



## SPECIAL MAGISTRATE HEARING MINUTES

Wednesday, August 28, 2024 at 3:00 PM

City Commission Chambers – 105 S. 2ND Street, Flagler Beach, FL 32136

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**ALL MEETING ITEMS WILL BE CONTINUED UNTIL MEETING IS COMPLETE.**

**1. Call the meeting to order**

Magistrate Popp called the hearing to order at 3:00pm.

**2. Roll Call**

City Attorney Drew Smith, Code Enforcement Officer John Gifford and Clerk to the Magistrate Michele Ficocello.

**3. Approval of Meeting Minutes**

a. July 24, 2024

Approved

**4. Deletions and changes to the agenda**

Agenda item 6c. moved before item 6a.

**5. Request To Identify Persons Having Cases on The Agenda**

**6. Parking Citation Appeals**

a. Citation No. **P01053FB**; APPELLANT: [REDACTED]; POLICE OFFICER: Sergeant D. Blank #7043

Sergeant D. Blank was present and sworn in by the Clerk. Appellant present and sworn in by the Clerk. Appellant stated name, [REDACTED], for the record. Appellant testified the car he was driving was parked in the street awaiting a parking space. Appellant stated a friend was in the passenger seat waiting for the parking space and the Appellant had gone into the business leaving the engine running. Appellant stated he heard later the Officer who wrote the citation did not know someone was in the vehicle and had already written the citation. Magistrate Popp inquired about the safety concerns with parking in the street. Discussion ensued. Sgt. Blank testified he did not observed anyone in the driver's seat therefore concluding there was no intention of the vehicle being moved. City's disposition is an alternative remedy due to the circumstances. The City agreed that a vacant driver's seat is not a monitored vehicle and therefore is a violation. Magistrate Popp offered the Appellant an alternative remedy to paying the fine. The Appellant declined the offer and chose to pay the fine. Magistrate Popp ordered the citation upheld and the fine to be paid within sixty (60) days.

b. Citation No. **P01116FB**; APPELLANT: Orjanette Bryant; POLICE OFFICER: Officer J. Saunders #7087

Before hearing the next case, Magistrate Popp inquired about using an electronic message board to alert drivers entering the City about not parking in the wrong direction. The City Attorney stated he would speak to the Chief of Police about the Magistrate's suggestion. Officer J. Saunders was present and sworn in by the Clerk. Appellant was present and sworn in by the Clerk. Appellant stated name, Orjanette Cooper Bryant and address, 58 Fischer Lane, Palm Coast, for the record. The Appellant testified she is not familiar with the area, the hotel construction confused her and she thought the parking on S. Central was for the Barnhill restaurant she was visiting. Magistrate Popp inquired about

the safety concerns in regards to parking in the wrong direction. Discussion ensued. Ofc. Saunders testified to the reasons for writing the citation and the added safety concerns of a parking violation next to a construction site. The City's disposition is an alternative remedy to paying the entire fine, but recommends a reduced fine in addition to the alternative remedy due to the circumstance of the violation. Magistrate Popp ordered the Appellant to pay a reduced fine of \$25.00 and education of ten (10) licensed drivers with sixty (60) days to complete.

- c. Citation No. **P01037FB**; APPELLANT: Michael Hans; POLICE OFFICER: Sergeant J. Bingham #7058

Sergeant J. Bingham was not present, but provided an affidavit in support of citation along with photographic evidence. Appellant was present and sworn by the Clerk. Appellant stated name, Michael Hans and address, 307 S. 22nd Street, for the record. The Appellant testified to not having any complaint about the citation being written and the Officer had already explained the violation to him when the ticket was written. The Appellant testified he is new to the City and is handicap. The Appellant stated he is not here to contest the citation, but to speak about the parking issues in the City. Discussion ensued regarding the lack of available handicap parking. The City's disposition is, due to mitigating factors, to dismiss the citation with a gentleman's agreement of educating other golf cart drivers that a golf cart is subject to the same laws as a motor vehicle. Magistrate Popp ordered the citation dismissed. The City Attorney made note to follow-up with Public Works and the Police Department to inquire about parking remedies.

## **7. New Cases - Code Enforcement - NONE**

## **8. Status Updates - Code Enforcement**

- a. Case # **EEN24-0036**; Eggert Iris Claxton Life Estate c/o Liz Rubeis; ADDRESS OF VIOLATION: 1201 S Central Avenue; TAX PARCEL ID NO. 12-12-31-4500-00190-0260; VIOLATION: City of Flagler Beach Code of Ordinances Article I. – In General Section 13-1 Definition (4)

Code Enforcement Officer John Gifford was present and sworn in by the Clerk. Respondent was not present. Magistrate Popp inquired about the status of the case. Mr. Gifford stated there has been no contact with the Respondent and Code Enforcement has not been able to get confirmation of service on notices. The City Attorney and Code Enforcement Officer will continue to search for a point of contact. The City Attorney advised in cases where the property owner is deceased and no probate case has been opened, foreclosure is usually the route taken. Discussion ensued. Code Enforcement will monitor the case until such time it is deemed necessary to be brought back before the Magistrate for further action.

## **9. Other Business**

Code enforcement reported sending four (4) notices of hearing for the next agenda.

Magistrate Popp inquired about the status of the condos. The City has no new updates to report.

The Clerk reported two (2) parking citation appeals on the next agenda.

The Code Enforcement Officer advised he will be on vacation and not available for the October 2024 Magistrate Hearing. Discussion ensued regarding combining the October and November hearing dates into one hearing date. The details will be worked out by City Staff and posted for the public.

The Magistrate inquired about the curfew violations coming before him. The City Attorney will follow-up.

## **10. Adjournment**

Magistrate Popp adjourned the hearing at 3:56pm.