

CLERK'S FILE COPY

(R-2010-794)
REV. COPY

RESOLUTION NUMBER R- 305837

DATE OF FINAL PASSAGE JUN 08 2010

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO DETERMINING THAT A COASTAL EMERGENCY EXISTS REQUIRING THE IMMEDIATE PLACEMENT OF THE ROPE BARRIER; DIRECTING THE MAYOR TO SEEK AN EMERGENCY AMENDMENT TO COASTAL DEVELOPMENT PERMIT NO. 701673/SITE DEVELOPMENT PERMIT NO. 701765 AND FOLLOW UP PERMITS TO KEEP THE ROPE BARRIER UP YEAR AROUND AT CHILDREN'S POOL; DIRECTING THE CITY ATTORNEY TO DRAFT AN ORDINANCE AMENDING SAN DIEGO MUNICIPAL CODE SECTION 63.0102, PROHIBITING ANY PERSON FROM BEING ON THE CHILDREN'S POOL BEACH DURING HARBOR SEAL PUPPING SEASON; DIRECTING THE MAYOR TO AMEND THE LOCAL COASTAL PROGRAM ACCORDINGLY IF NECESSARY, AND TO PROPOSE SIGNAGE BASED ON THE COUNCIL'S ACTION AND TO REPORT BACK TO NR&C.

WHEREAS, in 1931, the State of California granted Children's Pool area tidelands to the City of San Diego upon the condition that said lands were to be developed exclusively to public park, bathing pool for children, parkway, highway, playground and recreational purposes and other uses as may be convenient for the full enjoyment [Trust]; and

WHEREAS, on September 14, 2004, the Council approved Resolution No. R-299646 authorizing the joint use of Children's Pool; and

WHEREAS, in April 2006 and December 2006, the City Council resolved that a rope barrier be placed at the Children's Pool during pupping season (December 15 to May 15); an emergency Coastal Development Permit [CDP] was obtained and rope barrier was installed at those times and subsequently each year; and

WHEREAS, on September 22, 2009, City staff presented for Council's consideration a Site Development Permit [SDP], CDP and Environmental Impact Report [EIR] that proposed the removal of approximately 3,000 cubic yards of sand from the Children's Pool to allow water to circulate reaching decontamination levels for human use of the beach, at which time Council voted not to certify the EIR; and

WHEREAS, on December 2, 2009, the City Hearing Office approved a CDP for annual placement of the rope barrier during pupping season; the permit was appealed to the Planning Commission and California Coastal Commission and was denied by both bodies; and

WHEREAS, effective January 1, 2010, the Trust was amended by the State legislature to list an additional use of the Trust; a "marine mammal park for the enjoyment and educational benefit of children"; and

WHEREAS, on March 17, 2010, the Natural Resources and Culture Committee considered several management options of the Children's Pool as presented by various community organizations; and

WHEREAS, on April, 5, 2010, the Natural Resources and Culture Committee held a special hearing to consider various management options or combination of management options regarding the Children's pool during harbor seal pupping season, December 15 to May 15, and non-pupping season, May 16 to December 14; and

WHEREAS, the Natural Resources and Culture Committee voted to direct the Mayor to seek an emergency amendment to the existing Coastal Development Permit at the Children's Pool to allow the rope barrier to remain year around, to seek a local coastal program amendment to prohibit the public from entering the beach from December 15 to May 15, to prohibit dogs on

the beach year around, and to seek private funding for a Park Ranger or Lifeguard with the primary duty of patrolling Children's Pool and authorizing the Park and Recreation Department to create a volunteer docent program lead by the Park Ranger or Lifeguard; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that a coastal emergency exists requiring the immediate year around placement of the rope barrier.

BE IT FURTHER RESOLVED, that the Mayor or designee is directed to, within 10 days of the date of final passage of this resolution, seek an emergency amendment to Coastal Development Permit Number 701673 and Site Development Permit Number 701765 to keep the rope barrier up year around at Children's Pool to protect the public health and safety and to mitigate the loss of or damage to life, health, and essential public services based on the findings contained herein, Report to Council, and any other information required to process and obtain an emergency Coastal Development Permit.

BE IT FURTHER RESOLVED, that, the Mayor or his designee is directed, as a required condition of a grant of an Emergency Coastal Development Permit, to amend Coastal Development Permit Number 701673 and Site Development Permit Number 701765 to keep the rope barrier up year round at Children's Pool and to timely submit the permit applications.

BE IT FURTHER RESOLVED, that the City Attorney is directed to draft an ordinance amending Municipal Code section §63.0102, Use of Public Parks and Beaches Regulated, to prohibit public access to the Children's Pool beach during harbor seal pupping season, from December 15 to May 15, for docketing at the City Council no later than June 30, 2010.

BE IT FURTHER RESOLVED, that the Mayor or his designee is directed to amend the Local Coastal Program, only if required, to prohibit the public from entering the beach during harbor seal pupping season, from December 15th through May 15th.

BE IT FURTHER RESOLVED, that the Mayor or his designee is directed to propose appropriate signage based on the Council actions and provide a written report back to the Natural Resources and Culture Committee within 45 days.

APPROVED: JAN L GOLDSMITH, City Attorney

By Shannon M. Thomas
Shannon M. Thomas
Deputy City Attorney

SMT:mm
04/29/2010
05/18/2010 Rev. Copy
Or.Dept:City Council Comm.
R-2010-794
MMS #12099

I hereby certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of MAY 17 2010.

ELIZABETH S. MALAND
City Clerk
By [Signature]
Deputy City Clerk

Approved: 6-3-10
(date)

[Signature]
JERRY SANDERS, Mayor

Vetoed: _____
(date)

JERRY SANDERS, Mayor