



## **\*Special Meeting of the Oakland Parks and Recreation Advisory Commission**

### **Minutes Wednesday, January 13, 2021, 4:30 P.M. Zoom Teleconference**

1. CALL TO ORDER:
2. ROLL CALL: 4:32 P.M.  
**ALLEN, COLE, DUHE, HA, HOWZE, KOS-READ, MOORE, REILLY, SMITH,  
TORRES, WALTON**

**Present – 7:** Commissioners Allen, Ha, Kos-Read, Moore, Reilly, Torres, Walton.  
**Excused – 3:** Commissioners Cole, Duhe, Smith.

3. DISPOSITON OF MINUTES:

#### **December 9, 2020 Meeting Minutes**

**Motion:** Commissioner Reilly entertained a motion to recommend PRAC approve the December 9, 2020 meeting minutes. Commissioner Ha had two corrections: Page 6, paragraph 3 – “hypnotized” should be “hypothesized”. Page 6, paragraph 5 – Replaced paragraph to: "Commissioner Ha offered that prior to the November 18th meeting, PRACs two-member Tree Committee, including Commissioner Ha and Commissioner Moore met virtually to discuss obligations and determined upon reviewing the Tree Ordinance they would follow its guidance and were leaning toward to denying the appeal because it did not conform with Ordinance."

Daniel Hamilton, Oakland Public Works, stated that nothing was included in the Item 9 meeting minutes. Mr. Hamilton provided a brief update to the Commissioners regarding Measure Q hiring process as well as limitations on performance exams to be utilized during COVID restrictions.

**Moved by:** Commissioner Kos-Read. **Second by:** Commissioner Ha. **Vote 7:** Yes (6): Allen, Ha, Kos-Read, Moore, Reilly, and Torres. **Abstained** (1): Commissioner Walton.  
**Motion:** Passed as amended.

4. OPEN FORUM

5. MODIFICATIONS TO THE AGENDA:

Modification to Roll Call to add Commissioner Walton and remove Commissioner Howze whose term had ended.

**Motion:** Commissioner Reilly entertained a motion to approve to replace Commissioner Howze with Commissioner Walton. **Moved by:** Commissioner Allen. **Second by:** Commissioner Moore. **Vote 7:** Yes (7): Allen, Ha, Kos-Read, Moore, Reilly, Torres and Walton. **Motion:** Passed.

6. CONSENT NEW BUSINESS:

7. NEW BUSINESS

A. TREE PERMIT APPEAL FOR 0 CARROLL STREET, PARCEL 22-305-16  
“VERSION 3.0”

The Parks and Recreation Advisory Commission reviewed the staff report to Tree Permit Appeal for 0 Carroll Street. Item 7A was introduced by David Moore, Acting Parks and Tree Services Manager with Oakland Public Works and presented by Tod Lawsen, Arboricultural Inspector Oakland Public Works (OPW) Tree Services Division and Certified Arborist and Tree Risk Assessment Qualified.

Tree Services staff reported that there were seven (7) trees proposed for removal. Trees # 1 through 3, American Elms, have poor structure. They have an unbalanced canopy with the likelihood of limb failure. A 4<sup>th</sup> tree, a black acacia has decay present in the cavity. It is at risk of uprooting or trunk failure. The 5<sup>th</sup> tree, a black acacia, has poor structure from over thinning. This type of pruning leads to limb failure. The tree is in poor condition and is at risk of limb failure. The 6<sup>th</sup> tree, a black acacia, has significant decay present and is at risk of uprooting, stem failure and limb failure. The 7<sup>th</sup> tree, a black acacia, is also at risk of trunk failure.

Oakland Public Works recommends denying the appeal from Appellant (Mark Baradat) and uphold Trees Service’s decision.

Appellant Representative Greg Clark:

The appellant’s representative informed the Commission that they were independently recording the proceedings and that he will speak three minutes and reserve 2 minutes at end of discussion to respond to points raised by other parties. The appellant stated that the purpose of the tree permit application was not to remove the 7 allegedly hazardous protected trees, but to cut down the trees for preparation of development on the lot or prepare it for sale.

Applicant Barry Cohn, Trustee of Janet A. Martin Trust:

The Applicant stated that his obligation is to protect the assets of the Trust and to understand the value of its assets. Mr. Zachary Heineman was hired to gather information for the applicant. During the process, it was discovered that the trees were in danger of falling, limb failure, or other potential risk and determined that the trees should be taken down. There was no application submitted for development of the property. The Applicant stated that it may take a long time for the area to be developed, and that any one of the trees could fall and put the Trust in danger of liability. A request was submitted to remove the trees and to limit liability of the Trust, so that the Trust nor anyone would be exposed to damages.

Appellant:

The Appellant informed the Commission that Mr. Zachary Heineman was not a trained Arborist, but instead a trained Architect, and is not in a position to assess the health of the trees. The Appellant stated that if the Commission decides to deny the Appeal Permit and grant approval, they want to know the date or timeframe the permit will be issued as the item would likely go to court. The Appellant requested a courtesy meeting with the City Attorney to discuss other options. Appellant also noted that bracing is a recognized arboreal practice to preserve a leaning tree. Further more, he stated that the permit is illegal and is being violated, and that it would be in the best interest of the City to deny the appeal.

Public comments were heard.

The Commission learned that its Tree Ad Hoc Committee visited the site with OPW's Arborist Tod Lawsen to inspect the trees at the Carroll Street address. It was noted that OPW Tree Services Division followed the Tree Ordinance as written, but suggested that there is room to rewrite the Ordinance. The Ad Hoc Committee also provided an overview of the assessment of the trees from their site visit.

Upon inquiry, the Ad Hoc Committee learned from the Applicant that there were no supporting documents to show their intent to develop the property in the foreseeable future.

Commissioners to OPW:

The Commission asked if OPW had a process for prioritizing the removal of trees. And further inquired if there existed a phased approach for removal of the trees. The Commission stated that since this as a non-development permit, that all trees would be removed if it were to go forward.

Continuing the inquiry, the Ad Hoc Committee asked several questions of OPW including: Could OPW provide an analysis on the impact on all 7 trees?

Can PRAC ask for additional reports or analyses? Can OPW partially deny/approve an appeal, has a precedent be established for this? The Commission also stated that the Tree Ordinance code does not mention the timing, insuring public health and safety as it relates to the health of trees or potential hazards.

OPW's Interim Director, acknowledged and responded the concerns expressed and asked the Commission to clarify if OPW's staff, fully certified to assess trees, were being asked to provide another assessment other than the initial assessment which was based on safety? And, are they being asked to perform another assessment that could supersede the recommendation from a safety perspective versus the aesthetics of the trees?

Commissioner Ha wanted to know if all the trees need to come down at the same time or if removal could be done in phases or assess which trees need to come down immediately. OPW provided clarification that the City gives approval for tree removal of trees that fit the criteria for removal. The City cannot tell the property owner which tree is worse. The City has no authority to tell the property owner which tree to remove first. It would be setting the City up for a legal challenge.

The Tree Ad Hoc Committee did not meet separately on the item for the purpose of reaching a consensus for a recommendation. They still question the application to remove all 7 trees. The Committee determined they needed more information before a decision could be made. The Committee suggested that an additional assessment be made, and if the City is unable to do so, inquired if a professional arborist assessment could be conducted on behalf of both the appellant and applicant individually?

The Committee suggested it would be helpful to make a decision if they could look at each tree. OPW responded that it was an unprecedented request and that there is no reference to this type of requirement in the tree removal permit application, and it puts the City in an inappropriate legal position. OPW cannot commit to performing an additional assessment without consulting a higher legal authority for advice on the subject.

**Motion:** Commissioner Reilly entertained a motion for PRAC to table the item and return in February with a recommendation from the PRAC Tree Ad Hoc Committee. **Moved by:** Commissioner Kos-Read. **Second by:** Commissioner Torres. **Vote 7:** Yes (7): Allen, Ha, Kos-Read, Moore, Reilly, Torres, Walton. **Motion:** Passed.

B. Election of the Commission's Chair and Vice Chair

**Motion:** Commissioner Reilly entertained a motion for PRAC to nominate themselves or other Commissioners for Chair. Hearing no nominations, Commissioner Reilly nominated himself. **Moved by:** Commissioner Reilly. **Second by:** Commissioner Ha.

**Vote 7:** Yes (7): Allen, Ha, Kos-Read, Moore, Reilly, Torres, Walton. **Motion:** Passed.

**Motion:** Commissioner Reilly entertained a motion for PRAC to nominate themselves or another Commissioner for Co-Chair. Commissioner Torres nominated herself for Co-Chair. **Moved by:** Commissioner Kos-Read. **Second by:** Commissioner Walton.

**Vote 7:** Yes (7): Allen, Ha, Kos-Read, Moore, Reilly, Torres, Walton. **Motion:** Passed.

8. MEASURE Q: OVERSIGHT/UPDATES/REPORTS

Daniel Hamilton, Oakland Public Works (OPW), provided an update. The budget emergency in the City has required emergency decisions to be made. OPW had to immediately reduce expenditures with the release of forty-six part-time and temporary staff with the exception of custodians. The reductions have resulted in the decision to suspend weekend service for parks maintenance through April 1<sup>st</sup>. OPW understands that it will be a big impact, especially in the busier areas around the Lake; OPW will be looking in great details and try to maintain services as much as possible with the changing workloads. In regards to Measure Q, while there is a citywide hiring freeze, it has also been instituted by the City Administrator that the Measure Q positions will continue in their recruitments. COVID-19 restrictions do not allow for performance testing. Some positions cannot be finalized as COVID-19 prohibits in-person performance testing. OPW will move forward as much as they can for recruitments and will be as timely as possible in bringing the Measure Q positions on.

9. DIRECTOR'S REPORT/COMMITTEE AND/OR ADVISORY COUNCIL UPDATES:

- Commissioner Reilly acknowledged the new and outgoing Commissioners. He welcomed Commissioners Allen and Walton and thanked them for volunteering their time. He also acknowledged the work of outgoing Commissioners' Howze, Aikens and Cole and stated they will be missed by all. Commissioner Aikens provided outgoing comments. Commissioners Walton and Allen were introduced and provided a brief background about themselves.
- Commissioner Reilly suggested that due to the turnover on the Commission, that Committee and Recreational Council Advisory (RAC) assignments be add to the February agenda.

Director Williams:

With the severity of the budget crisis Oakland is facing, the following changes are being made to the department:

- Temporarily release 380 part-time staffers.
- 25 part-time staff were retained in various positions.

- Many programs and services are going to be offered with full time staffing only. The Town Enrichment programs has been reduced to 4 or 5 sites, with condensed hours and very limited capacity.
- Part time parking operations continue. Maintaining Lake Merritt staff.
- Examples of reductions OPRYD is facing:
  - Town Enrichment Programs - normally staffed with Full Time (FT) personnel and approximately 50 Temporary Part Timers (TPT), has been reduced to 0 (zero) TPTs. Limited locations are being programmed with FTs
  - Golf - 7 TPTs reduced to 4 TPTs
  - Tennis - 1 TPT
  - Play Groups (3 to 6-year-olds) - reduced to 3 TPTs
  - Cultural Arts program for youth and adults – reduced from 19 TPTs to 2 staff
  - Aquatics - reduced from 24 people to 0. Lions Pool, previously operational, is now non-operational due to the reduction in staff
  - Boating – staff reduced to zero. No programming.
  - Rotary Nature Center - no programming.
- Departments are being asked to come up with 10% and 20% reductions. There is no way for OPRYD to make those reductions without proposing the closing of some facilities and amenities. OPRYD’s plan is to continue to provide detailed information to the PRAC and the Parks and Recreation Foundation, so that we can be a part of information sharing and keep the Commission informed as to what our goals and plans are moving forward.

10. ANNOUNCEMENTS AND COMMUNICATIONS:

11. CONTINUATION OF OPEN FORUM:

12. ADJOURNMENT: 7:02 p.m.

Respectfully submitted,

/s/ J. Nicholas Williams

J. Nicholas Williams  
Secretary

/s/ Gail McMillon

Gail McMillon  
Acting Recording Secretary

**Next Meeting:**

***Wednesday, February 10, 2021***

***TeleConference***