



Date: February 26, 2001

TO: Board Members - Parks and Recreation
FROM: General Manager - Parks and Recreation
SUBJECT: Jericho Beach Park - West Point Grey Academy Lease Proposal

RECOMMENDATION

THAT the proposal by West Point Grey Academy to locate a private school and other facilities in Jericho Beach and Locarno Beach Parks not be pursued.

POLICY

The powers of the Park Board are set out in the Vancouver Charter, Part XXIII, 485 to 497.

BACKGROUND

West Point Grey Academy (WPGA) is proposing an arrangement with the Park Board which would allow it to move its private school of over 600 students into existing buildings in Jericho Beach Park (the barracks are actually located in Locarno Beach Park, some of the planned improvements would be in Jericho Beach Park), build additional facilities (20,000 to 25,000 sq. ft.) and undertake some improvements in the park.

The current proposal was presented to the Park Board at the Board Meeting of January 29, 2001. Prior to that, both the current and earlier versions had been shared with Park Board staff, the West Point Grey Community Association and others in a series of meetings in an attempt to outline the potential recreational benefits of this proposal.

The barracks in Jericho Beach Park have been leased to Hostelling International Canada, a non-profit organisation, for use as a youth hostel since 1973. The current ten-year lease expires in 2003. The Jericho Beach Youth Hostel is one of their flagship destinations, and a request to renew the lease for another ten years has recently been received. The relationship between the Park Board and the Youth Hostel has been unproblematic in the past, and the impacts on the park have been limited.

DISCUSSION

The proposal challenges widely held perceptions of the appropriate uses of a public park. However, even before the Park Board begins to consider if the proposed arrangement is in the best interest of the public and appropriate for a public park, it should be considered if such an arrangement would be lawful. The two initial questions are:

- Does the Park Board have the authority under the Vancouver Charter to locate a school in any public park?
- Is a school an acceptable use of this particular park in light of the pertinent land grant agreements that conveyed this land from the Federal Government to the City of Vancouver?

■ **VANCOUVER CHARTER:** The Charter sets out the powers of the Park Board, including the uses which may be provided for in parks, such as buildings and facilities “required for the recreation, comfort, and enjoyment of the public while in the park”, accommodation for sports and games, entertainment, playgrounds, swimming pools, facilities for boating, and others.

School use is not listed as a use that the Park Board has authority to accommodate in a park, and probably was not contemplated as a park use in the drafting of the legislation. In Vancouver, public schools are frequently located adjacent to parks, but the precedent of locating a school in a park has not been established. A thorough legal opinion testing the compatibility of school use with the authority of the Park Board has not been obtained, but should be sought if necessary. Recent judicial rulings tend to favour a more narrow interpretation of appropriate park uses.

The Charter provides that the land can be released from permanent park status by declaring it surplus to the park and recreational needs of West Point Grey and the City. This requires a 2/3 majority at both the Board and City Council. Once the permanent park status is lifted, any use compatible with the existing zoning can be pursued.

■ **LAND GRANT:** In the Crown Grants transferring ownership of this land to the City of Vancouver, the land is granted “for so long as the said lands and every part thereof are used for public park and recreational purposes.” Furthermore, the City agrees to “surrender possession of said lands” if the lands are no longer used for those purposes.

A private school is not a public park purpose nor a recreational purpose. As a result, it is a risk that accommodating WPGA in Jericho Beach Park could be ruled a violation of the condition quoted above, and consequently cause reversion of land ownership to the Federal Government.

The question of compatibility with the terms of the land grant may also need to be addressed at the possible renewal of the Youth Hostel lease.

CONCLUSION

Even a very preliminary legal analysis suggests that both the Vancouver Charter and the land grant agreements embody the notion that parks should be used for park and recreational purposes. Furthermore, staff have found no evidence suggesting that a private or any school qualifies as a park or recreational purpose.

Neither the legal framework within which the Park Board operates nor the specific legal context of this particular park welcome the kind of use proposed by West Point Grey Academy. It is furthermore difficult to reconcile the alienation of public park land for a private school with the stated mission of the Park Board “to provide, preserve and advocate for parks, open spaces and leisure services.” The proposal by West Point Grey Academy should therefore not be pursued.

Prepared by:

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