

RESOLUTION NUMBER R- 304668
DATE OF FINAL PASSAGE FEB 18 2009

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO SUPPORTING STATE LEGISLATION TO AMEND THE 1931 TIDELANDS TRUST, STATS. 1931, CH. 937, TO PERMIT MARINE MAMMALS TO INHABIT THE CHILDREN'S POOL BEACH IN LA JOLLA, CALIFORNIA AND DIRECTING THE CITY'S INTERGOVERNMENTAL RELATIONS DEPARTMENT TO SEEK SUCH LEGISLATION.

WHEREAS, in 1931 the California Legislature at Stats. 1931, Ch. 937, granted to the City of San Diego all the right, title and interest of the State of California, held by virtue of its sovereignty, in and to all that portion of the tide and submerged lands comprising the Children's Pool in La Jolla; and

WHEREAS, said legislation further provides that the Children's Pool must be held in trust by the City for the following uses and purposes: "That said lands shall be devoted exclusively to public park, bathing pool for children, parkway, highway, playground and recreational purposes, and to such other uses as may be incident to, or convenient for the full enjoyment of, such purposes;" and

WHEREAS, for over a decade marine mammals have inhabited the Children's Pool, which has provided an opportunity for citizens, including children, to enjoy and learn about marine mammals; and

WHEREAS, as a result of litigation filed against the City, the San Diego Superior Court rendered a judgment that the terms of the Trust do not authorize the Children's Pool to be used as a habitat, a marine sanctuary, zoo or seal watching facility; and

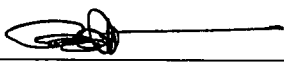
WHEREAS, numerous citizens, including children, have petitioned the City not to disperse the seals at the Children's Pool; and

WHEREAS, a recent appellate decision holds that under the public trust doctrine, a trustee of public lands is obligated to protect undomesticated wildlife; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that the Council supports amendment of the 1931 Tidelands Trust by the California Legislature to afford the City discretion to permit marine mammals to inhabit the Children's Pool, discretion to preserve the marine mammals' habitat at the Children's Pool, and discretion to permit joint use of the Children's Pool by humans and marine mammals, while maintaining the right of the City to exercise discretion to permit the other public uses set forth in the original 1931 Tidelands Trust.

BE IT FURTHER RESOLVED, the City's Intergovernmental Relations Department is directed to pursue such a legislative amendment to the 1931 Tidelands Trust.

APPROVED: JAN I. GOLDSMITH, City Attorney

By: 
George F. Schaefer
Deputy City Attorney

GFS:gb
02/04/2009
02/18/2009 REV.
Aud. Cert.: N/A
Or. Dept: City Atty.
R-2009-834

I hereby certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of FEB 17 2009.

ELIZABETH S. MALAND
City Clerk

By: *Sara Richards*
Deputy City Clerk

Approved: Feb 18, 09
(date)

JSL
JERRY SANDERS, Mayor

Vetoed: _____
(date)

JERRY SANDERS, Mayor