

# Council Votes To Seek State Legislation For Children's Pool

by KGTV-10 News Staff

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The City Council voted Tuesday to seek state legislation in an attempt to block the court-ordered removal of harbor seals from the Children's Pool beach in La Jolla.

Sen. Christine Kehoe, D-San Diego, agreed to sponsor the legislation if it was requested by the City Council and Mayor Jerry Sanders. The deadline for introducing state legislation is Feb. 27.

The City Council voted 7-1 to ask Kehoe to draft the bill. Councilwoman Sherri Lightner, who represents La Jolla, cast the lone dissenting vote.

The legislation would amend a trust established in 1931 that designated the Children's Pool as a bathing area for children to also allow for a marine mammal habitat as a permissible use.

The beach, also known as Casa Beach, is protected by a sea wall built through a gift by the late philanthropist Ellen Browning Scripps.

The legislation was recommended by City Attorney Jan Goldsmith in an effort to end costly lawsuits over the colony of harbor seals that have occupied the Children's Pool in recent years.

A Superior Court judge ordered San Diego in 2005 to restore the Children's Pool to its "pre-seal" condition by dredging the beach. The judge also ordered the city to take down the rope that protects the seals and reduce the bacteria levels caused by seal excrement so the beach can be used as a swimming area again.

That ruling has been repeatedly challenged by the Animal Protection and Rescue League and La Jolla Friends of the Seals, but has been upheld by state judges.

"If the state Legislature changed the trust terms to permit discretion to allow for seals, the effect of that, in our opinion, is to moot that court order," Goldsmith said.

Following the state ruling, the seal protection groups was successful in convincing a federal judge to grant a temporary restraining order that allowed the installation of a rope barrier to keep people away from the harbor seals during the pupping season.

Pending the outcome of the state legislation, Goldsmith said the city will attempt to comply with both rulings.

An environmental impact report is due in September related to the dredging of Children's Pool. The rope barrier has already been reinstalled at the Children's Pool during pupping season.

Dozens of people packed the City Council chamber today on both sides of the seals debate.

Steve Cross testified that amending the 1931 trust would only expose the city to further litigation.

"I think this type of amendment of state trust law is certainly ill advised," he told the City Council.

Others argued that the beach was intended to be a safe place for children to swim, and that the contamination caused by the seals was preventing kids from using the area.

In a statement, Bryan Pease, an attorney for the APRL, said the legislative amendment would bring an end to the litigation, while at the same time protect the seals at the Children's Pool.

"We believe that this proposal benefits the city financially as well as the vast majority of the public who don't want the seals disturbed," he said.

Councilman Todd Gloria acknowledged that more lawsuits are likely, but said the legislation was the best opportunity to protect the seals.

"I think we should pursue this amendment to the tidelands grant," he said. "It affords us our greatest hope to preserve this jewel that is the sea colony and to avoid the costs associated with dredging."

Lightner said she was opposed because the city had not yet received the environmental report. She also wants a financial analysis of both keeping the seals at Children's Pool and dredging the beach.

Source: <http://www.10news.com/news/council-votes-to-see-state-legislation-for-children-s-pool#->