



TOWN OF PALM BEACH POLICE DEPARTMENT

A NATIONAL AND STATE ACCREDITED LAW ENFORCEMENT AGENCY



CODE ENFORCEMENT BOARD MINUTES 2:00 P.M. THURSDAY, March 20, 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
Richard A. Raffo, Vice-Chairman
Joel P. Koeppe, Member
Larry Ochstein, Member
Catherine M. Duemler, Member
Harris S. Fried, Member
Madelyn Greenberg, Alternate Member
Cynthia Van Buren, Alternate Member

Staff: John Randolph, Town Attorney
Captain Kirk Blouin, Support Services
Sgt. Fred Hess, Code Enforcement
Rob 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 February 21, 2008:**

**MOTION BY MR. RAFFO FOR APPROVAL OF THE FEBRUARY 21, 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. Mr. Hoffman also requested that it be brought to his attention if anyone arrived late and needed to be sworn in prior to testifying.

V. Comments regarding water violations by Sergeant Hess:

Sgt. Hess advised there were no water violations this month. He then clarified this did not imply there were no violations, just that there are none on the agenda due to the period of time there was no enforcement due to the schedule change.

VI. Public Hearings:

A. Case # 08-2466, 298 Tradewind Ave., Lopez Group, Inc.

Violation of Chapter 42, Section 42-230 of the Town of Palm Beach Code of Ordinances, landscape work on Town holiday

Code Enforcement Officer Gerry presented the facts of the case and said the company had been given a Notice of Code Violation in the amount of \$125.00 for a first violation. Mr. Gerry said he had just been informed the fine had been paid. He recommended the violator be found in non-compliance and the payment of the fine accepted with no further action or fees.

**MOTION BY MR. KOEPPPEL TO FIND THIS DEFENDANT IN NON-COMPLIANCE, ACCEPT THE PAYMENT OF THE FINE AND NO FURTHER ACTION TAKEN
SECONDED BY MS. DUEMLER
MOTION PASSED UNANIMOUSLY**

B. Case # 08-2467, 229 Orange Grove Road, Imogene Palmerio

Violation of Chapter 42, Section 42-87 of the Town of Palm Beach Code of Ordinances, unsightly, unsafe or unsanitary conditions, driveways to be maintained in good condition.

Code Enforcement Officer Gerry requested this case be dismissed for compliance.

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

C. Case # 08-2468, 155 N. County Road, Market Salamander Palm Beach

Violation of Chapter 114, Section 114-31 and Section 114-32 of the Town of Palm Beach Code of Ordinances, Business Tax Receipt required.

Sgt. Hess presented the facts of the case and said the defendant had applied for the

business tax receipt and it had not been issued at this time. He recommended they be given until April 3, 2008 to come into compliance.

**MOTION BY MS. GREENBERG TO GIVE THE DEFENDANT UNTIL
APRIL 3, 2008 TO COME INTO COMPLIANCE
SECONDED BY MS. DUEMLER
MOTION PASSED UNANIMOUSLY**

- D. Case # 08-2469, 270 Queens Lane, Queens Lane LLC
Violation of Chapter 106, Section 106-159 (b) of the Town of Palm Beach Code of Ordinances, shrubbery not trimmed back to the edge of the roadway; Chapter 42, Section 42-87 (7), accessory buildings and other appurtenances to be kept in a good state of repair; and Chapter 42, Section 42-86, prohibits trash and discarded materials on private property.

Code Enforcement Officer Weymer presented the facts of the case and said compliance was not achieved until March 13, 2008, approximately two weeks after the date set in the code violation notice. He recommended a finding of non-compliance and administrative costs in the amount of \$150.00.

**MOTION BY MR. FRIED TO FIND THE DEFENDANT IN NON-
COMPLIANCE AND ASSESS ADMINISTRATIVE COSTS OF \$150.00
SECONDED BY MR. RAFFO
MOTION PASSED UNANIMOUSLY**

- E. Case # 08-2470, 2252 W. Ibis Isle Road, Walter Jackson
Violation of Chapter 42, Section 42-86, of the Town of Palm Beach Code of Ordinances, properties are required to be maintained in good condition and unsightly, unsafe or unsanitary conditions are not permitted and Chapter 42, Section 42-87, all exterior walls to be maintained in good repair and roofs to be maintained so as not to leak.

Lead Code Enforcement Officer Walton presented the facts of the case. Photographs were presented for the Board to review. Mr. Walton advised compliance had not been achieved but Mr. Jackson had hired a roof contractor and a permit had been obtained. Mr. Jackson was present with his contractor, Mr. Perkins and advised he needed an extension because Mr. Perkins had to leave the country to bury his brother. Mr. Walton recommended Mr. Jackson be given an extension until April 14, 2008 to come into compliance. Dennis Perkins, the contractor, said he would not be back in the country until April 14, 2008.

**MOTION BY MR. FRIED TO FIND THE DEFENDANT IN NON-
COMPLIANCE, ASSESS ADMINISTRATIVE COSTS OF \$150.00 AND GIVE**

THE DEFENDANT UNTIL APRIL 14, 2008 TO COME INTO COMPLIANCE

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

- F. Case # 08-2471, 240 Park Avenue, Park Avenue Palm Beach LLC
Violation of Chapter 42, Section 42-86, of the Town of Palm Beach Code of Ordinances, properties are required to be maintained in good condition and unsightly, unsafe or unsanitary conditions are not permitted and Chapter 42, Section 42-87, all exterior walls to be maintained in good repair and interior walls and ceilings shall be structurally sound.

Lead Code Enforcement Officer Walton also presented the facts of this case and said it was a construction site with permits to remodel or repair. The permit had been obtained and then construction had stopped. The last inspection was on September 14, 2007. If a project goes six months without any activity or inspections, the permit is voided. In this case, the permit is void and it is no longer a construction site. The Town recommends a finding of non-compliance, administrative costs in the amount of \$150.00 and one (1) day to come into compliance. The Board discussed the security of the building and what action could be taken to insure it was not occupied illegally as it is considered an abandoned property.

**MOTION MADE BY MR. KOEPEL TO FIND THE DEFENDANT IN NON-COMPLIANCE, ASSESS ADMINISTRATIVE COSTS OF \$150.00 AND GIVE THEM ONE (1) DAY TO COMPLY
SECONDED BY MS. DUEMLER
MOTION PASSED UNANIMOUSLY**

- G. Case # 08-2472, 2870 S. Ocean Blvd., Palmlor L.C.
Violation of Chapter 134, Section 134-2182 of the Town of Palm Beach Code of Ordinances, supplemental off-site shared parking is allowed only after review and approval by the Town Council as a special exception use.

Lead Code Enforcement Officer Walton presented the facts of the case and requested it be dismissed for compliance.

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

- H. Case # 08-2473, 2880 S. Ocean Blvd., 2880 Development Group
Violation of Chapter 134, Section 134-2182 of the Town of Palm Beach Code of Ordinances, supplemental off-site shared parking is allowed only after review and approval by the Town Council as a special exception use.

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

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

- I. Case # 08-2474, 9 Via Vizcaya, Macari Building
Violation of Chapter 42, Section 42-199 of the Town of Palm Beach Code of Ordinances, construction work after hours.

Lead Code Enforcement Officer Walton presented the facts of the case and said a citation had been issued and the fine paid. He recommended a finding of non-compliance and acceptance of the payment of the fine and no further action taken.

**MOTION BY MR. KOEPPEL TO FIND THE DEFENDANT IN NON-COMPLIANCE AND ACCEPT THE PAYMENT OF THE FINE
SECONDED BY MR. FRIED
MOTION PASSED UNANIMOUSLY**

- J. Case # 08-2475, 150 Worth Ave., # 109, Emilico Pucci
Violation of Chapter 38, Section 38-35 (b) of the Town of Palm Beach Code of Ordinances, alarm fines not paid

Lead Code Enforcement Officer Walton presented the facts of the case and said there had been 9 false alarms and the total amount due was \$2079.00. He recommended a finding of non-compliance, administrative costs in the amount of \$150.00 and payment of the fine as well as any penalties.

**MOTION BY MR. FRIED TO FIND THE DEFENDANT IN NON-COMPLIANCE, ASSESS ADMINISTRATIVE COSTS OF \$150.00 AND ORDER THEM TO PAY THE FINES AS WELL AS ANY PENALTIES
SECONDED BY MS. GREENBERG
MOTION PASSED UNANIMOUSLY**

- K. Case # 08-2476, 3100 S. Ocean Blvd., Lillian Kenney
Violation of Chapter 38, Section 38-35 (b) of the Town of Palm Beach Code of Ordinances, alarm fines not paid

Lead Code Enforcement Officer Walton presented the facts of the case and said there had been 4 false alarms, the first two being free and fines assessed for the last two in the amount of \$346.50. He recommended a finding of non-compliance, administrative costs in the amount of \$150.00 and payment of the fines as well as any penalties.

**MOTION BY MS. GREENBERG TO FIND THE DEFENDANT IN NON-COMPLIANCE, ASSESS ADMINISTRATIVE COSTS OF \$150.00 AND ORDER THEM TO PAY THE FINES AS WELL AS ANY PENALTIES.
SECONDED BY MR. OCHSTEIN**

MOTION PASSED UNANIMOUSLY

L. Case # 08-2477, 215 Colonial Lane, Susan C. Lee Trust

Violation of Chapter 42, Section 42-87 of the Town of Palm Beach Code of Ordinances, swimming pools and gates to be kept in a good state of repair, roof maintained so as not to leak, exterior surfaces to be kept in a good state of repair, no conditions allowed which provides harborage for vermin and Chapter 18, Section 18-551, fences and gates for swimming pools to be not less than four (4) feet in height and gates to be self-closing and self-latching.

Code Enforcement Officer Gerry presented the facts of the case and said a complaint had been received from a resident about the condition of the property. The home appears to be vacant and had been cited for seven (7) violations. The Town recommends a finding of non-compliance and administrative costs in the amount of \$150.00. Mr. Gerry said that as far as the violations were concerned, the Town recommended that the defendant come into compliance on Violation 1 [Chapter 42, Section 42-87 (7)], Violation 2 [Chapter 18, Section 18-551], Violation 3 [Chapter 42, Section 42-87 (7)] and Violation 6 [Chapter 42, Section 42-87 (8)] by March 22, 2008 and that Violation 4 [Chapter 42, Section 42-87(5)], Violation 5 [Chapter 42, Section 42-87 (2)] and Violation 7 [Chapter 42, Section 42-87 (2)] come into compliance by April 14, 2008.

Amy Fischer, attorney for the Susan C. Lee Trust, was present and advised the violations were being addressed but due to circumstances beyond their control in deferring to the recommendations of the professionals they had hired (the exterminating company and the pool company) they would not be able to be in compliance by March 22, 2008. She requested they be given through April 14, 2008 to come into compliance on all of the issues. She requested the March 20, 2008 letter she sent to Mr. Walton be entered into evidence.

Mr. Gerry said the property has been vacant for several years according to neighbors who have been very concerned about the property. The property has also been cited in the past by Code Enforcement. However, this was not cited as a repeat code violation so the maximum fine that could be assessed was \$250.00.

MOTION BY MR. FRIED TO FIND THE DEFEDANT IN NON-COMPLIANCE, ASSESS ADMINISTRATIVE COSTS OF \$150.00 AND GIVE THEM UNTIL MARCH 22, 2008 TO COMPLY WITH VIOLATIONS 1, 2 3 AND 6 AND UNTIL APRIL 14, 2008 TO COMPLY WITH VIOLATIONS 4, 5 AND 7.

SECONDED BY MS. DUEMLER

MOTION OPPOSED

ROLL CALL VOTE:

MR. FRIED	YES
MS. DUEMLER	YES
MR. RAFFO	YES

MR. KOEPPEL NO
MR. OCHSTEIN YES
MS. GREENBERG NO
MR. HOFFMAN YES

MOTION PASSED 5-2

VII. Old Business:

- A. Case # 08-2432, Beachfront Vista Property, Nightingale Beach Club Association
Violation of Chapter 134, Section 134-1472 (3) of the Town of Palm Beach Code of Ordinances, no additional walls, fences, hedges or other structures or growth shall be erected or be grown eastwardly of Ocean Boulevard to a height greater than four (4) feet above the surface of the Ocean Boulevard.

Lead Code Enforcement Officer Walton advised that at the last hearing date, the violator had been given until March 19, 2009 to apply for a permit. Mr. Walton said he had received an e-mail from Mr. Maxey that a permit had been applied for so he recommended the Board extend the time period until April 14, 2008 for the permit to be issued and the property to be brought into compliance.

Ms. Duemler asked to be recused and Mr. Hoffman announced Ms. Van Buren would be a voting member in this case. In response to a question from Ms. Van Buren, Mr. Walton said he did not know how long it would take the State to grant the permit. Captain Blouin explained the process the Town had been going through to enforce the Ordinance and said the Town had been given the verbal approval to allow the hedges to be cut. Mr. Maxey was requiring the state to require him to get a permit by going over the local field representative's head and going higher up the chain of command. Mr. Maxey had also contacted U. S. Fish and Wildlife and brought up all

of these environmental issues. Captain Blouin said he had just spoken to Mr. Maxey at the rear of chambers a few minutes ago and if the permit was approved, Mr. Maxey was willing to cut the seagrasses back to the required Town code. If Mr. Maxey was successful in not getting the permit issued, then the case would be brought back to the Code Board for dismissal.

MOTION BY MR. KOEPPEL TO GRANT THE DEFENDANT UNTIL APRIL 14, 2008 TO COME INTO COMPLIANCE
SECONDED BY MR. RAFFO
MOTION PASSED UNANIMOUSLY

VIII. Fine Consideration:

- A. Case # 06-2062, 135 Chilean Ave., Rosalie Carr

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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 systems.

Lead Code Enforcement Officer Walton advised this was a case that was now in compliance and Ms. Carr's husband and their attorney, Mr. Bannister were present to request a fine reduction. The fine is now \$44,950.00.

John Bannister of the firm, Rutherford Mulhall was present and said he was accompanied by Mr. Carr, the husband of property owner, Rosalie Carr. The Carrs had received the notice of code violation and American Wood Fence had been hired to correct the problem. Mr. Bannister said the final order which had the \$100 daily fine attached to it had never been received by the Carrs. Mr. Bannister said the return receipt in the Code file for this final order had been signed for by someone the Carrs did not know. Mr. Bannister said the situation was discovered during the title search when the Carrs had an offer on the house. The Carrs had sent a letter requesting a deferral for the original hearing to be postponed until sometime after January 20th because they were going to be out of town. Since they did not hear anything else, they assumed the matter had been resolved. Mr. Bannister said they were asking that the fine be abated.

**MOTION BY MR. KOEPPPEL TO REDUCE THE FINE TO \$2500.00 AND
ADMINISTRATIVE COSTS OF \$150.00 BE IMPOSED
SECONDED BY MR. FRIED
MOTION OPPOSED**

ROLL CALL VOTE:

MR. KOEPPPEL	YES
MR. FRIED	YES
MR. RAFFO	NO
MR. OCHSTEIN	NO
MS. GREENBERG	NO
MS. DUEMLER	NO
MR. HOFFMAN	NO

MOTION FAILED 5-2

**MOTION BY MR. RAFFO TO REDUCE THE FINE TO \$22,475.00
SECONDED BY MS. GREENBERG
MOTION OPPOSED
ROLL CALL VOTE:**

MR. RAFFO	YES
MS. GREENBERG	YES
MR. KOEPPPEL	NO

MR. OCHSTEIN	YES
MS. DUEMLER	NO
MR. FRIED	YES
MR. HOFFMAN	YES

MOTION PASSED 5-2

B. Case # 07-2367, 113 Kings Road, Benton P. Bohannon

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 systems.

Lead Code Enforcement Officer Walton advised the fine due in this case is \$15,500.00. He also noted the Bohannons had paid the administrative costs of \$150.00.

Attorney Peter Broberg was sworn in and said he was present with the Bohannons. He said there was no willful neglect on their part and asked for the fine to be completely abated or reduced to a \$1000 which will be the eight days they were out of compliance on the one violation at \$125.00 a day.

Mr. Bohannon was sworn in and explained the chronology of the situation involving the shed and the non-permitted loggia. He apologized for not appearing at the December hearing and said his daughter had signed for the notice and had not notified him. Ms. Bohannon was also sworn in and advised she would never again build without a permit. She thanked the Board and asked for a fine reduction.

Mr. Fried asked for a breakdown of the fine for the two violations and Mr. Walton said there was only one fine of \$250.00 a day, running from Dec. 22, 2007 until compliance was achieved on Feb. 22, 2008.

**MOTION BY MR. KOEPPPEL TO REDUCE THE FINE TO \$3000.00
SECONDED BY MS. DUEMLER
MOTION OPPOSED**

ROLL CALL VOTE:

MR. KOEPPPEL	YES
MS. DUEMLER	YES
MR. RAFFO	YES

MR. OCHSTEIN	NO
MR. FRIED	NO
MS. GREENBERG	NO
MR. HOFFMAN	YES

MOTION PASSED 4-3

IX. Comments:

A discussion was held reference Code Enforcement fines. Captain Blouin told the Board that for the year 2007, the Town had collected just under \$850,000 in code enforcement fines. The amounts due for all unpaid fines have been provided to the Board. Liens will be filed and any non-homesteaded properties will be brought to the Board for foreclosure action on non-paid fines.

**MOTION BY MR. RAFFO TO RECOMMEND TO THE TOWN COUNCIL
THAT THE CODE ENFORCEMENT BOARD HAVE THE FINAL
APPROVAL ON FORECLOSURES.**

SECONDED BY MR. FRIED

MOTION PASSED UNANIMOUSLY

Sgt. Hess announced this would be his last Code Enforcement Board meeting as he has been promoted and he thanked the members of the Board for their cooperation and spirit of teamwork. He introduced Sgt. Curtis Krauel and said he would be the new Code Enforcement Manager.

Ms. Marix addressed the Board and suggested registered mail be used instead of certified mail as a means of notification. Mr. Randolph said state law required certified mail/return receipt requested.

X. Adjournment:

The meeting was adjourned without benefit of a motion.