

**REGULAR MEETING
OF THE SPECIAL MAGISTRATE
TOWN OF LADY LAKE, FLORIDA**

July 25, 2017

The regular meeting of the Special Magistrate was held in the Town Hall Commission Chambers at 409 Fennell Blvd., Lady Lake, Florida. The meeting convened at 10:30 a.m.

TOWN STAFF PRESENT: Michelle Bilbrey, Code Enforcement Officer; Denise Williams, Animal Control Officer; Chris McKinstry, Police Chief; David Alvarez, Police Officer; and Nancy Slaton, Deputy Town Clerk

CALL TO ORDER: Valerie Fuchs, Special Magistrate, called the meeting to order at 10:30 a.m.

PLEDGE OF ALLEGIANCE

Approval of June 21, 2017 Minutes: The Special Magistrate signed and accepted the June 21, 2017 meeting minutes into the record as presented.

EXPLANATION OF PROCEDURE: Special Magistrate Valerie Fuchs explained to the public that this is a quasi-judicial hearing, which means that she has not seen or heard any evidence or testimony from staff or outside parties, other than cases that have been continued from a public meeting, as this would be a violation of ex-parte rules. She explained that staff will present their case and testimony, which may include photographs that defendants have a right to see if it pertains to their case, and she will ask any questions she deems necessary. At that time, the owner or interested party will be able to present their testimony or evidence. The Special Magistrate will ask any questions if need be and staff will have an opportunity to rebut. The case will be closed for public comment and she will render her decision on each of the cases.

SWEARING IN: The Special Magistrate requested that anyone present who planned to speak at today's meeting stand and be sworn in.

The Special Magistrate asked if there were any changes to the agenda.

Animal Control Officer Denise Williams stated there were no changes.

NEW BUSINESS:

Animal Control Officer Denise Williams presented the documents for the cases on today's agenda to the Special Magistrate.

1. Case No. 17-003568 – 366 Ivanhoe Circle – Christopher Mackenroth – Town of Lady Lake Code of Ordinances Section 4-40 - Animal Cruelty; and Section 4-36 - Dog or Cat License, Vaccination (Denise Williams, ACO)

Animal Control Officer (ACO) Denise Williams presented the background summary for this case as follows:

- Thursday, 3/23/17 – ACO Williams was driving by 366 Ivanhoe Circle and noted a small Jack Russell type dog in the front driveway that appeared to be injured and not using its back legs.

The owner (Christopher Mackenroth) was in the front yard and ACO Williams stopped and asked him about the dog. As approached, the dog got up and walked on all four feet but appeared to have a severe skin issue on its legs, underside, back and rear; with open sores where it appeared the dog had chewed himself raw. The owner advised the dog had fleas and put the dog in the house. ACO Williams advised that the dog needed to see a veterinarian due to the severity of its condition. The owner became upset and agitated and advised that he did not have money to care for the dog, and that the ACO could take it with her. He stated his wife is battling cancer. ACO Williams offered information on low-cost clinics, but the owner was not open to suggestions. He was issued a written warning for 4-40 – Animal Cruelty and 4-36 – Dog Licenses, Vaccinations, and given until April 8, 2017 to have the dog seen by a vet.

- ACO Williams attempted to call Mr. Mackenroth three times during the month of April with no response.
- Wednesday, May 3, 2017 – ACO Williams visited the residence with Officer Thomas of the Police Department to make contact with Mr. Mackenroth. Pictures were taken of the dog. The owner was unable to find the records of the veterinarian visit, but was able to produce prescription bottles for the dog: Rilexine (an antibiotic for skin bacteria), Prednisone (a steroid), and NexGard for flea control. Although antibiotics were prescribed for ten days, only a pill or two was missing from the bottles of Rilexine and Prednisone. The owner was unable to explain why he was not giving the medications to the dog.

ACO Williams called the veterinarian (Pinellas Plaza Buffalo Ridge Animal Hospital) and verified the dog had been seen on March 27, 2017 (five weeks prior to the ACO's visit), and that the dog was supposed to be brought back for follow-up. Mr. Mackenroth was advised to complete the prescriptions as required and follow up with a two-week appointment with the veterinarian.

- Tuesday, 6/13/17 – ACO Williams contacted Buffalo Ridge Animal Hospital to see if Mr. Mackenroth had rescheduled a follow-up appointment or been in, and was advised that he had not. They also reported that a vet tech had paid the bill for Mr. Mackenroth. Later that morning, ACO Williams visited the home with Officer Alvarez as Mr. Mackenroth had become progressively more aggressive with each visit.

Mr. Mackenroth advised he did not have the money to take the dog back to the vet and does not have the money to properly care for the dog. He was given the opportunity to relinquish ownership, and was advised that not providing proper vet care is a form of neglect/cruelty as the dog still had raw legs and underside, emitted a yeasty smell with a sticky/oily coat, and had more hair loss around its eyes (pictures taken). The owner was issued a citation for 4-40 – Animal Cruelty and 4-36 – Dog License, Vaccination.

Ms. Williams stated that staff's recommendation is to find the owner in violation of 4-40 for animal cruelty and 4-36 for dog/cat license/vaccination, and impose a fine of \$250 for animal cruelty and \$35 for dog/cat license/vaccination.

The Special Magistrate reviewed the file, and then asked if there was anyone present to speak regarding this case.

- Christopher Mackenroth of 366 Ivanhoe Circle introduced himself and was sworn in. He stated he had issues with ACO Williams stopping at his home on March 23, 2017 without an order to investigate and approaching him to inquire about his pet's condition. He stated Ms. Williams

concluded that his pet was in pain after examination; that he was guilty of animal cruelty, and demanded he have his pet seen by a vet. Mr. Mackenroth stated Ms. Williams did not offer alternatives for discounted or free veterinary services in Lake County. He stated he made and kept an appointment at Buffalo Ridge Animal Hospital where he has a vet tech acquaintance. The course of action was prescriptions for steroids, antibiotics and internal flea medication, with a follow-up in two weeks. He stated the vet instructed to delay the rabies vaccination until the medications were sufficiently out of the dog's system.

Mr. Mackenroth stated his second contact with ACO Williams was in April when she showed up with a police officer in a marked unit. He told them that he took his dog to the vet and showed her the prescription bottles. He explained that he stopped the medications after 8-10 days because his pet was getting an upset stomach and was lethargic, and he spoke with the vet tech about it. Mr. Mackenroth stated he told the officers about he and his wife being on disability, and that his wife was undergoing chemotherapy for breast cancer. He stated the ACO threatened a financial citation and again did not offer alternatives for discounted or free vet care.

Mr. Mackenroth stated Ms. Williams showed up again on June 13, 2017 with a uniformed officer and gave him the choice of surrendering ownership of his pet or accepting a \$300 citation for animal cruelty. He stated he asked to see the ACO's credentials that would qualify her to make a determination that his pet's skin allergy was causing it enough pain to warrant animal cruelty, and that stopping the meds after 80% completion would nullify the whole program.

Mr. Mackenroth asked how assessing a fine of \$300 on a person on a fixed income is going to help his pet's condition, and how being fined at all is not citizen's abuse by not showing compassion to his situation and offering an alternative to vet care in Lady Lake. He stated he is aware that laws are in place to prevent animal abuse, but he stated he feels he is a victim of abuse of authority in this case. He also stated the dog is still scratching because one of side effects of the flea medication is itching; he has no fleas.

The Special Magistrate answered Mr. Mackenroth's questions by explaining that the animal control officer does have the authority to stop without a complaint to check out the situation if they see an animal they believe is in distress. She stated that the ACO did not make the ultimate call on the health of the animal; she requested it be seen by a veterinarian, and it appears the veterinarian confirmed there was an issue with the dog's health and did prescribe medications to treat the dog.

The Special Magistrate stated the ACO is not making the decisions in this case; it is why the case is being heard today by herself. She stated that Mr. Mackenroth has explained the issue of not completing the course of medication, although it has not been supported by the veterinarian. She stated that the Town's code, Section 4.-40, states that "*no person shall willfully or negligently deprive an animal of food, water, shelter or protection of any kind*". The Special Magistrate stated the issues in this case fall under the broad category of *protection of any kind*. She stated she understands that the owner is having unfortunate circumstances, but he must still find some way to take care of his animals so they do not suffer. She stated it appears the ACO gave the owner plenty of time to come into compliance.

After further discussion with Mr. Mackenroth, the Special Magistrate asked if Ms. Williams would be satisfied if she gave the owner a period of time to take the dog to the vet and get a clean bill of health; to insure it is not in pain or suffering.

ACO Williams agreed that is her goal, although she stated that generally animals with a skin condition need time to recover and multiple trips to the veterinarian. She stated it would be satisfactory as long as the animal is making progress and is no longer in danger.

The Special Magistrate suggested that Mr. Mackenroth make an appointment with the veterinarian and get confirmation on the treatment for the dog; perhaps with alternate medication that may not cause the same side effects.

Special Magistrate Valerie Fuchs stated that based on the testimony and evidence presented on Case No. 17-003568, she did find that the owner is in violation of the Town of Lady Lake's Code of Ordinances Section 4-40 - Animal Cruelty; and Section 4-36 - Dog or Cat License, Vaccination. However, because of the circumstances in this case, she waived the fine at this time, with the caveat that the owner has the dog treated within two weeks of this date. She stated the owner is responsible for contacting the Code Enforcement Officer (Animal Control Officer) and producing documentation that this has occurred. In addition, the administrative fee of \$87 has been waived. The owner will get a copy of this order.

2. Case No. 17-007339 – 107 Third Street – Kevin Booker & Demarious Booker – Town of Lady Lake Code of Ordinances Section 4-40 - Animal Cruelty (Denise Williams, ACO)

Animal Control Officer Denise Williams presented the background summary for this case as follows:

- Monday, 8/9/16 – ACO Williams received a complaint regarding several dogs living in poor condition at 107 Third Street. She visited the residence the same day and spoke with the owner, Demarious Booker, and his mother, Tekisha Booker. A white female pit bull, a black female pit bull, and a blonde male Chihuahua were found restrained outdoors with no shelter. The black female pit bull was underweight and had little water. She was a puppy and was being fed adult dry dog food. The owner was advised she needed puppy food to help her gain weight. The blonde Chihuahua had no water or water bucket and was severely emaciated. None of the dogs were current on rabies vaccinations and the owner was unable to answer when any of the dogs had last been seen by a veterinarian. The owner was cited and advised to have the dogs seen by a vet, dewormed, and that shelter must be provided within 10 days.
- Thursday, 8/25/16 – ACO Williams visited the home for a follow-up and found the dogs inside the home. Documentation was shown that the dogs had been to the vet and a dewormer was purchased, and weight gain was noted in the dogs.
- Wednesday, 9/28/16 – ACO Williams visited the home again and noted the two pit bulls continued to make progress and gain weight and were tied under the carport for shelter from the elements. Mr. Booker stated the blonde Chihuahua had been rehomed to a friend.
- Tuesday, 11/29/16 – ACO Williams contacted the owner to check on the progress of the two remaining pit bulls. They continued to gain weight and showed progress. The owner was advised that he could be cited or arrested if the condition of the dogs were allowed to deteriorate, and the case was closed at this time.
- Tuesday, June 13, 2017 – A new complaint was received about the general well-being of the dogs at this address, regarding them being outside without shelter and continuous barking through-out the day. ACO Williams knocked on the door and spoke to Demarious Booker, owner. Three pit bull mixes were tied out in a mud/dirt area with several piles of feces present.

The white pit bull (Snowsha) had partial access to concrete, but none of the dogs had shelter. There was extremely low water in the buckets, and the bucket for the black pit bull (Lola) was very dirty, and she was underweight again. Mr. Booker advised that the third dog (Calico) belonged to his girlfriend although he was caretaker at this time. He stated this dog was current on its vaccinations although he could not provide records. Mr. Demarious Booker and Mr. Kevin Booker were cited for 4-40 – Animal Cruelty for all three dogs.

- Wednesday, July 19, 2017 – ACO Williams returned to the residence to follow up on Mr. Booker’s progress. It was noted that dog houses were provided for the two dogs outside and their water buckets were cleaned and filled. However, Mr. Booker could not provide proof of rabies vaccination for the dog named “Calico”. At this visit, it was also noted that the black pit mix, Lola, had significant hair loss and red patches all over her body; a skin condition that was not present at prior visits. ACO Williams advised the owner to have Lola seen by a veterinarian and provided low cost clinic information to Mr. Booker. She advised him to bring this documentation to the hearing.

ACO Williams stated that at this time, although Mr. Booker has made some progress, there have been repetitive issues in the past. Staff’s recommendation is to find the respondents in violation and impose full fines of \$250 for each dog, for a total fine of \$750.00. In addition, Ms. Williams asked for the leeway to impose the maximum fine of \$500.00 per incident for any repeat Class III offense by this owner in the future. She stated she will follow up with the owner about the vet documentation on the rabies vaccination and skin issues. Ms. Williams stated that Mr. Booker had stated he would attend this hearing and bring vet documentation today. She stated he is in compliance regarding pet shelter and water, but not with vet documentation.

Special Magistrate clarified that under Statute 162, anytime someone has been found guilty of a violation, they can always be considered as a repeat offender for violating the same rule, and be assessed a citation for the maximum fine. She stated that staff may want to consult the Town’s attorney to see if he concurs with her opinion.

The Special Magistrate asked if there was anyone present to speak regarding this case. There was no one present.

The Special Magistrate noted that she did not see the property owner’s address documented on the order of enforcement, and suggested that it should be. She stated she will sign the order as presented and gave permission to add the address to the document afterward.

Special Magistrate Valerie Fuchs stated that based on the testimony and evidence presented on Case No. 17-007339, she did find that the owner is in violation of the Town of Lady Lake’s Code of Ordinances Section 4-40 - Animal Cruelty on behalf of three animals, and imposed a fine of \$250 per animal, for a total fine of \$750.00 to be paid within 30 days. In addition, an administrative fee of \$87 is imposed to be paid within 30 days of this date. The owner will get a copy of this order. Any further violations found on this case will be considered a repeat offense.

ADJOURN: There being no further matters to discuss, the meeting was adjourned at 11:06 a.m.

Nancy Slaton, Deputy Town Clerk

Valerie Fuchs, Special Magistrate