

SAN FRANCISCO BAY CONSERVATION  
AND DEVELOPMENT COMMISSION

ENFORCEMENT COMMITTEE MEETING  
PARTIAL TRANSCRIPT - ITEM 8

BAY AREA METRO CENTER  
BOARD ROOM, FIRST FLOOR  
375 BEALE STREET  
SAN FRANCISCO, CALIFORNIA

THURSDAY, MARCH 12, 2020  
9:30 A.M.

Reported by: John Cota

A P P E A R A N C E SEnforcement Committee

Greg Scharff, Chair

Marie Gilmore

John Vasquez

Counsel to the Committee

Shari Posner, Deputy Attorney General  
Office of the Attorney General

BCDC Staff

Karen Donovan, Enforcement Attorney

Steve Goldbeck, Chief Deputy Director

Brad McCrea, Regulatory Director

Priscilla Njuguna, Enforcement Manager

Schuyler Olsson, Enforcement Analyst

Respondent

Joe DeVries  
City of Oakland

Public Speakers

Brock de Lappe  
Oakland Marina

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P R O C E E D I N G S

1  
2 MS. NJUGUNA: The next item on the agenda is the public  
3 hearing and vote on the recommended enforcement decision for  
4 Union Point Park.

5 MS. DONOVAN: So as we have stated, this is enforcement  
6 action against the city of Oakland related to the situation  
7 at Union Point Park. I am going to hand it over to Schuyler  
8 to give you the details. Just a couple of things to note  
9 though is that we are seeking relief only against the City  
10 and seeking only injunctive relief here; and that is to  
11 ensure that the park is restored in accordance with the  
12 permit requirements and that the area is cleaned up. And  
13 this is carrying out some of the direction that you provided  
14 at our last meeting on this issue. And with that I am going  
15 to hand it over to Schuyler.

16 MR. OLSSON: Good morning, Commissioners. So I am  
17 going to -- this is a brief outline of the presentation. So  
18 I will walk you through the nature of the violations, the  
19 measures to resolve the violations, the Proposed Order and  
20 the staff recommendation.

21 So first I will start with a brief timeline of the  
22 case.

23 So in 2004 BCDC issued permit number M2003.028.00 for  
24 the City of Oakland and the Unity Council; and that's for  
25 the construction -- that was for the construction of Union

1 Point Park. And that is the larger area that you see in the  
2 map highlighted in dark blue here. This was the result of  
3 the collective efforts of a broad range of community groups,  
4 agencies and individuals including the Unity Council, that's  
5 a local nonprofit, the Trust for Public Lands, BCDC, the  
6 Association of Bay Area Governments and the Bay Trail, the  
7 State Coastal Conservancy, the City of Oakland and the Port  
8 of Oakland.

9 The park is situated along the Oakland estuary across  
10 from Coast Guard Island on a former industrial site and it's  
11 located on trust lands held by the Port of Oakland and  
12 leased back to the City. And this is a long-term lease  
13 which obligates the City to maintain the site long-term.  
14 The park includes children's play structures with a marine  
15 theme, expansive lawns and gardens and a number of  
16 amenities. It also includes the Bay Trail that runs along  
17 on the Bay side of the park.

18 Then in 2010 BCDC issued another permit, number  
19 M2008.030.00. And that was for the City of Oakland and the  
20 Port of Oakland and that was for the red site that you see;  
21 that's called the Cryer Site Park. And these were issued as  
22 separate permits because they were, obviously, six years  
23 apart. And so the park was built in phases, but for all  
24 intents and purposes the City of Oakland considers this to  
25 be just two parts of the larger Union Point Park. So they

1 consider the whole thing to be Union Point Park and we take  
2 the same approach in the Order and in our discussions today.

3 So both permits have various public access requirements  
4 from BCDC and among those they each require the designation  
5 of public access areas made available exclusively to the  
6 public. In the case of the larger park in dark blue there  
7 that area is 145,000 square feet; and in the case of the  
8 Cryer Site Park, the red one, that's approximately 40,000  
9 square feet.

10 Both parks require improvements within the public  
11 access area so that includes the things you're used to, so  
12 landscaping, benches, signage, picnic tables, et cetera.

13 And of course both permits require the maintenance of  
14 the public access area improvements in perpetuity by the  
15 permittees or their assignees or signees.

16 And to BCDC's knowledge the parks were built to the  
17 requirements initially with support from multiple agencies  
18 and organizations.

19 Here you have two photos of what the park looked like  
20 in 2005 when it was first built. So as you can see the park  
21 was beautiful, in great shape and it was being actively used  
22 by the public for its intended purpose.

23 CHAIR SCHARFF: What time frame are those photos?

24 MR. OLSSON: 2005.

25 CHAIR SCHARFF: 2005.

1 MR. OLSSON: However, in the past couple of years the  
2 park situation has seriously degraded. So in March 2018  
3 BCDC received their initial report of encampments and  
4 violence on Union Point Park. Now we have later learned  
5 that there were some encampments before that, however, this  
6 was when BCDC was first made aware of the encampments. The  
7 reports came from the harbor master of Union Point Marina,  
8 who is here today and will talk on public comment, but the  
9 reports were accompanied by reports of vandalism and threats  
10 to tenants of the neighboring Union Point Marina and active  
11 arson at the marina's shower facility. And you can see on  
12 the top right a photo of one of the initial encampments that  
13 were reported in Union Point Park.

14 Then in June of 2018 we also received report of  
15 encampments in the Cryer Site Park portion of the park, that  
16 northern section, and then also the adjacent beach area.

17 And Commissioners, that reminds me, I forgot to mention  
18 one thing, I'm going to go back. You will see at the top of  
19 the slides an area in green which is the Beach Area that we  
20 are calling and it's on City-owned land. And the reason we  
21 are calling it out separately is because violations also  
22 occurred on that land, however it is not subject to either  
23 of the permits that are discussed here. So it is separate  
24 from that but we grouped it into the same Cease and Desist  
25 Order due to the close proximity and the related nature of

1 the violations.

2 So back to this slide. So in May and June of 2018 the  
3 City of Oakland actually conducted cleanup operations in the  
4 park, I believe in the southern portion and the middle  
5 portion of the park. But encampments did return and a lot  
6 of them started to move to the northern portion of the park,  
7 which is that Cryer Site Park site.

8 And so in July of 2018 BCDC made their first contacts  
9 to the City of Oakland regarding the issue. I personally  
10 spoke with a couple of different members in the Parks and  
11 Recreation Department. They had told me that the City had  
12 cleaned up the park 18 to 19 times already. That they were  
13 often unable to do maintenance in the park due to threats to  
14 park workers from some of the inhabitants of the park. They  
15 told me that park rangers had existed in the park five or  
16 six years prior but that those rangers were no longer  
17 operating in the park. And they told me that they have an  
18 encampment management team that was working to address --  
19 it's kind of a cross-department team in the City of Oakland  
20 that was working to address encampments in Union Point Park  
21 as well as other parts of the City.

22 Then from August 2018 through January 2019 we continued  
23 to receive multiple complaints from the public. The  
24 complaints included things like accumulated trash and  
25 debris, damaged or poorly maintained amenities, dumping of

1 wastes, drug use, graffiti, prostitution, rats, vandalism.  
2 It was very clear from these reports that the public did not  
3 feel safe using the parks, they did not feel safe taking  
4 their children there.

5 In January of 2019 there was a fire that occurred in  
6 one of the encampments and in the top right photo there you  
7 can see the remnants of that fire. Also in that month the  
8 park received a score of F from the Oakland Parks and  
9 Recreation Foundation. An F is the lowest possible score a  
10 park can receive.

11 There also started to be reports of an RV camp in the  
12 southern portion of the parking lot, which you see here in  
13 the bottom right, and the RV camp continued to grow.

14 So in February of 2019 BCDC, the Bay Trail and the  
15 Coastal Conservancy sent a joint letter to the City, the  
16 Unity Council and the Port of Oakland expressing our  
17 concerns with the situation and asking the City what were  
18 their plans to address it. Now, the reason the Bay Trail  
19 and Coastal Conservancy also prepared the letter was because  
20 they provided funding for the park as well and they have  
21 maintenance -- the Coastal Conservancy grants have  
22 maintenance requirements as well.

23 We very promptly received a response from City of  
24 Oakland staff, Joe DeVries who is here today and will  
25 present, and he told me that the City is aware of the

1 concerns, that they are working to address these through the  
2 encampment management team. He knew that more needed to be  
3 done and that they were looking at emergency shelter  
4 measures to start to address, you know, to move some of the  
5 citizens from the park to those emergency shelters.

6 Then in March 2019 the City was planning to do a large-  
7 scale cleanup operation. However, a group of individuals  
8 filed a temporary restraining order.

9 And then in April 2019 that went to federal court in  
10 San Francisco, I think after going in Oakland, and the judge  
11 in San Francisco enjoined the City cleanup efforts for a  
12 number of months.

13 And so from May to August of 2019 we continued to  
14 receive complaints from the public. A lot of them were the  
15 same things I talked about earlier. However, of note in  
16 June of 2019 there was a report that a seven year old boy  
17 was accidentally shot in the park, so that was quite shocking  
18 and gave more urgency to the issue.

19 Then in August 2019 the injunction was lifted. The  
20 City conducted a clean and clear operation and they declared  
21 formal closure in the parking lot areas and those  
22 encampments; however, tents and inhabitants did remain quite  
23 substantially in the park.

24 And now I'm going to discuss a bit about the past  
25 Enforcement Committee meetings and our negotiations with the

1 City of Oakland.

2 So as you may remember, in July and October of 2019  
3 staff briefed you on the situation at those Enforcement  
4 Committee meetings and in October the City of Oakland made a  
5 presentation about the work that they were doing. Now at  
6 that meeting you asked the City of Oakland to come back in  
7 November with their plan for addressing the situation and  
8 you directed staff to begin working on a Cease and Desist  
9 Order.

10 So then in November of 2019 the City did present their  
11 draft Encampment Closure and Park Restoration Plan and you  
12 Committee Members were essentially on board with the plan,  
13 as staff was. And you directed staff to issue two violation  
14 reports, one for each permit, and again, to keep working on  
15 that Cease and Desist Order with the City.

16 In December of 2019 we did issue two violation reports,  
17 one for each permit, which I'll talk about later.

18 And then really starting in October and continuing  
19 through February of 2019 BCDC and City of Oakland staff met  
20 multiple times, both in person and on the phone, to  
21 negotiate terms of the -- to negotiate the City's plan and  
22 also to negotiate terms of the Proposed Order, which I'll  
23 discuss today. And through these negotiations we have  
24 developed an order with a set of measures that the City  
25 agrees can and should be implemented, therefore, the terms

1 of the order are not contested by the City and we'll talk  
2 about that shortly.

3 Now before talking about the violation report's  
4 issuance I want to show you what the site conditions looked  
5 like prior to the issuance of the reports. So I conducted a  
6 site visit in November of 2019, took many photos. And as  
7 you will see from these photos it is very clear why the  
8 members of the public would not use, would not feel safe  
9 using the park.

10 So these two photos are photos of encampments in the  
11 northern section of the park, the Cryer Site Park portion of  
12 the park.

13 Here are additional encampments in the middle portion  
14 and the northern portion of the park. And obviously you can  
15 see vehicles there as well.

16 Here are additional photos of the encampments in the  
17 park. The one on the left, there's actually supposed to be  
18 a picnic table there and that picnic table was burned to the  
19 ground there or somewhere in the close vicinity.

20 Here you see piles of trash and additional encampments  
21 and vehicles in the central portion of the park.

22 Here you see degraded park amenities, so you see  
23 benches that are degraded. And on the right you see a site  
24 where a bike rack is supposed to be but the bike rack is  
25 missing, there is also a dead tree.

1 Here you see degraded landscaping, both in the central  
2 part of the park and the northern part of the park. It is  
3 basically just dead, you know, vegetation and dirt.

4 And here you see overgrown vegetation, both around the  
5 trash can and the bench. One second.

6 So next I'm going to walk you through the violation  
7 reports that were issued.

8 The first one was for the City of Oakland and the Unity  
9 Council for that larger portion of the park. We alleged  
10 three violations:

11 The first one is the failure to make the designated  
12 area available exclusively to the public, which is a permit  
13 requirement, as I stated before. And as you can see from  
14 the photos that I shared and the reports from the public,  
15 while it may have been physically possible to access certain  
16 portions of the park the public did not feel safe doing so.  
17 And certain portions of the park were completely blocked off  
18 to the public by the presence of the encampments so we feel  
19 that this condition was not being met.

20 Secondly, they failed to maintain the required public  
21 access area improvements, and I think that much is clear  
22 from the photos.

23 And then also failure to provide all required  
24 improvements. And we are differentiating this between this  
25 and the maintenance because some of the improvements were

1 missing entirely. So this includes missing public access  
2 signage, missing picnic tables and missing bicycle rack.  
3 Now I should state that it's, you know, it's possible that  
4 there are other amenities missing but I was not physically  
5 able to assess those due to the presence of encampments.

6 Next we issued a violation report for the other permit,  
7 so the City of Oakland and the Port of Oakland for that  
8 northern section.

9 The first three violations are pretty much the same in  
10 nature so I won't discuss those. However, I'll discuss the  
11 last one, unauthorized fill in the Commission's Shoreline  
12 Band jurisdiction, consisting of unauthorized encampments  
13 and associated debris. And that is in that beach area, that  
14 green beach area at the very northern section of the map  
15 that I showed you before. And again, we just distinguished  
16 it because it is not in the areas designated by either of  
17 the two permits.

18 Now quickly before I discuss what the order entails  
19 Karen wanted to briefly discuss the responses that we got to  
20 the violation reports from the permittees.

21 MS. DONOVAN: So we did receive statements of defense  
22 from the City of Oakland and actually from the Port of  
23 Oakland who had received one of the violation reports  
24 because they are the underlying landowner.

25 Now what I wanted to emphasize here though is that the

1 City does not contest the basic facts and allegations  
2 asserted and that form the basis of the Cease and Desist  
3 Order that we are recommending that you adopt. The City has  
4 acknowledged that there are serious maintenance issues in  
5 the park. And as Schuyler has described, we have spent a  
6 significant amount of time negotiating the terms of this  
7 order so that we could all be assured that the City is both  
8 willing and able to carry forward the measures.

9 Now with regard to the statements of defense that we  
10 received from the Port of Oakland. The Port of Oakland is  
11 not named in the Cease and Desist Order and thus we did not  
12 choose in the materials we provided you to address those in  
13 any -- to any extent. Now a lot of the defenses that were  
14 asserted by the Port of Oakland also would apply primarily  
15 if we had been seeking civil penalties. And as I stated at  
16 the outset, we are seeking injunctive relief here only and  
17 the Cease and Desist Order will apply only to the City.

18 Now with that Schuyler is going to summarize the  
19 provisions in it.

20 MR. OLSSON: And before I do I just wanted to stress  
21 that, you know, the City, in their statements of defense the  
22 City did talk a lot about the magnitude of the homelessness  
23 crisis that they're facing and the challenges of addressing  
24 that. And we do understand that situation and that's one of  
25 the reasons why there are no penalties associated with this

1 one.

2 So now I am going to share with you a summary of the  
3 key conditions of the order.

4 The order requires the City to implement the measures  
5 described in the City's own Encampment Closure and Park  
6 Restoration Plan, a draft of which was presented to the  
7 Committee in November of last year. That plan is referenced  
8 in the order and has been further refined and negotiated  
9 over the past few months to develop additional detail and  
10 concrete deadlines and to ensure that the proposed  
11 resolutions will be implemented in a timely manner.

12 The key point to understand about this order is that we  
13 feel it presents a humane, achievable solution to the very  
14 difficult and sensitive issue of homelessness at Union Point  
15 Park, ensuring both that current park residents are  
16 transitioned to safer housing situations and that the park  
17 is ultimately restored and returned to the public for its  
18 intended use.

19 Now the first step in the order is the establishment of  
20 a temporary reprieve zone. As you can see that, the order  
21 requires that to be done by January 31st, which is in the  
22 past. And as seen in the photos below, the zone has already  
23 been established and the City also conducted a cleanup of  
24 surrounding areas, though additional work is needed to fully  
25 clear that beach of unauthorized materials.

1           And the purpose of the reprieve zone is the following:  
2       So previously as you saw in the photos there were  
3       encampments all over the park, which was a very unmanageable  
4       situation. Then in the end of January the City created a  
5       special cordoned-off zone in the northern Cryer Site portion  
6       of the park, which is -- and that zone is defined in their  
7       plan that's attached to the order. Then after proper  
8       noticing the City informed inhabitants of the park that they  
9       could either move into the reprieve zone if they wished to  
10      remain living in the park or they could move to a location  
11      outside the premises of the park and nearby beach area.

12           Now to BCDC's understanding, when that zone was created  
13      and inhabitants were moved into it there was little to no  
14      resistance from park residents or advocacy groups and at  
15      least one resident interviewed in the media was grateful for  
16      what the City had done. Because as required in the proposed  
17      order the City is providing portable toilets, weekly garbage  
18      pickup, wash stations. They also just cleared a whole bunch  
19      of debris and cleaned up the site.

20           Now equally important, they are working with a local  
21      partner to provide social services to the residents and  
22      transitioning them to alternative safer housing situations,  
23      which is a key part of the order. Because as I'll emphasize  
24      in the next slide, this zone is temporary in nature. So the  
25      advantage of this zone is that it makes the situation more

1 manageable, it provides immediate benefits to the park  
2 residents while they transition to safer and better  
3 situations, and it allows the City to begin restoring the  
4 park for general use by the public.

5       So the next step of the order is that by May 1st, after  
6 transitioning all remaining individuals to alternative  
7 housing, the City is required to close the reprieve zone,  
8 clean up the area and remove any temporary amenities. And  
9 at that time the park would again be fully open to the  
10 public, though not all amenities will have been restored at  
11 that point.

12       Then starting immediately upon creation of the reprieve  
13 zone and on an ongoing basis thereafter the City is required  
14 to conduct regular patrols of the park and prevent the  
15 establishment of new encampments.

16       And then on April 15th the City is required to submit a  
17 formal encampment prevention plan and that will include  
18 regular patrols of the park and beach area. The protocols  
19 for identifying and responding to persons or vehicles  
20 remaining in the park overnight. So it's not that -- you  
21 know, there might be some people that pop up here and there  
22 overnight and they will need to be addressed by the City.

23       They will be required to clearly post and maintain a  
24 reporting phone number so people can report new issues  
25 easily to the City; and other measures as deemed necessary.

1 Now the reason this part is very important is because as I  
2 mentioned in the past there have been cleanup efforts  
3 before, however, those encampments did ultimately return.  
4 And so BCDC is really emphasizing, you know, preventing  
5 further encampments in the future.

6 Next, they are required to submit by April 15th their  
7 initial thoughts on how they would like to think about  
8 reactivating the park. And what we mean here is that as you  
9 saw from the first photos, the park was actively used in the  
10 past by the public, but in the past couple years the public  
11 has not be able to safely use the area. And so once the  
12 encampments are cleared, you know, it's going to take  
13 some -- it's going to take some intentional efforts by the  
14 City, including special events, to attract users back to the  
15 park. And this will have benefits for the public and it  
16 will also discourage the establishment of new encampments in  
17 the park. And they won't be hosting events by April 15th,  
18 they're just sharing their initial thoughts on what they  
19 want to do going forward.

20 Next the order requires some near-term restoration  
21 measures. So this includes temporary safety lighting in the  
22 parking lots, installation of a missing bike rack and  
23 signage and this is due by April 15th of 2020. Now we got  
24 word yesterday that lighting was restored in the parking lot  
25 so that's a positive development.

1           And these are sort of the lower hanging fruits that the  
2 City can do quickly but also in the case of lighting it's a  
3 critical safety measure so that the park can be used,  
4 especially by the tenants of the neighboring Union Point  
5 Marina.

6           Next the City was going to be conducting a needs  
7 assessment by June 30th of 2020. Now this is actually --  
8 and this is for a full restoration of the park. And this is  
9 an internal document, it's for inclusion in the City's mid-  
10 cycle budget process. So although it's an internal  
11 deliverable it will also be submitted to BCDC because some  
12 of the larger park restoration efforts will be dependent on  
13 additional funding and will need to go through a formal  
14 approval and procurement process.

15           Then by August 31st, 2020 the City will be submitting  
16 to BCDC its, you know, based on this needs assessment, its  
17 long-term plans for restoring and for maintaining the park  
18 fully. You know, the restoration plan may include a  
19 permanent amendment request or plan review request if the  
20 City wishes to change the design, you know, because it was  
21 first designed 20 years ago and times change and thoughts  
22 change, so as they are going to restore it they might wish  
23 to make changes to it.

24           The City will be required to submit progress reports on  
25 an ongoing basis as they complete achievements as outlined

1 in the restoration plan.

2 Then by December 31st, 2021 the park is required to be  
3 completely restored to a condition that is compliant with  
4 the permits as they may be amended at that time.

5 And finally, the order includes provisions for  
6 extension of time. And that defines what provisions can be  
7 extended and the notice and actions required to extend those  
8 requirements.

9 Finally I'll share with you our staff recommendation.  
10 So we recommend that the Enforcement Committee adopt the  
11 proposed Cease and Desist Order requiring the City of  
12 Oakland to undertake the measures necessary to clear the  
13 park of unauthorized encampments and restore it to its  
14 intended use.

15 Adopting this Order will also require the City to  
16 maintain the park in conformance with the special conditions  
17 in the permits.

18 And with that I believe we are going to let the City of  
19 Oakland present and then there will be a public comment  
20 period.

21 COMMITTEE MEMBER GILMORE: Just a couple of comments  
22 before the Oakland representative speaks. I want to thank  
23 both staff and the City of Oakland for working together  
24 very, very cooperatively, that is much appreciated. The  
25 other thing I want to say to staff is I am very happy that

1 the Proposed Order does not include civil penalties. And  
2 I'm speaking for myself because I feel very uncomfortable  
3 when one public agency tries to -- attempts to fine another  
4 public agency. And so I appreciate that and I appreciate it  
5 in the spirit of working cooperatively.

6 And I have one comment for the City of -- or actually  
7 it's a question for the City of Oakland representative. I  
8 am very curious and I'll sure you'll tell us how the parks  
9 measure fared on the ballot. Because the last time I  
10 checked it was passing by 66.9 percent but I don't know if  
11 all the precincts were in and if the results had been  
12 certified, so I am really looking forward to an update on  
13 that. And also if it did pass, how it affects your plans  
14 going forward? So thank you.

15 MR. DEVRIES: Sure. Good morning, Joe DeVries from the  
16 City Administrator's office, thanks for having me again  
17 today.

18 It's bouncing between 66.8 and 66.9. I don't think all  
19 the ballots have been counted. We are really just, yeah,  
20 exactly, it couldn't be closer. Certainly if it passes it  
21 provides more maintenance resources for our parks as well as  
22 more money for our homeless program, so we are really --  
23 it's not a huge pot of money but everything, everything  
24 helps at this point, so we are really hoping that, that we  
25 lock that in.

1           You know, in regard to the effort. I think Schuyler  
2 and your staff have really captured it really well. I think  
3 we have had a lot of face time, a lot of phone time  
4 together. I think I might ask my children to name a  
5 grandchild Schuyler because I've gotten to know him so well.  
6 Really, this park and encampment has gotten a lot of  
7 regulatory attention.

8           What I will say is that the creation of the reprieve  
9 zone went fairly well. It was a huge operation. We took  
10 away a lot of garbage. We didn't realize the extent of how  
11 bad things were down on the beach. There are two abandoned  
12 boats down there that we've got our OPD boat unit now  
13 working on, and as you know that's its own completely  
14 different process.

15           It's sad and I just -- it was in my annual -- my  
16 monthly report. There was a homicide north of the park  
17 recently. While our officers were actually patrolling to  
18 make sure no one was outside the reprieve zone they were  
19 flagged down by witnesses and we were able to provide  
20 assistance but, of course, the victim had already passed.

21           The other thing I'll say, in the past couple of weeks  
22 we have seen some people set up tents outside the reprieve  
23 zone and we have a two-step approach to deal with that.  
24 First is immediate enforcement just to have the police go  
25 out and engage them, which is dicey at best. What we have

1 learned with OPD and the incredible scrutiny that they're  
2 under around their use of force policy that they are very  
3 cautious when engaging people whose violation is barely a  
4 misdemeanor. It's very hard for them to use force to get  
5 people to move.

6 They are going to -- they are out engaging people to  
7 ask them to move back into the reprieve zone. If that  
8 doesn't work we did have an operation scheduled for next  
9 week where we would bring in the whole public works crew and  
10 at that point what you do is you threaten to bag and tag  
11 people's belongings and take it away if they don't move, and  
12 that is usually more effective.

13 I have to inform you that last night around 5:30 our  
14 encampment management team decided to shift our operations  
15 based on the COVID-19 virus and we have one major public  
16 safety cleanup we have to do under the BART tracks next  
17 week. After that week-to-week we'll be checking but we are  
18 shifting all encampment management to garbage removal only.

19 So we are going to postpone any closures or clearings  
20 based on public health recommendations and our own staff  
21 safety and to expand the number of encampments where we're  
22 picking up garbage citywide. In the past 72 hours we have  
23 doubled the number of encampments where we are providing  
24 port-a-potties, hand-washing stations, we are adding hand  
25 sanitizer at all of those 40 sites. This is a shift that is

1 obviously very fluid and changing every day but we are still  
2 committed to the plan, but there may be some adjustments.

3       The advice we got when I was on the call with the nine  
4 county region on homelessness was, moving encampments is a  
5 bad idea right now based on the potential spread of virus  
6 and so we're trying to heed that warning. We are still  
7 sticking to our policies but it's a day by day judgment  
8 call.

9       I'm excited that we were able to get the lights  
10 restored faster than we thought and cheaper than we thought  
11 as far as the parking lot lights. They're on 24/7 because  
12 we wired them quickly. But in the long-term, you know, it  
13 will be, they'll come on at night only.

14       And as far as the park amenities, things like the park  
15 benches and the picnic tables, we think we're actually going  
16 to get those put in rather soon. Once the full closure  
17 takes place we're comfortable putting in -- putting those  
18 amenities back without having to go through a long capital  
19 improvement project. So after we got kind of down into the  
20 details we realized that we could -- most of the restoration  
21 of the items that were in the permit we could put back  
22 pretty quickly. I think the bigger picture of fixing the  
23 water system to fix the irrigation, the major lighting fix,  
24 things like that, that's where we're still -- there's some  
25 bit of an unknown.

1           And with that really I'll just take any questions that  
2 you have.

3           CHAIR SCHARFF: All right. Any questions?

4           So at this point you're still on track to meet the  
5 Cease and Desist Order, right?

6           MR. DEVRIES: Correct.

7           CHAIR SCHARFF: And in the Cease and Desist Order there  
8 are some time extensions and stuff, right? I mean, if the  
9 COVID virus makes it necessary to extend that I'm assuming  
10 that works out?

11          MR. OLSSON: That's correct.

12          CHAIR SCHARFF: And I guess a question for staff was --  
13 you know, I actually also want to start with I appreciate  
14 the City of Oakland's efforts on this. It seems like you  
15 have all worked really cooperatively and fast and I am  
16 actually really pleased with what's happening here.

17          Putting aside the virus concerns, if the City of  
18 Oakland doesn't meet the requirements we would then  
19 basically come back and look at civil penalties or how does  
20 that work? What do we do next?

21          MS. DONOVAN: Well, just to start with, as we  
22 discussed, there are measures in the Cease and Desist Order  
23 that in the event of certain causes we could extend some of  
24 the time lines. And there is one unique thing in this Cease  
25 and Desist Order, we actually kind of have a standard

1 extension provision that we put in these orders. We also  
2 have one that is specific to the City and their concerns  
3 about the ability to fund in the deadlines that we've  
4 established the restoration measures that are necessary to  
5 get the park back.

6 As Joe has just described, there are certain things  
7 that they feel they can undertake quickly and then other  
8 things with regard to the water systems and some things that  
9 require a lot more capital in order to undertake that they  
10 need to be able to go through their budget cycle and make a  
11 determination. And recognize that we negotiated this order  
12 pre-election too. So I appreciate that Measure Q looks like  
13 it is on its way to success, let's hope, but at the time we  
14 had no way of knowing that.

15 Now if other things happen though. For instance, with  
16 regard to the encampment management and those things are due  
17 not to conditions that are beyond the City's control like  
18 the virus and their need to respond to measures that are  
19 necessary to prevent the virus from spreading.

20 We would first anticipate that we'd sit down with the  
21 City and try to get them in compliance like we always do  
22 with all of our violators. And if that is not possible we  
23 would come back to this Committee and discuss what would be  
24 necessary in order to get them into compliance with the  
25 measures required in the order.

1 CHAIR SCHARFF: Okay. I think I agree with most of  
2 that. I think, obviously would be very sympathetic to  
3 public safety and health, you know, virus concerns. What I  
4 am not sympathetic to at all would be, I think, given the  
5 whole issue of the virus and the encampments and all that is  
6 you don't want new -- I don't want there to be new  
7 encampments that then come outside the reprieve zone which  
8 then we can't move because of virus concerns. I am not  
9 sympathetic at all to the City not making sure that those  
10 encampments don't morph out of that zone.

11 And I mean, I understand you may have challenges with  
12 the police, but then get the public works department out  
13 there. I would not be sympathetic to that at all. If a new  
14 encampment gets built basically outside that reprieve zone I  
15 would hope we would take strong action against the City of  
16 Oakland. Because then once that's there then I think we do  
17 have virus issues and, you know, moving it becomes -- the  
18 whole thing becomes much more challenging.

19 That's probably the area where I'd be -- and that goes  
20 into the whole patrols and making sure that we don't --  
21 because if you start spending the money and then it all  
22 starts going backwards I don't think it works for anyone.  
23 And I am not really sensing -- I don't think that Oakland's  
24 election should have anything to do with this, frankly. I  
25 mean, I think Oakland allowed this to happen and they need

1 to restore the park. Period. They need to find the money.

2 Now I am sensitive to the budget cycle, I understand  
3 they need to budget for it. It doesn't mean they have to do  
4 it earlier than they think they do. But I don't think it's  
5 an issue that they can't just decide that they don't have  
6 the money or they want to spend the money somewhere else. I  
7 mean, I think they have to restore the park. That's not --  
8 at least for me that's not negotiable. What's negotiable is  
9 the timing, the mechanisms, what works for them in terms of  
10 getting it done, that's all negotiable; but actually having  
11 to restore it is not.

12 MS. DONOVAN: And we understand and that's very  
13 helpful. This is part of the conversation that we have had  
14 with the City as we have been negotiating the measures in  
15 this order.

16 CHAIR SCHARFF: And with that said I did want to say, I  
17 actually think the City of Oakland is doing a great job on  
18 this so far, I appreciate the efforts and all of that. And  
19 that's just more because I think sometimes it's more helpful  
20 to be clear given different political pressures one comes  
21 under. So thank you.

22 Any questions? I know we have public comment but I  
23 just wonder, any questions from you guys?

24 COMMITTEE MEMBER VASQUEZ: No, no questions.

25 CHAIR SCHARFF: All right. So then our public comment,

1 Brock de Lappe.

2 MR. DE LAPPE: Commissioners, my name is Brock de  
3 Lappe, I'm the harbor master and marina manager for the  
4 Oakland marinas. I thought that I would provide an update  
5 on the current status of the park. I do want to acknowledge  
6 that tremendous effort has been made by the City of Oakland  
7 in addressing the problems there. At the same time I just  
8 want to make sure that we do continue to move ahead.

9 So this is a picture of the east parking lot, which had  
10 been totally overrun with an RV encampment and we had a very  
11 severe fire there, burned up several vehicles. This was at  
12 the time that the City was under the temporary restraining  
13 order (tones were heard), the time that the City was  
14 prevented from doing any kind of cleanup because of the  
15 temporary restraining order. However, when that was finally  
16 resolved in August that parking lot was cleared. And this  
17 is your first view as you enter the Embarcadero from the  
18 south end. To a large extent the City has enforced the no  
19 camping. RVs do occasionally show up and they are removed.  
20 So a tremendous, tremendous difference on that part of the  
21 Embarcadero.

22 This is the central portion of the park. This was the  
23 section that was supposed to be fully cleared by the end of  
24 January. To a large extent it was, however, there still are  
25 clusters of encampments that have very deleterious effect on

1 the park. Garbage that remains to be picked up. As Joe  
2 DeVries mentioned, there are people moving back into that  
3 section of the park. And the problem with that is that if  
4 you allow one there will be two, if you allow two there will  
5 be four, and so on, just like the virus outbreak. So it's  
6 important to maintain steady enforcement so that you don't  
7 lose what you've gained.

8 This is an encampment that's underneath one of the  
9 bridges there in the park.

10 Another thing that happened and one of the things you  
11 saw in Schuyler's photograph was vehicles that were actually  
12 driven onto the park in the winter when we actually had some  
13 rain. The grass was wet and it really tore up the grass.  
14 We can see in this picture that there is green grass there  
15 right now. In Schuyler's November picture all the grass in  
16 the park was brown, it wasn't being irrigated. I don't know  
17 what the status is on the irrigation system, but clearly  
18 with the lack of rain and if there is no watering it will  
19 return to a patch of brown, dead grass.

20 This is the western portion of the park, or as Schuyler  
21 referred to it, the northern portion. This is next to the  
22 old Cryer boat yard building. This is the designated  
23 transitional area and it is absolutely packed chock-a-block.  
24 There are not just people there, there are young children  
25 there too.

1           You can see these barrels for water. Water is  
2 basically taken from stand pipes on the street, there is no  
3 good provision for the water supply. And of course that's a  
4 basic necessity of life but it is a problem. We have had  
5 threats from East Bay MUD to shut off the water because it's  
6 being taken from fire lines.

7           There is a tremendous amount of trash that accumulates.  
8 This of course is unsightly along the Embarcadero and there  
9 is a huge infestation of rats. Alameda County vector  
10 control has been out, we have been told the rats are the  
11 size of Chihuahuas, they're big.

12           This is the view from that northwestern portion of the  
13 park. Again, a beautiful location but just totally  
14 overwhelmed. And this path is part of the Bay Trail,  
15 encroachment on that. And the encampment in the park.

16           As Joe mentioned, a few weeks ago there was a very  
17 brutal murder. It didn't occur in the park itself, it  
18 occurred at an adjacent encampment just west of the bridge  
19 to Coast Guard Island. And this is, this is that particular  
20 encampment. You can see this is all on the Bay Trail. And  
21 this has grown quite a bit over the last couple of months.  
22 And you can imagine going on a stroll along this trail with  
23 your family and -- I mean, no one is going to do that. This  
24 is a little bit of a memorial to the person that died along  
25 the trail.

1           Also, when people get moved out of encampments they're  
2 displaced and they go someplace else and so we have had this  
3 problem with RV parking, continuous parking along the  
4 Embarcadero. This is in the vicinity of Quinn's. And the  
5 parking ordinances are simply not being enforced. And what  
6 we the residents along the Embarcadero don't want to see  
7 happen is this turn into something similar to what occurred  
8 in Alameda Avenue over by Home Depot which was a total,  
9 total nightmare. And again it's a matter of if you don't  
10 enforce, if you allow one there will be two, if you allow  
11 two there will be four, and it has a tremendous detrimental  
12 impact on the neighborhood.

13           Now unlike previous presentations that I've made I  
14 don't want to just end on bad news. There is good news and  
15 I would like to share this with you. This section of the  
16 Embarcadero had a full range of RVs illegally parked along  
17 that section of the road. The Port of Oakland was able to  
18 get permission to paint that curb red and that's opened up  
19 that whole section of the Embarcadero to beautiful views and  
20 a lack of the RV encampment.

21           This is on, this is about a mile-long stretch of the  
22 Embarcadero between 880 and the Embarcadero itself. There  
23 is a beautification effort going on right now. They've laid  
24 down weed prevention fabric that is being covered with  
25 crushed stone four inches thick. And then between the curb

1 and those stakes it will all be filled in with river rock.  
2 So this is a huge, very expensive undertaking. This -- by  
3 the way, this whole section of road or easement, I guess,  
4 had a PG&E gas line put in recently and so this is kind of  
5 the follow-up to that project.

6 This is just one other bit of I think good news and  
7 that is, that building is the 1853 Embarcadero building,  
8 that's where the Oakland Marina's office is. And those two  
9 bright windows at the top of the flight of stairs was a  
10 small office that we chose not to renew the lease on that  
11 was leased out but instead found nine other companies along  
12 the Embarcadero that are willing to commit to the monthly  
13 rent. And we created this office for the Oakland Police  
14 Department. This will actually be a substation for them  
15 where they'll have desks, amenities, a microwave, toaster  
16 oven, fridge, so on, for being able to have breaks. And  
17 they are using it. And our hope is that with increased  
18 police presence on the Embarcadero that this will have a  
19 dramatic impact on crime in that neighborhood. And so the  
20 park is only one portion of what really should be ultimately  
21 the Oakland Gold Coast. Thank you.

22 CHAIR SCHARFF: Thank you.

23 Anything further from staff?

24 MS. DONOVAN: No.

25 COMMITTEE MEMBER GILMORE: I have a question for the

1 representative from the City of Oakland. What is your best  
2 estimate as to the number of individuals in that reserved  
3 encampment?

4 MR. DEVRIES: About 25.

5 COMMITTEE MEMBER GILMORE: Okay, thank you.

6 MR. DEVRIES: Yes.

7 CHAIR SCHARFF: Any questions?

8 COMMITTEE MEMBER VASQUEZ: No.

9 CHAIR SCHARFF: All right. So then you need from us a  
10 motion to adopt the --

11 MS. DONOVAN: Yes, close the public hearing and then --

12 CHAIR SCHARFF: All right. So a motion to close the  
13 public hearing?

14 COMMITTEE MEMBER VASQUEZ: So moved.

15 COMMITTEE MEMBER GILMORE: Second.

16 CHAIR SCHARFF: All in favor?

17 COMMITTEE MEMBER VASQUEZ: Aye.

18 COMMITTEE MEMBER GILMORE: Aye.

19 CHAIR SCHARFF: Aye.

20 All right. All right. So staff recommends that we  
21 adopt the proposed Cease and Desist Order. Anyone have  
22 any --

23 COMMITTEE MEMBER VASQUEZ: No comment.

24 CHAIR SCHARFF: All right, so I'll move adoption of the  
25 proposed Cease and Desist Order.

1 COMMITTEE MEMBER VASQUEZ: Second.

2 CHAIR SCHARFF: All right, all in favor?

3 COMMITTEE MEMBER GILMORE: Aye.

4 COMMITTEE MEMBER VASQUEZ: Aye.

5 CHAIR SCHARFF: Aye. And that passes unanimously.

6 (Thereupon, the Enforcement Committee meeting  
7 continued but was not transcribed.)

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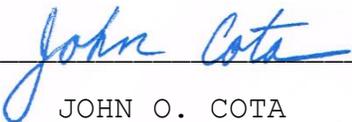
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CERTIFICATE OF REPORTER

I, John Cota, an Electronic Reporter, do hereby certify that I am a disinterested person herein; that I recorded the foregoing San Francisco Bay Conservation and Development Commission, Enforcement Committee Meeting; that the recording was thereafter transcribed.

I further certify that I am not of counsel or attorney for any of the parties to said hearing, or in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 24th day of March, 2020.

  
\_\_\_\_\_  
JOHN O. COTA

CERTIFICATE OF TRANSCRIBER

I, RAMONA COTA, a Certified Electronic Reporter and Transcriber, certify that the foregoing is a correct transcript, to the best of my ability, from the electronic recording of the proceedings in the above-entitled matter.

  
\_\_\_\_\_ March 24, 2020  
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RAMONA COTA, CERT\*\*478