

May 8, 2017

To: Members of the Discovery Park Trust Partnership

From: Elizabeth Campbell, MPA

Re: Discovery Park Trust and Public Disclosure Request

Discovery
Park
Community
Alliance



DEBUT OF THE DISCOVERY PARK TRUST

Multiple inquiries about an entity known as the Discovery Park Trust are circulating in local emails. The very recent revelation that there is an entity known as the Discovery Park Trust and the information and claims on its associated website and Facebook pages about its all encompassing role at Discovery Park has become a bit of a community puzzle.

There has been no public outreach or local community outreach related to putting Discovery Park into a trust, and/or establishing a trust to benefit Discovery Park, much less has there been within the circles of those well known advocates that have years of association with Discovery Park's history, advocacy, policies, or politics any report or knowledge about an effort to establish this "trust".

In terms of solid information, this tidbit is available, according to WHOIS records the Internet domain for the Discovery Park Trust was established in mid-March of this year – just over one and a half months ago. Conceivably, that's how young this trust is.

LEGAL REGISTRATION OF THE TRUST

More importantly however, there is no record of a trust by that name registered with either the Washington State Secretary of State, as required by RCW Chapter 11.110, nor is there one registered with the clerk of the King County Superior Court, as required by RCW 11.98.005.

Legal advisors to this matter have noted that a trust organized and with situs in Washington state would have to comply with the Revised Code of Washington's requirements related to trusts, and would have drafted and ratified a trust document that establishes the purpose(s) of the trust, who the trustee(s) are, who any successor trustees might be, who the beneficiary or beneficiaries of the trust are, any plans for distribution to the beneficiary/beneficiaries, as well as what the asset/assets claimed by the trust are; and that a legitimate trust would be accordingly registered with the proper governmental unit.

The Discovery Park Trust is not listed on either the Washington Trust Directory or the Secretary of State's Charitable Trusts Directory. It is not listed in the Charitable/Non-Profit organizations roster maintained also by the Secretary of State. There is no record of it with the IRS, in its Exempt Organizations database.

There is no record either of the trust being registered as a non-profit corporation with the Secretary of State, including that it would have to be registered if it was planning on engaging in fundraising, the fact of which is established through the multiple "Donate" button included on the Trust's Facebook and internet websites. It is not registered with the Secretary of State for fundraising purposes.

Of further note, all of the “Donate” buttons on the Trust’s webpages link to the Friends of Discovery Park’s PayPal donation portal. This begs the question if the Discovery Park Trust and the Friends of Discovery Park are not one and the same, have the Friends of Discovery Park entered into a fiscal sponsorship agreement with the Discovery Park Trust? If so, where is a copy of that document?

One “Donate” button buried within the web files of the Trust links to the Seattle Parks Foundation. This begs the second question, if the Discovery Park Trust and the Seattle Parks Foundation are not one and the same, has the Seattle Parks Foundation entered into a fiscal sponsorship agreement with the Discovery Park Trust? If so, where is a copy of that document?

On the other hand, just as the Friends of Discovery Park and its alter ego, the “seattlediscoverypark.org” have their domain registrations shrouded from public scrutiny, so too is the Discovery Park Trust’s domain ownership shielded. It is not possible to determine who the trust’s agents or real parties in interest are from that perspective.

WHAT ARE THE TRUE PURPOSES OF THE DISCOVERY PARK TRUST?

Just as the Friends of Discovery Park inner circle has hidden over time much of who really is running it and what they are doing that is of public benefit, of benefit for the Friends organization, the Discovery Park Trust at this early stage of its existence is also running the same non-information online platform as the Friend’s leadership has.

There are multiple vanilla, oblique website commentaries on the Trust’s website, lots of non-critical information being posted, all riddled with royal “we” statements about broad sets of activities it is undertaking and references to all its plans and accomplishments. However, there is not even an email address for the trust online, something that might help identify at least a real person or contact point for the trust. Instead there is just a blind “Send” form going to who knows who or where.

This begs the questions – if the Friends of Discovery Park/Seattle Discovery Park/Discovery Park Trust, who appear to be one and the same or at least operating in league with each other, are such open and public spirited endeavors related to what is a publicly held park, Discovery Park, then why the need to hide the registrants/agents for these domains? Why the need to shield the identities of who the leaders/agents/board members/trustees/officers are for what appears to be clearly duplicitous online efforts? Why the generalities about activities, why the total lack of transparency about important aspects of the trust – including where are its founding documents and public and legally required registrations?

DISCOVERY PARK TRUST PARTNERS

Hand in hand with the sudden appearance of the “Discovery Park Trust” is the revelation on its website that the Trust has no fewer than 12 substantive partners, including the City of Seattle and other local stalwarts of the parks and recreation establishment, all well-known local entities with decades of public presence, holding millions of dollars of assets. One would think that given the depth and breadth of these associations, not to mention each of these “partners” penchants for publicity, that the local Magnolia community leaders who have deep ties to Discovery Park would have heard all about these headliner associations, and even more so would have heard all about this trust being established in the first place!

In addition to the above obfuscation, it should be noted that the banner organization that appears to be at the center of this trio of “Discovery Park” alter egos, the Friends of Discovery Park, held its annual meeting just a scant month ago. At that meeting, its former president,¹ Gary Gaffner, made no mention in his annual report to the membership about a Discovery Park Trust having been formed.

Likewise, another key person involved with the Friends of Discovery Park, Phil Vogelzang, and allegedly associated with the trust, spent over an hour at the annual meeting touting all the work he had engaged in related to Discovery Park, related to the Friends of Discovery Park, related to the Discovery Park Advisory Committee, and yet made zero mention of his involvement for over a month before forming a trust for Discovery Park.

Additionally, at this same meeting another individual sharing the headliner acts with Mr. Gaffner and Mr. Vogelzang, Garrett Esperum also waxed at length about all of his efforts and his activities that he was engaged in related to Discovery Park, the Friends of Discovery Park, and other future endeavors he was participating in with the aforementioned parties. Just as Mr. Gaffner and Mr. Vogelzang before him gave very lengthy and detailed presentations, so did Mr. Esperum. However he also made no mention of the Discovery Park Trust.

That the publicly stated purpose of the trust appears to be that it seeks to transcend and even supersede the City’s stewardship, management of, and maybe even ownership of Discovery Park, it is hard to believe that neither Mr. Gaffner nor Mr. Vogelzang nor Mr. Esperum chose to disclose the existence of a trust for Discovery Park at either the Friends’ annual membership meeting or in any other community forum.

Surely such an activity and resultant action, the formation of this trust, would be of no small interest to the Friends’ membership, it is if not an unusual effort to usurp Discovery Parks’ community guidance and support structures, it is in no small part an undertaking with possibly extensive implications. And given that the establishment of a trust requires the extensive involvement of a lawyer and the concomitant cost thereof, this likewise would be an important fact to divulge/share – with the membership or even locally.

The trust’s sudden appearance and the rather grandiose claims on its websites that it has multiple projects at Discovery Park underway, within the less than two months of its existence demonstrates that this is far from an act that was done in a vacuum; albeit a closely held vacuum. Of additional interest is its online claims, that it is now the defacto owner of all things “Discovery Park”. That point is being made abundantly clear online by whomever the trust’s agents are. Has a public park really been transferred into a trust of tangled origins and like the Wizard of Oz is acting behind a curtain of webpages?

ALTERNATE PURPOSES OF THE TRUST ARRANGEMENT REQUESTS FOR FRIENDS OF DISCOVERY PARK ACCOUNTING

Realistically though, given the whole other aspect of this situation, that there is an ongoing effort by members of the Friends of Discovery Park to hold this small cadre of Friends of Discovery Park agents and their colleagues accountable, it is a real possibility that the emergence of the “Discovery Park Trust” is not mere coincidence but in fact a telling tale.

The ongoing effort within the membership of the Friends of Discovery Park has been and is to seek transparency and accountability from the Friends group's now self-appointed officials and agents.

Those efforts have including seeking the disclosure to the membership the entirety of what it is these individuals have been doing in the name of the Friends of Discovery Park with the City and others related to Discovery Park, and are doing, or not doing, related to the administration of the Friends of Discovery Park organization.

The membership efforts have also included requests to these individuals to diversify and augment the Friends board, as per its bylaws, and to allow new officeholders and boardmembers, to strongly encourage an election of new officers and boardmembers.

Those requests have been met with the response one would expect from an autocratic group leadership. It is an entirely arbitrary and capricious response, dominated by what has become a closed leadership of the Friends. Open board membership positions, if and when they are ever to occur, are only made available to individuals who have been in servitude to the former officers and board, and most importantly have demonstrated their complete fealty to the closed leadership of the Friends' group and to the current Discovery Park dogma they promote.

This is how Mr. Gaffner has responded to the questions and requests about the Friends of Discovery Park leadership. As per Gary Gaffner, "We [he and the other five unaccountable people working with him] currently constitute the Nominating Committee by the Board of the Whole...in other words a majority of the entire slate of seated members. We encourage corporate members to let us know when they would like to begin helping the Board by serving on one or more committees and demonstrating their dedication to our Corporate purposes over a significant period of time." On that latter note, for years now that practice, the "significant period of time" is years, and "demonstrating their dedication to our Corporate purposes" means loyalty to Mr. Gaffner's and his friends' viewpoints about Discovery Park.

Most importantly however the membership efforts to make these insiders of the Friends group become transparent and accountable is the effort to force an accounting for the Friends' funds. The individuals in question refuse to provide an accounting for the Friends of Discovery Park's funds for over the last at least five or more years. Neither the Friends of Discovery Park titular president Gary Gaffner nor its likewise titular treasurer, David Sinclair² have provided a response to the requests for accounting, in fact they do not even acknowledge that the requests have been made in the first place.

This Discovery Park Trust apparition and even the May 23rd Discovery Park history and political event exemplified by its overtones of what uses and users are acceptable at Discovery Park, all appear to be tailor made gambits to divert attention away from the above underlying requests, questions, and inquiries that have been put to Gary Gaffner, David Sinclair, and their colleagues by the local community and members of the Friends of Discovery Park.

OTHER PRACTICAL INSTRUMENTALITIES OF "THE TRUST" –
HISTORICALLY LIMITING ACCESS TO ALL COMMUNITIES OF PEOPLE IN SEATTLE

Likewise given the online informational setup of the Discovery Park Trust, the dramatic claims about what Discovery Park really symbolizes, what it should be used for (and the other obvious information conveyed that it is the trust that is setting itself up to be the arbiter of the Park's

programming), the nature of the upcoming Discovery Park “history” event, this also can be construed as being tailor made to blunt the other public effort related to Discovery Park, demands by the public and by members of the Friends of Discovery Park organization to make Discovery Park more accessible to the public at large and relevant to the present and future demographics and population of Seattle.

To gain relevancy and concurrency with the present this would include revisiting and updating the now almost four decades old Discovery Park Master Plan.

The inner circle of Friends of Discovery Park, Gary Gaffner, David Sinclair, Mason Rhoads, and Phil Vogelzang, the public face of the Friends of Discovery Park, all to a man have indicated their outright resentment and opposition to the overtures to review the Discovery Park Master Plan, and all convey a thinly concealed hostility towards anyone proposing or mentioning the proposition that one, they are not the sole arbiters of Discovery Park policies, and two, that the Master Plan needs to be revisited.

Typically the responses by these individuals are by turns obstructive, dismissive, and they make such comments that only certain types of people should use the park, that only themselves and those they approve of have a right to any say in Discovery Park policies, that unspecified forces are trying to steal a piece of the park – and absolutely – that there is limited room at the park and if there is too much diversity of users at the park, if there are too many users or uses in the park, they won’t stand for it.

The “official” response of the Friends of Discovery Park’s self-appointed officers on the above matters is succinctly conveyed by Gary Gaffner, he writes, “Generally, the current Trustees believe that the exploding population in and around Seattle necessitates a higher and higher focus on maintaining the limited open spaces provided by the Park Dept., the opposite of those who believe every park should accommodate multiple uses that are consistent with changing cultural and recreational values in the city.”³

Mr. Gaffner’s views on the subject of diversity of uses and users at Discovery Park have likewise been repeated by those named above, including what they are prepared to do to enforce their perspectives. As per Mr. Gaffner, “We don’t pretend to represent all the diverse people who have various interests in getting a free chunk of Discovery Park to do their thing, and often blatantly ignoring those things which the “Friends” organization holds dear...FoDP has a Legal Defense Fund which it has used effectively in the past to thwart municipal thinking that is contrary to our corporate purpose...and it is an important part of our mission to do that over and over as the needs arise. And, we dismiss any notion that we should aspire to provide ever-increasing multiple park purposes as a Magnolia community park, except in the children’s play area”.

Leading by example and true to their word, all of the aforementioned individuals recently opposed and were instrumental in ensuring that a permit application to the City of Seattle’s park district by a group that wanted to hold a one-time Summer concert event at Discovery Park was thoroughly squelched.

Not only has each of these individuals by turns clearly stated their preferences about what users they think are acceptable at Discovery Park – several of these men also literally patrol Discovery Park on a regular basis, acting as Discovery Park behavior and user police. They have stated at meetings that

they personally approach park visitors and tell those visitors what they think about the visitors' activities in the park and that they do not meet the standards of how Discovery Park is to be enjoyed.

REQUEST FOR PUBLIC DISCLOSURE

Since these Friends of Discovery Park agents are unwilling to be transparent about both their management of the Friends of Discovery Park and their maneuvers and activities related to their plans and schemes related to Discovery Park, including their involvement with the formation of the Discovery Park Trust, their opposition to an update of the Discovery Park Master Plan, and related to the Friends organization, their involvements with all these "partnerships" that they are now claiming, and of course having said nothing to the Friends membership or the local Discovery Park community advocates about the Discovery Park Trust matter, it therefore becomes incumbent upon the claimed partners in the Discovery Park Trust, including but not limited to the City of Seattle and the Seattle Park District, the University of Washington, the Seattle Parks Foundation, to be immediately forthcoming about their association with and activities related to the formation and operation of the Discovery Park Trust and the Friends of Discovery Park organization.

"Forthcoming" includes disclosing to the public what their literal associations with the Friends of Discovery Park and the Discovery Park Trust are, what the purpose of the trust is, who proposed it, who participated in drafting its trust documents, when in time these things transpired, to provide the substantive documents pertaining to both the Discovery Park Trust, the trust agreement and related documents, and any agreements between the partners and/or with the Friends of Discovery Park/Seattle Discovery Park/the Discovery Park Trust. They also need to disclose why none of the parties to this Discovery Park Trust and partners arrangement never attempted to include the local or at-large community in any of their deliberations/meetings/communications/planning activities that obviously went into forming this alleged entity – that also appears to be intent upon controlling the policies, projects, and soul of Discovery Park. Request is also made for any documents that establish an association between the Discovery Park Trust and City of Seattle's previous and current environmental review activities related to the Fort Lawton Army Reserve property that is adjacent to Discovery Park.

The above requested disclosures by the Discovery Park Trust partners should be prompt, substantive, complete, candid, and *timely*.

On that latter note they should precede the May 23rd event date, and also include information related to the May 23rd event, including but not limited to the communications between all parties that went first into the premise that the event should be held, then disclose who the individuals were that decided who the presenters should be at the event, and then what their general talking points and takeaways for the event are to be; what the public outreach plan for the event is, what the expected gain or outcomes for the speakers and attendees are expected to be as a consequence of the event, what the cost of the event is, and who or what is expected to provide the funds for the event.

Please keep in mind that all matters and activities related to Discovery Park are of great public interest, both locally and in general, and that it is not a sustainable proposition that the less disclosed the better. To take that approach in this instance would be counterproductive, it would be a show of bad faith on the part of the assorted progenitors or participants in this "Discovery Park Trust" escapade, and in the instance of public disclosure, contrary to state law.

Elizabeth A. Campbell, MPA
Member, Friends of Discovery Park

¹ “Former” because despite the requirements in the Friends of Discovery Park bylaws that the officers of the organization be elected at its annual meeting on April 1, 2017, in fact there was no election and thus there are no current elected officers nor new boardmembers for the Friends.

² The most current and limited knowledge about the Friends’ finances is that for unknown reasons Mr. Sinclair the treasurer is not in fact handling the funds of the Friends of Discovery Park and that Mr. Gaffner instead controls the funds of the organization but refuses to be transparent with his financial activities, declines to provide an accounting.

Friends of Discovery Park solicits funds on-site at the Discovery Park Environmental Learning Center in cooperation with the City of Seattle/Seattle Parks District. Park District employees hand to most visitors a map of the park that is provided by the Friends of Discovery Park. On the back of it there is information that requests donations and sets out how to make them to the Friends group.

Given that the Park District/City of Seattle is a tacit fundraising partner of the Friends of Discovery Park with this arrangement, it is unacceptable that neither entity has produced for many years any financial statements nor even audited returns for the money that has been collected both privately and publicly.

³ Gary Gaffner Email March 26, 2017