

BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

MEETING MINUTES – WEDNESDAY, MARCH 30, 2022

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 Ann Lazarus, Commissioner Darryl Honda, Commissioner Tina Chang and Commissioner Jose Lopez.

Zachary Porianda, Deputy City Attorney, (CAT); Phillip Cranna, Enforcement and Legal Affairs Manager, San Francisco Municipal Transportation Agency, Taxis, Access & Mobility Services (SFMTA); 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 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: Brett Gladstone spoke about the withdrawal of Item No. 6 (Appeal No. 22-008). He stated that he represented the permit holder for that case and he was relying in good faith that the appellant was withdrawing the matter with prejudice.

Georgia Schuttish spoke about DBI Information Sheet EG-02, which was re-issued in December 2021. She stated that it replaced a version that was issued in August 2013 and rescinded in October 2021 because it was not in compliance with the California State Fire Marshall. She stated that the Information Sheet deals with egress for bedrooms and R3 occupancy buildings in San Francisco.

Dan Hinds, the President of National Cab Company, spoke about the *Sloan* lawsuit and its application to the revocation of taxi medallions. He stated that the City crippled the taxi industry when it allowed TNCs to operate without regulation which resulted in medallions losing value. He further stated that the City wants to take away these medallions, and he hoped the Board would resist the City's attempt to neuter its oversight.

(2) COMMISSIONER COMMENTS & QUESTIONS

SPEAKERS: Commissioner Honda welcomed everyone back to in-person meetings especially Commissioners Lopez and Chang who have never been in the hearing room before.

PUBLIC COMMENT: None.

(3) ADOPTION OF MINUTES

Discussion and possible adoption of the March 23, 2022 minutes.

ACTION: Upon motion by Commissioner Honda, the Board voted 5-0 to adopt the March 23, 2022 meeting minutes.

PUBLIC COMMENT: None.

(4) REHEARING REQUEST FOR APPEAL NO. 21-095

Dirk Neyhart, Appellant, is requesting a rehearing of Appeal No. 21-095, DIRK NEYHART vs. MUNICIPAL TRANSPORTATION AGENCY decided March 2, 2022. At that time, upon motion by President Swig, the Board voted 2-2-1 (Commissioner Honda and Commissioner Chang dissented and Commissioner Lopez absent) to deny the appeal and uphold the determination on the basis that it was properly issued. Lacking the three votes needed to pass the motion failed. The underlying determination was upheld by operation of law. **Determination Holder: Dirk Neyhart. Determination Description:** Dirk Neyhart does not have a current California driver's license and is not eligible to possess an A-Card. Without these licenses, the taxi medallion can be revoked pursuant to the Transportation Code. The Notice of Nonrenewal of Medallion No. 244 is upheld, and the medallion is revoked. **Medallion No.:** 244.

ACTION: Upon motion by Commissioner Honda, the Board voted 3-2 (President Swig and Vice President Lazarus dissented) to grant the rehearing request, on the basis that there was manifest injustice because Commissioner Lopez was absent at the original hearing and his vote would have made a difference. Lacking the four votes needed to pass the motion failed.

Upon motion by Vice President Lazarus, the Board voted 2-3 (Commissioner Honda, Commissioner Chang and Commissioner Lopez dissented) to deny the rehearing request on the basis that there was neither new information nor extraordinary circumstances resulting in manifest injustice. Lacking the three votes needed to pass the motion failed.

The Board was unable to muster sufficient votes to grant or deny the rehearing request, and therefore the request was denied by operation of law.

SPEAKERS: Heidi Machen, attorney for requestor; Dirk Neyhart, requestor; Philip Cranna, SFMTA.

PUBLIC COMMENT: Charles Rathbone, Carl Macmurdo, Marcelo Fonseca and Evelyn Epoquez spoke in support of the requestor.

(5) REHEARING REQUEST FOR APPEAL NO. 21-091

John Russo, Appellant, is requesting a rehearing of Appeal No. 21-091, JOHN RUSSO vs. MUNICIPAL TRANSPORTATION AGENCY decided March 2, 2022. At that time, upon motion by Commissioner Honda, the Board voted 2-2-1 (President Swig and Vice President Lazarus dissented and Commissioner Lopez absent) to continue this matter to the Call of the Chair. Lacking the three votes needed to pass, the motion failed. Upon motion by President Swig, the Board voted 2-2-1 (Commissioner Honda and Commissioner Chang dissented and Commissioner Lopez absent) to deny the appeal and uphold the determination on the basis that it was properly issued. Lacking the three votes needed to pass, the motion failed. Upon motion by Commissioner Honda, the Board voted 2-2-1 (President Swig and Vice President Lazarus dissented and Commissioner Lopez absent) to continue this matter to the Call of the Chair. Lacking the three votes needed to pass, the motion failed. The underlying determination was upheld by operation of law. **Determination Holder: John Russo.**
Determination Description: John Russo does not have a California Driver's license or an A-Card; the Notice of Nonrenewal is upheld and Medallion No. 334 is revoked. **Medallion No.:** 334.

ACTION: Upon motion by Commissioner Chang, the Board voted 3-2 (President Swig and Vice President Lazarus dissented) to grant the rehearing request on the basis that there was manifest injustice because Commissioner Lopez was absent at the original hearing and his vote would have made a difference in the outcome of the case. Lacking the four votes needed to pass the motion failed.

The Board was unable to muster sufficient votes to grant the rehearing request, and therefore the request was denied by operation of law.

SPEAKERS: Carl Macmurdo agent for requestor; Philip Cranna, SFMTA.

PUBLIC COMMENT: Marcelo Fonseca spoke in support of the requestor.

(6) APPEAL NO. 22-008

DAN COHEN, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	405 Duncan Street. Appealing the ISSUANCE on February 7, 2022, to Salo Rawet and David Gellman, of an Alteration Permit (concrete retaining wall to property line to maintain existing grade five feet by five inches; revision to Permit Application No. 2021/0570/0002). PERMIT NO. 2022/02/07/7420. FOR HEARING TODAY.
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ACTION: None. The Appeal was withdrawn prior to the hearing.

ADJOURNMENT.

There being no further business, President Swig adjourned the meeting at 5:50 p.m.

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

<https://sfgov.org/bdappeal/meeting/board-appeals-march-30-2022-supporting-documents>

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

https://sanfrancisco.granicus.com/player/clip/40895?view_id=6&redirect=true