



PUBLIC WORKS COMMISSION
CITY AND COUNTY OF SAN FRANCISCO

London N. Breed, Mayor

Correspondence Log

June 10, 2023, through August 11, 2023

Date Received	From	Subject
7-17-2023	Joshua Klipp	Public comment at Board of Appeals related to Bureau of Urban Forestry
7-28-2023	Nicholas Crawford	Bureau of Urban Forestry response to Joshua Klipp's public comment at the Board of Appeals

From: [Rosenberg, Julie \(BOA\)](#)
To: [Buck, Chris \(DPW\)](#); [Short, Carla \(DPW\)](#); [Crawford, Nicholas \(DPW\)](#); [DPW-Public Works Commission](#)
Cc: [BoardofAppeals \(PAB\)](#)
Subject: Letter from Joshua Klipp sent to the Board of Appeal re Appeal Nos. 21-076 and 19-075
Date: Monday, July 17, 2023 9:44:03 AM
Attachments: [JKlipp General Public Comment for July 12, 2023 Board of Appeals Hearing.pdf](#)

Dear Carla and Chris: The Board of Appeals received the attached letter from Joshua Klipp regarding Appeal Nos. 21-076 and 19-075.

At the Board's July 12, 2023 meeting, President Swig and the commissioners requested that it be forwarded to BUF for a written response. The commissioners also asked that it be sent to the Public Works Commission.

Please let me know if you have any questions.

Respectfully,

Julie Rosenberg
Executive Director
San Francisco Board of Appeals
49 South Van Ness Avenue, Suite 1475
San Francisco, CA 94103
Phone: 628-652-1151
Email: julie.rosenberg@sfgov.org

General Public Comment for July 12, 2023 Board of Appeals Hearing

I respectfully submit this general public comment on two matters previously before the Board:

Re Appeal No. 21-076, Klipp vs. San Francisco Public Works, Bureau of Urban Forestry

At the January 26, 2022, hearing on this matter, DPW and BART promised a number of mitigations to the Appellant, and before this Board, under oath. In relevant part:

1. Public Works agreed to allow the in-lieu replacement fees related to this permit to go to greening in and around the corridors adjacent to impacted BART stations. Within 6 months, BART will work with DPW to identify viable basins that overlap with Community Benefits Districts areas of responsibility and, by partnering with CBDs, maximize those fees toward additional tree planting, as well as invest in green workforce development; and
2. BART committed to \$25k in capital investment toward a Pilot Project, "Pop Out" tree basins, along the Market Street Corridor.

It has been nearly a year and a half since that hearing and DPW's promises. Starting around April or May of 2022, BART committed a Project Manager to hold monthly meetings with all stakeholders to discuss progress on construction and these mitigations. I have attended nearly every one of these meetings for over a year, usually at personal expense since I am self-employed.

- As it promised, BART did the work to forge relationships with CBDs and broached the idea of CBDs watering street trees in their areas of responsibility. At the monthly meetings, however, BART made clear to DPW that, since street tree planting and maintenance is DPW's jurisdiction, BART needed DPW's partnership to move this mitigation forward with those CBDs. For over a year, DPW did nothing. In the last couple of months, DPW threw together a general list of empty basins on the Market Street corridor. It has done nothing else to help BART or further this mitigation.
- With regard to the Pilot Project, DPW has done nothing, other than vaguely talk about a truck that could remove mature trees planted in the ground. This is not only nothing close to what was discussed, it fails to address the myriad reasons for the proposed innovations in the first place, including limited space and growing trees for replanting.

At the monthly meetings and via numerous emails, I have *repeatedly begged* DPW for progress on these items. I have asked the City's Urban Forester - Chris Buck, Nick Crawford - Acting BUF Superintendent, and finally Carla Short - Acting DPW Director, for *anything resembling a plan*, ideally with dates and deliverables. I have received nothing despite

repeated requests, and have now completely given up on the idea that DPW will *ever* do what it promised it would do. With nowhere left to beg, I submit this comment.

I understand this Board does not retain jurisdiction, and lacks authority to compel DPW to keep its promises. The Board may be concerned, however, with Public Officials that come before it and make promises to Appellants, under oath, then leave the Hearing Room and abandon those promises, along with the Appellants who relied on them in good faith - and spent a month over the 2021 Christmas holiday negotiating those mitigations. Accordingly, I respectfully request that this Board invite DPW to come before it and provide a report regarding its progress, or lack thereof, on the mitigations it promised in this appeal.

Re Appeal No. 19-075 Klipp vs. San Francisco Public Works, Bureau of Urban Forestry

In this appeal, the Board granted my appeal and ordered the issuance of the permit subject to conditions, specifically: “that the Bureau of Urban Forestry plants six new street trees in the Tenderloin area that are 24-inch box size, within six months of this decision; further that these new street trees are to be paid for by the determination holder.”

We now know that BUF did not plant six new trees that are 24-inch box size within six months of this decision. Instead, FUF planted several dozen 15 gallon trees in the Tenderloin more than two years later, and DPW retroactively designated 6 of those as the Tesla trees. After DPW was compelled to reveal this to the Board, I submitted a records request to DPW regarding how and when Tesla was invoiced for the trees for which this Board ordered it to pay. Through that records request, I learned that Tesla was not even invoiced for those trees until January 26, 2023 - 3 years and 3 months after the Board’s decision, and at least 3 months after the supposed Tesla trees were planted. See <https://sanfrancisco.nextrequest.com/requests/23-424>

Again, I understand the Board does not retain jurisdiction. However, it would seem in the Board’s interest that the conditions on which it grants an appeal are followed by any party, let alone a City Department. Accordingly, I would request that DPW additionally be invited to provide further information on whether or not it actually complied with the conditions that this Board imposed on the permit at issue in this appeal.

I do not make this comment and these requests lightly. As a former public servant, I need to believe that our City leaders and Departments will keep promises they make under oath, will adhere to the conditions required in the issuance of permits, and that the Board’s authority is not undermined by the erosion of public trust when these things do not happen.

Respectfully submitted, /s/ Joshua Klipp



Urban Forestry

urbanforestry@sfdpw.org | T. 628.652.8733 | 49 South Van Ness Ave. Suite 1000, San Francisco, CA 94103

February 1, 2023

Appeal No. 19-075 (601 Van Ness Ave/Tesla)

RE: Response to public comment received on 1.18.23 from Josh Klipp

President Swig and Mr. Klipp:

Our Bureau listened closely to the general public comment provided by Josh Klipp regarding Appeal No. 19-075 that required that six (6) 24" box size trees be planted by Public Works, with funding received from Tesla's payment of six (6) in-lieu fees.

Comment re: funding of the trees:

Six (6) 15-gal. size trees were planted by Friends of the Urban Forest (FUF), our non-profit partner, on August 27, 2022. Friends of the Urban Forest receives funding from Public Works and work completed by this non-profit organization counts towards achieving the goals of San Francisco's Urban Forest Plan. The funds received from Tesla are deposited into our adopt-a-tree account and are not literally cross-referenced to specific planting sites. Rather, this funding source is used by Public Works to purchase trees or to fund the issuing of grants. The trees planted by Friends of the Urban Forest may be funded partially through their Cal-Fire grant, as is often the case, but Public Works provides funding through a grant process to Friends of the Urban Forest as well. These likely would be referenced as matching funds when FUF applies for grants. For instance, although the forty-three (43) trees planted

by FUF in the Tenderloin on 8/27/2022 may have been partially funded by Cal-Fire, Public Works has the watering and establishment responsibility for these trees. Attached is a list of the forty-three (43) trees planted by FUF that our Department has been watering and monitoring. Also attached are photos of the six (6) trees taken on 12/28/2022.

Comment re: replacement size (15-gal vs. 24" box)

We acknowledge that the conditions of the permit required that six (6) 24" box size trees be planted. Our Bureau is committed to adhering to the permit conditions that Public Works issues and that the Board of Appeals issues. That said, when our staff worked closely with FUF and community members to identify a total of forty-three (43) empty tree basins and new planting sites in the Tenderloin, far surpassing the requirements of Appeal No. 19-075, we believed this would be mitigated by the additional planting of thirty-seven (37) empty tree basins and new sites. Our response to Mr. Klipp's public comment is that we have stretched those limited Tesla funds to provide for additional trees to be planted, which Mr. Klipp often encourages us to do.

Comment re: length of time to plant the required trees

Our Bureau needs to better prioritize specific planting requirements that result from permit appeals. For this we wish to apologize to Mr. Klipp and BOA and seek to continue to build back the trust of Board of Appeals.

Since Mr. Klipp's public comments, we have discovered an error on our end. We found that we only invoiced the applicant for three (3) in-lieu fees. We looked into why and how this happened, and we believe it was honest human error. Page one of the two page

decision repeats the original Public Works recommendation that three trees were required to be planted, and our admin created the invoice for three trees. Since discovering this mistake on our part, we have since contacted the applicant and submitted an invoice for the three additional in-lieu fees. Again, this is a regrettable clerical error, and we have advised Tesla to pay this immediately. Though our attached invoice shows the due date as 60 days from the invoice date, we are requiring immediate payment. We will confirm when this payment has been deposited.

Please do not hesitate to contact me with any follow-up questions and again, I wish to apologize for how this was handled.

Respectfully

A handwritten signature in blue ink, appearing to read "Chris Buck".

Chris Buck

Urban Forester

(Attachments follow)

CC: Carla Short, Interim Director

Nicholas Crawford, Acting Superintendent



Nicholas Crawford, Acting Superintendent Bureau of Urban Forestry
Nicholas.Crawford@sfdpw.org T. 415.695.2103 2323 Cesar Chavez Street, San Francisco, CA 94124

July 28, 2023

RE: Public comment received on July, 12, 2023 from Josh Klipp at Board of Appeals referencing Appeal No. 19-075 and 21-076

President Swig and Mr. Klipp:

Our Bureau reviewed the written public comment that was received at the July 12, 2023 Board of Appeals hearing which referenced Appeals 19-075 and 21-076. Mr. Klipp's advocacy has brought a closer eye to several processes in need of improvement, and we are grateful for his work. We strive to provide the best service to all residents and hope to maintain a constructive relationship with Mr. Klipp and others working to protect and grow our urban forest.

Regarding appeal No. 21-076 (BART/Canopies mitigations) for the ten (10) permits issued to BART to remove street trees to enable the installation of canopy structures along Market Street, we have met internally to review the feedback provided by Mr. Klipp. Public Works shares the concerns that achieving the mitigations has taken longer than expected. We respectfully disagree with the statement that Public Works has "done nothing," as at times, we have had three staff members attending the monthly mitigation meetings. That said, despite good faith efforts to complete the mitigations, we recognize that more progress needs to be made. This is a complex project that requires us to work with BART project managers and cultivate community interest to see if it is possible to maximize the planting of more trees, if volunteer or community partnerships can be established.

The original goal was to have community members take on watering and establishment to allow Public Works to plant more than the fifteen (15) required replacement trees. BART's Government and

Community Relations Representative conducted exhaustive outreach to neighboring groups such as community benefits districts and businesses in the surrounding area. The team quickly came to realize that storefronts are currently in a fight for survival to keep their doors open and are not able to take on new responsibilities to care for or water young trees.

Given this climate with limited local group support and limited city funding for tree planting, Public Works shifted to seeking state and federal support with great success. Recognizing that the Market Street corridor is within an Equity Priority Community, Public Works applied for – and was awarded – a \$456,000 grant from the California Natural Resources Agency to plant and establish 250 trees in the blocks adjacent to this corridor that fall within these disadvantaged census tracts. While Better Market Street is planting trees directly on Market Street using below ground soil vaults to boost above ground canopy development and carbon sequestration, the project is limited to the blocks between 5th Street and 8th Street. The California Natural Resources Agency grant footprint does not include Market Street plantings but amplifies the planting work on the surrounding blocks, one of the stated goals of this permit mitigation. The entire area will be saturated with tree planting work and watered by the Public Works' tree watering grant partner using routing that maximizes efficiency.

In an even larger effort, Public Works applied for and is awaiting a response to their application for \$38,000,000 in federal grant money from the administration's Inflation Reduction Act program to plant and establish 10,000 trees focusing both on Equity Priority Communities and on replacement trees citywide.

These large-scale grant applications are directly related to the mitigations of the appeal as an adaptation to the challenging economic conditions downtown and the city's limited budget to fund tree planting. We believe these represent an amplification of our efforts and focus funding to an area that we agree is in need of resources through beautification and greening.

More specifically, Public Works' grant recipient, Friends of the Urban Forest, planted 48 trees in the Tenderloin's Transgender District in August 2022. The trees are receiving weekly watering and care from another Public Works grant recipient, SF Clean City Coalition. Then on October 15, 2022, Public Works hosted a planting day in SoMa during its Neighborhood Beautification Day. Again, on March 11, 2023, SFPW hosted Public Works' annual Arbor Day event in SoMa and planted 115 trees.

Public Works sees this area as central to meeting its tree planting goals and is situating its state-of-the-art Street Tree Nursery, currently under construction, on 5th Street between Bryant Street and Harrison Street. This site will supply locally grown and climate-adapted trees to the surrounding area and be open for community members of all ages to learn more about the benefits of trees and methods to propagate them. We have recently identified with BART, Mr. Klipp, and the other appellants, that we will plant in empty tree basins along Market Street that are outside of the current Better Market Street scope of work.

Identifying ideal sites for the pop-out prototypes/basins is a step that trails the construction progress. The plan remains the same: to match the pop-out basins to locations alongside the entrances that are suitable for a tree on a temporary basis but not appropriate for a tree to grow to maturity due to space constraints. One site at 815 Market St. is now ready to excavate.

Public Works was admittedly slow to assign an engineer to the project and had turnover due to a retirement when someone was assigned. The pilot project is now reassigned, and the engineer was briefed on the needs of the department to complete this and is attending the progress meetings.

San Francisco Public Works and the Bureau of Urban Forestry have always shown a willingness to pilot new ideas in order to maximize our limited tree planting funds. Working with Appellants to the 24th Street tree removal program, the Mission Verde group was founded, and Public Works partnered with the community and Friends of the Urban Forest to plant three times as many replacement trees.

However, creative new ideas may require more time to implement. With the Mission Verde group, they initially wanted to use a motorized watering cart. BUF purchased and Public Works carpenters adapted a much less expensive cart that ultimately proved more efficient and easier to use. It may take time, but exploring different alternatives may be beneficial in the end.

Regarding appeal No. 19-075 (601 Van Ness Ave./Tesla charging stations), we provided a response to this feedback on February 1, 2023 to the public comment received by Mr. Klipp at the January 18, 2023 Board of Appeals hearing. In addition to our earlier review of this matter in January, we also met on July 18, 2023 to review the feedback provided by Mr. Klipp.

We recognize that the permit should have been issued after payment of the invoice, in the correct amount for six (6) trees, not three (3). We missed that because this project lacked a job card sign-off which normally triggers that requirement. Additionally, our staff, when reviewing the notice of decision, focused on the first page which emphasized three (3) trees, not the second page which contained the resulting language that required that six (6) trees or in-lieu fees be paid or planted. We have provided additional training to our staff on how to more carefully review notices of decision issued by the Board of Appeals.

The trees were planted prior to receipt of full payment. In-lieu fees and administrative citation fees are deposited into our Adopt-a-Tree Fund which pays for purchasing of trees, stakes, and watering bags, pays for city staff to plant and water, and pays for grant partners such as Friends of the Urban Forest and Clean City Coalition to plant and water trees. The funds are exclusively used for tree planting.

Our Bureau is committed to planting every available basin in the Tenderloin (empty basins or new cut sites) as the first neighborhood to be "planted-out" in the city. To pursue this goal, we have selected the Tenderloin as an Equity Priority Community, requested capital funding annually for tree planting support, written successful grant applications for planting funding here, and situated the BUF Street Tree Nursery nearby in SoMa, another Equity Priority Community.

Public Works is committed to adhering to and/or enforcing any permit conditions imposed by the Board of Appeals. In case No. 21-076 (BART/Canopies mitigations), we continue to work through the challenges and details but have no reason to believe that we cannot meet all of the conditions. In case No. 19-075, staff believed the intent of the condition was not only met but exceeded. However, the department should have confirmed in advance with the Board of Appeals that the proposed substitution was acceptable.

Respectfully,



Nicholas Crawford

Acting Superintendent

Enclosure: Bureau of Urban Forestry response to January Public Comment

CC: Carla Short, Interim Director, Public Works

Street and Sanitation Commission and Public Works Commission through Robert Fuller,
Commission Secretary