



SPECIAL MAGISTRATE HEARING MINUTES

Wednesday, November 06, 2024 at 3:00 PM

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

1. Call the meeting to order

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

2. Roll Call

Attorney Holli New o.b.o. City Attorney Drew Smith, Code Enforcement Officer John Gifford, Chief Building Official Rick McFadden, City Planner Lupita McClenning and Clerk to the Magistrate Michele Ficocello.

3. Approval of Meeting Minutes

a. September 25, 2024

Approved

4. Deletions and changes to the agenda

Item 6a. pulled from the agenda. The Appellant paid the citation prior to the hearing.

5. Request To Identify Persons Having Cases on The Agenda

6. Parking Citation Appeals

a. **CITATION NO:** P01244FB; **APPELLANT:** KASSIDY PRESS ****VIA TELEPHONIC APPEARANCE****; **POLICE OFFICER:** OFFICER K. JONES #7069

Item 6a. pulled from the agenda. The Appellant paid the citation prior to the hearing.

b. **CITATION NO:** P01200FB; **APPELLANT:** MARK FIELDING; **POLICE OFFICER:** OFFICER K. JONES #7069

The Appellant was present and sworn in by the Clerk. Ofc. Jones was not present. The Appellant testified he is a musician playing at the venue where he received the citation. The Appellant stated he was not parking in the street, but was moving his equipment as he had done many times before while working at the same venue. Magistrate Popp explained the safety concerns with parking in the street. Discussion ensued. Magistrate Popp explained while Ofc. Jones was not present, he had reached out to Staff and requested the case be nolle prosequi. Magistrate Popp inquired if the City had any objection and Attorney New stated there was no objection. Magistrate Popp ordered the citation dismissed. The Clerk will mail the order to the Appellant.

7. New Cases - Code Enforcement: NONE

8. Status Updates - Code Enforcement

a. Case #EEN23-0019; 1005 Oceanshore LLC; ADDRESS OF VIOLATION; 1005 N Ocean Shore Blvd; TAX PARCEL ID NO.: 01-12-31-1100-00040-0040; VIOLATION: City of Flagler Beach Code of Ordinances, Chapter 13, Nuisances, Article I. In General, Section 13-1 Definition (4)

All parties testifying in this case were sworn in by the Clerk. The City Planner presented the item and staff findings to include a timeline of events in this case. Staff findings included a recommendation for the imposition of fines until the property is brought into compliance due to life safety concerns. Discussion ensued regarding communication between the City and the Respondent. The Code Enforcement Officer provided testimony and photographic evidence as to the current state of

the violation. Attorney New stated the reason the case was moved from the originally ordered status hearing in January 2025 to the November 2024 hearing is the increased life safety concerns and the continued non-compliance from the Respondent after a timeline was provided. The Chief Building Official provided testimony as to the current state of the violation, the life safety concerns and recommended demolition of the structure due to the current conditions. Attorney New questioned Mr. McFadden as to the structure being an immediate threat to public safety. Mr. McFadden affirmed the structure is an immediate threat to public safety. Magistrate Popp expressed concerns over the site not being secured. Attorney Michael Chiumento was present and testified on behalf of the Respondent. Attorney Chiumento stated his client has been in compliance with the orders and new requirements have been requested by City Staff since July 2024. Discussion ensued as to the requirements set forth by the City to include a site plan submittal. Attorney Chiumento stated there have been different interpretations as to the requirements of the site plan per the City Code. Attorney Chiumento stated his client had reached out to City Staff to meet and discuss a new site plan which was denied. Magistrate Popp expressed he has been lenient with the Respondent up to this point. Attorney Chiumento requested Magistrate Popp comply with the status hearing order dated July 29, 2024. Magistrate Popp ordered an imposition of fines at \$250.00 a day, reserving the right to ultimately impose the fines dependent on compliance by the Respondent from now until the January 2025 status hearing date. Magistrate Popp ordered the fines starting as of this hearing date. Magistrate Popp further ordered that immediate compliance is required for securing the property to include completion of a perimeter fence with fifteen (15) days to comply, mitigation of wind/debris hazards with thirty (30) days to comply and a submitted site plan by the next status hearing date in January 2025.

- b. CASE # EEN23-0022;** Julie Guimond; ADDRESS OF VIOLATION: 2261 S Flagler Avenue; TAX PARCEL ID NO. 19-12-32-4550-00030-0230; VIOLATION: 2020 Florida Building Code, Building 7th Edition, Sec. 105 Permits [A] 105.1 Required

Code Enforcement Officer Gifford testified the case had been closed, but reopened due to a new complaint by the neighbors. Mr. Gifford provided photographic evidence of the current state of the violation. Mr. Gifford stated some of the violations have been brought onto compliance since receiving the complaint. The Respondent was present and sworn in by the Clerk. The Respondent testified the insurance claim has not been settled yet, she is not currently living at the property and thought there was an understanding with the neighbors who had agreed to maintain the lawn. The Respondent stated since the neighbor's fence has come down due to the recent hurricane, she can access the side and backyard to clean up and bring the property into compliance. Discussion ensued regarding the violations and compliance. The Respondent stated her goal is to demolish the house in the next six (6) months. The Respondent provided an updated mailing address, 201 S. Halifax Drive, Ormond Beach, FL 32176. Magistrate Popp ordered a status hearing for January 2025.

9. Other Business

Magistrate Popp inquired about the status of 3590 S. Ocean Shore Blvd. due to the life safety concerns and accrual of fines. Discussion ensued. City Staff reported the property will be noticed for the January 2025 hearing with a Request to Foreclose. City Staff reported there has been some contact with property representatives. The Building Official reported planning on visiting the site and posting it as an unsafe structure. Magistrate Popp ordered City Staff to move forward with the Request to Foreclose. The Clerk reported the property at 1336 S Flagler Avenue accruing fines since August 2022 will be noticed for the January 2025 hearing. Code Enforcement reported a couple status hearing cases being noticed for the January 2025 hearing. The Clerk reported no parking citation appeals received as of this date. The Clerk submitted the 2025 Magistrate Hearing Schedule. Modifications to the schedule included no meeting in December and the November hearing being moved to the 19th.

10. Adjournment

Magistrate Popp adjourned the hearing at 4:18pm.