINAL AMOUNT OF \$54,750.00

**SECONDED BY MR. FRIED
MOTION PASSED WITH MR. OCHSTEIN OPPOSED**

VIII. Board Comments: (5:07:34 p.m.)

Mr. Hoffman conveyed the Town Council's gratitude to the Board members for their service.

IX. Adjournment: (5:08:01 p.m.)

The meeting was adjourned without benefit of motion.