

San Francisco Bay Conservation and Development Commission

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March 11, 2021

TO: Enforcement Committee Members

FROM: Priscilla Njuguna, Enforcement Policy Manager (415/352-3640;
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SUBJECT: Draft Minutes of March 11, 2021 Enforcement Committee Meeting

1. Call to Order. The meeting, held remotely via Zoom, was called to order by Chair Scharff at 9:30 A.M.

2. Roll Call. Present were Chair Scharff and Commissioners Gilmore, Vasquez, and Wagenknecht.

Staff in attendance included Executive Director, Larry Goldzband; Regulatory Director, Brad McCrea; Staff Counsel, Karen Donovan; Legal Secretary, Margie Malan; Enforcement Analyst, John Creech; Principal Enforcement Analyst, Adrienne Klein, and Enforcement Policy Manager, Priscilla Njuguna.

Shari Posner, Deputy Attorney General, was also in attendance.

3. Public Comment. There was a public comment from Brock de Lappe, Harbormaster at the Oakland Marinas who reiterated previously raised concerns about the homeless encampment that is on the Bay Trail west of the bridge next to Coast Guard island which has not been addressed by the City of Oakland. He also stated that along that block of the Embarcadero between Dennison and Livingston Streets, both sides of the street are packed with Recreational Vehicles that have been parked there for months. Mr. de Lappe stated that the RV's discharge into the gutter which goes into the storm drain, which goes right into the Oakland Estuary, which he asserted is contrary to the City of Oakland's Encampment Management Policy.

Val Hamell then provided comment stating that she has been a resident of the Marina for 20 years and recently had her boat damaged when a dinghy got loose during a storm from an anchored-out boat. She stated that the dinghy hit her vessel and damaged her boat and she asked what BCDC was doing to address the influx of anchor-outs in the vicinity of Union Point Park.

4. Approval of Draft Minutes from the February 24, 2021 Meeting

MOTION: Commissioner Wagenknecht moved for approval of the February 24, 2021 meeting minutes. Commissioner Scharff seconded. The motion carried unanimously with a roll call vote of 4-0-0 with Commissioners Gilmore, Vasquez, Wagenknecht, and Chair Scharff voting "YES", no "NO" votes, and no

“ABSTAIN” votes.

5. Enforcement Report. Ms. Njuguna provided an update of achievements so far in 2021. In 2021 Staff have opened 31 cases and closed 47 cases. Of the latter, 12 had no violation; ten were duplicates of existing cases; two were resolved by through local and/or government agencies; 16 had documentation that helped in their resolution; and 2 minimal impact cases were also closed. The total caseload as of March 9, 2021 was 195, a decrease of 16 cases from the caseload on December 31, 2020.

Ms. Njuguna stated that staff continues to refine case review and management procedures to ensure their effectiveness in meeting enforcement goals (deterrence, consistency, fairness, and transparency). She noted that BCDC is in communication with the City of Oakland to get the homeless encampments along the Bay Trail mentioned during general public comment addressed and have also been in communication with Oakland Police Department’s Marine Patrol Unit regarding anchor-out vessels in the vicinity of Union Point Park.

Executive Director Goldzband reported that he did not have to speak during the Senate budget subcommittee regarding the Budget Change Proposal for the Bay Fill Clean Up and Abatement Fund which was on their consent agenda. The Department of Finance staff recommended approval of the governor’s budget for BCDC was presented by the Governor’s office. He clarified that the process would not have any impact on enforcement staff because the Department of Finance understands the present use of the fund to pay for enforcement staff.

6. Case Update—deferred. Chair Scharff informed the Commissioners that agenda item 6 was deferred to enable additional work towards the resolution of the matters that staff intended to discuss and that an update would be made at a subsequent meeting.

The Committee meeting was paused for 15 minutes to allow City of Oakland representatives who were in another meeting to join the meeting at 10 A.M.

The meeting resumed at 10 A.M.

7. Union Point Park Cease and Desist Order CCD2020.001.00 Compliance Update. Chair Scharff informed the Committee that three written public comments were received and posted on BCDC’s website. He introduced Ms. Njuguna who began by reminding the Committee that the Cease and Desist Order approved by BCDC in October 2020 required the City of Oakland to relocate the remaining individuals at Union Point Park by Friday, March 12, 2021, after BCDC’s Executive Director granted a one-time one-month extension of the previous February 12, 2021 deadline.

Ms. Njuguna introduced Joe DeVries, the City of Oakland's Director of Interdepartmental Operations, who provided an update on the City's progress in complying with Cease and Desist Order No. CCD2020.001.00, which the Commission approved in October 2020 to address the situation in Union Point Park. He stated that he was speaking on behalf of LaTonda Simmons, Assistant City Administrator, who was at Union Point Park to ensure timely encampment closure in accordance with the City's plans. Mr. DeVries informed the Committee that the homeless encampment at Union Point Park is in the process of being closed with occupants having agreed to relocate to a self-governed site elsewhere once it is established. He noted that cleanup is underway, and the City has provided containers for storage of the residents' personal property and that the abandoned auto unit began towing abandoned vehicles that were tagged the previous week. He also noted that the previous morning Operation Dignity was on site to continue with the outreach to the encampment residents and to offer alternative shelter, including hotel rooms noting that no forcible displacement occurred. As Mr. DeVries was speaking BCDC staff shared photographs the City of Oakland submitted to document the closure of the encampment and subsequent clean up.

Mr. DeVries reiterated the City's commitment to meet their obligations under Order No. CCD2020.001.00 including implementing the park activation plan and finalizing the encampment enforcement plan consistent with the terms of the encampment management policy that was passed by the City of Oakland in October 2020.

Questions and Discussion

Commissioner Gilmore thanked the City of Oakland for their efforts to close the encampment in a safe manner and stated that she was impressed at the progress that the City has made despite starts and stops along the way, noting that the City's work is really a great example of what can happen when people work together for a common goal. She further stated that the encampment closure milestone was a significant event while recognizing additional work remains to be done.

Commissioner Vasquez asked how the City of Oakland planned to keep the Park clean and clear of encampments.

Mr. DeVries stated that the City will submit a Park restoration plan and has submitted a long-term enforcement plan with some pending edits that BCDC staff are awaiting, and he also noted that the City and BCDC staff are substantially aligned. He also reminded the Committee that the Oakland City Council adopted an encampment enforcement policy in October of 2020 which specifies high and low sensitivity zones. He explained that parks are considered high sensitivity zones, with other zones including areas within 100 feet of a

home, areas within 100 feet of a church, as well as some other sensitive land uses. Mr. DeVries stated that Union Point Park is the first step in the City implementing that policy on a large scale. The City is working on the internal departmental understanding of the encampment policy and working with informing the public too, including the advocates at encampments as well as the Oakland Police department more broadly to support the Oakland encampment management team. From the Oakland Public Works perspective, the City is looking to budget for the full restoration of the Park, and in the interim, benches and signage will be restored with BCDC approval and long term the parking lots will be blocked to prevent unauthorized vehicles from parking.

Commissioner Vasquez noted that it was better for the City to address issues to prevent BCDC from having to get involved, a perspective that Mr. DeVries shared.

Chair Scharff asked what specific measures the City would be taking to prevent encampments. Mr. DeVries responded that monitoring and providing a rapid response through the Oakland Police Department area Captain who had to expend resources to get the Park encampment closed as well as the weekly encampment team meeting will be the best measures to prevent a recurrence of encampments. Mr. DeVries emphasized the need for rapid response as the main means of preventing encampment recurrence.

Public Comment

Brock de Lappe, Harbormaster for the Oakland Marinas, noted that given the various clean and clear efforts he had observed over several years the need for ongoing enforcement is critical to preventing recurrence. He asked about the towing of vehicles, parking permits for Marina tenants, and how Marina tenants can request for unauthorized vehicles to be towed. He noted that there is an encampment west of the Park also in a high sensitivity area that also needs to be addressed based on the Oakland City Council adopted encampment management policy.

Paul Edmands noted that when there are encampments local residents are unable to use bike paths and walk along certain areas and wanted to know how preventing recurrence would work so that the efforts already undertaken do not go to waste.

Adrienne Edmands asked about closing the public restrooms at night to prevent encampments given that the park is supposed to be closed from dawn to dusk.

Val Hamell asked who has jurisdiction to enforce the no parking codes posted at the park because Oakland Police Department has told residents that they do not have jurisdiction. She stated that the water spigot and bathrooms are part of what attract encampments and asked if those could be closed not

just temporarily.

John Timothy, a local resident, noted that he has observed anchor-outs and has not seen Oakland Police Department's marine patrol doing a lot to address them. He asked what phone number the local residents should call to report violations. Mr. DeVries responded that the number to call is 311.

Executive Director Larry Goldzband thanked Joe DeVries and Michael Branson, City Attorney, from the City of Oakland for their efforts and asked the City to partner with their co-permittee, the Unity Council, in developing their restoration plan and park activation plan to ensure that the residents of Fruitvale have access to green space.

8. Future Agenda Items. Ms. Njuguna stated that in the upcoming meetings, staff anticipates bringing a proposed resolution for the Richardson Bay matter and on some pending settlement agreements. Ms. Njuguna noted that the next meeting will be on March 24.

9. Adjournment. On a motion by Commissioner Vasquez and a second by Commissioner Wagenknecht Chair Scharff adjourned the meeting at 10:37 A.M.