

**To:** SF Board of Appeals Commissioners, Supervisor Shamann Walton (D10)

**CC:** Julie Rosenberg, Tyra Fennell (Mayor's Office), President Supervisor Aaron Peskin, Victoria Wong and Austin Yang, San Francisco City Attorney's Office

**Date:** February 1, 2023

**Re:** SF Board of Appeals - Escalation of Equity Issues Impacting the Public in D10, and Public Comment

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I am writing to express deep concern and public comment regarding my recent experience appearing before the San Francisco Board of Appeals (BOA) on January 18, 2023. My specific concern is the BOA's pretense of equity and due process, but experiencing the reality of a proceeding that heavily favored the voices and opinions of lesser informed white people over my own - the voice of an informed, reasonable, highly educated (MBA, Harvard Graduate School of Business; BA, Economics, Yale University) and accomplished Black woman. As one observer stated to me after the hearing, **"I'm an old white guy and this hearing was like something out of the Jim Crow South. Swig didn't just not want you to speak. He wanted to put you in your place."**

On behalf of Friends of Esprit Park (FoEP), and based on my experience as a long-standing member of the UCSF Community Advisory Group (CAG), and UCSF CAG point person on the Community Advisory Group for the Esprit Park Renovation (ECAG), I appealed Public Works' issuance of a tree removal permit to RecPark for the park renovation. The permit was for the removal of all 38 street trees surrounding the park.

FoEP's primary concern was that this permit: 1) did not require sufficient mitigation in an area that already has a low tree canopy and sits beneath a freeway; and 2) relied on inaccurate assertions of robust community engagement. To be clear, FoEP did not argue that the trees should all stay in place.

#### The Board's Blatant Deference to SF RecPark representative Ms. Stockmann-Sullivan

In these proceedings, RecPark was represented in the briefing and at the hearing by Rec Park Project Manager, Melinda Sullivan. Here are a few examples of discrepancies between the Board's dealings with Ms. Sullivan versus myself:

- As an unpaid volunteer, I timely filed a thoughtful, well-researched pre-hearing brief which I crafted over the Christmas holidays. Ms. Sullivan, on the other hand, submitted her terse, 4 page brief **after** the Board's January 2023 4:30pm deadline. Further, her brief did not address the two key issues that I raised regarding adequate mitigation and community engagement on the topic of tree removal. (Public Works did not bother to file a brief). In fact, Ms. Sullivan proudly announced that she had 'not spent much time on the her brief'
- At the hearing, the BOA limited me to a total of just 10 minutes to present my case, representing the Public: 7 minutes for the initial presentation, and 3 minutes for rebuttal.

On the other hand, the BOA afforded Ms. Sullivan *40 total minutes of time at the podium*: 7 minutes of presentation and 3 minutes of rebuttal, book-ending an additional 30 minutes of dialogue with the Commissioners.

- During this additional 30 minutes, almost entirely in response to questions posed by Board President Rick Swig, Ms. Sullivan: 1) opined on matters that occurred while she admitted she was out on maternity leave; 2) answered questions regarding what it would cost to redesign the park renovation to save all the trees (which is something I never raised); and 3) responded to questions that, to any casual observer, should have been addressed to me. In short, President Swig almost single-handedly gave Ms. Sullivan free reign to create a false narrative and basis for the Board's decision, while I was - literally - held on mute.
- Because the Commissioners allowed Ms. Sullivan 40 minutes of time at the podium, I had to condense a lot of information into my allotted 3 minutes of rebuttal. During my rebuttal, I addressed a question President Swig had asked Ms. Sullivan regarding best practices for community engagement and proved Ms. Sullivan had rendered a non-answer. In contrast to the Commissioners' practice of profuse thanks and recognition to Ms Sullivan for her supposed '*clarifications*', I was not thanked by *any* Commissioner for the fact based clarifications which I provided.
- I corrected Ms. Sullivan's mischaracterization of what had occurred in the underlying matter. **During my rebuttal, I used the term "violent agreement"**, i.e. that the existing ECAG members were all in "violent agreement" with one another and ***not in agreement with RecPark's plan to remove fully half the grass in the only, tiny City park in Dogpatch*** - and this was the actual reason RecPark sought out other community neighbors who would better receive their plan. Mr. Swig's eagerness to chew on possible gossip about 'difficult community groups' revealed his bias and wasted everyone's time.
- Rather than ask *me* what I meant, President Swig asked Ms. Sullivan what I meant by "**violent disagreement**", ***which was: (1) not what I said*** and (2) a question that should have been directed to me; and (3) wasted time which the many members of the RecPark project team will charge back to the Project.

In short, the Board showed unwarranted bias to a city agency/Ms. Sullivan - from acceptance of her late-filed brief, to her 40 minutes of air time at the podium, to asking her questions that should have come to me - questions with a built-in mischaracterization of my statements. Ms. Sullivan was allowed to break Board rules with no consequence, railroad the narrative regarding my appeal, and treated as expert on matters of which she had no personal knowledge.

The Commission's proceedings were so lop-sided against me and the D10 Community, that near the end of the agenda item, Commissioner Lemberg stated:

*"I did feel kind of bad afterwards for not having any questions for the Appellant who got far less time to speak than Rec and Park and BUF did as a result of our panel's questions."* - Commissioner Lemberg, January 18, 2023.

### President Swig's Repeated - and Incorrect - Exclusionary Questioning

In addition to this blatant favoritism and line of questioning seemingly designed to ignore and/or mischaracterize my position, President Swig, specifically, seemingly went out of his way to create rationale for denying my appeal that simply were wholly irrelevant. For example:

President Swig ignored FoEP's brief and presentation which focused on mitigation, and mis-characterized our position as demanding that the street trees stay in place. Instead of dealing with the facts before him, Mr. Swig regaled the public with an extended riff on old beds in renovated hotel rooms, and legacy street trees staining the look of a renovated park.

President Swig also riffed on the high burden on taxpayers if the trees stayed in place and the entire park design was changed - an issue that was not before the Board nor argued by FoEP. To this, Ms. Sullivan chimed in her fear of change orders and the associated costs.

Having been involved in this project for years, I know that this is not how funding works for this Project. It's been fully funded through the UCSF grant and IPIC funding (developer impact fees). Any additional costs, due to change orders or expensive RecPark project team members attending a lengthy BOA evening meeting, will result in less park delivered to the Dogpatch community in D10 to mitigate absorbing the impact of UCSF development. Had I not been excluded from providing substantive input, I could have offered this useful - and accurate - information.

The Board of Appeals issued a decision that, on its face, is based on a foundation of misinformation or missing information because of willful silencing of the Public and specifically its representative, a Black woman. While this was my first time as an Appellant before the Board of Appeals, it was not the first time I have attended a Board of Appeals hearing. Based on what I have witnessed and been told by City Staff and others, I expected that the Commissioners would engage meaningfully with both parties, as they have repeatedly shown concern regarding adequate tree removal mitigations and tree removals, generally. What I experienced, however, was treatment wholly disparate to treatment received by other Appellants who happen to be white.

I have included the Mayor's Office, Supervisor Walton and President Supervisor Peskin as the Board's collective conduct presents an equity issue - currently for those in D10, and potentially for other communities in the future. As it stands, given the open hostility exhibited towards me by the Board President, using my own brief as conversation fodder while not including me in that conversation and offering Ms. Sullivan the equivalent of an open mic, I have no confidence that any other avenue for reconsideration and equity is available to me and those I represent. Therefore I submit this concern to you and request your consideration and action.

A fuller accounting of these proceedings is included below, particularly:

- Correction to the record of the narrative offered by Ms. Sullivan that the Appellant's exhibit showing a resistant, disdainful attitude of the RecPark staff toward ECAG was just a one off. Not true. It's actually indicative of an organizational posture which

continues to 2023 under the leadership of Stacey Bradley, RecPark Deputy Director, Planning, Capital Projects.

- Correction to the record of the narrative offered by Ms. Sullivan that ECAG was not representative of the Dogpatch community. All members (except those hand picked by GBD) were nominated by their stakeholder groups, vetted and approved by the Green Benefit District BOD, on which UCSF held an Executive Committee Seat.
- Correction to the record of the narrative offered by Ms. Sullivan that RecPark engaged the Dogpatch community in discussions re: the removal of street trees, mitigation plans, and a balancing of community priorities given their removal. It never happened.

Sincerely,

A handwritten signature in black ink, appearing to read 'Irma Lewis', with a stylized flourish at the end.

Irma Lewis, President, Friends of Esprit Park

## Public Comment - Corrections to the Record

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### **Background**

As the Appellant, my appeal was straightforward, and THE ASK clearly stated on P2 of my presentation and woven throughout my brief. On the advice of Mr. Roy Leggitt, a well respected consultant arborist with a degree in Plant Science and Ornamental Horticulture (in contrast to SFPW FUB Chris Buck, BA English), FoEP understood the street trees would not survive the massive excavation needed to repair ground condition issues. Therefore it makes sense to prioritize the impact of the removal of significant tree canopy - a central feature of a park referred to as an 'urban oasis'- with the largest possible street tree replacements. After all, UCSF funded the Park renovation at \$5Million as a mitigation for the impact of their development in Dogpatch.

### **FoEP Brief: An Ask for Mitigation**

The Public Works decision was based on two factors : 1) RecPark had conducted robust community engagement regarding the removal of the street trees; 2) the trees targeted for removal were near death's door. My brief and presentation slides proved both suppositions were false. My brief requested sufficient mitigation, a position which Mr. Swig has fully supported in at least two prior hearings that I witnessed. For instance, on December 14, 2022, without prompting, he strongly advocated that UCSF mitigate the removal of healthy street trees for construction purposes with not a 2:1 replacement but a 10:1 replacement ratio.

In contrast to his known practice of searching for a win/win between parties, and giving both sides an opportunity to supplement the record vis-a-vis their brief and presentation, Mr. Swig perfectly orchestrated that Mr. Leggitt and I would have exactly 7 minutes to state our case, and 3 minutes to correct the record/respond, in contrast to the 40 minutes he afforded RecPark, a city agency to spin a narrative of FoEP hugging trees that could not withstand needed ground excavation.

### **False narrative re: RecPark Community Engagement (CE) re: Street Tree Removal and Tradeoffs**

Nowhere does RecPark's brief document *any* meeting where the specific topic of tree removal, size of trees slated for removal, impact to existing tree canopy, size of replacement trees, and mitigations vis-a-vis community priorities was discussed with the community.

Mr. Swig dismissively stated that 'apparently the Appellant has a different standard for community engagement'. He's right. I do. And it's informed by input from award winning experts in the field.

Fact: 'A presentation is not robust community engagement'.

1. The Esprit Community Advisory Group (ECAG) was summarily dismissed by RecPark in a pique of frustration at the group's refusal to capitulate to RecPark's demand that fully 50% of the grass in the park be replaced by plastic. ECAG was designed by UCSF to leverage best practices from the South Park private/public park renovation, down to the size of the group.
  - a. RecPark was not a party to the conversation between the South Park Steering Committee lead and UCSF.
2. UCSF's award winning community engagement process\*, which resulted in the Esprit Park grant, included conversations on community stakeholder team design, goals and best practices. UCSF's Michele Davis\*, ***UC Berkeley Masters in City & Regional Planning, City/Urban, Community and Regional Planning, and UC Berkeley MPH, Planning & Policy***/John Rahaim, Dir. SF Planning/Supervisor Malia Cohen/myself and others were part of those discussions.
  - a. RecPark was not in the room during these conversations
3. I am a 5 year member of the UCSF Community Advisory Group (CAG) focused on land use issues. The design of the quarterly meetings, in which I am an active participant, doesn't allow for community engagement on the level of a workshop or single topic meeting.
  - a. UCSF CAG isn't a venue for RecPark community engagement
4. I am Chairperson of the Eastern Neighborhoods Citizens Advisory Committee (EN CAC), reappointed by S. Shamann Walton, appointed by S. Malia Cohen. Our focus is on the direction of funds and prioritization. EN CAC does not serve at the pleasure of RecPark, who is invited to provide a brief project status report limited to specific districts.
  - a. EN CAC isn't a venue for RecPark community engagement

Mr. Swig's disrespectful inference that I could not possibly be a credible source of knowledge or expertise regarding community engagement for this project resulted in the BOA learning close to nothing on CE best practices and wasted everyone's time.

### **A Community in 'Violent Agreement'**

I referred to the community being in '***violent agreement***' as part of FoEP's 3 minute response to Mr. Swig's gift to RecPark - 30 minutes of uncontested airtime. Mr. Swig was eager to hear the details of what he understood to be difficult community groups in '***violent disagreement***'. Just not from the Appellant. This after Ms. Sullivan advised that she was on maternity leave during the project CE activities.

Under the approval of her manager Stacy Bradley, Dir. RecPark Capital Projects, Ms. Sullivan guessed at what I was talking about, and offered the BOA a narrative that painted RecPark taking the high road in the face of some difficult community stakeholders, which she later expanded to include the ***entire*** ECAG. After maligning ECAG - all of whom were selected by their schools/HOAs/community groups to be their representatives and approved by the GBD -

as not being representative of the community, Ms Sullivan then stated there were no attitude issues from her side of the project. BOA complimented her and her team taking the high road.

I am so disappointed that *due solely to Mr. Swig's commitment to not allowing me to speak*, a correction of the record forces the topic of poor behavior and actions of RecPark staff and their hired vendors towards ECAG to be re-aired, fully explained and publicly shared to a wider audience.

*The Commissioners asking Ms. Stockman about the status of RecPark's resistant behavior towards the community is akin to asking an abuser if he/she has stopped the abuse*

#### The Facts: A timeline of pattern of behavior

1. December 2018 ECAG Meeting: **At 8:25PM, Ms. Stockmann-Sullivan announces to the group 'just to manage your expectations, we (RecPark) will replace half the grass in the park with plastic for the dog play area'** Facilitator immediately calls the meeting to a close.
2. January 2019: Ms. Stockmann-Sullivan cancels the January monthly ECAG meeting, and begins an extended months long medical leave
3. ECAG Meetings February 2019 - May 2019: ECAG remained 100% in agreement (aka violent agreement) to maintain Esprit as an all grass park. ECAG members unanimously voted 3 times to NOT replace 50% of the grass in Esprit with plastic.
4. RecPark's southern California based **meeting facilitator, Steve Cacian**, was failing to meet his Client's mandate to change some ECAG votes. He wrote to his RecPark clients **"And, yes have a good weekend too. I'm doing a park workshop tomorrow that is a good antidote to the Esprit ECAG - a working class community hungry for a park, who bring their whole families to the meetings and really listen to each other and try to find a way to fit in everything everybody wants."** Steve Cacian
5. May 2019: RecPark announces they will go on the hunt for a 'different community', people who will be ok with removing half the grass in the park and reducing its overall functionality and 'dismisses' ECAG.
6. June 2019: ECAG members - inclusive of professionals in finance, project planning and management, stakeholder engagement, program management, strategy, operations, and change management for industry leading companies - grew alarmed at RecPark's decision to embark on a *second community process to find people who could be convinced to agree with their goal of removing grass for plastic*. ECAG felt it was destined to substantially delay the project and lead to cost overruns as construction costs would only rise over time. We asked Supervisor Walton for help.
7. Oct. 2019: Phil Ginsberg was so hostile towards ECAG members during an intervention meeting called by Supervisor Walton, he was almost physically restrained by Supervisor Walton who reminded him multiple times that **ECAG was the community and he (and**

**his team) needed to actually listen.** Mr. Ginsberg's behavior escalated once outside the view of S. Walton, at which point a formal complaint was sent to the Parks Commission.

**a. Complaint to SF Parks Commission re: P. Ginsberg's hostile behavior**

"I am writing to bring your attention to the publicly hostile, dismissive behavior of Phil Ginsberg towards me and my neighbors, experienced during a 10/16 meeting Supervisor Walton hosted and facilitated with Esprit Community Advisory Group (ECAG) and RPD. This was our first interaction with Phil. ...He created a disturbing, unsafe environment for me and others. At least three women who attended the meeting do NOT want to be within 50 ft. of Phil ever again."

This same neighbor has openly advocated for the Esprit project to be pulled from RPD and given to a private developer, and lobbied hard and loudly for RPD to just remove all soft costs (I did not support either position). In short, he's been a highly visible, vocal non-fan of RPD. Yet at no time did Phil speak to him using the rancor-filled language - verbal or physical- he directed to me."

b. Mr. Ginsberg was directed to write a formal apology. *Taking the high road*, I and other impacted ECAG members accepted his apology and hoped to move on.

8. **2020 RecPark desperately wants to eliminate maintenance costs for Esprit Park:** Desperate to reduce minimal maintenance costs by removing half the grass from the park, RecPark introduces a 'hail mary' option - designate half the park as totally dog free, and pushing all neighbors with dogs - on and off leash - to the other half of the park with plastic ground cover, *despite knowing it is not doable and sets a bad precedent* (ref. ADA, and RecPark opinion below). ***This is after 4 prior years of community engagement in workshops, surveys and later ECAG, with neighbors coalesced around Option C - an all grass park, with an off leash dog play area***

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**From:** Madland, Sarah (REC) <[sarah.madland@sfgov.org](mailto:sarah.madland@sfgov.org)>

**Sent:** Wednesday, January 8, 2020 2:33 PM

**To:** Ginsburg, Phil (REC) <[phil.ginsburg@sfgov.org](mailto:phil.ginsburg@sfgov.org)>

**Cc:** Kern, Dennis (REC) <[dennis.kern@sfgov.org](mailto:dennis.kern@sfgov.org)>; Bishop, Lamonte' (REC) <[lamonte.bishop@sfgov.org](mailto:lamonte.bishop@sfgov.org)>

**Subject:** Esprit Park Dogs

Phil,

At the last Esprit park meeting you asked about the possibility of doing half of Esprit Park as no dogs. The short answer is that we could do that as a matter of policy. There is no backing in the park code and therefore would only be enforceable under 4.102 – obey all posted signs.

I would advise against such a plan as:

1. It will be no dogs in name only. We do not have the resources to consistently enforce and as there is no community buy in on this it will not be self-enforced.
2. It sets a bad precedent within for other parks.

Please let me know your thoughts or if you would like to discuss further. There is an Esprit Community Meeting on 2/1 so we would like to have resolution on if this is an option before then.

Thanks.

Sarah

9. As ECAG feared and escalated, under the direction of Stacey Bradley RecPark Deputy Director, Planning, Capital Projects, the Community Engagement 2.0 reboot squandered



limited funds and held up the project for 18 months. The impact? By Fall 2021, the project was \$800,000 over budget and required value engineering of the park. ( S. Bradley, 11/15/21 EN CAC Meeting)

10. The RecPark tone set and condoned by Ms. Bradley: Extracts from EN CAC Complaint Memorandum submitted by EN CAC member to Rich Hillis, Planning Director of SF Planning Department, 11/21/22
  - a. “June 2022 EN CAC Meeting: It was during the discussion of transferring IPIC funds (aka \$800K Gap Funding) where the contention began with the SF RecPark Representative, Stacy Bradley, failure to a) provide a written commitment to increase their community engagement (Attachment 3), and b) their lack of desire to conduct meaningful community engagement as they’d previously committed. It was here when the **disrespectful and abusive behavior began from some members of the public and former EN CAC Members supporting RecPark’s narrative** that the project “would be late” unless EN CAC immediately voted to move forward without further community engagement.”
  - b. “...the comments were so nasty and despicable that a devoted and valued Member of the EN CAC resigned.”
  - c. “The SF Planning Department concluded that for future meetings, Zoom chat messaging be disabled for various Planning Department CACs”