



# Corpus Christi

1201 Leopard Street  
Corpus Christi, TX 78401  
cctexas.com

## Meeting Minutes

### Special City Council Meeting

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Tuesday, April 19, 2016

9:00 AM

Council Chambers

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#### Building Standards Board Appeals

**Public Notice - - THE USE OF CELLULAR PHONES AND SOUND ACTIVATED PAGERS ARE PROHIBITED IN THE CITY COUNCIL CHAMBERS DURING MEETINGS OF THE CITY COUNCIL.**

**A. Mayor Nelda Martinez to call the meeting to order.**

Mayor Pro Tem Rudy Garza called the meeting to order at 9:04 a.m.

**B. Invocation to be given by Pastor Kevin Jennings, Mt. Olive Lutheran Church.**

Pastor Kevin Jennings gave the invocation.

**C. Pledge of Allegiance to the Flag of the United States to be led by Valerie Gray, Executive Director of Public Works.**

Executive Director of Public Works Valerie Gray led the Pledge of Allegiance.

**D. City Secretary Rebecca Huerta to call the roll of the required Charter Officers.**

City Secretary Rebecca Huerta called the roll and verified that a quorum of the City Council and the required Charter Officers were present to conduct the meeting.

(Note: Council Member Magill arrived at 9:11 a.m.)

Charter Officers:

City Manager Ron Olson (arrived at 9:08 a.m.), Senior Assistant City Attorney Lisa Aguilar, and City Secretary Rebecca Huerta.

**Present** 7 - Mayor Nelda Martinez, Carolyn Vaughn, Mark Scott, Rudy Garza, Chad Magill, Brian Rosas, and Michael Hunter

**Absent** 2 - Colleen McIntyre, and Lucy Rubio

**E. Each Appeal will proceed using the following format:**

Senior Assistant City Attorney Lisa Aguilar provided an overview of the procedures for the Building Standards Board appeals as stated in the agenda. Senior Assistant City Attorney Aguilar explained the three options for Council Action: 1) To deny the appeal (upholding the decision of the Building Standards Board's decision); 2) To sustain the appeal (reversing the decision

of the Building Standards Board); or 3) To amend the decision of the Building Standards Board (in whole or in part).

**F. APPEALS OF DECISIONS OF THE BUILDING STANDARDS BOARD:**

**Oscar De Los Santos: 3769 Wilson Drive**

1. Consideration of an appeal filed by Oscar De Los Santos of the Building Standards Board's decision to require demolition of the residential and accessory structures on the property located at 3769 Wilson Drive.

Mayor Pro Tem Garza referred to Item 1. City Secretary Rebecca Huerta announced that Oscar De Los Santos sent an email yesterday requesting that the appeal hearing be reset because he is unable to travel to Corpus Christi due to bad weather conditions in the City of Houston. Assistant City Attorney Yvette Aguilar said that staff has no objection because the weather is beyond the appellant's control.

Mayor Martinez made a motion to reset the appeal filed by Oscar De Los Santos of the Building Standards Board's decision to require demolition of the residential and accessory structures on the property located at 3769 Wilson Drive to a future date, seconded by Council Member Hunter. This Motion was passed and approved with the following vote:

**Aye:** 6 - Mayor Martinez, Vaughn, Scott, Garza, Rosas, and Hunter

**Absent:** 3 - McIntyre, Rubio, and Magill

**Abstained:** 0

Enactment No: M2016-034

**Corpus Christi Note Acquisitions, LLC: 625 Gordon Street**

2. Consideration of a motion to approve or deny the Appellant's request for a reset

Mayor Pro Tem Garza referred to Item 2. Attorney Tim Dowling, representing Corpus Christi Note Acquisitions, LLC stated that the owner is requesting to reset the hearing for the following reasons: 1) the property is currently involved in litigation; 2) changes the City is considering to the current building code that states that if the property exceeds 50% of the value, the entire building be brought up to code. Mr. Dowling said that if the elimination of this code requirement is adopted, it would have a big effect of the rehabilitation of the property; and 3) the owner is not available to be physically present at the meeting, only through Skype. Mr. Dowling reiterated his request to reset the hearing to June to allow the owner to get the litigation resolved and see if the building code will change in May.

Assistant City Attorney Yvette Aguilar stated that as the Legal Advisor to the Code Enforcement Division of the Police Department, she is recommending rejecting the request to reset the appeal. Assistant City Attorney Aguilar stated the following reasons: there is no procedural requirement for the Appellant be

present at the appeal hearing; the Appellant has never personally appeared at any of the Building Standards Board's hearings previously held; the Appellant is represented by Counsel; the Appellant's Counsel was given the opportunity to provide available dates and the Appellant did not take advantage of this opportunity; the lis pendens litigation is irrelevant to the appeal; any changes to future codes are irrelevant; and further delays of this appeal will result in additional financial burden on the City.

Mr. Dowling argued that the lis pendens will need to be resolved in order for the owner of the property to secure a loan for repairs; the owner has a proven track record on previous properties; and the owner could not leave every Tuesday in April open and had a previous conflict.

Mayor Pro Tem Garza opened the public hearing. Ericha Kemm, 507 Ralston, spoke in support of denying the Appellant's request to reset the hearing. Ms. Kemm said the property has multiple violations and is a public health and safety issue. Mayor Pro Tem Garza closed the public hearing.

Mayor Martinez made a motion to deny the Appellant's request for a reset of the appeal filed on behalf of Corpus Christi Note Acquisitions, LLC of the Building Standards Board's decision to require demolition of the buildings and structures on property located at 625 Gordon Street, seconded by Council Member Rosas. This Motion to deny the Appellant's request for a reset was passed and approved with the following vote:

**Aye:** 7 - Mayor Martinez, Vaughn, Scott, Garza, Magill, Rosas, and Hunter

**Absent:** 2 - McIntyre, and Rubio

**Abstained:** 0

Enactment No: M2016-035

3. Consideration of an appeal filed on behalf of Corpus Christi Note Acquisitions, LLC of the Building Standards Board's decision to require demolition of the buildings and structures on property located at 625 Gordon Street.

Mayor Pro Tem Garza referred to Item 3. A majority of the City Council had no objections to the owner, Gen Shibayama, participating via Skype at today's meeting.

Code Enforcement Official Rebecca Pezzi presented a statement of facts for the property located at 625 Gordon including: the initial complaint from occupants and tenants about the living conditions in May 2014; the violations on the property including: high weeds, raw sewage, litter, solid waste, fire damage as a result of arson, heavy deterioration of the structure; signs of neglect indicating that the owner is not securing the property and maintaining the property; the property is an unattractive nuisance and vandalism and graffiti have occurred; the property is extremely dangerous and deemed substandard; the property is in close proximity to Ray High School and has become an attractive nuisance to children who might play near the structure, harbors vagrants, criminals or immoral persons. The representatives for the Appellant were informed that they would be provided an opportunity to make improvements and were required by the Building Standards Board (Board) to make an effort to secure and maintain the property. The City has tried to work

with the owner. At the Building Standards Board hearing on September 24, 2015, neither the owner nor any representatives appeared on behalf of the owner. The City was had to fill the pool, board up openings, maintain the grass and secure the fence, and conduct daily security checks by the Fire and Police Departments and as of this morning, the City has spent a total of \$24,944.50 abating this property. Staff recommends that the City Council uphold the Board's order to demolish. Police Commander David Blackmon stated that this case has been on-going for two years and is a health and safety issue to the community that should be resolved immediately.

Mr. Dowling said that there is no denying that there are problems with the property, the question today is whether the property is so bad that it needs to be demolished. Mr. Dowling provided information on how the owner, Gen Shibayama, acquired the property; the history of the problems with the property; and the owner's debt on the property. Mr. Dowling said the owner "took the high road" by evicting the tenants of the property instead of allow them to live in such conditions. Mr. Dowling referred to the Engineer's Report and stated that the report's findings indicate that, overall the building is structurally sound. Mr. Dowling provided an overview of the following: Mr. Shibayama's resume and extensive building experience, specifically in affordable housing; the lis pendens filings; the Nueces County Appraisal District property value detail; and responses to the raw sewage complaints and investigation report submitted by the Health Department. Gen Shibayama, via Skype, apologized for not being able to attend today's hearing. Mr. Shibayama stated that he has made a significant investment in the property and feels that the property at Gordon Street is structurally in good condition. He reported that because of the code enforcement issues, he did have the tenants evicted from the property. Mr. Shibayama said he is committed to rehabilitating the property to provide low income apartment housing. Mr. Dowling presented before and after photos of other projects that Mr. Shibayama has rehabilitated. Mr. Dowling stated that it would be manifestly unfair to demolish the property. Mr. Dowling stated that the owner is requesting the following action: that the owner report to the City staff, a status by June 6, 2016 (approximately 30 days after the expected ruling on the arbitration), and report every 90 days thereafter. If the City staff believe the owner is not making adequate progress to provide affordable housing, staff can bring back to the Building Standards Board that the property be demolished. Mr. Dowling stated for the record that his request for additional time was denied.

Mayor Pro Tem Garza opened the public hearing. Ericha Kemm, 507 Ralston, and Adam Chavarria, 617 Hoffman Street spoke in support of the Building Standards Board's decision to require demolition. Cass Gabriel spoke in support of Mr. Shibayama's ability to improve and rehabilitate the property to create affordable housing and requested that the City Council amend the Building Standards Board's decision to demolish and allow Mr. Shibayama more time. Mayor Pro Tem Garza closed the public hearing.

Assistant City Attorney Aguilar provided a packet of the applicable and relevant laws relating to the case. Assistant City Attorney Aguilar stated that the relevant laws provide the City Council with guidance in the arduous task of determining whether to uphold, reverse or modify the order of the Building Standards Board as it relates to the structures located at 625 Gordon Street. Assistant City Attorney Aguilar stated that the following are the facts of the appeal: the Appellant has not alleged and shown that the Board's decision is

erroneous; the Appellant has not alleged and shown that the Board's decision would cause undue hardship; and the Appellant has not alleged and shown that enforcement of the Board's order or any provision of the Code would be manifestly unjust and contrary to the public's interest. Assistant City Attorney Aguilar stated that this is a dangerous property, an unattractive nuisance and the public needs to be protected due to the lack of responsibility on the part of the owner. The City has given the owner every opportunity to take responsibility for the property and comply with the City's Codes and the owner has failed to properly maintain the property or pay property taxes. The property's condition has caused a tremendous strain on multiple departments in order to secure the health and safety of the citizens who come upon the building. Assistant City Attorney Aguilar stated that the basis of this appeal is purely financial and economic. The Appellant is trying to obtain necessary financing or locate a buyer for the property, demonstrating the true purpose of seeking this appeal that being to delay demolition and repairs because he cannot afford to properly care for this property.

Mr. Dowling responded that the owner does not intend to sell the property, he wants to rehabilitate it. The owner has made a reasonable effort by removing the tenants and placing a fence around the property. The property has not been rehabilitated because of the *lis pendes*. Mr. Dowling stated that the owner has a proven track record at other properties near this property, and it is in his best interest to rehabilitate to improve property values. Mr. Dowling requested that the City Council support the owner's request for additional time to rehabilitate this property.

Mayor Martinez made a motion to deny the appeal by approving the proposed resolution upholding the Building Standards Board's order to demolish the buildings and structures on the property located at 625 Gordon, seconded by Council Member Rosas. No action was taken on this motion.

Council members spoke regarding the following topics: the code violations at the property; the health and safety of the community; the owner's failure to pay taxes on the property and lack of attempt to reimburse the City for incurred costs.

City Secretary Rebecca Huerta stated that Assistant City Attorney Aguilar has presented an amended resolution. Assistant City Attorney Aguilar provided a brief overview of the amendments to the resolution.

Mayor Martinez made a motion to amend the resolution as presented by Assistant City Attorney Aguilar, seconded by Council Member Vaughn and passed unanimously.

Mayor Martinez made a motion to approve the resolution as amended, seconded by Council Member Rosas. This Resolution was passed as amended and approved with the following vote:

**Aye:** 7 - Mayor Martinez, Vaughn, Scott, Garza, Magill, Rosas, and Hunter

**Absent:** 2 - McIntyre, and Rubio

**Abstained:** 0

Enactment No: 030813

**G. Adjournment\***

The meeting was adjourned at 10:40 a.m.

**\*Meeting may be temporarily recessed and continued to any time on the date of the meeting.**