

BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

DRAFT MEETING MINUTES – WEDNESDAY, JANUARY 17, 2024

REGULAR MEETING (IN-PERSON AND REMOTE ACCESS VIA ZOOM)

5:00 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

PRESENT: President Jose Lopez, Vice President Alex Lemberg, Commissioner Rick Swig, Commissioner John Trasviña, and Commissioner J.R. Eppler.

Jen Huber, Deputy City Attorney, Office of the City Attorney (CAT); Marien Coss, Project Manager, Capital Improvement Division, Recreation and Park Department (REC); Kevin Jensen, Disability Coordinator, San Francisco Public Works (SFPW); Chris Buck, Urban Forester, San Francisco Public Works, Bureau of Urban Forestry (SFPW-BUF); Larry Kessler, Principal Health Inspector, Environmental Health Branch, Department of Public Health (DPH); Janine Young, Senior Health Inspector, Retail Tobacco & Smoking Program, DPH; Julie Rosenberg, Executive Director; Alec Longaway, Legal Assistant.

(1) PUBLIC COMMENT

At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. At the discretion of the Board President, public comment and remote public participation may be limited to two minutes per person. If it is demonstrated that public comment and remote public participation will cumulatively exceed 15 minutes, the President may continue Public Comment and/or remote public participation to another time during the meeting.

SPEAKERS: Josh Klipp spoke about Appeal No. 22-079 which was heard by the Board on February 8, 2023. He noted that the permit holder for that case, UCSF, agreed to plant more than 60 trees and pay nearly \$250,000 to Public Works. He stated that the money was supposed to be used to plant around 103 trees in the southeastern portion of the City. At the hearing last year, in response to the Board's request, Public Works agreed to provide an annual update on this effort. Mr. Klipp asked that Public Works provide this update.

[In response to Mr. Klipp's testimony, President Swig asked the Executive Director to request an update from BUF on this matter].

(2) ELECTION OF THE OFFICERS

ACTION: Upon motion by President Swig, the Board voted 5-0 to elect Vice President Lopez to the office of President of the Board.

Upon motion by President Lopez, the Board voted 5-0 to elect Commissioner Lemberg to the office of Vice President of the Board.

PUBLIC COMMENT: None.

(3) COMMISSIONER COMMENTS & QUESTIONS

SPEAKERS: Vice President Lemberg thanked the commissioners for their vote of confidence. They further congratulated President Lopez on his new position and thanked Commissioner Swig for his service as President.

President Lopez congratulated Vice President Lemberg on his new position and thanked the commissioners for their trust and support.

PUBLIC COMMENT: None.

(4) ADOPTION OF MINUTES

Discussion and possible adoption of the January 10, 2024 minutes.

ACTION: Upon motion by Commissioner Trasviña, the Board voted 5-0 to adopt the January 10, 2024, hearing minutes.

PUBLIC COMMENT: None.

(5) APPEAL NO. 23-063

<p>GEARY ST. PETROLEUM INC, Appellant(s)</p> <p>vs.</p> <p>DEPT. OF PUBLIC HEALTH, Respondent</p>	<p>4501 Geary Blvd. Appealing the ISSUANCE on November 9, 2023, to Geary St Petroleum Inc, of a Notification of Tobacco Permit Denial (DENIAL of a Retail Tobacco Sales Permit because the establishment is located within 500 feet of two schools and within 500 feet of two other establishments that have a valid Retail Tobacco Sales Permit; no exceptions under the Health Code apply). EHD ID NO. 121505. FOR HEARING TODAY.</p>
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ACTION: Upon motion by President Lopez, the Board voted 5-0 to deny the appeal and uphold the Notification of Tobacco Permit Denial on the basis that it was properly issued.

SPEAKERS: Moe Hamdi, agent for appellant; Larry Kessler, DPH; Janine Young, DPH.

PUBLIC COMMENT: None.

(6) APPEAL NO. 23-058

<p>JOSHUA KLIPP, Appellant(s)</p> <p>vs.</p> <p>SAN FRANCISCO PUBLIC WORKS, BUREAU OF URBAN FORESTRY, Respondent</p>	<p>1701 Post Street.</p> <p>Appealing the ISSUANCE on November 3, 2023, to SF Recreation & Parks Department (Rec & Park), of a Public Works Order (APPROVAL to remove two trees (flowering cherry trees) at 1701 Post Street with replacement in-kind on the 1500 block of Laguna Street; Rec & Park applied to remove the two trees by recommendation of Vision Zero in coordination with the capital improvement project for Japantown Plaza; the goal is to prevent plantings from blocking critical driver safety lines or creating other safety issues). ORDER NO. 208816.</p> <p>FOR HEARING TODAY.</p>
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ACTION: Commissioner Trasviña made a motion to grant the appeal and revoke the determination on the basis that: (1) the order lacks an adequate factual basis to establish that there is a public safety issue which warrants the removal of the trees, and (2) the removal of these trees is inconsistent with the City policy and goal of increasing the tree canopy.

Thereafter, President Lopez moved to amend Commissioner Trasviña's motion to state that the Board would continue the matter to allow the parties to reach an agreement on the planting of additional replacement trees for the project; with the further clarification that it should not be assumed that the subject trees would be removed. President Swig seconded this motion. The Board voted 4-1 (Commissioner Trasviña dissented) to amend the motion as specified by President Lopez.

Upon motion by President Lopez, the Board voted 4-1 (Commissioner Trasviña dissented) to continue this matter to March 13, 2024, to allow the parties to reach an agreement on the planting of additional replacement trees for the project; with the further clarification that it should not be assumed that the subject trees would be removed.

SPEAKERS: Joshua Klipp, appellant; Marien Coss, REC; Kevin Jensen, SFPW; Chris Buck, BUF.

PUBLIC COMMENT: John Nulty, Michael Nulty and Bunny spoke in support of appellant.

(7) APPEAL NO. 23-071

<p>LANCE CARNES, Appellant(s)</p> <p>vs.</p> <p>SAN FRANCISCO PUBLIC WORKS, BUREAU OF URBAN FORESTRY, Respondent</p>	<p>1335 Laguna Street (listed in BUF tree database as 1355 Laguna St., Tree # 2) Appealing the ISSUANCE on December 22, 2023, of a Public Works Order (APPROVAL to remove one street tree with replacement. The tree's canopy is in severe decline and cracks have formed. The tree qualifies as a public safety concern and is a hazard). ORDER NO. 208967. FOR HEARING TODAY.</p>
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ACTION: Upon motion by Commissioner Eppler, the Board voted 5-0 to deny the appeal and uphold the order on the basis that it was properly issued.

SPEAKERS: Lance Carnes, appellant; Chris Buck, BUF.

PUBLIC COMMENT: Joshua Klipp, John Nulty and Michael Nulty spoke in support of the appellant.

ADJOURNMENT.

There being no further business, President Lopez adjourned the meeting at 9:43 p.m.

The supporting documents for this meeting can be found at the following link:
<https://www.sf.gov/meeting/january-17-2024/board-appeals-hearing-january-17-2024>

A video of this meeting, can be found at the following link:
https://sanfrancisco.granicus.com/player/clip/45227?view_id=6&redirect=true&h=627a07a98550a49276865cc62cc2146d