

DRAFT REGULAR MEETING MINUTES
APRIL 27, 2023

1. CALL TO ORDER & ORDERS OF THE DAY

ROLL CALL

PRESENT: Chair Karen Parsons, Vice Chair Ron Cabanayan, Commissioner Manish Bajpai, David Hook, Timothy Kenny and Brett Williamson.

ABSENT:

STAFF: Board Secretary Regina Lizaola, Code Enforcement Official Rachel Roberts, Code Enforcement Division Manager Oscar Carrillo, Code Enforcement Division Manager Rita Tabaldo, Code Enforcement Supervisor Jason Gibilisco, Code Enforcement Inspector Matthew Fierar, Code Enforcement Inspector Jonathan Nakafuji, Code Enforcement Inspector Raymond Luna, Code Enforcement Inspector Marlon Aviles, Code Enforcement Inspector Sergio Orozco, and Deputy City Attorney Rosa Tsongtaarii.

CALL TO ORDER

Chair Parsons convened the Appeals Hearing Board at 6:30 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 March 23, 2023.

Action: Commissioner Hook noticed a few errors that needed correction. On the 2nd page under item #6 Public Hearings, 2nd paragraph under action instead of Delinquent tree violations it needs to say Residential Solid Waste collection, and then on the 3rd paragraph of that same section it starts on “upon a motion by Commission Hook” the motion repeats motion so that extra motion needs to be deleted.

Upon motion by Commissioner Kenny I move that we approve the amended minutes for the meeting March 23, 2023 to reflect what's been discussed here at the meeting tonight. Second by Commissioner Hook and abstained by Commissioner Cabanayan the minutes for March 23, 2023 was approved (5-0-1).

3. REQUEST FOR DEFERRALS

There was no request for deferrals.

4. CONSENT CALENDAR

a. **1505 McGinness Ave (488-07-029) Summary Abatement**

(Jason Gibilisco, Inspector/ Luella Mae Riley and Richard E Riley “Property Owner”)

Documents Filed: Summary Abatement Order and Notice of Public Hearing dated April 12, 2023.

Action: Upon motion by Commissioner Hook, Second by Commissioner Cabanayan to approve the abatement actions taken by the City of San Jose to secure the property and invoice the property owner the costs of the abatement actions, including the total cost of the actions taken and any allowable inspection fees. As set forth in the staff report dated April 12, 2023 (6-0).

b. **1705 Curtner Ave (446-09-067) Summary Abatement**

(Jason Gibilisco, Inspector/ Kimberly S Connor “Property Owner”)

Documents Filed: Summary Abatement Order and Notice of Public Hearing dated April 12, 2023.

Action: Upon motion by Commissioner Hook, Second by Commissioner Cabanayan to approve the abatement actions taken by the City of San Jose to secure the property and invoice the property owner the costs of the abatement actions, including the total cost of the actions taken and any allowable inspection fees. As set forth in the staff report dated April 12, 2023 (6-0).

5. DEFERRED AND/OR CONTINUED ITEMS

Documents Filed: Draft Meeting Minutes from Appeals Hearing Board Regular Meeting on January 26, 2023.

Action: Upon motion Approve Minutes by Chair Parsons, seconded by Vice Chair Cabanayan and abstained by Commissioner Bajpai the minutes for January 26, 2023 was approved (5-0-1).

6. PUBLIC HEARINGS

a. **39 E St James St (467-01-118 Administrative Remedy)**

Brigitte Villagomez, Inspector/ 252 N First St Development LLC/ Z & L Properties Inc “Property Owner”)

Documents Filed: Administrative Remedy Notice of Public Hearing dated April 12, 2023.

Action: Code Enforcement Supervisor (CEI) Jason Gibilisco provided a summary of the inspection at the subject property overgrown vegetation is acceptable for compliance. confirmed that only the attempt to contact letter was returned to sender not the Compliance

Order. There is nothing submitted to the Planning or Building Division to rehab the building. Deputy Director of Code Enforcement Rachel Roberts also answered some questions in regards to the building, explained that under the tarps is a containment wrap and underneath most of the openings are boarded up. There has been no communication with the property owner. Requirements for Historic Building SJMC 17.38.260 is Fire protection system, property Security in place, Lighting. Rachel Also read aloud the Violation Occurred, Order to Correct, Administrative Costs and Administrative penalties from the Notice of Hearing.

Commissioner Cabanayan was concerned if adequate attempts were made to contact the property managers or owners for the property. Code Enforcement Supervisor Jason Gibilisco stated per the Muni code requirement there were reasonable attempts to contact the property owners.

Commissioner Kenny was concerned about the fire codes regarding not having an alarm system set in the building.

Deputy City Attorney Rosa Tsongtaarii needed clarification that the property owner had not made arrangements for an inspection to occur as required by Code Enforcement and for that reason it was concluded that there is no evidence to support that there is a fire alarm system installed in the building. Per Deputy Roberts, the fire alarm system was not observed during the inspection with Public Works on March 9, 2023.

Per Deputy City Attorney Rosa Tsongtaarii requested clarification as to which subsection violates SJMC 17.38.230 Security Standards it lists the minimum security standards 1-6 can you provide which subsection it violated whether it meets the specifications for the purpose item number six no signage. Additionally the Deputy City Attorney Rosa Tsongtaarii stated, The board needs to consider all of these factors in supporting to increase or lower the penalty amount.

Commissioner Hook was concerned on the date of the attempt to contact letter was mailed out on February 2, 2023, and returned not deliverable but the compliance order was mailed out a few weeks later on February 28, 2023, and not returned.

Commissioner Bajpai noticed a discrepancy in the administrative penalties section I. If full compliance with the Board's Order is not achieved by July 17, 2023, correct the date to June 12, 2023. Code Enforcement staff recommends the imposition of additional administrative penalties in the amount of \$1,000.00 per day starting July 13, 2023, correct the date to June 13, 2023.

Deputy Director of Code Enforcement Rachel Roberts stated The SJMC 1.14.090 describes the considerations we need to take in setting the amount of fines per day includes the duration of violations frequency recurrence and number of violations related or unrelated by the same violator, the seriousness of the violations good faith effortness of the violator that come into compliance economic impact of the penalty on the violator and the impact of the

violation on the community any other factor as justice may require. As you know the penalties can go up to 25,000.00 per day.

Property Owner Yonggang Cui gave testimony. After buying the property he has been maintaining the property. Mr. Cui stated that he was not aware if there is a fire protection security. The property owner is seeking on how to develop it and was in contact with the Business Development Department. Mr Cui provided 188 W James St San Jose CA 95110 as a new address as of a year ago.

Upon a motion by Commissioner Parsons, second by Williamson and carried unanimously the Board On or before June 12, 2023, 252 N First St Development LLC/Z&L Properties Inc shall complete the following corrective actions:

Ensure the building has the required operating security alarm system per Section 17.38.260 (B)(1); is maintained in accordance with Section 311 of the California Fire Code per Section 17.38.260 (B)(2); and has exterior lighting continuously lit from dusk to dawn.

Schedule an inspection prior to the due date to confirm the appropriate security system and fire protection is installed and is currently operating or security present;

Replace the tarp coverings over the building and ensure proper weather protection is provided;

Remove the unpermitted vending facilities and activities (Opening Doors 2020) from the property, including all associated vehicles and other related materials.

If full compliance with the Board's Order is not achieved by June 12, 2023, the property owner(s) shall pay additional administrative penalties in the amount of \$1,000.00 per day, starting June 13, 2023, until they are in compliance.

Hold the penalties in Abiance of \$5,000.00 until June 30th if compliance is not met for all three then the property owner will be required to pay \$5,000.00 by July 1st.

7. REQUEST FOR EXCUSED ABSENCE

There was no request for excused absence.

8. OTHER BUSINESS

There was no request for Other Business.

9. PUBLIC COMMENT

There was no request for Public comment.

10. ADJOURNMENT

Upon a motion by Commisioner Bajpai, seconded by Commisioner Cabanayan, and carried unanimously (6-0-0), the Hearing was adjourned at 8:23 p.m.