

SAN JOSE APPEALS HEARING BOARD MINUTES
THURSDAY, JULY 28, 2016
6:30 P.M. WING 118-120

1. The meeting of the San Jose Appeals Hearing Board convened this date at 6:30 p.m., Wing 118-120, City Hall, with the following members in attendance: Chair David Parker, Vice Chair Ron Cabanayan, Commissioners Rajwant Bains, Timothy Kenny, Karen Parsons and Robyn Shearin. Commissioner Andrew Ditlevsen was absent.

Staff Present: Karla Cáceres, Appeals Hearing Board Secretary
Oscar Carrillo, Code Enforcement Supervisor
Moe Kumre, Santa Clara County Hazardous Vegetation Program
Mando Lara, San Jose Police Department Permits Permit Unit
Bon Quindiagan, San Jose Police Departments Permit Unit
Brigitte Marquis, Code Enforcement Inspector
Rachel Roberts, Code Enforcement Division Manager
Sarah Stephens, Code Enforcement Inspector
Rita Tabaldo, Code Enforcement Supervisor
Rosa Tsongtaatarii, Senior Deputy City Attorney

2. **Approval of Minutes**

Commissioner Bains made the motion Commissioner Cabanayan seconded the motion to approve the minutes of June 9, 2016.

AYES: Bains, Cabanayan, Parker and Shearin
ABSTAIN: Parsons, Kenny
ABSENT: Ditlevsen

3. **Requests for Deferrals**

None

4. **Public Hearings**

None

5. **Deferred and/or Continued Items**

None

6. **Public Hearings**

- a. **WEED ABATEMENT**

Mr. Moe Kumre, Weed Abatement Coordinator for the Department of Agriculture for the County of Santa Clara, gave a summary of the County's weed abatement

process. The list of properties subject to the program are approved at the beginning of the year for 2015-2016. Notice is sent to the property owners to maintain their property at all times during the weed abatement season. Property owners are charged an inspection fee, and if the property fails the inspection – an additional fee is imposed for the inspection and administrative work associated with subsequent notice. If the property owners fail to abate the weeds and Santa Clara County performs the work, the property owners are charged for the cost of abatement.

Property owners appeared at the hearing with questions regarding the charge(s) for their properties. Mr. Kumre provided information regarding each of these properties. Two property owners represented that their parcels have already been dedicated to the City of San Jose for parkland. Pending follow-up by City staff regarding this representation, Chair Parker requested the removal of the following properties from the list to be assessed:

1. Eachus Steve and H. Anne Trustee, APN# 595-20-001
2. Uttarwar, Anat TR, APN# 660-72-023
3. Uttarwar, Anat TR, APN# 660-72-024

There was a motion by Commissioner Kenny, seconded by Commissioner Cabanayan to uphold the abatement action taken by the City to put a lien against properties, except as modified to remove three properties.

AYES: Bains, Cabanayan, Kenny, Parker, Parsons and Shearin,
NAYS:
ABSENT: Ditlevsen

b. APPEAL OF TOW-CAR BUSINESS ASSISTANT’S PERMIT

Conduct a Public Hearing on the appeal of the denial of Abel Martinez application for a Tow-Car Business Assistant’s Permit.

Mando Lara, Staff Specialist from the Police Department Permits Unit, requested that the Board uphold the denial of Abel Martinez application for a Tow-Car Business Assistant’s Permit based on his criminal history which is substantially related to the qualifications, functions and duties of the business, profession and trade for which the permit is to be issued.

Mr. Martinez stated that he has completed classes, and provided the Board with court records to support that stated that his prior convictions was recently approved to be expunged in early July 2016. Mr. Martinez stated that he made mistakes in the past and now is rehabilitated and is now taking responsibility.

Burt Dean, Owner of Rebellos Tow, stated that Mr. Martinez has been doing maintenance work around the build and he trusts him. He stated that most of the tows are for vehicles from properties.

In light of the new information, Commissioner Parker asked City Staff if they would like to continue the hearing to review the documentation from Mr. Martinez. The Parties can request a new date to complete the hearing on the appeal if the City maintains its recommendation to deny the application for a permit. Both parties agreed to continue the hearing pending a review of the documentation.

c. **2868 CROFT DRIVE (659-13-004) PROPOSED ABATEMENT**
(Brigitte Marquis, Inspector /, Farris Lillian E, Property Owner)

Code Enforcement Inspector Brigitte Marquis, gave a summary of the subject property's code enforcement history, and her efforts with the subject property. This property has had at least five (5) prior closed cases. Code Enforcement has not been able to establish if the water is shut off at the subject property.

Code Enforcement indicated that the property owner does not reside at the subject property, and resides with her daughter. Notice of this hearing was also sent to the property owner's daughter's address.

Neighbors of the subject property appeared at the hearing to testify on their experience with the conditions. The neighbors complained for odor, stray cats and associated nuisances, and the impact the subject property's blighted condition has had on their quality of life and property value.

There was a motion by Commissioner Kenny, seconded by Commissioner Shearin, to order as follows:

Motion to adopt Code Enforcements recommendation that the property owner take the required corrective actions by the end of ten (10) calendar days of the date of service of the Board's resolution in this matter.

The recommended corrective actions are to remove any inoperable vehicles from the driveway; and to remove all overgrown vegetation (dead or alive) and all solid waste, including but not limited to, cat and animal feces/urine; debris from the front yard retaining wall that has fallen into the public right of way; and any other items, debris, trash and garbage from the front, side and rear yards, park-strip, and any other areas visible from the street and neighboring properties. All solid waste must be disposed of properly. Garbage and recycling cans must be properly stored. All areas shall continuously be maintained free of overgrown vegetation (dead or alive), solid waste, animal waste, debris, litter and garbage in full compliance with the San José Municipal Code.

AYES: Bains, Cabanayan, Kenny, Parker and Shearin,

NAYS:

ABSENT: Ditlevsen, Parsons

d. **867 PETER PAN AVENUE (484-36-070) SUMMARY ABATEMENT/
CONDEMNATION**

(Sarah Stephens, Inspector/ David B. Gomez and Marcelina Castillo Rodriguez, Property Owner)

There was a motion by Commissioner Cabanayan, seconded by Commissioner Kenny, to approve the condemnation and restrict it from use or occupancy until the water service is restored and abatement of the dangerous accumulation of solid waste on the property.

Code Enforcement Inspector Stephens provided information concerning the abatement actions taken at the subject property. The son of the property owner appeared before the Board. The property owner is now deceased. The son indicated he has contacted the water company to restore service and is working with someone who has offered to also fix up the property. The son stated that prior to his mother's death and inheritance of the subject property, he was homeless and is grateful for a place to live. Inspector Stephens confirmed that condemnation of the subject property could be lifted as soon as water service is restored.

AYES: Bains, Cabanayan, Kenny, Parker and Shearin,

NAYS:

ABSENT: Ditlevsen, Parsons

7. **Request for Excused Absence**

None

8. **Other Business**

None

9. **Open Forum - Oral Communication from the Public**

None

10. **Adjournment**

There was a motion by Commissioner Kenny, seconded by Commissioner Shearin to adjourn the meeting. Chair Parker adjourned the meeting at 9:32 p.m. The next regular meeting will be held August 11, 2016 at 6:30 p.m. in the City Hall Council Chambers.