

MINUTES

**City of Roseville
Hearing Examiners & Board of Appeals
January 20, 2016 at 4:00 P.M.
Hutchinson Conference Room
Civic Center, 2nd Floor
311 Vernon Street
Roseville, CA 95678**

1. The semi-annual meeting of the Hearing Examiners and Board of Appeals was called to order by Chairperson Sharon Telles on Wednesday, January 20, 2016 at 4:00 p.m. in the Hutchinson Conference Room.

2. **ROLL CALL:**
The following Board members were present:
 - Sean Wallentine
 - Sharon Telles
 - Brian Stenklyft
 - Don Lounsbury
 - Mark Elmquist
 - Dan Myers
 - Bruce Hagler
 - Leilani Fratis

The following staff members were present:

- Joe Speaker, Deputy City Attorney
- Pamela Sisk, Legal Clerk

3. **APPROVAL OF MINUTES**
Motion by Sean Wallentine and seconded by Mark Elmquist that the minutes of July 22, 2015 Semi-Annual Board of Appeals meeting be approved.

AYES: Sean Wallentine, Sharon Telles, Brian Stenklyft, Don Lounsbury, Mark Elmquist, Dan Myers, Bruce Hagler

NOES: none

ABSTAIN: Leilani Fratis

4. **PUBLIC COMMENT**
No public comment was offered.

5. **NEW BUSINESS**
 - a. **Compliance Hearings**
Deputy City Attorney Joe Speaker addressed the group by stating he wanted to give everyone a refresher on Compliance Hearings since there have been a couple of Compliance Hearings scheduled recently, and we have a few Board Members

who have not yet sat on one of these panels. Joe Speaker went over the general process of a Compliance Order Hearing, stating the process begins with a written order to comply, and if compliance is not made, a hearing will be set. The hearing will determine four things: 1) if a violation has occurred; 2) Administrative Costs to be paid back to the City; 3) Administrative Penalties to be assessed; and 4) an Order to Correct.

Dan Myers asked if the party can appeal, and Joe answered they can. Dan wanted to know what happens if they do not pay. Joe replied when we have outstanding accounts, the Attorney's office attempts to collect, and can send to collections if they do not.

Don Lounsbury requested clarification on if staff determines compliance has occurred, if the hearing can be cancelled. Joe confirmed this to be true. Don wanted to know when staff makes their last inspection on the subject property, and Joe responded staff makes every effort to monitor the progress, and is good about keeping communication open if improvements have been made, but the last inspection date may vary. Don asked if it would be a matter of proof then, and that the Board must determine who can prove whether compliance has been made or not. Joe affirmed.

Sean Wallentine asked if a motion was necessary to approve if a violation has occurred, and Joe replied yes, and the motion should state why it has been determined, giving a specific reason and evidence. Joe said staff most likely will recommend a penalty for the Board to consider, and the administrative costs, which are mandatory if a violation has occurred, will be given to them by staff in their presentation. Joe also added staff will most likely also prepare an Order to Correct as a recommendation.

Leilani Fratis asked if a lien could be assessed, and Joe answered the City could do that.

Dan Myers asked if they can establish a payment plan, and Joe replied they can, and we are somewhat flexible in terms of options for repayment.

Leilani Fratis suggested the magnitude of a lien on the property carries with it more weight. She also mentioned in her time serving on compliance order panels, there has been confusion between the Board Members on exactly what to do, and what options are available. Sean Wallentine stated the correction should be in-line with what the Municipal Code declares. Joe suggested he didn't want to influence a recommendation, but as a panel member, they should not be afraid to ask staff for a recommendation, and not to be afraid to agree or disagree with it. Leilani stated the order should be to fix it to extent it satisfies staff requirements for compliance. Leilani asked if a determination that a violation has occurred, and the party is now in compliance, are costs still tied to violation. Joe replied yes.

Mark Elmquist asked if the property is now in compliance, can the panel still order costs be repaid. Joe said the administrative costs are assessed automatically

if the determination was made that the violation occurred and was not corrected by the date in the compliance order, but the administrative penalties are where the panel has more flexibility to decide what, if anything, are appropriate fines given the situation.

Don Lounsbury asked how the Board will know what compliance entails if staff is considered the expert. Don suggested a copy of the ordinance be in the packet. Joe affirmed the applicable ordinance is included in all packets.

Bruce Hagler asked if the January 21, 2016 Compliance Order Hearing was still on. Pam Sisk confirmed that it is still scheduled, and Pam will inform everyone via email if it is cancelled.

b. Burden of Proof

Joe updated the Board on the appeal process, where each appellant can appeal the panel's decision, and if they do, essentially a new trial begins where Joe will prosecute on behalf of the City, and his key witness becomes the Complainant because the violation is in many cases not actually witnessed by the City. Joe wanted to point out that the burden of proof can have ramifications in the appeal process with Superior Court.

c. Medical Marijuana Bills

Joe Speaker announced that the State of California passed three bills in October of 2015, and Roseville will be amending its ordinance to align more with the state's definitions. The laws influenced dispensaries, which in Roseville are not allowed, and cultivation, which is limited in Roseville. Roseville still has autonomy to regulate its local laws. Joe said the Board should be prepared for a possible uptick in citations, because some people may not realize that it doesn't change the local control that Roseville still has. Joe also mentioned a new part of the City's ordinance may include the regulation of deliveries.

Sean Wallentine said he is familiar with the legislation due to his work, and there is a clean-up bill to help push out the local deadline. He said the Board of Equalization is taxing growers, and they need a permit from the BOA, the majority of which do not have.

Leilani Fratis asked what the positions are of other cities in the surrounding area. Joe responded by saying Roseville is aligned with most cities in Placer County, with the exception of the County itself, who is more open to allowing dispensaries and cultivation.

d. Social Host Ordinance

Joe informed everyone about the Social Host Ordinance, which was approved by the City Council at a meeting in September of 2015. The idea originated from the City of Rocklin, and it is a tool for Roseville Police to utilize in situations where enforcement is not criminal, but administrative, and can help to deter underage drinking by assessing a fine against the organizer of the party. Dan Myers asked if this will impact businesses, and Joe said it would not. Bruce Hagler asked if

Police can still claim reimbursement of their services, and Joe replied they can. Joe said the fine for first offense is \$500.00, second offense is \$750.00 and third offense is \$1000.00. Joe said the Police Department is currently enforcing this ordinance, and issuing citations, which may lead to future appeals.

6. REPORTS/COMMENTS/QUESTIONS/SUGGESTIONS OF BOARD MEMBERS

Don Lounsbury stated that at the last appeal hearing, he was presented with a packet consisting of 32 pages. Don wanted to know if there could be a rule established in the procedures that all materials be submitted prior to the hearing so the Board has time to adequately review all of the materials submitted, and also to allow for an option that if materials could not be submitted with good reason, the panel could vote to accept new material if deemed relevant. Joe Speaker responded by saying during a hearing it is fitting for them to ask to take a moment to review anything they have been presented, and the reason we have audio and video submitted prior to meetings is to ensure nothing inappropriate is shown and that it works with our technology. Sean Wallentine agreed it would be helpful to get documents in advance of the meetings. Don stated appellants shouldn't be treated differently from staff. Bruce Hagler suggested limiting submittals to five pages. Joe said because this item was not listed on the agenda, they cannot vote, however he will evaluate if this is feasible. Don mentioned it would be good to require a certain font size. Joe said it is important that they keep the process simple, open and accessible to the public.

Pam Sisk announced that the City Council will be electing new Board Members for the open Board and Commission positions at the January 20, 2016 City Council meeting, and she will let everyone know who the new Board Member is when she becomes aware of the vote.

7. The next regular meeting will be held on July 20, 2016 at 4:00 p.m. in the Hutchinson Conference Room in the Civic Center.

8. ADJOURNMENT

Motion by Dan Myers, seconded by Don Lounsbury, that the meeting be adjourned.

AYES: Sean Wallentine, Sharon Telles, Brian Stenklyft, Don Lounsbury, Mark Elmquist, Dan Myers, Bruce Hagler, Leilani Fratis

NOES: none

The January 20, 2016 Semi-Annual meeting of the Board of Appeals was adjourned by Sharon Telles at 5:12 pm.

Pamela Sisk
Legal Clerk