



## SPECIAL MAGISTRATE HEARING MINUTES

Wednesday, May 22, 2024 at 4:57 PM

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

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### 1. Call the meeting to order

Meeting called to order at 3:00pm

### 2. Roll Call

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

### 3. Approval of Meeting Minutes

a. April 24, 2024

Approved

### 4. Deletions and changes to the agenda

Item 6e and Item 6f moved to the top of agenda. Item 6b, 6d to follow in order. Item 6a pulled from agenda.

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

### 6. Parking Citation Appeals

a. Citation No. **1510**; APPELLANT: John Davis; POLICE OFFICER: Sergeant A. Yelvington #7064

Appellant present and sworn in by the Clerk. Officer present and sworn in by the Clerk. Appellant stated name, John Davis, address of business 319 Moody Blvd, Flagler Beach, address of residence, 64 La Mancha Drive, Palm Coast for the record. Appellant gave testimony as to having a loaner car at the time of the citation and parked in that particular spot due to the hazard of a paver missing. Appellant stated he did park over the missing paver after a customer expressed concern someone might be injured. Appellant reported the City has since replaced the paver after the citation was received. City Attorney questioned Sergeant Yelvington. Sergeant Yelvington testified to writing the citation for parking on the sidewalk and had submitted photographic evidence. Magistrate Popp inquired as to the City's disposition. City Attorney did not object to an educational effort. Magistrate Popp ordered community education of ten (10) licensed drivers with sixty (60) days to complete and submit completed form to the Clerk.

b. Citation No. **P00811FB**; APPELLANT: Daniel Bach; POLICE OFFICER: Officer M. Snyder #7086

Appellant present and sworn in by the Clerk. Officer present and sworn in by the Clerk. Appellant stated name, Daniel Bach, address 49 North Park Circle Palm Coast, Florida, for the record. Appellant testified he thought he was parking in a legal parking space due to the red brick area. Appellant expressed his concern over the red brick area not being properly marked as no parking zones. Discussion ensued regarding marking red brick areas as no parking zones. Officer Snyder testified to writing the citation and had submitted photographic evidence. Magistrate Popp inquired as to the City's disposition on an educational effort. City Attorney did not object. Magistrate Popp ordered community education of ten (10) licensed drivers with sixty (60) days to complete. Appellant

is to submit completed form to the Clerk. Appellant did request the City make an effort to eliminate the confusion with red brick pavers.

- c. Citation No. **2400**; APPELLANT: Margaret Wood; POLICE OFFICER: Chief M. Doughney #7066

Appellant present and sworn in by the Clerk. Officer was present and sworn in by the Clerk. Appellant stated name, Margaret Wood, address, 6 Fernwood Lane, Palm Coast, Florida, for the record. Appellant testified she parked where she did because she saw others park there before. Magistrate Popp inquired about possible concerns with parking in the manner Appellant did. Appellant agreed there were safety concerns. Magistrate Popp inquired as to the City's disposition. City Attorney had no objection to a beach cleanup or an educational effort. Magistrate Popp ordered community education of ten (10) licensed drivers with sixty (60) days to complete. Appellant is to submit completed form to the Clerk.

- d. Citation No. **3188**; APPELLANT: Martha Hinman; POLICE OFFICER: Chief M. Doughney #7066

Appellant present and sworn in by the Clerk. Officer present and sworn in by the Clerk. Appellant stated name, Martha Hinman and address, 2 Long Lake Way, Palm Coast, Florida, for the record. Appellant testified as to why and how she parked in the manner she did. Magistrate Popp explained the safety hazards with parking in the wrong direction. Magistrate Popp inquired as to the City's disposition. City did not object to a reduction in fine and an educational effort. Magistrate Popp ordered the fine reduced to \$25.00 and education of ten (10) licensed drivers with sixty (60) days to complete. Appellant directed to pay reduced fine with the Finance Department in City Hall and submit the completed community education form to the Clerk.

- e. Citation No. **3190**; APPELLANT: Kylene Baker; POLICE OFFICER: Chief M. Doughney #7066

Officer was present. Appellant was not present. The Clerk confirmed Appellant was served notice and there had been no further contact. Chief Doughney testified to writing the citation and had submitted photographic evidence. Magistrate Popp inquired as to the City's disposition of upholding the fine and adding an administrative fee. City Attorney requested administrative fee of \$8.00 to cover the cost of mailings. Magistrate Popp ordered citation upheld and \$8.00 administrative cost.

- f. Citation No. **P00806FB**; APPELLANT: Cynthia Popiel \*via telephonic appearance\*; POLICE OFFICER: Sergeant D. Blank #7043

Pulled from agenda.

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

**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

Code Enforcement Officer sworn in by the Clerk. Respondent was not present. Mr. Gifford testified to multiple methods and attempts to serve respondents with notices including posting notices. Most contacts with the residents are family members, not the property owner. Mr. Gifford presented evidence and photographs of the current state of the violation. There is no latch on the gate, the contractor building next-door is putting up a fence, but not right away, City Attorney stated it does not appear the property owners are receiving the notices and order, but it does appear they are avoiding Code Enforcement. The City Attorney recommended imposing the previous orders with retroactive fines and additional \$250 every day the violation is not cured. Also recommending a status hearing next month with the stipulation, if the respondents comply, the Magistrate may order some relief from the fines. The City Attorney hopes this will motivate the Respondents to comply. Magistrate Popp agreed. Magistrate Popp ordered a status hearing for June, a running fine of \$250.00 a day with retroactive fines from the April 2024 hearing date. Magistrate Popp advised Code Enforcement and

the Clerk to make every attempt to serve orders to Respondents including reaching out to the real estate agent listing the property for sale.

**9. Other Business**

Code Enforcement reported two (2) new cases for next agenda and the Clerk reported two (2) parking citation appeals for next agenda.

**10. Adjournment - 4:08pm**