



TOWN OF PALM BEACH POLICE DEPARTMENT

A NATIONAL AND STATE ACCREDITED LAW ENFORCEMENT AGENCY



CODE ENFORCEMENT BOARD MINUTES 2:00 P.M. THURSDAY, SEPTEMBER 18, 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. Koeppel, Member
Larry Ochstein, Member
Catherine M. Duemler, Member
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 Kirk Blouin, 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

(Mr. Hoffman acknowledged the presence of Town Council President Kleid in the audience)

III. **Approval of the Minutes of August 21, 2008:**

**MOTION BY MS. GREENBERG FOR APPROVAL OF THE AUGUST 21, 2008
MINUTES
MOTION SECONDED BY MS. DUEMLER
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 # 08-2431, 434 Seaspray Ave., Christopher Kaufman
Violation of Chapter 18, Section 18-242, Subsection 1 (104.1.1) of the Town of Palm Beach Code of Ordinances, building permits required to construct, install, repair or alter any building or building system

Lead Code Enforcement Officer Robert Walton said this case had been before the Town Council and was deferred. The Town Council asked for further research as to whether AstroTurf would be acceptable as green space. Mr. Walton said the Town's recommendation is that this case be postponed until the Code Enforcement Board meeting immediately following the Town Council meeting which resolves the policy issue regarding artificial turf.

**MOTION BY MR. FRIED TO POSTPONE THIS CASE UNTIL THE CODE ENFORCEMENT BOARD MEETING IMMEDIATELY FOLLOWING THE TOWN COUNCIL MEETING WHICH RESOLVES THE POLICY ISSUE REGARDING ARTIFICIAL TURF.
SECONDED BY MR. OCHSTEIN
MOTION PASSED UNANIMOUSLY**

- B. Case # 08-2516, 313 ½ Worth Ave., # B2, David Clark
Violation of Chapter 114, Section 114-32 of the Town of Palm Beach Code of Ordinances, business tax receipt required

Code Enforcement Officer Nick Gerry presented the facts of the case and said the Town recommends the case be dismissed as it is now in compliance.

**MOTION BY MS. GREENBERG TO DISMISS THE CASE
SECONDED BY MS. VAN BUREN
MOTION PASSED UNANIMOUSLY**

- C. Case # 08-2524, 205 Worth Ave., # 121, Rubicon Insurance
Violation of Chapter 114, Section 114-32 of the Town of Palm Beach Code of Ordinances, business tax receipt required

Code Enforcement Officer Nick Gerry presented the facts of the case and said the Town recommends the case be dismissed as it is now in compliance.

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

- D. Case # 08-2529, 151 N. County Road, Green's Pharmacy and Rensor Realty Corp.
Violation of Chapter 42, Section 42-87 of the Town of Palm Beach Code of Ordinances, appurtenances such as driveways to be kept in a safe and good state of repair.

Code Enforcement Officer Bryant Weymer said this case was heard last month and postponed due to the fact additional drainage improvements were needed on the driveway project. The Public Works Department is now satisfied with the adjustments that were made and the Town recommends this case be dismissed for compliance.

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

- E. Case # 08-2533, 137 E. Inlet Drive, Elaine A. Hurwitz
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 and Chapter 86, Section 86-91, a storm water management plan is required.

Lead Code Enforcement Officer Robert Walton said this case also deals with Astroturf and the Town recommends it be postponed until the Code Enforcement Board meeting immediately following the Town Council meeting which resolves the policy issue regarding artificial turf.

**MOTION BY MR. KOEPEL TO POSTPONE THIS CASE UNTIL THE
CODE ENFORCEMENT BOARD MEETING IMMEDIATELY
FOLLOWING THE TOWN COUNCIL MEETING WHICH RESOLVES THE
POLICY ISSUE REGARDING ARTIFICIAL TURF.
SECONDED BY MS. DUEMLER
MOTION PASSED UNANIMOUSLY**

Ms. Duemler asked Mr. Kleid when this issue would be heard by Town Council. Mr. Kleid said Council had some insight into the issue, what parameters, if any, would be recommended and had sent it back to the Architectural Commission to work on a potential ordinance. It will come back to the Town Council but he estimated it would not be before December.

- F. Case # 08-2536, 324 Eden Road, John North
Violation of Chapter 42, Section 42-87 of the Town of Palm Beach Code of Ordinances, accessory buildings situated on the premises shall be kept painted and in a good state of repair

Code Enforcement Officer Bryant Weymer presented the facts of the case and said Mr. North, who is currently out of town, plans to do the entire exterior of the house and had requested more time to comply. Mr. Weymer said Mr. North plans to do the work when he returns to Palm Beach in October. Based on the fact Mr. North is currently out of town and plans to do more work than necessary to achieve compliance, the Board is being presented with a stipulation agreement. The agreement is a legally binding contract between the Town and the homeowner to achieve compliance. The compliance date set forth in the agreement is November 30, 2008. The contract has been approved for use and contains the notarized signature of Mr. North as well as Captain Blouin on behalf of the Town. The Town recommends a finding of non-compliance, a motion to accept the stipulation agreement with the terms and conditions therein and no administrative costs assessed. Mr. Hoffman asked Mr. Randolph if there was any need for the Board to read and review the document in order to approve it. Mr. Randolph said as long as the Board had the opportunity to see the document and had the recommendation of Staff, they could just make a motion to approve the recommendation.

MOTION BY MR. FRIED TO FIND THE VIOLATOR IN NON-COMPLIANCE,
ASSESS NO ADMINISTRATIVE COSTS AND ACCEPT THE STIPULATION
AGREEMENT
SECONDED BY MS. GREENBERG

During discussion on the motion, Mr. Fried asked Mr. Weymer to clarify that the fine did not start running unless the violator is not in compliance by November 30, 2008. Mr. Weymer said if Mr. North is not in compliance by November 30th, a fine would be considered after that date. Mr. Fried asked if any thought had been given to having the fine begin at an earlier period of time if Mr. North was not in compliance in November. Mr. Weymer said that had not been considered. Mr. Ochstein questioned whether or not the ordinances could handle a situation like this instead of a contract. He also said he did not understand why the Town would give up the administrative costs with all of the costs involved in the stipulation agreement. Captain Blouin addressed the Board, advising he thought the Board might have a few questions as this was the first time a stipulation agreement had been utilized. He said stipulation agreements are not new to code enforcement but are new to code enforcement in the Town of Palm Beach. Many other departments use stipulation agreements and they are very useful, especially in situations like this one. Generally, cases are not brought to the Board unless the offending party is uncooperative. The stipulation agreement is useful in a case like this one where the person is not in Town, they want to be compliant and we have every reason to believe they will get

the job done. In the past, without a stipulation agreement, we would be back at square zero if the violator did not come into compliance. Here, they are signing a

binding agreement and if they do not comply, they will be fined. Captain Blouin said he thought the stipulation agreement would be a very useful tool for Code Enforcement.

Mr. Koeppel asked for a clarification about the attached violation referenced in the stipulation agreement because the letter also referenced a second violation regarding landscaping and he wanted to make sure this does not become an issue. Mr. Weymer advised the stipulation agreement is strictly related to the disrepair of the garage because Mr. North came into compliance on the landscaping violation. Mr. Koeppel said he wanted to make sure this is reflected in the record. Mr. Fried asked Captain Blouin if the Board would see more of this type of arrangement in the future and if legal counsel was involved in putting the agreement together and Captain Blouin replied in the affirmative. Captain Blouin said when the police department took on Code Enforcement, he visited all of the local code enforcement units to learn about best practices. The stipulation agreement was highly recommended to him by code unit managers. He took the best ones from each agency, revised it and then sent it to Mr. Randolph for legal review and we are now in the process of implementing and using it. Mr. Fried asked if there were any charges incurred by Mr. Randolph reviewing and perhaps negotiating any of the terms of the agreements. Captain Blouin said Mr. Randolph will not review each stipulation agreement and he believed it would be unfair to apply costs to this case because it was the first time a stipulation agreement was used. He said the agreement is like any other form the department uses and he does not believe an administrative fee should be assessed. Mr. Fried asked if it could be possible in the future to have the fine start at the time the violation occurred if the individual did not come into compliance. He said it might add some incentive for the person to meet the deadline and the fine would only start earlier if the person did not meet the deadline in the stipulation agreement. Captain Blouin said that was a good question and referred it to Mr. Randolph. Mr. Randolph said if Mr. Fried was suggesting that the fine be retroactive as with other fines he would recommend the form be reviewed and amended in that regard. He said this agreement had already been negotiated and signed but we would look at addressing the retroactive fine in future documents. Mr. Koeppel said he believes it is appropriate for the Board to assess an administrative fee if someone is not in compliance and one of these agreements has to be utilized.

**MOTION BY MR. FRIED TO FIND THE VIOLATOR IN NON-COMPLIANCE, ASSESS NO ADMINISTRATIVE COSTS AND ACCEPT THE STIPULATION AGREEMENT
SECONDED BY MS. GREENBERG
MOTION PASSED UNANIMOUSLY**

- G. 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 presented the facts of the case and said the Town recommends the case be postponed. Mr. Fried asked the reason for the postponement and Mr. Gerry said the homeowner had contacted a roofer who was getting ready to start work. Mr. Gerry said the homeowner had showed good faith and the roofer was delayed due to circumstances beyond his control. Mr. Koeppel asked if there was a postponement date and Mr. Gerry said it would be the October 16, 2008 meeting. Ms. Van Buren questioned the safety of the roof as the photographs indicated the tiles may be loose. Mr. Gerry said the tiles were loose but the roofer assured him he was in the process of getting the permit and the work would begin in the next couple of days. Mr. Gerry said the roofer was going to remove the loose tiles immediately but it would probably be another week before the roof was re-tiled.

**MOTION BY MR. KOEPPEL TO POSTPONE THE CASE UNTIL
OCTOBER 16, 2008
SECONDED BY MR. FRIED
MOTION PASSED UNANIMOUSLY**

- H. 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

Code Enforcement Officer Nick Gerry presented the facts of the case and said it was brought to his attention by Tim Frank, the Planning Administrator. Mr. Frank told him the property was being painted without Landmark Commission approval. This property, a three story commercial building, is landmarked. The existing trim was green in color and was being painted black. The exterior color of the building was also being changed to a darker, tanner color than what was previously there. Mr. Gerry contacted the general manager of the property and told him they needed to get approval from the Landmark Commission and were in violation.

Tim Frank of the Landmarks Preservation Commission said he became aware the color of the building was being changed without the required approval. A red tag was issued but the work did not stop. The paint job was completed and the property was then cited by Code Enforcement. The Landmarks Preservation Commission met yesterday with representatives of the owner of the building and the contractor. It was agreed that the color palette, which was the original color of the building and the green trim, would be approved. The Landmark Commission is happy with the color palette and selection and the issue is how quickly they can return it to the original

condition and he would leave the decision of how much time to grant up to the Board.

Mr. Gerry said the Town recommends a finding of non-compliance, administrative costs in the amount of \$150.00 and the color of the building to be restored to its original condition or Landmark Commission approval obtained by October 13, 2008.

Fernando Villa, General Manager of the Bradley Park Hotel addressed the Board and said Mr. Levin, the President of New Bradley House and Mr. Craddock, the architect for the project met with Tim Frank yesterday and they went before the Landmark Commission. The Commission authorized Staff to approve the colors submitted, basically changing the trim color from the black to the original green. Mr. Villa estimated it would not take more than 30 days to complete this. Mr. Hoffman asked if the Commission accepted the current color of the building. Mr. Koeppel said he believed the color of the building now was a definite improvement. Mr. Randolph asked Mr. Gerry if the last part of his recommendation would be antiquated now because it was his understanding they had appeared before Landmarks yesterday and were turned down. Mr. Gerry said he did not believe they had Landmarks Commission approval yet and needed to restore the building to its previous color or get Landmark Commission approval. Mr. Frank said the request to change the color of the trim was denied at yesterday's meeting but the Staff recommendation was to approve the current paint color as this was the original approved color of the building (prior to it being repainted several years ago) but the trim had to be returned to green. The Bradley House had agreed to do that and that is the status at this point.

Mr. Koeppel said he would like to make a motion that the case be postponed to give them the 30 days recommended by Mr. Frank to return the trim to its proper green color. Ms. Duemler said she would second that motion. Ms. Van Buren said she would like to clarify what Mr. Randolph said, about the wording of the Town's recommendation. She believed it would be obsolete to have that last section in there. Ms. Van Buren questioned Mr. Gerry's recommendation that the building be restored to its original color. Mr. Gerry said that would be their choice, to either restore the building back to its original color or get Staff approval from Landmark Commission. Mr. Frank clarified the issue by advising that about four years ago, the color of the building was changed to a darker color than the yellow approved now. The yellow color that the building was recently painted was the original color before the change four years ago so the color is acceptable. The trim which is now black needs to go back to the original green.

Mr. Gerry said the Town does not want to postpone the case; they want a finding of fact and a 30 day order for compliance. Mr. Ballentine asked Mr. Gerry to clarify that he had also recommended administrative costs and pointed out this was not in the motion currently before the Board. Mr. Ochstein also asked that the motion include a finding of non-compliance and Mr. Koeppel agreed to modify his motion to include both the administrative costs and a finding of non-compliance. Mr. Fried asked that

the motion be repeated.

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 13, 2008 TO COME INTO COMPLIANCE

SECONDED BY MS. DUEMLER

MOTION PASSED UNANIMOUSLY

I. 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

Code Enforcement Officer Nick Gerry presented the facts of the case and said it originated from a citizen complaint. The dock, which was damaged during the hurricanes several years ago, is in severe disrepair with missing structural pieces and roughly about 20 feet of dock missing. There were also some electrical violations cited. That violation was just recently corrected as of September 2, 2008. The Town recommends a finding of non-compliance, administrative costs in the amount of \$150.00 and to give them until October 15, 2008 to comply by obtaining a permit, restoring the dock to its original condition and obtaining a final inspection.

Mr. Fried asked if it was possible to have the dock repaired by October 15, 2008 and Mr. Gerry said the homeowner has a permit application with the Building Department but it has been going back and forth with revisions. Mr. Gerry said it was a combination sea wall and dock repair and as of today, the permit had not been obtained. Mr. Gerry said because this case has been going on so long, the Town believes the October 15th day is fair. Mr. Duemler questioned whether new pilings would be needed and Mr. Gerry said he was not sure. Mr. Koeppel said he thought it would be more appropriate under the circumstances to give them 30 days from the time the permits were issued. Mr. Gerry said the problem with that is the case could go on for some time, that if this suggestion was approved, it could be another two months until they get a permit. Mr. Gerry said the Town was having problems with what the homeowner was submitting. Mr. Koeppel said maybe it would be appropriate to give them thirty days to get a permit and then have them come back to the Board because he was not sure where the fault lies. Mr. Fried wanted to know if the dock was secure and Mr. Gerry said it was. Mr. Gerry said the permit application was submitted August 27, 2008 and that is how long this has been going on. Mr. Koeppel said dealing with docks was sometimes complicated and asked Mr. Taylor if he could clarify the issue. Jeff Taylor, Building Official, said the permit application for the construction was in and currently was in Public Works. There had been some Public Works issues but he believed they had everything else they needed. There was also an issue with the sea wall and it was going to be raised two feet and they were

putting some membrane east of the seawall to keep soil from eroding through the sea wall.

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 16, 2008 TO OBTAIN A PERMIT, AT WHICH TIME THE BOARD WOULD DETERMINE THE AMOUNT OF TIME NEEDED FOR COMPLIANCE TO BE ACHIEVED
MOTION FAILED FOR LACK OF A SECOND

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 15, 2008 TO COME INTO COMPLIANCE
SECONDED BY MR. OCHSTEIN
MOTION OPPOSED

During discussion on the motion, Mr. Ballentine said there was more than one dock along the lake trail that was in disrepair and needed to be addressed. Mr. Gerry said Code Enforcement had actively enforced the area and several docks had been cited. Ms. Duemler thought it was harsh to require the work to be completed by the next meeting because dock repairs took quite awhile and the sea wall was also being reinforced. Mr. Taylor said the sea wall repair did not have anything to do with the dock even though it was on the same permit. Ms. Duemler asked Mr. Taylor if he believed thirty days was a reasonable amount of time to do the work and he said he did not, that it was going to take longer than that.

ROLL CALL VOTE:

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

MOTION FAILED 4-3

Captain Blouin addressed the Board and said he wanted to offer additional information that Mr. Gerry did not mention to help the Board make its decision.

Captain Blouin said he had personally visited this property and looked through all the case files. He said the homeowners could not be considered a repeat violator by classification of the law under Chapter 162 but were habitual violators. There are violations going back to the year 2000 and almost every year since then. Part of the reason the work has not been completed up to this point is because they have been

argumentative with the Town staff, particularly the Town's engineers on what they need to do to come into compliance. This work should have been done several months ago and he would like to see some forward progress on the homeowner's part.

Mr. Hoffman said his concern was that the homeowner had no control on when a permit would be issued. He believed if the Board could be assured of a specific time, then they could come to some conclusion as to how long they would give the homeowner to have the work completed. Mr. Taylor said the Town has specific requirements for the issuance of a permit and there are multiple reasons why one would not be issued. If a person has all of their "ducks in a row", a permit will be issued in a timely manner. This permit has come back in three or four times for corrections. Mr. Hoffman wanted to know how the Board could insist on a specific time for the homeowner to receive a permit. Mr. Taylor said as far as he knew the permit was on the verge of being issued but could not be issued until the homeowner met the requirements. Mr. Taylor said a permit is generally issued within 10 days if all the information is received. Mr. Vanneck wanted to know when the condition of the dock first came to the Town's attention. Mr. Gerry said it was July 29, 2008. Ms. Van Buren wanted to know if this dock is connected to the house which appears to be abandoned and has a broken down fence that has been that way for years and Mr. Gerry said it was. Ms. Van Buren said she regularly walks the trail and in her opinion, it was dangerous on both sides of the trail because of the disrepair of the stone wall in front of the property with a gate that has been broken many times. She said there have been wood planks on the trail and there is also the poor condition of the sea wall and dock. The whole section there is quite dangerous. Mr. Ochstein said if a person has a history of non-compliance, he does not believe the Board should let it go on and on and he would be happy to make the motion again to accept the Town's recommendation. Ms. Greenberg requested that information such as someone being habitual be noted when the case was being presented and she would like to change her vote based on this new information. Mr. Fried said he believed the property owner did have some control over the issuance of a permit by being cooperative and providing full information. Mr. Fried said in light of this new information, he believed it was even more compelling to put as tight a time frame as they possibly can on the owner to perform. They always have the opportunity to postpone the imposition of a fine if the property owner demonstrates good faith and willingness to comply. He thinks this is a case where they need to put some incentive behind the property owner to come into compliance.

Mr. Taylor said he had just checked the permit for Atlantic Seawall and Dock and it was approved by Public Works and returned to the Building Department this

morning. He said it should be issued tomorrow. Mr. Koepfel said this made things a lot easier but he is concerned that the permit is for the dock as well as the seawall and he does not know how this will affect their ability to have a timeframe for compliance if they are tied together. Mr. Koepfel said he did not believe they could get a CO on one without the other. Mr. Taylor recommended the Board set a date and they would have a list of all of the inspections called in, the dates, the times, and

the results and if the homeowner then asked for a reduction in fine, the Board could take that into consideration. Mr. Koeppel asked if the dock could be done before the seawall was completed and Mr. Taylor said it could. Mr. Hoffman asked Mr. Taylor if he felt October 15th was too soon for the work to be completed and Mr. Taylor said it would be hurried but possible for the dock itself, with the permit ready tomorrow.

MOTION BY MR. OCHSTEIN TO ACCEPT THE TOWN'S RECOMMENDATION

Mr. Randolph asked if this was the previous motion and Mr. Ochstein said it was. Mr. Randolph requested parliamentary rules be followed and the first motion be reconsidered. Mr. Randolph said the prevailing side of the motion should make a motion to reconsider and then the motion could be voted on. Mr. Koeppel asked if he could hear the Town's recommendation again. Mr. Gerry said the Town recommended a finding of non-compliance, administrative costs in the amount of \$150.00 and the homeowner to obtain a permit, restore the dock and get a final inspection by October 15, 2008.

MOTION BY MS. GREENBERG TO RECONSIDER THE PREVIOUS MOTION

Mr. Randolph said the permit was not going to be received because the sea wall was tied in with it. A motion for reconsideration was not needed, if the motion was modified a bit to make sure it applied simply to the dock. Mr. Fried said he made the motion and he would be happy to revise it.

**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 15, 2008 TO COME INTO COMPLIANCE ON THE DOCK
SECONDED BY MR. OCHSTEIN
MOTION PASSED UNANIMOUSLY**

J. 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

Code Enforcement Officer Nick Gerry presented the facts of the case and said he drove up on this particular property on his normal patrol of the Town and found a worker installing a window on the second story of the home. He stopped and asked if they had a permit and was told they did but he checked with the Building Department and found out they did not. He issued a notice to appear to the contractor, DTI of South Florida with the option of paying a \$250.00 fine. He also

advised them to obtain a building permit. DTI did pay the \$250.00 fine. Mr. Gerry did a follow up on this property and found out a building permit was never obtained. Mr. Gerry said he spoke with the property owner, Mr. Frankel who told him the contractor had been into the Building Department several times and was trying to get an expedited permit. The Building Department said they had to send the application back twice, once on September 8th and again on the 15th for changes. As of today's date, there is no permit issued or any inspections for the window. The Town recommends a finding of non-compliance, administrative costs in the amount of \$150.00 and for the homeowner to come into compliance by obtaining a building permit and final inspection by September 26, 2008.

MOTION BY MS. GREENBERG TO FIND THE VIOLATOR IN NON-COMPLIANCE, ASSESS ADMINISTRATIVE COSTS IN THE AMOUNT OF \$150.00 AND GIVE THEM UNTIL SEPTEMBER 26, 2008 TO COMPLY
SECONDED BY MR. FRIED
MOTION PASSED UNANIMOUSLY

- K. Case # 08-2541, 50 Cocoanut Row, Suite 115, McCarty Consulting
Violation of Chapter 114, Section 114-31 and 114-32 of the Town of Palm Beach Code of Ordinances, business tax receipt required

Code Enforcement Officer Gerry presented the facts of the case and said the Town recommends the case be dismissed as it is now in compliance.

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

- L. Case # 08-2542, 246 Worth Ave., Palm V Assoc Ltd.
Violation of Chapter 42, Section 42-87 of the Town of Palm Beach Code of Ordinances, properties to be maintained in good condition and appurtenances such as awnings to be maintained in a good state of repair.

Code Enforcement Officer Gerry presented the facts of the case and said the Town recommends the case be dismissed as it is now in compliance.

MOTION BY MS. DUEMLER TO DISMISS THE CASE

SECONDED BY MR. FRIED
MOTION PASSED UNANIMOUSLY

- M. Case # 08-2543, 367 S. County Road, PBI, 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

Code Enforcement Officer Nick Gerry presented the facts of the case and said the violation was discovered during normal patrol of the Town. After being cited, the property manager tried to put some screening in but it had not met code requirements. John Omanony was present and said he was one of the owners of the building and he was unaware of the requirement for screening because this was the first time he had a tenant leave in the three years he had owned the building. In addition to the Code, it also has to pass Landmark status and he has been working with Mr. Frank. He said he would take care of the issue immediately. The Town recommends a finding of non-compliance, administrative costs in the amount of \$150.00 and they be given until September 26, 2008 to come into compliance. Mr. Frank said this building, the Palm Beach Historic Inn, has been working with the Landmarks Preservation Commission on the upgrade of their building. Mr. Frank said the whole building has a very complex reconstruction program with many specific details involved in it, most of which have met the approval of the Landmarks Commission. Mr. Hoffman noted this case was dealing strictly with the store window. Mr. Frank said he has instructed Mr. Omanony how to correct this and has looked at Mr. Omanony's proposal and believes it is approvable.

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 26, 2008 TO COME INTO COMPLIANCE

SECONDED BY MR. OCHSTEIN

MOTIONED PASSED UNANIMOUSLY

N. Case # 08-2544, 174 E. Inlet Dr., Spots Inc.

Violation of Chapter 42, Section 42-87 of the Town of Palm Beach Code of Ordinances, properties to be maintained in good condition and appurtenances such as driveways to be maintained in a good state of repair.

Code Enforcement Officer Bryant Weymer presented the facts of the case and said the Town recommends the case be dismissed as it is now in compliance.

MOTION BY MR. KOEPEL TO DISMISS THE CASE

SECONDED BY MS. GREENBERG

MOTION PASSED UNANIMOUSLY

O. Case # 08-2545, 1220 N. Ocean Blvd., Jeffrey J. Lorenz

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

Code Enforcement Officer Bryant Weymer presented the facts of the case and said the violation was discovered during proactive patrol in the north end. The certified receipt green card was never signed for so the property was posted. There has been no contact from anyone regarding the violation and Mr. Lorenz has no contact information on file with the police department. The Town recommends a finding of non-compliance, administrative costs in the amount of \$150.00 and the violator given until September 26, 2008 to come into compliance.

MOTION BY MR. OCHSTEIN TO FIND THE VIOLATOR IN NON-COMPLIANCE, ASSESS ADMINISTRATIVE COSTS IN THE AMOUNT OF \$150.00 AND GIVE THEM UNTIL SEPTEMBER 26, 2008 TO COMPLY
SECONDED BY MS. VAN BUREN
MOTION PASSED UNANIMOUSLY

- P. Case # 08-2546, 1241 N. Lake Way, Isabelle H. De Tomaso
Violation of Chapter 42, Section 42-87 of the Town of Palm Beach Code of Ordinances, walls, gates and fences situated on the premises shall be kept in a safe and good state of repair.

Code Enforcement Officer Bryant Weymer presented the facts of the case and said the Town recommends the case be dismissed as it is now in compliance.

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

- Q. Case # 08-2547, 250 Bradley Place, # 701, Marianne Chopp
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 it was referred to Code Enforcement by the Building Department. A permit was obtained to put a floor down but when the building inspector went to the apartment, he found the apartment gutted but the only permit was for the floor. A remodeling

permit is required but no further permits have been obtained. A boyfriend or fiancée of Ms. Chopp contacted him and said the work was being done by a friend and they thought permits were obtained and they would get them. The Town recommends a finding of non-compliance, administrative costs in the amount of \$150.00 and they be given until September 26, 2008 to come into compliance. Ms. Greenberg asked if this was a multi-family dwelling and Mr. Walton said it was. She asked if there was anything unsafe and Mr. Walton said the building inspector did not note anything and he had also done a personal inspection and found the wires and the plumbing properly capped. Ms. Greenberg said, as a Board, they need to be very stringent

regardless of whether it is dangerous or not so people understand the importance of pulling permits. Mr. Ochstein said Ms. Chopp is a local realtor and should know she needed a permit and therefore, he would support the Town's recommendation as a motion. Mr. Hoffman asked him to hold his motion until the discussion was finished. Ms. Duemler asked if Ms. Chopp was a repeat offender and Mr. Walton said, to his knowledge, she was not. Mr. Koeppel asked Mr. Walton to clarify his recommendation as he did not believe Mr. Walton was suggesting the project be completed by September 26, 2008, just that the permits be obtained. Mr. Walton said his recommendation was that all required permits and inspections be obtained by September 26, 2008. Mr. Taylor said no application for a permit had been received by the Building Department. Sgt. Krauel advised the compliance date discussed by Staff prior to the meeting was October 13, 2008 and this correction might alleviate some of the Board's concerns. Mr. Koeppel said this date sounded more reasonable.

MOTION BY OCHSTEIN TO FIND THE VIOLATOR IN NON-COMPLIANCE, ASSESS ADMINISTRATIVE COSTS IN THE AMOUNT OF \$150.00 AND GIVE THEM UNTIL OCTOBER 13, 2008 TO COME INTO COMPLIANCE

SECONDED BY MS. DUEMLER

MOTION PASSED UNANIMOUSLY

- R. Case # 08-2548, 456 S. Ocean Blvd., Charley's Crab and BCD Investors LTD
Violation of Chapter 38, Section 38-35 (b) of the Town of Palm Beach Code of Ordinances, burglar alarm fines not paid within thirty (30) days of billing.

Lead Code Enforcement Officer Robert Walton presented the facts of the case and said the unpaid outstanding alarm fines totaled \$4075.00. Scott Tompkins, General Manager of Charley's Crab, was present and addressed the Board. He said part of the problem was eight of the alarms were incurred within a one week period, two in one day, three the next day and then one a day for the next three days. They had a problem with their original alarm company not notifying them prior to the police being dispatched. They have since corrected that internally. He also spoke to Mary McQuaig about a direct connect agreement with the Town which he was unaware of prior to this. He assured the Board that this agreement coupled with the rectified

situation with the alarm equipment will save them both the embarrassment of the false alarms and from burdening the police department. He is requesting the fines be reviewed and possibly reversed. Mr. Tompkins said he had spoken to Mr. Walton, Ms. McQuaig and Major Elmer Gudger about the fines and was told the only course he had to get the fines reduced was to appear before the Board. Mr. Walton said the Town recommends the Board consider the testimony they are being presented with and make the decision in this case. The Town has no recommendation except for a finding of non-compliance and costs in the amount of \$150.00. Ms. Duemler asked if there was anything unusual going on the week of all of the alarms and Mr. Tompkins said there were several power surges which knocked out a couple of

pieces of equipment and their alarm company was negligent in promptly taking care of it. Mr. Tompkins said they have replaced that company. Mr. Koepfel asked what time the alarms went off and Mr. Tompkins said it was the early morning hours and there was no one in the building at the time. Mr. Koepfel asked if the alarms were audible and Mr. Tompkins said they were silent. Sgt. Krauel said an alarm is a two man response and it is very resource intensive, especially at 3:00 or 4:00 in the morning when the police department is at minimal staffing. There is a fixed post on Worth Avenue and that post would be vacated to respond to Charley's Crab and he asked the Board to take that into consideration when they made any fine reductions. Captain Blouin said the Town would certainly consider a fine reduction as it appears there was a small period of time where most of these alarms occurred and the Board could decide whether it was reasonable to hold them accountable. Captain Blouin said he did want to take the opportunity to put on his "police officer hat" and do a public service announcement for direct connect. Captain Blouin said an alarm is usually delayed by the time the police department gets the call and he believes a good majority of the business burglaries would have been solved if those businesses had direct connect. The police department would have caught them in progress rather than spending thousands of hours in investigative work. With direct connect, which is only for business alarms, the alarm goes directly to the police department and there is a very fast response time.

Mr. Ochstein said Charley's Crab is a good corporate citizen and he believed the proper response would be to find them in non-compliance, an administrative fee of \$150.00 and no fines, and if they come back again, they would be a repeat offender. Mr. Koepfel asked if the property owner is aware of police response to their property on an alarm. Sgt. Krauel said the police respond, check the building and then a notification is made to the property representative and this is documented and recorded each and every time. Sgt. Krauel said the police cannot distinguish what may be a false alarm so they have to respond to every alarm. Mr. Koepfel wanted to know if the property owner would be aware the police have been out each of the respective times and Sgt. Krauel said the protocol is to make contact with the property representative every time. If they are unable to make contact, a police report is filed and there is follow up by the detective bureau who makes contact with the property representative. Mr. Koepfel asked if it would be fair to assume that after the second or third or fourth time, they would have been aware there was a problem.

Sgt. Krauel said they would have been aware of it after the first alarm and every one subsequent to that. Mr. Koepfel said that troubled him. Ms. Duemler asked Mr. Walton to run through the various fines and what the charges would be for each. Ms. Van Buren said she also agreed that Charley's Crab had been a good corporate neighbor but it concerned her that officers would have to leave their assigned post to respond to this situation which could potentially put other businesses in jeopardy. She said she was in favor of a fine reduction but not a complete and total one. She said she favored a reasonable reduction but there should be some kind of fine. Mr. Koepfel said he believed that with eight occurrences, the business had to know there was a problem. Mr. Tompkins said he was not aware of the fines being assessed

because the information goes to a corporate office in Houston, Texas and he did not get it until weeks later. They were trying to rectify the problem that week but unfortunately, their company could not rectify the issue. They were told to reset the alarm and every time they reset it, it went off again. They were trying to be diligent to rectify the problem. In over 20 years in business, they have not had that many false alarms.

MOTION BY MR. KOEPPEL TO FIND THE VIOLATOR IN NON-COMPLIANCE, ASSESS ADMINISTRATIVE COSTS IN THE AMOUNT OF \$150.00 AND ORDER THEM TO PAY A FINE OF \$1000.00 BY SEPTEMBER 26, 2008

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

ROLL CALL VOTE:

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

MOTION PASSED 6-1

- S. 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 presented the facts of the case and said the property owner contacted him and advised he was in Hong Kong and asked for more time as he would be in town the end of October. The Town recommends a finding of non-compliance, administrative costs in the amount of \$150.00 and they be given until September 26, 2008 to come into compliance. Ms. Duemler asked if paper could be placed on the windows of vacant stores and Mr. Walton said that was not permitted. He said the ordinance was specific about how the window needs to be blocked; it has to be a minimum of 40 inches back with some type of screening. There is also a requirement that some type of decoration be on the window although “coming soon” and “for rent” signs have been allowed in the past. Ms. Duemler inquired if the Worth Avenue Association had a set of rules for stores that vacate like this and Mr. Walton said he did not know, that this is the Town’s rule. Mr. Vanneck

said there seemed to be a lack of communication between the store owners/renters and the Town when they are re-doing a store, as to what they can do with the window. Mr. Vanneck said there is a lack of understanding by people who are renting a space as to what they can or cannot do when the store is vacant and they are afraid to do anything without someone's approval. Mr. Hoffman asked Mr. Walton what the procedure was when someone is found in non-compliance. Mr. Walton said he usually gives them a copy of the ordinance and tries to get contact information. Mr. Vanneck asked for a copy of this ordinance and Mr. Walton said he would provide it.

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 26, 2008 TO COME INTO COMPLIANCE

SECONDED BY MR. OCHSTEIN

MOTION PASSED UNANIMOUSLY

- T. Case # 08-2550, 155 Hammon Ave., The Colony Hotel, Inc.
Violation of Chapter 134, Section 134-326 of the Town of Palm Beach Code of Ordinances, alteration of the use of any land allowed in a zoning district as a special exception use requires Town Council approval of the site plan

Lead Code Enforcement Officer Robert Walton presented the facts of the case and said it originated from a citizen complaint. He said he made personal contact prior to sending the warning letter. The case involves moving dumpsters without prior approval. He said he received a letter from the general manager asking for additional time so they could apply to Council for a variance but he believed the case should be brought forward. The dumpsters were on the north side of the building in an alley and they are now located on the east side of the building and are visible from the street. The Town recommends a finding of non-compliance, administrative costs in the amount of \$150.00 and they be given until October 15, 2008 to come into compliance. Christopher Benvenuto of Gunster & Yoakley was present on behalf of the Colony along with Roger Everingham, General Manager of The Colony Hotel and Karen Knier, Assistant General Manager. Mr. Benvenuto said a special exception

is required to keep the dumpsters where they are, which requires Town Council approval and that could not be obtained within the time frame required by the violation notice. The Colony wants to file for that application and obtain approval. Mr. Benvenuto said in the past couple of years, the Colony has doubled the size of their business and he presented some photographs to the Board. The area where the dumpsters were located two years ago is a very narrow alleyway and there were problems with the sanitation pickup which occurred on a daily basis because of restaurant deliveries blocking the area. The second issue is that the colony has gone with a green movement and has installed some recycling efforts, including a trash compactor and recycling receptacle bins. The dumpsters were moved about two years ago and are guarded and shielded from view by a ficus hedge and foliage. The Colony would like to work with the Town to obtain a special exception approval to

allow the dumpsters to remain where they are. Their request today is to postpone the time for compliance until they can be heard by Town Council, which will be in approximately two months. They will be happy to come before the Board next month and advise the Board of the status of the application. Mr. Hoffman asked what they would do with the dumpsters if Town Council did not give them the variance they are requesting. Mr. Benvenuto clarified it was a special exception, not a variance. Mr. Everingham said if that happened, they would have to relocate the dumpsters, with some difficulty, back to the area where they were before. There is really no other place on the property to put them. When they made this move two years ago, they had no idea they had to apply for any kind of exemption to move something on their own property. Since then, they have reconstructed that whole original driveway area which actually improves the looks of it. The area is now more constricted and they have also added a cardboard compactor. Their business has doubled in the last four or five years so they have much more activity in and out of that constricted area. They were trying to make it easier for the Town's trucks to get in there on a daily basis to the dumpsters. Ms. Duemler asked if there was a residential apartment next to where the dumpsters are now located and Mr. Everingham said it was a condominium that is under construction. Ms. Duemler asked what would happen when someone lives there and opens their window and if there would be an odor. Mr. Everingham said they would see a ficus hedge and the dumpsters are changed daily. Mr. Fried asked if the dumpsters could be seen from Hammon Ave. and Mr. Walton said they are screened if you are directly in front of them or east of them, but if you are walking west on Hammon and look back over your shoulder, they are visible. Mr. Fried asked if there was a drainage system along the road where the dumpsters are now located and Mr. Everingham said there was. He said he believed it ran parallel to Hammon Ave. Mr. Fried asked if the neighbors would be notified when the special exception was applied for and Mr. Benvenuto said they would be and would be allowed to appear and object. Mr. Fried said he did not believe the issue of whether or not it would affect the neighbors could be taken lightly and he believed neighbors living on the second floor or higher would be able to see the tops of the dumpsters. Ms. Duemler also asked about the noise from the opening and closing of the dumpsters. Mr. Walton said the dumpsters had the plastic tops not the metal ones. Mr. Koepfel said it would be up to Town Council to decide

whether or not it would be appropriate to have the dumpsters located there and the Board should find them in non-compliance, assess administrative costs of \$150.00 and give them 60 days to make their application and see if they get heard before Town Council or let them come back and tell the Board what the status is. Ms. Van Buren asked Mr. Walton if there would be any rationale in asking the Colony to put the dumpsters back to where they were in the interim until the issue is resolved. Mr. Walton said the Board could make that part of their order. Mr. Benvenuto said he would like to point out that there is no one currently living in the building next to the dumpsters and the building would probably not be completed for the next four or five months. Ms. Van Buren said this raised the question of the notification of neighbors who would have the opportunity to come and object. Mr. Benvenuto said the property owner would be notified during this process. He said he was just pointing out that the apartments are not occupied at the present time and there are no residents

to be bothered right now. Mr. Hoffman said if someone moved there in the future, they would be moving into a pre-existing condition and Ms. Van Buren said that was what was troublesome. Mr. Koeppel said the developer would be notified and he was obviously going to appear at that hearing if he thought it would affect his project. Mr. Walton said the developer had already complained to him about the location of the dumpsters.

**MOTION BY MR. KOEPPEL FIND THE VIOLATOR IN NON-COMPLIANCE, ASSESS ADMINISTRATIVE COSTS IN THE AMOUNT OF \$150.00 AND GIVE THEM UNTIL NOVEMBER 19, 2008 TO COMPLY
SECONDED BY MS. GREENBERG
MOTION PASSED UNANIMOUSLY**

- U. 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 presented the facts of the case and said the violation was discovered during a routine inspection. The property appears to be abandoned. Mr. Walton said he had been by the property yesterday and nothing has been done. Mr. Brandon's brother-in-law had been in contact with him and said he was trying to maintain the property as the property owner is out of the country. The Town recommends a finding of non-compliance, administrative costs in the amount of \$150.00 and they be given until September 25, 2008 to come into compliance. Ms. Greenberg said having property neglected like this in Palm Beach is not esthetically pleasing and there could be hazards such as the unsanitary swimming pools and the electrical disrepair.

**MOTION BY MS. GREENBERG TO FIND THE VIOLATOR IN NON-COMPLIANCE, ASSESS ADMINISTRATIVE COSTS IN THE AMOUNT OF \$150.00 AND GIVE THEM UNTIL SEPTEMBER 25, 2008 TO COMPLY
SECONDED BY MR. KOEPPEL
MOTION PASSED UNANIMOUSLY**

- V. Case # 08-2552, 235 Sunrise Ave., C.J.'s Simply Gourmet Catering, Inc.
REPEAT Violation of Chapter 114, Section 114-31 and 114-32 of the Town of Palm Beach Code of Ordinances, business tax receipt required

Sgt. Curtis Krauel presented the facts of the case and said the Town recommends this case be dismissed as a business tax receipt was issued to the business on August 7, 2008 prior to the issuance of the Notice of Violation.

MOTION BY MR. FRIED TO DISMISS THE CASE

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

Mr. Koepfel wanted the Board to be aware this business has other significant outstanding fines although they had no choice in this case but to dismiss it.

VII. Fine Consideration:

- A. Case # 08-2507, 3450 S. Ocean Blvd., # 203, Antonio Manente
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 said the property owner was found in non-compliance at the June, 2008 hearing, assessed administrative costs in the amount of \$150.00 and given until September 17, 2008 to comply. Mr. Walton said they got their final inspection on September 17, 2008 and no further action is necessary.

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

- B. 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 said the violator was found in non-compliance at the August meeting and given until September 15, 2008 to achieve compliance by either removing the gate or obtaining a building permit. They have applied for the permit and both he and Captain Blouin have spoken with the architect and recommend the Board give them another 30 days to resolve the matter. The issue is complicated as it involves an easement and another property and he would like to give them until October 15, 2008 to comply. Captain Blouin said this case is a little more difficult because it is not just the matter of getting a permit. The architect left a message for him yesterday that both neighbors are in agreement, however there are some issues they need to work out and as long as they can get the permits, it should be resolved.

**MOTION BY MR. KOEPEL TO GRANT ADDITIONAL TIME FOR COMPLIANCE, UNTIL OCTOBER 15, 2008
SECONDED BY MS. DUEMLER**

MOTION PASSED UNANIMOUSLY

- C. Case # 08-2531, 624 Island Drive, Laura Baxter
Violation of Chapter 18, Section 18-241 of the Town of Palm Beach Code of Ordinances, adoption of the Florida Building Code, Chapter 15, Section 1503.1, roofs must be maintained to afford weather protection

Lead Code Enforcement Officer Robert Walton said this homeowner was found in non-compliance in August and was given until September 15, 2008 to complete the roof. They have had problems with their contractor and most of the roof is on. The administrative costs have been paid. The Town recommends an extension of time, until October 15, 2008 to come into compliance.

**MOTION BY MR. FRIED TO GRANT ADDITIONAL TIME FOR COMPLIANCE, UNTIL OCTOBER 15, 2008
SECONDED BY MR. KOEPPEL
MOTION PASSED UNANIMOUSLY**

- D. Case # 08-2534, 240 Park Ave., Park Avenue Palm Beach LLC
Violation of Chapter 46, Section 46-66 of the Palm Beach Code of Ordinances, adoption of the NFPA 1 and the Florida Fire Prevention Code which requires all fire protection systems to be maintained in service in buildings and Chapter 46, Section 46-71, duties imposed upon occupants of buildings and premises by the fire prevention code are also imposed upon the owners of vacant buildings

Lead Code Enforcement Officer Robert Walton said there was a finding of non-compliance at the last meeting and there is also a previous fine running against the property. Costs of \$150.00 were assessed which have not been paid. The property was given one day to comply based on the severity of the violation. The Town

recommends a fine of \$250.00 a day, commencing on August 23, 2008 and continuing until compliance is achieved. Mr. Fried asked Captain Blouin how the issues were getting resolved on this property. Captain Blouin said he read all of the Town ordinances governing situations where the Town has to come in and take action, whether it is to make repairs or demolish the building. Although there are Code issues, it is a Building Department issue by matter of law because you need someone certified or licensed as a building official to be able to testify a situation is dangerous. Therefore, any action by the Town would be through the Planning, Zoning and Building Department. The matter was discussed with Jeff Taylor but Captain Blouin does not know if Mr. Taylor has contacted Mr. Randolph. There is information that needs to be compiled and presented to the Council such as the costs involved, the type of repairs needed, and whether it is dangerous to the point the Town should incur the costs. In this case, the property owner probably owes more to the bank than their equity in the property so the Town would probably not recoup what it would cost to make the repairs to the property. The actual process of condemning a building or fixing it up is done by the Building Department. Mr.

Taylor said there are no valid permits on the job and there is no activity to pull a valid permit. The Town is exploring all options as to the disposition of this property but that falls outside the consideration of the Board at this time. A fine consideration would certainly be appropriate in this case so the Town can have "all guns aimed at this property". It is the purview of the Building Official to do the condemnation of unsafe properties. He is trying to obtain information and talk to other departments in the Town as to the best way to proceed should they decide to take this step. It is a high priority situation. Captain Blouin said the Town Council makes the final decision based on what is presented to them by Town Staff.

MOTION BY MR. KOEPPEL TO IMPOSE A FINE OF \$250.00 A DAY COMMENCING AUGUST 23, 2008 AND CONTINUING UNTIL COMPLIANCE IS ACHIEVED.

SECONDED BY MS. VAN BUREN

During discussion on the motion, Mr. Fried asked if \$250.00 a day was the maximum fine that could be imposed and Captain Blouin said it was. Mr. Fried said he would like to go on record to urge Mr. Taylor to put some sort of remedy in motion to protect the neighbors from what could, conceivably, be an unsafe situation. Ms. Greenberg asked if the Town could foreclose on the property. Captain Blouin said the property could be worth less than what is owed on the mortgage and the mortgage company is the first lien holder so the Town would not have the ability to collect.

MOTION BY MR. KOEPPEL TO IMPOSE A FINE OF \$250.00 A DAY COMMENCING AUGUST 23, 2008 AND CONTINUING UNTIL COMPLIANCE IS ACHIEVED.

SECONDED BY MS. VAN BUREN

MOTION PASSED UNANIMOUSLY

VII. Fine Reduction:

- A. Case # 08-2517, 2270 E. Ibis Isle Road, Mark Remson Trust
Violation of Chapter 42, Section 42-86, of the Town of Palm Beach Code of Ordinances, properties are to be maintained in good condition

Lead Code Enforcement Officer Robert Walton said Mr. Remson was present to ask for a fine reduction. The amount owed is \$650.00. Mr. Walton said the property has been brought to the Board several times in the past as Mr. Remson has not kept it mowed with the regularity the Town requires. Mr. Walton said Mr. Remson is current with all the old fines. Mr. Remson said he has been tardy in the past but always compliant. He first became aware of this violation when the property was posted and was not aware of the severity of the fine for the second offense. Mr.

Remson said he has hired a full time person to maintain the property on a routine basis. He feels he was innocent but convicted for this last offense as he did comply prior with the date in the letter but he does take responsibility for his tardiness and would like to ask for a fine reduction. Mr. Hoffman said he goes by the property often and did note that Mr. Remson makes an attempt to clean up the property after being notified. Mr. Hoffman said he hopes that from this point on, the Town does not have to contact Mr. Remson anymore and that he will keep the property in good shape and in compliance with the Town codes. Mr. Koeppel asked Mr. Remson if he has hired someone now on a regular basis and Mr. Remson said it was the Lawn Ranger. Mr. Remson said he needed someone mostly in the summer, not the winter months but he was going to take out a couple of trees on the property and have a survey done and had some plans for the property. Mr. Hoffman suggested Mr. Remson might also need someone for the property in the winter because Mr. Walton should not have to keep checking on it all the time. Mr. Remson said Mr. Walton had been very understanding and considerate.

**MOTION BY MR. KOEPPEL TO REDUCE THE FINE TO \$400.00
SECONDED BY MR. FRIED
MOTION PASSED UNANIMOUSLY**

VIII. Comments:

Mr. Vanneck said he noticed last week the Board saw a lot of requests for fine reductions. He said he saw a lot done for the developer and not so much for the property owner. He thought the Board should think about giving developers a big benefit as opposed to a property owner.

(Mr. Koeppel left the meeting at 4:21 p.m.)

Mr. Hoffman told Mr. Vanneck that when this subject came up next time, the Board would be interested in hearing his comments and asked Mr. Vanneck to please participate in the discussion.

Ms. Greenberg asked about the unpaid Code Enforcement Board fines and said she noticed that some of the large ones were not homesteaded. Captain Blouin said about six cases were being looked at and we are currently working with one that was planned for foreclosure but the fine has probably exceeded the value of the home. Once the case was looked at, it was decided that moving for foreclosure was not the right thing to do. Letters are being sent out to some of the others notifying them we intend to bring them before the Board. Captain Blouin said he also recently became aware of some information and he was going to call Mr. Randolph to verify it. Captain Blouin said he was told that just because a property is not homesteaded on the property appraisers office for tax purposes does not legally mean it is not a homestead. Technically, under the law, the property is considered a homestead if the person lives in the house for a majority of the time, whether or not they file for the tax exemption. With the exception of a few properties on the list, the rest are homesteaded. We have liens against the property and although we might want to collect the liens as soon as

they are incurred, that is not what the law allows us to do. The liens eventually get paid as the person either wants to sell the house or a family member inherits it and cannot sell it with a lien on the title.

Mr. Ballentine asked if there might be a benefit on the fine report to list the fines that were paid in the previous 30 days. Captain Blouin said we could do that and Recording Secretary Houston said she would provide that information next month.

Mr. Fried asked Mr. Randolph if there had been any progress in getting the foreclosure procedure back to the Code Enforcement Board. Mr. Randolph said he had asked but had not received any favorable comments. Mr. Fried asked if he should take that as a “no” and Mr. Randolph replied in the affirmative.

Mr. Hoffman said he wished Mr. Koepfel was present for his comments because it is very difficult for people who want to make comments to get cut off by having a motion presented too quickly. He believes it would be more appropriate if everyone had a chance to ask questions and have as much discussion as necessary. He will then call for a motion after the discussion is finished. Mr. Hoffman said he hopes this message gets to Mr. Koepfel because Mr. Koepfel is so prompt with his motions. Mr. Hoffman then asked Captain Blouin about contractors who are doing work without permits. Mr. Hoffman said these contractors certainly know when a permit is required and asked if their names could be presented to the Board of Professional Regulation. Captain Blouin said there is another provision in place that the Building Department is aware of to report these individuals to the state or the county and he has discussed this in the past with Mr. Walton but does not know what progress has been made on it. He said it was an excellent point. Mr. Walton said this was a very serious issue, since you are potentially going against someone’s livelihood. He said he has not reported anyone to the construction industry licensing board in his thirteen year career. He has threatened to and that generally gets compliance. He said we could do it but he has not in the past. Captain Blouin said he believes this should be done and he will discuss it with Mr. Walton. Mr. Hoffman said he would like to make that recommendation. Mr. Hoffman said he does not know how the other Board members feel but if some recommendation is needed, it could be addressed by the Board. Mr. Walton said he takes his lead from Captain Blouin and Staff and brings items to the Board for adjudication. He said he would take this suggestion under consideration and is sure it will be discussed. Captain Blouin said he totally agrees with Mr. Hoffman and thanked Mr. Hoffman for reminding him of the issue. Mr. Hoffman said if this was brought up in the comments section in the future, perhaps Captain Blouin would have an answer. Captain Blouin said this would be his last Code Board meeting and he wanted to thank the Board as it had been a very enjoyable experience for him. During the past two years, he has seen a dramatic change in the community and the way they react to Code Enforcement. He believed the biggest accomplishment was getting compliance from residents and attorneys when they previously were resistant and there was no incentive for them to comply. It is now the opposite with the exception of a few difficult cases. He thanked the Board and wished them continued success. Mr. Hoffman thanked Captain Blouin, noting that he was the one who had carried this thing from the beginning when they came over from the Building Department and it has been a significant improvement. Ms. Greenberg asked Captain Blouin where he was going and Sgt. Krauel advised Captain Blouin was being promoted to Major. Captain Blouin said he had recruited

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someone very capable in Sgt. Krauel and was leaving Code Enforcement in capable hands. He said he would miss working with a great team and it had been a pleasure. Captain Blouin said he would assist whoever came to replace him through the transition period. Mr. Fried said it had been a real pleasure working with Captain Blouin, that he had approached his job with professionalism, really great preparation and a lot of integrity and they owed him a debt of gratitude and he suggested Captain Blouin be given a round of applause. (*applause*)

IX. Adjournment:

The meeting was adjourned without benefit of motion.