



TOWN OF PALM BEACH POLICE DEPARTMENT

A NATIONAL AND STATE ACCREDITED LAW ENFORCEMENT AGENCY



CODE ENFORCEMENT BOARD MINUTES 2:00 P.M. THURSDAY, OCTOBER 16, 2008 AT THE TOWN COUNCIL CHAMBERS, 360 S. COUNTY ROAD

I. **Call to Order:** The meeting was called to order at 2:00 p.m. by Chairman Timothy Hoffman.

II. **Roll Call:**

Present: Timothy Hoffman, Chairman
Harris Fried, Vice Chairman
Joel P. Koepfel, Member
Larry Ochstein, Member
Catherine M. Duemler, Member (absent)
Madelyn Greenberg, Member
Cynthia Van Buren, Member
James M. Ballentine, Jr., First Alternate
William P. Vanneck, Second Alternate

Staff: John C. Randolph, Town Attorney
Captain Dan Szarszewski, Support Services
Sgt. Curtis Krauel, Code Enforcement
Robert Walton, Lead Code Enforcement Officer
Nick Gerry, Code Enforcement Officer
Bryant Weymer, Code Enforcement Officer
Raychel Houston, Recording Secretary

Chairman Hoffman introduced Chief Michael Reiter who addressed the Board, thanked them for being the police department's partners in code enforcement and said he believed the last year and a half had been very successful in enforcing the Town's codes and achieving greater compliance. Chief Reiter introduced Captain Dan Szarszewski and said he had been transferred into the Code Enforcement Unit, replacing newly promoted Major Blouin.

III. **Approval of the Minutes of September 18, 2008:**

MOTION BY MR. KOEPPEL FOR APPROVAL OF THE SEPTEMBER 18, 2008 MINUTES

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

IV. Administration of the Oath to all persons who wish to testify:

Let the record show that all persons wishing to testify were sworn in at this time by Recording Secretary Raychel Houston.

V. Public Hearings:

- A. Case #08-2537, 238 Phipps Plaza, Annette De Sousa
Violation of Chapter 42, Section 42-87 of the Town of Palm Beach Code of Ordinances, roofs to be maintained in a safe and good state of repair

Code Enforcement Officer Nick Gerry requested this case be dismissed as it was in compliance.

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

- B. Case # 08-2553, 300 Barton Ave., Catharine Bradley
Violation of Chapter 10, Section 10-9 of the Town of Palm Beach Code of Ordinances, unauthorized feral cat feeding

Sgt. Krauel presented the facts of the case and said on Thursday, September 18, 2008 at approximately 3:34 a.m., Ofc. Adam Zeller observed a beige Honda minivan, known to be owned and driven by Catharine Bradley, entering the driveway of a private residence at 300 Barton Ave. This residence appeared vacant with no lights on and the shutters closed. Ofc. Zeller had information, forwarded from the Code Enforcement Unit, about unauthorized feeding of feral cats by several individuals, including Ms. Bradley. Ofc. Zeller saw Ms. Bradley exit her vehicle, open the rear door and place something down on the south west corner of the door step. Ofc. Zeller confronted Ms. Bradley who said she was there to feed a friend's cat. Ofc. Zeller tried to gather more information but Ms. Bradley became uncooperative. Ofc. Zeller saw fresh cat food on the door step of the residence and several bulk items of cat food in the rear compartment door of her vehicle. Based on these circumstances, Ofc. Zeller issued Ms. Bradley a Notice of Violation. However, further information revealed the owner of 300 Barton Ave, Jane Janssen, gave Ms. Bradley permission to enter her private property to feed her domesticated cats. A check with Animal Care and Control confirmed Mrs. Janssen has a cat properly registered and licensed at 300 Barton Ave. The Town recommends this case be dismissed.

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

- C. Case # 08-2554, 40 Cocoanut Row, Catharine Bradley
Violation of Chapter 10, Section 10-9 of the Town of Palm Beach Code of Ordinances, unauthorized feral cat feeding

Sgt. Krauel presented the facts of the case and said on Saturday, September 20, 2008 at approximately 5:28 a.m., Ofc. Zeller observed a beige Honda minivan known to be owned and driven by Catherine Bradley enter an employee parking lot at the Breakers Hotel. Ofc. Zeller entered the parking lot and saw Ms. Bradley's vehicle parked alongside a large wooded/hedged area. As Ofc. Zeller approached her vehicle, Ms. Bradley came out of the wooded area, carrying a small clear plastic bag.

Ofc. Zeller confronted Ms. Bradley who told him she received a report there was an injured cat in this area and she was checking on it. While he was speaking with Ms. Bradley, a cat emerged from the area and Ms. Bradley pointed it out as the injured cat. Ofc. Zeller noted the cat appeared fine and did not show any sign of injury. Ms. Bradley did not say what the injury was nor did she treat it. Ofc. Zeller went into the wooded area and saw two cups of fresh wet cat food and a bowl of fresh dry cat food on the ground, covered by debris. The food was in a Tupperware type container. Ofc. Zeller noted Ms. Bradley had several trays of wet cat food in the rear of her vehicle along with several bags of bulk dry food. Both types of food were the same as what was in the woods. Ofc. Zeller saw several undomesticated/ feral cats where the food was placed. Breakers Hotel security responded to the scene and documented the incident but did not want to take any action against Ms. Bradley. They were also not aware of any report regarding an injured animal on their property. Based on the unusual time of day one would check on an injured animal, the representatives of the property having no report of one and the fact Ms. Bradley did not have a flashlight or any medical supplies in her possession when she exited the woods, the wet and dry food in the woods being the same type of wet and dry food observed in her vehicle, and cats observed in the area, Ms. Bradley was issued a Notice of Violation for the unauthorized feeding of feral cats. The Town recommends a finding of non-compliance, administrative costs in the amount of \$150 and a fine in the amount of \$250.00.

Ms. Bradley was present with her attorney, Dennis Koehler. Mr. Koehler asked Ofc. Zeller if he had personally observed Ms. Bradley feeding cats and he replied he had not. Mr. Koehler asked Ofc. Zeller if he had a sample of the food he observed and he said he did not and he had not taken any pictures. Ofc. Zeller said the food he saw in the wooded area was the same type of wet food and dry food he saw in Ms. Bradley's vehicle. Ofc. Zeller said he went in the wooded area when Ms. Bradley came out and he saw numerous cats coming to the food.

During questioning by Mr. Koehler, Ms. Bradley said someone told her at Publix there was an injured cat in this area and she has always been given permission by the Breakers to go on their property. Mr. Fried asked Ms. Bradley if she fed the cats during this incident in question and she said she had not. Ms. Bradley said this area is a feeding station but she does not know who feeds there. Ms. Bradley said she did not have any open cat food in her car when she was on the Breakers property. In response to Mr. Ochstein's question, Ofc. Zeller said there was open cat food in Ms.

Bradley's car that night. Mr. Koehler asked Ofc. Zeller if he physically went into the back of Ms. Bradley's van and Ofc. Zeller said he had not; he utilized his flashlight to look in the vehicle and he could see the round cups of wet food and the bags of dry food. Ofc. Zeller said he attempted to video the incident at the Breakers but the audio malfunctioned. Sgt. Krauel said the video could be made available but there was nothing on it of evidentiary value. Ofc. Zeller and Ms. Bradley were off camera the entire time. Ms. Bradley said the officer was mistaken, that he was confusing the two incidents. Mr. Ballentine asked if PB Cats had a feeding station at the Breakers and Sgt. Krauel said they did not. He asked if there was any reason to believe the Breakers would be feeding the cats and Sgt. Krauel said they would not be authorized to do so, that PB Cats was the only authorized feral cat feeder in the Town. Mr. Koeppele asked if the Breakers allowed this on their property and Ofc. Zeller said Breakers security was unaware of any cat feeding occurring on the property. Ofc. Zeller said they took Ms. Bradley's name for an internal report. Ms. Bradley said Island Cats feeds on the Breakers property and supposedly, so does PB Cats. At Mr. Fried's request, Ofc. Zeller recounted the incident with Ms. Bradley again. He said he did not see Ms. Bradley exit her vehicle so he was unable to testify if she had anything in her hands. Sgt. Krauel asked if the food Ofc. Zeller's observed was disturbed or whether it appeared to be freshly poured and Ofc. Zeller said it appeared to be freshly poured as it still had liquid on the top and the cats were just approaching it.

**MOTION BY MR. OCHSTEIN TO FIND THE VIOLATOR IN NON-COMPLIANCE, ASSESS ADMINISTRATIVE COSTS IN THE AMOUNT OF \$150.00 AND A FINE IN THE AMOUNT OF \$250.00
SECONDED BY MR. FRIED
MOTION PASSED UNANIMOUSLY**

- D. Case # 08-2555, 200 Barton Ave., Robert W. Vanhellemont
Violation of Chapter 42, Section 42-87 (2) of the Town of Palm Beach Code of Ordinances, appurtenances such as concrete walls, fences and sidewalks to be kept in a good state of repair

Code Enforcement Officer Nick Gerry requested the case be postponed to the November 20, 2008 hearing date due to lack of service.

**MOTION BY MR. FRIED TO POSTPONE THE CASE UNTIL
NOVEMBER 20, 2008
SECONDED BY MS. VAN BUREN
MOTION PASSED UNANIMOUSLY**

- E. Case # 08-2556, 339 Worth Ave., # 101S, City National Bank of Florida Tr
Violation of Chapter 42, Section 42-87 of the Town of Palm Beach Code of Ordinances, properties to be kept in sound condition and good repair, all windows

and doors to be constructed and maintained in such a condition to exclude weather elements or insects and appurtenances such as awning frames and attached covered material to be maintained in good condition

Code Enforcement Officer Nick Gerry requested the case be postponed as the ordinance regarding awnings is being reviewed by the Town Council.

MOTION BY MS. GREENBERG TO POSTPONE THE CASE UNTIL NOVEMBER 20, 2008

SECONDED BY MR. KOEPPPEL

MOTION PASSED UNANIMOUSLY

- F. Case # 08-2557, 255 S. County Road, First Union National Bank of FL
Violation of Chapter 42, Section 42-87 of the Town of Palm Beach Code of Ordinances, appurtenances such as awning frames and attached covered material to be maintained in a good state of repair

Code Enforcement Officer Nick Gerry presented the facts of the case and said the awnings are very faded and torn in certain areas. The Town recommends a finding of non-compliance, administrative costs in the amount of \$150.00 and to give them until November 14, 2008 to come into compliance.

Jennifer Ronneburger of Atlas Sign Industries advised they were going to replace the awnings for Wachovia Bank and she was in the process of filing for the awning permits and they would have the work done within 30 days.

MOTION BY MR. KOEPPPEL TO FIND THE VIOLATOR IN NON-COMPLIANCE, ASSESS ADMINISTRATIVE COSTS IN THE AMOUNT OF \$150.00 AND GIVE THEM UNTIL NOVEMBER 14, 2008 TO COMPLY

SECONDED BY MR. OCHSTEIN

MOTION PASSED UNANIMOUSLY

- G. Case # 08-2558, 160 Seaview Ave., Tatiana S. Gardner
Violation of Chapter 42, Section 42-87 of the Town of Palm Beach Code of Ordinances, walls, gates and fences situated on the premises to be kept in a safe and good state of repair

Code Enforcement Officer Nick Gerry presented the facts of the case and said it resulted from a citizen complaint. Mr. Gerry said the property owner is ill and he has been speaking with Mr. Shaw, the property representative who has power of attorney for the property owner. Mr. Gerry said the fence was going to be replaced and the contractor has already submitted the application for a permit. The Building Department said it is going to take about 3 weeks to get a permit. The Town recommends a finding of non-compliance, administrative costs in the amount of \$150.00 and to give them until December 12, 2008 to come into compliance.

**MOTION BY MS. GREENBERG TO FIND THE VIOLATOR IN NON-COMPLIANCE, ASSESS ADMINISTRATIVE COSTS IN THE AMOUNT OF \$150.00 AND TO GIVE THEM UNTIL DECEMBER 12, 2008 TO COMPLY
SECONDED BY MS. VAN BUREN
MOTION PASSED UNANIMOUSLY**

- H. Case # 08-2559, 2283 W. Ibis Isle Road, Lawrences Rule, Jr.
Violation of Chapter 42, Section 42-87 of the Town of Palm Beach Code of Ordinances, appurtenances such as driveways, garages, shutters and all exterior painted surfaces to be kept in a good state of repair and Chapter 42, Section 42-86, unsightly, unsanitary conditions and the storage of discarded construction materials not permitted

Code Enforcement Officer Nick Gerry presented the facts of the case and said several code violations were found on the property. There was a problem with service so the property was posted. However, he was just recently contacted by Palm Corp. Construction who said they were applying for a permit for the remodel of the property. The Town recommends a finding of non-compliance, administrative costs in the amount of \$150.00 and to give him until November 14, 2008 to come into compliance.

Mr. Hoffman asked if complaints had been filed by any neighbors and Mr. Gerry said there had not been any, that he found the property on routine patrol. Mr. Hoffman asked if building permits would be required for the garage door and the electrical violations. Jeff Taylor, the Building Official, said if repairs were made to the existing structure, no ARCOM approval would be required but that any non-structural repairs in excess of \$1500.00 do require a building permit.

**MOTION BY MR. FRIED TO FIND THE VIOLATOR IN NON-COMPLIANCE, ASSESS ADMINISTRATIVE COSTS IN THE AMOUNT OF \$150.00 AND TO GIVE HIM UNTIL NOVEMBER 14, 2008 TO COMPLY
SECONDED BY MR. OCHSTEIN
MOTION PASSED UNANIMOUSLY**

- I. Case # 08-2560, 325 S. Lake Drive, PH, Mary Myers Hilliard
Violation of Chapter 42, Section 42-87 of the Town of Palm Beach Code of Ordinances, appurtenances such as awning frames and attached covered material to be maintained in a good state of repair

Code Enforcement Officer Nick Gerry requested the case be postponed as the ordinance regarding awnings is being reviewed by the Town Council. Mr. Fried asked what the nature of the Town Council inquiry was and Mr. Gerry said this resident went to the Town Council because they did not agree with Staff's interpretation of the ordinance regarding awning covers. The Town Council is considering whether they want to address any changes to the ordinance. Sgt. Krauel said an ordinance and rules committee is being organized to address specific issues such as awnings and hurricane shutters.

**MOTION BY MR. KOEPPEL TO POSTPONE THE CASE UNTIL
NOVEMBER 20, 2008**

SECONDED BY MR. FRIED

MOTION PASSED UNANIMOUSLY

J. Case # 08-2561, 211 Ocean Terrace, Robert A. Cooney

Violation of Chapter 42, Section 42-87 of the Town of Palm Beach Code of Ordinances, exterior walls shall be reasonably free of cracks or holes, all exterior surfacing material shall be painted and kept in a good state of repair and appurtenances such as gates shall be kept in good repair

Code Enforcement Officer Bryant Weymer presented the facts of the case and said the violations were discovered during routine proactive patrol. The original warning letter was returned with a forwarding address so a new letter was mailed out. The property owner, Mr. Cooney, called him and requested a small extension of time which was granted. No work was done so a violation notice was mailed out which was not signed for so the property was posted. A couple of days after the property was posted, Mr. Weymer received a phone call from the tenant on the property, Sean Bresnan, who said he was not aware of the issues or the Town's correspondence with the property owner and he would start work on the house to bring it into compliance. The Town recommends a finding of non-compliance, administrative costs in the amount of \$150.00 and to give them until October 24, 2008 to comply.

Sean Bresnan was present on behalf of the property owners and read a letter into the record expressing the owners' intent to bring the property into compliance. Mr. Bresnan said he was unaware of the violations or he would have taken care of them but he had purchased all of the necessary materials and would have the work completed by the required date.

MOTION BY MR. FRIED TO FIND THE VIOLATOR IN NON-COMPLIANCE, ASSESS ADMINISTRATIVE COSTS IN THE AMOUNT OF \$150.00 AND GIVE THEM UNTIL OCTOBER 24, 2008 TO COMPLY

SECONDED BY MR. KOEPPEL

MOTION PASSED UNANIMOUSLY

K. Case # 08-2562, 1438 N. Ocean Blvd., Woolems Construction

Violation of Chapter 42, Section 42-199 of the Town of Palm Beach Code of Ordinances, construction work outside permitted hours

Code Enforcement Officer Bryant Weymer presented the facts of the case and said the \$500.00 fine was paid prior to today's hearing so the Town recommends acceptance of the 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 MR. FRIED
MOTION PASSED UNANIMOUSLY**

- L. Case # 08-2563, 416 Brazilian Ave., James H. Barker & Kenneth W. Douglas, Jr.
Violation of Chapter 42, Section 42-86 of the Town of Palm Beach Code of Ordinances, buildings or structures in such a dilapidated condition as to be unfit for human habitation prohibited and Chapter 42, Section 42-87, foundations and structural members to provide a firm and substantial support and interior walls and ceilings to be structurally sound

Lead Code Enforcement Officer Robert Walton presented the facts of the case and said the house had burned substantially on May 5, 2008 and he had later met with Jeff Taylor and Hunt Edwards, the nephew of one of the owners of the house, James Barker. The property was cleaned up and the grass cut. Mr. Walton said he met with Mr. Barker and Mr. Edwards again in September to discuss the property and they told him they were trying to raise funds to either demolish the house or repair it. They also told him the property was listed for sale with a realtor. On October 7th, Mr. Walton received a letter from Mr. Barker who said he had spoken with an engineer, William Yurasak, who was working on plans for the property and Raymond Harcourt, a contractor. Mr. Walton said he told Mr. Barker and Mr. Edwards they needed to either apply for a demolition permit or a rebuilding permit as the property could not remain in the condition it was in. Neighborhood complaints are being received. Mr. Barker called him this morning and said he was in Maine, trying to raise funds to rebuild the property. The Town recommends a finding of non-compliance, administrative costs in the amount of \$150.00 and they be given until November 14, 2008 to apply for a demolition permit or a building permit and start the project.

Raymond Harcourt of Harcourt Construction said Mr. Barker was requesting a postponement until finalized plans could be obtained from Mr. Yurasek. He has a plan which is for shoring only and there is no final plan with architectural details.

Mr. Ochstein asked if the house was safe and Mr. Walton said it was not, that it has no roof. Mr. Walton said he did not know if the Building Department had inspected it but Mr. Barker had engaged a structural engineer but he had not seen the report on the structure. Jeff Taylor said they had a report from a structural engineer that the house was structurally sound and was not in danger of imminent collapse. Mr. Taylor said the house is uninhabitable and has been secured from trespassers and Mr. Walton has been vigilant in seeing to that. The electricity has been removed from the structure. Mr. Koepfel asked if it was feasible to get a permit by November 14th and Mr. Harcourt said it was entirely up to the engineer to have a working set of drawings for the rebuild. The intent is to rebuild the footprint of the building. He was unsure where the engineer was with the final drawings. In response to Mr. Koepfel's question about ARCOM, Mr. Walton said approval would not be needed if the house was built back the same way but if architectural features were changed,

ARCOM approval would be necessary.

William R. Miller, a resident at 330 Cocoanut Row said he was representing the Royal Park Homeowners Association consisting of about 250 members. The Association encompasses the area from Royal Palm Way to Worth Avenue and Cocoanut Row to Lake Way. Mr. Miller said he had been getting a lot of complaints from people in the neighborhood about the property being an eyesore and there has been no effort to undertake any work. He said they believed it should be demolished immediately or some action taken to rebuild it.

Mr. Fried asked if pieces of the roof could blow off onto neighbors' homes or the roadway and Mr. Taylor said the roof structure has been compromised and high winds could cause a lot of debris in the area. He said the Town was limited in what it could do, given property rights. Mr. Koeppel said he believed it would be appropriate to take the Town's recommendation but add to it a requirement that the roof be tarped. Mr. Fried said he believed that was an excellent suggestion.

**MOTION BY MR. KOEPEL TO FIND THE VIOLATOR IN NON-COMPLIANCE, ASSESS ADMINISTRATIVE COSTS IN THE AMOUNT OF \$150.00 AND TO GIVE THEM UNTIL NOVEMBER 14, 2008 TO OBTAIN A DEMOLITION PERMIT OR A BUILDING PERMIT AND TO BEGIN THE PROJECT AND THAT THE ROOF BE TARPED IN THE INTERIM
SECONDED BY MS. GREENBERG
MOTION PASSED UNANIMOUSLY**

- M. Case # 08-2564, 44 Cocoanut Row, #A112, Helle R. Orav
Violation of Chapter 18, Section 18-241 of the Town of Palm Beach Code of Ordinances and the Florida Building Code, building permits are required to construct, install, repair or alter any building or building system

Lead Code Enforcement Officer Robert Walton presented the facts of the case and said Ms. Orav had an air conditioner unit installed in her apartment without permits. Ms. Orav was told permits were being applied for and obtained by the contractor. Mr. Walton said he did not believe the company that did the installation was going to follow up and get permits so it is up to Ms. Orav, as the property owner, to get the permit. Mr. Walton said he was going to proceed with action against the contractor's license with the State authorities. Mr. Walton said the Town recommends a finding of non-compliance and she be given until November 14, 2008 to come into compliance. Mr. Walton said because of the circumstances in this case, the Town is not recommending any hearing costs be assessed.

Ms. Orav was present to speak and said that after she got the violation letter, she immediately went to the police department and spoke with Bryant Weymer. Ms. Orav said she took all of her paperwork and explained she had requested permission from Palm Beach Towers to do the work and the General Manager gave his approval. Ms. Orav said she went to the front desk at the Towers because she knew they needed to approve any company that did work in the building. She asked if there

were any approved air conditioning companies other than Cassidy, who she was not satisfied with, working in the building and she was told Absolute Air Conditioning was presently working in an apartment, A 622. She obtained the telephone number and scheduled the work. There was no address for the company on their paperwork and she wanted to make sure they were licensed. She checked and the license was for someone named Martinez in Miami. Mr. Fried asked who was going to have to get the permit and Mr. Walton said whoever it was would have to be a licensed contractor. Mr. Orav said she had to find someone who would do that because the system is already installed. Mr. Walton said he spoke to Mr. Taylor and they were going to contact one of the contractors that works in the Town and see if one of them would assist Ms. Orav.

Ms. Van Buren asked what coming into compliance would entail and Mr. Walton said it required obtaining a permit and all required inspections. The contractor would obtain the permit and then contact the Town to do the inspection.

**MOTION BY MR. FRIED TO FIND THE VIOLATOR IN NON-COMPLIANCE, ASSESS NO ADMINISTRATIVE COSTS AND TO GIVE HER UNTIL NOVEMBER 14, 2008 TO COMPLY
SECONDED BY MS. GREENBERG
MOTION PASSED UNANIMOUSLY**

- N. Case # 08-2565, 211 Jungle Road, H. Martin Sprock III
Violation of Chapter 42, Section 42-87 of the Town of Palm Beach Code of Ordinances, appurtenances such as driveways to be maintained in good condition and Chapter 42, Section 42-86, any condition constituting a fire hazard not permitted and properties to be maintained in good order

Lead Code Enforcement Officer Robert Walton presented the facts of the case and said the electrical violation has been corrected. Mr. Walton said he got a letter from Ernest Bourne, a friend of the owner, who told him they had applied for permits for a new fence to go around the property. The driveway is now covered with fencing and cannot be repaired until after the fence is completed. The Town recommends a finding of non-compliance, administrative costs in the amount of \$150.00 and they be given until November 14, 2008 to come into compliance. If the fence is not finished by that time, Mr. Walton said he will bring the case back to the Board and ask for additional time.

**MOTION BY MR. OCHSTEIN TO FIND THE VIOLATOR IN NON-COMPLIANCE, ASSESS ADMINISTRATIVE COSTS IN THE AMOUNT OF \$150.00 AND TO GIVE THEM UNTIL NOVEMBER 14, 2008 TO COME INTO COMPLIANCE
SECONDED BY MR. KOEPEL
MOTION PASSED UNANIMOUSLY**

- O. Case # 08-2566, 340 Royal Poinciana Way, Sidney Spiegel Tr # 31520371 and The Sterling Organization

Violation of Chapter 134, Section 134-326 (b) of the Town of Palm Beach Code of Ordinances, an application for site plan review must be filed and approved by the Town Council prior to the altering of the use of any land

Lead Code Enforcement Officer Robert Walton presented the facts of the case and said the parking area and driveway at the Royal Poinciana Plaza were re-stripped without prior approval. The Town recommends a finding of non-compliance, administrative costs in the amount of \$150.00 and to have Mr. Castro recommend a date for compliance.

Paul Castro, Zoning Administrator, said this case was in front of the Town Council at their last meeting because the property owner requested some variances for parking. They were also at Council the previous month with some variances for parking and at that time, Staff recommended they re-stripe the parking lot to the plan that was approved in 1999 when the Palm Beach Grill became a tenant on the property.

Subsequent to that first meeting, Staff decided that because of one of the conditions placed on the owner, they would request they hold that previous site plan reconfiguration in abeyance until they knew more about what is going to happen on the property. The property owner came to the Council with a proposed master plan they will show to the Council in November. There are also some issues related to employee parking and timed parking that would create other issues and problems for the tenants and visitors if they re-stripped it to the previous plan. Staff requested they leave the parking configuration the way it is at this point in time and address the issue in the future when the master plan comes in front of the Council and ultimately, either the Architectural Commission or the Landmark Commission. He is requesting the Board give the property owner and the Town some time to determine what is going to happen to the property.

In response to Mr. Hoffman's question about whether it should continue in its existing condition until the Town approves the site plan, Mr. Castro said the Council wanted to provide some 2 hour parking on the south side of the main building and they wanted the property owner to take out all of the designated parking on the property and then provide employee parking on the south side and the north side of the property to free up the interior parking for their customers and clients. In re-stripping it the way it was before, it was anticipated there was going to be tandem parking, a substantial amount of stacked parking that was to serve, not only the Poinciana Theater, but what was then the Poinciana Club, next to the theater, and both are vacant at this time. If both of those were operating today, they would say yes, definitely recreate that and the valet parking stations. Since both of those are vacant and the Town is going to be looking at conceptual master plans and the ultimate redevelopment of the property, they thought it was premature to make the property owner come back in and re-stripe the parking lot, until they know what is going to happen with the property. Mr. Castro said the Town Council will be considering a master plan concept in November and actually are showing it to residents now. He is not sure of the property owner's timing relative to the land development or bringing land development plans in front of the Town. He would

anticipate six months or maybe a year to get everything in the works. Mr. Hoffman asked if he was asking for a postponement until Council approval as a time frame and Mr. Castro said that was correct.

Maura Ziska was present and said she represented the property owner and the person in control of the property. She asked if it would be proper to dismiss this case and bring it back at a later date since it has been 10 years since the violation occurred. At the Town Council meeting, the Town Council withdrew their condition to re-stripe the parking lot, acknowledging it is not appropriate at this time. They are dealing with a plan that was approved back when Houstons was approved that shows the tandem parking which does not work today.

Mr. Castro said it had not been 10 years since the violation occurred since they had to re-stripe it in 1999. He said we do not know at what point in time, from 1999 to 2007/2008, that they re-striped the parking lot. It appears the parking lot was re-slurried and re-striped without Town permission and that is a condition that was created, not by the property owner who is in control of the property now, but Mr. Spiegel. Mr. Castro said he is not sure the case should be withdrawn but maybe just postponed. The original parking plan showed a substantial amount more parking than what is there today because of the stacking situation. Staff felt it was premature at this time to make them redesign a parking lot with the tandem parking being mostly employee parking as was shown to the Council just last week. He said the case should not be completely withdrawn because it was done in violation of the Code.

Mr. Koeppel asked when the striping was done and Mr. Castro said it was after 1999. Sometime later, and Staff does not know when, the property was re-slurried, the blacktop was done, hiding the revised striping, and they went back to the striping that was previously there. He is assuming this was done after the theater and the

Poinciana Club closed. Mr. Koeppel asked if Staff had recommended at some point it should be re-striped as it had been in previous years. Mr. Castro said either that or a plan which might be more relevant, based on what master plan might come in front of the Council. Staff thought it was premature to spend the money to re-stripe it, knowing it does not work with the new re-striping and thought it would be better to wait for the Town to understand what the property owner wants to do. He thinks the master plan will be significantly different than the parking layout that is there today or the layout that was originally approved in 1999. Mr. Koeppel asked if the Town knows when this specific violation occurred and Mr. Castro said they did not, they just knew it did occur. Mr. Koeppel commented this was apparently something that was not going to get resolved for a substantial amount of time and Mr. Castro concurred. Mr. Koeppel said he agreed with Ms. Ziska that it did not seem prudent to keep this on the calendar when they are not sure when the violation occurred or what the resolution is going to be. Mr. Ballentine said he essentially agreed with that and asked Mr. Walton what the downside was of doing nothing. Mr. Walton said as long as the Poinciana Club or the theater did not reopen, the parking issue was fine. Mr. Castro said the club and the theater could not reopen without coming to Town

Council because their approvals had lapsed. Mr. Randolph commented that nothing was going to happen on this property and if the Board decided to dismiss the case, it should be without prejudice or the case could be deferred until Council resolved the plan. Mr. Fried said this was a legal issue, to a certain extent, because what he saw here was a violation of the Code, plain and simple. He said he does not know what the relationship is between Mr. Spiegel and this new group but one would assume it was during Mr. Spiegel's clear ownership of the property, that the re-slurring and re-lining of the parking lot took place, which was done without a permit. Mr. Fried said it should be treated as a simple violation. Mr. Walton said they were not cited for not having a permit. They were cited under the zoning chapter, 134 for not getting site plan review for the changes to the parking lot. Mr. Walton said when the parking lot was re-slurred, they put the lines back to the 1960 parking approval, not the 1999 approved plan. Mr. Castro said the re-striping incorporated parts of both plans and is a hodge-podge right now. They re-striped part of it that they felt needed to be re-striped, based on all of the vacancies and some of it was left the way it was. Mr. Castro said if worse comes to worse, they will have to re-stripe it and they have already agreed to do that. They were going to pull a building permit to re-stripe it the way it was, to the 1999 layout, and Staff told them to hold off until they could go to Council because based on the parking plan they provided Staff, which was one of their conditions of approval, Staff felt the 1999 parking plan would not work. Council agreed with Staff because the plan they showed to Council showed some parking which would have been in some valet parking areas for employees which just would not have worked. In an attempt to help resolve the short term problem they agreed to leave the parking lot the way it is and in the long term, address the parking issue, the number of spaces and how it is redesigned with the master plan, if it does move forward. If it does not move forward, they will re-stripe it the way it was, the 1999 layout. Mr. Randolph asked if it would help for the Board to hear Staff's original recommendation with regard to this. Mr. Hoffman said Staff's recommendation was administrative costs in the amount of \$150.00 and a time frame recommended by Mr. Castro for compliance. Mr. Randolph said these were the two things before the Board and since Council has said they do not want them to do anything about this until the plan is resolved, they should dismiss without prejudice until the matter is resolved.

MOTION BY MR. KOEPPPEL TO DISMISS THE CASE WITHOUT PREJUDICE

SECONDED BY MR. BALLENTINE

MOTION PASSED UNANIMOUSLY

P. Case # 08-2567, Via De Mario, # 323, New Palm

Violation of Chapter 22, Section 22-57 and Section 22-58 of the Town of Palm Beach Code of Ordinances, windows of vacant buildings which can be viewed from the public streets to be screened

Lead Code Enforcement Officer Robert Walton presented the facts of the case and said when he inspected the property today, paper had been placed on the windows,

which is not allowed in the Town of Palm Beach. The Town recommends a finding of non-compliance, administrative costs in the amount of \$150.00 and they be given until October 24, 2008 to comply. Mr. Walton said he has had no contact with the property owner, mail was returned and the property had to be posted. Obviously, the posting was seen as the screening was installed but it was done improperly. Ms. Van Buren asked how a property owner finds out the type of screening required and the rules, whether it is incumbent on them to find out or if it is stated in the letter. Mr. Walton said he does not state it in his letter but gives them the Code and a brief overview.

**MOTION BY MR. KOEPPPEL TO FIND THE VIOLATOR IN NON-COMPLIANCE, ASSESS ADMINISTRATIVE COSTS IN THE AMOUNT OF \$150.00 AND TO GIVE THEM UNTIL OCTOBER 24, 2008 TO COMPLY
SECONDED BY MR. OCHSTEIN
MOTION PASSED UNANIMOUSLY**

- Q. Case # 08-2568, Via De Mario, # 325, New Palm
Violation of Chapter 22, Section 22-57 and Section 22-58 of the Town of Palm Beach Code of Ordinances, windows of vacant buildings which can be viewed from the public streets to be screened

Lead Code Enforcement Officer Robert Walton said this store front is directly across from the previous case and the facts in the case are essentially the same. The Town recommends a finding of non-compliance, administrative costs in the amount of \$150.00 and they be given until October 24, 2008 to comply.

**MOTION BY MS. GREENBERG TO FIND THE VIOLATOR IN NON-COMPLIANCE, ASSESS ADMINISTRATIVE COSTS IN THE AMOUNT OF \$150.00 AND TO GIVE THEM UNTIL OCTOBER 24, 2008 TO COMPLY
SECONDED BY MR. OCHSTEIN
MOTION PASSED UNANIMOUSLY**

- R. Case # 08-2569, 410 S. County Road, Arcade Currency Palace, Inc. and Lendan, Inc.
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 and any lighted or illuminated sign not permitted unless approved as a special use

Lead Code Enforcement Officer Robert Walton presented the facts of the case and said the Town recommends it be dismissed for compliance.

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

- S. Case # 08-2570, 640 S. Ocean Blvd., Oceanic Properties LLC

Violation of Chapter 42, Section 42-86 of the Town of Palm Beach Code of Ordinances, stagnant water or unsanitary conditions not permitted and properties required to be maintained in good order and Chapter 42, Section 42-87, all exterior walls to be reasonably free of cracks or holes through which weather elements can enter the building and all exterior surfacing material to be painted and in good repair

Lead Code Enforcement Officer Robert Walton presented the facts of the case and said it originated from a complaint about unsanitary conditions of the pool. He inspected the property and found the pool was in an unsanitary condition and the exterior of the building had peeling paint. He just learned today that the property owner got approval from ARCOM for an extensive remodel.

Jeff Smith from Smith Architectural Group was present to speak. He said the issue with the pool was a broken motor and because the property is vacant, no one was aware of it. He said they have been working on plans for this house since May, 2008 and just got approval on Wednesday from the Landmark Commission because this is an Addison Mizner home. They are doing a massive renovation of the house and it will be months before they actually start construction. The owner does not plan on doing any painting or maintenance in the next couple of months and Mr. Smith does not believe the house is in that bad of shape. Vera Wang lived in the house until last May and she obviously did not have any issues living there. The house will probably be under construction for up to 2 years. Mr. Smith requested his office be notified about any issues involving the property as the owner lives in New York. Mr. Walton said based on this testimony, the Town recommends the case be dismissed.

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

T. Case # 08-2571, 333 Worth Ave., City National Bank & Trust and Via Mizner Properties

Violation of Chapter 18, Section 18-241 of the Town of Palm Beach Code of Ordinances, building permits are required to construct, install, repair or alter any building or building system

Lead Code Enforcement Officer Robert Walton presented the facts of the case and said the Town recommended the case be dismissed for compliance.

**MOTION BY MR. KOEPEL TO DISMISS THE CASE
SECONDED BY MS. GREENBERG
MOTION PASSED UNANIMOUSLY**

VI. Fine Consideration:

- A. Case # 08-2523, 209 Seaspray Ave., F.G. Howard Jr. Enterprises Inc.
Violation of Chapter 18, Section 18-241 of the Town of Palm Beach Code of Ordinances, building permits are required to construct, install, repair or alter any building or building system

Lead Code Enforcement Officer Robert Walton advised the violator was found in non-compliance on August 21, 2008 and was given until September 15th to comply. At the September hearing, testimony was heard from the architect [Pat Seagraves] that Mr. Howard and the neighbor would both apply for a permit and they were granted an extension until October 15th. No permits have been obtained and he has not heard from the architect again. The Town recommends a fine of \$75.00 a day fine be assessed against the property, commencing on October 16th and continuing until compliance is achieved. Mr. Ochstein asked how the \$75.00 a day fine was decided on and Mr. Walton said it seemed to be a reasonable amount based on discussions with the new Captain and Staff and it seemed like a fair fine to get the matter resolved. Mr. Hoffman said this was one of the things he wanted to discuss under the comments section.

MOTION BY MR. KOEPEL TO ASSESS A FINE IN THE AMOUNT OF \$75.00 A DAY, COMMENCING ON OCTOBER 16, 2008 AND CONTINUING UNTIL COMPLIANCE IS ACHIEVED

**SECONDED BY MS. VAN BUREN
MOTION PASSED UNANIMOUSLY**

- B. Case # 08-2526, 314 Dunbar Road, Marilyn R. Sultan
Violation of Chapter 42, Section 42-87 of the Town of Palm Beach Code of Ordinances, Chapter 62, Section 62-39 (5) and Chapter 42-86 (20), walls, fences and driveways to be kept in a good state of repair, bulkhead/seawalls to be kept in good repair

Lead Code Enforcement Officer Robert Walton said the violator was found in non-compliance on August 21, 2008 and were given until October 15th to come into compliance. They have done substantial work on the seawall and it has been raised. The contractor said the high tides have slowed him down and he is requesting additional time, until October 24th to come into compliance. The Town supports that extension.

**MOTION BY MR. KOEPEL TO GIVE THE VIOLATOR ADDITIONAL TIME, UNTIL OCTOBER 24, 2008, TO COME INTO COMPLIANCE
SECONDED BY MR. OCHSTEIN
MOTION PASSED UNANIMOUSLY**

- C. Case # 08-2538, 280 Sunset Ave., The Bradley Park Hotel

Violation of Chapter 54, Section 54-71 of the Town of Palm Beach Code of Ordinances, no landmark or any building on a landmark site or within a historic district shall be altered until an application for a certificate of appropriateness has been submitted and approved by the Commission

Lead Code Enforcement Officer Robert Walton said the Town recommends this case be dismissed for compliance.

**MOTION BY MS. GREENBERG TO DISMISS THE CASE
SECONDED BY MR. KOEPPEL
MOTION PASSED UNANIMOUSLY**

D. Case # 08-2539, 314 Dunbar Road, Marilyn R. Sultan

Violation of Chapter 42, Section 42-86 (7) of the Town of Palm Beach Code of Ordinances, docks or other structures in a failing or dangerous condition prohibited

Lead Code Enforcement Officer Robert Walton said the violator was found in non-compliance on September 18, 2008 and were given until October 15, 2008 to come into compliance. The dock is repaired but they need to put some gates and finishing touches on it. This is the same contractor who is doing the seawall and they are requesting additional time, until October 24, 2008 to comply and the Town supports that request.

**MOTION BY MR. KOEPPEL TO GIVE THE VIOLATOR ADDITIONAL
TIME, UNTIL OCTOBER 24, 2008, TO COME INTO COMPLIANCE
SECONDED BY MR. FRIED
MOTION PASSED UNANIMOUSLY**

E. Case # 08-2540, 280 El Pueblo Way, Thomas Frankel

Violation of Chapter 18, Section 18-241 of the Town of Palm Beach Code of Ordinances and adopted 2004 Florida Building Code, Section 105, building permit required to construct, enlarge, alter, repair, move or demolish any building or structure

Lead Code Enforcement Officer Robert Walton advised there was a finding of non-compliance at the September 18, 2008 hearing and they were given until September 26, 2008 to comply. The homeowner has an attorney, Ms. Sherry Hyman, who wants to address the Board regarding this matter. Ms. Hyman cannot be present today and is requesting to be heard at the November 20, 2008 meeting.

**MOTION BY MS. GREENBERG TO POSTPONE THE CASE UNTIL
NOVEMBER 20, 2008
SECONDED BY MR. KOEPPEL
MOTION PASSED UNANIMOUSLY**

F. Case # 08-2547, 250 Bradley Place, # 701, Marianne Chopp

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Violation of Chapter 18, Section 18-241 of the Town of Palm Beach Code of Ordinances and the Florida Building Code, building permits are required to construct, install, repair or alter any building or building system

Lead Code Enforcement Officer Robert Walton advised there was a finding of non-compliance on September 18, 2008 and the violator was given until October 13, 2008 to comply.

Marianne Chopp was present and said she originally hired a contractor who applied for the permits but never completed the task. She fully believed the permits were obtained and she was in compliance. The contractor asked her for some money to pay a fine to the Town. She has since terminated her relationship with this contractor and hired a new one who has created a schedule for completion of the project. The permit was issued on October 9th and the completion date should be the middle of December and her contractor, Philip Johnson, could speak about that. Construction normally ends on November 1st in her building but her condo association has approved an extension until the middle of December. The original contractor told her the permits were fine and she believed that. Ms. Chopp said she had given the original contractor a \$10,000 deposit and in response to Ms. Greenberg's question,

about why she did not question the permit not being posted at the site, Ms. Chopp said there was no work being done, that the contractor was not even returning her phone calls. Philip Johnson, Ms. Chopp's contractor, said his construction schedule showed a completion date of December 17, 2008.

**MOTION BY MS. GREENBERG TO GIVE THE VIOLATOR ADDITIONAL TIME, UNTIL DECEMBER 17, 2008, TO COMPLY
SECONDED BY MR. FRIED
MOTION PASSED UNANIMOUSLY**

G. Case # 08-2549, 331 Worth Ave., Worth Avenue Holdings LLC

Violation of Chapter 22, Section 22-57 and Section 22-58 of the Town of Palm Beach Code of Ordinances, windows of vacant buildings which can be viewed from the public streets must be screened

Lead Code Enforcement Officer Robert Walton said the property was found in non-compliance on September 18, 2008 and they were given until September 26, 2008 to come into compliance. He received a phone call from the property owner advising he was out of the country and Mr. Walton told him he needed to have someone locally take care of the violation. The violation has not been corrected and the Town recommends a fine in the amount of \$75.00 a day, commencing on September 27, 2008 and continuing until compliance is achieved.

MOTION BY MR. FRIED TO ASSESS A FINE IN THE AMOUNT OF \$75.00 A DAY, BEGINNING SEPTEMBER 27, 2008 AND CONTINUING UNTIL COMPLIANCE IS ACHIEVED

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

- H. Case # 08-2551, 112 Caribbean Road, James M. Brandon
Violation of Chapter 42, Section 42-86 of the Town of Palm Beach Code of Ordinances, landscape to be kept in good condition and grass height not to exceed 8 inches, Chapter 42, Section 42-87 (7), appurtenances such as swimming pools to be kept in a good state of repair and Chapter 42- Section 42-87 (2), exterior surfaces to be kept in good repair

Lead Code Enforcement Officer Robert Walton said this property was found in non-compliance on September 18, 2008 and they were given until September 26, 2008 to come into compliance. They were found in violation of two different sections of the ordinance, Chapter 42, Section 42-87, swimming pools must be kept in a good state of repair and also, exterior surfaces must be kept in good repair. Due to the seriousness of this violation and no contact having been made, The Town is recommending a \$250.00 a day fine for each violation. Mr. Fried asked about service and Mr. Walton said the property was posted and he has reason to believe Mr. Brandon is no longer in the United States.

**MOTION BY MR. FRIED TO ASSESS THE VIOLATOR A FINE IN THE
AMOUNT OF \$250.00 A DAY FOR EACH OF THE VIOLATIONS,
COMMENCING ON SEPTEMBER 26, 2008 AND CONTINUING UNTIL
COMPLIANCE IS ACHIEVED
SECONDED BY MR. OCHSTEIN
MOTION PASSED UNANIMOUSLY**

VII. Fine Reduction:

- A. Case # 07-2269, 102 Gulfstream Road, The Cury Group, 470 South Ocean LLC
Violation of Chapter 18, Section 18-242, Subsection 104.5.1.6, large projects, all new or remodel construction projects of 9,000 sq. ft. or more under roof be allowed 30 months.

Lead Code Enforcement Officer Robert Walton said this case was a permit time limit violation. Mr. Walton said Ms. Ziska was present to address the Board, along with Robert Moore and Mr. Cury. They were found in non-compliance and assessed a \$250.00 a day fine as the permit went over the allowable time. The fine now stands at \$55,150.00.

Maura Ziska said she was present on behalf of the property owner, Ed Cury. Ms. Ziska said this was a 13,000 square foot duplex and was a very detailed, complicated project on the corner of S. Ocean Blvd. and Gulfstream Road. The permit was issued in December of 2004 and under the old code, was given 30 months to complete, which would have made it due in October, 2007. The CO was granted in June of

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2008 although a courtesy final had been granted in May, 2008. Under the new code, they would have been given 36 months, which would have made it due to be completed in April, 2008. Ms. Ziska said the project was very complicated and the detail work on the interior was exquisite. The project never stood still. A special inspector, Mike Perez, was hired and he came to the site and did all of the on-site inspections which saved them time and cost the owner money. The project was substantially complete in December 2007 and anyone just driving by would not have known it was not complete. The remainder of the time just involved work and all of the details on the interiors. They are requesting a fine reduction.

Mr. Fried asked why the Cury Group did not appear before the Town Council and ask for an extension of time. Ms. Ziska said that in the 20 or so projects Mr. Cury has done in Town, she did not believe he had been cited before and may not have been aware of that provision and asked him to speak on this issue.

Ed Cury said he was operating under normal procedure which involved someone coming before the Code Enforcement Board and asking for an extension if they saw they were going to be late on a project. They would give the reasons and would be granted some time but he does not believe he ever came before the Board. When he came before the Board in November, it was a surprise to him that he would have to go before the Town Council and get an extension. If he had known that, they would have been at Town Council. Mr. Fried asked Mr. Cury if he knew he could not come before the Code Enforcement Board and get an extension. Mr. Cury said that is what historically had been done. He thought that was going to happen at the November meeting but that was when the police took over and everything seemed to change right at that time. Ms. Van Buren said she has watched the project for the last couple of years and it is a great asset to the neighborhood. She does still see some workers' trucks and wanted to know if work was still being done. Mr. Cury said this was just routine maintenance. Ms. Van Buren said she would be in favor of a fine reduction. Mr. Ballentine asked how long the job took and Ms. Ziska said it went 220 days over the time limit under the old Code. Mr. Ochstein asked how much of a reduction Ms. Ziska was asking for and she said she did not want to negotiate against herself. Robert Moore said he was present on behalf of Mr. Cury, not as a client but as a friend. He wanted to reiterate why the Town changed its ordinance. He and Mr. Ackerman were the authors of the original 30 month ordinance and it was put in the Code as a tool for problem projects that were not completed on time. After his departure, the Town became more proactive in enforcing the actual time limits. There was a great deal of discussion and the Town recognized these time limits were unrealistic for all jobs. One of the basic issues Ms. Ziska brought up was power release. A project cannot have power release until it is substantially complete. The power was released in November 2007 for one unit and March, 2008 for the other. This would have put it within the 36 month period. The purpose of the time limits is so the neighborhood is not troubled with noise, trucks and inconvenience. He believes Mr. Cury has met all of those issues except he went beyond the original 30 months.

Mr. Koeppel said he remembered this case very well and discussing it with the Board

when there was discussion about imposing a fine. One of the main purposes of the time limits is to make sure the neighborhood is not disturbed. At the original hearing, it was clear Mr. Cury had gone out of his way to make sure the neighborhood was not disturbed by arranging for parking for contractors' vehicles, etc. Mr. Koeppel said the other point he tried to make at the original hearing is that this was not a typical construction. This was a multi-story building as opposed to a one or two story building and would not fall within the confines of normal construction. He said he is familiar with the detail work Mr. Cury does and some of it just cannot be rushed. Mr. Koeppel said he feels very strongly that the imposition of a fine to begin with was improper and does not believe a fine should be imposed. He does not believe the Board should be looking to penalize someone if they have tried their best to comply. Mr. Fried said he basically agreed with everything Mr. Koeppel said except for his final conclusion. Mr. Fried said that as elaborate and magnificent as so many homes are on the island, in 95% of the cases, the contractors do manage to complete them on time and that is even going back to the old time limits. Bearing in mind that what the Board does has some precedent setting value, Mr. Fried believes they have to be careful about completely eliminating fines. He said he would be in favor of reducing the fine by 50%. Mr. Ochstein said he would second that. Mr. Koeppel said his position, at the original hearing, was that the imposition of a fine was improper because of the situation and the kind of structure that was being built. Although he agrees with Mr. Fried that fines should just not be removed, this is not setting a precedent based on everything he cited. The Board is here to use its discretion and he thinks this is a particular case where their discretion should be used. He believes any kind of a fine is improper and he would like to make a motion to waive that fine. Mr. Fried said although the original imposition of a fine might have been improper in Mr. Koeppel's mind, he believed the Board was perfectly within the parameters of the Code and that Mr. Randolph would have advised them accordingly if that was not true. Mr. Ballentine said he did not agree with Mr. Koeppel and he was troubled because he had seen these cases before, even before he came on the Board. Mr. Ballentine said the time extensions were an admission that it does take longer for a project like this. His focus is on the 36 month time limit and if he were to make a motion, it would be that the fine be reduced to the point of allowing 36 months. Sgt. Krauel said if it was based on the additional 6 month period and they were over 220 days, this would be 40 days out of compliance at \$250.00 a day or a fine of \$10,000.

Bob Moore said he wanted to reiterate what he said earlier, that the deadline was to be used on troublesome jobs. Mr. Moore said that Mr. Friedman, president of the Palm Beach Country Club, purchased a house in the north end and it was a very difficult, complicated job which took almost 5 years. They were never brought before the Board because it was not a problem job. The reason why enforcement has changed is because there have been more jobs left abandoned and the mission of the Town is now to bring people before the Board. Mr. Moore said it would be fairer to Mr. Cury to hold him to the 36 months instead of the 30. Mr. Ochstein said the law was the law at the time and everybody knew it was 30 months. Mr. Koeppel said this was not a troubled project and the purpose of the ordinances is to get people to comply when they are doing something wrong, not to adhere to strict standards of

time frames. He believes the Board should take it into consideration if the contractor/owner is doing what they are supposed to do. Mr. Vanneck said the Cury Group has been involved with at least 20 other projects and if this was the first time they have been late, they obviously knew there was a time frame they had to deal with. He does not believe it is Code Enforcement's job to redo the ordinance passed by Town Council. He said thirty months is thirty months, not thirty six.

MOTION BY MR. FRIED TO REDUCE THE FINE BY 50%
SECONDED BY MS. VAN BUREN

During discussion on the motion, Mr. Walton said he wanted to clarify that there were \$150.00 in unpaid hearing costs and regardless of the fine reduction, those costs would stand alone. He wanted to make sure the 50% reduction involved the fine only.

MOTION BY MR. FRIED TO REDUCE THE FINE BY 50%
SECONDED BY MS. VAN BUREN
MOTION OPPOSED

ROLL CALL VOTE:

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

MOTION PASSED 4-3

Sgt. Krauel noted for the record that the fine would be \$27,575.00 in addition to the \$150.00 in hearing costs.

- B. Case # 06-2055, 242 Tangier Ave., Tangier Investments LLC
Violation of Chapter 18, Section 18-242, Subsection 104.5.1.6 of the Town of Palm Beach Code of Ordinances, medium Projects, all new or remodel construction projects 4,000 sq. ft. to 8,999 sq. ft. under roof be allowed 22 months

Lead Code Enforcement Officer Robert Walton said this was also a construction time limit violation. On July 19, 2007 the Board assessed a daily fine of \$250.00 a day. The fine currently stands at \$68,500.00 and the time it ran over was 274 days.

Maura Ziska said she was present on behalf of Richard and Karen True. This was a project on Tangier where the original permit was issued in June, 2005. It is a spec

house and during construction, it went under contract and the potential buyer wanted to make changes to it. They put it on hold and the architect was making changes but the buyer got sick and backed out of the contract and there was litigation over the deposit. They ended up just waiving the deposit and giving it back. There was a six or eight month period where there was no work on the job and the permit expired. The permit was reinstated in December of 2006 and they came before the Board in June, 2007 asking for an extension and were given until July, 2007. The project was completed in April, 2008. Under the old Code, they were given 20 months but under the new rules, they would have been given 30 months. Ms. Ziska said they are requesting a fine reduction to whatever the Board may feel is fair. Mr. Koeppel asked if they were counting the time from the original permit or when it was reissued. Mr. Walton said it was from the original because that was when the impact on the neighborhood began. Mr. Koeppel asked if there was any work done after the original permit was pulled and Ms. Ziska said there was a foundation poured. Mr. Walton said there was a shell put up and trusses were delivered. Some trusses were installed and then the project just stopped. The Town got numerous complaints about this project from the neighborhood as it sat idle for so long. In response to Mr. Koeppel's question, Ms. Ziska said the original permit was June, 2005 and the reinstated permit was December, 2006. The CO was issued in April, 2008. Mr. Walton said it was a problem project because the project was not being maintained.

MOTION BY MR. KOEPPEL TO REDUCE THE FINE TO \$20,000
MOTION DIED FOR LACK OF A SECOND

Ms. Van Buren asked for clarification as to how many days the project was over and Mr. Walton said it was 274 days. Because of the active hurricane season, Town Council directed Staff to add an additional three month for the project and they went over that 23 month period by 274 days. Mr. Walton noted this was a fine reduction hearing and the Board did not have to take any action. If no action is taken, the fine stands. Ms. Ziska said there is a precedent for reducing fines. She realizes this was not a great project but she does not want the owner to be singled out and treated differently than everybody else. Mr. Ballentine asked Mr. Koeppel to explain the logic behind the \$20,000 figure. Mr. Koeppel said there was no specific logic, that he was just trying to compromise in some way because of the issues the owner had. The project stood still because of issues outside their control. Mr. Koeppel said he was trying to impose a penalty because the property was not properly maintained during construction and he believes there is a price to be paid for that because it was disturbing the neighbors. He said he was taking a number that he believed was an appropriate penalty. In response to Mr. Ballentine's question about what happened during the six months, Mr. Walton said the property sat and was an eyesore. They finally got the contractor to put a fence up and the property was just dirt with weeds growing. There were trusses laying in the front. Ms. Greenberg said she did not agree with any reduction in the fine. Mr. Fried said he agreed with Ms. Greenberg.

Mr. Hoffman commented that the foundation of Whitehall was laid in 1900 and the building was completed in 1902. It is 55 rooms, 60,000 square feet and they built it in 2 years. If the project is staffed properly and carried through properly, the time

frame is more than adequate. Mr. Koeppel said in those days it was significantly different because they did not have air conditioning and electric.

**MOTION BY MR. OCHSTEIN TO LET THE FINE STAND
SECONDED BY MS. GREENBERG
MOTION OPPOSED**

ROLL CALL VOTE:

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

MOTION PASSED 4-3

VIII. Comments:

Mr. Koeppel said a majority of the Board members did not hear what Mr. Moore said and it troubles him because Mr. Moore was the building and zoning director for years and was instrumental in drafting some of these ordinances and the intent behind those. He keeps hearing comments from the Board that this is what the Town Council wants. The Town Council did direct these new time frames but he believes you need to look at the intent. He does not believe the intent is for it to be a hard and fast rule and that is why there is a Code Compliance Board, for it to use discretion and to look at each situation on its own. Mr. Hoffman said he believed it was discretionary on everybody's part, to listen to the information and decide how they are going to handle it. He believes the Board has done a good job in doing that but he appreciates what Mr. Koeppel says because there is also value in that. Mr. Hoffman says he believes everybody listens to the information and the Board is trying to comply with the Town's codes in the best manner and fines are imposed in order to encourage compliance. When compliance is obtained, it is probably because of the severity of the fine. The value of a fine is all the Board can do and that has been successful. Mr. Koeppel said he does not disagree it has been successful in certain situations but he does not believe that imposing fines when there are things outside the control of the contractor/developer or other factors is accomplishing the intent of the ordinance.

Ms. Greenberg said there was just a case today where they did not follow the law so strictly and they are not unbending or inflexible. She believes the Board looks at each case individually. They still need to respect the fact that the law was the law, that if you were considered speeding at beyond 55 miles an hour and later on they changed it to 65, it was too

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bad. You knew that was the speed limit at the time and you broke the law. She believes the Board is doing a great job.

Mr. Hoffman said it is quite important and critical that the Town is changing their recommendations as far as a fine is concerned. If a fine is \$250.00 a day, people come in and ask for a reduction. If they charge a more realistic fine to encourage compliance, it makes it less likely that someone will come in and ask for an additional reduction. Their fine has been reduced in the beginning.

Mr. Fried remarked that he does not view the 30 month, 36 month time limits as ball park numbers, that they are what the Town Council adopted. They are the rules, the regulations and the law. He sincerely believes that 99% of the contractors that come on the island do the job in the allotted time frame. Woolems built Colonial Bank in 90 days and it convinces him anything is possible. You staff a project and put all the resources you need to do it and it gets done. If time limits are not imposed strictly, then the other contractors who are abiding by the rules are the ones penalized.

IX. Adjournment:

The meeting was adjourned without benefit of motion.