

RESOLUTION NO. R-13-156

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, DESIGNATING LOCAL HEARING OFFICERS AND EXISTING STAFF TO PERFORM CLERICAL DUTIES FOR THE LOCAL HEARING OFFICERS FOR ADMINISTRATIVE HEARINGS ON NOTICES OF VIOLATIONS ISSUED PURSUANT TO SECTION 316.0083, FLORIDA STATUTES, AS AMENDED BY CHAPTER 2013-160, LAWS OF FLORIDA; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Section 316.0076, Florida Statutes, expressly preempts to the state regulation of the use of cameras for enforcing the provisions of Chapter 316, Florida Statutes, the "Florida Uniform Traffic Control Law"; and

WHEREAS, Section 316.0083, Florida Statutes, establishes uniform statewide procedures for the use of cameras to enforce violations of Section 316.074(1) and Section 316.075(1)(c)1., Florida Statutes, for failure to stop at a red light; and

WHEREAS, Section 316.0083, Florida Statutes, requires a traffic infraction enforcement officer to issue a notice of violation before issuing a traffic citation for a violation of Section 316.074(1) or Section 316.075(1)(c)1., Florida Statutes; and

WHEREAS, during the 2013 session, the Florida Legislature enacted Chapter 2013-160, Laws of Florida, which amended various provisions of Chapter 316, Florida Statutes, including Section 316.0083, Florida Statutes; and

WHEREAS, Section 316.0083, Florida Statutes, as amended by Chapter 2013-160, Laws of Florida, provides that a person who receives a notice of violation has the right to request a hearing on the notice of violation before a local hearing officer; and

WHEREAS, Section 316.0083, Florida Statutes, as amended by Chapter 2013-160, Laws of Florida, establishes procedures for a hearing before a local hearing officer; and

WHEREAS, Subsection 316.003(91), Florida Statutes, as amended by Chapter 2013-160, Laws of Florida, defines a local hearing officer as the person designated by a county who is authorized to conduct hearings related to a notice of violation issued pursuant to Section 316.0083,

Florida Statutes; and

WHEREAS, Section 316.0083, Florida Statutes, as amended by Chapter 2013-160, Laws of Florida, requires a county to designate by resolution existing staff to serve as the clerk to the local hearing officer; and

WHEREAS, the Board of County Commissioners of Manatee County has approved an Interlocal Agreement with the Manatee County Sheriff which authorizes deputies employed by the Sheriff to enforce violations of Section 316.074(1) and Section 316.075(1)(c)1., Florida Statutes, in accordance with Section 316.0083, Florida Statutes; and

WHEREAS, the Board of County Commissioners of Manatee County has approved Ordinance No. 10-56, codified as Chapter 2-2, Article VI, Division 5, Manatee County Code of Ordinances, relating to hearing officers; and

WHEREAS, Section 2-2-108 of the Manatee County Code of Ordinances provides that hearing officers shall have jurisdiction over administrative hearings prescribed by statute; and

WHEREAS, on May 7, 2013, the Board of County Commissioners adopted Resolution No. R-13-080, which approved individuals as hearing officers to conduct administrative hearings and issue administrative orders under Section 2-2-108 of the Manatee County Code of Ordinances; and

WHEREAS, the hearing officers approved by Resolution No. R-13-080 have jurisdiction over the administrative hearings for notices of violation issued pursuant to Section 316.0083, Florida Statutes, as amended by Chapter 2013-160, Laws of Florida; and

WHEREAS, Section 2-2-114 of the Manatee County Code of Ordinances contemplates that the clerk of the circuit court will serve as the clerk to the hearing officers as it serves as clerk to the Board of County Commissioners; and

WHEREAS, the clerk of the circuit court will not serve as the clerk to the hearing officers under Section 2-2-114 of the Manatee County Code of Ordinances for the administrative hearings

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on notices of violation issued pursuant to Section 316.0083, Florida Statutes, as amended by Chapter 2013-160, Laws of Florida; and

WHEREAS, existing staff employed by Manatee County have previous experience as deputy clerks or have received training from the clerk of the circuit court; and

WHEREAS, existing staff who have such previous experience or have received such training may perform clerical duties for the local hearing officers for the administrative hearings on notices of violations issued pursuant to Section 316.0083, Florida Statutes, as amended by Chapter 2013-160, Laws of Florida, except for maintenance of recordings and minutes of hearings conducted by hearing officers, retention of evidence introduced at hearings conducted by hearing officers, and preparation and certification of the record for appeals of orders entered by hearing officers; and

WHEREAS, the Board of County Commissioners desires to designate the hearing officers and the clerk for purposes of the administrative hearings on notices of violation issued pursuant to Section 316.0083, Florida Statutes, as amended by Chapter 2013-160, Laws of Florida.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA:

Section 1. The Board of County Commissioners hereby designates the hearing officers approved by Resolution No. R-13-080 as local hearing officers to conduct administrative hearings on notices of violation issued pursuant to Section 316.0083, Florida Statutes, as amended by Chapter 2013-160, Laws of Florida.

Section 2. The Board of County Commissioners hereby designates existing staff who have previous experience as deputy clerks or have received training from the clerk of the circuit court to perform clerical duties for the local hearing officers for the administrative hearings on notices of violation issued pursuant to Section 316.0083, Florida Statutes, as amended by Chapter

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2013-160, Laws of Florida. Such staff shall perform the duties specified in Section 2-2-114 of the Manatee County Code of Ordinances, except as follows:

- a. All recordings and minutes of hearings conducted by hearing officers shall be filed with the clerk of the circuit court;
- b. All evidence introduced at hearings conducted by hearing officers shall be filed with the clerk of the circuit court; and
- c. All notices of appeal of orders entered by hearing officers shall be filed with the clerk of the circuit court for preparation and certification of the record on appeal.

Section 3. This resolution shall take effect immediately upon adoption.

ADOPTED by the Board of County Commissioners of Manatee County, Florida, with a quorum present and voting, on the 27 day of August, 2013.

BOARD OF COUNTY COMMISSIONERS
OF MANATEE COUNTY, FLORIDA

By: Larry Bustle
Chairman

ATTEST: R. B. Shore
Clerk of the Circuit Court

By: Vicki Garratt

