



## SPECIAL MAGISTRATE HEARING MINUTES

Wednesday, June 26, 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 meeting to order at 3:00pm.

**2. Roll Call**

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

**3. Approval of Meeting Minutes**

a. May 22, 2024

Approved

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

None

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

**6. Parking Citation Appeals**

a. Citation No. **P00929FB**; APPELLANT: Charles Mersch \*via telephonic appearance\*; POLICE OFFICER: Sergeant D. Blank # 7043

Appellant was present via telephone and was sworn in by the Clerk. Sgt. Blank was not present. Appellant testified he was visiting the City and had never been in Flagler Beach before. He was visiting during a holiday and was having difficulty finding parking. Appellant stated he has disabilities making it difficult for him to walk. Appellant admitted he parked in the wrong direction for his own personal safety. Magistrate Popp inquired if Appellant was traveling alone or had someone with him. Appellant stated his girlfriend was with him, but she could not drive his large truck as she is a small woman. Magistrate Popp explained the safety concerns when parking in the wrong direction. Appellant testified he has a handicap placard which was displayed and there was no handicap parking available. Appellant stated his safety was paramount to parking in the wrong direction. Magistrate Popp stated, considering the circumstances, he was inclined to waive the fine for an education effort. The City had no objection. Magistrate Popp ordered Appellant to educate twenty (20) drivers on wrong direction parking with sixty (60) days to complete. The City Attorney explained the process for submitting the proof of completion. Orders to be mailed by the Clerk.

b. Citation No. **P00844FB**; APPELLANT: Luke Williams; POLICE OFFICER: Sergeant J. Bingham # 7058

Appellant was present and sworn in by the Clerk. Sgt. Bingham was not present, but provided an Affidavit in Support of Citation along with photographic evidence. Appellant submitted a photograph prior to the hearing which was provided to the Magistrate. Appellant testified he always goes to the beach in his golf cart and he did not realize he was in violation when he parked. Magistrate Popp explained the safety concerns with parking in front of a fire hydrant. Appellant stated there was no signage indicating not to park there. Magistrate Popp ordered the fine upheld with sixty (60) days to

pay with no objection from the City. The City Attorney also pointed out the Police Officer most likely cut the Appellant a break as it appears by the photographs he was also in violation of parking too close to the stop sign. The Clerk directed the Appellant where to pay the fine. Orders to be mailed by the Clerk.

- c. Citation No. **P00857FB**; APPELLANT: Robert Michael; POLICE OFFICER: Officer E. Scherr # 7078

Appellant was present and sworn in by the Clerk. Ofc. Scherr was not present, but provided an Affidavit in Support of Citation along with photographic evidence. Appellant testified he comes to Flagler Beach on vacation. Appellant stated his daughter was driving the vehicle at the time and requested mercy from the Magistrate due to the high fine cost. Appellant stated his daughter works for the Post Office and her vehicle was stolen. She is currently in federal court as a witness. City Attorney inquired how old his daughter is. Appellant stated she is thirty (30) years old. City Attorney inquired if there is any financial hardship. Appellant testified his daughter is not currently working right now and has a six (6) year old daughter. Appellant stated his daughter's car was stolen off federal property by a tow truck driver and was damaged. City Attorney recommended educational effort based on mitigating circumstances. Magistrate Popp ordered the education of twenty (20) drivers to be completed within sixty days of order. Orders will be mailed by the Clerk. Magistrate Popp explained the safety concern with parking in the wrong direction.

## **7. New Cases - 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 sworn in by the Clerk. Mr. Gifford testified there is a history with this property, but the owners have always communicated with the City to come into compliance. The past cases have included being out of compliance with the length of grass, but have never come before the Magistrate. This case involves the house structure falling into disrepair to include the soffits, garage doors, etc. The property is currently vacant and is under a management company. Magistrate Popp inquired what it would take to bring property into compliance. Mr. Gifford shared a power point presentation outlining the issues along with photographic evidence. Discussion ensued regarding action to be taken. Magistrate ordered sixty (60) days for Respondent to come into compliance and for Respondent to pay mailing costs totaling \$32.00. City Attorney will prepare order for Magistrate to sign and be forwarded to the Clerk for mailing.

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

- a. Case # **EEN24-0024**; Thomas T & Monzell Turner; ADDRESS OF VIOLATION: 1816 S Daytona Avenue; TAX PARCEL ID NO. 18-12-32-2750-00270-0050; VIOLATION: 2015 International Property Maintenance Code, Section 303 Swimming Pools, Spas and Hot Tubs: 303.2 Enclosures

Representatives for Respondent present and sworn in by the Clerk. Representatives are Respondent's daughter Karen Turner and Chris Harris who resides there. Code Enforcement Officer John Gifford testified the fence is being put up now by the builder of the house next-door and provided a power point presentation with photographic evidence. Mr. Gifford inquired as to why previous notifications were ignored. Magistrate Popp explained the safety concerns with having a pool with no fence. Ms. Turner and Mr. Harris testified the previous hand delivered notices were given to a fifteen (15) year old child, but were not forwarded to the adults in the home. Ms. Turner explained the builder of the home next-door torn down the fence with the promise of rebuilding, but with COVID and other issues, she did not anticipate it would take this long. She also stated there is a temporary fence up. The fence was torn down due to it encroaching on the neighbor's property. The previous fence was a six (6) foot privacy fence. The fence was torn down back in 2020 with assurances from the builder it would be replaced. After listening to testimony, Magistrate Popp stated he will not make a decision about reducing the fines until he is certain the violation is cured. Magistrate Popp expressed concern over

how long the violation existed before anyone realized. City Attorney stressed the importance of communicating with the builder to complete the fence and to make sure the gate is also secure. Magistrate Popp ordered a status update for the July 2024 hearing.

**9. Other Business**

The Clerk reported one (1) parking ticket on the next agenda. Magistrate Popp ordered a status hearing for July 2024 in regards to the 1005 N Ocean Shore Blvd case. Magistrate Popp inquired about the status of 3590 S Ocean Shore Blvd. and are there any developments. Mr. Gifford stated the fence is still standing and there might have been a buyer, but the deal fell through. Magistrate Popp expressed concern over the state of the property and hurricanes causing further damage. City Attorney will look into the status and provide an update. The fines continue to accumulate and the City Attorney does not think ownership has changed.

**10. Adjournment**

Magistrate Popp adjourned the meeting at 4:00pm.