

SAN JOSE APPEALS HEARING BOARD MINUTES
THURSDAY, JULY 24, 2008
6:30 P.M., COUNCIL CHAMBERS

1. The meeting of the San Jose Appeals Hearing Board convened this date at 6:30 p.m., Council Chambers, City Hall, with the following members in attendance: Chairperson Clark Williams, Commissioners Calvin Chu, Sonja Etienne, Jose Hernandez, Troy Overton, Karen Parsons and Susan Ruscigno.

Staff Present: Evet Loewen, Chief Deputy City Attorney
Peggy Rollis, Manager of Code Enforcement
Eusebio Espitia, Appeals Hearing Board Secretary
Diane Buchanan, Code Enforcement
Susan Cate, Code Enforcement
Peter Nwokolo, Code Enforcement
Moe Kumre, County Weed Abatement Coordinator
John Hernandez, Code Enforcement
Garry McLeod, Code Enforcement
Gerardo Nieves, Code Enforcement
Nacho Preciado, Building Department
Betty Mitre, Code Enforcement

2. **Opening Remarks and Approval of Minutes**

Chairperson Clark Williams read a statement to the public requesting that speakers identify themselves and state their address. There was a motion by Commissioner Ruscigno, seconded by Commissioner Parsons, to approve the minutes of June 26, 2008.

3. **Request for Excused Absence**

4. **Public Hearings Consent Calendar**

- a. **846 W TAYLOR STREET (261-08-079) SUMMARY ABATEMENT**
(Garry McLeod, Inspector / Morgan Stanley ABS CAP I Inc T, Property Owner)
- b. **3810 DOVE HILL ROAD (679-10-006) SUMMARY ABATEMENT**
(Garry McLeod, Inspector / Joey & Frances Lo, Property Owners)
- c. **2352 GIBSON GIRL WAY (652-14-012) SUMMARY ABATEMENT**
(Garry McLeod, Inspector /, BKR Investors, LLC & Red Horizon Investors LLC, Property Owners)
- d. **1055 CALIFORNIA AVENUE (429-18-033) SUMMARY ABATEMENT**
(Garry McLeod, Inspector / Marcelo & Silvia Weinberger, Property Owners)

e. 49 KITTELY COURT (706-16-029) SUMMARY ABATEMENT

(Garry McLeod, Inspector / Deutsche Bank Nat'l Trust Co. 2006)

f. 1419 MORRILL AVENUE (589-15-032) SUMMARY ABATEMENT

(Margaret Lafferty, Inspector / Deutsche Bank National Trust, Property Owners)

There were no separate discussions on hearing items regarding 846 Taylor Street, 3810 Dove Hill Road, 2352 Gibson Girl Way, 1055 California Avenue, 49 Kittery Court and 1419 Morrill Avenue. The hearing items were considered to be routine and were adopted in one motion.

There was a motion by Commissioner Parsons, seconded by Commissioner Hernandez, to order as follows:

To approve the Consent Calendar.

AYES: Chu, Etienne, Hernandez, Overton, Parsons, Ruscigno, Williams

NAYS:

ABSENT:

The property owner for 1055 California Avenue was present after the approval of the Consent Calendar.

There was a motion by Commissioner Hernandez, seconded by Commissioner Etienne.

To reopen Agenda Item 4d, 1055 California Avenue, on the Consent Calendar.

AYES: Chu, Etienne, Hernandez, Overton, Parsons, Ruscigno, Williams

NAYS:

ABSENT:

Code Enforcement Inspector Garry McLeod requested that Agenda Item 4d, 1055 California Avenue, be continued to the next Appeals Hearing Board Meeting on August 14, 2008.

There was a motion by Commissioner Parsons, seconded by Commissioner Etienne.

To continue Agenda Item 4d, 1055 California Avenue, to the Appeals Hearing Board Meeting on August 14, 2008.

AYES: Chu, Etienne, Hernandez, Overton, Parsons, Ruscigno, Williams

NAYS:

ABSENT:

5. Deferred and/or Continued Items

a. 2265 E SAN ANTONIO STREET (481-22-064) ADMINISTRATIVE REMEDY
(Gerardo Nieves, Inspector / Alicia B. Reyes, Property Owner)

Code Enforcement Inspector Gerardo Nieves testified that the single-family residence has an unpermitted addition built to the rear of the property. Inspector Nieves stated that he recently conducted an inspection of the subject property on July 24, 2008 at 11:15 a.m., and observed no visible change to the unpermitted addition. Inspector Nieves stated that during his recent inspection he observed new code violations. Inspector Nieves showed photos of a disassembled wood furniture piece and carpet in the planter to the left of the front entrance, a silver tarp over the front door tied to the plants, a dining table to the right of the front entrance, several garbage bags with items piled alongside the unpermitted addition in the rear. At the end of the driveway Inspector Nieves observed a mattress, a 55-gallon drum, debris and boxes.

Norma Diaz, daughter of property owner, was present to represent her mother Alicia B. Reyes. Ms. Diaz stated they do not have the funds, however, they will legalize the property.

There was a motion by Commissioner Overton, seconded by Commissioner Etienne, to order as follows:

To uphold the City's recommendation to obtain the permits to either demolish or legalize the addition on before November 25, 2008. The administrative penalties will be held in abeyance pending compliance with the Board's Order until November 25, 2008. Administrative Costs in the amount of \$1606.41 shall be paid on or before August 25, 2008. If compliance is not achieved by November 25, 2008, administrative penalties will accrue at \$10.00 a day from November 26, 2008, until compliance is achieved.

AYES: Chu, Etienne, Hernandez, Overton, Parsons, Ruscigno, Williams
NAYS:
ABSENT:

6. Public Hearings

a. Public Hearing to Adopt a Resolution Confirming the Hazardous Vegetation Program Assessment Report of the Director of Planning for the Costs and Expenses Incurred to Abate Weeds and to Direct Placement of the Costs and Expenses as a Special Assessment Against the Affected Properties.

Moe Kumre, Santa Clara Hazardous Vegetation Manager, requested an adjustment to the Weed Abatement Assessment Report. Items to be assessed to a

zero balance from the list are for Item #14, APN 264-38-053 and Item #55, APN 670-15-045.

The property owners for were present to appeal the assessment for the following properties:

- Item #58, APN 684-03-042

There was a motion by Commissioner Clark, seconded by Commissioner Parsons, to order as follows:

To uphold the special assessment against the affected property.

AYES: Chu, Etienne, Hernandez, Overton, Parsons, Ruscigno, Williams

NAYS:

ABSENT:

- Item 60, APN 701-68-020

There was a motion by Commissioner Overton, seconded by Commissioner Parsons, to order as follows:

To uphold the special assessment against the affected property.

AYES: Chu, Etienne, Hernandez, Overton, Parsons, Ruscigno, Williams

NAYS:

ABSENT:

- Item 7, APN 249-05-055

There was a motion by Commissioner Chu, seconded by Commissioner Hernandez, to order as follows:

To uphold the special assessment against the affected property.

AYES: Chu, Etienne, Hernandez, Overton, Parsons, Ruscigno, Williams

NAYS:

ABSENT:

- Item 26, APN 472-26-070

There was a motion by Commissioner Hernandez, seconded by Commissioner Ruscigno, to order as follows:

To uphold the special assessment against the affected property.

AYES: Chu, Etienne, Hernandez, Overton, Parsons, Ruscigno, Williams
NAYS:
ABSENT:

- Item 3, APN 273-03-044

There was a motion by Commissioner Parsons, seconded by Commissioner Etienne, to order as follows:

To defer the item to the next Appeals Hearing Board meeting on August 14, 2008.

AYES: Chu, Etienne, Hernandez, Overton, Parsons, Ruscigno, Williams
NAYS:
ABSENT:

There was a motion by Commissioner Parsons, seconded by Commissioner Hernandez to order as follows:

To approve the remainder of the assessment for the properties listed on the Weed Abatement Program Assessment Report.

AYES: Chu, Etienne, Hernandez, Overton, Parsons, Ruscigno, Williams
NAYS:
ABSENT:

b. 1150 DELYNN WAY (439-36-043) Proposed Abatement
(John Hernandez, Inspector / Edna E. Ellis, Property Owner)

Code Enforcement Inspector John Hernandez testified and presented photos of the subject property. The photos presented were of the overgrown vegetation in the parkstrip, front and rear yards, stored firewood and debris in the front yard, and trash bins in the driveway of the property.

Mr. Calvello and Mr. Changras were present to give their testimony against the subject property.

There was a motion by Commissioner Parsons, seconded by Commissioner Hernandez to order as follows:

To uphold the City's recommendation and order the Property Owner to take the required action within 10 calendar days of the date of service of the Board's resolution.

AYES: Chu, Etienne, Hernandez, Overton, Parsons, Ruscigno, Williams

NAYS:

ABSENT:

7. **Other Business**

8. **Oral Communication from the Public**

9. **Adjournment**

There was a motion by Commissioner Etienne, seconded by Commissioner Chu to adjourn the meeting. Chair Clark Williams adjourned the meeting at 9:10 p.m. The next regular meeting will be held on Thursday, August 14, 2008 at 6:30 p.m., at the City Hall Council Chambers.