

R-75-2422

RESOLUTION NO. 213298

MAY 15 1975

RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO, CALIFORNIA, DECLARING ITS INTENTION TO ORDER CERTAIN ACQUISITIONS AND IMPROVEMENTS PURSUANT TO THE SAN DIEGO PARK DISTRICT PROCEDURAL ORDINANCE OF 1969; PROVIDING FOR A CONTRIBUTION BY THE CITY; DESCRIBING THE DISTRICT TO BE BENEFITED BY THE ACQUISITIONS AND IMPROVEMENTS AND TO BE ASSESSED TO PAY THE COST AND EXPENSE THEREOF; DETERMINING THAT BONDS SHALL BE ISSUED UNDER THE IMPROVEMENT ACT OF 1911 TO REPRESENT UNPAID ASSESSMENTS; PROVIDING FOR THE USE OF ANY SURPLUS AMOUNT REMAINING IN THE IMPROVEMENT FUND AFTER COMPLETION OF THE IMPROVEMENT; AND REFERRING THE PROPOSED IMPROVEMENT TO THE SUPERINTENDENT OF STREETS TO MAKE AND FILE A WRITTEN REPORT.

(Park District No. 6 (Bird Rock-Muirlands))

WHEREAS, a petition was filed with the City Clerk under Document No. 739006 requesting the formation of a park district in the Bird Rock-Muirlands area under the San Diego Park District Procedural Ordinance of 1969 but was certified by the City Clerk as not bearing the requisite number of qualified signers; and

WHEREAS, the Council adopted Resolution No. 206977 initiating proceedings, on its own motion, for the formation of Park District No. 6 (Bird Rock-Muirlands) under said procedural ordinance; and

WHEREAS, a map of the assessment district, designated "Plat No. 3891," showing the exterior boundaries of the proposed park district has been presented to the Council; and

WHEREAS, the Council deems it desirable to continue the proceedings heretofore initiated on its own motion pursuant to the San Diego Park District Procedural Ordinance of 1969 and, in particular, Division 8 (commencing with Section 61.0801) of Article 1, Chapter VI of the San Diego Municipal Code; and

WHEREAS, the Council desires to provide for a contribution and a payment by the city of a portion of the costs and expenses of the proposed acquisition and improvement and to fix the amount thereof; NOW, THEREFORE

BE IT RESOLVED by the Council of the City of San Diego as follows:

Section 1. Proceedings for the formation of proposed Park District No. 6 (Bird Rock-Muirlands) of The City of San Diego shall be taken pursuant to the San Diego Park District Procedural Ordinance of 1969 and, in particular, Division 8 (commencing with Section 61.0801) of Article 1, Chapter VI of the San Diego Municipal Code.

Section 2. The public interest and convenience require and the Council hereby declares its intention to order certain acquisitions and improvements to be made, the proposed acquisitions and improvements being described as follows:

I. THE ACQUISITION, IN FEE SIMPLE, OF CERTAIN
OPEN SPACE LANDS FOR PARK AND RECREATION PURPOSES, said lands
being described as follows:

A. All of Blocks 1, 2 and 5 together with Lots 16 through 30 inclusive, Block 6; Lots 25 through 28 inclusive, Block 7; Lots 1 through 4, 27 and 28 and the northerly 10.00 feet of Lot 5, Block 4; Lots 1, 2, 27 and 28, Block 3 of Bird Rock City By The Sea, according to Map thereof No. 975 filed in the office of the County Recorder of the County of San Diego.

B. Also that portion of Lot 9, La Jolla Butterfield Estates according to Map thereof No. 3782 filed in the Office of said County Recorder of San Diego County more particularly described as follows:

Beginning at the Southwest corner of Lot 5 of said La Jolla Butterfield Estates; thence along the Southerly line of said Lot 9, South $76^{\circ}20'20''$ West, 240.00 feet to the Easterly line of said Map No. 975; thence along said Easterly line North $14^{\circ}08'40''$ West, 467.38 feet to the Northerly line of said Lot 9; thence along said Northerly line North $75^{\circ}56'20''$ East, 182.06 feet; thence, leaving said Northerly line, along the Northerly extension of the Westerly line of Lot 8 and along the Westerly line of Lots 6, 7 and 8 of said La Jolla Butterfield Estates, South $14^{\circ}03'40''$ East, 319.54 feet to

the Southwesterly corner of said Lot 6; thence along the Westerly line of said Lot 5, South $35^{\circ}26'40''$ East, 160.57 feet returning to the Point of Beginning.

C. Also that portion of Lot 5 of Pueblo Lot 1782 of the Pueblo Lands of San Diego according to Map thereof made by James Pascoe in 1870, a copy of which Map was filed in the Office of the Recorder of said San Diego County, November 14, 1921 as Miscellaneous Map No. 36, more particularly described as follows:

Beginning at the Southeast corner of said Lot 9, La Jolla Butterfield Estates; thence along the Southerly line of said Lot 9, South $76^{\circ}20'20''$ West, 240.00 feet to the Easterly line of said Map 975; thence along said Easterly line, South $14^{\circ}08'40''$ East, 348.00 feet to an angle point in Westerly line of Lot 54, La Jolla Mesa Vista, according to Map thereof No. 3650 filed in the Office of said Recorder of San Diego County; thence along the Northwesterly line of said Lot 54 and the Northwesterly line of Lots 55 and 60 of said La Jolla Mesa Vista, North $30^{\circ}38'10''$ East, 198.12 feet to the Northwest corner of said Lot 60; thence along the Westerly line of Lot 61 of said La Jolla Mesa Vista, North $14^{\circ}08'40''$ West, 90.00 feet to an angle point; thence along the Northwesterly line of Lots 61 and 62, North $26^{\circ}54'10''$ East, 152.95 feet returning to the Point of Beginning.

The above-described acquisition is more particularly shown on Right of Way Drawing No. 16359-D, Document No. 751335, on file with the City Clerk, and reference is hereby made thereto for the full and detailed location of the proposed acquisition. The foregoing lands and certain existing streets and alleys adjacent thereto are hereinafter referred to as "project area."

II. THE CONSTRUCTION AND INSTALLATION WITHIN THE PROJECT AREA OF IMPROVEMENTS FOR PARK AND RECREATION PURPOSES, as follows:

A. Grading, soil preparation, landscaping, the planting of trees, shrubs, or other ornamental vegetation, and the construction of mowing strips.

B. Grading and the construction and installation of a children's playground, recreational furnishings and equipment, pedestrian ways and hiking trails, and picnic pads, tables, and benches.

C. Grading and the construction of offstreet vehicle parking facilities, sidewalks, curbs, gutters, paving, drainage facilities, water lines, irrigation sprinkling facilities, and drinking fountains and appurtenances and appurtenant work.

Section 3. The proposed acquisition, as described in Section 2 hereof, is a land area which is primarily in its natural state and has value for park and recreation

purposes. In the opinion of the Council, the proposed acquisition conforms to the criteria established for open space lands set forth in the "Progress Guide and General Plan For The City of San Diego," as amended, and would, if retained in its natural state or improved, enhance the present or potential value of abutting or surrounding properties or would maintain or enhance the conservation of natural or scenic resources.

Section 4. Certain existing public streets and alleys are located near or adjacent to the lands proposed to be acquired for park and recreation purposes, as described in Section 2 hereof. After the acquisition by the city of those lands, the Council proposes to undertake proceedings for the vacation of all or such portions of said streets and alleys as may be necessary or convenient for the use of the acquired lands for park and recreation purposes and, by ordinance, to formally dedicate in perpetuity for park and recreation purposes all acquired lands and streets so vacated.

Section 5. This Council hereby makes the cost and expense of the acquisition and improvement chargeable upon a district, which district this Council hereby declares to be the district benefited by the acquisition and improvement and to be assessed to pay the cost and expense thereof. The Council hereby declares that all lots or parcels of land owned by the

United States, the State of California, the county, any school district, or any other special district and in use in the performance of a public function shall be and hereby are omitted from the assessment hereafter to be made to cover the costs and expenses of the acquisition and improvement. Said district is described by a map of the assessment district designated "Plat No. 3891" which indicates by a boundary line the extent of the territory included in the proposed district and which shall govern for all details as to the extent of the assessment district. Said map is hereby approved and reference is hereby made to said map for a description of said district. The City Clerk is hereby directed to endorse his certificate, on the original and a copy of said map of the assessment district, evidencing the adoption of this resolution, to file the original of said map in the Office of the City Clerk and to file said copy with the County Recorder of the County of San Diego.

Section 6. The Council determines that a portion of the costs and expenses of the proposed improvements shall be contributed and paid by the city from the fund or funds hereafter designated by the Council, such contribution to be in the amount of \$66,700.

Section 7. Pursuant to Division 8 of Article 1, Chapter VI of the San Diego Municipal Code and the Municipal

Improvement Act of 1913, the Council hereby determines and declares that bonds shall be issued under the Improvement Act of 1911 (commencing with Section 5000, Streets and Highways Code). Said bonds shall be issued to represent each assessment of fifty dollars (\$50) or over remaining unpaid for thirty (30) days after the date of recording the assessment. Said bonds shall be serial bonds and shall extend over a period ending nine (9) years from the second day of January next succeeding the next September 1st following their date. The bonds shall bear interest at a rate to be determined upon the sale thereof. The maximum rate of interest to be paid on said bonds and indebtedness shall be seven percent (7%), payable semiannually, which rate shall not be exceeded in the issuance of the bonds. Pursuant to Section 6464, Streets and Highways Code, the Council hereby elects to have the redemption provisions of said bonds provide for a premium of five percent (5%) of the unpaid principal of said bonds. Assessments under fifty dollars (\$50) shall be subject to the penalties and costs, and collected as provided for cash assessments in the Street Opening Act of 1903 (commencing with Section 4000, Streets and Highways Code).

Section 8. In the opinion of this Council the public interest will not be served by allowing property owners to take the contract and hereby provides that such property owners shall not take the contract.

Section 9. After completion of the improvement and payment of all claims from the improvement fund, the amount of the surplus, if any, remaining in the improvement fund shall be used:

(a) For transfer to the General Fund of said city, provided that the amount of any such transfer shall not exceed the lesser of \$1,000.00 or five percent (5%) of the total amount expended from the improvement fund, or

(b) If the total surplus shall be greater than that allowed under subparagraph (a) above, then the total surplus shall be applied as a credit upon the assessment and any supplemental assessment, in the manner provided in Sections 10427.1 and 10427.2, Streets and Highways Code.

If any surplus results for the reasons stated in Section 10427.5, Streets and Highways Code, such surplus shall be disposed of as provided in said Section 10427.5.

Section 10. The proposed improvement hereinbefore described is hereby referred to the Superintendent of Streets who is hereby directed to make and file with the City Clerk a report in writing containing all of the matters required by the San Diego Park District Procedural Ordinance of 1969 and the Municipal Improvement Act of 1913.

Section 11. Said proposed improvement and proceedings therefor are to be under and pursuant to said San Diego

Park District Procedural Ordinance of 1969 and, in particular,
Division 8 (commencing with Section 61.0801) of Article 1,
Chapter VI of the San Diego Municipal Code.

APPROVED: JOHN W. WITT, City Attorney

by H. Valderhaug
Harold Valderhaug, Deputy

5-1-75

Passed and adopted by the Council of The City of San Diego on MAY 15 1975
 by the following vote:

Councilmen	Yeas	Nays	Excused	Absent
Gil Johnson	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Maureen F. O'Connor	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lee Hubbard	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Leon L. Williams	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Floyd L. Morrow	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Bob Martinet	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jim Ellis	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jess D. Haro	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mayor Pete Wilson	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

AUTHENTICATED BY:

PETE WILSON
 Mayor of The City of San Diego, California.

(Seal)

EDWARD NIELSEN
 City Clerk of The City of San Diego, California.

By Kathleen Martinez, Deputy.

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Office of the City Clerk, San Diego, California

Resolution Number 213298 Adopted MAY 15 1975