

SAN JOSE APPEALS HEARING BOARD MINUTES  
THURSDAY, AUGUST 27, 2009  
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, Judy Jones, Troy Overton and Susan Ruscigno. Commissioner Karen Parsons was absent.

Staff Present: Evet Loewen, Chief Deputy City Attorney  
Michael Hannon, Code Enforcement Official  
Sandy Bouja, Appeals Hearing Board Secretary  
Eusebio Espitia, Code Enforcement Supervisor  
Shannon Smyth-Mendoza, Senior Deputy City Attorney  
Luis Arevalo, Code Enforcement  
Greg Peacock, Code Enforcement  
Maryellen Parra, Code Enforcement  
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 Etienne, seconded by Commissioner Hernandez, to approve the minutes of August 13, 2009. Commissioner Ruscigno abstained.

3. **Request for Excused Absence**

4. **Public Hearings Consent Calendar**

- a. **1575 Parkview Avenue (307-04-063) Summary Abatement**  
(Kerry Smith, Inspector / Chrystal E. Cass, Property Owner)
- b. **363 N. 8<sup>th</sup> Street (249-50-006) Summary Abatement**  
(Greg Peacock, Inspector / Chau L. Hoang, Property Owner)
- c. **2731 Dublin Drive (488-07-124) Summary Abatement**  
(Maryellen Parra, Inspector / Elenor Rivera, Property Owner)

There were no separate discussions on hearing items regarding 363 N. 8<sup>th</sup> Street and 2731 Dublin Drive. The hearing items were considered to be routine and were adopted in one motion. There was a request to remove Agenda Item 4a regarding the property at 1575 Parkview Avenue from the consent calendar.

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

To remove Item 4a, regarding the property at 1575 Parkview Avenue, and to approve the remaining properties on the Consent Calendar.

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

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

To approve Item 4a on the Consent Calendar.

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

**5. DEFERRED AND/OR CONTINUED ITEMS**

- a. **1655 BERRYESSA ROAD (241-03-015, 241-03-016) ADMINISTRATIVE REMEDY** (Margaret Lafferty, Inspector / Howard Misle, Business Owner/Operator, Maureen Stickler, Robert B. Facchino & Robert B. Facchino Family Limited Partnership, JRDK LLC, Robert B. Facchino & Karisa S. Flores, Property Owners)

Senior Deputy City Attorney stated that on August 20, 2009, Attorney Norm Matteoni, representing American Metals and Iron and Howard Misle, submitted a letter to the Board stating that AMI was going to vacate the property at 1655 Berryessa Road. Senior Deputy City Attorney Shannon Smyth-Mendoza request that the item be continued to September 10, 2009, to give City Staff the opportunity to confirm that the site is vacated and there are no existing violations at the subject property.

Business Owner Howard Misle was present at the meeting, but did not comment.

Chair Williams stated for the record that he had received two phone calls from Attorney Matteoni. Attorney Matteoni left a message indicating an interest to speak to Chair Williams. Chair Williams stated that he did not return the calls. Chair Williams stated that a couple of hours ago, Attorney Matteoni called and did make contact; Attorney Matteoni shared the same information that Senior Deputy City Attorney Shannon Smyth-Mendoza shared with the Board.

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

To continue the item to September 10, 2009.

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

**b. 722 WILLIS AVENUE (264-22-110) ADMINISTRATIVE REMEDY**  
(Luis Arevalo, Inspector / Galvin D. Jackson, Galvin D. Jackson Trustee,  
Property Owners)

Code Enforcement Inspector Luis Arevalo testified and presented photos of the subject property. Code Enforcement Inspector Luis Arevalo requested that the Board uphold the City's recommendation.

Property Owner Galvin D. Jackson and Attorney Badma Gutchinov were present at the meeting. Attorney Badma Gutchinov, representing Property Owner Galvin D. Jackson, stated that the property was sold to Mr. Jackson as a duplex on May 27, 2005.

Attorney Badma Gutchinov presented the Board with an estimate of the costs to revert the property to a duplex and stated that Mr. Jackson does not have the funds to convert the property and will be suing the seller for not disclosing this violation.

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

To uphold the City's Amended Order to Correct. On or before February 26, 2010, the property owner shall obtain the necessary permits. On or before October 30, 2009, the property owner shall pay Administrative Costs in the amount of \$1137.63 and Administrative Penalties in the amount of \$1880.00. If full compliance is not achieved by February 26, 2010, the property owner shall pay additional administrative penalties in the amount of \$200.00 per day, from February 27, 2010 until the date of compliance with the Board's Order, up to a maximum of \$100,000.00.

AYES: Etienne, Hernandez, Jones, Overton, Ruscigno, Williams

NAYS:

ABSENT: Parsons

**6. PUBLIC HEARINGS**

**7. OTHER BUSINESS**

**8. OPEN FORUM – ORAL COMMUNICATIONS FROM THE PUBLIC**

**9. ADJOURNMENT**

There was a motion by Commissioner Williams, seconded by Commissioner Ruscigno, to adjourn the meeting. Chair Clark Williams adjourned the meeting at 7: 12 p.m. The next regular meeting will be held on Thursday, September 10, 2009, at 6:30 p.m., at the City Hall Council Chambers.