
DRAFT REGULAR MEETING MINUTES
MAY 24, 2018

1. CALL TO ORDER & ORDERS OF THE DAY

ROLL CALL

PRESENT: Chair David Parker, Commissioners Elizabeth Chien-Hale, Timothy Kenny, and Thomas Skinner.

ABSENT: Vice Chair Ron Cabanayan, Karen Parsons, and Robyn Shearin

STAFF: Board Secretary Karla Caceres, Finance Investigator Collector My Vuong, Code Enforcement Inspectors Jason Gibilisco, Manuel Duarte, William Gerry, Code Enforcement Supervisors Oscar Carrillo, Joseph Hatfield, and Senior Deputy City Attorney Rosa Tsongtaarii.

CALL TO ORDER

Chair Parker convened the Appeals Hearing Board at 6:32 p.m. in the City Council Chambers of City Hall, 200 E. Santa Clara Street, San Jose, CA 95113.

2. OPENING REMARKS AND APPROVAL OF MINUTES

APPROVAL OF MINUTES

Documents Filed: Draft Meeting Minutes from Appeals Hearing Board Regular Meeting on April 12, 2018.

Action: Upon motion by Commissioner, seconded by Commissioner, and carried unanimously, the minutes for April 12, 2018 was approved. (4-0-3) Vice Chair Cabanayan, Commissioners Parsons, and Shearin were absent.

3. REQUEST FOR DEFERRALS

There was no request for deferrals.

4. CONSENT CALENDAR

5. DEFERRED AND/OR CONTINUED ITEMS

There was no deferred and/or continued items.

6. PUBLIC HEARINGS

a. ABATEMENT SPECIAL ASSESSMENT LIENS

Documents Filed: Report from the Director of Finance- Abatement Cost as of February 22, 2018.

Action: Public Hearing to adopt a resolution confirming the report of delinquent abatement costs and place a special assessment lien against the property accounts that have remained unpaid at the end of the business day as of February 22, 2018. My Vuong gave a summary and presented the Board with an updated list. She explained that updated list had new account numbers because the Finance Department had transitioned to a new account system and many of the account numbers had not transitioned on the old list. She stated that the amount on account number 1082122 on the new list needed to be updated to \$769.51.

Upon a motion by Commissioner Kenny, second by Commissioner Skinner and carried unanimously to adopt a resolution confirming the report of delinquent abatement costs and to put a special assessment lien against the listed properties. (4-0-3) Vice Chair Cabanayan, Commissioners Parsons, and Shearin were absent.

b. ADMINISTRATIVE REMEDIES LIEN

Documents Filed: Summary Abatement Order and Notice of Hearing dated February 22, 2018.

Action: Public hearing to adopt a resolution confirming the report from the Director of Finance concerning the delinquent administrative penalties and costs for the accounts that have remained unpaid as of February 22, 2018. My Vuong gave a summary and presented the Board with an updated list, noting that the total balance due for Account Number(s) 1152967, 1152531, 1152633 are correct and the address for Account No. 141060 should be 4163 Piper Dr. consistent with the notice. Ms. Vuong also confirmed that the date of service by mail was in fact March 28, 2018 following the notices to property owners dated March 23, 2018.

Manoj Khandwalla, a property owner, and his representative Ronald Z Berki, ESQ, and Steve Lopes gave testimony regarding their accounts.

Upon a motion by Commissioner Kenny, second by Commissioner Skinner and carried unanimously to adopt a resolution confirming the report of a resolution confirming the report of delinquent administrative penalties and costs and to put a lien against the listed properties. (4-0-3) Vice Chair Cabanayan, Commissioners Parsons, and Shearin were absent.

c. **DELINQUENT TREE LIEN**

Documents Filed: Summary Abatement Order and Notice of Hearing dated February 22, 2018.

Action: Public Hearing to adopt a resolution confirming the report of delinquent abatement cost and place a special assessment lien against the property accounts that have remained unpaid as of February 22, 2018. My Vuong gave a summary and presented the Board with an updated list.

Upon a motion by Commissioner Kenny, second by Commissioner Skinner and carried unanimously to adopt a resolution confirming the report of delinquent tree violations costs and to put a Special Assessment lien against the listed properties. (4-0-3) Vice Chair Cabanayan, Commissioners Parsons, and Shearin were absent.

d. **2399 PLEASANT ACRES DRIVE (652-10-015)– PROPOSED ABATEMENT**
(Jason Gibilisco, Code Enforcement Inspector/ David Liu, Property Owner)

Documents Filed: Proposed Abatement order and Notice of Hearing dated May 9, 2018.

Action: Code Enforcement Jason Gibilisco gave a summary of the inspection at the subject property. He stated that progress has been made that includes the removal of an extensive number of vehicles, debris in the front yard, side yard, and rear yard. Yet, as of today's inspection, violations remain.

David Liu, property owner, gave testimony that he has done some clean up, but will need more time to be in compliance.

Sarafina Garcia and Mario Azevedo gave testimony of how the issues have affected them.

Upon a motion by Commissioner Kenny, second by Chair Parker and carried unanimously to adopt Code Enforcement's recommendation that the property owner take the required corrective actions by the end of forty-five (45) calendar days from the date of service of the Board's resolution in this matter to:

To remove and properly dispose of all fire damaged items and hazardous solid waste. This includes all vehicles, household and miscellaneous items, trees and vegetation, structures, and any other fire damaged materials. Remove and properly dispose of all household items and miscellaneous solid waste and debris from the front yard, side yard, and rear yard. Remove and properly dispose of any items from the rear yard so that at least one thousand five hundred square feet or sixty percent of the remaining rear yard is useable outdoor recreational space. Remove all vehicles and any other items/debris stored within five feet of the property lines. Ensure vehicles, trailers and boats that are visible from the street are operable and parked on paved surface (vehicles cannot be stored within five feet of property lines in the rear yard).

If the above mentioned hazards and violations are not removed within forty-five (45) calendar days of the date of service of the Board's resolution in this matter, the abatement

shall be performed by a City approved contractor or service providers and the cost of removal charged to the property owner to be billed following the completion of the work and paid in full within thirty (30) days of the billing date. (4-0-3) Vice Chair Cabanayan, Commissioners Parsons, and Shearin were absent.

e. 2918 VIA ENCINITAS (092-14-030)– PROPOSED ABATEMENT

(Manuel Duarte, Code Enforcement Inspector/ Michael Guy Meadows, Property Owner)

Documents Filed: Proposed Abatement order and Notice of Hearing dated May 9, 2018.

Action: Code Enforcement Manuel Duarte gave a summary of the inspection at the subject property. He gave a summary of the inspection at the subject property. He stated there has only been one successful contact with the property owner on February 10, 2017. Since that date, there has been several attempts to contact the property owner, but there has been no successful contact. Last inspection was May 16, 2018 and the issue still stands.

The property owner was not present at the Hearing to give testimony.

John Kopernik, Mark Simmons, and Loretta Seto, neighbors to the subject property, gave testimony how the issue has affected them.

Upon a motion by Commissioner Kenny, second by Chair Parker and and carried unanimously to adopt Code Enforcement’s 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:

To remove and properly dispose of all solid waste including but not limited to dead vegetation and debris resulting from the fire, lumber, recyclables, cardboard, household furniture, auto parts, plastic containers and shopping carts as well as secure the property to prevent any unauthorized access.

If the above mentioned corrective actions are not completed within ten (10) calendar days of the date of service of the Board’s resolution in this matter, the abatement shall be performed by a City approved contractor or service providers and the cost of removal charged to the property owner to be billed following the completion of the work and paid in full within thirty (30) days of the billing date. (4-0-3) Vice Chair Cabanayan, Commissioners Parsons, and Shearin were absent.

f. 3144 BARLETTA LANE (601-02-105)– ADMINISTRATIVE REMEDY

(William Gerry, Code Enforcement Inspector/ Frank F. Sousa & Cathy D. Sousa, Property Owner)

Documents Filed: Notice of Hearing dated May 9, 2018.

Action: Code Enforcement William Gerry gave a summary of the inspection at the subject property. He stated that he finally made contact with the Property Owner when the packet was mailed out. Since then, the Property Owner has contacted him and has given him access to the property. He did notice that there were other modifications to the structure,

but the Property Owner is willing to comply. He stated that as of today, the violation still exists.

Property Owners Frank and Cathy Sousa gave testimony that all the documentation had been mailed to a property where they had not lived at for 15 years, but as soon as they received the packet, they contacted Inspector Gerry. They stated that they want to comply, but will need about 9 months since they are not local.

Upon a motion by Commissioner Kenny, second by Commissioner Chien-Hale and carried unanimously to adopt Code Enforcement's recommendation that the property owner take the required corrective actions that:

On or before August 1, 2018, the Property Owner(s) shall: E-mail Code Enforcement Building Compliance at: buildingcodecompliance@sanjoseca.gov to schedule a meeting to submit three (3) set of professionally designed plans with structural calculations and Title 24 requirements for preliminary review. Plans will be for Preliminary Code Stamp to proceed to Plan Check with the City of San Jose Building Division to attempt to legalize the unpermitted addition of an approximate 40' X 20' detached structure (previous garage) and addition of an approximate 25' X 22' carport with electrical.

Once plans have been approved/stamped by Building Code Compliance, a Plan Check appointment must be scheduled with the City of San Jose Building Division at (408) 535-3555.

Submit all plans, structural calculations, and Title 24 documents with the payment of all Plan Check Fees to the City of San Jose Building Division located on the 1st floor of Development Services at City Hall 1st floor, 200 E. Santa Clara Street.

On or before February 1, 2019, the Property Owner(s) shall: Obtain all building permits to legalize or remove the unpermitted addition of an approximate 40' X 20' detached structure and addition of an approximate 25' X 22' carport with electrical.

Complete all corrective building work to legalize or remove the unpermitted addition of an approximate 40' X 20' detached structure and addition of an approximate 25' X 22' carport with electrical AND obtain a final clearance inspection (final permit) from the City of San Jose Building Division. (4-0-3) Vice Chair Cabanayan, Commissioners Parsons, and Shearin were absent.

7. REQUEST FOR EXCUSED ABSENCE

Commissioner Parsons requested an excused absence.

8. OTHER BUSINESS

There was no other business.

9. PUBLIC COMMENT

There was no public testimony on the floor.

10. ADJOURNMENT

Upon a motion by Commissioner Kenny, seconded by Commissioner Skinner, and carried unanimously, the Hearing was adjourned at 8:40 p.m. (4-0-3) Vice Chair Cabanayan, Commissioners Parsons, and Shearin were absent.

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