



TOWN OF PALM BEACH POLICE DEPARTMENT

A NATIONAL AND STATE ACCREDITED LAW ENFORCEMENT AGENCY



CODE ENFORCEMENT BOARD MINUTES 2:00 P.M. THURSDAY, AUGUST 21, 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. Koeppe, 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: Matthew T. Ramenda, Acting 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

III. **Approval of the Minutes of July 17, 2008:**

**MOTION BY MS. DUEMLER FOR APPROVAL OF THE JULY 17, 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 # 08-2521, 2275 S. Ocean Blvd., Reef Condo

Violation of Chapter 122, Section 122-53 of the Town of Palm Beach Code of Ordinances: the Town Council authorizes the Director of Public Works to order curtailment of the use of water for certain nonessential purposes including specifying certain days and hours when lawns and shrubbery may be watered.

Code Enforcement Officer Weymer said a written warning was mailed on June 30, 2008 reference a water restriction violation. On Friday, July 11, 2008 at 2:38 p.m., another violation occurred and the notice was mailed by certified mail and signed for by Francis Brown. This was the second violation for the Reef Condo and is a fine of \$250.00.

Francis Brown was present on behalf of the Reef Condo and questioned when the violation occurred. He said an officer came by and then returned a second time and gave them a warning. He said their maintenance man was working on the system and he told the officer (who he referred to as a male) they were testing the irrigation system but they later got the violation notice in the mail. Mr. Weymer told Mr. Brown he must be referring to a different time because the officer who witnessed this violation was a female officer, Amy Ray, who was present to speak and answer any questions.

Officer Ray said she was patrolling the south end on that Friday and no watering was allowed on Friday unless there were new plantings. She saw the water on, called it in and it was turned over to Code Enforcement. In response to Mr. Hoffman's question, Officer Ray said she did not see anyone checking the system in the front but someone could have been in the back. Officer Ray said she did not recall speaking to anyone at the property. Mr. Fried asked how often the system is tested and an employee of the Reef, who identified himself as Maurice, said the system was tested on Fridays after the landscapers leave. Mr. Fried asked about the watering time frames and Mr. Weymer said a warning with that information included was initially issued with a ten day grace period. The Reef Condo received that warning on June 30, 2008. Mr. Weymer also noted that he was in Palm Beach on Sunday and the water was on at the property again and they would be receiving that violation in the mail. Mr. Brown said that because of the number of zones they had to test, each zone took about 35 minutes which made the testing all day long. Mr. Ochstein asked about any provision in the law for testing and Mr. Weymer said property owners are allowed ten minutes per week to test each zone. The Town recommends a finding of non-compliance, a fine of \$250.00 and administrative costs in the amount of \$150.00.

Ms. Van Buren asked Mr. Brown if he was aware of the provisions for testing and he said he was. She asked him if he believed they could operate within the time frames for the testing and Mr. Brown said they could. Mr. Weymer suggested the property manager call

the police department and let them know when they were testing so it could be entered in the computer system and they would not get a water violation.

MOTION BY MR. KOEPPPEL TO ASSESS ADMINISTRATIVE COSTS IN THE AMOUNT OF \$150.00 AND NO FINE IMPOSED.

SECONDED BY MR. FRIED

MOTION PASSED UNANIMOUSLY

B. Case # 08-2522, 1045 S. Ocean Blvd., Daniel Borislow

Violation of Chapter 122, Section 122-53 of the Town of Palm Beach Code of Ordinances: the Town Council authorizes the Director of Public Works to order curtailment of the use of water for certain nonessential purposes including specifying certain days and hours when lawns and shrubbery may be watered.

Code Enforcement Officer Weymer said the Town recommends this case be dismissed as Bill White, the property representative, said there was an intermittent problem with power interruptions caused by faulty equipment. FPL was required to go to the property and had provided a letter to Mr. White.

Mr. White was present and said he was on vacation and when he got back, he found there was a faulty clock which has been replaced and there should be no further problems.

MOTION BY MR. KOEPPPEL TO DISMISS THE CASE

SECONDED BY MS. GREENBERG

MOTION PASSED UNANIMOUSLY

C. 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 Gerry said the Planning, Zoning & Building Department is requesting this case be postponed and that is the Town's recommendation.

MOTION BY MS. GREENBERG TO POSTPONE THE CASE TO SEPTEMBER 18, 2008

SECONDED BY MR. KOEPPPEL

MOTION PASSED UNANIMOUSLY

- D. 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.

Code Enforcement Officer Gerry presented the facts of the case and said the case was transferred to Code Enforcement from the Planning, Zoning & Building Department. Steve Carew, the Chief Building Inspector, inspected the property on August 6th and found there were wood gates installed without a building permit. In addition to that, these gates are located in the easement area which requires a special permit. The Town recommends a finding of non-compliance, administrative costs in the amount of \$150.00 and a building permit to be obtained for the gates or if it is determined the gates are not permitted, to remove the gates and install an approved pool barrier fence by September 15, 2008.

Jeff Taylor, Building Official, advised there was a special problem with this property as the gate on one side is attached to the neighbor's property. The easement is split between the two properties. A permit cannot be issued to a homeowner for work on a neighbor's property. Each property would have to pull a separate permit. Mr. Hoffman asked about a second set of gates that could be seen in pictures provided to the Board on the far end of the property. He asked if they were pre-existing and Mr. Taylor said both sets of gates are new. Ms. Van Buren asked if both neighbors did the project together and Mr. Taylor said he knew it was only one neighbor. Ms. Duemler asked if there was a pool on the property and how it would be properly secured and Mr. Taylor said he had spoken to Mr. Carew and a portable kiddie fence which met all the requirements for child protection was in place.

**MOTION BY MR. FRIED TO FIND THE VIOLATOR IN NON-COMPLIANCE, ASSESS ADMINISTRATIVE COSTS IN THE AMOUNT OF \$150.00 AND GIVE THEM UNTIL SEPTEMBER 15, 2008 TO OBTAIN A BUILDING PERMIT FOR THE GATES OR REMOVE THEM
SECONDED BY MR. OCHSTEIN
MOTION PASSED UNANIMOUSLY**

- E. 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 Gerry presented the facts of the case and requested the case be postponed as the business owner has been working with him and is almost in compliance.

MOTION BY MS. GREENBERG TO POSTPONE THE CASE TO

SEPTEMBER 18, 2008
SECONDED BY MR. KOEPPPEL
MOTION PASSED UNANIMOUSLY

- F. Case # 08-2525, 205 Worth Ave., # 117, Nelson Exotics
Violation of Chapter 114, Section 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 a notice of violation was mailed to both the business and the property owner. Mr. Gerry said the business continues to operate and has been in contact with Debby Morakis, the Town Licensing Official, but no business tax receipt has been obtained. The Town recommends a finding of non-compliance, administrative costs in the amount of \$150.00 and to give them until August 25, 2008 to pay the business tax receipt fee and all penalties.

MOTION MADE BY MR. KOEPPPEL TO FIND THE VIOLATOR IN NON-COMPLIANCE, ASSESS ADMINISTRATIVE COSTS IN THE AMOUNT OF \$150.00 AND ORDER THEM TO OBTAIN THE BUSINESS TAX RECEIPT AND PAY ANY LATE PENALTIES BY AUGUST 25, 2008
SECONDED BY MS. GREENBERG
MOTION PASSED UNANIMOUSLY

- G. Case # 08-2526, 314 Dunbar Road, Marilyn R. Sultan
Violation of Chapter 106, Section 106-159 of the Palm Beach Code of Ordinances, vegetation not kept in a neat and orderly appearance, Chapter 42, Section 42-87, walls, fences, and driveways to be kept in a good state of repair, Chapter 62, Section 62-39 (5) and Chapter 42-86 (20) of the Town of Palm Beach Code of Ordinances, bulkhead/seawalls to be kept in good repair.

Code Enforcement Officer Gerry presented the facts of the case and said it originated from a citizen complaint. The inspection revealed there were numerous violations on the property. Several of the violations have been corrected but the driveway and the seawall are still in violation. The Public Works Engineer, in addition to the Building Official, inspected the seawall and reported the condition of the seawall indicates there is leakage through the existing wall and corresponding soil loss was observed. Mr. Gerry said the sea wall is not very high and the water, at high tide, is coming over the wall and washing the dirt out. Mr. Gerry said he has been in touch with the property owners and they have hired a marine contractor and are trying to get permits. Ms. Duemler asked if the individual who owned property on the lake was responsible

for the repair of the sea wall or if it was the DEP, the Town or some environmental

group and Mr. Gerry said it is the property owner. Ms. Greenberg questioned the height of the wall. Mr. Hoffman asked if the height would be grandfathered in and Mr. Gerry said the Town could not make them raise the height of the wall but the property owners were doing that on their own. Mr. Gerry said the property owner intended to raise the wall about 24 inches higher. The Town could only cite them to make repair to the sea wall but if the height was not raised, it was just going to be a continual problem. Mr. Fried had some questions about the photographs and asked if the sea wall was close to the bike trail and if there was a dock there. Mr. Gerry said the dock has been cited under another case. Mr. Fried said it looked like there may be some other violations on the property and Mr. Gerry said these violations are part of another case. Mr. Koeppel asked Mr. Gerry what time frame would be needed to get the property into compliance and Mr. Gerry said the property owner estimated two to three weeks after the permits are obtained. The Town recommends a finding of non-compliance, administrative costs of \$150.00 and give them until October 15, 2008 to achieve compliance. Mr. Walton said he has spoken with Ms. Sultan and she believes it is an adequate time frame.

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 15, 2008 TO ACHIEVE COMPLIANCE

SECONDED BY MS. DUEMLER

MOTION PASSED UNANIMOUSLY

H. Case # 08-2527, 151 N. County Road, Green's Pharmacy

Violation of Chapter 122, Section 122-153 of the Town of Palm Beach Code of Ordinances, prohibited discharge into the storm water system of substance that is not storm water.

Code Enforcement Officer Weymer presented the facts of the case and said the manager of the property, Becky Benge, was present. Mr. Weymer said he received a phone call from the Public Works Department on July 30, 2008 that the employees of Green's Pharmacy were using the rear driveway to wash out greasy floor mats. The detergents and grease were entering into the storm water system. Mr. Weymer said this violation requires a mandatory hearing under the fine schedule. The violation notice was signed for in person by Ms. Benge. Mr. Weymer said Green's had been previously warned on June 13, 2008 for emptying their mop buckets into the storm water system.

Ms. Benge said she had done a lot of hiring and firing since she has been the manager. She said she "wrote up" the person who was washing the mats outside and that was his final warning. The Town recommends a finding of non-compliance, administrative costs in the amount of \$150.00 and a fine of \$150.00. Ms. Benge said

she was not aware the rinsing of the mats was a violation. Mr. Weymer said the previous warning advised that nothing but storm water was to be discharged into the

storm water system. Mr. Koeppel asked what was on the mats that were being washed, if it was grease. Ms. Bengé said the mats are from the kitchen but there is no grease on them. Mr. Weymer said soapy discharge could be seen in the pictures and the Public Works Department was very concerned about violations of this nature because the storm water ends up in the Intracoastal. Ms. Duemler said it has been a mess around Green's for many years and she hopes Ms. Bengé does a good job getting it cleaned up. Mr. Ochstein asked how the mats are cleaned now that they're not rinsing them outside. Ms. Bengé says it is done in the kitchen where there are drains. Mr. Weymer said the regular sanitation system is made to accept this but the storm water system is not.

**MOTION BY MR. KOEPPEL TO FIND THE VIOLATOR IN NON-COMPLIANCE, ASSESS ADMINISTRATIVE COSTS IN THE AMOUNT OF \$150.00 AND NO FINE IMPOSED
SECONDED BY MS. DUEMLER**

During discussion on the motion, Mr. Fried said he did not believe this was the best way to go in this case. He said the fine was not a huge fine in the scale of the business and the property is very unsightly behind the restaurant. He believes it would send a stronger signal to the management and the ownership of the pharmacy, if there is a fine so he is opposed Mr. Koeppel's motion.

**MOTION BY MR. KOEPPEL TO FIND THE VIOLATOR IN NON-COMPLIANCE, ASSESS ADMINISTRATIVE COSTS IN THE AMOUNT OF \$150.00 AND NO FINE IMPOSED
SECONDED BY MS. DUEMLER
MOTION OPPOSED**

ROLL CALL VOTE:

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

MOTION FAILED 5-2

MOTION BY MR. FRIED TO FIND THE VIOLATOR IN NON-COMPLIANCE, ASSESS ADMINISTRATIVE COSTS IN THE AMOUNT OF \$150.00 AND IMPOSE A FINE IN THE AMOUNT OF \$150.00

**SECONDED BY MR. OCHSTEIN
MOTION OPPOSED**

ROLL CALL VOTE:

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

MOTION PASSED 5-2

- I. Case # 08-2528, 151 N. County Road, Green's Pharmacy and Rensor Realty Corp.
Violation of Chapter 102, Section 102-77 of the Town of Palm Beach Code of Ordinances, trash containers to be kept tightly covered at all times.

Code Enforcement Officer Weymer presented the facts of the case and said several resident complaints had been received about the rear alleyway of Green's Pharmacy and Market Salamander. The complaints often are about noxious odors and unsanitary conditions around the dumpster. Green's has recently taken a much more effective approach in maintaining the alleyway property but on July 9, 2008, Mr. Weymer did a proactive inspection and found the property had an open dumpster lid and the area smelled of garbage. Green's was previously warned concerning the dumpsters on June 13, 2008.

Ms. Bengé said she could not control the garbage containers. Market Salamander uses their containers all the time. She does periodically walk out to check them and about 15 minutes prior to Mr. Weymer being there, they were not open. Ms. Bengé said she could not have someone out there "manning" garbage cans 24 hours a day. She does check them throughout the day and her employees are doing a better job of that also. Ms. Bengé said when Market Salamander's garbage container is full, they use Green's. Mr. Ochstein says he lives close to Green's and he sees it all the time and he believes that is what supervision is all about. He told Ms. Bengé she could

get her people trained and keep the lids closed. He said he was tired of looking at the mess and he hopes her efforts come through. He said he has not previously complained but that he would in the future. The Town recommends a finding of non-compliance, a fine of \$125.00 as stated on the Class II fine schedule and

administrative costs in the amount of \$150.00.

MOTION BY MR. OCHSTEIN TO FIND THE VIOLATOR IN NON-COMPLIANCE, ASSESS ADMINISTRATIVE COSTS IN THE AMOUNT OF \$150.00 AND A FINE OF \$125.00
SECONDED BY MS. VAN BUREN
MOTION PASSED UNANIMOUSLY

- J. 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 Weymer presented the facts of the case and said a re-inspection shows the work appears to be complete but the recent rain indicates the new asphalt is holding water in several areas. The Public Works Department advises the slope and grading of the drive is not satisfactory and adjustments must be made before the violation is fully corrected. Ms. Van Buren asked what would need to be done to rectify the situation, whether the work would need to be completely redone. Mr. Weymer said he spoke with Public Works and they are requesting that adjustments be made to the grading and they might need to bring in another load of asphalt. Public Works says there is plenty of elevation where they can make the proper corrections. Mr. Koepfel asked if the violation was corrected within the time frame Green's was given and Mr. Weymer confirmed that it had but the work was not done to the specifications Public Works needed. Mr. Koepfel said he was going to make a motion to postpone the case to give Green's the needed time to make the repair. Ms. Benge said she had a final inspection showing the work was complete. Mr. Hoffman asked who had signed off on the work, if it was the building department and Ms. Benge said she had a final inspection. Jeff Taylor, Building Official, said a final inspection was completed. He said, in a case like this, they see the work had been done and unless they request a survey of the property to see if the elevations are correct, which is generally cost prohibitive, these problems usually show up afterward. Mr. Taylor said Green's should still have a warranty with their paver to complete the project. Mr. Taylor said if the Building Department failed everything until they were sure it worked, not much would get passed. Mr. Fried asked Ms. Benge to explain the scope of the work the contractors had been asked to do. Ms. Benge said the old asphalt was dug up and redone and a little trench dug because that was the only way they could get it to drain. She said there was a problem at the end

where the sidewalk meets the asphalt where water is standing. The contractor said there was no other way to do it, that the sidewalk has to be brought down a little further. Mr. Fried asked Mr. Weymer if the Town was agreeable to giving Green's more time to rectify the problem. Mr. Weymer said the Town recommends Green's

be given until September 17, 2008 to re-permit, have the minor improvements made and also a passing drainage test by a Public Works inspector. Mr. Fried asked Ms. Bengé if she understood what Mr. Taylor said, that although they had made an effort to correct the problem, it did not appear to be rectified.

MOTION BY MR. KOEPEL TO POSTPONE THE CASE UNTIL SEPTEMBER 18, 2008
SECONDED BY MS. DUEMLER

During discussion on the motion, Mr. Fried said the Town's recommendation to give Green's until September 17, 2008 to rectify the situation would put the Board in a position to impose a fine at the next meeting if compliance was not achieved. If they postponed the case and compliance was not achieved, it would put the Board in a position where they would have to begin the fine process. He believed the Board should follow the Town's recommendation as it would give them more leverage over this particular property. Mr. Hoffman asked Mr. Fried if he was requesting Mr. Koepfel amend his motion. Mr. Fried said he was asking Mr. Koepfel to make a new motion. Mr. Koepfel said the problem with that is he does not believe Ms. Bengé knows what needs to be done at this point to correct the situation and if it is not done by September 17, 2008, she might be in peril and have a fine running. Mr. Koepfel said Ms. Bengé had complied and the fact that the Public Works Department did not find it suitable was not her fault. He believes the case should just be postponed until it can be determined what needs to be done. Mr. Fried asked Ms. Bengé if she has had further conversation with her contractor about what needs to be done and she said the first time she had found out there was a problem was 5:30 p.m. the previous day. Mr. Fried said he would go along with what Mr. Koepfel was suggesting. Mr. Ochstein said Green's has been a very good neighbor to them for a number of years and they were "acting right" in this situation and he did not believe they should be penalized.

MOTION BY MR. KOEPEL TO POSTPONE THE CASE TO SEPTEMBER 18, 2008
SECONDED BY MS. DUEMLER
MOTION PASSED UNANIMOUSLY

- K. Case # 08-2530, 1190 N. Ocean Blvd, Landscape Designer Co.
Violation of Chapter 42, Section 42-230 of the Town of Palm Beach Code of Ordinances, leaf blower over 65 dBA at 50 ft.

Code Enforcement Officer Weymer said he witnessed this violation on July 11, 2008 at 1190 N. Ocean Blvd. An employee of Landscape Designer Company was using a leaf blower that did not conform to Town ordinances. He had personally warned this company on May 28, 2008 for the same violation. A decibel test was performed and measured at 78.7 dBA at a distance of 50 feet. This is a class II violation under the fine schedule and is a \$125.00 fine for a first offense. The notice of violation was issued on site and has not been paid to date. He asked if anyone was present to speak. Mr. Koeppel asked who the violation was against, the property owner or Landscape Designer. Mr. Weymer said it goes against the landscape company. The Town recommends a finding of non-compliance, administrative costs in the amount of \$150.00 and a fine of \$125.00.

MOTION BY MS. DUEMLER TO FIND THE VIOLATOR IN NON-COMPLIANCE, ASSESS ADMINISTRATIVE COST IN THE AMOUNT OF \$150.00 AND A FINE OF \$125.00

MOTION SECONDED BY MS. VAN BUREN

MOTION PASSED UNANIMOUSLY

L. 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.

Code Enforcement Officer Weymer presented the facts of the case and said the property representative, Nancy Nomin, was present. Mr. Weymer said there had been an anonymous complaint on the property and investigation revealed the house did not have any shingles on the roof. After the warning violation was mailed, he received a phone call from Ms. Nomin, advising they were in the process of hiring Buddy's Roofing to do the work. Mr. Weymer called Buddy's Roofing and was told they needed four weeks to finish the job. A thirty day extension was agreed upon and approved. A re-inspection showed no work had been started so a notice of violation and hearing was mailed. Ms. Nomin has been in contact with him several times and kept him updated on several issues which had arisen. The job was set to commence and the tiles were delivered to the property but with the exception of a small portion of the material, they were the wrong tiles. Ms. Nomin said she worked for the Baxter Foundation and oversees the home. She said they had been unable to get the tiles the

original permit was pulled for. They re-submitted for a new permit and those tiles were delivered. The first two loads were correct but the fourth, fifth and sixth loads were a different color. According to the roofer, the correct tiles were delivered to his yard yesterday at 4:00 p.m. When she went by the property today at 1:00 p.m., the tiles were not there. She said she called the roofer and the tiles are supposed to be

delivered today or tomorrow.

Mr. Weymer said the Town recommends a finding of non-compliance, administrative costs in the amount of \$150.00 and give them until September 15, 2008 to comply. Mr. Fried asked Ms. Nomin if this would be enough time and she said, according to what the roofer told her, it would be and if not, she was going to ask for a change in contractor and that would require a whole new process.

MOTION BY MR. FRIED TO FIND THE VIOLATOR IN NON-COMPLIANCE, ASSESS ADMINISTRATIVE COST IN THE AMOUNT OF \$150.00 AND GIVE THEM UNTIL SEPTEMBER 15, 2008 TO ACHIEVE COMPLIANCE
SECONDED BY MS. GREENBERG
MOTION PASSED UNANIMOUSLY

M. Case # 08-2532, 231 Royal Palm Way, National City Bank and Broadway RPW Statutory Trust

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 Walton presented the facts of the case and said the amount due at this point is \$588.50. The Town recommends a finding of non-compliance, administrative costs in the amount of \$150.00 and the violator be ordered to pay all applicable alarm fines and penalties.

MOTION BY MR. OCHSTEIN TO FIND THE VIOLATOR IN NON-COMPLIANCE, ASSESS ADMINISTRATIVE COSTS IN THE AMOUNT OF \$150.00 AND ORDER THEM TO PAY ALL APPLICABLE FINES AND PENALTIES
SECONDED BY MS. DUEMLER
MOTIONED PASSED UNANIMOUSLY

N. 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 Walton said this case has to do with Astroturf being installed and requested it be postponed to the September 18, 2008 hearing as the Town Council is considering the issue of whether Astroturf will or will not be

allowed.

**MOTION BY MS. GREENBERG TO POSTPONE THE CASE UNTIL
SEPTEMBER 18, 2008**

SECONDED BY MS. DUEMLER

MOTION PASSED UNANIMOUSLY

O. 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 Walton presented the facts of the case and said this building has previously been before the Board and there is an outstanding fine against the property. Mr. Walton said the complaint was generated by neighborhood concern because the building is vacant. Mr. Walton said he was not aware of the violation until he did an inspection with Tim Pompos, the Fire Marshal for the Town of Palm Beach. He requested Mr. Pompos explain the violation because he is a licensed fire inspector. Mr. Pompos said he received a complaint from a resident and found numerous violations. A vacant building has to be properly locked and the fire protection system operational at all times. The power has been cut off at this property which voids any fire protection system and there are pipes from fire sprinkler systems hanging out the window. He recommends the building be fixed as soon as possible. Mr. Pompos also said the OSY valve is in the closed position and there should be a chain lock on it.

Ms. Greenberg said one of the most important things in the codes and ordinances is anything that can negatively impact the safety of residents or their property. She said it is extremely important that a building be maintained whether it is vacant or not.

Mr. Fried asked Mr. Pompos to explain the purpose of the red, blue and yellow pipe in the photograph presented to the Board. Mr. Pompos said it is the source of water from the City of West Palm to provide for fire protection systems, such as sprinklers, and to provide water for the fire crews. Mr. Fried said it looked like a serious

situation at this building. Mr. Pompos said the building is unsecure and needs to be boarded up. Mr. Fried asked Mr. Walton if the owner of record had been notified and Mr. Walton said he had a signed receipt for the certified mail. He said there was a daily fine currently running with respect to securing and maintaining the building. The Town recommends a finding of non-compliance, costs in the amount of \$150.00 and the violator be given one day to achieve compliance.

Ms. Van Buren asked if the pipe was permitted to be open and not to have any enclosure around it. Mr. Walton said the current code requires it to be screened by vegetation but this building is so old, that code section may not have been in place and it may be a grandfathered situation. Mr. Pompos said he would like to make one more recommendation, that the owner get a Knox box key installed so the Fire Department has easy access to it in the event of a fire.

**MOTION BY MR. KOEPPPEL TO FIND THE VIOLATOR IN NON-COMPLIANCE, ASSESS ADMINISTRATIVE COST IN THE AMOUNT OF \$150.00 AND GIVE THEM ONE DAY TO ACHIEVE COMPLIANCE
SECONDED BY MR. OCHSTEIN**

During discussion on the motion, Mr. Fried asked what the Town was going to do if compliance was not achieved. Mr. Walton said he would bring it back to the Board next month. Mr. Fried asked for guidance either from the Chairman or legal counsel as he did not believe this was a good solution to the problem, leaving the building in its current vulnerable position and exposing the neighbors to possible harm. Mr. Walton said he could present it to the administration of the police department or bring it to the Town Council's attention to see if the Town would be willing to expend some money and then put a lien against the property. Mr. Fried said he felt he was being remiss in his duty to a certain extent to leave it another month and possibly expose the community to an unfortunate occurrence.

Captain Blouin told Mr. Fried he was correct, that normally we would not let an unsafe condition like this exist, just because we have a code case running against the property. There are some provisions in the Code where we can contact the building department and he has been in discussion with Mr. Page on other properties that are similar to this, that are in an unsafe condition where the violations either need to be corrected or the Town could take legal action, corrective action to make the building safe. He said he would speak with Mr. Page to come to some sort of viable solution to make the building safe. Mr. Fried said he would take that as an assurance that Capt. Blouin would speak with Mr. Page and attempt to do whatever is necessary to get this rectified if the owners do not do it by tomorrow.

**MOTION BY MR. KOEPPPEL TO FIND THE VIOLATOR IN NON-COMPLIANCE, ASSESS ADMINISTRATIVE COST IN THE AMOUNT OF \$150.00 AND GIVE THEM ONE DAY TO ACHIEVE COMPLIANCE
SECONDED BY MR. OCHSTEIN
MOTION PASSED UNANIMOUSLY**

Ordinances, building permits are required to construct, install, repair or alter any building or building system and Chapter 42, Section 42-87, all exterior walls shall be reasonably free of cracks, painted and in good repair and the structure shall be free of holes through which weather elements can enter the building.

Lead Code Enforcement Officer Walton said an anonymous complaint was received about remodeling going on in one of the bathrooms of this multi-unit building. He investigated it and found out remodeling had occurred but after a discussion with Mr. Taylor, it was determined that permits were not required due to the extent of the remodeling, so he is requesting the violation of Chapter 18, Section 18-241 be dismissed. Mr. Walton said while he was inspecting the building, he found there was some rotten wood on the rear steps and some vent/crawl spaces missing their screens. The property owner contacted him and attempted to make some repairs. Mr. Walton said Lowell Levine, a realtor in Town and a former Board member, was present to speak for the owner. Mr. Levine said three weeks ago the owner asked him to take over as leasing agent and property manager for the 14 units in the building. He agreed to do it and on Monday of this week, he learned for the first time of the Code Enforcement Board hearing. He contacted Mr. Walton and got the list of violations and told the owner they needed to address them as soon as possible. Mr. Levine assured the Board the violations would be taken care of and he is requesting additional time to make the corrections. The Town recommends a finding of non-compliance, administrative costs in the amount of \$150.00 and to give them until September 15, 2008 to come into compliance.

**MOTION BY MR. KOEPPEL TO DISMISS THE VIOLATION OF
CHAPTER 18, SECTION 18-241, A FINDING OF NON-COMPLIANCE FOR
VIOLATION CHAPTER 42, SECTION 42-87, ADMINISTRATIVE COSTS IN
THE AMOUNT OF \$150.00 AND GIVE THEM UNTIL SEPTEMBER 15, 2008
TO ACHIEVE COMPLIANCE
SECONDED BY MS. DUEMLER
MOTION PASSED UNANIMOUSLY**

VI. Old Business:

- A. Case # 08-2459, 230 Royal Palm Way, Catharine Bradley
Violation of Chapter 10, Section 10-9 of the Town of Palm Beach Code of Ordinances, feeding of feral cats.

Sgt. Krauel said this case was heard before the Board on February 21, 2008. At that hearing, Ms. Bradley was found in non-compliance and was ordered to pay a fine in the amount of \$250.00 and administrative costs in the amount of \$150.00. Ms.

Bradley exercised her right to an appeal in the Circuit Court of the 15th Judicial Circuit. Essentially the basis of her appeal was the language of the ordinance itself. At the time Ms. Bradley was found in violation, the ordinance did not include “feeding” as an unauthorized activity. The Town’s interpretation at the time was the word “maintain” was meant to incorporate feeding. Section 10-9 was then amended to include the word “feed or feeding” to the list of prohibited activities. In essence, her argument to the Circuit Court was if the Town’s interpretation that “maintain” meant feeding, there would have been no need to later amend section 10-9 to add feeding as a restricted activity. The Town believes on the recommendation of Counsel that this is a compelling argument and does not believe it is worth the Town incurring attorney’s fees and costs. The Town recommends the case be dismissed with prejudice and all fines and costs be waived.

**MOTION BY MS. GREENBERG TO DISMISS THE CASE WITH
PREJUDICE AND WAIVE ALL FINES AND COSTS
SECONDED BY MS. DUEMLER
MOTION PASSED UNANIMOUSLY**

- B. Case # 08-2484, 515 N. County Road, Trump Properties, LLC
Violation of Chapter 18, Section 18-205 of the Town of Palm Beach Code of Ordinances, the Architectural Commission may attach conditions to any approval it grants.

Lead Code Enforcement Officer Walton said the property is now in compliance and requested the case be dismissed.

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

VII. Fine Consideration:

- A. Case # 08-2520, 165 Brazilian Ave., Richard Lynn
Violation of Chapter 10, Section 10-45 (i) of the Town of Palm Beach Code of Ordinances, if any dog attacks and causes severe injury or death to any human or domestic animal more than once, the owner shall be required to have said dog removed from the Town or humanely euthanized at his/her sole expense and violation of Chapter 10, Section 10-6 of the Code which prohibits animals from creating nuisances which are detrimental to the public safety and welfare.

Sgt. Krauel said this is a well documented case the Board heard on July 17, 2008. The Board found Mr. Lynn in violation of two sections of the Code, Chapter 10, Section 10-6 and Chapter 10, section 10-45 (i) and he was granted one day to come into compliance with the order. The order also set forth a \$250.00 a day fine per violation to begin July 19, 2008 and continue until compliance was achieved. Mr. Lynn was also ordered to pay administrative costs in the amount of \$150.00. A hearing for emergency injunctive relief was heard before Judge Hoy and Judge Hoy ruled in favor of the Town and ordered Dr. Lynn to remove Duke from the island no later than 5:00 p.m. on Friday, July 15, 2008. Judge Hoy further ordered that Richard Lynn provide proof to the Town in writing that the dog had been removed. Dr. Lynn did provide documentation which is included in the Board's back up material that on Wednesday, July 23, 2008 Duke was euthanized. The Town recommends that based upon all of the circumstances surrounding the case and the level of emotion displayed on both sides by the parties, no fines for the period of time out of compliance be assessed and the administrative costs be waived. Mr. Hoffman remarked that the Town is very, very sympathetic to the situation and he, as a Board member appreciates that, and hopes the other members of the Board feel the same way.

(Mr. Ochstein recused himself on a previously declared voting conflict and Mr. Hoffman advised Mr. Ballentine would be a voting member in this case)

**MOTION BY MS. DUEMLER TO ASSESS NO FINES AND TO WAIVE THE PREVIOUSLY ORDERED ADMINISTRATIVE COSTS OF \$150.00
SECONDED BY MR. FRIED
MOTION PASSED UNANIMOUSLY**

VIII. Fine Reduction:

- A. Case # 08-2301, 167 E. Inlet Drive, The Landfall Group,
Violation of Chapter 18, Section 18-242, Subsection 104.5.1.6, medium projects, all new or remodel construction projects 4000 sq. ft. to 8,999 sq. ft. under roof be allowed 22 months

Lead Code Enforcement Officer Walton said this case was previously heard by the Board on October 18, 2008. At the November 15, 2008 hearing, a fine in the amount of \$250.00 was assessed for the period of time out of compliance. The time out of compliance in this case is 4 months and 16 days and the amount due is \$34,400.00. There was some discussion last month that the fine should have been \$125.00 a day instead of \$250.00 which resulted in the case being postponed. The Board was provided backup that the ordered fine was \$250.00.

(Mr. Hoffman advised he wanted to thank Recording Secretary Houston for her hard work in giving the Board the documentation to substantiate all of this information)

and he wanted the Record to indicate that)

Frank Lynch was present on behalf of the property owner, Ajax Equity and the contractor, The Landfall Group. Laszlo Wagner, a principal in the Landfall Group, was also present. Mr. Lynch said the original motion by Mr. Koeppel was to give them an additional 60 days to complete the house but that motion failed 3-2. Before they left the hearing that day, the motion they heard by Ms. Duemler was to fine them \$125.00 a day. Mr. Lynch discussed the history of the time limit rules again and asked the Board to consider the mitigating circumstances that Mr. Wagner would present to request a reduction of the fine. Mr. Lynch said the whole goal of code enforcement is to bring people into compliance. He asked the Board to consider reducing the fine significantly.

Laszlo Wagner said it was a shocking experience for him to be standing before the Board and to be facing a fine of \$34,000. He said he had been building in Palm Beach for 25 years and many people are aware of his reputation as a builder. Although the building permit was issued in October, the nuisance factor of construction did not start until January. It was only from January 2006 to January 2008 where their true presence on the job site has been of some significance because after that time it was interior and landscaping work. In addition to that, they have not received a single complaint. He told the Board he is here to pay a fine but asked them to look at the \$34,000, especially in 2008, very carefully.

Mr. Lynch spoke again and said that in light of all the circumstances, they would proffer a sum of \$10,000 as the fine.

Mr. Fried asked if this was the first offense of the Landfall Group and Mr. Walton said it was, to his knowledge. Mr. Koeppel asked if the house was now complete and Mr. Lynch said it was. Mr. Koeppel said his recommendation to the Board was that due to the facts of this case, it was inappropriate there was a fine to begin with. He believes a fine of this amount is punitive and does not believe it is necessary unless you have someone who is seriously violating the Code. He does not believe this has occurred in this particular instance and a fine is not appropriate and he would like to make a motion that the fine be waived.

Mr. Fried said the subject of this hearing was not to discuss whether a fine should have been imposed. That motion was passed and there should be no further discussion on that. Personally, having heard Mr. Wagner and Mr. Lynch speak, they are entitled to some consideration. He would favor reducing the fine by half and perhaps this would send a signal to other contractors that the Board takes the time periods seriously.

Mr. Koeppel said he did not think it was appropriate to use this situation or this particular builder to send a signal to other people. He believes each case should be taken on its own merits and it is not necessary for the Board to be sending constant signals. He believes the contractors and the residents of the Town are becoming

Code Enforcement Board Meeting Minutes 08/21/08

fully aware of what compliance means and what this Board is all about. He strongly encouraged the Board to waive the fine or at least impose only a minimal fine.

Ms. Van Buren said she agreed with Mr. Fried on just about everything he had just said and told Mr. Lynch, that if she correctly recalled it from the last meeting, he had offered \$125.00 a day as a fine and said that his client could pay it that same day. Her recommendation would be to reduce the fine from \$250.00 a day to \$125.00 a day.

**MOTION BY MR. KOEPPEL TO WAIVE THE FINE IN THIS CASE
MOTION FAILED FOR LACK OF A SECOND**

**MOTION BY MS. VAN BUREN TO REDUCE THE FINE IN THIS CASE
FROM \$250.00 A DAY TO \$125.00 A DAY
SECONDED BY MR. FRIED
MOTION OPPOSED**

ROLL CALL VOTE:

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

MOTION PASSED 4-3

- B. Case # 08-2302, 9 Via Vizcaya, Macari Building & Design, Casa Picchio, LLC
Violation of Chapter 18, Section 18-242, Subsection 104.5.1.6, medium projects, all new or remodel construction projects 4000 sq. ft. to 8,999 sq. ft. under roof be allowed 22 months

Lead Code Enforcement Walton said this case was postponed from the previous meeting. On October 19, 2007 the builder and property owner were found in non-compliance and a fine of \$250.00 a day had started on October 26, 2008. The fine is now up to \$57,000. They have paid the hearing cost of \$150.00.

Les Gelber, one of the property owners, and Stephen Macari, the builder and the

other property owner, were present. Mr. Gelber said this was an old property, built back in the 20's and the property was two separate and distinct lots. The property had the main house, the cabana or the guest house and the carriage house. The cabana house was well below the FEMA flood level and they had to deal with that immediately. They put together 3 permit packages. They submitted the cabana house first and then the one for the main house. He said they had enjoyed a very productive working relationship with the Building Department. He said he made a silly mistake and agreed to a request from the Town. The Town requested they seek unity of deed, combining the two properties into one. The problem was there was a utility easement which ran through the middle of the properties. The Town was very helpful in abandoning their easement. Adelphia was fine, Bellsouth was fine but they ran into a problem with FP&L. They kept presenting to FPL and had approvals from 4 different lawyers that never got processed because each of the lawyers left. The general counsel at FP&L was willing to give him an affidavit that said it took them 6 ½ months to approve this. If they had not agreed to do the unity of deed the Town requested, they would have come in under the prior rules of thirty months for completion. Mr. Gelber said the agenda item lists them as a property of 4,000 to 8,000 sq. ft. and that is not correct. They should fall under the larger threshold for allowance for more time as they are over 10,000 sq. ft. and today that would be 36 months which they are roughly in compliance with that time.

Mr. Macari said he has been working here for a number of years and has never been fined. Mr. Gelber said the house is done and they have passed all inspections. It is a Maurice Fazio originally designed house and they took great care in how they re-did it. Maura Ziska and Mr. Macari appeared at the October Board meeting and they left that meeting, believing the fine was \$125.00. They were not in the room when that decision was reversed and they were not given notice to re-appear in November. Mr. Gelber said he did not believe the fine was fair. Mr. Fried questioned Mr. Gelber's statement that he had not received notice of the fine hearing in November and asked Mr. Walton about that statement. Mr. Walton said he was reviewing the file but he would take Mr. Gelber at his word that he had not gotten notice. Mr. Fried said he was concerned about that and would like a definitive answer. Mr. Walton said he

could not give an immediate answer and would have to ask for a postponement to review the file. Mr. Fried asked if it would be inconvenient for Mr. Gelber and Mr. Macari to come back next month and he would like to postpone the case so this information could be confirmed.

Mr. Koeppel asked Mr. Walton if he had a fine recommendation and Mr. Walton said he leaves that up to the Board. Mr. Walton said Mr. Taylor did tell him there was a huge problem with FP&L and if this did cause a 6 month delay, the Board could take that into consideration. Mr. Koeppel said this was a unique situation because the Town requested the unity of title. There was additional discussion about that issue. Mr. Taylor said the unity of title was required because the house "straddled" two properties and a permit will not be issued for a house or structure on two properties. Mr. Koeppel said he would like to make a motion to reduce the fine to \$125.00 a day

for the period in excess of six months. Mr. Fried noted there is a clear mechanism in the Code for projects that believe they are going to go over the time limits and that is to go to Town Council

**MOTION BY MR. KOEPPPEL TO REDUCE THE FINE TO \$125.00 A DAY
FOR 45 DAYS FOR AN AMOUNT OF \$5,625.00
SECONDED BY MS. DUEMLER
MOTION OPPOSED**

ROLL CALL VOTE:

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

MOTION PASSED 4-3

- C. Case # 07-2327, 300 Seabreeze Ave., Action Home Remodeling LLC and Jane & Harry Phillips
Violation of Chapter 18, Section 18-242, Subsection 104.5.1.6 of the Town of Palm Beach Code of Ordinances, small projects, all new or remodel construction projects 3,999 sq. ft. or less under roof be allowed 13 months.

Lead Code Enforcement Officer Walton said this case was heard before the Board in November, 2007 and at the December 20th hearing, they were fined \$250.00 a day, starting on November 23rd. The project was granted 13 months under the old time limits and now they would have 16 months. The fine ran for 6 months and 27 days and the amount due is \$52,500.00. Mark Kleinfeld, attorney for the owner, asked to confer with Mr. Walton and said he had previously copied a ledger from the code enforcement file that had a different figure. Mr. Walton explained it was an error on the previous ledger that showed a short month. Mr. Kleinfeld said his figures indicated the fine was \$ 48,500.00 but he acknowledged the correct amount. The owners are petitioning for a reduction of the fine for 3 primary reasons: the structure is in the nature of a historic renovation, the construction undertaken by the owner has benefitted the Town in terms of its historic preservation and the owner was given an award in recognition of that. Mr. Kleinfeld said Mr. Ripley was present from the

Historical Preservation Board and he requested Mr. Ripley make a comment regarding the historical significance of the property.

John Ripley, executive director of the Historical Foundation of Palm Beach, said he was asked by Jane Phillips to speak. The award the property was given was the Polly Anne Earl Award, an award the foundation puts together to recognize and encourage the renovation of small properties. The award is specifically for small properties and for people who are looking to save small houses like this. It is not for grand estates. He asked the Board to consider this property for its historical significance. The Historical Preservation Foundation is not asking Code Enforcement to give anybody a free ride, they recognize rules are rules and they totally understand that. At the same time, he asked the Board to consider that this was not new construction but a renovation project. Mr. Kleinfeld went into more detail and said he had reviewed the code enforcement file and listened to the audio of the minutes and looked at the photographs that were in the file. He said although the permit was issued in October, the work did not commence until January and they would like the Board to consider that this reduced the impact on the neighbors. In fact, one of the complaints was that there was not enough continuous activity. One of the issues is that the contractor did not apply for an extension. He believes an extension would have been granted. Mr. Kleinfeld went through the inspection process until the completion of the project in June, 2008. He said part of the delay was a pool which was installed inside certain setbacks. It had to be removed and piling work done. Mr. Kleinfeld said that taking the new time limits into consideration, there would be a period of non-compliance of 50 days. If the Board applies a fine of \$250.00 a day, he said this would make the fine \$12,500.00. He requests the Board consider a fine of \$125.00 a day for the 50 days which would be \$6,250.00.

Mr. Fried asked about the number of days the project exceeded the allowable time limit and Mr. Walton said it was six months and 27 days. Mr. Koeppel said he remembered the case very clearly because he was opposed to the Board's motion

because he felt it would send the message that people should not restore properties but tear them down because restoration would take too long. He agrees with Mr. Ripley that the restoration was done properly. Mr. Koeppel said the delay was caused by the problems which were encountered during the renovation.

MOTION BY MR. KOEPPEL TO REDUCE THE FINE TO \$7500.00

Mr. Fried said he agreed with just about everything Mr. Koeppel said in this case and he was also in favor of a fine reduction, but just to keep it on a consistent basis, he suggested a fine of \$50.00 a day for the period of non-compliance. He asked Mr. Koeppel if he would reconsider this motion to make the fine \$10,350.00. Mr. Fried said he would second that motion if Mr. Koeppel would change his motion. Mr. Koeppel said he would reluctantly agree to that. Ms. Van Buren said she was in agreement with both Mr. Koeppel and Mr. Fried and thanked Mr. Kleinfeld for the

work he did on behalf of his client. She said she was impressed by the fact that Ms. Phillips had flown to Florida just to be present for the Board hearing.

**MOTION BY MR. KOEPPPEL TO REDUCE THE FINE TO \$10,350.00
SECONDED BY MR. FRIED
MOTION PASSED UNANIMOUSLY**

IX. Comments:

There were no comments from the Board

X. Adjournment:

The meeting was adjourned without benefit of a motion.