



ACCESS APPEALS COMMISSION

MINUTES *approved 5/25/2016*

Regular Meeting Wednesday, February 24, 2016

1. CALL TO ORDER AND ROLL CALL

The meeting was called to order by President Arnie Lerner at 1:05 P.M.

COMMISSION MEMBERS PRESENT:

Mr. Arnie Lerner, President

Mr. William Scott Ellsworth, Vice-President

Ms. Alyce G. Brown

CITY REPRESENTATIVES:

Mr. Rick Halloran, Secretary

Ms. Betty Lee, Recording Secretary

2. ELECTION OF COMMISSION OFFICERS: PRESIDENT AND VICE PRESIDENT (ACTION)

The election of President and Vice President is govern by the bylaws and is rotated among the Commission members with William Scott Ellsworth as President and Ronald Vernali as Vice-President.

Vice-President Ellsworth asked about the status of Commissioner Vernali. Secretary Halloran said that Commissioner Vernali has some health issues, but will attempt to contact him again on his current condition.

President Lerner expressed that Commissioner Vernali's series of absences will affect the future operations of the AAC. He asked what can be done in terms of our bylaws or expanding the Commission. Secretary Halloran said that there is no provision in our bylaws that address absentee or excessive absences. The Building Inspection Commission (BIC) appoints the Commissioner. Secretary Halloran will discuss this matter with City Attorney Elaine Warren and the Secretary of BIC.

Commissioner Brown asked when does Commissioner Vernali's term expires. Secretary Halloran said November 2017.

President Lerner suggested for Secretary Halloran to check with City Attorney Warren about amendments to our bylaws in coordination with BIC's bylaws regarding appointee. In addition, President Lerner asked for research on what other Commissions' rules are regarding attendance, so we may have a reference in establishing our bylaws.

Commissioner Brown motion to nominate William Scott Ellsworth as President and Ronald Vernali as Vice-President. President Lerner seconded the motion.

**President Lerner – Yes
Vice-President Ellsworth – Yes
Commissioner Brown – Yes**

Motion approved.

3. PUBLIC COMMENT: (DISCUSSION)

There was none.

4. REVIEW AND APPROVAL OF MINUTES: (ACTION)

The minutes for the September 9, 2015 meeting were approved unanimously.

5. TRAINING ON REQUIRED ELECTRONIC FILING OF FORM 700: (DISCUSSION)

Patricia Peterson from the SF Ethics Commission presented on the requirements for electronic filing of Form 700, due April 1st, 2016.

President Ellsworth asked how to directly reach Ms. Peterson for questions and assistance. Ms. Peterson's direct line is 415-252-3110, but she suggested it is best to call the main office phone at 415-252-3100.

Secretary Halloran asked whether having a power of attorney to make decision be considered ownership of a property. Ms. Peterson will do the research and answer by email.

Secretary Halloran asked about the penalty for not filing the Form 700. Ms. Peterson replied that late filers will be penalized \$10 per day, up to \$500. For non-filers, they will be reported to the State and fined up to \$5000. Commissioner Brown said that there is no excuse for late filing.

6. REVIEW OF COMMUNICATION ITEMS: (DISCUSSION)

Commissioner Lerner provided updates on the task force regarding the Tang Legislation. The legislation has been introduced and is expected to go to the Land Use Committee in March.

Report on recent meetings as follows:

- BIC has unanimously approved the legislation.
- Ordinance was introduced to DPW's managers for their cooperation in developing common design guidelines for equivalent facilitation and technical infeasibility. Kevin

Jensen has been representing DPW at the task force meetings.

- There is no meeting with the Planning Department yet. Representative from Planning has stop attending the task force meetings.
- Meeting with Supervisor Cohen is scheduled next Monday. Supervisor Wiener says he is supportive of the Ordinance. There is no meeting with Supervisor Peskin yet.
- Meetings with Building Owner Management Association (BOMA) resulted in a few proposed changes. At BIC meeting, Ken Cleaveland of BOMA commented that more time is needed for compliance, in which Supervisor Tang is opened to expand. Mr. Cleaveland also complained that bringing cases to AAC is cumbersome and expensive.
- Small Business Commission and Merchant Associations are in support of the Ordinance.

Commissioner Lerner discussed the following AAC's responsibilities:

- Deadline and granting additional extension
- Determination of equivalent facilitation, technical infeasibility, or unreasonable hardship – AAC and other departments will develop standards guidelines
- Effectiveness report and making recommendations to CAC, BIC, and BOS
- Appeals

President Ellsworth asked if the compliance deadlines are based off one starting date. Secretary Halloran replied yes, it is based on the Ordinance's effective date. Secretary Halloran said that Supervisor Tang revised the timeline to allow 6 months instead of 3 months for obtaining building permit.

Commissioner Lerner suggested the need for all departments to participate in priority processing on accessibility projects in order to meet the deadlines of the Ordinance. He said that Planning do have a policy giving priority process to disable access projects, but based on his experience, it is not always enforced.

Commissioner Lerner asked will AAC serve as a design review committee. Secretary Halloran said the developed guideline manual for equivalent facilitation and technical infeasibility will allow the Department to grant them. If a condition does not fit into the standard guidelines, owner may request for a design review at AAC.

President Ellsworth and Commissioner Brown asked about cases coming to AAC for advisory in terms of procedure and fees. Secretary Halloran said the Ordinance allows AAC to make determinations and a new request form will need to be develop to bring cases to AAC. Commissioner Brown said that charge for advisory should cost less than an appeal. President Ellsworth agrees.

Commissioner Brown asked who will be the initial inquiry and personnel. Secretary Halloran said the Compliance Unit will be the initial inquiry and 4 additional positions have been requested for the Unit, along with request for CASps in the Department.

Commissioner Brown expressed that the intent of the Ordinance is to give small businesses relief from drive-by lawsuits, however there is a concern that it may be end up hurting small businesses. She said entrances and side walk should be owner's

responsibility and the interior of businesses can be tenants' responsibility. Secretary Halloran clarified that the intent of the Ordinance is not primary about drive-by lawsuits, but to make entrances accessible. He suggested for Commissioner Brown to discuss this matter with Regina Dick-Endrizzi, Office of Small Business.

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

Discussion on the possible amendments to the bylaws for the pre-adoption of the Tang Legislation. Current AAC procedure includes appeal and ratification, 2 weeks notification, and fee. Upcoming legislation will give new duties to AAC, therefore bylaws need to be amended regarding timeframe, minimum fee, and how to process. Fees are set by Board of Supervisors, but AAC can propose to reduce fee.

Secretary Halloran asked the Commissioners to consider the method and cost for the following items:

- Request for determination of equivalent facilitation that the Department did not agree to
- Request for determination of technical infeasibility that the Department did not agree to
- Request for determination of unreasonable hardship
- Design review request
- Appeals

President Ellsworth asked will the legislation be included as Chapter 11D. Secretary Halloran said yes, but the methods for process will be in our bylaws and not the code.

Commissioner Brown suggested to ask City Attorney on what specifically we can and cannot incorporate into the bylaws.

Commissioner Lerner asked about the filing fee for an appeal. Secretary Halloran said the appeal fee is about \$300. The process can cost appellant up to \$2500 due to printing, time, and personnel cost. This cost may be excessive for the small businesses requesting for ratification.

Commissioner Brown asked about the order process for a case to come to AAC. Secretary Halloran said the Compliance Unit will review the case and the AAC Secretary will bring it to the meeting.

Secretary Halloran said the task force will come up with recommendations and the discussion on bylaws amendment will occur in 3 meetings before voting.

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

MAD Elevator Company installs elevator touchscreens throughout the US, and wants to branch out to California. Similar to the situation with destination based elevators, elevator touchscreen systems are not in compliance to current California law. The request will be taken to CAC Disability Subcommittee. Secretary Halloran will ask for a CAC and AAC joint committee to create guidelines for touchscreens to provide accessibility.

9. ADJOURNMENT:

(ACTION)

The meeting was adjourned at 2:30 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, stylized "R" and "H".

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