



TOWN OF PALM BEACH

POLICE DEPARTMENT

A NATIONAL AND STATE ACCREDITED LAW ENFORCEMENT AGENCY



CODE ENFORCEMENT BOARD MINUTES 2:00 P.M. THURSDAY, February 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
Richard A. Raffo, Vice-Chairman
Martin I. Klein, Member
Joel P. Koeppel, 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 January 17, 2008:**

MOTION BY MR. KLEIN FOR APPROVAL OF THE JANUARY 17, 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. Comments regarding water violations by Sergeant Hess:

Sgt. Hess advised the agenda was light this month due to what he believed was three factors: the first being increased enforcement since responsibilities were transferred to the police department, coupled with the more stringent decisions by the Code Enforcement Board had resulted in an increase in voluntary compliance with the Town's ordinances; the second was the Town Council passing Ordinance 27-07 last month which greatly increased the number of ordinances to which a fine schedule could be applied. Cases coming before the Board could be reduced by violators simply choosing to pay the fine. The third was the change of restrictions for landscape irrigation which occurred on January 15, 2008. We allowed a temporary hiatus so residents could reset their irrigation timers and during that period, violations were addressed by warnings rather than notices of violation.

Sgt. Hess said today's agenda had 6 water restriction violation cases and we would like to continue with the process used for the past several months which would save time for the Board as well as the public. Sgt. Hess asked if there was anyone present on a water violation case and the one individual who was in the audience was asked to meet with Code Enforcement Officer Weymer in the rear of chambers to discuss his case.

VI. Public Hearings:

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

Sgt. Hess presented a chronological history of the facts of this case and said the violation being addressed today was observed on January 14, 2008 by Ofc. Terhorst. Ofc. Terhorst was present and testified to his observations and advised he contacted Sgt. Hess reference the violation. Sgt. Hess said he followed up with a Notice of Violation which Ms. Bradley refused to sign. Ms. Bradley was present and advised she was president of Palm Beach Cat Rescue and Humane Society. She said she was here today after not having any violations for the past 5 ½ years and that the police officers remembrance of the occasion was totally different than hers. Ms. Bradley said the property in question belonged to a friend of hers, Mr. Keitel, and she had permission to be on the property. She disputed Ofc. Terhorst's testimony and said he had not seen her feeding cats. Ms. Bradley said she hoped she would not have to pay the fine.

Sgt. Hess advised the Town's recommendation was to adhere to the fine schedule approved by Council, a fine of \$250.00 for a first offense, a finding of non-compliance and administrative costs of \$150.00. Mr. Klein questioned the interpretation of Section 10-9 of the ordinance and Mr. Randolph confirmed that feeding feral cats was maintaining under the ordinance and unless done under the authorized Town program, would be a violation.

MOTION BY MR. OCHSTEIN TO FIND THIS DEFENDANT IN NON-

COMPLIANCE, IMPOSE A FINE OF \$250.00 AND ADMINISTRATIVE COSTS OF \$150.00.

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

- B. Case # 08-2460, 1438 N. Ocean Blvd., Michael & Lisa Schultz and Woolems, Inc.
Violation of Chapter 18, Section 18-242, Subsection 104.5.1.6, of the Town of Palm Beach Code of Ordinances, medium projects consisting of new or remodel construction projects of 4,000 sq. ft. to 8,999 sq. ft. or more under roof will be completed within 22 months.

The facts of this case were presented by Code Enforcement Officer Gerry who advised the complaint had been received from the Building Department. Mr. Gerry said several complaints had also been received about the condition of the property. The Town's recommendation is a finding of non-compliance, administrative costs of \$150.00 and the violator to obtain a final building inspection within one day. A fine of up to \$250.00 a day would be requested at the next hearing if compliance was not achieved. Bob Moore and Donny Quevaro were present on behalf of Woolems Construction. Mr. Moore said there were four issues, the first being a procedural question which was directed to the Chairman and Mr. Randolph. Maura Ziska, the attorney, was unable to be present due to illness and a postponement to next month was requested. After a brief discussion, the Board decided to continue with the case. The other issues were discussed, one of which was the extension of time for the completion of construction projects which would give this project 30 months instead of 22 months. Veronica Close, Asst. Director of PB&Z was sworn in and explained the new Code time limits. Jeff Taylor, Acting Building Official, advised there was one other building project with the same circumstances. Mr. Seagraves, the architect, was present and spoke about the project and advised he believed it would be completed by July, 2008.

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

- C. Case # 08-2461, 235 Sunrise Ave., Trainers Personal Training
Violation of Chapter 46, Section 46-68 of the Town of Palm Beach Code of Ordinances, annual fire and life safety fees not paid.

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

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

- D. Case # 08-2462, 301 Worth Ave., Chanel, Inc.
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 requested this case be dismissed for compliance.

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

- E. Case # 08-2463, 132 Royal Palm Way, U.S. Trust Co.
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. He recommended a finding of non-compliance, administrative costs in the amount of \$150.00 and that the violator be ordered to pay the fine of \$191.73 plus any applicable late fees.

**MOTION BY MR. KLEIN TO ACCEPT THE TOWN'S RECOMMENDATION
SECONDED BY MR. RAFFO
MOTION PASSED UNANIMOUSLY**

- F. Case # 08-2464, 251 Royal Palm Way, U.S. Trust Co.
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 also presented the facts of this case. He recommended a finding of non-compliance, administrative costs in the amount of \$150.00 and that the violator be ordered to pay the fine of \$810.58 plus any applicable late fees.

**MOTION BY MR. KLEIN TO ACCEPT THE TOWN'S RECOMMENDATION
SECONDED BY MR. FRIED
MOTION PASSED UNANIMOUSLY**

- G. 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 Ordinances, building permit required to construct, install, repair or alter any building or building system.

Lead Code Enforcement Officer Walton advised this case had been postponed from the January hearing to this one and briefly reviewed the facts of the case. The property owner and his attorney are working toward resolving the issues. Mr. Walton requested the case be rescheduled to a date certain of April 17, 2008.

**MOTION BY MR. KOEPPPEL TO RESCHEDULE THE CASE UNTIL 4/17/08
SECONDED BY MR. KLEIN
MOTION PASSED UNANIMOUSLY**

- H. Case # 08-2465, 240 Angler Ave., 240 Angler Avenue LLC
Violation of Chapter 42, Section 42-86, properties are required to be maintained in good condition and unsightly, unsafe or unsanitary conditions are not permitted.

Code Enforcement Officer Weymer presented the facts of this case and said he had discovered the violation on a routine active patrol. The high grass on the lot ranged from 12" to 20" in height and photographs of the violation were presented to the Board. The lot had been inspected as of this morning and there had been no compliance. Mr. Weymer recommended a finding of non-compliance, administrative costs in the amount of \$150.00 and the violator be given one (1) day to achieve compliance.

**MOTION BY MR. KOEPPPEL TO ACCEPT THE TOWN'S RECOMMENDATION
SECONDED BY MR. KLEIN
MOTION PASSED UNANIMOUSLY**

Code Enforcement Officer Weymer presented the water use violation cases next and advised he did not believe there was anyone else present to speak on a particular case so he would be grouping the cases accordingly.

The following cases are on today's agenda, however the fine associated with each case has been paid prior to the start of the hearing:

Case # 07-2401, #08-2466, #08-2467, and #08-2468.

The Town recommends acceptance of the payment of the fine and the admission of the charge for the following cases:

- I. Case # 07-2401, 225 Jamaica Lane, Scott Vesley
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.

**MOTION BY MR. KOEPPPEL TO ACCEPT PAYMENT OF THE FINE AND
ADMISSION OF THE CHARGE
SECONDED BY MR. KLEIN
MOTION PASSED UNANIMOUSLY**

- K. Case # 08-2466, 160 Wells Rd., Timothy J. Rooney
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.

**MOTION BY MR. KOEPPPEL TO ACCEPT THE PAYMENT OF THE FINE AND
ADMISSION OF THE CHARGE**

SECONDED BY MR. KLEIN

MOTION PASSED UNANIMOUSLY

- L. Case # 08-2467, 3300 S. Ocean Blvd., Meridian of Palm Beach 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.

**MOTION BY MR. KOEPPPEL TO ACCEPT THE PAYMENT OF THE FINE AND
ADMISSION OF THE CHARGE**

SECONDED BY MR. KLEIN

MOTION PASSED UNANIMOUSLY

- M. Case # 08-2468, 224 Mediterranean Road, Patush LLC
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.

**MOTION BY MR. KOEPPPEL TO ACCEPT THE PAYMENT OF THE FINE AND
ADMISSION OF THE CHARGE**

SECONDED BY MR. KLEIN

MOTION PASSED UNANIMOUSLY

Code Enforcement Officer Weymer advised that in the following case, # 08-2469, no one had responded either by paying the fine or attending today's hearing. The Town recommends the Board find them in non-compliance, assess administrative fees in the amount of \$150.00 and payment of the fine.

- N. Case # 08-2469, 218 Seaspray Ave., Richard M. Pollock
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.

**MOTION BY MR. FRIED TO FIND THE DEFENDANT IN NON-COMPLIANCE,
ORDERED TO PAY ADMINISTRATIVE COSTS IN THE AMOUNT OF \$150.00
AND PAYMENT OF THE FINE OF \$100.00.**

SECONDED BY MR. KLEIN

MOTION PASSED UNANIMOUSLY

Code Enforcement Officer Weymer advised that the following case, # 08-2457 is being recommended for dismissal due to proof of new plantings.

- J. Case # 08-2457, 2660 S. Ocean Blvd., Beach Point 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.

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

VII. Old Business/Fine Consideration:

- A. Case # 07-2097, 333 Sunset Ave., Royal Poinciana South
Violation of Chapter 134, Section 134-416 (d), Section 134-417 and Section 134-418
of the Town of Palm Beach Code of Ordinances, when any building or structure or part thereof which is nonconforming is altered, changed or replaced, the non-conforming building or structure or part thereof shall thereafter conform to the regulations of the district in which such building or structure is located and the terminated nonconformity shall not thereafter be resumed nor shall any additional nonconformity be permitted.

Lead Code Enforcement Officer Walton presented a brief synopsis of the facts of this case. This case was appealed to the courts and the court had remanded it back to the Code Enforcement Board to re-hear the case. Mr. Walton advised the attorney, Ms. Ziska was ill and her co-counsel, who handled the appeal before the courts is not available and they are requesting a postponement of this case until April 17, 2008 as the appeal attorney will be out of the country at the time of the March Code Enforcement Board hearing.

**MOTION BY MR. KOEPPPEL TO POSTPONE THE CASE UNTIL APRIL 17, 2008
SECONDED BY MR. FRIED
MOTION PASSED UNANIMOUSLY**

- B. Case # 07-2365, 220 Esplanade Way, Dayna and Donald Perry, III, Steve Annunziata, Annunziata Building Corporation
Violation of Chapter 18 Section 18-242, Subsection 104.5.1.6 of the Town of Palm Beach Code of Ordinances, medium projects, all new or remodel construction projects of 4,000 sq. ft. to 8,999 sq. ft. under roof be allowed 22 months.

Lead Code Enforcement Officer Walton advised this was a hearing for the assessment of a daily fine. At the December hearing, the property was found in non-compliance of the allowable construction time limit. They were granted an extension until January 31, 2008 and as of today, the project is still not completed. Mr. Walton requests a fine of \$250.00 a day be imposed. Steve Annunziata of

Annunziata Building was present and said everything was completed with the exception of the pool and the landscaping. He estimated they were about 8 days out from completing the project.

MOTION BY MR. KLEIN TO IMPOSE A FINE OF \$250.00 A DAY STARTING FEBRUARY 1, 2008
SECONDED BY MS. DUEMLER
MOTION PASSED UNANIMOUSLY

- D. Case # 08-2426, 2295 S. Ocean Blvd., Harbour House Condominium
Violation of Chapter 42, Section 18-242 of the Town of Palm Beach Code of Ordinances, building permit required for satellite dish antenna on the roof.

Lead Code Enforcement Officer said this was also the institution of a fine case hearing. At the January 17, 2008 hearing, the project was found in non-compliance and given until January 25, 2008 to come into compliance. The permit had been obtained but they had not gotten the final inspections. He requested a fine of \$50.00 a day until all the permits were final and the project is completed. Julian Butler, building manager of the Harbor House, was present and spoke about the issues involving the permit. Mr. Walton advised this had started out on a red tag because no permits had been obtained and Jeff Taylor also spoke about the related problems on the project.

MOTION BY MR. KLEIN TO IMPOSE A FINE OF \$50.00 A DAY STARTING JANUARY 26, 2008 AND CONTINUING UNTIL ALL THE PERMITS ARE FINAL AND THE PROJECT COMPLETED.
SECONDED BY MR. RAFFO
MOTION OPPOSED

ROLL CALL VOTE:

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

- E. Case # 08-2430, 150 Australian Avenue, Retriever Asset Holding Corp.
Violation of Chapter 134, Section 134-2174 of the Town of Palm Beach Code of Ordinances, off street parking areas must be of a suitable paved surface and be effectively screened with hedges and Section 134-2179, front, street and street rear yards may not be used for off-street parking.

Lead Code Enforcement Officer Walton advised Retriever Asset Holding Corporation had been found in non-compliance at the last hearing and were granted

time to come into compliance. A permit had been issued this morning but zoning and landmark issues had arisen. He recommended a time extension until March 14, 2008 to complete the project.

Marshall Whelan, the owner, was present with his attorney, Barry Curtain. Mr. Curtain said they had worked very hard with the Building Department and Mr. Walton to come into compliance. He said Mr. Whelan was not able to attend the last hearing

and Mr. Curtain believed the Board had made a ruling based on imperfect facts that were before it. It was not presented at that hearing that this property has been landmarked and there was a freestanding single family 1922 cottage on the property.

The parking space in question relates to that cottage. Mr. Curtain said in order to remove the driveway which was the Town's recommendation, they would have had to go to Landmarking. Secondly, because there are 7 dwelling units on the property and only 5 spaces provided, they would have had to go before the Town because they would have been increasing a non-conforming use and he had met with Mr. Brazil and Mr. Randolph on this issue. He requested no fine be imposed and said the driveway would be completed. Mr. Whelan said he had a contractor and would be able to complete the project by the March 14th date.

MOTION BY MR. KOEPPPEL TO GRANT AN EXTENSION UNTIL MARCH 14, 2008

SECONDED BY MR. KLEIN

MOTION PASSED UNANIMOUSLY

- F. 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.

Ms. Duemler reminded the Board she had previously been recused from this case and Mr. Hoffman advised Ms. Greenberg would be a voting member in this particular case.

Lead Code Enforcement Officer Walton advised this was in regard to the trimming of the Ocean Vista ordinance and the Board had granted them until February 16, 2008 to come into compliance. The shrubs still had not been trimmed but the \$150.00 hearing costs had been paid. Mr. Walton said Mr. Maxey had agreed to apply for a permit from the state and based on that, there was a discussion with him that an extension be granted until the April hearing date. Mr. Walton advised the Town was recommending that only a 30 day extension be granted. Capt. Blouin said the State is not necessarily requiring the permits to cut the seagrapes but Mr. Maxey is almost forcing them to require them. The State had inspected it and given the Town the verbal okay to enforce the ordinance as it is written. Mr. Maxey is trying to force the issue with the Department of Environmental Protection as to why he is not required to get a written permit. Capt. Blouin advised Mr. Maxey said today he would apply for the permit and he recommended giving him the time to do so. Capt. Blouin said

Mr. Clayton, the DEP field representative for this area, had reviewed the Town's ordinances and all of the seagrasses and said he had no problem with them cutting them back to the height the Town is requiring.

**MOTION BY MS. GREENBERG TO POSTPONE THE FINE CONSIDERATION
HEARING UNTIL MARCH 20, 2008
SECONDED BY MR. KOEPEL
MOTION PASSED UNANIMOUSLY**

- B. Case # 08-2363, 259 Oleander Ave., Violet Alexander
Violation of Chapter 42, Section 42-87 of the Town of Palm Beach Code of Ordinances, disrepair of property; Chapter 18-241, 104.1, building permits required; Chapter 42, Section 42-86, environment; and Chapter 114, Section 114-32, business tax receipts.

Lead Code Enforcement Officer Walton reviewed the case and advised this was a fine reduction request by Ms. Alexander. The total due at this time was \$8750.00 which included the \$150.00 in costs. The costs have not been paid. Violet Alexander was present and was sworn in by the Recording Secretary. Ms. Alexander said Jeff Taylor had an issue with the permit for the window and all the violations that came into effect. Mr. Taylor explained the issues with the building permits and said Ms. Alexander had been working to get the situation resolved. Mr. Walton said the fine for the permit issue was \$4000 and he believed Ms. Alexander was asking for that to be reduced. Ms. Alexander said she was asking for that to be zeroed out as she was in compliance. Mr. Walton said Ms. Alexander worked to get things straightened out and said she was asking for that part of the fine to be diminished, leaving the fine \$4750.00. Ms. Alexander said she would like it to be even less. Mr. Koepfel asked for a breakout of the \$4750.00 and Mr. Walton said Violation 42-87 was \$2800, violation 114.32 was \$1800 and the administrative costs of \$150.00. Ms. Alexander said she wanted the fine to be zero.

**MOTION BY MR. KOEPEL TO REDUCE THE FINE BY \$4000
SECONDED BY MR. FRIED
MOTION OPPOSED**

ROLL CALL VOTE:

MR. KOEPEL	YES
MR. FRIED	YES
MR. RAFFO	NO
MR. OCHSTEIN	YES
MS. DUEMLER	YES
MR. KLEIN	YES
MR. HOFFMAN	YES

There was a brief discussion held reference the fines due and Capt. Blouin advised he would provide a report at the next Code Board meeting.

XIII. Adjournment:

The meeting was adjourned without benefit of a motion.