

# Democracy vs. Development

## Oakland Wins a Round

By J. Douglas Allen-Taylor

Oakland has always had a decidedly mixed relationship to its waterways. The city retains one of the largest working shipping ports in the nation but elsewhere along its extended waterfront, the East Bay's gateway city has largely neglected its shoreline. That longtime neglect is more than made up by Oakland's care for its most popular attraction, Lake Merritt. Created at the same time as the city itself, the lake was carved out of a fetid, marshy tidal pool. Today it is the home of a string of pleasant lawns, walking and jogging tracks, and the nation's oldest wild bird habitat, the place where Oakland residents go to relax, and where they bring out-of-towners to show off. The lakeshore could be a prime spot for high-rise residential development butting up to the edge of the water. But over the years, the city and its public and politicians have fiercely protected both the view from the lake and public access to its environs, refusing to give in to the box-in builders. It is one of Oakland's greatest success stories.

Six years ago, Oakland residents decided to extend that preservation success all the way out to the bayshore waterfront. But the initial aftermath of that effort showed that even where communities take affirmative steps to set aside open space parkland and waterways, the attempts to subvert that set-aside to private, commercial use can be both enormous and insidious.

Lake Merritt empties into the San Francisco Bay waters through the 3,000 foot long Lake Merritt Channel, a lovely but poorly-named little creek, much-loved by ducks and other waterfowl, bordered along some of its stretches by grassy banks and shade-trees. But many decades ago the channel was cut off from the lake by a high-speed throughway, so that only a spelunking adventure through an underground passage of uncertain safety makes it possible to walk from the lake to the channel.

### Public Money from a Public Vote Expands Park Access

In 2002, in a \$198 million municipal bond measure called DD, Oakland residents decided to correct that problem, voting to spend \$80 million of the bond money in large part to dismantle the throughway,

connect the lake to the channel through a series of bridges and pedestrian walkways, and landscape the channel banks into a more parklike atmosphere.

Construction on the channel is scheduled to begin this year and run through 2009.

Public access to the new Lake Merritt Channel lands seemed assured both by Oakland's longtime protection of Lake Merritt itself, and by the fact that the channel was already bordered on both sides by public property—the city-owned Henry J. Kaiser Convention Center, the administrative headquarters of both the Oakland Unified School District and the Peralta Community College District, and Peralta's Laney Community College—eventually running down past Estuary Park as the channel waters emptied into the bay estuary. Extending public-access waterway parkland through such public territory seemed almost the perfect urban ecological fit.

### Private Developers and Powerful Politicians

Some developers, allied with a handful of powerful local politicians, saw otherwise. Instead, they saw the opening of the Lake Merritt Channel as an opportunity to get Oakland taxpayers to foot the bill for opening lands that would then become prime com-

mercial and residential real estate. And they came close to succeeding.

### Act One: Peralta College

The community college district occupies arguably the most strategic spot on the channel, with holdings on the four property squares straddling the waterway at its midway point. One of those squares is occupied by the Peralta administrative offices, with the three others—athletic fields, a student-faculty parking lot, and classroom buildings—occupied by Laney College, one of the district’s four colleges.

In 2004, four of Peralta’s seven trustees opted not to run for re-election. On the agenda for their final meeting before the new trustees took office, Peralta’s governing board included a presentation by an Oakland-based developer, Alan Dones for a “Public, Private Partnership—Laney College Parking Lot and District Office Administrative Center Property.” The item was not listed on the “action” portion of the agenda, and when one of the concerned incoming trustees made an inquiry beforehand, he was assured by one of the outgoing trustees that the item was for information purposes only, and so he should not worry. He chose not to attend the meeting.

At the time, although Measure DD had been passed two years before, its plans to open up the adjoining Lake Merritt Channel were still only on the drawing board stage, the implications apparent only to a handful of the interested.

At the Peralta trustee meeting, Dones presented an ambitious plan to “design and build new facilities that will provide localized and centralized multi-governmental administrative buildings, enhanced civic, educational, commercial, residential, and recreational uses on the land currently occupied by the Laney College parking lot and [Peralta] district administrative center,” according to the official meeting minutes. In a PowerPoint presentation, Dones also said that his plans could include the development of lands currently occupied by the Laney College athletic fields.

Following the meeting, I reported in the Berkeley Daily Planet newspaper that “while Dones was vague about what the final plans might be, he told trustees that the development plan would be anchored by



administrative offices built for unnamed government agencies, but he also mentioned the placement of a medical center and “up to 1,000 residential units” on the property. Trustees approved a one-year exclusive negotiating agreement with Dones to flesh out his plans into a formal development proposal despite a plea from the Laney College president to hold off until faculty and staff at his college could be brought into the discussion,

The Lake Merritt Channel development wars had officially begun. But the biggest blasts were not heard at Peralta or Laney, but across the street at the aging administrative headquarters of the Oakland Unified School District (OUSD).

### Act Two: Oakland Unified School District

In the spring following the passage of Measure DD, OUSD found itself in a severe financial crisis, caught between an unexpected drop in student attendance—leading to a resulting drop in state reimbursements—and the unanticipated effects of a teacher pay raise. Faced with the inability to meet its final payroll of the fiscal year, the OUSD school board

Photo:  
Lake Merritt  
Courtesy of Oakland  
Convention and  
Visitors Bureau

was forced to request a massive state loan, triggering a state takeover of the district.

In the last frantic days before the 2003 takeover, board members called on the state to either lease or sell surplus district property to help pay off the state loan. The genesis of the request was so obscured that interviewed years later, board members were not clear on how it got introduced.

But someone was clearly interested in the issue.

The California Education Code requires that when any public school district real property is sold, the proceeds must go into the district's building fund. But early in the process surrounding the passage of the bill authorizing the state takeover of Oakland Unified, powerful California Senate President Don Perata, who represents Oakland, put in a provision that in Oakland's case, the proceeds from such a sale could go towards paying back the state loan. Perata, or someone else, seemed very interested in that provision. Twice it got taken out in the legislative process. Twice, pointedly, it got put back in, including in the version that finally passed the legislature.

This obscure provision in the OUSD takeover legislation got no press coverage at the time, and no public notice until the spring of 2006, when California State Superintendent Jack O'Connell revealed that for a year, using the property sale provision, he had been in secret negotiations with developers for the sale of 8.25 acres of prime Oakland Unified area property just east of Lake Merritt. Included in that property was the school district's administrative headquarters, as well as an elementary school, two alternative high schools, and two early childhood education centers.

The property sits on the banks of the Lake Merritt Channel.

A month later, O'Connell announced that he had signed a letter of intent to negotiate sale of the eastlake OUSD property to a well-connected East Coast development company. The team, TerraMark, proposed relo-



cating the district's administrative headquarters and five educational institutions, putting in their place five 27- to 37-floor high-rise towers, with luxury condominiums on the top and commercial space on the ground floors. A TerraMark official said they were planning to build an artificial waterfall from the top of one of the high-rises—an attraction that tourists would come to Oakland to see rather than travel to the natural waterfalls at Yosemite National Park.

### Act Three: Oakland City Council

Shortly before the announcement of the OUSD property sale negotiations, the Oakland City Council had an announcement of its own. Due to budgetary problems, the Council voted suddenly to close the century old Kaiser Convention Center, which also sits on the Lake Merritt Channel, a block away from the OUSD administrative headquarters and the Laney College administrative building.

Thus, four years after Oakland residents passed Measure DD authorizing the Lake Merritt Channel renovations, the four public institutions which were to be the anchor of those renovations—Peralta, Laney, OUSD, and Kaiser—were all either closed or in active sale-and-development negotiations with private developers. Not surprisingly, TerraMark revealed that it was also in negotiations with the City of Oakland to include the Kaiser Convention Center in its development package aimed for the OUSD lands.

### Act Four: Public Lands for Public Purposes

Unlike many modern development stories, this one has a happy ending, at least for those interested in maintaining the Lake Merritt Channel as public parkland. The furor against the development proposals was enormous, effective, and eventually, triumphant.

Opposition to the Peralta-Laney development proposal initially centered around the Laney College Athletic Department, whose members declared that they would fight any attempt to put condominiums



or office buildings in the spot currently occupied by the Laney athletic fields. Developer Dones immediately declared that he had been misunderstood, and had no intention to develop the fields, but by that time Laney’s general faculty and staff had entered the struggle, aided by some of the district trustees who had taken office after the exclusive negotiating agreement had been authorized. Speakers lined up to talk against the proposed deal every time it appeared on the Peralta trustee agenda. Peralta Chancellor Elihu Harris eventually suspended contract negotiations with Dones, saying that the controversy had grown too great, and after reports that one trustee had switched—under labor union pressure—from support of the development project to opposition, Dones himself voluntarily withdrew from the deal.

The Oakland Unified fight was considerably harder. The state takeover left the local school board powerless, and State Superintendent O’Connell was far away in Sacramento and seemingly impervious to local pressure.

But a group of Oakland parent and community activists, joined by several school board members, took their case to local elected officials, and their relentless agitation eventually led to a rare show of political unity in the city. Every member of the Oakland City Council as well as the Peralta Board of Trustees came out against the OUSD land sale, the

City Council opposition being particularly important since they would have to eventually approve any development put on the property. Newly-elected Assemblymember Sandré Swanson came out publicly against the sale as well, and even outgoing Assemblymember Wilma Chan and Senate President Perata, who had co-written the takeover legislation that authorized the land sale, issued public statements that backed away from support of the deal. Incoming Oakland Mayor Ron Dellums took his case to O’Connell privately, reportedly to tell the superintendent in stark terms that the TerraMark deal should be dropped.

The pressure worked. In February of 2007, O’Connell announced that he was permanently dropping the TerraMark deal. Immediately afterwards, the district moved forward with plans to put a new administrative-education complex—complete with rebuilt schools—on the site.

As for the Kaiser Convention Center, it still sits vacant and boarded-up, the only public building visible from both Lake Merritt proper and the Lake Merritt Channel. But so far, the city has announced no new plans to sell, and so the building might yet be returned to public use.

For the time being, the Lake Merritt Channel renovations have been saved for their intended use—the enjoyment of the general public. ■

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Photo:  
TerraMark’s proposed  
five tower develop-  
ment.  
Courtesy of OUSD

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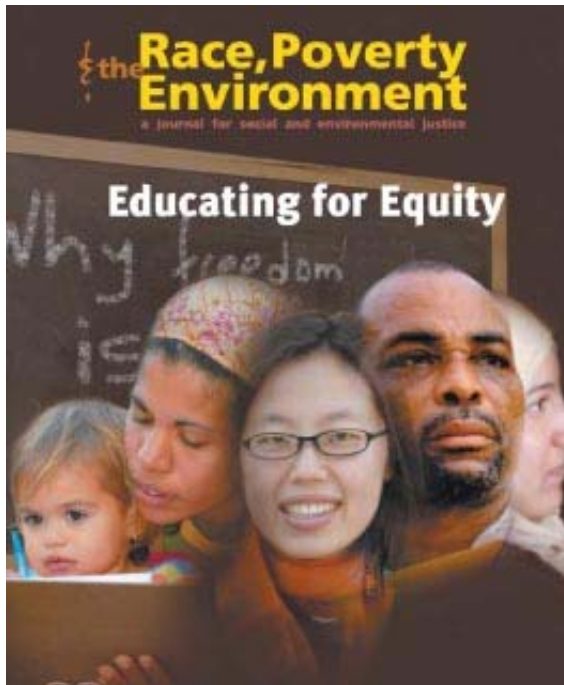
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