

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

**Thursday, February 18, 2021**

**Hearing Examiner - Special Magistrate:** Myrnabelle Roche *W*

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

**BEACH PATROL CASES**

Respondent: WILLIAMS, CARRIE *W*  
SUBJECT: Not a Legal Space  
CODE SECTION: 28-20 (2)R  
LOCATION: FIFTH ST.  
BASE OFFICER: Bob Monahan  
REFERENCE NO: 7071051

Officer Monahan stated that on January 2, 2021, at 7:39 p.m., he noticed a vehicle parked in an illegal spot. He provided photos that accurately reflected the violation. A notice of citation was issued. The Town requested a fine of \$50.00 and an administrative fee of \$175.00. Carrie Williams stated that she assumed it was a parking spot because there were no diagonal markings or signs saying it was not a parking space. She noted that signs had been installed since she received her citation. She testified that she did pay \$8.10 for three hours of parking in spot #1. Town Attorney Herin, Jr. explained the No Parking sign placement. Magistrate Roche found that a violation did exist and she imposed a fine of \$50.00 to be paid within 30 days.

Respondent: DEARMAS, ROXANN *W*  
SUBJECT: Overtime Meter  
CODE SECTION: 28-51 (A)  
LOCATION: Center St.  
BASE OFFICER: Robert Gaynett  
REFERENCE NO: 73412054

Officer Pergoli stated that according to Officer Gaynett, a citation was issued on November 20, 2020, for an expired meter. He noted that the owner of the vehicle paid for a private space instead of a public space. He indicated that the public space was payable via phone only. Photos were

provided that accurately reflected the violation. The Town requested a fine of \$70.00 plus an administrative fee of \$175.00.

Roxann Dearmax testified that there were no signs to indicate payment by phone only. She paid \$12.00 to a kiosk and placed the receipt on her dashboard. She returned a couple of hours later and found the citation. She explained that after she read the citation, she found the sign and thought payment by phone was an option. She would have called if she noticed the ONLY portion of the sign.

Magistrate Roche found that a violation did exist and she ordered payment of \$35.00 as soon as possible.

Respondent: MILLS, RODNEY *ll*  
SUBJECT: Parked in Two Spaces  
CODE SECTION: 28-20 (2)N  
LOCATION: Mango St.  
BASE OFFICER: Roxanne Tucci  
REFERENCE NO: 72643222

Officer Tucci reported that on November 26, 2020, she noticed a car parked in two spaces. She provided photos that accurately reflected the violation. She placed a citation for \$50.00 on the windshield. A notice of violation was sent to the owner. The owner was not in attendance. The Town requested a fine of \$50.00 plus administrative fees of \$175.00.

Magistrate Roche found that a violation existed and ordered the owner to pay a fine of \$50.00 and administrative fees of \$175.00 to be paid within 30 days.

Respondent: CARLONE, RONALD *ll*  
SUBJECT: Overtime Meter  
CODE SECTION: 28-51 (A)  
LOCATION: Center St.  
BASE OFFICER: Mark Pergoli  
REFERENCE NO: 73610950

Officer Pergoli testified that on November 22, 2020, at approximately 6:00 p.m. he noticed a vehicle parked at an unpaid meter. Upon further investigation, staff discovered payment was made for a space in the adjacent private lot. A citation was sent to the vehicle owner. The owner was not in attendance. The Town requested a fine of \$70.00 plus \$175.00 in administrative fees.

Magistrate Roche found that a violation did exist and ordered the owner to pay a fine of \$70.00 and administrative fees of \$175.00 to be paid within 30 days.

Respondent: DUNSMORE, ROBERT *no*  
SUBJECT: Overtime Meter  
CODE SECTION: 28-51 (A)  
LOCATION: Palm Ave.  
BASE OFFICER: Roxanne Tucci  
REFERENCE NO: 72645171

Officer Tucci stated that at 9:59 a.m. on December 31, 2020, she noticed a vehicle parked in an unpaid space. She placed a citation for \$35.00 on the windshield. A notice was mailed to the owner. She noted that the meter was out of order, but alternate instructions were posted on the sign. The owner was not in attendance. The Town requested a fine of \$35.00 and an administrative fee of \$175.00.

Magistrate Roche found that a violation did exist and ordered the owner to pay a fine of \$35.00 and administrative fees of \$175.00 to be paid within 30 days.

## NEW CASE

Property Owner: TOMAJ, PETRIT *W*  
SUBJECT: LDC Section: 6-111, Adopting FBC 105.1 Work Without Permit- Fence  
LOCATION: 230 Fairweather Ln  
STRAP NO: 19-46-24-W3-0110D.0210  
CODE OFFICER: Bill Stout  
REFERENCE NO: CE20-0690

Officer Stout testified that he noticed work in progress, took photographs and opened a notice of violation. He determined the owner through property records and created a case of work without permit. He posted a noticed on the property and sent a certified letter to the property owner. He did not have contact with the property owner. Photos accurately reflected the violation, except one panel was removed. There was no record of a permit application and a notice of hearing was sent and posted on the property. The Town requested that the property owner obtain a permit and pay \$75.00 in administrative fees.

Magistrate Roche found that a violation existed and continued to exist. She ordered the property owner to apply for a permit within one week and obtain a permit within 30 days or pay a fine of \$250.00 per day. She ordered the property owner to pay \$75.00 in administrative fees.

## IMPOSITION OF LIEN CASES

Property Owner: RODRIGUEZ, WILFREDO *W*  
SUBJECT: LDC Section: 34-2391, Weekly Rental Restrictions Repeat- Rentals for  
Less Than One (1) Week  
LOCATION: 215 Nature View Ct.  
STRAP NO: 19-46-24-W3-01700.0170  
CODE OFFICER: Kristin Schumacher  
REFERENCE NO: CE20-0594

Officer Schumacher stated that this was a repeat violation and the respondent continued to rent the property for less than one week. She provided the rental calendar and verified at least 13 violations. The total fine was \$6,500.00 plus \$75.00 in administrative fees. The Town requested an order of lien.

Mr. Rodriguez stated that there was a prior lien order. The Town stated that the 13 violations had not been heard before. Mr. Rodriguez noted that he was in compliance. Town Attorney Herin, Jr. requested that Mr. Rodriguez coordinate his rentals with staff.

Magistrate Roche found that the Magistrate's order of September 17, 2020, was not complied with and she ordered a lien against the property for \$6,575.00.

Property Owner: RODRIGUEZ, WILFREDO  
SUBJECT: LDC Section: 34-2391, Weekly Rental Restrictions Repeat- Multiple  
Weekly/Daily During a One Month Period  
LOCATION: 5765 Lauder St.  
STRAP NO: 33-46-24-W2-005M0.0020  
CODE OFFICER: Kristin Schumacher  
REFERENCE NO: CE20-0595

Officer Schumacher stated that the property owner violated a September 17, 2020 order to come into compliance by renting multiple times during a month on five separate occasions. The Town requested a lien of \$2,500.00 plus \$75.00 for administrative fees.

Mr. Rodriguez indicated that he would work with the Town.

Magistrate Roche found that the order dated September 17, 2020, was not complied with and she ordered a lien against the property for \$2,575.00.

Property Owner: PERSAUD PROPERTIES FL INVESTMENT  
SUBJECT: LDC Sec. 14-5, Beach Furniture and Equipment, Paragraph J Beach Chair  
Rental Without Permit  
LOCATION: 1046 Estero Blvd.  
STRAP NO: 24-46-23-W3-00016.0000  
CODE OFFICER: Bill Stout  
REFERENCE NO: CE20-0017

Mr. Persaud agreed to proceed without his attorney. Officer Stout stated that the owner did not comply with a previous order. Photos accurately reflected the violation. The total amount of fines totaled \$10,575.00. The Town requested an order to lien.

Mr. Persaud requested a notice of violation and the Town complied. He submitted a ticket for another case. He mentioned that he was not present to defend the case and he discontinued renting chairs on March 6, 2020. He explained that two orders were created for two different addresses and he could not attend the hearing, so he appealed. He stated the order was supposed to be for \$575.00 for one address and he agreed to pay. Mr. Persaud submitted an order from the court restoring all his rights. Town Attorney Herin, Jr. disagreed and indicated it was a very specific order. The order referred to his liquor license. Mr. Persaud indicated that the chairs were not being rented and were only available for his wristband-wearing customers to sit on his beach.

Magistrate Roche read the underlying ordinance.

Town Attorney Herin, Jr. noted that Mr. Persaud did not have a beach furniture permit. Mr. Persaud responded that he did not need a beach vendor permit because the chairs were on his private property and his situation was the same as condominiums.

Magistrate Roche stated the ordinance was silent regarding beach chairs set out by property owners. She requested photos that proved Mr. Persaud charged for his chairs during a certain timeframe. Mr. Persaud stated that his attendant also collected money for parking. Officer Stout

testified that he witnessed the attendant collecting money for the chairs and he did not notice wristbands.

Magistrate Roche found the order issued on March 5, 2020, was not complied with and that there were 40 violations after the order was entered for a total of \$10,575.00. She ordered a lien on the property.

Property Owner: PERSAUD PROPERTIES FL INVESTMENT   
SUBJECT: LDC Sec. 14-5, Beach Furniture and Equipment, Paragraph J Beach Chair Rental Without Permit  
LOCATION: 1028 Estero Blvd.  
STRAP NO: 24-46-23-W3-00017.0000  
CODE OFFICER: Bill Stout  
REFERENCE NO: CE20-0018

Compliance Manager Saunders noted this situation was the same as the previous case but was on an adjacent property.

Attorney Chionopoulos represented Mr. Persaud and requested a continuation because he was not aware of the hearing. Town Attorney Herin, Jr. stated that Mr. Persaud was aware of the hearing days ago. He provided Attorney Chionopoulos with a paper copy of the PowerPoint presentation. Attorney Chionopoulos requested playback of Mr. Persaud's previous testimony. Town Attorney Herin, Jr. summarized the exchange. Magistrate Roche granted a three-minute recess.

Officer Stout repeated his testimony from the previous case CE20-0017.

Attorney Chionopoulos questioned whether Officer Stout personally observed payment for chair rentals. Officer Stout replied that he had photos. Attorney Chionopoulos requested the pictures. Magistrate Roche continued the case until March 18, 2021.

Property Owner: PERSAUD PROPERTIES FL INVESTMENT   
SUBJECT: LDC Ch. 10, Art. IV Illicit Discharge Shana polis into MS4 System  
LOCATION: 1028 Estero Blvd.  
STRAP NO: 24-46-23-W3-00017.0000  
CODE OFFICER: Eli Lee  
REFERENCE NO: CE20-0315

Magistrate Roche granted a continuance.

## NEW CASES

Property Owner: WEINMANN, ROLAND & MILLIGAN, BEVERLEY ANN   
SUBJECT: LDC Section: 34-2391 Weekly Rental Restrictions Multiple Rentals During a (1) One Month Period  
LOCATION: 133 Andre Mar Dr.  
STRAP NO: 29-46-24-W2-0150A.0170  
CODE OFFICER: Kristin Schumacher  
REFERENCE NO: CE20-0538

Officer Schumacher testified that on July 10, 2020, she received complaints that the property was being rented for less than one week. She sent a warning notice four months prior to the violation and hearing notice and still did not comply. She indicated that they were working on becoming compliant. The Town requested an order of violation.

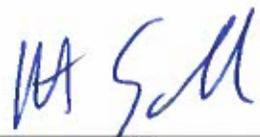
Roland Weinmann and Beverly Milligan agreed with the order of violation.

Magistrate Roche found that a violation did exist and she allowed the property owners a 30-day purge. Mr. Weinmann stated that they had a rental that ended April 10, 2021. The Town agreed to an April 10, 2021 cutoff date. Magistrate Roche ordered the property owners to purge existing reservations through April 10, 2021; otherwise, a \$250.00 per violation would be imposed.

Property Owner: TEZAK, HELEN C TR FOR TEZAK FAMILY TRUST   
SUBJECT: LDC Section: 14-3(a)(3) Dune Vegetation Destruction, Status Update  
LOCATION: 50 Chapel St. STRAP NO: 19-46-24-W3-0120A.0170  
CODE OFFICER: Chadd Chustz  
REFERENCE NO: CE20-0697

Officer Chustz reported that the fine was paid and a proposal was submitted to restore the dune on January 5, 2021. Staff rejected the plan and they met with the property owner. Staff developed a plan and they were waiting for a response from the property owner. Mr. Tezak stated that he did not receive the order until December 25, 2020, and he could put plants in tomorrow. He discussed a 4<sup>th</sup> amendment violation and argued with Magistrate Roche.

Magistrate Roche was going to give him more time, but she concluded the status update and ordered that it be brought back with certification.

Signature:  \_\_\_\_\_

- End of document