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May 28, 2011

Mr. Frank Dean
Park Superintendent
Golden Gate National Recreation Area
Building 201, Fort Mason
Bay and Franklin Streets
San Francisco, CA 94123-0022

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SUPERINTENDENT'S OFFICE

Re: Golden Gate National Recreation Area
Pet Management DEIS Public Comment

Dear Superintendent Dean:

I am submitting documents for inclusion in the DEIS public comment review, as set forth in the table below. The documents and comment overwhelmingly establish the following central factors for DEIS consideration:

- * Any further restriction of off leash recreational access will create significant adverse and highly controversial impact on recreational access and is inconsistent with fulfillment of the GGNRA urban recreation area mandate;
- * The preferred alternative simply will not work in that concentrating the off leash use in a smaller area will create conflict problems, is unenforceable and is far too expensive;
- * The DEIS fails to adequately consider the full impact of the preferred alternative on park users, on GGNRA park quality and management factors and on San Francisco municipal parks – the DEIS fails to adequately consider where the current park users will end up after they are displaced, and where to find the best locations for the use or if the migration of the park users will cause environmental impact at areas to which the users are displaced;
- * The compliance based management aspect improperly subverts the future rights of the people to public comment rulemaking prior to such changes; and
- * The better solution by far is to take no action other than to confirm continued management consistent with the long standing off leash policy.

Document Submission:

Each of the documents is appropriate for consideration in the context of the specific questions presented by the DEIS. Tabs 1-12 consist of excerpts from transcripts of prior public testimony before the Advisory Commission concerning the wisdom of potential modification of the Pet Policy. This testimony generally concerns the views of members of the public seeking to provide official comment to the NPS on the overall issue addressed in the DEIS concerning pet management in the GGNRA, the historical pattern of successful pet management under the GGNRA's long standing Pet Policy, the context of the new change to that pet management practice, the central issue of the baseline status on which the DEIS and potential rulemaking should be considered, and the unique aspects of Fort Funston and other particular areas warranting continuation as off-leash areas. The testimony was prior official public comment on the issue that has largely been ignored and sidestepped, requiring consideration at this point to avoid impropriety in the DEIS and potential rulemaking process.

Tab 13 contains copies of some of my prior correspondence to the Park Service concerning the pet management policy and rulemaking process, and the question of the appropriate baseline status from which the rulemaking and environmental analysis should proceed. These documents are appropriate for consideration in the DEIS process because they go both to the general issues of pet management in the GGNRA and the specific management of off leash access areas at Fort Funston. The documents also provide analysis of the historical treatment of recreational access, the enabling statute mandate, the pattern of prior off leash access, the promises made that off leash access would continue and specific analysis of the presumptions on which the closures and access changes are proposed. The correspondence in part addresses the prior failure to fully consider the points raised in the rulemaking submissions and the need for such analysis in a fair and unbiased way in making a determination of appropriate scope of recreational access consistent with the enabling statute.

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13.	Prior Public Comment Submissions: * 1/23/01 correspondence of John Keating to Superintendent O'Neill seeking reconsideration of the Fort Funston closure decision. * 2/15/01 correspondence of John Keating to Secretary Norton * 4/6/01 correspondence of John Keating to Secretary Norton * 5/10/01 correspondence of John Keating to Secretary Norton * 7/3/01 correspondence of John Keating to Superintendent O'Neill * 11/9/01 correspondence of John Keating to OMB Administrator John J. Graham regarding changes in pet management and the ANPR., including attached Exhibits A-K * 4/12/02 John Keating ANPR public comment

I also seek to incorporate by reference and request consideration of Volume II through Volume VII of the public comment correspondence documents appended to my April 12, 2002 comment on the proposed ANPR process which laid the ground for the current DEIS consideration. Such public comment letters and petitions are appropriate for consideration in that they concern the same issue and were submitted in response to Park Service solicitation for comment in an earlier stage of this process. It is improper to solicit such comment, then largely ignore the specific comments. At the minimum, to avoid divesting the people of the public comment right, it is proper to consider the comments at this stage.

Volume II Tab 12 of the prior submission contained originals of hundreds of detailed and specific comments made by the public regarding pet management and the scope of recreational access at Fort Funston. Particularly, these comments go to the unique high quality social community atmosphere provided by this park area by virtue of the practice of allowing off leash dog walking. A number of these comments evidence the important issue of the unusual degree to which this distinct park area provides an unsurpassed opportunity and attraction to participation by senior, disabled, minority and urban user communities otherwise generally under served by the National Park Service.

Volume II Tabs 13-16 evidenced petitions to the NPS signed by many thousands regarding the issues to be considered by the DEIS when similarly presented by the ANPR.

Volumes III through V (Tabs 17 through 22) contained copies of additional letters regarding the ANPR pet management issues. The originals of these letters were previously sent directly to the National Park Service and/or Department of Interior in response to the initial announcements that an ANPR would be pursued and addressed the current pet management practices issues.

Please also consider Volume VI through VII (Tabs 23 and 24) of the prior submission which contained copies of written ANPR letters and e-mails collected for submission together in bulk and number stamped for ease of reference by the Park Service during review, and which present public comment on the same issues as are presented by the DEIS.

The additional relevant documents assembled in my prior April 12, 2002 submission and incorporated as part of my current comment on the DEIS are described in greater detail as follows:

12	Originals of comment statements by users of Fort Funston regarding views and desires concerning pet management and recreational access closures (March 2000)
13	January 2001 internet petition responding to GGNRA proposal to rescind the Pet Policy, asking for exemption and reconsideration of potential application of general regulation and based on prior assurances from the Park Service that off lead dog walking would not be curtailed supports continuing off lead recreation and lists specific areas currently enjoyed by the signers as off lead areas. (This tab contains a print out from the web site of electronic signatures 01-695 and 4609-5308.)
14.	January 2001 internet petition full data print out of the first 5967 signatures and comments
15.	Pages from Fort Funston Fall 2000 petition signed by thousands objecting to Fort Funston closure as unnecessary and unreasonably curtailing off lead recreation. The full record of petition signatures was previously submitted to the Park Service and is incorporated by reference for submission as comment in this ANPR consideration.
16.	Spring 2002 off lead petition – print out from petition web site of first and last 225 of 4125 signers on internet petition – submitted for purposes of allowing Park Service verification of authenticity of full data and excerpted comments being concurrently submitted by the Fort Funston Dog Walkers group.
17.	Copies of August 3, 2001 letters previously forwarded to Secretary Norton and Director Mainella and bearing individual comments concerning the changes in pet management in the GGNRA.
18.	Copies of additional second set of August 3, 2001 letters previously forwarded to Secretary Norton and Director Mainella asserting that the changes restricting pet recreation in the GGNRA are important to the sender and should not be made without full and fair public hearing.
19.	Copies of additional third set of August 3, 2001 letters previously forwarded to Secretary Norton and Director Mainella decrying the deviation from the congressional intent in creating a recreation area by overly emphasizing wildlife enhancement at the expense of recreation, decrying the process by which the Park Service manipulated the circumstances to deprive the public of a fair hearing and decrying the circumstances of bias of the Park Service employees who continue to be involved in railroading through anti recreation restrictions.

20.	Copies of an additional fourth set of August 3, 2001 letters previously forwarded to Secretary Norton calling for compliance with promises made to local governments, calling for compliance with the enabling statute mandate and complaining about the lack of fair process before making dramatic changes restricting pet recreation in the GGNRA.
21.	Copies of September 9, 2001 letters previously forwarded to Secretary Norton and Director Mainella and bearing individual comments concerning the changes in pet management in the GGNRA.
22.	Copies of September 16, 2001 letters previously forwarded to Secretary Norton and Director Mainella and bearing individual comments concerning the changes in pet management in the GGNRA.
23.	Copies of letters, faxes and e-mails received by FFDW and SFDOG for inclusion for consideration in the ANPR, some of which were separately received by the GGNRA and some of which have been forwarded to the user groups to be submitted in mass. Number stamped submissions 10001-10368 and 4/11/02 letter of Christy A. Cameron are included in this tab.
24.	Copies of additional letters, faxes and e-mails received by FFDW and SFDOG for inclusion for consideration in the ANPR, some of which were separately received by the GGNRA and some of which have been forwarded to the user groups to be submitted in mass. Number stamped submissions 10401-10821 and 4/12/02 letter of Mildred M. Bolin are included in this tab.

These public comment petitions and letters reflect the broad importance the public gives to the need to form some mechanism to continue allowing off leash dog walking and to insure that the analysis be performed from a fair perspective and in an unbiased manner. If the GGNRA is unable to retrieve the prior comments as appended to my April 12, 2002 submission, kindly advise me as I am willing to scan in and provide either hard copies or a digital copy of the public comment letters.

The Improper Process:

I continue to object to the DEIS process (1) to the extent it is being substituted for the public input comment opportunity required pursuant to 36 CFR 1.5 prior to changing the longstanding GGNRA Pet Policy allowing off leash recreational access, (2) to the extent that it presents a question for comment based on an analysis platform that is inconsistent with the enabling statute recreation mandate and fair evaluation of the proposed change to the status quo, (3) to the extent that the DEIS document is so incomplete, biased, factually inaccurate, based on ill founded presumptions and limited in scope of areas considered as to unfairly prejudice and limit rather than facilitate full analysis of the pet management question, and (4) to the extent the compliance based management aspect of the plan has the effect of defeating the future right to public comment opportunity pursuant to 36 CFR 1.5.

The public comment on any proposed rule must include a public hearing where oral comments may be presented. Seeing people's faces and hearing the emotion in their voices as they

speak on a subject that will have a tremendous impact on an important part of their lives is an important part of democracy. Resolution of this issue is necessary for meaningful public comment at the scoping stage in order to allow informed comment. The process violates 36 CFR 1.5 if there is not public comment on a proposed rule and the current scoping stage process is not procedurally sufficient to satisfy 36 CFR 1.5 requirements.

As part of the current scoping process the GGNRA needs to review and consider all the prior public comment solicited regarding the potential of change to the existing pet management policy, including during the Advanced Notice of Proposed Rulemaking process and the Advisory Committee public hearing on the issue in January 2001.

The GGNRA should consider the massive public comment in response to its prior solicitation for comment on the issue. Fair evaluation of the comment of the will of the people would compel provision of some off-leash areas. Yet, there is a risk that the GGNRA will use the DEIS process to ignore the comment. It would be improper sidestepping of the rulemaking requirements if despite the overwhelming public input, a new decision is made not based on the public input but instead based on back room analysis based on subjective presumption of environmental impact. The GGNRA previously held a public hearing on the issue and after starting to receive the testimony postponed receipt of the remainder of the oral public comment. The GGNRA should entertain all of the postponed public oral comment.

The GGNRA should take wide open public comment when the proposed rule is finally issued after considering the public input as to the DEIS. And, this public comment should be not just whether the public likes the preferred alternative, but rather whether to change from the 1979 Pet Policy to the new proposed rule.

The process is arbitrary and capricious to the extent not allowing consideration of whether off leash recreation can be accommodated in other areas of the GGNRA. Historically, the GGNRA dog management policy analysis has been a comparative analysis of impact of the use in one area as opposed to potential impact of the same use in alternate areas. It is arbitrary and capricious to shift from a comparative analysis to an analysis of impact of specific areas in the abstract.

In creating the 1979 pet policy, the NPS carefully considered where off leash recreational use could best be accommodated within the GGNRA with the least adverse environmental impact and the least adverse impact on other recreational uses. Any proper analysis 32 years later of the impact of proposed deviation from the prior 1979 analysis conclusions must consider whether the environmental and social circumstances are unchanged such that the designated areas still have the least potential impact of all areas in the GGNRA or whether the recreational use might be relocated to other areas.

Negotiated rulemaking protocols generally call for considering all potential solutions and allowing the public process to paint on a fresh canvas. Although the NPS received objections to the negotiated rulemaking process proceeding based on constrained options, the NPS went forward with the drastically curtailed approach precluding full consideration of the relevant factors. Reliance of such an approach in the face of notice of the clear insufficiency of the approach is arbitrary and

capricious and does not satisfy the 36 CFR 1.5 rulemaking requirements. The same procedural impropriety is employed in the current management plan alternatives in the DEIS.

The DEIS process is arbitrary and capricious in deviating from prior analysis and process, requiring clarification before scoping is completed.

- (A) The Crissy Field development plan was based on a finding of no significant impact based on an assumption that the additional off leash areas then existing in the dog management plan were to be continued. If the assumption on which the Crissy Field development FONSI relied is arbitrarily removed, or retroactively determined to be false as implied by the DEIS, it is arbitrary and capricious to proceed inconsistently overruling the prior finding without analysis.
- (B) After the issuance of the rulemaking on the Fort Funston closure, recreational users requested reconsideration of the ruling. Some of the requests for reconsideration received no response, and therefore are still pending. Director Mainella's eventual response to one of the requests for reconsideration included a promise that the scope of the dog walking at the closed areas would be part of the subject matter considered in the later planned consideration of overall dog walking management in the GGNRA. Director Mainella was correct in concluding that the traditional dog walking use of those areas is indeed a proper subject of consideration concerning the overall dog walking management plan. Recreational users had a right to rely on the representations of the Director. It is arbitrary and capricious to preclude consideration of those areas in the current DEIS.
- (C) It is arbitrary and capricious to fail to consider the social and environmental impact of the creeping closures of dog walking areas initially allowed in the 1979 Pet Policy. Closures of those areas have significant impact on the important impact factor of the concentration of the recreational use in limited areas. Offsetting mitigation replacement areas should be considered as part of any impact analysis, as should the impact of the closures.

The preferred alternative plan adopts an improper hostile compliance based management scheme calling for further limitation if there is not 75% compliance with the change. In essence, the plan replaces the requirement of future rulemaking over any significant change with a plan allowing the GGNRA to make future changes administratively. That switched procedure violates the rulemaking requirement.

Moreover, the plan provides only for adjustment downward, rather than reevaluation as to what best remedies the problem. Hence, the GGNRA is restricting park access to such an extent that the plan is unlikely to work, but if the current plan does not work then will restrict more rather than reevaluate to come up with a new plan. True reevaluation could result in a conclusion that the restrictions don't work and should be loosened rather than tightened. This is sort of like drastically reducing school class size together with a plan that if that doesn't work the class size will be reduced even further, without any consideration of whether a better change might be to increase class size..

The DEIS statement is materially false and misleading in mischaracterizing the status of the existing dog management plan. The 1979 Pet Policy was officially ratified and adopted by the GGNRA. Although the DEIS reports that it was later determined that the 1979 Pet Policy was illegal, that is incorrect. That was simply an interpretation posture taken by the solicitor in the course of litigation. That interpretation was rejected by the Court at least twice and held not to be a basis for not continuing to apply the 1979 Pet Policy.

The NPS has received objection and comment repeatedly that it is arbitrary and capricious to move forward with the rulemaking process based on promoting a self serving legal analysis that has previously been ruled against by the Court. Such conduct is misleading to the public. The DEIS is also false and potentially deliberately misleading in suggesting that the Citizen Advisory Commission acknowledged that the policy was illegal and unenforceable. The transcript shows that to be a position taken by one commissioner based on the incorrect legal analysis provided by the NPS. The opposite approach was taken in the motion passed by the Commission – to take no action on the earlier proposal to rescind the policy as illegal and invalid.

The DEIS stands the traditional impact analysis requirement on its head in that the DEIS improperly uses impact analysis as a sword to promote deviation from the status quo rather than its traditional function of evaluating the risk of negative impact of a change from the status quo. . It is improper to undermine the court's ruling by requiring environmental analysis even if the GGNRA simply keeps the existing off leash policy. Environmental analysis is only required to the extent some new rule deviates from the current pet policy, and is not required if there is no change.

Similarly, it is improper if the GGNRA reverses the intent of the rulemaking process. There currently is a valid pet management policy allowing off leash dog walking. It would be an improper attempt to sidestep the court's decision if the GGNRA is attempting to say that off leash can remain only if a special regulation is adopted. Rulemaking and environmental analysis is improper and deviates from the controlling law to the extent it is set up to create a new policy from scratch in place of the conducting the required public input rulemaking process on whether to alter the 1979 Pet Policy.

The DEIS scope of discussion should include all areas of the GGNRA. Artificial constraints on the scope of discussion of alternatives are against the public policy of allowing the full consideration of all possibilities in order to balance factors and give the best recommendation.

The scope of the discussion must include all areas designated as off leash under the 1979 Pet Policy. That policy was created after public input hearings and considerations and ultimately designated certain areas for off leash recreation where it was determined that there would be no adverse impact on the environment or other access interests. The Federal Court decision held that the 1979 Pet Policy determination can not be changed without compliance with the public comment rulemaking procedure requirement of 36 CFR 1.5. Any restriction of the scope of discussion such as to preclude consideration of off leash in areas allowed pursuant to the 1979 Pet Policy would lack compliance with the court decision and any resulting proposed rulemaking change would be in contempt of the court.

The reality is that for decades pet management in the GGNRA was conducted pursuant to an official Pet Policy that was adopted and implemented by the agency after public input and

hearings. The approved policy interpreted and applied the general Park Service wide regulations in the context of the unique circumstances of the recreation area -- an enabling statute mandate to facilitate traditional urban open space recreational access, promises made to the people of the City of San Francisco that the traditional recreational activities would be allowed to continue, a dense urban area and long preexisting recreational use.

Fair consideration of the off leash issue needs to take into account the reality that the Park Service is seeking to make a significant change to eliminate a current use that is extremely popular. A public input process is required prior to any such highly controversial and significant alteration in the public use pattern of the park areas (36 CFR 1.5). It is unfair for the Park Service to manipulate the presentation so as to evaluate the question as if it were to create an entirely new use.

Additionally, the DEIS document contains posturing, one sided presentation and factual inaccuracies that make the document skewed against resolution in favor of allowing off leash dog walking. Previously, the federal court found that the local park service employees had attempted to railroad through a closure while soliciting one-sided input against off leash recreation and sidetracking consideration of input from dog walkers. In my view, the biased DEIS presentation and the history of action against off leash recreation warrants careful attention to ensuring that the analysis of the options is fairly considered. Those shown to be biased before should not be involved currently.

The general Park Service leash law regulation is not controlling. The pet activity guidelines of 36 CFR 2.15(a)(2) should not be construed as a universal leash law within the confines of the GGNRA. The 1979 Pet Policy as amended and tinkered with and applied up through at least 1999 is a more appropriate application of 36 CFR 2.15(a)(2) together with the enabling statute mandate and management discretion. The Dog Policy brochure previously circulated by the GGNRA is the policy that should be operative. As I do not believe that the long-standing GGNRA Pet Policy has been legally abrogated, I do not believe it is appropriate to assume that a "leash law" is currently in effect. To the extent the DRO-55 and 2001 Management Policies guidelines are construed to interpret the general regulations to strictly apply universally despite a contrary recreation area enabling statute unless a particular recreation activity is specified the new interpretation runs counter to the congressional intent in creating this specific GGNRA recreation area. By improperly construing a general regulation in such a manner as to negate the language of a specific statute the new interpretation of the regulation is illegal as applied to the GGNRA. The Park Service should not continue to go down the path of interpreting its regulations in such an extreme fashion as to render it incompetent to manage a recreation area.

The GGNRA emphasizes "management options . . . consistent with protecting national park resources and assuring visitor safety." That articulation is improper and skews the question in that it ignores the second half of the enabling statute mandate -- maintaining open space recreation opportunities. The DEIS should properly also highlight the additional language "*in a manner which will provide for recreation and educational opportunities*" or the language "*in order to provide for the maintenance of needed recreational open space,*" as the park purpose is specified in the enabling statute. (16 U.S.C. 460bb)

Comments Concerning Specific Areas:

The general regulation should be adjusted to designate former "voice control" areas for off leash dog walking. At the minimum, the general regulation interpretation should be altered to allow such discretion to superintendents at least in circumstances of recreation areas where off leash recreation has been traditionally allowed. Limitation of the discretion to recreation areas where the discretion is warranted under an equitable grand fathering concept would ease the concern of potential system wide precedent.

All areas identified in the GGNRA Pet Policy brochure as existing in early 2000 as off leash areas should remain off leash. To the extent any of those areas are deemed currently closed to dogs, they should be opened. The Crissy Field beach area between the Coast Guard pier and the rock area that is the current boundary for dog use should be reopened to dogs consistent with the Mitigation Matrix of the Crissy Field NSI finding.

The closure areas at Fort Funston should be reopened for user access including dog walking access absent a well founded showing of significant adverse environmental impact. The traditional off leash area on the Lands End road and path leading along the coastal cliffs should be reopened, subject to closure of certain areas away from the roadway in the event of a well founded showing of adverse environmental impact. The Ocean Beach off leash restrictions from Stairwell 21 to Sloat should be reexamined and remain restricted only if there is analysis showing a substantial basis to believe that the restriction will aid the Snowy Plover population. Any such restriction should be limited to the seasons when and areas where the Snowy Plovers are ordinarily present.

General Comments Concerning Management Changes:

The Park Service ought to decline to engage in further formal rulemaking and continue the status quo of the prior longstanding policy allowing off leash dog walking in certain areas previously determined to have the least potential resource impact.

As summarized below this option is the only reasonably economic and practical alternative, and clearly is the most consistent with the expression of public will. Pursuing a change of the current pet management practices would present uncertainty, create unnecessary expense and management difficulty, foment disharmony between park users and staff, and lead to great enforcement problems and potential legal complications.

The prior longstanding GGNRA Pet Policy had been adopted after a series of public hearings in the late 1970's. It was a product of careful analysis and reasonable compromise balancing the various recreational and resource protection factors. With occasional adjustments the Pet Policy endured and worked well for decades. It was popular and appropriate in accommodating the preexisting recreational activities and unique circumstances of the park. And, there have been surprisingly few problems. People generally seem to learn how to coexist and work out their competing desires for recreational access.

I observed an example of how giving a little freedom goes a long way in helping people

to get along. It was a hot and crowded summer week day at Crissy Field – East Beach. The place was already packed, adults, kids and dogs of all variety romping in the low waves, when four or five vans from a summer camp arrived. The director of the camp and I talked as he was standing at the top of the beach carefully watching his thirty or so children and numerous teenage staff. I asked why he chose this particular area that was so crowded and had so many off leash dogs. The adjoining beach area where dogs are completely banned was much less crowded. Wasn't he worried about conflict between the dogs and his kids? To my surprise he said that actually the presence of so many dogs was one of the main factors that attracted him to that particular beach. It turned out that many of his kids are inner city children without much opportunity for safe and friendly interaction in public areas. This camp director said one of his chief goals is to try to teach the kids how to meet, get along with and play freely with others. He said that the presence of the off leash dogs helps him by providing an opportunity not only to teach the kids how to interact with dogs but also how to quickly make friends and play freely.

On the other hand, the notion that the Park Service could attempt to completely eliminate off leash dog walking on the former San Francisco city beaches is a fantasy. The GGNRA simply does not have the personnel necessary to achieve such a wholesale change in the manner of usage of these popular beach areas. Previously when the GGNRA stated it was changing its policy to end dog walking, the new policy had been enforced only sporadically. On occasions when the Park Service has attempted to enforce the policy doing so has led to difficulties and poor public relations. Moreover, even were the Park Service able to repress the local popular desires to continue dog walking on the San Francisco city beaches, attempting to force the people away from that traditional source of recreational open space access would likely result in migration of dog walking park users from those areas of minimal impact into areas of more natural resource degradation risk.

As a frequent beach walker I have observed examples of such unexpected adverse impact following a unilateral change to longstanding practice. Certain areas of Ocean Beach had been designated as off leash areas, and other portions designated as on leash where the Park Service had identified a need to avoid the possibility of interaction with Snowy Plovers. There were clear signs at the beach with maps showing exactly where the off leash and on leash areas began and ended. By and large the public obeyed the restrictions. One could watch beach walkers routinely running and playing freely with their dogs off leash while carrying leashes and then stopping to clip on the leashes when getting into the restricted Snowy Plover area.

However, that cooperative compliance ended when the Park Service tore out those clear signs with the maps and replaced them with signs that instructed that dogs must be on leash at all times. As a result we had a situation where the public distrusted and ignored the signs completely and there is no information regarding the special area. I saw off leash dogs in the area where previously they would be leashed due to the identified special protection need. Hence, by adopting a nominal universal policy that is unenforceable and unpopular the Park Service actually had the opposite effect – increasing the likelihood of off leash dogs in the identified natural resource risk area. If the Park Service cannot possibly achieve enforcement of an overall ban, it should not attempt a partial enforcement that will merely cause migration of park users from areas previously identified as appropriate due to their lower protection need into other areas that have a higher protection need.

The unilateral change in policy was as unnecessary as it was improvident. For years the

Park Service had interpreted its statutes and regulations such as to allow the recreation area discretion to make such activity accommodations as were generally necessary to fulfill its special urban recreational mandate. In late 2000 during the rush to quickly implement the stricter new management policies, the legal interpretation was flip flopped to suggest that there was no discretion unless the particular activity was specifically articulated in the enabling statute. In light of that changed interpretation local staff declared that the longstanding GGNRA Pet Policy was improper and therefore "void." The analysis for the first twenty years seems more well founded in that it recognized the statutory authority for discretion to make adjustments necessary to fulfill the enabling statute mandate. I think that the abrupt change in legal interpretation in 2000 wrongly resulted in retroactively overruling congressional intent by staff legal interpretation.

The documents produced by the GGNRA in litigation belie the GGNRA's posture denying the validity of the prior official policy allowing off leash dog walking. The GGNRA suggests that the prior policy was merely a recommendation that never was adopted and never went into effect. In fact, the 1979 Pet Policy had been created and approved after public hearings before the Advisory Commission and was thereafter adopted by the GGNRA and identified as its official policy.

The GGNRA Pet Policy allowing some off-leash dog walking remained the official policy for two decades. GGNRA and NPS officials repeatedly confirmed the Pet Policy from 1992-1999 in letters to inquiring members of Congress. Nevertheless, park officials seeking to rescind the Pet Policy without public hearings newly took the position that the Pet Policy was never officially adopted by the GGNRA.

Date:	Page No.:	
	D00246-247	Pet Policy as amended up through year 2000.
12/27/99	D00055-56	Acting Superintendent Scott letter to park user discussing the various off-leash areas at Crissy Field and referring to the "voice control policy."
8/18/99	D00011-12	Chief Ranger Yvette Ruan letter to a park user confirming in third paragraph that the GGNRA "has adopted a fairly liberal pet policy that allows the opportunity for visitors to enjoy several designated areas where pets may be off-leash if under voice control."
3/19/99	D01367-70	Superintendent O'Neill letter to Congresswoman Pelosi confirming that the GGNRA had adopted the Pet Policy: "As you are probably aware, GGNRA has adopted a pet policy that is more liberal than pet regulations at other national park sites throughout the country. In all other areas of the national park system, pets are required to be leashed at all times and are, for the most part, excluded from all but developed areas. GGNRA has, with the assistance of the park's Advisory Commission, established

Date:	Page No.:	
		<p>a pet policy that allows some opportunity for visitors to enjoy a few designated areas with their pets under less restrictive circumstances. <u>Certain areas of the park have been designated as voice control areas where pets are permitted off-leash.</u> Other sites are open only to leashed pets, and some portions of the park are completely closed to pets in order to protect sensitive resources. This policy is designed to accommodate the many different user groups within the park as well as to fulfill our mandate to protect natural resource values of the park. We believe our present policy provides a balance between pets in GGNRA and the protection of park resources.”</p> <p>Representative Nancy Pelosi’s 3/10/99 inquiry correspondence to Brian O’Neill in the second paragraph had noted that the constituent has requested that “the agreements made previously with the Citizens Advisory Commission be reinstated and respected.” The 11/29/98 Constituent correspondence triggering the response of Superintendent O’Neill to Congresswoman Pelosi at the fourth paragraph reflects a concern that the prior policy was being abrogated without public hearings.</p>
2/5/99	D00045-50	Western Region Regional Director John A. Reynolds letter to Senator Feinstein enclosing correspondence responding to her constituent and confirming that the GGNRA had adopted the Pet Policy and that the GGNRA did “not anticipate any change to GGNRA’s pet regulations.”
1998	D00248	GGNRA information release explaining that the GGNRA has “designated appropriate areas where dog walking can take place on- or off-leash without negatively impacting the resources or other uses.”
12/30/97	D00293-4	Western Region Regional Director John A. Reynolds letter to Senator Feinstein again confirming that the GGNRA adopted the Pet Policy which it established with the assistance of the Advisory Commission (with circulation initials of Brian O’Neill)

Date:	Page No.:	
10/2/96	D00039	Crissy Field Finding of No Significant Impact with a statement regarding off-leash dog use at page 39 that "NPS will enforce <u>voice control</u> and clean up requirements, and will monitor the results of these efforts. This information will be periodically re-evaluated and management adjustments made where necessary, bringing any proposed changes in off leash dog access to the Advisory Commission" and at page 42 concluding that " <u>Proposed changes in off leash dog access will be brought to the attention of the Advisory Commission prior to taking action.</u> "
9/16/96	D00461-464	GGNRA question and answer pamphlet concerning locations where off-leash dog walking is allowed.
@1996	D00473-474	Snowy Plover protection area information pamphlet confirming off leash recreation was still allowed on Ocean Beach north of Stairwell 21 and south of Sloat.
7/8/96	D00513-527	Compendium Amendment pursuant to 36 CFR 7 designating an providing maps of specific areas where off leash recreational access is allowed.
1/4/96	D00555-6	South District Ranger James Milestone's Outline of "changes the new pet policy will have from the <u>existing</u> pet policy," the new policy including off-leash recreation and being incorporated by the GGNRA as a compendium amendment.
7/8/92	D00721-722 and 725-6	Letters of Western Region Regional Director Stanley T. Albright to Senators John Seymour and Alan Cranston confirming that as of 1992 "there is no change in the 1979 Pet Policy which provides the visitor the privilege of walking one's dog off leash."
2/24/79	D00479-482	"1979 Pet Policy" as initially adopted by Advisory Commission in September 1978 and accepted by the GGNRA Park Superintendent in October 1978 and further approved in 1979.

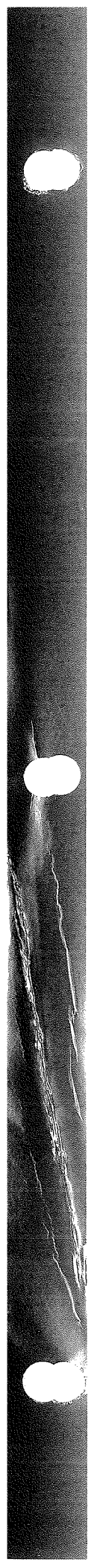
The 1979 Pet Policy was adopted by the Advisory Commission with the specific rationale that the ordinary rules for National Parks are not appropriate for application to the unique circumstances of the urban recreation areas encompassed in the GGNRA. The Pet Policy was consistent and properly implements the specific unique statutory mandate for the GGNRA (16 USC 460 bb), and it is required that the unique statutory mandate for the recreation area controls over the general provisions otherwise applicable to all units of the National Park System. (16 USC 1c).

The simplest and best way to resolve the Pet Management discussion would be to return to the analysis that concluded that the Pet Policy as adopted by the GGNRA and its Citizen Advisory Commission was legal and appropriate.

Sincerely,

A handwritten signature in black ink, appearing to read 'J. B. Keating', written in a cursive style.

John B. Keating



BEFORE THE
UNITED STATES DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE

Meeting of the
ADVISORY COMMISSION
for the
GOLDEN GATE NATIONAL RECREATION AREA
and
POINT REYES NATIONAL SEASHORE

GGNRA Park Headquarters
Building 21, Fort Mason
San Francisco, California

Tuesday, August 29, 2000

REPORTER: JAMES W. HIGGINS, CVR

GOLDEN GATE NATIONAL RECREATION AREA
AND POINT REYES NATIONAL SEASHORE

- - -

ADVISORY COMMISSION MEETING

- - -

TUESDAY, AUGUST 29, 2000

- - -

GGNRA Park Headquarters
Building 201, Fort Mason
San Francisco, California

The meeting was convened, pursuant to
Notice, at 7:30 p.m., Chairman Rich Bartke presiding.

COMMISSIONERS PRESENT:

RICH BARTKE, Chair

AMY MEYER, Vice Chair

MICHAEL ALEXANDER

SUSAN GIACOMINI ALLAN

GORDON BENNETT

BETSEY CUTLER

REDMOND KERNAN

YVONNE LEE

DOUG NADEAU

LENNIE ROBERTS

DENNIS RODONI

COMMISSIONERS PRESENT (Cont.:

DOUG SIDEN

JACK SPRING

ED WAYBURN

ALSO PRESENT:

For the Golden Gate National Recreation Area:

BRIAN O'NEILL, General Superintendent

NANCY HORNOR, Chief, Planning & Technical Services

TERI THOMAS, Chief, Natual Resources Management

& Management

FOR THE PRESIDIO TRUST:

CRAIG MIDDLETON

STAFF LIAISON:

MICHAEL FEINSTEIN.PA

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P R O C E E D I N G S

7:30 P.M.

CHAIRMAN BARTKE: Good evening, ladies and gentlemen.

We're going to call the Commission Meeting to order. We'd like to be prompt this evening, because we have a lot on our on agenda. We don't usually have more than one contentious issue on at a time; but, tonight, we do. So we'd like to get moving right along. And I'm going to ask for the cooperation of the people, both on this side of the table and on the other side, so that we can have room and time for everybody to have a say that needs to have their say.

If you haven't picked up an agenda, there are some at the back door. I don't know whether there are anymore seats. I don't see more than one or two down here, by the center aisle, for those that might be standing in the back.

The Advisory Commission is made up of people who were nominated by various community groups and appointed by the Secretary of the Interior. And we are volunteers; we're not Park employees. Our job, according to the statute, is to give advice to the Secretary of the Interior. That usually happens through the local

superintendents of the Parks in this area. Congress has added one more fillip to that, which is: We serve as the eyes and ears of Congress, also.

We are advisory, which means that we do not run the Parks. We simply give advice. We generally do that after hearing from the public.

The people who are on the Commission are sitting in front of you, and their names are displayed, so I won't introduce all of them -- except that the two gentlemen on my immediate left are not members of the Commission; but are professionals, who you will meet presently.

The first item on the agenda is the approval of our minutes of our July 18 Meeting. Those were mailed to the Commission members approximately two weeks ago.

The minutes of the meeting of July 18 are in front of the Commission. Does anybody have any corrections or comments about those minutes?

Gordon?

MR. BENNETT: On the Cliff House, I'd like to add in the comments that Lennie and I had made about the potential for light pollution. We had some concern about that.

CHAIRMAN BARTKE: All right. I remember that you did. We will, then, ask that that be added to the

meeting --

CHAIRMAN BARTKE: Oh, yeah, that's right.

Before we get to that item, the Chairman of the Marin Committee needs to give his report at this time, that which is different than what he has already given. And I will ask again, as I have before, please be patient with each other, and polite, and we'll get through this.

FURTHER MARIN COMMITTEE REPORT

DR. EDGAR WAYBURN, CHAIR

DR. WAYBURN: Mr. Chairman, thank you.

I wanted to make this report particularly, because the discussions, which have just gone on, bring out the fact that, when, as John Muir said, a hundred years ago, whenever you look at one particular thing by itself, you find it's hitched to everything else. And that is true of the approval of the design for the Bay Area Discovery Museum.

The Marin Committee has anticipated this, to some extent, by realizing that it has a larger number of issues to consider, and those were outlined at the Marin Committee Meeting of August 17. The chairman brought out some 25 issues which were covered. Along with the Superintendent and the committee, another five issues were brought up. In other words, we feel that the Marin Committee hasn't been doing its full job during the past

several years, and has now got to consider its job to be what is good for the National Park Service in Marin, and how is each issue that comes up to be considered in the grand scheme of things.

Thank you, Mr. Chairman.

CHAIRMAN BARTKE: Thank you.

Any questions of Ed?

(No response.)

Okay. Now we'll move on to that item on the agenda, which is No. 4, Fort Funston Closure Notice.

I want to acknowledge the presence of one of our recent Commission Members. Jackie Young is in the audience. Hi, Jackie.

The staff member, who is going to present this to us is Teri Thomas, who is the Chief of the Division of Natural Resources for the park.

Teri.

FORT FUNSTON CLOSURE NOTICE

PRESENTED BY TERI THOMAS, DIVISION CHIEF

NATURAL RESOURCES MANAGEMENT AND RESEARCH, GGNRA

MS. THOMAS: Good evening!

This evening, I will describe the Park's proposal to close, year round, approximately 12 acres of the 230 acres at Fort Funston. The four reasons for this closure include:

1. Protect habitat for the threatened bank swallows.
2. Reduce human induced impacts to the coastal bluffs and dunes.
3. Enhance native plant habitats; and
4. Improve public safety.

I will describe the project action and each of the four reasons for the closure.

Currently, protective fencing is in place around the -- there is a map up front, if you need to take a look -- around the eastern and the northern boundaries of the proposed closure area, although there are openings in the fences allowing use pending the outcome of this project's notice and comments.

The proposal calls for additional fencing to be constructed along the southern boundary. This will be parallel to the access trail. The current southern perimeter fencing will then be removed. The western boundary is the cliff face dropping down to the beach.

The first reason for the closure is to protect the bank swallows nesting habitat that exists on the cliffs. The bank swallow was listed by the state of California in 1989. At this time, their numbers had declined dramatically. This species is also protected by the Migratory Bird Treat Act, for these birds travel south

to Mexico and South America each year.

The colony that nests at Fort Funston is particularly significant in that it is one of the last two remaining colonies found nesting in the coastal bluffs of California. The other colony is at Ano Nuevo State Park, where the habitat remains closed to visitor access. Documents show that isolated colonies, like Fort Funston, are particularly susceptible to extinction or severe population decline.

Professional scientists from the National Park Service, the U.S. Fish and Wildlife Service, and the California Department of Fish and Game have noted that human disturbance is a concern in the area of bank swallow colonies, and have observed impacts at Fort Funston. Reports recommend that the bank swallow colony should be protected from harassment and human disturbance. The reports also document that destruction of nest sites, including collapsed boroughs due to natural and human-caused sluffing of banks appears to be the most significant direct cause of mortality. The recovery plan recommends a habitat preservation strategy through protection of lands known to support active colonies, or with suitable habitat features for future colony establishment.

Areas about the bank swallow burrows were

originally fences in 1980, or in the '80s. At that time, the colony was nesting just north of the proposed closure. In 1998, the colony's location shifted, as it has before in 1959 and 1960. The proposed closure will protect the area where the birds are now nesting.

Increased protection for the bank swallow is one reason to have this area closed. Closure ensures no visitor access to the bluff edges above those nesting sites, thus preventing falls and rescues on the cliff face, as well as human-induced erosion, crushing of burrows, and casting of shadows. Visitor access of the bluffs from the beach into the closure area will also be prohibited, thus eliminating human-induced erosion of the bluffs and habitat disturbance.

A second reason for closure is to protect the geologic resources at Fort Funston. The geologic formation in the area is a merced formation, and it is unique within the region. It is a fragile, nonrenewable resource. The area is described by the late Clyde Warhaftig, of the U.S. Geological Survey, who studied San Francisco geology. He described the area as a unique sand bluff formation that is crushable with the fingers, that people climbing on the cliff faces would induce additional erosion, and that such activity should be prevented. The GGNRA General Management Plan designates these cliffs as a

significant geologic resource.

The third reason for closure is to enhance native dune habitat. Fort Funston is the largest of several remnant dune habitats in San Francisco, which was once the fourth largest dune system in the state. Urbanization and development have altered more than 95 percent of the original dune system. The proposed closure area will allow for the recovery and expansion of remnant native plant and animal species, which are currently threatened by the spread of ice plant and concentrated visitor and off-leash dog use. This will promote the establishment and restoration for more than 50 dune species, some of which are rare.

Expansion of the habitat will also enhance a diversity and abundance of local rare wildlife species, and will aid in preserving habitat for common wildlife species. An example exists in the northern area of Fort Funston where an existing 23 acre restoration now supports thriving native coastal dune habitats and several locally rare native wildlife species, including the California quail and brush rabbits. We anticipate this type of wildlife colonization within the proposed restoration area, as well.

The fourth reason for the proposed closure is to protect visitors, their pets, and park rescue personnel

from unnecessary injury, and to eliminate access to dangerous cliff areas and the unauthorized use of nondesignated trails.

The National Park Service takes measures to reduce preventable emergency rescues and to insure that the limited rescue personnel are available for emergencies throughout the park. Rescues typically require the attention of all ranger personnel on the south side of the Golden Gate Bridge. Therefore, if any other emergencies come up, the park would have a difficult time responding. Closing the area will reduce the costly and time-consuming cliff rescues at Fort Funston. Prior to 1998, there was an average of three cliff rescues per year. This increased to 25 and 16 in 1998 and 1999. The increasing numbers of off-leash dog walkers has resulted in many dog rescues, as well as one known injured ranger, three injured dogs, and one dog death from falling off the cliffs in the past two years.

The size and the footprint of the closure and the design of the fence was determined by an inner-disciplinary team of GGNRA staff. The team included maintenance, protection, safety and natural resource personnel. They evaluated alternatives to achieve compliance within the closure, long-term maintenance, impacts to recreational uses, and the cost of

construction.

This proposed closure was initially selected in the beginning of 1999. The same closure area is proposed now. Subsequent to the initial proposal in 1999, park staff met with the dog-walking community at Fort Funston to discuss the project. In response to their concerns, the park began to implement a less-restrictive closure of 9.9 acres, 5 acres year round closed, and 4.9 acres seasonally closed. A fence was added to the center of the project in order to open one-half of the area to visitor use in the non-nesting season.

This less-restrictive closure has now been carefully reevaluated. During reevaluation, the less-restrictive closure was deemed inadequate to meet the mandates of the National Park Service for protecting against adverse impacts on natural resources and reducing threats to public safety. The area of seasonal closure does not meet three of the four objectives for this project. Additionally, staff observations and monitoring data indicate the unfeasibility of maintaining the seasonal fence alignment, as well as the difficulty of closure enforcement. Therefore, year round, rather than seasonal closure, is necessary.

The GGNRA Act of 1972 notes that:

"The Secretary shall preserve the recreation

area as far as possible in its natural setting, and protect it from development and uses that would destroy the scenic beauty and natural character of the area."

Golden Gate National Recreation Area is a unit of the National Park System.

I would like to close by quoting the National Park Service mission, as defined by an act of Congress in the National Park Act of 1916. The National Park Service mission is:

"To conserve the scenery and the natural and historic objects and the wildlife therein, and to provide for the enjoyment of the same in such manner and by such means that will leave them unimpaired for the enjoyment of future generations."

This closure is proposed to fulfill that mission.

Thank you.

CHAIRMAN BARTKE: Thank you, Teri.

(Applause.)

PUBLIC COMMENT

CHAIRMAN BARTKE: We're prepared now to begin the public hearing, without any further delay. I'll call the names, as I did for the prior public hearing, two

names at a time, the first one being the one at the podium to speak, and the second to be on their way up to the podium to take the next turn. If I get your name wrong, I'm sorry, I'm trying to read your writing.

I have one other issue, and that is that 8 speakers have signed up as a group, and I've been told, informally at least, that those eight wish to give up their time so that a film can be shown. Is that correct?

VOICE: No.

CHAIRMAN BARTKE: No. You're going to take your time and there will be no film?

VOICE: There will be slides.

CHAIRMAN BARTKE: Can that be done in three minutes?

VOICE: Twenty-four minutes, 8 times 3.

CHAIRMAN BARTKE: Okay. Roland Mathers is first, and then Dan Brown.

STATEMENT OF

ROLLAND MATHERS

MR. MATHERS: Hello. My name is Rolland Mathers. I speak as an intern at Fort Funston, and a volunteer in the National Park. I also speak on behalf of many of our volunteers who, because of time constraint and scheduling, could not make it here.

First, let me say that I do believe that dogs

should be allowed to run and play with other dogs. These behaviors are crucial in the life of a healthy canine. But recreational dog walkers in Fort Funston do represent a large portion of the visiting public. But the predominance here should not give them precedence over the land, which belongs to all of us. Nor should their predominance here offer them rank over the public's and the National Park Service's duty to protect, conserve and restore habitat for native flora and fauna.

This proposal does not only restrict dog use in the area. As a hiker and aspiring naturalist, I, too, will not be able to take in the incredible views available from within the proposed closure. But I do realize the greater good behind this proposal. I am willing to sacrifice those small moments in time for the preservation of what I love the most: The land and all the wild plants and critters which depend on it, as we do.

Dog walkers have stated that fences along the cliff faces is all that's needed to protect populations of the bank swallow. They seem unwilling to realize the immense impracticality of this, for dunes and cliff faces are dynamic. A fence placed atop a cliff at the face will surely fall in short time, as the sand erodes. And a fence placed near the four dune areas will surely be buried by blowing sands. The most practical means of

fencing would be fences placed further inland, away from the most dynamic portions of the sand dunes, as they are today along the Sunset Trail at Fort Funston.

Dog walkers also seem unwilling to accept that the closures are for their own personal well being. A life lost, be it human or canine, from a cliff fall would be a tragedy. A dog or a human who does fall off a cliff places rescue personnel in unwanted danger, costs the government money, and may further increase the rate at which cliff faces erode; and may, through this, further decrease available bank swallow habitat.

The closures are also to protect areas of restored vegetation. The Pacific Shore was formerly a vast system of moving sand dunes comprised of a diverse array of flora and fauna. The Pacific Coast was not a vast monoculture of ice plant, as much as Fort Funston is today. Restored areas of Fort Funston are beautiful things. They represent the public's willingness to accept abandoned responsibility and a humble and often joyful attempt to mend biological ties, clearly recognizing that human society may be mended in the process.

Humans must learn to love and respect the land as much as, if not more than, they respect and love their pets. For without the land, we have nothing; and without its protection, conservation and nurturation efforts, we

are to surely lose it.

Thank you.

CHAIRMAN BARTKE: Thank you.

Dan Brown is followed by John Cranshaw.

STATEMENT OF

DAN BROWN

MR. BROWN: I'm Dan Brown. I'm president of the Hang Gliding Club at Fort Funston, Fell Feathers. I'm also an attorney, and I've been using Fort Funston for over 22 years. I'd like to thank, first, Brian O'Neill and the supervising ranger at Fort Funston, Steve Prokop, for the support that they have shown our sport over the years, and we appreciate it.

I do have concerns about the proposed Habitat Protection Report. On page 5, it states:

"Documented disturbances to the bank swallows at Fort Funston have been caused by hang gliders flying overhead."

On July 31, I wrote the GGNRA requesting that I be allowed to inspect that documentation: when were the dates of these incidents, the times, locations, et cetera. There's been no response. My experience has been that the hang gliders do not present a problem to the bank swallows. We fly over at heights hundred, 200, 300 feet. In 1992, part of the area was closed to hang gliding on

the theory that hang gliders disturbed bank swallows. However, the documents that the GGNRA has produced shows that, in those years before the closure to hang gliders, bank swallows increased.

Our concern is that there isn't specific hard science to document the proposed closure. If there is hard science, we'd like to see it.

We also are concerned about some of the reasons that the speaker gave, the first speaker, for the closure: (1), the bank swallows, we'd like to see the documentation; the second, human impact on the area. Well, but for human impact, there would be no Fort Funston. I've done some research. In the old days, the area was called the "Sahara Desert," or "the Outer Lands," by the people who lived in San Francisco. It was blowing dunes, occasional vegetation. The military and ice plant preserved Fort Funston.

Another reason, the restoration of the native plants. Well, it's not a real restoration; it's a Disney Land. It never existed before.

(Applause.)

The fourth reason, that the area is being closed to protect the dogs and dog owners from injury. I think, really, that is something that should be determined by the dog owners themselves, that we don't want a

government that protects us because we choose to engage in an activity which some may consider risky. Indeed, hang gliding is considered by some a dangerous activity, and we ask that the government not protect us.

(Laughter.)

Let us assume the risk.

Again, I'd like to thank the GGNRA for the support that it has shown for our support over the years. We appreciate it, and we just ask that hard science be produced before there be any closures.

Thank you.

CHAIRMAN BARTKE: Thank you.

(Applause.)

I'm going to ask, again, that we hold off the applause because it slows things down. I know that you're enthused, and we like that; but we don't want to slow down the process.

We got John Cranshaw, followed by Christy Cameron.

STATEMENT OF

JOHN CRANSHAW, M.D.

DR. CRANSHAW: Oh, yeah, we're enthused. You're absolutely right.

First of all, my name is John Cranshaw. I would like to agree with you on at least one thing, Mr.

Bartke, that this is not a charade, or a melodrama, rather. This is, in fact, a charade. This is a travesty, and we're here to address that. It's a little hard to believe that, starting at 10:15 p.m., is when an adequate public discussion can be made of an issue as contentious and complicated as this. But we'll give it a try.

I joined Fort Funston Dog Walkers shortly after the paved Sunset Trail was torn out without any public discussion, resulting in a denial of access to that lovely walk for the disabled and elderly. I suspect, Commissioners, that this is the first time you're holding public hearings after a project has already been implemented. The fences are already up. At Fort Funston, this is par for the course. This hearing is occurring only because our lawsuit forced the Park Service to do so. This is merely their belated effort to comply with their own regulations so as to justify what they've already done by fencing off large areas.

In response to our audacity in asking them to follow their own rulemaking, they now propose to fence off an additional 2 acres and to make the closures permanent, not seasonal. As a recent newspaper editorial stated when referring to the controversy at Fort Funston:

"It's not often that an agency, charged by a judge of violating federal law and ignoring

public input, uses the opportunity to stick it to the public once again."

But here we have it.

As you might imagine, this has upset a great many of the people who visit Fort Funston regularly. You will likely hear tonight some less than flattering things said about the Park Service. Please don't be offended. Despite the late hour and the lateness of this particular hearing, we realize that you don't represent the Park Service; but, instead, represent our, the public's, oversight of the Park Service. In fact, we look to you as the only forum, outside of the courts, for the objective consideration of the needs of all who use Fort Funston.

I urge you to consider seriously the arguments made by those who disagree with the Park Service's decision. They're not merely venting. In fact, they have limited grievances and reasonable arguments. I'm a physician and understand how important it is to listen carefully and objectively to each patient's story. To do otherwise is to run the risk of missing the correct diagnosis. Likewise, for you to listen only to what the Park Service says is best for Fort Funston is to run the risk of making a very wrong decision.

As reported in the prestigious journal, Science, this spring, the Park Service has a history of

using questionable science for its decision making. It's for certain that they've been unable to provide us with substantive data pertaining to the issue of this closure. Is it any wonder much of the public doubts the Park Service's unsubstantiated proposals when these affect our lives so profoundly?

The speakers following me will point out some of the weaknesses of their proposal. We will not go away. Thank you very much for your time.

(Applause.)

STATEMENT OF
CHRISTY CAMERON

MS. CAMERON: Good evening, Commissioners. I am Christy Cameron, and I'm a resident of San Francisco. Over the past several years, I've witnessed the closure, or attempted closure, of most of the coastal areas of Fort Funston.

In 1991, the northern coastal section was closed in the name of bank swallow protection. The bank swallows abandoned this area, but it hasn't been reopened. The basis for the closure was then expanded to also encompass a so-called native habitat.

In 1995, the inland northern section was closed for native plant habitat. Also in 1995, the Battery Davis Slope was closed for erosion control and native plant

habitat. It was to have reopened in five years. There was no significant planting and it has not been reopened.

In 1999, the Sunset Trail was closed. The reason given was unsafe pavement, although it did not appear unsafe. All this paved accessible trail along the ocean bluffs was turned to rubble and trucked away. On the eve of the federal lawsuit, in March of this year, the trail was reopened as a sand strewn path, but one which remains closed to those with limited mobility.

This year, the northern spur trail was closed. The Gap Beach Access Route was closed. A 5-acre area was closed, ostensibly for the good of the bank swallows; but, later, expanded to a laundry list of native plants, erosion and safety claims, none of which have been shown to be necessary.

Yet another 5-acre parcel was to be closed only seasonally for the 5 months of the year that the bank swallows are nesting. It was closed under an emergency order, even though the bank swallows returned, like clockwork every year; but, this year, they didn't nest in this area. Now, the current closure proposal would legalize the previous two closures, make them both year round, and add yet another 2 acres, for no clear purpose.

Closing off the entire Fort Funston coastal bluffs, from the Great Highway to the observation deck,

would be unthinkable. People would demand notice, scientific evidence to back such a drastic plan, and a long, messy public debate would ensue. Instead, through a carefully placed series of closures, the Park Service is gaining piecemeal what it could not get in one fell swoop: The closure of our most treasured ocean view bluffs. This is why it is not truthful to claim that the proposed closure is just a small part of the park.

Pleas, put an end to this closure creep. Thank you.

(Applause.)

STATEMENT OF

LAURA CAVALUZZO

MS. CAVALUZZO: Good evening, Commissioners.

My name is Laura Cavaluzzo, and I've been following the National Park Service's justifications for their actions at Fort Funston quite closely, and comparing them to available scientific data on bank swallows. I'm here tonight to relate just a few of the disturbing inconsistencies I've uncovered in the process.

First. We've been told that fencing off a substantial portion of prime recreational space, first identified as six acres, then admitted to be ten acres, now proposed at 12 acres, is necessary to protect the threatened bank swallow from what the Park Service terms

"increased recreational pressures." They cite collapsed burrows due to human-caused erosion as a significant direct cause of mortality among the nesting birds. However, the state's bank swallow experts say by far the biggest threats to nesting bank swallows are flood protection and erosion control programs. Recreational disturbance that does occur is mainly caused by boat wakes undercutting river banks. These threats simply don't exist at Fort Funston.

When it was pointed out that a fence, or a natural barrier, set back slightly from the edge of the bluff would suffice for protection, the story changed. The Park Service now says that it's necessary to fence out thousands of park users to plant fragile native plants, which it claims will help the colony to thrive. But State Fish and Game scientists say that bank swallows appear to be little affected by exotic species. They nest happily beneath active farmed crops; and, in fact, did fine, for many years, at Fort Funston beneath hardy, recreation-tolerant ice plant. The swallows need only high vertical banks and soil that's easy to dig in, all of which Fort Funston has in spades, and will continue to have with no help at all from the Park Service.

Third: The Park Service says the swallow need human intervention and management to thrive at the Fort.

But when they followed this same protection plan between 1992 and 1995, the bank swallow numbers declined precipitously, as you can see by this graph. Meanwhile, the new native habitat zone, protected from disturbance by humans and dogs, became the favorite hunting ground for hawks, ravens and kestrels, among the main predators of swallows in California. Ultimately, the swallows moved out of the protected zone and into a popular recreation area topped by ice plant. And, now, with no adequate scientific study of the original fiasco, the Park Service is planning to repeat it.

The Park Service, fourthly, has claimed that the closure will provide a necessary flyover zone between Lake Merced, where the birds primarily forage, and the nesting site. However, the authorities, including a Park Service biologist, say such a zone provided no benefit at all to the bank swallows. The Park Service claims that this proposal is consistent with protection measures recommended by experts. However, the state's bank swallow expert did not recommend closing areas beyond the cliff edge despite being asked to site recreation as a threat to the birds.

In short, the Park Service has many excuses, but few valid reasons, for the closure they're proposing. And their lack of interest in real science is not only

destroying a precious recreational resource, it may well be destroying the very birds they claim to protect.

Thank you very much.

(Applause.)

STATEMENT OF

LINDA SHORE

MS. SHORE: Good evening, members of the Advisory Commission. My name is Linda Shore, and I'm speaking also on behalf of Fort Funston Dog Walkers.

I'm a physicist, with a doctorate in science education. I'm here to tell you that the National Park Service proposal contains claims about the cliffs and the geology that are unsubstantiated, misleading, or at worst, in gross violation of some very basic principles of science. In the short time I have, let me describe just a few examples.

First, their claims about the geology, as it relates to the protection of the bank swallows, the proposal describes six "documented ways that the nesting swallows are being disturbed by the recreation on the bluffs." First, there is the claim that people and pets disturb the colony, quote, "by the casting of shadows, it may be perceived as predators." The notion that you can cast shadows on the burrows from the cliff tops is completely erroneous. Let me explain by giving you an

elementary lesson in light and shadows.

Light travels in straight lines. Shadows happen when light is blocked. Let's consider that very rare sunny day during the summer bank swallow nesting season at Fort Funston. When the morning sun is in the eastern sky, a person on the cliff casts a shadow westward, over the ocean, as seen in this slide, but not on the cliff face. When the afternoon sun is in the west, the shadows, cast by a person on the bluff tops, go east, away from the cliffs. At no time can a person cast a shadow directly downward on the nests.

Four other alleged disturbances to the colony, such as aircraft flights and graffiti carving, are not even prevented by banning access to the bluffs, and won't be discussed by me here tonight.

The sixth claim, that the closure prevents disturbances from falls and resulting cliff rescues, is unsubstantiated. The Park Service does not provide any data on the actual number of accidents that have occurred near the burrows. Therefore, it's impossible to judge whether this problem merits the permanent closure of 12 acres of land, most of it far from the bluffs. And even if falls are a common occurrence in that specific area, why not erect a barrier instead?

Second, there's protection of the geology

itself. The Park Service claims that its closure would prevent human-induced damage to the bluffs, which they describe as a, quote, "fragile geological resource." However, a geologist, who has conducted extensive research at Fort Funston for the USGS in Palo Alto, has assured me that, quote, "nonmotorized recreational use of this area would have no impact." He went on to explain, quote, "The amount of material lost through cliff retreat and land sliding dwarfs any impact from people walking along the cliff."

In summary, the National Park Service is in such a hurry to get the rulemaking process done that they are offering up a proposal that includes unsubstantiated claims and gross scientific errors. Why don't issues affecting Fort Funston merit good science and careful planning? Why is tonight's meeting -- why is tonight's circus-like atmosphere the only opportunity for dialogue?

Commissioners, in the name of the citizens you represent, tell the Park Service to take down the new fences. Advise the Park Service to engage in meaningful discussions with the people who actually use the park. Force park management to change the way it does business at Fort Funston. If you accomplish this, I assure you, you will put an end to the divisiveness, the lawsuits, and arduous public meetings like this one, that will surely go

well into the night.

Thank you for your attention.

(Applause.)

STATEMENT OF

JANE SHEPARD

MS. SHEPARD: My name is Jane Shepard. I'm president of the Board of Directors for Golden Gate Senior Services, a nonprofit agency that operates senior centers here in the city.

My dog and I volunteer in the animal-assisted therapy program, visiting hospitals, convalescent homes, psych wards, adult day care centers, et cetera. But I'm here tonight as a mother and a friend.

Five and half years ago, a friend of mine suddenly found herself a single parent, with five children and a large mortgage. She hadn't worked in 15 years, and day-to-day living became a very scary thing. Her friends help by taking one or two of her children to give her a little respite.

Wonderfully energetic children need an open space to run and play so that they can return to the house happily exhausted. A place that is free, safe and healthy alternative to expensive theme parks, shopping trips, video arcades and driving to outlying destinations. A place where they are not threatened by or drawn into gangs

and rough environments. Luckily, that exact type of place existed for these children in Fort Funston.

My husband and I would take all five of them for the weekend, and, right after breakfast, head right straight to the Fort, where they would race each other down the valley and up the sand dunes -- sometimes called "Joey's Hill." They played hide and seek under the trees. Two of them were here tonight to tell you what this area means to them, but they have school and had to leave. Luckily, picture is worth a thousand words, and I think you'll see their feelings expressed on the screen.

They were patient, they were polite, and they were crushed that they were not allowed to participate in this civics lesson.

For lots of urban dwelling children, Fort Funston is their favorite place is the very area you propose to close. To put a fence around these dunes to protect them would be like not wearing my mother's ring so I don't lose it. I prefer to enjoy it every day, and we hope you'll make that choice, too.

Thank you.

(Applause.)

STATEMENT OF

VICKI TIERNAN

MS. TIERNAN: Good evening, Commissioners, and

thank you for hearing us tonight.

My name is Vicki Tiernan. First I'd like to say that I think we're very fortunate to have a citizen's advisory commission to act as liaison between us, the citizens, and the Park Service. I've attended several meetings, now, and have been impressed with the way you seem to study and discuss issues in depth, especially tonight.

(Laughter.)

We ask only that you study the Fort Funston issues with as much careful attention to detail, as you've studied the other issues. There is reason why such huge controversy exists over Fort Funston.

Several previous speakers have raised significant questions about the scientific basis for the Park Service's actions. Again, please study those questions carefully. The future of one of the most beautiful and beloved parks in the GGNRA is at stake.

I'd like to address the location of the proposed closures and the fact that the fences are a blight on a spectacular landscape. We all want to protect the bank swallows. However, the proposed closure area extends far back from the bluffs and is being used as an area for planting. The benefit of this planted for the bank swallows has been called into serious question, and

there's no credible evidence of the need for a flyover zone for the birds en route to feeding at Lake Merced.

My question, then, is: Why not plant the plants in other areas of the park that are not as popular for recreational use? Planting an area with less foot traffic would reduce the need for fencing and intensive maintenance, and would, therefore, save money and time.

In addition, the valleys, dunes and cliffs in question are a spectacular site to behold. The beautiful views are currently being turned into an area with stockade-like fences, such as this photo demonstrates. Shouldn't the mandate of the Park Service include the protection of visual resources? Many people go to Fort Funston because of the sense of freedom and the unobstructed views of wide-open spaces. Stockade-like fences are most certainly not native to the dunes, and they're a scar on the dunes, in my opinion.

As to the safety issue, why not try a more natural and less drastic alternative, such as a native shrub planted near the bluffs? This would address protection for people, dogs and bank swallows from cliff accidents; and, at the same time, preserve the beautiful wide-open viewscape.

As a final note, I'd like to remind everyone of something we often forget, and that's that dogs and humans

are very much a part of nature, too. And if this photo doesn't demonstrate nature at its finest and Fort Funston at its finest, I don't what would. We are all apart of the social, cultural and ecological habitat of Fort Funston. Please don't allow the Park Service to upset the balance, harmony and beauty we've found on this land for decades by carving it up, excluding us from increasingly more of it, and turning this urban paradise into little more than a fenced compound.

Thank you very much.

(Applause.)

STATEMENT OF

FLORENCE SARRETT

MS. SARRETT: Good evening. My name is Florence Sarrett.

Much has been said, or will be said or implies tonight, on the subject of off-lead dogs. But I'd rather talk about off-lead people. The health benefits of walking a dog and the emotional benefits belonging to a community, it's a no-brainer that walking is fine exercise, and walking a dog is a sure and delightful way to get it.

I actually have a prescription from an orthopedic surgeon. It says, here it is: "This lady's dog should not be on a lead. This is for her safety and

to prevent injury."

(Applause.)

And James Harriet has written: "Anybody who has ever walked a dog knows the abiding satisfaction that comes from giving pleasure to a loved animal."

Most important of all is the spirit of community at Fort Funston, whether you're with a dog or without one. I invite each of you to walk the trails there, if you haven't done it already. Nowhere else in the city will you be greeted so warmly by so many strangers and your walk will be a mile of smiles.

At my age, not much family is left. Husband is gone, brother and sister are gone, and children are not close by. But the men and women speaking here tonight are my new brothers and sisters, and my life is richer because of them. I'm honored by their friendship, and I join them in urging you not to sanction the ruin of this oasis of the spirit.

Thank you.

(Applause.)

STATEMENT OF

LYDIA BOSCH, ESQ.

MS. BOSCH: Hi! My name is Lydia Bosch. I'm an attorney, and I've had the delightful privilege of representing these plaintiffs in the federal litigation,

for the past six month.

Before I get to my brief presentation, one thing I'd like to note, for the record, is that the public comment period on the Fort Funston Closures did not start until after 10:30 tonight. We would expect that, after the federal judge found that the Park Service left these people out of public discussion on closures, we would be given something more than public comment that started after 10:30 on a school night.

(Applause.)

Now, to get to my portion of the presentation, I'm here tonight to bring to your attention two key considerations that must be taken into account when you're deciding on these closures. These considerations are (1) the history of Fort Funston; and (2) the enabling legislation. First, the history of Fort Funston.

Fort Funston was first opened to the public in 1961, as a San Francisco City Park. Since 1961, residents throughout the entire Bay Area have been walking their dogs off-leash at Fort Funston. This tradition began more than 10 years before the GGNRA was even established, and almost 15 years before San Francisco deeded Fort Funston to the United States. In 1978, this Advisory Commission, pursuant to the enabling legislation, recognized that off-lease dog walking is an acceptable and a legal

activity and held, in their words, "extensive public hearings to determine where off-leash dog walking would be permitted within the GGNRA." Fort Funston was designated one of those areas.

Now, more than 600,000 visitors every single year visit Fort Funston to walk their dogs. No wonder that, for years, it's been considered the best place in the Bay Area to walk a dog. Fort Funston is not Yosemite, it's not the Grand Canyon, it is not Mount Rushmore. It's not Mount Rushmore. It's not Mount Rushmore. It is a city park, visited by the same Bay Area residents every single day of the year, rain or shine, day in or day out.

The second consideration is the enabling legislation. You, Commissioners, can fulfill your statutory duties only by completely understanding the enabling legislation of GGNRA. The enabling legislation is your guiding light in making every decision that affects Fort Funston. To understand the enabling legislation, you must read the Senate Hearings, the House Hearings, and House Report. Only then will you fully understand that Congress never intended that Fort Funston be closed off to develop wildlife habitat from scratch, but intended that Fort Funston be used forever for recreational open space.

Thank you so much for your time at this late

hour. Your attention -- especially, we thank you for giving very careful consideration to these points.

(Applause.)

CHAIRMAN BARTKE: All right. As I understand it, that completes the series that the people that signed up together. Is that correct, and we now go through the rest of the list? We're all the way up to page 3 of 19.

Can we have the lights, please, so I can read who is next? Thank you.

Jeff Ward, and then Jennifer Finlay.

STATEMENT OF

JEFFREY WARD

MR. WARD: Good evening, Members of the Commission, and for the newly-appointed commissioners, I guess you can consider this to be your official hazing.

(Laughter.)

My name is Jeffrey Ward. I've spoken to you previously on related issues. I'm a member of the Fort Funston Dog Walkers and the founder of the San Francisco Dog Owners Group. I'm a member of a bird watching family, and I'm the proud alpha male to my three Weimaraners, who need a lot of exercise.

I was trained as a scientist. In fact, I taught ethology at Northwestern University. During my education, I was taught to respect some basic principles

of scientific research. And I was taught particularly that the application of scientific research requires special care. And I have been appalled at the lack of such care on the part of the GGNRA.

I'm going to curtail my comments for your health and wellbeing, but let me just say that, for example, in 1995, large areas of Fort Funston were closed to all park users. These closures were justified using various reasons, everything from erosion control to bank swallow habitat, and the dog walkers agreed to the closures because, as animal lovers, we were very sympathetic to the conservation movement. During the period of these closures, the bank swallow population began to decline, and the population has recently moved out of the protected areas. As a result, the Park Service has proposed some very extensive park closures, extending far to the east and south of the original bank swallow colony. I've even heard, for example, GGNRA staff members tell park visitors that this is one of only two bank swallow colonies in California. Well, of course, we know it's only one of two seaside bank swallow colonies. Bank swallows, as their name implies, prefer river and stream banks.

This kind of poor science is not new. For example, in 1996, the GGNRA closed Ocean Beach -- you'll

probably remember that -- to off-leash recreation supposedly to protect the threatened snowy plover. I looked at the studies associated with this closure, and the report of Daphne Hatch, a GGNRA wildlife biologist, found no statistical relationship between the presence of off-leash dogs on the beach and the prevalence of the snowy plover. And it also found that there was very little interaction between the dogs and the birds. Yet the report concluded by recommending the ban on off-leash recreation, which was very quickly implemented.

Now the dog owners at Fort Funston, who have been enjoying the park literally for generations, are being subjected to bad science and an overblown zeal for environmental nostalgia. The most pernicious evidence of this is this native plant movement. I don't doubt the environmental commitment of GGNRA employees of the native plant advocates, nor do I doubt their good intentions, but they appear to want to have an exclusive claim on the park.

So I would just like to say that the primary expert on the science in this matter was the biologist responsible for bank swallow protection in California. That biologist did not agree with the Fort Funston closure. In fact, this biologist recommended exactly the same sorts of closures that have been proposed by the dog

walking community at Fort Funston.

So, enough said. Thank you very much.

CHAIRMAN BARTKE: Thank you.

(Applause.)

Jennifer Finlay would be followed by Denise Selleck.

STATEMENT OF

JENNIFER FINLAY

MS. FINLAY: Hi! My name is Jennifer Finlay, and I do not have a prepared speech.

I work in the rental housing industry, for a nonprofit trade organization representing landlords. I'm not here speaking on their behalf. Thank goodness! However, I do know one thing: A tired dog is a happy landlord.

(Laughter.)

In the entire Bay Area, the housing market is so tight for someone with a dog to lose their housing, especially their rental housing, their ability to either purchase a home or to rent another home is almost nil. And our landlords of my association do make an extra effort to work with people who do have animals, to make sure that they can live them. And some of the recommendations I make is that they ask, they do an interview with their tenants, what are their habits with

their dog. I say: If their dog goes to Fort Funston, at least once a day, you got yourself a good tenant. My dog goes to Fort Funston three times a day because I do work in the industry and I do respect the people that I work for.

Closing Fort Funston anymore than it already has been is going to create more troubles in the housing market here in San Francisco and the Bay Area than we already have. We're down to -- I think the San Jose report came out today that has a .01 vacancy rate in the Santa Clara Valley. San Francisco has been coasting around 1 percent vacancy rate now for about 5 years. People cannot afford to lose their housing because they can't do the simple task that we've been given by taking over the care of a canine companion by walking them.

Thank you.

(Applause.)

CHAIRMAN BARTKE: Thank you.

Denise Selleck, followed by Joseph Stroman.

STATEMENT OF

DENISE SELLECK, on behalf of PAWS

MS. SELLECK: Hello! My name is Denise Selleck, and I'm here tonight representing PAWS, Pets Are Wonderful Support.

Our clients are low-income people who have AIDS

and other chronic illnesses, and their companion animals. Our mission is to keep these animals with their guardians for as long as possible. For those of our client who are able to take their dogs for walks, Fort Funston is an ideal location, especially for those too fragile or frail to keep up with their dogs on leash -- a bit like Florence was saying.

Additionally, as I said, they are low income. They are unable to work, and many of them are isolated. So Fort Funston gives them human, as well as canine, contact.

Unfortunately, some of our clients can't walk their dogs themselves; and, so, for those clients, we have volunteers who walk the dogs. Those volunteers take the dogs to Fort Funston because these dogs are homebound all day with their guardians, and Fort Funston is a great place for them to burn off some of that energy -- just as the previous speaker said.

We have testimonial after testimonial about the importance of companion animals in the lives of our clients. Some even have said that their dog is the reason they are still alive.

So, on behalf of our 350 clients, 300 volunteers, and 6,000 donors, I urge you to oppose permanent closure of these 12 acres.

Thank you.

CHAIRMAN BARTKE: Thank you.

(Applause.)

Joseph Stroman, and then Sheila Mahoney.

MR. STROMAN: Here are some kids from Pacifica who are also on the list. I'm going to trade places with them so that they can go home.

CHAIRMAN BARTKE: Okay. Come on up and tell us who you are.

MS. BOGIN: We're the Bogin Family, and we don't have school tomorrow, but I got three real tired kids here. I just want to say that Fort Funston is not only for dog owners. We don't have a dog, but it's a wonderful place to go to meet one.

I can't think of anywhere else that I can go running without worrying about an unleashed dog bothering me. The dogs are safe, the pet owners are very responsible. Fort Funston is a great place to run, but it's also a great place to bring my kids. They love to go on the dunes. It's free, it's fun, it's easy to get to. It's free. There's lots to see. There's hang gliders, and, of course, the dogs, and it's free.

(Laughter.)

There isn't an abundance of free fun activities for families around. It's not easy to find. I absolutely

believe in natural preservation, but we have to keep in mind what we are preserving nature for: kids and families and people deserve habitat, as well.

Thank you. And my children just have a comment.

(Applause.)

STATEMENT OF

GARETH BOGIN

GARETH BOGIN: Hi! My name is Gareth Bogin. I'm 11 years old.

Sometimes, me, my Mom and Dad and I, and my two brothers, many times come and play at Fort Funston. We love to roll down the giant sand dunes. It's one of our favorite, absolute favorite activities. We also like wildlife and nature. We believe in protecting the habitats of the birds at Fort Funston. However, from what we've read, we've believe there is room at Fort Funston for everyone, birds and people. Kids habitat should be protected, too.

Thank you.

(Applause.)

STATEMENT OF

ANGELO ROGIN

ANGELO ROGIN: Hi! My name is Angelo. I'm his brother, obviously. As he said, we like to go to Fort

Funston and ride, you know, roll the dunes. And (after a pause) I'm done.

(Applause.)

CHAIRMAN BARTKE: Thanks, guys.

Now we have --

STATEMENT OF

SHEILA MAHONEY

MS. MAHONEY: My name is Sheila Mahoney. I've walked my dogs at Fort Funston several times a week, for almost a dozen years now. And 95 percent of the people I've seen over those dozen years have also been walking dogs.

I'm adamantly opposed to the proposed closures at Fort Funston. It's nothing less than a land grab. I hope that you study closely the evidence that was shown in the slide show, and also read carefully the SPCA statement. It outlines my position on these and raises serious issues, far better than I could. So I decided to tell you what I want.

I want the National Park Service to treat Fort Funston as the unique holding it is for them. Their only urban park. I want the National Park Service to honor the tacit agreement in the hearings surrounded the creation of the Golden Gate National Recreation Area, to continue its traditional activities, not to turn it into a native plant

museum. I want the National Park Service to deal fairly with the public and to keep the word, "recreational," foremost in the future of this area. I'd also like them, of course, to officially recognize Fort Funston as an off-leash dog area.

Thank you very much.

(Applause.)

CHAIRMAN BARTKE: Joseph Stroman, did you wish to come back and take your turn?

MR. STROMAN: Yeah.

CHAIRMAN BARTKE: And, then, Deni Asnis.

STATEMENT OF

JOSEPH STROMAN

MR. STROMAN: Good evening.

My name is Joseph Stroman, and I'm speaking here tonight against the proposed closure at Fort Funston, including the proposed 12 acre closure, a full quarter percent of the park, which will be off limits to the public. None of the other areas that have been closed have ever been reopened, with the exception being the portion of Sunset Trail that was closed and reopened this year.

It is important to remember that Fort Funston is an urban recreation area, not a nature preserve, and bit by bit the public is being denied access. As an urban

recreation area, it is the perfect place for the off-leash exercise of dogs. To deny us access to one of the most beautiful parts of the park and its panoramic views is uncalled for. I'm glad that the Golden Gate Park isn't under the GGNRA. They would close it, remove the plants, and reinstate the sand dunes there.

I strongly urge this Commission to recommend a denial of the proposed closure at Fort Funston.

Thank you.

CHAIRMAN BARTKE: Thank you.

(Applause.)

Deni Asnis will be followed by Chaya Gordon.

STATEMENT OF

DENI ASNIS

MS. ASNIS: Hi! My name is Deni Asnis. It's also a school night for me. I'm an elementary school teacher here in San Francisco. People have spoken so eloquently about a lot of the points that I wanted to make, and I'm just going to skip to a couple of them.

I am a daily worker at Fort Funston with my dog. I'm speaking against the closure of the 12 acres. I'm also a birder, and I often have my binoculars at Fort Funston. I have been a member of the Audubon Society. I support, you know, protecting birds, but I do not think that closing these 12 acres, as people have said, is

necessary to do that.

I want to say something about using Fort Funston in my role as a teacher. I've taken classes camping at Fort Funston. They have wonderful overnight camping programs there. And it's just been really wonderful to be to see inner-city children who, for most of them, it's their first time ever being out camping, being able to go and run, and then experience that kind of environment. And it's really essential that the entire environment be open to them, and that they not experience their first love of the outdoors as a place enclosed by fences and blocked off to them.

I also wanted to make one comment supporting, you know, talking about the path that's been closed off, the Sunset Trail path that's been closed off. It's really distressing that such a beautiful path was torn up and made inaccessible to people of different physical abilities.

So I really urge to consider all the points that are being made, and listen and take it seriously.

Thank you.

CHAIRMAN BARTKE: Thank you.

(Applause.)

Chaya Gordon, and then Ed Sayres.

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STATEMENT OF

CHAYA GORDON

MS. GORDON: Good evening. Is anyone still awake. I had quite a bit of time, actually, to hone my remarks. I didn't have the vaguest idea what I was going to say when I got here, but here's what it's turned into.

I am a community health educator. Most of the public health reasons for opposing the closures have been very beautifully addressed by many of the speakers who went before me. So I'm just going to list some of the reasons that I consider public health reasons involved in this issue: Recreation, open space, natural space, health benefits, public safety and social support. As a public health professional, I would like to remind you that good public policy fosters these public health principles.

I also wanted to say, as a dog walker -- and I do walk my dog often at Fort Funston -- as an environmentalist, those two things are not in contradiction for myself, and I don't see them in contradiction at Fort Funston.

I think it's important to recognize the contribution of dog walkers to Fort Funston. For one thing, the dog walkers contribute to the safety of Fort Funston. I don't know if I would feel that I could walk my dog there with the degree of safety that I feel there

if it weren't for the community of dog walkers that contribute to that atmosphere there. So I think that, as a group, the dog walkers contribute a lot of things that need to be recognized.

I also wanted to mention that dogs are animals, and just because they're domesticated doesn't mean that they're not apart of the natural environment. They need to be able to do their own recreation off leash, and there's no reason that I can -- that I have heard of, so far, that I know of, why that should not possible.

Which brings me to my third point, which is that Fort Funston users are from the local community. This is not Yellowstone. It's not Mount Rainier. And I think that the critical issue there is the urban recreation mandate of the formation of the GGNRA's involvement at Fort Funston.

I'm wondering why the closure and the revegetation project got going in the first place. To me, it seems like it must be connected with the actions of a special interest group. It's certainly does not seem to be reflective of the community. I don't think there needs to be a conflict here. The goal should be having the best urban recreational facility that we can have at Fort Funston. And I don't think that that means that there's any need for the closure.

Thank you.

(Applause.)

CHAIRMAN BARTKE: Ed Sayres, and then it looks like George Paphitis.

STATEMENT OF

ED SAYRES, PRESIDENT

SAN FRANCISCO SPCA

MR. SAYRES: Good evening. I'm Ed Sayres, President of the San Francisco SPCA, representing 91,249 members, and happy to address you, even at this late hour.

I am, at the end of my remarks here, going to give you our report called, "The People's Park," and I think that is appropriate for a citizen's committee, because you are the voice of the people.

I realize there's been some great points made tonight, but let me just cite one of your own, the National Park Service's own, studies, which is to say: When the National Park Service surveyed the public and said, "What do you enjoy most, what do you find special about Fort Funston?" 74 percent of the respondents said: The dogs. The dogs were the fact, the things that stand out about Fort Funston. Twenty-one percent said the views. Less than 2 percent had any complaint about dogs, and no one in this National Park Service survey said anything about native plants.

I think that Florence's point realized that off-leash dog walking is, in fact, a quality-of-life issue. I mean, that exuberance of a dog off leash enables both the guardian and the dog to have the kind of moment that is the quality of life that we look for from our National Parks and from our recreation activities.

You will see, from our study, that we have looked at the issues around the bird habitat issue, we've looked at some of the issues about the erosion has been impacted, and conclude that Fort Funston is created for recreational use. Off-leash dog walking is one of the most vital and important quality of life and recreational uses that we have today. And I would just encourage you to not honor this closure of these 12 acres, and please refute that in the name of the recreational opportunities for our San Franciscans.

Thank you very much.

CHAIRMAN BARTKE: Thank you.

(Applause.)

You'll be followed by Avrum Shepard.

STATEMENT OF

GEORGE PAPHITIS, M. D.

DR. PAPHITIS: I'm a retired physician. My name is Dr. George Paphitis. I've lived in San Francisco since 1981, and frequently visited Fort Funston with my

dogs.

Now I've always appreciated the sites, sounds, smells of the sea and the wind that this special place has to offer. I enjoy the unfettered off-leash activities of my dog with his canine friends, and relish the spectacular sunsets this venue offers. But I am disappointed that a third of the site has been, since 1995, closed off to the public on the pretext of safety and environmental concerns. Now while I agree that the bank swallows need some protection, and that native plants may require some special consideration, the Draconian measures proposed and implemented by the National Park Service, which they justify with faulty scientific evidence, far exceeds that which is necessary to accomplish these goals.

The National Park Service has lost sight of the purpose of this space as an urban recreational area. A place for people to recreate with their friends and animal companions.

In conclusion, if the National Park Service cannot or will not accommodate the wishes of the majority of Fort Funston users, I would fully support the efforts of those San Francisco citizens who would reclaim the land from the Federal Government and return it to city control. This is an option, I understand, which was included in the original enabling legislation for the GGNRA.

Thank you.

(Applause.)

CHAIRMAN BARTKE: Avrum Shepard, and then Dan Murphy.

STATEMENT OF

AVRUM SHEPARD

MR. SHEPARD: Good evening. My name is Avrum Shepard, and I've lived in San Francisco all my life.

I'm a little confused by the Park Service and what they're doing with Fort Funston. Earlier tonight, we sat here and listened to people talk about the Fort Baker project. On the one hand, we've got a project in Marin County where the Park Service is trying to develop land.

Now, when I heard about the bank swallows, the first thing I did was go to the World Wide Web and look at what's there describing bank swallows. And I found a lot of things there. The most major event that occurs that threatens the bank swallows is called development.

Now what are we doing at Fort Baker? I think we're doing a little bit of development. Somebody said 25,000 square feet of concrete, and that's just the Discovery Museum.

The second point that I have to talk is the way the fences were installed. I saw the Park Service installing the fences. And there were several people -- I

don't know if they were volunteers, or if they work for the Park Department, or who they were. There were two 15 passenger, one-ton vans that delivered a half-dozen people to the site that they were putting, sinking, the fences in the ground. The fence posts themselves were carried by a two-ton flatbed truck. At the same time, they were moving out some of the trees that had fallen elsewhere in the park, and they had other heavy equipment. I mean tractors with tires this big (indicating), and yet the Park Service people are talking about erosion caused by people, 200 pound, 150 pound people, walking around, or maybe a 50 pound dog, causing erosion that's going to affect the habitat there. I'm real confused.

Now, Ms. Thomas, maybe you can help me. The posts that are sunk for the fence, the fences, are they pressure treated wood? Are they pressure treated fence posts?

CHAIRMAN BARTKE: You should address us. We're the ones holding the public hearing.

MR. SHEPARD: But she's got the answer to that. I just --

CHAIRMAN BARTKE: We will note your question.

MR. SHEPARD: Okay. Because, if they are pressure treated, they have what's called CCA in them, chromium, copper and arsenic. I know that grape growers

won't put those kinds of fence posts in the land to hold their vines when they grow the grapes because those substances leach into the soil and they get into the grapes. So I assume that that wouldn't be good for the environment or the natural habitat. I've seen what looks like one fence post about every 10 feet. There are a lot of fence posts there. I hope they're not pressure treated.

Thank you.

CHAIRMAN BARTKE: Thank you.

Dan Murphy, then Nena Beach.

VOICE: We didn't hear that.

CHAIRMAN BARTKE: I've asked people to not applaud because it's slows things down, but people insist on applauding. What I said was: Dan Murphy will be followed by Nena Beach.

STATEMENT OF

DAN MURPHY,

AUDUBON SOCIETY

MR. MURPHY: My name is Dan Murphy, and I represent the Golden Gate Bridge Audubon Society.

The Golden Gate Society strongly supports the closure of the 12 acres in question at Fort Funston. We also support permanent closure of the cliff face. These closures are consistent with one GGNRA's longest standing

commitments to preserve the natural environment.

In response to the concerns of the Golden Gate Audubon Society back in 1982, the Park Service stated in the addendum to the Natural Resources Management Plan, and environmental assessment for GGNRA, and I quote:

"Because of the unique nature of the colony [referring to the bank swallow colony] the park will designate it as a research natural area. This designation protects the area from any development and will receive special management attention."

The annual temporary closures placed on the colony sites are only short-term solutions to the ongoing problem faced by the Lake Merced/Fort Funston bank swallow population. Such closures certainly reduce human impacts on the bank swallows during the nesting season, but they do nothing to preserve the resource for the future.

Opponents of the closure claim the closure failed this year to protect the swallows because the numbers dropped. Though it's true the population declined, it is completely without foundation that the closure was a failure. The swallows continue to rear young until the end of July. This is about a month later than in the good old days when the colony was ignored and the swallows abandoned the colony in early July.

It is a fact that the cliff swallows that nest at Lake Merced were down -- pardon me. This refers to cliff swallows, okay? It's a fact that the cliff swallows that nest at Lake Merced were down 79 percent from the previous two years. Observations indicate other swallow species were low in number at Lake Merced, too. The emergency closure of the bank swallow colony site at Fort Funston was a success this year because it achieved its purpose in enabling that threatened species to nest successfully for another year.

It's the view of GGAS that the long-term sustainability of the Lake Merced and Fort Funston bank swallow population is in serious question. Remember that this is only two remaining colony sites on the entire California Coast. The reason the site is threatened is the nesting bluffs are being eroded at an excessive rate. The bluffs were never managed as a natural research area, or even given any protection whatsoever from vandalism.

So, now, we have the situation in which it appears the resource, the geologic formation of consolidated dunes, in the face of which is located the bank swallow colony, is being threatened. The resource at Fort Funston is being consumed by human use. It will not be available for future generations unless radical action is taken now.

Thank you.

CHAIRMAN BARTKE: Thank you.

Nena Beach, followed by Renee Pittin.

Is Ms. Beach here?

VOICE: She is gone.

CHAIRMAN BARTKE: Okay. Renee Pittin, and then
Andrea O'Leary.

STATEMENT OF

RENEE PITTIN

MS. PITTIN: I'm Renee Pittin. I am now a resident in San Francisco. But before I ever moved to the City, I was taken to Fort Funston so that I could enjoy the spectacular views of the city and the sea from the windblown vantage point of Fort Funston, with a plethora of dogs running and playing nearby.

For a dog owner or dog lover, Fort Funston is particularly evocative. There are few urban areas which provide the wide open space available at Fort Funston for allowing a dog to run and play. Because it is open and broad, the dogs do not feel hemmed in, as may occur in small parks, or those awful ghettos called "dog runs." For myself, the site of my 11-year-old dog lying on the dune, enjoying the sun and breeze, like a sunbather on the beach, fills me with pleasure and makes me thank my lucky stars that I'm in San Francisco and at Fort Funston.

Humans learn humanity very slowly. It is only now being recognized that the love and care that pets engender in people can give people the very will to live. It is also now recognized that those who care for pets have a responsibility to give them a reasonable quality of life, including the opportunity to run, to play, and to socialize with their own species. Fort Funston is on the cutting edge of this realization and this reality. In an era of road rage, aggression and seemingly increasing danger and negative communication, Fort Funston represents a solution and a move forward in a nevertheless decades-old recognition of the importance of these bonds between people and their pets.

In seeking to close these latest sections of Fort Funston, there is hardly a reason that hasn't been run up the flagpole: maintenance, safety, erosion, protection of bank swallows. While it is certainly true that maintenance, safety, et cetera, would be a lot easier with no people in the park at all, that disregards the purpose of the park and of the recreational mandate. Given the fact that even the bank swallows are moving away from the protected areas, it is clear that the GGNRA has to reexamine its options and its priorities.

The GGNRA has an opportunity to take the high road here. It can and must honor its enabling

legislation, which forefront its recreational purpose. Fort Funston is a park loved, admired and used by thousands and thousands of dog walkers, dog lovers, whale watchers, hikers, hang gliders, and others, day after day. Please respond to the users of this park. Keep Fort Funston open, fully open, to the public.

Thank you.

CHAIRMAN BARTKE: Thank you.

(Applause.)

Andrea O'Leary will be followed by Patrick Noakes.

STATEMENT OF

ANDREA O'LEARY

MS. O'LEARY: Hello! My name is Andrea O'Leary, and I'm very accustomed to being in the minority at meetings like this.

I am here tonight to speak for the very many regular, old, everyday park users and families, like myself, who are very interested in seeing to it that we don't waste anymore of our time arguing, to no end, about whether or not recreation is the appropriate word in the acronyms, or not. The point here is, is that we have a future for this land use, and we have to sustain it somehow, some way.

In our neighborhoods throughout San Francisco,

and elsewhere, we have spent years listening to dog owners talk about what they want, for themselves and for their domesticated animals. All the while, the real issues of quality of life to human beings, environmental quality of life to human beings is sort of thrown in the back and we never seem to get around to talking about that.

Dog owners talk about being responsible, about being respectful, and speaking of being -- of having all sorts of recreational rights. Yet we can point to very few or no real solid evidence to their contribution, as a group, in creating benefits for the larger community of people in an environment. Instead, we have had to withstand limitless supply of disregard, blatant disregard, for our limited and overstressed spaces, which must be sustained for the future of our people. They call themselves "the public," "the community," "the stakeholders," because they dominate in their sheer numbers meetings such as this. Yet thousands of the citizenry, such as myself, a vast majority, do not agree with them. And we do not agree that somehow, some way they seem to think that they are entitled to something that the rest of us would automatically stay away from.

We, in the neighborhoods, are just barely hanging onto what is left of our little patches of dirt, and what little life that still lives there so that we can

call wildness. Speaking of land grabs, we applaud the GGNRA for attempting to protect what little wildlife that remains at Fort Funston. And we do take some comfort in knowing that there's someone out there speaking for us, for all those people who are not here tonight, that look out for our best interest and the quality of life of a greater community of people, an environmental group of people.

We ask that this Commission stick to your guns and look beyond this limited, yet loud and persistent demand and intimidations, and giggles, which are all intended to just wear us down until we don't care anymore. The losers are the children, who are our future. I know it sounds like, you know, like a silly thing to say over and over again, but they are our future. Not the dogs who are users of land and who are not our future, who have no future.

You hold in your hands the ability to make decisions based on real science, merits and facts, and we applaud you for doing just that. Thank you.

CHAIRMAN BARTKE: Thank you.

STATEMENT OF

PATRICK NOAKES

MR. NOAKES: Good Evening. My name is Patrick Noakes. I live in San Francisco and in New Mexico.

When I was in New Mexico in April, I came across a paper article regarding the Park Service trying to get acceptance in the Carlsbad community, along with the existing Forest Service and Bureau of Land Management. The Park Service wanted to come in having to do with a monument of sort. I'm not sure what it was. I was somewhat concerned about what they would do there. The Park Service, in the article, said that they would honor local use, traditional use of the area. The local House of Representatives person, I learned, was very skeptical about that, because he had heard of this.

So, again, I just concerned that the Park Service is trying to bite off more than they should in overruling traditional use of things. I'm happy to have heard tonight that some of the weak science, pseudo science, voodoo science that's been brought up in justifying some of the closure arguments has been put to rest, and I thank you.

CHAIRMAN BARTKE: Chris Volpe, and then Claudia Kwoczynska. Chris Volpe?

(No response.)

Claudia Kwoczynska, and then Alan Hopkins.

STATEMENT OF

CLAUDIA KWOCZYNSKA

MS. KWOCZYNSKA: Hi! My name is Claudia

Kwoczynska. My comments tonight deal with the public process, or perhaps more accurately, the lack thereof.

I am the chairperson of the Berkeley Waterfront Commission, and I also serve on the task force for dog use in parks in that city. I have studied and worked on dog issues for seven years. During that time, I have learned the importance of listening to the public.

Public hearings should go beyond their legal requirement to be convened, and should be the opportunity for policy makers and advisers, such as yourself, to not just meet the public who will be affected by your recommendations, but also to learn from those in attendance at your meetings. You need to be open to their legitimate concerns and their suggestions, and I hope tonight you will be doing that.

I am also aware that, in order for the process to be as open and as fair as possible, to be true participatory democratic process, the major user groups need to be consulted with during all phases of a process, not just during those times when it is required by the letter of the law to do so. I am also well aware that other groups, including the Audubon Society and Sierra Club, seem to be privy to the decision-making process within public agencies, and their opinions seem to hold more weight than other park-user groups.

Dog-user groups have historically been excluded from the planning process -- not just here, but in other areas. Signs go up, fences go up, and all the dog people are expected to obey the new law of the land simply because it has been so posted. Well, if all of life were so simple, wouldn't that worthwhile for everyone? But the best way to insure that a new land use policy is respected is for the people who are most effected by it to be directly involved in all stages of development of that policy.

Most people who use Fort Funston, and other GGNRA lands, are deeply concerned about the environment, about sustaining the habitat for the swallow and other species. They believe that there is a better way to work toward achieving common goals; and that is: to work together on these issues. They don't want to be excluded from the process, and they bring enormous amounts of energy and talents to the challenge that are before you tonight. Please give them your full attention in your due considerations and your deliberations.

Thank you.

CHAIRMAN BARTKE: Alan Hopkins and Steven Krefting.

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STATEMENT OF

ALAN HOPKINS

MR. HOPKINS: Yes. My name is Alan Hopkins, and I'm from Golden Gate Audubon Society. I support the closure of the area at Fort Funston.

One of the things that I thought I'd bring up, a lot of you -- I don't know how aware you are of Fort Funston. But all these people who are wearing these cute little dog T-shirts, that's graffiti. That's painted on the facility at Fort Funston, and I find it really appalling that people will wear graffiti to support their cause. I mean, this is not how you support the National Park Service. This same person has graffiti-ed many of the sea walls along Ocean Beach, and, you know, I just find it appalling.

Yeah, well, feel free.

I'd also -- I have spent much time out at Fort Funston. I've discovered that I can go visit Fort Funston from the parking lot north of the main parking lot, right off of the Great Highway. Fort Funston is not a pleasant place to visit if you don't like dogs, if you're a bird watcher, if you try to look at a bird and you're surrounded by 20 dogs.

What's wrong with this picture? There are no other user groups here. Why are there no other user

groups? Because it's not pleasant to use. I could talk about the science involved in the bank swallow, but this is not the proper use of a park. I don't want to exclude the dog walkers, but something is wrong when there's only one use for the park.

On the environmental front. You know, there's so many people who have made great sacrifices for saving species: Loggers lose work to save the spotted owl, and to save salmon. Farmers lose work because they can't use the water to save salmon and other species. Farmers have to stop farming areas for the kit fox. Fishermen get angry because they can't shoot California sea lions that are taking their salmon. I mean, these people are making major sacrifices to save our endangered species, and I would think that people could at least, in the most affluent place in the world, could at least walk their dogs in a little different area.

Thank you.

CHAIRMAN BARTKE: Steven Krefting, and Mort.

VOICE: Where?

MR. HOPKINS: I'm glad you asked. Golden Gate Park has -- No, I'm sorry. My time is not up and I'd be happy to answer your question. Golden Gate Park actually has a large area that's designated as --

VOICE: Have you been there?

CHAIRMAN BARTKE: Okay --

MR. HOPKINS: It is, it is more than a quarter of a mile long. It's at the end of Sunset Boulevard. Also, if you

CHAIRMAN BARTKE: Let's --

MR. HOPKINS: Well, please, your duty, your duty, as a dog owner is to get Park & Rec to take care of that. Also, Fort Funston will be -- I mean, Crissy Field will be open. We have worked with dog walkers at Crissy Field, and, soon, there will be a huge amount dog walking area at Fort Funston. You have not been ignored.

Thank you.

CHAIRMAN BARTKE: Okay. Steve Krefting and Mort.

STATEMENT OF

STEVEN KREFTING

NATIONAL PARKS AND CONSERVATION ASSOCIATION

MR. KREFTING: Good evening, Commissioners.

My name is Steven Krefting. I'm the regional grassroots representative for the National Parks and Conservation Association. NPCA is America's only private nonprofit citizen organization dedicated solely to protecting and preserving and enhancing the U.S. National Park System. On behalf of NPCA's over 400,000 members, 65,000 of whom live in California, I appreciate the

opportunity to present the Association's comments on this proposed year-round closure of 12 acres at Fort Funston to off-trail recreational use.

NPCA strongly supports the proposed action to protect the bank swallow colony, enhance native plant communities and reduce human-caused impacts to the coastal bluffs and dunes. This is an entirely reasonable proposal. An objective assessment of the situation suggests that this is the minimum action necessary to protect this resource.

I would note, for the record, two legal mandates that apply to the situation. The first was already read earlier, the mandate of the Organic Act that established the National Park Service. That suggests that these things should be preserved unimpaired for future generations. This mandate applies to every unit of the park system, whether it is designaged a park, a monument, a recreation area, or a seashore.

The second is from Section 1 of Public Law 92-589, the act which established the Golden Gate National Recreation Area, and I quote:

"In the management of the area, the Secretary of the Interior shall utilize the resources in a manner which will provide for recreational and educational opportunities consistent with

sound principles of land use planning and management. In carrying out the provisions of this Act, the Secretary shall preserve the recreation area as far as possible in its natural setting and protect it from development and uses which would destroy the scenic beauty and natural character of the area."

Following this mandate, the Park Service, in the General Management Plan, drafted in 1980, which was a public process, states:

"The natural appearance of Ocean Beach, Fort Funston [and it names several other areas] will be maintained and, wherever possible, along the ocean shoreline, the dune environment will be restored."

These are the laws and the policies that govern GGNRA. NPCA believes that these various sections are quite clear on how the Park Service is charged to manage this area. It is clear to me, from repeated visits to Fort Funston, that the proposed closure is absolutely warranted and necessary. In fact, it is likely that this action may still not be adequate to fully protect the resources there.

I know the Commission is aware that the Fort

Funston bank swallow colony is one of only two remaining on the California coast, and that they are listed as a threatened species under the California Endangered Species Act. It is our moral responsibility to care for and protect our ever more stressed natural resources. Rather than complaining about the inconvenience caused by this closure, San Franciscans should be thrilled to be stewards of such a unique natural resource, as the bank swallow colony in the bluffs at Fort Funston. Fort Funston dunes are but a small remnant of what was once the most extensive dune system in the west. I'll skip the rest here.

Let's not be so greedy that we can't afford to give but a few acres back to the plants and animals that lived on them for thousands of years before we moved to the neighborhood. Over 80 percent of Fort Funston is still available for dog walking.

Thank you.

CHAIRMAN BARTKE: Thank you.

Mort, and then Mike Dunn. Just says, Mort,
M-o-r-t.

STATEMENT OF

MORT GINSBERG

MR. GINSBERG: My name is Mort Ginsberg, and a long-time San Francisco resident.

I want to thank you all for staying here at late as it is. It's almost bedtime. I want to particularly thank Mr. Sayres for being here, and the representative for PAWS. Thank you, both, for being here. I really appreciate that. I'm sure everybody else does, too.

This is not a recreational process. I've been walking my dogs out at Fort Funston for almost 20-some-odd years now. In the last 3 or 4 years, I don't find myself being -- I don't find that recreational, you know, the use -- I'm not relaxed. This is a very stressful situation for me. I think that, somehow, there trying to take the rug from under us, if you may. I mean, I'm totally tongue tied right now. This is very upsetting, actually.

People don't realize that dogs give us sight, aid our hearing, and companionship. I mean, the most important things I have in my life are my dogs -- other than my wife and my children.

(Laughter.)

I'm not exaggerating when I say that walking my dogs is probably the most wonderful thing I do during the day. It's the one thing I do look forward to. I think there's a concern here that we're going to lose this right. I think that this is only the beginning of what I feel is going to be an ongoing process. So, I don't want

to come back here again. I'm hoping that, somehow, we can resolve this thing so that we don't have to have this kind of a confrontation again. It's very upsetting.

As far as the swallows are concerned, I love birds, and the birds have been coming back for, my understanding is, for 90-some-odd years, I mean, without fences and with the attendant dogs and people, and so on. I mean, after all these years, why are they still coming back? I rest my case.

Thank you.

(Laughter.)

CHAIRMAN BARTKE: Mike Dunn, and then Eric Finseth. Mike Dunn?

(No response.)

Eric Finseth.

(No response.)

Hazel Wala?

(No response.)

No. Laura Hake. It's one I called before because she didn't put down what she wanted to talk about. Not here?

(No response.)

Corinne?

VOICE: She left.

CHAIRMAN BARTKE: Nancy Stafford.

(No response.)

Joy Durighello?

(No response.)

Francine Podenski, and David Perry.

STATEMENT OF

FRANCINE PODENSKI

MS. PODENSKI: I have just a couple of points to make. First of all, I agree with a lot of what's been said here tonight, and I don't have a lot to add. But there are some points that I think may have gotten lost after all this time, because, now, it's -- what? -- closing in on midnight, and we're not done yet.

Earlier in the evening, I just want to remind the Commissioners that there seems to be a lot of questions about the validity of the science that's been used to validate these closings, or the proposed closures. And I would really encourage you to, for yourselves, consult a variety of scientists not associated with any of the stakeholders in this room -- which might be kind of hard to do, because we've all been asking these scientists.

I think that the repeated reference to voodoo science -- and I know that, when I went onto the web, something I learned that I felt interesting -- we keep hearing there's only two coastal colonies of bank swallows

left. That may be true; but, according to the information I found on the web, bank swallows really prefer rivers. They don't really like oceans too much. These are actually odd colonies. So, to say there's only two left, we should be saying that it's amazing that we have these two strange bank swallow colonies. And the one at Fort Funston has been coming back for decades. We should be looking at that more an anomaly instead of an alarm.

I also would like to emphasize that urban parks are not wilderness areas. I'm very pleased, or I was very pleased, when Golden Gate National Recreation Area was first formed. It seemed like a really good idea. But this is an urban area. This is not a wilderness area. And I think that how the Golden Gate National Recreation Area is managed needs to reflect the community around it. And I believe the enabling legislation and the original agreements required that.

I would really like to see the accessible trail, that no longer exists at Fort Funston, replaced as soon as possible. I think that one of the biggest tragedies -- and this is not about dogs, this is about people who can no longer go there. There were quite a number of senior citizens going there regularly, and disabled people, that can no longer use Fort Funston. And that is not legal, actually.

I'd also like to see native plant gardens created in low traffic areas. I think they're fabulous, but I think to put them in high-traffic areas is a mistake and a misuse of resources.

Thank you.

CHAIRMAN BARTKE: David Perry, Karen Hu, Stephen Bajze. He already spoke, didn't he?

VOICE: No.

CHAIRMAN BARTKE: Karen Hu, okay.

STATEMENT OF

KARIN HU, PH.D.

DR. HU: I'm Dr. Hu. I agree with most of the prior speakers protesting the closure.

I teach a course in scientific methods at City College. This semester, in fact, I'm using the GGNRA proposal as an example of the national epidemic of scientific illiteracy. I'm going to address the idea of looking at non-native species.

The proposal discusses the invasion of non-native species, the eviction of the ice plant. It's already been established that the swallows do not need native plants. But I like California native plants. I make regular visits to wildflower havens, like Edgewood, the Matt Davis Trail at Mount. Tamalpais, Chimney Rock at Point Reyes. I plant California natives in my backyard.

I, myself, I'm a California native, with my roots going back more than 150 years. But I'm troubled when I see the implication that native is good simply because it is native, and that non-native is bad. That exotics need to be evicted simply because they're non-natives. Not all natives are good. For example: The majority of insect pests are natives, and there have been enormous benefits from some non-natives. Ninety-nine percent of our crops are non-native. All livestock, except turkey, are non-native. And, perhaps, many of the good people in this room are non-native.

(Laughter.)

And the ice plant at Fort Funston is non-native. The benefits? It's breathtaking in the spring. It's green all year. It's robust. It's healthy. It doesn't require maintenance. It holds the sand down. It provides a safe landing area for hang gliders. And it works well with park users.

I don't bring my dogs to Edgewood, Mount Tamalpais, or Chimney Rock. It's not appropriate. And while ice plant might not be appropriate in wildlife areas, that is, it should be eradicated in wildlife areas, Fort Funston is not a wildlife area. This is San Francisco, an urban area.

Commissioners, please don't allow Fort Funston

to become a nature exhibit behind fences. Thank you.

(Applause.)

CHAIRMAN BARTKE: Stephen Bajza?

(No response.)

Ron Gillam?

(No response.)

John Keating?

MR. KEATING: I'm here.

STATEMENT OF

JOHN KEATING

MR. KEATING: Thank you, Commissioners, for hearing us out.

I do want to say, before I get into my three minutes, just as a point of order, I want to request that the Commission have another opportunity for public hearing so that all these people, who were here earlier and could not make their comments, have an opportunity for a fair hearing. I hope you can have a motion, seconded, quickly carried, to allow a full and fair hearing. It's now after midnight. I note that many people have been passed over.

Now, to begin my brief comments.

What I had hoped to say was directed to Amy Meyer. And Ms. Meyer, I wanted to thank you, and the people like you, who, 20 years ago, had the wisdom to insist that this Advisory Commission be created, as a

condition for having the Golden Gate National Recreation Area. I think, back then, those of us in the environmental community were worried about back-room deals. We wanted to make sure that the citizens were protected. The value of this public citizen protection body is still there. And I hope it's not lost just because of the changed circumstances that we now presume that the people in the back rooms have an idea that we would like. So we presume that they're right, but your value is still there.

Secondly, we're engaged in a fabulous experiment with Fort Funston, as to whether the National Park Service can manage an urban area. The experiment is beginning. I don't think you should kill it, or allow it to be killed, before you have a chance to develop the experiment and see if you can manage an urban park. Don't eradicate it before you have a chance.

Now, you heard, briefly, from the gentleman from the NPCA. I think he misspoke, or misquote you, as to the interplay between the enabling statute and the general mandate. You can talk to your own lawyers about it. But what the Park Service lawyers said, the last time they briefed it before the Ninth Circuit in the Canyon Lands Case, they said that the Park Service has to apply the enabling statute for the individual park, and make

sure that applies. This enabling statute requires you to do planning processes to insure the urban recreational use continues.

Now, Mr. Hopkins spoke for the Audubon Society, and he said: We have to protect the bank swallows. Everyone is for that. I'm proud that we're in here in a situation where we'll all environmentalists. The question is whether it's right, and we need to look at the truth. We should not be afraid of the truth. We should not hide from it. We should embrace it. You should do the full analysis of whether you're helping the bank swallows or hurting them.

Thank you.

CHAIRMAN BARTKE: Thank you.

Lisa Vittori, and then Valerie Hancock. Are either of those two people here?

VOICE: Yes, I'm here.

CHAIRMAN BARTKE: Valerie Hancock, and then Tom Kanaley.

STATEMENT OF

LISA VITTORI

MS. VITTORI: My name is Lisa Vittori. I work with the park. Sometimes, I work as a contractor, and sometimes I work as seasonal. And I just wanted to show you my real resume. I have, you know, of course, a

resume, but this is the kind of work I do (indicating): I take out native plants -- I mean, not native plants, exotic plants, all day long. Okay? I've probably taken out a hundred thousand to two hundred thousand exotic plants.

I'm here because I feel like I'm in the middle of a civil war. And this is profession, but my dogs are my family. One of the reasons why the Park Service is in this situation, right now, is that, over the last 5 to 1 years, every single area in a 3-mile radius has basically gone on leash, or no dogs at all. And Fort Funston is one of the last places people can go with dogs, on leash or off leash. And, quite frankly, I used to live in Pacifica. There's almost no place in San Mateo County you can go with your dog, right now, to actually play.

There's a certain -- one of the reasons why I'm here is because I feel like I've been forced to take a position. I never read the Fort Funston Forum because it's too painful, because people that I respect a lot have done things that I, that I can't believe. The thing that I learned from the people that I work with at the Park Service are things like inclusion and in talking to all the stakeholders. I was working for the Park Service when this was filed and I found out that the people that I was working for were going behind the back of the people that

I believe in to implement a policy that they knew was going to be upsetting to a large portion of the park's users.

So, I wanted to say that this is bad on several levels. One is that it's bad science, and people have talked about that a lot. At the last restoration conference I went to -- I've been doing habitat restoration for 10 years. At the last, the main speaker was a man who has also been doing habitat restoration for a long time, who said that this is not a science, it's an art. And, you know, one of the problems with it that often, in public forums like this, we're forced to take a position, and we don't really know it's a huge experiment.

I also know that there have been many studies, or there's been only a couple studies, of the impact of dogs on public lands, and I've done one of them. And that data was never used in making decisions about something else. There's very few studies anyplace. The one study that I did -- and, obviously, I'm biased, you know, I did it with a bunch of other people, some of whom were biased in the other direction -- and we found the dogs went about ten feet off the path in any given area.

I don't actually care what you do with Fort Funston, because I think that the problem is bigger. The problem is, is that you need to have a lot of areas where

dogs can go and be dogs, and then you won't have the incredible pressure you have on Fort Funston. And the other problem is that you need to include people, like Ed Sayres, in the meetings just like you include the Pete Hollerin, who is the president of the Native Plant Society in San Francisco, and the head of the Audubon Society, because they are all part of the same decision-making process. We all want the same thing, but we've got to work it out so that we do it together. Or else you've got a whole bunch of people who are going to disobey your laws and ruin your projects. And that's a really stupid thing to do.

Thank you.

(Applause.)

CHAIRMAN BARTKE: Valerie Hancock, then Tom Kanaley.

STATEMENT OF

VALERIE HANCOCK

MS. HANCOCK: Hi! I'm Valerie Hancock.

Well, I just want to say I'm really tired, and I'm sure you are, too. So I'll make this really short and put some smiles on your faces. Just pretend that you're hearing a gigantic echo from what everyone tonight has said in opposition of the closure at Fort Funston.

Some things that I just don't really understand

is the park mandate talks about preserving scenic beauty and protecting the area unimpaired; and, yet, they want to put this big, ugly fence up. Which, to me, is, you know, a total contradiction.

It's clear to me, just listening to tonight's speakers that more studies need to be done regarding the bank swallows. There's just too much conflicting information. It looks like there's just no sound evidence here to prove anything. It also looks to me like there's definitely a special interest group who has their stakes they're trying to make in closing that area of Fort Funston, and that's wrong. This is public land and it should be reserved for the public.

I just want to emphasize that, you know, we really need relief from living in an overcrowded city. The quality of life issues need to be preserved for people's wellbeing. And if people do have dog companions they want to play with and walk with off leash, I think they should be given an area to be able to do that. I think, you know, we're all taxpayers and we all should have land to use it some respect of what people like to do, as long as they're not damaging the area, or infringing on everybody else. And I think this area is an area that should be recreational use, and it can all be used together, with everybody's interest in mind.

Thank you.

CHAIRMAN BARTKE: Thank you.

Tom Kanaley, and then Susan Schliz. Are either of those people here?

(No response.)

Patricia LaCava?

VOICE: She's gone.

CHAIRMAN BARTKE: Lana Bajsel.

STATEMENT OF

LANA BAJSEL

MS. BAJSEL: Hi! My name is Lana Bajsel, and I'm in outside sales so I'm typically not at a loss for words. But the difficulty in this situation for me to speak tonight is an emotionality that I have and keeping that in check.

My animals have gotten through some very tough times in San Francisco. I've been a user of Fort Funston for over 20 years and generations of dogs. It's a very important aspect of my life. It got me through difficult moments, and this is what I owe to them, as my canine companions. But, more importantly, I think that this -- we do, are obligated to have an open space and are allowed to have to our companion animals in a free-range, or free-run situation. I think it's very important for everyone involved. I don't think anyone denies that true

bond between your companion animals, as well as, you know, the human.

What really disturbed me the most was: I was walking down the path as they were putting the last padlock on the gate. And I can't even remember. I would be remissed in identifying the people who were there. It was one of the park ranger, in uniform, and someone else. They were putting that last padlock on it, and I just turned around and I made a comment. I said, "I thought there was a court decision barring you from putting that padlock on that gate." And the person looked me, turned their head and looked at me, and said, "We can do what we want."

And that was -- I couldn't believe it. I just almost felt like I dropped dead. I just couldn't even -- I was actually speechless, because that was the attitude that the GGNRA and the rangers had, like, we can do what we want. And that was the whole forum with these public meetings, or lack thereof.

This is like this is a very important forum tonight. I really appreciate this opportunity. But I'm also feeling that we are a little bit of a stepchild in our concerns and our needs, simply because we're always last on the agenda. We were in the last meeting. It's late. I think that we're probably not getting everyone's

full attention because we're all very tired after a very long day.

I would appreciate, perhaps on the docket next time, not having two very important issues like the Discovery Museum and the Fort Funston Closure on the same meeting night and perhaps give us a dedicated evening where we can really build our case, so that you can understand what our needs are and what our concerns are. But I do appreciate this opportunity this evening and hope that you will find the Fort Funston Closures are not, indeed, applicable to anything.

Thank you.

CHAIRMAN BARTKE: All right. That completes the speaker list that I have. I noted that -- I was keeping a tally -- that there were 12 people who signed up that apparently were gone. It's typical that we will lose a couple. But that fact that were 12 who left, I think, bespeaks the lateness of the hour. The problem, of course, is that we had another issue that was on the agenda that was time sensitive, too. The first two public hearings that some of you were at, you weren't on the agenda. We told you privately and publicly that you could be on the agenda if you asked, but you never asked. So that's why, that's why you were last on those two agendas, and I think the people who were here knew that and

understood that. It was too bad, but that's, you know --

So, the thing that I would like to do is to ask the Superintendent if we can extend the public comment period. And the reason is because our next agenda, in September, is already full and it would be late again. And the public comment period ends in the middle of September anyway. So, if we had another public hearing in September -- which we probably shouldn't and can't -- it would be beyond the public comment period. I don't know how our October agenda looks. I know we got, we got Fort Baker coming back up in October, don't we?

So the -- Mr. Superintendent, is that a possibility, extending the public comment period so that we can accommodate those who did not have a chance to speak? Most people got their chance, but there some, obviously, who did not.

SUPERINTENDENT O'NEILL: Yeah. I think we got to look at the commitments we already made for the September agenda and work out the time. I have no objection to extending the comment period in order to make sure we provided ample opportunity for the public to express their concerns, either in writing or orally. The only reason I'm hesitating is to make sure all the commitments that we have already given to others, and trying to work out a six-month schedule, that we're

sensitive to that. So I don't have that in front of me.

But I think, in the spirit of being responsive to public interest in an issue, we want to look at trying to make sure that we provided ample opportunity and ways to do it. And I think just the lateness of the hour we're a little bit tired after this. So, I think we want to look for a way to be able to address this in a fair way.

So, I'll get back and we'll look at the schedule and decide, given the comment period, what needs to be done with respect to any extension of the comment period and the ability to present additional testimony before the Commission.

CHAIRMAN BARTKE: I appreciate that. Thank you, Brian. But maybe the key thing is, then, once we establish that schedule, how do we notify the folks that are interested?

SUPERINTENDENT O'NEILL: Well, I think we would do it through the notice process that we use. I think we have a sign-up sheet. So I think, if there are people who want to be notified of future Commission Meetings, and if you're not already on the notice list, there is a sign-up list there and we update our list constantly. So, we'll keep the list back there, for sign-up for anyone who is not on the list, wants to make sure they're notified of any upcoming meetings, just make sure you sign up so we

can get you on the list.

CHAIRMAN BARTKE: Amy.

MS. MEYER: Well, I would also encourage anybody who even knows someone who couldn't come, or can't come, or has more to say and didn't feel they got everything said while they were here, to put down these other thoughts, or additional thoughts, on paper and send them in. Because, the one advantage of paper is that it's more durable, in some ways, than speaking. We obviously have to take this under advisement on what to do. We still have a lot of thinking to do.

CHAIRMAN BARTKE: Okay. We still have some items on --

VOICE: Do you have all the written comments?

CHAIRMAN BARTKE: Yes. We have gotten copies of all the written comments that have come in. As I said at the top, that's, I think, over 200 now, given both sides of the issue, and we have copies of them. I know I've read almost all of them, and there's a lot. But it's a good way -- you had a question, too, Doctor?

DR. HU: Yes. I suggest that, perhaps, just the 12 speakers, who did not get their opportunity, be invited to speak at the next hearing. That would only need a short period of time.

CHAIRMAN BARTKE: That'd be a good idea, yeah.

Because, if they put their address on the list -- most people do; but not all -- we can contact them. What's that, you want it earlier in the evening? Yeah, we all would. I don't know how we can guarantee that, because our next two agendas are already full, but we'll try.

The rest of the -- Betsey?

MS. CUTLER: At the risk of delaying this anymore, Mr. Chairman, I would offer, as a suggestion, that we roll over this, if possible, that we roll over this public hearing 'til the next meeting, and put the Fort Funston on first, and make a time certain of either a half-hour or 45 minutes, or an hour, to take whatever we can do in that period of time, if that's possible. I just offer it up as a suggestion.

CHAIRMAN BARTKE: I would suggest that it be a continuation of this public hearing --

MS. CUTLER: A continuation --

CHAIRMAN BARTKE: -- not a new public hearing.

MS. CUTLER: Exactly.

CHAIRMAN BARTKE: And that we just hear from people who have not yet had an opportunity --

MS. CUTLER: But make a time certain so that they realize that it's not going to be 200 people that can come and speak. But however many, the 12 that weren't able to come tonight, and then some additional others, so

it doesn't take the full four or five hours of our meeting.

CHAIRMAN BARTKE: Okay. We'll try.

Redmond.

MR. KERNAN: There was a question raised regarding the legislative history. I think it was Lydia Bosch who raised it. And I would be interested in getting the enabling legislation pertinent to this from the Senate, the House, and the House Report. I think it was referred to as a 1978 hearing. Maybe the legislation was before that, in '61. I'm not sure. But there were a couple of events that were referred, one a hearing held by the Advisory Commission in '78; and, then, the legislative history of Fort Mason, which was 1961, I believe.

MS. MEYER: Fort Funston?

MR. KERNAN: Fort Funston, sorry, there are two of them. Fort Funston. And, if we could have that, the pertinent elements of that history, that would be instructive to me.

CHAIRMAN BARTKE: Okay. There were two other questions that I wrote down. One was: Were the posts pressure treated? And that's a pending question. Another one was: Historically, at Fort Funston, was there plants or was it bare dunes? Those are also two pending questions.

We do have more on our agenda. You people are welcome to stay, if you want to hear the rest of it.

The Superintendent's Report.

SUPERINTENDENT O'NEILL: I waive it.

CHAIRMAN BARTKE: Committee reports. Any committees that met that have a report to give? Committee Report? Jack has one.

SAN FRANCISCO COMMITTEE REPORT

PRESENTED BY JACK SPRING, CHAIR

MR. SPRING: The committee met on the 18th of August. Pretty much, we have just this one item on the agenda, which was the Fort Funston Closure Notice. We were briefed on the notice. There was a considerable discussion to the closure notice, of course. We talked about the National Park Service's regulations, the public use of the park, and the National Park Service's mission; and we talked about the areas involved. We saw the area on maps that were shown here.

We noted that Fort Funston consists of about 422 acres. The closure involves about 43 acres, which is about a little less than 20 percent of the park. And we looked forward to the meeting tonight.

CHAIRMAN BARTKE: Thank you, Jack.

MR. BENNETT: I have a question.

CHAIRMAN BARTKE: You have a question. Yes,

Gordon.

MR. BENNETT: Jack, were any people from the SPCA or the Audubon Society at the --

MR. SPRING: What's he saying?

CHAIRMAN BARTKE: The answer is: No.

MR. BENNETT: Okay.

CHAIRMAN BARTKE: Neither side was represented.

MR. BENNETT: Okay.

CHAIRMAN BARTKE: Despite what you heard tonight in the public hearing, there's been no secret meetings of Commission Members with any of those groups.

MR. BENNETT: So this was just a meeting with the committee and staff?

CHAIRMAN BARTKE: That's right.

MR. BENNETT: Okay.

MR. SPRING: That's right. Normally, our committee does not take an active -- take an action. We're not allowed to do that unless we're part of a public hearing.

CHAIRMAN BARTKE: Other committees, other questions?

(No response.)

Non Agenda Items? Redmond?

MR. KERNAN: Do you want a committee report from the Presidio Committee?

CHAIRMAN BARTKE: If you insist.

MR. KERNAN: Well, I don't.

(Applause.)

CHAIRMAN BARTKE: Well, really, if you got something serious that needs to be reported.

PRESIDIO COMMITTEE REPORT

PRESENTED BY REDMOND KERNAN, CHAIR

MR. KERNAN: Well, we did meet. We weren't idle. And, so, we had a presentation of amendments and design of Mountain Lake Park, which would deepen it and change the planning around it, which was generally well accepted. We spent most of our time on the vegetation management plan. It was a very good meeting.

I must thank Michael Alexander for a great background study of what Major Stokes was thinking -- Jones, sorry, it is late -- Major Jones' report. It was very helpful to us, and we have some recommendations that we made to staff. Which I think are, hopefully, well received.

We, then, also got an update on some specific landscape pilot programs that were being conducted on three different locations in the Presidio, which were also very helpful.

CHAIRMAN BARTKE: Yes, Michael.

MR. ALEXANDER: In conjunction with that, I

want to thank the staff for respecting my request and including a copy of the Jones' plan for reforesting the Presidio in your packets tonight. It's about a, in truth, about a four or five page read. Most of the rest is listing of plants and where they are to be put. It is what the idea of the Presidio Forest Plan was to be. It's not what we got, but it's what Jones foresaw and recommended. And I highly recommend it as a base document for understanding what's going to be a very vigorous discussion in a couple of months about the Presidio's vegetation, and how it's going to be managed over the next 50 to 100 years.

So, I want to thank staff again for providing that, as I requested.

CHAIRMAN BARTKE: Anything further? Non-agenda items? Dennis?

MR. RODONI: A quick item, Rich. There was a letter in our packet from the Marin County Board of Supervisors. At some point, Brian, could you give us a memo or a comment on that?

SUPERINTENDENT O'NEILL: Yeah.

MR. RODONI: You don't need to do it now. I mean, just send it to us, even.

SUPERINTENDENT O'NEILL: Yeah.

CHAIRMAN BARTKE: Good idea. I have a plane to

catch, in just a couple of hours, so, we're adjourned.

(Whereupon, at 12:3 a.m., the meeting of the Advisory Commission was adjourned, to reconvene at 7:3 p.m., Tuesday, September 26, 2000, in the same location.

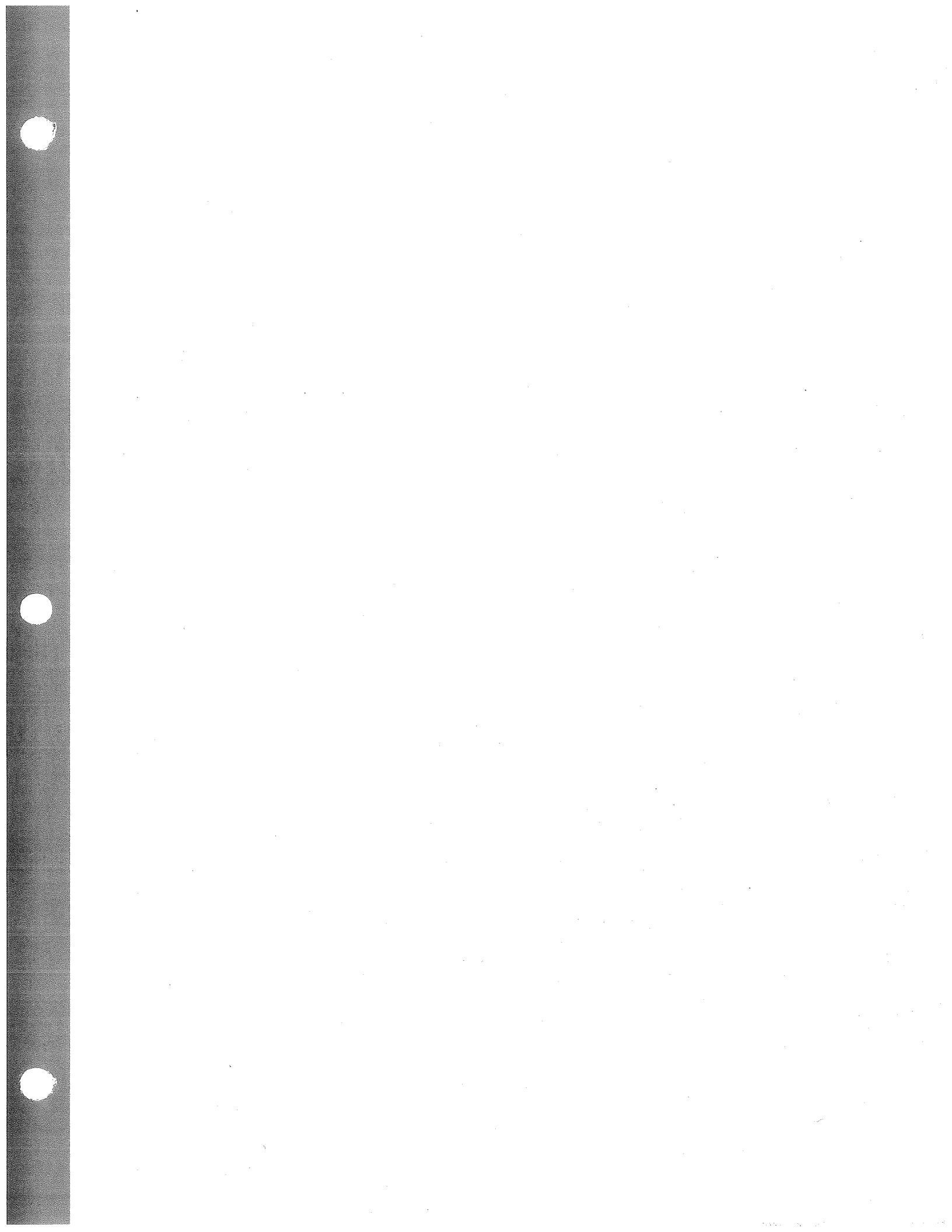
C E R T I F I C A T E

This is to certify that the attached proceedings before the Department of Interior, National Park Service, of the meeting of:

The ADVISORY COMMISSION FOR
GOLDEN GATE NATIONAL RECREATION AREA
AND POINT REYES NATIONAL SEASHORE

were held as therein appears, and that this is the original transcript thereof for the files of the Commission.

James W. Higgins, CVR
Official Reporter



BEFORE THE
UNITED STATES DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE

Meeting of the
ADVISORY COMMISSION
for the
GOLDEN GATE NATIONAL RECREATION AREA
and
POINT REYES NATIONAL SEASHORE

GGNRA Park Headquarters
Building 21, Fort Mason
San Francisco, California

Tuesday, September 26, 2000

REPORTER: JAMES W. HIGGINS, CVR

GOLDEN GATE NATIONAL RECREATION AREA
AND POINT REYES NATIONAL SEASHORE

- - -

ADVISORY COMMISSION MEETING

- - -

TUESDAY, SEPTEMBER 26, 2000

- - -

GGNRA Park Headquarters
Building 201, Fort Mason
San Francisco, California

The meeting was convened, pursuant to
Notice, at 7:30 p.m., Chairman Rich Bartke presiding.

COMMISSIONERS PRESENT:

RICH BARTKE, Chair

AMY MEYER, Vice Chair

MICHAEL ALEXANDER

GORDON BENNETT

REDMOND KERNAN

DOUG NADEAU

TRENT ORR

LENNIE ROBERTS

DENNIS RODINI

COMMISSIONERS PRESENT (Cont.:

FRED A. RODRIGUEZ

DOUG SIDEN

JACK SPRING

DR. ED WAYBURN

ALSO PRESENT:

For the Golden Gate National Recreation Area:

BRIAN O'NEILL, General Superintendent

FOR THE PRESIDIO TRUST:

CRAIG MIDDLETON

CAREY FEIERABEND

FOR THE GOLDEN GATE NATIONAL PARKS ASSOCIATION:

MICHAEL BOLAND

STAFF LIAISON:

MICHAEL FEINSTEIN

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P R O C E E D I N G S

7:30 P.M.

CHAIRMAN BARTKE: Good evening, ladies and gentlemen. I'll call to order the regular meeting of the Advisory Commission to Golden Gate National Recreation Area and the Point Reyes National Seashore.

The Advisory Commission was appointed by the Secretary of the Interior to give advice to the Secretary through his local designees, who are the superintendents of the local parks. We're not park employees. We've volunteers, as you are, and just people who love the parks. Our job is to listen to the public and, after doing that, to give our advice to the Park Service.

I need to apologize for Mel Lane. He couldn't be here tonight. He is arriving on a plane, but his plane got into too late so he is not going to make the meeting. But he promises that he'll be here next meeting. Susan Allan also called. Her mother was taken to the hospital this morning, so she can't be here. But she said, "It must not be too serious because Mom is mad about the whole thing."

Item No. 1 on the agenda is the approval of the minutes. These were mailed to us this last week. There has been one correction noted, and that was on the vote that was taken on the Fort Baker request for postponment. Well, actually, the vote was on approval of the Schematic

different: We're actually following the agenda pretty closely.

We're now with the Fort Funston Closure Notice. This was a public hearing which took place last month at our regular meeting. Actually, the public hearing had been closed at the end of last month. But, because of the lateness of the hour -- which was after midnight -- there were a number of people who had signed up to speak but who had to go home, and, therefore, were not heard from. So we contacted those people, and there were 14 listed by name, who were invited back to give their comments tonight. So this is not really a reopening of the public hearing, but just to pick up those people who had been here for the public hearing, but didn't get a chance to speak. Of course, it's not required that they speak, but we want to give them the opportunity.

I have heard from one, Susan Scher, who could not be here tonight, either -- which is too bad. But I would like to remind everybody that the public comment period has been extended to October 6. So those who wish to give us written comments may do so, either tonight, or any time between now and October 6. At that date, October 6, the public comment period will formally close, and no more comments would be receivable after that date. But there is plenty of time, if you wish to submit written

comments, to do so. In fact, written comments are easier for us to deal with than verbal comments because we can copy them, we can mark them, we can keep them, and refresh our recollection later.

I'm just going to go through the list of the names that I have. And, by the way, this is a typed list that was taken off the handwritten list, so I'm not sure that these names are correct, or that I'll pronounce them right, but we'll start with Nena Beach, and then Chris Vulpe. Are those people here?

(No response.)

Nena Beach, not here?

(No response.)

Chris Vulpe?

(No response.)

Mike Doane?

(No response.)

Eric Finseth?

MR. FINSETH: Here.

CHAIRMAN BARTKE: Okay. You're first. And after him, a person named Corrine, from San Francisco. We don't have anything more than that. Is Corrine here?

(No response.)

Would you like to come up to the podium? Then Nancy Stafford would be after this speaker.

STATEMENT OF

ERIC FINSETH, ESQ.

MR. FINSETH: In opening, hello, Lennie.

MS. ROBERTS: Hi.

MR. FINSETH: I'm Kate Forrest's boy, as you might remember.

MS. ROBERTS: Right.

MR. FINSETH: My name is Eric Finseth. I'm an attorney with Wilson, Sonsini, down in Palo Alto.

The reason I am here tonight, coming all the way from Palo Alto, as you may be aware, around the Bay Area, dogs and dog owners are being shut down. Generally speaking, there are vanishingly few places remaining in the Bay Area where people can walk dogs off leash. As a consequence, literally every weekend -- and my wife estimates on average three times a week -- we drive from Palo Alto all the way up to Fort Funston to be able to walk our dog off leash.

Environmental concerns are legitimate and deserve weight and consideration. In my view, however, they need to be rationally evaluated. We need to look carefully at the actual environmental impact of human activity. And we need to consider the collateral cost of restricting the human activity in the name of environmentalism.

In this regard, I am concerned about what I understand to be the Park Service's position and behavior with respect to an analysis of the environmental impact. I have been informed by Mr. Keating, the attorney for the Fort Funston Dog Walkers, that the Park Service, at this point, is declining to make publicly available the environmental impact data that it has been collecting on the impact on the bank swallows that has happened this year, since the closure. That is incompatible with fair, open, public analysis of what's really going on. And it strikes me as behavior that is more consistent with people who are trying to assert control, perhaps, for the joy of asserting control, or using the environmental arguments of pretext for what they seek to do, rather than openly and fairly evaluating the matter.

I find the proposed Fort Funston shut down, albeit partial, strikingly similar to what has recently happened down at Stanford, in our area. Stanford University, up 'til now, has generously allowed the public to use the Stanford Hills as an open area where people walked and taken their dogs. And Stanford has recently shut the entire area down and literally has guards posted everywhere, and is locking people out and dogs are forbidden. And, again, they were using a pretext of the Red Salamander that they wanted to protect. And the

reason it's a pretext is because Stanford itself plans to develop much of the land down there. They use it as a pretext to assert a regulation. And they're using the sort of presumed oral legitimacy of environmentalism to shut down all opposition and exceptions. And I'm concerned that that not happen in the Fort Funston case.

I would urge you to consider the impact on people around the Bay Area, particularly where, at least in our instance, you see the importance of it, and the fact that there are no other outlets at this point.

I believe that we should strive to make this a free society and not one that is becoming more repressive and more rules-bound and more regulated in every respect.

Thank you very much.

CHAIRMAN BARTKE: Thank you.

MR. FINSETH: Just one thing for me to point out. The notice we received for this meeting said Tuesday, the 29th. I think today is Tuesday, the 26th. I just want to point that out so that you're aware there are a number of people who may have wanted to speak, but received a typo, and, therefore, inadequate notice of tonight's meeting. Just so you're aware.

CHAIRMAN BARTKE: Okay. Thank you.

MR. FINSETH I can submit a copy.

CHAIRMAN BARTKE: Thank you. I didn't know

that.

Is somebody named Corrine from San Francisco who wanted to speak?

(No response.)

Nancy Stafford?

(No response.)

Joy Durighello?

MS. DURIGHELLO: Yes.

CHAIRMAN BARTKE: And David Perry?

(No response.)

STATEMENT OF

JOY DURIGHELLO

MS. DURIGHELLO: My name is Joy Durighello, and I'm an instructor at City College of San Francisco.

I'm here to speak in favor of the closure. My reason are all those reasons that have already been given. I don't think there is any point in repeating them again. I would like to comment on some of the things that I heard at the last meeting.

We saw a pie chart that showed that 86 percent of the uses at Fort Funston were dog walkers. And, to me, that begs the question: If Fort Funston is such a unique and beautiful place, why is its use being dominated by a predominantly single, special-interest group?

I believe that Fort Funston needs to be seen as

something greater than a sandbox, with a wonderful view. It's a very valuable natural resource, and it's absolutely the last remnant that we have to pass onto future generations of what the land was like before it was settled by so many people. I think the problems that have arisen now are a response to great population pressures, and everybody has their needs and wants. And this fighting and bickering that's ongoing is a kind of absolute stance on both sides of the fence, and I don't think we'll get us very far.

I support the closure because it is still a fraction of the 200-plus acres in Fort Funston. I'd like to ask the dog walkers if we -- I think the total is 36 acres at this point. Maybe you see this as a whittling away of your choices for walking your dogs. The question is: Are we going to see open space, which is in itself such a treasure, given over to destruction? And I say "destruction" because I don't think we're kidding anybody when we say that 200, 300, 400, whatever, animals of any species, running together at the same place, does not cause some type of degradation. It does happen. Don't deny it. We have to work with that dilemma. We have people with needs, all kinds of needs.

I urge this Board, this Commission, to consider that it is a federal park, and I believe there is a

federal regulation that requires that pets within the federal park be restrained. I don't understand why that law has not been enforced, and I don't understand why that law is not being invoked, unless I missed it at some point of the discussion. But I've read the law. There is a number on it, 36 Code 2.15, I think, something like that. It's on the books. Where is it? What happened to it? Why was it ignored?

Thank you.

CHAIRMAN BARTKE: Thank you.

David Perry?

(No response.)

Ron Dillon or Gillon?

(No response.)

Tom Kanaley?

(No response.)

Patricia LaCava? Okay, you're next, then Haley Whala, it looks like.

STATEMENT OF

PATRICIA LA CAVA

MS. LA CAVA: First, I'd like to thank you for inviting us all back to speak. And the first thing, I do have a speech prepared, but I would like to address the woman who just spoke, first of all.

CHAIRMAN BARTKE: Excuse me, as a matter of

protocol, you're remarks should be directed to us.

MS. LA CAVA: Oh, okay. Well, I'd like to talk about what she said. One of the things that she said is that the dogs being at Fort Funston are causing an environmental impact.

My favorite places to walk my dog previously was the Presidio, Land's End, and Fort Miley. I haven't been to the Presidio for four years because I can't take my dog there. Basically, when all that land was closed down to dogs, everyone started going to Fort Funston. If there is a problem there because of too many dogs, it's because we were forced there, rather than being allowed to walk our dogs where we could previously. And I think that's a really important point, because that's also going on in the city. With the closure of many parks to dogs, they're becoming more concentrated in certain parks and it's becoming a problem.

So, you know, I would like to comment on that, you know, this is why 86 percent of the people there are walking dogs. It is because we can't go to Ocean Beach and Fort Miley and Land's End and the Presidio anymore.

The other thing that I'd like to point out, basically just give this to you as comment, is: In one of the parks in the city, which is now closed because of native plant restoration, it's a barren hilltop. Kids go

up there and they throw their bottles down and break them after drinking their beer. I used to walk to the top of that hill every morning. Every morning, I picked up a bag full of glass. The last time I was up there, I had to leave. I couldn't let my children play there because there was so much broken glass. I know that I personally clean up plastic bags and fishing lines, and all kinds of garbage from the beach, when I walk my dogs. I know that other dog walkers do, too. If I wasn't out there walking my dogs everyday, there'd be a lot more garbage in the parks.

And I could read this, if I have time. What I'd like to say with this, is that the city of San Francisco is renowned as being one of the most beautiful cities in the world. Within the city, one of the most beautiful spots is Fort Funston. There probably aren't too many tourists going there, but it does provide the residents a relaxing alternative to Pier 39. It is necessary for the people to be able to go there and see how beautiful nature can really be, and it helps them justify paying their outlandish rents.

The GGNRA was established for the maintenance of needed recreational open space. Well, I need Fort Funston recreational. All of us in San Francisco do. If we look at the rate of closures at Fort Funston since

1991, if it continues within my lifetime, all Fort Funston will be closed to the public. My son goes with me to enjoy it, and I hope my grandchildren will get to, as well.

The National Park Service has asserted that they wish to close the land for the bank swallow. Out of curiosity, I looked up the bank swallow habitat expecting to find a slim sliver of land, of which Fort Funston constitutes a reasonable part. I found that the bank swallow, also known as the sand martin, *riparia riparia*, resides from Western and Central Alaska, Central Utah, and Central Quebec, and Southern Labrador, Southern California, Western Nevada, Southern New Mexico, Southern Texas, Northern Alabama, Eastern Virginia, North and South Carolina, and that was only in the United States. The also abound throughout Europe and South America.

This isn't bad science on the part of the National Park Service. Pure and simple, it's fantasy make believe. Why they really want to close down Fort Funston, I don't know; but I do suspect certain reasons. But it isn't because of the birds. Granted, I'm no expert, but the bank swallow population maps shows quite clearly that they're a heck of a lot of them in the world. There is, however, only one of me and my preferred habitat is Fort Funston.

Thank you.

CHAIRMAN BARTKE: Thank you.

Haley Whala, 451 Niatic Avenue?

(No response.)

Laura Hake?

(No response.)

Okay. Well, that concludes the speakers that were left over from last month. And, as I indicated, the one, Susan Scher, who said that she could not be here, and I hope that she sends her comments in writing.

Next item on the agenda is the Fort Baker Committee Report from our Ad Hoc Committee. Our interim chairman is Gordon Bennett. This is update, or a progress report, Gordon?

FORT BAKER AD HOC COMMITTEE REPORT

COMMISSIONER GORDON BENNETT

MR. BENNETT: Well, I'm honored to be singled out as the special agenda item for Committee Reports.

We've been having a good time at the Fort Baker Committee Meetings. We've been having work sessions that have been focused, this last month, on the RFP. We've got a healthy selection of interested people, including members of the audience, that are tossing their ideas in. We are going to have a work product available to this Commission within a few weeks. So everything seems to be

(No response.)

Other non-agenda items?

(No response.)

Our next meeting will be here in this room on October 17, that's a Tuesday evening, at 7:30 p.m. Note that that's not our usual meeting date, but it's only three weeks from tonight. That will be followed by a meeting on October 21, which is a Saturday, at Point Reyes, in beautiful downtown Point Reyes Station. Our next meeting, after that, will be back on our fourth Tuesday evening, which is November 28.

Any questions?

(No response.)

We're adjourned.

(Whereupon, at 9:15 p.m., the meeting was concluded to reconvene Tuesday, October 17, 2000, at this same place.)

C E R T I F I C A T E

I hereby certify that this is the transcript of the
proceedings held before the

GOLDEN GATE NATIONAL RECREATION AREA

AND

POINT REYES NATIONAL SEASHORE

ADVISORY COMMISSION

on Tuesday, September 26, 2000, at San Francisco,
California, and that this is a full and correct
transcription of the proceedings.

JAMES W. HIGGINS, CVR



BEFORE THE
UNITED STATES DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE

Meeting of the
ADVISORY COMMISSION
for the
GOLDEN GATE NATIONAL RECREATION AREA
and
POINT REYES NATIONAL SEASHORE

GGNRA Park Headquarters
Building 21, Fort Mason
San Francisco, California

Tuesday, November 28, 2000

REPORTER: JAMES W. HIGGINS, CVR

GOLDEN GATE NATIONAL RECREATION AREA
AND POINT REYES NATIONAL SEASHORE

- - -

ADVISORY COMMISSION MEETING

- - -

TUESDAY, NOVEMBER 28, 2000

- - -

GGNRA Park Headquarters
Building 201, Fort Mason
San Francisco, California

The meeting was convened, pursuant to
Notice, at 7:30 p.m., Chairman Richard Bartke presiding.

COMMISSIONERS PRESENT:

RICHARD BARTKE, Chair

AMY MEYER, Vice Chair

MICHAEL ALEXANDER

SUSAN GIACOMINI ALLAN

GORDON BENNETT

ANNE-MARIE BOOTH

BETSEY CUTLER

REDMOND KERNAN

DOUG NADEAU

COMMISSIONERS PRESENT (Cont.:

TRENT ORR

LENNIE ROBERTS

DENNIS J. RODONI

FRED RODRIGUEZ

DOUGLAS L. SIDEN

JOHN SPRING

EDGAR WAYBURN, M. D.

ALSO PRESENT:

For the Golden Gate National Recreation Area:

BRIAN O'NEILL, General Superintendent

FOR THE PRESIDIO TRUST:

CRAIG MIDDLETON

STAFF LIAISON:

MICHAEL FEINSTEIN

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P R O C E E D I N G S

7:30 P.M.

CHAIRMAN BARTKE: The meeting will come to order.

This is the meeting of the Advisory Commission to the Golden Gate National Recreation Area and the Point Reyes National Seashore.

There are still some seats over here, to the other side, if you can't find chairs. There are also agendas at the back, by the door, where you came in. If you need an agenda, you can follow along.

As you can see, this is one of our heavier agendas, tonight, so we want to move with some alacrity in order to get through it before midnight, if possible.

The first item on the agenda is the approval of the minutes of the October 17 and October 21 meetings. Last month, we had two meetings: One here and one at Point Reyes. Those minutes were mailed to the Commission Members a couple of weeks ago.

Do we have any comments on either of those sets of minutes?

COMMISSIONER WAYBURN: I move for the approval of both sets of minutes.

COMMISSIONER RODONI: Second.

CHAIRMAN BARTKE: They've been moved and

seconded that both sets be approved, as submitted. Is there any comments or questions?

(No response.)

CHAIRMAN BARTKE: All in favor say aye.

[Members voted unanimously in favor of the motion.]

CHAIRMAN BARTKE: Opposed say no.

(No response.)

CHAIRMAN BARTKE: Those minutes are adopted.

As a matter of introduction, the members of the Commission, that are seated up here, each have their names in front of them, so I won't introduce them all. They are appointed by the secretary of the Interior to give advice to the Park Service. The Commission Members are not paid; they're volunteer citizens, as most of you are. They've been appointed because they have some experience in local government, or public affairs of some kind. The Commission members range all the way from service of just a couple of months, all the way to a couple of decades.

The two gentlemen on my immediate left are employees. Brian O'Neill is the General Superintendent of Golden Gate National Recreation Area. Craig Middleton is representing the Presidio Trust this evening. We'll be getting reports from them later.

The next item on the agenda is the Fort Funston Closure Notice, and it's going to take a couple of minutes, but I want to set this into context in order to explain to people who are here what it is that the Commission has dealt with, with this issue.

First of all, in the area of public comment, this Commission has had four sessions in which public comments were received: January 18, March 21, July 18, and August 29. Then, we even heard from a few on September 26, who had been missed on August 29. But, on August 29, the public hearing was closed. So I hope that everybody understands that tonight is not a public hearing; it's already been closed.

However, there was an eight-week public comment period. During that period of time, we received a number of written communications. I've been told that the estimate is something like 1,500 written communications, and that included significant amounts of material from SF Dog, the SPCA, and Habitat Restoration.

Next, at the request of members of the public, we reviewed the transfer from the city of San Francisco to the Park Service of the area now known as Fort Funston. That included -- we all have copies of the voter pamphlet, the ballot arguments and Proposition F of October 1973, the late but emphatic endorsement of Willie Brown. We

have a bit on the spending, in which this proposition spent less than anything else on the ballot, less than \$700. Yet, it passed with the highest number of votes of anything on the ballot on the November 6, 1973 election, getting over 75 percent of the vote.

We've also reviewed the agreement that was signed between the City and the Park Service on April 29, 1975. There's two deeds, May 22, 1975, and September 17, 1975, that we have copies of.

As far as planning documents go, we've reviewed the San Francisco Master Plan, the San Francisco comments to our General Management Plan, and Golden Gate's General Management Plan of 1980, which was adopted after I don't know how many hearings. Just in San Francisco alone, there were over 100 hearings before that Master Plan was adopted, General Management Plan.

We've also reviewed federal laws and regulations, which included the National Park Service's Organic Act; the 1978 Amendment to the National Park Service General Authorities Act; Director's Order No. 55; the Code of Federal Regulations, specifically 36.2.15; and, specifically having to do with Golden Gate, Public Law 92-589, which established Golden Gate; the Advisory Commission's Pet Policy, which was adopted on September 27, 1978; the Code of Federal Regulations Compendiums --

there's three of them -- dated July 8, 1996, December 19, 1997, and August 24, of this year.

We've also reviewed the findings and order from the Federal District Court, dated April 26, of this year. In fact, I went so far as to look up the cases that were cited by Judge Alsop in that, all of which had to do with Park Service closures: Henderson v. Stanton; Mausoff v. Babbitt; and Spiegall v. Babbitt. It was interesting that, on appeal, in all three of those the Park Service prevailed.

We also checked with other federal court cases that had to do with closures, one of which, in fact, involved Golden Gate, Bicycle Trails Council v. Babbitt in 1996, in which this Commission was involved. That case held two things: One was that all units of the Park Service are treated the same; there's no difference between National Parks in urban areas, and National Parks in rural areas. The second is, quote:

"As long as the evidence supports the Park Service determination, the court is not free to substitute its judgment for that of the agency."

The members of the Commission also made site visits to Fort Funston, and, of course, have available their own contacts with members of the public and their

own opinions.

If you're looking for copies of the summary report, there are some at the back table; but it now comes to the Commission for action. And, so, that's where we are right now. The chairman of our San Francisco Committee is Jack Spring. Jack, were you going to pass this off to someone else?

COMMISSIONER SPRING: Well, I was going to give you my report from our last meeting, which was November 7. At the start of that, we were updated on the Camera Obscura and the nominating of that for the National Historic Register. Then we went into the Fort Funston Closure Notice, for about the fourth meeting in a row. There was a great deal of discussion. The result of that discussion was that we should suggest to the Commission a series of resolutions to stimulate discussion and modification or change by the members of the Commission, who have not had the opportunity to participate in these kinds of discussions.

So, in the fact that there are three resolutions that are drafted very roughly, and by only a few of us, so that they need a lot of polishing, and Amy Meyer has agreed to introduce these and talk about these resolutions and make some changes, and so forth.

COMMISSIONER MEYER: Okay. I'm going to

present the first resolution with regards to the closure of 12 acres. This is the issue which brought matters to a head. I'm going to read the resolution into the record. All the Commissioners have it; it's the top sheet among the sets of papers that you have:

"WHEREAS, The Golden Gate National Recreation Area (GGNRA) is part of the National Park System and subject to its policies and regulations as well as to federal law, and

"WHEREAS, the GGNRA has proposed to close 12 acres of Fort Funston to

"Reduce cliff and bluff failure

"Encourage the restoration of natural habitat

"Protect the lives and habitat of bank swallows, a species listed as 'threatened' by the State of California Endangered Species Act

"Assure the safety of visitors and pets, and

"WHEREAS, the naturally eroding cliffs of Fort Funston have lost many feet of land since the GGNRA was established, exacerbating loss of species habitat and creating safety issues, and

"WHEREAS, this Commission has, during an extended comment period between January and

October 2000, heard testimony from park users and other interested parties on four occasions and has received approximately 1,500 written comments, and

"WHEREAS, this Commission, in part at the request of the Fort Funston dog walkers, has reviewed applicable National Park Service law, including the GGNRA enabling legislation, the hearing record on that legislation, the House and Senate Committee Reports on that legislation, National Park Service regulations including Title 36, Chapter I, Part 2, Sec. 2.15, 'Pets,'..."

The sentence I would particularly call out of that is Section 2:

"(a) The following are prohibited:

"(2) Failing to crate, cage, restrain on a leash which shall not exceed six feet in length, or otherwise physically confine a pet at all times."

"... the National Park Service Director's Order No. 55 of September 8, 2000, and the September 15, 2000 'Notice of New Policy Interpreting the National Park Service (NPS) Organic Act, the results of the 1973 election at which 66.8

percent of San Francisco voters approved the transfer of lands from the jurisdiction of the city to the GGNRA, the 1975 agreement between the city of San Francisco and Federal Government for the transfer of the city lands to the National Park Service, the 1977 City Planning Commission 'Staff Response to GGNRA [Management Plan] Alternatives,' the General Management Plan for the GGNRA approved in 1980 after Bay Area-wide public hearings, the city of San Francisco's Westside Plan ...

And the pertinent section reads, in part:

"Policy 1, Fort Funston: Maximize the natural qualities of Fort Funston, conserve the ecology of the entire fort and develop recreational uses which will have only minimal effect on the natural environment."

"... the results of several court cases [cited by Mr. Bartke] regarding NPS land and resource management, and the sustainability plan of the city of San Francisco, now, therefore, be it

"RESOLVED, that the decision of the GGNRA superintendent to close twelve acres of Fort Funston to dogs is appropriate and necessary, and be it further

RESOLVED, that, in preference to permanent closure, the Commission requests the superintendent consider removing the fences and having a trail through the area accessible to dogs on leash."

CHAIRMAN BARTKE: Any comments?

COMMISSIONER MEYER: Well, I think I would just present that one straightforward.

CHAIRMAN BARTKE: All right. It's now open to Commission or question on the proposed resolution, as drafted by, I think, a couple of members of our Commission.

Redmond.

COMMISSIONER KERNAN: I have a concern that we haven't recognized that the plan for Fort Funston is somewhat old, in that: It's 20 years, or more, I think, in age and should be updated. I would suggest a further resolve, which would be that this Commission request that the National Park Service, as early as practicable, update the General Management Plan for Fort Funston; and, in that process, work with neighbors and user groups to see that that plan reflects not only conservation, but how people fit into that plan, which, by just emphasizing the conservation aspects, doesn't indicate how people fit there. One could fence off the entire park, for

conservation.

So, I think the plan needs to be revisited.
And I would suggest adding that further resolve.

COMMISSIONER MEYER: All right.

CHAIRMAN BARTKE: I would like to point out
that the Chair has not accepted a motion or a second.

COMMISSIONER MEYER: That's right.

CHAIRMAN BARTKE: And we have not -- therefore,
we don't have to put this in the form of an amendment to
the motion because we don't have a motion. It's open,
wide open, for discussion.

COMMISSIONER KERNAN: Well, I move the
resolution with my addition to it.

CHAIRMAN BARTKE: I was actually encouraging to
not do that until --

COMMISSIONER KERNAN: Okay.

CHAIRMAN BARTKE: -- we get a lot of ideas on
the floor; and, then, maybe somebody can frame a single
motion.

COMMISSIONER KERNAN: But you want more
discussion, okay.

CHAIRMAN BARTKE: No, we're going to discuss
with a motion, for awhile, at least.

Speaking only for myself, I certainly
sympathize with what you've said. When I brought it up

myself a couple of weeks ago, I was told that that would raise false expectations because there is no money in this budget, or next budget, or the next budget, to do that kind of a plan -- which is regrettable. I'm not sure that that should stop us from saying what we want to say, but the reality is that the plan isn't going to get done very soon.

COMMISSIONER MEYER: Well, Rich, I also think that this is a highly focused resolution. There are other resolutions here. There is no reason why what you say can't be a separate resolution. But this resolution is specifically to deal with the closure of 12 acres of Fort Funston, which became the subject of a court case. And I would hope we would stick to that one subject in this resolution.

COMMISSIONER KERNAN: I would only suggest that we consider the subject I mentioned because I'm not sure there will ever be money requested unless there is a need to update the plan; and, therefore, money will be requested at the point there is a recognized need. So I think it may help to get it on record. Whether it's separate or this resolution, I don't care. But I think -- I feel one of the issues is operating without a plan that's current enough that people that it represents the wishes of all those involved.

CHAIRMAN BARTKE: Okay. Hold that thought.

Fred?

COMMISSIONER RODRIGUEZ: I just wanted to draw attention to the, or to ask a question concerning the last clause about the area being accessible to dogs on leash in the trail there. Is -- and this is silent with respect to the rest of Fort Funston. It's my understanding that, notwithstanding the federal legislation, there really isn't an enforcement of the dog-on-leash in the other areas within Fort Funston. Is it -- is there going to be any change with respect to that?

COMMISSIONER MEYER: Do you want me to take it?

CHAIRMAN BARTKE: Yes.

COMMISSIONER MEYER: We have a series of resolutions here. It seemed wise to start with the one that spoke specifically to the matter that went to court. We've had to handle this ourselves. Because of the nature of it, this has been handled within the members of the Commission. Usually, when we work on resolutions, we work with the staff and the language sometimes gets smoothed. But, in this case, this is a separate resolution to hang by itself. That topic will be taken up in another resolution.

COMMISSIONER RODRIGUEZ: Okay.

CHAIRMAN BARTKE: But the question specifically

is, Fred, as I understand it, was not necessarily the fact that there not be a permanent closure, and that there be leashes; but whether or not the enforcement would follow, either whether that was done or not done.

Trent?

COMMISSIONER ORR: I don't have any -- actually, I like this quite a bit; but I have a correction at this point. I may have some discussion a bit later. It's a technical matter. In the long "Whereas," three lines from the bottom, the name of that document is not the Westside Plan; it's the Western Shoreline Area Plan.

COMMISSIONER MEYER: Oh, sorry.

COMMISSIONER ORR: It's an area plan, and this is a specific subset of the general plan. It's incorporated as part --

CHAIRMAN BARTKE: We don't have the need for that many words.

[Laughter.]

COMMISSIONER ORR: That's my only comment, for right now.

CHAIRMAN BARTKE: Do you want to make anymore?

COMMISSIONER ORR: No. I'll wait and here more of the discussion.

COMMISSIONER MEYER: Actually, I heard what Fred said better after I listened to Rich's comment. I

think what you seem to be saying, Fred, about that last resolve is the Commission requests the Superintendent to consider removing the fences, having a trail through the area accessible to dogs on leash and enforcing the regulations that would keep a dog on a leash. I think that that's necessary. That makes sense.

CHAIRMAN BARTKE: Other comments?

(No response.)

CHAIRMAN BARTKE: Now does somebody want to make a motion on this proposed resolution?

COMMISSIONER MEYER: So moved.

CHAIRMAN BARTKE: It's moved and seconded, as drafted, except for the name of the city's plan.

COMMISSIONER ORR: Are we going to add a clause saying, "consider removing the fences, having a trail through the area accessible to dogs on leash and enforcing the leash --

COMMISSIONER MEYER: Regulations?

COMMISSIONER ORR: -- the leash regulation?

COMMISSIONER MEYER: The leash regulation required by the --

COMMISSIONER ORR: Or enforcing the national leash regulations, the Park Service leash regulations.

CHAIRMAN BARTKE: Okay.

COMMISSIONER MEYER: NPS leash regulations.

CHAIRMAN BARTKE: Got it. That is part of the motion, then.

Redmond, did you want to bring up your point?

COMMISSIONER KERNAN: I'm willing to have it be a separate resolution.

CHAIRMAN BARTKE: Have you looked at the other drafts to see if they would be --

COMMISSIONER KERNAN: They wouldn't be able to.

CHAIRMAN BARTKE: It does not fit. Okay, we'll do it separately, then. All right. Discussion on the motion.

Michael.

COMMISSIONER ALEXANDER: I think we've all reviewed the legislation, and it's been pretty enlightening to me because it is, it is -- I'm not a lawyer, so I read it as a lay person does. We have lawyers on this panel, and, goodness knows, there are enough lawyers around. I read it as a lay person.

COMMISSIONER MEYER: Read it as -- what, Michael?

COMMISSIONER KERNAN: A lay person.

COMMISSIONER ALEXANDER: As a lay person. And as I've read the Organic Act and the long series of regulations and court decisions, and further regulations and further court decisions and interpretations, that bind

the National Park Service and bind this Commission, because we took an oath to uphold the law, I don't see a lot of wiggle room. And, so, I'm going to support this, this resolution because I think this is what the law says. Now I appreciate that we have heard from some people that they believe that the law says something else. We have a much larger issue in this country, right now, that is being settled. That's why we, that's why we have courts. And it's my understanding that, that a case questioning the law has been, has been filed. If that's, if that's the case, so be it. That's what the courts are for and we'll get a ruling. We'll get an appropriate ruling on this issue. Until then, though, I feel bound by the law as I understand it, and as it has been presented, quite persuasively, to me by the, by the Park Service and its solicitors. So, I will vote for this resolution.

CHAIRMAN BARTKE: Any other comments?

Trent.

COMMISSIONER ORR: Well, I just briefly, to take a -- not to say that what Michael just said was grudging; but I'd just like to say that I think there, there is some principles here. I mean, I'm not voting this just because I feel bound by the law. I think that the law is absolutely right there. But I think that, to me, it's really an issue of what national parks are for, and that

obviously is expressed in the law. But the principle beyond that is a very important one. I mean, I think that we have in Fort Funston a really remarkable area that has some extremely rare and valuable resources within our city.

What the Park Service is trying to do is find a way to preserve those resources to enhance them, to bring that population of bank swallows back, to save a little bit of the remaining dune communities we have here in the city. And I think, in and of itself, that's an extremely valuable thing to do. And I think that the notion that, in this area, especially with the second resolve, that we would even think that the fences could go away as long as people were willing to have their dogs on leash, which does not seem to me to be a really onerous burden in a national park.

So I just wanted to have someone say, for the record, that I think there's -- there are a number of principles involved here that I think are very important ones that make me quite pleased to vote for this resolution.

CHAIRMAN BARTKE: Lennie.

COMMISSIONER ROBERTS: Well, I'd like to add to that a bit. I agree with what Trent has said, and I also wanted to add the broad consideration that we have to do

about visitor enjoyment of the national parks. We have to keep in mind that we are, we are really -- we need to take into account the mandate of the Park Service for providing for all visitors, and having a single use in a national park actually will exclude other potential users.

From my perspective, I am happy to see this park used by many dog users, dog walkers and dogs and owners, but I think that there dogs off leash become a problem for other users, who may not choose to go there. It's hard to find out about those people who are not there and why they're not there. We've heard a lot from the public that does the park, and I very much appreciate all the comments that we have heard about this. But I think we have to keep in mind many other voices that we haven't heard, as well. So I would support this resolution, for that reason.

CHAIRMAN BARTKE: Redmond.

COMMISSIONER KERNAN: I think I agree with everybody, but I have a slightly different view that urban parks, perhaps, shouldn't be treated the same as all national parks. Maybe one size doesn't fit all. Maybe one set of rules shouldn't govern all parks. I think there is a distinction between creating an urban park in an urban area, and some of the national parks, Yellowstone, Yosemite, et cetera, who are in wild areas.

And I think that, if I could make the law, I would have the Superintendent have discretion in some matters that he now doesn't.

But given all that, the law does say what it says, and I'm willing to support it and support this resolution. But I wish that there were more latitude for creativity on the part of the Superintendent, and that there was the opportunity to have different rules for different kinds of parks.

CHAIRMAN BARTKE: Michael.

COMMISSIONER ALEXANDER: Two points: First of all, I didn't, I didn't mean to suggest by my statements, but I obviously did, that there weren't other reasons why I supported this resolution. But I think that's -- following the law is the first test, and everything else falls away if, as in this case, the law has to be obeyed.

As to Commissioner Kernan's point, there was a time, I believe in the '70s -- Doug, I think you'll be able to check me on this -- when the Park Service actually did set management standards for three different kinds of parks, one of which was recreation areas. And Congress clearly and specifically, in two instances, wrote into law that that would not be the way the Park Service interpreted the Organic Act. That the Park Service was to treat all units of the National Park System, to manage all

units of the National Park System by the same standards. They did not want that. So the Park Service had to revise its regulations to conform to the will of Congress. It was absolutely clear. You may disagree, you know. Others may disagree with the intent of Congress, but that's what Congress did, and it did it twice.

CHAIRMAN BARTKE: Gordon.

COMMISSIONER BENNETT: Could I ask a question? Does anyone know what the San Francisco Westside Plan says? I assume someone does.

COMMISSIONER ORR: Amy read it a minute ago.

COMMISSIONER BENNETT: Could you read again that part?

COMMISSIONER MEYER: Yeah. This is, this takes up all the coastal areas on the west side of San Francisco, such as the Cliff House and Ocean Beach and Sutro Baths. And at Fort Funston it says:

"Objective 9. Conserve the natural cliff environment along Fort Funston.

"Policy 1. Maximize the natural qualities of Fort Funston. Conserve the ecology of the entire fort and develop recreational uses which will have only minimal effect on the natural environment.

"Policy 2. Permit hang gliding, but regulate it

so that it does not significantly conflict with other recreational and more passive uses, and does not impact the natural quality of the area."

COMMISSIONER BENNETT: And that's San Francisco's policy for that area?

COMMISSIONER ORR: It's part of the general plan.

COMMISSIONER MEYER: It's part of the general plan.

COMMISSIONER BENNETT: Okay.

CHAIRMAN BARTKE: Other comments or questions?

Doug.

COMMISSIONER NADEAU: I just like to make a mild response to what Red said.

In light of my experience, the only difference between an urban national park and what you would consider to be a more traditional national park is the incredible intensity of use in those areas. And, to me, that factor makes it all the more important that the National Park Service apply the correct standards of preserving resources and not look to lowering those standards. So, to me, it strengthens our resolve to make sure that we do the right thing at Fort Funston.

So I think with that, I'd just would like to say

I'm delighted with this resolution.

CHAIRMAN BARTKE: Ed.

COMMISSIONER WAYBURN: I'm prepared to support this resolution, but I have certain comments. Having had quite a fair amount to do with the establishment of urban parks in the United States, and particularly with the establishment of the GGNRA, we were confronted with this problem, among others, early on. And it was agreed at that time that there should be certain exemptions made with regard to dogs, and these were done with the knowledge and advice of the Commission, of the Superintendent of the parks, the first Superintendent. And it was realized that parks in urban areas are going to be up against different plans and projections from parks in what were once wilderness areas. I think that the city allowed dogs in the Fort Funston area. I'm just not acquainted with the later developments, which were just read. But it was not meant to take away any of the privileges which have been allowed before.

CHAIRMAN BARTKE: Any other comments or questions?

(No response.)

CHAIRMAN BARTKE: All right. Since we're ready to vote on this resolution, I call for a voice vote. If there is a serious split, then we'll ask for a show of

hands; but, first, a vocal vote. All in favor say aye.

[Members voted.]

CHAIRMAN BARTKE: Any opposed?

(No response.)

CHAIRMAN BARTKE: I hear none. The resolution is adopted, as presented.

Amy, back to you.

COMMISSIONER MEYER: Okay. You have two other resolutions here. Some of you, I've had a chance to explain this to; a few of you, I haven't. Because this process was completely outside of this building, it went through a bit of -- we've just had some difficulty. It went from fax to fax.

Please turn to the third page, which is the resolution to rescind the Golden Gate National Recreation Area Advisory Commission 1979 Pet Policy. Now, Rich told me that, actually, we passed this in 1978. I was chair of the committee, but they didn't get around to printing it until 1979 -- just in case that comes up and bothers anybody.

The resolution of 1978 is in conflict with federal law; and, as such, we feel is confusing to the public. And, so, I will read this resolution aloud:

"WHEREAS, in 1978 this Advisory Commission, recognizing that this national park in an urban

area included some lands whose social history was different from that of other national parks, passed a "Pet Policy" resolution in which it sought to accommodate San Francisco and Marin County custom regarding dog-walking, allowing dogs to be walked off leash and under voice control in certain areas, and

"WHEREAS, although not formally adopted by the National Park Service, this resolution was used as a permissive guideline in these park areas by a sequence of national park superintendents of the Golden Gate National Recreation Area (GGNRA), although it contravened National Park Service regulations requiring all dogs to be on leash, and

"WHEREAS, over the years since the establishment of the GGNRA in 1972, and the transfer of the city lands to the GGNRA in 1975, the natural resources of the GGNRA, as well as those of the State of California and the nation, including the habitat requirements of native plants and animals, have been studied and their interdependence has become better understood, and

"WHEREAS, it has become evident that many areas

of natural habitat in this country have been so affected by human incursion and development that many species have been listed by the state and nation as "threatened" and "endangered" under the federal and state Endangered Species Act [those are two separate acts], and that some of these species live in areas of the GGNRA, and

"WHEREAS, since 1978 the dog-owing population of the Bay Area has increased and areas in other jurisdictions formerly open to dogs have been closed, so that the number of dogs that visit the GGNRA has increased, leading to increasing conflicts with other park users, as well as concentrations of dog litter off trail in areas of natural habitat where it cannot be removed by the dogs' owners, and

"WHEREAS, present circumstances in the GGNRA require the closer supervision of dogs as provided by a leash, in order to fulfill the requirements of law and regulations, and

"WHEREAS, because of loss of habitat and increased dog use, some of the purposes for which the GGNRA was established within the National Park System can no longer be fulfilled

in areas of the park in which dogs are not permitted to run off leash ..."

Now I'm going to ask you turn back to the previous page, because, rather than having another pet resolution, we're going to try to incorporate two other whereases [sic], which you will see here.

"WHEREAS, Director's Order 55 of September 8, 2000 (referring to the National Park Service Organic Act of 1916, the National Park Service General Authorities Act of 1970, and the Redwoods National Park Expansion Act of 1978 [which contained a paragraph]) states as follows:

"'Sec. 3.4 The Prohibition on Impairment

'While Congress has given the Service the management discretion to allow certain impacts within parks, that discretion is limited by the statutory requirement (enforceable by the federal courts) that the Park Service must leave park resources and values unimpaired, unless a particular law directly and specifically provides otherwise,' and

"WHEREAS, the September 15, 2000 'Notice of the New Policy Interpreting the National Park

Service (NPS) Organic Act' states 'All NPS personnel must conduct their work activities and make decisions affecting the National Park System in conformance with the interpretation in this Director's Order' and twice states 'conservation is to be the predominant,' now therefore be it

"RESOLVED, that the GGNRA Advisory Commission rescinds its 1978 resolution."

CHAIRMAN BARTKE: All right. We're open for Commission discussion on that combined resolution.

Redmond.

COMMISSIONER KERNAN: I don't find it on our agenda. This is to rescind a policy that applies to the total GGNRA. I think it should be discussed, but I don't think we should move on something that hasn't been calendered, noticed, that people have not been alerted to. There are areas that I can think of where I think the Director's Order can be met, the resources can be protected; and, yet, you could have dogs off leash. West Pacific Avenue comes to mind. It's got a fence on both sides.

I'm just not prepared to deal with something that hasn't been calendered so that those who might be

affected would have an opportunity to address the issue. As I understand it, to the extent our policy contravenes the Director's Order, the Park Service will not implement our policy; they will implement the Director's Order. So I don't think we need to do this, and I don't think we should do this, because it has the appearance of changing a policy for which people have not had an opportunity to address this Commission.

CHAIRMAN BARTKE: Okay. . Other comments?

Trent.

COMMISSIONER ORR: Well, I would take an opposite view of that. I mean, it seems to me to be completely in line with the resolution we just passed. We're recognizing that we have a policy. I mean, if it happens this month, or if it happens in the future, say, next month, that doesn't particularly concern me. The problem is that, as Amy said, we have a policy out there that is blatantly inconsistent with the law, is illegal, is unenforceable; and, so, leaving it out there only leads to confusion. It leads to people coming in and saying: Well, there's this policy. And that's been part of the misunderstanding and part of the problem that we're addressing right now.

So I am certain -- I don't know what the Commission feels about voting on it tonight. I don't have

any problem with that myself. Because, basically, we're saying we're removing something that isn't legally authorized in the first place. We have a policy that was never adopted by the Park Service. It's advice that this Commission, this Advisory Commission, gave in 1978. Circumstances have changed.

To me, the most important whereas here is probably the fifth one, while dogs at Fort Funston, a combination of the increase in the number of dogs that come to the park. I guess one thing that isn't mentioned in the resolution is the closure by other park agencies around the Bay Area, including the beaches down in San Mateo County. I know the Marin Open Space District I think is considering some further restrictions on dogs. We're just -- as long as this policy is here, we're going to have more and more people saying: Well, the National Parks are the place you go with your dogs.

It seems to me something that we need to correct. It's something that, as I say, entirely illegal and out of sync with everything else we've said so far tonight. So, I mean, I'm prepared to vote yes for it, but I would like to hear what other commissioners think.

CHAIRMAN BARTKE: All right. Other Commissioners?

Ed.

COMMISSIONER WAYBURN: Is there a motion on the floor?

MR. SHEPERD: Mr. Chairman, point of order.

CHAIRMAN BARTKE: There is not.

COMMISSIONER WAYBURN: If there's not a motion, I won't make it.

MR. SHEPERD: Mr. Bartke, I have a point of order, sir.

COMMISSIONER WAYBURN: If there is a motion made, I would move to table it.

CHAIRMAN BARTKE: Okay. There has not been a motion made. Any further comments from Commission Members?

Jack.

COMMISSIONER SPRING: I might suggest that, one of the reasons that we felt that this kind of a discussion should be held is that the fact that the Advisory Commission passed this resolution some years ago imposed the impression on the public that this was a matter of fact and the policy of the National Park Service; whereas, it is not. So if we remove that policy from our Commission records, I think it would be truthful and forthcoming to do it.

CHAIRMAN BARTKE: Okay. Gordon.

COMMISSIONER BENNETT: I agree with, partially

with, both sides of this discussion. I think we should calendar what our policy should be, but I think I would support this proposal. I think it's confusing; I think it's illegal.

CHAIRMAN BARTKE: Are you suggesting that it go over to a noticed meeting at some time in the future? Or, do you think it should be voted on tonight?

COMMISSIONER BENNETT: No. What I'm saying is that I think this should be voted on tonight. But what I'm further suggesting is that we have now eliminated a policy, if we all agree to pass that. What I'm suggesting is that we calendar, perhaps, discussion about what a new policy should be. If there is one that could replace this, that should go on the calendar for discussion.

CHAIRMAN BARTKE: I see. Okay. Other comments?
Susan.

COMMISSIONER ALLAN: I agree that I don't feel quite ready. I was really prepared on the closure issue. I'd like to think about this a little bit more. I understand the confusion of two different policies. I think that we're really a little further on the subject now, so we'll really be ready to move on.

CHAIRMAN BARTKE: Amy.

COMMISSIONER MEYER: I would remind everybody that what this does is remove a basic confusion. The Code

of Federal Regulations, Title 36, Volume 1, Section 2.15, "Pets," says:

"(a) The following are prohibited.

"(2) Failing to crate, cage, restrain on a leash which shall not exceed six feet in length, or otherwise physically confine a pet at all time."

I do not see how this Commission can have a policy out there. We have been told that this is -- what we have done is doing nothing but confusing the public. That is why I feel very strongly that this resolution to remove that confusion -- I agree that we can certainly have a find dog discussion on, you know, other subjects, but we have to get, to remove the discrepancy between ourselves and the existing Park Service regulation. This has been an informal policy. For 20 years, it survived. Circumstances have changed, some of which are cited in the resolutions. Someone else mentioned the closure of the San Mateo County beaches. And, you know, it's just become impossible and the confusion is too great. We have plenty of letters indicating that people are terribly confused. That's why I want to see this voted on tonight.

CHAIRMAN BARTKE: Michael.

MR. SHEPERD: Mr. Bartke, I have a point of order, sir.

CHAIRMAN BARTKE: I think you're out of order.
But go ahead, what is it?

MR. SHEPERD: I think that Mr. Kernan's suggestion that the item you're discussing now has not been put on the agenda. The public has not had notice of this.

CHAIRMAN BARTKE: We're aware of that. We're going to get to that. We're going to get to that.

MR. SHEPERD: I would like to see some public comment on this.

CHAIRMAN BARTKE: Michael.

COMMISSIONER ALEXANDER: I just want to ask, I want to ask for some legal advice on this. Because I don't want to see us -- I agree that we are inconsistent and that we need to get consistent. But I don't want to get into another situation where we are legally challenged because we haven't, we haven't given proper notice. And can we -- how do we -- I'd like that resolved. As soon as that's resolve, I'm prepared to vote.

CHAIRMAN BARTKE: Okay. Well, let's get some more discussion.

Trent.

COMMISSIONER ORR: Well, I mean, I'll take a stab at that, which is to say: We are an Advisory Commission. We are currently giving advice which is

clearly illegal, that is through this 1978 policy. I don't think there's is any problem with our rescinding it now. If someone has a process problem with it, I suppose you could go to a federal court to ask the judge to have us unrescind the policy and go through a formal process to reinstate, and then get rid of, again, a clearly illegal regulation.

I mean, I don't -- someone could bring that lawsuit. I think it would be difficult to win because it really is a nullity. I mean, you're asking a federal court to spend its time recreating an obviously illegal piece of advice that hasn't even been adopted by the National Park Service.

So, I don't -- I mean, the possibility of being sued and losing on that one is remote. I suppose someone could spend their time that way.

MR. KEATING: A point of order. You've had someone request a public comment period. You cannot proceed to rule on an alteration of park use, a highly controversial issue, without taking public comment. You're denying on legal advice one of the -- knowledge of -- public comment is to allow the public to contest the legal advice, which many would tell you that, what has been presented to you as legal advice, is wrong. And the value of public comment that you're obligated to take,

according to the point of order, is to allow that information to be received.

CHAIRMAN BARTKE: We have heard you.

Any further comment from Commission Members?

(No response.)

CHAIRMAN BARTKE: All right. I have -- oh, Betsey.

COMMISSIONER CUTLER: Thank you, Mr. Chairman.

I'm persuaded that, although sitting as a relatively new commissioner, I would, I would prefer to have all of our policies be legal and not have some that are illegal.

[Laughter.]

I am somewhat persuaded that, perhaps, if the calendar allows, we have, we calendar this for January and vote on it at that time. If that is going to cause a huge problem, then, if there is some way that we can give, rather than a formal vote, an advisory vote, or some sort of an indication of our feeling without making a specific motion, that would be my question.

CHAIRMAN BARTKE: All right.

COMMISSIONER MEYER: I feel strongly that we ought to vote on this because it remains a matter of public confusion and it is, it's patently illegal. I mean, that's ...

COMMISSIONER WAYBURN: On the other hand, we have not had any advance notice of this. And, to be confronted by several resolutions, which we have not seen, I think is not wise for this Commission.

[Applause.]

COMMISSIONER NADEAU: I can see the point about wanting to have a hearing; but, I guess, on the other hand, I don't see that the policy serves any purpose whatsoever. The Park Service never adopted it, they're not following it. The only purpose it serves is to confuse people. So it would seem to me that, going through a hearing on it, would be kind of a silly charade because we know we want to get rid off it.

CHAIRMAN BARTKE: All right. Trent.

COMMISSIONER ORR: I'm prepared to make a motion and see where the Commission stands on this matter, but I move that we adopt this resolution rescinding 1979, or 1978, pet policy.

CHAIRMAN BARTKE: I'm going to rule that motion as out of order, because I am convinced that the tradition of this Commission, as well as our organic documents, require that there be a noticed hearing and that the public have an opportunity to speak. I'm not speaking to the merits of the resolution. I'm prepared to vote on it, also. I agree with those speakers who say that it's

illegal and it's going to be silly to have a hearing on an illegal item. On the other hand, we're talking about process here and keeping faith with the public.

I'm going to rule the motion out of order. If anybody wants to challenge the chair, they can make the motion to do so.

[Laughter.]

All right. This matter will be calendered. Unfortunately, we have no meeting in December, so I can't tell you exactly when it will be calendered, for those of you that have an interest in it.

Is there anything further on Fort Funston?

COMMISSIONER KERNAN: Yes.

CHAIRMAN BARTKE: Redmond.

COMMISSIONER KERNAN: I would like to move that the Commission resolve that the National Park Service, as early as practicable -- and I understand that may be a few years -- update the General Management Plan for Fort Funston; and, in the process, work with the neighbors and user groups.

COMMISSIONER RODONI: I'll second that.

CHAIRMAN BARTKE: It has been moved and seconded. Discussion on that motion?

(No response.)

CHAIRMAN BARTKE: All in favor say aye.

[Members voted.]

CHAIRMAN BARTKE: Opposed no.

(No response.)

CHAIRMAN BARTKE: Sounds like apple pie to me.

CHAIRMAN BARTKE: Gordon.

COMMISSIONER BENNETT: Question. It's really directed to Brian, and it's whether we have a policy, or don't have a policy, or whether we have a policy that says this or the other. What is the park going to do? What's the park's position?

SUPERINTENDENT O'NEILL: Well, the Park Service has no other option than to carry out the national policy. I mean, the issue to the degree of aggressiveness and enforcement is an issue here. But any policy that we adopt, from the Park Service, has to be within the purview of laws and regulations we're mandated to carry out. Congress has expressed itself quite clearly on this issue. The National Park Service has adopted very specific regulations. So any regulations we have that carry out that regulation has to be within the boundaries and purview of that regulation. But that having been said, there's probably opportunity to develop a policy within that framework.

COMMISSIONER BENNETT: Thank you.

CHAIRMAN BARTKE: Are we know through with the

Fort Funston issue on our agenda?

(No response.)

CHAIRMAN BARTKE: Before we move on, I'd like to acknowledge a couple of people in the audience, who have given good service to this Commission, as members of this Commission for many years. I see Jackie Young in the back. Hi, Jackie! And Merritt Robinson, who served for over 25 years on this Commission. Hi, Merritt.

[Applause.]

CHAIRMAN BARTKE: We're not on item 3 on the agenda, the Fort Baker Ad Hoc Committee Report. As a matter of introduction --

If you people wouldn't mind having your conversations outside, we'd appreciate, because we still have some very heavy items on our agenda. We don't mind if you leave, but please do so quietly.

We are now on the Fort Baker Plan on the agenda. To put this into context, we'll go back to the year 1995 when the Base Alignment and Closure Commission moved that Fort Baker was to be transferred to the Park Service by August of 2001. In 1996, which was five years in advance of the transfer date, Golden Gate National Recreation Area started the public planning process with a variety of public meetings, workshops, tours, et cetera, which led to the development of several alternatives.

particular day to --

SUPERINTENDENT O'NEILL: All right.

COMMISSIONER MEYER: -- have this discussion.

SUPERINTENDENT O'NEILL: I think what we'll do is send an immediate, sort of e-mail out to you and give you several options on dates early in January that might work for you. We're just going to have to pick a date where the larger number of you might be available to meet.

CHAIRMAN BARTKE: Okay, good.

COMMISSIONER MEYER: And the other thing, Brian, is: Did you get -- this was supposed to come when the dog people were here, but got lost in the shuffle of other things. But have we got an appointment now for some Commissioners, who know Louise Renne, to be able to go in and talk to her about that rather -- never mind, words fail me -- that resolution by Supervisor Leland Yee concerning Fort Funston?

SUPERINTENDENT O'NEILL: We have a meeting set up with Louise Renne on Tuesday, 5 December, at 2:00 p.m. in City Hall.

COMMISSIONER MEYER: And I would hope --

COMMISSIONER ALEXANDER: Don't let the budget part go.

COMMISSIONER MEYER: Well, all right, just for a moment, Michael. I'll be glad to come back to it.

Lennie, Trent and I, and Rich, all in one way or another, know Louise Renne. Is there anybody else who knows Louise Renne and who would want to come to that meeting?

CHAIRMAN BARTKE: Fred.

COMMISSIONER MEYER: Fred, of course.

COMMISSIONER ORR: Tuesday the 5th, at what time?

COMMISSIONER MEYER: Two o'clock.

SUPERINTENDENT O'NEILL: At 2 o'clock. And I'll confirm, I'll make sure we send a note to you all and, obviously, we'd appreciate whoever is able to be there to meet.

CHAIRMAN BARTKE: Michael.

COMMISSIONER ALEXANDER: I would volunteer for that, but the last time I talked with her it cost her \$200,000, which is now reposed in Crissy Field. So maybe I shouldn't go.

The budget. First of all, thank you to the Commission Chair and the Commission Vice Chair, for getting on this, and thank you, Brian, for responding. I just want to remind everybody that we have a -- for getting for a budget workshop, we have a committee of four already established by the Chair, which is ready to go to work and anxious to go to work. I knew you would like

sometimes it gets --

COMMISSIONER ORR: I'll give him a call
tomorrow.

CHAIRMAN BARTKE: Anything else?

(No response.)

CHAIRMAN BARTKE: We're adjourned.

(Whereupon, at 11:15 p.m., the meeting was
adjourned to reconvene, Tuesday, January 30, 2001.)

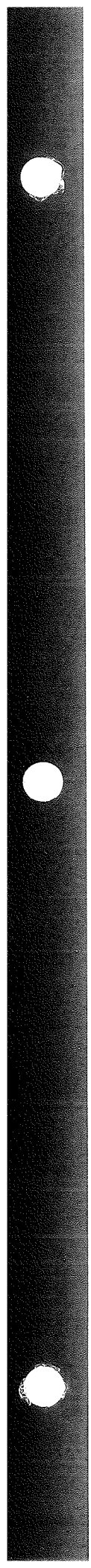
C E R T I F I C A T E

This is to certify that the attached proceedings before the Department of Interior, National Park Service, of the meeting of:

The ADVISORY COMMISSION FOR
GOLDEN GATE NATIONAL RECREATION AREA
AND POINT REYES NATIONAL SEASHORE

were held as therein appears, and that this is the original transcript thereof for the files of the Commission.

James W. Higgins, CVR
Official Reporter



BEFORE THE
UNITED STATES DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE

Meeting of the
ADVISORY COMMISSION
for the
GOLDEN GATE NATIONAL RECREATION AREA
and
POINT REYES NATIONAL SEASHORE

Golden Gate Club
The Presidio of San Francisco
San Francisco, California

Tuesday, January 23, 2001

REPORTER: JAMES W. HIGGINS, CVR

GOLDEN GATE NATIONAL RECREATION AREA
AND POINT REYES NATIONAL SEASHORE

- - -

ADVISORY COMMISSION MEETING

- - -

TUESDAY, JANUARY 23, 2001

- - -

Golden Gate Club
135 Fisher Loop
Presidio of San Francisco
California

The meeting was convened, pursuant to
Notice, at 7:30 p.m., Chairman Richard Bartke presiding.

COMMISSIONERS PRESENT:

RICHARD BARTKE, Chair

AMY MEYER, Vice Chair

MICHAEL ALEXANDER

SUSAN GIACOMINI ALLAN

GORDON BENNETT

ANNE-MARIE BOOTH

BETSEY CUTLER

DOUG NADEAU

COMMISSIONERS PRESENT (Cont.:

TRENT ORR

LENNIE ROBERTS

DENNIS RODONI

FRED RODRIGUEZ

DOUG SIDEN

JACK SPRING

EDGAR WAYBURN, M.D.

ALSO PRESENT:

For the Golden Gate National Recreation Area:

BRIAN O'NEILL, General Superintendent

RICH WEIDEMAN, Chief, Office of Public Affairs

STAFF LIAISON:

MICHAEL FEINSTEIN

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P R O C E E D I N G S

7:30 P.M.

CHAIRMAN BARTKE: I call to order the Advisory Commission for the Golden Gate National Recreation Area and the Point Reyes National Seashore.

We're really glad that all of you can come out tonight, even if it's raining. Many of our meetings are very popular, but this may be one of the most popular. The agenda is on the desk out there. If you haven't got one, you might want to pick one up because we have several things on the agenda.

I'm told that there are still some people outside who can't get in. Unfortunately, this is the biggest building that we have, so I don't know what we could do about it. But we want to continue with the public process because this is the meeting that was announced, and everybody is here, so we're going to go ahead.

The first item on the agenda is the approval of minutes, and that was our meeting of November 28. Are there any corrections or comments from members of the Commission regarding the minutes?

COMMISSIONER WAYBURN: Mr. Chairman, just a couple of them. The word "indicator" has been used indiscriminately, I feel, and I can't move to do anything

about it at the present time. But I would urge that, whoever puts these minutes together, not indicate so many indications.

With regard to these particular minutes, on page 4 there is a note in line 10 that I asked if a motion had been made. I also asked that any such motion be postponed to a later meeting because it hadn't been scheduled, and you said that you would table any motion that was made. I would like to have that clarified, what I was asking about.

On page 12, line 7, the words "...Superintendent indicated that the congressional delegation has a full understanding of the issue," then the word, "since," should be "...and they have the option of influencing what deliberations occur on the fiscal year 2001 budget."

I ask that those be changed.

CHAIRMAN BARTKE: Okay. That correction can be made. Any other corrections or comments on the minutes?

COMMISSIONER ALEXANDER: I have.

CHAIRMAN BARTKE: Michael.

COMMISSIONER ALEXANDER: Mr. Chairman, on page 9, the item in which I am quoted as saying I also discussed the soundwall. I would like to clarify that because I realize that I used the term that misled

people. This is in regards to the Mountain Lake Project. What I had intended to say, what was in my mind, was that I was requesting a look --

[Loud remarks from audience.]

COMMISSIONER ALEXANDER: I was requesting a look at a, at a berm, a planted berm, that would absorb sound and keep it from people who were using Mountain Lake. I realized, afterwards, that what came across was the idea of a concrete wall that would wall off 19th Avenue. That is not what I intended. I would like that explained.

Further down on page 9, I think we should alter the language on the south towers of the Bridge. There was some confusion in referring to the south tower. I think a lot of people thought that what was going to rebuilt was the tower, the south tower, that everybody thinks of. In fact, what they were talking about, when they referred to the south towers, were the piers of the approach bridges.

CHAIRMAN BARTKE: Right.

COMMISSIONER ALEXANDER: I think that should be clarified.

CHAIRMAN BARTKE: Change "towers" to "approach"?

COMMISSIONER ALEXANDER: The piers of the approach bridges.

CHAIRMAN BARTKE: Okay.

COMMISSIONER ALEXANDER: Finally, on page 12, in regards to the new business plan for national parks, it wasn't that I only was trying to clarify that Point Reyes was part of the pilot program, but asked, but I -- my goal was to ask that GGNRA be part of that new plan.

I have a couple of other inconsequential corrections that I'll submit to staff.

CHAIRMAN BARTKE: Anything further on the minutes?

(No response.)

CHAIRMAN BARTKE: They will be accepted with those corrections.

I might point out, for those of you who haven't been to one of our Commission Meetings before, that the Commission Members are nominated by various groups in the Bay Area, and appointed to conduct public hearings and to give advice to the Secretary of the Interior regarding the national parks in the West Bay Area. We're not park employees. We do not get paid for this job. We are citizens, as you are, with an interest in the parks.

Having said that, there's one other change I'd like to make in the agenda, and that is down under item 4, Marin Committee Tamalpais Transportation Report. There are people here from CalTrans, from Marin County, and

other places, wanting to know if we have any comments on their process. We have received a report from the Marin Committee. Does any Commission Member have anything further to say other than what the Marin Committee has said?

(No response.)

CHAIRMAN BARTKE: All right. Then it's the sense of the Commission that the comments in the Marin Committee Report can go forward, and the gentlemen who are here waiting for that item can go home.

The next item on the agenda is the 1979 Commission Pet Policy. I'm going to try to put this into something of context, or how it looks to me. I have a friend who is a fighter pilot, who refers to OBE, which means "overtaken by events." And I think that's probably where we are.

The Pet Policy was adopted actually by the Commission in 1978, but it's called the 1979 Policy because, for some, that's when it was printed. It was our effort to try to accommodate off-leash dogs in our park. And we've continued that effort now for 22 years, but we got caught, because that's not the law. Anyway, that's why we're here today.

In late 1999, Golden Gate proposed a 12-acre closure at Fort Funston to protect several plant and

animal species, and birds, and the dog owners protested. There were negotiations, the Park Service offered a compromise. That didn't work. And, so, two groups, the Fort Funston Dog Walkers and the SF Dog filed suit. The matter is not gone to trial, but there was a preliminary order from the federal judge that the Park Service should hold public hearings. The Park Service did hold those public hearings.

[Loud voices from the exterior of the building.]

The last I have heard, which was as of yesterday, the Park Service has made a motion to dismiss the case because it's now moot. That motion is scheduled to be heard on February 22, but there is a case management conference scheduled for February 1, which could bring it to a head even earlier.

During the past 12 months, this Commission has heard from the dog walkers on four separate occasions. In each case, we've heard from dog owners, how important their dogs are to them. We've heard that the city has not provided space for off-leash dogs, that the state and county parks have also not provided space for off-leash dogs. We've heard, at great length, and we're convinced.

The senior staff, in the mean time, from our park, has met with the other land-owning agencies, such as

the city, San Mateo County, State Parks, to see if there could be some place where this use could be accommodated.

First of all, you have to understand that our Commission is only advisory. Whatever we do, we only give advice. We don't run the parks; we don't manage the parks. Nothing we do could change or abrogate federal law.

I think there's been some misunderstanding about. People have thought that maybe this Commission makes the rules; and, unfortunately, we do not.

[Continued loud voices from the exterior of the building.]

COMMISSIONER ALEXANDER: Mr. Chairman, I am unable to hear what you were saying, and I would like to hear what you are saying.

CHAIRMAN BARTKE: Okay. I'll try to speak a little louder.

COMMISSIONER ALEXANDER: I'm not asking you to speak louder. I'm asking for a certain level of respect for this Commission's work so that the Commissioners, at least, can hear what you are saying because we are going to be asked to act on what you are saying.

CHAIRMAN BARTKE: Okay. I'll go ahead with the context that I'm trying to put the issue into.

At the end of our November meeting -- and many

of you may have been there -- a suggestion was made that we delete the so-called 1979 Policy because we'd been informed by the U. S. Attorney that it was illegal and unenforceable. A couple of members of the audience asked that it be rescheduled because they wanted to speak on that point. And, so, tonight is the night when we have scheduled it for people to speak on that point.

In the meantime, we've received lots of letters. Thank you, those of you who wrote. Written communications are always much easier for us to handle because we can do it at our own pace. You can take as long as you want to write. You can put all kinds of views in there. We can keep them, we can copy them, we can mark them, and we can share them. I went through the last 46 of them this weekend, and there are five points that continually came up that I think ought to be clarified.

First of all, there seems to be a belief that, because this was called a "recreation area" by Congress, instead of national park, there is a different law applying to it; and there is not. Congress has said that all parks must to be administered by the same national standards. And you must remember that Golden Gate was brought into the Park Service not because it was in an urban area, necessarily; but because of it's very rich biodiversity and the number of listed species.

[Loud chanting from the audience outside the building.]

In fact, in that regard, Golden Gate even exceeds Yosemite. There also was a belief that this is an urban park. It is not. An urban park is a city park or a county park, and that's -- this is a national park that happens to be in places abutting an urban area. There is a great deal of difference.

The second point that was made several times was that off-leash dogs are allowed in some other national parks. And, as I understand it, the allowance is for those weeks of the hunting season when the dogs are actually being used for hunting and for which they have purchased a permit in advance. So I don't think that that is what you really want. Besides, Golden Gate is one of the 335 parks that Congress has not allowed hunting in. So it just doesn't apply.

The third is having to do with the transfer from the city and the MOU has been mentioned.

[Loud booing from the audience.]

I'll tell you what we have from the time when the transfer was made from the city to the National Park Service, for those of you that may have missed it at our last meeting.

From October 1973, we have the Voter Pamphlet.

We have the ballot arguments. We have Proposition F. We have the endorsement of Willie Brown. From November 6, 1973, we have the vote results, which were 75 percent in favor. We have the spending on the propositions, in which Proposition F was the least supported, under \$700 in support; and, yet, it received 75 percent of the vote. We have an April 29, 1975 document entitled, "Agreement." We have a May 22, 1975 and a September 17, 1975 Deeds, two deeds. We have a June 21, 1977 San Francisco comments on the Golden Gate General Management Plan, and we have the San Francisco Master Plan. In none of those documents are pets mentioned, or dog walking mentioned.

The letters that we have seen referred to an MOU, and what is it and where is it? We haven't seen it, either. And I think what people are thinking is that the MOU is actually the document which we have, which is entitled "Agreement." We do have a copy of the Agreement in front of us.

The fourth point is that Congress intended dog walking in Golden Gate. Now, I'm not one of the commissioners that went back and reviewed the records of what Congress said on that point. But I'm told by those who did that there's nothing in the record on that point.

The fifth is: The Code of Federal Regulations can be changed for individual parks. I checked with the

U. S. Attorney yesterday and I was told that, yes, they can, and that's found in 36 CFR 1.2 (e); but it cannot be changed by the park for itself. The park, by itself, must make a a proposal. It goes up the chain of command, which takes quite awhile because it requires an Environmental Impact Statement. This park did that a couple of years ago on your behalf and it was denied.

So the question before us tonight -- we don't need to hear from you again about how important dogs to you or to us, because we know that. We don't need to hear again about how off-leash dogs ought to be allowed in that park because we've heard that. What we want you to do is to join with us in formulating a public policy about what we can do about it. What we want to hear from you is what we can do, given the strictures within which we are operating.

I'm going to begin the public hearing. I've already received enough people signed up to last for a number of hours. If everybody reduces their comments to three minutes, it will still take a number of hours to get through the ones that have signed up just with the ones which I have in front of me, and there are still people signing up outside. I will call more than one name at a time so that those who are outside, or somehow not close to the podium, can begin to work their way up. When you

get to the podium, speak from the podium because we are recording this. Give us your name and, if you represent a group, please tell us what group you're representing; and, then, reduce your comments to three minutes.

Now the purpose of public hearings always is to steer public policy. And, so, if you want to help us to steer public policy, please focus on what this hearing is about, which is: What can we do together to solve this problem? We don't need a public hearing about the 1979 Dog Policy. That thing, we're told, has been a dead doornail for 20 years. Well, we tried. But the question now in front of us is: What can we do about it? What is there that we can do? And, at the end of the discussion from the public, the Commission will try to formulate something, a plan of action, on what we can do to both protect the park resources and to give you what you need.

Some people have asked to speak in advance of others, and I'm going to call on those now. Supervisor Gavin Newsom is here.

[Applause.]

STATEMENT OF

GAVIN NEWSOM, SUPERVISOR

BOARD OF SUPERVISORS, CITY AND COUNTY OF SAN FRANCISCO

SUPERVISOR NEWSOM: Mr. Chair, Commissioners,
thank you very much for this opportunity to speak

tonight. It goes without saying that the depth and breadth of concern is extraordinary. There are literally hundreds and hundreds of people streaming in from the parking lot as we speak. This has to have exceeded, I imagine, Mr. Chair, all of our expectations in terms of concern. It goes without saying I believe very strongly that any decision you'll make tonight, short of making a decision not to make a decision to reverse the 1979 policy, would be an extraordinary mistake.

[Applause.]

In an unprecedented move, an unprecedented move, the City and County of San Francisco did not pass one, did not pass two, did not pass three, but four emergency measures, yesterday at the Board of Supervisors, telling you to delay tonight's vote.

[Applause.]

I don't think that's ever happened in the history of the City and County of San Francisco's Board of Supervisors. That's a pretty extraordinary statement.

I have three resolutions in front of me. I won't read them. But suffice it to say, one goes so far as to suggest -- it's not a threat, but it is unanimous consent at the Board -- that, if a decision is made to remove the privilege, the right, of off-leash dog runs at GGNRA, the City and County of San Francisco will take

action, looking back towards the 1972, '73, '75, et cetera, to look at reversionary policy, the prospect of taking back some subtle form of jurisdiction so that we can maintain the right in the City and County.

[Applause.]

Not only was that passed unanimously, those are the words of the resolution, not mine. But I'm told that the Mayor was desirous of signing these resolutions before the Friday deadline because he, indeed, is supportive of the spirit behind those resolutions, the words behind those resolutions. So you have unanimous consent. That's pretty extraordinary.

[Applause.]

And I hope that, I hope that speaks loudly. Look! I have only a few moments, and I appreciate literally a thousand-plus people here that wish to speak more passionately than I. But you've really got to take a hard look at this. Don't make a mistake. Don't wedge your relationship with the city by doing something that I believe, very strongly, is unnecessary. That the City and County of San Francisco feels is unnecessary. Conservation? Yes. You've done an extraordinary job in a lot of respects, but at what cost conservation? We've got to balance the needs of the community. We've got to balance the needs of dog walkers.

[Applause.]

Without getting into too much detail, I do want to make you aware, and I'm sure many of you are aware, in a very small, dense, urban environment as San Francisco, with 220 parks and recreational facilities, only 17, now 18, parks in our community allow off-leash dog runs. The effect your decision would have tonight on the neighborhoods of San Francisco is short of extraordinary. It will have a prolific, a profound effect on the quality of lives for thousands of San Franciscans. Not just the 150-plus thousand people with dogs in San Francisco, but the thousands and thousands of residents that use our neighborhood parks. Do not make a shortsighted decision. Work with the City and County of San Francisco. Collaboratively, we can do much more than by dividing the community and by dividing the so many voices that are left out of tonight's proceeding.

I highly urge you to delay action. On behalf of the City and County of San Francisco, we'll repeat the mantra: This is unnecessary, and do not wake this sleeping dog.

Thank you all very, very much.

[Applause.]

CHAIRMAN BARTKE: Will the Supervisor accept a question, please?

MR. SAUNDERS: I have a few comments here.

CHAIRMAN BARTKE: Excuse me, sir, you're out of order. The Supervisor still has the floor.

MR. SAUNDERS: I have a suggestion here.

CHAIRMAN BARTKE: You're out of order, sir.

Mr. Supervisor, did the Board yesterday understand that it doesn't mean hardly anything whether we vote for or against the motion? Because, first of all, we're advisory; and, second of all, the U. S. Attorney has told us that our policy had been dead for more than 20 years. Did the Board understand that?

SUPERVISOR NEWSOM: The Board understands that, in our capacity of legislatures --

CHAIRMAN BARTKE: Thank you.

SUPERVISOR NEWSOM: -- in the City and County of San Francisco, but your voice matters. By definition, it matters.

CHAIRMAN BARTKE: Let me ask another question.

[Applause.]

SUPERVISOR NEWSOM: Tonight's decision sends -- you can send the right message or the wrong message. So I want to hear --

CHAIRMAN BARTKE: Let me ask about the message that you send.

SUPERVISOR NEWSOM: Thank you, Mr. Chair.

CHAIRMAN BARTKE: Our staff has been meeting with your staff, and the other land-owning agencies. What I would like to know is: What did the Board decide to do to increase the number of areas that people can walk off-leash dogs in this city, as most cities do?

SUPERVISOR NEWSOM: Yeah. We've had a task force meeting for the last 24 months, and I honestly could say, to the extent that we have failed, we have failed to address this issue proactively. But to the extent that you can exacerbate that failing tonight, it would have a profound effect on the quality of lives of San Francisco residents. You cannot, Mr. Chair -- and I'm sure you can appreciate this -- redress the problems of the past. But you have an obligation, I think, and an opportunity, to fix the course for the future by making this advisory measure tonight, loud and clear, that you will not tinker with those failures of the past and set this appropriate course. I would highly urge you to do so.

CHAIRMAN BARTKE: Well, sir, we will commit ourselves to continuing to meet with you to resolve those questions if you will commit your staff to meet us halfway.

SUPERVISOR NEWSOM: I'd rather meet you -- I will meet on this issue. I will absolutely commit not just interest, I will commit myself, my staff, and I'm

sure I can speak for every member of the Board, a very newly elected body, that we all will commit to working together collaboratively with you if you do the right thing tonight. And that's the one condition. Please do the right thing and we will work with you. That's an assurance.

CHAIRMAN BARTKE: We're now making some progress.

[Applause.]

CHAIRMAN BARTKE: Supervisor Tony Hall is here. He is speaking next.

Sir, you're out of order. Would you please sit down and take your turn.

STATEMENT OF

WILLIAM SAUNDERS

MR. SAUNDERS: I have a suggestion. I have a suggestion, for what it's worth. I believe that one thing that concerns the Board is that someone will bring in a dog, who is off the leash, and will bite somebody, and there will be a suit against the Board, or rather against the people who run the parks. And I have a suggestion to avoid that, and that is to ask of everyone, who wishes to walk a dog off the leash, to put in a card that states that under no condition will they hold the Fort Funston, or any other government groups, responsible for the

problems with a vicious dog. And under those conditions, I believe that it would be much easier for people to walk their dogs if they would put in such a letter.

CHAIRMAN BARTKE: May we have your name, sir?

[Applause.]

Supervisor Hall.

STATEMENT OF

TONY HALL, SUPERVISOR

BOARD OF SUPERVISORS, CITY AND COUNTY OF SAN FRANCISCO

SUPERVISOR HALL: Ladies and Gentlemen, I'm Supervisor Tony Hall.

[Applause.]

Thank you.

I represent the 7th District in San Francisco, which encompasses Fort Funston. Moreover, District 7 is home to a number of dog owners who are outraged at the possibility that this Commission might rescind the 1979 Pet Policy.

CHAIRMAN BARTKE: You understand --

SUPERVISOR HALL: I urge this Commission to refrain from eliminating the pet policy. At the very least, you should delay your decision and consider seriously the tremendous effect that such an action would have on the surrounding neighborhood parks in San Francisco. Dog owners currently have the ability to use

the GGNRA lands as an area to exercise their dogs and let their dogs run free. If the Commission eliminates this ability, these dog owners will be forced to utilize neighborhood parks which, in turn, could create a problem between children, who use the neighborhood parks, and dog owners. The impact on the local parks will be overwhelming.

I would also like to remind the Commission that the rescission of the pet policy would be a violation of the National Park's obligations to the City and County of San Francisco. As such, if the Commission does rescind the pet policy, the City would have the right to exercise its reversionary interest in the deed transferring Fort Funston, Rodeo Beach, Crissy Field, and all the other properties included in the 1975 transfer to the National Park Service.

Please be cautious in your decision tonight, I urge you, on your rescission of the pet policy.

Thank you.

[Applause.]

CHAIRMAN BARTKE: Is the representative from Senator Jackie Speier's office here? Yes. Would you come up, please. She will be followed by a representative of Assemblyman Kevin Shelley.

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STATEMENT OF
JACKIE SPEIER, STATE SENATOR
CALIFORNIA STATE SENATE
PRESENTED BY BARBARA NANNEY,
ASSISTANT DISTRICT COORDINATOR

MS. NANNEY: Good evening, Commissioners. Thank you very much for allowing me to speak tonight.

My name is Barbara Nanney. I am the Assistant District Coordinator for State Senator Jackie Speier.

Senator Speier represents Western San Francisco and also Northern San Mateo County. Fort Funston and Ocean Beach are included in the Senator's district. She very much wanted to be here tonight. I actually thought she was going to be here, but there's an energy crisis and she was unfortunately unable to come. She asked me to read a letter this evening on her behalf.

"Dear Advisory Commission members:

"On behalf of concerned constituents, many of whom are here in this room tonight, I respectfully urge you to reject the resolution before rescinding the 1979 Pet Policy allowing off-leash dogs on GGNRA properties.

"As you will no doubt hear tonight this evening, the potential closure of GGNRA areas to off-leash dogs is a highly charged and

emotional issue. Thousands of dog owners have come to depend on places like Fort Funston to exercise their dogs on a regular basis. They take their responsibility for their canine companions seriously and cherish the experience of playing with their dogs off-leash at recreational areas such as Fort Funston.

"Members of dog groups such as SF Dog and Fort Funston Dog Walkers take their responsibility to care for GGNRA properties seriously as well. Fort Funston Dog Walkers host a monthly cleanup of Fort Funston and provide bags for dog owners to pick up after their pets. I believe dog owners have amply demonstrated their commitment to maintain the cleanliness of Fort Funston and other GGNRA area.

"As you know, the National Park Service currently allows off-leash dogs in many national parks across the country when those animals are used for hunting purposes. In addition, special regulations allow for hang-gliding and off-trail bicycle riding. The people before you this evening are asking for a similar special regulation for their animals.

[Applause.]

"Of the 1,500 comments received by the GGNRA late last year regarding the permanent closure of 12 acres of Fort Funston, approximately 1,100 were opposed to the closure. It is clear that the majority of San Franciscans favor retention of the pet policy allowing dogs to run off-leash. I strongly urge you to listen compassionately to their pleas and reject the proposal before you this evening.

"Sincerely,

"Jackie Speier."

CHAIRMAN BARTKE: Would you accept a question, please.

[Applause.]

As I announced at the top, we're here to solve the problem. And what we get from the letters from the many people who are here, and who are not here, is that one of the reasons for the pressure on the national parks is that the state park does not allow off-leash dogs. Would you please convey the question and suggestion to the Senator that we would like her cooperation. If she is asking for us for something, she has to meet us halfway.

MS. NANNEY: I can speak on Senator Speier's behalf and say that she is committed to finding a solution to this. I would just have to voice the comments of

Supervisor Newsom that she hopes that you will do the right thing tonight by not rescinding your pet policy, and she is more than willing to come to the table to help find a solution to more off-leash dog areas for San Francisco.

CHAIRMAN BARTKE: Did she understand that the pet policy has been illegal for more than 20 years?

[Loud booing from the audience.]

MS. NANNEY: Senator Speier has been briefed on this issue by the National Park Service, and has been told that. However, we also understand that there are special regulations that can be created for individual parks, and that is what the Senator is looking for.

Thank you.

CHAIRMAN BARTKE: Thank you.

[Applause.]

CHAIRMAN BARTKE: Is the representative from Assemblyman Kevin Shelley's office here?

STATEMENT OF

KEVIN SHELLEY, ASSEMBLYMAN, MAJORITY LEADER

CALIFORNIA STATE ASSEMBLY

PRESENTED BY SUSAN WALSH

MS. WALSH: Good evening, Commissioners, Superintendent. My name is Susan Walsh. I'm here to represent Mr. Kevin Shelley, the Majority Leader of the California State Assembly. He represents the western half

of San Francisco, Assembly District 12.

I am here to urge you to take his written statement submitted to you this evening very seriously. And I'm going to read a short statement from him.

"I regret not being able to join you in person tonight because of legislative work in Sacramento. But I am pleased to express my strong support for retaining the existing pet policy for the GGNRA. I pledge that I, and my offices, will do everything possible to preserve off-leash dog walking for the health and happiness of thousands of dog owners and their pets throughout the Bay Area."

[Applause.]

Thank you.

CHAIRMAN BARTKE: Now we're getting somewhere. I have two more Supervisors who wish to speak. I have Jake McGoldrick, and then Tom Ammiano.

[Applause.]

STATEMENT OF

JAKE MC GOLDRICK, SUPERVISOR

BOARD OF SUPERVISORS, CITY AND COUNTY OF SAN FRANCISCO

SUPERVISOR MC GOLDRICK: Honorable Commissioners, my name is Jake McGoldrick. I'm a member

of the San Francisco Board of Supervisors.

I don't want to be repetitive here tonight. Being myself in a position to hear a lot of comments on various issues, I know that redundancy is something that we'd all like to avoid. However, there is no redundancy in the ability of people to their dogs and have them go someplace to be able to run. Notwithstanding the fact that you have something that you feel is a legal obligation, I think that you have a social obligation standing here before you, with all these people, and I think it's very important that you take that first and foremost into consideration.

As you know, and as my esteemed colleagues on the Board of Supervisors have already stated here a few minutes ago, we are considering, amongst other measures, the possibility of exercising our right to be able to take this land back, and I don't think we want to get involved in that. So I hope you'll make a decision here that will be very reasonable on behalf of the people here, as you can see, who have a need that is far more important than a provision you yourselves have to admit may no longer be operative -- is obviously no longer operative and should not be put into operation in this city.

[Applause.]

So please do whatever you have to do to change

your rules and regulations, and please abide by what is an overwhelming sentiment in this city -- I'm sure you will all agree -- that there is very strong evidence here.

Thank you very much.

[Applause.]

CHAIRMAN BARTKE: Do you commit yourself to helping us find some place to have off-leash dogs?

VOICE: Repeat the question.

SUPERVISOR MC GOLDRICK: Excuse me, could you repeat the question, please?

CHAIRMAN BARTKE: Yes. You spoke about the social obligation, as your other board members have done. Do you accept that as an obligation of your own?

SUPERVISOR MC GOLDRICK: An obligation to try to find someplace for people to be able to run their dogs?

CHAIRMAN BARTKE: Yes.

SUPERVISOR MC GOLDRICK: Absolutely. And I think the first place for them to be allowed to run their dogs is on the lands where they've been running the dogs for nearly four decades. And I think you ought to deal with that.

[Loud cheering and applause from the audience.]

I think what's very important is that there be some opportunity for us to develop a cooperative relationship, rather than a relationship here, which

obviously is not in the best interest of the people who live around here, irregardless of what level of government we're dealing with. We would be very happy, we would be very happy to enter into a dialogue with you about how we can accomplish what is a need for the people of the city of San Francisco. We hope that you will, in good faith -- obviously, we will -- enter into that dialogue with you. Absolutely. Absolutely.

CHAIRMAN BARTKE: All right. Thank you.

SUPERVISOR MC GOLDRICK: Let's talk. Let's talk.

[Applause.]

CHAIRMAN BARTKE: Tom Ammiano is next.

STATEMENT OF

TOM AMMIANO, PRESIDENT

BOARD OF SUPERVISORS, CITY AND COUNTY OF SAN FRANCISCO

SUPERVISOR AMMIANO: Esteemed members, I've been on the Board of Supervisors for six years. In dog years, that's 25.

[Laughter.]

I know that this is a particularly difficult time for you, and I do appreciate your patience and forbearance, but I think it's really time to listen to the people. In New Jersey, we say dawg; and, in San Francisco, we say off-leash.

[Applause.]

We, on the Board of Supervisors, are under some state and local mandates called Sunshine and the Brown Act, which means that many things are discussed openly and in public. And I think that had that applied to this esteemed board perhaps we wouldn't be at this moment where there's a line drawn in the sand.

[Applause.]

I would advocate, I would advocate more public discussion of issues, such as this, because now it's coming across as very autocratic and draconian. As Supervisor McGoldrick stated so well, it seems like the dialogue has stopped and there's silence on one side, and there's a lot of anger on the other side. And, if there is anything the Board of Supervisors can do -- I know that my colleagues are here, Supervisor Hall, Supervisor Yee, Supervisor Newsom -- we are open to that. But it seems to me that people have spoken.

PG&E talks about power and rolling blackouts. There's another kind of power here and it's people power, and it must be listened to. I implore you to listen to it, and I assure you that I will help facilitate any dialogue that is necessary so that there can be balance, because balance is what it's all about.

Thank you very much.

[Applause.]

CHAIRMAN BARTKE: I have received a request that Supervisor Aaron Peskin be allowed to speak.

[Applause.]

STATEMENT OF

AARON PESKIN, SUPERVISOR

BOARD OF SUPERVISORS, CITY AND COUNTY OF SAN FRANCISCO

SUPERVISOR PESKIN: Superintendent, Commissioners, my name is Aaron Peskin.

I want to start by acknowledging and thanking the Mother and Father of the GGNRA, Ms. Meyer and Mr. Wayburn, for giving us this park, that we can have this debate about tonight.

[Applause.]

And Superintendent O'Neill, I've known you for many years in my old capacity at the Trust for Public Land, where, indeed, I helped you acquire lands that are now part of the GGNRA.

In my 15 years in public land use, not in my 14 days in public policy, I've been involved in acquiring lands throughout the Western United States. And I have seen instance after instance where, under the enabling legislation that created, say, Great Basin National Park, where historic livestock grazing was continued to be allowed under the enabling legislation. That human beings

and legislatures could make legal constructs that would allow the kind of historic activities there to continue to flourish. I know we can do the same thing here.

Let me add my voice to the chorus of voices that you've heard from the Board of Supervisors. If, indeed, we need to change certain laws in order to make urban parks than the Yosemite and Yellowstone of the world, we can do that, and this Board of Supervisors --

[Applause.]

-- is committed to trying to bring the various user groups together and make the legal constructs that we need to make in order for us to continue to accommodate what we all want to see at Crissy Field and Fort Funston.

So thank you very much. I look forward to a constructive dialogue. I hope that you will not rescind the pet policy tonight. I think, in the next three or four months, we can bring the parties together and achieve what we all want.

Thank you.

[Applause.]

COMMISSIONER MEYER: Mr. Peskin, you seem familiar with some aspects of the national parks. And I want to, by way of question and just dialogue with you, you may or may not be personally familiar with the section of the law that we have been confronted with, as a board,

telling us that what we passed, as a recommendation, in 1979 did not, was not legal, was not either -- it was illegal and unenforceable. And that section 36 of the Code of Federal Regulations, 2.15 Pets, which says that a -- to simplify it -- a dog has to be on a leash in a national park. Now you have spoken of one way of getting at this, which is to look into the future possibility of seeing how this, you know, how this law, where it comes from and why. But one of the things we are faced with is that we have, at this time, lands in this park under the jurisdiction of the National Park Service to which we are, as a commission, only advisory. We have lands that are very large for their habitat, for their ability to support in this park the largest collection of rare and endangered species of any park in the country.

[Interrupted by loud booing from the audience.]

So that, we have an unusual set of obligations.

VOICE: How many dogs are on the endangered species?

COMMISSIONER MEYER: The need to have dialogue, I appreciate what you have said. But what we've heard so far is city people, state people. I didn't hear the state -- the state people sent aids, and no one wants to ask an aid, well, what would you do in the state park system?

[Interrupted by loud booing from the audience.]

What would you do? Because it's not the responsibility of an aid to answer. But the fact is that the state has a system which does not allow dogs off leash at all on the lands that are far more numerous than ours. So if you are willing to participate in a dialogue, are you willing to participate in a dialogue that crosses over many levels of government, and also many different types of users? Certainly, from the audience, we have a large number of off-leash dog, or dog owners who would like their dogs off leash. And we also have people who, for other reasons, want to use the parks in other ways, or have had some conflict about it.

We are under obligation to follow the direction, as my chairman has said, of our attorney, who has told us that what we have had as a recommendation that was used for 22 years by the National Park Service is, in fact, illegal and unenforcable. That's where we are.

SUPERVISOR PESKIN: Commissioner Meyer, let me respond to that. And let me respond to that in the following way, and let's see what everybody thinks.

I am the president of a nonprofit called Great Basin Land and Water, which spun off from the Trust for Public Land. For the last 80 years, the Pyramid Lake Paiute Tribe of Indians, the cities of Reno, Sparks, the counties of Washau, the state of California and the state

of Nevada have been fighting and litigating over the water rights in the Truckee River. In 1990, under the leadership of Senator Bradley and Senator Reed, all of those various constituents came together and they put something together that the United States Congress passed, Public Law 101618 because there was agreement. And I suspect that we can do the same thing.

Are there going to be some compromises? You bet there will be. Will we continue the historic use that so many people enjoy and that is so vital to so many people in San Francisco, and throughout the Bay Area? Yes. Will we protect some things that need protection? Sure. We have to have that conversation and once everybody agrees to it, we have to make it law. And, so --

[Applause.]

-- Commissioners and ladies and gentlemen, I have no doubt that your solicitor is giving you correct legal advice. I have no doubt that the 1979 Pet Policy was, you know, conflicted with, you know, other laws. That's not the point. The 1979 Pet Policy really isn't the issue. The issue is: We made the 1979 Pet Policy because we wanted to legitimate what had gone on. And, indeed, since that point, everybody from the Western Regional Director, on down the line, has continued to nod and wink, including the Superintendent; and, now, it's

coming home to roost and we've got to do something about it. But it's a human construct and we can do it. I know we can do it, and we want to do it. So let's do it.

[Applause.]

CHAIRMAN BARTKE: Thank you, Supervisor. I think now we're making some progress.

Michael.

[Applause.]

COMMISSIONER ALEXANDER: I have a questions, Mr. Chairman.

Supervisor Peskin, you're my Supervisor, and I'm very glad that you are. I think you understand the issues here because you've been on both sides of this issue. I

--

[An alarm began to sound in the room.]

I'm going to pause while we find out if we have a problem or not.

SUPERVISOR PESKIN: Mr. Alexander, you might have to call me with that question tomorrow.

[Pause.]

CHAIRMAN BARTKE: I'm told that that is a false alarm and there's not a need to evacuate, but you can make your own decision on that.

[Applause.]

SUPERVISOR PESKIN: Commissioner, go ahead. I

can try to answer.

COMMISSIONER ALEXANDER: All right.

[The alarm continued to sound.]

We are told, as you have said correctly, we are told by legal counsel, who advises us, that the policy, which was passed in 1979, long before I ever came on this Commission, is illegal. I feel like I am caught between a rock and a hard place on this. I am hearing from Supervisors don't rescind. And I think what you and I will agree is an illegal recommendation. I see that as simply a procedural step. I am most interested in having a dialogue on this issue. I think there are solutions, but why is the procedural step, which simply, I think, clears, clears some confusion out of here? The reason this is all come up is that it was cited in a lawsuit against the Park Service as a justification for keeping the policy. We -- and, when it came to our attention, that it was an illegal justification, we became obligated to rescind it. Can we -- why can we not rescind this policy tonight, and then move forward into a discussion about the appropriate solution?

[Loud negative comments from audience.]

Aside from the symbolic feeling that people have about it, as a substantive matter, would that help, would that help us to start talking and working towards a

solution?

[Loud negative comments from audience.]

SUPERVISOR PESKIN: I think the answer is: No. but let me tell you why the answer is no. The answer is no because it's a bad way to start a conversation.

[Applause.]

Don't misunderstand me. I'm not posturing. I'm not being political. What I am saying is this: Look! I'm sure that this piece of paper that has existed for 22 years may technically not be legal under 36 CFR 2.11. That's not the issue; that's not the point. The point is: How do we get Superintendent O'Neill out of a tight legal fix by changing the law? That's the issue. And before we change the law, how do we reach some agreement that accommodates a variety of interests and preserves the historical use of the beaches and all, and so many areas that have been used by off-leash dogs.

So what I would say is this: Why don't we start the conversation and propose how we might make things different, rather than start the conversation by saying we're rescinding this policy? So what? It's been there for 22 years. Why not keep it for another year, or two, while we figure it out?

[Applause.]

Thank you, Commissioners, and good luck.

[Applause.]

CHAIRMAN BARTKE: Thank you.

I'd like to move on now with out public hearing.

And, as I do that, I will do as I said before: I will call two or three names in advance, and then --

VOICE: Supervisor Yee is here.

CHAIRMAN BARTKE: Yes, I know. I know, I know, I know, but we have hundreds of people who have signed up to speak, and we've got to get some order to this or we're never going to finish. I think we've got enough sign-ups to keep us here for seven hours. There are still some people who have signed up for preference on the calendar, and the next one is Ed Sayers.

[Applause.]

STATEMENT OF

ED SAYERS, PRESIDENT

SAN FRANCISCO SPCA

MR. SAYERS: Thank you very much. I'm Ed Sayers, President of the San Francisco SPCA, representing 95,573 members.

[Applause.]

I just want to also reiterate our appreciation for having a hearing, because hearing would imply listening. And despite what we've read in the media, we believe that, upon listening and giving due diligence to

what you have heard, you will allow user groups to work with you, and contribute to the process of an equitable plan for recreational activities in the park.

Our commonality with you is the love of these spectacular natural areas and our shared concern for the responsible stewardship. Through dialogue, we will have solutions. But if the doors remain closed, we will have only reactions, emotions, likely litigation, and no real solutions.

Off-leash recreation for dogs is a positive, responsible, quality-of-life experience that, as you can see from this turnout, from the media coverage, is an experience that is deeply cherished. You, as committee members, are representative of the life balancing that we are all engaged in: Work and professional commitments, family and school commitments, community and volunteer commitments. So in the course of our 80-hour weeks, we have this one hour of off-leash recreation with our pets at Fort Funston or Crissy Field and it's cherished exhilaration that resonates to the quality of life in the Bay Area.

[Applause.]

Many of us who bring our dogs to Fort Funston literally have to spell Funston in front of our dogs because they become so excited when they hear the magic

words, "Want to go to Funston?" The fact that we tell them, the fact that we receive their joyous answer, is all part of the passionate reaction to the prospect that this exquisite sliver of our busy, overcommitted lives is going to be prohibited if the pet policy is rescinded.

[Applause.]

The Citizens Advisory Commission worked diligently on that policy 22 years ago, and it has served the community well for over two decades. We are fortunate that we do have some of the policy's authors still serving on the Commission. Today, the challenge we face is how to modify that policy to address the user-group issues and the responsible protection of the resources. Yes, there are national implications and there are national complexities to be faced in that challenge. But there is significant relevance to all parks to learn from our process.

Off-leash recreation for dogs is not going to be unique to San Francisco. It is going to be an issue for hundreds of communities over the next five years. And we not only get to address the complexities of our issues but set the example for the rest of the country.

[Applause.]

We are not fully informed on what the GGNRA faces by its lack of compliance with the National Park

Service Guidelines, or the liabilities that arise from that. But we can become informed through an inclusive process, and I guarantee you will be amazed at the creativity and the commitment of the representatives of the dog advocates, as well as advocates of other constituents that share the love of these park lands.

Inclusion with the community has been the foundation of the success of the San Francisco SPCA. Today, we are the only city in the world that guarantees to save the life of every homeless dog or cat in San Francisco.

[Applause.]

It is a national model that is now being modeled in dozens of communities around the country. When it comes to animals, San Francisco will never be in alignment with national policies. We will always be leaders in shaping new policies based on empathy for what our animals contribute to our lives.

[Applause.]

Yes, the city of St. Francis, the city where people leave their hearts, the only no-kill city in America, is very special in its regard for animals, and we should all be extremely proud of our compassionate reputation.

This is a hearing. Please listen carefully.

Please postpone your decision this evening. And please accept our invitation to participate in a process with you to create equity for all constituencies in the use of GGNRA. We can be a team. We have a shared vision: responsible enjoyment of these spectacular lands.

Thank you very much.

[Applause.]

CHAIRMAN BARTKE: Thank you, Mr. Sayers. We accept that invitation. Sounds like we're all on the same team.

I would like to caution people in the audience. I understand your enthusiasm, but it's taking up a lot of time. I was given a list of literally scores of people, who are outside in the weather, who would like to speak. So I'd like to move this along as fast as possible.

The next speaker is Arthur Feinstein. And after that, Supervisor Yee.

STATEMENT OF

ARTHUR FEINSTEIN, EXECUTIVE DIRECTOR

GOLDEN GATE AUDUBON SOCIETY

MR. FEINSTEIN: Commissioners, I am Arthur Feinstein. I'm the executive director of the Golden Gate Audubon Society.

[Applause.]

Thanks. I appreciate that, not the boos. Thank

you.

Obviously, there is a lot of passion here, and we've been involved in this issue for many years, as have all of you. And it's not one that's going to have an easy answer. But I am here to remind people that there are more things in this world than us and our dogs, and our children. There are other living things that have been here before we were here, and they deserve a little bit of recognition, and a little bit of appreciation, and a little bit of understanding that they, too, need to share the same world that we do. And on these beaches --

[Interrupted by remarks made by audience.]

CHAIRMAN BARTKE: May I ask for your courtesy, please. We're going to try to be courteous to everyone. These are our neighbors and let's hear everybody out.

MR. FEINSTEIN: And on these beaches that we're fighting over, there are critters that depend on them for their existence. There are endangered species. There was laughter before, but there really is. There are species that have existed for thousands of years that are down to the last hundred or two hundred that may just go extinct.

I think that, if this was not an issue that you're passionately, individually concerned about, you would say: Oh, wait a minute! I'm very sympathetic to endangered species, but is it time to let that go? I

don't think so. I'm not here to say no dogs on the beach. In the past, we've taken that position. I think looking at this crowd and what we're hearing now, and the pressures that are on San Francisco, there needs to be discussion about how to work this all out. I think the Supervisors --

[Applause.]

I think the Supervisors have recognized that they have an obligation to find some city parks where this can happen so that the precious resource that we have --

VOICE: Har-har. Har-har.

MR. FEINSTEIN: -- that the city parks take their share of the burden of having off-leash dogs so that there is less pressure put on places that have very important, special natural resource values for species like the snowy plover, and others, the bank swallows that we're also concerned about, that have no place else to go. There's only two bank swallow colonies in the entire --

[Interrupted by remarks made by the audience.]

MR. FEINSTEIN: Come on, Folks. I'm not making things up. I'm just telling you the facts.

CHAIRMAN BARTKE: Excuse me. May we have your courtesy, please.

MR. FEINSTEIN: So I'm suggesting that we do all work together, but one of the goals -- and I'm glad to see

that a lot of the speakers previous to this have been saying that, which is: We are all interested in being stewards of our resources here at the National Park System. And that stewardship includes saving some of these lands, and I hope the majority of them, for the critters that have no place else to go. And if the dogs need, if there needs to be a compromise and some of the lands on the national park lands be open to dogs, let's work that out. But let's remember that there are the critters that need their own part of the shore, and let's not be greedy -- huh? -- because they don't have a choice, we do.

[Applause.]

CHAIRMAN BARTKE: Thank you.

Supervisor Leland Yee.

[Applause.]

STATEMENT OF

LELAND YEE, SUPERVISOR

BOARD OF SUPERVISORS, CITY AND COUNTY OF SAN FRANCISCO

SUPERVISOR YEE: Honorable Commissioners, I guess this is a rather heated issue, and so on. You know, the test of leadership is how you bring people together. And I think that what you have before you is an issue that basically is dividing and tearing San Francisco apart. I hope that, somehow in some way, that you will allow the

city to work with you to try to bring people together.

I think that one of the difficulties about San Francisco is that we don't have a whole lot of real estate to accommodate everybody's needs. I think that one of the beauties of San Francisco is that some way and somehow all of us have found a way in which can allow the different interests of San Francisco to still have their say in this city.

The San Francisco Board of Supervisors passed unanimously a resolution that did several things: No. 1, it asks the representatives on this body, from the Board of Supervisors, to plead with your colleagues, and to ask you to put this issue off, so that there can be further discussion about the dog policy.

Secondly, it asks that the San Francisco City Attorney look at ways in which we can somehow accommodate the different needs so that we can, in fact, have a more balanced approach to dealing with those individuals who want their dogs off-leash, and those individuals who want the dogs on-leash.

I think that one of the things that I have tried to do in my capacity on the Board of Education and the Board of Supervisors is, in fact, to find ways in which we can, in fact, bring people together.

My heart goes out to you because it is an

extremely difficult task. But my heart goes out to all those individuals who are behind me, and other individuals that are outside, because they are asking you for some compassion and for understanding. Somehow we've got to find a way so that all of us can live together. It is absolutely unacceptable, it is absolutely inappropriate that somehow we will divide our community over this particular issue.

A city that somehow knows how, got to somehow figure out a way in which we can accommodate those particular needs. Don't, tonight, close that door to that possibility that all of us can walk out of this room with hands together. You cannot somehow shut out these individuals who absolutely need their place in the sun.

And, so, the Board of Supervisors want to work with you. We are not in a mode of somehow fighting against you whatsoever. You are part of that solution, but we are also part of that solution. Help us somehow come together for a final solution that all of us can live with.

Thank you very, very much.

[Applause.]

CHAIRMAN BARTKE: I'm going to ask again that you hold your applause because it just takes up time. I know that you're enthused, but the boos and the applause

-- this is not a melodrama, even though it seems like it.

I'm going to call the names of three people, and please come up and speak. The first would be Joan Booth. And, by the way, I'm reading your handwriting so I'll do the best I can. Then Martha Walters and Jennifer Schwinn. After that, then, I'll call some more.

STATEMENT OF

JOAN BOOTH

CRISSY FIELD DOG GROUP

MS. BOOTH: Thank you. I'm Joan Booth, and I'm with the Crissy Field Dog Group, a very recently formed group, which has come together remarkably rapidly.

I have something that I would like to leave, for the record, which is an on-line petition, which currently has 3,400 signatures on it, printed out as of this afternoon, gathered in three days.

[Applause.]

I'd like to make a very important point. Two years ago, Mr. Bartke, you said that an appeal was made to the federal government to grant a special legislation for the GGNRA. I cannot believe that, if a similar appeal were made today, it would not be looked on much more favorably from several points of view. Firstly, you would have behind you, if you would allow us to support you and help you, all of the people in this room. You obviously

would have the San Francisco Board of Supervisors. Two years ago, I suspect you did not have the people of San Francisco with you because you were -- we were not called upon to join you. We would be now, and we would be prepared to support you.

I speak for, I think, the people in our group. We certainly would be prepared to support you and give you all the help we can. We have 3,400 names here all of whom, I'm sure, would be prepared to sign on to that. That's not very many people, but the fact that they were gathered in three days I think is very indicative of the level of support that you would receive from the people of San Francisco.

Secondly, and I speak personally against my own political inclinations here, because I did not vote for the current administration, however, I think that, quite frankly, you would receive a more favorable hearing in Washington today than you did two years ago from the secretary of the Interior. The new administration, I suspect, is more likely to look favorably on such an appeal.

Finally, I think the point is very important to make, with regard to San Francisco and the special qualities of this city. San Francisco is an exceedingly, densely populated city. And to say to the dog owners of

San Francisco and the Board of Supervisors that we need to open more off-leash areas in city parks is absolutely true. If that's possible, we need to do that. However, the thing that makes San Francisco as a densely populated city, livable for many of us, is not the city parks; it is the GGNRA lands, which are much more extensive and are very special.

[Applause.]

Those are lands, for me, as a dog owner -- I have a Labrador Retriever. This is a breed that needs to run, and a dog that needs to swim. These are not things that can be done in the city parks. The GGNRA lands are absolutely crucial to the happiness of my dog and to many other dogs.

And, finally, I would speak to questions that Ms. Meyer made with regard to state parks. Absolutely, we would love to see off-leash areas in state parks. But quite frankly, that is not a solution to the problem here. Because those of us who take our dogs for a walk everyday are not going to go to the state parks. We're looking for places within the city, and that is why we need the GGNRA lands.

Thank you very much.

[Applause.]

CHAIRMAN BARTKE: I'm going to ask, yet again,

that you hold your applause. I'm also going to ask the speakers be careful to keep within three minutes. Because, at the present rate, we're going to be here well after midnight. I think all of us begin to lose focus before that.

Martha Walters, and then Jennifer Schwinn, followed by Chris Grothe.

MS. WALTERS: I think her name is Griffith.

CHAIRMAN BARTKE: Griffith.

MS. WALTERS: Griffith. Also, Supervisor Leno is here. He wanted to speak after I did, if that's okay with the commissioners.

STATEMENT OF

MARTHA WALTERS

CRISSY FIELD DOG GROUP

MS. WALTERS: Good evening, Commissioners. My name is Martha Walters, and I'm speaking on behalf of the Crissy Field Dog Group and of my dogs, Buddy and Jimbo. I've had the great privilege of walking several generations of dogs off-leash on Crissy Field for over 23 years.

Tonight, I would like to address the issue of banning dogs off-leash in the GGNRA, and, in particular, Crissy Field. Specifically, I will maintain that it has been the intent of the Park Service to incorporate

off-leash dog activities in the planning process for Crissy Field, and that the Park Service and the Golden Gate National Park Association have worked together to implement these plans. Recently, I have carefully reviewed the following Park Service documents that are relevant to the Crissy Field issue: The 1994 Presidio General Management Plan Amendment, the 1996 Crissy Field Environmental Assessment, and the 1996 Finding of No Significant Impact Report, or FONSI. There are numerous citations in these documents that address off-leash activities. Due to time constraints, I will give a brief overview of these documents.

The Crissy Field Environmental Assessment considered all of the environmental impacts for off-leash dog walking at Crissy Field. Page 4 of the Crissy Field FONSI states, quote:

"The Park Service will work with the SPCA and dog-walker representatives to begin an active education program as soon as possible. The Park Service will enforce voice control and clean-up requirements and will monitor the results of these efforts."

According to Park Service personnel, the Park Service has played a very active role in discussing off-leash-dog-related issues at Crissy Field with a number

of city dog organizations, for the past several years. In addition, Crissy Field restoration activities have included barrier fencing around the dune fields and the 2-acre marsh to prevent dogs and other animals from going into these areas. Clearly, the Park Service has favored off-leash dog activities in feasible areas at Crissy Field for many years.

I truly hope that we all can reach viable solution soon and keeping the dogs off leash in appropriate areas of the GGNRA.

Thank you.

[Applause.]

CHAIRMAN BARTKE: And you yield to Supervisor Mark Leno?

MS. WALTERS: Yes.

CHAIRMAN BARTKE: Supervisor.

[Applause.]

STATEMENT OF

MARK LENO, SUPERVISOR

BOARD OF SUPERVISORS, CITY AND COUNTY OF SAN FRANCISCO

SUPERVISOR LENO: First of all, let me thank you very much for having these few moments to speak. I appreciate very much your task tonight because I'm so often in your hot seat. I just want to say, clearly --

and I'll try not to repeat anything that others likely have said -- this is a very important issue. A very, very important issue to my constituents and to all of San Franciscans. We deal on a micro level what you're dealing with on a macro tonight.

I've had ongoing meetings in my office with those folks who are using, among the many parks in San Francisco, Duboce Park, excuse me, Dolores Park and Duboce Park, for a variety of purposes. Sometimes these purposes cross each other and we're trying to work out some reasonable solution to that. And I think that's what we're trying to do here tonight: Work out some reasonable solution.

When the voters of San Francisco voted for the charter amendment in 1973 to approve the transfer of the lands, they required that the deed include the restriction that the property be reserved by the Park Service, quote, "... in perpetuity for recreation and park purposes, with a right of reversion upon breach of said restriction."

The deed itself contains the following reversionary wording, quote: "... to hold for so long as said real property is reserved and used for recreation and park purposes."

"Recreation" is the recurring theme throughout the enabling legislation. Throughout all of the enabling

legislation it's about recreation. And that was done for a purpose, and I think that purpose was to include that wording so we wouldn't have to be in a gathering like we are tonight. When the first ever urban recreational areas were created in the National Park System, it was the Golden Gate National Recreation Area and the Gateway National Recreation Area. The difference in the wording of the statutes is telling. Whereas in the Gateway National Recreation Area it speaks merely to preserve and protect for the use and enjoyment of present and future generations. The Golden Gate National Recreation Area envisioned an open space that would be forever reserved for recreation. Additionally, the land would be planned and managed pursuant to public review and public process. That is what was clearly intended, though this is what has transpired.

The closures at Fort Funston commenced in 1991 when 7 acres of recreational space were fenced off. This was supposedly for the protection of bank swallows. In 1993, three additional acres were closed. Again, the understanding was that bank swallows needed protection. In 1995, 25 additional acres were closed and the same reasoning was given. However, in each of these cases, there was no public review and no public input and no notice to the city, along with no Environmental Impact

Analysis. Now, in March 2000, the Park Service closed 10 additional acres.

A resolution that I introduced at the Board of Supervisors yesterday, and approved by unanimous vote -- and I know that many of my colleagues have spoken before me tonight -- states that should you -- and we really truly hope that, for all of the reasons you will have heard tonight, you will not rescind the 1979 Pet Policy -- we will have no choice but to begin taking the necessary steps to exercise our reversionary interests in the deed transferring Fort Funston, Crissy Field, and all properties of the 1975 transfer to the National Park Service, or to seek specific performance of the deed provisions, specifically recreation and park purposes.

So I hope that you will please understand the serious impact this will have on life in San Francisco, within our neighborhood parks, because dogs are meant and born to run. If they can't run in a park, they're certainly not going to run in the streets. So we have to make sure that they run in the parks.

Thank you very much.

[Applause.]

CHAIRMAN BARTKE: Supervisor, will you accept a question? Perhaps you missed the question that was posed to your fellow Supervisors. During the past 22 years,

this park has bent the law as far as it could to accommodate off-leash dog walking. During that period of time, the city and the state have begun banning off-leash dog walking. What we want from you is a commitment that you will work with us to change that around and to make it happen.

SUPERVISOR LENO: Without a doubt. That's why we're here, to work together.

CHAIRMAN BARTKE: Thank you very much.

SUPERVISOR LENO: You bet.

CHAIRMAN BARTKE: Now we're getting some place.

SUPERVISOR LENO: Okay. Thank you.

[Applause.]

CHAIRMAN BARTKE: This is Jennifer Schwinn, then Chris Griffith, and then Steve Courlang.

STATEMENT OF

JENNIFER SCHWINN, MEMBER

CRISSY FIELD DOG GROUP

MS. SCHWINN: Hi! My name is Jennifer Schwinn, and I'm a member of the Crissy Field Dog Group.

We ask you to consider the large number of people and dogs whose lives will be negatively impacted today if you rescind the pet policy. There are an estimated 150,000 dogs in San Francisco, which correlated to approximately one dog for every five people, and one

dog for every two households. Rescinding the pet policy and forcing them to rely only on the remaining city parks will cause tremendous overcrowding and create a degradation in their quality of life.

I had a much longer speech prepared, but you asked for suggestions. I think first and foremost you need to delay the decision and cooperate with the city and citizens of San Francisco, and the state of California, in seeking a Part 7 Exemption under a new administration in Washington, which is expected to be more amenable to such an exemption than the past administration has been.

Secondly, I'd create a citizen task force to work with you and support the exemption, and use the petition we submitted tonight, which shows an overwhelming support for off-leash dogs walking in GGNRA.

And, lastly, we ask you to change the regulations to fit people's lives, rather than asking people to change their lives to fit the regulations.

[Applause.]

CHAIRMAN BARTKE: Chris?

STATEMENT OF

CHRIS GRIFFITH, ESQ.

REPRESENTING

CRISSY FIELD DOG OWNERS GROUP

MS. GRIFFITH: Hi! My name is Chris Griffith,

and I'm an attorney. I'm representing the Crissy Field Dog Owners Group.

What I wanted to talk to you about briefly was this issue of the legality of the pet policy. I understand that the U. S. Attorneys have informed all of you that this policy is illegal and unenforcable. First, I would ask you this: If it is unenforcable then why rescind it? Why not wait until you have a complete planning process and have talked to all these people here today that want to help plan for these parks?

What I'm asking is that you maintain off-leash dogs walking during the time period that you negotiate with the city, and with other agencies, to develop a plan that is workable for all. That you do not rescind the policy tonight and put up signs tomorrow and start giving out tickets.

The other thing that I would like to address is this legality. And I want to say that the U. S. Attorneys are just people like the rest of us, and they are fallible. They do not make the laws, nor are they ordained with the power to interpret them. And I beg to differ with their opinion, as do many other attorneys in the room tonight. The enabling statute for the GGNRA, as I'm sure you have all read, says that this Board and the management of the park is to preserve the public use and

enjoyment of certain areas, and provide for the maintenance of needed recreational open space.

In addition, the federal law, the United States Code that governs the National Park Service says that each area within the National Park Service shall be administered in accordance with the provisions of any statute made specifically to that area. And this is not a policy that it is against the law. It also says that the Organic Act, which you might know is the act that governs all the Park Service, all the park system, says that, to the extent -- says that there are general provisions that apply to the whole park system, and to the extent that those general provisions are in conflict with another specific provision applicable to a specific park, they are not enforceable. And that is exactly what we are dealing with here: a general regulation in the CFR that is applied broadly to all of the parks and is in conflict with the enabling statute for the Golden Gate National Recreation Area.

As you all know, Part 7 in 36 CFR allows to take care of that. I won't talk about that further, since I think we've already talked about it. But I do want to point out that the committee, out of this group that put together the pet policy in the late '70s, recognized the special needs of the Golden Gate National Recreation Area,

and they said:

"Ordinary guidelines outlined in the Code of Federal Regulations do not really apply in an urban area. People and their animals have been visiting the park for too long to apply an all-inclusive arbitrary policy."

And those are your words, this Commission's words, not mine. So I ask you to delay rescinding the policy until there is time for a careful and inclusive planning process.

CHAIRMAN BARTKE: Thank you.

[Applause.]

Steve Courlang is next, and then Anne Farrow, and then Lindsey Kefauver. Are any of those three people here?

(No response.)

I've asked you to not applaud, please, because it delays things. Steve Courlang, Anne Farrow and Lindsey Kefauver.

STATEMENT OF

ANNE FARROW, CO-CHAIR

SAN FRANCISCO DOG OWNERS GROUP

MS. FARROW: Good Evening. My name is Anne Farrow. I walk at Fort Funston, and I'm the co-chair of San Francisco Dog Owners Group. But I want to let you

folks know we did not bring all these people here; this item on the agenda did.

I'm not going to repeat some of the things that have already been said. The people who have already spoken have spoken clearly what I wanted to say. I think I'll just ask you a couple of questions.

Why, if the Advisory Commission was aware that the pet policy was not the way to assure our rights, did this Commission not go through the necessary legal steps to be sure that an exception to the Park Service General Regulations was granted? This, I think, is what the solution is, is to go through the steps for a special exception to the General Regulations.

Thank you.

CHAIRMAN BARTKE: Thank you.

[Applause.]

I don't see Steve, so Lindsey Kefauver, Wendy McClure, then Linda McKay. You're going to be Lindsey tonight? Okay, tell us who you are.

STATEMENT OF

KAREN HU, PH. D.

DR. HU: I'm Dr. Hu. Many of you saw my last study about the recreational use at Fort Funston. Today, I'm going to talk about the recreational use of non-dog places, like Lobos Creek Valley. Or maybe I should call

them doggone places. Because there used to be dogs there, but now they're gone.

I'm a native San Franciscan, and I grew up with Lobos Creek Valley literally in my backyard. After school, friends and I, or just me and my dog, would go there, out to the woods, out to the meadow.

How many of you visited Lobos Creek, anybody?

It's a pretty rare place, but it's beautiful. There's gentle, rolling mounds of native plants. At the entrance, there's a sign, with pictures of two rare plants. Good photographs, clear photo. And it's fortunate to have the photos because you might not be able to actually see the plants unless you have sharp eyes.

You see, visitors are required to stay on the constructed walkway to gaze out at the plants. It's somewhat like a Disneyland exhibit. Actually, it's more like Martha Stewart does native plants. I say that because it's a habitat. It's not a restoration. It's not at all like the original. The original is sand dunes, it was sparse vegetation. The habitat is a plot of land, fenced off, densely planted, a romanticized native plant habitat that requires lots of busy hands to build and maintain. Let's be honest. This is not habitat restoration. This is recreational gardening.

[Laughter.]

Do I begrudge the green team this garden? No. Even while I'm not allowed to bring my dog there anymore, there should be a place for recreational gardening. There should be a place for threatened and endangered species. There is room enough for all of us.

It was also like Disneyland because it wasn't like this when I -- it wasn't crowded. In fact, I was the only person there. No one else in sight. This is amazing in a city that has 15,000, over 15,000 people per square mile. I was puzzled. Where are those folks who don't go to Fort Funston because of all the dogs? I would expect at least one of them to be at the Lobos Creek Valley. It was a Sunday afternoon, the sun was out, the birds were singing. The birding is excellent there. So, here are the native plants, here are the birds, where are the visitors?

Subsequent visits have the same findings. No one, with the exception of two boys skating on the walkway, was seen.

I continued my search for these hypothetical dog-fearing park visitors at Lands End. I went on a sunny weekday afternoon. I saw fewer than 30 people. There was one child. The majority of visitors were solitary men enjoying nature.

[Laughter.]

Now, if you went to Fort Funston and you only saw 30 people, you would wonder: Where is everybody? Are they all at a GGNRA Meeting? Conclusion: Please stop talking about those hypothetical thousands of other visitors, the ones who are not counted because the dogs have chased them away. They exist, but they already have 95 percent of the park.

[Applause.]

You've squeezed us into smaller and smaller places and now you want us to go. Please, don't kick people out of the park.

Thank you.

[Applause.]

CHAIRMAN BARTKE: Next speaker is Wendy McClure, followed by Linda McKay, and then we have Supervisor Sandoval following that.

STATEMENT OF

WENDY MC CLURE, CO-CHAIR

SAN FRANCISCO DOG OWNERS GROUP

MS. MC CLURE: Hi! I'm Wendy McClure. I'm co-chair of San Francisco Dog Owners Group. My focus, with the San Francisco Dog Owners Group, is advocating for city off-leash recreation. I, personally, and all of us in the executive committee, have worked very closely with officials over the last 4 years advocating for more

off-leash use.

And, before I begin, I'd like to thank everybody here that's a pro-dog supporter for being here. The executive board of SF Dog has worked really hard to get all of you here tonight, and we thank you. It's overwhelming to all of us. But I'll cut to the chase here.

It's obvious this is an important issue. And it's not just important for the citizens and for the Board of Supervisors, but it's important to SPCA, Animal Care and Control, the Police Department, for all San Franciscans, Rec & Park. It's because it does impact our city.

Think about it. There's 750,000 people logged in at Fort Funston alone; 87 percent of those folks are accompanied by dogs. That's something like 652,000 people that would impact the city parks if you close just Fort Funston alone. And you can say to me: Big deal! It's not your concern. But it is your concern because you have been invited into our city numbers of years ago to take care of this land that is our land, for our citizens here at San Francisco. We trusted you, and you've betrayed us.

[Applause.]

I ask you, I plead with you, to do the right the thing. Do the right thing and uphold your agreement with

the citizens of San Francisco.

Thank you.

[Applause.]

CHAIRMAN BARTKE: We have Linda McKay and then Supervisor Sandoval.

STATEMENT OF

LINDA MC KAY, CHAIR

FORT FUNSTON DOG WALKERS

MS. MC KAY: I'm Linda McKay, chair of the Fort Funston Dog Walkers.

I had a whole speech planned on what a Section 7 is; but, clearly, you understand it because it's been discussed this evening. What I'd like to offer, you're asking for solutions, there's several.

We turned out 1,100 letters just on 12 acres on Fort Funston. I can guarantee you many people in this room don't care about those 12 acres. I can't imagine the volume of mail that you're getting on this particular issue. So I'm a little surprised that a Section 7 Rule was requested and that we weren't informed because we are such a resource in that area. Can you imagine the volume of mail that we can turn out to Washington for that kind of ruling, and the cooperation you find with people when they understand that you're working on our behalf to bring something to us that's really, really important?

I have to tell you I'm bothered by the feeling that you're the enemy. I'm not comfortable at all with that, and I would really like to move past that with you. So I think that you can definitely look to our support for that.

The other thing is that we have an organization at Fort Funston. There's one formed at Crissy Field. These are organizations that can do outreach education, cleaning, whatever is required to make those parks more usable for other people who are willing to do, and have always been willing to do. We've been in existence since 1992, have monthly cleanups, and try to tell people what's going on and educate new people. Unfortunately, we're the only people doing that. Many people who come to the park don't understand where the safe and dangerous areas are because it's not well marked. So those are rules that we're willing to play and will continue to play.

Thank you for your time.

[Applause.]

CHAIRMAN BARTKE: Supervisor Sandoval has asked to speak. He will be followed by Laura Cavaluzzo, Kathy Roth, and then Lydia Boesch.

STATEMENT OF

GERARDO SANDOVAL, SUPERVISOR

BOARD OF SUPERVISORS, CITY AND COUNTY OF SAN FRANCISCO

SUPERVISOR SANDOVAL: Good evening. Thank you for the chance to say a few words. I'm a person of few words, actually, so I will get straight to the point.

I urge you to not rescind the current policy. In particular, I urge the members of the San Francisco delegation not to rescind, not to vote to rescind the current off-leash policy.

I think it's pretty obvious that you've got a political problem on your hands. You could run for mayor on this issue, and somebody will.

[Laughter.]

No, but seriously. It's bad public policy, and you know that, and you can tell that by the amount of people who are here tonight. It no way gives you an idea of the amount of people who have e-mailed and have called and have written and have come by the office. And, so, it's a small fraction, especially since it's raining. You know you've got a problem here. You got so many people.

So, again, I would just ask you to not rescind the current policy. I think we all need to work better. We need to work together, and we need to look for another solution that meets everybody's needs.

Thank you very, very much.

[Applause.]

CHAIRMAN BARTKE: Supervisor, just as an aside,

more than one of us on this Commission has been a mayor, and we don't want it again.

[Laughter.]

I asked your other Supervisors, who were here earlier, and I'll ask you: During the last 22 years, we've bent the law as far as we could to accommodate off-leash dog walking. During that same period of time, the city and the state restricted off-leash dog walking. Will you do what you can to reverse that?

SUPERVISOR SANDOVAL: You're asking me if I'll make a tough choice to rescind the city's policy, and yes; I will.

[Applause.]

CHAIRMAN BARTKE: I think the name is Kathy Roth, and then Lydia Boesch. Oh, no, Laura Cavaluzzo. Laura? She's coming up. Then Kathy, I think it's Roth, and Lydia Boesch.

STATEMENT OF

LAURA CAVALUZZO

MS. CAVALUZZO: Commissioners, Superintendent, my name is Laura Cavaluzzo, and this is my third time standing before you to express my thoughts on this issue.

I've spoken about the physical, mental and societal benefits of off-leash recreation and how very much the Golden Gate National Recreation Area means to my

quality of life. I've skewered the National Park Service's Fort Funston bank swallow protection plan using research and words of the government's own scientists. And my statements, and those of thousands of my fellow San Franciscans, have apparently made no impact on you at all. So this time, rather than try to tell you anything, I'm going to ask you some questions, instead, and I'll be very interested to hear any answers you might have.

How can you call our off-leash dogs an environmental threat after what the Park Service itself has done to our beach at Crissy Field?

[Applause.]

How can you recommend our banishment from Fort Funston under the guise of eco-preservation while sanctioning the bulldozing of habitat at Fort Baker to build a hotel?

[Applause.]

How can you call yourselves a citizens Advisory Commission when some of you are former employees of, and most of you are appointed by, the very department you're supposed to be monitoring?

[Applause.]

How can you claim to be a liaison between the citizens and the Park Service when you blithely dismiss the needs and concerns of thousands of citizens without so

much as word of explanation?

[Applause.]

How can you say that off-leash recreation is illegal in national parks when 45 national parks allow dogs off leash for the purpose of hunting?

How can you say that the 1979 Pet Policy was never enforced when letters from Park Service Regional Director Stanley Albright to Senators Cranston and Seymour confirms that it was the guiding policy on these lands as recently as 1992?

And finally, why, when this policy has been in force for more than 20 years, are you suddenly in such a rush to rescind it?

[Applause.]

When we gave the National Park Service our beaches and bluffs, the citizens of San Francisco were promised that our recreational access to these lands would be protected. Instead, the Park Service has taken the recreation out of the Golden Gate National Recreation Area and replaces it with artificial native habitats we must look at from behind fences; hotels in which we have no need nor desire, nor the wherewithal to stay; and trails and beaches we can not enjoy with our dogs. Your job was supposed to be to insure that this kind of abuse never happened. If you can't or won't do that, we, the citizens

of San Francisco, request that you step down.

CHAIRMAN BARTKE: The next speaker is Kathy Roth, then Lydia Boesch.

STATEMENT OF

KATHY ROTH, M.D.

DR. ROTH I was going to stand here and talk, as a medical doctor, about the mental and physical health benefits of walking your dog, the exercise you get from it, the social interaction, and the health benefits of owning a pet. It doesn't sound like that's really the thrust of what's going on tonight. So, instead, I'm going to stand here as an environmentalist.

I've been an environmentalist for many years. I care passionately about native plants and birds, and I'm usually on the other side from the user groups. I think that this user group is a little different. We don't have any concessionaires. It's not like the jet skis in Lake Tahoe, or in the national parks. There's nobody making money off what we do. There's nobody selling gasoline over it. We don't have a manufacturing group with a lobby, or any of that.

There's a lot of people who took time out from their busy lives to stand here tonight, and it just seems to me there's a lot of land, all of San Mateo County, all the Golden Gate lands in Marin, and all of Point Reyes,

where dogs are not allowed off leash. It seems that somewhere in that stretch of coastline there must be a place where dogs can run off leash in a significant amount of space that's not right where the endangered species are.

Thanks.

[Applause.]

CHAIRMAN BARTKE: Lydia Boesch will be followed by Margory, looks like Cohen; and, then, Greg Hurline.

STATEMENT OF

LYDIA BOESCH, ESQ.

REPRESENTING

FORT FUNSTON DOG WALKERS

MS. BOESCH: Hi! My name is Lydia Boesch, and I've had the extraordinary pleasure and privilege this past year of representing the dog walkers at Fort Funston in all of this controversy. It has, indeed, been the most fun case I've ever worked on in my life.

I've wrote a speech, too. I'm not going to say it. But one thing I do want to give you, first, is when Leland Yee left here, he was accosted by the hundreds of people outside, and they gave him these tablets, these posters, that they signed because they couldn't get in. We've gone through and done a rough count, and there's 600 signatures on here.

[Applause.]

They need to be a part of the record, but I want to make good and sure that, to whomever you ask me to give them to, you know, we make an accounting of them and that they're safe.

You know, the one thing I want to say is that, as an attorney for these people, I have studied the statute. I have studied the regulations. I have studied, I have studied your internal policies. I have studied what the Department of Interior said. I have studied the documents with the transfer from the city. I know this stuff inside out, and I respectfully disagree with any opinion you're getting that says that off-leash dog walking is illegal at Fort Funston. It absolutely is legal. Every authority I can find says that it is a legal, accepted activity at Fort Funston, and we've got to deal with that. And we are here -- you know, you are here as our citizens Advisory Commission, and you're here to work with us. And, so, you know, please don't just listen to what the U. S. Attorney or Solicitor tells you because there is more than ample authority to support this as being a legal activity.

Like Linda McKay, we don't want to view you as the enemy. You know, the last year, when this lawsuit started, I went to Amy's house to deliver a letter. We

really were trying to work this out with you guys. Amy told us that if we went to court, if we went to the media, then you guys would rescind our off-leash dog walking privileges. And, Amy, I don't know if you realize it, but that's -- Amy, I confirmed it in writing. And, to me, that's a violation of our fundamental, constitutional rights.

[Applause.]

You know, I'm not saying that for the truth of the matter asserted. I'm saying it because we have seen that. We feel like you guys are against us, and we don't want you to be against us. We want to work with you. And I think you can see, from this, from this, there is ample support, there's ample enthusiasm for this issue.

Thank you for listening and please be willing to work with us, as we get through this.

[Applause.]

COMMISSIONER MEYER: I think there's a matter of truth here. What I told you was: If this case of the Fort Funston, what has become the case of the Fort Funston Dog Walkers, came to a level of attention which brought in the U. S. Attorney and the media, and it came up to that level, you would probably lose the whole thing. This is, in fact, what has happened: That the U. S. Attorney said that what we had passed as a recommendation in 1978 is

illegal and unenforceable.

What we started this meeting with, but it could hardly be heard in the noise here, was that the policy recommendation we made is not here. It's gone.

MS. BOESCH: But, Amy, it's been -- you know, all of that was premised, and I'm sure you recall that, when you had the hearings back then, you said it's because walking dogs here, I mean, that works in an urban setting, but the general regulations didn't apply in an urban setting. And we agree with that and we're just trying to go from there to where we need to go. We think a Section 7 special reg is exactly what we need to do. But let's talk about it and let's work on it. Let's just don't let this be a one-sided thing.

CHAIRMAN BARTKE: Okay. Let's move on with the public hearing. Thank you very much. We'd like to receive those legal authorities because we have not received them yet.

I think the name is Margo --

MS. COHEN: Margory Cohen.

CHAIRMAN BARTKE: Cohen?

MS. COHEN: Yes.

CHAIRMAN BARTKE: And then Greg, and I can't read this one, Hewlitt, Hurline, and then Janet Harrison. I can read that one. Okay, go ahead.

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STATEMENT OF
MARGORY COHEN

MS. COHEN: My name is Margory Cohen. My residence is in San Francisco with two Scottish Deer hounds. My dogs have appeared in the opera, on stage with ACT. I have professional dogs. I'm a writer, a trainer, a handler.

The fallout from the lack of off-lead, safe recreation is huge. Walking off-lead with a dog is American as apple pie and motherhood. The idea that we would spend as much time as we do driving cross town to go to this land to walk with the dogs off lead, safely, and then not take care of it, is a misunderstanding. I'm touch with trainers and other dog writers, vets, and people in the business throughout the country.

In New Jersey, there are towns where it's not legal to walk with your dog in the town square. It horrifies me to think that, if a the leash law is imposed in San Francisco, that will happen here. Because, really, what the no-dog signs are saying is no people. The person who walks alone on the beach is safe with a dog. A woman alone isn't safe on the beach. A man is open to assault. Anyone who has a service dog will also be denied access to the beach.

I extend my card to you. I'm available to you, to the Supervisors. I'm ever available to meet with you as a private individual, as someone whose life is completely involved with dogs professionally and personally.

So come with me and my dogs as we look at the land, and -- you know, God has -- you know, there's an Indian tribe where they talk about the Great Traveler coming to the earth and walking along, and he made the rivers and the trees, and all of this that you want to protect. And when he came, he came with a dog. God had a dog.

If you put that sign on the beach, even the Great Traveler couldn't walk there. So, here's my phone number. I'm up for you.

[Applause.]

CHAIRMAN BARTKE: Thank you very much.

Greg Hurline, Janet Harrison and Misha Weidman.

STATEMENT OF

GREG HURLINE

MR. HURLINE: My name is Greg Hurline, and I'm a computer consultant from Cow Hallow.

My wife and I have a dog named Sophia. The nature of my job and the fact that I work from home restricts my social life quite a bit. Instead of going

out for a drink or dinner with my coworkers, my wife and I take our dog out for extended walks. We use Crissy Field in the Presidio four or five times a week. This gives my dog a chance to exercise and socialize with other dogs, and my wife and I get to talk with other people out walking and enjoying our wonderful scenery. Being able to enjoy the GGNRA, with out dog off leash, is a major quality-of-life issue for us.

I was planning to tell you more about the socializing aspect of our dog walks, for both humans and dogs, and about how important that is. But as evidenced by recent quotes from both the GGNRA and some members of this Commission, you've evidently already decided to ice-pick the 1979 Pet Policy. Presumably, you've taken this position because the GGNRA lawyers have told you that it's illegal. Presumably, this sudden reversal of policy has nothing to do with the fact that local dog friends held the GGNRA accountable for its Fort Funston closures without appropriate public notice. Presumably, this closure is a result of the increased number of dogs and people using GGNRA lands, as evidenced by a quote of the National Park Service ranger on television last night.

I hope we've dispelled some of these presumptions tonight. Hopefully, you've listened, as our lawyers described the legal basis for retaining the pet

policy. Hopefully, you've listened as we've described the specific procedure for how federal law and the pet policy can happily coexist.

Hopefully, you've listened to the City Board of Supervisors, who unanimously passed a resolution yesterday, asking you all to delay a recommendation until there is sufficient time for the city to participate in the policy evaluation.

Hopefully, you now understand that a Memorandum of Understanding, which has not been found despite references to it and despite multiple Freedom of Information requests, still is out there and we don't know the specific details of the binding legislation that regards the transfer of land to the GGNRA.

Hopefully, you've listened to the other dog friends here tonight, and the dog friends yet to speak, who have asked you to work with us to preserve a policy that has worked for over 20 years.

However, if you haven't listened and you do vote to rescind the pet policy, then let me make you familiar with a saying that's made its way into common use. Dog friends know all too well what it means to hound something. My dog, Sophia, hounds me everyday when she thinks it's time for her to go out for her walk. Ladies and gentlemen of this Commission, members of the National Park Service

who are here tonight, we will hound this issue. We will hound this issue through the legislative process. We will hound this issue through the political process. We will not go away; we will not lie down. We will not go on leash.

Thank you.

[Applause.]

CHAIRMAN BARTKE: Janet Harrison, then Misha Weidman, followed by Patricia La Cava.

Listen! We have literally hundreds of people who have signed up. So please stop the applause and let's get on with the public hearing. These are your neighbors and they want to speak as much as you do. So let's get with Janet Harrison, Misha Weidman, and then Patricia LaCava.

MR. SCHULKE: Pardon me, for jumping in. I'm Richard Schulke, and I'm the City Animal Commissioner for San Francisco. And I'm also an insulin-dependent diabetic, and I don't know how much longer I signed up on the list I would be able to hang in here. I was hoping folks wouldn't mind if I jumped in. I would be very brief.

CHAIRMAN BARTKE: That's fine.

[Applause.]

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STATEMENT OF

RICHARD SCHULKE, CHAIRPERSON

SAN FRANCISCO ANIMAL CONTROL AND WELFARE COMMISSION

MR. SCHULKE: Thank you.

Very quickly, Commission Chair, Superintendent O'Neill, Commissioners, Ladies and Gentlemen, my name is Richard Schulke, and I am currently the chairperson of the San Francisco Animal Control and Welfare Commission. I'll keep my remarks brief.

I'm here to speak to you today about the incredibly outraged community of San Francisco constituents who are concerned with the impending changes at the Golden Gate National Recreation Area. I have never, in 8 years, heard so many absolutely both livid and extremely concerned folks, seniors, children, people who have AIDS and other chronic diseases, and just regular folks, who have literally begged me to try and convince you to hold off on the decision to rescind the '79 Pet Policy, which will result in making the GGNRA lands, which were donated by San Francisco citizens, not available to any off-leash dogs, even in areas such as Fort Funston, in which generation after generation after generation of folks have let their dogs run and romp in the joy and exuberance that all dogs need to experience. Not to

this recreation area.

I thank you for your time.

[Applause.]

CHAIRMAN BARTKE: Janet Harrison? I've called that name about three times. I don't see her.

Misha Weidman, Patricia LaCava.

STATEMENT OF

MISHA WEIDMAN

MR. WEIDMAN: Hi! Actually, I'm Misha Weidman. I speak on behalf of my wife and my two 13-month-old children, and my dog, Kit, which I rescued from the SPCA about five years ago, and that is very important to our family.

Like many people tonight, I had a speech, which was going to talk about the importance of dogs and balancing all the interestes that I know you folks have to do, and I'm prepared to throw it out. One of the reasons why I'm prepared to throw it out was because, Mr. Bartke, when you started this meeting, I thought you gave a very considered and dispassionate discussion about what the issues were. And it also seemed to me that you were asking genuinely for help. And the impression that I got from that was that you, in fact, supported the position that the other people here are taking.

I should add one other thing, too; and that is:

This is the first time I've spoken or really being involved in any public issue. That's how important it is to me. I don't profess to know all of the ins and outs of the political or legal machinations, but I thought your summary was very useful, and I took it as stated.

So I'm a little bit confused. Because, on the one hand, as I said, I got the impression that essentially all of you understood the problem. You understood the importance of dogs and you were looking for a way to essentially implement what obviously all of us want. At the same time, over the course of the hearing, I detected what seemed to me to be some hostility on the part of the board members to other political functionaries who came up and talked, specifically, the Supervisors from San Francisco. And the hostility -- and perhaps that's an unfair word, revolved around the fact that there weren't other off-leash parks that were available in San Francisco. But, surely, you can't be suggesting that the fact that that is also a problem somehow legitimates a policy of off-leash -- of only on-leash dogs or banning dogs at Fort Funston.

So that's the reason for my confusion. I would also like to ask, respectfully ask, the board a question; and that is: Forget the law, for a moment. Do you support off-leash dogs at Fort Funston? And it's not a

rhetorical question. I'm asking it earnestly.

CHAIRMAN BARTKE: I'm afraid we don't have the authority to make that kind of decision.

MR. WEIDMAN: Okay. So fair enough. I understand. I understand, in that case, but I'm disappointed by the lack of an answer. But I do understand that you're an advisory board. You've asked for help in what you can do. I have some suggestions in that case.

The first thing is do nothing. No one has a gun to your head. It seems to me that that is the first thing that you could do. The other thing is that you are not subject to fines or imprisonment. I don't think that the U. S. Government is telling any of you that they're going to lock you up, or fine you, if you simply fail to change the law and you choose not to enforce any legal law.

The third thing is that, if you really do understand what people have been telling you tonight, then what you should do is try to actively support something that I believe you all know is right and reasonable. I certainly support reasonable restrictions on dog use at Fort Funston, if there needs to be. And I may be unpopular for saying this, but if there needs to be seasonal closures to protect the bank swallow, I would certainly respect that. But I don't need to repeat what

everyone else has said here about the importance of this facility to many, many people in San Francisco.

Finally, what you could do is, frankly, resign in protest, rather than enforcing, rather than enforcing a law that is really totally unfair.

Thank you very much.

[Applause.]

CHAIRMAN BARTKE: The question was asked whether we understand what you're saying, and I think that we do. But I think, perhaps, something that I said at the top did not get understood; and that is: This Commission, we're citizens, we're volunteers. We don't get paid. We're not park employees. We have no employees. We don't enforce the regulation.

The only thing that was on our agenda is that, 22 years ago, we attempted to help you by creating a policy that was a recommendation to the staff. We've been told, since, under the gun to our head of a federal judge, who said that policy is illegal; and, therefore, we said: Okay, we shouldn't have it on the books if it's not legal. I've been given only one brief from, or on behalf of off-leash dog walkers. I checked out all those authorities. I'd be happy to receive the ones mentioned by Lydia Boesch because I'm not familiar with those.

But you should understand that we are advisory.

We don't run the parks. And whatever we do tonight is simply going to be advice to the park staff. Now, have we got that?

[Audience responds.]

COMMISSIONER SPRING: Patricia LaCava is next, and then Hiedi Zombroni, followed by Mildred Bollin. Are any of those three people here? If you are here, would you make your way up to the podium. Meanwhile, I'll call some more names and see if more people are here. Christy Cameron, Linda Horning. Any of those here? Siabhan Ruck? Judy Walsh? Are any of those people here?

Who are you?

STATEMENT OF

LINDA HORNING

MS. HORNING: My name is Linda Horning. And actually, everybody has been so eloquent I was thinking about forfeiting my time, but I did sort of want to say something.

You guys have sort of been portraying yourselves as these really ardent environmentalists. And, in a way, I really, I really respect you for it. I want someone who is sort of working on the branch of the government to be like you, to be sort of tough and do what you think is right. But I think that you have, you have gone about this whole thing in a sort of sneaky way, and there's been

this polarization thing that has not been helpful. And I'm, in a way, kind of happy to see, tonight, that we've sort of turned this into a love fest.

But I want to say something, since you are all on this committee, and you're all going to be having a voice about this. And I think that you've received some misinformation, and I hate to put too fine a point on it. But about those bank swallows, they've been referred to as an endangered species. You've heard many times how the dogs or the dog walkers are ruining the habitat. But do you remember the storms of the last few years?

I don't know if any of you have actually been down to the base of those cliffs. Around 300 yards away from where the bank swallows have their little nesting places, there was a parking lot that got washed away in the storm. The cliffs that the bank swallows live in are falling down. The surf is causing them to collapse. It's not the people; it's the water. It's the storms. You can go there on any day and every week a new portion of that has collapsed. And I feel, you know, I mean, if I was living in a house and my house started collapsing around me, I would move. I would think: Hey! Maybe this isn't such a great place.

In all seriousness, I think this is part of the picture, and I just want to make sure that that gets put

into your minds. You know, when you think about these endangered birds, this is part of why they're endangered. Not by dogs that bite. The natural environment.

Thank you.

[Applause.]

CHAIRMAN BARTKE: Siabhan Ruck?

MS. BOLLIN: Bollin. Am I next?

CHAIRMAN BARTKE: I lost my place. Mildred Bollin?

MS. BOLLIN: Yes.

CHAIRMAN BARTKE: Gotcha.

STATEMENT OF

MILDRED BOLLIN

MS. BOLLIN: Good evening, Commissioners. My name is Mildred Bollin, and I'm a resident of San Francisco, and a recreational user of Fort Funston and Crissy Field.

I have a large rescue dog that is both companion and a source of security, for me, as a senior citizen, who lives alone. My dog, Sadie, requires exercise. As a large Dobie, she needs to run. I also need exercise. At my age, I cannot run beside her with a leash; however, I can walk and she runs out, and back and forth to me. She chases a ball and brings it back. I walk along and she gets her run in. We both get the exercise we need.

In addition to the physical health benefits, which exercise provides for both of us, which everyone knows by now is so important, it also provides great emotional, mental health benefits for us both. People and animals need exercise for emotional and mental health. In addition, we both get an opportunity to socialize with our own species. Many seniors get out each day, walking their dogs, and it is their opportunity to talk and know other people. I cannot stress enough importance on many senior citizens' lives to have this interaction with others.

Sadie also gets a chance to meet and play with other dogs. You cannot miss the interest and happiness in a dog's eyes as they romp and play with their own species. This also lessens aggression and frustration in dogs. This does not seem to me so much to give back to the animals that give so much to us, that give us companionship and security, and love and devotion, for some of their closest friends.

I ask you, tonight, for the sake of all San Francisco senior citizens, to please, please, please reject this resolution.

Thank you.

[Applause.]

CHAIRMAN BARTKE: Who are you?

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STATEMENT OF
CHRISTY CAMERON, ESQ.

MS. CAMERON: Commissioners, Superintendent O'Neill, my name is Christy Cameron. I frequent both Fort Funston and Crissy Field, sometimes with my dog, sometimes without. I am also a resident of San Francisco and an attorney.

As an attorney, I won't go into in detail, but I agree with many of the lawyers who have concluded that the pet policy is not illegal and unenforceable. In particular, the erroneous statement that it's illegal and unenforceable improperly relies on a statutory misinterpretation that the general mandate of the Organic Act controls over the specific recreational open-space mandate of the enabling statute.

One of the things that concerns me is the timing of this revocation of a policy that is over 20 years. It's very unusual, the timing. And I want to tell you that some of the anger that you're perceiving from this group of people is that it is being perceived as retaliation for certain dog owner groups exercising their legal right to petition the court. This retaliation is in itself a civil rights violation. And, honestly, I wonder if you even realize that?

[Applause.]

It's not necessary to repeal it at this time. It's been around for 20 years; and, if, as you say, you want to work out a solution, it doesn't need to be repealed. And I want to point out that the Park Service has repeatedly promised that it would allow off-leash dogs recreation in various parts of the GGNRA, and you now propose to break that promise. I appreciate that your lawyers may believe that you can get away with breaking a promise, but I ask you to consider, in addition to the legality -- which is questionable -- what is the morality of breaking that promise.

Thank you.

[Applause.]

CHAIRMAN BARTKE: The next three names are Mike Singer, Francine Podenski, and Karin Hu. Any of those three people here?

(No response.)

After that comes --

STATEMENT OF

FRANCINE PODENSKI

MS. PODENSKI: My name is Francine Podenski. I've enjoyed what is now known as the Golden Gate National Recreation Area with several generations of my dogs during the 30 years that I've lived in the area. I had prepared

a speech tonight, and, for awhile, I wasn't going to read it; but I decided that I am. I'm just warning you.

The National Park Service has, for some time, been pursuing policies that appear to me to be designed to eliminate traditional recreational activities within the boundaries of the Golden Gate National Recreation Area through a sort of divide-and-conquer approach. Previous assaults upon our liberty and the pursuit of our happiness include eviction of the long-established Muir Beach Horse Stables and the horseback riding community that had been there for generations; building a very large conference center at Fort Baker in spite of significant protests from that local community; and ruining the Crissy Field Beach.

Culturally and historically in the United States, there are certain traditions which are sacred. Among those are motherhood, apple pie and the family dog. More often than not, dogs have resided at 1600 Pennsylvania Avenue in Washington, D. C. -- most recently "Buddy" resided there; currently "Spot" is in residence there. This is a time-honored American tradition, and it's a cherished way of life in our country.

At the most basic level, the issue that we face this evening is a human quality-of-life issue. Generally, dogs don't take themselves to the park. This is a family-centered recreational activity, the lack of which

negatively impacts not only our dogs, but entire families and our entire community.

This evening, we are here to discuss the National Park Service's kicking the family dog. And for that matter, kicking the American family. The government itself has appropriated space within the GGNRA -- at least that's my understanding -- for off-leash training activities of their own dogs; but wishes to include, or exclude, local families from these similar uses and traditional uses. The do as I say and not as I do, did not sell in kindergarten, it didn't sell in high school, and it has not sold well since.

The name, "Golden Gate National Recreation Area" from the point of view of all of my family and friends and neighbors signifies a recreational area. This is an urban recreational area. It's not a wilderness area, and it's not a nature preserve, and it's even a national park -- at least not the way I see it.

Have we been misled by the phrase over these years, the phrase "recreational area"? Does the enabling legislation mean nothing? Are you, some of you, now trying to change the intention of the GGNRA years after its formation? Are we soon going to be hearing Golden Gate National Park as a title of this place? And do really any of you here, or in other parts of the country,

really believe that you can totally ignore the original agreements under which we originally transferred this land to your care?

If the National Park Service is, for some reason, unable to find a way to honor the original conditions under which we donated our lands to your care, I would really ask you respectfully to inform us of that. Because, if you're incapable of doing this, or for some reason prevented from doing, because of higher authority, of fulfilling your responsibilities in this regard, we have included in the original land transfer documents a remedy for this eventuality. Now I truly hope it's not necessary for us to enter into a polarity where we are, the city and we citizens are, fighting to take back our land. I don't think that's a good way to go.

I, too, offer my time and my energy to finding a solution. But I think we have to get past the perception -- maybe you don't mean this -- but it is the perception that you're doing backroom deals and sneaking around, and you're not victims. I keep hearing from you: Oh, we have to pass, we have to pass this resolution. It's out of our hands. Well, I would like to -- I'd just like to emphasize that you're not victims. You're our representatives. You can take a stand. You don't have to do what an attorney from the government says you have to

do. You're there to represent us and to have that dialogue, and we will help you. We will support you in doing that.

Thank you.

[Applause.]

CHAIRMAN BARTKE: Did Michael Singer or Karin Hu show up?

(No response.)

Okay, moving on, Gary Fergus; Louie Gwerder, III; Brian Irwin.

STATEMENT OF

GARY S. FERGUS, ESQ.

BROBECK, PHLEGER & HARRISON

MR. FERGUS: Thank you very much.

My name is Gary Fergus. I'm a lawyer with Brobeck, Phelger & Harrison. I'm here on my own behalf.

We started out with I think it was the OTE, overtaken by events, and there were a couple of points that I think are very important to make.

First of all, going to the legality, I guess I have, as a lawyer, address that issue, and I cite you specifically to Section 1(c) of USC Section 16:

"Each area within the National Park System shall be administered in accordance with the provisions of any statute made specifically

applicable to that area."

Early on, you mentioned that, I believe, Chairman, that there is no reference, with respect to the legislative history, that could be found with respect to this is an urban park. Did I mishear you?

CHAIRMAN BARTKE: Yes. What I said was that we found nothing in the record that refer to pets or dogs. I did say that, properly, an urban park is a city or a county park. This is a national park, which happens to, in some places, abut an urban area.

MR. FERGUS: Well, I cite you to -- it is the 92nd Congressional Second Session, 1972. It is the House Report that was adopted when the legislation was passed, and it says:

"Section 1. The purposes for creation of a recreation area and established the Golden Gate National Urban Recreation Area."

That's at page 4859.

[Applause.]

On page 4857:

"As a national urban recreation area, this new component of the National Park System will be confronted with problems which do not frequently occur at other national park and recreation areas."

This is the enabling, this is the report from the House. It goes on to say, on page 4852:

"It is expected that the predominant use of the recreation opportunities offered by the Golden Gate National Urban Recreation Area will be the people residing in the nine county San Francisco Bay Region."

There is a quote on the bottom of page 4852 discussing the uses of this area:

"On a nice day, it will satisfy the interest of those who choose to fly kites, sunbathe, work their dogs, or just idly watch the action on the Bay."

Finally, it says on page 4851:

"It is an ideal location for a national urban recreation area for many reasons, but foremost among them must be that the Golden Gate National Urban Recreation Area is located in the heart of one of the nation's major urban complexes."

So there is ample legislative history in support for the fact that this is unique, and it's enabling statute for this particular park supersedes the regulations 2.15. And I beg to differ with the opinion that you received from the Solicitor. I think there is a

MR. GWERDER: My name is Louis Gwerder, III. I've lived in San Francisco for 46 years. I grew up on the Great Highway, across the street from Ocean Beach. I love animals. I feel that animals with the first dibs to the seashore are the ones who live there and feed there.

Four years ago, I personally was walking on Ocean Beach when I saw a sea lion pup attacked by an unleashed dog.

Thank you.

CHAIRMAN BARTKE: Next is Brian, I think it's Irwin or Irvin, and then Cindy Del Corto, and Sheila Mahoney.

STATEMENT OF

BRIAN IRIAN, ESQ.

MR. IRIAN: It's Irian, Mr. Commissioner.

I'd like to take just a couple of moments. Everybody seems pretty tired, and I'd to admit that I also am a lawyer, but I'm not from San Francisco. About three times a week, my wife and I make the trek from Redwood City because there is no where in San Mateo County where we can go with our dogs off leash.

[Applause.]

We used to own three Vizslas. We know own two. But except for the lady with the Wolfhound, they can run with the fastest of them. And I've never seen them run up

very strong legal question that this policy is legal as issued right now. That there cannot be a regulation that was issued under the Code of Federal Regulations that is inconsistent with the enabling statute. And obviously, looking at legislative history, as to what was the intent of the legislature at the time they passed it, is very critical in understanding what is the enabling statute.

Finally, I would say there are many of us who believe that there are alternatives, seasonal use, perhaps time of use. And there are a lot of people here who are willing to work.

I realize my time is up. I think you, but I believe that -- I urge you to question the premise that there is, in fact, no question that this is an illegal policy. I believe it is legal. I believe that, at a minimum, there is enough doubt that you should take that under very close consideration.

Thank you for your time.

[Applause.]

CHAIRMAN BARTKE: What's your name?

MR. GWERDER: Louis Gwerder. Do you want to talk to that man some more?

CHAIRMAN BARTKE: No.

STATEMENT OF

LOUIS GWERDER, III

the cliff and bother a swallow.

I'd like to start out with something that I think is somewhat self-evident. You said at the beginning that your counsel has advised you that you must do something about this because it's an illegal policy. As my brothers and sisters in the law have so eloquently stated tonight in different words, a town that's too small for one lawyer does just fine with many. And there are many here. I'm not trying to do that as a matter of posturing, but I'd like to get beyond where we've all been.

You're not helpless. You're an advisory committee. You're not being paid. These aren't your jobs. They can't fire you if you just decide to do nothing. And I can tell you, going up Highway 280, rarely do I go 55, and I'm not stopped. But I do have just a couple of quick points, because I'm, you know, I'm tired of this.

You know, I've been doing this for 16 years. Other attorneys have been doing this for just as long. It really comes down to this: You can do nothing and nobody is really going to say anything about it. Or you can do something, polarize the situation. In the law, there is something called a temporary injunction. The nature of it is to preserve the status quo. For each of

the Supervisors that came up here, you questioned them. You asked them: Are you willing to meet us halfway? I'm asking that question in return. Because, if you're willing to meet us halfway and do nothing just for tonight, you have the entire City and County of San Francisco, you have representatives from the state, you have the innumerable people here, who are willing to meet you halfway and say, if you won't do anything tonight, we can move on to item No. 3 and most of us can go home.

Is there anybody here who wants something done tonight?

[Audience responds in the negative.]

Anybody outside, anybody in the other rooms? Because if anybody wants this taken out tonight --

Okay. I've just taken a little empirical evidence. Please, ladies and gentlemen, let's just shake hands on it. Let's do nothing for tonight and work on it. Nobody is going to arrest you; nobody is going to fire you.

Thank you.

[Applause.]

CHAIRMAN BARTKE: Thank you.

Cindy Del Corto, then Sheila Mahoney, and somebody named Barbara.

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STATEMENT OF

SHEILA MAHONEY

MS. MAHONEY: My name is Sheila Mahoney, and I'm a homeowner and a long-term resident of San Francisco, an animal physical therapy volunteer at the SPCA, a member of Fort Funston Dog Walkers and SF Dog.

Normally, I'm a very rational person, but I came here really angry today. I addressed the Commission in November, or whenever it was, on the Fort Funston Closure, and I read the transcript of your last meeting. You didn't listen to us. You totally ignored the enabling legislation issue and the legislative background. You didn't even try to counter the arguments refuting the four justifications given for the enclosures. You just made it an anti-dog thing. You told us that it was a done deal. So I am a bit surprised today by some pockets of openness that I see. I hope it's real.

I know that you just want this all to go away. The public outcry and the turnout tonight should convince you that rescinding the dog policy will not make it go away. The easiest and best way to keep the promises made over the years, and to resolve this once and for all, is to recommend that the GGNRA formalize that pet policy as a special rule under those famous regulations. Just add it

to the rules that permit dogs to run off leash while hunting in 45 other national parks and recreational areas. Show us tonight your good faith by not rescinding the policy and let's work together getting that special exemption. Everybody here will write a letter to whatever federal officials we're supposed to write.

Thank you.

[Applause.]

CHAIRMAN BARTKE: Did Cindy Del Corto show up? Barbara, Pamela Baldwin, Laurissa Jensen.

STATEMENT OF

CINDY DEL CORTO

MS. DEL CORTO: I'm Cindy Del Corto.

I guess most everybody here represents San Francisco; I'm here to represent San Mateo County. Not only are you affecting the city of San Francisco, but this decision is going to affect San Mateo County. And for those Commissioners that represent San Mateo County, I hope that you have spoken to the officials down there and let them know, you know, this is coming down their way, too.

I also came here to listen to the voices of reason and hoped that they would prevail, and I hope that you are listening to people in this hearing. As our appointed representatives, you should table this, take it

to the U. S. Attorneys, and say: Look! We've got a problem. We need to collaborate with the cities and the counties to get this issue resolved. Rescinding this pet policy tonight is going to have a drastic effect on hundreds of thousands of people in this area. I truly hope that you take this to heart, not lose the vision that you had in 1979 when you enacted this pet policy -- although it's illegal -- and remember those times when you brought this in under the enabling act of the GGNRA, that it was done in that period. Tonight, maybe you can regain that spirit and bring this to the powers that be so that we can all collaborate to keep our dogs to enjoy the off-leash lands of the GGNRA.

Thank you.

[Applause.]

CHAIRMAN BARTKE: Barbara or Pamela Baldwin.

STATEMENT OF

PAMELA BALDWIN

MS. BALDWIN: Good evening, ladies and gentlemen. I'm Pamela Baldwin, and I've been asked to read a letter. But before I do that, I'd like to share just 30 seconds of who I am.

I'm a wildlife artist and I specialize in painting endangered species, and give a portion of everything I make to those people and groups that are

trying to help those species. And in order to start my day properly, I take my two 21-month-old Labrador Retrievers out to that thing called water and let them swim. And one is ball-centric, so all she does is go back and forth with a tennis ball. But I'm willing to make a deal with you, if we can add a little levity to this, Superintendent? If you keep your raccoons and skunks that come into my yard on leash, I'll keep my dogs on leash.

[Laughter.]

This is a letter that is signed by William Herndon, of the San Francisco Police Department:

"Commissioners,

"I am the hearing officer for the City and County of San Francisco on all matters of vicious and dangerous dogs that are addressed under the Health Code. The Health Code addresses not only biting dogs, but also menacing behavior. I have held this position for about 7 years and have heard hundreds of cases. We've received national and worldwide attention from television, radio and the printed media.

"Dog Court, as the media likes to call it, has addressed many problems that have been ignored by other communities. I was also involved as a

member of the City and County of San Francisco's Off-leash Dog Task Force.

"The City and County of San Francisco has experienced a huge reduction of all biting incidents [which we would love to have your spokesmen reflect when they're talking on television about how many people are being bitten]. Last year, I believe, we were down over 30 percent and are on track for a larger reduction this year. These reductions, I believe, are a result of the combined effort of the dog community working with the city officials to promote responsible dog ownership.

"Off-leash dog areas are a key ingredient to proper animal management. Dogs need to run, play, jump and exercise. These needs cannot be properly met at the end of a leash. It is imperative that off-leash dogs areas be made available to the public. Without them, we will see a rise in bites and numerous other problems that result from dogs not being properly socialized.

"It is a very important thing to remember that to every dog is attached a person, and that person is the one who needs to be responsible

for that dog. Off-leash dog walking areas need to be increased, not eliminated.

"I am available to any member of the Commission or member of the public if I can be of any assistance with this issue, or any dog-related issue.

"Sergeant William M. Herndon

"Hearing Officer, Park Station

"San Francisco Police Department"

[Applause.]

CHAIRMAN BARTKE: I'm going to call two more names, and, after that, I'm going to ask what your pleasure is for the rest of the evening. Laurissa Jensen and Claire -- might also be Jensen, something like that.

What I propose is this: That the Commission take no action having to do with the policy tonight, but that we all recognize it for what it is. It was a recommendation, which didn't have the force of law. It's been brought to our attention that it's illegal and unenforceable, but I propose that we do nothing, at least until after the following steps are taken:

Dr. Wayburn has recommended that we refer this matter to the National Park's Advisory Board in order to raise it to a national level, because we're well-informed, but we're not the only park that has the same concerns

going on.

Secondly, that we ask the staff to continue to meet with the other land-owning agencies, as they have been for the last couple of months, to find out if they can't loosen up their restrictions the way we have so that there is more area because there are more dogs.

Third, that we make the application that's been referred to several times tonight -- excuse me -- not that we make it, but that we discuss with you how it's made, when it's made, if it's made, which comes under 36 CFR 1.2(c).

And, finally, that the Superintendent be asked by this Commission to meet with the interested parties, including the elected officials and the congressional offices who are also aware of this, and to do so within the next 120 days.

Now this is a little bit unusual because, when we have a public hearing, we like to hear from the public that came and signed up to speak. But we're only on page 10, and we literally have dozens of pages left to go. And if this is something that the Commission would be interested in and that you would be interested in, then I will ask this: Is there anyone that wants to speak like in opposition to this, or some such thing?

[Unidentified voice spoke from the audience, but

not recorded.]

CHAIRMAN BARTKE: Yes. My proposal is this: That the Commission take no action tonight having to do with the policy.

Secondly, that we -- actually, first, that we refer this matter to the National Park's Advisory Board, as Dr. Wayburn has suggested.

Secondly, that we ask the Park Service staff to continue to meet with the other land-owning agencies, such as the city, San Mateo County, State Parks, to see if they won't loosen up their regulations to help relieve some of the areas that are under our jurisdiction.

Third, that we discuss with the interested groups the possibility of submitting an application under 36 CFR 1.2(c), which is that which has been spoken to tonight, which would permit one park to do things differently than other parks do, based on local circumstances.

Fourth, that we ask the Superintendent to meet with the groups that have volunteered to meet, and with others who have a stake in this, including the elected officials and the congressional offices, and to do so within 120 days.

[Applause.]

CHAIRMAN BARTKE: Now please understand that

that's a proposal from one individual, and I don't have the consent of the rest of the Commission Members to do that. But I'd like to make this meeting productive, rather than divisive.

[Applause.]

COMMISSIONER BOOTH: Commissioner Bartke, I'd like to support you before I have to leave. I think that's an excellent proposal. We have heard you, I have. And I just want to say that we really are supposed to be here to hear the citizens, and I'm really sad to see that it's seems that a lot of people feel that it's us against you, and you against us, but I've been listening to you.

I support that, Rich. I think that's an excellent step.

CHAIRMAN BARTKE: Is that a motion?

COMMISSIONER BOOTH: That's a motion.

COMMISSIONER WAYBURN: Seconded.

[Applause.]

CHAIRMAN BARTKE: Moved by Anna-Marie Booth, seconded by Dr. Edgar Wayburn. Before the Commission takes a vote, though, are there people who want to speak about this proposal. I saw this gentleman in the front, first.

Do you want to come up to the microphone and tell us who you are?

MR. BUTEN: I appreciate it, and I commend you on what you just said. You referred to some interest groups. Could you be more specific about who those interest groups are? Because we want to make sure that they deal with basically the people involved, and whether the people involved have access to you and can express their opinions?

CHAIRMAN BARTKE: I was thinking that certainly the groups who have been identified tonight would all be included. But what I'm concerned about is that there appears to me to be a number of people who use our lands, with their dogs, who don't belong to a group and we've got to find a way to talk to them, too. And I'm not sure how that would do, but the staff, I think, could work on that.

[Applause.]

STATEMENT OF

LYNNE NEWHOUSE SEGAL, J. D.

COMMISSIONER

RECREATION AND PARK COMMISSION, SAN FRANCISCO

MS. SEGAL: And there is one group that you didn't mention, and I'm very pleased with your decision for tonight. I'm Lynne Newhouse Segal. I'm a San Francisco Recreation and Park Commissioner. Commissioner Meyer formerly served in my position.

This is a great decision. I'm a little upset

that, when you said that you wanted to talk to all the groups and anybody who felt that they were not represented in your comments should come forward. That's when I decided to come forward.

CHAIRMAN BARTKE: Okay.

MS. SEGAL: Because we are -- I want all of you here to know that the San Francisco Recreation and Park Commission has been here since before 7 o'clock. I'm not speaking for the Commission because we could not take a vote on this. We can only vote on things that are noticed. We have very specific rules. But the Department knows that I'm here.

I'm the chair of the Parks and Planning Committee of the Commission where all the decisions on parks go first. I want to tell you all, and remind you all, as I'm sure that Commissioner Meyer knows, and as I told Commissioner Alexander and Anna-Marie Booth, that, for all of the dogs that are not allowed to run off leash in the GGNRA, that will come at the expense of soccer fields and playgrounds in our parks in San Francisco.

And please help us out. We know it's a problem. We know there are more dogs now than there were 29 [sic] years ago when you made this other policy. Please help us out. Be good neighbors and thank you very much. I appreciate your decision tonight.

CHAIRMAN BARTKE: We gotcha.

[Applause.]

MR. SINDELL: Commissioners, I'm the father of two and we're owned by a Boxer. Any Boxer owners?

What you say, it sounds great and it probably is great; but I think it's real important to the public -- maybe I'm slower than everyone -- really understands what we're agreeing to by acclimation before we go home tonight.

Point 2 of the proposal was to refer this to the National -- what was the organization?

CHAIRMAN BARTKE: That was actually point 1, that we refer this matter to the National Park's Advisory Board, which is a Commission similar to this on the local level, except it's national, and because we know that there are other national parks that are dealing with the same problem.

MR. SINDELL: My only question is, then: Would that be giving it to their authority, or would you still retain authority?

CHAIRMAN BARTKE: No. Well, we don't have much authority, but it doesn't give anything to their authority. It's raising their concern that this is a problem here, and it's probably a concern elsewhere and it ought to be dealt with on a national level.

MR. SINDELL: So that would not take it out of local hands?

CHAIRMAN BARTKE: It would not. I would not expect an answer back from them within the 120 days that we expect a local answer.

MR. SINDELL: Then a hardy congratulations. Thank you.

CHAIRMAN BARTKE: Mr. Bonny.

STATEMENT OF

CHARLES BONNY

MR. BONNY: I'm Charles Bonny. I live here in San Francisco. I want to say that I believe I've heard an awful lot of nonsense this evening. I'd like to point out that we are never going to have a world in which there are only humans and dogs. We've got a lot of critters that have to be considered besides dogs, and I very much dislike this having people come here, pushing dogs, as though dogs were the only thing that had any kind of importance.

I want to point out to you people that you have a compromise already. It's not a band of dogs, it's dogs on leashes, to protect the creatures that live in the national recreation area.

Thank you.

CHAIRMAN BARTKE: Thank you.

Speaking on the proposal --

[Loud remarks from the audience.]

CHAIRMAN BARTKE: You know, there is an adage that, if you cannot be polite to others, it reflects a weakness in your position. And please don't get into that trap.

Are you up here to address the policy which I have just suggested?

UNIDENTIFIED SPEAKER: I just want to take one moment of time. I've been on Crissy Airfield for 21 years, from 6:00 a.m. to 9:00 a.m., and I've never seen a dog attack anything. Fort Funston, the same way. I've been involved with dogs for 55 years.

CHAIRMAN BARTKE: Is that speaking about the proposal we have in front of us.

UNIDENTIFIED SPEAKER: Look! We're the stupid ones on the earth. The animal kingdom obeys the natural laws, and it works. Sorry, I think we're barking up the wrong tree.

CHAIRMAN BARTKE: You don't think we should do this policy, then?

UNIDENTIFIED SPEAKER: I think we're misusing time. Time is for life and dogs and people and animals, and everything that's alive, belongs in fresh air and sunshine. People look forward to it. We'd have a

healthier population, a happier, well-adjusted taxpayer base, economic base.

CHAIRMAN BARTKE: Okay. I got it.

UNIDENTIFIED SPEAKER: A dog has never attacked anything. They're out there and they're happy and they're exercised. I use to lead Sierra Club Dog Hikes on Ocean Beach. We'd have 20 owners, 20 dogs. They all palled.

CHAIRMAN BARTKE: Yes, ma'am. Next speaker.

STATEMENT OF

JAMIE HOFF

MS. HOFF: I have something to say about that. I ride a horse, I have a dog. I ride a horse in the Fort Funston area, on the beach. I've been attacked by dogs several times. Fortunately, for me, the dogs haven't bit the horse. Fortunately, for me, our horse isn't afraid of dogs, yet. I've had other riders who have actually had dog attacks on their horse and have been severely bitten. I've seen a horse who has been attacked by a dog and its muzzle was ripped open and had to get several stitches. I've seen and, you know, it wasn't myself. And another rider, we've been attacked by dogs. And a friend of mine was attacked by five dogs, all off leash.

I'm not against off-leash as long as the dogs are under control. I want to make it clear that I like dogs. I like to bring my own dog riding, but it's under

control. If it's not under control, then, if you see horses coming, would you please put it on a leash. Don't trust the dog to go and behave itself because it's too many times I've had dog owners yelling to no avail at their dogs to come back, and they don't.

So I have no other recourse but to buy a bull whip to snap at the dogs. Not to hurt the dogs, but to scare them.

My friend, who has had five dogs attack her, they had the owner yell at her and say it was her fault. She was just walking on the beach, the dogs came at her. Her horse is under control, the dogs are not. And he tried to grab her horse by the halter. I don't know what he was trying to do, but I've had several instances where dogs have come after me. In some cases, the owners try to get the dogs back; and, in some cases, they don't.

And the biggest problem, I feel, are the dog walking services, who have an excess of 10-plus dogs. It's way too many dogs for one person to handle. Sometimes, they are good about controlling them; sometimes, they are not. Sometimes, they let the dogs come at the horses. In one incident, I was trying to stay in the surf, the dog kept, you know, or the owner, or the dog walker service guy, did not do anything to retrieve the dog.

CHAIRMAN BARTKE: Why don't we suggest that the equestrian community have its input into this process during the next 120 days.

[Applause.]

MS. HOFF: I wrote a letter and I have asked others to write a letter, too. But, you know --

CHAIRMAN BARTKE: Anybody who wishes to speak to the Commission -- oh, your name, please.

MS. HOFF: Jamie Hoff, H-o-f-f.

CHAIRMAN BARTKE: Gotcha. About the proposal --

MS. VITTORI: Two refinements. Just two refinements. I want to find out two things.

No. 1, this is a recommendation to Brian O'Neill. How is Brian O'Neill going to respond to it?

And the second thing is, is this going to go out to Park Service employees?

CHAIRMAN BARTKE: Pardon me?

MS. VITTORI: Is this going to go out to Park Service employees so that, in the field, it's understood that dogs can be walked freely and responsibly?

CHAIRMAN BARTKE: Well, you know, that's the problem that brought us here tonight.

MS. VITTORI: No. I'm asking about park staff.

CHAIRMAN BARTKE: I know. But whereas the Commission doesn't have to obey the rules, the park staff

does. We will ask that the -- maybe this is implicit in the suggestion I made, not to be explicit, is that we ask that the staff not take any precipitous action to do anything until it's done these things within the next 120 days.

MS. VITTORI: So you're going to ask the staff to hold off to do anything --

CHAIRMAN BARTKE: Hold off signs, citations, and so forth, until they come back with a plan.

MS. VITTORI: Thank you very much.

[Applause.]

STATEMENT OF

ANDRE ARMAND

MR. ARMAND: Ladies and Gentlemen and Superintendent O'Neill, I've stayed long to express an idea because I don't -- I have not heard anything about it mentioned here. And it is in the area of remedies.

We are all here tonight fighting for our privilege to walk our dogs off a leash because of the irresponsible attitudes of a very small percentage of dog owners. You have stated in your, in the review of the agreements here, that dogs were allowed under control, off leashes, and I stress the term, "under control." Yet nowhere have I seen any kind of an effort by the Trust or the Commission to educate the public on what control is.

Nor have I seen any kind of rules and regulations in place which would help be a leadership statement on what is allowable and what is not.

To my understanding, Seattle had a very bad dog dropping problem, and they classified a dog's dropping as litter. And those in control of the dogs who did not pick up that litter were cited for littering. Now that littering bill is a thousand dollars. I want to tell you, if you had that kind of a rule here, all of a sudden there wouldn't be any dog poop anywhere.

[Applause.]

And I would strongly suggest that you do something besides waiting for 120 days for some more to come out. The reason we're here now is because no action had been taken all these years to either help these people create peer pressure that would bring those owners into line, or you people instituting some fines for them digging holes in environmentally sensitive areas, or fining them for not picking up their dog litter. If you had done that 20 years ago, we wouldn't be here tonight.

CHAIRMAN BARTKE: Thank you. May we have your name, please.

MR. ARMAND: My name is Andre Armand.

CHAIRMAN BARTKE: Thank you. Each of the speakers needs to tell us who you are so we have a record

of it.

STATEMENT OF

CAROL ARNOLD

MS. ARNOLD: I'll be very brief. My name is Carol Arnold. I work as an environmental professional. I have a Masters Degree in Environmental Studies. I've worked in the conservation field for many, many years.

I want to emphasize -- well, first, let me tell you I have many passions in my life; but two of the most important to me are probably first and foremost the environment, and the second is my dog. And I want -- I'm probably the person who agrees the most with Mr. Arthur Feinstein in this room on many, many issues. Some of you, I even know professionally.

However, I see very strongly, as Mr. Bonny said -- I think it was Mr. Bonny -- we all live in an urban area. There's a lot more here than just dogs, and that's very true. However, because we do live in an urban area, we can't just run -- and dogs are as important to us as our right arms, and you have to believe that. Just take that on face if you're not a dog owner. It is heartfelt. You just can't run your dog around a living room, which is about all we have available to us. Most of us don't have backyards. We have to go to urban parks and we see, or I see, as a strong environmentalist, an urban park. I know

you don't like to call it that, but I believe strongly that that's what it is. That's Fort Funston and Crissy Field. We have to be able to go there to exercise our dogs.

The environmental issues can be dealt with. We can make compromises. We can protect the threatened snowy plover and the endangered -- I mean, the endangered snowy plover -- no, threatened snowy plover and the endangered bank swallow without tearing each other apart. We can do it, and I strongly believe in doing it.

So I just wanted to correct -- and if you could pass that on to the National Park Advisory Commission that there are some very strong environmentalists amongst dog owners, who believe very strongly. I think most of the people here would probably consider themselves environmentalists.

Thank you.

[Applause.]

STATEMENT OF

NORMAN BUTEN

MR. BUTEN: Hi! My name is Norman Buten.

I just want to reiterate, to a certain extent, what this lady just said; and that is: As dog owners, we do have a very responsible attitude in terms of dog litter. In fact, when we see a dog coming and the owner

didn't pick up it's litter, we almost ostracize that person, or reprimand him to pick up their doggie do. And I think most people agree over here, even among the dog owners. I'm prepared to be open to a heavy fine for people who don't pick up their dog litter.

The bottom line to all off us this is: We're a responsible bunch of people. We're prepared to behave as responsible members of the community to promote a harmonious community. And that is picking up the dog litter and doing whatever it takes to live well with other people within our community, including environmentalists, for the birds, et cetera.

CHAIRMAN BARTKE: Thank you.

VOICE: Are all these people just going to speak or are we back to the list?

CHAIRMAN BARTKE: That's what I'm wondering. Are we back into the public hearing, or are we speaking on the proposal?

[Many voices speaking simultaneously.]

STATEMENT OF

JOHN KEATING, ESQ.

MR. KEATING: I just have a short comment as to the proposal, which I think will give the Commission a higher comfort level in voting for it, and then a suggestion on how to do this.

CHAIRMAN BARTKE: Who are you?

MR. KEATING: John Keating. I'm the attorney currently on the other side of the litigation in the Park Service and Fort Funston Dog Walkers matter.

You have been told that you had to rescind the policy tonight to get an advantage in the dog litigation. What I'm going to tell you is that it won't do you a damn bit of good if you do -- it won't do you a damn bit of good if you rescind the policy. It won't have an effect in the litigation. Your attorneys have tried this a number of times in the litigation, and it's been rejected. It is a very simple reason why you don't need to do it to achieve an end in the litigation. And the reason is: At Fort Funston, you're closing off all access to the park area. You're not just closing off off-leash dog use. Therefore, the litigation is not going to be dismissed just if you limit off-leash dog walking because we're going to want to walk our dogs there with leashes, and other people, the kids, are going to want to down the sand dunes.

So I hope you understand the tortuous intellectual process we've been in here, where you're thinking that you have to do something to achieve an end, when it's not going to give you that end.

The second point --

CHAIRMAN BARTKE: You understand, of course, that the Commission is not a party to the lawsuit. We've been to none of the hearings, nor do we intend to.

MR. KEATING: I understand that. And I'm not trying to give you advice. I'm just trying to tell you that maybe it won't have the intended effect anyway. So

--

CHAIRMAN BARTKE: But I'm trying to tell you it's not an intended --

MR. KEATING: Right.

CHAIRMAN BARTKE: It would not be a goal of ours.

MR. KEATING: Mr. Alexander indicated that you had been informed that possibly would be a benefit for rescinding the policy. I'm not suggesting that that's why you're doing it. I'm just saying that, if in the back of your minds that was a benefit, you don't need the benefit.

Secondly, all of that can be put on hold so you don't need to deal with the Fort Funston matter. So we can sit down and work out a solution, a temporary solution, until that process of meeting and getting a cohesive policy is set up. We've repeatedly requested to sit down. So, the point is that we're willing to talk with you. You don't need to do it.

Now here's a suggestion: You might want to

consider keeping the process local at the first stage before you bump it up to the National Advisory Board.

Thank you.

[Applause.]

STATEMENT OF

CHRISTINE L. GARCIA, ESQ.

REPRESENTING IN DEFENSE OF ANIMALS

MS. GARCIA: Really quick. My name is Christine L. Garcia, and I'm representing In Defense of Animals. My only request is that you add In Defense of Animals as an interested committee, or interested party, in that committee that you're referring to.

CHAIRMAN BARTKE: Good. Got it.

MS. GARCIA: I also wrote down all my information, and I'm offering my legal, professional services, just as everybody else is, to facilitate the amending of 36 CFR 2.15 and 36 CFR 1.2. So please call me if you need any legal anything.

CHAIRMAN BARTKE: Thank you.

[Applause.]

CHAIRMAN BARTKE: Okay. We're now ready for a vote. Discussion from Commission Members on the motion that's in front of the Commission.

COMMISSIONER MEYER: Mr. Chairman, I think that you've brought forth a number of different things, which

require different treatment. The first one that you brought forth, and I'd like to see it separated from the others, is the one concerning the recommendation to the National Park's Advisory Board, because it's one area of thinking.

Another one has to do with reaching out to, as soon as possible, to have discussion with many groups which would start the process going of trying to come, to figure out how, what we can do to improve the situation here with regard to the groups that are involved, and, ultimately, with other groups in the region. I think this needs a lot of work at a committee level. I don't want to slow the process, but I think that you need to prepare a directive for committees to get some suggestions. We have, for example, coming up this week, the Presidio Committee. We also have, next week, the San Francisco Committee. And this would, you know, help within the Commission.

Another thing that you said, you made a complete round trip from where we were at the beginning of this meeting. And I think it's important to state what we stated, and you've tried to state at the beginning of the meeting but there was so much noise in here, that what we have is a statement made by the U. S. Attorney concerning a policy which we had -- it's not a policy; that's too

strong a word -- a recommendation which we had made, which was acted on for a period of time by the National Park Service, to have dogs be allowed to go off leash in certain areas. And I think in not voting on that, we need to discuss that separate matter. That, if we don't vote on it, it's because the U. S. Attorney has essentially rendered what we did 22 years ago moot, because we have to follow his advice.

That's at least three separate sections. Did I miss something?

CHAIRMAN BARTKE: Can you meet with other public agencies.

COMMISSIONER MEYER: And, then, the fourth one would be other public agencies. One would be with groups and interested parties, and to pick up the full range of interested parties. The last would be to work with other agencies. I simply think you have to break those into four separate matters.

CHAIRMAN BARTKE: Trent.

COMMISSIONER ORR: Well, first, I just have a question. Are we done with the public hearing? Where are we as a matter of process? Because I don't know whether what I want to say is what I want to say now or --

CHAIRMAN BARTKE: Well, I made a proposal and it was -- it's been moved and seconded.

COMMISSIONER ORR: Yes.

CHAIRMAN BARTKE: If the people want to continue with the public hearing, we may do that. I have literally, probably, three or four hundred names of people who have signed up.

COMMISSIONER ORR: Right.

CHAIRMAN BARTKE: And we can go through that. I've made a proposal which is now in the form of a motion made and seconded. So I would deem that, if the motion is adopted, this issue on our agenda is put to bed for now.

COMMISSIONER ORR: Well, then, let me speak to the motion. I share a concern that Commissioner Meyer just raised, which is: I'm personally uncomfortable with the elevating the issue to the National Advisory Board at this point because it sounds to me like the other three things you're suggesting -- that is the meeting with the other land-owning agencies in this area, the meeting with interested organizations to deal with what would be a reasonable application for an exceptional rule here in the park; and then the third, which is the Superintendent meeting with interested groups and elected officials, and so forth, in the next 120 days -- I mean, that seems to me to address this. I haven't heard tonight, and I haven't heard from the Park Service, that this is an issue in other parks. And I'm not prepared to send this up to a

higher level when it sounds to me like the rest of your proposal would deal with it locally.

So I suppose one thing I would say is I would prefer that to be broken off as a separate motion, or voted on separately. Because, otherwise, I'm uncomfortable with voting for the whole thing.

[Applause.]

CHAIRMAN BARTKE: I think it's on the question of parliamentary procedure that, on the request of a member, the chair is permitted to split them into separate votes. And, so, at your request, I'll do that.

COMMISSIONER ORR: Thank you.

[Applause.]

COMMISSIONER ORR: Then, if I could just briefly address the second three. I think I've already said I'm not prepared to send this up to the national level because I just don't think we have the information, or that that's a necessary step at this point.

I want to stress a couple of things here about what I've heard; and one is: You know, the people who are interested in off-leash dog walking, obviously, you feel very strongly about this. We've heard that loud and clear. I have to say that, in this process, we're going to have to involve -- we heard from the woman from the equestrian community; we've heard from Arthur Feinstein.

We've gotten a lot of letters from people. I've actually heard -- I'm involved in the environmental area, and I've heard from various people that knowing the crowd that was going to be here -- and given some of the behavior here tonight, I can understand this -- people did not want to come and speak. I mean, people said to me: Why should I come there when I'm going to be booed and hissed and treated rudely?

In this process, which I'm going to support, you have to understand that there needs to be representatives from the environmental organizations, from interested parents groups, from senior centers, from whoever it is, because this is a national park that belongs to everybody, whether you say it's an urban park or a national -- however you define it, this park belongs to the American people. It's used by people from across the country and throughout the world.

So I just want to make clear my feeling that, you know, this has got to be addressed in -- you know, don't expect this to be a series of closed meetings in the same way that we've been accused of having sort of secret meeting between just the canine community and the Park Service, or members of this Commission. It's really going to have to be all inclusive, and that may take some time.

[Applause.]

Supervisor Peskin used the word "balance," and that's exactly what we're going to have to do here. And I plea to everyone here to come in and -- you know, the thing that I don't like to hear people belittling endangered species, and belittling plants, protecting endangered plant communities as hobby gardening, and that sort of thing. I mean, I think you do yourself a disservice in making those sorts of arguments.

So, again, as we go into this process, I would plead with people to realize that there are a whole complex set of issues here that have to be fit together, and we may not end up with off-leash walking everywhere that everyone would like it to be. Just as we probably won't end up with restored habitat everywhere some people would like it to be. But, again, that's the process I envision. The only reason I'll be voting for this is because I expect that to be the process we go through, and I guess I'll get off my soapbox at that point.

[Applause.]

CHAIRMAN BARTKE: Thank you.

Betsey.

COMMISSIONER CUTLER: Thank you, Mr. Chairman. I congratulate you for your thoughtfulness in putting forth this suggestion, and I fully support it, as well as Commissioner Orr's, and Commissioner Booth's and

Commissioner Meyer's comments.

The hallmark of our democracy is participation, and we've had a lot of that tonight. I, for one, appreciate it. Despite some of the comments to the contrary, I fully appreciate all of your comments -- not the rudeness, I might add.

I would like to emphasize my own concern that the process, this 120-day process, or perhaps longer if it needs to be, be fully inclusive, as Commissioner Orr was starting to suggest, not only with the canine community, but the equestrians, the people walkers, whatever you call walkers, pedestrians, and every other stakeholder. Because this will only work if all of the stakeholders are at the table, and if all of the representatives of the stakeholder groups come to the table fully prepared to compromise. Because this will be a system where not everyone gets, not anyone gets, everything that they want.

With that in mind, I fully support your recommendation.

CHAIRMAN BARTKE: Thank you.

Dr. Wayburn.

COMMISSIONER WAYBURN: I would be perfectly happy to see this divided. I disagree with Commissioner Orr as to putting it up to the National Park's Advisory Board to the Secretary as putting it upstairs. I think

that this occurs in other parks, particularly in other urban parks, as well as in San Francisco. I don't believe we're unique. I think that it's worthwhile passing this onto the Advisory Commission to the secretary. This was done on another matter, on wildlife in the national parks, and a special commission, chaired by the late Starker Leopold, made recommendations for a policy which has been followed ever since.

But, on the local level, I had quite a bit to do with establishing the Golden Gate National Recreation Area. It was I who went to Congressman Phillip Burton with the proposal. And the policy that Commissioner Meyer and I made locally was: Doesn't San Francisco deserve a recreation area? And the resounding answer that we got at that time was: Yes. And this is what Congressman Burton acted on. He further said that he would like to have a national park where the people could go by public transportation to their national park.

I confess to be a dog owner and a dog walker myself. And I have had Vizlas for the past 35 years. The Vizla loves to run. She always comes back. This was a policy that we negotiated with the Park Service originally, and I personally think it's valid at this time.

I support what you said about having the Park

Service negotiate with other interested parties. I'm perfectly happy with dividing this into two parts: local and national. I think the Commissioners should all be reminded that what you have suggested is not permanent, but interim policy, to have effect only for the next 120 days, during which time all of the interested parties can make their suggestions.

CHAIRMAN BARTKE: Thank you, Doctor.

[Applause.]

Lennie Roberts.

COMMISSIONER ROBERTS: Thank you, Mr. Chairman.

I wanted to just speak to the first item, which was to refer this to the National Park's Advisory Board. I think it would be premature to do that at this time. There may be an appropriate time later, after we have wrestled with these issues, with all the stakeholders, as Commissioner Cutler suggested. And I certainly support the idea of having all the stakeholders that we can possibly involve be involved. Because we have, as a national park, we have a responsibility to all the users and to accommodate the public use and enjoyment of the parks. Where there may be uses that conflict with the general public enjoyment, we have to look at that. And I think we need to have representatives who have a broad perspective.

We also have, of course, the responsibility to protect park resources. And, in reference to that, I just wanted to point out that I spoke with Terri Thomas today, who has been, up until recently, in charge of the park's resources. We have in GGNRA 69 rare, threatened, or special-status species of wildlife. Sixty-nine species that are listed either as endangered, threatened or special status. We have 38 rare, endangered, threatened, or special-status plants. So this is 107 species, which is far greater than Yosemite has. And this is not Yosemite in terms of granite cliffs, but this is an extremely special place because we have so many habitats that are very precious habitats.

So that is just one of my biases as an environmentalist. We do need to be concerned about that, as well as the use and enjoyment of the park by the people not only of our local area, but also the broader area.

So I will support the suggestions that we have made, but I think we should hold off on the National Park's Advisory Board, the referral.

CHAIRMAN BARTKE: Michael Alexander.

COMMISSIONER ALEXANDER: I agree with Commissioner Roberts about that. I'm very pleased to hear Dr. Wayburn say that he is comfortable with separating that issue, the issue of bumping this up to the National

Park's Advisory Board.

I'm going to ask that we table that at this time. The reason is: I think we need a lot more information. I think we need to go through at least the committee process. I think we need to hear more about exactly what that Board has done in the past on issues that are complex and controversial, and get a better understanding of that. I'd be very happy to bring it back if it appears that that is an appropriate way to go. But I don't think that there is any critical timing -- and please tell me if there is -- to get it underway this month. We can always bring it back next month.

CHAIRMAN BARTKE: I know of no critical timing on that. We have -- what I plan to do is to take up the other issues first, and then take up Dr. Wayburn's suggestion secondly. So, if you --

COMMISSIONER ALEXANDER: I will hold my table, then, out of consideration for your process.

CHAIRMAN BARTKE: Thank you.

COMMISSIONER ALEXANDER: And I want to say that I am in support of the other recommendations.

CHAIRMAN BARTKE: Jack Spring.

COMMISSIONER SPRING: I think that what you're suggesting now is the proper thing to do, and take those issues separately.

CHAIRMAN BARTKE: Okay. Doug Nadeau.

COMMISSIONER NADEAU: I agree about the National Park's Advisory Board. Over the years, when we've talked about doing something about our dog policy and making it legal, every time we've talked about it, we talk about what a can of worms this is nationally. And I'm afraid that, if we took it at this point to the National Park's Advisory Board, it would, it would be very difficult.

I keep thinking about the Point Reyes Wilderness Proposal that we crafted many years ago, when we, locally, came up with some recommendations that were totally counter to National Park Service policy, and we persisted and said this makes sense in this urban area, and we changed national policy. It was actually -- we changed the law. And I think we can do that here, and I think we should try to do that.

[Applause.]

I guess this is surprise, surprise! Because I was ready to vote at the last meeting to rescind the policy, but that was mainly to sort of clear the decks. I do, I do believe that we can accommodate off-leash dog walking in our park.

[Applause.]

I just want to make one more point. I really want to thank Trent Orr and Lennie Roberts for what they

said. You guys need to listen very closely to those things. This is not just some trashy urban park. It's an important place, and those are all important point.

The final point that I would like to make is that I'm a little bit worried because this could be a can of worms from a national standpoint. That rather than spending a lot of time workshopping this with multiple organizations -- I mean, this could take months -- and then coming up with a policy, and then going to Brian, who has to run this up the flagpole, through the Regional Office and Washington, I'd like to suggest that, before we do that, Brian meet with representatives from our Regional Office and the Washington Office, maybe with some Advisory Commissioners present, and maybe even with some members of the Board of Supervisors present, to talk about, without getting specific about what the policy is, what are the chances of this getting through. I would like some assurances. In fact, I wish John Reynolds was here tonight -- he's our Regional Director -- or someone from Washington, because this does have national implications. But I'd like to get a reaction from those folks before we spend a lot of time working with these good folks in the audience, and others, and crafting something in detail.

CHAIRMAN BARTKE: I think that's a good suggestion, but I do not want to delay the process. I

would like to do it concurrently, if we can do that.

COMMISSIONER NADEAU: That's my point.

CHAIRMAN BARTKE: Okay. Fred Rodriguez.

COMMISSIONER RODRIGUEZ: In your questioning of the various Supervisors, and other representatives, I think what you were looking at is saying that this is a problem that is just, is beyond just this group here. We're dealing with what's going on within the GGNRA, but there's a lot of pressure created by actions that have been taken elsewhere. The fact that there is no place in San Mateo to run dogs, that you need to come up to San Francisco to do it, it would be good to bring these players to the table. We had more than a majority of the Board of Supervisors here, and you have on this Commission, right now, at least three people who were on the Rec & Park Commission in San Francisco, and a former Superintendent, and there are ways of including what goes on in city policy.

I also just want to comment about all the energy that has been used up here this evening. I would hope that we could capture it for other purposes, as well, that help to promote and preserve the GGNRA. Hopefully, a collaboration that wouldn't end on this issue, but would form a base on which to build on other issues and further advocacy.

[Applause.]

And just as a passing comment, because I know there's just so many attorneys, that I do not, for one moment, feel that, if there were an off-leash ban, we would not be using the area for recreation. I think that there's a lot of recreation that goes there. But I think it is important to hear what the desires are of people that are in the community and see where we can fill those. But not because I feel it's going to be rescinded or taken from us.

CHAIRMAN BARTKE: Thank you.

Dennis Rodoni.

COMMISSIONER RODONI: Thank you, Mr. Chairman.

I welcome your suggestion to bring a closure to this item tonight. I do think that a no-action is appropriate on the proposal for rescinding the resolution. And I would like to comment, though, that I think possibly the recommendations could be combined into one. I do not see any particular benefit in separating the public agencies from the group that would be -- okay, I wanted to make sure of that. Because we've got a tremendous offer of cooperation tonight from Supervisors and State Assemblymen, et cetera, et cetera; and I certainly would like to encourage the Superintendent in this work group -- however it should evolve -- to include all those bodies,

public agencies and private individuals, so that we could reach an agreement with that group. And I do include, as Trent and Lennie suggested, that we have to include every user to be a part of this group to get a fair resolution for everyone.

CHAIRMAN BARTKE: Right.

COMMISSIONER RODONI: And, so, I would welcome voting on this resolution; but I would remind the Chair that there is line over there that hasn't gotten any shorter. So we need to address that.

CHAIRMAN BARTKE: Yes.

Gordon Bennett.

COMMISSIONER BENNETT: I just want to make sure that we include Marin County is this. There are these same issues in Marin County, and we should -- we've spoken, San Francisco has spoken, to San Mateo. Those groups should be included and also Marin County.

CHAIRMAN BARTKE: Absolutely.

[Applause.]

Miss Meyer.

COMMISSIONER MEYER: Dennis, the reason I tried to separate those two is because they're really two very different trains of thought. One is that, before we can go and say to people in the Region we need to talk to you and we want to know what you want to do do, we need to

find out from the various groups, user groups, interest groups -- stakeholders is probably the right word -- what they're thinking and what the range is of what can be done before one can make any representations to another county, or another agency. And that's why I separated the two.

COMMISSIONER RODONI: The Superintendent to approach the exception issue, without going through the process first, so we knew what the exception was that was acceptable to all of the groups, so that was my point.

CHAIRMAN BARTKE: Okay. Speaking for myself, I don't know if any of this is going to work. But I made the proposal because you asked for it. So I will now rephrase the motion in this way:

First, that we ask the park staff to continue to meet with the other land-owning agencies regarding other places where this activity can take place.

Secondly, that the Superintendent meet with all the interested parties, stakeholders -- a better word -- including the elected officials and the congressional offices, and let's add, specifically, the agency of the City and County of San Francisco, within 120 days.

Third, that among these discussions be the possibility of an application through the Park Service for a change in the CFR affecting this park.

Fourth -- and this is the one that I made

explicit, rather than implicit -- that the staff make no changed in its enforcement during the next 120 days.

Those are recommendations and that's the motion that's been made and seconded. Are we ready to vote?

COMMISSIONER SIDEN: Mr. Chairman.

CHAIRMAN BARTKE: Yes.

COMMISSIONER SIDEN: Let me ask for clarification on when you say "stakeholders," because there are groups that are not organized. I had one person call me whose dog was leash, but was attacked by dogs not on leash, and she's not part of an organized group. Is there some way to bring in those who also use the park, but maybe not organized into groups?

CHAIRMAN BARTKE: I think we've said that those people are included as stakeholders. Stakeholder does not mean necessarily groups. But all the groups that have been mentioned tonight, all of them, plus all the users of the park. Okay?

COMMISSIONER SIDEN: Okay.

CHAIRMAN BARTKE: We're ready to vote. All in favor say aye?

[Members voted: 14 ayes]

CHAIRMAN BARTKE: Opposed say no?

COMMISSIONER MEYER: No.

CHAIRMAN BARTKE: The motion is adopted.

[Motion carried: 14/1, Meyer dissenting]

CHAIRMAN BARTKE: We now have before us the recommendation by Dr. Wayburn. This has also been moved and seconded, that we forward this issue to the National Park's Advisory Board.

Discussion on that motion?

COMMISSIONER WAYBURN: Mr. Chairman?

CHAIRMAN BARTKE: Yes.

COMMISSIONER WAYBURN: I recommend a special commission to study and make recommendations. This is not just to the Advisory Board. It's that the Advisory Board and the Director, if necessary, appoint this special commission of knowledgeable people. This does not reach a conclusion at this time, and it is not just pushing it upstairs.

CHAIRMAN BARTKE: Okay. I will reword the motion, then, that's in front of us, which is: We ask that the National Park's Advisory Board appoint a special commission to study and recommend on this policy.

COMMISSIONER WAYBURN: Yes.

CHAIRMAN BARTKE: Michael.

COMMISSIONER ALEXANDER: I'm really quite concerned about this. I don't want to -- I don't want to see us voting. I think we may well be split on this. I don't want to see us voting no on it. And, again, I need

to understand what is the cricitcal -- is there a critical timing here? If there isn't, can't we just table this for a month so that we have a better understanding of it?

CHAIRMAN BARTKE: Well, under Parliamentary rules, if you table it, it's tabled until the Board voted it back off the table. If you want to postpone it to a definite time, that's a different kind of a motion. I would suggest --

COMMISSIONER ALEXANDER: I would ask that we postpone it for a month.

CHAIRMAN BARTKE: One month?

[Unidentified member of the audience speaking but not recorded.]

COMMISSIONER ALEXANDER: No. You're not understanding what I'm, what I'm -- I'm talking about something quite different and very specific.

CHAIRMAN BARTKE: The motion that is being considered by the Commission at this time had been a part of the former motion, but it was split out; and that is: This body requests the National Park's Advisory Board appoint a special commission to investigate and advise it. Commissioner Alexander has suggested a postponment for one month. I've not yet heard a second.

COMMISSIONER CUTLER: I'll second that.

CHAIRMAN BARTKE: Seconded. Discussion on the

-- I believe, on a motion to postpone, you can only discuss the postponement, not the motion itself.

Gordon.

COMMISSIONER BENNETT: I'd like to hope that we can solve this on a local level, so I would like actually to postpone it for the 120 days that we have to look at the local measures.

CHAIRMAN BARTKE: That would be a substitute motion?

COMMISSIONER BENNETT: Yes.

[Applause.]

CHAIRMAN BARTKE: Okay. Is there a second to the substitute motion?

COMMISSIONER RODONI: Second.

CHAIRMAN BARTKE: It's been moved and seconded, the substitute motion, that we postpone the referral to the National Park's Advisory Board for 120 days.

Now, discussion on the -- oh, man! It's later than I thought -- on the substitute motion.

Do you have a question?

VOICE: Are you referring this for a decision or for --

VOICE: Advice.

VOICE: Okay, advice, but not like telling you what you have to do?

CHAIRMAN BARTKE: That's correct. It's simply -- the question remains local.

Susan.

COMMISSIONER ALLAN: Mr. Chairman, I think that it just makes sense. We'll work on this for 120 days and we'll have something.

CHAIRMAN BARTKE: I hope. Okay. The substitute motion, then, is to postpone the referral for 120 days. All in favor say aye?

[Members voted.]

CHAIRMAN BARTKE: Opposed say no.

COMMISSIONER ORR: No.

CHAIRMAN BARTKE: That motion is adopted.

[Substitute Motion (Commissioner Bennett) carried: 12/1, Commissioner Orr dissenting.]

CHAIRMAN BARTKE: Is there anything else on this item to come before the Commission?

[Applause.]

CHAIRMAN BARTKE: The next item on our agenda -- excuse me. Somebody asked that the Superintendent respond. He's willing to do that. We will ask him to do that.

SUPERINTENDENT O'NEILL: I want to, first of all, thank the public for, in most cases, your decorum and appreciation. I really do appreciate the thoughtful

comments of people, like Ed Sayers and Linda McKay, in understanding the delicacy and difficulty of the issue that we have to deal with here. We have a park of extraordinary diversity and extraordinary resource values. And there are many, many difficult issues to try to thread through. And I think this Commission, and I know the park has, has tried to be very resourceful in how we have addressed that given constraints that have to work within. I think we want to continue that attitude of being resourceful, but realizing that we have to thread a very difficult needle here on how we do it, and certainly representing the Park Service in the spirit of wanting to see if there's an answer that is appropriate, that's respectful of other user interests, is respectful of resource stewardship that we all have a concern with, and that the discussions involve all of the key stakeholder interests. Because, clearly, we heard from a lot of people who felt intimidated about coming tonight because of what they expected would be the decorum, and I don't think we got a full representation of all those views tonight. I think it's important, if we have this dialogue, we understand who those stakeholders are and that they feel like they have a voice that's being heard, respected, and dealt with as we address it.

So, clearly, from the Park point of view, I'm

very supportive of moving forward in the spirit of tracking on those three issues. We have to make it clear that, in 120 days, we'll see where we're at. And we have to deploy what we call discretionary authority. There's no such thing as not citing egregious situations. I think you all will agree that there are certain situations out there that need to be dealt with on the spot. Under no circumstances are we going to give up that right and obligation that we have to the public that uses the park. So we will continue to use that discretionary authority, and we will do it in a very responsible way.

We have to make it clear, also, that the Fort Funston 12-acre issue is not subject to this resolution. That's in the courts, and that has to complete itself in the courts. And that that is important that that is a separate issue from this broader question.

Other than that, I think we all here are interested in rolling up our sleeves in trying to find creative ways to deal with the challenges that we've got. And I just want to underscore the fact that we feel blessed in this community to have a national park that has the resource values that are every bit as important and significant as the Grand Canyon or Yosemite. And we need to respect those resources in how we use them in responsible ways.

Thank you.

[Applause.]

CHAIRMAN BARTKE: Thank you.

Perhaps one last thing on this item. I want to express my deep appreciation for those who gave up their time to speak after they had signed up to speak. All of the names will become part of the official record. We have the names of everybody who signed up, even those that were outside in the rain. They're all part of the record.

Looking at our agenda, Item 4 has already been taken care of. Under Item 3, the Presidio Trust Director's Report, he has submitted a written report; and, so, having submitted a written report, I excused him from being personally here.

The Superintendent's Report, Brian?

SUPERINTENDENT O'NEILL: I'm too tired to give one myself.

[Laughter.]

It was a long night last night and an early morning. And we've got a written report and you can read it and you can ask me any questions you want from it.

CHAIRMAN BARTKE: Okay. Moving on, committee reports. Are there any committees, other than the Marin Report, which we already received?

Michael.

//

COMMITTEE REPORTS

PRESIDIO COMMITTEE

COMMISSIONER MICHAEL ALEXANDER, CHAIR

COMMISSIONER ALEXANDER: The Presidio Committee met on December 14. We heard a lot about the long overdue repairs to the PUC Pump Station Building on city property, next to the east end of the Crissy Field Promenade. The Department of Public Works is preparing to repair the plaza, which has been broken up for many years. Unfortunately, what we are going to get are apparently ugly concrete slabs poured over the broken up plaza. Afterwards, we hope that the chain-link fence will be removed.

We received an update on the Presidio Vegetation Management Plan. It is moving towards a finding of no significant impact.

We discussed the Presidio Trust Implementation Plan and its status and the process it will follow. We received an update on the Presidio Interpretation Plan and reviewed the interpretation themes from last Spring's symposium. We received an update on seismic work at the Presidio Visitor Center Building, and we heard an advisory on the ground-cover issues at the east end of Crissy Field.

That's my report.

CHAIRMAN BARTKE: Thank you.

COMMISSIONER ALEXANDER: Thank you.

CHAIRMAN BARTKE: Any other committees wish to report?

(No response.)

CHAIRMAN BARTKE: Now item 5 on the agenda is the election of officers. This Commission has two officers, the chair and a vice chair.

The floor is now open for nominations.

COMMISSIONER CUTLER: Mr. Chairman?

CHAIRMAN BARTKE: Betsey.

COMMISSIONER CUTLER: Mr. Chairman, I'd like to nominate Richard Bartke to be the chairman.

CHAIRMAN BARTKE: Any further nominations?

COMMISSIONER MEYER: I move the nomination be closed.

[Laughter.]

CHAIRMAN BARTKE: I thought I heard a train go through here.

It's been moved and seconded that the nominations be closed. All in favor say aye?

[Members voted unanimously.]

CHAIRMAN BARTKE: Opposed say no?

(No response.)

CHAIRMAN BARTKE: The chair recognizes nominations for the office of vice chair.

COMMISSIONER WAYBURN: Mr. Chairman, I nominate Amy Meyer for vice chair.

CHAIRMAN BARTKE: Amy Meyer has been nominated.

COMMISSIONER ORR: Second.

CHAIRMAN BARTKE: Any further nominations?

(No response.)

COMMISSIONER ORR: Move that the nominations be closed.

COMMISSIONER WAYBURN: Second.

CHAIRMAN BARTKE: Moved the nominations be closed, and it has been seconded. All in favor say aye?

[Members voted unanimously.]

CHAIRMAN BARTKE: Opposed?

(No response.)

CHAIRMAN BARTKE: That completes our agenda for this evening, unless there is anything that is not on the agenda that we have to deal with.

(No response.)

CHAIRMAN BARTKE: No. This meeting will be adjourned in memory of Senator Alan Cranston, Congressmen Sidney Yates and Bruce Vento, and Colonel "Bud" Halsey.

(Whereupon, at 11:15 p.m., the meeting of the Advisory Commission was adjourned, to reconvene at 7:30

p.m., Tuesday, February 27, 2001.

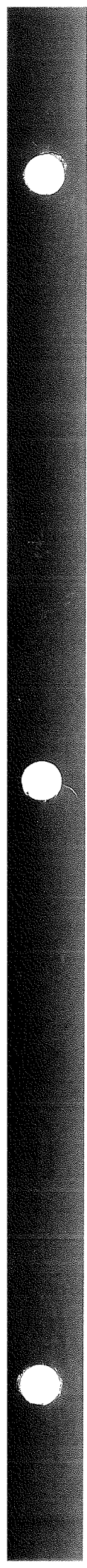
C E R T I F I C A T E

This is to certify that the attached proceedings
before the Department of Interior, National Park Service,
of the meeting of:

The ADVISORY COMMISSION FOR
GOLDEN GATE NATIONAL RECREATION AREA
AND POINT REYES NATIONAL SEASHORE

were held as therein appears, and that this is the
original transcript thereof for the files of the
Commission.

James W. Higgins, CVR
Official Reporter



BEFORE THE
UNITED STATES DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE

Meeting of the
ADVISORY COMMISSION
for the
GOLDEN GATE NATIONAL RECREATION AREA
and
POINT REYES NATIONAL SEASHORE

GGNRA Park Headquarters
Building 21, Fort Mason
San Francisco, California

Tuesday, April 24, 2001

REPORTER: JAMES W. HIGGINS, CVR

GOLDEN GATE NATIONAL RECREATION AREA
AND POINT REYES NATIONAL SEASHORE

- - -

ADVISORY COMMISSION MEETING

- - -

TUESDAY, APRIL 24, 2001

- - -

GGNRA Park Headquarters
Building 201, Fort Mason
San Francisco, California

The meeting was convened, pursuant to
Notice, at 7:30 p.m., Chairman Rich Bartke presiding.

COMMISSIONERS PRESENT:

RICH BARTKE, Chair

AMY MEYER, Vice Chair

MICHAEL ALEXANDER

SUSAN GIACOMINI ALLAN

GORDON BENNETT

REDMOND KERNAN

DOUG NADEAU

TRENT ORR

LENNIE ROBERTS

DENNIS RODINI

COMMISSIONERS PRESENT (Cont.:

FRED RODRIGUEZ

DOUG SIDEN

JACK SPRING

ED WAYBURN

ALSO PRESENT:

For the Golden Gate National Recreation Area:

MAI-LIIS BARTLING, Assistant Superintendent
for Planning, New Projects and Partnerships

FOR THE PRESIDIO TRUST:

HILLARY GITELMAN, Deputy Director for Planning

STAFF LIAISON:

MICHAEL FEINSTEIN

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P R O C E E D I N G S

7:30 P.M.

CHAIRMAN BARTKE: I call to order the regular meeting of the Advisory Commission to Golden Gate National Recreation Area and to Point Reyes National Seashore.

The first thing on the agenda is for the changes to the agenda. After No. 5, Reports, let's add Unfinished Business, which will certainly include the Bolinas Lagoon Letter that we had discussed last time. Under Non-agenda Items, we're told that there will be some folks here from the dog-walking community who will want to address us.

Next is the approval of the minutes of the March 27 Meeting. Everybody got a copy of those. Are there any changes to be made in those minutes?

Ed?

COMMISSIONER WAYBURN: A couple of points I'd like to make. I want to know where was the letter about Bolinas Lagoon, which we took up at the last meeting, I thought, but is not mentioned here. And the other thing is that these minutes, while very comprehensive, are extremely long. I would make a suggestion that an effort be made to reduce the size of the minutes and take out some of the things which are not of great

they have to.

Michael? Where's Michael? Do we have more?

[Conference with Michael Feinstein and
Chairman.]

CHAIRMAN BARTKE: Asking to speak on the
Advisory Commission's web site, John Keating.

STATEMENT OF

JOHN KEATING, ESQ.

MR. KEATING: Good evening. My name is John
Keating. I want you to know I've sat through almost all
of these long meetings over the last year. I want to
personally commend you all on your public service. I
think the park we have is a blessing, and I think its
management is really, really important and must be done
properly.

You may associate me with the dog-walking
groups. I've been trying to assist in getting access to
the public input process. But tonight I speak solely on
my own behalf.

I come here rather earnestly because I want to
warn you of what I'm seeing out at the park, what I'm
seeing in dog group meetings I go to, what I'm hearing
from Washington. In that context, I want to tell you
folks that I've been a long-time activist in many of the
environmental groups that you would think would favor

the kind of changes the park wants to make, with regard to dog walking. The ones I haven't been an activist in, I've been a member.

I go down to the areas of San Mateo that you wish to have included. I talk to the people who go down there to get away from having to look at the fences that have been put up across the open space in San Francisco. I talk to people on the beaches, and I'm really seeing a problem here.

Basically, the problem I see is that there are a large number of people who really care about that issue, who believe a deal was cut on January 23, such that the issue of whether to rescind the dog policy, the pet policy, would be studied, and that there would be no action taken until that studying process had occurred. And they gave up their right to speak that night, or thought they were postponing it, for purposes of working with the Park Service to have it fairly studied. The perception out there on the beaches is that the Park Service has broken that deal. And that's a reality of what people think. You may not agree that the Park Service has broken the deal, but that's the reality of what people have thought.

It appears to many people that there was a policy that passed muster under the law for 20 years,

and that, all of a sudden, it became expedient for the Park Service to have a new interpretation that suddenly the law should be interpreted differently, such that this policy was no good now and must be invalidated. The Park Service finally had public hearings on it. The public hearing stopped after -- despite the thousand people standing outside in the rain wanting to speak, and the many in the room wanting to speak -- it stopped based on the concept that it would be studied.

Now the Park Service, having achieved stopping the public input process, they say: Gee! The policy is now no. And my perception is that they seek you folks to give them the political cover of a rubber stamp that, indeed, it is null and void. You do not need to agree with the Park Service if they want to do that. You don't have to take any action, and that was the deal.

Now, I want to tell you one thing about all this. Obviously, I believe the changes would be bad public policy. Obviously, I'm sure you're aware, I believe, that the means that the Park Service has used to get to those changes have been illegal, and I believe it more. But more importantly, and why I come to you tonight, is that I think it's a really foolish change, and I'll tell you why:

Because you had a whole bunch of

environmental, park-loving people, who are members of these dog groups, who believe that they were having an opportunity to talk with you. And it's a basic principle of organization theory that, if you, if you cut off the process by which the moderate groups can work with you, and their ability to have fair public input, many of the people in those groups will go outside of the groups.

So I'm going to give you my prediction of what's going to happen if you carry on with this process of going along with the Park Service and saying that there never needs to be anymore discussion of this, and that the policy that you had before now is void. Three things is going to happen, I think. You're going to radicalize the groups. The groups that you're dealing with probably will become more radicalized. You radicalize the community.

Secondly, many individuals will go outside of those groups. Those groups, they said, are basically filled up with environmentalists who want to work with the park system. Many people are frustrated because they don't believe the groups should work with you anymore because of what they perceive to be bad faith of the Park Service. Those people, I predict, will leave the dog groups, and the moderate dog groups will not be

what you have to deal with. Then the Park Service is going to have to deal with individuals going out there.

I note you had an excess of a thousand people at a demonstration in San Francisco and no violence, no property damage. I challenge you to find other demonstrations that have people who are acting as mellow like that when they feel their rights have been trampled on.

Okay, that's the second prediction. I'll get to the third real quick.

CHAIRMAN BARTKE: Yes.

MR. KEATING: The second prediction was that people will go outside the groups and act individually.

The third prediction is that people will form new groups of radical groups. Frankly, it's foolish to allow that to happen because of the political position you're in where you're seeking funding for the GGNRA.

Now, 3,000 people signed a petition in three days. What if a thousand people a day were to start contacting Washington? That's what they're talking about on the beach. They're saying that, if the city doesn't take down the property, take back the property, they're going to call Washington and tell them to pull your funding. We don't want that to happen. We want to work with you.

Secondly, the expansion into San Mateo County. It's doubtful to me that that would enjoy the same comfort level. The possibility that the new administration will have higher agency review of our park --

CHAIRMAN BARTKE: Can you begin to wrap up now? You've gone way over.

MR. KEATING: I think that's very likely if you have a lot of people who have given up on working with you. So, I do hope you will keep this in mind, and I wish all Godspeed in keeping this park together.

CHAIRMAN BARTKE: Thank you. I didn't know that you were going to talk about the dog issue because you had signed up for something else. But there are four people who have signed up to speak about -- three other people, who have signed up to speak about that.

Just to put this into context, you will recall that, in our November meeting that some of you were at -- well, we were talking about the policy, as it was called; but actually what it was, was the Commission's advice to the Superintendent in 1978, which somehow got labeled the 1979 Dog Policy. It never was legally adopted by the park. And we're told that it could not have been, because it never was legal and was always unenforceable. In our November meeting of this

Commission, we determined that we could simply withdraw that advice to the park because it had never been legal. Members of the audience asked us to not do that because it wasn't on the agenda, which we acknowledged and we put it on our January agenda.

At that time, again it was announced that the so-called policy was never a policy of the park, it was never legal, and it was simply a matter of housekeeping for the Commission to withdraw that advice, which it had given in 1978.

I asked the folks who were there to talk about what should we do about that, given that fact. Most of the folks who spoke did talk to us about what should be done about it. And there seemed to be a consensus that certain things ought to be done in the future. Based upon what we thought was a consensus, the Commission adopted a resolution giving further advice to the Park Service:

First, that the Park Service meet with the various stakeholders; secondly, that they see if there was support in the community for setting aside some areas where dogs could be allowed off leash, and to then move through the federal process of changing the rules, as they applied to this park; and, next, to contact other land-owning agencies to see if they could loosen

up their rules having to do with off-leash dogs.

As you know, state parks, for example, do not allow off-leash dogs at all, and charge a two dollar fee if you bring a dog on a leash, or in a cage.

We asked that all this be completed, if possible, within 120 days, and that the level of enforcement not change during that 120 days. The Superintendent, at the conclusion, spoke and said that he would try very hard to do those things within 120 days; but he was not allowed by law to ignore the Code of Federal Regulations. He made it very clear that he still would have to do some enforcement.

That concluded the Commission's business on that issue -- except for our general oversight role, which we always have. And in the oversight, which we have so far, it appears that the park is ahead of schedule on all of those points. They have met with a number of stakeholder groups. They have met with the other land agencies. In fact, Senator Jackie Speier, who was represented that night, has introduced a bill -- and I think the hearing might have even today -- asking that a committee be formed to study whether state parks would be willing to change their rules. I'm a little disappointed in the strength of that bill, but that's what she did in response to our challenge to her that

evening.

The Acting Superintendent has informed me that, what they call the rulemaking process has begun. They've gotten the clearance from the Regional Office, in fact from the Park Service, all the way up to the Director. As you may know, we don't even have a Director right now. The former Director resigned January 1, and no new Director of the National Park Service has yet been nominated. So we're a little bit directorless. However, the Park Service has cleared the Golden Gate to begin that process, which begins with the notice, and then a survey, and then it goes on and on. You can imagine what the federal rules are like. It's been predicted that the whole thing might take a couple of years. Anyway, that brings us to where we are today.

There was one unfortunate thing that happened, and it wasn't the fault of the people who were there on January 23, on either side of the table. That one newspaper, and it happened to be the Chronicle, didn't get the story right, and said that the Commission would revisit the issue in 120 days. We never said that. That was not part of our motion. We wrote to the Chronicle and asked them to change it; and, as of today, they have not yet changed it. Other newspapers got a little bit more accurate.

But, anyway, there was, as we understand, there has been, and is, a perception that this Commission is going to revisit that issue. We're not. We never intended to. We never said we would. It wasn't part of the action. The only thing where we ever mentioned 120 days was that we asked the Park Service to begin their process within 120 days. They said that -- the Superintendent said that he would try to do that; and, in fact, he has tried to do that. And, so, we're still within the 120 days, and seems to have done most of the things that we've asked him to do. Or, at least, he hasn't completed them, but he's got them started.

So that's my personal view of it, at any rate.

Doug, you had a comment?

COMMISSIONER NADEAU: Yeah, a clarification. What you just said made it sound like we're not, "we," this Commission, is not going to have anymore involvement in this issue. And I would assume that, since this is a subject that the public is keenly interested in, and that we generally are the venue through which the public expresses their opinions to the Park Service, that, once the Park Service has some sort of policy that they're thinking about formalizing, they will do that through one of our meetings. If that doesn't happen, I'll be really disappointed.

CHAIRMAN BARTKE: I'm convinced that it would happen. If the rulemaking process gets to that point, I'm pretty sure that our Commission will be vitally involved and probably will be the ones that will host a public hearings on that.

COMMISSIONER NADEAU: Thank you.

CHAIRMAN BARTKE: Yeah. But, in the meantime, it's not on any of the agendas that we have. We're just using our oversight role, which we always have and always will reserve to ourselves.

COMMISSIONER MEYER: The only thing I would add to what you said, Rich, was that I understood from neighbors, who watch the -- there was some TV broadcasting of what was said the night of January 23. The TV stations picked up that we said that the 1978 rule could no longer be enforced, and that that was the end of that subject, and regulations take precedence over that kind of Commission rule. And, so, that was where we were left; and, then, everything else Rich said is so.

And, then, it wasn't only the Chronicle. There's a popular newspaper that reaches almost every home in San Francisco, the Independent. They also did not publish the letter that we sent in to try to correct this impression, and we have not been able to correct

this impression. But we're not -- we're going to revisit, as Doug, has said, when the subject is ripe. But, at this time, we have no further action.

CHAIRMAN BARTKE: Gordon.

COMMISSIONER BENNETT: Yeah. I have a question because it has come up in my community, also.

My understanding was that the park had promised that there would no change in enforcement. That the rangers would continue to exercise discretion, as they had been before. And what that boiled down to on the ground was, that, where dogs had been formerly okay off leash, they would continue to be okay off leash, except in circumstances where they were chasing wildlife, or biting other dogs, or so forth. In other words, the pattern of enforcement would essentially, well, not essentially, would stay the same.

So, No. 1, I would ask Mai-Liis for confirmation that that's true.

CHAIRMAN BARTKE: Well, let me interject here. It's very clear that that's what we asked the park to do. But, you know, we're advisory and the Superintendent responded -- and I'm going to need some help here, because I'm not sure exactly how he said it. But it stuck in my mind that he was saying that he would do what he could, but he could not ignore the fact that

this was a federal regulation, and that there was a federal judge now involved, and that he was going to have to enforce. Now how exactly he said that, I don't remember exactly. Do you remember how he said it? Anybody got those minutes here?

COMMISSIONER ALEXANDER: I don't have them, but I vaguely recall that there was something about that the park had discretion on enforcement, and that's about all I remember of it. But, Mai-Liis, maybe you can help us.

ASSISTANT SUPERINTENDENT BARTLING: I think Rich was saying it as accurately as -- I actually wasn't there, so I got a recap of the meeting. But now that a federal judge is involved, there are greater burdens on us to enforce the regulation that have always been in place.

COMMISSIONER ALEXANDER: I see.

ASSISTANT SUPERINTENDENT BARTLING: It's been analogous, or it's been described as analogous, to, you know speeding on the highway. There are speed limits posted and you, you know, people regularly may exceed them. And if you're, you know, reckless about it, you will surely get caught. But there is the ability to also, you know, cite a car for simply speeding. Now that we do have a federal judge involved, we will have

to step up our education about what the rules and regulations are.

You know, I don't think we're in a position to be ever present. The rangers can't be everywhere. The park police can't be everywhere. So we will still be looking for the problem situations first.

CHAIRMAN BARTKE: Actually, somebody handed me the transcript. This is a verbatim transcript, and I'm reading from what Brian O'Neill said:

"Clearly, from the park point of view, I'm very supportive of moving forward in the spirit of tracking on those three issues. We have to make it clear that, in 120 days, we'll see where we're at. And we have to deploy what we call discretionary authority. There's no such thing as not citing egregious situations. I think you all will agree that there are certain situations out there that need to be dealt with on the spot. Under no circumstances are we going to give up that right and obligation that we have to the public that uses the park. So we will continue to use that discretionary authority, and we would do it in a very responsible way."

Okay. He actually made quite a much longer statement, but that seems to be the paragraph that most at issue here.

Fred.

COMMISSIONER RODRIGUEZ: I just wanted to make one comment, because I thought that there was significant movement from the meeting we had on January 23.

At that time, I didn't think there was any way of getting around the CFRs, the regulations that were there. And this entire procedure of Notice of Proposed Rulemaking is totally new and opens up an avenue that, in fact, there may be a change in the offing. And the thing that happens when that goes forward is that we're part of a National Park System, and there are implications for other locations. And, so, I think that's why it has to go through that process. But at the January meeting, I didn't think that there was a vehicle, other than legislation, to change the process.

And, so, I think that, actually, within the 120 days, much has happened that is of significance to start that process.

CHAIRMAN BARTKE: Yeah. I've been told that it's not only a new process, but that this park has never ever done it before. That it has rarely, if ever,

been done in the National Park Service, and that this park had to go to other federal agencies to borrow format as to how to do it. This park did try to do it on this very issues, which is off-leash dogs, some years back and was denied the right to do that by the higher-ups. So there is no experience locally on having done this before, so it's all really new.

ASSISTANT SUPERINTENDENT BARTLING: I would agree. I think we are making substantial progress. We've gotten approval up through our, up through the department, to proceed with the Advanced Notice of Proposed Rulemaking. We're drafting the exact language of that notice now. We understand that the process will take time. It might take a couple of years. And we're not in a position to guarantee that there will be a specific outcome from that process; only that, in that process, the whole intention is, is that diverging points of view get heard. To that extent that's possible, points of view get balanced, values get balanced. And, in the meantime, the regulations really are that dogs need to be on leash, and this is where Brian's comment about our responsible enforcement, combined with education, come in.

COMMISSIONER RODRIGUEZ: You know, even if this is a new process to us, it probably would be

useful, from our perspective, in terms of communicating to the public as to what we understand the process to be, what the steps are. Because I think it's easier then to work with that, than to have a total unknown. I guess that's what the summits that are coming together are supposed to be dealing with what the process is. And to the extent that we know, and I think to communicate it to the public, would be very useful.

CHAIRMAN BARTKE: Let's do that, but I would like to hear from the three people who signed, because they've been waiting.

There's Lisa Vittori, followed by Vicki Tiernan. Do you want to come up and speak to us? The third one is Michael Goldstein.

STATEMENT OF

LISA VITTORI

MS. VITTORI: My name is Lisa Vittori. I come as a friend of the parks.

I've worked with the park in many capacities, for the last 10 years. And I believe in the natural resource mission of the park and support its conservation and restoration goals completely. I emphasize goals, because the Park Service's methods have increasingly concerned me, for the last 5 years.

As an employee of the park, I travel up and

down the coast, from Point Reyes to San Mateo County, and I continually encounter people, both individually and as a communities, who have felt betrayed by the park in one way or another. I have to say that I'm experiencing that at this moment.

My understanding of the January 23 meeting was that we had agreed to hold off for 120 days. Whoops! I left it back there, but I specifically asked you, Chairman Bartke, if we could -- if you would hold off enforcement, and you said that you would, and also citations and signage, and you made that your fourth point.

So I feel like I've just listened to a lot of dissembling and it scares me. As a friend, I'm going to speak to you frankly, as I would any friend who acts destructively and betrays the community trust.

I'm here tonight to specifically challenge your behavior, since the January 23 meeting. At that meeting, my understanding -- and the understanding of the thousand people, or two thousand people, whatever we think there were at that meeting -- was that you agreed to enter into a dialogue with the many stakeholders who use and care about the park. When you say that you want protect the park and its users, we're its users. We go there.

A thousand people, the demonstration that John Keating talked about last Saturday, was -- we had two-days notice. Two days and a thousand people showed up to that. And it was a peaceful demonstration. But, again, a thousand people were mobilized in two days. Those are your potential allies, who have, you know, who are increasingly becoming your enemies.

Since January 23 -- oh, okay. Since January 23 -- actually, the thing you said to me at the meeting, when I asked for clarification, you would hold off on the signs, citations, and so forth, until they come back with a plan. And I remember you asking Superintendent O'Neill for his comments, and that was a masterful display of dissembling. And I work with Brian quite a bit, and I know that he's really capable of that. So what I heard in that was nothing. There was no language that said he was going to do or not going to do anything.

Okay. Your behavior, since January 23, has violated the spirit of trust and collaboration that we expected from you. Mr. Weideman has been quoted numerous times in the paper with inaccurate and misleading information. The papers have stated that on-leash signs are going up on GGNRA lands, and that leash signs -- and leash signs have been installed at Fort Funston, and dog area signs -- dog access signs at

Ocean Beach have been taken down.

The amount of staff -- and, as a friend of the park, I'm going to say this to you: The amount of staff and volunteer time spent on suppressing information, working against potential allies, and responding to the dog owners' lawsuit has been enormous. If you had spent a quarter of that time working to work with dog owners, you would have not only a huge volunteer work force, but you would also have many, many friends. And quite frankly, at a time when there's a Republican Administration coming into Washington, you know, that doesn't have an environmental-like sound to it, this is not a time to alienate your environmental friends in the San Francisco area. Not that I expect that any of them will be sympathetic to, you know, San Francisco anyway. And it's ill spent.

I work under Sharon O'Neill, Sharon Farrell at that time, and she skipped a lot of the staff meetings she had with our staff because she had to go to Fort Funston and deal with the dog-owners lawsuit. I know Sharon is capable of doing a lot great collaborative work, and this was a complete waste of her professional time, in my opinion.

I'm just going to close with something. I'm really disappointed with you. I can't say this enough.

You know, there's so many people who want to work with you. I've spent the last five years watching people suppress and suppress and suppress dog-friendly and dog-able information. And one thing specifically is that, five years ago, or four years ago, we did a trail study at Milagra Ridge, in which we studied the behavior of off-leash dogs. And there were people who did that study that agreed with off-leash dogs and disagreed with off-leash dogs. So there were all ranges studying the information, and then we never presented it to Nancy Hornor, because we were told, even at that time, that the Park Service wouldn't listen to it.

So it's not at Brian O'Neill's level. It's not at your level. It's been a systematic policy in the park, and so the park ends up losing people like me, and other people, who are dog-friendly. Even Sharon Farrell -- you know, look at how many people you've lost in the last six months because of the dog lawsuit: Mary Petrolli, Sharon Farrell, Terri Thomas. Whether they agree or don't agree, they're tired; they're tired people. Pete Holleran left, the native plant expert.

Just as an aside, the word on the street, before that meeting, was that the fix was in. The leash policy was a done deal.

Even at 10:30 that evening, I talked to Amy

Meyer -- and I'm wrapping up now -- I talked to Amy Meyer in the hallway. She talked to me as if I were a Park Service volunteer, which I was, which I am. And she talked to me confidentially, with a couple of other people, not knowing that I also represented dog people, and she said, and I'm going to quote this, she said, "I'm tempted to go home now. I don't know why they're bothering. We've already made our decision." Yeah, I remember it, because I told a bunch of other people, because it was so blatant. Then, a half-hour later, Chairman Bartke made his astounding and welcome suggestion that we take a 120-day break and sort this out.

You know, my understanding is that, in 120 days, we were going to look at this again. And, as Aaron Peskin said -- when you were talking to the San Francisco Supervisors, you asked Aaron Peskin, in particular, well, why don't we put up a sign, or do something like that, do enforcement, or something, and he said because it's a bad way to start a dialogue. You know, we've been engaging in this dialogue with you in good faith, hoping we would find some resolution. And, as he said, you know, now it's a bad way to start a dialogue.

You know, we're park users. We're legitimate

park users. And I can tell you that the studies from Milagra show many ways in which you can work with off-leash dogs, because off-leash dogs fit into Milagra really nicely, and I'm sure they fit into other areas, as well. And, you know, I'm sorry that you have to listen to this, but I have to sit through these meetings, too, and it wastes my time enormously.

Thank you.

CHAIRMAN BARTKE: Thank you. Vicki Tiernan.

STATEMENT OF

VICKI TIERNAN

MS. TIERNAN: My name is Vicki Tiernan, and I was one of the people shut out from speaking at the January meeting. And I wanted to make the point that, if I had known what was in store, with the signs being posted at Fort Funston, the new sign at south of Sloat that appears to extend to the plover nesting area and the area that is off limits to off-leash dogs, I would not have waived my right to speak at that meeting.

The signs are causing immense distress on the beach and on the street among dog owners, and dog owners are a significant segment of the citizens that you represent. And thank you, Mr. Nadeau, for saying that you are a forum for us, and I would like you to be a forum for us. I don't always feel comfortable about it.

Quite frankly, I don't always feel welcome here. I feel intimidated, and I shouldn't feel that way. I'm a middle aged woman, who just wants to enjoy the parks responsibly with my dog. I should feel welcome here. My views should feel welcome.

I would not have waived my right to speak at the January meeting had I known those signs were going to go up. And there are many, many people who feel the way I do, that the Park Service is accomplishing by fiat what they could not accomplish through the open, public process, and fair public process.

It's my understanding that, in the Marin bicyclist case, while they were going through a similar process to get a Section 7, there were no signs posted while the issue was being resolved. And it was my understanding, at the January meeting, that there would be no changes, and that there would be no signs posted. As far as citing egregious circumstances, there are already laws on the books that would cover those circumstances. If someone is creating a disturbance, then you can cite them for that anywhere. I mean, you don't have to have signs posted about dogs on leash to cite people who are causing problems.

For instance: I was out at Fort Funston once and I saw some kids on their bicycles going into the

closed area. They could be cited for going into the closed area. I mean, it's not just dog owners.

What I want to say is that I want to echo what Mr. Keating said, what Ms. Vittori said: We are, dog owners are, environmentalists. You have a huge resource here. We're willing to work. We will write letters to the Department of Interior for funding, if you, if we get any indication that you're willing to work with us and include us. In the promotional materials for Crissy Field, thousands of dollars have been, have clearly been spent on that, and not a single dog pictures in any of those materials. Your alienating a big segment of the population, and it's a segment of the population that really, really cares about the parks.

Thank you very much for listening.

CHAIRMAN BARTKE: Thank you.

Michael Goldstein.

STATEMENT OF

MICHAEL GOLDSTEIN

MR. GOLDSTEIN: Good evening, Commissioners.

My name is Michael Goldstein. I'm not representing any group, but I've been spending a lot of my time, over the last year and two months, publishing a web site that I names www.fortfunstonforum.com. And the idea that we could get together various points of view

on these issues, and come to a meeting of the minds. I ended up renaming that web site www.ggnrawatchdog.com. I think that's speaks volumes about what I've experienced, mostly in this room and over in the Presidio. We're always being locked out of the process. We were locked out, we were fenced out, geographically, at Fort Funston, and we've been locked out of the process.

And I'd like to speak about an endangered species in the GGNRA, and that's citizens. Your role here is to represent the citizens. And I don't want you to forget that, because I think some of you have. I don't think all of you have, and those are the ones that I'm speaking to. There was something that was put up on your web site -- which I monitor and link to all the time on my site -- a few days ago. It was a letter from Amy Meyer and Rich Bartke. And I would like to know if it was approved by the Commission and when and where, and whether that met your disclosure requirements. Because that letter rewrote history, and that's a lot of what I've heard here tonight.

And I'd like to know whether you did rescind your 1979 Pet Policy. It's just a yes or no. You can spin it all you want, but I want to know yes or no. Because you were told, and there was an editorial in the

Chronicle the day of your meeting, and there were a thousand people and there was almost all the supervisors, and you have to say that's unprecedented, and you were told that, if you rescinded that policy -- which is what has happened, effectively, I guess, by the signs that have gone up -- don't try to spin it, because it's not working. You may not see the people out there, but I do, and there's a lot of anger out there. And what we told you, what our supervisors told you, was that we would take Fort Funston back. We looked at the deed, we looked at the documents, there was a commitment, a legal commitment, it was promised to the voters when it was it was voted on, that Fort Funston, and the other city parks, would continue with the ongoing recreation. And this is the Golden Gate National Recreation Area. This is a lie, the Golden Gate National Park.

I went to the web site of the National Park Service about three hours ago, before I came here. There are 384 national parks. And if you click down through them, there is one called the Golden Gate National Recreation Area, and I would like you to start calling it that because you're spreading a lie out there on buses all over town, and banners. And you're in a partnership with an organization, the Golden Gate

National Parks Association, which you have given a concession for a monopoly on such things as the Alcatraz tapes and books, which, if you go to the Visitor Center at the Presidio, tell kids and adults all the activities that are available in the Golden Gate National Parks. Which it also says don't confuse with Golden Gate Park. Although, it is the group that has created that confusion.

If you look in the activities book, you will see 23 units of the GGNRA, and you will see a list of 18 activities in the table. There is not one mention of dogs anywhere there, on or off leash. And that is simply a lie because dog users and dog walkers are the predominant user group in the GGNRA. And stop trying to hide that fact.

I have a personal interest in wanting to know what happened to the names of the hundreds of people that were standing outside in the rain, because, not only was I one of them, I was the person that was collecting those signatures to speak to you, people who wanted to be heard. And I tried to get those names into the park police, who were barring the doors to a way too-small meeting room on a controversial issue, and they wouldn't let me. I pointed to your staff liaison, Michael Feinstein, through the window and said, "I need

to get these to him. Would you please get them. These are people who want to speak. This needs to get to them." And they denied that. It was only because Supervisor Leland Yee happened to be coming out, and his aid, and I was able to get those names in. And we were told then that those names were made part of the public record more than once.

I want to know where those names are, and I want you to hear from those people, because this issue is not dead. It is not going away. The only way that it will go away is for all of us to go away and take our park with us.

So it's a silent spring here. You don't have a lot of people out there. Democracy is noisy and it's unpleasant, and sometimes people seem rude in their decorum, but they're here trying to speak to you. When you bar them out of the room, with police, when you hide from them, you create anger. And you're continuing to do that.

And I, again, would like to know who authorized that letter? Does it speak for the Commission as a whole? Because I've talked to a lot of people who have just had it up to here.

These signs that have gone up are unacceptable. Whatever process is going to be going on,

there is still, in effect, a pet policy from 1979. I'm putting it on my web site. It's been authorized. I've seen the documents. It's been approved. It's been through all the different procedures that go into effect in a federal agency, and you can't deny that. That is the operative policy, and that's what's going on. If you're going to put signs there that say, "pets on leash, that is against your own policy. And if you don't have the guts to stand up in your oversight role to the Park Service on this issue, then you're going to lose Fort Funston.

Thank you very much.

CHAIRMAN BARTKE: Thank you.

I was hoping we would go on with the agenda, but go ahead.

COMMISSIONER BENNETT: What is happening where the rubber meets the road? In other words, when the CHP is out there giving tickets, everyone understands that there not going to give a ticket when you're going 56 in 55 MPH zone. There is a priority of discretion. And my understanding, coming out of that meeting in January, was that the discretion area of enforcement was going to be focused on the areas where previously we had a policy that allowed dogs off leash. So that, in effect, there would be no change in enforcement after that meeting,

versus before that meeting.

Is that -- I'm putting you on the spot, but I'm getting -- I have questions from my constituents -- so to speak -- and they're saying: The signs are up, what does this mean? And I've been telling them, well, it's something the park had to do. But, as far as what actually happens on the ground, are you going to get a ticket for walking your dog on Muir Beach off leash when it's not disturbing a bird, it's not biting another person? Are you going to get a ticket for that? I've been telling my folks, well, the chances of you getting a ticket for that are about the same as your chances of getting a ticket from the CHP going 56. Is that accurate?

CHAIRMAN BARTKE: You know, I think we're putting the staff in a position where they can't even answer, because, you know, there is a federal rule. It was not adopted here in this park; it was adopted by the Feds. And despite what the speakers tonight have said, it is a federal rule. The policy --

COMMISSIONER MEYER: The Code of Federal Regulations.

CHAIRMAN BARTKE: Yes, the Code of Federal Regulations. The park has, as they promised to do, begun the process to discuss whether that rule ought to

be changed as to this park. But until it's changed, it's the law. And, so, if you asked a highway patrolman, are you going to cite somebody for going 56 when it's 55? His proper answer has to be, Yes, even though you and I know that the real answer is, No.

ASSISTANT SUPERINTENDENT BARTLING: The official answer is: Yes. But it is as you say, that the chances are you are likely not to be cited. But that is exactly right, the official answer --

COMMISSIONER BENNETT: Very, very likely.

ASSISTANT SUPERINTENDENT BARTLING: Likely, very likely.

CHAIRMAN BARTKE: Okay.

COMMISSIONER NADEAU: I hate to do this, but I'd just like to make a couple of comments; and, then, I hope we can sort of end this.

I'm still not clear why the park posted signs. It seems to me that we -- and let's not do it tonight, because we may not have that information. But I'd like to know. It seems like that was a huge slap in the face and a demonstration of betrayal to the dog-walking community. And I still don't understand why we did it. Someone briefly told me, well, we had to do it because, you know, someone told us we had to do it. But, if were Brian, I wouldn't have done it.

The second thing is that it doesn't sound to me, based on what we've heard tonight -- I will assume these people are representative of more than just themselves -- that the process that we're going through, which I felt, based on what I know about it, is good and you're going to be involved in that process. I think. And, if we're not, then, we ought to change it.

So I guess I would just like to close by saying it sounds to me like the park needs to explain what process they're going through to the community and assure them that people in this community are going to be involved in it. And it won't be just dog walkers, it'll be people who don't want dogs off leash. I mean, I think we made that clear at our last meeting. It doesn't seem to me like we've gotten that across to people.

CHAIRMAN BARTKE: Mai-Liis, are you willing to address the process that you've gone through so far and what the process will be?

COMMISSIONER NADEAU: Well, I didn't really think I was asking for that tonight, but --

CHAIRMAN BARTKE: I'm asking if she can answer it tonight; and, if she can, let's do it.

COMMISSIONER NADEAU: Great.

ASSISTANT SUPERINTENDENT BARTLING: The

process that we're going to be undertaking is called rulemaking. And there are a couple different ways. There's rulemaking, there's negotiated rulemaking, there's a couple different avenues for how it's specifically done. One of the first things that happens is like an assessment to determine whether there's even, like a basis for negotiated rulemaking, there's some ground on which the parties can come together and have some potential to, you know, get to a positive place.

So before -- we are not yet in a position to spell out exactly what the steps are that are involved. The very first step is to put out the notice that we're engaged in a process; and, then, you know, through that, we'll begin determining who and how and what kinds of public meetings will be happening, how they'll be facilitated. It isn't something that, I think it's been said, we or any park has a lot of experience with. But we are, we have been contacting some of the organizations that have worked with the public agencies that have done a similar process. And we're hoping to learn from how this has been approached in other places that have had very difficult issues to work through.

I think one thing we can say is that we don't know exactly what the specific outcome will be; and to say that we do would be to prejudge where we'll come to.

I think what you can expect is that we will, you know, continue drafting what the process is, what the notice is, then there will be some evolution.

CHAIRMAN BARTKE: Excuse me. I apologize for interrupting. But I don't think we want to know all that bureaucratic stuff.

ASSISTANT SUPERINTENDENT BARTLING: Right.

CHAIRMAN BARTKE: What we want to know is: Have these people been met with? If not, when are they going to be met with? We understood from Brian that he had a whole list of groups that he was meeting with on it; and, some of them, he's already met with two, three, four times. Is that -- have you guys --

ASSISTANT SUPERINTENDENT BARTLING: I think Rich can help address a little bit about who Brian did meet with.

CHAIRMAN BARTKE: Do you have a microphone back there?

MR. WEIDEMAN: I can help a little bit. Within the dog community, we've been meeting on a regular basis with Crissy Field, Fort Funston SF Dog, SPCA, and those organizations. We've been in touch with National Parks and Conservation Association over the phone, Native Plant Society, Audubon Society, et cetera. We haven't held formal stakeholder meetings because we

don't have the process yet.

Advanced Notice of Proposed Rulemaking is the step before rulemaking. It's never been done in the National Park System that we can find. We found parks, like Fire Island National Seashore, that's doing negotiated rulemaking; Cape Cod has done negotiated rulemaking. We did rulemaking for the mountain bikes, as was mentioned earlier, up in Marin. But Advanced Notice of Proposed Rulemaking, we have not found one single national park in the system that has done that.

So we're trying to find out what that process is. Unfortunately, our examples tend to be regulatory agencies, like the EPA -- what is another one? -- Commerce comes up a lot. What Advanced Notice of Proposed Rulemaking does is it allows you to test the waters without making a commitment to go to rulemaking, whether it be negotiated rulemaking, or where the agency writes a rule, posts it, and solicits comments.

So we're literally researching probably -- in our Public Affairs Staff, 3 to 4 people, are putting in 2 to 3 hours trying to find out what this is, what the process of public involvement is. And we're looking to have to hire a full-time staff person to do this over the next few months, and we're looking to having to bring on probably some sort of a consensus analysis

group to help us see what kind of consensus there is out in the community, because we're getting very conflicting messages on the dog issue, in general, whether to do it, whether not to do it; how many letters are coming in, how many phone calls are coming in, faxes and e-mail. We've also been informing the congressional delegation and meeting with interested Board of Supervisors.

So we're doing the stuff that was asked for during the 120 days, but we haven't had stakeholder meetings. Because, honestly, we don't understand the process, yet. We don't want to start down the road, holding stakeholder meetings, that aren't going to lead to anything. So we have to really educate ourselves on the process before we move forward.

Does that help a little?

CHAIRMAN BARTKE: Yeah, but you raise a lot of questions. Susan?

COMMISSIONER ALLAN: Well, I don't think I speak just for myself to say that we have many very interested parties, very eager to move forward in some meaningful way. Perhaps one of the most useful first steps is to be as clear as possible in our communication with the stakeholders about what is going on.

MR. ESPINOZA: Yes.

COMMISSIONER ALLAN: So I just encourage as

much communication as we can have.

MR. WEIDEMAN: Our most recent update was March, I think March 23, or something like that, or the 29th, on our web site. We don't have any new information, since then, because we're still researching it.

COMMISSIONER ALLAN: Sometimes it's good to know that.

MR. WEIDEMAN: Yes.

CHAIRMAN BARTKE: Doug.

COMMISSIONER SIDEN: I think it would be helpful if we could have the transcript of the portion where you mentioned this 120 days, along with Brian's response. Because there's different, as you say, perceptions out there of what action, or what was said.

Secondly, I'd just to concur with Doug on the putting up of the signs. Now, if George W sent an order down, I suppose it had to be followed; but it was like a red flag during this 120-day period.

So those two comments.

CHAIRMAN BARTKE: Okay. I'd not seen the transcript until tonight. But I have found the place where I began my proposal on how to deal with it, and it's consistent with what I've said earlier, and what the letter to the editor was. But it goes on quite a

ways. You know, that was a long discussion. I think it took us -- what? -- 40 minutes just to frame the motion. So, although I found where it starts, I haven't gone all the way through it. But let's move on down.

Michael?

COMMISSIONER ALEXANDER: To me, there is one significant point, as I understand it, and I want to be sure that I understand this correctly -- I'll ask anybody who can assist me on this -- that, up until January, the -- first of all, this is a park that does not exist in and of, in and of itself. It is part of a system. It is part of a national system, and it is subject to national regulation. And your nods are appreciated that that is understood.

Up until now, the efforts to address this situation, this specific issue in this park, have been met at a higher level by a denial to engage in the rulemaking process, as I, as I understand it. And that, since the January Meeting, that denial has turned to an approval to beginning this process. That doesn't mean that the process ends in success. That doesn't mean, as I understand it, that we would even get through the process. But without that approval to start that process, we were at a stalemate, which is where we've been for 20 years.

I, as I understand it, we are now off of that stalemate. We have an avenue, a new avenue, to pursue that has the opportunity to reach a settlement, which, which will work for this park. That's my understanding, and I think that that's a very -- if I'm correct in that, I believe that that is a very significant change.

Do I understand this?

ASSISTANT SUPERINTENDENT BARTLING: You are correct in that. We have the approval to begin a process of rulemaking. One of the first formal steps will be to put out a notice that this is a step further than we were a few months back.

COMMISSIONER ALEXANDER: Okay. Thank you.

ASSISTANT SUPERINTENDENT BARTLING: Yes.

CHAIRMAN BARTKE: Dennis.

COMMISSIONER RODONI: Just one quick comment. I'd like to second Doug's suggestion, that we get some information as to why the signs went up, official information. And I suggest that that be released to the papers, too. I think there needs to be an understanding of why there was that decision to put the signs up at that time. I think it's fair that everyone should know what that was.

[Voices in the rear, but not on tape.]

CHAIRMAN BARTKE: Wait a minute. We're

discussing what you've already told us.

Gordon.

COMMISSIONER BENNETT: I feel the same way about the sign issue. The emphasis in discussing this has been on the Advanced Notice of Proposed Rulemaking and bureaucratic steps, and I think that's important. But, in the meantime, there are what I consider common, good sense, and neighborly actions that need to be taken in this situation. So that, when you have an expectation that you have a user group that's extremely sensitized to an issue, and you have the possibility of a sign going up that you think, reasonably expect, might be upsetting to them, that some effort is made to reach out before the signs go up, and just talk about it, or explain it a little bit, even though it's not necessarily part of the Advanced Notice of Proposed Rulemaking and is not bureaucratic. We have a situation here that is highly sensitized, highly explosive, and it just seems good practice to just try to calm things down and reach out before these things happen.

CHAIRMAN BARTKE: Doug.

COMMISSIONER NADEAU: I promise this is my last comment on this issue.

I know this is a new process. I'm

disappointed in hearing that it maybe is dragged out as it's going to be. I mean, the park has gone through -- the park, over the years, has a tremendous amount of experience in dealing with controversial issues. The mountain bicycle issue, I think they dealt with in a very professional way and designed their own process to do it. I think that ended up in a very satisfactory manner.

I hope that this, if this is a two-year process, I hope we don't sit around on our hands for six months and not talk to people. I don't care what they tell us the process is. I don't know why we can't start meeting with people and talking about how we're going to resolve this issue. I think we can start that right now. Once the formal process is defined, people are going to tell us, yeah, you're way ahead; you've already met with people. I just -- maybe I'm wrong, but just a bit of advice.

CHAIRMAN BARTKE: Redmond.

COMMISSIONER KERNAN: I guess I keep reading about it, and I have to talk about it. I wasn't at the January 23 Meeting, so I can have a totally different view as to what's going on. But what I hear, with one ear, is that the park is willing to, perhaps, approach some rulemaking; and, therefore, they have an advance

notice, first. Maybe they can change the rules, and they're taking a bold step to reach out to see if there's a way to have some accommodation. On the other hand, signs go up, it's going to take two years, maybe. In the meantime, we're going to enforce the law. And the two things don't seem to equate.

I got the impression that things were all right last year, and the year before, and they could go on that way for another year, or so; and, that, actually doing nothing different than what was being done was just fine. And I think putting up the signs was a terrible, terrible public relations error. I'm not sure if some lawyer said: Gee, you better do this. But I would generally have cautioned, I guess, taking a different view.

I would suggest taking the signs down, quite frankly, and just have a very clear statement that we're going to continue with what we've been doing. If there's inappropriate dog activity, it will be cited, but that we'll continue to march.

You are in a position, I think a bold one for this park, to be in this Advanced Notice of Proposed Rulemaking, which no other park has done, and I think this time frame has to be collapsed. I think two years is -- I can't imagine -- I mean, you can do an EIS in

less than two years. I can't imagine that this should take that long. We need to find a way to compress that time so that there is a result, at least to complete the advanced notice.

So I would urge -- I think, like any good administrator, you're able to go with either answer; and, therefore, you're preserving both options. But in preserving both options, and I don't say you, the park -- it is worrying people that you're changing what they thought was going to happen, and it is fouling, I think, the discussion that might take place. I think we ought to just go back to the way things were a year or two ago, continue to enforce the law the way you were at the time, and move up the rulemaking.

ASSISTANT SUPERINTENDENT BARTLING: Just a minor point on the rulemaking, I don't think there's anything that says it has to take two years. We've gotten a couple of examples of other processes. The time frames come from the other agencies who have been involved. I don't think there's anything that says that it has to be two years, and there's isn't great advantage to trying to do it as, you know, as fast as it can be done.

CHAIRMAN BARTKE: Ed.

COMMISSIONER WAYBURN: I just want to add my

two cents' worth.

I, too, agree with what Redmond said and what Dough said. I think the signs were most unfortunate. I think that our people have to understand that this park has been in the vanguard of trying to change things. This is not Golden Gate's position; it is the national position, which Golden Gate had to follow. Brian O'Neill has gone and gotten permission to start something else.

I think that -- I suggest that, you people who have come here, don't lambaste the Commission. We're your representatives. We're not the park. We give advice to the park, but they don't need to take it. However, we're used to being the buffer. So, if you want to go ahead and lambaste, go ahead.

[Laughter.]

I have to say, on a personal basis, I'm also a dog walker, and I understand what you're talking about. But let's get on with it.

CHAIRMAN BARTKE: Speaking for myself, I'm both proud and sad from what I've heard tonight. I'm proud of the fact that the Park Service has started the meetings, and proud of the fact that they started the rulemaking process. But I'm also, as others, I would like some definitive answer about why the signs went up

the way they did, when they did.

Secondly, it saddens me that, when we're already down 38 employees from where we were 20 years ago, we may have hire an employee to get us through this, and the whole bureaucratic thing that may take up to two years.

Finally, I think, when people say that they're being shut out of the process, you invite them in, and you don't wait for the rulemaking to start; you start not. You look at your calendar and say: I can see you tomorrow, I can see you Friday, or whatever. But, anyhow, that's just me talking.

Anyway, can we now go on with the rest of our agenda? We got a lot of business to do.

Thank you very much for coming.

Reports from the Superintendent, Acting Superintendent Mai-Liis Bartling.

SUPERINTENDENT'S REPORT

MAI-LIIS BARTLING, ASSISTANT SUPERINTENDENT

FOR

PLANNING, NEW PROJECTS AND PARTNERSHIPS`

ASSISTANT SUPERINTENDENT BARTLING: I think everybody had this hardcopy in their folder. So I'll just very quickly highlight a couple of items from the Superintendent's Report.

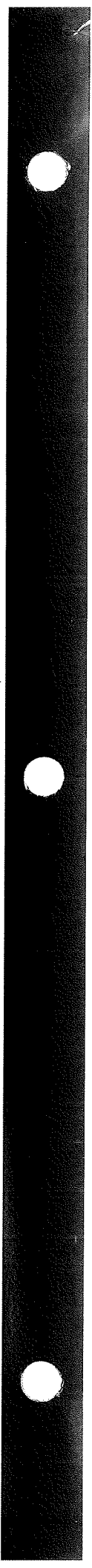
And he said, "The Commission will decide if it gets cancelled or not, not the staff." So he said, "When you get up there, if it's raining, you call me and you can either have the matter postponed to our next meeting at the Seashore, or we can have the feed inside the ranch house, which we've done before." So he was very particular that his invitation is to the Commission and not to the staff. Bless his heart.

Nothing further?

(No response.)

CHAIRMAN BARTKE: We're adjourned.

(Whereupon, at 11:10 p.m., the meeting of the Advisory Commission was adjourned, to reconvene at 7:30 p.m., Saturday, May 5, 2001, at the Point Reyes National Seashore.)



GOLDEN GATE NATIONAL RECREATION AREA
AND POINT REYES NATIONAL SEASHORE

- - -

ADVISORY COMMISSION MEETING

- - -

TUESDAY, JULY 24, 2001

- - -

GGNRA Park Headquarters
Building 201, Fort Mason
San Francisco, California

The meeting was convened, pursuant to
Notice, at 7:30 p.m., Chairman Richard Bartke presiding.

COMMISSIONERS PRESENT:

RICHARD BARTKE, Chair

AMY MEYER, Vice Chair

MICHAEL ALEXANDER

GORDON BENNETT

BETSEY CUTLER

REDMOND KERNAN

YVONNE LEE

DOUG NADEAU

TRENT ORR

DENNIS RODONI

COMMISSIONERS PRESENT (Cont.):

FRED RODRIGUEZ

DOUG SIDEN

JACK SPRING

ED WAYBURN

ALSO PRESENT:

For the Golden Gate National Recreation Area:

BRIAN O'NEILL, General Superintendent

FOR THE PRESIDIO TRUST:

CRAIG MIDDLETON, Deputy Director for
Operations and Government Affairs

STAFF LIAISON:

MICHAEL FEINSTEIN

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In memory of Henry Hillman and Victoria Cohen

P R O C E E D I N G S

7:30 P.M.

CHAIRMAN BARTKE: Good evening, Ladies and Gentlemen. Welcome to the regular meeting of the Advisory Commission for the Golden Gate National Recreation Area and the Point Reyes National Seashore.

A word of introduction, for those who might not have met with us before. This Commission, the members of this Commission, have been nominated by local groups, and then appointed by the Secretary of the Interior. Some of our jobs include listening to the public on park issues, to give our advice to the Secretary of the Interior on those issues, and the Secretary is represented by the Superintendent of this park, Brian O'Neill, who is sitting on my immediate left. All the other members of the Commission are at the table and have their names in front of them, so I won't introduce each and every one of them.

We are advisory, as our name says. We don't run the parks. We don't work for the Park Service. We're citizens who receive input from you, and then pass our advice on to the Secretary.

The agendas are in the back. If you haven't got one, you may pick one up. But there are going to be a couple of changes to the agenda. First of all, we're going to move up the Presidio Trust Director's Report to

CHAIRMAN BARTKE: Thank you. And I have a copy of your letter, dated today, to the Sausalito City Council. We'll have the copied and given to all the Commission Members.

Lisa Vittori.

STATEMENT OF

LISA VITTORI

MS. VITTORI: Hi! My name is Lisa Vittori.

I came here to report to you and to ask you about the dog issue. Luckily, I've seen what you have to say. I think I've been watching too many episodes of the Sopranos recently, which is why I think I'm not going to watch it anymore. Because I feel like spitting on this document. This is not the agreement we made that we made in January. This is not why we waived our right to speak at that meeting.

In the last few weeks, I've been talking to a lot of people, which is not what I want to spend my time doing.

When Marc Albert gave his presentation, I worked at everyone of those sites, for the last 10 years. I've taken out Cape Ivy. I've been in poison oak. I've had literally cases of poison oak. You're utilizing my abilities in the wrong way. However, I do have to do this now.

As I've been talking to people, for the last three weeks about a rally we're having, people have been asking me: What's been happening with the Park Service? We've been getting a lot of reports that people are being cited and ticketed. What you told us in January was that people would not be cited and that we have a process going on within the next 120 days. Six hundred people waived their right to speak in January on the condition that you were going to work with us fairly. Whatever this is called, the ANPR, or whatever it is. You know, I don't, quite frankly, give a shit about the public process or the federal process because I've realized that the Park Service is behaving -- has become a Trojan Horse. And I'm almost done with my three minutes.

We supported you, and I've supported you, in particular, in doing habitat restoration, and putting, you know, saving all this open land. And what's happened is that the federal rules and regulations, which we have very little influence over in our little, you know, jurisdiction here, have come in and, you know, basically bitten us in the butt.

And excuse my language, but, you know, quite frankly, I know where every tool in the Park Service is. And I have not used any tools to do any damage to any

object in the Park Service because I'm using the public process in the way it was designed. But you are really pushing a lot of people to the point where we're going to have to start doing civil disobedience if we don't start getting a fair and equitable response from you.

I'm going to formally ask you now to schedule the dog policy for September to give every person, every one of those 2,000 people who were there in January, a chance to hear what you have to say about it.

Thank you.

CHAIRMAN BARTKE: Thank you.

Michael Goldstein.

STATEMENT OF

MICHAEL GOLDSTEIN

MR. GOLDSTEIN: Good evening, Commissioners.
My name is Michael Goldstein.

I never received any response to my question at your April 24 meeting. To remind you: I wanted to know whether this Commission had approved a letter, which was signed by your Chair, Rich Bartke, and Vice Chair Amy Meyer. The letter, which was on your website, and published in local newspapers, claimed that the Commission's 1979 Pet Policy, begin quote: "... had been delcared invalid and was no longer in force."

If the policy was not in force, then why was

there a stealth motion, not on the agenda, to rescind it last November? And when that motion was objected to and found out of order for not being on the agenda, then why was it placed on the January 23 agenda if the 1979 Pet Policy was not in force?

Clearly, the GGNRA has permitted off-lease dog recreation for decades. When this off-leash recreation was threatened by the motion to rescind the 1979 Pet Policy, over a thousand people showed up -- and you might contrast that to the nine letters you received on one topic tonight, and a hundred people that showed up at a meeting in Sausalito. Not that those are not important; but, when a thousand people and almost all of the Board of Supervisors in your city show up, that is important -- most of whom were locked out by police from attending your January 23 meeting at the Golden Gate Club, after hearing from fewer than 50 of these thousand people who wanted to speak, the Commission cut off further speakers.

The only reason these people accepted being denied the right to speak was the Commission's decision to table the motion for a 120-day period, during which there was explicitness to be no changes in policy or enforcement. Instead, while announcing a complex and lengthy process known as Advanced Notice of Proposed

Rulemaking in the media, the National Park Service made immediate changes on the ground, posting new signs, which state, "Pets on Leash."

Today, I see that a new publication has just been issued, entitled, "Enjoying the park with your dog on leash." This is a complete rewrite of the 1979 Pet Policy. It goes into great detail, including a map and details on whether dogs are totally banned, or allowed only on leash in each of 20 areas of the GGNRA. Except that policy was the result of public input, discussion and negotiation over several years, not accomplished by management fiat, as is this new brochure.

As you know full well, the thousand people who tried to speak to you were overwhelmingly opposed to rescinding your 1979 Pet Policy. Admit reality. You could not politically rescind that policy, neither by stealth motion in November, nor in the face of enormous outcry in January.

Now, through the signs, the new "Enjoying the park with your dog on leash" brochure and website publication, the management of the GGNRA has made a complete end-run around this Commission.

Again I ask: Did this Commission approve the letter to the editor by your Chair and Co-chair? If so, was this done at a properly noticed public meeting? And

are you trying to claim that you did rescind your 1979 Pet Policy when, in fact, you had it on your January 23 agenda and most certainly did not vote to rescind it?

Please don't let the GGNRA management accelerate its campaign against off-leash recreation without holding a public hearing. If you do choose to do the right thing, please choose a venue that respects the citizens whom you've already locked out before. I see that there are facilities, such as Herbst Pavilion and Festival Pavilion, just down the hill at the piers here at Fort Mason, which can easily accommodate large numbers of people. Don't fence us out. Don't lock us out. Do play your role as an oversight body.

Thank you very much.

CHAIRMAN BARTKE: Thank you.

John Keating.

STATEMENT OF

JOHN KEATING, ESQ.

MR. KEATING: Good evening. I'm John Keating.

Just to follow up on what Mr. Goldstein was saying, when Senator Bible was giving his testimony, despite the specific intent for you folks, as serving on this Advisory Commission, what they describe as being the intent was the Advisory Commission is there to protect the federal bureaucrats from running roughshod

over the public. That's your job.

I want to, tonight, warn you about how this accelerating campaign against recreation use, specifically off-leash recreational use of the GGNRA, is going to cause problems for you. While Supervisor O'Neill correctly, Superintendent O'Neill correctly, predicts that you have a good chance for the Senate Committee to pass a bill, sponsored by a member of the committee, Dianne Feinstein, in a Democratic-controlled environment, of course, your chances of success in a critical House Committee of Natural Resources is very low if you carry on the continued conduct in the GGNRA, which is hostile to recreation uses.

The other half of the bill that you have before the Senate and the House talks about the continuation of the existence of this committee. As you know, you have to be renewed. You know you're set to be renewed for a 20-year term. My understanding of the climate, right now, in the House Committee is that you should be renewed, and you're a good, good organization, if you, in fact, protect the public. But, if they catch you rubber-stamping efforts by the Park Service to restrict public access, I don't think you have as good a chance of being renewed, and I think they will look into the make-up of the committee, as well.

Quickly, I want to go to the issue of what's happened with this radical change in the Pet Policy. It is a radical change. We had a policy that worked well for 20 years, and it's been unilaterally, completely altered. You do not need to make that radical change in the interim while you're studying the issue. The only reason to do that is if you have decided how you want it to turn out in the end. And you know that, by making the change now, you have a better chance to get it. And that's what seems to be happening.

The one thing that is clear about the case law in the area is that Superintendent O'Neill and the Park Service have the discretion to not enforce this new interpretation of the regulation, a different interpretation than they've had for 20 years. It's now expedient to have a new interpretation. You don't need to enforce that new interpretation while you're studying the issue. Cases are clear on that. We've provided that authority to the Park Service's lawyers. I do not know if you've been provided with that.

I want to say that what is also clear is that you're required to have a public hearing. Now the Park Service has given several excuses for not having a public hearing on this radical change that they're making. One is that they never adopted the Pet Policy.

That is simply inaccurate. Document after document confirms that the Pet Policy was adopted. The GGNRA made those representations to Congress. It was included in the management plan. It has been adopted. There's no question as to that.

Second argument the Park Service makes is that it's illegal because of this general regulation. Well, that's an issue that's been disputed rather rigorously.

And I want you to know that, in the Fort Funston litigation, the Park Service's lawyers repeatedly made that argument, and the Court rejected it. The Court did not buy that Park Service's argument that they could avoid public hearings because they had new interpretation that this regulation applied. In fact, something very unusual happened in this litigation: The Court awarded the sanction of attorneys' fees against the Park Service on an injunction. Very rare. The reason it is so rare is that the Court only does it, and is only allowed to do it, only has the discretion to award attorneys' fees when the government's position has no substantial justification. The government can take a position and argue it, even if it's not a very good position. If it's wrong, it doesn't matter. They don't have to pay the public attorneys' fees unless there is no reasonable

basis for it. And if the Court makes that extreme conclusion, then it awards attorneys' fees.

Now the Court argued the -- I'm sorry, the government argued this general regulation application in the lawsuit, and the judge determined that there was no substantial basis for the government's position. Therefore, the judge rejected it and found that there wasn't, that it was an inadequate excuse to avoid the public hearings.

So, please, please, when you know the law applies, don't seek to jump around it or we're going to be back where we were before. This time, not only are you going down the road of following the advice that took you down the wrong road before, but you're doing it already having been sanctioned by the court.

Secondly,

CHAIRMAN BARTKE: Can you --

MR. KEATING: Okay, I'll -- the argument by the Park Service that it doesn't need to have hearings because the policy was never adopted is irrelevant, to some extent, because the public hearing is required if there is any restriction in the use that significantly changes the pattern of activity. So it doesn't matter whether you're changing a policy if you're going to have an impact of a bid restriction of use. Clearly it will.

You also have to have public hearings if it is highly controversial. No one can argue it's not highly controversial.

The last quick point is I understood today that these issues were being briefed in the San Francisco Committee hearing. We're not able to know what's said there, so we can't advise you if we think that you're not getting accurate information. The only person who has been truly impartial, who has looked at the quality of information being provided by the park staff, was a Federal Court Judge, a noted environmentalist before he came onto the bench. And what he said is that we were being railroaded, the information provided was skewed. And he took the unusual step of saying it was so skewed that he wouldn't rely on the information that the Park Service provided, but the he needed to go and do an independent analysis with other documents.

So I ask you, please, please, get some independent analysis of this and don't go racing down to that end result when you don't need to.

Thank you very much for your patience.

CHAIRMAN BARTKE: Thank you.

That concludes the speakers who have signed up to speak on non-agenda items. Is there anything further

to come before the Commission?

Doug.

COMMISSIONER NADEAU: I just have a quick comment that I'd like to preface by saying that I don't response and I don't want to generate any discussion. It's kind of nice that we're getting, getting out of here relatively early.

I was recently somewhat alarmed to see that we were, the the Fort Mason Foundation was sponsoring an exhibit in the Presidio on torture implements. I didn't go to the exhibit so I really can't criticize it. There may be some relationship of that subject to National Park Service mission, but I've tried to dream of what that might be.

Anyway, I generally think the programs that our park partners do are really great, and I don't want to pick on this particular one. I just bring it up as an example. But I would just like to take that opportunity to comment to Brian that, at some time in the future, like within the next year, or -- you know, I don't want to make this a big deal. But it would be nice to hear from you -- and I'm saying this as a 25-year senior staff member, I don't know the answer to this, honestly -- what the Park Service does to monitor park partner programs to assure that those programs are

appropriate in the park. There have been a few really outstanding examples of things that I didn't think were appropriate. I won't mention them right now. But I'd just like -- at some time in the future, I'd like to have a discussion on that subject.

Amy has her hand up. Remember! I didn't want any discussion on this subject.

CHAIRMAN BARTKE: All right. I was just going to comment that the exhibit was offered to the Park Service. It was offered to Alcatraz, it was offered to the Presidio Trust, all of whom turned it down. But the Fort Mason Foundation is an individual corporation of its own. And, yes; we do have oversight, but they accepted it.

COMMISSIONER NADEAU: Okay. Well, whatever. It still took place within our park and was sponsored by a park partner.

SUPERINTENDENT O'NEILL: But, Doug, without getting into a discussion on it, I think it really brings the issue up of having some guidelines and criteria, particularly with respect to major traveling exhibits, something that's going to obviously be promoted to the broader community. So I think what this suggests, I mean, together with all, is that we need to have proper oversight, and we need to have guidelines

and criteria that, at least, provides the side boards within which considerations can go forward for programs, and those that would trigger an automatic review.

So I clearly, having similar concerns about that particular exhibit, it just suggests that we have some work to do to set some guidelines.

COMMISSIONER NADEAU: Fine.

CHAIRMAN BARTKE: Fred.

COMMISSIONER RODRIGUEZ: I attended and also sit on the Fort Mason Board. The exhibit itself has as its mission, from all the presentation that I saw, was to let people know that this issue of torture is not done. It exists around the world today. The organizations that were sponsoring are those that are working in amnesty programs. And the concern is that this brutality that has existed -- and it's a very depressing exhibit to go through -- but that it's not done; it's not over. That we just need to be aware that it's not just something from the past, but something present around the world.

CHAIRMAN BARTKE: Thank you.

Ed.

COMMISSIONER WAYBURN: I think some answer should be given to the various people who have been speaking on the proposed dog policy. They have to know

that this is not a local affair. This is a national affair, and there is, at present, in our notes, an update on Advanced Notice of Proposed Rulemaking on the Pet Policy. They can't know, and not too many of us know, that this has been in effect on a national basis for many years, and that the Superintendent achieved a minor coup when he got the National Park Service to entertain this method of dealing with it. There's been a great deal of discussion as to whether or not this park was doing its duty by all the people who wanted to have recreation, particularly with regard to dogs.

I think that we have an obligation to respond to these people and tell them that Golden Gate has gone farther than any other park in trying to meet the situation.

The opprobrium, which has been heaped on the Advisory Commission, is entirely ill-centered. Because this Advisory Commission has not taken any action. It was what we did in January that caused the Superintendent to make vigorous efforts to try to change the national policy, and the Advanced Notice of Rulemaking is a part of that policy.

I don't know whether this is going to satisfy the people who object vigorously, but our hands are, at this moment, tied. I would suggest that they write to

their legislatures and write to the National Park Service in Washington to express their feelings, giving the same arguments they gave to us.

CHAIRMAN BARTKE: Thank you.

Any other comments? Amy.

COMMISSIONER MEYER: I wanted to follow up, for a moment, on Doug's comment. Five of us went out last, I guess the weekend before last, to the Marin Headlands to visit the Headlands Art Center. We each had somewhat different reaction to the experience. It's a matter that we'll bring up in the Marin Committee.

I was more informing just the other people here that five of us had gone, and that this is another instance of a park partner, it's relationship with the park audience and with park visitors has changed over a long period of time. I, frankly, was heartened by what I saw. I had been rather critical of them before; I feel less critical right now. But I think there's a lot to be looked at with that park partner.

So Doug has brought it up in one way; I'm bringing it up in another. But these are things that take place in the parks and that I'd like to see looked into from time to time, depending on the circumstances.

CHAIRMAN BARTKE: Thank you.

Anything further?

MS. VITTORI: Can we ask that the dog issue be rescheduled?

CHAIRMAN BARTKE: No. The Commission had its public hearing. The Commission took its action. As I explained at the top of the meeting, the Commission is advisory. We gave our advice to the Secretary of the Interior, through the local Superintendent, and the Superintendent is doing what he can to carry out that advice. There's nothing further for this Commission to do.

The suggestion that we somehow misled the public that night is simply not true. The last time this came up, which was about three months ago, I had the verbatim transcript in front of me and read from it, and what happened was exactly what happened in January. We have not changed course. We didn't table it for four months. We took our action. We voted. We made our recommendation, and that's been passed on to the Park Service. That's what this Commission is empowered to do, and that's what we did. We heard you. We acted. As far as we're concerned, there's nothing more we can do.

MS. VITTORI: So, in other words, we can't take our case up with Brian again?

CHAIRMAN BARTKE: Well, I assume that you were

speaking tonight to the Park Service and not to this Commission. Because there's no further role for this Commission until the rulemaking proceeds quite a bit further.

Please speak from the mic.

MR. KEATING: It's John Keating speaking again.

You have an oversight role. You can look into whether the Park Service is making radical changes that will destroy our park and subverting public input. At any time, you can look into that issue. You do not need to accept the Park Service's position that your policy, that they adopted and embraced for 20 years, is somehow unilaterally declared null and void and is no longer your policy.

CHAIRMAN BARTKE: Okay. We've gotten that message. And you're correct: We do have an oversight role.

MR. KEATING: I'd like to make one other comment as to the ANPR process. In some circumstances, that's useful. In most circumstances, it's regularly regarded as a technique that's used by an agency to get -- to avoid having to make a rule; to avoid public hearings. If the Park Service did the proper thing, which was to have a public hearing on whether the change

is current policy, they probably would not change the dog policy, as it currently exists. If, however, they go through this ANPS process to determine whether to have any public hearings at all, they may very well use the same arguments they tried in the past. And even though they were rejected by the court, they may use it now to avoid that public hearing process. And I think this Commission should look into whether the public input is being precluded, rather than enhanced.

Thank you.

CHAIRMAN BARTKE: Thank you.

We are going to adjourn our meeting in honor of two different people. One is Henry Hillman, who was an elderly gentleman who attended, in the early days, just about everyone of the meetings of this Commission. He passed away recently.

The other is an adjournment in memory of Victoria Cohen, who was an intern who worked in our Public Affairs Office, and who, at the age of 23, recently drowned.

So, we are adjourning our meeting in honor of both of those people.

(Whereupon, at 9:58 p.m., the meeting of the Advisory Commission was adjourned, to reconvene at 7:30 p.m., Tuesday, August 28, 2001, in the same location.)

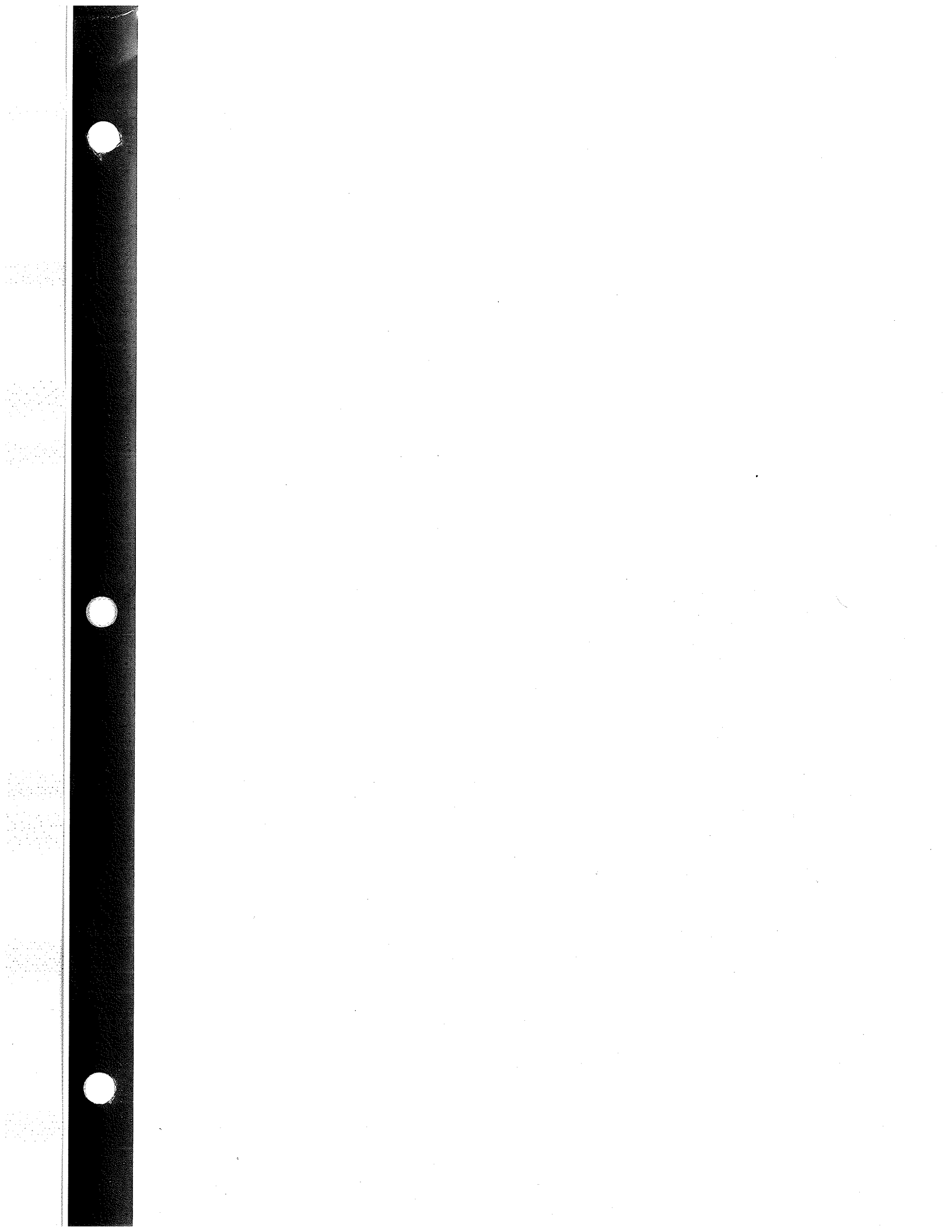
C E R T I F I C A T E

This is to certify that the attached proceedings before the Department of Interior, National Park Service, of the meeting of:

The ADVISORY COMMISSION FOR
GOLDEN GATE NATIONAL RECREATION AREA
AND POINT REYES NATIONAL SEASHORE

were held as therein appears, and that this is the original transcript thereof for the files of the Commission.

James W. Higgins, CVR
Official Reporter



BEFORE THE
UNITED STATES DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE

Meeting of the
ADVISORY COMMISSION
for the
GOLDEN GATE NATIONAL RECREATION AREA
and
POINT REYES NATIONAL SEASHORE

Cowell Theater, Herbst Pavilion Pier
Fort Mason Center
San Francisco, California

Tuesday, August 28, 2001

REPORTER: JAMES W. HIGGINS, CVR

GOLDEN GATE NATIONAL RECREATION AREA
AND POINT REYES NATIONAL SEASHORE

- - -

ADVISORY COMMISSION MEETING

- - -

TUESDAY, AUGUST 29, 2001

- - -

Cowell Theater
Fort Mason Center
San Francisco, California

The meeting was convened, pursuant to
Notice, at 7:30 p.m., Chairman Rich Bartke presiding.

COMMISSIONERS PRESENT:

RICH BARTKE, Chair

AMY MEYER, Vice Chair

MICHAEL ALEXANDER

SUSAN GIACOMINI ALLAN

GORDON BENNETT

REDMOND KERNAN

YVONNE LEE

DOUG NADEAU

TRENT ORR

DENNIS RODONI

COMMISSIONERS PRESENT (Cont.:

FRED RODRIGUEZ

JACK SPRING

ALSO PRESENT:

For the Golden Gate National Recreation Area:

BRIAN O'NEILL, General Superintendent

FOR THE PRESIDIO TRUST:

CRAIG MIDDLETON, Deputy Director for
Operations and Government Affairs

STAFF LIAISON:

MICHAEL FEINSTEIN.PA

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P R O C E E D I N G S

7:40 P.M.

CHAIRMAN BARTKE: I'll call the meeting to order.

We were asked to delay the call to order, for about five minutes, because there seemed to be people who were driving around the parking lot, looking for parking spaces, and we wanted them to have time to find their way in.

This is a much more auspicious setting than our Commission usually meets in, but we'll try to make do.

This is the regular meeting of the Advisory Commission to the National Parks in the Golden Gate Area, and the Point Reyes National Seashore.

The agendas are in the back. If you haven't picked one up, you may want to do so.

The first item on our agenda is the approval of the Minutes of our July 24 Meeting. They were mailed to Commission Members about ten days ago.

Do any Commission Member have any changes that ought to be made in those minutes?

(No response.)

CHAIRMAN BARTKE: I don't see any, so they will be accepted as they were mailed.

people thought that that would be the way to go. The other is the more traditional wrecking-ball style. So we agreed to go with the wrecking-ball style because the building is constructed in such a way that, even if were to do implode it, the walls are so thick that we'd still have to bring a wrecking ball out. So we just decided to go for that.

It will be recycled. About 93 percent of the building will be ground up and used on site at the Presidio for trailbed and roadbed. So that also relieves us of the truck traffic that would otherwise have to go through the neighborhoods.

COMMISSIONER ALEXANDER: Thank you.

CHAIRMAN BARTKE: Before going to Committee Reports, there's someone who has signed up under Non-agenda Issues. Rather than having him wait, we'll take him at this time.

Michael Goldstein, would you like to come up and take one of the microphones and address the Commission?

STATEMENT OF

MICHAEL GOLDSTEIN

MR. GOLDSTEIN: I just wanted to -- well, there's two things. I wasn't going to speak at all, but, since you prompted me to speak on the first one,

I'm going to take the rest of my three minutes to give my thoughts.

At the beginning of the meeting, the Chair introduced this as this is the regular meeting of the Advisory Commission to the National Parks in the Golden Gate area and Point Reyes National Seashore. And this Commission was set up by an Act of Congress, and I think it's disrespectful to Congress, and to the people of the United States, as well as to the people who are in this room and have already left, not to correctly address the name of this Commission, which is Golden Gate National Recreation Area and Point Reyes National Seashore Advisory Commission. And I'd like you to make a correction to that, now, in the record. Would you agree to do that, Mr. Bartke?

CHAIRMAN BARTKE: I'm not sure I understand the question?

MR. GOLDSTEIN: Well, I find that hard to believe, because I've addressed this Commission on this topic before and it's been a matter of public debate. The name of your agency is the Golden Gate National Recreation Area, and you called this the national parks in the Golden Gate area, omitting the name "recreation." I don't think that was a mistake, but I'll give you the benefit of the doubt and the chance to correct it, now,

for the record. Would you please do that?

CHAIRMAN BARTKE: Okay. Consider it corrected.

MR. GOLDSTEIN: Thank you.

Now, with my remaining minute, or whatever, I'd just like to say that I feel like I see a train wreck coming, or maybe it's more like a shipwreck. I was once on a ship leaving a harbor, a passenger ship, and seeing a freighter heading straight towards us, and everybody kind of joked at first, until they realized that it really was. Finally, it was averted. But people starting running for the lifeboats.

I was at Crissy Field today and watching a whole bunch of people, dogs, babies, kids, windsurfers, bicyclists, runners, everybody having a great time and a wonderful day. And I saw a four-month-old dog there, a little puppy, and I talked to its owner. I told her that I'd just heard that the GGNRA was going to be putting up signs about dogs on leash, and actually enforcing that. And she said she couldn't believe it.

I just feel like I'm seeing two different things going on here, and that's getting me more and more worried. On the one hand, you're manager, Mr. O'Neill, is going straight forward with a policy of sending his rangers out into harm's way, to get into

arguments with a bunch of people who are really mad, who tried to speak to you in January. I've talked to you about that, since then.

People have pretty much given up on you and they also respect your evening and don't show up here now. We could all be here speaking for hours and making you go home late. People aren't doing that because they respect that you were here to talk about something else tonight.

But you're heading to a disaster, Mr. O'Neill, if you enforce this policy at this time. You don't need to do it. You're going to have a complete pandemonium. And don't say I didn't tell you.

CHAIRMAN BARTKE: Okay. Going on to Committee Reports. Apparently, we've had five committees that have met this month. First of all, the Presidio Committee. Redmond.

COMMITTEE REPORTS

PRESIDIO COMMITTEE

COMMISSIONER KERNAN, CHAIR

COMMISSIONER KERNAN: Yes. We met the 23rd, and we had an update of the landfill remediation that will occur for landfills 4 and 5, which will begin before very long.

We also had a presentation of a proposed

What I'd like to suggest is this: We are scheduled to hear about the Fort Baker proposers at either our September or October meeting, and I can't remember which one it is. We wouldn't want both of these to be on the same agenda. So why don't I put it on the agenda that Fort Baker is not on. Anybody have any objection to that?

COMMISSIONER BENNETT: That would be September, because Fort Baker is on the October.

CHAIRMAN BARTKE: October?

COMMISSIONER BENNETT: Yeah.

CHAIRMAN BARTKE: Okay. So we will leave PTIP on September. Okay?

(No response.)

CHAIRMAN BARTKE: Anything else to come before the Commission?

(No response.)

CHAIRMAN BARTKE: We're adjourned.

(Whereupon, at 10:00 p.m., the meeting of the Advisory Commission was adjourned, to reconvene at 7:30 p.m., Tuesday, September 25, 2001, in the Headquarters, Building 201, Fort Mason.

C E R T I F I C A T E

This is to certify that the attached proceedings before the Department of Interior, National Park Service, of the meeting of:

The ADVISORY COMMISSION FOR
GOLDEN GATE NATIONAL RECREATION AREA
AND POINT REYES NATIONAL SEASHORE

were held as therein appears, and that this is the original transcript thereof for the files of the Commission.

CVR

James W. Higgins,
Official Reporter

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May 28, 2011

Mr. Frank Dean
Park Superintendent
Golden Gate National Recreation Area
Building 201, Fort Mason
Bay and Franklin Streets
San Francisco, CA 94123-0022

RECEIVED
JUN -2 2011
SUPERINTENDENT'S OFFICE

Re: Golden Gate National Recreation Area
Pet Management DEIS Public Comment

DOCUMENT SUBMISSION

VOLUME II



BEFORE THE
UNITED STATES DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE

Meeting of the
ADVISORY COMMISSION
for the
GOLDEN GATE NATIONAL RECREATION AREA
and
POINT REYES NATIONAL SEASHORE

GGNRA Park Headquarters
Building 201, Fort Mason
San Francisco, California

Tuesday, October 23, 2001

REPORTER: JAMES W. HIGGINS, CVR

GOLDEN GATE NATIONAL RECREATION AREA
AND POINT REYES NATIONAL SEASHORE

- - -

ADVISORY COMMISSION MEETING

- - -

TUESDAY, OCTOBER 23, 2001

- - -

GGNRA Park Headquarters
Building 201, Fort Mason
San Francisco, California

The meeting was convened, pursuant to
Notice, at 7:30 p.m., Chairman Rich Bartke presiding.

COMMISSIONERS PRESENT:

RICH BARTKE, Chair

AMY MEYER, Vice Chair

MICHAEL ALEXANDER

SUSAN GIACOMINI ALLAN

GORDON BENNETT

BETSEY CUTLER

REDMOND KERNAN

DOUG NADEAU

TRENT ORR

DENNIS RODONI

COMMISSIONERS PRESENT (Cont.:

FRED RODRIGUEZ

DOUG SIDEN

JACK SPRING

ED WAYBURN

ALSO PRESENT:

For the Golden Gate National Recreation Area:

MAI-LIIS BARTLING, Assistant Superintendent

FOR THE PRESIDIO TRUST:

JAMES MEADOWS, Executive Director

STAFF LIAISON:

MICHAEL FEINSTEIN.PA

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P R O C E E D I N G S

7:30 P.M.

CHAIRMAN BARTKE: Good evening. I'd like to call to order the regular meeting of the Advisory Commission -- let me rephrase that -- The Citizens Advisory Commission for Golden Gate National Parks and for the Point Reyes Seashore.

The agendas are in the back, on the table. If you wish to pick one up, you may do so.

I have a couple of announcements to make. First of all, there is, on the wall behind us, a display of the 20th Meeting of this Advisory Commission, which took place in October of 1976. And, so, when the Commission is in recess, you may want to go up and look at what we did on our agenda for our 20th Meeting. I'm not sure what meeting we're on now, but it must be something like the 200th.

The second thing is that I intend to reverse the order of the items that are on the agenda and make No. 4, No. 3; and make No. 3, No. 4. The reason being that what is on the agenda as No. 4 requests public comment; and, if there are members of the public here, we'd like to hear them so that they can be on their way if they don't wish to stay for what is listed as No. 3, which does not have public comment.

Is there any objection?

available for a retreat. Then there's a memo from you, Mr. Chairman, dated October 18, that mentions yet another date, Saturday, December 1. I'm wondering if that date is still in contention, or is it just these Tuesday, Wednesday, Thursday dates we're looking at?

CHAIRMAN BARTKE: I think what -- that date is possible; but the preference seems to be for a shorter retreat. And that could be done on a week night, rather than on a Saturday.

COMMISSIONER ORR: Well, should we, just in the interest of getting the date that works for the most people, have everybody add Saturday and say whether or not they can do that?

CHAIRMAN BARTKE: It's all right with me.

COMMISSIONER ORR: Thank you.

CHAIRMAN BARTKE: Okay. So anybody that's interested in Saturday, December 1, put that down.

Non-agenda items. We have three people who have signed up to address us this evening. First is Will Anzenberger.

STATEMENT OF

WILL ANZENBERGER,

DIRECTOR OF LAW AND ADVOCACY, SAN FRANCISCO SPCA

MR. ANZENBERGER: Good evening. I'm Will Anzenberger, A-n-z-e-n-b-e-r-g-e-r. I'm the Director of

Law and Advocacy for the San Francisco SPCA.

On behalf of the San Francisco SPCA and its 95,000 supporters, we express our empathy with those that feel that the GGNRA and the National Park Service has abandoned the goal of land use by democracy; but, instead, has carefully eroded away valued recreational uses of land, despite assurances to the contrary. It was clear, when dog stakeholders recently met with the GGNRA staff, including Brian O'Neill, the GGNRA has already decided that off-leash dogs will have no place on GGNRA lands. It seems clear that they have not taken a neutral stance on this issue, as evidenced by their recent enforcement/educational campaign.

Among the developments we find troubling are these: While the GGNRA has suggested it is partnering with the Off-leash Task Force, the relationship has not been a true partnership. They have met with us twice in the nine months since the Task Force was formed, and the meetings have not involved real dialogue, but merely information.

As stakeholders and members of the Task Force, we were assured that there would be no changes in off-leash access until after the ANPR process and public comment period had passed. In August, the GGNRA reneged on this promise and began enforcing off-leash

restrictions, even before the ANPR process had begun. With no input from the dog stakeholders, GGNRA published a brochure on dog rules that clearly disallowed off-leash dog recreation. Particularly appalling to the San Francisco SPCA is the element in the brochure that egregiously misrepresents the nature of dog behavior with such inaccurate statements as: "Leash dogs are less likely to bite."

For years, we have provided extensive material documenting the benefits of off-leash recreation. We have responded cooperatively to the many requests for analysis of how off-leash dogwalking can be accommodated in the GGNRA. Yet it appears that, at the end of the day, the GGNRA has made the unilateral policy and decisions without regard to our input.

Thank you.

CHAIRMAN BARTKE: Thank you.

The next speaker is John Keating.

STATEMENT OF

JOHN KEATING, ESQ.

MR. KEATING: Thank you. I'm John Keating.

Again, I want to thank you all for your public service in doing this. I've been watching you for about a year-and-a-half now.

I'm, as you probably know, interested in the

issues of the quality of the information you're getting on the dogwalking issues, and on the quality of the decision-making. I want to talk, therefore, briefly about two of the items that are in the Superintendent's Report.

With regard to the dogwalking update, when the Assistant Superintendent said that you're making good progress, it's just not true. There is no progress being made. The ANPR is stuck in quagmire. The meetings -- I believe there's only been two. They've been trivial, nonproductive, not in good faith.

I want to take you back, for a moment, to that meeting in January, when there were about a thousand citizens standing out in the rain, wanting to express their concerns to you, and they went home based on an understanding that things would be held off until the situation was adequately studied. The specific wording of you, Chairman Bartke, was: "Hold off on signs, enforcement, et cetera." I think we all understood the process was going to be that this proposal that the Park Service had, that you rescind the pet policy, was something you would take no action on. It was unacceptable. It was not supported by the populace. It was very important to people that you were going to hold off until they studied it and came back.

They haven't come back with a plan. Instead, they've gone forward with the one they had that was unacceptable. They call it a, quote, "Education Campaign." It's not an education campaign; it's an advocacy campaign. They send out a card that lists reasons why their position is right. And calling it an education campaign is kind of like calling a missile a peacekeeper.

There are some duties that the Park Service has with regard to this ANPR process. One of them is to tell the public about it. If you're out there handing out brochures, the brochures need to say that this is an issue in contention and that you're taking public comment on it. Not try to flow the public out of the park before they have the opportunity to have the public input. We can't even submit the stuff yet; and, yet, we're already being told.

There are warnings being given to people in rude manners. It's hard to believe that our rangers would be doing this. But they're out there telling people, "If I see you again, you're going to get a ticket. Get off the beach now." They don't say, "Put your dog on a leash." They say, "I saw you without your dog on leash. Get out of here or you're going to get a ticket." And then they say, "Next time I see you,

you're going to get a ticket."

You know, basically, democracy is a game of getting the input so you can make the right decision. I think that's what the Advisory Commission is about, or should be about. You need to get fair input. And, respectfully, I don't think you're getting the fair input.

I think, going to the Fort Funston issue quickly, I can tell you what happened. I'm not sure you actually know what happened. We went through the process. There's thousands and thousands of pages of analysis and briefings, and briefings. I don't know whether you folks ever were briefed on our side of it. But I know, when I talk to the Park Service, and I talk to the people, you know, there's arguments this way and there's arguments that way. And, yet, the Park Service only discusses their arguments and won't even address anyone else's.

After that public comment process happened and they came out with the Park Service's Report that ignored all the environmental recommendations, ignored the requests that there be an Environmental Analysis, we made a request, a number of people, organizations and people individually, made requests of the Park Service for reconsideration or to appeal the decision. The Park

Service didn't honor that procedure. They have never responded to that.

Instead, what they did, when the OMB was coming down on them and said that they couldn't proceed because they weren't properly complying with the rulemaking, they hadn't properly done it, what the Park Service told them was: Well, we haven't done rulemaking. What we did is just do a temporary closure decision. And they told the OMPB that, before they made permanent changes, they would complete the process and do the analysis. And the report tells you, the Superintendent's Report tells you, that they're out there making those changes.

They're ripping up the ice plant. And I don't think there's a single one of us in here who knows for certain whether it's going to have a bad effect on those bank swallows. All we know is that the Park Service is 0 for 3 as to the bank swallows on the three times they ripped out the ice plant. What we do know is that there an adaptive species that came and flourished when the ice plant was there. We do know that, in other regions of the world, the bank swallows use the ice plant. They feed on the insects, they use it for nesting materials. And, yet, in the depositions, we asked the Park Service: Have you ever looked at that issue? They said, No. And

they have refused.

I will wrap up. I see the --

The point is: When the public is telling the Park Service that we them to do the analysis, and the Park Service is refusing to do the analysis, you folks need to be aware of it.

The last comment I want to make is: I was, the other night, over at the Yerba Buena Center and I saw a wonderful saying by Martin Luther King; and it was: In times of tragedy, you work to foster brotherhood and the world gets better as a result because we join together and unite. The Park Service is not trying to unite its people. What they are doing instead is attacking the single most consistent, loyal users of the park and the groups that want to help the most for the park.

Thank you.

CHAIRMAN BARTKE: Thank you.

The next speaker is Lisa Vittori.

STATEMENT OF

LISA VITTORI

MS. VITTORI: Hi! My name is Lisa Vittori. I'm sorry that we have to meet like this again. I had committed to myself not to come to these meetings anymore, since you asked me not to.

You know, I thought we had kind of an agreement after January's meeting. And every time I think we have an agreement, the stakes keep changing. Basically, the rules keep changing. You know, I almost wanted to just come here and say that I'm just really disappointed in you, and it's tearing the environmental community apart.

You know, the Park Service is the best place to do environmental work in some ways. But this dog issue is tearing us apart. And, you know, this is what I was planning to say tonight.

I traveled around the world a few years ago, looking at wildlife issues. And part of my commitment to environmental work is to think globally and act locally. I was in India, and I saw the problems they were having with tigers. I was in Hong Kong and saw the problems they were having with pink dolphins. And I thought -- and, of course, I wasn't in Palestine or Israel, but they've obviously been having their problems. And I was thinking about how, if we can't even solve the dog issue in San Francisco, how are we expected to solve all these other issues? This was before this became prominent in other people's radar, but I knew it was coming up because I was both an environmentalist and I had a dog.

We have to be able to solve this in a constructive way, partially because we have to know how to solve environmental problems that are even bigger than this. I don't actually perceive this as an environmental problem; I perceive this as a political problem. And I'd like you all to make a commitment to work with us constructively, which I don't think you're doing right now.

With many regrets, my name is Lisa Vittori.
Thank you.

CHAIRMAN BARTKE: Thank you.

We have one other sign up, Steve Cockrell.

COMMISSIONER BENNETT: Question?

CHAIRMAN BARTKE: Yes.

COMMISSIONER BENNETT: Have we ever asked anyone not to come to these meetings?

CHAIRMAN BARTKE: No.

COMMISSIONER BENNETT: Okay.

STATEMENT OF

STEVE COCKRELL

MR. COCKRELL: I'm Steve Cockrell, Potrera Hill, San Francisco.

As a member of the San Francisco Dog Owners Group and a long-time resident of San Francisco, I'm concerned about the Presidio Trust and GGNRA's lack of

attention to the needs and rights of the people of this region.

According to the Honorable Phillip Burton, the proposal for the Golden Gate National Recreation Area, of which I am the author, began with the objective of creating a recreation area for the 4.7 million people of the Metropolitan Region. And according to the 1994 General Management Plan Amendment for the Presidio, the 145 acre Crissy Field area will undergo major improvements while retaining recreational opportunities, such as jogging, dogwalking and sailboarding.

We've heard, tonight, about an educational and signage campaign regarding dogs off leash in the GGNRA, and that the Park Service is putting up signs prohibiting dogs off leash, and is enforcing those signs. That's not what we heard on January 23, as hundreds of us stood outside in the mud and rain. This campaign violates the promises made to the public and prejudices the ANPR process.

I'd like to ask the Commission to remember that the GGNRA is a recreation area, and I'd like to ask you to carry out the original vision and promises of the GGNRA, including recent promises that no changes would occur until after the ANPR process is completed.

Thank you.

CHAIRMAN BARTKE: Thank you.

That completes our agenda for this evening, unless anyone else has something that -- Ed.

COMMISSIONER WAYBURN: Mr. Chairman, I believe that the changes initiated by the Park Service are interim changes based on the present regulations of the National Park Service. That apparently has not been made clear to the people who spoke tonight. And I would just ask the Assistant Superintendent to make that clear to them. These are interim changes, subject to, in turn, being changed by the Advanced Notice of Proposed Rulemaking and the Park Service commitment to them.

ASSISTANT SUPERINTENDENT BARTLING: That's right. We're having to keep these two, these two items separate. That even while we go forward with a federal notice that will solicit the public's input through the ANPS process, even while that is underway, we are in the process of educating and clarifying people as to what the current regulations are. And that may, in fact, be an interim situation if, through the ANPR process, there is some change that we come to in terms of the long-term dog leash regulations. But, in the meantime, we are trying to make sure that all park users understand what the current regulations are.

In terms of the law enforcement profile on

this, there has been little change. In fact, as was mentioned before, that our staff are very stretched with the post-September 11 kinds of security, you know, issues. So we don't have even the law enforcement staff to step up any kind of enforcement level. We are trying to make sure that the public understands the current regulations, pending any long-term changes that may occur through the rulemaking.

That's a good point. Appreciate that, Ed.

CHAIRMAN BARTKE: Okay. If there's nothing further to come before the Commission, then, we're adjourned.

(Whereupon, at 9:10 p.m., the meeting of the Advisory Commission was adjourned, to reconvene at 7:30 p.m., Tuesday, November 27, 2001, in the same location.

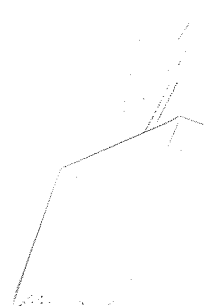
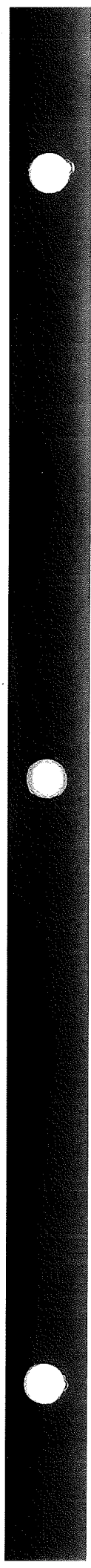
C E R T I F I C A T E

This is to certify that the attached proceedings before the Department of Interior, National Park Service, of the meeting of:

The ADVISORY COMMISSION FOR
GOLDEN GATE NATIONAL RECREATION AREA
AND POINT REYES NATIONAL SEASHORE

were held as therein appears, and that this is the original transcript thereof for the files of the Commission.

James W. Higgins, CVR
Official Reporter



BEFORE THE
UNITED STATES DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE

Meeting of the
ADVISORY COMMISSION
for the
GOLDEN GATE NATIONAL RECREATION AREA
and
POINT REYES NATIONAL SEASHORE

GGNRA Park Headquarters
Building 21, Fort Mason
San Francisco, California

Tuesday, November 27, 2001

REPORTER: JAMES W. HIGGINS, CVR

GOLDEN GATE NATIONAL RECREATION AREA
AND POINT REYES NATIONAL SEASHORE

- - -

ADVISORY COMMISSION MEETING

- - -

TUESDAY, AUGUST 29, 2001

- - -

GGNRA Park Headquarters
Building 201, Fort Mason
San Francisco, California

The meeting was convened, pursuant to
Notice, at 7:30 p.m., Chairman Rich Bartke presiding.

COMMISSIONERS PRESENT:

RICH BARTKE, Chair

AMY MEYER, Vice Chair

MICHAEL ALEXANDER

SUSAN GIACOMINI ALLAN

GORDON BENNETT

BETSEY CUTLER

REDMOND KERNAN

YVONNE LEE

DOUG NADEAU

COMMISSIONERS PRESENT (Cont.:

TRENT ORR

LENNIE ROBERTS

DENNIS RODONI

FRED RODRIGUEZ

DOUG SIDEN

JACK SPRING

ALSO PRESENT:

For the Golden Gate National Recreation Area:

BRIAN O'NEILL, General Superintendent

FOR THE PRESIDIO TRUST:

TAI LOMBARDI, Deputy Director, Public Affairs

STAFF LIAISON:

MICHAEL FEINSTEIN.PA

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P R O C E E D I N G S

7:30 P.M.

CHAIRMAN BARTKE: Good evening, ladies and gentlemen. I'd like to call to order the regular meeting of the Citizens Advisory Commission for the Nation, Golden Gate National Parks and the Point Reyes National Seashore.

Those of you who don't have an agenda may pick one up at the back table. The agenda has some changes in it. The agenda that was mailed out had an Item 2, Urban Park Vision, Park Education and Community Programs, and that was deleted. So it's no longer on the agenda.

I'd also like to indicate that Commissioner Ed Wayburn is not with us tonight. He has fallen and hit his head. But he's back out of the hospital and he's home, hopefully recovering, and our best thoughts are with him.

Before we proceed to Item 1, I might indicate that I've been informed that some people are here with the impression that this is a meeting about dogs. It's not. That has never been on this agenda. So, if you have been informed that this is a meeting about dogs, you've been misinformed. On the other hand, at the end of the agenda, there is a place for non-agenda items -- Item 8 on my copy, at least. And

I've been informed about two or three different items that want to come up under non-agenda items. If it's not too late in the evening, then we will hear non-agenda items at the end of the evening. But, in the meantime, we have a pretty heavy agenda to complete.

The first item is the approval of minutes. And, actually, we have two sets of minutes: One is from October 20, our regular meeting; and the second one is from October 23, our regular meeting. These minutes were mailed to the Commission Members a week or two ago.

Does any Commission Member have any changes that ought to be made in either of those minutes?

(No response.)

CHAIRMAN BARTKE: I see none, so that the minutes will stand approved, as received.

As I said, Item 2 on the agenda, having to do with the Urban Park Vision, Education and Community Programs, will be taken up after the first of the year. It's a good program, but was not ready for tonight's agenda.

Item 3 on the agenda is the Fort Mason Pier 2, a scoping session on the Seismic Retrofit Environmental Assessment. And the public comment that

CHAIRMAN BARTKE: Thank you, Amy.

Any questions of Amy?

(No response.)

CHAIRMAN BARTKE: Okay, Jack, it's up to your committee. And I understand you are meeting?

COMMISSIONER SPRING: I've already asked that it be put on our committee meeting for this coming Monday, December 3.

CHAIRMAN BARTKE: Coming Monday. Okay, you meet here in this building?

COMMISSIONER MEYER: Yeah.

CHAIRMAN BARTKE: Okay. We're now down to Non-agenda Issues. And I have a list of speakers which is approximately 80.

[Applause.]

As I said at the beginning of the meeting, we would not be able to hear that many people. So we have to come up with a different plan. Now, what that plan is I think we need to work out.

Our Commission is set up to hear from the public about issues that the Commission can deal with. Some of these people, who have signed up, have been to our committee meetings on a regular basis; and, much of what they had to tell us were not things that the Commission could deal with. They wanted to talk to the

Park Service, not to this Commission. And I'm wondering if that isn't happening again. That some of you, maybe all of you, really want to talk to the Park Service and not to this Commission. This Commission having already taken its action and having not been asked, nor do we intend to change our action.

There are a couple -- a lot of these just say "off-leash," or "Fort Funston," but there are a couple that don't, so I'll call on them first to find out what their topic is. But, as I suggested a couple of hours ago, have you been able to designate speakers who could reduce this? Because, obviously, if everybody spoke for 3 minutes, we'd be here for more than 3 hours. And, like you, most of us have been up since before dawn, and have had a long day before we ever got here. And, also like some of you, as you have and some of us have, have early morning meetings tomorrow morning.

So, what I need to do is find out a process so we can find out what your message is; and, if it's something that we can deal with -- and I heard a suggestion from over there that maybe what needs to be done is that you need to call me. I'll give you my phone number and you need to tell me what it is that you want to be on the agenda for. We'll put you on the agenda so that we can hear if it is something that the

Commission can deal with. If it's not that, then we're not getting any place.

So let me call on the first two people who said they were here for something else. Michael Goldstein, looks like it just says "Policy." And I'm not sure what that means.

STATEMENT OF
MICHAEL GOLDSTEIN

MR. GOLDSTEIN: I note that the National Park Service comments on the Presidio Trust Implementation Plan, on the GGNRA's web site, has a letter to James Meadows, the Executive Director of the Presidio Trust. This three-page official letter starts out, begin quote: "On behalf of the Golden Gate National Parks," and concludes, "Brian O'Neill, General Superintendent."

I would like to ask the members of this Commission who are under the impression that the true name of this federal agency is anything other than the Golden Gate National Recreation Area?

(No response.)

I'll repeat that. I would like to ask the members of this Commission who are under the impression that the true name of this federal agency is anything other than the Golden Gate National Recreation Area to please raise their hands now?

CHAIRMAN BARTKE: Sir, haven't you brought this topic up before, and haven't you gotten the answer before?

MR. GOLDSTEIN: Excuse me. This is my three minutes, and I'm one minute into it. For the record --

CHAIRMAN BARTKE: You're taking up a lot of people's time.

MR. GOLDSTEIN: Excuse me, Mr. Bartke, you're taking my time, and I'll stop my stopwatch right now.

CHAIRMAN BARTKE: No. You're taking other people's time.

MR. GOLDSTEIN: I have two minutes to speak, and would you please let me speak. Thank you.

CHAIRMAN BARTKE: All right. What's your point?

MR. GOLDSTEIN: I was in the middle of making it.

For the record, I note no hands raised.

The Superintendent should quit the name game and accept that he manages the a national recreation area. The letter in question misrepresents Mr. O'Neill, by pretending that he's General Superintendent of something that simply does not exist, Golden Gate National Parks. The Superintendent represented himself in the same dissembling manner in a radio report on

KCBS during the Crissy Field celebration a few months ago, as well.

Congress and the people of the Bay Area had a vision of a recreation area, and that's why it's called just that. If the Superintendent wants the name changed, he can go to Congress. But, in the meantime, he's got to stop using the fictitious name Golden Gate National Parks.

At this Commission's August 28 Meeting, this year, the chair introduced this body as being the Advisory Commission for the area of the Golden Gate National Parks. I questioned this name usage during my comments under non-agenda items that evening. Mr. Bartke agreed that he had misspoke, saying, begin quote, "Consider it corrected."

I see, in the Superintendent's response to San Francisco City Attorney Louise Renne's letter of August 2, 2001, that he claims that, begin quote:

"Although Golden Gate National Recreation Area is our legislative name, the name Golden Gate National Parks was developed to include the diverse and geographically far-reaching park sites, which, while under the management of GGNRA, are separate units of the National Park System. Fort Point

National Historic Site, established in 1970, and Muir Woods National Historic Site, established in 1908 now fall under the management of GGNRA. For simplicity's sake they are collectively known as the Golden Gate National Parks."

I visited the GGNRA's official web site today, and, at the very top of the main home page, as clear as day, is the statement that, begin quote: "Golden Gate National Recreation Area includes ...," and it includes four areas, including Fort Point and Muir Woods.

In any case, I find this argument totally unsatisfactory rationale for removing the words "recreation area" from this federal agency's name. Again, the Superintendent, and others, are free to petition the Congress for a name change; but, unless and until such change is officially authorized, I submit that the use of the Golden Gate National Parks in official communications is an intentional and fraudulent attempt to dishonor the very purpose for which the Golden Gate National Recreation Area was established in the 1970s. And I'm concluding.

The name Golden Gate National Parks is also quite confusing, particularly for thousands of tourists

who cannot be expected to understand that this is not the same as the world famous Golden Gate Park, founded over 100 years earlier, in the 1870s.

If the false name, Golden Gate National Parks continues to be used by GGNRA officials, I intend to request the incoming San Francisco City Attorney to challenge its use as an infringement on the City's longstanding use of the Golden Gate Park.

Thank you.

CHAIRMAN BARTKE: Thank you.

[Applause.]

There is another person who has signed up to speak. It says Presidio," and the name, I think, is something like Bill Hof. Is that you?

MR. FIELDHOUSE: Why don't you go in order? Why did I show up early? I willingly gave up my slot for this gentlemen. I'm sorry you can't keep track of which of those people --

[Simultaneous conversation.]

MR. FIELDHOUSE: My name is Martin Fieldhouse. I'm No. 1 on that list.

CHAIRMAN BARTKE: Sir, go ahead.

MR. FIELDHOUSE: How dare you. If they cannot keep track of which was the top sheet, you're allowing these people to go out and write tickets, I am

disgusted.

CHAIRMAN BARTKE: It's your turn to speak, sir.

STATEMENT OF

BILL HUFF

MR. HUFF: My name is Bill Huff. I'll be very, very brief.

I just wanted to share a thought about the article concerning the --

[Simultaneous conversation.]

CHAIRMAN BARTKE: People, let's be polite to each other.

[Simultaneous conversation.]

CHAIRMAN BARTKE: I am using the list. It's No. 1. I'm going 1, 2. I haven't gotten to 3 or 4 yet; I'm still on page 1, No. 2. I'm following the list. Now somebody else may say they are on a different list. I don't know, but Mr. Huff is up there. Let's give him the --

Go ahead, Mr. Huff.

MR. HUFF: Thank you.

I just wanted to share some thoughts about the article concerning the Presidio. It appeared in the December issue of the San Francisco Magazine that you're all aware of. Because I think -- the article

clears a lot of the -- just clears the air so that we can discuss some of the issues that it raises openly and directly, rather than by hearsay and rumor. It's been very difficult at the Presidio for the last few years because these things have been going around. But I think the Commission should investigate, in some way, the accusations that were made in the article; and, if they're true, urge the Board to do the right thing.

Thank you so much.

CHAIRMAN BARTKE: Thank you.

All right. Before I proceed any further, let me ask again. Have you chosen spokespeople who can tell us what the issues are and so we can discuss whether or not these are issues that the Commission can deal with. If they are not, then, we'll do it a different way.

Have you?

MR. FIELDHOUSE: He said, all I had to do was show up --

CHAIRMAN BARTKE: All right. Let me give you my telephone number so that you can call and let us know what the issue is and you can -- next time, you can be on the agenda.

[Audience engages in simultaneous shouting.]

//

STATEMENT OF
MARTIN FIELDHOUSE

MR. FIELDHOUSE: You know, you're going to carry me out of here. I'm going to get my three minutes, like it or not.

Superintendent, members of the Commission, my name is Martin Fieldhouse. I am a dog owner, home owner, taxpayer and voter. I'm speaking to you this evening because I wish to go on record --

[Loud booing from the audience.]

MR. FIELDHOUSE: -- with my protest --

[Loud booing from the audience.]

VOICE: Let the record know Ms. Meyer just left.

MR. FIELDHOUSE: I am speaking to you this evening because I wish to go on record with my protest against the recent harassment and ticketing of dog owners at Fort Funston, Crissy Field, and Baker Beach.

[Applause.]

CHAIRMAN BARTKE: Sir, this is exactly my point.

MR. FIELDHOUSE: These areas have historically been off-leash recreation areas.

CHAIRMAN BARTKE: You are talking about something you need to address to the Park Service, not

to this Commission. This is not an issue --

MR. FIELDHOUSE: Excuse me, sir. I did not interrupt any of the Commission Members tonight. I sat here for over 3 hours.

CHAIRMAN BARTKE: I understand that. Thank you.

MR. FIELDHOUSE: Not everybody here has been brief. I swear I'll keep it under three minutes. I'll be brief.

CHAIRMAN BARTKE: No, but you're talking about a subject matter that this Commission has -- can't do anything about.

MR. FIELDHOUSE: I've never been here before. This is my first --

CHAIRMAN BARTKE: That's why I explained this to you.

MR. FIELDHOUSE: I was told what the procedure was. I followed the procedure. I sat here. I came first. I signed up first. All I ask is my three minutes. Will you please let me finish?

CHAIRMAN BARTKE: All right. So how many people won't to speak their three minutes?

MR. FIELDHOUSE: Sir, can you please discuss this after my three minutes? That's very rude.

[Laughter.]

MR. FIELDHOUSE: Come on, give me two-and-a-quarter. If you let me go, I'll get it done a little faster. Please, come on. It's been a long evening. I know we all want to go home. Okay.

Certainly, because of the hysteria generated by a couple of high-profile dog attacks, thousands of previously law-abiding citizens may be prosecuted as criminals. Jailing everybody so they can't commit crimes is not an acceptable means of crime prevention. Leashing old dogs similarly misses the mark. The real problem dogs are chained to posts in backyards or confined to small apartments without adequate exercise, not playing on the beach with their friends.

My dog Robin and I have spent almost 300 hours at Fort Funston during this past year. In that time, neither of us has destroyed a natural resource, harmed a native species, or terrorized a child. I've not witnessed a single incident of destructiveness to the environment, nor aggression towards humans. What I have seen time and again is the sheer joy of dogs running and playing together and the amazing openness, interaction and friendship between the people who bring their dogs there. In this age of increasing isolation and distrust of fellow human beings, it is an extraordinary pleasure to experience such warmth and

social interaction.

I contend that, if you were to succeed in forcing all these dogs onto leashes, people would not be able to walk and talk, nor even approach each other for fear of tangled leashes and the ensuing potential for injury.

When I recently called the GGNRA, one of your representatives, Mr. Alex Nah. justified the harassment by saying that dogs are not allowed off leash in national parks. I later discovered this to be inaccurate. Apparently, dogs are allowed off leash in 45 national parks as long as their owners are hunting. This makes no sense to me. If I want to let my dog, Robin, run and plan while I enjoy the scenery and the company of people, I'm a criminal. However, if I carry a gun and kill some wildlife, I'm okay.

[Applause.]

I ask you to consider if it's really, is really sound and sensible public policy.

Off-leash dog -- I'm finishing up -- off-leash dog walkers, by my own estimate, make up 90 percent of the park users at Fort Funston. The beach area is not easily accessible and the weather and tides make it inhospitable to sun bathing or picnicking families, unless your ultimate goal is to protect this

ares so well that no one gets to use it.

I ask you to reconsider your attitude towards us, the citizens who truly use, clean, treasure and protect these natural resources.

Thank you.

[Applause.]

CHAIRMAN BARTKE: First of all, Brian O'Neill will respond to the one speaker about the name of the park. I will respond to this speaker.

Ms. Meyer told us in advance that she has a Trust meeting at 7:30 tomorrow morning. And, so, having already put in a long day, that she had to leave early. So we have granted her that accommodation.

Brian.

SUPERINTENDENT O'NEILL: I wasn't going to discuss the name because I think the letter to Louise Renne adequately expressed it. I'm also the Superintendent, for better or worse, of Muir Woods National Monument and Fort Point National Historic Site. So I think the accurate representation, rather than spelling all those out, we use the term, generically, the Golden Gate -- the National Parks at the Golden Gate, or Golden Gate National Parks.

But I want to say I know there's a lot of pent up feelings, anger, whatever it might be. I just

want to say to the group here, we have talked to many of you, and you know the dilemma that we're in. Wait a minute, give me a chance.

Listen! We've spent a lot of time on the phone with many of you. And we're trying to put -- the only way we can change the current situation is to be able to get into this process of the Advanced Notice of Proposed Rulemaking. That's the only time where I have, as the Superintendent of these three units of the National Park System, have the ability to get into a formal dialogue with the community to look at whether there is merit, with respect to changing a national regulation that is mandated on all of us. I do not have the authority to unilaterally change a national regulation. I have never been given that authority. And most of you who understand this issue appreciate that.

I have tried to take the initiative on behalf of this community of concerned people, all users, is to be able to get the authority, for the first time in the history of the National Park Service, to be able to get the authority for these parks, these three units of the National Park System, to be able to start the process that could lead, ultimately, to the ability to promulgate a regulation in this park, three parks, that

would identify where and under what conditions off-leash dog walking could occur. I do not have that authority now.

All of the negative energy that we're spending now cannot solve the dilemma that I have, or that the park has, because we do not have the authority to do exactly what you suggest. So we're seeking the authority to be able to do that so we can get into the very kind of dialogue you seek, and that we seek. And, so, I --

[Simultaneous audience conversation.]

MS. ARNOLD: May I just make a suggestion?

SUPERINTENDENT O'NEILL: Yes.

MS. ARNOLD: I'm sorry to interrupt. These people really, really want to speak. We've heard you. We heard you many times. We know what you're going to say. We can predict what you're going to say. We really, with all due respect, don't need to hear you again. But we do need to have you hear us. If we could just get started with our three minutes speeches, and go as far as we can go, I think that would be the best way to diffuse the situation. And I think we should start right now.

VOICE: Seconded.

[Applause.]

MS. VITTORI: I think it's important for us to listen to Brian, because it's important for this to be on the public record. He's been saying this to us privately. We know that it's not the true, but it's important for us to hear it on the public record.

MS. ARNOLD: It's getting in our way of our being able to speak, and there's too much emotion.

CHAIRMAN BARTKE: Ma'am. Are you suggesting that we, that we reach a time cut off? Would that be an idea?

[Simultaneous conversation in the audience.]

VOICE: Let's go to midnight.

[Simultaneous conversation in the audience.]

CHAIRMAN BARTKE: Doesn't sound like we have a consensus on that.

[Simultaneous conversation in the audience.]

CHAIRMAN BARTKE: Well, you know, I have a feeling, though, that you said you've heard him, you know what he going to say. But we've also heard you. We know what you're going to say, and it's not going to get us anywhere.

[Simultaneous conversation in the audience.]

CHAIRMAN BARTKE: Is there something different that hasn't been said in our prior public meetings?

[Simultaneous responses from the audience.]

CHAIRMAN BARTKE: Ma'am, you say there is? Please, come up and introduce yourself. I want to hear it. This lady right over here. Something new that we haven't heard before.

Please tell us who you are.

STATEMENT OF

JANE FEDER

MS. FEDER: My name is Jane Feder. Likewise, I'm an individual resident, voter and dog walker in our public spaces.

What you don't know, or don't seem to know, is that, recently, there have been a lot of changes in the activities of the officers in the traditionally off-leash recreation areas. New signs have been put up. New activities by officers to coerce voluntary leashing of dogs in traditionally off-leash areas. That's a new development that you need to know about, and I encourage everyone else to use the rest of my three minutes.

CHAIRMAN BARTKE: Ma'am, the thing is, though, first of all, we were told that by the staff. Secondly, at our last Commission Meeting, some of you, who are here, told us that. So that's not new.

MS. FEDER: If you look at the

Superintendent's Report, the report that he passed out at the back of the room, look at the number of individuals that were spoken to this period about off-leash recreation.

CHAIRMAN BARTKE: Yes, we have that. We have that.

MS. FEDER: Is that, is that -- does that happen every meeting? Is that the report you get from him every meeting? Has that been the usual?

CHAIRMAN BARTKE: How is that different? How is that going to help solve the problem?

MS. FEDER: New is not a criteria.

STATEMENT OF

LINDA MC KAY

MS. MC KAY: Okay. I would like to speak. I'll try to make this very brief. I think there is a role for the Advisory Commission.

CHAIRMAN BARTKE: Who --

MS. MC KAY: My name is Linda McKay.

I think there is a role for the Advisory Commission to play, and I think you're -- you are not being fair about this. Statements were made at the January Meeting about what went on with the 1979 Pet Policy. And in subsequent research, we found that those were not true. We were told by the Advisory

Commission that you asked the Park Service to do something illegal, and they never accepted it. The fact is: The Park Service drafted that policy. You held the public meetings at their request. They accepted that pet policy in full. This current Superintendent, the Superintendent in 1978 accepted it in full. So it wasn't something that you just threw over the wall and said: Here's something we think would be a good idea. It was a joint effort.

So, to characterize it, as you did in the January Meeting, is not correct.

And, also, the difference that's going on, we knew that some people were getting warnings, and we knew some people were going to get tickets. What we didn't -- because we had the sense that you can't not enforce the law. We understood that. We didn't like it, but we understood that was your position. We didn't expect concerted efforts where rangers come out, for two and three hours at time, and post themselves at various places at Fort Funston so they can catch everybody. It's very aggressive enforcement, and that's what's changed.

Actually, I have an idea of how you can save some manpower, Brian.

[Laughter.]

But that's what's changed. And I also want to say that I have a resolution, which I will not read to you, from Mark Leno. It's also signed by -- it's sponsored by six of the superivisors, because those were the only ones that he could get to. It's a resolution by the City and will be before the Board on Monday, asking you to please stop this aggressive enforcement while the ANPR is in place. We are really trying to deal in good faith, and this makes it very difficult.

Thank you.

[Applause.]

CHAIRMAN BARTKE: We've now received that message. Now, is this a new and different message?

MR. MC ALLISTER: Yes, sir; it is.

CHAIRMAN BARTKE: Okay.

STATEMENT OF

KEITH MC ALLISTER

MR. MC ALLISTER: I came to speak to the Commission, not to Mr. O'Neill. My name is Keith McAllister. I live here in the city.

Fifteen months ago in August, a year ago in November, and again in January of this year, the Commission Members repeated over and over that you had no choice. You claimed your 1979 Pet Policy was

illegal, never valid, it was a law, it was all out of your hands. But now we enter into the ANPR in an attempt to validate and confirm your 1979 policy.

So we expect the Commission to vigorously support special regulations to allow off-leash recreation to continue in the GGNRA. Your efforts can significantly influence the outcome of rulemaking. Your policy was correct in 1979, and that policy is still correct. Stepped up enforcement at Fort Funston is designed to prevent a rule change.

So I am asking you to please do the right thing, as representatives of the citizens who are using the GGNRA. Exert your influence, take the lead in the effort to retain our historical rights to recreation on less than 1 percent of our GGNRA land.

Thank you.

[Applause.]

STATEMENT OF

KAREN HU, PH. D.

DR. HU: I'm Karen Hu. I'm a small person, but, you know, I'm wracking my brains trying to figure out why we're being forced to leash our dogs. The mountain bikers were allowed to ride during their ANPR. The hang gliders were allowed to fly during their ANPR. Why are we being harassed?

I believe one reason dog owners are being harassed is because we're women. Walking with an off-leash dog is one of the few recreations where the majority are women, with a leadership of women. There's a bunch, there's a whole lot of middle-age women, like myself, trying to ward off Parkinsons Disease, osteoporosis, enjoying the sea breezes, seeing our friends out there, because it's a good idea and because our dogs think it's a great idea. But now we're outlaws. We're getting threatened; we're getting tickets. I can't believe Superintendent O'Neill is screwing a bunch of middle-age women.

[Laughter.]

Well, we're not taking this lying down. And Commissioners, I hope you advise the GGNRA to get the rangers off our back.

The NPS brochures are not educating. People are not voluntarily complying. People are being intimidated. Rangers are telling us to leash our dogs because it's the law. That's not education; it's a threat. It's a threat of getting a ticket. It's a threat of getting arrested. It's a threat of having our dogs impounded.

In the past, we've spoken to you, using the law. We've appealed to you with science, with letters,

thousands of them, with petitions. The only time that you responded to us is when over a thousand of us showed up one stormy January evening, and we pounded on the windows. I hope that we can continue to work within the system, with polite discourse. But we're very angry about this harassment. We're angry about not being heard, and we're not going to roll over and play dead.

For the record, note my dogs are neutered, but I'm not.

[Applause.]

CHAIRMAN BARTKE: May I remind -- excuse me, Gordon.

COMMISSIONER BENNETT: Just a question, a point of clarification. Was the biker issue and the kite issue an ANPR process, or was it a different process?

CHAIRMAN BARTKE: They were different.

SUPERINTENDENT O'NEILL: Well, in the bicycle issue, they gave the discretion to the Superintendent to be able to promulgate a regulation. They have not given that authority to the park, and that's what we're seeking.

CHAIRMAN BARTKE: May I remind the speakers that what we're asking for --

SUPERINTENDENT O'NEILL: That authority is given by the Director of the National Park Service if, indeed, that authority is within his or her purview. Sometimes Congress does not give that purview. But when it is, it's a decision of the Director of the Park Service.

CHAIRMAN BARTKE: May I remind the speakers that what we're looking for is something new and different that we haven't heard before.

STATEMENT OF

VICKIE TIERNAN

MS. TIERNAN: My name is Vickie Tiernan. I wanted to address comments exactly like, Mr. Bartke. But, first, I want to say that we've heard, in terms of putting the leash signs up, we've heard a number of times that Washington told us to do it, but no one has given us a name of who in Washington told us to do it, or why this has to be enforced right now.

As far as the pet policy being accepted by the Park Service, I wanted to lend support to what Linda McKay said, and also to say that we have letters in our possession from Brian O'Neill and Stanley Albright, and others, to Congress people, stating outright that they have accepted the pet policy, as the policy in the GGNRA.

And I'd like to address, Mr. Bartke, since I'm one of the people who have spoken at a number of these meetings, that I had a death in my family three weeks ago. I lost my mom. In the course of the same week, I was in a horrific car accident, and I'm lucky I was able to walk away from it. The last place I want to be here right now is here. I am here because this issue of such huge significance to me.

When I was coming back on the plane from the East Coast, from dealing with all of this, I should have been feeling relief to get back to my dog, the parks, my respite. And I have responsibly used the parks. We all do. And instead, I was feeling absolute dread of getting back into this and dealing with this situation. If you want to be rid of us at these meetings, then urge the Park Service, urge Brian O'Neill to treat us fairly reasonably, and respectfully. I will, for one, gladly go away.

Thank you.

[Applause.]

STATEMENT OF

CAROL ARNOLD

MS. ARNOLD: Good evening, Commissioners, Superintendent O'Neill.

My name is Carol Arnold, and I want to thank

you for the opportunity to speak tonight about the recent actions of the GGNRA, requiring dogs to be leashed at traditionally off-leash areas.

I want to follow up on something that Vickie mentioned, or she's getting at, and that is the feeling of all of this, the emotion behind this, which is enormous, as you can feel in this room. And I just want to talk about myself personally. And I think it's what you need to hear. You need to look at us as individuals and hear about this emotion and what it means to us.

Actually, tonight, I feel so defeated that it's almost impossible for me to speak; but then, I think: That's exactly what they want me to feel. They want me to go away and stop talking about how much I love to walk my dog at Fort Funston and Crissy Field. They want me to give up on this major quality-of-life issue that affects ten of thousands of people. To quote a favorite poet, Dylan Thomas, they want me merely just to gentle into the good night. Thomas, of course, was writing about death. But there are many kinds of death, and I am before you tonight to speak about one of these.

The act of a federal bureaucracy preventing thousands of people from pursuing their most favorite

thing in life, a simple thing, walking their dog outside, off leash, on a trail, freely, playfully, joyfully. The great loss at not being able to do this anymore can only be defined, to those of us who love our dogs, as a death. But in Thomas' poem there's a glimmer of hope. Thomas actually tells us not to go gently into the good night. Rage, he says, rage, rage against the dying of the light.

And this, in counterpoint to my feeling of defeat, is also what I feel tonight: absolute rage. Rage that many of you in the GGNRA have ignored our pleas, our letters, our well-researched facts, our goodwill, our huge numbers, huge numbers, our hopefulness, our willingness to cooperate and compromise. Rage that you don't see, don't seem to care about us; and mostly rage that you have lied to us and it doesn't seem to bother you.

So I guess, in summary, I would rather feel rage than defeat. It is unfortunate that these two emotions seem to be the only ones available to me when confronted with a faceless bureaucracy that seems to care nothing about thousands of people who are only trying to experience a bit of simple joy in their lives. It would be much, it would be much -- I would much rather feel hopeful, cooperative, friendly, energetic,

wanting to help and compromising; but I -- but you don't give me these options. You really have lost me, I'm afraid. I'm sorry for this. I'm sorry for you, for me, for the people, for the many other people your decisions affect, for our dogs, for the children in our lives. And I'm especially sorry for the individuals who have devoted their lives to a hateful vendetta. Those few San Franciscans who have made dog hating their mantra. That must be a very sad way to live.

To all of these people who have gone against us, I can only say you have accomplished nothing more than succeeding in breaking our hearts. I can't thank you for that, but I can thank you for the opportunity to tell you, very sincerely, how I feel about it.

[Applause.]

STATEMENT OF
FLORENCE SERRETT

MS. SERRETT: Before I say any more, I would like to -- I'm sure I speak on behalf of all the dog owners that are here -- to ask you to express our sympathy to Dr. Wayburn and hope for his total recovery.

[Applause.]

Dr. Wayburn is one of our friends.

Now I'd like to use my three minutes to ask Mr. O'Neill to clarify a couple of points.

CHAIRMAN BARTKE: Would you tell us who you are, please.

MS. SERRETT: Pardon?

CHAIRMAN BARTKE: Tell us who you are, please.

MS. SERRETT: I'm sorry.

CHAIRMAN BARTKE: Your name?

MS. SERRETT: Florence Serrett.

CHAIRMAN BARTKE: Thank you.

MS. SERRETT: In January, the Chairman adjourned this Commission with the promise that, for 120 days, no changes would be made in enforcement or signage. But early in April, "Pets on Leash" signs appeared at Fort Funston, Ocean Beach, later at Crissy Field. Mr. O'Neill has stated that Washington made us do it.

Mr. O'Neill, will you please now identify, by name and office, exactly who it was in Washington who made you do it? We would like to be in touch with him.

SUPERINTENDENT O'NEILL: I guess -- you know, I don't want to get into a dialogue. I find it --

[Simultaneous conversation from the audience.]

SUPERINTENDENT O'NEILL: Let me just say the fact -- you know, I find it a bit insulting in that the one person who stood up for you all, who is willing to risk my own career --

[Audience reaction.]

SUPERINTENDENT O'NEILL: Well, wait a minute -- and go forward to be able to get permission to be able to go through a process to promulgate a regulation.

MS. SERRETT: Mr. O'Neill, we simply want to write a letter to this person, or these people, and you have never identified them, so we can not protest to your superior, who is, who is restricting you.

SUPERINTENDENT O'NEILL: As long as the regulation -- we all are anxiously awaiting to be able to get into the ANPR process to make it start. Let me say this: As long as the regulation is in place, unless you inform the public that the regulation is the regulation, there's no way to uphold citations with respect to activities that occur that are in violation of that. And that's basically, obviously, a legal decision.

Reaction. Now I, I'm anxious to get on to the future. I think you all know that. I don't like this pounding. I don't like to be seen in a negative light in this. I have stepped forward and tried to get a change for this. And I understand. I met with a lot of dog walking groups. But as long as the regulation is in place, if indeed you're going to be able to enforce the regulation, you've got to educate the public that the

regulation exists. We hope we are going to be able to get into a process where that can be changed, where we have the authority to change it.

MS. SERRETT: May I ask another question?

CHAIRMAN BARTKE: Will you continue with your comments, please.

MS. SERRETT: On April 11, The Chronicle editorial quoted you as follows:

"Enforcement will remain the same at the discretion of rangers and aimed only at aggressive and destructive dogs."

Was that a correct quotation?

CHAIRMAN BARTKE: Would you please go on with your comments? What do you have to say?

[Simultaneous conversation by the audience.]

MS. SERRETT: I was asking a question of Mr. O'Neill. Was it or wasn't it?

SUPERINTENDENT O'NEILL: That's an exact quote, that the enforcement hasn't changed. It's always at the discretion of the law enforcement person in the field.

[Simultaneous conversation by the audience.]

MS. SERRETT: My question -- that was, in other words, that was a correct quotation? They quoted you correctly?

SUPERINTENDENT O'NEILL: Yes.

MS. SERRETT: Okay. My question then is: During the past few weeks of warnings and citations at Fort Funston and Baker Beach, these citations and warnings were given to dogs, to owners of dogs, which were not out of control. Has the policy changed? Or are they the result of orders from your office or other offices? If from other offices, will you please identify them?

SUPERINTENDENT O'NEILL: Well, I -- I mean, obviously, as the Superintendent's Report indicated, which is that there were like -- what? -- 265 contacts. There were only -- and most of those were education about that. There were verbal warnings where it was necessary. If it escalated and people challenged in an inappropriate way, then citations were given. But there were only, I think, 6 or 7 citations that were given that whole period.

MS. SERRETT: That may be. Were they the result of orders from your office or from elsewhere?

SUPERINTENDENT O'NEILL: As I said before, the discretion is always in the hands of a local official.

MS. SERRETT: You.

SUPERINTENDENT O'NEILL: I mean the law enforcement rangers. And they have to use discretion

based upon what the circumstances are. We take the least action necessary to effect the change in behavior. So, if a verbal warning is necessary to do that, fine. If it escalates --

VOICE: ... the rangers wanted to position themselves all over the area, at Fort Funston, is that right? They can take it upon themselves to introduce themselves at the beach --

CHAIRMAN BARTKE: Well, why don't we wait until it's your turn.

MS. SERRETT: One more question.

CHAIRMAN BARTKE: Okay.

MS. SERRETT: So far, we've had non-answers. Now, I'd like to ask you: Why has the low enforcement profile disappeared from the scene before the ANPR process have even begun?

SUPERINTENDENT O'NEILL: I'm not sure I understand the question. How we, how we carry out the education/enforcement of the existing regulation is one track. How we get into the dialogue to determine what is appropriate for the future, if we're given the authority to do that, is a whole 'nother track. Until such time as we're given that authority, can go through that process to be able to determine (1) if this community wants a regulation to be promulgated, and/or

the existing regulation that exists nationwide enforced, then we aren't able to determine exactly where and under what conditions. So, I mean, that process is separate from the fact that, until such time as we do, are able to get a change, or if there is a change in the regulation, we have to do education and enforce, as appropriate, the regulation that exists.

MS. SERRETT: I don't have anymore questions, but I don't you've given us any answers, either.

SUPERINTENDENT O'NEILL: I don't --

CHAIRMAN BARTKE: Let me clarify one thing, Ms. Serrett.

[Applause.]

CHAIRMAN BARTKE: And that is that, at the conclusion of that meeting in January, this Commission did vote, overwhelmingly, to request that the Park Service not change its level of enforcement for 12 days. The Commission does not ever have the authority to order that, or to make it happen. Our vote was a recommendation, a request, to the Superintendent.

At the meeting, immediately following that, and on the record while you were there, those of you who were there, the Superintendent responded that he could not ignore the law, and the law would have to continue to be enforced. And I remember that, and probably you

do, too.

Anyway, so that's a clarification. The Commission did not, nor could it vote, to not change the enforcement because we have never assumed that authority, nor do we have it.

Yes. ma'am. Who are you.

STATEMENT OF

RENEE PITTEN

MS. PITTEN: My name is Renee Pitten.

When I first rose to address you many months ago, I spoke from my heart about what an important part of my life Fort Funston was. A place where I could go with my dog, where both of us were unfettered, a where in a glorious setting in our frantic urban area one could find joy, community and tranquility. Now those words were part of a presentation I did not give on January 23, when more than a thousand of us were promised that there would be no change in enforcement during the ANPR process. That was then and this is now.

One major result of the events of September 11, has been an increase in stress among the American population generally. During this period, the GGNRA has rached up its own campaign of harassment, intimidation, threats and citations against San Franciscans walking harmlessly with their dogs. This

campaign at this time is truly breathtaking in its insensitivity and intolerance.

I support the reversion of Fort Funston to the city of San Francisco. The GGNRA, formerly a good neighbor, has become an occupying army. We ask that you support us in our efforts to take back our land.

[Applause.]

STATEMENT OF

JENNIFER FINLAY

MS. FINLAY: Hi there! My name is Jennifer Finlay. I am now a federal criminal.

This is a ticket I was issued at 9:56 a.m. on November 11, 2001. At that time, there was a 27-foot swell hitting Ocean Beach. The surfers at the Sea Biscuit Cafe were not going out surfing. The Park Service had stationed 6 rangers at Fort Funston to hand out tickets to dog walkers. Whilst I was being ticketed, the rangers were called to Ocean Beach because people were in the water.

Why isn't the Park Service actually protecting the public from a hazard that does exist within the park, which is the ocean at Ocean Beach and Baker Beach? And why are they writing me a ticket for having my dog off leash? Which I went back later that day and she ran around off leash without any problems, without getting a

ticket, or being called a criminal.

The second thing is, is the ticket issuing officer. Aside from not being able to complete my ticket because they had to run off on an emergency call, and because you are short of resources, by the sound of it, came back and continued to harass me, requested my Social Security Number, and also said, in his gloating voice, "Well, nobody drowned." Personally, I find that offensive being that I surf at Ocean Beach and I have had opportunity to pull people out of the water there who have been in trouble.

I think the National Park Service is doing bad by the people of San Francisco and the public, the general public, and those of us who get tickets. We're doing this on purpose to prove to you this is not a lie. We're not making this up. This is happening. There are green-panted men standing around at the parking lot at Fort Funston at 10:00 a.m. when the user groups is elderly people, retired people, and women with small children, intimidating them into getting back into their cars and leaving the park. I think that's atrocious behavior on the part of the National Park Service.

If this Commission is to represent the public and the people who do use, the people of the Bay Area who do use the parks, they should step in and stop the

enforcement.

Thank you.

[Applause.]

STATEMENT OF

DAVID MANN

MR. MANN: My name is David Mann. I live in the city and work in the city, and I have a dog. And, you know, up until January, this was not an issue of major importance to me. But I seem to recall sitting outside in the rain on a slope of grass, in the mud that night, at a meeting that didn't come close to accommodating the people who wanted to attend and speak.

And I didn't get to hear what went on that night; but, by the time it was over, I got a few rumors. I went home and saw on the news the sound bite, where the Superintendent here was promising that our voices would be heard and no action would be taken, and that there would be more meetings to hear us. And nothing has happened in that regard until tonight when some of us are getting to talk because this is, you know, a non-agenda item.

There was a time in my life when I thought I would go into public service, and I'm remembering tonight why I didn't: Because I didn't want to be in the excruciating position of making disingenuous

statements like I've heard tonight from the Superintendent, and keeping a straight face. The fact is that enforcement had changed. And the fact is that giving people tickets is not educational. And the fact is that, if this wasn't a topic that should have been heard at this meeting tonight, then why is there a handout on the topic on the table as you come in here? It's ridiculous, and it's embarrassing. I'm not angry; I'm just disappointed and depressed by this level of so-called representation of the citizens.

You know, I've heard the meeting all night. I didn't hear a single other person who was talking be told that they shouldn't talk unless they could tell you something that you haven't already heard. But, somehow, that's the criterion by which the validity of what we say is judged. You know, I heard that there's -- we're keeping a stiff upper lip as the resource shortage is dealt with, and we're short staff. Yet, there are tons of rangers out there last week giving these educational tickets. It breaks my heart.

There's been absolutely no forum for us to get anything done other than to show up at a place like this and behave the way we've been behaving. And it's a disgrace. It's a complete disgrace. Somebody said earlier, we've been robbed, in reference to the fact

that they got a half-million dollars instead of a million dollars. We have all been robbed. We've been robbed of the place where people have been going for years to walk dogs off leash. Somehow, you know, if there isn't a lot of money involved, I guess things don't get heard.

I just want to suggest there's a constituency here that you may not realize exists. This isn't just about flamboyant, exotic, cute dog walkers in their flannel shirts out there in the spray at the surf with their dogs. Everyone of those dog walkers walks 10 to 20 dogs everyday, and those dogs are owned by people who are vice presidents of Banana Republic and CEOs at firms in the city, and are taxpayers and land owners and want to have a place for their dog to go. And I don't know what the secret agenda is and why, all of a sudden, this is happening, but there really has not been any attempt to justify why it's happening. And there's certainly a million reasons why it shouldn't be happening. And, you know, at some point, people here need to be heard.

There's the potential for grassroots organization is here. The potential to raise funds is here. And if you want to conserve scarce resources for the parks, don't take this battle on. It's ludicrous. Pick your fights. This is a waste of everybody's time.

Thanks.

[Applause.]

VOICE: I want to tell you the results of what is happening here. He has a questions, excuse me.

CHAIRMAN BARTKE: Yes.

COMMISSIONER ALEXANDER: Excuse me, sir, the gentleman who spoke a moment ago.

CHAIRMAN BARTKE: Mr. Mann.

COMMISSIONER ALEXANDER: Mr. Mann?

MR. MANN: Yes.

COMMISSIONER ALEXANDER: I'm not quite sure I understood you. You said that, that people here walk 10 or 20 dogs at a time? I just didn't understand what you were saying.

MR. MANN: Perhaps four separate trips out there, with five or six each time, yeah. And they keep them under control better than you can probably imagine, and they pick up things that are left there by other people, you know, litter and any number of other things. But, yeah, 10 or 20 dogs would be somebody making four trips out there. So let's not get too focused on that.

[Applause.]

STATEMENT OF

JACKIE JOHNSON

MS. JOHNSON: I want to tell you the results

of what's happened out there. I went out there --

CHAIRMAN BARTKE: Can we have your name, please?

MS. JOHNSON: Jackie Johnson.

CHAIRMAN BARTKE: Thank you.

MS. JOHNSON: I went out this morning. There was a man standing by the car next to me holding a cane. He told me that he had brought his dog out, and then hired somebody to walk his dog for him because he couldn't walk the dog. When I started my walk, I looked out. That whole area there had one person on it. Usually, there are dogs and people and kids and everybody playing. One person. Sure, on my trip, I saw other people. When I got down the bottom, there weren't anybody except the people who were doing the toxic survey.

Now you want to know who you're missing out there? You're missing the people who want to walk their dogs on leash. You're missing the mothers -- off leash, excuse me. I apologize.

You're missing the seniors, who's got enough problems to get themselves out and their dogs without having to worry about hanging on to the dogs. You're missing people with arthritis in their hands, walking and balancing problems, back troubles, and so on.

You're missing the parents who have both kids and dogs to hold on to. You're missing those who come out specifically to see the dogs, and there are a lot of them.

Why do you want to keep people from enjoying Fort Funston? What good is a recreation area where the largest group of users is excluded? A park without people isn't my idea of a park. Maybe your idea is to exclude the people then you can use your funds for something else.

Thank you.

[Applause.]

STATEMENT OF

DENISE SELLECK

MS. SELLECK: Hi! My name is Denise Selleck. And I'd like to answer the question on behalf of Mr. O'Neill.

I think we know who is not giving the order from Washington. Let the record note that the cover of the December 3, 2001 Newsweek has a picture of the President and the First Lady on the National Mall, which I believe is National Park land, with their two dogs off leash.

[Applause.]

I would also like to address what Jackie was

just talking about.

Some years ago, I think you said there were 750,000 visitors to Fort Funston alone every year. And I don't remember about Ocean Beach, Crissy Field, whatever. If you continue your enforcement, and if it is like it was today and people cannot walk their dogs off leash, we will not go. You will not have 750,000 people, and you already lost money in your budget. You will not be able to justify asking for money for people who do not come.

So this is something new I think you haven't heard before. You need to consider it. The No. 1 users of this park, Golden Gate National Recreation Area -- okay? -- are the dog walkers and the people with their dogs. And if you -- if we can't go there off leash, we're not going to go there. Why should we? There's other places to walk on leash.

So please consider that and remember that you might get your budget slashed even more. You won't be able to buy areas in San Mateo County, and whatever else you want to do.

Thank you.

[Applause.]

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STATEMENT OF
DAVID EMERICK

MR. EMERICK: My name is David Emerick. And I first started going to Fort Funston 15 years ago, not walking a dog, but walking a father. My father was recovering from a heart attack and discovered Fort Funston.

Contrary to what you're seeing in us tonight, Fort Funston is a very friendly, socialable area. It's a place where you can -- it's special because you can walk up to people and you can talk to people. People told me, sometimes retirees, it's the only place that they get out and talk to other people. It's very important that this unique area continue to remain as a social place for many of us to get along.

I know a lot of these people here. I've talked to a lot of these people here. People that don't have dogs enjoy coming out to Fort Funston because you can simply up -- people are approachable at Fort Funston. The one continuous stress that we have had for the longest time is the stress that we are going to lose this area as an off-leash area.

Please, give us the security that we won't have to continue to fight these battles. We want this area. It's been stated before that most of the Fort

Funston dog walkers are women. That is correct. There are tremendous health benefits to both the animals and to the people for being out there. Consider that when you are considering your policy.

Please, come out to Fort Funston and talk with us. There's a lot of fear and anger here tonight. But that's not what -- that's not the people that we are. Come out and see us. Come out and experience the unique park that we have. And please, do your best to make sure that it remains an off-leash area. People and dogs are both social animals, and, to behave properly, they need to socialize.

Thank you.

[Applause.]

STATEMENT OF

GREG HERLEIN

MR. HERLEIN: My name is Greg Herlein, and I had a prepared statement to make tonight; but several people made the points I was going to make, probably more eloquently than I could.

I would like to make several points, and I would like to address them to the Commission and to Superintendent O'Neill, in the form of questions. But rather than asking questions and having you respond interactively, I'd like to perhaps have you address them

afterward, or address them in some other public forum where your answers will go on the record, where it's a public record, where all of us can obtain those answers.

CHAIRMAN BARTKE: Sir, do you have those questions written out? Because, if you do, that'll be very helpful to respond --

MR. HERLEIN: No, I don't, actually. Because my writing was what I was going to say earlier that other people said for me.

CHAIRMAN BARTKE: Okay.

MR. HERLEIN: But from what has arisen tonight, first of all, my understanding of this Commission, the Advisory Commission, which sometimes is called the Citizens Advisory Commission, my understanding is that it is an Advisory Commission appointed to represent the people of the Bay Area in making policy recommendations to the Golden Gate National Recreation Area. This forum, where off-agenda items is available to speak on, my understanding is, is that a forum where we can come and make our points known to you so that you can, in turn, pass those points along to the Golden Gate National Recreation Area management. Your attempts tonight to deny us the opportunity to speak makes me wonder if I am correct in

my understanding of what your job is. And I would like at some point to have you please explain what exactly is your job, if it's not to represent the citizens of the Bay Area?

CHAIRMAN BARTKE: Let me respond to that right now, then.

MR. HERLEIN: Okay.

CHAIRMAN BARTKE: First of all, we're not limited to the Bay Area, but the rest of your description is pretty accurate.

Secondly, I did not mean to say that you were denied the opportunity to speak. What I said was it would be a better plan if you let me know when you want to be on the agenda, so that you could be on the agenda

--

MR. HERLEIN: How about January?

CHAIRMAN BARTKE: This is like the third or fourth meeting in a row that some of you people have been here speaking about the same thing, but not getting --

MR. HERLEIN: How about January?

CHAIRMAN BARTKE: -- not getting on the agenda.

MR. HERLEIN: How about January? We would love to be on the agenda in January, sir.

CHAIRMAN BARTKE: And nobody --

MR. HERLEIN: Can we be on the January agenda?

CHAIRMAN BARTKE: -- nobody has contacted me

--

MR. HERLEIN: I'm asking right now.

CHAIRMAN BARTKE: -- about when --

MR. HERLEIN: Right now.

CHAIRMAN BARTKE: -- we could fit you on the agenda and what the purpose of the presentation would be. Now, so far, we haven't heard anything that the Commission can do --

MR. HERLEIN: Okay, well let me, let me go to my next point, sir, and perhaps that will cover some potential agenda items.

Hang gliding. I recently sent an e-mail, and the snail mail is following, to Mr. O'Neill specifically asking -- and I cc-ed several members of the press, by the way -- asking specifically about certain things. One was the off-trail mountain biking, and I cited -- I actually read through CFR 36 -- right, CFR 36? -- and I couldn't find exactly -- I found one place where it could be construed that off-trail mountain biking would be illegal. That was a little sketchy.

But I did specifically see that hang gliding is operating an aircraft off Park Service land. And that is absolutely forbidden. And I did, in my letter, cite to you the place where there is a specific exemption for the Golden Gate National Recreation Area. I believe that that was an ANPR process that allowed hang gliding to fly in specific violation of CFR 36.

But I would like to know why were the hang gliders not stopped through their ANPR process, and, yet, there is an aggressive enforcement of the law regarding dog walkers, and why that appears to be discriminatory. In addition -- you know, I hope that 3 second sign counted the chairman's comments?

CHAIRMAN BARTKE: Yes, it did. That won't count against you.

MR. HERLEIN: The other -- I'll make this very quick, very, very quick.

It seemed odd to me that education involves so much intimidation. And, if you're honestly approaching an ANPR process, why are you so aggressively educating the public when you're going to have to reeducate them if the ANPR process succeeds?

[Applause.]

CHAIRMAN BARTKE: Thank you. Next speaker.

MR. LARSON: Did you guys want to answer that

question before I speak?

CHAIRMAN BARTKE: You're speaking to the Commission?

MR. LARSON: Yes.

CHAIRMAN BARTKE: We're bound by federal law. We keep saying this over and over. We are advisory. We have advised. You have given us nothing else that you want us to do. You're making the same speeches that we heard last meeting, the meeting before, the meeting before that. You have not asked us anything that we can do for you.

MR. LARSON: I don't understand the process, but I know that I just heard a question asked, but I haven't heard a response.

CHAIRMAN BARTKE: Maybe you'd better remind me of the question.

MR. LARSON: What was your question again?

MR. HERLEIN: Are we on the agenda for January, sir?

CHAIRMAN BARTKE: No, you're not.

MR. HERLEIN: Can we be?

CHAIRMAN BARTKE: You will call me and we'll discuss what it is. We already have a full agenda for January.

MR. HERLEIN: February?

CHAIRMAN BARTKE: But call me, let's discuss it and find out what it is you want to present to us.

MR. HERLEIN: Are you objecting to going on the record with this, sir?

CHAIRMAN BARTKE: I'm on the record. You are on the record. I am on the record now.

MR. HERLEIN: Can we make a presentation to you, sir?

CHAIRMAN BARTKE: You are making it.

[Simultaneous conversation.]

CHAIRMAN BARTKE: Why don't we get to the next speaker.

STATEMENT OF

TOM LARSON

MR. LARSON: My name is Tom Larson. I'm a native San Franciscan and very familiar with Fort Funston. Obviously a pro-dog person.

A couple of things that I don't understand, and I can't claim to know all the details about how all this works. But the impression I've gotten over the discussions I've heard over the last several meetings are that there is a rule here that says that dogs cannot be off leash in the Golden Gate National Recreation Area, so there must be enforcement of that law before we can make any changes. However, it seems

to me that, at least since 1979, or whenever it is that the GGNRA took over this Fort Funston, there's never really been any enforcement. But as far as I know no Superintendents have ever lost their jobs. No one has ever been fined. Nothing has ever happened. It's just gone on the way it was until about a week ago.

So, I'm wondering why it is, when we're talking about this -- I believe it's called ANPR process -- why is it that things just can't stay the same until that process gets started?

And it's obvious that things have changed. I've been going to Fort Funston for years with my dog. I've never been approached by rangers at all in terms of leashing my dog until a week-and-a-half ago. I took three steps out of my car and they told me that, if I didn't put my dog on a leash, I would get a ticket. So obviously the enforcement has changed.

I'm wondering -- again, these are my questions to Mr. O'Neill -- why can't things just stay the same until we get into the process? Secondly, did you, yourself, tell the park rangers, or whoever they report to, to start aggressively enforcing the off-leash laws within the past several weeks?

CHAIRMAN BARTKE: Do you want to answer?

SUPERINTENDENT O'NEILL: Well, let's finish.

CHAIRMAN BARTKE: Why don't you finish your presentation.

MR. LARSON: I am done. Those are my questions.

CHAIRMAN BARTKE: You're done. Okay.

MR. LARSON: Right.

CHAIRMAN BARTKE: I think that question has been asked and answered at least twice before.

[Simultaneous conversation.]

MR. LARSON: Could you give us the answer again, then? I'll repeat the question. One was: Did you, Mr. O'Neill, tell park rangers, or whoever they report to, somebody there, to actively start aggressively enforcing the off-leash policy within the past several weeks?

SUPERINTENDENT O'NEILL: That was not a directive that I gave. I said that, that, that our ongoing plan -- and we've met with the dog-walking groups. We conferred exactly what our process is. I communicated this on the update on our education, enforcement, and other policies on the web page on four different occasions. We sent a detailed letter to each of the dog groups spelling this out in detail. We've -- and, so, I rely on the chief of our enforcement branch to determine how best to achieve the enforcement

of the regulation over time. We do not have the staff to be there in all occasions, obviously. So, if we're there, we have to do it on a spot basis.

So, I'm relying on the good judgment of the staff to carry out basically an enforcement program that focuses first and foremost on education, and lastly on the need to give a citation.

MR. LARSON: One other question then. Would it be possible for you to tell the head of enforcement to please go back to the way things were until the process -- until we start the ANPR process?

SUPERINTENDENT O'NEILL: I appreciate that. That's funny. You're asking that would be the same thing as chief of the California Highway Patrol directing that they're not going to enforce the 55 Mile an Hour speed limit. They want their enforcement folks to be, to be sage enough to know when and how to enforce it. So --

MR. LARSON: Well, I think it's time for the next person to speak. But I'm afraid you didn't answer my questions to well.

STATEMENT OF

AVRUM SHEPARD

MR. SHEPARD: Good evening. My name is Avrum Shepard. I've lived in San Francisco all my life. I

was born here.

I really am so disappointed to see a public servant lie the way you do, Mr. O'Neill. And to see Mr. Bartke sit there and just say that I have no control over what goes on. You're supposed to be here representing the citizens of San Francisco and the people that use the Golden Gate National Recreation Area. You're not doing it. I intend to make it my business to see how we can have you replaced. You're not irreplaceable, sir.

Mr. O'Neill, I've been standing here listening to you not answer questions. I'll tell you that on November 15, at approximately 11:30 in the morning, I was at Fort Funston. I got out of my car with two dogs, and we started towards the back of the fort. I was approached by a ranger, who I'd never seen before. He was very polite, although not the same kind of polite that most of the rangers that I'm used to. Most of them are very friendly. This guy wasn't friendly. He also had a gun. I didn't see guns on the rest of the rangers at Fort Funston. I don't think I've ever notices them there. He asked me to leash the dogs. He didn't ask me; he told me. I said, "Why?"

He said, "There's a sign over there."

I said, "Well, I've been bringing my dogs

over here for a long time, and they haven't been leashed. What's different now?"

"Well, I don't know, but there's a sign over there."

That's real education. Is that how you teach people? This gentleman's name was Bob Airey, in case you want to follow up with Mr. Airey.

I said, "I don't understand this. You know, for 30 years we've been able to walk dogs off leash here. And you come out here today and say that we can't do that."

He said, "Well, there's a sign there. And besides, Mr. O'Neill told me that we have to enforce the law. He sent me out there." He said that he was out there with you in the morning, and that you had told him, and the rest of the rangers that were there, to enforce the rule. That's why, Mr. O'Neill, I'm saying that you're a liar. And you're sitting there shuffling papers and not answering questions when people are asking you legitimate questions. You ought to be ashamed of yourself.

[Applause.]

STATEMENT OF

SHEILA MAHONEY

MS. MAHONEY: I came -- my name is Sheila

Mahoney. And I came tonight with a real Jeremiah against you, Mr. O'Neill. But other people have dealt with that, so --

I, too, should be home in my sickbed tonight instead of addressing you. But I'm here because Thanksgiving Day was so beautiful at Fort Funston, just like the old days. There were no rangers in view. Nobody had any fears about getting a ticket. Just everyone and their dogs enjoying a gorgeous, peaceful day.

Now, with all the history we've been through together, you know, I ask you -- and all the double-talk tonight, frankly -- I ask you should we believe your words or your actions? That's my problem. I feel like you can't shine me on any longer. But I do have a legitimate question:

If a ranger comes up to me and says, "Leash your dog," and I say, "I'm sorry, but I don't agree that that's the law," and I keep a very civil tone, will I get a ticket? Mr. O'Neill, would you tell me whether I'll get a ticket?

SUPERINTENDENT O'NEILL: I can't say. The circumstances depend. Now you're -- any time -- and as long as the regulation exists --

MS. MAHONEY: Okay. The answer is: Yes.

Thank you.

No. 2: I felt I should bring up another subject tonight. In case you don't know it, remember that sunset trail that the old people used to like to go on, that was dangerous for people who weighed maybe a maximum of 275 pounds? Well, gee whiz, this weekend, there was a national park vehicle driving down that path. I don't know how a couple of people who are maximum 275 pounds will be in danger, whereas a two-ton pickup isn't. That's all I have to say.

Oh, somebody asked me for Mr. Bartke's telephone number.

CHAIRMAN BARTKE: It's in the phone book, but it's Area Code 51-758-5100.

MS. MAHONEY: Thank you.

[Applause.]

STATEMENT OF

COLBY WATTS

MR. WATTS: Hi! My name is Colby Watts. I'm from Pacifica. And that's one of my points.

I want to just make it clear that everybody who is here is not necessarily a San Franciscan. What you're doing is representing the views and the interests of everybody in the Bay Area. So I think Mr. Bartke actually spoke to that point, too.

Everybody else made some pretty good points on the tyrannical central governments, and taxation without representation -- so to speak -- so I'm not going rail on that so much. I'm really just going to more make a suggestion.

Mr. O'Neill, you made it pretty clear that you're pretty powerless to do anything. And, so, what I'd like to do is suggest that, No. 1, as somebody else said, we go ahead and get on to the agenda for the January Meeting. Also, I'd like to suggest that we somehow teleconference, or whatever, your boss, your next up the chain of command. Obviously, we're being -- you're maybe a firewall for that person to try to keep us, keep us at bay; but we need to go ahead and start escalating this up further and further. And if you're powerless or ineffectual, or a bureaucrat -- no offense -- then we need to start to, need to start to escalate this up.

Again, we're all taxpaying citizens. You're not going to find a community this close and effective to come in, who are going to spend their, you know, until 11:00 o'clock, 11:30 at night, to come in and speak on something so near and dear to their hearts. And I see everybody checking their watches, too. It is almost 11:30.

So, again, I suggest that we bring the next level of authority in so that we can start to move this forward to get to some sort of, some sort of conclusion that's going to effectively represent these people, these citizens of the United States. I don't want to make this a civics lesson, but you're representing us. No offense, Mr. O'Neill, but you serve us. We pay your salary. Remember that.

Thank you.

[Applause.]

SUPERINTENDENT O'NEILL: I guess I --

CHAIRMAN BARTKE: Wait, we have a question over here.

COMMISSIONER ALLAN: Superintendent O'Neill, I wonder if you can -- it's come up over and over again. I just hope you can explain it to me. The Advanced Notice of Proposed Rulemaking is at the Office of Management and Budget.

SUPERINTENDENT O'NEILL: Yeah.

COMMISSIONER ALLAN: What kind of time line are we talking about? And when do we, when do we have the opportunity for public input and what will that look like?

SUPERINTENDENT O'NEILL: Okay. That's what -- I did, exactly as the gentleman just said, I flew

into Washington to emphasize to the Director of the Park Service personally the importance of her assigning a person, a process manager, to be able to hand carry and walk that Notice of Advanced Notice of Proposed Rulemaking through all of the folks that had to sign off on it. That process, she promised me that she would. She's been true to her word. She assigned a woman, who has done a very good job of moving that through. It's over at the Office of Budget and Management at the present time. They have a requirement, or a period of days -- I forget the number of days -- in which they have to review it.

We're hopeful -- and this gets back to the comment -- when we get the Advanced Notice of Proposed Rulemaking noticed in the Federal Register, we're all anxious to do exactly what you said, which is: How do we structure the public involvement process so each of you feels like it's, it's got integrity, that the trust relationship is built, that we've heard from all elements of the community. I can only say is that we've talked to some of the representatives of the dog-walking groups. I've asked for their help, in helping us to find the full breadth of a public-involvement process that will work in this case. I'm open to any of your suggestions on how best to do

it so that we have the kind of interaction and dialogue that we all seek.

And, so, I think what I'm trying to do is to get, to get over this hurdle of not being able to affect the future by getting the future cleared so we can move into exactly what we desire. Hopefully, in January, we will have gotten word and we can begin that process.

COMMISSIONER ALLAN: So it's --

SUPERINTENDENT O'NEILL: All I can say is that we're doing what we can. I took a special trip back there to make that point.

CHAIRMAN BARTKE: Next speaker. Go ahead, sir.

STATEMENT OF

JOE HAGUE

MR. HAGUE: Hi! My name is Joe Hague.

Superintendent O'Neill, thank you for the things you are doing to move this process forward. But I, once again, am going to bring up some of the discrepancies that I keep hearing.

On April 11, you had stated that there would be no change in the enforcement of the dog policy. The week of 9-11, I talked to Chris Powell and she told me there was no change in the enforcement. If dogs were

being destructive or misbehaving, it was up to the discretion of the rangers. I understand that.

The week of November 15, there were more than half-dozen rangers out there issuing warnings and tickets. Now that seems like that's a change in enforcement. When the ranger who gave me a ticket tells me that headquarters sent them to Fort Funston to issue tickets, that's seems like it's a change in enforcement.

When Yvette Rune (phonetic) -- I think that's her name -- told me that, last January, the Park Service decided to increase enforcement, that seems like a change or discrepancy in everything else we've been hearing.

If you're saying there is no change in enforcement, I request that you go back to your staff and tell them that. Not that they should ignore when people are doing things, their dogs are being destructive, they're not picking up after their dogs, we want that enforced. But for them to, if we're going about our business like we normally do, and our dogs are behaving, to let us walk our dogs in peace.

Thank you.

[Applause.]

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STATEMENT OF
ANNE FARROW, CO-CHAIR
SAN FRANCISCO DOG OWNERS GROUP

MS. FARROW: I'm Anne Farrow. I'm co-chair of San Francisco Dog Owners Group, and I'm also a daily walker at Fort Funston. I had some other things to say, but I think it's been said several times.

The Park Service now claims to be educating dog owners. SF Dog has, since 1997, offered to work with the Park Service on an off-leash education program. We have been consistently ignored. The Park Service seems to have education and intimidation all kind of mixed up. Again, we would be happy to work with the Park Service on a positive, responsible off-leash recreation educational program. We do not believe that ordering visitors to leash their dogs is education or recreation.

[Applause.]

STATEMENT OF
FRANCINE PODENSKI

MS. PODENSKI: My name is Francine Podenski, and I'm from SF Dog. And I just want to add a brighter note to this.

Because of the behavior, as of late, our membership is increasing. It couldn't be a better

recruiting tool. And I wanted to thank you for that.

[Applause.]

STATEMENT OF

LISA VITTORI

MS. VITTORI: My name is Lisa Vittori. Actually, Francine and I didn't plan our remarks to be together. But, last time, there were 5 of us here; this time, there are close to a hundred people here. And thank you for issuing those tickets because people are now listening to what we've been saying; which is that the Park Service is basically denying us public process, if nothing else.

You know, I've been working in the elementary schools a lot, and there's a rule in the kindergartens, especially, that's reinforced over and over, which is to tell the truth. And when you make a promise, you keep your promise. And if you can't keep your promise, you say that to somebody: I can't keep my promise.

Well, quite frankly, last January, we were really happy with you because you -- somebody in the hallway said democracy works. And we were impressed that you came up with a solution, Chairman Bartke. But, now, I can't say I think that you're -- I'm not even going to go there.

Somebody just asked me to read something that

Brian said last January 23. Mr. O'Neill, I'm sorry:

"So we will continue to use that discretionary authority and we will do it in a very responsible way."

That's what you said when you were asked if you were going to be enforcing dog laws, only citing egregious situations where you would enforce dog laws. Many people who are getting cited are being told by the rangers that they're being cited for two reasons: One is that you've told them to do so; and the other is that basically we shouldn't have sued the Park Service along time ago. The maintenance people have told me that. I talk to a lot of the maintenance people. They've told me that many times.

When I was an employee of the Park Service, you reinforced with us many times. And I remember being at some new employees' orientation where you told us that the way to get something done is to come to me, and then to organize, and then to come to me again, and then to organize. Well, we have come to you. You've told us what we needed to do. We've organized. We've come back. We've employed the public process. We've done it repeatedly. And when you ask us not to, not to say anything, or not to give you any new information, we are giving you new information. There's increasing

enforcement and it's not just at Fort Funston. Because that's not even where I go. I go to Crissy Field.

Two Thanksgivings ago, it was utopia. It was a beautiful Thanksgiving Day. There were all kinds of people, tourists, dogs, surfers, you know, whoever it was out there. Now, even more than giving out tickets, what you're doing is intimidating people and having people not come there. You're losing your constituency.

But, again, I want to thank you all because you have helped us mobilize the actions that we need to take next. And I do ask one more thing -- if you could turn that off for a minute. Thank you.

I ask for your courage. That's what I want from you, your courage.

Thank you.

[Applause.]

STATEMENT OF

JOHN KEATING, ESQ.

MR. KEATING: Good evening. This is John Keating speaking.

I want to again thank all of you on the Commission for your patience during these long evenings, and your public service on this Commission, particularly in light of your important function of

helping the Park Service to make the right decision by insuring that they hear the public's voices, and the public's concerns. That's what you're here for.

[Applause.]

Now, otherwise, the bureaucracy can handle things themselves. You're here to help insure that they let the people be heard.

Last January, Chairman Bartke asked for suggestions as to what could be done to fix this problem. I think the single greatest thing that this Commission can do to solve this problem is to require that the Park Service staff report to you accurately and not distort the information you get. No oversight commission, whether it's congressional, intelligence, anything, can function appropriately if they don't have the political spine or independence to demand that they get correct information.

Over the last several meetings, we've tried to warn you of this coming problem that you're going to have with this enforcement campaign. The response of the Park Service is to deny that they were escalating it. At the last Commission Meeting, I stood up, I thought I was made a fool of because I told you about rangers out there telling people to leave the park, and to go to jail. Well, I heard those, that people were

going to be sent to jail. I heard those comments in mid November at Fort Funston. And people wrote statements about those comments. So it's reality. But the last Commission Meeting when I told you about that, I was followed by the Assistant Superintendent, who reported to you there's little change.

Now, obviously, you're going to have to listen to what staff tells you, rather than what the public tells you. And I appreciate the deference you give to staff. But when you are confronted with the repeated comments that you're not getting the correct information, I really think you'll function better if you check those out.

Now, obviously, I have my own views about the way the GGNRA should operate, and how they should receive public input. And the Park Service may have their own views. But you should look at what is clearly an unbiased view which is that of the federal court judge who looked at this issue. What he conclude was that the park staff essentially was biased. They attempted to skew the record. They attempted to railroad through the changes they wanted to make while strategically avoiding the public comment. The court also said they were dead wrong on the law.

Now the last key comment I want to make is

about is about this conundrum about Washington said we had to do it. I tried to check that out, too. And I talked to the Chief Solicitor in Washington, who presumably would be the one at the top of the Solcitor's Office, who is making this, the Chief Solicitor dealing with these sorts of issues. And the message I got is that, when you have a situation like this, where the park, after 20 years decides they want to change their policy, and they're going to go through some regulatory process to do it, it's always a problem about whether you enforce the changes while you're going through the public input process. And what they said is that is handled by the discretion of enforcement. And that's fine. It solves the problem. Except it makes it clear that you're not going to get busted if you let things stay the way they are until the public input happens. And it's unfair for you to go ahead and change it all and it belies -- change it all before the public input to try to skew the process again, and it belies the fairness of the process.

So there's two things, briefly two more things that I think this Advisory Commission ultimately is going to have to deal with.

CHAIRMAN BARTKE: Can you do it briefly, Mr. Keating?

MR. KEATING: Right.

One is this concept that there's no choice; that it's simply the law. Well, the Park Service interpreted it one way for 20 years, and now they tell you have no choice but to vigorously interpret it the other way. That's just not what they're telling us in Washington about what the Park Service can do.

Secondly is the concept of why this change was made. You're going to have to deal with that eventually. And it's abundantly clear that the unilateral change occurred when the attorneys -- remember those ones that the court said that they were biased against us and trying to prevent the public input -- that those people decided that the way to stop us from forcing the Park Service to allow public input was to say that we are illegal. So it was an effort to prevent us from having access to the courts. Once you understand that, you'll understand why they are hiding behind the mantra that you have no choice and they have no choice, so they're not politically responsible for these changes.

Lastly, I'd like to close by saying: By God! There are thousands of people who want to enjoy the parks, want to be as respectful to people as we can. Want to be helpful in passing legislation, doing

whatever we can for the parks, if you just work with us, rather than attacking the primary users of the park.

Thank you.

[Applause.]

CHAIRMAN BARTKE: I take it that that completes the people who wish to address this issue. If there's nothing further to come before the Commission, we'll be adjourned.

(Whereupon, at 11:45 p.m., the meeting of the Advisory Commission was adjourned, to reconvene at a time and place to be announced.)

C E R T I F I C A T E

This is to certify that the attached proceedings before the Department of Interior, National Park Service, of the meeting of:

The ADVISORY COMMISSION FOR
GOLDEN GATE NATIONAL RECREATION AREA
AND POINT REYES NATIONAL SEASHORE

were held as therein appears, and that this is the original transcript thereof for the files of the Commission.

James W. Higgins, CVR
Official Reporter

BEFORE THE
UNITED STATES DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE

Meeting of the
ADVISORY COMMISSION
for the
GOLDEN GATE NATIONAL RECREATION AREA
and
POINT REYES NATIONAL SEASHORE

GGNRA Park Headquarters
Building 201, Fort Mason
San Francisco, California

Tuesday, January 22, 2002

REPORTER: JAMES W. HIGGINS, CVR

GOLDEN GATE NATIONAL RECREATION AREA
AND POINT REYES NATIONAL SEASHORE

- - -

ADVISORY COMMISSION MEETING

- - -

TUESDAY, JANUARY 22, 2002

- - -

GGNRA Park Headquarters
Building 201, Fort Mason
San Francisco, California

The meeting was convened, pursuant to
Notice, at 7:30 p.m., Chairman Rich Bartke presiding.

COMMISSIONERS PRESENT:

RICHARD BARTKE, Chair

AMY MEYER, Vice Chair

MICHAEL ALEXANDER

SUSAN GIACOMINI ALLAN

GORDON BENNETT

BETSEY CUTLER

PAUL A. JONES

REDMOND KERNAN

YVONNE LEE

COMMISSIONERS PRESENT (Cont.:

DOUG NADEAU

TRENT ORR

LENNIE ROBERTS

DOUG SIDEN

JOHN J. SPRING

EDGAR WAYBURN, M.D.

ALSO PRESENT:

For the Golden Gate National Recreation Area:

BRIAN O'NEILL, General Superintendent

MARY GIBSON SCOTT, Assistant Superintendent

FOR THE PRESIDIO TRUST:

CRAIG MIDDLETON, Acting Executive Director

STAFF LIAISON:

MICHAEL FEINSTEIN

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P R O C E E D I N G S

7:35 P.M.

CHAIRMAN BARTKE: Good Evening, ladies and gentlemen. I'd like to call to order the regular meeting of the Advisory Commission to the Golden Gate National Parks and the Point Reyes Seashore.

The Commission is appointed by the Secretary of the Interior, upon nominations by local groups, and we are volunteers. We don't get paid for this, but it's our job to give advice to the Secretary of the Interior on the parks that we oversee through the local Superintendents. The Commissioners are not park employees, we do not run the parks; and we are, as our title says, we are advisory only. So our job is to give advice but not necessarily to make the final decisions or to run the parks.

The agendas are available in the back of the room, and I'd like to mention that there is a new format, starting out with the new calendar year, that we're going to try tonight and see if it works better than what we've been doing. We've put the public issues toward the top of the agenda so those of you that need to leave early may do so without staying through the entire agenda. On the other hand, in order to do that, we have to limit the time that is allocated to

MR. MIDDLETON: I think what you may be referring to is a study that's ongoing with regard to the Pacific Immigration Museum. This is something is a congressional directive actually to the National Park Service, and we're working with them at The Trust to look at several options for a possible Immigration Museum. One of them is the Commissary, but we're also looking at options at Fort Mason.

At the same time, we have committed to looking at, with the Park Service and the Golden Gate National Parks Association, a study looking at the feasibility of how to make the marsh work better. So we don't view those as incompatible and we're doing them both.

CHAIRMAN BARTKE: The next speaker is Vicki Tiernan, who wants to speak about Commission policies.

STATEMENT OF

VICKI TIERNAN

MS. TIERNAN: Good evening, Commissioners.

I don't have a prepared speech. What I wanted to say was that, at the last meeting and at several meetings I've attended in the past, the folks in the dog community were reminded that we were only to speak about issues that have not been brought up before.

I have a copy here of the bylaws for the

Commission that state that the primary channel for the free exchange of ideas between the National Park Service and the public is the Commission. This is the forum set up for that purpose. If an issue is addressed here, but it's not addressed to the satisfaction of the public, I think it's only fair for us to be able to be heard again. I mean, there are a great deal of people who are not happy with a number of issues relating to the dog situation. And I just wanted to make the point that I think people should not be discouraged from using the forum that's set up for this very purpose.

Thank you.

CHAIRMAN BARTKE: Thank you.

Next is Margery Owen, it looks like, speaking on ANPR.

STATEMENT OF

MARGERY COHEN

MS. COHEN: It's Margery Cohen. I spoke before you a year ago -- tomorrow, it's a year ago -- also relating to dog-walking issues in the GGNRA, as to access. Tonight, I come with the same questions having to do with the ANPR.

I understand from Mr. Superintendent O'Neill's press conference, and from the literature that I received, that public meetings will be held, and I

haven't seen anything announcing the location for this. And, with the web site down, I'm concerned about the clock being running and people having enough information, enough time, to be able to get to meetings so they can plan this. So I'm concerned about how that word will be disseminated.

I also have -- at Crissy Field and at Fort Funston, there are boards where the Park Service has -- is in a position to post signs, and there is nothing there about the ANPR. Also at Crissy Field, I'm part of the dog -- you know, I walk my dogs at both places. The Crissy Field dog group has been able to use the bulletin boards at Crissy Field to promote, you know, to put up signs about what dog walkers are doing. I'm wondering if some of us in the dog community can also use these particular locations. We'll have to contact libraries ourselves, et cetera. But, to put up our point of view, so that when other visitors come to the park and they see that we're engaged with you in this dialogue, and really as you are engaged with the whole community, for this topic, that there's a point of view explaining why it's important.

So I'm concerned about access tonight on those two issues.

CHAIRMAN BARTKE: Okay. We're going to ask

the Superintendent to report about that under his report, which follows next on the agenda.

MS. TIERNAN: Thank you very much.

CHAIRMAN BARTKE: Okay. Robin Buckley on ANPR.

VOICE: Someone already addressed this topic.

CHAIRMAN BARTKE: Okay. Carol -- can't read -- could be Arnold, yes.

STATEMENT OF

CAROL ARNOLD

MS. ARNOLD: I just wanted to point out I recently read in the Chronicle a small article, last week, that the National Park Service has given its initial approval at Big Cypress National Preserve in Florida, an over 700 acre wildlife haven, to explode dynamite at over 14,000 sites throughout the park in an initial search for oil.

This fact shocked me when I compared it to the potential impact of off-leash dogs at less than 1 percent of GGNRA lands. We all know that the Park Service is trying to claim to be attempting to make off-leash use legal in these areas, but most of us in the dog-walking world do not trust this process -- in other words, the ANPR process.

My question is this: How can you -- how can

you blow up dynamite in 14,000 sites at one park and claim that the impact of off-leash dog walking in a small portion of GGNRA lands has a significant negative impact on natural resources? It doesn't seem to be consistent.

Thank you.

CHAIRMAN BARTKE: Thank you.

Jackie Johnson speaking about handouts.

Jackie Johnson? Oh, there she is.

STATEMENT OF

JACKIE JOHNSON

MS. JOHNSON: I have a request for some handouts for you, or from you, for us. One is: I would like to see something listing the rare and endangered species that you keep talking about, where they are; and, if possible, a reading list, or something, so that we can look up about them ourselves and find out about them.

The second thing I'd like to see is I'd like to see a piece of paper out here that says who you are, who appointed you, what you do, who you report to. In other words, we don't know anything about you people that are on the Commission. Are you all appointed because you belong to the parks, or -- what? We don't know. We'd like to see that.

The third thing is, as far as the dog meeting, I hope that you will choose a site that's large enough that everybody can go. It wasn't very fair to keep everybody out in the pouring rain.

Thank you.

[Applause.]

CHAIRMAN BARTKE: And the last speaker is Lisa Vittori. Lisa Vittori? Yes, there she is.

STATEMENT OF

LISA VITTORI

MS. VITTORI: Thanks for our 15 minutes.

My name is Lisa Vittori. I work with the various dog and environmental groups in the city.

I'm here to once again ask you a couple of questions about this ANPR process.

I thank you for engaging in a process, however flawed it might be. Mr. O'Neill, I do expect to hear tonight exactly what you're going to be doing in terms of the public meetings and public notice. I'm noticing that there's no public notice at Fort Funston listed on this at all, one of the primary dog areas that you keep complaining about. Nor do I see public notice at Muir Woods, at Rodeo Beach. I see not public notice at Baker Beach. These are all the places where people would actually see public notice.

I think that, in this process, you know that we're going to be out all the time talking to people. I also expect you to put up notice, since this is your process.

I'm not -- for the last year, we have actually engaged in civil dialogue with you. We've used your forums. We've obeyed your rules. If this process is rigged in the way the other forums have been rigged, I don't think you can expect our cooperation after this. So I would really appreciate seeing this Commission really represent the views of the community, the broad community, and integrating dog and recreational use with environmental use in this park.

Thank you.

CHAIRMAN BARTKE: That concludes our non-agenda items, but I would like to go back to a question raised by the speaker, Jackie Johnson, about not knowing who we are. We accept that as a recommendation. In fact, I'll report that we have a rough draft in front of us of a handout that would do exactly that, except it's still a rough draft. It hasn't been put into final form yet. So maybe by our next meeting we'll have that available on the back table, or wherever, saying who we are and how we're appointed and what we do.

happened to that news cutout that went down the table.

Did that go all the way down?

COMMISSIONER KERNAN: No.

CHAIRMAN BARTKE: Meeting is adjourned.

(Whereupon, at 1:45 p.m., the meeting of the Advisory Commission was adjourned, to reconvene at 7:30 p.m., Tuesday, February 26, 2002, in the same location.

C E R T I F I C A T E

This is to certify that the attached proceedings before the Department of Interior, National Park Service, of the meeting of:

The ADVISORY COMMISSION FOR
GOLDEN GATE NATIONAL RECREATION AREA
AND POINT REYES NATIONAL SEASHORE

were held as therein appears, and that this is the original transcript thereof for the files of the Commission.

James W. Higgins, CVR
Official Reporter

BEFORE THE
UNITED STATES DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE

Meeting of the
ADVISORY COMMISSION
for the
GOLDEN GATE NATIONAL RECREATION AREA
and
POINT REYES NATIONAL SEASHORE

GGNRA Park Headquarters
Building 201, Fort Mason
San Francisco, California

Tuesday, February 26, 2002

REPORTER: JAMES W. HIGGINS, CVR

GOLDEN GATE NATIONAL RECREATION AREA
AND POINT REYES NATIONAL SEASHORE

- - -

ADVISORY COMMISSION MEETING

- - -

TUESDAY, FEBRUARY 26, 2002

- - -

GGNRA Park Headquarters
Building 201, Fort Mason
San Francisco, California

The meeting was convened, pursuant to
Notice, at 7:30 p.m., Chairman Richard Bartke presiding.

COMMISSIONERS PRESENT:

RICHARD BARTKE, Chair

AMY MEYER, Vice Chair

MICHAEL ALEXANDER

SUSAN GIACOMINI ALLAN

GORDON BENNETT

BETSEY CUTLER

PAUL A. JONES

REDMOND KERNAN

DOUG NADEAU

DENNIS RODONI

COMMISSIONERS PRESENT (Cont.:

FRED RODRIGUEZ

DOUG SIDEN

JACK SPRING

EDGAR WAYBURN, M.D.

ALSO PRESENT:

For the Golden Gate National Recreation Area:

BRIAN O'NEILL, General Superintendent

FOR THE PRESIDIO TRUST:

TIA LOMBARDI, Deputy Director for Public Affairs

STAFF LIAISON:

MICHAEL FEINSTEIN

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P R O C E E D I N G S

7:30 P.M.

CHAIRMAN BARTKE: The meeting has already been called to order. The item first on the agenda is the approval of Minutes from the January 22 Commission Meeting. I believe those minutes were mailed out a couple of weeks ago.

Does any Commission Member have any corrections or changes to make in the minutes, as mailed?

(No response.)

I don't see any, so the Summary Minutes will be approved, as they were mailed.

CHAIRMAN BARTKE: The one change in the agenda will be Item 8, the Redwood Creek Watershed Process will be moved up to precede Item 5. We will otherwise follow the agenda as printed.

That brings us to non-agenda items.

NON-AGENDA ITEMS

PUBLIC COMMENTS

CHAIRMAN BARTKE: Those people who want to speak about items that are not on our agenda may do so at this time. There is a speaker's list, which is being brought to me now. We'll call the speakers and see what we have.

All right. We have three people who have signed up to speak. Carsten Allen is first. And speak from the microphone there because we want to record your comments. Please tell us who you are.

STATEMENT OF

CARSTEN ALLEN

MR. ALLEN: Thank you, Chairman Bartke.

My name is Carsten Allen, and the last time I saw you all was the January 23, 2001 meeting. I'd like to say that a lot of things had transpired in that meeting, at the end. I think there were some great steps that were made. ANPR process is in motion, and I think that's a wonderful thing. Here's where I'm having some problems:

Mr. O'Neill, I don't know if you are aware of my name. I left a message at your office. I have been cited and I have been, according to U. S. Attorney Report, that is being mailed to everybody -- that press release -- I am convicted of a criminal crime in the federal criminal court. I've been convicted for 36 CFR 2.15, for having my dogs off leash.

I'm not here to defend, necessarily, myself on that. I am here on some concerns, some very great concerns, that I have; and that is: The behind-the-scenes maneuvers, that I don't know that the

Commission is aware of, of Mr. Brian O'Neill, serious, serious, serious things have come out in court, under oath. The most important one, to put it in a nut shell, that on or approximately January 21, 2001, Brian O'Neill states to this Park Ranger the Pet Policy has been rescinded, to start enforcing. This is not the only Park Ranger. The Head Ranger fully admits herself that Brian O'Neill had told her approximately at that time period to start enforcing.

At the same time, he's been telling the public -- and you heard it at the meeting. I have the minutes, and everything else like that, that there would be no changes in enforcement, unless, obviously, there was a dangerous animal, or a destructive animal, or something like that. Months later, signs started going up saying, "off leash only" [sic]. Dog groups, they cried out. And, Brian O'Neill, once again, a public statement, no changes in enforcement.

This is entrapment. You are a federal official in charge of armed enforcement units. You are pitting these people against the public without anybody's knowledge. I hope not with the Commission Members' knowledge. It is grossly irresponsible. It is potentially dangerous. It is negligent. I think it's grounds for you to step down.

CHAIRMAN BARTKE: Excuse me, Mr. Allen, you're supposed to be talking to the Commission. This is our meeting.

MR. ALLEN: Fair enough. I'm talking particularly about Brian O'Neill. I think it's time for Brian O'Neill to step down and resign.

I will, in court, upon being cited again for 36 CFR 2.15, I will go to court and I will subpoena you. And will make you admit, under oath, what amounts to this, this entrapment. This is grossly negligent.

I talked to Leland Lee today. He is upset. He is so upset with you it's unbelievable. The entire city is upset. And I don't know if the Advisory Commission is aware of the resolutions by the San Francisco Board of Supervisors.

Have you been sent notice of this by the San Francisco Board of Supervisors?

CHAIRMAN BARTKE: Yes, we have.

MR. ALLEN: Okay. Fair enough. Because I know they were served on that. There's some serious allegations here. There's some very serious allegations here. But the things that are coming out in court, and are going to continue to come out in court, I would really -- I would like to make a motion, right now, that Brian O'Neill step down as Superintendent and resign.

CHAIRMAN BARTKE: Okay. Thank you.

MR. ALLEN: Thank you.

CHAIRMAN BARTKE: Next speaker is Ken Ayers.

STATEMENT OF

KEN AYERS

MR. AYERS: Carsten is not the only one that's suffered from this, this situation. I'm going to read to you a report that was sent to me by somebody who was also cited at Muir Beach after signs were put up. Brian O'Neill was quoted in the Chronicle in an editorial that there would be no change in enforcement. This is the incident that happened to him. The U. S. Attorney's chose not to prosecute him. I have a copy and also the incident report. They give a very different picture on the part of the rangers. But this is serious. These are affecting people's lives.

I've talked to a reporter for the Chronicle, who was also cited at Muir Beach. He got out of the car, was walking with his dogs. He was cited. He was dragged into court. He was able to get off, as well, as was another person who appeared at court the same time.

I'm going to read this to you because, to me, it's absolutely shocking.

"My wife, Sally, and our five-month-old baby girl, arrived at Muir Beach on Sunday, May 6,

around 10:00 a.m. When we walked to the beach and saw 20, 30 other dogs off leash, we took our dog, Sandy, off leash -- which we've been doing at Muir Beach for 3 years now. We did so in reliance upon GGNRA Superintendent Brian O'Neill's statement in the San Francisco Chronicle, April 4, 2001, a place for off-leash dogs, that despite newly posted signs banning off-leash dogs, 'Enforcement will remain the same at the discretion of rangers and aimed only at aggressive or destructive dogs.'

"Our dog is extremely friendly and, therefore, we let her off leash. After Sandy ran and played with the other dogs for about 40 minutes, we settled down for some sun bathing on the beach. We tied Sandy to a small bush during that time.

"Around 11:35 a.m., we decided to leave and go have brunch at the Pelican Inn. We packed everything up. Sandy's leash was tangled in the bush, so I let her off leash so that I could untangle the leash. My wife started walking back towards the car. I retrieved the leash and called Sandy, who was standing

in the sand about 15 feet away. My back was to the ocean at the time.

"When I called Sandy, I was startled by a Park Ranger, who had snuck up from the rear and was standing right next to me. My wife, at this point, was only about 20 feet away, and she had not seen the ranger during the whole time that she packed up and began walking to the car.

"The ranger did not identify himself or offer any greeting. His first words were that my dog was off leash and that he was going to issue me a citation. He had his citation book in his hand. The words themselves were less unsettling than the delivery itself. His whole body was tense. His face was taugth and unsmiling. He acted as if he's caught me red-handed in the act of a crime that I'd been trying to conceal from him."

CHAIRMAN BARTKE: Sir, could you wrap up your remarks.

MR. AYERS: I'm going to read this.

CHAIRMAN BARTKE: You're going over time.

MR. AYERS: I'm going to read this.

CHAIRMAN BARTKE: Well, how long do you think

it's going to take you?

MR. AYERS: I'm going to read this whole incident.

CHAIRMAN BARTKE: Well, we don't need to hear the whole thing.

MR. AYERS: No; I'm going to read the incident word for word.

CHAIRMAN BARTKE: I've asked you to --

CHAIRMAN BARTKE: I'm going to read it word for word to you.

CHAIRMAN BARTKE: -- to reserve your

MR. AYERS: You need to understand what's happening to people. These are affecting people's lives.

CHAIRMAN BARTKE: I think we do understand that. We've been --

MR. AYERS: No, you do not understand what's happening.

CHAIRMAN BARTKE: -- told by about that at every single meeting in the last year.

MR. AYERS: Chairman Bartke, I was an attorney. Okay? I'm on disability leave right now. I was fired my job. I've spent over a thousand hours pro bono on behalf of the SPCA. That's over \$245,000 worth of lost profit.

CHAIRMAN BARTKE: Listen, sir: If we want to compare, we can compare that, but we'll do it outside of this meeting.

MR. AYERS: Okay.

CHAIRMAN BARTKE: Now, we have other people who want to speak, and we have other business to conduct; and, so, we've asked you on the agenda items -- if you have not gotten yourself on the agenda, you're limited to two or three minutes.

MR. AYERS: I want you to allow me to finish this letter. I'm going to appeal to the Commission to allow me to --

CHAIRMAN BARTKE: Now, if you want to give it to us in writing, we can make copies and we can all see it.

MR. AYERS: No, I want this to be in part of the public record. I want this on record. I want to see it reported.

CHAIRMAN BARTKE: If it's in writing, it would be on the public record.

MR. AYERS: No, it will not. I want it recorded.

CHAIRMAN BARTKE: Your time is expired. We want to call the next speaker.

MR. AYERS: Okay.

CHAIRMAN BARTKE: Thank you.

Michael Goldstein is the next speaker.

STATEMENT OF

MICHAEL GOLDSTEIN

MR. GOLDSTEIN: I wish this didn't always seem like a knock-down, drag-out fight when we come to speak here as citizens to the Advisory Commission.

I'd like to speak about a couple of things, one involves the chairman and one involves the Superintendent.

The first is the chairman, Rich Bartke. Last summer, you opened this meeting saying that this was the Golden Gate National Parks Advisory Commission. I spoke at that meeting and asked you to correct that, and you said, "Consider it corrected," which I've also brought up at a previous meeting, and you acknowledged that was true. But at the last meeting in January and at this meeting, just a few minutes ago, you did the same thing. And I, too, am going to ask for your resignation if you continue to do that. Because, if you look at your agenda, it says quite clearly that you are the Advisory Commission to the Golden Gate National Recreation Area and Point Reyes National Seashore. At this point, it is simply a deliberate attempt, with full knowledge, to take the name "recreation" out of the agency and out of

this Commission. And that's not what's happened.

I went through this before. You can go to Congress about it. But I, and thousands of other people in San Francisco, will not accept that name change.

The second thing is about the Superintendent. He, at the last meeting in January, said, "To respond to a couple of questions that were raised in the comments, we are currently in the process of trying to get the notification of the Advanced Notice of Proposed Rulemaking up at all sites. I can't guarantee they're all up today, but they're certainly in the process of being placed at all locations, and we'll keep an attentive eye to make sure that, if, indeed, they disappear, that we replenish them."

This is just so frustrating to watch. As I saw that, I had been out that day around Crissy Field and then down around all the way to Baker Beach, and then all along Ocean Beach, at the stairwells, and down all the way to Sloat Boulevard, and then a couple of places at Fort Funston, and there were, I think, two notices, and they were in extremely hard-to-notice places. You wouldn't see them if you came there to use the beach. They're just, you know, obscure places.

So, I went out today to see what, indeed, had happened since then, and there was no change. There's

no notice at Fort Point. There's no notice at Fort Baker. The entire stretch of Ocean Beach, you know, which is about 3 miles, or whatever, not a single notice. One notice, that's hard to read, at the beginning of the trail at Fort Funston, and one way down in the closed area, which you can't even read the fine print on because it's behind a fence. And that, again, is a slap in the face to the democratic process, and it's extremely upsetting to have these kinds of dissembling comments go on and not to have them -- not to have even the Commission understand that that's what's going on.

So, I would like Mr. O'Neill to explain what he means by "all sites," and catalogue exactly where the ANPR notices have been placed as of today.

Thank you.

CHAIRMAN BARTKE: Thank you.

Any other speakers on non-agenda items? We have two others. We're going to run out of time, so can you address -- tell us who you are.

STATEMENT OF

STEVE COCKRELL

SAN FRANCISCO PARKS COALITION

MR. COCKRELL: I signed up. I'm Steve Cockrell, San Francisco Parks Coalition. I want to talk

a little bit about quail.

We had a hearing last week in front of the Commission on the Environment. The Audubon Society had brought a resolution to endorse their plan to restore quail in San Francisco. And the Presidio, GGNRA, would be part of that plan, including Fort Funston.

As it turned out, that plan had been seen by very few people. I think we have a case of the same thing happening here, where the community, the people of San Francisco, the city of San Francisco, and the Bay Area are ignored when it comes to making policy. Audubon claimed to have a partnership with the San Francisco SPCA in their plan to restore quail in San Francisco. The SPCA turned out in force, with pamphlets and a representative, and members, to say: You don't have any partnership with us. We haven't even heard of this. Furthermore, we oppose it. It's inhumane.

To save the quail plan, in my opinion, is clearly inhumane and disrespects pet owners.

The San Francisco Tree Council was out in force to say: We haven't been included in this plan; we haven't been consulted, and we don't approve of this plan. The plan clearly was an attempt to use quail as a tool for seizing lands for pursuing a broader agenda.

But the underlying problem, and a problem I

see here with a lot of policy that's being made by GGNRA, and other agencies in this city, is a lack of listening to this community, a lack of respect for the concerns of all of the stakeholders in our parks. And I'd like to ask this Commission -- I understand you're only advisory -- but I'd really like to hear you start advising, very strongly, that the GGNRA and the Presidio really begin to listen to the public.

We just went through the PTIP comment. Please go over and read the PTIP comments. It's overwhelmingly against that plan. Now we hear about a \$450,000 study to consider putting a museum in where we were promised a marsh, a full -- a marsh that was large enough to work, to drain, to be something other than a stagnant pond.

I don't think that the Presidio and GGNRA are really listening to this community. And I think you're here to represent this community. And I would hope you would listen to us, and then pass along what we're saying to the GGNRA.

Thank you.

CHAIRMAN BARTKE: Thank you.

John Keating.

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STATEMENT OF
JOHN KEATING, ESQ.

MR. KEATING: I'm John Keating. Sorry. I also signed up on the mailing list, rather than the speaker's list.

You're hearing more rancorous, emotional comments, and I know that's tough. But I do think that, indeed, you can some comfort from the passion that people have and the love that they have for their park, and how much they want to continue to be able to use it. There's something going on right if we care about the park this much.

I have two comments to follow up on what Mr. Goldstein was saying about the adequacy of notice. I also went out and looked for those signs, and I did, indeed, find two signs, both on the back side of billboards. I didn't notice them the first two times I went out looking for them, but I found them after I was told where they were. So, if you go around behind the billboard -- excuse me, the kiosk -- you can see where a sign is.

I suggest they should be on the front of the kiosk, or some place where there is a bulletin board that people actually look at. The place where I frequently walk is Ocean Beach. That's a wonderful

stretch. It's free of the fences that many of us don't like across our open space. There are no signs at all about the ANPR process out there at Ocean Beach.

Back when you heard about a thousand people show up a little over a year ago to talk to you, when they thought there was going to be a hearing on changing the pet policy, many of those people came from the Ocean Beach area. I recognized them. However, last couple of times I've been out there, when I've tried to ask people if they know what's going on, no one has heard about the ANPR process. None of the off-leash dog walkers out there. Most of them don't even know that the Park Service has claimed that they've already changed their policy. So, I want to compare that quickly for you with what I find on the internet.

When I go on the internet, I find that there are national organizations that have web sites with calls to action, soliciting people all over the country to send letters in to tell you that pets should not be allowed off leash anywhere in the Golden Gate National Recreation Area because it's bad for the environment.

I read one at the Center of Biodiversity, and actually followed up on it. In that, they say that the pet industry, some nefarious pet industry, has caused a whole bunch of changes in the GGNRA. They essentially

called to action people around the country to stop the pet industry from harming, making changes to, our park. I called the attorney who wrote that. What he told me was: Well, gee! Some of the people, who are dog walkers, actually are baby sitters, like professional dog walkers. You call them; they take out a couple of dogs. Low-income people, basically, who take people's dogs for walks. He said because some of them do that, that fits within his definition of industry so he can say that this is some industry that's trying to change out park.

What I submit to you folks is that, if we don't have notice to the people who actually use our parks, but continue on in this process, that says it's really a national issue, and that we are going to be influenced by all these national input from other people, who don't know the park and don't know whether what they're being told is correct, then I think you're going to end up having a tough time making the right decision.

Thank you.

CHAIRMAN BARTKE: Thank you.

Okay. That concludes our public comment period. I was just going to suggest, on behalf of the Commission, that we ask the Superintendent to have his

Committees?

(No response.)

CHAIRMAN BARTKE: Okay. Moving on now to the reports of the Superintendent, Brian O'Neill.

SUPERINTENDENT'S REPORT

BRIAN O'NEILL, GENERAL SUPERINTENDENT, GGNRA

SUPERINTENDENT O'NEILL: I won't repeat what's already in the Superintendent's Report, other than to draw your attention -- if you have a need to watch some quality TV, I would suggest you tune on Monday night, this next Monday night, March fourth, at 7:30, on KQED, where they're going to on premiere their wonderful new piece, which explores sort of the full dimension of Alcatraz Island. And it's high-definition format. I haven't seen it myself, but the reports I've gotten back say it's a really great piece. And KQED has spent a lot of time and a lot of money putting this together. And, if you miss that, there's an encore opportunity on March tenth from 7:30 to 9:30.

I want to mention we were, we were hopeful, tonight, that we would have been able to announce that the extension of the comment period on the ANPR actually was in the Federal Register notice. It wasn't in the Federal Register today, so we're not quite sure why it didn't get into today and when it may get in. But

assuming that that extension of the comment period will occur, we've tried to set up a series of meetings that reflect that sort of extended comment date, period. Because the proposal would be to extend the date for comments to April 12.

Assuming that that's going to be done, knowing that we don't have absolute control over that, the dates that have been set for the public meetings, we will get this out to the mailing list, and to the members of the Commission, as soon as the Federal Register notice is in place.

But just very quickly, we're going to have two public informational meetings, which are being co-sponsored by the National Park Service with the League of Women Voters. The first one will be in Marin County on the thirteenth of March, from 7:30 to 9:30. I'm not going to give all the details because this information will be out. But it will be up at the Marin Center at the Showcase Theater. And that's the League of Women Voters of Marin.

We're doing a counterpart to that at San Francisco State University, at the KcKenna Theater, College of Creative Arts, on the nineteenth. Again, this will be co-sponsored by the League of Women Voters chapter of San Francisco and the Park Service.

Then, there is third date, which is currently scheduled for April sixth, which will be here in the Headquarters Building. That's a Saturday, from 9:30 in the morning, until 3:30 p.m., which will be a comment, an opportunity for oral comment.

We're still working with the League of Women Voters on the details for the format on this. We've been in communication with both the environmental community and the dog-walking community on the structure of the meetings. We're getting, hopefully, good input on that so that the meetings are structured with the involvement of the key constituent interests. So a work in progress. But we will get this notice out as soon as it clears the Federal Register.

The only other thing I wanted to mention is: We had a really stimulating charette, or workshop, last week. It was co-sponsored by the Department of Energy, the National Park Service, the Bureau of Reclamation, within the Department of the Interior, and the Environmental Protection Agency. We brought experts from around the country to address the issue of how could we make Alcatraz a fully sustainable island in terms of generation of all the water requirements on site, reuse of all of the waste on site, and the production of energy requirements on site. It was a

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January 23, 2001

Mr. Brian O'Neill
Park Superintendent
Golden Gate National Recreation Area
Bay and Franklin Streets
Building 201, Fort Mason
San Francisco, CA 94123

Re: January 4, 2001 Federal Register Notice of Park Access Closure At Fort Funston

Dear Superintendent O'Neill:

This letter seeks reconsideration of your recent decision to close public access to another part of Fort Funston, and requests that you delay implementing the decision pending the reconsideration. Many people believe your decision violates the unique recreational mandate of the enabling statute as well as environmental analysis requirements, fails to fairly consider the public comment submissions and has the potential of causing environmental damage. A January 20, 2001 Executive Order references delay of recent Federal Register noticed decisions pending further review. This sort of decision to shut down long standing recreational use of a highly popular urban park in order to create a new off limits native plant zone, appears to be exactly the sort of recent regulatory action that the executive order seeks to slow down pending additional review. Respect for the public input process, as well as concerns of a potential downside environmental impact also warrant caution against quickly proceeding with the park closure.

Appropriateness of Delaying Implementation Pending Reconsideration:

Your decision seeks to serve four stated public purpose interests:

1. Protect habitat for the bank swallows
2. Enhance native plant communities
3. Improve public safety
4. Reduce human-induced impacts to the coastal bluffs and dunes

The first, third and fourth of the stated public interests could be achieved relatively easily with a temporary arrangement during the coming bank swallow nesting season. Such a temporary stand still arrangement would undoubtedly enjoy the support of both sides of the controversy while also protecting against potential damage to the bank swallow colony in the interim before the best long term solution is fully evaluated. The second stated purpose does not

Re: January 4, 2001 Federal Register Notice of Park Access Closure At Fort Funston

appear to present an urgent need for resolution, and is the crux of the current controversy. Therefore, delay of implementation of the complete permanent closure coupled with a temporary arrangement to handle any immediate concerns could allow the native plant community enhancement question the time it requires to be appropriately considered and resolved amicably.

Although the other three stated interests produce some disagreement on details, it is the second issue that creates the substantial controversy and greater need for careful analysis. The National Park Service wishes to convert the traditional recreation area into an off limits zone for development of an additional local "native plant" habitat, and supports that desire with a suggestion that a new native plant zone on the coastal bluff might assist the bank swallow colony on the cliff face. Many park users contest the appropriateness and legality of eliminating the recreation access in favor of developing a zone to experiment with native plant introduction, particularly since there are so many other areas of Fort Funston where the experiment could be conducted with less impact on the recreational interests. Some park users suggest that the Nation Park Service's proffered environmental benefit is uncertain and that in fact, based on past negative impact history of similar efforts, there may be a countervailing much greater downside factor of immediate harm to the bank swallow colony population.

The National Park Services proposes to clear cut the current ecology of the habitat near the bank swallow colony and slowly replace it over time with a new ecology that the National Park Service believes might be preferable. The problem is that while it is uncertain whether there may or may not be a long term wildlife benefit of changing to a native plant community, there is evidence that a precipitous decline in the bank swallow colony population occurred both times the National Park Service previously dramatically altered long standing vegetation ecology adjacent to the bank swallow colony. Although the Park Service employees strenuously suggest that the various recreational uses of the park might have dire consequences on the bank swallow colony, those same native plant enthusiast employees consistently put their head in the sand and refuse to consider the possibility that dramatic alteration of the ecology area in immediate proximity of the colony might be relevant to the issue.

Reconsideration of your decision is requested in part on the basis that your decision inappropriately sidesteps consideration of this critical factor and employs questioned application of categorical exclusions to avoid the required analysis of the environmental impact on the habitat of this "threatened" bird colony. Why not simply take the appropriate time to have an expert shed some light on the issue rather than plunging ahead in the darkness?

As an interim arrangement could service the suggested immediate needs, and avoid the possibility of environmental damage if the Park Service continues to attempt to ramrod through the permanent change to the use and ecology of the area, stay of implementation of the published Federal Register decision is appropriate pending further review. Should you decline to engage in reconsideration of the decision, please advise what appeal remedy will be provided.

Re: January 4, 2001 Federal Register Notice of Park Access Closure At Fort Funston

Reconsideration Factors:

The Decision Improperly Relies on a Statutory Misinterpretation That the General Mandate of the Organic Act Controls Over the Specific Recreational Open Space Mandate of the Enabling Statute:

The decision is in part based on a position that the Organic Act (16 U.S.C. 1) controls and mandates resource protection over all other management factors in all units of the National Park Service, but appears to have failed to consider the controlling application of specific provisions of the specific enabling statute (16 U.S.C. 460bb), which makes open space recreational interests the primary purpose of the GGNRA. The decision improperly makes a statutory misinterpretation that the general mandate of the Organic Act controls over the specific recreational open space mandate of the enabling statute:

The enabling statute (16 U.S.C. 460bb) in part provides:

In order to preserve for public use and enjoyment certain areas of ... and in order to provide for the maintenance of needed recreational open space necessary to urban environment and planning ... is hereby established.

The decision wrongly relies on a statutory interpretation mistakenly concluding that all units of the National Park System are to managed similarly with resource protection as the primary controlling goal over all other factors, including such enumerated purposes as recreational use. By doing so the NPS is in violation of the Enabling Statute purpose of management to maintain recreational open space. The statements made by the NPS in this regard have been unusual in that the NPS fails to report and consider the enabling statute 16 U.S.C. 460bb or 16 U.S.C. 1c, which resolves the issue of the application of the Organic Act in circumstances of conflict with specific unit enabling act specified purposes.

16 U.S.C. 1c provides that

“Each area within the national park system shall be administered in accordance with the provisions of any statute made specifically applicable to that area”

16 U.S.C. 1c also provides that the Organic Act statute applies to each area of the national park system only

“to the extent such provisions are not in conflict with any such specific provision.”

Nor does the statutory analysis relied upon in the decision appropriately consider

Re: January 4, 2001 Federal Register Notice of Park Access Closure At Fort Funston

the import of the last sentence of 16 U.S.C. 1a-1 providing that the administration of the various areas shall not be exercised in derogation of the values and purposes for which the various areas were established.

The Decision Improperly Relies on an Unsupported Summary Negative Declaration and Relies on Inapplicable Categorical Exclusions to Avoid Doing the Required Environmental Impact Analysis and Fails to Provide A Detailed Analysis of its Assumption that the Categorical Exclusions Apply:

Although the decision relies on a determination that the project would not have an adverse negative impact on the environment, the decision does not evidence a basis for that conclusion nor evidence an appropriately thorough evaluation prior to making the conclusion. At least one park user has through a FOIA request sought documents regarding consideration of environmental aspects of the closure but such documents have not been provided.

Similarly, although the decision summarily relies on application of a number of categorical exclusions to avoid environmental analysis, the decision fails to give a detailed explanation of why the park service presumes that it may rely on such exclusions in the particular circumstances of the subject closure. Attachment A is a copy of pages 62 through 75 of the July 6, 2000 public comment submission from the San Francisco SPCA. The section concerns application of the Categorical Exclusions to the NEPA analysis otherwise required. I adopt and incorporate the specific stated points in pages 62-75 of the SPCA submission as grounds for this request for current reconsideration. The closure decision is appropriately considered invalid and must be reconsidered based on the impropriety of the agency conduct in failing to fully respond to such careful analysis in public comment submission on a critical issue and noticed legal requirement.

The Decision Improperly Fails to Consider the Impact of its Prior Similar Habitat Destruction Activities, the Cause of the Correlated Precipitous Population Decline in Threatened Bird Colony and the Risk That Further Environmental Damage May Occur If the Habitat Ecology Is Modified Again:

The joint submission of the dog walking groups mentioned the need for analysis of the drop in population and the missing year 2000 nesting season data (Tab 4, Opposition of Fort Funston Dog Walkers and San Francisco Dog Owners Group (SFD OG) to the Proposal to Close Twelve Acres at Fort Funston) and my October 6, 2000 public comment submission letter requested:

“ I also request consideration, submit as public comment by reference and request immediate public disclosure of the previously unproduced bank swallow monitoring data for the year 2000.”

Re: January 4, 2001 Federal Register Notice of Park Access Closure At Fort Funston

Your closure decision fails to appropriately consider the key factor of the causes of the year 2000 burrow population drop when evaluating and understanding whether there are undesirable environmental consequences of proceeding with the closure. Proper evaluation of the year 2000 nesting season data is also necessary to properly evaluate the postulated upside benefits.

Attachment B is a copy of a recent letter to you from park users John Cranshaw and Linda Shore requesting reconsideration of the closure decision based on a number of issues concerning the quality and sufficiency of the scientific analysis. I adopt and incorporate their stated points as grounds for this request for reconsideration.

Park Service data reflects that during the period of the first clear cutting of the long standing ecology and closure of an area near the bank swallow colony, the burrow population dropped from 924 burrows to 140 burrows and the colony moved away from the area of the ecology alteration. The data reflects the burrow population remained relatively stable in the new location during the 1998 and 1999 nesting season. Despite repeated public requests, the Park Service withheld the monitoring data for the 2000 nesting until after the public comment period on the proposed new closure was completed. And, when the data for the following nesting season was finally released, it reflected another precipitous drop in the burrow population, from 148 burrows in 1992 to roughly 100 burrows in year 2000. The Park Service had again done some vegetation removal and native plant introduction efforts and enforced an access closure near the new location of the colony. Although the Park Service believes that the correlation of steep drop in population to periods of habitat alteration does not establish that the habitat alteration is causing the decline in population it is hard to understand a reason to refuse to even consider whether that the correlation might warrant some careful analysis.

The Decision and the Decision Process Violated the Enabling Statute Mandate to Apply Sound Principles of Land Use Planning and Management:

The enabling statute in part provides:

In the management of the recreation area, the Secretary of the Interior (hereinafter referred to as the "Secretary") shall utilize the resources in a manner which will provide for recreation and educational opportunities consistent with sound principles of land use planning and management.

The NPS failed to consider many of the specific key points raised in the public comment. While the NPS may have assumed that it would not be held accountable for the failure to consider the specific key points because of the discretion ordinarily afforded to an agency under the arbitrary and capricious review standard, a decision also is inappropriate and may be held invalid if it is not consistent with statute. Failing to consider key determinative points raised in the comments can not be construed to be acting consistently with "sound principles of land use

Re: January 4, 2001 Federal Register Notice of Park Access Closure At Fort Funston

planning" in making the decision you have made. The NPS's own policies also mandate more careful planning processes.

Therefore please reconsider the careful analysis provided in the Opposition of Fort Funston Dog Walkers and San Francisco Dog Owners Group (SFDOG) to the Proposal to Close Twelve Acres at Fort Funston, a joint public comment submission in early October by the two primary park user groups and consider the sample letters attached thereto. Also please reconsider on the basis of the detailed points and argument made in the August 29, 2000 San Francisco SPCA submission entitled The People's Park; Statement to the Citizens Advisory Commission for the Golden Gate Nation Recreation Area, the October 6, 2000 San Francisco SPCA public comment submission and the October 5, 2000 public comment submission of Christy A. Cameron, a copy of which is appended as Attachment C. Reconsideration and further review of the agency decision is appropriate on numerous grounds addressed in these submissions and the other public submissions including:

The decision improperly fails to consider and fully explain why a less restrictive alternative would not satisfy all of the suggested closure reasons if the new habitat creation area were placed in a different portion of the park;

The decision improperly characterizes and attempts to justify as "resource protection" what is in fact the creation and introduction of a new ecology into an area where it is doubtful similar vegetation ever existed previously (FFDW Opposition Tab 5);

The decision fails to consider and respond to comments concerning the lack of substantial basis for the closure proposal presumption that human activity in the area of the proposed closure has any appreciable impact in disturbance of the bank swallow colony located in one small portion of the cliff face or on the geology of Fort Funston. (FFDW Opposition Tab 6)

The decision improperly fails to consider the impact of its decision on the City of San Francisco and failed to consider and respond to the City's request for information and a reasonable opportunity for input on the decision making process;

The decision improperly fails to consider its impact on other areas of the GGNRA, and on aspects of public safety and health other than cliff rescues; and

The decision improperly fails to consider the broader issue of the

Mr. Brian O'Neill
Park Superintendent
Golden Gate National Recreation Area

January 23, 2001
Page 7

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cumulative impact of this closure when taken together with the prior closures and the prior restrictions of off-leash recreational open space access. (Attachment C.)

Additionally, as part of your reconsideration please review the decision in Ft. Funston Dog Walkers v. Babbitt, 96 F. Supp 2d 1021 (2000), including the comment at page 1035 - "That record shows the lengths to which the closure architects went in suppressing input." As the natural bias of a proponent of a proposal might tend to interfere with the quality of the objective analysis of the public interest, as part of your reconsideration please insure that review of the closure decision is not exclusively performed by individuals who previously acted aggressively to push the proposal through without full analysis.

Sincerely,



John B. Keating

cc. Charles M. O'Connor, Esq.
Assistant United States Attorney

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February 15, 2001

The Honorable Gale Norton
Secretary of the Interior
U.S. Department of the Interior
1849 C Street N.W.
Washington, DC 20240

Re: Park Access Closure At the Fort Funston Portion of the Golden Gate National
Recreation Area 66 Fed. Reg. 3 (1/4/01)

Dear Ms. Norton:

Yesterday, the people were fenced out of a favorite recreational area of the Fort Funston portion of the Golden Gate National Recreation Area.

I understand that the Department of Interior has committed to further rulemaking in the future as to the permanent park changes involved in this closure, regardless of the fact that the temporary closure is proceeding at this time. We ask for written verification that the permanent changes to the park will indeed be a subject of further rulemaking.

Many members of the public believe that the closure is bad public policy, and is a product of lack of candor and deliberate efforts to avoid reasonable scientific analysis. The decision to convert this recreation area into an off limits zone has such impact on the quality of life of so many that the City of San Francisco Board of Supervisors passed a unanimous resolution demanding that the Park Service delay implementation of the closure until full analysis of the impact of the closure could be made.

The land at issue had previously belonged to the City of San Francisco but was given by the City for inclusion in the Golden Gate National Recreation Area. That gift was pursuant to promises that the traditional open space recreation use of the land would continue. The Park Service now closes the area for purposes of converting it into an off limits zone for creation of a new "native plant" garden. The Park Service has been repeatedly closing off more and more of the beach and bluff access areas in San Francisco for such purposes. The City of San Francisco Board of Supervisors had previously found that the conduct was so unreasonable as to warrant inquiry as to whether the City could seek reversion of the land based on the Park Service's breach of the promises as to how the former city park land would be used after transfer.

Re: Park Access Closure At the Fort Funston Portion of the Golden Gate National
Recreation Area

In addition to the highly controversial long term plan to create an additional off limits native plant zone, the Park Service also states it needs to close the area to protect a local bird colony. However, any such resource protection interest could be temporarily protected by less restrictive interim measures while more carefully considering the overall plan to permanently convert this prized recreational area into a native plant garden. For example, the Park Service could simply temporarily close the area during the bank swallow nesting season this year, but defer plowing forward with the permanent changes until completing the environmental analysis and full consideration of the impact of the overall policy of changing the nature of the park.

Some argue that the closure may in fact harm threatened wildlife, and that the Park Service is using the pretext of assisting a bird colony to excuse an otherwise improper effort to restrict recreational use in violation of the unique recreation mandate of the enabling statute, all the time refusing to look at the evidence and analysis as to the environmental impact of the park conversion plans.

Sincerely,

John B. Keating

cc. Mr. Charles M. O'Connor, Assistant United States Attorney

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April 6, 2001

The Honorable Gale Norton
Secretary of the Interior
U.S. Department of the Interior
1849 C Street NW
Washington, DC 20240

Re: Park Access Closure At the Fort Funston Portion of the Golden Gate National
Recreation Area 66 Fed. Reg. 3 (1/4/01)

Dear Secretary Norton:

I write to request response to the attached January 23, 2001 and February 15, 2001 correspondence. Those letters seek reconsideration and higher agency review of the local Park Service decision to fence off a favorite recreational area of the Fort Funston portion of the Golden Gate National Recreation Area.

Many park users believe that the closure is bad public policy, does not comport with sound planning principles, is contrary to the urban open space recreational purpose for which the recreation area was set up, and is a product of lack of candor and deliberate efforts to avoid reasonable scientific analysis. We have asked that the decision not be implemented until more carefully analyzed, but have received no local response to our requests for reconsideration.

The decision to convert this recreation area into an off limits zone has such impact on the quality of life of so many that the City of San Francisco Board of Supervisors passed a unanimous resolution demanding that the Park Service delay implementation of the closure until full analysis of the impact of the closure could be made. The local Park Service seems to repeatedly ignore these governmental entity requests that the Park Service act more carefully and cooperatively.

The area was a former municipal park which the City had donated to the National Park System based upon the understanding that the traditional recreational uses would continue. The City has repeatedly protested Park Service conduct in curtailing public use without first consulting with the City, but the complaints went unheeded. The Board of Supervisors passed an additional resolution that if the Park Service revoked the dog walking recreational use historically enjoyed in the area the City would take action to try to force the Park Service to yield

Re: Park Access Closure At the Fort Funston Portion of the Golden Gate National
Recreation Area

back the former City park property.

I understand that the Department of Interior has committed to further rulemaking before the temporary park changes involved in this closure are made permanent. However, the local Park Service appears to be moving forward with a permanent closure, and still without adequate analysis. I am worried that such conduct may irreparably harm the park and wildlife. Please confirm that the Park Service will indeed comply with the rulemaking procedure before it permanently closes the area.

There has been a repeated concern that the Park Service has not had the benefit of impartial analysis. It appears that at each stage the Park Service has principally relied upon summary conclusions made by the very Park Service employees who are the proponents of the proposal. Please note that the Park Service employee who was the "chief architect" of the proposal was formerly in the leadership of the local Native Plant Society and that the primary issue of the closure controversy is whether the traditional park uses should be sacrificed in order to convert the area into exclusively a native plant zone.

The only truly impartial review of the local park Service employee activity came from the Federal Court Judge, who commented: "**That record shows the lengths to which the closure architects went in suppressing input.**" Ft. Funston Dog Walkers v. Babbitt, 96 F. Supp 2d 1021, 1035 (2000). As the natural bias of a proponent of a proposal might tend to interfere with the quality of the objective analysis of the public interest, please insure that review of the closure decision is not exclusively dependent on the analysis of those who previously sought to push the closure through without proper analysis.

In the last few days, the local Park Service employees have installed new signs which preclude all off leash dog walking at Fort Funston. Dog walking is by far the predominant recreation use of Fort Funston. I enclose a copy of a self explanatory letter I sent to Superintendent O'Neill regarding the conduct of the Park Service in unilaterally changing that long standing policy of allowing off leash dog walking recreation at certain locations. It is my hope that the local Park Service employees can enter a new period of in fact engaging in true cooperative communication with the public to work out conflicts over resource use. That would be a great improvement over the current circumstances – conduct that appears to many to be a pattern of self serving pronouncements of cooperativeness and attentiveness, but such statements being belied by repeated acts of aggressively subverting the public input process.

Meanwhile, regarding Fort Funston the Park Service continues:

- * to fail to respond to the numerous requests for reconsideration and explanation of the basis for the perceived mistaken decision;

Re: Park Access Closure At the Fort Funston Portion of the Golden Gate National Recreation Area

- * to fail to respond to the specific public comments on the proposal;
- * to shut off the traditional disabled access,

- * to engage in actions that may continue to harm the local bird colony which the Park Service claims it is protecting;

- * to refuse to engage in ordinary environmental protection analysis or even to recognize much less consider the objections to the believed shoddy scientific method used by the Park Service;

- * to withhold the Park Service data and documents that would be useful to any such fair analysis;

- * to close off large recreation areas under the pretext of protecting the bird colony while in fact doing so for the purpose of an agenda to convert such recreation areas into an off limits native plant re-vegetation zone;

- * to go to great ends to avoid public comment on the larger issue of the overall campaign of conversion of the recreation areas into off limits zones;

- * to fail to consider the statutory requirements of acting consistent with the enabling statute for the recreation area while instead promoting a statutory interpretation that all areas must be uniformly managed; and

- * to pursue an aggressive one sided (and many believe repeatedly inaccurate) press campaign supporting the local Park Service agenda to eliminate disfavored recreation uses.

Please have your staff advise whether you will order some sort of further agency review of these concerns. Thank you.

Sincerely,

John B. Keating

encl.

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May 10, 2001

The Honorable Gale Norton
Secretary of the Interior
U.S. Department of the Interior
1849 C Street NW
Washington, DC 20240

Re: Park Access Closure At the Fort Funston Portion of the Golden Gate National
Recreation Area 66 Fed. Reg. 3 (1/4/01)

Dear Secretary Norton:

Kindly assign someone to look into the issues raised by the attached unanswered correspondence of January 23, 2001, February 15, 2001 and April 6, 2001.

I appreciate that there must be an overwhelming number of issues on the table crying out for review of changes pushed through in the final days of the prior administration. In this particular case, however, even if the agency is not in a position to conduct a careful review at this time, it would seem appropriate to at least insure that no further damaging changes are made in the interim until the challenged conduct can be carefully reviewed.

The circumstances implicate important management concerns:

- * Federal bureaucrat aggressive efforts to prevent local input on a change of the fundamental nature and management of a park;
- * Lack of proper respect for (and efforts to sidestep) scientific analysis;
- * End driven analysis ignoring and subverting the intent of the relevant statutes; and
- * Misuse of resource protection guidelines for purposes not reflecting balancing of the competing resource management factors.

The local Park Service staff is changing treasured recreation areas into a nature preserve. Staff has engaged in a consistent pattern of going to great lengths and strategy to frustrate any oversight of their conduct. The local Park Service staff kept their plans secret and

Re: Park Access Closure At the Fort Funston Portion of the Golden Gate National
Recreation Area

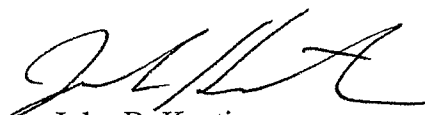
then tried to push the changes through with great speed to avoid the expected public outcry. Eventually the people had to go to Federal Court to force the Park Service to comply with the requirement that the Park Service allow public comment. Rather than simply holding the requested public hearings, the Park Service aggressively fought the lawsuit to compel the hearings, even to the extent of trying to retroactively change local park policies to support an argument to defeat the standing of the individuals seeking the protection of the federal court. In the end, the Court found that the government's position was so without merit as to warrant the unusual sanction of assessing an attorneys fees award, doing so under the stringent standard of a complete absence of any substantial justification at all for the government's position.

In published Findings of Fact the Court outlined some of the examples of the outrageous conduct of the Park Service employees in seeking to sidestep public comment. "These excerpts show an intent on the part of the National Park Service to railroad through the closure, to maintain secrecy, to unleash the fencing with lightening speed, and to establish a *fait accompli*." Ft. Funston Dog Walkers v. Babbitt, 96 F. Supp 2d 1021, 1037-38 (2000). The Court later issued an injunction, requiring the Park Service to reopen access to the park until it fully complied with 36 CFR 1.5(b), requiring that the closure be published in the Federal Register as Rulemaking. In order to avoid further court review of the challenged conduct, the Park Service's attorney promised the Court that the Park Service would do rulemaking and would carefully consider and respond to each of the public comments. The Park Service broke that promise.

Having avoided judicial oversight by promising rulemaking, the Park Service then sidestepped the alternative oversight protections afforded by rulemaking. The local Park Service staff changed the story by taking the new position that the process they in fact used was not the promised regular rulemaking, but rather was some sort of lesser notice procedure. Therefore, presumably they are able to avoid the requirements and procedural protections for fair rulemaking. I suggest that the decision making process was so flawed that the local Park Service employees have motivation to avoid review even under the arbitrary and capricious standard.

I respectfully suggest that the Interior Department should look carefully at whether its local Park Service staff is to be allowed to unilaterally change the fundamental nature of a park while setting up circumstances of avoiding all oversight, avoiding fair compliance with administrative procedures, or judicial review, higher agency review, or congressional review.

Sincerely,



John B. Keating

encl.

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July 3, 2001

Mr. Brian O'Neill
Park Superintendent
Golden Gate National Recreation Area
Bay and Franklin Streets
Building 201, Fort Mason
San Francisco, CA 94123

Re: Public Hearing Requirement Concerning Off Leash Dog Walking Restrictions

Dear Superintendent O'Neill:

Kindly have your staff consider and respond to my unanswered letters of January 23, 2001 and April 4, 2001. Additional copies are enclosed.

I worry that the Golden Gant National Recreation Area may be going down the same path of folly it embarked on last year – deliberate effort to suppress fair public input rather than complying with the requirement of public hearings prior to any significant alteration in the public use pattern of the park.

The Park Service has changed signs such as to significantly restrict the traditional off leash dog walking recreation. The Park Service has further altered the traditional use pattern by changing the both the operative policy and the enforcement pattern. As you are well aware, the new changes result in an activity restriction which is of a nature, magnitude and duration that will result in a significant alteration in the public use pattern of the park area, and is highly controversial. As you are also well aware, 36 C.F.R. 1.5(b) requires that

... a use or activity restriction or condition, or the termination or relaxation of such, which is of a nature, magnitude and duration that will result in a significant alteration in the public use pattern of the park area, ... or is of a highly controversial nature, shall be published as rulemaking in the FEDERAL REGISTER.”

As the Federal Court already found that the Park Service efforts to restrict the off leash dog walking in a portion of Fort Funston would trigger the rulemaking and public hearing requirements of 36 C.F.R. 1.5(b), obviously a broader restriction on a park wide basis would trigger the same requirement. “ See Ft. Funston Dog Walkers v. Babbitt, 96 F. Supp 2d 1021

Re: Recent Sign Changes Concerning Off Leash Dog Walking Recreation

(2000).

You will undoubtedly recall that in the prior litigation the GGNRA's lawyers repeatedly tried an argument that the GGNRA could avoid the 36 CFR 1.5 requirements because the park service lawyers now construed the off-leash dog walking to be illegal and that the longstanding Pet Policy was not effective. The GGNRA had specifically and repeatedly argued that the circumstances were controlled by the 36 CFR 2.15 general regulation concerning pets. Yet, the Court rejected the government's argument.

Indeed, the Court found the GGNRA's position to be so far without merit as to warrant the unusual result of an award of attorneys fees against the government. Such fees are not granted except in the most unusual circumstances. The standard for such an award is quite high – attorneys fees may not be granted unless the government's position is devoid of any substantial basis. In other words, even if the government's position turns out to be wrong attorneys fees are not granted if there was any reasonable good faith basis for the government's argument. Obviously, since the Court necessarily made the determination that the government failed to show any substantial justification for its conduct, the Court also necessarily found that there was no substantial justification in each of the particular excuses in fact argued by the government, including the argument that it did not need to have public hearings because of the application of the 36 CFR 2.15 general regulation concerning pets.

Yet, here we are again. Despite the apparently clear application of the 36 CFR 1.5 requirement to circumstances very similar to those that triggered the prior unusually severe reproach by the Court, there again appears to have been no compliance with the notice-and-comment rulemaking procedures. The GGNRA attempts to avoid the requirement of public hearing prior to rescinding the Pet Policy, doing so by unilaterally declaring that the longstanding policy is now null and void.

Your press agent, Mr. Weidemann, recently was on the radio again stating the recent GGNRA posture that the 1979 Pet Policy was never adopted and never was effective. That simply is inaccurate. It is inconsistent with your own statement in 1999.

I enclose documents that belie the GGNRA's stated posture that the 1979 Pet Policy was merely a recommendation that never was adopted by the GGNRA and never went into effect. The 1979 Pet Policy had been created and approved after public hearings before the Advisory Commission and was thereafter adopted by the GGNRA as its policy and incorporated as Exhibit C to the GGNRA Natural Resources Management Plan.

The following enclosed documents establish that the GGNRA Pet Policy allowing some off-leash dog walking recreation remained the policy for two decades and was repeatedly

Re: Recent Sign Changes Concerning Off Leash Dog Walking Recreation

confirmed as the applicable policy. You, Regional Director Stanton and Regional Director Albright made that representation repeatedly from 1992-1999 in letters to inquiring members of Congress. Nevertheless, the individuals now seeking to rescind the Pet Policy without public hearings have been taking the position that the Pet Policy was never adopted and never went into effect as a GGNRA policy, and I have heard that you now take the position that the GGNRA's pet policy precludes off leash dog walking.

Date:	Page No.:	
7/8/92	D00721-722 and 725-6	Letters of Western Region Regional Director Stanley T. Albright to Senators John Seymour and Alan Cranston confirming that as of 1992 "there is no change in the 1979 Pet Policy which provides the visitor the privilege of walking one's dog off leash."
1/4/96	D00555-6	South District Ranger James Milestone's Outline of "changes the new pet policy will have from the <u>existing</u> pet policy," the new policy including off-leash recreation and being incorporated by the GGNRA as a compendium amendment.
10/2/96	D00039	Crissy Field Finding of No Significant Impact with a statement regarding off-leash dog use at page 39 that "NPS will enforce <u>voice control</u> and clean up requirements, and will monitor the results of these efforts. This information will be periodically re-evaluated and management adjustments made where necessary, bringing any proposed changes in off leash dog access to the Advisory Commission" and at page 42 concluding that " <u>Proposed changes in off leash dog access will be brought to the attention of the Advisory Commission prior to taking action.</u> "
12/30/97	D00293-4	Western Region Regional Director John A. Reynolds letter to Senator Feinstein again confirming that the GGNRA adopted the Pet Policy which it established with the assistance of the Advisory Commission (with circulation initials of Brian O'Neill)

Re: Recent Sign Changes Concerning Off Leash Dog Walking Recreation

2/5/99	D00045-50	Western Region Regional Director John A. Reynolds letter to Senator Feinstein enclosing correspondence responding to her constituent and confirming that the GGNRA had adopted the Pet Policy and that the GGNRA did "not anticipate any change to GGNRA's pet regulations."
3/19/99	D01367-70	Superintendent O'Neill letter to Congresswoman Pelosi confirming that the GGNRA had adopted the Pet Policy; 3/10/99 Nancy Pelosi's correspondence to Brian O'Neill in the second paragraph had noted that the constituent has requested that "the agreements made previously with the Citizens Advisory Commission be reinstated and respected." The 11/29/98 Constituent correspondence triggering the response of Superintendent O'Neill to Congresswoman Pelosi at the fourth paragraph reflects a concern that the prior policy was being abrogated without public hearings.
8/18/99	D00011-12	Chief Ranger Yvette Ruan letter to a park user confirming in third paragraph that the GGNRA "has adopted a fairly liberal pet policy that allows the opportunity for visitors to enjoy several designated areas where pets may be off-leash if under voice control."
12/27/99	D00055-56	Acting Superintendent Scott letter to park user discussing the various off-leash areas at Crissy Field and referring to the "voice control policy."
5/23/01		print-out of the GGNRA web site information regarding the ANPR process update and a related note from the Chair of the Advisory Commission

The 1979 Pet Policy was adopted by the Advisory Commission with the specific rationale that the ordinary rules for National Parks are not appropriate for application to the unique circumstances of the urban recreation areas encompassed in the GGNRA. The Pet Policy was consistent and properly implements the specific unique statutory mandate for the GGNRA (16 USC 460 bb), and it is required that the unique statutory mandate for the recreation area controls over the general provisions otherwise applicable to all units of the National Park System. (16 USC 1c).

The GGNRA began its campaign to disown the Pet Policy at about the same time

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last year that the GGNRA lawyers took the position that the issue was critical to the Fort Funston lawsuit. In that lawsuit park users forced the Park Service to have public hearings before closing portions of the Fort Funston area of the GGNRA. The GGNRA attorneys tried to argue that the citizens should not have standing before the Federal Court to compel public hearings, arguing that all off-leash dog walking was illegal and that standing to sue was not allowed when the standing was based on an "illegal" activity. Although I believe the GGNRA lawyers are simply wrong in their application of law on that point, and the argument was rejected by the Federal Court, the GGNRA lawyers continued to advance the position. I believe that effort to defeat citizen access to judicial protection remained the principle motivation for the change in GGNRA interpretation of the legitimacy of their long standing Pet Policy.

The public prevailed and forced the GGNRA to conduct hearings on the Fort Funston closure. The GGNRA then argued that the Advisory Commission had no choice but to approve the Fort Funston closure because the GGNRA attorneys had determined that off leash recreational use was illegal and they were required to manage the recreation area just like any other "national park." The public pointed to the Pet Policy as evidence of the current policy allowing off leash recreation.

At the November 28, 2000 meeting of the Advisory Commission, where the Commission adopted the GGNRA's position approving the closure because they "have no choice" the Commission member advancing that motion to approve the closure also asked the commission to adopt a motion to rescind the Pet Policy. The additional subject was first mentioned after the public comment period had closed and had not been listed on the agenda. Members of the public had to interrupt the commission proceedings to insist on the parliamentary procedure point that the motion to rescind the Pet Policy required notice on the agenda and an opportunity for public comment. The surprise motion effort to rescind the policy was then tabled until the next meeting.

On January 23, 2001 the Advisory Commission started to have a public hearing on the motion to rescind the Pet Policy. Over a thousand people signed up to speak, with close to a thousand standing outside in the rain waiting for an opportunity to get into the hearing room. Several thousand more had written or signed petitions opposing the changes. A majority of the Board of Supervisors of the City of San Francisco promised that they would seek to take portions of the GGNRA land back if the GGNRA went forward with the proposal to rescind the Pet Policy. When it quickly became painfully obvious that the Advisory Commission could not follow the GGNRA's wish that they rescind the policy, the hearing was cut short without entertaining the testimony of the citizens who came to express their views. The Advisory Commission Chair had told the public that there would be no changes while the subject was studied for the next 120 days.

Mr. Brian O'Neill
Park Superintendent
Golden Gate National Recreation Area

July 3, 2001
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Having not been able to prevail in the public hearing process, the GGNRA then made a move to sidestep the impediment of the required public hearing. The GGNRA made a pronouncement that the Pet Policy was declared void and that there would not be further hearings on the subject. The GGNRA stated that the policy was void and not applicable on the basis that it violated law and never had been adopted by the GGNRA.

The Chair and Vice Chair of the Advisory Commission went along with that statement and made their own declaration that the Pet Policy was only a recommendation that had never been adopted by the GGNRA. There is no indication that other members of the Advisory Commission endorse the view of the Chair and Vice Chair, and at least one member stated that he believed they did in fact have a policy.

The GGNRA's denial that the Pet Policy was ever in force plays into the effort to avoid public hearings. If the status quo is that the policy is in force, then the GGNRA would need public hearings before eliminating the policy. However, if the GGNRA staff were to succeed in changing the status quo to a situation where the policy does not exist, there would be no need for hearings and the GGNRA staff could avoid the unpleasantness of listening to the public opposition to changing the policy.

Hence, rather than allowing the public hearing to go forward on whether to rescind the policy, the GGNRA staff chose the procedure of an Advanced Notice of Proposed Rulemaking. That presumably starts from a position that no off leash dog walking is currently allowed and inquires whether there is enough interest to change the rules to allow off leash dog walking. The GGNRA might very well conclude that it is undesirable to make a new rule and therefore decide not to engage in the proposed rulemaking. That would effectively eliminate off leash recreational dog walking without ever having a hearing.

Sincerely,

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November 9, 2001

The Honorable John D. Graham
Administrator, OIRA
Office of Management and Budget
262 EEOB
Washington, DC 20503

Re: Pet Management in Golden Gate National Recreation Area; San Francisco
California - Special Regulation - DOI-NPS RIN: 1024-AD03

Dear Administrator Graham:

The following points may assist OMB review of the proposed Advance Notice of Proposed Rulemaking regarding pet management in the Golden Gate National Recreation Area.

I appreciate the anomaly of comments being presented in a vacuum where neither the content nor even the gist of the ANPR has been disclosed. However, the context in which the proposed regulatory action developed raises a key concern about whether the form of the proposal appropriately conforms with the reality of the circumstances.

The reality is that for decades pet management in the GGNRA was conducted pursuant to an official Pet Policy that was adopted and implemented by the agency after public input and hearings. The GGNRA Pet Policy provided for off leash dog walking in some of the former municipal beach areas where that highly popular recreational activity long preexisted creation of the GGNRA. The approved policy interpreted and applied the general Park Service wide regulations in the context of the unique circumstances of the recreation area -- an enabling statute mandate to facilitate traditional urban open space recreational access, promises made to the people of the City of San Francisco that the traditional recreational activities would be allowed to continue, a dense urban area and long preexisting recreational use.

If the proposed ANPR simply presents a special regulation to confirm the longstanding policy and practice such regulatory housekeeping would likely enjoy popular support and present few regulatory management problems. On the other hand, if the proposed ANPR seeks to alter the longstanding policy and practice the proposal will become highly controversial and will present special need for heightened OMB scrutiny to ensure consistency with principles of democracy and sound public land use planning. Careful review of the following considerations is particularly warranted in light of public concern of agency bias.

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(1) Review of the baseline status quo assumptions:

Off leash dog walking has always been allowed in some of the GGNRA areas, and was enjoyed in those urban beach areas long before the GGNRA was created. The GGNRA had official policies legitimizing such recreational access. Fair consideration of the off leash issue needs to take into account the reality that the Park Service is seeking to make a significant change to eliminate a current use that is extremely popular. It would be unfair for the Park Service to manipulate the presentation so as to pretend that the question is whether to create an entirely new use.

That posture makes all the difference. By ignoring the historical pattern of use and posturing that off leash use has been illegal, the GGNRA may be attempting to sidestep fair consideration of critical aspects of the issue and inappropriately shift the burden of persuasion. It may be that the agency wishes to make an unpopular and inappropriate change and knows it cannot do so unless it shifts the playing field such that the agency does not have to prove its case. The agency might be manipulating the procedures so as to take advantage of the inherent inertia that impedes the potential of regulatory public policy change. By simply announcing that the desired change is the new status quo, the agency gets its way as a default if no change is made, and burdens the public with the difficulty of overcoming roadblocks to regulatory change.

I am concerned that this is all the more a problem in that the ANPR process is a mechanism for the agency to determine whether further rulemaking is necessary at all. If the agency sets the situation up so that it is able to determine that there is not a sufficient reason to engage in the further rulemaking, it could easily make an unpopular change without review simply by changing the baseline and then determining that further rulemaking is not appropriate.

(2) Review of the ANPR in the context of the pending public input process:

A public input process is required prior to any such highly controversial and significant alteration in the public use pattern of the park areas (36 CFR 1.5). The Pet Policy was created by the GGNRA and the GGNRA Advisory Commission in 1978 and 1979 after public hearings. Last November, when the GGNRA decided to try to eliminate the longstanding practice of allowing off leash dog walking, the GGNRA determined that it must first eliminate the Pet Policy that had been adopted by the Advisory Commission. A motion to rescind the policy was presented at the Advisory Commission meeting. Members of the public objected to the surprise motion that had not been listed on the agenda. Recognizing that public comment was required, the Commission postponed the motion and set it for a special hearing in a larger facility two months later.

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More than 5,000 people signed petitions objecting to the change and thousands showed up to speak, many standing outside in the rain waiting to get into the hearing room. The chanting of the crowds outside was loud and persistent. Local political analysts describe the event as the largest turn out ever for a public hearing held in San Francisco. Eight members of the Board of Supervisors of the City of San Francisco spoke and publicly committed to direct the City Attorney to attempt to assert the reversion clause of the property transfer agreement if the GGNRA banned such recreational use of the former municipal beach areas.

Having been confronted with the overwhelming public opposition to the change, the Advisory Commission declined the GGNRA's request that it rescind the policy. Instead, the Advisory Commission voted to take "No Action" on the proposal to rescind the Pet Policy. The public hearing was cut short and the masses of people were sent home, relying on protective assurances that the public process would continue. The Advisory Commission requested that the Park Service staff study the issue further, meet with public representatives and try to come back with a plan that accommodated the public concerns.

The Advisory Commission Chair publicly stated the expectation that there would be no new signs, ticketing or other enforcement changes until the Park Service came back with a plan. The Park Superintendent sat through the meeting and did not object to that plan for dealing with the issue. However, within weeks, the GGNRA simply by unilateral fiat announced that the Pet Policy was no longer in force and there would be no further public hearing before the Advisory Commission on the matter. An aggressive Park Service public relations advocacy campaign attacking off leash dog walking and new enforcement efforts began shortly.

Since the GGNRA started a public hearing process regarding whether to change the existing policy, the GGNRA should not be allowed to subvert that process and make the changes without public input. The OMB review should consider whether the current ANPR proposal is drafted to facilitate that public input process or whether instead it is being pursued as an undemocratic strategy to sidestep the required public comment process.

(3) Review of the propriety of the agency conduct in making the change prior to the public input decision making process:

The prior off leash policy worked well for decades. The OMB may wish to consider whether the agency has presented a showing of substantial need to push forward with the change in the interim prior to completion of the regulatory process. The OMB may also wish to consider whether the circumstances present such a question of agency bias as to warrant careful review of the presentation made by the agency. It seems inherently undemocratic and wrong for the Park Service to change the policy and enforcement prior to starting the public comment process. It also seems wrong for the Park Service to act as a partisan advocate on one

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side of the question. It leads to a risk of bad decision making if the agency is biased and prejudices the issue before receiving the public input information on which the issue supposedly is to be considered.

(4) Review of whether the proposal properly acknowledges and evaluates the unique circumstances of the recreation area:

The GGNRA truly is a unique park with a unique enabling statute, unique legislative history and unique obligations due to the promises made when the land was transferred by the City of San Francisco. The GGNRA is a unique and special unit of the National Park System because it is the only park unit in the country set up specifically primarily to provide local city dwellers with open space recreational opportunities. That unusual purpose of the GGNRA to enhance urban open space recreation access is set forth specifically in the enabling statute for the park, specifying that Congress was creating the park

"In order to preserve for public use and enjoyment ... and in order to provide for the maintenance of needed recreational open space" (16 U.S.C. 460bb)

A fair ANPR process should consider the issue in light of the unusual circumstances and needs of the urban park and the unique enabling statute and legislative history.

(5) Consideration of the context of overall change in management of the recreation area:

The ANPR may be based on an inappropriate management assumption that recreational interests should be sacrificed to convert the recreation area lands into a lands devoted primarily to wildlife resource promotion. San Francisco gave all of our beaches to the federal government based on a promise that free access to the beaches would continue for our traditional recreational uses. The GGNRA is breaking that promise, systematically closing off access and adding more and more restrictions on use of the beaches. The GGNRA is engaged in an overall effort to change the nature of our park.

They have engaged in an aggressive campaign to eliminate off leash dog walking. They have restricted other traditional recreation uses by fencing the people out of the open space to create new off limits areas for introducing politically correct "native plants," transforming historically free beach areas into prissy landscaping and fenced areas where recreation is tightly regulated, ripping out the disabled access trail at Fort Funston and closing access to the only large sand dunes in the Bay Area on which children can play.

These dramatic changes in the regulation of our park lands are an important public

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policy decision that will impact our lifestyle and community for decades. However, the GGNRA is trying to sidestep normal public discussion and review of their planning decisions. The OMB may wish to consider whether the ANPR proposal appropriately deals with the bottom line question about whether the recreation area land should continued to be managed for the primary purpose of providing open space recreation.

(6) Consideration of the extent of analysis of local impact:

The City of San Francisco gave all of its municipal beaches and beach bluff areas to the GGNRA. Restriction of access to these areas where dogs are currently allowed off leash would likely have a substantial impact on the congestion of the remaining City park areas. City officials have repeatedly requested that the GGNRA consult with the City and respond to the City's inquiries in this regard, to no avail. The OMB may find it appropriate to evaluate whether the proposed ANPR adequately addresses the need for such impact analysis.

(7) Consideration of the potential enforcement problems:

The OMB may wish to evaluate whether the proposal adequately takes into account the probable difficulty of enforcing any new policy further limiting the public access to parks in this densely urban area. The OMB may consider that such change is unenforceable and impractical given the current personnel resources. Moreover, there is the potential problem of needlessly creating hostility to the Park Service personnel. Or, if the highly unpopular change is announced but not enforced, there is the problem of public uncertainty and the potential of disrespect for other Park Service policies.

(8) Consideration of the potential costs:

The OMB may wish to evaluate whether the proposal adequately takes into account the probable increased costs of enforcement, signage and public education.

(9) Consideration of the impact on park visitation rates:

The OMB may wish to evaluate whether the proposal adequately takes into account the probable resulting decrease in park visitation. In some areas, the vast majority of regular park users are dog walkers, most of whom would not visit the park so frequently but for the opportunity to walk their dog.

(10) Consideration of the societal impact and public safety:

The OMB may wish to evaluate whether the proposal adequately takes into

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account the probable negative impact on the overall societal comfort and health if these unusual areas of peaceful coexistence and community are eliminated. There is the additional issue of the decrease in public safety when the protective presence of dog walking is removed from urban parks. GGNRA analysis typically presumes an increase in public safety if dogs are eliminated, but studiously ignores consideration of the commonly known factor that most urban parks are unsafe but for the presence of dogs. Many San Francisco residents if not accompanied by a dog will not walk in these areas at night or if others are not present during the day. This factor appears to be of greater significance for women and is of substantial significance to the elderly and disabled users of Fort Funston.

(11) Consideration in the context of the other ongoing rulemaking:

Two dog walking associations and several individuals prevailed in a lawsuit to enforce the right to a public hearing before the GGNRA converted popular recreation areas at Fort Funston into off limits fenced native plant cultivation zones. The Federal Court ordered the Park Service to reopen the area until it had complied with the rulemaking required prior to such controversial park closures. The Court also awarded attorney fees to the plaintiffs suing to enforce the right to public input on the basis that there was no substantial justification for the government's position.

To evidence cooperation with the injunction forcing the Park Service to comply with the rulemaking process, the attorneys for the Park Service represented to the Court that the Park Service would carefully consider and respond to all of the public comment. The Park Service did not do so. Instead it rendered a decision seemingly based on superficial end driven consideration which ignored many of the key environmental, legal and public interest factor comments. Members of the public complained about the lack of adequate analysis and several demanded reconsideration. There was no response. The Park Service avoided further oversight by taking contrary positions depending on the source of the oversight. It avoided judicial review by representing that it would comply with rulemaking requirements. At the same time it avoided congressional and OMB review by representing that it was not engaged in such rulemaking, suggesting instead that formal rulemaking was not required because it was merely making a temporary closure decision. Although that posture implies that permanent changes would not be pursued absent future compliance with rulemaking and evaluation of the prior public comment, the Park Service is now pursuing the permanent changes without completing the analysis.

(12) Consideration of the potential of improper motivation behind the proposed change:

During the Fort Funston litigation the GGNRA developed a strategy that it could avoid being forced to comply with rulemaking protections based on an argument that the plaintiff

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organizations could have no standing in federal court to enforce the public comment requirements. The GGNRA lawyers claimed that the dog walking organizations could not have standing if off leash dog walking was illegal. Thereafter, the GGNRA reversed its prior longstanding policy of recognizing the legality of the preexisting recreation use, and began its campaign to "rescind" the longstanding Pet Policy allowing off leash dog walking. The GGNRA staff newly declared that off leash dog walking is illegal and began to remove the signs throughout the GGNRA which designated the various off leash areas and otherwise tried to remove all evidence of the longstanding off leash policy. The OMB may find it appropriate to evaluate whether the GGNRA's regulatory efforts are in good faith, rather than an attempt to prevent petition for redress over the conversion of public recreation areas into off limit zones.

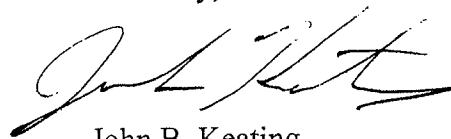
These concerns have been repeatedly presented to the Park Service. Some of my unanswered correspondence is enclosed in case the analysis might assist OMB review.

The existing policy worked well for decades. It is not clear that an ANPR is necessary at all to confirm that policy. Rather, the OMB and Park Service could simply find that the off leash policy is an appropriate policy consistent with the regulations.

Alternatively, a special regulation or ANPR may be appropriate if confirming that the longstanding Pet Policy remains the operative policy until there is a public input process appropriate to making significant alteration of the public use pattern. The ANPR might ask the question: "Is there sufficient reason for the Park Service to change the policy of allowing some off leash dog recreational access to continue in a few areas where that recreational access has proved to work successfully and preexisted the creation of the GGNRA?" or "Is there sufficient reason for the Park Service to adopt a special regulation confirming the long-standing policy and interpretation of the regulations such as to allow some off leash recreation to continue on the unique parklands of the GGNRA?"

If the Park Service is pursuing different ends, I hope that the OMB will carefully scrutinize the current ANPR proposal. Please protect the public from the possibility that the agency might use the ANPR process as a mechanism to avoid considering the public input.

Sincerely,



John B. Keating

encl.

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November 9, 2001

Re: Pet Management in Golden Gate National Recreation Area; San Francisco California -
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INDEX OF ATTACHMENTS TO 11/9/01 LETTER TO OMB

- Tab A 4/4/01 letter to GGNRA Superintendent Brian O'Neill concerning impropriety of change in the new leash only signs significantly restricting traditional recreational activity without compliance with public input requirements of 36 C.F.R. 1.5(b).
- Tab B 7/11/01 letter to GGNRA Superintendent Brian O'Neill complaining about repeated GGNRA misinformation to the public and press posturing that the Pet Policy had never been adopted and never was effective, and providing copies of a number of documents belying the inaccurate posture, including the following attachments which are also provided with this letter:

3/19/99 letter from Superintendent O'Neill to Congresswoman Pelosi which confirms the Pet Policy as developed with the Advisory Commission, as follows:

"As you are probably aware, GGNRA has adopted a pet policy that is more liberal than pet regulations at other national park sites throughout the country. In all other areas of the national park system, pets are required to be leashed at all times and are, for the most part, excluded from all but developed areas. GGNRA has, with the assistance of the park's Advisory Commission, established a pet policy that allows some opportunity for visitors to enjoy a few designated areas with their pets under less restrictive circumstances. Certain areas of the park have been designated as voice control areas where pets are permitted off-leash. Other sites are open only to leashed pets, and some portions of the park are completely closed to pets in order to protect sensitive resources. This policy is designed to accommodate the many different user groups within the park as well as to fulfill our mandate to protect natural resource values of the park. We believe our present policy provides a balance between pets in GGNRA and the protection of park resources."

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7/8/92 letters of Western Region Regional Director Stanley T. Albright to Senators John Seymour and Alan Cranston that confirmed that as of 1992 "there is no change in the 1979 Pet Policy which provides the visitor the privilege of walking one's dog off leash." (D00721-722 and 725-6)

2/5/99 letter of Western Region Regional Director John A. Reynolds's to Senator Feinstein confirming that the GGNRA had adopted the Pet Policy and that the GGNRA did "not anticipate any change to GGNRA's pet regulations." (D00045-47)

3/19/99 letter of Superintendent O'Neill to Congresswoman Pelosi confirming that the GGNRA had adopted the Pet Policy and responded to Ms. Pelosi's correspondence which in the second paragraph had noted that the constituent has requested that "the agreements made previously with the Citizens Advisory Commission be reinstated and respected." The constituent correspondence triggering the response at the fourth paragraph reflects a concern that the prior policy was being abrogated without public hearings. (D01367-70)

South District Ranger James Milestone's January 4, 1996 memorandum addressing potential "Compendium Revisions to GGNRA's Pet Policy" outlines "changes the new pet policy will have from the existing pet policy..." (D00555-6)

The October 1996 Crissy Field Finding of No Significant Impact Mitigation Matrix includes statements regarding off-leash dog use at page 39 that "NPS will enforce voice control and clean up requirements ... and management adjustments made where necessary, bringing any proposed changes in off leash dog access to the Advisory Commission" and at page 42 concluding that "Proposed changes in off leash dog access will be brought to the attention of the Advisory Commission prior to taking action." (D00039)

Tab C 8/4/01 letter to GGNRA Superintendent Brian O'Neill concerning impropriety of new advocacy campaign brochures and change in leash requirements despite determination of Advisory Commission to take "no action" on the January proposal to rescind the Pet Policy.

Tab D 8/13/01 letter to Director Mainella raising concerns that the improper escalating new enforcement and advocacy campaign suggested a potential of interference with the fairness of the ANPR process and reciting and raising concerns related to the District Court findings of fact reflecting bias by the GGNRA personnel involved with the policy proposals.

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- Tab E 8/17/01 letter to NPS Assistant Solicitors providing policy and legislative history information and analysis.
- Tab F 8/22/01 letter to Director Mainella raising concerns about escalating campaign to give ticket warnings and the impropriety of the Park Service attempting to establish a fait accompli, as previously criticized by the District Court.
- Tab G 9/10/01 letter to NPS Assistant Solicitor complaining of the turmoil being created by the escalating enforcement campaign and quoting the passage of the transcript from the January Advisory Commission hearing in which the Advisory Commission stated its expectation that the Park Service would "hold off signs, citations, and so forth, until they come back with a plan."
- Tab H The GGNRA's Pet Policy which had been created and approved after public hearings before the Advisory Commission in 1979 and thereafter was adopted by the GGNRA as its policy and incorporated as Appendix C to the GGNRA Natural Resources Management Plan.
- Tab I The 1995 Compendium Amendment that had designated largely the same areas for off leash "voice control" dog walking pursuant to the Superintendent's discretionary authority to designate use areas under 36 CFR 1.5.
- Tab J The 1997 and 1980 drafts of a proposed special regulation that would have accomplished similar results through the special regulation provisions of 36 CFR Part 7. [The 1980 draft refers to modification of 36 CFR 2.8 which would now be modified to refer to the newer regulation 2.15(a)(2).]
- Tab K The 1996 proposal for a general regulation modification to clarify discretion of a superintendent to designate areas for less restrictive controls. [The potentially controversial application to ordinary national park units could be sidestepped by limiting the change to recreation areas by simply adding the words "of a recreation area" after the word superintendent at the beginning of the second line.]

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April 4, 2001

Mr. Brian O'Neill
Park Superintendent
Golden Gate National Recreation Area
Bay and Franklin Streets
Building 201, Fort Mason
San Francisco, CA 94123

Re: Recent Sign Changes Concerning Off Leash Dog Walking Recreation

Dear Superintendent O'Neill:

I understand that the Park Service is again changing signs such as to significantly restrict traditional off leash dog walking recreation. The new changes result in an activity restriction which is of a nature, magnitude and duration that will result in a significant alteration in the public use pattern of the park area, and is highly controversial. Yet there appears to have been no compliance with the notice-and-comment rulemaking procedures contemplated by 36 C.F.R. 1.5(b). See Ft. Funston Dog Walkers v. Babbitt, 96 F. Supp 2d 1021 (2000).

Specifically, the Park Service recently removed the prior signs at Ocean Beach. The prior signs had clearly set forth and distinguished the portions of Ocean Beach where off leash dog walking recreational activity is tolerated from the restricted portions of the beach. The Park replaced those clear signs with unclear signs that eliminate the distinction between the restricted as opposed to unrestricted portions of the beach, and newly suggest that off lead dog walking is not allowed at all. That would be a substantial change to the historical recreation use pattern at Ocean Beach. The prior signs had reflected the result of substantial public debate, including ten thousand petition signatures objecting when the GGNRA staff previously suggested the closure. The prior signs also were consistent with the long tern GGNRA policy concerning Ocean Beach while the current are not. There can be no dispute that it would be highly controversial and would be a significant alteration of the public use pattern to embark on such changes to the previously allowed and very popular off leash recreation use of Ocean Beach.

Additionally, your recent press release suggests that similar new signs will be installed at other areas of the GGNRA where off leash dog walking previously has been widely enjoyed . As you are well aware, such changes are highly controversial, and would significantly alter the predominate recreational use activity of certain areas of the National Recreation Area.

Re: Recent Sign Changes Concerning Off Leash Dog Walking Recreation

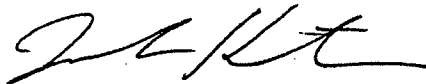
When the GGNRA tried to make such changes in January, thousands showed up at the public hearing. The Advisory Commission cut the hearing short before hearing from most of the people signed up to speak. The public allowed that to happen based on the representation made that "no action" would be taken on the proposal to eliminate the prior policy. The clear intent expressed by the Advisory Commission was that there would be no changes to off leash recreation in the 120 day interim while the GGNRA staff was to begin to investigate and have discussions on how to resolve the controversial issue.

You are well aware that the public comment presented on the earlier related restriction proposals clearly reflects that the park user community is overwhelmingly opposed and profoundly upset by the GGNRA campaign to further restrict recreational dog walking. Even the City of San Francisco has intervened to demand that you engage in careful public policy analysis and discussions before embarking on such changes that would so affect the quality of life of so many.

Yet it now appears that the GGNRA is trying to do by fiat what it has learned it probably could not get away with if it fairly engaged in the public comment and rulemaking oversight process.

Please exercise great care to comply with the requirements of public input. High respect for that democratic process might assist you in avoiding the peril of again igniting a firestorm of controversy over perceived inappropriate and arbitrary action.

Sincerely,



John B. Keating

cc. Charles M. O'Connor, Esq.
Assistant United States Attorney

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July 11, 2001

Mr. Brian O'Neill
Park Superintendent
Golden Gate National Recreation Area
Bay and Franklin Streets
Building 201, Fort Mason
San Francisco, CA 94123

Re: Public Hearing Requirement Concerning Off Leash Dog Walking Restrictions

Dear Superintendent O'Neill:

This letter concerns recent comments on the radio by your press agent, Mr. Weidemann, in which he postures that the 1979 Pet Policy was never adopted and never was effective. That is inaccurate. Moreover, it is inconsistent with prior GGNRA policy. For example, Mr. Weidemann's posturing is inconsistent with your statement in the enclosed March 19, 1999 letter to Congresswoman Pelosi in which you confirm the Pet Policy as developed with the Advisory Commission.

"As you are probably aware, GGNRA has adopted a pet policy that is more liberal than pet regulations at other national park sites throughout the country. In all other areas of the national park system, pets are required to be leashed at all times and are, for the most part, excluded from all but developed areas. GGNRA has, with the assistance of the park's Advisory Commission, established a pet policy that allows some opportunity for visitors to enjoy a few designated areas with their pets under less restrictive circumstances. Certain areas of the park have been designated as voice control areas where pets are permitted off-leash. Other sites are open only to leashed pets, and some portions of the park are completely closed to pets in order to protect sensitive resources. This policy is designed to accommodate the many different user groups within the park as well as to fulfill our mandate to protect natural resource values of the park. We believe our present policy provides a balance between pets in GGNRA and the protection of park resources."

The 1979 Pet Policy had been created and approved after public hearings before the Advisory Commission and thereafter was adopted by the GGNRA as its policy and incorporated as Appendix C to the GGNRA Natural Resources Management Plan.

Mr. Brian O'Neill
Park Superintendent
Golden Gate National Recreation Area

July 11, 2001
Page 2

Re: Recent Sign Changes Concerning Off Leash Dog Walking Recreation

A number of other documents similarly establish that the GGNRA Pet Policy allowing some off-leash dog walking recreation remained the policy for two decades, and was repeatedly confirmed as the applicable policy. You, Regional Director Stanton and Regional Director Albright made that representation repeatedly from 1992-1999 in letters to responding to inquiring members of Congress. For example:

The July 8, 1992 letters of Western Region Regional Director Stanley T. Albright to Senators John Seymour and Alan Cranston confirmed that as of 1992 "there is no change in the 1979 Pet Policy which provides the visitor the privilege of walking one's dog off leash." (D00721-722 and 725-6)

Western Region Regional Director John A. Reynolds's February 5, 1999 letter to Senator Feinstein enclosed correspondence responding to her constituent confirming that the GGNRA had adopted the Pet Policy and that the GGNRA did "not anticipate any change to GGNRA's pet regulations." (D00045-47)

Your March 19, 1999 letter to Congresswoman Pelosi confirming that the GGNRA had adopted the Pet Policy responded to Ms. Pelosi's correspondence which in the second paragraph had noted that the constituent has requested that "the agreements made previously with the Citizens Advisory Commission be reinstated and respected." The constituent correspondence triggering the response at the fourth paragraph reflects a concern that the prior policy was being abrogated without public hearings. (D01367-70)

South District Ranger James Milestone's January 4, 1996 memorandum addressing potential "Compendium Revisions to GGNRA's Pet Policy" outlines "changes the new pet policy will have from the existing pet policy..." (D00555-6)

The October 1996 Crissy Field Finding of No Significant Impact Mitigation Matrix includes statements regarding off-leash dog use at page 39 that "NPS will enforce voice control and clean up requirements ... and management adjustments made where necessary, bringing any proposed changes in off leash dog access to the Advisory Commission" and at page 42 concluding that "Proposed changes in off leash dog access will be brought to the attention of the Advisory Commission prior to taking action." (D00039)

Nevertheless, the individuals now seeking to rescind the Pet Policy without public hearings have been taking the position that the Pet Policy was never adopted and never went into effect as a GGNRA policy, and I have heard that you now take the position that the GGNRA's pet policy precludes off leash dog walking.

The 1979 Pet Policy was adopted by the Advisory Commission with the specific rationale that the ordinary rules for National Parks are not appropriate for application to the

Mr. Brian O'Neill
Park Superintendent
Golden Gate National Recreation Area

July 11, 2001
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Re: Recent Sign Changes Concerning Off Leash Dog Walking Recreation

unique circumstances of the urban recreation areas encompassed in the GGNRA. The Pet Policy was consistent and properly implements the specific unique statutory mandate for the GGNRA (16 USC 460 bb), and it is required that the unique statutory mandate for the recreation area controls over the general provisions otherwise applicable to all units of the National Park System. (16 USC 1c).

The GGNRA began its campaign to disown the Pet Policy at about the same time last year that the GGNRA lawyers took the position that the issue was critical to the Fort Funston lawsuit. In that lawsuit park users forced the Park Service to have public hearings before closing portions of the Fort Funston area of the GGNRA. The GGNRA attorneys tried to argue that the citizens should not have standing before the Federal Court to compel public hearings, arguing that all off-leash dog walking was illegal and that standing to sue was not allowed when the standing was based on an "illegal" activity. Although I believe the GGNRA lawyers are simply wrong in their application of law on that point, and the Federal Court rejected the argument, the GGNRA lawyers continued to advance the position. I suspect that effort to defeat citizen access to judicial protection remained the principle motivation for the change in GGNRA interpretation of the legitimacy of their long standing Pet Policy.

The GGNRA's prior interpretation had worked just fine for over two decades until the mistaken notion surfaced that it would be expedient to change the interpretation to avoid the public hearing requirement. Regardless of the skewed motivation, the notion remains mistaken. The unilateral elimination of the pet policy will not allow you to avoid the public hearings. Therefore, the believed short-term expediency offers little reason for the GGNRA to rush so fast to fix something that isn't broken.

I suggest that you could simply avoid the immediate conflict by taking the position that there will be no substantial changes in the GGNRA practice regarding off leash dog walking in the interim until the issue is carefully studied. It appears that such was the expectation of the public and the Advisory Commission at the January meeting. It also is consistent with the enabling statute mandate to adhere to sound planning principles. You may take comfort from the knowledge that in the Bicycle Trails case the opinion specifically approved of your practice in those circumstances of not making changes to foreclose a recreational use in the interim while carefully studying the potential scope of application of a general regulation that would suggest restriction of the recreational use of the park.

To credibly achieve the safety of a policy of deferring changes in the interim while studying the issue, you need to confirm that the practices under the long standing Pet Policy will remain the operative policy, and you need to disown the posturing that the Pet Policy is null and void and never was adopted. Otherwise, by declaring the Pet Policy to be void by fiat, you propel the issue into imminent unpleasant conflict that could be avoided.

Mr. Brian O'Neill
Park Superintendent
Golden Gate National Recreation Area

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Page 4

Re: Recent Sign Changes Concerning Off Leash Dog Walking Recreation

Please consider the circumstances. The public had prevailed in court and forced the GGNRA to conduct hearings on the Fort Funston closure. The GGNRA then argued that the Advisory Commission had no choice but to approve the Fort Funston closure because the GGNRA attorneys had determined that off leash recreational use was illegal and they were required to manage the recreation area just like any other "national park." The public pointed to the Pet Policy as evidence of the current policy allowing off leash recreation.

At the November 28, 2000 meeting of the Advisory Commission, where the Commission adopted the GGNRA's position approving the closure because they "have no choice" the Commission member advancing that motion to approve the closure also asked the commission to adopt a motion to rescind the Pet Policy. The additional subject was first mentioned after the public comment period had closed and had not been listed on the agenda. Members of the public had to interrupt the commission proceedings to insist on the parliamentary procedure point that the motion to rescind the Pet Policy required notice on the agenda and an opportunity for public comment. The surprise motion effort to rescind the policy was then tabled until the next meeting.

On January 23, 2001 the Advisory Commission started to have a public hearing on the motion to rescind the Pet Policy. Over a thousand people signed up to speak, with close to a thousand standing outside in the rain waiting for an opportunity to get into the hearing room. Several thousand more had written or signed petitions opposing the changes. A majority of the Board of Supervisors of the City of San Francisco promised that they would seek to take portions of the GGNRA land back if the GGNRA went forward with the proposal to rescind the Pet Policy. When it quickly became painfully obvious that the Advisory Commission could not follow the GGNRA's wish that they rescind the policy, the hearing was cut short without entertaining the testimony of the citizens who came to express their views. The Advisory Commission Chair had told the public that there would be no changes while the subject was studied for the next 120 days.

Having not been able to prevail in the public hearing process, the GGNRA then made a move to sidestep the impediment of the required public hearing. The GGNRA made a pronouncement that the Pet Policy was declared void and that there would not be further hearings on the subject. The GGNRA stated that the policy was void and not applicable on the basis that it violated law and never had been adopted by the GGNRA.

The GGNRA's new posture that the Pet Policy was never in force could play into a cynical effort to avoid public hearings. If the status quo is that the policy is in force, then the GGNRA would need public hearings before eliminating the policy. However, if the GGNRA staff were to succeed in changing the status quo to a situation where the policy does not exist, they might then suggest there is no need for hearings and the GGNRA staff could avoid the unpleasantness of listening to the public opposition to changing the policy.

Mr. Brian O'Neill
Park Superintendent
Golden Gate National Recreation Area

July 11, 2001
Page 5

Re: Recent Sign Changes Concerning Off Leash Dog Walking Recreation

Hence, rather than allowing the public hearing to go forward on whether to rescind the policy the procedure shifted to Advanced Notice of Proposed Rulemaking. That presumably starts from a position that no off leash dog walking is currently allowed and inquires whether there is enough interest to change the rules to allow off leash dog walking. The GGNRA might very well conclude that it is undesirable to make a new rule and therefore decide not to engage in the proposed rulemaking. That would effectively eliminate off leash recreational dog walking without ever having a hearing.

In these ways I worry that the Golden Gate National Recreation Area may be going down the same path of folly it embarked on last year – deliberate effort to suppress rather than facilitate the required opportunity for fair public input prior to any significant alteration in the public use pattern of the park.

The Park Service has changed signs such as to significantly restrict the traditional off leash dog walking recreation. The Park Service has further altered the traditional use pattern by changing the both the operative policy and the enforcement pattern. As you are well aware, the new changes result in an activity restriction which will result in a significant alteration in the public use pattern of the park area, and is highly controversial. As you are also well aware, 36 C.F.R. 1.5(b) requires that

... a use or activity restriction or condition, or the termination or relaxation of such, which is of a nature, magnitude and duration that will result in a significant alteration in the public use pattern of the park area, ... or is of a highly controversial nature, shall be published as rulemaking in the FEDERAL REGISTER.”

As the Federal Court already found that the Park Service efforts to restrict the off leash dog walking in a portion of Fort Funston would trigger the rulemaking and public hearing requirements of 36 C.F.R. 1.5(b), obviously a broader restriction on a park wide basis would trigger the same requirement. See Ft. Funston Dog Walkers v. Babbitt 96 F. Supp 2d 1021 (2000).

You will undoubtedly recall that in the prior litigation the GGNRA's lawyers repeatedly argued that the GGNRA could avoid the 36 CFR 1.5 requirements because they construed the regulations to generally preclude all off-leash dog walking and that the longstanding Pet Policy was not effective. The GGNRA had specifically and repeatedly argued that the circumstances were controlled by the 36 CFR 2.15 general regulation concerning pets. The Court rejected the government's argument.

Indeed, the Court found the GGNRA's position to be so far without merit as to warrant the unusual result of an award of attorneys fees against the government. Such fees are not granted except in the most unusual circumstances. The standard for such an award is quite

Mr. Brian O'Neill
Park Superintendent
Golden Gate National Recreation Area

July 11, 2001
Page 6

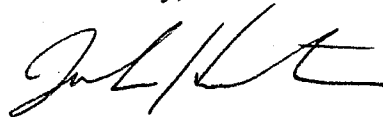
Re: Recent Sign Changes Concerning Off Leash Dog Walking Recreation

high – attorneys fees may not be granted unless the government's position is devoid of any substantial basis. In other words, even if the government's position turns out to be wrong attorneys fees are not granted if there was any reasonable good faith basis for the government's argument. Obviously, since the Court necessarily made the determination that the government failed to show any substantial justification for its conduct, the Court necessarily also rejected each of the particular excuses in fact argued by the government. Thus the finding includes a conclusion that there is no substantial justification in the government's position that it can avoid public hearings based on the 36 CFR 2.15 general regulation concerning pets.

Yet, here we are again. Despite the apparently clear application of the 36 CFR 1.5 requirement to circumstances very similar to those that triggered the prior reproach by the Court, there again appears to have been no compliance with the notice-and-comment rulemaking procedures. There is indeed a requirement of public hearing prior to rescinding the Pet Policy. The GGNRA should not make the mistake of attempting to avoid that requirement by unilaterally declaring that the longstanding policy is now null and void.

Mr. Weidemann also stated that the Park Service Acting Director gave permission for the GGNRA to explore "legal authority" to possibly allow some off-leash dog walking. That presents an opportunity for you. Please understand that there are a number of interested members of the public who are lawyers and who have expressed interest in trying to assist in this regard. WE have analysis that would be of benefit if indeed you wish to take advantage of that opportunity to receive assistance in establishing a full and balanced perspective of the options. I am confident that if fairly and fully considered, you would feel that you have a sufficient legal position if you maintain the status quo for the last several decades – continuing the discretion you have asserted to allow off leash dog walking in order to remain consistent with the unique enabling statute for the GGNRA. I suspect you will appreciate the hazard you face if you close off your sources of input to only that of individuals who are hostile to dog walking and who took you down the mistaken path before.

Sincerely,



John B. Keating

Danielsen
Dean
O'Neill
lza

A3615 (GOGA-VRPCR)

MAR 19 1999

Honorable Nancy Pelosi
United States House of Representatives
2457 Rayburn Building
Washington, DC 20515-0508

Dear Congresswoman Pelosi:

Thank you for your letter regarding concerns expressed by your constituent Ms. Florence Sarrett on the pet policy of Golden Gate National Recreation Area (GGNRA).

As you are probably aware, GGNRA has adopted a pet policy that is more liberal than pet regulations at other national park sites throughout the country. In all other areas of the national park system, pets are required to be leashed at all times and are, for the most part, excluded from all but developed areas. GGNRA has, with the assistance of the park's Advisory Commission, established a pet policy that allows some opportunity for visitors to enjoy a few designated areas with their pets under less restrictive circumstances. Certain areas of the park have been designated as voice control areas where pets are permitted off-leash. Other sites are open only to leashed pets, and some portions of the park are completely closed to pets in order to protect sensitive resources. This policy is designed to accommodate the many different user groups within the park as well as to fulfill our mandate to protect the natural resource values of the park. We believe our present policy provides a balance between pets in GGNRA and the protection of park resources.

GGNRA contains significant recreational, scenic, cultural, and open space values and is a sanctuary for several threatened and endangered plant and animal species. The park is obligated to take necessary measures to protect these resource values. Public desires for a particular activity are not adequate criteria for determining appropriate recreational uses in any unit of the National Park system. Balancing preservation and enjoyment of the park is a challenge at GGNRA and is complicated by the urban setting, high park visitation and the diversity of our user groups.

Law Enforcement staff at GGNRA seek to gain compliance with regulations through educational contacts with visitors, and they also exercise considerable discretion in their enforcement

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actions. Citations are generally issued only after educational efforts have failed to achieve compliance and/or in cases of flagrant violations. A few complaint letters have been received from the dog walking community regarding the actions of rangers involved with pet regulation enforcement. As with any complaint against a law enforcement officer, these have all been thoroughly investigated by senior law enforcement personnel and, in turn, have all been found to be without merit.

We appreciate your interest in GGNRA and hope this information will enable you to respond to Ms. Sarrett's concerns.

Sincerely,

ISSUED BY: AERI

Brian O'Neill
General Superintendent

Cc: Natasha Flora
Legislative Assistant
Office of Congresswoman Pelosi
450 Golden Gate Avenue
San Francisco, CA 94102-3460

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USPROD01368



United States Department of the Interior

NATIONAL PARK SERVICE
Western Region
600 Harrison Street, Suite 600
San Francisco, California 94107-1372

O'Neill
Cy: ~~Seena Cox~~
Jim Milestone
TAKE PRIDE IN AMERICA

IN REPLY REFER TO:

A3615 (WR-DOE)

08 JUL 1992

Honorable John Seymour
United States Senate
Washington, D.C. 20510

Dear Senator Seymour:

Thank you for your letter of June 26 to our Legislative Affairs office on behalf of your constituent, Ms. Monica Fox, regarding leash laws at Fort Funston in the Golden Gate National Recreation Area. Your letter has been referred to this office for reply.

The National Park Service recognizes the important value that every dog-walker holds towards the Fort Funston area. The relatively clean, open and safe environment of Fort Funston is certainly an attractive place to walk one's dog during all hours of the day. We also recognize the rights and values of the many people without dogs, who enjoy the beauty and recreational values of Fort Funston. With the spectacular vistas, colorful wildflowers and various recreational opportunities from hang-gliding to horse back riding, Fort Funston has become an extremely popular area to many park visitors.

At this time, there is no change in the 1979 Pet Policy which provides the visitor the privilege of walking one's dog off leash. The February 24, 1979, Pet Policy defines "managed" dogs and voice control as follows:

"Managed" dogs: Those dogs under control of their owner at all times. This control may be by voice or by leash. The criterion is that the dog may not harass any person or animal.

Voice or leash control: This is a flexible system. The success of such a system is dependent upon the willingness of visitors and local residents to cooperate with GGNRA personnel, and the willingness of GGNRA personnel to manage dogs, people and wildlife situations; to enforce regulations; and to cite violators.

Visitors that do not have voice control of their animals are asked to leash their pets. Pet owners with animals found digging holes in dune vegetation, chasing wildlife or causing injury to other visitors are subject to citations. We also request that visitors

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with dogs make the effort to collect any dog litter deposited along the trail edge. The National Park Service is calling upon all visitors to assist park rangers in keeping Fort Funston a quality park experience.

A growing number of people are "discovering" the varied recreational opportunities and beauty of the site. Visitation to Fort Funston now exceeds 500,000 people annually. The National Park Service has the responsibility to manage the area to protect the natural resources and provide for the enjoyment of the visitor. Efforts to provide access to visitors with the least impact to natural resources has been a challenge in this intense urban setting. Thousands of hours of work have been dedicated to developing trails, interpretive signs and resource protection projects to enhance the area and maintain a quality experience.

If Ms. Fox is interested in participating in assisting the park rangers in keeping Fort Funston a unique and beautiful park experience, he may contact District Ranger Jim Milestone at 415-556-8371. The park staff is interested in creating a **Friends of Fort Funston** volunteer group to resolve site conflicts and reduce impacts to the natural environment of Fort Funston.

Thank you for your continued interest in the management and operation of the National Park Service.

Sincerely,



St Stanley T. Albright
Regional Director, Western Region

USPROD00722

N-16 DOG ISSUES



United States Department of the Interior

NATIONAL PARK SERVICE
Pacific West Region
600 Harrison Street, Suite 600
San Francisco, California 94107-1372



IN REPLY REFER TO:

A3615(PWR-RD)

FEB 05 1999

B. O'Neill
by D. Danielson
File #53

Honorable Dianne Feinstein
United States Senate
Washington, DC 20510-0504

Dear Senator Feinstein:

Thank you for your inquiry of January 15, 1999, on behalf of your constituent, Garry Koenigsberg, concerning the off-leash dog use at the Golden Gate National Recreation Area. We have received a similar letter from Mr. Koenigsberg and have replied directly to him. Enclosed is a copy of our letter for your information.

We appreciate your interest in the National Park Service.

Sincerely,

John J. Reynolds
Regional Director, Pacific West

Enclosure

bcc:
GOGA, w/inc.
PGSO, w/inc.
WASO-APC, w/inc.

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USPROD00045



United States Department of the Interior

NATIONAL PARK SERVICE
Pacific West Region
600 Harrison Street, Suite 600
San Francisco, California 94107-1372

IN REPLY REFER TO:

OCT 21 1998

A3615(PWR-RD)

Mr. Garry Koenigsberg
38 Nordhoff Street
San Francisco, California 94131

Dear Mr. Koenigsberg:

Thank you for your letter of September 27, 1998, and your letter of the same date to Secretary Babbitt regarding the pet policy in Golden Gate National Recreation Area (GGNRA).

You should be aware that GGNRA has adopted a pet policy that is more liberal than the regulations enforced at other national park sites throughout the United States, where pets are required to be leashed at all times and are, for the most part, excluded from all but developed areas. GGNRA has, with the assistance of the park's Advisory Commission, established a pet policy that allows some opportunity for visitors to enjoy a few designated areas with their pets under less restrictive restraint. Certain areas of the park have been designated as voice-control areas where pets are allowed off-leash. Other sites are open only to leashed pets, and some portions of the park are closed to pets to protect sensitive resources.

GGNRA recognizes dog walkers as one of the many constituent groups who use and enjoy the park. However, as a federal land preservation agency, we have the fundamental responsibility of protecting the natural and cultural resources that make the urban national park so singularly significant. The mission of the National Park Service is "...to conserve the scenery and the natural and historic objects and the wildlife therein and to provide for the enjoyment...of future generations." We are bound by this mandate to establish policies which balance the many user demands placed on this matchless resource with the imperative to preserve its resources.


A goal of our law enforcement program is the prevention and deterrence of violations. Many violations are committed by persons who are simply unaware of park regulations. Special emphasis is placed on education and awareness of regulations and our officers have discretion to employ the lowest level of enforcement action that will effectively handle the immediate situation. The level of enforcement action necessary may vary from an informational contact to a citation or an arrest dependent upon the circumstances and the nature of the offense.

Although off-leash dog areas in GGNRA may not be as widespread as you desire, as previously stated, this national park provides many more dog walking opportunities than any other national park. At this time, we do not anticipate any change to GGNRA's pet regulations.

USPROD00046

We appreciate your interest in GGNRA.

Sincerely,



John J. Reynolds
Regional Director, Pacific West



United States Department of the Interior

NATIONAL PARK SERVICE

GOLDEN GATE NATIONAL RECREATION AREA
FORT MASON, SAN FRANCISCO, CALIFORNIA 94123

IN REPLY REFER TO:

January 4, 1996

To: Superintendent
Through: Chief Ranger *G.S. 1-18-96*
From: South District Ranger
Subject: Compendium Revisions to GGNRA's Pet Policy

This memo will outline specifically what changes the new pet policy will have from the existing policy; what the park is giving up and what the park is taking back. The new pet policy compendium revision is a reflection of information I gathered from meetings with Resources Management, Chief Ranger's Office, U.S. Park Police, GGNPA, SPCA and discussions with the Superintendent's Office.

For the purposes of consistency throughout the entire GGNRA, I have approached the pet policy revisions from a park-wide perspective. This is to ensure consistent policy for Marin, San Mateo and lands in San Francisco.

Marin Headlands:

The policy designates Rodeo Beach, Muir Beach and Oakwood Valley as off-leash voice control areas. The significant change in the Marin Headlands pet policy is that in most trails where dogs were once allowed off leash, they are now required to be leashed (see map). This is the trade off for designating Muir, Rodeo and Oakwood Valley as voice control areas. By insisting on leash enforcement on the trails of Marin, we are now consistent with the San Mateo lands to the south where all pets are required leashed. The reason for this is to protect wildlife (deer, foxes and bobcats that are seen often throughout the Marin Headlands).

Off leash-voice controlled dogs are allowed to romp on the Rodeo and Muir beaches from the crest of the dunes west to the ocean. Pets are not allowed off leash from the crest of the dunes inland towards creeks, lagoons and ponds (see illustration).

San Francisco County:

Fort Funston and Crissy Field are the two areas we have already designated as voice control sites, and these are the two areas that the SPCA and dog walking public have passionately rallied around. In my opinion, all other areas of the park that we designate as voice control are major concessions to the special interests of the

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dog walking community.

Ocean Beach: Daphene Hatch and her research volunteers found the snowy plover from Wawona Street north for two blocks past Lincoln Way. Daphene Hatch feels strongly that we should designate dogs be leashed to Fulton. From an enforcement point of view, it is probably best to require pets leashed the entire Ocean Beach, from Sloat to the Cliff House. Sergeant Warren Boyer urged in his comments that the Seawall portion of the beach be leashed because of the high visitation in this area. Signs are already posted here requiring dogs leashed, but presently there is no enforcement. Hatch believes if more of the beach is protected from running dogs, the snowy plover habitat will expand.

Fort Funston: All of Fort Funston, including beach, will be designated as a voice control area with the exception of Battery Davis Hillslope Closure and the Bank Swallow Habitat Area. Pets must be leashed on the trails system through the Bank Swallow Habitat Area (Currently enforced). Pets are allowed under voice control on the beach below Fort Funston from Sloat Blvd. to the San Mateo County line. Dogs are not allowed to chase shorebirds.

Lands End and Sutro Heights: Pets must be leashed.

Presidio (Crissy Field, Baker Beach and West Pacific Avenue): Pets must be leashed throughout all of the Presidio with the exception of West Pacific, Crissy Field, and Baker Beach. Bob Chandler has taken the position that West Pacific Avenue be a dog walking corridor for the neighbors along the park boundary. Crissy Field is limited to the Promenade and the old Airstrip and does not include the beach area west of the West Gate which is designated as a shorebird protective zone. For the most part, Crissy Field remains as it is currently managed today. Baker Beach voice control area includes most of the beach, except for the beach west of Lobos Creek. Sharon Farrel wants the creek free of disturbance from dogs which is consistent with Rodeo and Muir Beach aquatic management recommendations.

San Mateo County:

Pets must be leashed on all GGNRA lands in San Mateo County.

Phleger Estate: Pets prohibited because of intense equestrian use, this is consistent with selected trails in the Marin Headlands.

In conclusion, by designating the above areas "voice control" the remaining portion of the park will strictly enforce the mandatory leash law. I believe this is a good compromise and will give us a solid policy that protects the natural resources and the park visitor experience.

James F. Whitton

USPROD00556

**CRISSY FIELD FONSI
IMPACT/MITIGATION MATRIX**

This Impact/Mitigation Matrix includes impacts identified in the Crissy Field Environmental Assessment that require mitigation. It does not repeat mitigation already identified in the General Management Plan Amendment/Environmental Impact Statement.

Land Use Impacts

Phase out of helipad use for emergencies not related to the operation of the park.

The NPS will work with the City of San Francisco to identify other options to accommodate emergencies not related to the operation of the park. NPS will continue to consult and work collaboratively with the S.F. Planning Department, Emergency Management Services Agency, the Office of Emergency Services and other emergency response organizations to assist them in their efforts to effect a smooth transition from the routine use of Crissy Field as a helipad.

Recreation Impacts

Impacts associated with off-leash dog use.

NPS will work with the SPCA and dog walker representatives to begin an active education program as soon as possible.

NPS will enforce voice control and clean up requirements, and will monitor the results of these efforts. This information will be periodically re-evaluated and management adjustments made where necessary, bringing any proposed changes in off leash dog access to the Advisory Commission. }

of the following: concern about the impacts of off-leash dogs, enforcement of voice control and dog restrictions, preference for no off-leash dog walking, need for monitoring of impacts of off-leash dog use and a procedure for adjusting areas available for off leash dog use. Fifteen individuals expressed concerns that dog walkers do not clean up after dogs, or that owners do not adequately control their dogs.

The plan provides access to areas where staff felt conflicts would be minimized. Prohibiting dogs in the marsh and the waterbird protection area, and requiring them to be leashed on the Promenade west of the Coast Guard Station and in the West Bluff area provides opportunities for other visitors and protects sensitive resources.

To address problems of cleaning up after dogs and appropriate dog behavior in voice control areas, NPS will work with the SPCA and dog walker representatives to begin an active education program as soon as possible. NPS will enforce voice control and clean up requirements, and monitor the results of these efforts. Areas available for off leash dog use will be periodically reevaluated and adjustments made in management if necessary. Proposed changes in off leash dog access will be brought to the attention of the Advisory Commission prior to taking action.

ENVIRONMENTAL CLEAN UP

Comments were received from Arc Ecology, Sierra Club Presidio Task Force, and an individual member of the Presidio Restoration Advisory Board (RAB) questioning the adequacy of the ecological risk assessment and existing hazard analysis in the EA and requesting responses to specific questions regarding existing contamination, completion of the Army's Remedial Investigation and Feasibility Study (RI/FS), the Army's cleanup schedule and contingencies for addressing previously unknown contamination which may be discovered during or after remediation. Comments were also received from the U.S. Army identifying recent developments in the restoration program which could affect the proposal and scheduling and funding concerns. The State Department of Toxic Substances Control (DTSC) commented, suggesting minor changes in the EA, and recommending a Health and Safety Plan and a Contingency Plan be prepared. These comments are addressed in detail below.

The Army's cleanup of contaminated sites is a separate project, addressed in separate environmental data collection, analyses and documentation. This cleanup is ongoing and is regulated by DTSC and RWQCB. NPS acknowledges that this process has not concluded, and that cleanup levels and strategies have not been finally approved. The EA relied primarily on information for which analysis had been performed in the Army's studies. With regard to issues involving contamination and remediation, the EA concluded that the project would not significantly impact the environment for the following reasons:

1. An interagency agreement between the Army and the Department of the Interior, known as Subagreement 7 commits the Army to fulfilling its environmental restoration obligations at the Presidio in a manner that is protective of human health and the environment and which meets all applicable legal requirements. Subagreement 7 cites the GMPA as the indicator of future land use in the remedial decision-making process.
2. CERCLA, the National Contingency Plan, and the State Health and Safety Code all require cleanup to levels protective of human health and the environment.
3. As noted in the EA, where necessary, the NPS will not implement elements of this project in areas affected by contamination until the Army has completed its remediation in accordance with Subagreement 7 and applicable laws regarding health, safety and the environment.
4. New information regarding the Army's cleanup program will be evaluated as it becomes available to determine if significant new impacts would result from the proposed action (Crissy Field Plan). Additional environmental analysis and public review would be performed, if necessary.

JOHN B. KEATING
ATTORNEY AT LAW
POST OFFICE BOX 620622
2995 WOODSIDE ROAD, SUITE 350
WOODSIDE, CALIFORNIA 94062
FACSIMILE (650) 851-5912
(650) 851-5900

August 4, 2001

Mr. Brian O'Neill
Park Superintendent
Golden Gate National Recreation Area
Building 201, Fort Mason
Bay and Franklin Streets
San Francisco, CA 94123

Re: Recent Brochures Changing Off Leash Dog Walking Recreation Policy

Dear Superintendent O'Neill:

I enclose copies of a map and brochure downloaded from the GGNRA web site. The flyers constitute a complete reversal of the longstanding Pet Policy and render a dramatic restriction in previously allowed recreational activity within the GGNRA. Because the new changes result in an activity restriction which is of a nature, magnitude and duration that will result in a significant alteration in the public use pattern of the park area, and is highly controversial, the GGNRA is required to comply with the notice-and-comment procedures under 36 C.F.R. 1.5(b). See Ft. Funston Dog Walkers v. Babbitt, 96 F. Supp 2d 1021 (2000).

When the GGNRA tried to make such changes pursuant to hearing in January, thousands showed up at the public hearing. The hearing was cut short based on a decision to take "no action" on the proposal to eliminate the prior policy. The clear intent expressed by the Advisory Commission was that there would be no changes to off leash recreation in the interim while the GGNRA staff was to study the controversial issue. As the Advisory Commission voted to take "no action" on the proposal to rescind the policy, and since the policy had been effective for decades after being adopted by the GGNRA following the public hearings and Advisory Commission recommendation, public hearings are required prior to reversing the policy.

The park user community is overwhelmingly opposed and upset by the GGNRA campaign to further restrict recreational dog walking. There is no emergency requiring you to make abrupt changes to a long term policy that had worked well for decades. Even the City of San Francisco demanded that you engage in careful public policy analysis before embarking on such changes that would so affect the quality of life of so many. I ask you remove the brochure and new map from the web site, and otherwise defer their distribution to the public in the interim until public discussion and fair analysis of the potential significant policy change is completed.

Sincerely,



John B. Keating

encl.

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August 13, 2001

Fran P. Mainella
Director of the National Park Service
National Park Service Headquarters
1849 C Street NW
Washington, D.C. 20240

Re: Golden Gate National Recreation Area
Transmittal of Public Letters Concerning Potential Advance Notice of Proposed
Rulemaking Regarding Off-leash Dog Walking Recreation

Dear Ms. Mainella:

I forward the originals of 377 letters from GGNRA park users seeking review of a highly controversial anti-recreation change in local park management. The change is being pushed through without public hearing. These 377 letters are among more than 700 letters received on this controversial GGNRA issue during a short two hour period on August 3, 2001 at a single table at a public gathering. I also enclose several documents reflecting potential solutions to the escalating political problem, and provide some background comments and suggestions. The public letters and documents are attached as follows:

- Tab A 129 letters from park users variously expressing their request that the Park Service stop its efforts to ban the off leash dog walking traditionally allowed at a few designated areas of the Golden Gate Recreation Area.
- Tab B 248 letters from park users complaining about the conduct of local Park Service employees in terminating the public hearing and obstructing the process for fair public comment on those dramatic changes, and requesting that you "review the circumstances and exercise careful oversight to insure fairness."
- Tab C A copy of the Federal case opinion referred to in the letters, published Findings of Fact and Conclusion of Law in Ft. Funston Dog Walkers v. Babbitt 96 F. Supp 2d 1021 (2000) concerning prior related conduct of local Park Service employees improperly manipulating and restricting public input in order to "railroad" through anti-recreation closures.

- Tab D The GGNRA's Pet Policy which had been created and approved after public hearings before the Advisory Commission in 1979 and thereafter was adopted by the GGNRA as its policy and incorporated as Appendix C to the GGNRA Natural Resources Management Plan.
- Tab E The 1995 Compendium Amendment that had designated largely the same areas for off leash "voice control" dog walking pursuant to the Superintendent's discretionary authority to designate use areas under 36 CFR 1.5.
- Tab F The 1997 and 1980 drafts of a proposed special regulation that would have accomplished similar results through the special regulation provisions of 36 CFR Part 7. [The 1980 draft refers to modification of 36 CFR 2.8 which would now be modified to refer to the newer regulation 2.15(a)(2).]
- Tab G The 1996 proposal for a general regulation modification to clarify discretion of a superintendent to designate areas for less restrictive controls. [The potentially controversial application to ordinary national park units could be sidestepped by limiting the change to recreation areas by simply adding the words "of a recreation area" after the word superintendent at the beginning of the second line.]

Summary of the Circumstances:

Off leash dog walking has always been allowed on the San Francisco beaches and beach bluffs. The historic free access of the public to wander in these open space areas immediately adjacent to one of the most densely populated urban centers in the United States provides a considerable tonic to the people -- "an exquisite sliver of our over-committed lives."

The City of San Francisco gave these lands to the GGNRA pursuant to promises that the traditional recreational uses would be maintained. Management of the GGNRA was to be consistent with a truly unique enabling statute mandate to enhance urban open space recreation access.¹ That worked very well for decades as an opportunity to provide access to the National Park System for an urban populace that might not otherwise frequent the National Park System or particularly value preserving open space. Under the last administration, however, a shift occurred in park management such as to emphasize restoration of presumed original habitat over recreational access. The result is a developing hostile relationship with the local citizenry.

¹ This special recreation area was created "In order to preserve for public use and enjoyment ... and in order to provide for the maintenance of needed recreational open space" (16 U.S.C. 460bb).

And, as recreation areas and national parks were merged into a single National Park System, and the general regulations were reworked, the distinction between management of recreation areas and traditional national parks was blurred. Local staff produced a number of proposals to resolve the conflict between the intended purpose of the GGNRA (to maintain the popular historical recreation activities) and the general regulation calling for all pets to be leashed in units of the National Park System. The prior compendium amendment attached at Tab E, and the special regulation proposal and general regulation modification proposal at Tabs F and G, would have resolved the problem, but were disfavored under the prior agency agenda. Similar efforts if reintroduced and approved now could still provide a practical and obvious solution.

Unfortunately, in the later 1990's the then politically correct trend to de-emphasize recreation interests in favor of habitat restoration gained influence among the local park staff. The GGNRA incrementally closed off recreational access to more and more of the beach bluff areas, fencing off the areas to create "native" plant reintroduction zones. In early 2000, the GGNRA pushed the people to the limit, ripping out a beautiful disabled access trail and fencing off one of the best remaining free access bluff areas. The fenced off area contained popular spots for sunset watching, beach access and a very large sand dune slope that was popular with local families, being the only such large sand dune available for kids to slide down in the San Francisco Bay Area. The closure area also included one of the most popular of the few remaining off leash dog walking areas.

The people demanded a public hearing, but the GGNRA refused. The people asked that the GGNRA to slow down and consider alternatives, but the park service didn't respond. The people requested an impact statement to determine whether the clear cutting changes would in fact benefit or harm the local wildlife population, but the park service argued that "categorical exclusions" allowed them to avoid the environmental analysis.

Two dog walking associations and several individuals sued to enforce the right to a public hearing. Despite aggressively fighting the litigation, the GGNRA lost decisively. The Court ordered the Park Service to reopen the area until it had complied with the rulemaking required prior to such controversial park closures. The Court also awarded attorney fees to the plaintiffs suing to enforce the right to public input, applying the tough standard required before making such an award - that there was no substantial justification for the government's position.

In the process, however, the GGNRA's lawyers had developed a new strategy. They took the position that the GGNRA could avoid being forced to comply with rulemaking protections based on an argument that the plaintiff organizations could have no standing in federal court to enforce the public comment requirements. The GGNRA lawyers claimed that the dog walking organizations could not have standing if off leash dog walking was illegal. Thereafter, the GGNRA reversed its prior longstanding policy of recognizing the legality of the preexisting recreation use, and began its campaign to "rescind" the longstanding Pet Policy allowing off leash dog walking. The GGNRA staff newly declared that off leash dog walking is

illegal and began to remove the signs throughout the GGNRA which designated the various off leash areas and otherwise tried to remove all evidence of the longstanding off leash policy.

When the GGNRA sought to have its Advisory Commission "rescind" the Pet Policy by a friendly motion made without proper prior agenda notice, members of the public objected and again demanded public hearing. The matter was put over to the next commission hearing to allow proper notice. Thousands showed up to speak at the hearing, many waiting outside in the rain for an opportunity to speak. The City of San Francisco Board of Supervisors took the unprecedented action of passing four separate unanimous resolutions condemning the arbitrary decision to reverse the long-standing policy, and threatening to consider litigation to take the lands back from the National Park Service. Eight members of the Board of Supervisors appeared at the GGNRA Advisory Commission meeting, each emphasizing the need for the GGNRA to defer decision on the controversial policy change pending more careful analysis of the impact of the change.

The huge crowd waiting in the rain chanted "let us in - let us in" and was obviously very much upset and opposed to the plans to eliminate the off leash pet policy. The public turn out and events of that night are said to have been the largest response ever to a public hearing scheduled in San Francisco on any issue.

After hearing only the first forty or so of the thousand plus who had signed up to speak, the Advisory Commission voted to take "no action" on the motion to rescind the Pet Policy. The Commission requested that the Park Service staff consider alternatives to rescinding the policy such as a Section 7 special regulation or a general regulation modification. The Advisory Commission set up a plan where the GGNRA staff would meet with the interested community representatives and see what could be worked out. The Advisory Commission Chair specifically recited the intention of the Advisory Commission that there would be no changes in enforcement and no changes in the signs in the interim while the GGNRA staff studied the issue.

Nevertheless, within one week the GGNRA staff began an accelerated campaign to ramrod through the change without public hearings. The GGNRA staff announced that off leash dog walking was illegal and therefore they were declaring the prior policy to be null and void and there would be no further public hearings on the subject. The GGNRA also began an aggressive media campaign repeatedly posturing about supposed dangers and over characterized conflicts associated with dogs. The GGNRA removed the remaining signs designating off leash areas and staff started to warn of imminent ticketing.

The GGNRA staff even took a position denying that the GGNRA had ever adopted the Advisory Commission's prior Pet Policy, a statement clearly refuted by many documents. The GGNRA has not corrected its prior public misstatements in this regard despite being confronted with the documentary proof to the contrary. And now, despite repeated requests that the GGNRA avoid exasperating the situation and defer the campaign against off

leash dog walking, the ticket warnings are increasing and GGNRA staff have recently created and are handing out new brochures presenting a different pet policy. The GGNRA has not meaningfully met with the community groups and has not had public hearings on the changes presented in the new pet policy brochures.

Concerns Regarding Suggested ANPR Process:

I agree with the writers of the enclosed letters in concluding that the unilateral changes are inappropriate and are of such a magnitude as to require public hearings. I protest what appears to be repeated effort to defeat the public input process in favor of an end driven agenda. The GGNRA needs to embrace the benefits of the public input process by collecting all available information necessary to properly balance the interests and achieve the best policy.

There is a natural worry that such staff effort to avoid considering politically disfavored alternatives may also extend to the process of the Advance Notice of Proposed Rulemaking. The GGNRA has vaguely identified its ANPR effort as

"to determine whether the park should engage in formal rulemaking regarding pet management in the Golden Gate National Recreational Area (GGNRA). Currently, the regulation requiring dogs to be on leash where permitted is in effect. If undertaken, the formal rulemaking process would specifically address how pet use of the park would be managed at the GGNRA." (GGNRA Web site notice of 7/25/01)

Although there is no public information on precisely what ANPR form the local staff has proposed, one can understand that the integrity of the process and quality of the answer depends to a great extent on the nature of the question asked. An ANPR process can be set up such as to basically be a forum to collect information to justify an agency preference to not make a change. In light of the circumstances where the GGNRA staff has attempted to change the baseline status and then pursue an ANPR process to question whether there should be rulemaking to make a change from that new baseline status, there is a risk that the ANPR might be improperly drafted to slant the process against recreational interests and to defeat public hearing.

An appropriate ANPR process should develop comments on the question whether it is appropriate to end the longstanding practice of allowing dog walking in certain designated GGNRA lands. It would not be fair to draft an ANPR proposal in the opposite form, presenting a strawman question of whether rulemaking should proceed to create an "exception" to allow an activity that the GGNRA now re-characterizes to be illegal. It would not be fair if the ANPR process does not consider the available recreation favorable alternatives such as those reflected in the attachments.

To complicate this concern, there are rumors that the local GGNRA staff involved in the ANPR proposal drafting are the same individuals who previously appeared biased against dog walking. In particular, there are rumors that the ANPR proposal was put together in part by Mary Gibson Scott and others involved in the questionable conduct outlined in the enclosed published Ft. Funston Dogwalkers v. Babbitt findings of fact opinion. In your effort to ensure that the process is fair, please make certain that individuals who may have a potential bias do not control the information and analysis received by those performing the higher agency review.

The Findings of Fact include the following passages:

"These excerpts show an intent on the part of the National Park Service to railroad through the closure, to maintain secrecy, to unleash the fencing with lightening speed, and to establish a *fait accompli*." Ft. Funston Dog Walkers v. Babbitt, 96 F. Supp 2d 1021, 1037-38 (2000)

"During this period, as before, officials were very aware of the possibility that the dog walkers would wish to be heard and sought to preclude or minimize such input. In this vein, Assistant Superintendent Mary Gibson Scott wrote the following in an email on January 24 with the subject line "Ft. Funston dogwalkers and attachment":

Regarding the meetings with dog reps, I want to keep it as small as possible -- existing organizations such as SF dog and SPCA, maybe humane society. Otherwise we are asking for them to organize their constituency even further than they already are. Why would we provide a forum, i.e. meeting with 'dog walkers' with regularity for them to beat us up?

(A.R. US06268, email from M. Scott to D. Mannel, J. Scheumann, Y. Ruan, and T. Thomas and copied to R. Scott, T. Fortmann, M. Bartling, dated Jan. 24, 2000) (emphasis added)." Ft. Funston Dog Walkers v. Babbitt, at page 1028-29.

"... Bottom line, when media gets involved they will claim we did not include them in the decision making process and even if it is not required by law, it will be "big brother" against the little man. Still, the best plan is to keep working on relations with the dog walkers and to be responsive to their issues, even if we are not in favor of them.

(A.R. US06260, email from R. Scott to M. Scott, T. Fortmann, and M. Feinstein, Feb. 15, 2000) (quoting NPS email)

The outreach was not for the purpose of receiving input on the closure itself. That was a *fait accompli*. The outreach was a public-relations campaign to sell the closure and to create the appearance that the National Park Service wanted the public's input." Ft. Funston Dog Walkers v. Babbitt, at page 1031

" The National Park Service did not solicit the views of the dog walkers during the decision-making process. Instead, the National Park Service solicited the views of only select groups in favor of the closure, like the California Department of Fish and Wildlife." Ft. Funston Dog Walkers v. Babbitt, at page 1033

"... given the National Park Service's studied solicitation of one-sided input and its "discreet" avoidance of the dog walkers. Defendants would have the Court determine, for example, whether the closure was "highly controversial" based on a deck stacked against the dog walkers." Ft. Funston Dog Walkers v. Babbitt, at page 1035

"That record shows the lengths to which the closure architects went in suppressing input." Ft. Funston Dog Walkers v. Babbitt, at page 1035

"Because the administrative record is skewed" Ft. Funston Dog Walkers v. Babbitt, at page 1035.

Suggestions:

There are alternatives to pursuing an ANPR process that sets up controversial future rulemaking. First, no change is necessary. In my view, the GGNRA was correct in its prior legal interpretation that the general regulations do not necessarily have to be strictly applied where they are in conflict with the purpose of the park as set forth in specific enabling statute. I think the new interpretation is wrong in suggesting that there is no choice but to newly begin enforcing 36 CFR 2.15 even if in conflict with the enabling statute and legislative history. Rather, I believe the Superintendent has the discretion to allow off leash dog walking areas as designated use areas necessary to achieve the intent of the enabling statute. Case law supports delay in new implementation of general regulations while determining whether the changed regulation enforcement would be in conflict with specific enabling statute or legislative intent.

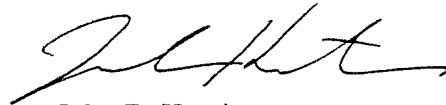
Alternatively, either compendium amendment, section seven special regulation or general regulation modification similar to the attached prior proposals might resolve the circumstances more easily than other rulemaking efforts. Although the 1996 Compendium Amendment was adopted in and received the Solicitor's approval, it was not continued later after review under the agenda of the prior agency leadership. It is hoped that these various mechanisms would receive more favorable consideration by the fresh eyes of the current agency leadership. Such a simple resolution would certainly enjoy popular public support.

If the Park Service is able to fully consider these various ways to achieve the principle legislative intent of maintaining our traditional open space recreation activities, I hope the agency can do that analysis prior to submitting its proposed ANPR to the OMB. I and others would be pleased to brief the enabling statute legislative intent issues and the case law allowing appropriate modification in regulation enforcement, should such comment be helpful prior to OMB submission.

In the interim, please direct the local Park Service employees to defer their aggressive efforts to reverse the long-standing practice of allowing off leash dog walking on some of the beaches and adjacent beach bluffs of San Francisco. There is no urgent need to arbitrarily change the longstanding and popular policy without adequate analysis of the consequences. The rumored counter intent in rapidly pushing through the changes is to effect the changes prior to the opportunity for higher agency review under the new agency leadership.

Local GGNRA officials suggest that they are making the new enforcement changes because they are being forced to do so by "Washington." But there is no clarification as to whom the term "Washington" refers or why there has been a change in interpretation. It would be helpful if the public were able to learn the suggested basis for the locally substantial policy change. We might just be able to provide some analysis that could help the Park Service to consider an alternative interpretation that is not so improvident.

Sincerely,



John B. Keating

encl.

cc. Gale Norton, Secretary of the Interior
Mitchell E. Daniels, Director of the Office of Management and Budget
Joel Hefley, Chairman, National Parks and Recreation Subcommittee
Committee On Resources, U.S. House Of Representatives
Daniel K. Akaka, Chairman, Subcommittee on National Parks
Committee on Energy and National Resources, United States Senate
Richard Bartke, Chair, GGNRA Citizens Advisory Commission
Brian O'Neill, GGNRA Superintendent

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August 17, 2001

Via Facsimile

Andria D. Weeks
Administration, National Park Service
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Molly N. Ross
Special Assistant to the Director
Office of the Director, National Park Service
Headquarters
1849 C Street, NW Rm 3316
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Re: Golden Gate National Recreation Area
Potential Advance Notice of Proposed Rulemaking Regarding Off-leash Dog
Walking Recreation

Dear Ms. Weeks and Ms. Moss:

I understand that you may be in the process of reviewing the potential advance notice of proposed rulemaking draft forwarded by the Golden Gate National Recreation Area regarding elimination of the prior policy of allowing off leash dog walking in some areas. We enclose courtesy copies of recent correspondence to Director Mainella and to GGNRA Superintendent O'Neill on the subject. These documents may assist your review of the basic circumstances motivating the ANPR, as well as your determination of the proper form of ANPR.

Dog walking had been allowed to continue in some urban recreation areas within the GGNRA such as on the San Francisco beaches where it has been a popular practice since long before the GGNRA was created. The long standing GGNRA Pet Policy allowing such off leash dog walking in certain limited areas had been included in the GGNRA' Resource Management Plan and later confirmed in the attached 1996 Compendium Amendment. The Compendium Amendment reportedly was not repeated in 1997 due to a belief that there might be an impropriety in using that format to confirm a use designation that on its face appeared inconsistent with a general regulation. (36 CFR 2.15)

Upon careful analysis, however, you may find that the general regulation is not strictly controlling in light of the unique recreational open space mandate of the GGNRA, the legislative intent that recreational activities such as off leash dog walking were expected to be continue in the urban recreation area, and the promises made prior to transfer of the land that the traditional recreation activities would be allowed to continue. The general regulations do not control where in conflict with management necessary to carry out the mandate of a specific

enabling statute. As the Superintendent is allowed discretion to manage consistent with the special needs of the particular unique units of the National Park Service, that would seem to include relaxing enforcement of the general regulations where necessary to effectuate the specific enabling statute mandate.

The specific enabling statute (16 U.S.C. 460bb), makes open space recreational interests the primary purpose of the GGNRA. The enabling statute in part provides:

In order to preserve for public use and enjoyment certain areas of ... and in order to provide for the maintenance of needed recreational open space necessary to urban environment and planning ... is hereby established.

Some wrongly rely on a statutory interpretation mistakenly concluding that all units of the National Park System are to managed similarly with resource enhancement as the primary controlling goal over all other factors, including such enumerated purposes as recreational use. That analysis would create a violation of our enabling statute purpose of management to maintain recreational open space. The statements made by the GGNRA staff in this regard have been unusual in that the GGNRA summary comments to the Advisory Commission and prior closure justification documents report some statutory language but fail to report and consider the specific enabling statute 16 U.S.C. 460bb or 16 U.S.C. 1c which resolves the issue of the application of the Organic Act in circumstances of conflict with specific unit enabling act specified purposes.

16 U.S.C. 1c provides that

Each area within the national park system shall be administered in accordance with the provisions of any statute made specifically applicable to that area

16 U.S.C. 1c also provides that the Organic Act statute applies to each area of the National Park System only

to the extent such provisions are not in conflict with any such specific provision.

The last sentence of 16 U.S.C. 1a-1 provides that the administration of the various areas shall not be exercised in derogation of the values and purposes for which the various areas were established. (Further summary of the legislative intent is appended as an endnote.)

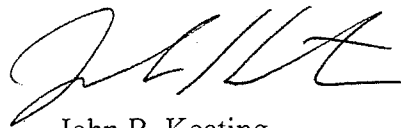
The key cases, National Rifle Ass'n of America v. Potter 628 F. Supp 903, 911 (D.D.C. 1986), Michigan United Conservation Clubs v. Lujan, 949 F.2d 202 (6th Cir. 1991), Alaska Wildlife v. Jensen, 108 F.3d 1065 (9th Cir. 1997), and Bicycle Trails v. Babbitt, (N.Distr.Calif. 1994), as well as the brief of the government in 1999 in Southern Utah

Wilderness Alliance v. Dabney (Canyonlands National Park), point to wide discretion of the Superintendent to not apply the general regulations where doing so would not be in favor of the intent of the specific enabling statute. Strict universal application of the general regulation in all of the urban areas of the GGNRA would substantially frustrate the urban recreation mandate of the GGNRA and would lead to considerable unnecessary conflict between the Park Service and the citizenry.

The Director's office therefore may find that the need for the ANPR can be resolved by understanding that the prior policy of allowing limited off leash dog walking does not need to be considered clearly improper and in need of change. If the policy is not changed, then it may be that additional official documentation is not necessary given the prior approved pet policy papers. Alternatively, if specific use area designation is deemed necessary, the Park Service may find that a compendium amendment designation would be sufficient.

If we may provide any other useful information or analysis please do not hesitate to contact me. Thank you for your anticipated careful consideration of the enclosed correspondence concerning the interest of the public in a fair and thorough consideration of ways to allow us to continue to enjoy the traditional unrestricted recreational access to our urban beaches.

Sincerely,



John B. Keating

encl.

LEGISLATIVE HISTORY ENDNOTE

The **legislative history** concerning the GGNRA conclusively shows that maintaining the opportunity for traditional recreational activities was an intended purpose. Most of the San Francisco parts of the GGNRA were originally city parkland donated to GGNRA after the park was established. To address the concerns from city officials and citizens over the release of this land to the federal government, certain unique restrictions were inserted into the enabling statute. 16 USC 460bb

In particular, GGNRA was established for "maintenance of **needed recreational open space necessary to urban environment and planning**" and the Secretary of Interior "**shall utilize the resources**" for "**recreation and educational opportunities consistent with sound principles of land use planning and management**". No other park unit within the National Park Service contained these very definite, restrictions on the administration and purpose of the parks. In reliance on this language the citizens of San Francisco donated their parks.

Without going into too much detail, the legislative history and "land use planning" events developing the general plan and natural resources plan confirm that off-leash recreation was a "recreational" activity "necessary to urban environment." During House Hearings in San Francisco Elizabeth Linke specifically requested that park resources be available to permit her dog to play with other dogs:

"Dear Congressman, Roy Taylor: I want a park, so I can play in the park and my sister wants a park to [sic] and so my dog can play with another dog and my Mom wants a park so she could take my dog out to play. I hope you will make a park. Elizabeth Linke (House Hearings , pg 414)

Further evidence may be found in House Of Representatives Report 92-1391 at page 7 which includes dog walking as an enumerated activity:

"On a nice day, it will satisfy the interests of those who choose to fly kites, sunbathe, **walk their dogs**, or just idly watch the action along the bay."

During the public review process establishing the pet policy, GGNRA admitted that the general NPS regulations did not address the needs of urban recreation with respect to this issue:

"Developing a pet policy for GGNRA is not easy, especially since the ordinary guidelines outlined in the Code of Federal Regulations do not really apply in an urban area. People and their animals have been visiting the park for too long to apply an all-inclusive arbitrary policy"

After extensive public review the Advisory Commission designated Fort Funston, Lands End, Ocean Beach, Fort Miley, Baker Beach and Chrissy Field for continued off-leash recreational activity. By the subsequent acceptance of these areas and their incorporation into the natural resources plan GGNRA developed a local rule. On October 6, 1978, the General Superintendent for the GGNRA confirmed the designations.

"As you know, the Advisory Commission approved the proposed guidelines for a pet policy in the San Francisco unit of the GGNRA at their September 27 meeting. We are accepting in total the Commission's recommendations for each of these areas. Dick Hardin will be working with his staff to further define proposed guidelines in the Marin areas. "

These areas were established pursuant to public review and incorporated into the GGNRA Natural Resources Management Plan as Appendix C. They cannot be revoked or revised without due process through public hearings "consistent with sound principles of land use planning and management". [16 USC 460bb] No other national park has this limitation on its power or intended use. The deal was made when the city parks were donated to the GGNRA.

In addition to the promises made prior to creation of the GGNRA and the promises made prior to the additional gift of land from the City of San Francisco, GGNRA officials repeatedly made similar representations during fund raising efforts, giving assurances that off leash dog walking and other recreational activities would continue. In the environmental impact mitigation report regarding the Crissy Field development, the Park Service again represented that the off leash dog recreation would continue and stated any changes to that pet policy would be taken to the Advisory Commission before being implemented.

16 U.S.C. Section 1a-1 further provides that the authorization of activities within National Parks and the administration of these areas "shall not be exercised in derogation of the values and *purposes for which these various have been established, except as may have been or shall be directly and specifically provided by Congress* (emphasis added)." By a series of amendments to 16 U.S.C. sections 1, et seq., Congress "directed that all units of the national parks were to be treated consistently, with resource protection being the primary goal, while *retaining the flexibility for individual park units to approve particular uses consistent with their specific enabling legislation.* Bicycle Trails Council of Marin v. Babbitt, 82 F.3d 1445, 1449-1450 (9th Cir. 1996) (emphasis added).

Some courts have restricted the power of individual parks to develop more flexible rules, particularly in the context of consumptive recreational activity like trapping. To determine the scope of recreational activity permitted one must look to the enabling statute and legislative history establishing the specific park unit. National Rifle Ass'n of America v. Potter 628 F. Supp 903, 911 (D.D.C. 1986) [Reviews H. Rep. 92-1391 to determine whether legislators for GGNRA considered hunting as intended use]

Several comments supporting promulgation of the Title 36 regulations reflect the Congressional requirement that enabling legislation of each specific park must be considered by the superintendent of each park when acting pursuant to Section 1.5. These comments are as follows:

Each unit of the System must now be given more individual attention in planning and management to *ensure that legislative mandates* and policy requirements are met. 47 Fed. Reg. 11598 (Mar 17, 1982) (emphasis added).

The management tools of 36 C.F.R. “may not be used if they conflict with enabling legislation, such as 16 U.S.C. 1 or the enabling legislation of a specific park. 47 Fed. Reg. 11598; 48 Fed. Reg. 30252 (June 30, 1983).

“Service recognizes the high public value associated with outdoor recreation and *fully intends to comply with the legislative history governing the intended public use of these areas.*” 48 Fed. Reg. 30252 at (emphasis added).

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August 22, 2001
Via Facsimile

Frances P. Mainella
Director of the National Park Service
National Park Service Headquarters
1849 C Street NW
Washington, D.C. 20240

Re: Golden Gate National Recreation Area -- Pet Policy Recreation Access Restrictions

Dear Director Mainella:

The Park Service has repeatedly promised that it will give the public a fair process with regard to proposed changes to the long-standing practice of allowing off leash dog walking recreation on the former municipal beaches of San Francisco. Yet, today GGNRA staff were out on the beaches and bluffs implementing an escalating enforcement campaign and warning of imminent ticketing.

I am concerned about this controversial conduct of unilaterally reversing the current policy before the ANPR public input process begins. What good is a public input process if the agency is so committed to the change that it insists on abruptly reversing its longstanding policy and aggressively escalating enforcement just prior to the public comment period?

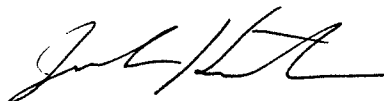
The Federal Court previously criticized similar GGNRA efforts that appeared to seek to create a *fait accompli* which would interfere with a fair public input process:

"These excerpts show an intent on the part of the National Park Service to railroad through the closure, to maintain secrecy, to unleash the fencing with lightning speed, and to establish a *fait accompli*."

Ft. Funston Dog Walkers v. Babbitt, 96 F. Supp 2d 1021, 1037-38 (2000).

As the prior policy and legal interpretation worked well for twenty years, why ramrod through immediate implementation of the new legal interpretation prior to consideration of the contrary arguments on the merits of the change? There has been no stated urgency requiring immediate implementation of the change, save for the repeated suggestion that the local Park Service staff is being forced to do so by "Washington." Some of us wish to understand whether that is true, or whether the local staff is trying to push through its own agenda while seeking the political cover of blaming it on "Washington." If there is some reason why "Washington" insists that the anti recreation change be made prior to the public hearing, the public should be informed of that reasoning so as to have an opportunity to address the reasonableness of the dramatic pre hearing change in the status quo.

Sincerely,



John B. Keating

JOHN B. KEATING
ATTORNEY AT LAW
POST OFFICE BOX 620622
2995 WOODSIDE ROAD, SUITE 350
WOODSIDE, CALIFORNIA 94062
FACSIMILE (650) 851-5912
(650) 851-5900

September 10, 2001

Molly N. Ross
Assistant Solicitor
U.S. Department of the Interior
1849 C Street NW
Washington, D.C. 20240

Re: Golden Gate National Recreation Area
Pet Policy and Park Closures -- Potential Advanced Notice of Proposed Rulemaking

Dear Ms. Ross:

I enclose a courtesy copy of my letter today to Secretary Norton together with copies of approximately 400 park user letters forwarded to Secretary Norton and National Park Service Director Mainella.

Please recognize the turmoil being created by such unnecessary conduct of the local GGNRA staff. The GGNRA newly has sent rangers out at Fort Funston and on the beaches handing out brochures, warning of tickets and generally escalating the ongoing campaign to eliminate off leash dog walking. I think that new activity is unnecessary and counterproductive. The GGNRA should not attempt to force such a change in the status quo on the eve of a public input process designed to collect the information necessary to determine whether to make the change at all. Rather than handing out advocacy brochures and issuing threats designed to intimidate park users to refrain from the traditional recreation, the Park Service could hand out notices of their new interpretation and give park users notice of the opportunity to submit public comment.

It would be preferable if the GGNRA were to decide to foster good will by adopting the following sound suggestion of the GGNRA Citizens Advisory Commission made when deciding to take "no action" on the January 2001 motion to rescind the long-standing Pet Policy:

CHAIRMAN BARTKE: I know. But whereas the
Commission doesn't have to obey the rules, the park staff
does. **We will ask that the -- maybe this is implicit in
the suggestion I made, not to be explicit, is that we ask**

Re: Golden Gate National Recreation Area -- Pet Policy ANPR

that the staff not take any precipitous action to do anything until it's done these things within the next 120 days.

MS. VITTORI: So you're going to ask the staff to hold off to do anything --

CHAIRMAN BARTKE: **Hold off signs, citations, and so forth, until they come back with a plan.**

MS. VITTORI: Thank you very much.

[Applause.]

The Park Service should allow proper public input to occur rather than unilaterally decreeing the end of such a highly popular form of recreation access.

It might be helpful if you would consider that it was the Advisory Commission's expectation and desire that the Park Service hold off on enforcement changes such as the new signs and citation threats while the further public input and study is completed. Superintendent O'Neill and his staff were present at that public hearing when the public was convinced to go home. The public let the hearing stop on the basis that no changes would be made while the matter was being studied further. He gave no indication that the Park Service would not abide by that understanding held by the Advisory Commission and the thousand citizens who were standing in the rain waiting to speak at the public hearing.

There is no harm in slowing down the process of change until the Park Service finishes studying the various alternative paths. Such patience is necessary to maintain the confidence of the people. That is all the more important in these anomalous circumstances where the reported motivation for the abrupt reversal of the GGNRA policy was to defeat the standing of the user group to petition for redress. I am sure that perception is as offensive to you as to me.

Sincerely,



John B. Keating

encl.

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DRAFT

**Natural Resources Management Plan
and Environmental Assessment**



NOV 1982
 THE
 UNIVERSITY OF

UNITED STATES DEPARTMENT OF THE INTERIOR/NATIONAL PARK SERVICE

Advanced Dog Training Area. That portion of former Whitegate Ranch bounded by Panoramic Highway, State Route 1, and Mt. Tamalpais State Park, and southwest of Panoramic Highway is designated as a dog training area for advanced training. Use is restricted to owners and dogs which have successfully completed basic obedience training and are in the process of advanced obedience or special skills training. Trainers utilizing this area should identify themselves by wearing a fluorescent orange armband. Use of the area by dogs not in advanced training will be considered a violation of park regulations.

Dog Run Areas. Pets on leash or under voice control are permitted in the following areas: Rodco Beach at Fort Cronkhite

Muir Beach

4 Corners tract above Mill Valley bounded by State Route 1, Panoramic Highway, Sequoia Valley Road and Homestead Valley area

Trails. Pets are permitted on the following trails either on leash or under voice control:

1. Coast Trail, Golden Gate Bridge to junction of Wolf Ridge Trail (Hill 88)
2. Loop trail from parking area up to Pacific Coast trail to paved road near Battery Townsley and return via paved road.
3. Wolf Ridge Trail between Coast Trail and Miwok Trail
4. Miwok Trail between Wolf Ridge Trail and Coast Trail, Fort Cronkhite.
(Trails 1, 3 and 4 provide a loop trail, also known as the Wolf Ridge Loop in "Guide to Golden Gate National Recreation Area" by Dorothy Whitnah, pp. 100-103.)
5. Oakwood Valley Road to Alta Avenue.** (see below)
6. Alta Avenue between Marin City and Oakwood Valley.

Pets on Leash. Pets are permitted while on leash on the following trails:

1. Coast Trail between Hill 88 and Muir Beach
2. Miwok Trail between Tennessee Valley parking area and State Route 1.

Owners are responsible for the actions of pets in all areas where pets are permitted. Owners who allow pets to engage in fighting, excessive barking, chasing, disturbance of wildlife, running at large beyond effective voice control or other inappropriate behavior will be considered as being in violation of park regulations.

No dogs will be allowed in Muir Woods, Audubon Canyon Ranch, Stinson Beach, and in areas where state park regulation conflicts will arise. The Committee will consider the area near Stinson Beach for dog access at the time northern Marin sections of the National Park Service are considered.

are the existing routes to CONRA from the City of Sausalito which are not readily accessible to residents wanting to hike with their dogs. When future access routes are developed, however, these guidelines will be adjusted to incorporate them.

National Park Service

MAY 17, 1978

BILL THOMAS (556-0560)

WHAT: Pet Policy Hearing
 WHEN: Tuesday, May 17, 1978, 12 noon
 WHERE: Golden Gate National Recreation Area Visitor Center, Fort Mason

PET POLICY COMMITTEE of the GGNRA ADVISORY COMMISSION

Amy Meyer, Chairperson
 Jack Spring
 Edgar Wayburn

NATIONAL PARK SERVICE STAFF (Golden Gate National Recreation Area)

Lynn Thompson, General Superintendent
 Jerry Schober, Superintendent
 Sandra Walter, San Francisco Unit Manager

After today's hearing, an interim report of today's committee hearing will be given to the full Advisory Commission on May 23. There will be a discussion but no action will be taken. At a future Committee hearing, the problems of pet and feral animals in the Marin County units of the park will be heard. At a later date, there will be a full discussion of the complete set of proposed regulations at a Commission meeting and further revisions will probably be made. A policy will be voted on after that point.

- GOGA -

Golden Gate National Recreation Area Fort Mason San Francisco, California 94123



United States Department of the Interior

NATIONAL PARK SERVICE

GOLDEN GATE NATIONAL RECREATION AREA
FORT MASON, SAN FRANCISCO, CALIFORNIA 94123

IN REPLY REFER TO:
GOGA

October 6, 1978

Memorandum

To: San Francisco Unit Manager
From: General Superintendent, GGNRA
Subject: Pet Policy Guidelines for the San Francisco Unit

Sandy: As you know, the Advisory Commission approved the proposed guidelines for a pet policy in the San Francisco unit of the GGNRA at their September 27 meeting. We are accepting in total the Commission's recommendations for each of these areas. Dick Hardin will be working with his staff to further define proposed guidelines in the Marin areas.

Please review the guidelines with the Sign Committee at the October 12 meeting and proceed with an appropriate sign plan which will coincide with these guidelines. Upon completion of the signing program, I will report back to the Advisory Commission.

There have been various suggestions from staff to promote good public relations and provide dog litter scoops and bags to people exercising their animals. Perhaps a dog food company in the area would be interested in supplying these items for use within the GGNRA.

In response to the Commission's recommendations regarding the existing cat colonies, several community members have indicated an interest in working to upgrade the conditions around the cat areas. Please contact Ms. Rosemary Sakajian at 661-5173 who will coordinate efforts between the South District rangers and community members. Her address is 261 Christopher, San Francisco 94131.

James L. Schuber
Lynn H. Thompson

Enclosure

USPROD00482

PET POLICY HEARING

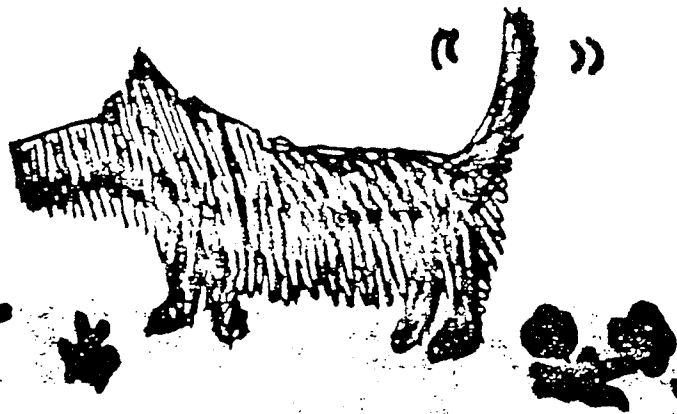
WE REQUEST YOUR ASSISTANCE. Once again, the Golden Gate National Recreation Area Advisory Commission and staff request your help in finding a solution to a management problem in the park. Developing a pet policy for GGNRA is not easy, especially since the ordinary guidelines outlined in the Code of Federal Regulations do not really apply in an urban area. People and their animals have been visiting the park for too long to apply an all-inclusive arbitrary policy. Consequently, the GGNRA Advisory Commission has begun to explore situations that will work here, realizing that discussion, flexibility, and compromise will probably all contribute to a resolution of this issue.

THE PET POLICY COMMITTEE of the GGNRA Advisory Commission met once in April 1978 with park staff members. A set of proposed regulations for pet dogs in the San Francisco unit of Golden Gate National Recreation Area was developed at that time and appears on the reverse side. We'd like your comments on it.

THE PROBLEM OF WILD (feral) DOGS AND CATS in the park was also discussed by the Committee and staff. Feral dogs are captured by park staff or by the San Francisco SPCA. The problem of feral cats which live in colonies in sections of Lands End and at Fort Mason is more complicated. We ask your assistance in reaching a decision concerning these animals.

WHAT WILL HAPPEN AFTER TODAY'S DISCUSSION? First, an interim report of today's committee hearing will be given to the full Advisory Commission on May 23, next Tuesday evening, here at Fort Mason. There will be a discussion but no action will be taken. At a future Committee hearing, the problems of pet and feral animals in the Marin County units of the park will be heard. At a later date, there will be full discussion of the complete set of proposed regulations at a Commission hearing and further revisions will probably be made. A final vote will be taken at the following Commission hearing. If you wish to be informed of these future hearings, please give your name and address to Ruth Kilday or telephone her at 556-4484.

over. . .



GOLDEN GATE NATIONAL RECREATION AREA
CODE OF FEDERAL REGULATIONS

TITLE 36, CHAPTER 1

COMPENDIUM AMENDMENT

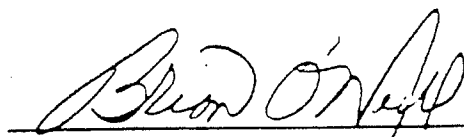
Compendium of designations, closures, permit requirements, and other restrictions imposed under discretionary authority by the General Superintendent, Golden Gate National Recreation Area.

In accordance with regulations and the delegated authority provided in Title 36, Code of Federal Regulations, Chapter 1, Parts 1 through 7, authorized by Title 16, United States Code, Section 3, the following regulatory provisions are established for the proper management, protection, government and public use of the portions of Golden Gate National Recreation Area, the Presidio of San Francisco, Muir Woods National Monument, and Fort Point National Historic Site under the jurisdiction of the National Park Service.

In addition to these regulations, written determinations which explain the reasoning behind the Superintendent's use of discretionary authority as required by Section 1.5(c), appear in this document identified by an asterisk (*).

Unless otherwise stated, these regulatory provisions apply in addition to the requirements contained in 36 CFR, Chapter 1.

Approved by:



Brian O'Neill
General Superintendent
Golden Gate National Recreation Area

7-8-96

Date

USPROD00513

PART 1 GENERAL PROVISIONS

SECTION 1.5 CLOSURES AND PUBLIC USE LIMITS

DESIGNATION OF OFF LEASH (VOICE CONTROL) AREAS FOR PETS

(a) (2)

(iii) The following areas, described below and depicted on maps included as attachments 1 - 11, are designated as voice control areas where obedient pets, under supervision, may be allowed off leash.

- **Fort Funston and Fort Funston Beach:** Beach area south of Sloat Boulevard to San Mateo County line. Pets must be leashed within the trail system of the Bank Swallow Habitat Area and pets are prohibited inside the Battery Davis Hillside Closure (Attachment 1 & 2).
- **Northern Ocean Beach:** Beach area north of Stairwell 21 on the old O'Shaughnessy Seawall to the Cliff House at Stairwell 1 (Attachment 3).
- **Baker Beach:** Beach area north of Lobos Creek, pets must be leashed in the parking lots, picnic area and beach south of Lobos Creek (Attachment 4 & 5).
- **Crissy Field and Beach:** On beach proper, beginning at the West Gate of the Promenade and old Airfield, to the eastern park boundary adjoining the Marina Green, bounded on the south by the southern edge of the Promenade and the old Airstrip north to San Francisco Bay (Attachment 4 & 6).
- **West Pacific Avenue:** The roadway and adjacent trail of West Pacific Avenue from the Broadway Street entrance at Lyon Street to the 14th Avenue gate. This includes portions of West Broadway Street and Park Boulevard. Voice control is also permitted in the forests and fields adjacent to West Pacific Avenue that are west of Lovers Lane, east of Arguello Boulevard and south of the ecology trail (Attachment 4 & 7).
- **Rodeo Beach:** Beach area only, pets must be leashed in the parking lots, picnic area and beach area from crest of dunes inland to the lagoon (Attachment 8, 9 & 12).
- **Muir Beach:** Beach area only, pets must be leashed in the parking lot, picnic area and beach area from crest of dunes inland to the lagoon (Attachment 8, 10 & 12).

- **Oakwood Valley:** From Tennessee Valley Road up Oakwood Valley to the small cattle pond. Pets are not allowed in the pond (Attachment 8 & 12).

Voice control: Voice control means a person's pet responds immediately to single commands in a trained and obedient manner.

The following conditions shall apply within all designated voice control areas:

- The person responsible for the pet shall have a leash available at all times.
- Pets must respond to voice control or else be leashed.
- Pet excrement (litter) shall be cleaned up by the person responsible for the pet.
- Pets are not allowed to dig holes, chase wildlife, or destroy vegetation.
- Pets displaying any aggressive behavior towards people or animals must be leashed immediately.
- Pets are not allowed to enter any fenced enclosures, ponds, creeks or lagoons (or areas posted closed).
- Pet owners should not play with their pets on steep slopes in order to prevent erosion and vegetation trawpling.

* The park areas listed above have been designated as voice control areas where visitors may exercise their pets off leash under certain controls. This formal designation is made to provide for a reasonable accommodation of this traditional recreational activity. The park areas designated for this use are sites where this activity has occurred for many years predating the establishment of the park. Designation of these sites will concentrate this activity within defined areas where resource impacts and visitor conflicts can be mitigated and kept within acceptable limits.

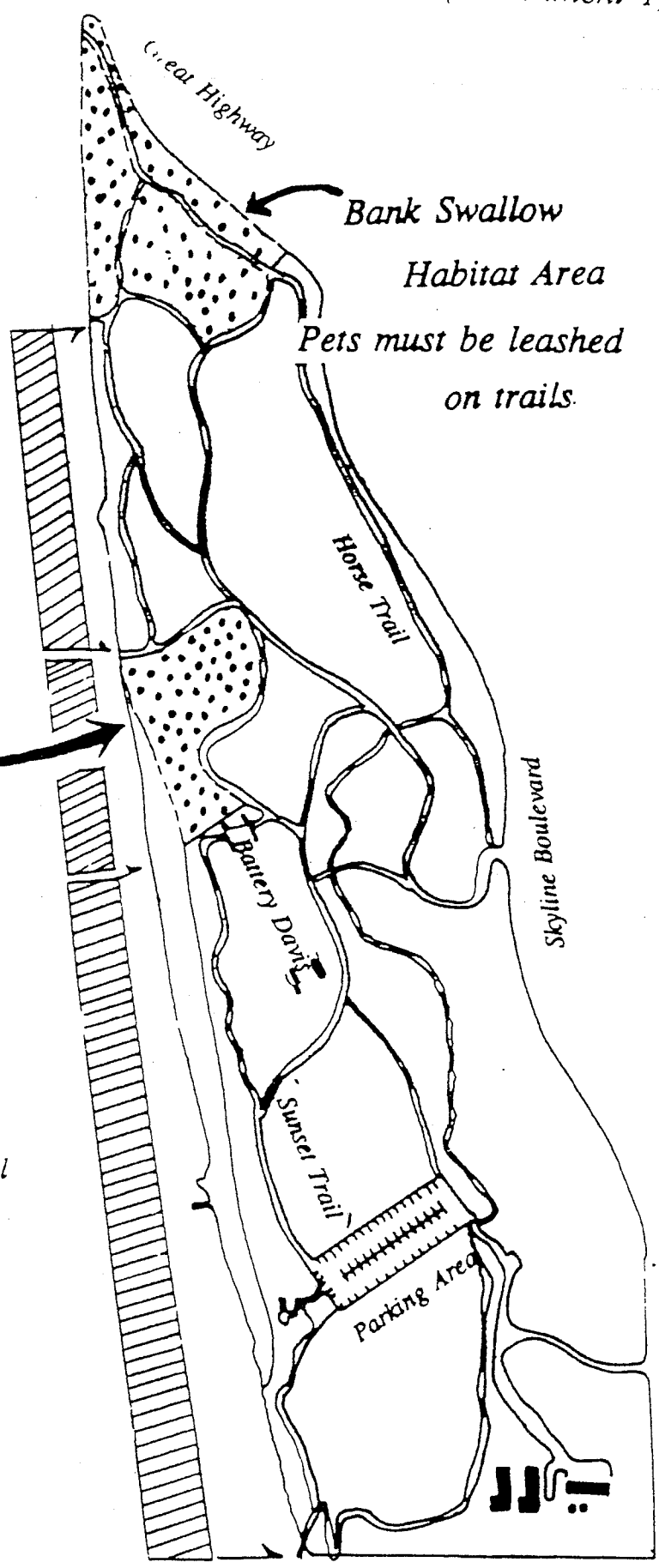
Note: The park areas designated for voice control are subject to periodic review by the Superintendent and such designation may be modified or terminated if such action is deemed necessary to protect park resources and values and/or to promote visitor safety and enjoyment.

Fort Funston

Pet Voice Control

Area

Pets allowed off leash under voice control in all areas of Fort Funston, except for parking lots, Bank Swallow Habitat Area and the Battery Davis Hillside Erosion Control Area



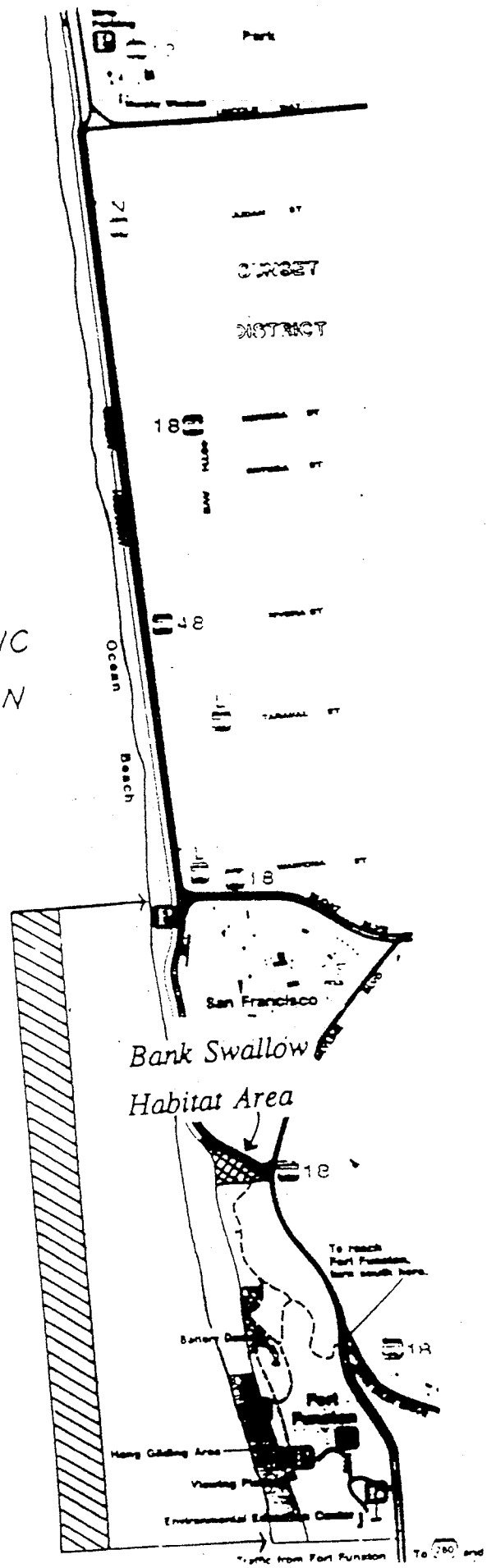
Fort Funston Voice Control Area

Fort Funston Beach
(Sloat Blvd. south to
Olympic Club's
northern boundary).

Leash or Voice Control Area

PACIFIC
OCEAN

Ocean
Beach



(Attachment 3)

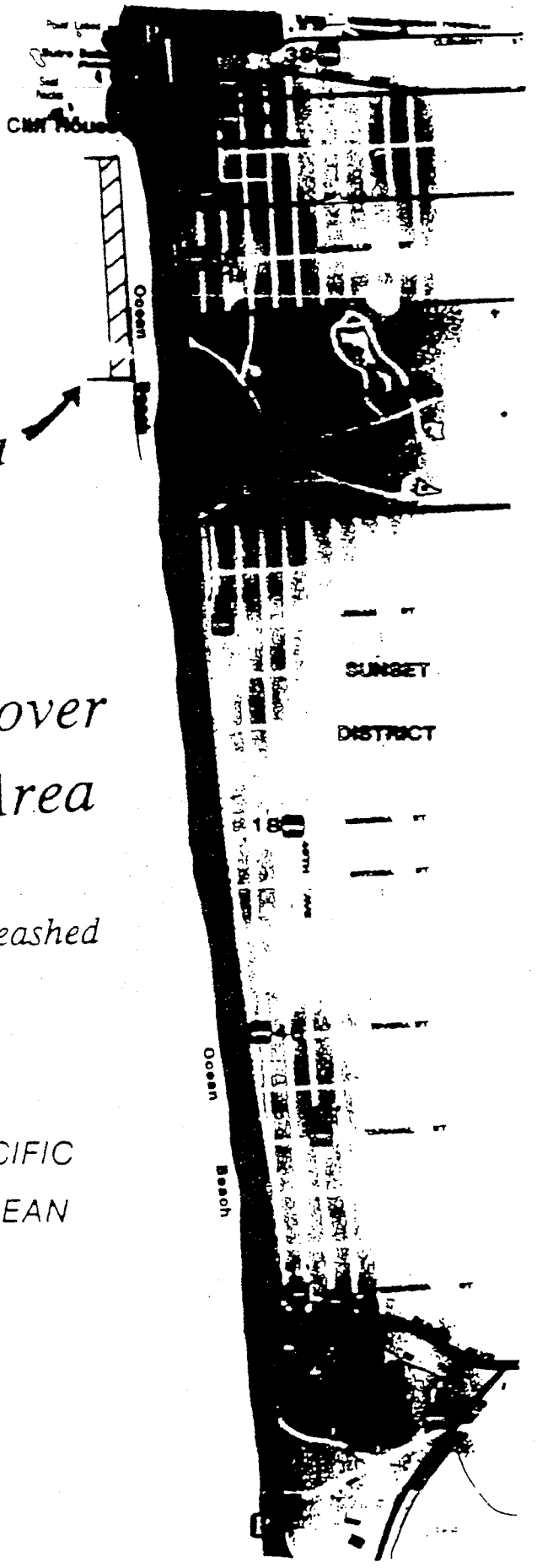
Northern Ocean Beach Voice Control Areas

Stairwell 21

Snowy Plover Habitat Area

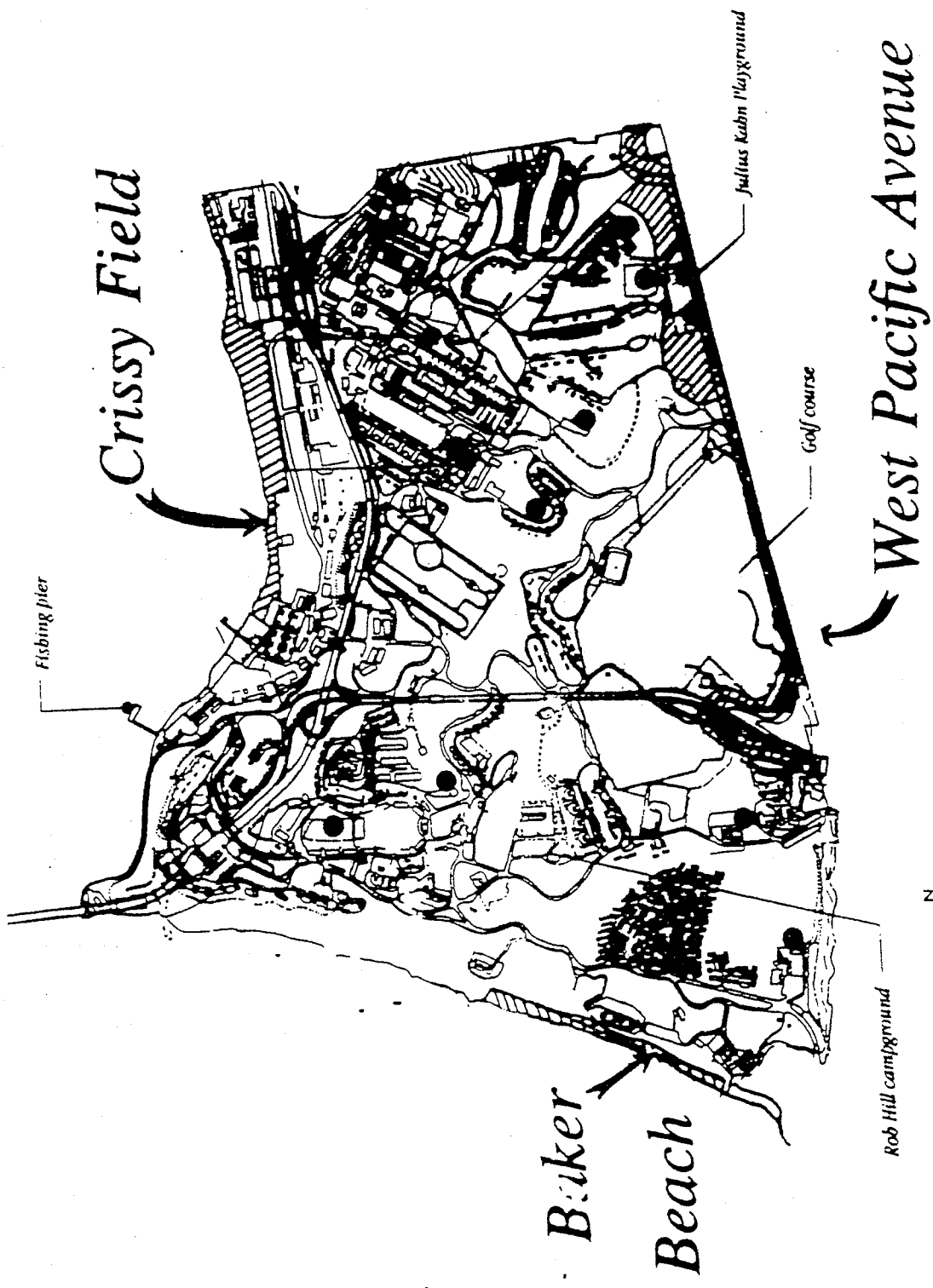
Pets must be leashed

PACIFIC
OCEAN



(Attachment 4)

City of San Francisco Pet Management Leash and Voice Control Area



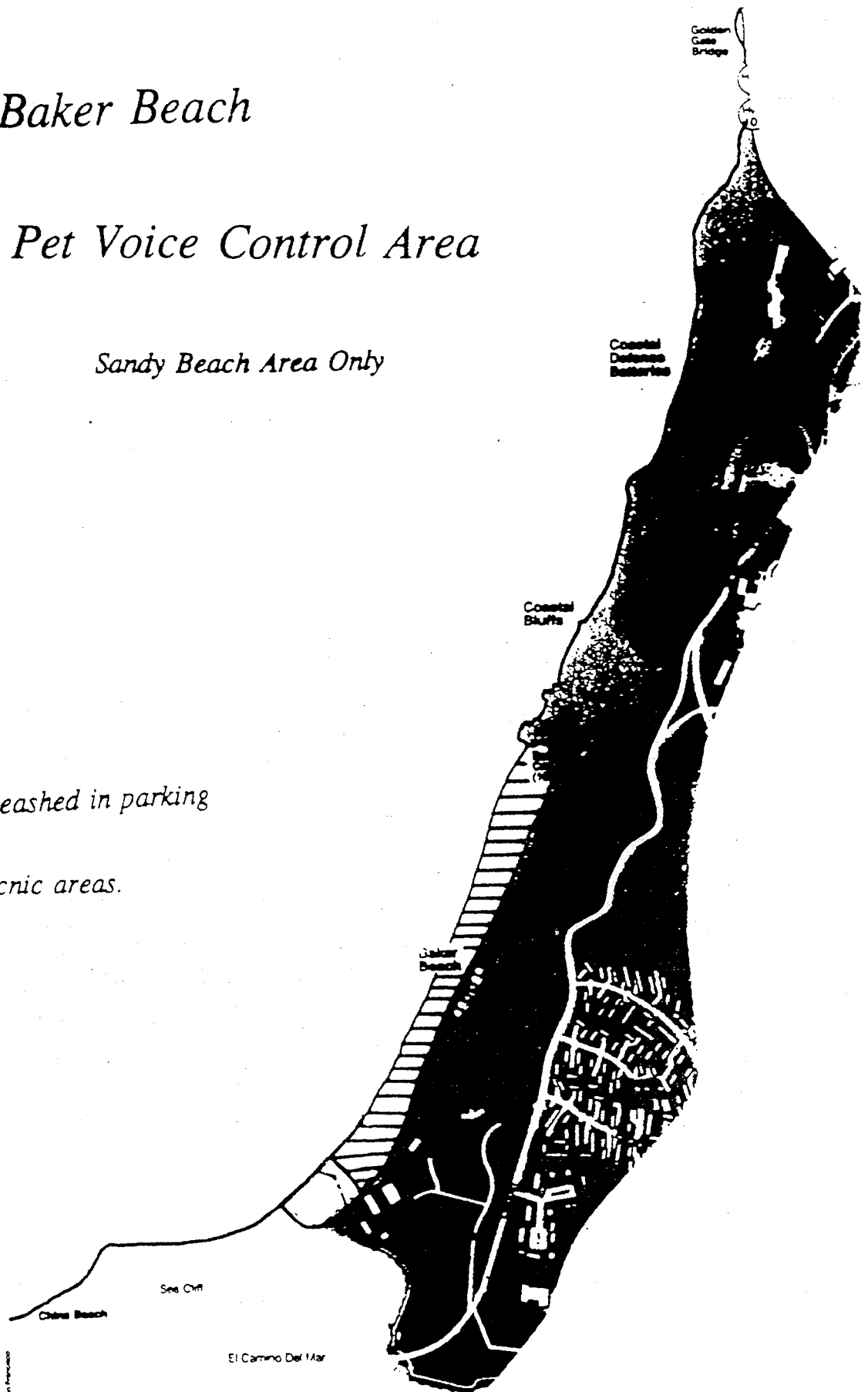
USPROD00519

Baker Beach

Pet Voice Control Area

Sandy Beach Area Only

*Pets must be leashed in parking
lots and picnic areas.*

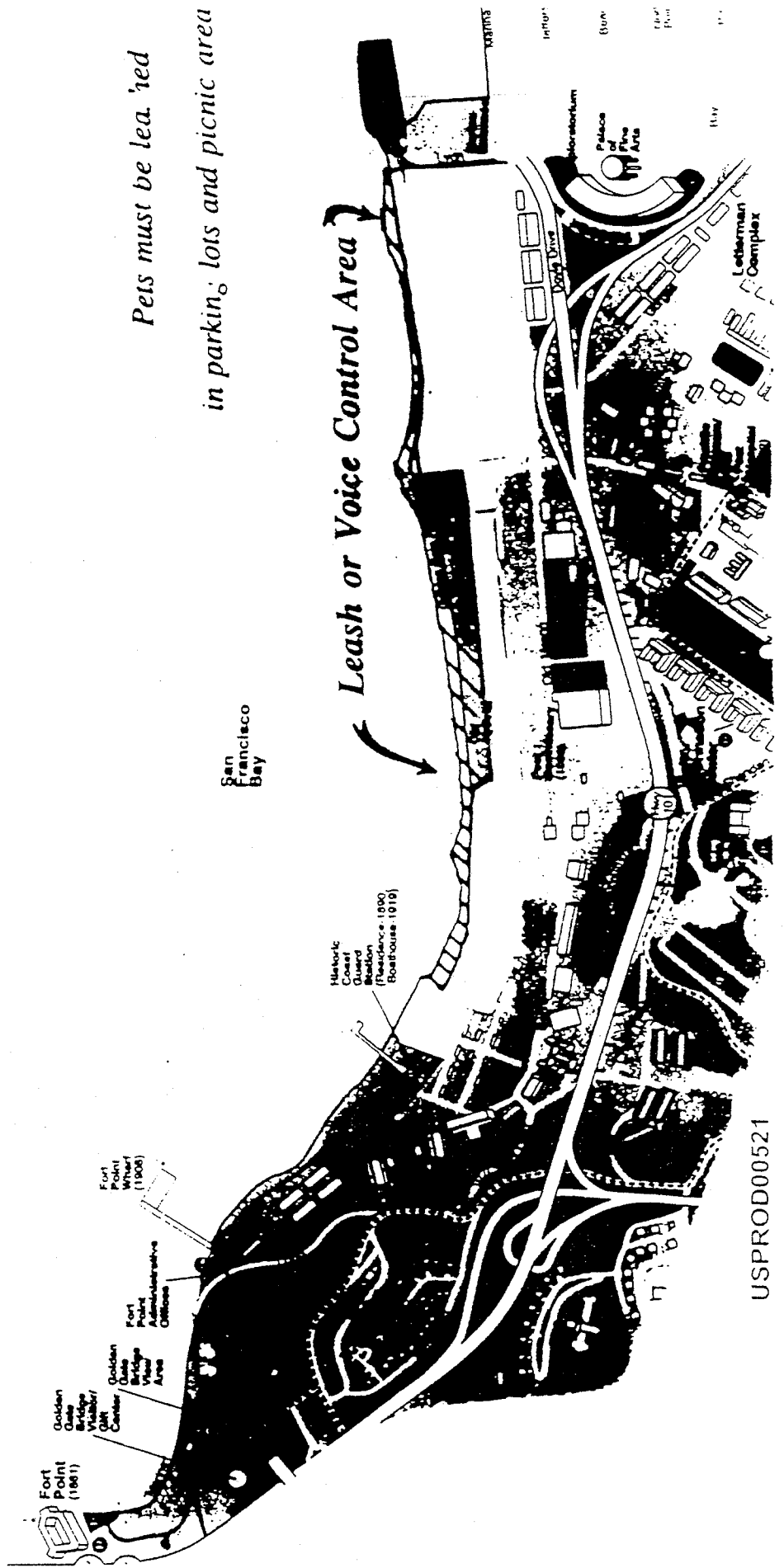


(Attachment 6)

Crissy Field Pet Voice Control Area

Voice control boundaries include area within fence line of old Airfield, Promenade, and beach area from West Gate to east park boundary at Marina Green.

Pets must be leashed in parking lots and picnic area

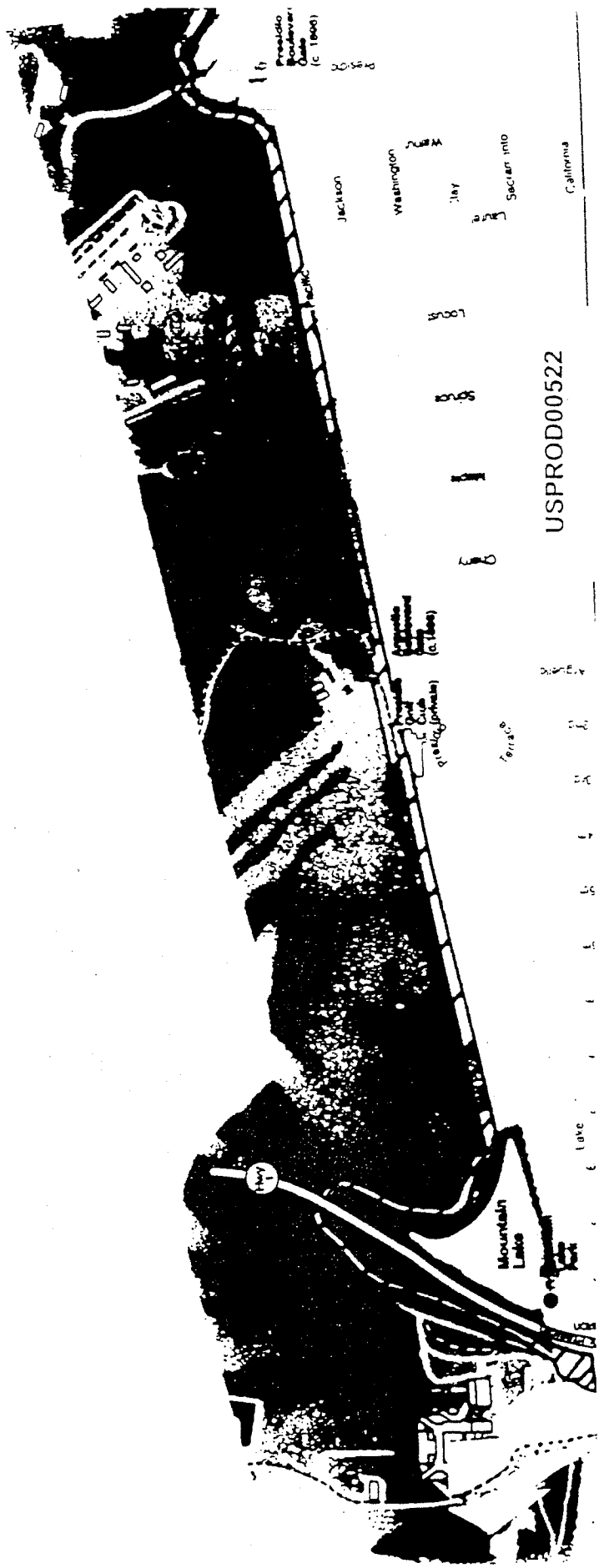


USPROD00521

(Attachment 7)

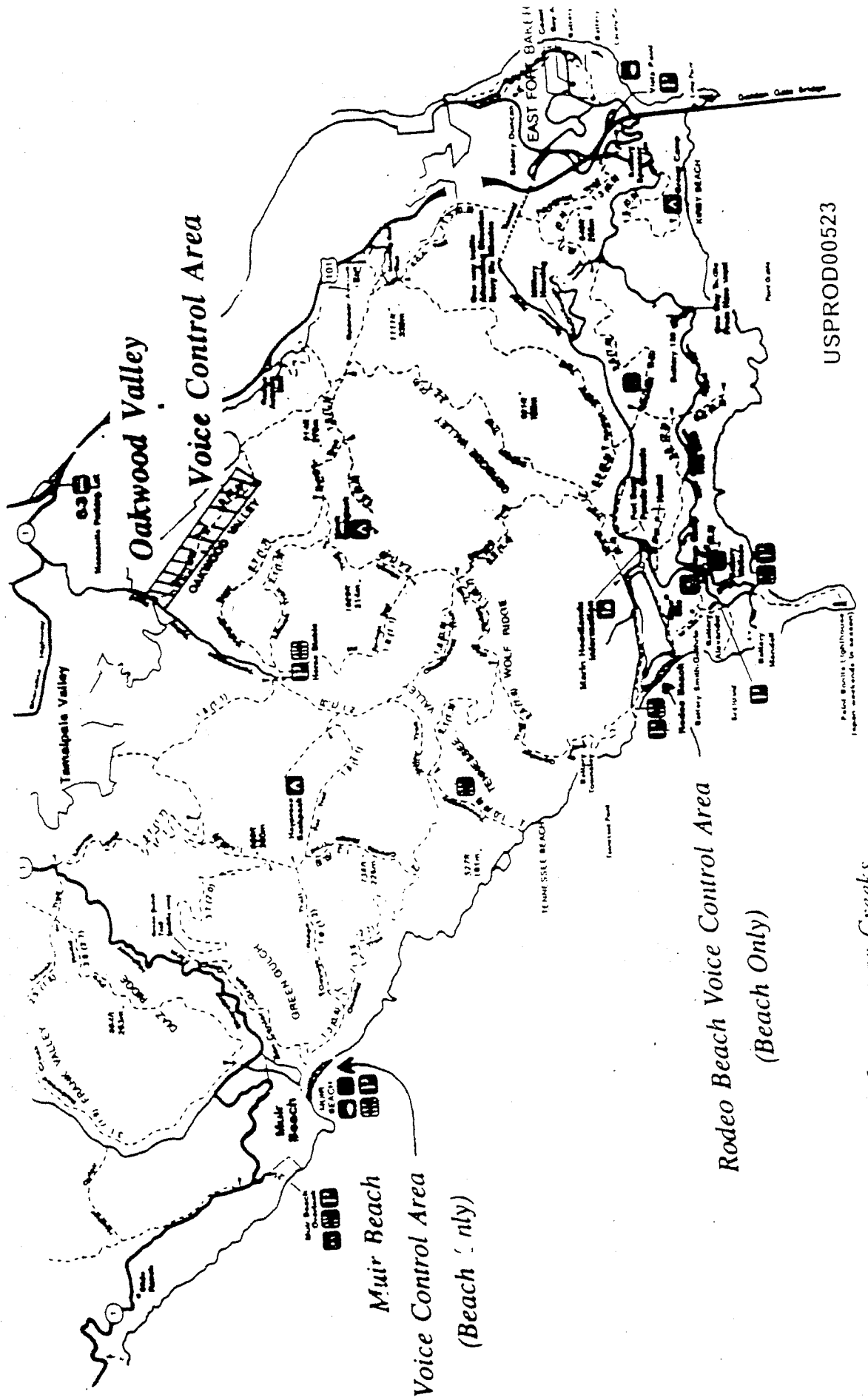
West Pacific Avenue

Pets under voice control are allowed from Broadway and Lyon Street Gate west along West Pacific Avenue to the 14th Avenue Gate at Lake Street. Pets are not allowed in Mountain Lake or the Presidio Golf Course.



USPROD00522

Marin Voice Control Areas



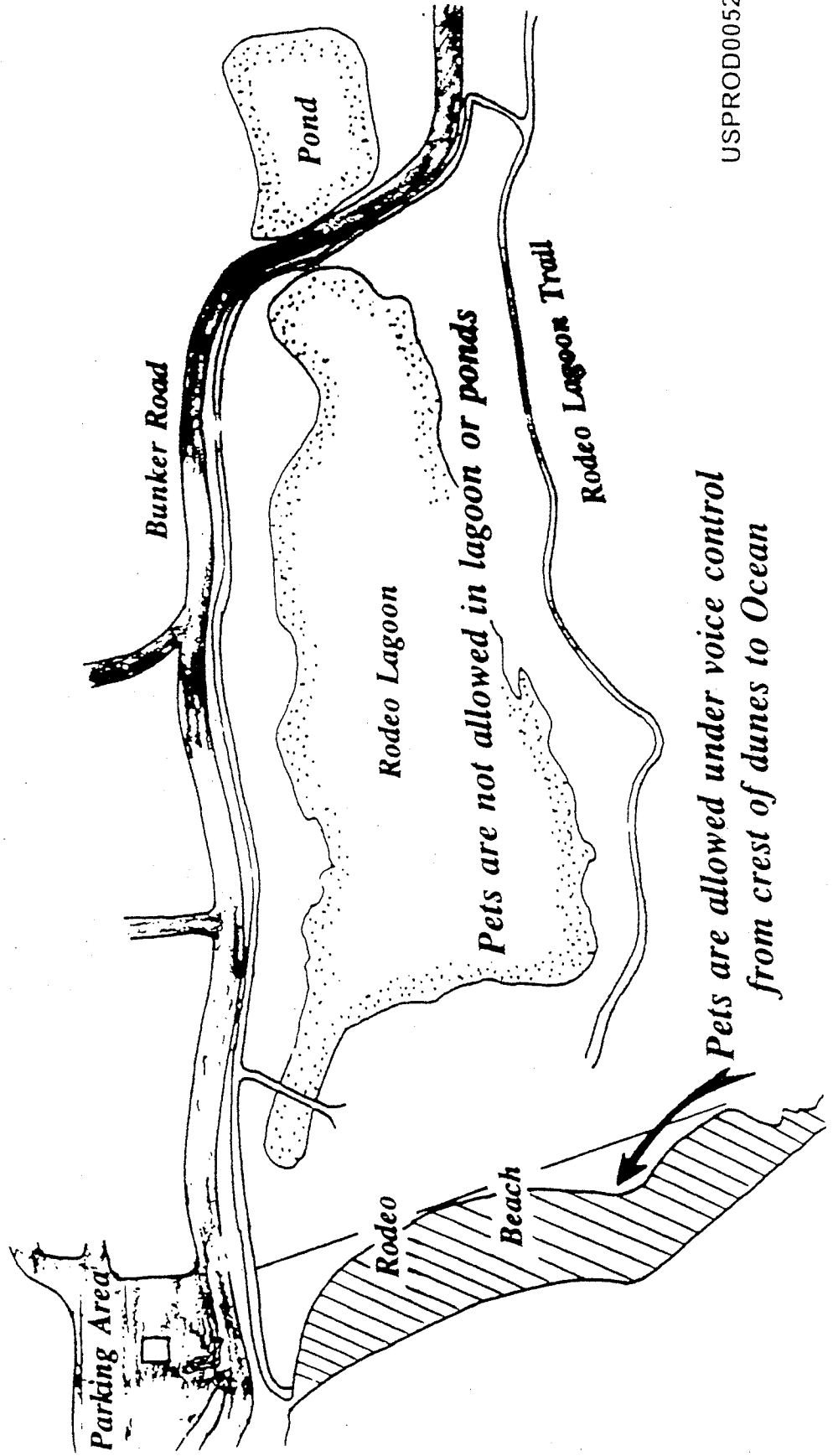
USPROD00523

Pets not allowed in Lagoons or Creeks

(Attachment 9)

Rodeo Beach

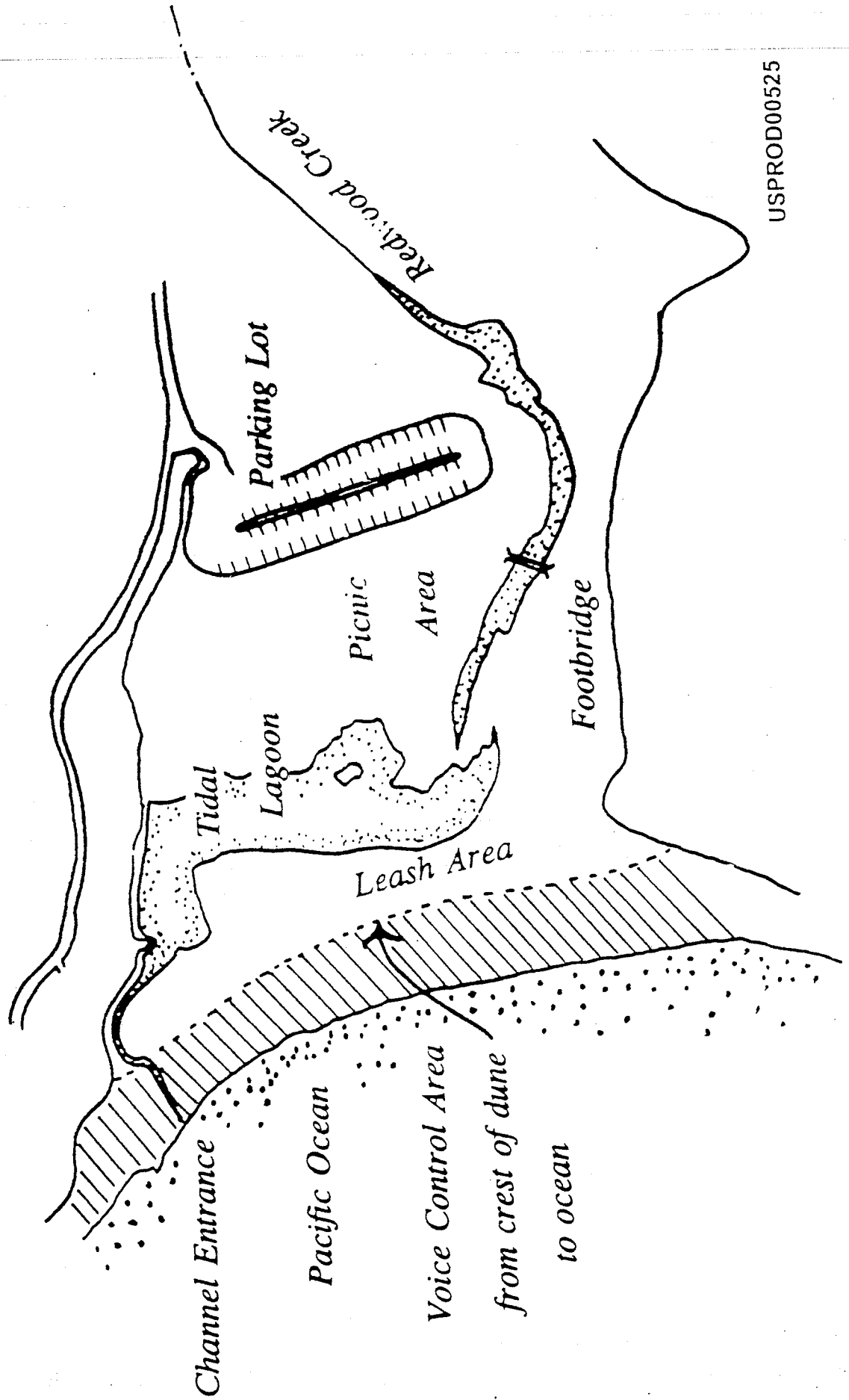
Pet Voice Control Areas



MUIR BEACH VOICE CONTROL AREA

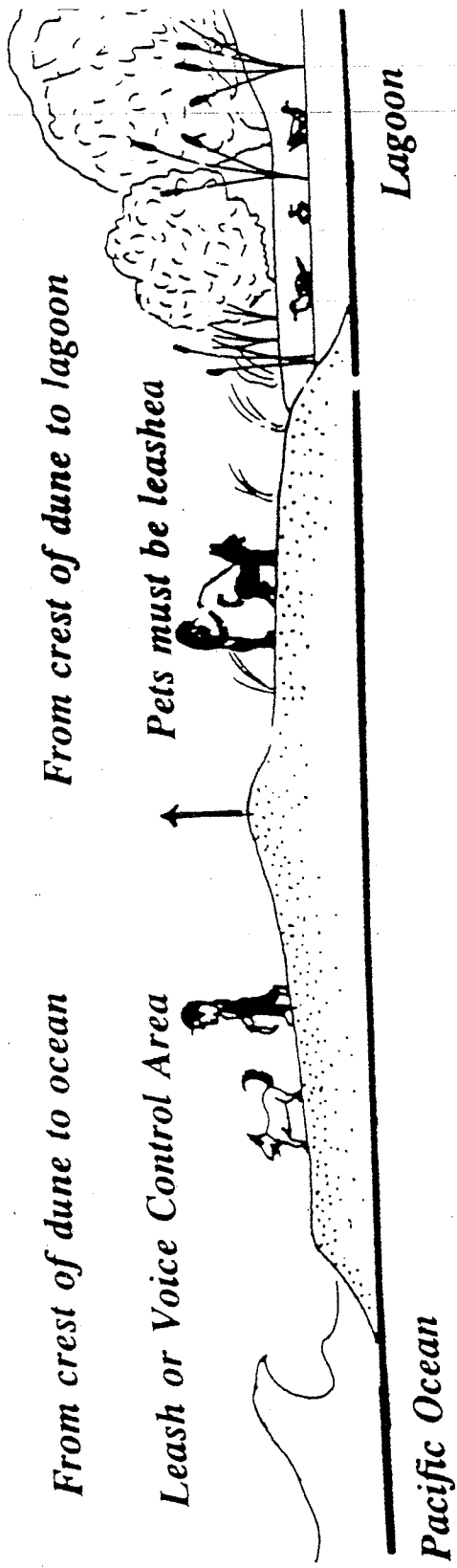
(Attachment 10)

Leash Pet Area from crest of dune inland



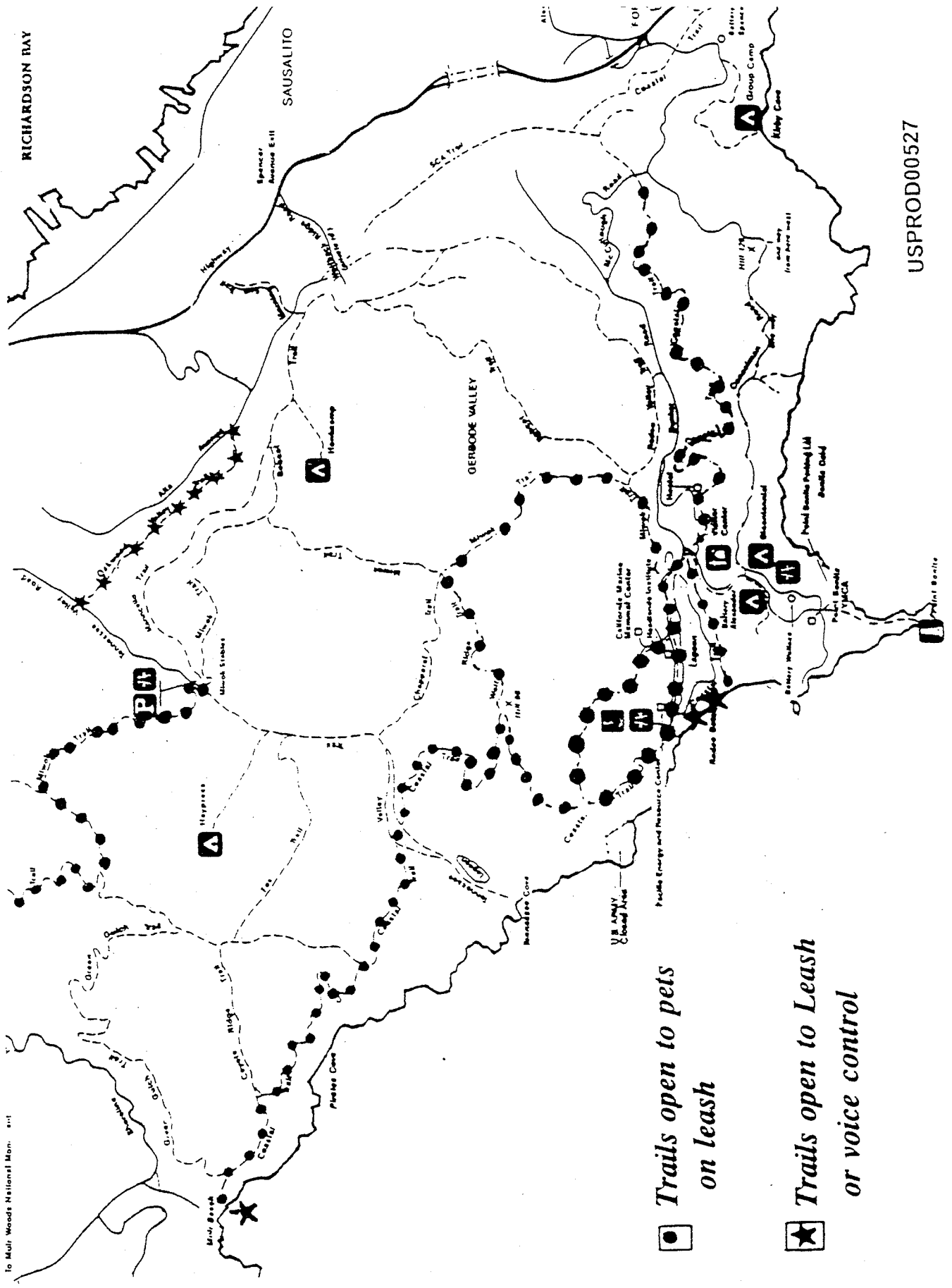
Attachment 1)

Rodeo and Muir Beach Pet Management Plan



Pets are not allowed to enter lagoon or chase wildlife. This includes shorebirds on the beach in all leash & voice control areas.

(Attachment 12) *Marin Headlands Trails Open to Pets on Leash*



USPROD00527

UNITED STATES
DEPARTMENT OF THE INTERIOR
National Park Service
Golden Gate National Recreation Area

36 CFR Part 7

GOLDEN GATE NATIONAL RECREATION AREA

Pets

7.97 Golden Gate National Recreation Area

(c) Pets may be allowed within Golden Gate National Recreation Area in those areas and under such conditions as designated by the Superintendent. Public notice shall be in accordance with the requirements of 36 CFR Ch. 1, § 1.7 Public Notice. In those areas or circumstances not otherwise noted, the requirements of 36 CFR Ch. 1, § 2.15 shall apply.

USPROD00263



United States Department of the Interior

NATIONAL PARK SERVICE

WESTERN REGION

450 GOLDEN GATE AVENUE, BOX 16063
SAN FRANCISCO, CALIFORNIA 94102

IN REPLY REFER TO:

W46
(WR)OV

January 9, 1980

Memorandum

To: General Superintendent, Golden Gate

From: ~~Assistant~~ Regional Director, Western Region

Subject: Proposed Special Regulation - Pets

In response to Dick Hardin's recent telephoned request, we have checked on the status of the subject proposed regulation you submitted on April 26, 1979, and find that we submitted it to the Field Solicitor on May 4, and he responded on July 23. Unfortunately, the original response from the Field Solicitor was apparently misplaced or misdirected, and we have been unable to locate it. We have, however, obtained a copy of their file copy and are enclosing it for your information and further action.

We regret the delay in responding to your memorandum and if you wish to make the changes indicated in the Field Solicitor's response, we will make every effort to expedite its further review and transmittal to Washington.

Enclosure

RECEIVED
GOLDEN GATE
NAT. RES. AREA

JAN 11 11 59 PM '80



GEN SUPT	
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YCC/YACC	
CONCESSIONS	
MARITIME MUSEUM	
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USPROD00386

UNITED STATES
DEPARTMENT OF THE INTERIOR
National Park Service
Golden Gate National Recreation Area

36 CFR Part 97

GOLDEN GATE NATIONAL RECREATION AREA

Pets

Notice is hereby given that pursuant to the authority contained in Sections 1 & 3 of the Act of August 25, 1916 (39 Stat. 535, as amended; 16 U.S.C. 3) as amended, 245 DMI (34 F.R. 13879) as amended, Section 4 of the Act of October 27, 1972 (86 Stat. 1299, 16 U.S.C. 460 bb-3), National Park Service Order No. 77 (F.R. Doc. 73-5474) as amended, Regional Director, Western Regional Order No. 7 (37 F.R. 6326) 24 F.R. 11035, December 30, 1959, as amended at 34 F.R. 5255, March 14, 1969, it is proposed to amend Part 7 to add a new § 7.97(b) as set forth below.

The purpose of this revision is to allow the Superintendent to establish areas within the Golden Gate National Recreation Area where pets may be allowed under less strict controls than are specified under § 2.8 of Title 36 of the Federal Code of Regulations.

This has become desirable because large portions of land formerly used as pet exercise areas have been included within Golden Gate National Recreation Area. A series of public meetings have been held by the Golden Gate National Recreation

USPROD00387

Area Citizens Advisory Commission, resulting in recommendations that specific areas be identified as areas where pets will be permitted under less strict controls than are provided under § 2.8 of the Federal Code of Regulations.

It is the policy of the Department of the Interior, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions, or objections regarding the proposed amendment to the Superintendent, Golden Gate National Recreation Area, Fort Mason, San Francisco, California, 94123, within 30 days of the publication of this notice in the Federal Register.

7.97 Golden Gate National Recreation Area

(b) Pets may be allowed within Golden Gate National Recreation Area in those areas and under such conditions as designated by the Superintendent by the posting of appropriate signs, or by marking on a map which shall be available at the Office of the Superintendent, or both.

In those areas or circumstances not otherwise noted, § 2.8 of Title 36, Code of Federal Regulations, shall apply.

Lynn A. Thompson
General Superintendent

USPROD00388

PROPOSED REGULATION REVISION

36 CFR §2.15 Pets

Proposed Revision:

Add to §2.15(a)(2) the following sentence:

This subparagraph shall not apply to areas designated by the superintendent where pets may be allowed under less restrictive controls.

Problem with the existing regulation:

The existing regulation provides no flexibility to allow visitors to exercise or walk with their pets unless the pets are restrained on a leash not to exceed six feet in length.

Prior to establishment as a national park unit in 1972, portions of Golden Gate National Recreation Area were traditionally used as areas for local residents to exercise their pets off-leash. This recreational use continues, is very intense in selected areas of the park and has a large dedicated and vocal support group. This use also has strong media and political support. Strict enforcement of the leash requirement at these sites is not practical from a law enforcement or political standpoint. This is not a unique situation to Golden Gate; rather it is a problem shared by a number of other park units, especially those located in or near urban centers with high day-use visitation.

How will the proposed revision solve the problem?

This revision will allow the superintendent of a park the flexibility to appropriately manage and direct this recreational use based on the particular circumstances that exist at that park. With this revision the superintendent could under existing authority of 36 CFR §1.5 designate through the park's compendium specific areas and establish appropriate conditions for proper management of this recreational activity. Selected areas of the park could be designated where no sensitive resource issues exist and where the potential for conflict with non-pet owners would be minimized. This would allow for more realistic enforcement of the regulation and would address in a positive manner the recreational needs of the many thousands of visitors who use or desire to use the park with their pets.

USPROD00283

PROPOSED REGULATION REVISION
36 CFR PARTS 1-5

CFR PART: 2

CFR SECTION: 2.15 Pets

(Check here if you are proposing a new regulation: _____)

=====

What is the problem with the existing regulation (or the problem caused by not having a regulation)?

The existing regulation provides no flexibility to allow visitors to exercise or walk with their pets except while leashed. Prior to establishment as an NPS unit, portions of the existing park lands were traditionally used as areas for local residents to exercise their pets off-leash. This use continues, is very intense in selected park areas and has a very large dedicated and vocal support group. Enforcement of the leash restriction at these sites is not practical from a law enforcement or political standpoint.

How will the proposed revision (or new regulation) solve this problem?

This would allow the Superintendent flexibility to properly manage and direct this recreational use activity. Selected areas of the park could be designated where no sensitive resource issues exist and where the potential for conflict with non pet owners would be minimized. This would allow for more realistic enforcement of the regulation and would address in a positive manner the recreational needs of the tens of thousands of people who use this park with their pets.

Proposed revision (specific regulatory language, if possible) .

Add to 2.15(a)(2) the following sentence: This subparagraph shall not apply to areas designated by the Superintendent where pets may be allowed under less restrictive controls as determined by the Superintendent.

=====

YOUR NAME: Gil Soper YOUR PARK: GOGA

YOUR TELEPHONE NUMBER: 415-556-4283

Coordinated through Chief Ranger, Gil Soper at 415-556-4283.

USPROD00284

JOHN B. KEATING
ATTORNEY AT LAW
POST OFFICE BOX 620622
2995 WOODSIDE ROAD, SUITE 350
WOODSIDE, CALIFORNIA 94062
FACSIMILE (650) 851-5912
(650) 851-5900

April 12, 2002

Mr. Brian O'Neill
Park Superintendent
Golden Gate National Recreation Area
Building 201, Fort Mason
Bay and Franklin Streets
San Francisco, CA 94123-0022

Re: Golden Gate National Recreation Area
Advance Notice of Proposed Rulemaking Regarding Pet Management
Public Comment

Dear Superintendent O'Neill:

I continue to object to the ANPR process (1) to the extent it is being substituted for the public input comment opportunity required pursuant to 36 CFR 1.5 prior to changing the longstanding GGNRA Pet Policy allowing off leash recreational access, (2) to the extent that it presents a question for comment based on an analysis platform that is inconsistent with the enabling statute recreation mandate and (3) to the extent that the published ANPR document is so biased and factually inaccurate as to unfairly prejudice and limit rather than facilitate full analysis of the pet management question.

The Improper Process:

The reality is that for decades pet management in the GGNRA was conducted pursuant to an official Pet Policy that was adopted and implemented by the agency after public input and hearings. The approved policy interpreted and applied the general Park Service wide regulations in the context of the unique circumstances of the recreation area -- an enabling statute mandate to facilitate traditional urban open space recreational access, promises made to the people of the City of San Francisco that the traditional recreational activities would be allowed to continue, a dense urban area and long preexisting recreational use.

Fair consideration of the off leash issue needs to take into account the reality that the Park Service is seeking to make a significant change to eliminate a current use that is extremely popular. A public input process is required prior to any such highly controversial and significant alteration in the public use pattern of the park areas (36 CFR 1.5). It is unfair for the Park Service to manipulate the presentation so as to pretend that the question is whether to create an entirely new use.

That posture makes all the difference. It may be that the agency wishes to make an unpopular and inappropriate change and knows it cannot do so unless it shifts the playing field such that the agency does not have to prove its case. By simply announcing that the desired change is the new status quo, the agency gets its way as a default if no change is made, and burdens the public with the difficulty of overcoming roadblocks to regulatory change. To the extent the ANPR does so, the process is unfair and improper. It does not satisfy the requirement of a public input consideration process prior to limiting the cherished recreational access.

The Improper Format of the Comment Question:

The ANPR preamble calls for comment on "management options . . . consistent with protecting national park resources and assuring visitor safety." That articulation of the ANPR question is improper and skews the question in that it ignores the second half of the enabling statute mandate -- maintaining open space recreation opportunities. The preamble section should have been corrected so that the language ". . . consistent with protecting national park resources and assuring visitor safety" would be followed by the additional language *and "in a manner which will provide for recreation and educational opportunities"* or the language *"in order to provide for the maintenance of needed recreational open space,"* as the park purpose is specified in the enabling statute. (16 U.S.C. 460bb)

Additionally, the ANPR document contains posturing, one sided presentation and factual inaccuracies that make the document skewed against resolution in favor of allowing off leash dog walking. Previously, the federal court found that the local park service employees had attempted to railroad through a closure while soliciting one-sided input against off leash recreation and sidetracking consideration of input from dog walkers. In my view, the biased ANPR presentation and the history of action against off leash recreation warrants careful attention to ensuring that the analysis of the options is fairly considered. Those shown to be biased before should not be involved currently.

Comment on Specific Questions Presented:

Notwithstanding and without waiving my objections to the process and the bias of the ANPR document I, provide the following summary comments on the specific questions presented:

- * Should the leash law regulation remain intact park wide?

No.

The pet activity guidelines of 36 CFR 2.15(a)(2) should not be construed as a universal leash law within the confines of the GGNRA. The 1979 Pet Policy as amended and tinkered with and applied up through at least 1999 is a more appropriate application of 36 CFR 2.15(a)(2) together with the enabling statute mandate and management discretion. The Dog Policy brochure previously circulated by the GGNRA is attached as Exhibit A and is the policy that should be operative. As I do not believe that the long-standing GGNRA Pet Policy has been legally abrogated, I do not believe it is appropriate to assume that a "leash law" is currently in effect and then ask whether it should "remain intact." To the extent the DRO-55 and new 2001 Management Policies guidelines are construed to interpret the general regulations to

strictly apply universally despite a contrary recreation area enabling statute unless a particular recreation activity is specified the new interpretation runs counter to the congressional intent in creating this specific GGNRA recreation area. By improperly construing a general regulation in such a manner as to negate the language of a specific statute the new interpretation of the regulation is illegal as applied to the GGNRA. The Park Service should not continue to go down the path of newly interpreting its regulations in such an extreme fashion as to render it incompetent to manage a recreation area.

- * Should additional areas currently closed to dogs be open to on leash use?

I start my analysis from the baseline of the GGNRA Pet Policy brochure as existing in early 2000. (Copy appended hereto as Exhibit A) All areas identified in that brochure as off leash areas should remain off leash. To the extent any of those areas are deemed currently completely closed to dogs, they should be reopened. The west beach area of Crissy Field should be reopened to dogs consistent with the Mitigation Matrix of the Crissy Field NSI finding. The closure areas at Fort Funston should be reopened for user access including dog walking access. The Crissy Field west beach, Fort Funston closure area and other areas to the extent previously closed off to dog walking recreation should be subject to a sunset provision requiring periodic reexamination of the evidence as to whether sufficient environmental reason remains to maintain the access closure.

- * Should additional areas be closed to dogs?

No areas presently known. Future closures should only be made after careful and competent analysis and not based on unexamined "politically correct" presumptions.

- * Should analysis of any alternatives be measured from the current baseline of no off-leash dog walking, or the long-standing former policy that allowed off-leash dog walking in certain areas?

Analysis of alternatives must be measured from the baseline of the long-standing practice of allowing off leash dog walking as articulated in the GGNRA brochure appended as Exhibit A.

- * Should the regulation be changed to designate former "voice control" areas for off leash dog walking?

Yes.

At the minimum, the general regulation interpretation should be altered to allow such discretion to superintendents at least in circumstances of recreation areas where off leash recreation has been traditionally allowed. Limitation of the discretion to recreation areas where the discretion is warranted under an equitable grand fathering concept would ease the concern of potential system wide precedent.

- * Which geographical areas should/should not be considered for off leash?

All areas identified in the GGNRA Pet Policy brochure as existing in early 2000 as off leash areas should remain off leash. To the extent any of those areas are deemed currently closed to dogs, they should be opened. The Crissy Field beach area between the Coast Guard pier and the rock area that is the current boundary for dog use should be reopened to dogs consistent with the Mitigation Matrix of the Crissy Field NSI finding. The closure areas at Fort Funston should be reopened for user access including dog walking access absent a well founded

showing of significant adverse environmental impact. The traditional off leash area on the Lands End road and path leading along the coastal cliffs should be reopened, subject to closure of certain areas away from the roadway in the event of a well founded showing of adverse environmental impact. The Ocean Beach off leash restrictions from Stairwell 21 to Sloat should be reexamined and remain restricted only if there is analysis showing a substantial basis to believe that the restriction will aid the Snowy Plover population. Any such restriction should be limited to the seasons when and areas where the Snowy Plovers are ordinarily present.

* Should there be a limit on the number of dogs?

This concept should be reviewed in coordination with the professional dog walking groups. Guidelines through self-regulation will likely work better than limits otherwise imposed by the government. A limit on the number of dogs would appear to be appropriate where there are too many dogs for a particular person to adequately control. Hence, circumstances of a person walking with too many dogs to appropriately control might be best handled by discretion of an individual ranger to enforce a general voice control requirement.

* Should areas be open to off leash use at certain times of the day or days of the week?

I doubt that such a day/time restriction would be manageable. If there are individuals who are adverse to dogs enough to plan their park recreation schedule around particular scheduled times when the parks might be free of dogs, those individuals could probably more easily simply go to the other 99% of the recreation area where dogs are not allowed off leash.

* Should there be a bond required to cover liability?

No. Such a program is unmanageable and an unnecessary headache. There has not been a sufficient number of liability circumstances in the past to warrant undertaking such a large impact proposal.

* Should people be required to sign waivers of liability?

No. Same response

* What are potential environmental impacts of any of the alternatives?

Unknown, but worthy of study before implementing restrictions on access. I suspect that restrictions of the ordinary access to the traditional off leash areas will cause the adverse environmental consequence of migration of dog walking park users into other park areas which the Park Service may consider more environmentally fragile.

* What additional mitigating factors should be imposed?

Unknown

* What conditions could be required of owners?

Clean up of litter. Voice control. Leashes handy. Careful monitoring of their dogs. Proximity to their dogs.

* Should areas be fenced?

No.

* Should voice control be employed?
Yes.

* How should the numbers of dogs be limited?
See answer above.

* Who should pay for facilities, improvements, and operations?

Newly enforcing a leash law would be very expensive and impracticable. The minimal costs of continuing the existing off leash access practice should be handled in the same way as are costs associated with hiking access. Rescues of people and dogs that are not under voice control might be treated in the same way as are rescues of cliff climbers.

Documents Submitted:

Under separate cover by hand delivery I am submitting eight volumes of documents for inclusion in the public comment review, as set forth in the table below. The documents overwhelmingly establish the key stated component of the ANPR consideration -- there is a sufficient community will to fashion some management option that allows the public to continue to enjoy off leash dog walking within the GGNRA. Each of the documents is also appropriate for consideration in the context of the specific questions of the ANPR, including for the following reasons.

Volume I (Tabs 1-11) consists of excerpts from transcripts of public testimony before the advisory commission hearing over the last year and a half. This testimony generally concerns the views of members of the public seeking to provide official comment to the NPS on the overall issue addressed in the ANPR concerning pet management in the GGNRA, the historical pattern of successful pet management under the GGNRA's long standing Pet Policy, the context of the new change to that pet management practice, the central issue of the baseline status on which the ANPR and potential rulemaking should be considered (4th question for comment as articulated in the ANPR), and the unique aspects of Fort Funston and other particular areas warranting continuation as off-leash areas (comment questions 5,6 and 13).

Volume II, Tab 12 are originals of hundreds of detailed and specific comments made by the public regarding pet management and the scope of recreational access at Fort Funston. Particularly, these comments go to the unique high quality social community atmosphere provided by this park area by virtue of the practice of allowing off leash dog walking. A number of these comments evidence the important issue of the unusual degree to which this distinct park area provides an unsurpassed opportunity and attraction to participation by senior, disabled, minority and urban user communities otherwise generally under served by the national park system. Volume II Tabs 13-16 evidence petitions to the NPS signed by many thousands regarding the issues to be considered by the ANPR.

Volumes III through V (Tabs 17 through 22) contain copies of letters of last summer and fall regarding the ANPR pet management issues. The originals of these letters were previously sent directly to the National Park Service and/or Department of Interior in response to the initial announcements that an ANPR would be pursued and regarding the question of current pet management

practices. The letters reflect the broad importance the public gives to the need to form some mechanism to continue allowing off leash dog walking and to insure that the analysis be performed from a fair perspective and in an unbiased manner.

Volume VI through VII (Tabs 23 and 24) contain copies of recent individually written ANPR letters and e-mails collected for submission together in bulk and number stamped for ease of reference by the Park Service during review.

Volume VIII Tabs 25-29 are copies of my request for reconsideration of the Fort Funston closure decision and the related submissions by the California Humane Coalition and the SPCA and SFDOG/FFDW rulemaking submissions. These documents are appropriate for consideration in the ANPR process because they go both to the general issues of pet management in the GGNRA and the specific management of off leash access areas at Fort Funston. The documents also provide analysis of the historical treatment of recreational access, the enabling statute mandate, the pattern of prior off leash access, the promises made that off leash access would continue and specific analysis of the presumptions on which the closures and access changes are proposed. I have not yet received a response to my reconsideration request concerning the Fort Funston closures. The requested reconsideration is in part based on the failure to fully consider the points raised in the rulemaking submissions and the need for such analysis in making a determination of appropriate scope of recreational access consistent with the enabling statute, the key issue at hand in the ANPR. Volume VIII Tabs 30 through 33 contain copies of some of my correspondence to the Park Service over the last year concerning the ANPR process, the question of the appropriate baseline status from which the analysis should begin, and the question of current pet management in the interim while the ANPR process proceeds.

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1.	Transcript of testimony at Advisory Commission – August 2000 Re: Fort Funston Closure Notice Staff Presentation 121 Public Comment: 128 Rolland Mathers 129 Dan Brown 132 John Cranshaw 134 Christy Cameron 137 Laura Cavaluzzo 139 Linda Shore 142 Jane Shepard 145 Vicki Tiernan 146 Florence Sarrett 149 Lydia Bosch, Esq. 150 Jeffrey Ward 153 Jennifer Finlay 156 Denise Selleck 157 Bozia Family 159

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2.	Transcript of testimony at Advisory Commission – September 2000 Public Comment -- Previously Scheduled Speakers on Fort Funston Closure Eric Finseth, Esq. 13 Joy Durighello 16 Patricia La Cava 18
3.	Transcript of testimony at Advisory Commission – November 2000 Re: Fort Funston Closure Notice 7 First Resolution 12 Motion: 20 Carried: 29 Commissioner Kernan's Motion 43 Motion: 43 Carried: 44 Commissioner Meyer's motion to rescind the Pet Policy 29 Avrum Shepard 38 John Keating 40 Motion ruled improper 42 Lisa Vittori 93
4.	Transcript of testimony at Advisory Commission – January 2001 Proposal to Rescind 1979 Commission Pet Policy Chairman Bartke's Comments 12

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	Barbara Nanney 29 representing Senator Jackie Speier California State Senate
	Susan Walsh 32 representing Assemblyman Kevin Shelley California State Assembly
	Jake McGoldrick, 33 Supervisor, Board of Supervisors, City and County of San Francisco
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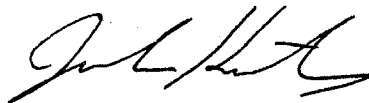
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5.	Transcript of testimony at Advisory Commission – April 2001 Re: Public Comment (Off-Leash Dog Issue) 107 John Keating, Esq. 107 Lisa Vittori 123 Vicki Tiernan 129 Michael Goldstein 131 Superintendent's Report 152
6.	Transcript of testimony at Advisory Commission – July 2001 Re: Park Pet Policy 92 Lisa Vittori 92 Michael Goldstein 94 John Keating, Esq. 97
7.	Transcript of testimony at Advisory Commission – August 2001 Michael Goldstein 100
8.	Transcript of testimony at Advisory Commission – October 2001 Will Anzenberger, Director Law and Advocacy, SF SPCA 64 John Keating, Esq. 66 Lisa Vittori 71 Steve Cockrell 73
9.	Transcript of testimony at Advisory Commission – November 2001 (Portions of unofficial transcript downloaded off internet as computer file of text of official transcript was not available from GGNRA) Michael Goldstein 5 Martin Fieldhouse: 7 Carol Arnold 9 Lisa Vittori 9 Jane Fedor 9-10 Linda McKay 10 Keith McAllister 10-11 Karin Hu 11 Vicki Tiernan 12 Carol Arnold 12 Florence Sarrett 13-15 Renée Pittin 15 Greg Herlein 16 Tom Lark 17 Avrum Shepard 18 Sheila Mahoney 18 Colby Watts 19 Joe Hague 20

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10.	Transcript of testimony at Advisory Commission – January 2002 Re: Non-Agenda Issues 8 Mark Zier 9 Vicki Tiernan 10 Margery Cohen 11 Carol Arnold 13 Jackie Johnson 14 Lisa Vittori 15
11.	Transcript of testimony at Advisory Commission – March 2002 John Keating, Esq. 33
12.	Originals of comment statements by users of Fort Funston regarding views and desires concerning pet management and recreational access closures (March 2000)
13.	January 2001 internet petition responding to GGNRA proposal to rescind the Pet Policy, asking for exemption and reconsideration of potential application of general regulation and based on prior assurances from the Park Service that off lead dog walking would not be curtailed supports continuing off lead recreation and lists specific areas currently enjoyed by the signers as off lead areas. (This tab contains a print out from the web site of electronic signatures 01-695 and 4609-5308.)
14.	January 2001 internet petition full data print out of the first 5967 signatures and comments
15.	Pages from Fort Funston Fall 2000 petition signed by thousands objecting to Fort Funston closure as unnecessary and unreasonably curtailing off lead recreation. The full record of petition signatures was previously submitted to the Park Service and is incorporated by reference for submission as comment in this ANPR consideration.
16.	Current off lead petition – print out from petition web site of first and last 225 of 4125 signers on internet petition – submitted for purposes of allowing Park Service verification of authenticity of full data and excerpted comments being concurrently submitted by the Fort Funston Dog Walkers group.
17.	Copies of August 3, 2001 letters previously forwarded to Secretary Norton and Director Mainella and bearing individual comments concerning the changes in pet management in the GGNRA.

TAB	DOCUMENT DESCRIPTION
18.	Copies of additional second set of August 3, 2001 letters previously forwarded to Secretary Norton and Director Mainella asserting that the changes restricting pet recreation in the GGNRA are important to the sender and should not be made without full and fair public hearing.
19.	Copies of additional third set of August 3, 2001 letters previously forwarded to Secretary Norton and Director Mainella decrying the deviation from the congressional intent in creating a recreation area by overly emphasizing wildlife enhancement at the expense of recreation, decrying the process by which the Park Service manipulated the circumstances to deprive the public of a fair hearing and decrying the circumstances of bias of the Park Service employees who continue to be involved in railroading through anti recreation restrictions.
20.	Copies of additional fourth set of August 3, 2001 letters previously forwarded to Secretary Norton calling for compliance with promises made to local governments, calling for compliance with the enabling statute mandate and complaining about the lack of fair process before making dramatic changes restricting pet recreation in the GGNRA.
21.	Copies of September 9, 2001 letters previously forwarded to Secretary Norton and Director Mainella and bearing individual comments concerning the changes in pet management in the GGNRA.
22.	Copies of September 16, 2001 letters previously forwarded to Secretary Norton and Director Mainella and bearing individual comments concerning the changes in pet management in the GGNRA.
23.	Copies of letters, faxes and e-mails received by FFDW and SFDOG for inclusion for consideration in the ANPR, some of which were separately received by the GGNRA and some of which have been forwarded to the user groups to be submitted in mass. Number stamped submissions 10001-10368 and 4/11/02 letter of Christy A. Cameron are included in this tab.
24.	Copies of additional letters, faxes and e-mails received by FFDW and SFDOG for inclusion for consideration in the ANPR, some of which were separately received by the GGNRA and some of which have been forwarded to the user groups to be submitted in mass. Number stamped submissions 10401-10821 and 4/12/02 letter of Mildred M. Bolin are included in this tab.
25.	1/23/01 correspondence of John Keating to Superintendent O'Neill seeking reconsideration of the Fort Funston closure decision.
26.	1/27/01 correspondence of California Humane Coalition.
27.	8/29/00 Advisory Commission briefing statement by the SPCA.

TAB	DOCUMENT DESCRIPTION
28.	10/6/00 Rulemaking comment by the SPCA regarding general pet management issues and the enabling statute application as well as pet management and closures at Fort Funston.
29.	10/6/00 Rulemaking joint comment submission by the Fort Funston Dog Walkers and the San Francisco Dog Owners Group regarding general pet management issues and the enabling statute application as well as pet management and closures at Fort Funston.
30.	8/13/01 correspondence of John Keating to Director Mainella regarding potential changes in pet management and the ANPR.
31.	10/18/01 correspondence of John Keating to Chris Powell regarding potential changes in pet management and the ANPR.
32.	11/9/01 correspondence of John Keating to OMB Administrator John J. Graham regarding changes in pet management and the ANPR.
33.	10/6/00 Rulemaking document submission by John Keating regarding the Fort Funston Closure and listing 17 tabs of documents in 4 volumes, all of which are incorporated by reference for submission in this ANPR public comment submission as related to the scope of proper pet management changes in the GGNRA and the appropriate process for fair review thereof.

Sincerely,



John B. Keating