
DRAFT REGULAR MEETING MINUTES
MARCH 14, 2019

1. CALL TO ORDER & ORDERS OF THE DAY

ROLL CALL

PRESENT: Vice Chair Ron Cabanayan, Commissioners Rajwant (Raji) Bains, Elizabeth Chien Hale, Timothy Kenny, Karen Parson, and Thomas Skinner.

ABSENT: None.

STAFF: Board Secretary Karla Caceres, Department of Transportation Associate Engineering Tech Jeff Daniels, Code Enforcement Inspectors Manuel Duarte, Tony Gonzalez, Code Enforcement Supervisors Oscar Carrillo, Jason Gibilisco, Joseph Hatfield, and Senior Deputy City Attorney Jennifer Pousho.

CALL TO ORDER

Vice Chair Cabanayan convened the Appeals Hearing Board at 6:33 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

- a. Documents Filed: Draft Meeting Minutes from Appeals Hearing Board Regular Meeting on October 11, 2018.

Action: Upon motion by Commissioner Chien-Hale, seconded by Commissioner Parsons, and abstained by Commissioner Bains and Vice Chair Cabanayan, the minutes for October 11, 2018 was approved. (4-0-2).

- b. Documents Filed: Draft Meeting Minutes from Appeals Hearing Board Regular Meeting on November 8, 2018.

Action: Upon motion by Commissioner Parsons, seconded by Commissioner Skinner, and abstained by Commissioner Bains and Commissioner Chien Hale, the minutes for November 8, 2018 was approved. (4-0-2).

- c. Documents Filed: Draft Meeting Minutes from Appeals Hearing Board Regular Meeting on January 24, 2019.

Action: Upon motion by Commissioner Kenny, seconded by Commissioner Parsons, and abstained by Commissioner Bains and Commissioner Skinner, the minutes for January 24, 2019 was approved. (4-0-2).

3. REQUEST FOR DEFERRALS

There was no request for deferrals.

4. CONSENT CALENDAR

a. 867 PETER PAN AVENUE (484-36-070)– SUMMARY ABATEMENT

(Tony Gonzalez, Code Enforcement Inspector/ David B. Gomez, Marcelina Castillo Rodriguez, Property Owner)

Documents Filed: Summary Abatement Order and Hearing Notice dated February 21, 2019.

Action: Upon motion by Commissioner Parsons, second by Commissioner Kenny to approve the abatement actions taken by the City for the property located at 867 Peter Pan Avenue on November 14, 2018, as set forth in the staff report dated February 21, 2019. (6-0)

5. DEFERRED AND/OR CONTINUED ITEMS

a. APPEAL OF TOW-CAR BUSINESS ASSISTANT PERMIT

Documents Filed: Notice of Continuance Denial of Tow Driver Permit dated February 25, 2019.

Letter of request of hearing from Luis Romo dated July 19, 2018.

Letter of Reference for Luis Romo from Jeneen Vaughn dated October 12, 2018.

Action: Belen Avalos, Program Administrator with San Jose Police Department Permits Unit gave testimony in support of the denial. Luis Romo was not present at the hearing.

Upon motion by Commissioner Skinner, second by Commissioner Kenny to approve City of San Jose Police Departments decision to deny the Tow-Car Business Assistant Permit Application for Luis Romo dated May 31, 2018. (6-0)

6. PUBLIC HEARINGS

a. SPECIAL ASSESSMENT AND LIENS FOR DELINQUENT RESIDENTIAL SOLID WASTE COLLECTIONS SERVICE CHARGES

Documents Filed: Hearing Notice for Confirmation and Recording of Special Assesment Liens on Santa Clara County Secured Property Tax Roll for Collection of Delinquent Solid Wate Collection Service Accounts.

Director's Report: Solid Waste Collection Service Charges Delinquent as of February 4, 2019.

Action: Eric Lemon, Senior Analyst, from the Finance Department provided an updated report of the accounts in a delinquent status as of 5:00 pm, March 14, 2019.

Upon motion by Commissioner Parsons, second by Commissioner Kenny to adopt a resolution to confirm the updated report from the Finance Department setting forth the Recycle Plus accounts in a delinquent status at the close of the business day on March 14, 2019 at 5:00 p.m., and to direct the Director of Finance to place a special assessment and secure a lien in the amount of the delinquent customer account balances with the Santa Clara County Tax Assessor's Office and Recorder's Office, respectively. (6-0)

b. 0 CLAITOR WAY (595-20-071)– ADMINISTRATIVE REMEDY

(Manuel Duarte, Code Enforcement Inspector/ Lawrence Liang and MeiMei Wu, Property Owner)

Code Enforcement Inspector Manuel Duarte gave testimony and showed photos regarding the case involving grading without a permit. A letter dated December 16, 2016 from Department of PublicWorks to the property owners described the amount of dirt that was added as fill by the grading, the preliminary geologic seismic hazard review, and the requirements for obtaining Geologic Hazard Clearance, a condition precedent for a grading permit. Inspector Duarte noted that in the hearing notice Section G needed to be corrected where it said "November 15, 2016 a grading permit was applied for with City," to a geo hazard permit was applied for with the City. Inspector Duarte stated no grading permit has been applied for to date. He stated that as of 11:50 a.m. March 14, 2019, the Subject Property remains in the same condition and the Property Owner has not applied for any grading permits.

Steven Villarreal, previous owner to the property, gave testimony on behalf of the Property Owner. He stated that he did do weed abatement to the property, to get the property ready for sale and fire hazard mitigation. He stated that he went to the Department of Transportation (DOT) before doing any type of work and was advised the pipe did not belong to the City. He acknowledged during the weed abatement process – they did move dirt over the pipe and moved dirt in the process of removing vegetation. But this pipe is only one of two that are on the property. He stated that he went several times to the City to try and get a grading permit, but was told they could not issue a permit until he got a geo hazard clearance. He obtained a survey of the property, but had a hard time finding a company to assist with the geo hazard clearance, and the cost was very high based on one quote.

Lawrence Liang, property owner, gave testimony that he purchased the property after the grading had occurred. He believes most of the area identified by the City as having been graded is not his property. Rather the most of the area graded is APN 595-20-008, his neighbor's property. He stated that no one in the City is really helping and that he does not know how to proceed.

Jeff Daniels, Associate Engineering Tech for DOT gave testimony that the property owner of 3972 Claitor Way, the neighboring property, spent around \$7,000 to put in a retaining

wall to hold his property together while he was putting in a patio. He stated that maybe it had something to do with some loose soil in the subject property in question. The subject property was slumped and sloped in, but now the property has been graded over 2 feet deep, and covers the City pipe intended to handle emergency storm drainage. Over 100 feet of the pipe is now buried and damaged. While there are two pipes crossing the property, both pipes are in active use.

Documents Filed: Notice of Hearing dated February 21, 2019.

Action: Motion to approve Staff's recommendation in order to correct, administrative cost, and administrative penalties with one modification to extend the deadline for compliance and potential imposition of additional administrative penalties of \$100 per day after July 15, 2019 if compliance is not achieved. (6-0)

c. 414 NORTH 33RD STREET (254-11-030)– ADMINISTRATIVE REMEDY
(Manuel Duarte, Code Enforcement Inspector/ Ricardo Sencion, Property Owner)

Documents Filed: Notice of Hearing dated February 21, 2019.

Action: Upon request of Property Owner Ricardo Sencion, the case was deferred to April 25, 2019 because the Property Owner does not speak English and needs an interpreter.

7. REQUEST FOR EXCUSED ABSENCE

There was no request for excused absence.

8. OTHER BUSINESS

The Board elected Commissioner Parsons as Chair of the Appeals Hearing Board.

9. PUBLIC COMMENT

There was no public testimony on the floor.

10. ADJOURNMENT

Upon a motion by Commissioner Parsons, seconded by Commissioner Kenny, and carried unanimously, the Hearing was adjourned at 8:27 p.m.