



**ACCESS APPEALS COMMISSION
MINUTES**

Regular Meeting Wednesday, June 14, 2017

1. CALL TO ORDER AND ROLL CALL

The meeting was called to order by Acting President Alyce Brown at 1:12 P.M.

COMMISSION MEMBERS PRESENT:

Ms. Alyce G. Brown, President
Mr. Arnie Lerner, Commissioner
Mr. William Scott Ellsworth, Commissioner
Mr. Kim Blackseth, Commissioner

CITY REPRESENTATIVES:

Mr. Rick Halloran, Secretary
Ms. Elaine Warren, Deputy City Attorney

2. PUBLIC COMMENT:

(DISCUSSION)

There was no public comment.

3. INTRODUCTION AND SWEARING IN OF NEW COMMISSIONER

(DISCUSSION)

Sonya Harris, Secretary to the Building Commission administered the oath of office to Mr. Kim Blackseth as a new commissioner filling the public member seat with a term expiring on September 15, 2019. Commissioner Brown welcomed Mr. Blackseth to the Commission and extended an offer of any assistance that he should desire. Mr. Blackseth was accompanied by his wife and daughter.

4. REVIEW AND APPROVAL OF MINUTES:

(ACTION)

The approval of the minutes was deferred to the next meeting by unanimous vote until the following meeting.

5. REVIEW OF COMMUNICATION ITEMS:

(DISCUSSION)

There were no communication items.

6. REVIEW OF PROCEDURES FOR RATIFICATION VS. APPEALS:

(DISCUSSION)

The differences in the process for a ratification versus an appeal of an Unreasonable Hardship Request (UHR) were discussed by City Attorney Elaine Warren and Secretary Halloran. The Secretary stated that he felt it was important to refresh the Commission on the concepts as there had not been a ratification in recent years and he expected there would be an increasing number due to the Accessible Storefront Ordinance.

Mr. Halloran explained that a ratification is for any URH granted by the Department, where as an appeal would be for a request that was denied by the department. He further explained that the process would involve the Department or the project sponsor presenting the rationale for the approval, following which the Commission may ask questions and then vote yes or no for the ratification; unlike an appeal where the Commission may require additional or alternate requirements in order to grant approval.

Commissioner Blackseth asked if all unreasonable hardships would have to be ratified or if only upon an appeal. Mr. Halloran explained that San Francisco does not require ratification for any project that has an adjusted cost of construction under the current valuation threshold but we do require ratification for all URH granted for projects over the current Division of the State Architect's valuation threshold. Mr. Halloran explained to the Commission that Commissioner Blackseth had asked the questions because San Francisco's interpretation of this section does differ from many other jurisdictions within the State. After a few additional questions the Commissioners indicated that that they were clear on the distinction between ratification and appeals.

7. REQUEST FOR RATIFICATION OF UNREASONABLE HARDSHIP AAC 17-01: 1245 Alabama

(ACTION)

Secretary Halloran presented summary for the request for ratification of URH 17-01 for the lack of vertical access to the second floor of the tenant improvement at 1245 Alabama. Mission Neighborhood Centers Inc., the project sponsor, is a non-profit organization that provides case-management, parent-child interactive activities, financial, GED, early literacy educational programs, employment, and medical, dental and mental health resources. Mission Neighborhood Centers Inc. was represented by Karen Gates of Gelfand Partners.

The basis of the request was that the project would be rendered infeasible if required to install an elevator. The project is funded by grant from the S.F. Economic and Workforce Development Department, and the cost of vertical access would far exceed 20 per cent of the total valuation of the grant amount of \$196,000.

The valuation of the project without path of travel upgrades was presented as \$156, 000. The path of travel upgrades proposed amount of \$40,000 equals 25 per cent of the adjusted cost of construction. The project sponsor obtained a bid for a LULA lift the equaled slightly over 60,000. This would raise the path of travel expense to approximately 65 per cent of the adjusted cost of construction.

In addition to the cost disproportionality, the sponsor stated that the center would offer full programmatic access on the accessible level and that all other elements would be accessible.

After Mr. Halloran presented the Summary, Ms. Karen Gates answered a number of questions from the commissioners. Commissioner Ellsworth asked a question regarding the 1st floor accommodations, specifically the computers and restrooms. He also asked about employee access to the second floor. Ms. Gates explained how the center would provide computer services on the first floor and after a subsequent question for Commissioner Lerner it was explained that all elements on the second floor would be accessible and that the employees were entitled to ask for a reasonable accommodation if needed, under Title I of the ADA. Commissioner Brown asked about the warming Kitchen and additional classrooms which Ms. Gates explained were not part of the center, but rather part of a head start program not included in the tenant improvement. Commissioner Brown expressed that she had some concerns but would approve if the other Commissioners felt it appropriate.

Additional questions were asked about another portion of the building and it was explained that those areas will be part of a head start program and not part of the project in question. Commissioner Blackseth moved to approve the ratification of the unreasonable as presented. The motion was seconded by Commissioner Lerner. The commission voted unanimously to approve the ratification of 17-01.

8. UPDATE ON ORDINANCE NO. 51-16, MANDATORY DISABILITY ACCESS IMPROVEMENTS AND REQUEST FOR DEPARTMENT TO ADDRESS

THE COMMISSION:

(DISCUSSION & POSSIBLE ACTION)

Commissioner Brown reported that she had hand delivered a letter to Director Hui asking him to address the Commission regarding the Department's efforts to provide staffing for Ordinance 16-51.. The Commissioner mentioned that she had also contacted the San Francisco Office of Small Business and has a pending meeting with the Director, Regina Dick-Endrizzi. This was in response to a requested by the Commission at the February 22, 2017 AAC meeting. Commissioner Brown stated she has not been contacted by the Director and asked the Secretary if he had been contacted. The Secretary responded that he had not been contacted in this regard. Commissioner Brown mentioned that the letter she authored suggested that the Department include a percentage of persons with disabilities in any hiring for this ordinance

Commissioner Blackseth asked if this was within the mission statement of the AAC, the Secretary gave a short explanation of the ordinance and stated that the commission was designated as an oversight body for its implementation.

Commissioner Blackseth asked why, due to the magnitude of the mission, this was not delegated to CASps and the Secretary explained that the initial evaluation and checklist had to be prepared by a CASp or design professional.

Building Inspector Tom Fessler who is a CASp at DBI, explained that he will be charged with the inspections in the field more and more as time goes on, but that these would be only for the exceptional cases and not the norm.

Secretary Halloran explained that the ordinance allowed for the establishment of a Compliance Unit that would develop guidelines in cooperation with the Commission, and

oversee the majority of these situations. For those situations that differed from the norm or were not covered in the proposed manual, he explained, the inspections would be performed by Department CASps and may be required to come before the Commission. A number of other Commissioners asked general questions regarding the ordinance that were addressed by the Secretary and Mr. Fessler.

9. AMENDMENTS TO THE RULES OF THE COMMISSION (BYLAWS): (DISCUSSION)

Deputy City Attorney Elaine Warren explained that the current bylaws have procedures for appeal and ratification, but do not explicitly have procedures on other types of action that an owner may request under the Ordinance 51-16, such as extension of time, technical infeasibility, and unreasonable hardship and a request for review and a review and determination of a proposal by the Commission.

The Secretary read to the Commission the four compliance options for categories two through four from the ordinance. Deputy City Attorney Elaine Warren then suggested that she could propose for the next meeting a change to the appeals and ratification sections of the by-laws that would reference an updated Commission guidelines. The guidelines could be amended to include explanations and procedures for the various functions delegated to the Commission within the ordinance.

Deputy City Attorney Warren offered to draft the amendments for the next meeting and asked the Commissioners to forward to the Secretary any additional changes they may wish to include.

10. COMMISSIONERS AND STAFF QUESTIONS AND COMMENTS: (DISCUSSION)

President Brown suggested that all city departments and DBI have assistive listening devices for all of their meetings. The Secretary explained that it is a current requirement of the City that all Departments have this capability and offer this service. He explained that he had arranged for the department to purchase a portable assistive listening system and it is located in the TSD offices for use by anyone in DBI that requires it. He stated that perhaps the new staff is not adequately trained and he will do follow up training.

Commissioner Brown emphasized that having the equipment and not using it does no one any good.

Commissioner Brown also stated that she believed that City College and local high schools should have an "apprentice" type program in order to teach accessibility issues to younger people. She stated that there should be a program to teach young people the codes.

Commissioner Blackseth mentioned that the CASp program was dedicated to this purpose and was doing a good job.

Commissioner Lerner stated that the Department had an intern program currently on going within the department and they were present at the CAC meeting that morning.

Commissioner Brown asked who was in charge of City College, the Secretary responded that they were governed by the State Community College District, and the Department had no jurisdiction over them. The Secretary suggested that if the Commission wished to pursue this it would probably require members of the Commission going to the Community College Board meeting and making a proposal.

Commissioner Brown also made a comment that she was very pleased to have Commissioner Blackseth on the Commission and stated that he sounded very knowledgeable on codes. She further extended her welcome and stated that she hoped he would be a part of the Commission for a long time.

11. ADJOURNMENT:

(ACTION)

The meeting was adjourned at 2:20 P.M.

Thank you,

A handwritten signature in black ink, appearing to read "Rick Halloran". The signature is written in a cursive style with a large, prominent "R" and "H".

Rick Halloran
Senior Building Inspector
Department of Building Inspection
Secretary to the Access Appeals Commission