



MINUTES

December 10, 2019

BOARD OF APPEALS HEARING

9:00 a.m.

City Council Chambers

311 Vernon Street

Roseville, CA

1. CALL TO ORDER

Chairperson Pete Constant called the meeting to order at 09:00 a.m. in the City Council Chambers.

2. ROLL CALL (SILENT)

The following Hearing Panel members were present:

Pete Constant
Andrew Haydu
Arthur Pauly, Jr.

The following Staff members were present:

Joseph Speaker	Deputy City Attorney
Lynda Risucci	Legal Clerk

3. IDENTIFICATION OF CHAIR

Chairperson for the December 10, 2019 hearing was Pete Constant.

4. PLEDGE OF ALLEGIANCE

Chairperson Constant led the audience in the Pledge of Allegiance.

5. PUBLIC COMMENT

No one from the public offered any comments.

6. SWEAR IN

Chairperson Constant administered the Oath to those in attendance who would be offering testimony at the hearing.

7. MATTERS TO BE HEARD

7.1. Citation No. 20303

Appellant: Christopher Kight

- Roseville Municipal Code Section 7.25.010, Animal Noise

A. Staff Report:

Animal Control Officer Gabriel Sorenson offered testimony in regards to the staff materials in Exhibit A and answered panel questions.

Per RMC Section 2.50.060(D), the Staff Report was submitted to the City of Roseville Attorney's Office prior to the hearing, and was provided to the Appellant and the panel members in advance of the hearing.

Exhibit A:

- Staff Report including case history and narrative.

Complainant's Statement:

Complainant Jim Campbell presented Exhibit B, and offered testimony in support of the complaint and answered panel questions.

Exhibit B:

- Copy of Roseville Municipal Code Section 7.25.010, Animal Noise
- Email containing information regarding bird noise
- Email containing information regarding loud birds
- Copy of correspondence to Neighbor from Chris and Carole Kight.
- Flashdrive containing audio of subject birds.

B. Appellant's Response:

Exhibit C:

(Appellant's Exhibit C was provided to the panel in advance of the hearing for review.)

- Request for Hearing form, received by the Roseville City Attorney's Office on November 04, 2019.

Appellant Christopher Kight presented Exhibit D, and offered testimony in support of the appeal and answered panel questions.

Exhibit D:

- Request for Hearing form
- Copy of email from Josanne English to Carole Kight dated October 30, 2019
- Copy of email from Mary Ann Edwards to Carole Kight dated October 31, 2019
- Copy of email from Greg Sachs to Carole Kight dated November 01, 2019
- Map of 3109 Halverson Way and surrounding neighbors
- Pictures (2) of subject aviary
- Flashdrive containing video and audio of subject birds and aviary.

C. Rebuttals and Panel Questions:

Complainant Jim Campbell offered rebuttal testimony and answered panel questions.

Appellant Christopher Kight offered rebuttal testimony and answered panel questions.

D. Panel Discussion:

The panel discussed the evidence and testimony presented for Administrative Citation No. 20303.

In regard to Roseville Municipal Code Section 7.25.010, Animal Noise, a motion was made by Arthur Pauly, Jr. and seconded by Andrew Haydu to grant the appeal and dismiss the charge because the Complainant did not prove by a preponderance of the evidence that the violation occurred.

The motion passed with the following vote:

AYES: Pete Constant, Andrew Haydu, Arthur Pauly, Jr.

NOES: None

E. Panel Decision:

The panel decided to grant the appeal of Administration Citation No. 20303 and dismiss charge of Roseville Municipal Code Section 7.25.010, because the Complainant did not prove by a preponderance of the evidence that the violation occurred.

Chairperson Constant signed the decision form, asked the Appellant to see staff for the paperwork, and informed the parties that they may file a petition for review with the Superior Court in Placer County within 20 days.

7.2. Citation No. 22693

Appellant: Felix Lawrence

- Roseville Municipal Code Section 14.09.060(A), Water Conservation – Water Waste (Runoff)

A. Staff Report:

Code Enforcement Officer John Shannon offered testimony in regards to the staff materials in Exhibit A and answered panel questions.

Per RMC Section 2.50.060(D), the Staff Report was submitted to the City of Roseville Attorney's Office prior to the hearing, and was provided to the Appellant and the panel members in advance of the hearing.

Exhibit A:

- Staff Report including case history and narrative
- Photograph taken on September 20, 2019 at 7:33 a.m.

B. Appellant's Response:

Exhibit B:

(Appellant's Exhibit B was provided to the panel in advance of the hearing for review.)

- Request for Hearing form, received by the Roseville City Attorney's Office on October 21, 2019.

Appellant Felix Lawrence offered testimony in support of the appeal and answered panel questions.

C. Rebuttals and Panel Questions:

John Shannon offered rebuttal testimony and answered panel questions.

Appellant Felix Lawrence offered rebuttal testimony and answered panel questions.

D. Panel Discussion:

The panel discussed the evidence and testimony presented for Administrative Citation No. 22693.

In regard to Roseville Municipal Code Section 14.09.060(A), a motion was made by Andrew Haydu and seconded by Pete Constant to uphold the citation, but waive the fine in the interest of justice. Arthur Pauly, Jr. respectfully dissented, and the panel discussed the evidence and testimony further.

The previous motion was withdrawn by Andrew Haydu and a new motion was made by Arthur Pauly, Jr. and seconded by Andrew Haydu to grant the appeal and dismiss the charge because the City did not prove by a preponderance of the evidence that the appellant is the responsible party.

The motion passed with the following vote:

AYES: Pete Constant, Andrew Haydu, Arthur Pauly, Jr.

NOES: None

E. Panel Decision:

The panel decided to grant the appeal of Administration Citation No. 22693 and dismiss the charge of Roseville Municipal Code Section 14.09.060(A) Water Conservation, Water Waste (Runoff), because the City did not prove by a preponderance of the evidence that the appellant is the responsible party.

Chairperson Constant signed the decision form, asked the Appellant to see staff for the paperwork, and informed the parties that they may file a petition for review with the Superior Court in Placer County within 20 days.

8. ADJOURNMENT

A motion was made by Arthur Pauly, Jr. and seconded by Andrew Haydu to adjourn the hearing.

AYES: Pete Constant, Andrew Haydu, Arthur Pauly, Jr.

NOES: None

Chairperson Constant adjourned the December 10, 2019 hearing at 10:30 a.m.

Lynda Risucci
Legal Clerk