



SPECIAL MAGISTRATE HEARING - MEETING MINUTES

Wednesday, March 27, 2024 at 3:00 PM

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

1. **Call the meeting to order:** Meeting was called to order by Magistrate Popp at 2:57pm
2. **Roll Call:** Drew Smith, City Attorney and John Gifford, Code Enforcement Officer, Michele Ficocello, Clerk to the Magistrate
3. **Approval of Meeting Minutes:** February 28, 2024 approved
4. **Request To Identify Persons Having Cases on The Agenda**
5. **Parking Citation Appeals**

a. Citation No. **P00694FB**; APPELLANT: Lisa Keogh *via telephonic appearance*; POLICE OFFICER: Officer M. Guerrero #7055:

Mr. and Mrs. Keogh appeared via telephone and were sworn in by the Clerk. Mrs. Keogh gave testimony regarding the wrong direction parking citation. Mrs. Keogh testified she is familiar with the area where the citation was given stating she could not find parking due to it being Ash Wednesday. Mrs. Keogh testified she circled around to find parking and found parking on the other side of the street facing the way they were when they received the ticket. It never occurred to her parking in the wrong direction was a problem. She was under the impression it was church property. Officer M. Guerrero was present and sworn in by the Clerk. The City Attorney questioned Ofc. Guerrero about her observations and issuing of the citation. Ofc. Guerrero testified she observed a vehicle parking in the wrong direction on February 14, 2024 at 9:19am and issued a citation to a 2001 brown Kia SUV. The City Attorney questioned Ofc. Guerrero if she had taken the photograph in her possession. Ofc. Guerrero stated she had not and the photograph had been submitted by the Appellant. Magistrate Popp questioned the Appellant as to when the photographs were taken and she stated they went back to where they received the citation and took photographs. The City Attorney questioned Ofc. Guerrero as to whether or not she had taken a photograph of the violation. Ofc. Guerrero testified she did take a photograph, but did not have it with her today at the hearing. Ofc. Guerrero was asked by the City Attorney to describe how the vehicle was parked. Ofc. Guerrero testified at the time of the violation she observed several vehicles parked in the correct direction and the Appellant's vehicle was the only one parked in the wrong direction, facing westbound on the eastbound side. Magistrate Popp inquired if the Appellant's vehicle was observed in the right of way or on church property. Ofc. Guerrero confirmed the vehicle was in the right of way. The City Attorney advised he had no further questions for the Officer. Magistrate Popp explained to the Appellant the safety concerns related to parking in the wrong direction. Magistrate Popp inquired as to the thought process of the Appellant when choosing to park in the wrong direction. Appellant explained a variety of different reasons, to include no available parking, health concerns and wrong direction parking is allowed where Appellant lives. Magistrate Popp inquired as to the disposition of the City. City Attorney recommended citation be upheld. Magistrate Popp inquired if the Appellant or her husband have a handicap placard. Appellant and her husband testified they are not handicap. Magistrate Popp denied the appeal and the citation was upheld. The Clerk advised she will mail the Magistrate order and follow-up with instructions on how to pay the fine.

b. Citation No. **P00668FB**; APPELLANT: Philip Rotunno; POLICE OFFICER: Officer M. Guerrero #7055

Appellant was present and sworn in by the Clerk. Officer M. Guerrero was present. The Appellant testified he is a landscaper and his employee brought the trailer to him and parked it in another location other than the property

they were working at. Appellant stated this is not the first time he has received a ticket for parking a trailer and he understood if the parking was for construction, it was allowed by the City. The Appellant had photographs to submit, was directed by the City Attorney to submit them to the Clerk first before the Magistrate could view them. The Appellant submitted photographs to the Clerk via email. The Magistrate questioned the Appellant on where he parked, whether it was across the street from the job site or somewhere else. Appellant clarified the job site was around the corner from where the trailer was parked. The Appellant expressed his concern over why he was the only vehicle to receive a ticket when there were other vehicles parked in the same area. The Magistrate inquired if the Appellant knew if the other vehicles received tickets. The Appellant stated he did not know. The City Attorney stated parking citations are written every day and there is no selective parking enforcement in the City. The Magistrate stated, based on the facts, the unattended trailer was not parked in front of the job site and therefore meets the criteria for the citation to be issued. The Appellant reasoned it was a better option for his employee to park the trailer in a spot where the ground had already been disturbed. The Magistrate stated he did not agree with his position and asked for the City's disposition. The City Attorney recommended the citation be enforced. Magistrate Popp denied the appeal, upheld the citation and ordered the fine paid in 30 days. The Appellant continued to argue his case as he exited the building.

c. Citation No. P00723FB; APPELLANT: Fran Noble; POLICE OFFICER: Officer M. Snyder #7086

Appellant was present and was sworn in by the Clerk. Ofc. Snyder was present and sworn in by the Clerk. Appellant was issued the citation on March 1st at 3:30 am for parking in the wrong direction on south 15th street. Appellant stated her name, Fran Noble and address, 1502 S Flagler Avenue. Appellant testified the ticket was issued in her yard and admitted she made an error in judgement. Appellant testified she was coming home late on South Flagler Avenue and was planning on pulling into her driveway, but was unable to due to her husband taking her spot in the driveway. Appellant explained her driveway only allows for single car parking and one of the cars is usually parked in front of the house facing the correct direction. Appellant did not think parking her car against her fence would be an issue and it would only be overnight. Appellant believed she was parking on her property and not in the City's right of way. Appellant was surprised she did not get a warning issued instead of a citation as she is a long-time resident. Magistrate Popp and Appellant discussed safety concerns associated with parking in the wrong direction. Magistrate Popp explained the time and location of the violation does not excuse the violation. The Magistrate asked for the City's disposition. The City Attorney recommended, based on the circumstances, the Appellant's demeanor and the nature of violation, community education. In lieu of paying the fine, Magistrate Popp ordered community education of twenty (20) drivers with sixty (60) days to complete. Appellant is ordered to submit completed community education form to the Clerk.

6. New Cases - Code Enforcement: NONE

7. Status Updates - Code Enforcement

a. Case # EEN23-0014; Jett Investments, LLC; ADDRESS OF VIOLATION: 607 N Ocean Shore Blvd; TAX PARCEL ID NO. 12-12-31-4500-00020-0090; VIOLATION: City of Flagler Beach Code of Ordinances Chapter 13, Nuisances Article I, In General, Section 13-1 Definition

Appellant was present and sworn in by the Clerk. Code Enforcement Officer John Gifford was sworn in by the Clerk. Code Enforcement reported the property is in compliance. Appellant stated name, Jerry Sauers, and address, 27 Grand Park, Bunnell, for the record. Appellant testified he is in compliance with the City, they are waiting on the geological studies and the architectural drawings are coming along. Appellant expressed the speed and time of project is not what they want, but they are moving along as fast as they can. Code Enforcement recommended closing the case. Magistrate Popp ordered the case closed.

8. Other Business

Code enforcement reported at least one new case for May 2024 hearing. Clerk reported at least five (5) parking citation appeals for May 2024 hearing. Discussion was had regarding encroachment ordinance appeals, time to cure and notifications. City attorney stated there are discussions in the city about addressing these subjects.

9. Adjournment – 3:47pm