



SPECIAL MAGISTRATE HEARING MINUTES

Wednesday, July 24, 2024 at 3:00 PM

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

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. June 26, 2024

Approved

4. Deletions and changes to the agenda

Code Enforcement reported Item 7a. Case EEN24-0017, 2336 South Central Avenue cured the violation and requested item pulled from agenda.

City Attorney requested Item 6b. be moved before Item 6a. Item 6a. will be a telephonic appearance.

5. Request To Identify Persons Having Cases on The Agenda

6. Parking Citation Appeals

a. Citation No. **2548**; APPELLANT: Scott Klapheke; POLICE OFFICER: Sergeant D. Parthemore #405

Appellant was present via telephone and was sworn in by the Clerk. Sgt. Parthemore was not present, but provided an Affidavit in Support of Citation and photographic evidence. Appellant testified they were parked in front of Sally's Ice Cream and he was parked in the private parking lot of the business, not in the public roadway. Appellant stated the Police Officer's photographs are misleading. Appellants representative Heidi Freidman also provided testimony in support of the Appellant's case. City Attorney and Code Enforcement provided an aerial shot of the property from the property appraiser's website to help clarify the situation. It was determined the Appellant's vehicle was parked on private property. Magistrate Popp inquired as to how the Appellant entered the parking lot based on the evidence. Magistrate Popp explained the concerns with wrong direction parking even though it does not apply in this case. Based on the evidence presented, Magistrate Popp dismissed the citation.

b. Citation No. **P01036FB**; APPELLANT: Quentin Parker; POLICE OFFICER: Sergeant J. Bingham #7058

City Attorney stated intent to Nolle Pros this case based on the photographic evidence. Appellant was facing the correct direction on a one-way street. Appellant was present and sworn in by the Clerk. Appellant stated name, J. Quentin Parker and address, 2215 South Flagler Avenue, Flagler Beach, for the record. Sgt. Bingham was not present, but provided an Affidavit in Support of Citation and photographic evidence. Appellant testified he parks his golf cart where he can find space and this is to spare regular parking spaces. Even though it did not apply to this case, Magistrate Popp explained the concerns with parking in the wrong direction. Magistrate Popp ordered the citation dismissed.

7. New Cases - Code Enforcement - NONE

- a. Case # **EEN24-0017**; Hauver Trust; ADDRESS OF VIOLATION: 2336 S Central Avenue; TAX PARCEL ID: 19-12-32-4550-00090-0040; VIOLATION: Article I. - In General, Chapter 13 - Nuisances Sec. 13-1. (3)
Violation cured. Item pulled from agenda.

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 the Respondent were present and sworn in by the Clerk. Code Enforcement Officer John Gifford was present and sworn in by the Clerk. Mr. Gifford testified the fence is completed, but the gate is not secured. Representatives for the Respondent stated their names, Chris Harris and Karen Gardner and address, 1816 South Daytona Avenue for the record. Mr. Harris and Ms. Gardner testified they have been in contact with the Contractor and he would be acquiring the hardware to secure the gate. Mr. Harris explained that a zip tie is currently securing the gate. Magistrate Popp stressed the importance of securing the gate in accordance with the Code. Mr. Harris stated he works at a radio station and did a segment on unsecured pools as a PSA for the community. Magistrate inquired about a timeline. Respondents stated they will purchase the hardware and install it after the sod is installed this Saturday. The City's disposition in regards to the fines is at least to recoup the administrative mailing costs and have the property in compliance with the Code by the weekend. The City would support waiving all other fines if stipulations are met. Magistrate Popp agreed and so ordered.

- b. 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)

Respondent was present and sworn in by the Clerk. Respondent stated name, Courtland Dylan and address, 1005 N Ocean Shore Blvd. for the record. Code Enforcement provided a power point presentation with photographic evidence. Respondent testified he has a timeline of what has occurred and why nothing has been done since last status hearing in February 2024. Respondent testified to his timeline of events as follows; February 28th the permit was submitted to the City, on March 1st a Notice of Commencement was provided to Flagler County, no feedback was received from City Staff until March 21st notifying disapproval of permit to include a long list of issues which Respondent believes were not applicable to the request for a permit, on March 21st the disapproval review notes were forwarded to the Respondent's attorney which extended the timeline another week and a half to review and compare to the Codes, the attorney found certain requirements indicated in the review did not apply to the project, the attorney drafted a memo to Consultant City Planner Jack Shad and Permit Coordinator Bonnie Bramer on April 16th, an email reply was received from Jack Shad on April 23rd which led to an impasse, the Respondent's attorney Michael Chiumento reached out to the City Attorney Drew Smith who advised there were personnel changes in the City and Respondent was requested to wait until the new personnel were placed in their positions, New City Planner Lupita McClenning held a zoom meeting on July 10th changing the scope of project, a new site plan was requested and is underway. City Attorney inquired as to the status of the project now and have the issues been resolved. Respondent stated yes and they have engaged a new civil engineering firm to provide a new site plan. Magistrate Popp inquired about a timeline moving forward. Respondent stated he could not speak to approvals, but he should have a new site plan within the month. City Attorney inquired of the Clerk how long prior to the Planning Board Meeting would the site plan need to be submitted. The Clerk stated thirty (30) days prior to the meeting. City Attorney stated if the site plan is completed and submitted this month, they could make the October Planning Board Meeting agenda. Magistrate Popp stated concerns over possible storm damage to the site prior to

approvals. Respondent stated he has a plan to mitigate. City Attorney expressed concern over unauthorized entry of persons to the property. Respondent stated he would take the necessary steps to secure the property. City Attorney stated he would update the Magistrate during a regular hearing and suggested setting a status hearing for January 2025. Magistrate Popp ordered a status hearing for January 2025.

- c. 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)

Respondents were not present. Code Enforcement provided a power point presentation with photographic evidence. Mr. Gifford testified the City posted the notices due to the Respondents no longer communicating with the City. City Attorney stated we are still within their cure period and short of an order reminding them there is nothing else to do. Magistrate Popp ordered if the violation is not cured within the allotted time period, a \$250.00 fine will accrue daily starting the day after the expiration of allotted time. Magistrate Popp included in the order that the Respondent must be present either in person or via telephone. Status hearing ordered for August 2024 date.

9. Other Business

Code Enforcement reported notices of violations being sent out.

The Clerk reported two (2), possibly three (3) parking citation appeals are on the next agenda.

The City Attorney reported possible requests to foreclose on some aged cases accruing fines.

Magistrate Popp inquired about the new curfew ordinance and if those will be coming before the Magistrate. City Attorney stated he will have a discussion with the Chief of Police to determine how those will be handled.

10. Adjournment

Magistrate Popp adjourned the hearing at 3:50pm.