

BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

DRAFT MEETING MINUTES – WEDNESDAY, MARCH 2, 2022

REMOTE MEETING VIA ZOOM

PRESENT: President Rick Swig, Vice President Ann Lazarus, Commissioner Darryl Honda and Commissioner Tina Chang.

Brad Russi, Deputy City Attorney, Office of the City Attorney (CAT); Zachary Porianda, Deputy City Attorney, CAT; Tina Tam, Deputy Zoning Administrator, Planning Department (PD); Matthew Greene, Senior Building Inspector, Department of Building Inspection (DBI); Phillip Cranna, Enforcement and Legal Affairs Manager, San Francisco Municipal Transportation Agency Taxis, Access & Mobility Services (SFMTA); John Pierce, Deputy Director, Office of Cannabis (OOC); Julie Rosenberg, Executive Director; Alec Longaway, Legal Assistant.

ABSENT: Commissioner Jose Lopez.

(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.

PUBLIC COMMENT: Carl Macmurdo spoke about the revocation of Prop. K taxi medallions belonging to elderly and disabled medallion holders.

(2) COMMISSIONER COMMENTS & QUESTIONS

SPEAKERS: Commissioner Honda sent his thoughts and prayers to the people of Ukraine.

PUBLIC COMMENT: None.

(3) ADOPTION OF MINUTES

Discussion and possible adoption of the February 16, 2022 minutes.

ACTION: Upon motion by Commissioner Honda, the Board voted 4-0-1 (Commissioner Lopez absent) to adopt the February 16, 2022 meeting minutes.

PUBLIC COMMENT: None.

(4) SPECIAL ITEM

Discussion and Possible Action: The Board of Appeals plans to resume in-person/hybrid hearings beginning on March 23, 2022. Members of the public that want to provide public comment may attend in-person or remotely. The Board shall consider whether to allow remote participation by the parties and their presenters who are not City employees.

ACTION: Upon motion by Vice President Lazarus, the Board voted 4-0-1 (Commissioner Lopez absent) to allow the parties and their representatives to attend the hybrid meetings remotely.

PUBLIC COMMENT: Ryan Patterson complimented the Board on how well the remote meetings have been conducted during the pandemic. He noted that the Board probably did the best job in the City. He further stated that after the in-person hearings resume, he was in favor of allowing the parties and their representatives to attend these meetings remotely.

Robert Cesana stated that it was better to have in-person meetings.

(5) JURISDICTION REQUEST NO. 22-1

Subject property at 2154 Leavenworth Street. Letter from Valerie Kirk, requestor, asking that the Board take jurisdiction over Alteration Permit No. 2021/02/12/4580, which was issued on September 22, 2021. The appeal period ended on October 7, 2021, and the jurisdiction request was filed at the Board office on February 9, 2022. **Permit Holder:** Brian McLain. **Permit Description:** Interior remodel of 3rd floor residence; no change to square feet or lower levels; new kitchen and bathrooms with associated new plumbing, electrical and mechanical; addition of 480 square foot roof deck; no vertical addition; access to roof deck is existing.

ACTION: Upon motion by Vice President Lazarus, the Board voted 4-0-1 (Commissioner Lopez absent) to grant the request on the basis that the issuing department inadvertently caused the requestor to be late in filing an appeal.

SPEAKERS: Valerie Kirk, requestor; Louis Sarmiento, attorney for permit holder; Tina Tam, PD Matthew Greene, DBI.

PUBLIC COMMENT: Kay Kornovich spoke in support of the requestor.

(6) APPEAL NO. 22-002

LIBKRA INVESTMENT CORP., Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	2000 Oakdale Avenue (Suite A-2). Appealing the ISSUANCE on January 11, 2022, to Bayview Ventures, Inc., of an Alteration Permit (change of use from B (Office) to B/M (Office & Mercantile); new Cannabis office/retail space; install new non-bearing partitions). PERMIT NO. 2021/0323/7148. FOR HEARING TODAY.
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ACTION: Upon motion by Vice President Lazarus, the Board voted 4-0-1 (Commissioner Lopez absent) to deny the appeal and uphold the permit on the basis that it was properly issued.

SPEAKERS: Michael Lozeau, attorney for appellant; Cesar Angobaldo, agent for permit holder; Tiara Mitchell, agent for permit holder; John Pierce, OOC; Tina Tam, PD; Matthew Greene, DBI.

PUBLIC COMMENT: NeDina Brocks spoke in support of the appellant. Maxine Mitchell and Donald Whiteside spoke in support of the permit holder.

(7) APPEAL NO. 21-091

JOHN RUSSO, Appellant(s) vs. MUNICIPAL TRANSPORTATION AGENCY, Respondent	Appealing the ISSUANCE on September 9, 2021, to John Russo, of the Statement of Decision: SFMTA v. John Russo (John Russo 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 for Taxi Medallion No. 334 is upheld, and the medallion is revoked). MEDALLION NO. 334. FOR HEARING TODAY.
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ACTION: 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 Board's 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 Board's Call of the Chair. Lacking the three votes needed to pass the motion failed. With no further motion made, the determination was upheld by operation of law.

SPEAKERS: John Russo appellant; Philip Cranna, SFMTA.

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

(8) APPEAL NO. 21-095

<p>DIRK NEYHART, Appellant(s)</p> <p>vs.</p> <p>MUNICIPAL TRANSPORTATION AGENCY, Respondent</p>	<p>Appealing the ISSUANCE on September 9, 2021, to Dirk Neyhart, of the Statement of Decision: SFMTA v. Dirk Neyhart (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 for Medallion No. 244 is upheld, and the medallion is revoked). MEDALLION NO. 244. FOR HEARING TODAY.</p>
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ACTION: 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. With no further motion made, the determination was upheld by operation of law.

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

PUBLIC COMMENT: Robert Cesana, Carl Macmurdo and Marcelo Fonseca spoke in support of the appellant.

(9) APPEAL NO. 21-092

<p>SFMTA, Appellant(s)</p> <p>vs.</p> <p>MARC PAULSEN, Respondent</p>	<p>Appealing the ISSUANCE on August 31, 2021 to Marc Paulsen, of the Statement of Decision: SFMTA v. Marc Paulsen (the Transportation Code requires drivers to take a drug test prior to issuing an A-Card, Mr. Paulsen has not completed a drug test and cannot qualify for an A-Card which is required to maintain a medallion. Mr. Paulsen is living in Thailand and unable to travel to the U.S. for a drug test due to the pandemic. He is not driving and does not pose a threat to the public. The SFMTA has not established that Mr. Paulsen's medallion is eligible, at the present time, to be revoked under the drug testing provision of the Transportation Code; the Notice of Non-Renewal for Medallion No. 365 is denied). MEDALLION NO. 365. FOR HEARING TODAY.</p>
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ACTION: Upon motion by Vice President Lazarus, the Board voted 2-2-1 (Commissioner Honda and Commissioner Chang dissented and Commissioner Lopez absent) to grant the appeal and overturn the determination on the basis that the failure to take the drug test is in violation of the Code. Lacking the four votes needed to pass, the motion failed. With no further motion made, the determination was upheld by operation of law.

SPEAKERS: Philip Cranna, agent for appellant (SFMTA); Marc Paulsen, determination holder.

PUBLIC COMMENT: Marcelo Fonseca, Carl Macmurdo and Robert Cesana spoke in support of the determination holder.

ADJOURNMENT.

There being no further business, President Swig adjourned the meeting at 8:55 p.m.

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

<https://sfgov.org/bdappeal/meeting/board-appeals-march-2-2022-supporting-documents>

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

https://sanfrancisco.granicus.com/player/clip/40682?view_id=6&redirect=true

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