

MINUTES
FORT MYERS BEACH
Special Magistrate Hearings
Town Hall
2525 Estero Boulevard
Fort Myers Beach, FL 33931

Thursday, ~~June 18,~~ ^{July 18,} 2019

Hearing Examiner - Special Magistrate: Myrnabelle Roche

Magistrate Roche swore in those providing testimony. ✓
Town Attorney Herin, Jr. represented the Town.
Staff: Code Compliance Manager Daphne Burcher

CASES TO BE HEARD: ✓

Property Owner: VACCO, MICHAEL
SUBJECT: Overtime Meter, Paid of Wrong Space ✓
CODE SECTION: 28-51 (A)
LOCATION: Old San Carlos, Meter 4
BASE OFFICER: Nello Cernoia
REFERENCE NO: Citation 73117236

On June 3, 2019, Officer Cernoia issued a citation because the owner paid for the wrong parking space. He requested payment of the \$35.00 fine and \$175.00 in administrative fees. Magistrate Roche found that a violation existed and she imposed the fine of \$35 plus \$75.00 in administrative fees.

Property Owner: CAFFREY, BRIAN
SUBJECT: Overtime Meter
CODE SECTION: 28-51 (A)
LOCATION: Palm Ave., Meter 218 ✓
BASE OFFICER: Nello Cernoia
REFERENCE NO: Citation 73117343

On June 8, 2019, Officer Cernoia issued a citation to the owner for an unpaid meter. He requested payment of the \$35.00 fine and \$175.00 in administrative fees. Magistrate Roche found that a violation existed and she imposed the fine of \$35.00 plus \$75.00 in administrative fees.

Property Owner: NORMAN, NELSON
SUBJECT: Paint on Town Property
CODE SECTION: 15-09 Sec. 10-194 (a)
LOCATION: Times Square

BASE OFFICER: Kevin Przybyszewski
REFERENCE NO: Citation 0917

Officer Cernoia noted that a citation of \$100.00 was issued to a painter for spilling paint on the sidewalk and curb on June 11, 2019 at 4:45 p.m. He noted the respondent was warned ~~twice~~ before and he provided pictures of the paint. He stated that he was not the officer who issued the citation. Magistrate Roche found that a violation existed and she imposed a fine of \$100.00 plus \$75.00 in administrative fees. She authorized the Town to repair the area and costs shall be assessed by an amendment of the order at a later date.

The following case was not on the agenda: CE19-0429

Manager Burcher explained the case and read an email from Mr. Mastero (sp?) on June 18, 2019. The case concerned pumping water from his roof and yard into the street. She read various sections from the property maintenance code to prove the Town's case. She noted they received complaints regarding drainage. The Town requested that Mr. Mastero remove the drainage system to the street within 14 days; otherwise a fine of \$250.00 will be assessed until brought into compliance. ✓

Christopher Mastero, property owner, stated that he was trying to protect his personal property. He questioned how draining his gutter into the street was a public nuisance. He read from the 2017 Florida Building Code. He provided pictures of other homes that drained into the street, including Town Hall. He questioned complaints of public nuisance. He indicated that the water he was pumping was drainage from a commercial parking lot, which was a public nuisance. He noted that he did not change the gutters on his roof. Mr. Mastero stated that he sent a video of the water that drained onto his roof to the Town but did not hear back from them. He indicated that his pumps were next to his house and once his property filled with water, he turned the pumps on to discharge the water into the street.

Magistrate Roche questioned whether the Town had resources for the property owner to be able to come into compliance. She noted that his property flooded every time it rained. Town Attorney Herin, Jr. stated that he would have to hire an engineer and amend his site plan to implement a storm water system.

Magistrate Roche found that the violation did exist and continued to exist. She gave the property owner until the September hearing to have a plan. If he failed to provide a status update, she will impose a \$250.00 daily fine until compliance.

Property Owner: FIRST BAPTIST CHURCH OF FORT MYERS BEACH
SUBJECT: LDC Section: 6-111 Adopting FBC 105.1 Work w/out Permit – Remodel
and Addition ✓
LOCATION: 130/138 Connecticut St.
STRAP NO: 29-46-24-W1-00151.0010
CODE OFFICER: Carl Bengé
REFERENCE NO: CE14-0388

Manager Burcher requested the previous lien be vacated and a new one imposed. The property owner was to pay \$75.00 per day beginning May 27, 2016 and \$150.00 in administrative fees. She found an email giving the Church until June 10, 2016 to come into compliance. From June 10,

2016 until today, a total of \$85,125.00 accrued with an ongoing fine of \$75.00 per day until compliance. Magistrate Roche vacated the previous lien.

Sean Critser, Pastor and property representative, stated that former planner Matt Noble, explained to the previous administration in 2014 why there was not a violation on the property. In 2016, former planner Kara Stewart told him and three others present that he would never win in the Town. Mr. Critser provided a notebook full of communications between involved parties. He stated that they applied for a permit on September 7, 2016. On August 19 it was denied without a real explanation. Plans were resubmitted on August 21 and denied again. He stated that he had been through three entire staff changes since it started. He described a meeting with several people and all of them agreed with the plan. Mr. Critser explained how and why that did not happen 10 days later and noted that all was documented in his notebook. He indicated that he hired four different contractors over the years and engineers who will not deal with the Town anymore. He stated that everything had been approved except for a sprinkler system for a fire-rated wall that had been in place since 1960. The fire department approved a coating for use but the Fort Myers planner did not approve the coating. Mr. Critser received approval from the State of Florida but the planner would not approve it. They installed a sprinkler system with approval from the fire department, but the Fort Myers planner did not approve it.

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In November of 2018, Mr. Critser sent the Town Manager an email regarding the situation since permitting was brought in-house. The Town Manager responded weeks later and stated that it was a complicated situation. He indicated that the Town Manager would not approve the permit.

Mr. Critser explained that the building in question was not a house of worship. Zoning issues were discussed.

Town Attorney Herin, Jr. stated that there was no evidence to back up what Mr. Critser stated. He noted that he attended one of the meetings with Mr. Critser and staff told him to apply for an amendment. He indicated that an application had not been submitted.

Mr. Critser denied meeting with Town Attorney Herin, Jr. regarding the case. Mr. Critser provided evidence that he applied for permit COM-16-0025 and on October 1, 2016 he was told that the contractor had to resubmit the plans based on the fire system. He provided information regarding the resubmitted application in 2018. He indicated that the electrical coating was still allowed by the State of Florida.

Town Attorney Herin, Jr. requested an order to lien the property.

Magistrate Roche found that the order of March 30, 2016 was not complied with and amounted to a total of \$85,125.00. She imposed a lien in the amount of \$85,125.00 with an accrual of \$75.00 per day. She ordered a 30-day stay for the \$75.00 per day fine; however, the \$75.00 will continue to accrue after 30 days if the respondent did not come into compliance.

Property Owner:	HAKE, JASON W. & LISA S.
SUBJECT:	LDC Sec. 34-2391 Renting Weekly in a Monthly Zone
LOCATION:	110 Hercules Dr.
STRAP NO:	29-46-24-W3-0060A.0050
CODE OFFICER:	Carl Bengé
REFERENCE NO:	CE19-0397, Citation 0864, Citation 0875, Citation 1068, Citation 1069, Citation 1072, Citation 1073, Citation 1404, Citation 1405 and Citation 1411



Manager Burcher reviewed the individual citations that showed the property was rented on a weekly basis. The respondent was not in attendance.

Citation 0864 was issued on June 12, 2019, posted on the property and Town Hall on June 12, 2019 and sent certified mail to the property owner on June 12, 2019.

The Town requested a fine of \$500.00 for a repeat violation to be paid in 10 days in addition to \$175.00 in administrative fees. Magistrate Roche found that a violation did exist and she ordered the property owner to pay the \$500.00 fine as a repeat violator in addition to \$75.00 in administrative fees.

Citation 0875 was issued on June 12, 2019, posted on the property and Town Hall on June 12, 2019 and sent certified mail to the property owner on June 12, 2019.

The Town requested a fine of \$500.00 for a repeat violation to be paid in 10 days in addition to \$175.00 in administrative fees. Magistrate Roche found that a violation did exist and she ordered the property owner to pay the \$500.00 fine as a repeat violator in addition to \$75.00 in administrative fees.

Citation 1068 was issued on June 6, 2019, posted on the property and Town Hall on June 6, 2019 and sent certified mail to the property owner on June 6, 2019.

The Town requested a fine of \$500.00 for a repeat violation to be paid in 10 days in addition to \$175.00 in administrative fees. Magistrate Roche found that a violation did exist and she ordered the property owner to pay the \$500.00 fine as a repeat violator in addition to \$75.00 in administrative fees.

Citation 1069 was issued on June 7, 2019, posted on the property and Town Hall on June 7, 2019 and sent certified mail to the property owner on June 7, 2019.

The Town requested a fine of \$500.00 for a repeat violation to be paid in 10 days in addition to \$175.00 in administrative fees. Magistrate Roche found that a violation did exist and she ordered the property owner to pay the \$500.00 fine as a repeat violator in addition to \$75.00 in administrative fees.

Citation 1072 was issued on June 13, 2019, posted on the property and Town Hall on June 13, 2019 and sent certified mail to the property owner on June 14, 2019.

The Town requested a fine of \$500.00 for a repeat violation to be paid in 10 days in addition to \$175.00 in administrative fees. Magistrate Roche found that a violation did exist and she ordered the property owner to pay the \$500.00 fine as a repeat violator in addition to \$75.00 in administrative fees.

Citation 1073 was issued on June 14, 2019, posted on the property and Town Hall on June 14, 2019 and sent certified mail to the property owner on June 14, 2019.

The Town requested a fine of \$500.00 for a repeat violation to be paid in 10 days in addition to \$175.00 in administrative fees. Magistrate Roche found that a violation did exist and she ordered the property owner to pay the \$500.00 fine as a repeat violator in addition to \$75.00 in administrative fees.

Citation 1404 was issued on June 17, 2019, posted on the property and Town Hall on June 17, 2019 and sent certified mail to the property owner on June 18, 2019.

The Town requested a fine of \$500.00 for a repeat violation to be paid in 10 days in addition to \$175.00 in administrative fees. Magistrate Roche found that a violation did exist and she ordered the property owner to pay the \$500.00 fine as a repeat violator in addition to \$75.00 in administrative fees.

Citation 1405 was issued on June 18, 2019, posted on the property and Town Hall on June 18, 2019 and sent certified mail to the property owner on June 18, 2019.

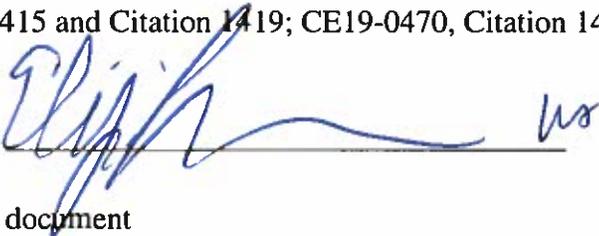
The Town requested a fine of \$500.00 for a repeat violation to be paid in 10 days in addition to \$175.00 in administrative fees. Magistrate Roche found that a violation did exist and she ordered the property owner to pay the \$500.00 fine as a repeat violator in addition to \$75.00 in administrative fees.

Citation 1411 was issued on June 19, 2019, posted on the property and Town Hall on June 19, 2019 and sent certified mail to the property owner on June 19, 2019.

The Town requested a fine of \$500.00 for a repeat violation to be paid in 10 days in addition to \$175.00 in administrative fees. Magistrate Roche found that a violation did exist and she ordered the property owner to pay the \$500.00 fine as a repeat violator in addition to \$75.00 in administrative fees.

The following cases were closed, continued or withdrawn: CE19-0152, Citations 1151, 1065, 1290, 1296, and 1299; CE19-0153, Citations 1152, 1066, 1291, 1297, and 1300; CE18-0700; CE18-0701; CE18-0724; CE17-0845; CE18-0063; CE18-0876; CE18-0918; CE19-0051; CE19-0213, Citation 1102; CE19-0110; CE19-0329, Citation 1103 and Citation 0869; CE19-0356, Citation 1415 and Citation 1419; CE19-0470, Citation 1414 and Citation 1418.

Signature: _____



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