



THE CITY OF SAN DIEGO

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## OFFICE OF THE INDEPENDENT BUDGET ANALYST REPORT

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# Declaration of the Dedication of Land under Senate Bill 1169

## OVERVIEW

In February 2007, Senator Kehoe introduced Senate Bill 373 (SB373) to the California Senate. This senate bill was to assist the City of San Diego in converted City-owned parcels from designated parkland to dedicated parkland. Lands that are identified as “designated parkland” may be transferred or exchanged for other lands with five votes of the City Council. Lands that are identified as “dedicated parkland” may not be transferred, exchanged, or used for another purpose without a two-third vote of the people. Per SB373, the City of San Diego had identified in excess of 15,000 acres of City-owned parcels that were intended to be dedicated parkland under the City Charter, but have not been converted from designated to dedicated open space. In October 2007, Governor Schwarzenegger signed SB373 and in January 2008, based upon the City’s evaluation process as described in City Council Policy 700-17, the City dedicated approximately 6,600 acres of parkland.

In support of a bill similar to SB373, San Diego Canyonlands, a 501(c) (3) organization, compiled a list of approximately 11,400 potential additional acres that could be eligible for dedication by the City. In February 2012, Senator Kehoe introduced Senate Bill 1169 (SB1169) which carried the similar intent as SB373 from 2007. In September 2012, Governor Brown approved the senate bill.

On October 17, 2012, the Park and Recreation and Real Estate Assets Departments presented the Land Use and Housing (LU&H) Committee with a recommended list of approximately 5,881 acres for dedication via SB1169. The staff report and presentation highlighted the evaluation criteria set forth in Council Policy 700-17 and briefly discussed the reasoning for the reduced recommended acreage from the proposed total acreage from Canyonlands’ compilation. After discussion, the LU&H Committee moved

to forward all the parcels compiled by Canyonlands (approximately 11,400 acres) to the City Council for consideration, including additional parcels recommended by the Community Planning Groups. Staff was to provide a detailed explanation as to the reasoning for potentially excluding any of the parcels from the dedication list and a potential cost estimate for including any Enterprise Fund-owned properties. The City Attorney's office was requested to provide opinions on several additional items.

Based upon the motion from the LU&H Committee, the Office of the IBA is reviewing potential fiscal and planning implications of including parcels on the list of properties to become dedicated parklands.

## FISCAL/POLICY DISCUSSION

The preliminary list of potential parcels to be considered for dedication through the state legislation was compiled by Canyonlands with information provided by City staff. After completing the preliminary research, Canyonlands conducted numerous meetings with multiple community planning groups to receive and incorporate additional information. Canyonlands then presented the proposed list of parcels for dedication to the City for review.

As a process guideline, the City conducted an evaluation of the proposed parcels based upon the criteria set forth in City Council Policy 700-17. Based upon staff's interpretation of this policy, staff excluded multiple parcels from those proposed for dedication. Parcels that were excluded from the recommended dedication list were generally due to: having encroachments on the property which would require significant resolution prior to dedication; the property being located outside the City limits; the property not being acquired for park purposes; the property being identified for other public uses such as transportation corridors; or being considered isolated from other parkland. Additionally, staff did not review any parcels that were owned by enterprise funds, such as the Public Utilities Department, as these parcels are not City-owned (General Fund) as required by City Charter Section 55 and Council Policy 700-17.

As a result of this evaluation, staff originally recommended 5,881 acres to be included in the dedication process. Staff has since updated the recommendations to include a total of 6,558 acres for dedication. With the exception of minor processing costs, there should be no additional costs associated with the recommended acres above the staff costs already incurred during the compilation and evaluation processes. Staff has been able to absorb the associated staffing costs within their existing FY2012 and FY2013 budgets and there are no recording fees from the County of San Diego.

However, there are potentially fiscal and planning costs associated with the parcels that were initially excluded or not evaluated/reviewed by staff.

### *Fiscal Impacts*

As mentioned above, staff initially excluded numerous parcels/acres from the initial compilation from Canyonlands due to multiple reasons. In order to resolve or address the

reasons for the initial exclusions by staff, staff or outside parties may be required to undertake a range of various tasks including:

- Properties with encroachments upon them may require field surveys to confirm the appropriate boundaries and require negotiation with those parties that are responsible for the encroachment. An example of this is the parcel with Site Code R611RS, located in City Heights. The parcel has a church encroaching on a portion of this parcel. Remediation of this issue may require addition expenses to the party responsible for the encroachment.
- Additional review from the City Attorney's Office has been requested on several items including the possibility of dedicating lands not located within the City limits.
- Reviewing individual parcels that are located adjacent to one another, as in past practice by Real Estate Assets, are grouped together for dedication. Each parcel has an individual legal description; however the action of grouping the parcels together would require the development of a new legal description requiring a surveyor's stamp.
- Independent reviews of existing files by a California Registered Land Surveyor to verify exactly what is dedicated and identify any impact to existing easements may be required.

The cost associated with these additional work requests is difficult to quantify as each vary in time required and scope of work. Estimates would have to be done on a case-by-case basis.

#### *Potential Planning Costs*

Per City Charter Section 55, once a property is dedicated parkland via ordinance by the City Council or by statute of the State Legislature, the property is dedicated in perpetuity for park, recreation or cemetery purposes and any change in usage would require a vote by two-thirds of the qualified electors of the City. This significantly limits any future changes to community or city planning. As such, City Council Policy 700-17 requires the consideration of alternative uses for properties be considered for dedication. Section III B. of City Council Policy 700-17 states as a condition for dedication:

“The land does not include areas which are undesirable for park purposes, would be more suitable for other purposes, or which could be traded or sold to obtain more desirable park land or to fund park improvements. In these cases, to provide flexibility in making revisions which would be beneficial to meeting the City's open space goals, the land shall not be dedicated.”

An example of potential future alternative uses for designated parkland would be a potential future site location for a fire station. Per the spreadsheet “Dedicated Parcels Reviewed” attached to the November 6, 2012 staff report, the parcel with Site Code L303RU is a potential site for a future fire station in the University City community. Additionally, as parcel L303RU is City-owned, there would be no additional costs for the acquisition of the land. Should this parcel become dedicated land, the Real Estate Assets

Department would need to identify an alternative location with the potential of requiring funding for land acquisition. Should the fire station location necessitate three acres for the complete footprint for the facility, based upon a minimum estimate of \$35,000 per acre to acquire additional open-space, this would equate to a need for an additional \$105,000 for the land acquisition.

#### *Compensation to Enterprise Funds*

Initially, staff excluded for consideration any parcel that was not City-owned (General Fund). This resulted in all Enterprise Fund-owned property not being reviewed. Enterprise funds lands are acquired to facilitate the operation of each enterprise business, which may include easements or sites for future facilities. Per the request by the LU&H Committee, all the parcels compiled by Canyonlands were to be considered for consideration. This requested added approximately 880 acres of Enterprise Fund-owned lands to the proposed parcels to be dedicated.

Should the City Council approve the dedication of these specific Enterprise Fund-owned parcels as parkland, the City's General Fund would be responsible for compensating the Enterprise Fund for these parcels of lands. In discussion with the Park and Recreation Department, approximately 880 acres of Enterprise Fund-owned properties are to be included in the proposed list of parcels for dedication. Currently, the Real Estate Assets Department is estimating a *minimum* price of \$35,000 per acre to acquire open space property. An estimated cost to include the 880 acres of Enterprise Fund-owned properties as dedicated parklands would result in the minimum compensation of approximately \$30 million to the Enterprise Funds from the City's General Fund.

The potential minimum impact in one-time funding of \$30 million to the General Fund would need to be considered in the context of the City's budget and other competing priorities. In addition, if the City Council were to move forward with the dedication of these specific Enterprise Fund-owned properties, thought should be given to other funding mechanisms for these properties such as long-term debt financing. However, it should be noted that the City is planning to finance a significant amount of infrastructure projects within the next several years including, but not limited to, street improvements/repairs, fire stations, and libraries. Additional debt financing to fund the acquisition of the specifically proposed Enterprise-owned properties would impact the City's future debt financing capacity.

#### RECOMMENDATIONS

City Council Policy 700-17 requires that the Park and Recreation Board (the "Board") shall annually review the City inventory of park lands to determine the status of lands meeting the requirement for dedication or designation, with staff reporting the findings of the Board to the Council. Additionally, Council Policy 700-17 requires that requests for designation or dedication include how the park site implements the Park and Recreation Element or Open Space Element and an estimate of the long term development schedule.


Though Council Policy 700-17 requires an annual report from staff to the City Council, the policy is silent as to when the report should be presented to the City Council. The IBA would recommend that an established reporting period be developed (i.e. in conjunction with the development of the annual budget). Additionally, the IBA would recommend the annual report to include:

- Identification any potential issues that would necessitate additional research in order to qualify the acquire property for dedicated parkland;
- Prioritization of the remediation of outstanding issues for properties that are intended to be categorized as dedicated parkland; and
- Cost and time estimates as to the identified prioritized work.

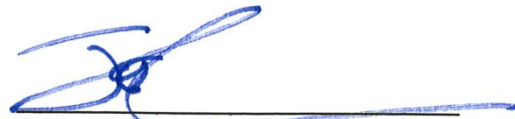
## CONCLUSION

On October 17, 2012, the Park and Recreation and Real Estate Assets Departments presented the LU&H Committee with a recommended list of approximately 5,881 acres for dedication via SB1169. Per the LU&H Committee request, staff reviewed all the parcels compiled by Canyonlands. Subsequently to the additional review, staff has revised the recommended list of parcels for dedication upward to include a total of 6,558 acres.

The IBA has provided several items the City Council should consider when reviewing and ultimately approving any parcel for dedication via SB1169. These considerations include the potential loss of future flexibility in city planning, additional costs for remediation work necessary for certain parcels and the potential impact to the General Fund related to compensation due to the Enterprise Funds. As described in this report, based upon certain decisions, the impact to the General Fund could be in excess of \$30 million.



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