

BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

MEETING MINUTES – WEDNESDAY, JANUARY 18, 2023

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

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

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

Jon Givner, Deputy City Attorney, Office of the City Attorney (CAT); Chris Buck, Urban Forester, San Francisco Public Works, Bureau of Urban Forestry (SFPW-BUF); Melinda Sullivan, San Francisco Recreation & Park Department, Capital Improvement Division (REC); Julie Rosenberg, Executive Director; Alec Longaway, Legal Assistant.

(1) **SPECIAL ITEM**

Consideration and possible adoption of a resolution which makes findings to allow teleconferenced meetings under California Government Code Section 54953(e).

ACTION: Upon motion by Commissioner Lemberg, the Board voted 5-0 to adopt the resolution.

PUBLIC COMMENT: None.

(2) **ELECTION OF OFFICERS**

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

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

PUBLIC COMMENT: None.

(3) 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 may be limited to two minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

SPEAKERS: Josh Klipp spoke by telephone and stated that he was having audio issues with Zoom and that the proceeding was not going through to the public participating on Zoom. (The Executive Director confirmed with two Zoom participants, Kenny Bruzzone and Irma Lewis, that they did not have any audio or video issues with Zoom). Mr. Klipp shared a presentation and stated that at the December 14, 2022 hearing, a city representative stated that his department had complied with a Board order that was issued in October 2019. For that case, the Board granted a tree removal permit to Tesla so that it could install a new power wall on the condition that Tesla install and pay for six, new, 24-inch box trees to be planted in the Civic Center or Tenderloin within six months of removal. Mr. Klipp stated that the order had not been complied with because six, 15-gallon trees were planted by Friends of the Urban Forest, and they were not paid for by Tesla. Mr. Klipp encouraged the Board to fashion orders that required compliance, even if it meant that the Board retained jurisdiction over a matter. (President Swig stated that Mr. Klipp first raised the issue of non-compliance with the 2019 order when he submitted a brief to the Board. At that time, President Swig contacted Chris Buck of BUF for a response to the allegations of noncompliance. President Swig stated that Mr. Buck assured him the order had been complied with. President Swig requested that BUF tell the Board the truth, in writing, and prove its compliance with the order. President Swig stated that this was important, because it was a credibility issue with the department.)

Mark Gruberg, with the San Francisco Taxi Worker Alliance, thanked the Board for sending the letter to the SFMTA about taxi appeals. Mr. Gruberg took issue with one aspect of the letter, namely the assumption that the SFMTA has the authority to refuse to allow these appeals to be heard by the Board.

(4) COMMISSIONER COMMENTS & QUESTIONS

SPEAKERS: President Swig thanked his fellow commissioners for entrusting him to serve as the President of the Board for the next year. He stated that their trust in honoring him with the position was very important.

Vice President Lopez echoed President Swig's appreciation to his fellow commissioners and stated that he looked forward to a great year.

PUBLIC COMMENT: None.

(5) ADOPTION OF MINUTES

Discussion and possible adoption of the January 4, 2023 minutes.

ACTION: Upon motion by Commissioner Trasviña, the Board voted 5-0 to adopt the January 4, 2023, meeting minutes.

PUBLIC COMMENT: None.

(6) APPEAL NO. 22-087

MARCIA SITCOSKE and ANTHONY KOPP, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	734 Dolores Street. Appealing the ISSUANCE on November 15, 2022, to John Pottebaum, of an Alteration Permit (revision to Permit Application No. 2020/0226/5511: Relocate attic bathroom and windows). PERMIT NO. 2022/0817/0726. FOR HEARING TODAY.
---	--

ACTION: None. The appeal was withdrawn prior to the hearing.

(7) APPEAL NO. 22-089

TELEGRAPH HILL DWELLERS, Appellant(s) vs. SAN FRANCISCO PUBLIC WORKS, BUREAU OF URBAN FORESTRY, Respondent	69 Green Street. Appealing the ISSUANCE on November 14, 2022, to Kenny Bruzzone, of a Public Works Order (approval to remove three street trees with replacement; the structural conditions of the ficus trees are very poor: there are wounds from vehicles hitting the trees and codominant stems with included bark which makes the trees prone to failure). ORDER NO. 207303. FOR HEARING TODAY.
---	--

ACTION: Upon motion by Vice President Lopez, the Board voted 4-1 (Commissioner Trasviña dissented) to grant the appeal and issue the order on the condition it be revised as follows: (1) the trees shall not be removed, (2) the Bureau of Urban Forestry (BUF) shall inspect the trees annually, and (3) BUF shall be responsible for removing the vertical grates and grates covering the basins, however, BUF shall confer with the determination holder regarding the process for removal. If the determination holder chooses a different process than BUF, then the determination holder can pay for the removal of the grates. This motion was made on the basis that the department erred in failing to consider alternatives to removal of the trees.

SPEAKERS: Stan Hayes, agent for appellant; Kenny Bruzzone, determination holder; Roy Leggitt, agent for the appellant; Chris Buck, SFPW- BUF.

PUBLIC COMMENT: Judy Irving, Lance Carnes, John Nulty, Josh Klipp and Michael Nulty spoke in support of the appellant.

(8) APPEAL NO. 22-084

<p>IRMA LEWIS, Appellant(s)</p> <p>vs.</p> <p>SAN FRANCISCO PUBLIC WORKS, BUREAU OF URBAN FORESTRY, Respondent</p>	<p>700 Minnesota Street (four frontages at Indiana St., Minnesota St., 19th St., and 20th St.)</p> <p>Appealing the ISSUANCE on November 4, 2022, to SF Recreation & Parks Department, of a Public Works Order (Approval to remove 38 street trees with replacement of 35 street trees along four frontages at Indiana Street, Minnesota Street, 19th Street and 20th Street. The removals are part of a renovation of Esprit Park. The project remediates poor soil, overhauls the irrigation system, and makes pathways compliant with ADA accessibility requirements. The trees are approved for removal because of construction impacts, poor condition, disease, or low suitability for preservation. The larger stature London Plane trees are in decline, and the younger, smaller trees could be replaced in kind).</p> <p>ORDER NO. 207274. FOR HEARING TODAY.</p>
--	---

ACTION: Upon motion by Commissioner Lemberg, the Board voted 4-0-1 (Commissioner Eppler recused) to deny the appeal and uphold the order on the basis that it was properly issued.

SPEAKERS: Commissioner Eppler disclosed that he knows the appellant and has worked with her on several issues in the greater Potrero-Dogpatch Community in his role as President of the Potrero Boosters Neighborhood Association. He stated that his work included: (1) being a member of the UCSF-Dogpatch Community Task Force that advocated for the funding of the project before the Board, (2) working with the department to ensure that there was adequate public outreach for the project, and (3) being a member of the Eastern Neighborhoods Community Advisory Committee that allocated additional funding to the project. Commissioner Eppler stated that the City Attorney had advised him that there could be the perception of a procedural conflict and therefore he recused himself from hearing the case.

Vice President Lopez stated that UCSF was involved in the underlying renovation project. He disclosed that his wife works for UCSF as a pediatrician, but was not involved with the project. He stated that he conferred with the City Attorney on this matter, and it was determined that there was not an actual conflict.

Irma Lewis, appellant; Roy Leggitt, agent for the appellant; Melinda Sullivan, REC; Chris Buck, SFPW-BUF.

PUBLIC COMMENT: George Slack spoke in support of the department. Josh Klipp and John Nulty spoke in supporting of the appellant.

ADJOURNMENT.

There being no further business, President Swig adjourned the meeting at 8:23 p.m.

The supporting documents for this meeting can be found at the following link:

<https://sf.gov/meeting/january-18-2023/board-appeals-hearing-january-18-2023>

A video of this meeting, can be found at the following link:

https://sanfrancisco.granicus.com/player/clip/42792?view_id=6&redirect=true&h=44460666f81556fef5cbb5ffca7bc73a