

Minutes
City of Roseville
Hearing Panel
February 23, 2017 at 3:00 p.m.
City Council Chambers
311 Vernon Street

1) Call to order

Chairperson Bruce Hagler called the meeting to order at 3:01 p.m. in the City Council Chambers.

The following Hearing Panel members were present:

Pete Constant
Bruce Hagler
Dan Myers

The following staff members were present:

Joseph T. Speaker	Deputy City Attorney
Pamela Sisk	Legal Clerk

2) Designation of Chair

Chairperson for the February 23, 2017 hearing was Bruce Hagler.

3) Pledge of Allegiance

Chairperson Hagler led the audience in the Pledge of Allegiance.

4) Public Comment

No one from the public offered any comments.

5) Swear In

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

6) **Matters to be Heard**

Citation #11799

Appellant: Paul Sellingsloh

Roseville Municipal Code Section 7.16.010, Failure to License, Second offense

Roseville Municipal Code Section 7.25.010, Animal Noise, Second offense, two counts

A. Staff Report and Complainant's Statement:

The Complainant on the charge for violating Roseville Municipal Code Section 7.25.010, Animal Noise, Denise Miller, was not present when this matter was called. The item was trailed to after Citation #11788 to allow at least 15 minutes from the commencement of the hearing for Denise Miller to appear, per the Administrative Hearing Procedures. By 3:16 Denise Miller had still not appeared, so the panel proceeded with the hearing.

Animal Control Officer Sarah DeRego offered testimony in regards to the citation for Roseville Municipal Code Section 7.16.010, Failure to License. She also presented the staff materials in Exhibit A and answered panel questions.

Per RMC Section 2.50.606(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:

- Animal Control Staff Report including case history and narrative

B. Appellant's Response:

Paul Sellingsloh presented Exhibit C, and offered testimony in support of the appeal and answered panel questions.

Animal Control Officer DeRego verified that the licensing was valid, and approved a dismissal of the violation.

Exhibit B:

(The 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 November 30, 2016

Exhibit C:

- City of Roseville Animal License Receipt, License Tag No. 0017128

C. Rebuttals and Panel Questions:

No rebuttal testimony was presented.

D. Panel Discussion:

At 3:16 p.m., the Complainant was not present. According to section VII(B) of the rules for Administrative Hearing Procedures, if the complainant fails to appear for the hearing within 15 minutes after the hearing commences, the responsible party's appeal will be automatically granted.

The panel discussed the evidence and testimony presented before them at the hearing in regards to Administrative Citation No. 11799 for two counts of violating Roseville Municipal Code Section 7.25.010, Animal Noise, Second offense, and for one count of violating Roseville Municipal Code Section 7.16.010, Failure to License, Second offense.

In regards to 7.25.010, Animal Noise, a motion was made by Pete Constant and was seconded by Dan Myers to grant the appeal and dismiss the charge because the Complainant failed to appear.

AYES: Pete Constant, Bruce Hagler, Dan Myers

NOES: none

In regards to 7.16.010, Failure to License, a motion was made by Dan Myers and was seconded by Pete Constant to grant the appeal and dismiss the charge at the request of the City.

AYES: Pete Constant, Bruce Hagler, Dan Myers

NOES: none

E. Panel Decision:

Regarding the appeal of Citation No. 11799, the panel decided to grant the appeal and dismiss the two counts of 7.25.010, Animal Noise, Second offense because the Complainant failed to appear, and the panel decided to grant the appeal and dismiss the charge of 7.16.010, Failure to License, Second offense, at the request of the City. This decision was based on the testimony and evidence presented before them at the February 23, 2017 hearing.

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

Citation #11788

Appellant: Daniel Palos

Roseville Municipal Code Section 7.25.010, Animal Noise, Second offense, two counts

A. Staff Report and Complainant's statement:

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

Per RMC Section 2.50.606(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:

- Animal Control Staff Report including case history and narrative

Complainant Theresa Kawel presented Exhibit B and offered testimony in support of the complaint and answered panel questions.

Exhibit B:

- RMC Section 7.25.010 (A) – (E), Animal Noise
- 15 letters from neighbors in support of the complaint
- Copy of Assessor's Map Bk. 472 Pg. 09
- Three Google Maps of subject properties
- Three photos of the backyard at 2208 Vernon Street
- Copies of 20 pages of hand-written dog barking log from 6/21/16 to 8/2/16
- Typed dog barking log from 11/5/16 to 2/21/17 (11 pages)

Witness Brigit Skjerpe offered testimony in support of the complaint.

B. Appellant's Response:

Chairperson Hagler administered the oath to Daniel Palos (who was not present during the administration of the oath at the outset of the hearing), who then offered testimony in support of the appeal and answered panel questions.

Genoveva Palos offered testimony in support of the appeal and answered panel questions.

Exhibit C:

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

- Request for Hearing form, received by the City Attorney's Office on December 15, 2016

C. Rebuttals and Panel Questions:

Officer DeRego offered rebuttal testimony and answered panel questions.

Theresa Kawel offered rebuttal testimony and answered panel questions.

Daniel Palos offered rebuttal testimony.

Genoveva Palos offered rebuttal testimony.

Officer DeRego was recalled to the podium to answer panel questions.

D. Panel Discussion:

The panel discussed the evidence and testimony presented before them at the hearing in regards to Administrative Citation No. 11788 for two counts of violating Roseville Municipal Code Section 7.25.010, Animal Noise, Second offense.

A motion was made by Pete Constant and was seconded by Dan Myers to deny the appeal and uphold the charges because the Complainant proved by a preponderance of the evidence that the violation(s) occurred and that the appellant is the responsible party.

AYES: Pete Constant, Bruce Hagler, Dan Myers

NOES: none

E. Panel Decision:

Regarding the appeal of Citation No. 11788, the panel decided to deny the appeal and uphold the charges because the Complainant proved by a preponderance of the evidence that the violation(s) occurred and that the appellant is the responsible party. This decision was based on the testimony and evidence presented before them at the February 23, 2017 hearing.

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

Citation #11830

Appellant: Genoveva Palos

Roseville Municipal Code Section 7.16.010, Failure to License

Roseville Municipal Code Section 7.20.010, Kennel License Required

A. Staff Report:

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

Per RMC Section 2.50.606(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:

- Animal Control Staff Report including case history and narrative

B. Appellant's Response:

Genoveva Palos offered testimony in support of the appeal and answered panel questions.

Witness Miranely Bermudez offered testimony in support of the appeal and answered panel questions.

Witness Daniel Palos began to offer testimony regarding the prior matter, but withdrew after the panel redirected his testimony to the current matter being discussed.

Exhibit B:

(The 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 November 29, 2016

C. Rebuttals and Panel Questions:

No rebuttal testimony was presented.

D. Panel Discussion:

The panel discussed the evidence and testimony presented before them at the hearing in regards to Administrative Citation No. 11830 for one count of violating

Roseville Municipal Code Section 7.16.010, Failure to License, and one count of violating Roseville Municipal Code section 7.20.010, Kennel License required.

A motion was made by Pete Constant and was seconded by Dan Myers to deny the appeal and uphold the charge of 7.20.010, Kennel License Required, because the City proved by a preponderance of the evidence that the violation occurred and that the appellant is the responsible party, and to grant the appeal and dismiss the charge of 7.16.010, Failure to License, because the City did not prove by a preponderance of the evidence that the violation occurred; and/or that the appellant is the responsible party.

AYES: Pete Constant, Bruce Hagler, Dan Myers

NOES: none

E. Panel Decision:

Regarding the appeal of Citation No. 11830, the panel decided to deny the appeal and uphold the charge of 7.20.010, Kennel License Required, because the City proved by a preponderance of the evidence that the violation occurred and that the appellant is the responsible party, and to grant the appeal and dismiss the charge of 7.16.010, Failure to License, because the City did not prove by a preponderance of the evidence that the violation occurred; and/or that the appellant is the responsible party.

This decision was based on the testimony and evidence presented before them at the February 23, 2017 hearing.

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

7) Adjournment

A motion was made by Pete Constant, and was seconded by Dan Myers to adjourn the February 23, 2017 Appeal Hearing.

AYES: Pete Constant, Bruce Hagler, Dan Myers

NOES: none

Chairperson Hagler adjourned the February 23, 2017 hearing at 4:11 p.m.

Pamela Sisk
Legal Clerk