

**CODE ENFORCEMENT BOARD MINUTES
2:00 P.M. THURSDAY, JANUARY 18, 2007
AT THE TOWN COUNCIL CHAMBERS, 360 SO. 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. Koepfel, Member
 Larry Ochstein, Member
 Catherine M. Duemler, Member
 Martin I. Klein, Member
 Harris S. Fried, Member
 Madelyn Greenberg, Alternate Member
 John C. Randolph, Town Attorney

Staff: Robert S. Walton, Chief Code Compliance Officer
 Deborah A. Morakis, Recording Secretary

III 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 Debby Morakis.

IV Approval of the Minutes of December 21, 2006:
MOTION BY MR. KLEIN FOR APPROVAL OF THE MINUTES AS CORRECTED.
MOTION SECONDED BY MR. OCHSTEIN.
MOTION PASSED UNANIMOUSLY.

V Public Hearings:

A Case # 07-2067, 272 Country Club Road, M. J. Civitella, Benchmark III Corp
Violation of Chapter 18, Section 18-242, Subsection 104.5.1.6, Medium Projects, of the Town of Palm Beach Code of Ordinances: all new or remodel construction projects of 4,000 sq. ft. to 8,999 sq. ft. under roof be allowed 20 months.

Chief Code Compliance Officer Walton requested that Case #07-2067 be postponed until the February 15, 2007 Code Enforcement Board Hearing. This property is scheduled to be heard by the Architectural Commission at the January 24, 2007 ARCOM meeting for approval of some architectural changes.

MOTION BY MR. KOEPPEL TO POSTPONE CASE #07-2067 UNTIL THE FEBRUARY 15, 2007 CODE ENFORCEMENT BOARD HEARING.
MOTION SECONDED BY MR. KLEIN.
MOTION CARRIED UNANIMOUSLY.

- B Case # 07-2068, 333 So. County Road, Palm Beach Jewelry & Antique Center, Inc.
Violation of Section 38-35 (b) of the Town of Palm Beach Code of Ordinances: alarm system users with fines not paid within thirty (30) days of first billing shall be referred to the Town's Code Enforcement Board.

Chief Walton reported the facts in this case and recommended a finding of non compliance, \$150.00 in administrative costs and suggested seven (7) days to comply.

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

- C Case # 07-2069, 375 So. County Road, Three Seventy Five South
Violation of Chapter 42, Section 42-87 of the Town of Palm Beach Code of Ordinances: all exterior walls, roofs, doors and windows shall be reasonably free of cracks, painted and shall be kept in sound condition and good repair.
Violation of Chapter 42, Section 42-86 of the Town of Palm Beach Code of Ordinances: does not allow unsightly, unsafe or unsanitary conditions and requires dead trees be removed.

Chief Walton reported that the tree stump has been removed and therefore requested a dismissal of the violation of Section 42-86. Mr. Walton reported that portions of the building remain to be painted and an awning is in disrepair and is propped up by a board and not properly supported.

Brian House, representative of the owner, indicated that he had a contract with American Awning to replace all the awnings on the front of the building and the work could be completed by the 3rd week of February. Mr. House reported that Mr. Handelsman, the owner of the property is out of the country but he had previously met with the Town and agreed to paint the North side of the building. The entire front of the building downstairs has been painted and the doors were replaced.

The Town recommends dismissal of the violation of Section 42-86, a finding of non compliance of Section 42-87 since the awnings are still in disrepair, costs in the amount of \$150.00 and give until February 23, 2007 to comply.

MOTION BY MR. KLEIN TO ACCEPT THE TOWNS RECOMMENDATION.
MOTION SECONDED BY MR. OCHSTEIN.
MOTION CARRIED UNANIMOUSLY.

- D Case # 07-2070, 205 Worth Avenue, #112, Gary Knapp
Violation of Chapter 114, Section 114-38 of the Town of Palm Beach Code of Ordinances: Taxation, operating without a business tax receipt.

Chief Walton reported the facts in this case and stated that an inspection of the building showed that this person was renting an office suite. The town would recommend a finding of non compliance, that the violator be ordered to pay hearing costs in the amount of \$150.00 and obtain a business tax receipt within seven (7) days, before January 25, 2007.

MOTION BY MR. KOEPPPEL TO ACCEPT THE TOWNS RECOMMENDATION.
MOTION SECONDED BY MR. FRIED.
MOTION CARRIED UNANIMOUSLY.

- F Case # 07-2071, 205 Worth Avenue, #118, Kim Coleman Interiors
Violation of Chapter 114, Section 114-38 of the Town of Palm Beach Code of Ordinances:
Taxation, operating without a business tax receipt.

Chief Walton reported the facts in this case and stated that an inspection of the building showed that this person was renting an office suite and had not obtained a business tax receipt. The town would recommend a finding of non compliance, that the violator be ordered to pay hearing costs in the amount of \$150.00 and obtain a business tax receipt within seven (7) days, before January 25, 2007.

MOTION BY MR. KLEIN TO ACCEPT THE TOWNS RECOMMENDATION.
MOTION SECONDED BY MR. KOEPPPEL.
MOTION CARRIED UNANIMOUSLY.

VI New Business:

None

VII Old Business:

- A Case #06-2009, 2860 So. Ocean Blvd., #316, Stuart Wood
Violation of Chapter 18, Section 18-241 of the Town of Palm Beach Code of Ordinances:
building permits are required to install, repair, or alter any building or building system. These permits must be obtained prior to commencing work.

Chief Walton reported the facts in this case and indicated this remodel project was done without permits. The violator was found in non compliance at the September 21, 2006 Code Enforcement Board Hearing and was ordered to pay a fine in the amount of \$150.00 per day plus administrative costs. The fine ran for 54 days totaling \$7,950.00. The administrative costs were paid immediately.

Stuart Wood, the property owner, addressed the Board and explained the difficulties he experienced. A person was hired to clean up the apartment but they went beyond the scope by removing a leaking vanity and toilet and some drywall. The manager contacted Mr. Walton who stopped the job. A contractor was hired to obtain the permit and a double permit fee was imposed and paid.

After further discussion, the following motion was made:

**MOTION BY MR. FRIED TO REDUCE THE TOTAL FINE BY 50% AND ORDER THAT
PAYMENT BE MADE WITHIN SEVEN (7) DAYS.**
MOTION SECONDED BY MR. KLEIN.
MOTION PASSED 4 TO 3 AFTER A ROLL CALL VOTE.

- B Case #06-2041, 300 Barton Avenue, Ms. Jane Janssen
Violation of Chapter 42, Sections 42-86 and 42-87 of the Town of Palm Beach Code of Ordinances: requires properties be maintained in good condition.

Chief Walton addressed the Board and advised that this case was heard at the October 2006 Code Enforcement Board hearing and the Board found her in non compliance and gave her sixty (60) days to comply. At the December hearing, Peter Broberg had become involved and asked for an extension until today. She has been found in non compliance and costs have been assessed in the amount of \$150.00. The house is still in disrepair.

Peter Broberg, Attorney for Mrs. Janssen addressed the Board, and reminded Mr. Walton that the violation of Section 42-86 was dismissed at the October 2006 Code Enforcement Board Hearing. Mrs. Janssen knows that the work needs to be done. She had broken her hip and was in rehabilitation. A gardening contractor has been hired and will take care of the property on a regular basis. A contractor has been retained for the painting. Mr. Broberg requested sixty (60) days to complete the project.

Mr. Walton recommended that a fine in the amount of \$250.00 per day be assessed. When the project is completed, a fine reduction could be requested, if appropriate.

After further discussion, the following motion was made:

MOTION BY MR. KLEIN TO DEFER CASE #06-2041 UNTIL THE NEXT CODE ENFORCEMENT BOARD HEARING.

Motion failed for lack of a second. After further discussion, the following motion was made:

MOTION BY MR. KOEPPEL TO GRANT AN EXTENSION UNTIL MARCH 9, 2007 TO COMPLETE THE PROJECT. IF NOT COMPLETED, A FINE WOULD BE CONSIDERED AT THE MARCH 15, 2007 CODE ENFORCEMENT BOARD HEARING.

MOTION SECONDED BY MR. KLEIN.

MOTION CARRIED UNANIMOUSLY.

C Case #06-2042, 232 Cherry Lane, Robert & Louisa Dean

Violation of Chapter 42, Section 42-87 of the Town of Palm Beach Code of Ordinances: requires properties be maintained in good condition, does not allow unsightly, unsafe or unsanitary conditions and requires roofs be maintained in good condition and not to leak.

Chief Walton reported the facts in this case. At the October 2006 Code Enforcement Board Hearing, the violator was found in non compliance and was given four (4) weeks to complete the roof. The roof was not completed. At the December 21, 2006 hearing, an extension was granted until today's hearing since Mrs. Dean was having a problem with the roofer.

Robert Dean, son of Louis Dean, addressed the Board and explained the problems his mother experienced with the insurance company and the roofer. Mr. Dean hired someone to oversee the project. The contractor has since left the state and the contract was cancelled. A new contractor, Helping Hands Roofing, has now been hired.

Jim Kolifrath, Sales Representative of Your Helping Hands Roofing of Lantana reported that the material should arrive by the end of February and once the material is loaded on the roof, the project will be completed in seven (7) days. The permit application will be submitted tomorrow.

Chief Walton reported that the first contractor neglected to obtain the required inspections so a letter was obtained from an engineer. After further discussion, the following motion was made:

MOTION BY MR. KOEPPEL TO GRANT AN EXTENSION UNTIL MARCH 9, 2007 FOR COMPLETION OF THE PROJECT, AND REQUEST A STATUS REPORT BE GIVEN AT THE MARCH 15, 2007 CODE ENFORCEMENT BOARD HEARING.

MOTION SECONDED BY MR. KLEIN.

MOTION CARRIED UNANIMOUSLY.

- D Case #06-2049, 1742 So. Ocean Blvd., Gunther E. Lehmann
Violation of Chapter 42, Section 42-87 of the Town of Palm Beach Code of Ordinances: all exterior walls, gates and fences situated on the property shall be kept in a good state of repair.

Mr. Walton reminded the Board that the facts in Case #'s 06-2049 and 06-2050 are essentially the same and would be heard together but separate motions would need to be made. At the November 2006 Code Enforcement Board Hearing, the violators were found in non compliance, ordered to pay administrative costs and each party was to repair the portion of the wall that was on their property and provide an engineers report attesting to the condition of the wall within sixty days. The neighbors have come to an agreement. A letter from Maura Ziska requesting a six (6) month extension of time to complete the project was read into the record. Mr. Walton was in support of the extension.

**MOTION BY MR. KLEIN TO MOVE THE TOWN'S RECOMMENDATION, AS MODIFIED, TO GRANT THE EXTENSION WITH A PROGRESS REPORT GIVEN AT THE APRIL 19, 2007 CODE ENFORCEMENT BOARD HEARING.
MOTION SECONDED BY MS. DUEMLER.
MOTION CARRIED UNANIMOUSLY.**

- E Case #06-2050, 1744 So. Ocean Blvd., Norman Travers
Violation of Chapter 42, Section 42-87 of the Town of Palm Beach Code of Ordinances: all exterior walls, gates and fences situated on the property shall be kept in a good state of repair.

**MOTION BY MR. KLEIN TO MOVE THE TOWN'S RECOMMENDATION, AS MODIFIED, TO GRANT THE EXTENSION WITH A PROGRESS REPORT GIVEN AT THE APRIL 19, 2007 CODE ENFORCEMENT BOARD HEARING.
MOTION SECONDED BY MR. FRIED.
MOTION CARRIED UNANIMOUSLY.**

- F Case #06-2060, 1100 So. Ocean Blvd., Mar-a-Lago Club
Violation of Chapter 134, Section 134-791 (b)(3) of the Town of Palm Beach Code of Ordinances: an unenclosed accessory structure, such as a flagpole, is required to comply with the same open yard requirements as the principal structure, which includes a setback of a minimum of thirty-five feet (35'), or two feet (2') for every one foot (1') in building height, whichever is greater (Section 134-793 (5) & (7)).
Violation of Chapter 134-796 (a) of the Town of Palm Beach Code of Ordinances: provides a maximum height not to exceed 40 percent above the building height limit for the district in which it is located.
Violation of Chapter 54, Section 54-71 (a) of the Town of Palm Beach Code of Ordinances: no exterior feature on a landmark site under the jurisdiction of the Landmark Preservation Commission may be erected until after a certificate of appropriateness has been approved by the Landmarks Preservation Commission.
Violation of Chapter 18, Section 18-241 of the Town of Palm Beach Code of Ordinances: requires a building permit to install any building or building system.
Violation of Declaration of Use Agreement with the Town of Palm Beach, The Mar-a-lago Club, Inc., and Donald J. Trump, dated August 10, 1993, as amended.

Chief Walton reported that at the December 21, 2006 Code Enforcement Board Hearing, the Mar-a-Lago Club was found in violation of the above stated violations and was further ordered to pay administrative costs in the amount of \$150.00 and was ordered to remove the flagpole within fifteen days. They were also notified that failure to correct the violations by January 5, 2006 might result in fines being imposed. As of this date, the pole has not been removed and approvals have not been obtained or applied for. The Town recommends that a fine in the amount of \$250.00 per day be applied, for each of the five violations commencing on January 6, 2007 and continuing until compliance is obtained.

Cynthia Van Buren, a resident of the Town of Palm Beach, urged the Board not to be influenced or swayed by the lawsuit filed by the Mar-a-Lago Club and asked the Board to impose the maximum fines for each violation, retroactive to the date the pole was installed.

Mr. Walton confirmed the maximum fine could be \$250.00 per violation, and could only be effective January 6, 2007.

Raymond Royce, Attorney for the Mar-a-Lago Club, addressed the Board and stated that there is only one issue, the one flag pole and one American flag and not five violations as staff wishes to impose five penalties. Mr. Royce requested that this case be postponed until every flag pole installed in the Town without a permit is brought before the Code Enforcement Board.

Attorney Skip Randolph corrected Mr. Royce and for the record, stated that the violations that have been cited relate strictly to the erection of the flagpole as a structure and do not apply to the flying of the American flag from the flagpole. In regard to the selective enforcement point that is an issue that is before the court in the lawsuit that has been chosen to be filed as opposed to participating in these proceedings and is not subject for your consideration today. Subject for your consideration today is the amount of the fines to be imposed and that is considered under Section 2-434 of your code, in determining the amount of the fine the enforcement board shall consider the following factors:

1. The gravity of the violation.
2. Any actions taken by the violator to correct the violation.
3. Any previous violations committed by the violator.

The issue before the Code Enforcement Board today is the recommendation being made by the Code Enforcement Officer or any alternative recommendation that you wish to impose. After further comments were made by members of the Code Enforcement Board and discussion took place, the following motion was made:

MOTION BY MR. FRIED TO ACCEPT THE STAFF RECOMMENDATION TO IMPOSE A FINE IN THE AMOUNT OF \$250.00 PER VIOLATION, PER DAY, COMMENCING ON JANUARY 6, 2007 CONTINUING UNTIL COMPLIANCE IS ACHIEVED.

MOTION SECONDED BY MR. RAFFO.

MOTION CARRIED 6 TO 1 AFTER A ROLL CALL VOTE.

G

Case #06-2062, 135 Chilean Avenue, Ms. Rosalie Carr

Violation of Chapter 18, Section 18-747 of the Town of Palm Beach Code of Ordinances: requires swimming pools to have an approved barrier of at least forty-eight inches in height with all gates with self-closing and latching devices to prevent children from entering your pool.

Violation of Chapter 18, Section 18-241, 18-547 and Florida Building Code, Section 104 requires permits to erect, install, alter, repair structures or pools and such equipment.

Mr. Walton reported the facts in this case. At the December 2006 Code Enforcement Board Hearing, the violator was found in non compliance of installing a pool heater and electrical work without a permit and the fence was not at the required four (4') foot height. She was granted seven (7) days to comply by obtaining permits and calling for the required inspections. She did obtain permits for the heater and electric but has not had any inspections. She did not obtain the permit for the fence or call for any inspections of the fence. Mr. Walton recommended a fine in the amount of \$250.00 per day starting on December 29, 2006 or starting today.

After discussion, the following motion was made:

MOTION BY MR. KOEPPPEL TO IMPOSE A FINE IN THE AMOUNT OF \$100.00 PER DAY, RETROACTIVE TO DECEMBER 29, 2006, IN ADDITION TO THE PREVIOUSLY ORDERED ADMINISTRATIVE COSTS OF \$150.00.

MOTION SECONDED BY MR. RAFFO.

MOTION CARRIED UNANIMOUSLY.

VIII Reports:

- A Case #06-2052, 13 Via Vizcaya, 13 Via Vizcaya LLC, Malasky Homes Inc.
Violation of Chapter 18, Section 18-242, Subsection 104.5.1.6, Medium Projects, of the Town of Palm Beach Code of Ordinances: all new or remodel construction projects of 4,000 sq. ft. to 8,999 sq. ft under roof be allowed 22 months.

Mr. Walton reported that this contractor is on track with their completion schedule.

IX Comments:

Veronica Close, Director of the Planning, Zoning and Building Department reported to the Board that Police Chief Michael Reiter will be attending the February Code Enforcement Board hearing to address the Board regarding the code enforcement transition, which is expected to take place sometime during the month of February.

Town resident Jere Zenko of 232 Tangier Avenue reported that she sent a letter to Councilman Denis Coleman regarding another construction project in town and the length of time that project is taking. Mrs. Zenko was advised of the appropriate reporting procedure for such issues.

- X **Adjournment:** The meeting was adjourned without benefit of a motion.