

Report on Long-Term Legal Protection of Kensington Park By Director Cassandra Duggan

On Jan 12 of this year, I was given the assignment of investigating ways to legally limit future use of Kensington Park to recreation only. Voters in the November election came out strongly in favor of this idea. Unlike surrounding communities, Kensington has only one park. Our unusually beautiful and well-used park is one of Kensington's most valuable assets. It teaches our children about nature and provides a large variety of recreation options to keep Kensington citizens healthy. Ensuring that this irreplaceable asset is not encroached upon for competing civic uses is responsible management of Kensington's holdings.

In researching how to legally protect the park, with the help of General Counsel Ann Danforth, General Manager David Aranda, and some helpful citizens, I've found that there are several potential approaches which can achieve this purpose.

Firstly, a grant that we soon may be receiving will help in this endeavor. David Aranda is currently finalizing some paperwork for the KPPCSD to receive a grant of \$180,000 for the recent renovation of our Community Center. This grant stipulates that the deed for the parcel that the community center is on (which includes the parking lot below) must be restricted to park and recreation purposes only until 2048. This will help in protecting our park from being used for non-recreational purposes.

Another path to further legal protection of the park would be the passing of an ordinance. An ordinance is a legislative act that is

intended to serve as a long-term regulation. The language of this ordinance should be carefully chosen. Do we wish to state that the park “must be used for recreation only”? However, that could restrict the possible future use of the Annex building in the park for KPPCSD administration staff, which might be a useful option. Perhaps then the ordinance should be written so as to “limit the use of the park to recreation and KPPCSD administrative functions only?”

There are 2 options for passing an ordinance:

- 1) The legislative body introduces the ordinance and, after a public hearing, votes to pass first reading. At least five days later, the legislative body holds a second reading of the ordinance and passes it by majority vote.

The ordinance then takes effect in 30 days, unless challenged by a referendum petition which is signed by 10 % of registered voters – which in Kensington would equal about 435 voters.

Pros of using this process: This process is relatively quick and inexpensive.

Cons: Future legislative bodies can amend or repeal the ordinance, so it may not satisfy those who want a relatively permanent regulation. However, any future change could be blocked by a citizen's referendum. Filing of a referendum petition with sufficient signatures within 30 days would suspend a new ordinance.

- 2) Alternatively, the initiative process could be used to pass an ordinance.

This begins with creating a citizen's petition, which must be filed with the district's election official. 10% of registered voters must then sign it (435 voters approximately.) These signatures must be submitted to the district elections officer within 180 days. The elections official checks the signatures' validity and certifies the results to the board of directors.

The board can then adopt the proposed ordinance without alteration, or submit the ordinance to the voters, either at the district's next regular election or in a special election (a special election would be unnecessary and costly, though). If the citizens vote yes, the ordinance goes into effect 10 days after the election is certified.

Pros: Whether adopted by the board or the voters, the ordinance can only be modified or repealed by another vote of the public. This makes it a more permanent regulation.

Cons: The expense and time required for amendment or repeal make it an inflexible mode of regulation. Also, if we chose to put it to the voters (which is not necessary), we would have to pay the CCC elections office for this.

So, given a majority in favor, an ordinance would be easy to put into place.

Lastly, the idea of re-zoning the park came up. I would like to thank Ciara Wood for speaking to county official Jackson Wong about this option, which proved to be a legal dead end. Mr. Wong said that though it's possible to change the zoning of the park to "public/semi-public space", this designation would still allow for police and fire buildings to be located there – it would only exclude private residences or private commercial uses. So this would not achieve the end of limiting the park to recreational uses only.

And there you have our options for legally protecting our lovely park.