

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

December 18, 2018

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; Detective Butch Purdue; and Carol Osborne, Staff Assistant

CALL TO ORDER

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

PLEDGE OF ALLEGIENCE

APPROVAL OF MINUTES

The Special Magistrate accepted and signed the minutes of November 27, 2018 into the record as presented.

SWEARING IN

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

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 in violation of ex-parte rules. She explained that staff will present their case and testimony, 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, 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.

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

Code Enforcement Officer Michelle Bilbrey asked that she be allowed to present her case first, as a member of the public is present regarding the case. She presented documents regarding her case to the Special Magistrate.

NEW BUSINESS

1. Case 18-6874 — 3240 Edwards Rd. — Richard Rotondo — Town of Lady Lake Land Development Regulations, Chapter 5-4, Zoning District Uses; and Chapter 9-2 (h) (1) — Outside Storage (Michelle Bilbrey, CE)

On July 30, 2018 — Ms. Bilbrey reported that she received an anonymous citizen complaint regarding this property. The complainant stated someone was living in an RV on the property, an auto repair business was being run from this location, and that there were multiple inoperable vehicles on the property. She stated that the complainant went on to state that many people come and go from this location, bringing and picking up vehicles. Ms. Bilbrey stated that the complainant supplied her with a business card for the property owner, Richard M. Rotondo. The business card provided a phone number of 845-629-0790 for the hotrodranch1952@gmail.com, and showed the address of 3240 Edwards Road, Lady Lake, the subject property. The complainant stated that when Mr. Rotondo supplied the business card, he made the statement that he “restores old vehicles.”

July 31, 2018 — A site inspection was conducted. Ms. Bilbrey stated that this is a large parcel of property (6.95 acres) on a dirt road, and there is a 12,000 square foot building located on the property. She reported that there were two older model trucks that appeared to be inoperable located next to a boat on the east side of the building, and an older model Porsche located at the southeast corner of the building. Photos were taken. Ms. Bilbrey reported that a recreational vehicle could be seen directly behind the building on the south side of the property. She stated from her vantage point from the road right-of-way it could not be determined if the RV was occupied.

July 31, 2018 — A Code Enforcement case was opened. The following LDR's and Ordinances were cited: Town of Lady Lake Land Development Regulation Chapter 5-4 Zoning District Uses; and Town of Lady Lake Code of Ordinances Chapter 9-2 (h)(1) - Outside Storage

August 7, 2018 – Ms. Bilbrey stated that a Courtesy Notice was mailed via certified mail to the registered owner as indicated by the property record card. It was returned unopened, marked unclaimed, unable to forward.

September 6, 2018 — Ms. Bilbrey stated she conducted a re-inspection of the site; the property remained non-compliant and a Notice of Violation was mailed to the owner via certified mail and regular USPS mail. The certified mail was returned unopened, marked not deliverable as addressed, unable to forward. The regular mail was also returned unopened.

September 27, 2018 — Ms. Bilbrey stated she conducted a re-inspection of the site. The two trucks that were located next to the boat during the July 31, 2018 inspection had been moved closer to the building. A box van with an attached flatbed trailer was located by the front gate.

November 20, 2018 — A re-inspection of the site was conducted; the property remained non-compliant and a Notice of Hearing was created and sent out via certified mail. A copy of the Notice of Hearing was posted to the site on this date, and a copy was posted at Town Hall. An affidavit of posting was completed. The notice sent via certified mail was returned marked “no such number”.

December 12, 2018 — Ms. Bilbrey stated she conducted a re-inspection of the site. She reported it was noted on this date that many of the vehicles and boats that were once viewable from the roadway were no longer present. Ms. Bilbrey stated a man identifying himself as Mr. Rotondo, the property owner, was present outside and approached her vehicle to speak with her. She reported that Mr. Rotondo confirmed that he received the notification that was posted to the site and that he was working towards cleaning up the property. Ms. Bilbrey asked Mr. Rotondo why he did not sign for the certified mail that was sent, and he advised he does not get to the post office often. He went on to explain that he was unable clean the property up sooner due to medical conditions. She stated that she asked Mr. Rotondo if he was running a business from this location. She reported that he provided her with his age, and stated that he was not operating a business. She stated that she asked Mr. Rotondo if he was living in an RV on the property, and he confirmed that he was. Ms. Bilbrey stated that she explained to him that the Town of Lady Lake has an ordinance that prohibits the occupancy of recreation vehicles unless the property is zoned to allow it. She reported that Mr. Rotondo stated he did not have to live in the RV and would move out of it. He went on to explain that he has plans to build a house on the property in the future. Ms. Bilbrey stated that she reminded Mr. Rotondo of the Special Magistrate hearing date, time and location, and strongly urged that he attend the hearing to speak on his behalf. She explained to Mr. Rotondo that even though the property was cleaned up, it cannot definitively be disproved that he is not still running a business from this location. Ms. Bilbrey advised that Mr. Rotondo is present today. The property is currently assessed at \$139,634 per the Lake County Property Appraiser.

Staff recommendation is to find the owner/agent in violation of Town of Lady Lake Land Development Regulations Chapter 5-4-Zoning District Uses; impose an \$87 administrative fee, and afford the property owner or their agent 30 days to successfully verify compliance or a fine of \$25 per day be assessed thereafter for each day the violation continues to exist.

The Special Magistrate asked if Chapter 5-4 covers operating a home-based business.

Ms. Bilbrey replied affirmatively and explained it is a zoning violation. She stated this property is not zoned to operate a home-based business.

The Special Magistrate asked if Ms. Bilbrey is citing Mr. Rotondo for operating a business and living in the RV.

Ms. Bilbrey stated that she did not cite Mr. Rotondo for living in the RV because at the time of her initial site visit, she could not determine if the RV was occupied. She advised that Mr. Rotondo confirmed that he was living in the RV when she spoke with him on December 12, 2018. Ms. Bilbrey stated the outside storage violation is now compliant, and she is only citing Mr. Rotondo for operating a business on his property. She stated the statement from the anonymous complainant is included in the case documents.

The Special Magistrate stated that she would consider the complainant's statement. She confirmed with Ms. Bilbrey that she is not in possession of a receipt from this business or copies of advertising.

Ms. Bilbrey replied that the Special Magistrate is correct.

The Special Magistrate asked if there was anyone present who would like to speak regarding this case.

Richard M. Rotondo, owner of the subject property, stated that he has been sworn in to testify.

The Special Magistrate stated his only violation is operating a home-based business, which is not permitted in his zoning district.

Mr. Rotondo replied that he understood this. He stated the card has his email address on it. He stated that he restores cars as a hobby and does not operate a business for the public. He stated that he owns all of the vehicles on his property.

The Special Magistrate asked Mr. Rotondo if he receives payment for fixing vehicles.

Mr. Rotondo replied he does not receive payment from anyone to repair vehicles.

The Special Magistrate asked Mr. Rotondo to respond to the accusation that he was operating a business.

Mr. Rotondo stated this accusation is from an irate neighbor who recently purchased their property and is upset with him for not allowing electricity to go through his property. He stated that he has lived on this property for over three years.

The Special Magistrate asked Mr. Rotondo if he recalls the conversation with the neighbor when he gave him his card.

Mr. Rotondo replied that he restores cars; he is retired and it is his hobby.

The Special Magistrate asked Ms. Bilbrey if she has a rebuttal to Mr. Rotondo's testimony.

Ms. Bilbrey stated she has nothing further to present.

Special Magistrate Valerie Fuchs stated that based on the testimony and evidence presented for Case 18-6874, she did not find that the owner is in violation of the Town of Lady Lake Land

Development Regulations, Chapter 5-4, Zoning District Uses. The Special Magistrate stated that an Order of Enforcement is not warranted, and waived the \$87 administrative fee. The owner will receive a copy of this order.

2. Case 18-013439 — 107 Third Street — Kevin Booker and Demarious Booker — Town of Lady Lake Code of Ordinances and Section 4-40 — Animal Cruelty, Section 4-36 – Dog or Cat License or Vaccination (Denise Williams, ACO)

ACO Denise Williams presented documents regarding her case to the Special Magistrate, and presented the case summary as follows.

Tuesday, November 6th, 2018 — Ms. Williams reported she responded to 107 Third Avenue at approximately 10 a.m. regarding a complaint that the dogs at this residence are not being taken care of properly and one being severely underweight. She stated that Officer Couch also responded. Ms. Williams stated that she spoke with Tekisha Booker and her son upon arrival. Ms. Booker's son advised that the dog owners, Demarious and Kevin Booker, were not home at that time. She stated that Ms. Booker informed her that the dogs were on the side of the house and gave Ms. Williams permission to look at them.

Ms. Williams reported that as she walked to the side of the house, there was a foul odor and that the odor radiated approximately 10 to 15 feet from the where the dogs were being kept. The three dogs were located under the carport and all sides of the dog crates were covered with debris. Ms. Williams stated that although there was an odor, there was no evidence of feces or urine in the crates with the dogs. However, none of the three dogs had water or water buckets and it was already 80 degrees at 10 a.m.

Ms. Williams stated that the white pit mix was slightly underweight and her ribs and spine could be seen. The black pit named Lola appeared to be in fair condition, but the white and black male dog named Calico was severely underweight. She explained that his entire rib cage was predominately showing, his abdomen showed a significant recess or depression, and the top of his head appeared bony. Ms. Williams stated that she scored Calico as a two on a body scale of one to nine, with ideal being a four or five. She stated that Calico also had fresh blood on both sides of his mouth, which she pointed out to Ms. Booker.

Ms. Williams stated that Ms. Booker was unable to provide proof of current rabies vaccinations for any of the three dogs. Ms. Williams stated that she called the low cost Leesburg 441 Pet Hospital where the dogs have been seen in the past and the vet advised that none of the dogs were showing current rabies vaccination records on file.

Ms. Williams reported that she issued two citations to Ms. Booker on behalf the owners. One for Section 4-36 for the three dogs not having current rabies vaccinations, and one for Section 4-40,

Animal Cruelty for the three dogs not having access to water while crated outside, in addition to the overall body condition of Calico.

Ms. Williams reported that as she attempted to review the paperwork, Ms. Booker began to argue with her and stated that she wanted Ms. Williams off her property and that she was not welcome there. Ms. Williams explained that she had a job to do and a right to be there. She stated that she tried to explain that the first citation could be voided if the dogs were re-vaccinated against rabies and if the documentation was provided prior to the Special Magistrate Hearing. She stated that Ms. Booker claimed that Ms. Williams was only there because she wanted one of her dogs. Ms. Williams stated that she explained that she did not want her dog nor would the Town of Lady Lake allow her to surrender them. She explained to Ms. Booker that she could rehome them or schedule a euthanasia appointment with a vet if they decided that they did not want nor were they able to care for the dogs anymore. Ms. Booker still argued and continuously interjected and claimed that Ms. Williams just wanted her dog.

Regarding the second citation, Ms. Williams explained to Ms. Booker that Demarious and Mr. Booker have been warned multiple times in the past for the living conditions of the dogs, and that the dogs needed to have access to water while outside. Ms. Booker continued to interject multiple times and asked Ms. Williams if she drank water every day. Ms. Williams stated that she refused to argue with Ms. Booker and explained further that Calico needed to see a vet for his condition, as he was severely underweight. Ms. Booker stated that he is fed every day. Ms. Williams conveyed to Ms. Booker that Calico may need a change in diet or be dewormed, but that a vet would need to determine why he was in that condition and what changes were needed to be made.

Ms. Williams reported that she provided her contact information to Ms. Booker and stated that Mr. Booker could call her with questions or if he needed clarification on anything.

Wednesday, November 7th, 2018 — Ms. Williams stated that she received a voicemail from Mr. Kevin Booker. He stated that he was upset that people keeping calling on his dogs and that there was nothing wrong with them. He stated that his son was supposed to take the dogs out of the crates that morning and tie them up, but he did not. He asked me to call him back.

Ms. Williams stated that she returned his call, but the call went to voicemail. She advised that she left a detailed message for Mr. Booker explaining that she understood his frustration, but unfortunately, his home and his dogs were in the public's eye due to the location of his home being near a public playground.

Ms. Williams stated that she also explained the violation breakdown of each citation. She stated that she advised him that the citation for the rabies vaccination could be voided when he provided the documentation that the dogs have been vaccinated. She stated that the dogs

needed to have access to water at all times while they were outside, and that Calico was severely underweight and needed to see a vet. She stated that she advised Mr. Booker to call her back if he needed further explanation.

Ms. Williams stated she has not received any additional communication or contact from the owners to date.

Ms. Williams reported that her documentation includes a picture of Calico taken on June 13, 2017, and another picture taken on November 6, 2018 as a comparison.

Staff recommends that the Special Magistrate find the Respondents, Kevin Booker and Demarious Booker, in violation of the Town of Lady Lake Code of Ordinances, Section 4-40 - Animal Cruelty, Repeat Violations; and Section 4-36 - Dog or Cat License or Vaccination, and impose full fines of \$1,605.00.

The Special Magistrate stated that she has reviewed all of the photographs Ms. Williams referenced, which are part of the public record and part of the case file. She confirmed with Ms. Williams that this is a repeat offense and Ms. Williams gave the owners reasonable time in the past to ensure the dogs had water, vaccinations and medical opinions from a veterinarian.

Ms. Williams replied affirmatively.

The Special Magistrate confirmed with Ms. Williams that the owners received notice of today's hearing.

Ms. Williams stated the citation has the date and time directly on it.

The Special Magistrate asked how the notice was delivered.

Ms. Williams stated the notice was hand-delivered on November 6, 2018.

The Special Magistrate asked if the owners indicated if they would attend today's hearing.

Ms. Williams stated that she has not had any communication from the owners since the voicemail message on November 7, 2018. She stated that they did not attend the Special Magistrate hearing when they were cited in 2017.

The Special Magistrate confirmed with Ms. Williams that she has ruled on these dogs previously.

Ms. Williams replied affirmatively; she stated the dogs were a part of the 2017 case and that case folder was presented to the Special Magistrate this morning.

The Special Magistrate stated for the record that these owners were found in violation for the same offenses, and asked if they paid the imposed fine.

Ms. Williams stated they have not paid the fine and it was recorded with the Lake County Clerk of Courts.

Ms. Williams clarified the owners were not cited for a vaccination violations in 2017.

The Special Magistrate confirmed with Ms. Williams that the owners are cited again with the animal cruelty violation.

Ms. Williams replied affirmatively.

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

Special Magistrate Valerie Fuchs stated that based on the testimony and evidence presented, including photographs on Case 18-012650, that Kevin Booker and Demarious Booker, as owners of the dogs, are found in violation of the Town of Lady Lake Code of Ordinances Section 4-40 – Animal Cruelty, as a repeat violation; and Section 4-36 – Dog or Cat License or Vaccination for first time violation. The Special Magistrate imposed full fines of \$1,605.00, as well as an \$87 administrative fee, both to be paid within thirty days of today’s hearing date. The owners will receive a copy of this order.

Other Business — 2019 Special Magistrate Hearing Calendar

The Special Magistrate confirmed the dates of Tuesday, November 12, 2019, and December 17, 2019, on the 2019 calendar. She stated the June and July dates are tentative.

Ms. Bilbrey asked the Special Magistrate to notify her in April regarding those dates due to legal notice requirements.

ADJOURN

There being no further business, the meeting adjourned at 11:03 a.m.

s/ Carol Osborne, Staff Assistant to the Town Clerk

s/ Valerie Fuchs, Special Magistrate

Note: The original signed documents are on file at the Town Clerk’s office. Copies are available upon request.

Minutes transcribed by Carol Osborne, Staff Assistant to the Town Clerk