



Kapiolani Park Trustees

CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII 96813-3077

KAPIOLANI PARK TRUSTEES

Voting Members:

Charles K. Djou, Chair
Barbara Marshall, Vice Chair
Todd K. Apo
Duke Bainum
Romy M. Cachola
Donovan M. Dela Cruz
Nestor R. Garcia
Gary H. Okino
Rod Tam

MINUTES

REGULAR MEETING
WEDNESDAY, FEBRUARY 11, 2009

COUNCIL COMMITTEE MEETING ROOM
2nd FLOOR, HONOLULU HALE
HONOLULU, HAWAII 96813

CALL TO ORDER

The meeting of the Kapiolani Park Trustees was called to order by Trustee Chair Charles K. Djou at 1:07 p.m. Trustees Apo, Bainum, Cachola, Dela Cruz, Garcia, Okino and Tam were present at the meeting. Trustee Marshall was excused.

STAFF PRESENT

Dylan Nonaka, Senior Adviser to Trustee Chair Djou
Lloyd Yoshioka, Attorney, Office of Council Services
Jessie Souki, Deputy, Department of Corporation Counsel, assigned to the Kapiolani Park Trustees
Joanne Tachibana, Council Committee Aide, Office of the City Clerk

APPROVAL OF MINUTES

The minutes of the Kapiolani Park Trustees meeting of September 6, 2007 were approved as circulated:

AYES: APO, BAINUM, CACHOLA, DELA CRUZ, GARCIA, TAM, DJOU – 7.
NOES: None.
EXCUSED: MARSHALL, OKINO – 2.

Trustee Chair Djou informed that since agenda items 1 and 2 were somewhat related he would allow public testimony on both at the same time. The Trustee Chair stated that although not part of the Master Plan, he would also welcome testimony regarding the homeless and vagrancy issues as they contribute to the acute situation existing at Kapiolani Park.

FOR ACTION

1. RESOLUTION KPT 09-1

RELATING TO THE KAPIOLANI REGIONAL PARK MASTER PLAN. Supporting the Proposed Improvements in the Kapiolani Regional Park Master Plan Update and Acknowledging that the Proposed Improvements to the Park are Consistent with the Terms of the Kapiolani Park Trust.

FOR DISCUSSION

2. BILL 2 (2009)

RELATING TO PARKS. The purpose of the ordinance is to improve the City's ability to regulate camping at public parks.

Administration/Others

Russ Takara, Acting Director, Department of Design & Construction (DDC)
Cliff Lau, Facilities Division, DDC
Greg Hee, DDC
Les Chang, Acting Director, Department of Parks & Recreation (DPR)
Dawn Spurlin, Deputy, Department of Corporation Counsel, assigned to the
Department of Parks & Recreation

The following individuals testified:

1. Jay Harden (Expressed concern about the homeless affects on tourism.)
2. Michelle Matson (M-396)
3. Donald Ott, (Expressed concern about the homeless affects on tourism.)
4. Carol Hopkins, Kapiolani Park Preservation Society (Expressed concerns relating to park maintenance and changes to Paki Avenue.)
5. Dennis Boom (M-382)
6. Alethea Rebman, President, Kapiolani Park Preservation Society (Concerned that the proposed amendments in Resolution KPT 09-1 are not consistent

- with the terms of the Kapiolani Trust, and expressed support for Bill 2, to get homeless camping out of Kapiolani Park.)
7. Stephanie Sofos (Noted that the homeless situation is costing taxpayers revenue.)
 8. Dan Gluck, American Civil Liberties Union of Hawaii (Opposed to Bill 2)
 9. Jack Gillmar, Kapiolani Park Preservation Society (Noted three violations in the Master Plan: a) It overlooks a continuing building permit violation, b) A project under review in the Master Plan was completed before the Plan was approved, thereby violating a court order, and c) There are serious liability issues regarding Paki Avenue.
 10. Bob Erb, Founder, Waikiki Ministry (M-397) (Noted that there are up to 300 homeless in the Waikiki area.)
 11. Pattie Kahanamoku Teruya, Chair, Nanakuli Neighborhood Board (Supported Bill 2 and noted that often the homeless do not want to follow policies and procedures of the service providers.)

In response to Trustee Chair Djou, Acting Director Takara and staff member Lau stated that the Master Plan applies to the infrastructure of Kapiolani Park and does not address the homeless or related camping issues.

Acting Director Chang stated that the DPR looks at the operation of the park from the standpoint of user activities and does not address homelessness.

The following responses were made by the DDC to Trustee Bainum's inquires:

Department of Interior Standards as They Relate to the Design of the Zoo Entrance

The State Historic Preservation did not elaborate on the Department of Interior standards. The State Department of Land and Natural Resources wrote a letter stating that the zoo is not historic and does not contribute to the historic nature of the park.

Trustee Bainum requested that a response from the Department of Interior be requested.

Tree Protection Plan

The Master Plan is basically conceptual and may take up to 20 years to implement. When the Department moves forward on a specific project, a

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detailed tree protection plan is created with a certified arborist to minimize harm to any of the trees.

Deputy Corporation Counsel Souki provided the following responses to inquiries regarding the duties and responsibilities of the Trustees:

- In accord with the 1991 Order of the First Circuit, the role of the City Council sitting as Trustees shall be limited to enforcing the provisions of the Trust, to ensure that the Trust lands are used for park purposes within the terms of the Trust.
- ACT 53 enumerates specific duties and responsibilities of the Trustees and one of its main responsibilities is to allow the use of the park for park purposes.
- Park purpose can include all kinds of activities within the park.
- The day-to-day operation and maintenance of the running of Kapiolani Park remains within the Executive Branch of the City.

Deputy Corporation Counsel Spurlin noted that she is the attorney representing the City in the litigation involving the Kapiolani Park Trust. She stated that the intent of Act 53 was to create or designate Kapiolani Park as a free public park and recreational ground. The term park purpose has been defined by the courts to mean activities associated with recreational types of activities, either passive or active. The courts have also said that infrastructure associated with that activity and infrastructure that enhances the park users benefit of the park are permissible uses – i.e. parking lots, food concessions. Food concessions appear to be commercial, but are permitted uses because park users need places to eat food, drink water and to sit. Generally a park purpose is recreational but courts have also included botanical gardens, zoos and active sports.

Trustee Cachola noted that he could not support the Resolution without court instructions on whether the Trustees have the authority to approve or not approve the Kapiolani Park Master Plan.

Trustee Chair Djou asked whether Act 53 of 1896 gave the Trust the power to prevent the homeless from trespassing onto park grounds. Deputy Corporation Counsel Spurlin responded that the homeless situation is an enforcement issue that the Administration and Honolulu Police Department need to resolve. She further informed that the homeless are “designated beneficiaries” of the Trust and have

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every right to be in the park. Long-term use and living in the park for private purposes are not permitted.

Chair Djou stated that he would be recommending a deferral on the Resolution in order to address the legal questions regarding the Master Plan and to initiate further dialogue between the Administration and the Trustees regarding squatters and vagrants in Kapiolani Park. Kapiolani Park is a beautiful park that is being taken over by a select few and he is fearful that it can rapidly become the center of criminal activity.

Trustee Apo stated that he would support a deferral if the Resolution was placed on an upcoming agenda promptly.

Trustee Chair Djou closed by stating that he would be placing Resolution KPT 09-1 on the next Kapiolani Park Trustees agenda.

Action deferred on Resolution KPT 09-1.

AYES: APO, BAINUM, CACHOLA, GARCIA, TAM, DJOU – 6.

NOES: None.

EXCUSED: DELA CRUZ, MARSHALL, OKINO – 3.

Related communications:

- M-1456/08 Final Environmental Assessment Kapiolani Regional Park Master Plan Update, dated April 2008, prepared for the Department of Design & Construction by Gerald Park Urban Planner and Miyabara Associates.
- M-380 Dan VanRavenswaay (Support Bill 2)
- M-381 Alan Fisk (Support Bill 2)
- M-382 Dennis W. Boom (Support Bill 2)
- M-383 Keith Temple (Support Bill 2)
- M-393 Linda Wong, Chair, Diamond Head Sub District #3 (Support Bill 2)
- M-394 James Nassif (Support Bill 2)
- M-395 John Collins (Support Bill 2)
- M-396 Michelle Matson providing comments on Bill 2.
- M-397 Bob Erb transmitting the Waikiki Beach Outreach Ministry Newsletter.

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ADJOURNMENT

There being no further business, the meeting was adjourned at 2:44 p.m.

Respectfully submitted,



BERNICE K.N. MAU
Acting City Clerk

jft

DATE APPROVED

March 4, 2009