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9 CITY OF SANTA CRUZ, MARTIN BERNAL, TONY ELLIOT, and ANDREW MILLS

10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA
12 SAN JOSE DIVISION

14 SANTA CRUZ HOMELESS UNION, on
15 behalf of itself and those it represents;
16 SANTA CRUZ FOOD NOT BOMBS;
17 ALICIA AVALOS, HANNAH HEGEL,
18 CHRIS INGERSOLL and RANDOLPH
TOLLEY, on behalf of themselves and
similarly situated homeless persons,

19 Plaintiffs,

20 vs.

21 CITY OF SANTA CRUZ; MARTIN
22 BERNAL, individually and in his official
23 capacity as City Manager for the City of Santa
24 Cruz; TONY ELLIOT, individually and in his
25 capacity as Director of Parks & Recreation for
the City of Santa Cruz; ANDREW MILLS,
individually and in his capacity as Chief of
Police for the City of Santa Cruz,

26 Defendants.
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Case No. 5:20-cv-09425-SVK

**DEFENDANTS' MOTION FOR
ADMINISTRATIVE RELIEF, REQUESTING
TO SUBMIT ADDITIONAL EVIDENCE
RELATED TO RECENT AND CURRENT
EVENTS AND CONDITIONS RELATED TO
SAN LORENZO PARK; [PROPOSED ORDER]**

[Local Rule No. 7-11]

Honorable Magistrate Judge Susan van Keulen

1 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

2 Defendants City of Santa Cruz, Martin Bernal, Tony Elliot, and Andrew Mills (collectively,
3 “Defendants”) hereby apply for administrative relief, pursuant to Local Rules for the Northern District
4 No. 7-11, requesting to submit additional evidence related to recent and current events and conditions
5 related to San Lorenzo Park.

6 Defendants respectfully request that the parties be allowed to submit evidence describing very
7 recent events and conditions that either occurred after the January 6, 2021 TRO hearing, or before that
8 hearing and the expedited briefing schedule did not permit a full presentation of these facts to the court.
9 Specifically, Defendants would like to submit a **new declaration of Parks & Recreation Director, Tony**
10 **Elliot** to describe very recent and current events. This declaration would attest to:

- 11 • A physical assault of a Parks & Rec staff member on January 5, 2021. *This staff member was*
12 *punched in the face and sustained injuries to his mouth.*
- 13 • *Smashing of the taillight of a Parks & Rec vehicle* near San Lorenzo Park, on January 5,
14 2021.
- 15 • A report, on January 7, 2021, that the San Lorenzo Park restrooms had been broken into.
16 (Restrooms across the City park system have been closed for several months due to staff
shortages resulting from COVID-19 related budget cuts.)
- 17 • A report, on January 11, 2021, that San Lorenzo Park restrooms had once again been broken
18 into. The new lock and the door latch were cut with a grinder or similar power tool.
- 19 • The results of a January 11, 2021 site visit showing *the current conditions of the encampment*
20 and noting: (1) large amounts of trash throughout the park and especially near the lawn bowling
21 green (west fence line); (2) significant damage apparent to the lawn, landscaped areas, and
22 trees; (3) trash and debris floating in the duck pond among swimming ducks; (4) a female
living in the park verbally harassing Parks staff as they did their morning work; and (5) a *lack*
of mask wearing and lack of social distancing of those living in the park.
- 23 • Activists harassing and threatening low-level Parks & Rec employees at their personal homes
24 on December 29, 2020. These activists claimed to have all Parks & Rec employees’ personal
addresses.

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1 Defendants also request to submit a new Declaration of City of Santa Cruz Resident, Eric
2 Grodberg, to describe the current situation at San Lorenzo Park. This declaration would attest to:

- 3 • The increase of tents in San Lorenzo Park following the extension of the Temporary
- 4 Restraining Order.
- 5 • The increase in apparent bike “chop shop” activity.
- 6 • *Lack of social distancing and lack of mask wearing in the park* (including photographs
- 7 documenting the lack of COVID-19 precautions).

8 The facts set out above are important to establish in the factual record because they are highly
9 relevant to the court’s determination as to whether to grant a preliminary injunction. For example, if
10 Defendants could firmly establish a lack of mask wearing and social distancing at San Lorenzo Park, then
11 that would strongly undercut Plaintiffs’ argument that San Lorenzo Park is being used as a safe site to
12 protect unsheltered individuals from COVID-19. Additionally, the Declaration of Tony Elliot, if allowed
13 to be submitted, would describe a dangerous and unsustainable situation (including evidence of recent
14 violence against Parks & Rec employees and intentional destruction of City property) related to San
15 Lorenzo Park, which is relevant to the Court’s balancing of hardships.

16 Defendants respectfully request the court grant this motion and allow the parties to promptly
17 submit up to 2 additional declarations each, attesting to recent and current events and conditions related
18 to San Lorenzo Park.

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20 ATCHISON, BARISONE & CONDOTTI, APC

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23 Dated: January 11, 2021

24 By: /s/ Catherine Bronson
CATHERINE BRONSON, Deputy City Attorney
Attorneys for Defendants

[PROPOSED] ORDER

The motion of defendants City of Santa Cruz, Martin Bernal, Tony Elliot, and Andrew Mills (collectively, “Defendants”) to apply for administrative relief, pursuant to Local Rules for the Northern District No. 7-11, is hereby GRANTED. The court hereby permits each side (i.e., Plaintiffs (collectively) and Defendants (collectively)) to submit up to 2 additional declarations, attesting to the recent and current events and conditions related to San Lorenzo Park. Declarations must be filed by 5:00 PM on January 12, 2021.

SO ORDERED.

Dated: _____

By: _____
Honorable Magistrate Susan van Keulen

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