



ACCESS APPEALS COMMISSION
MINUTES *approved 11/9/2016*
Regular Meeting Wednesday, May 25, 2016

1. CALL TO ORDER AND ROLL CALL

The meeting was called to order by President William Scott Ellsworth at 1:05 P.M.

COMMISSION MEMBERS PRESENT:

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

CITY REPRESENTATIVES:

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

2. PUBLIC COMMENT: (DISCUSSION)

Secretary Halloran reminded Commissioners to fill out the Sunshine Ordinance Declaration form and he will get them to the Ethics Commission.

3. REVIEW AND APPROVAL OF MINUTES: (ACTION)

The minutes for the February 24, 2016 meeting were approved unanimously.

4. REVIEW OF COMMUNICATION ITEMS: (DISCUSSION)

a) Distribution of 2013 San Francisco Building Code Amendment Supplements
2013 SFBC Supplements have been distributed to the Commissioners.

b) Updates on Carla Johnson and the Mayor's Office on Disability (MOD)
Carla Johnson has retired and Arfaraz Khambatta will serve as the Interim Director of MOD, while MOD searches for a new Director.

c) Updates on the status of Commissioner Vernali
From a phone conversation with Mrs. Vernali, she said Commissioner Vernali is severely ill and in the hospital. A card was sent on behalf of the AAC. There has been no update since March.

President Ellsworth asked who appointed Commissioner Vernali, so we may have another point of contact. Secretary Halloran will check with the Building Inspection Commission (BIC).

City Attorney Warren said Commissioner Vernali's term runs until 2017 and Commissioners serve until their term expires or resigns. Illness is an excusable reason for absence. BIC cannot remove a Commissioner without cause. If there is a vacancy due to resignation, then BIC can appoint a replacement.

President Ellsworth asked if there is a way to change our bylaws regarding Commissioners. Ms. Warren said no because the ordinance which established AAC indicates that BIC is the appointing entity. Any changes to the ordinance will require amendment by the Board of Supervisors.

Secretary Halloran asked if there may be an interim to sit in while Commissioner Vernali is ill. Ms. Warren said there is no provision for an alternate, however she will research to see if interim may serve for absences due to illness.

Commissioner Lerner asked, "May AAC have a sixth person?" Ms. Warren said AAC is established by a provision in the State's statute that calls for a five member body, but she will research if a larger body is possible.

5. DISCUSSION ON THE NEW HEADQUARTERS FOR THE LIGHTHOUSE FOR THE BLIND AND VISUALLY IMPAIRED: (DISCUSSION)

The LightHouse has moved to 1155 Market St and will host an open house for their new facilities. AAC is invited to attend the grand opening event on June 10th at 11am on the steps of City Hall, followed by a march to the new headquarters.

6. DISCUSSION ON ORDINANCE NO. 51-16, MANDATORY DISABILITY ACCESS IMPROVEMENTS: (DISCUSSION)

Secretary Halloran provided updates regarding the Tang Legislation. Ordinance 51-16 has passed and is currently in effective. The task force has been meeting regularly, which includes:

- Arnie Lerner, AAC
- Walter Park, AAC
- Rick Halloran, DBI
- Betty Lee, DBI
- Kevin Jensen, DPW
- Regina Dick-Endrizzi, OSB
- Roxana Vargas Greenan, OEWD
- David Winslow, Planning
- Zachary Nathan, CAC
- Fiona Hinze, ILRC

A website has been created and a manual is being developed. The task force will bring the

manual on alternate methods of compliance to be vetted by the AAC. There is also discussion to form a multi-departmental panel to determine cases to bring to AAC. The goal of the task force is to have an operating program by December 2016.

Commissioner Lerner asked where to direct public for information. Recording Secretary Lee said visit the website www.sfdbi.org/businessentrance.

Commissioner Brown suggested to get small business organizations involved in sending notices to merchants. Secretary Halloran said Regina Dick-Endrizzi of Office of Small Business (OSB) is responsible for outreach and notification.

Secretary Halloran asked whether church run schools are exempted from the definition of public accommodation. ADA exempt religious organizations and all entities run by religious organizations. California takes its definition of public accommodation from ADA, however religious organizations are covered by the CBC. Ms. Warren said she will look into it for clarification.

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

Existing bylaws contain procedures for appeal and ratification, but no procedure for other actions like guidance. Secretary Halloran requested for Commissioners to think about establishing new procedures and fees for the new AAC roles under Ord. 51-16.

Commissioner Lerner asked how much does it cost to come to AAC. Secretary Halloran said a case coming to AAC is \$374 or waived. The cost to hold one AAC meeting is \$1200. Commissioner Lerner asked if there is an obligation for AAC to pay for itself. Secretary Halloran said no and explained the \$374 is a 2-hour plan check fee to off-set staff time, preparing packages, and setting up for the meeting. It does not factor in the cost of Commissioners.

President Ellsworth asked for clarification on the fees applicants are expected to pay under the Ord. 51-16. Secretary Halloran said there is a \$96 administrative fee for submitting the compliance checklist. If construction work is required, applicant will pay the standard permit fees for DBI, Planning, and DPW.

Secretary Halloran asked do we want to consider charging the full \$374 fee for all cases; or waived all together; or establish an in-between charge. President Ellsworth said the ordinance makes it mandatory for small businesses to address their storefront, therefore we may consider waiving fees for people coming to AAC in order to ease the process.

Commissioner Brown asked about the procedure for waiving fees. Ms. Warren said the general provision for waiving fees is through an indigency form, which is determined on a case by case basis. The Department does not have the authority to waive all fees. Fee changes are made through an ordinance change.

Secretary Halloran asked about establishing new procedures and timeframe. President Ellsworth said we need to set a minimum bid of evidence in order to review for approval of

hardship or equivalency. Secretary Halloran and the Commissioners discussed existing procedures for unreasonable hardship, threshold amount, and minimum financial determination.

Commissioner Brown asked whether the CASp inspections offer advice on solutions for businesses. Secretary Halloran said CASp reports identify the issues, but under court decision, CASp inspectors are not allowed to give advice on barrier removal, unless they are familiar with the finance and operations of the business.

Secretary Halloran asked for permission to have task force suggest procedures for bringing cases to AAC. President Ellsworth asked whether the other Commissioners agreed. Commissioner Lerner disagreed to have the task force involved in changing the AAC bylaws.

Ms. Warren suggested to create a list of AAC roles under the Ord. 51-16 and see how they may apply with existing procedures. The list can help determine what changes are needed and can be shared with the task force for input. President Ellsworth agreed with Ms. Warren's suggestion and to have her work with both Secretaries Halloran and Lee on the list.

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

No comment.

9. ADJOURNMENT: (ACTION)

The meeting was adjourned at 2:30 P.M.

Thank you,



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