
REGULAR MEETING MINUTES

JANUARY 22, 2026

1. CALL TO ORDER & ORDERS OF THE DAY

ROLL CALL

PRESENT: Chair Karen Parsons, Vice Chair Ron Cabanayan, Commissioner Genevieve Altwer, Commissioner Jon Budas, Commissioner David Hook, Commissioner Timothy Kenny and Commissioner Martin Nguyen.

ABSENT: NONE

STAFF: Board Secretary Leslie Alvernaz, Code Enforcement Inspector Greg Martinez, Code Enforcement Inspector David Parker, Code Enforcement Supervisor Joseph Hatfield, Senior Supervisor Maria Diaz-Perez, Community Activity Worker Gabriel Espinosa-Lee, Division Manager Eusebio Espitia, and Senior Deputy City Attorney Wesley Klimczak.

CALL TO ORDER

Chair Parsons convened the Appeals Hearing Board at 6:31 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 December 11, 2025.

Action: Upon motion to modify the date on the Meeting Minutes from December 12th, 2025 to December 11th, 2025 by Commissioner Kenny, and seconded by Chair Parsons, the Meeting Minutes for December 11, 2025 were approved (6-0-1).

3. REQUEST FOR DEFERRALS

There was no request for deferrals.

4. CONSENT CALENDAR

No items on the Consent Calendar.

5. DEFERRED AND/OR CONTINUED ITEMS

There was no deferred and/or continued items.

6. PUBLIC HEARINGS

a. **33 E SAN FERNANDO ST (APN 467-22-127) ADMINISTRATIVE REMEDY** **(Greg Martinez Code Enforcement Inspector/Lion Building LLC Property Owner)**

Documents Filed: Administrative Remedy and Notice of Public Hearing dated January 6, 2026.

Action: Code Enforcement Inspector Greg Martinez made corrections to the Notice of Hearing, indicating that the date on Exhibit B of May 15, 2025, should be March 15, 2025.

Inspector Martinez provided a summary of the case and answered clarifying questions.

Property Owner Representative Ryan Zalucky testified that the property and tenant (Freddie Jackson) were notified 6–8 months ago that a Special/Conditional Use Permit was required and he paid the \$36,000 permit fee immediately. Despite payment, Mr. Zalucky claims the City has held the funds for nearly six months while repeatedly requesting additional information and steps. Mr. Zalucky argued this delay is unreasonable, especially since Freddie Jackson, the tenant, was forced to relocate due to eminent domain initiated by the Valley Transportation Authority (“VTA”), which promised a smooth relocation. Instead, Freddie has faced ongoing City compliance issues, including conditions outside his control (street vendors, litter, grease, debris), and repeated requests for City support that went unanswered. Zalucky stated it is backwards to be fighting over a permit already paid for and previously held at the former location, and that the process has effectively made it impossible for Freddie—and new businesses generally—to operate successfully in San Jose.

Commissioners questioned activity at the site on March 27, 2025. City staff clarified that activity observed (security, music) was not merely residual closing activity. Staff also confirmed the property is under investigation for construction without a permit.

City Supervisor Joseph Hatfield explained that although the permit application was paid for on May 30, 2025, it was never issued, and payment alone does not authorize operation. He stated Planning has indicated they will not recommend approval, possibly due to unmet requirements (potentially environmental), and that Planning permits often take up to a year. He confirmed the permit application is a Conditional Use Permit to operate after midnight, and Code Enforcement cited the business for operating after midnight without the permit. The business may operate until midnight.

Mr. Zalucky disputed claims of missing requirements, stating no environmental issues were ever communicated and that in his experience permits are typically issued promptly once paid. He also noted police and inspectors previously confirmed Freddie’s operations were legal after he showed them the permit.

Tenant Freddie Jackson testified the permit process began in October 2024. He stated City staff told him to pay the permit to continue operating, which he did immediately. He emphasized he was relocated involuntarily due to eminent domain and was assured his prior operations would transfer to the new location. Instead, he invested approximately \$1.5 million, only to be told later the permit may be denied, which would effectively shut down his business and invalidate his long-term lease. He stated it was only at this

hearing that he learned Planning intended to recommend denial, despite ongoing email requests for additional information.

The Board clarified its limited authority, noting it cannot approve permits.

City staff confirmed Planning is recommending denial as of December 8, 2025, though the applicant could still proceed to a Planning Commission hearing.

Code Enforcement clarified penalties would accrue only when verified violations (operating after midnight) are observed, not daily.

Upon a motion by Commissioner Kenny, second by Commissioner Hook and carried unanimously (7-0-0), the Board adopted the staff's recommendations as written in the report dated January 6, 2026.

1. **Order to Correct**

The Property Owner(s) shall immediately cease the use of the property after 12:00 a.m. until a Conditional Use Permit is approved by the City of San Jose Planning, Building, and Code Enforcement Department and all conditions are met.

2. **Administrative Costs**

Within thirty (30) days of the date of the invoice the property owner shall remit payment of Administrative Costs to the City of San José in the amount of \$1,463.50.

3. **Administrative Penalties**

On or before March 1, 2026, the Property Owner(s) shall pay Administrative Penalties to the City of San José, pursuant to San José Municipal Code Section 1.14.090, in the amount of \$40,000.00 for the two confirmed violations that occurred after the Compliance Order due date.

If full compliance with the Board's Order is not achieved by January 23, 2026, the Property Owner(s) shall be subject to additional Administrative Penalties in the amount of \$20,000.00 for each subsequent confirmed violation, up to a cumulative maximum of \$500,000.00.

If the Administrative Penalties are not paid and are recorded as a lien against the real property pursuant to San José Municipal Code Sections 1.14.160 and 1.14.180, as may be amended, interest shall accrue on the principal amount of the lien at the rate of ten percent (10%) per annum from the date the lien is first recorded until the date payment is received by the City, consistent with California Code of Civil Procedure Section 685.010, as may be amended.

**b. 7183 ALDER SPRING WAY (APN 708-44-048) ADMINISTRATIVE REMEDY
(David Parker Code Enforcement Inspector/Pigott Steven D & Deborah Lee,
Trustees Property Owner)**

Documents Filed: Administrative Remedy and Notice of Public Hearing dated January 6, 2026.

Action: Code Enforcement Inspector David Parker provided a summary of the case.

On January 7, 2026, PG&E confirmed that the power was still not connected at the property and the power meter remains removed. Mr. Parker verified that the property owner knows what needs to be done to restore service to the property. On January 22, 2026, Mr. Parker attempted phone calls to the property owner and the property owner's adult daughter and left messages, but never received a returned call. He also provided an update from an inspection conducted on January 22, 2026, around 4:30 pm from the public right of way that confirmed the generator is still in the backyard and providing power to the house. He provided 2 new pictures to the Board, one of an accessory structure in the backyard showing the generator and the second of the driveway showing that the blight issues were resolved.

The Board confirmed that the Administrative Costs are \$1539.00, that the date to correct is on or before February 27, 2026, and that the \$100.00 per day would start on February 28, 2026.

Property Owner Daughter Ashely Gangi spoke. She is the primary caregiver for her mom, the property owner, who has medical issues. Ms. Gangi mentioned having hardship since her dad passed away in 2021. He left them with a high PG & E bill and the family is now getting help with Adult Protective Services. She asked for a month of continuance to get everything in order.

There was discussion among the Board, City Staff and Ms. Gangi.

Commission Kenny asked City staff if this was a rental property, would it be red tagged? Is there is a difference between owners staying in a structure that has no power or water and renting a property to someone and having no power or water?

Supervisor Joseph Hatfield provided clarification that it is case by case, but there is a tendency to be more lenient when it is an owner or owner's family. The code does not say owners are exempt from requirements, but we tend to be more lenient when it is someone living in a situation, they are responsible for rather than a tenant that maybe taken advantage of and can't fix the problem.

Upon a motion by Commissioner Kenny, second by Vice Chair Ron Cabanayan and opposed by Chair Parsons and Commissioner Altwar and carried (5-2-0), the motion to modify to hold \$2,500.00 in abeyance and approve the rest as written was approved.

1. Order to Correct

On or before February 27, 2026, the Property Owner shall safely disconnect and remove the unpermitted gas generator currently being used to power the single-family residence. The Property Owner is further ordered to reconnect the residence to the available electrical utility service grid in accordance with San José Municipal

Code Section 17.20.360. Upon completion of these corrections, the Property Owner must contact the assigned Code Enforcement Inspector, currently David Parker, to schedule a mandatory compliance inspection.

2. Administrative Costs

Within thirty days of the initial invoice, Property Owner shall pay Administrative Costs to the City of San José in the amount of **\$1,539.00**.

3. Administrative Penalties

Within thirty days of the initial invoice, the Property Owner shall pay Administrative Penalties to the City of San José, pursuant to San José Municipal Code Section 1.14.090, in the amount of **\$2,500.00** to be held in abeyance and to be dismissed if compliance is achieved by **February 27, 2026**. If full compliance with the Board's Order is not achieved by February 27, 2026, the Property Owner shall pay **\$2,500.00** plus additional Administrative Penalties in the amount of **\$100.00** per day, from February 28, 2026, until the date of compliance with the Board's Order, up to a maximum of \$500,000.00. If the Administrative Penalties are not paid and are recorded as a lien on the real property pursuant to San José Municipal Code Sections 1.14.160 and 1.14.180, as may be amended, an interest rate of ten percent (10%) per annum shall be charged on the principal amount of the administrative lien, from the date the lien is first recorded until the date that payment is received by the City, consistent with California Code of Civil Procedure Section 685.010, as may be amended.

7. REQUEST FOR EXCUSED ABSENCE

There was no request for 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 Vice Chair Ron Cabanayan, seconded by Chair Parsons, and carried unanimously, the Hearing was adjourned at 7:54 p.m.