

SAN JOSE APPEALS HEARING BOARD MINUTES
THURSDAY, DECEMBER 11, 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 Sonja Etienne, Jose Hernandez and Karen Parsons. Commissioners Troy Overton and Susan Ruscigno were absent.

Staff Present: Evet Loewen, Chief Deputy City Attorney
Shannon Smyth-Mendoza, Senior Deputy City Attorney
Diane Buchanan, Division Manager of Code Enforcement
Sandy Bouja, Appeals Hearing Board Secretary
Eusebio Espitia, Code Enforcement Supervisor
Garry McLeod, Code Enforcement
Joe Celio, Code Enforcement
Jeff Batelle, Building Department
Jeff Rhoads, Finance Department
Belinda Silvatici, Finance 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 Hernandez, seconded by Commissioner Etienne, to approve the minutes of November 13, 2008.

3. **Request for Excused Absence**

4. **Public Hearings Consent Calendar**

- a. **1238 Fremont Street (261-19-039) Summary Abatement**
(Garry McLeod, Inspector / Melvin S. Hull, Property Owner)
- b. **654 Singleton Road (494-59-040) Summary Abatement**
(Garry McLeod, Inspector / US Bank Assn Trust/Structured Asset Secs Corp Tr Series 20, Property Owners)
- c. **5072 Calwa Court (684-50-050) Summary Abatement**
(Garry McLeod, Inspector / US Bank National Trustee for CSFB Mtg Secs Corp Series 2006-3, Property Owners)
- d. **30 Sunol Street (261-33-015) Summary Abatement**

(Joe Celio, Inspector / TJ Bartel, Property Owner)

Item 4a (1238 Fremont Street) will be removed from the Consent Calendar due to the property owner being present and wishing to speak. There were no separate discussions on hearing items regarding 654 Singleton Road, 5072 Calwa Court and 30 Sunol Street. The hearing items were considered to be routine and were adopted in one motion.

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

To approve the Consent Calendar and to remove item 4a.

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

a. 1238 Fremont Street (261-19-039) Summary Abatement
(Garry McLeod, Inspector / Melvin S. Hull, Property Owner)

Code Enforcement Inspector Garry McLeod testified and gave a brief summary of his inspection at the subject property and also presented photos showing the unsecured front door.

Property Owner Melvin S. Hull testified and stated that he was appalled at the amount of \$600.00 to secure the front door by Tucker Construction.

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

To uphold the abatement action taken by Code Enforcement to secure the front door.

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

5. Deferred and/or Continued Items

6. Public Hearings

a. Recycle Plus Liens

Public Hearing to adopt a resolution confirming the report from the Director of Finance concerning unpaid Recycle Plus bills for accounts in a delinquent status as of

November 20, 2008, and directing the Director of Finance to place a Lien against related properties secured by a lien with the Santa Clara County Recorder's Office. Jeff Rhoads from the Utility Billing Group was present and stated that the Finance Department is requesting to seek liens against the listed properties.

Property Owners Cristin Thompson and Craig Yeutter representing 471 Margaret Avenue were present to discuss their lien amount. Jeff Rhoads stated that the property owners have satisfied their account to avoid a lien and have been removed from the list.

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

To uphold the recommendation of the Finance Department and adopt a resolution confirming the report of unpaid Recycle Plus bills and place an assessment against the properties secured by a lien, except for 471 Margaret Avenue, APN 472-23-001.

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

b. Renewal of Appeals Hearing Board Administrative Orders and Liens for the Real Property Located at 1148 Palm Street, San Jose, CA.

Senior Deputy City Attorney Shannon Symth-Mendoza stated that there is no stipulation or agreement between Mr. Bevan and the City of San Jose and that the City is requesting to renew the two liens on the property because the date is approaching the 10-year mark. Senior Deputy City Attorney Shannon Symth-Mendoza also stated that the property owner still owes the City of San Jose. Chair Williams stated that Property Owner, Mr. Bevan, has stated in his documents and packet of information that he has sent that he will not be at tonight's meeting and his position is entered into the record. Senior Deputy City Attorney Shannon Symth-Mendoza stated that the total principal is \$97,520.00 and the City is also seeking interest of 10% per year since the recording of the first lien in 1999. The interest from July 1999 to the present is \$86,761.34. The total amount the City is seeking is \$184,281.34

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

To uphold the renewal of the Appeals Hearing Board administrative order and lien against the property of Warren and Lynn Bevan.

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

7. Other Business

Appeals Hearing Board Secretary, Sandy Bouja, stated that the Appeals Hearing Board retreat would be on February 12, 2009.

8. Open Forum - Oral Communication from the Public

9. Adjournment

There was a motion by Commissioner Etienne, seconded by Commissioner Parsons to adjourn the meeting. Chair Clark Williams adjourned the meeting at 7: 08 p.m. The next regular meeting will be held on Thursday, January 22, 2009 at 6:30 p.m., at the City Hall Council Chambers.