



STATE HISTORICAL BUILDING SAFETY BOARD

MINUTES of the REGULAR BOARD MEETING September 25, 2001

1. Call to Order.

Chair Dan Chudy calls the meeting to order at 10:20 a.m.

1.1 Roll Call.

Members Present

Dan Chudy, Chairman, California Building Officials
Alan Dryfuss, California Preservation Foundation
Ingrid Icasiano, Office of the State Fire Marshal
Gloria Scott, Department of Transportation
Norman Sorensen, Department of Housing and Community Development
Fred Turner, Alternate, California Seismic Commission
Bob Mackensen, California State Association of Counties
Roy Harthorn, California Building Contractors
Lauren Bricker, State Historical Resources Commission
Bill Batts, Office of Statewide Health Planning and Development
Loring Wylie - Structural Engineers Association of California
Joe Hall, California Chapter, American Planning Association
Richard Conrad, Alternate, Division of the State Architect

Staff Members

Thomas Winter, Executive Director, SHBSB
Barbara Bell, Staff Attorney, Department of General Services

Audience Members

Mark Akahoshi, Los Angeles City Fire Department
Hani Malki, Los Angeles City Fire Department
Mitzi March Mogul, Historian/Consultant, Max Factor Building
Donelle Dadigan, Max Factor Building Owner
Lambert Giessinger, Preservation Architect Consultant, Max Factor Building, Hollywood
Ron Bergeson, Department of Housing and Community Development
Kim Kirkpatrick, Office of the State Fire Marshal
Michael Richwine, Office of the State Fire Marshal
Bill Carmack, Office of the State Fire Marshal

Dan Chudy states for the record that there is a quorum.

2. Minutes

- 2.1 “And” changed to “or” on Item 4 of the new transcribed minutes (in regards to the requirement in the motion for a “fire watch” or “early detection system”) to reflect the motion for the Decision of the Appeal of the Max Factor Building in February 13, 2001 meeting minutes. The new transcription from the meeting tape, having been only handed out at this meeting, will be held to the next meeting for approval. Joe Hall made a motion to defer the approval of Item 4 until the next meeting. Dan Chudy seconded the motion. None opposed. Motion passed unanimously.
- 2.2 Typo (sentence beginning with Max Factor Building Appeal.) Item 5 of May 17 meeting minutes will be deleted. This item should reference the meeting minutes of Item 4 of the February 13, 2001 meeting for review.

Minutes from May 17, 2001 meeting were approved as modified.

3. Old Business

- 3.1 Max Factor Building – State Fire Marshal, SHBSB Member, Request to review the Feb. 13, 2001 Decision of the SHBSB

The Chair begins by saying there has been discussion with the State Fire Marshal culminating in a letter from the SFM Office included in the handouts. He continues to say the board has heard discussion on this item at earlier meetings including comments from the Los Angeles City Fire Department, relative to the boards ruling on the case.

The board will hear more discussion on the item but must present the discussion appropriately. SHBSB staff legal counsel is present and will advise us on protocol.

Barbara Bell, Staff Attorney, Office of Legal Services, Department of General Services, spoke on how the SHBSB can “open” the discussion on a completed and filed decision. There are three functions of the SHBSB.

1. Consultant Role
2. Review Body
3. Appeal Function

Barbara Bell speaks to the Board on what the Health & Safety Code provides.

An appeal has already occurred and a decision has already been rendered and filed with the Building Standards Commission. Neither the Health & Safety Code nor the regulations that the board operates under speak to the issue of opening an appeal for reconsideration. In that instance what the Board needs to do is to go back to the Administrative Law Act. That Act governs reconsideration of appeals and talks about the timelines for doing this. That is a 30-day time period and that period has expired. That being said, it doesn’t mean that there isn’t an independent appeal right where the individual and or free agent can resurrect this entire issue.

The key that needs to be focused on is whether or not there is an issue of statewide significance that would compel this board to revisit whether or not another appeal is merited. It is staff counsels understanding that there is an issue of potential new information. If that is the

case, then this board needs to correlatively consider whether or not that new information merits a new appeal based on an issue of statewide significance.

The board also has a review function. The Health & Safety Code elaborates on that role using language like interpretation, administration, and enforcement of all the regulations and the statutes that govern the board. It is staff counsel opinion that the review function is more likely what this board may do with the information that may be gleaned today. The board has to actually address this statewide significance issue and whether or not this is a review or appeal. I will help you, guide you, in that arena, but today the SHBSB should take in information and make a decision on what is the best route to follow.

The board also serves as a consultant but if you look at the code it is more of a correctional mechanism to guide agencies in how to interpret and to apply the regulations.

Barbara Bell reads directly from the Health & Safety Code, Section 18961. "All state agencies which enforce and administer approvals, variances, or appeals procedures or decisions ... shall consult with the State Historical Building Safety Board to obtain its review ...".

Barbara interprets that section to require any state agency that would make decisions based on appeals to solicit the review of the board.

The Chairman suggests that an orderly discussion commence from the parties attending, the State Fire Marshal's Office, the Los Angeles City Fire Department and board members and the public (owner and representatives).

The discussion shall examine the merits for re-examination of the Max Factor Appeal.

Ingrid (SFM) makes a motion that the board re-evaluate all information that was heard and review the Max Factor Decision.

SHBSB staff questions whether we can make a motion, Chair indicates he believes we can and requests comments from staff counsel who indicates we can proceed with this discussion.

The Chairman notes there is a motion on the floor, there being no second the chair asks for comments from the public and that after those comments public input will be closed.

Lambert G. reminds the board that the use of the building and the occupancy was discussed in detail at other meetings. Chair doesn't remember if the occupancy was per floor. Alan Dreyfuss describes the character of the use as being below the 299 total occupancy on a regular basis. Some events would exceed the smaller "regular" occupancy, some events would exceed the regular occupancy and an upper limit on the occupancy was set at 299. Alan is clear that the 299 was not to be the occupancy on a regular basis.

Donelle Dadigan states that the building has 7000 sq. ft. per floor and that 299 per floor was less than allowable by floor area, but it was thought to be a number that would be acceptable to the LAFD.

Bill Carmack, SFM requested review because of a significant change in facts in the project. Past practice in use of the building as a museum on the first floor. Concern is that providing

exactly 299 at the junction of A-2.1 and A-3 occupancies leaves the people on the 3rd and 4th floors with no reasonable level of fire safety for exiting. This is the condition to be considered.

Donelle elaborates on the buildings numerous fire safety features.

Mitzi Mogel: it has been clear from the start that the building was going to have 299 occupants per floor. That the use of the 4th floor for seminars, lectures, museum opening receptions... to be used in the normal course of museum events, would not be every day, nor week. It could be 6 times in one month and nothing for 2 months.

Chairman closes public comments and opens board comments. Back to Ingrid's motion for restatement.

Ingrid: Move that the SHBSB reconsider the information presented to open a re-review of the appeal of the Max Factor Decision.

Loring Wyllie: Second for discussion purposes.

Bob Mackensen, questions what the difference is between a reconsideration and a review and how the board can do either.

B. Bell, under 18961 all state agencies that enforce appeals and administer, as there has been, to the extent that a state agency is not acting on this appeal decision, this "review" falls under that umbrella. She also answers a question of what does the review do legally? It would be another piece of material to be considered if the case were then to be ruled upon by a judicial body. She has no stated opinion on which, appeal or review, would carry more legal "weight".

Another comment by ?? suggests that the February Decision has several parts. Only one part is being "challenged" and the rest would "stand".

Chair, question to owner: During the occasional events, What will be the total building occupancy loading expected? The Chair states that this could be new information for him, perhaps no one else.

Donelle, the building has 35,000 sq. ft. and expects that there would be 299 per floor except for the first and second floors where the building layout precludes such occupancy levels. She expects that the entire building could have about 750 occupants.

Additional discussion takes place on the question of whether new information has come to light or not.

Voting takes place on whether to provide a review of the Max Factor Appeal Decision. The motion fails.

Alan Dryfuss suggests that the Los Angeles City Fire Department work with the owners of the Max Factor building to get a Certificate of Occupancy issued.

The Chairman says the board has denied the SFM member's motion. The board has made a ruling and it is now up to the owner and the City of Los Angeles to work items out.

3.1. Updates on ongoing project workload - Thomas Winter

The Benbow Inn went to consultation with Tom and the building official in Humboldt County. After discussion, it was decided the building official lacked experience on this kind of issue so he decided they (county) would hire an outside consultant to do the plan checking, which they did. The outside consultant in conjunction with the architect has come up with resolution of all the major issues that were presented. They are now processing through environmental issues. The project should be getting into drawings shortly. It is a success story. The outside consultant was excellent and actually came up with the ultimate solution to the issues. This project will not come to the board.

Staff has attached a reading file of SHBSB correspondence, etc., and every board member should have received a package. He suggested the members take a look at the documents and make any comments to him.

4. New Business

4.1 Stephen Castellanos was not able to attend to speak on SHBSB funding and interaction between building code board and state school seismic checking using the historic building code. Staff gives a short report of funding

4.2 DSA service for historic preservation of historical school buildings.

DSA and SHBSB are initiating a program and policy to facilitate plan check of historic schools using the SHBC/CHBC. Initial training – Dennis Bellet, Chief of Structural Policy and Technical Services, DSA, along with SHBSB staff and members will work on this project.

4.3 Strategic Plan

Strategic Plan Committee – need to fill this position. To look at Mission of the Board. Appeals have fallen off. Richard Conrad volunteers as 4th member on Strategic Plan Committee.

4.4 CHBC Update. Rulemaking process needs to begin now. SBHSB to notify public of hearings. Fred Turner remarks there is a deadline for submitting code change submittals to International existing building code.

Richard Conrad makes a motion the board establishes a Standing Committee for submitting code change submittals. Loring Wylie seconds it. Bob Mackensen mentions qualified San Francisco houses to become classified as historic (through code change). The motion is discussed, seconded, and approved. The Chairman would like a Standing Committee of three board members. Roy Harthorn, Richard Conrad, and Lauren Bricker volunteer.

4.5 Nomination of Officers – December 6?

Joe Hall will take the nominations for Chair and Vice Chair, - there are no term limits.

5. Next Meeting

5.1 December 6, Sacramento

6. Adjourn

Adjournment of meeting was called by Dan Chudy, Chairman, at 12:17 p.m.

Minutes transcribed from audio tape and notes by Mary Ainsleigh, Assistant to the Chief, Office of Universal Design, Division of the State Architect, and support staff to the State Historical Building Safety Board.