



# AGENDA REPORT

**TO:** Edward D. Reiskin  
City Administrator

**FROM:** Joe DeVries  
Director, Interdepartmental  
Operations

**SUBJECT:** Lake Merritt Working Group

**DATE:** March 9, 2021

City Administrator Approval 

Date: Mar 11, 2021

## **RECOMMENDATION**

**Staff Recommends That The City Council Approve A Report With Recommendations For The City Administrator To Continue To Support The Safe And Equitable Use Of Lake Merritt By Providing For An Authorized Street Vending Program On Weekends, Alternative Traffic Control Measures, Develop An Alternative Program To Manage Activities At The Lake Such As A Park Ambassador Program, And Seek An Ongoing Funding Source To Cover the Costs Associated With These Efforts On A Year-Round Basis.**

## **EXECUTIVE SUMMARY**

In the past three years, the number of people visiting Lake Merritt, especially in Summer months, has increased dramatically causing parking, traffic safety, and noise issues, unauthorized commercial vending, large amounts of litter impacting the lake, and placing an outsized burden on City resources. In the summer of 2020 the City Administrator created a Lake Merritt Working Group (Working Group) to ensure an interdepartmental approach to the City's response. The Working Group implemented several measures in the summer and fall of 2020 including the launch of a pilot street vending program, street closures, parking restrictions, enhanced public outreach and enforcement activity. Council President Fortunato-Bas asked that staff submit this report to provide details about the effort.

## **BACKGROUND / LEGISLATIVE HISTORY**

The increased numbers of people attracted to Lake Merritt, especially on weekends, became even greater in late May with the easing of State Shelter-In-Place restrictions and a corresponding increase in unauthorized vending, particularly along Lakeshore Avenue between El Embarcadero and Wayne Avenue began to take place. Many vendors set up professional sound systems, sell alcohol and cannabis products to be consumed on site, and operate large unlicensed commercial food operations. Additional ongoing problem areas include the Lakeshore cul-de-sac and Bellevue Avenue between Perkins and Grand where visitors consistently congregate late in the evening, disturb the peace with loud music and parties, and leaving behind large amounts of litter. On holiday weekends such as Juneteenth, Father's Day,

Life Enrichment Committee  
March 22, 2021

and July 4<sup>th</sup>, the crowds grew to sizes that were unmanageable and emergency vehicles found Lakeshore impassable.

The Working Group quickly developed a mission for its work and sought community input by presenting to the Parks and Recreation Advisory Commission (PRAC) in August (**Attachment A**) and received a formal recommendation from the PRAC in September (**Attachment B**). Working Group members also engaged directly with residents and the vendors that established themselves along Lakeshore where the most severe overcrowding took place.

### **Goals of the Lake Merritt Working Group**

The stated mission of the Working group is “To support people to use Lake Merritt safely and equitably during the COVID19 Pandemic by creating safe traffic restrictions and reasonable guidelines for all other activities.” Meetings take place monthly during the winter but were convened every week during the height of the summer to plan operations: The following Departments are involved:

#### **Participating Departments:**

Department	Role
City Administrator’s Office (CAO)	<ul style="list-style-type: none"><li>• Coordinate the Working Group partners and communicate with community partners</li><li>• Deploy Municipal Code Enforcement Officers to address unauthorized vending</li><li>• Through the Neighborhood Services Coordinators, communicate with the surrounding neighborhoods about the activity at the lake</li><li>• Coordinate the creation of the Vendor Pilot</li><li>• Develop and distribute public messaging including a community survey</li></ul>
City Council Offices (D3, D2, and At-Large)	<ul style="list-style-type: none"><li>• Communicate concerns from the community, assist with organizing the vendors, sponsoring legislation</li></ul>
Oakland Parks, Recreation, and Youth Development (OPRYD)	<ul style="list-style-type: none"><li>• Deploy Park Ambassadors with PPE and educational information for park users</li><li>• Assist with bringing the issue forward to the Park and Recreation Advisory Committee (PRAC)</li><li>• Oversees Permit Process for Park Uses</li></ul>
Oakland Public Works (OPW)	<ul style="list-style-type: none"><li>• Maintains the park area through its Parks Maintenance Division, including restoration of landscaping</li><li>• Ensures garbage collection from litter containers surrounding the lake.</li><li>• Provided portable toilets and hand washing stations to capture human waste on weekends.</li></ul>
Oakland Department of Transportation (OakDOT)	<ul style="list-style-type: none"><li>• Manages the Parking Enforcement Division</li><li>• Implemented Covid-19 based parking restrictions at the lake</li></ul>

	<ul style="list-style-type: none"> <li>Designed temporary road closures/restrictions to maintain traffic safety in partnership with OPD</li> </ul>
Economic Workforce Development (EWD)	<ul style="list-style-type: none"> <li>Provided Cares Act funding and technical support to support the Pilot Vending Program, the Oakland Black Vendor Association, and individual vendors in obtaining business tax licenses</li> </ul>
Oakland Police Department (OPD)	<ul style="list-style-type: none"> <li>Provide traffic control measures, public education regarding unauthorized vending of alcohol and cannabis</li> <li>Gain stakeholder consensus on which violations of OMC or other laws should be prioritized in problem-solving efforts</li> <li>Reduce enforcement footprints and increase positive or non-consequential community contacts</li> <li>Maximize fair and impartial policing while mitigating risk of racially disparate outcomes</li> </ul>
Oakland Fire Department (OFD)	<ul style="list-style-type: none"> <li>Conducted outreach to vendors that had unauthorized cooking facilities, including propane tanks in the park</li> <li>Provided input on traffic control measures to ensure emergency access</li> <li>Maintained a presence on large holiday weekends to quickly respond to any medical calls</li> </ul>

**Supporting Lake Activity during the COVID-19 Pandemic**

**Park Ambassadors and Public Messaging about COVID-19:**

Beginning in April, Parks, Recreation, and Youth Development Department (OPRYD) deployed Park Ambassadors throughout the City to remind people of the shelter-in-place restrictions and to promote safe distancing. These ambassadors deployed every weekend at Lake Merritt during the summer and handed out masks, and educational materials about COVID-19. In the fall, during the vending pilot discussed below, a COVID-19 Testing Facility was set up by the Lakeview Library and was able to conduct several hundred rapid tests at the lake.

**Park Maintenance:**

The increase in park usage has caused more wear and tear on Lake Merritt park assets. Vendors and park visitors sometimes park on the lawn, breaking irrigation sprinklers and causing the lawn to die. In addition, the overcrowding causes the creation of “new pathways” through shrubbery and planting beds. Park staff must work expanded shifts to mitigate the amount a trash left behind by park attendees. Litter not removed leads to rodent issues. When the pilot vending program opened and the vendors moved to El Embarcadero, Parks Maintenance staff were able to replant the Lakeshore area that had the most significant damage and early rains helped to root that effort.

**Parking Restrictions:**

Since May, the City implemented no parking surrounding the entire Lake on weekends with signage indicating it as a tow away zone to reduce the amount of people using the lake. This change was aligned with the closing of all parking lots at City Parks, the closing of basketball

courts, playgrounds, and other facilities to stop the spread of COVID-19. Bellevue Avenue from the entrance of Fairyland to Perkins was closed with the same intent and Bellevue from Perkins to Grand is marked as “No Through Traffic” as part of the Oakland Slow Streets Initiative. On weekends OPD restricted access and parking on the Lakeshore cul-de-sac with some limited success but late-night gatherings still disrupt residents on a regular basis. Although some restrictions have been eased citywide, and recently the City reopened Bellevue, the City has maintained the No Parking Zone at the lake through Thanksgiving to create a greater amount of space for pedestrians and bicyclists around the lake and to mitigate other traffic safety concerns.

As the warm weather returns, the problems associated with illegal parking have returned, especially on weekends. People parking in the Lakeshore center turn lane, blocking bike lanes, or on the grass at the lake in some areas has persisted and without a full complement of Parking Enforcement Technicians, the City is challenged in maintaining order. In the past three weekends Lakeshore Avenue has become impassable at times due to people double and triple parking in the area between El Embarcadero and Brooklyn.

#### **Traffic Control Measures:**

Beginning in mid-July, the City closed El Embarcadero completely on weekends and closed southbound traffic on Lakeshore from MacArthur to East 18th street to create more space for pedestrians and bicyclists. Significant traffic problems created by people disobeying parking rules such as parking in the center turn lane and exhibiting aggressive driving behavior created a serious public safety hazard that these measures also addressed. While well received, this effort required extraordinary resources to maintain each weekend.

OakDOT is assessing the cost of implementing traffic control measures by using barriers and an outside contractor in partnership with staff to allow police resources to be directed elsewhere and reduce costs. However, when persons decide not to comply with these measures, some level of enforcement is needed to maintain safety. Engineering solutions alone will not mitigate the problem, especially on very crowded weekends. Preliminary estimates for using a traffic contractor are running at approximately \$20,000 per weekend. Although this is more costly than an OPD Unit, it would have the benefit of maintaining the closures all weekend, not just during the hours it is staffed. This investment might reduce the incidence of large gatherings blocking street access late in the evening, but would have to be tested and monitored to confirm.

#### **Pilot Street Vending Program:**

Last summer and for several months this summer the City’s Municipal Code Enforcement Officers engaged with vendors and provided information about how to legally vend in the City and about current restrictions due to Covid-19. The vendors were quick to note the economic downturn that was affecting all people but disproportionately affecting communities of color. The Oakland Black Vendors Association stepped forward and asked that the City work with them to create safe and legal way for these emerging entrepreneurs to be able to conduct business.

This concept was hampered by the regulatory landscape: Currently, any vending in City parks requires permits from OPRYD with oversight by the Parks and Recreation Advisory Committee (PRAC). Due to the pandemic, no permits for any event, gathering, or vending are being issued. Additionally, food vending at large events falls under the Alameda County Environmental Health Department which was not issuing any permits for special events during the pandemic. County

officials did participate in several Working Group meetings and provided outreach material for distribution.

The PRAC recommended that the City create a safe space for the vending to occur as soon as possible and not within the boundary of the park to avoid the regulatory hurdles. The City partnered with local event planner A2Z Media to organize the Lake Merritt Pilot Vending Program which launched in early October and continued until Thanksgiving with positive results. The Oakland Black Business Fund agreed to reimburse any vendor for their Business Tax License cost if they were participating in the program and within a few weeks 97% of the vendors were able to do so.

Since the City was already closing El Embarcadero and southbound Lakeshore Avenue to vehicle traffic, a well-suited area was created for the vending pilot. Over 70 vendors participated in the program and provided strong support in a survey conducted by A2Z Media (**Attachment C**). The pilot allowed entrepreneurs to make desperately needed income during the pandemic but to become sustainable, the program needs a steady funding source. Operating an event of this size every weekend requires several staff members. An additional benefit to offering a legal area for vending is it allows the Municipal Enforcement Officers to address the illegal vending of alcohol and cannabis that occurs outside the pilot area.

In recent warm-weather weekends, some of the leaders of the pilot program established a vending area along El Embarcadero in a manner like the fall pilot, including portable toilets, proper social distancing between booths, and trash cleanup. They are seeking alternate funding to sustain this effort and staff have met to discuss the layout and other details. At the time of this report, staff are awaiting a "Flex Streets" application to be filed by the organizers that would create a mechanism to authorize the use. Additionally, in the absence of traffic control programs or an overtime police presence, unauthorized vending, and many of the negative impacts associated with it have returned quickly to Lakeshore and Grand Avenues. These impacts include alcohol sales, loud music, and illegal parking blocking bike lanes, the center turn lane on Lakeshore, and overflowing garbage cans in the area.

#### **Enforcement Challenges:**

The above traffic and parking control measures, coupled with the pilot vending program made the conditions at the lake more manageable, however, OakDOT parking enforcement technicians and the Municipal Code Enforcement Officers have been verbally threatened when attempting to issue citations or engage in enforcing rules with illegal vendors. OPD does not have resources within the current City Council approved budget to support deployment for minor offenses at the lake as its primary focus is on violent and serious crime citywide.

There are impacts of the activity at the lake that the City has not been able to mitigate. Late night gatherings with amplified music and alcohol sales continue in certain areas including the Boat House parking lot, Bellevue Avenue, the Lakeshore cul-de-sac, and sideshow activity on Lakeshore. The late-night activity on weekends is especially challenging as OPD resources need to be deployed elsewhere in the City and, even if resources were available, breaking up a loud party of drinkers would take extraordinary resources when the department is being directed to reduce its footprint and focus on serious or violent crime.

There has been discussion of bringing back the Oakland Park Ranger Program, which consisted of sworn police personnel with specialized training in park issues but funding deficits

and the directive to reduce OPD's footprint conflict with such a policy direction. There has also been consideration of a Park Ranger model that is more attuned to being an ambassador and performing some basic maintenance services like the Park Ranger II position that East Bay Regional Park District employs. This model could be housed outside of OPD, but the staff would have some law enforcement support when necessary.

A community policing problem-solving project (15X-20-002) was created by neighborhood Community Resource Officers to memorialize the collaborative work, activities and results at Lake Merritt. The results of this project were shared with the Community Policing Advisory Board. It should be noted that the multiple month-long project resulted in just two arrests, one of which was a shooting that occurred around the corner from an officer assigned to the Lake Merritt detail. The officer quickly responded, engaged in a foot pursuit with the shooting suspect, took the suspect into custody, and safely recovered a firearm.

### **ANALYSIS AND POLICY ALTERNATIVES**

Staff support implementation of an ongoing vendor program at El Embarcadero as an effective way to allow vending at the lake and to manage the activity associated with it. The weekend closure of El Embarcadero forces vehicular traffic to MacArthur Blvd, which is wider and able to handle the increased load thereby creating a more inviting recreational atmosphere for pedestrians, bicyclists, and the vendors themselves. An ongoing funding source needs to be identified and would include the vendors themselves paying a fee.

There is also support for implementing the closure of Lakeshore southbound between MacArthur and East 18th Street to create more space for pedestrians and bicyclists on weekends but how to implement such controls without expending extraordinary police costs is still being explored. Maintaining Bellevue as part of the Slow Oakland Streets Initiative is also supported but, again, enforcement is difficult, especially on crowded weekends.

Staff have had discussions about establishing a Parking Benefit District that would allow for the installation of metered parking around the entirety of the lake with the revenue earmarked specifically to fund Lake Merritt Activities such as those discussed in this report. However, implementation of such a program should be part of a larger citywide program and would require Council consideration to ensure an equitable implementation. Initial studies estimate a Lake Merritt Parking Benefit District could generate up to \$1.2 million annually, however, to the extent many of these areas already have parking meters and allocation would reduce the availability of those funds for other programming.

### **Community Feedback and Evaluation**

The City released a community survey in late February to solicit broad input from the community about the traffic control measures, the vending program, and general Lake Merritt issues that will inform the Working Group. The survey was mailed to all addresses within one block of the lake and was distributed through listservs and via postcards handed out at the library and with the support of Council offices. The survey can be found at [www.oaklandca.gov/lakemerritt](http://www.oaklandca.gov/lakemerritt) and is still open. On March 9<sup>th</sup>, 2021 staff generated a survey report (**Attachment D**) which provides preliminary insight as to the community's input however it should be noted that more surveying needs to be done to gather a more diverse community perspective. The current results are from a high-income demographic and require greater racial diversity.

Below is a snapshot of results from the first 2200 respondents:

- A strong majority of respondents feel that conditions at the lake have significantly declined (44%) or slightly declined (22%) in the past two years
- The top three concerns (in order) are Crime and Violence, Homeless Encampments, and Illegal Dumping and Litter
- 35% of respondents believe the pilot vending program was moderately successful and 22% found it to be very successful
- 58% believe the City should continue to support a licensed and managed street vending program at the Lake
- 46% support continued street closures on Lakeshore Ave. southbound on weekends year-round and an additional 34% support the closure at least in the spring and summer
- 70% believe the City should close El Embarcadero St. to create space for vending, events, and recreation
- 55% support the City creating a Parking Benefit District around Lake Merritt by installing metered parking on the lake side of streets with the revenue earmarked for Lake Merritt activities and maintenance
- 60% support adding a permanent barrier, such as a k-rail, boulders or planters to Lakeshore Ave in the center turn lane (between El Embarcadero and E 18th St.) to deter illegal parking and traffic
- Strong majorities support a variety of expanded efforts such as more litter containers, more bathrooms, park restoration efforts, and protecting and preserving the Lake's wildlife and bird sanctuary
- 68% believe the city should implement a new Park Rangers position similar to state or regional park rangers that serve a dual role of education and enforcement housed outside of OPD, 38% support more traditional park Rangers that are sworn police officers

Based on these preliminary results and the results of the survey of vendors, staff believe that the measures that were implemented and the new ones that are proposed have strong community support. Identifying a funding source and strategies to make these programs sustainable is the recommendation of the Working Group.

### **FISCAL IMPACT**

This is an informational report and has no fiscal impact. However, the cost of the operations at Lake Merritt are significant. The average cost of the ongoing efforts at Lake Merritt in the summer of 2020 average approximately \$25,000 per week. This includes the cost of Park Ambassadors, enhanced park maintenance, Police units, additional traffic control measures, Municipal Code Officers, portable toilets, and outreach materials.

The cost of the Vending Pilot in the fall was \$50,000 for an eight-week period and included the management, sanitation, and associated costs. This was funded with Cares Act dollars provided by the Economic Workforce Development Department (EWD) and was part of the funding approved by City Council to support Entrepreneurial Small Business Development. To have an ongoing vending program at the lake, the project would need to become sustainable through contributions from participants as is the case with Farmer's Markets and other street fairs. Because the current vendors have represented they have been impacted significantly by

COVID19, their ability to sustain the program currently is unknown. Short term funding would be needed to restart the program.

### **PUBLIC OUTREACH / INTEREST**

As stated above, the City released a community survey to receive input. Also, staff presented twice to the PRAC, is returning on March 10, 2021 for an update, and meets on an ongoing basis with the Lake Neighbors and the Neighborhood Councils that surround the lake. Staff also met frequently with the vendors in developing the pilot program.

### **COORDINATION**

This is an Interdepartmental effort as demonstrated by the composition of the working group. The group includes the CAO, OPRYD, OPW, OakDOT, OFD, EWD, OPD, and City Council Offices.

### **SUSTAINABLE OPPORTUNITIES**

***Economic:*** Providing an opportunity for Oakland entrepreneurs to grow their businesses during the pandemic is a model that can be replicated to address additional economic disparities in Oakland.

***Environmental:*** Managing human activity at Lake Merritt is critical in protecting the habitat that the lake supports as the nation's oldest bird sanctuary.

***Race & Equity:*** Creating a safe place for vendors to sell their products helps to address the disproportionate impact COVID-19 has had on the community. Using management strategies instead of enforcement strategies to limit problematic behavior will help to reduce the negative consequences associated with punitive police contact that disproportionately impacts communities of color.

**ACTION REQUESTED OF THE CITY COUNCIL**

Staff Recommends That The City Council Approve A Report With Recommendations For The City Administrator To Continue To Support The Safe And Equitable Use Of Lake Merritt By Providing For An Authorized Street Vending Program On Weekends, Alternative Traffic Control Measures, Develop An Alternative Program To Manage Activities At The Lake Such As A Park Ambassador Program, And Seek An Ongoing Funding Source To Cover The Costs Associated With These Efforts On A Year-Round Basis.

For questions regarding this report, please contact Joe DeVries, Director, Interdepartmental Operations, at 510-238-3083.

Respectfully submitted,



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Joe DeVries  
Director, Interdepartmental Operations, City  
Administrator's Office

Attachments (4):

- A: Report to the Parks and Recreation Advisory Commission (PRAC) August 2020
- B: Recommendation from the PRAC September 2020
- C: A2Z Media Vending Pilot Survey and Recap
- D: Preliminary Lake Merritt Community Survey Results