

FILE NUMBER: 2024-296

DATE: Tuesday, August 13, 2024

SUBJECT: Update to Unified Port District Code Article 8, Section 8.02 to add Sweetwater Park in Chula Vista

DESCRIPTION: Sweetwater Park in Chula Vista: Conduct a Public Hearing and Adopt an Ordinance Amending San Diego Unified Port District Code Article 8, Section 8.02 – Park Areas Regulated, to Add Sweetwater Park in Chula Vista, as a Passive Park.

EXECUTIVE SUMMARY:

As part of the Chula Vista Bayfront Master Plan, Sweetwater Park in Chula Vista was designated to be passive in nature because of its proximity to wildlife habitat. Construction of Sweetwater Park began in September 2023, and improvements to the 21-acre Sweetwater Park in Chula Vista will be finished later this fall.

San Diego Unified Port District Code (“Port Code”) Section 8.02 – Park Areas Regulated, identifies the San Diego Unified Port District’s (“District”) 22 existing public parks in all five member cities and establishes rules and regulations for them. This includes identifying the hours of operation (6am to 10:30pm) and specifying what activities are prohibited (such as no person shall throw, discard or deposit any paper, rubbish, debris, ashes, dirt, bottles, cans, trash or litter of any kind or nature whatsoever, except in receptacles specifically provided therefor). In addition, Port Code Section 8.02 establishes the District’s authority to issue permits for events and activities that exceed twenty-five (25) people.

District staff recommends adding Sweetwater Park to Port Code Section 8.02 – Park Areas Regulated. This will enable the District to post signs to inform the public about the park’s rules and regulations, and it will establish the authority for the District to conduct enforcement. Based on the provisions identified in the Chula Vista Bayfront Development Policies (Clerk Doc. #59407, Filed October 5, 2012) and the existing certified Port Master Plan, Sweetwater Park will be designated as a passive park, which includes the following additional restrictions:

- Amplified sound equipment will be prohibited;
- Reservations for group events and activities will be prohibited.

If the Board adopts District staff’s recommendation to add Sweetwater Park in Chula Vista to Port Code Section 8.02 Park Areas Regulated, the added provisions will become effective on Friday, September 13, 2024, or on the thirty-first (31st) day after adoption, in accordance with State law.

RECOMMENDATION:

Sweetwater Park in Chula Vista: Conduct a Public Hearing and Adopt an Ordinance Amending San Diego Unified Port District Code Article 8, Section 8.02 – Park Areas Regulated, to Add Sweetwater Park in Chula Vista, as a Passive Park.

FISCAL IMPACT:

There is no fiscal impact caused by approval of this action.

COMPASS STRATEGIC GOALS:

- A Port that is a safe place to visit, work and play.
- A Port that the public understands and trusts.
- A vibrant waterfront destination where residents and visitors converge.
- A Port with a healthy and sustainable bay and its environment.

DISCUSSION:

The Chula Vista Bayfront Master Plan (CVBM Plan) was developed in partnership between the Port of San Diego and the City of Chula Vista, and received unanimous approval by the California Coastal Commission in August 2012. The CVBM Plan outlines the redevelopment of 535 acres along the Chula Vista waterfront to establish a world-class destination in South Bay. It provides the foundation for new public parks and recreational adventures, enhancements that preserve and strengthen the natural habitat, new dining and shopping opportunities, as well as a world-class hotel and convention center.

The CVBM Plan includes a 21-acre park, referred to as Sweetwater Park, which it envisions as a natural habitat-oriented recreational open space to showcase the unique natural wildlife assets of San Diego Bay. The intent of Sweetwater Park is to encourage passive activities to complement the adjacent Sweetwater Marsh National Wildlife Refuge. As such, its design features include meadows and specialty gardens, mounded grasslands, nature playgrounds, various seating and picnic areas, pedestrian and bicycle paths, and overlooks for bayfront viewing. The park is designed to connect visitors with the bayfronts ecology, provide environmental educational opportunities, and to promote family/child-oriented recreational exploration.

The CVBM Plan calls for Sweetwater Park to be passive in nature, which it defines as emphasizing the “open-space aspect of a park” and “low level of development, including picnic areas and trails.” Similarly, the existing certified Port Master Plan acknowledges that Sweetwater Park “is to be passive in nature, be low impact and contain minimal structures.” Both planning documents prohibit athletic fields and unattended food vending. Due to the park’s immediate adjacency to sensitive habitat areas, both planning documents also prohibit the use of amplified sound equipment and the issuance of park use permits for group events.

Construction of Sweetwater Park commenced in September 2023 and improvements will be finished later this fall. In anticipation of its opening, District staff recommends adding Sweetwater Park as a passive park, to the San Diego Unified Port District Code Section

8.05 – Park Areas Regulated. This action will enable District staff to post signs informing the public about the park’s rules and regulations, and it will establish the authority for the District to enforce those rules.

While the following list is not exhaustive, some of the restrictions identified in Port Code Section 8.02 that would apply to Sweetwater Park (and that currently apply to the District’s other 22 public parks) include:

- No person shall enter, remain, stay or loiter in any Public Park between the hours of 10:30pm and 6:00am of the following day¹.
- No person shall throw, discard or deposit any paper, rubbish, debris, ashes, dirt, bottles, cans, trash or litter of any kind or nature whatsoever, except in receptacles specifically provided therefor
- No person land, release, take off or fly any balloon², helicopter, parakite, hang glider, aircraft or powered models thereof except by permit issued by the Executive Director.
- No person shall engage in any voluntary parachute jump.
- No person shall kindle a fire or cook food, except on a stove or masonry or concrete hearth or fire circle provided for such purposes, or on a portable stove or hearth of an approved type and in areas specifically posted for such use.
- No person shall discharge any firearms, firecrackers, fireworks, rockets, model rockets, torpedoes, airgun or slingshot.
- No person shall erect, use or occupy any tent, lodge, camp or shelter.

In addition, Port Code Section 8.02 will be updated to include the following additional restrictions that will apply to parks designated as passive, including the new Sweetwater Park in Chula Vista.

- The use of amplified sound shall be prohibited.
- Park use permits for group events and activities shall be prohibited.

Finally, adding Sweetwater Park into Port Code Section 8.02 will enable the Harbor Police department to enforce the aforementioned rules and regulations of park usage. Unless otherwise stated, any person violating the provisions or failing to comply with the District Code shall be guilty of a misdemeanor³.

If the Board adopts staff’s recommendation to add Sweetwater Park in Chula Vista as a passive park to Port Code Section 8.02 – Park Areas Regulated, the added provisions will become effective on Friday, September 13, 2024, or on the thirty-first (31st) day after adoption, in accordance with State law.

Procurement Details:

There is no fiscal impact caused by approval of this action.

General Counsel’s Comments:

The Office of the General Counsel has reviewed this agenda as presented to it and approves the same as to form and legality.

Environmental Review:

The proposed Board action, including without limitation amending Article 8, Section 8.02 – Park Areas Regulated, of the San Diego Unified Port District Code to add Sweetwater Park in Chula Vista as a passive park, was previously analyzed in the Final Environmental Impact Report (FEIR) for the Chula Vista Bayfront Master Plan (UPD#83356-EIR-658; SCH #2005081077, Clerk Document No. 56562) prepared and certified by the District on May 18, 2010 (Resolution No. 2010-78), the Addendum to the FEIR, adopted by the Board on August 13, 2013 (Resolution No. 2013-138), the Second Addendum to the FEIR, adopted by the Board on April 10, 2018 (Resolution No. 2018-0069), and the Third Addendum to the FEIR, adopted by the Board on December 8, 2020 (Resolution No. 2020-116). The proposed project is not a separate project for CEQA purposes but is a subsequent discretionary approval related to a previously approved project. (CEQA Guidelines § 15378(c); *Van de Kamps Coalition v. Board of Trustees of Los Angeles Comm. College Dist.* (2012) 206 Cal.App.4th 1036.) Additionally, pursuant to CEQA Guidelines Sections 15162 and 15163, and based on the review of the entire record, including without limitation, the FEIR, the District finds and recommends that the proposed Board action does not require further environmental review as: 1) no substantial changes are proposed to the project and no substantial changes have occurred that require major revisions to the previous FEIR due to the involvement of new significant environmental effects or an increase in severity of previously identified significant effects; and 2) no new information of substantial importance has come to light that (a) shows the project will have one or more significant effects not discussed in the previous FEIR, (b) identifies significant impacts more severe than those analyzed in the previous FEIR, (c) shows that mitigation measures or alternatives are now feasible that were identified as infeasible and those mitigation measures or alternatives would reduce significant impacts, or (d) shows mitigation measures or alternatives which are considerably different from those analyzed in the previous FEIR would substantially reduce one or more significant effects on the environment. Because none of these factors have been triggered, pursuant to CEQA Guidelines §15162(b), the District has determined no further analysis or environmental documentation is necessary. Accordingly, the proposed Board action is merely a step in the furtherance of the original project for which environmental review was performed and no supplemental or subsequent CEQA has been triggered, and no further environmental review is required.

The proposed Board action complies with Sections 21, 35, and 87 of the Port Act which allow for the Board to pass resolutions, to do all acts necessary and convenient for the exercise of its powers, and for the construction, reconstruction, repair, maintenance, and operation of public buildings, public assembly and meeting places, convention centers, parks, playgrounds, bathhouses and bathing facilities, recreation and fishing piers, public recreation facilities, including, but not limited to, public golf courses, and for all works, buildings, facilities, utilities, structures, and appliances incidental, necessary, or convenient for the promotion and accommodation of any of those uses. The Port Act was

enacted by the California Legislature and is consistent with the Public Trust Doctrine. Consequently, the proposed Board actions are consistent with the Public Trust Doctrine.

The proposed Board action was covered in the Coastal Development Permit (CDP) for Sweetwater Park (CDP-2020-001; Clerk Document No. 71565) approved for issuance by the District on April 14, 2020 (Resolution No. 2020-041) The proposed Board action is consistent with the CDP. No additional action under the California Coastal Act is required at this time.

Diversity, Equity, and Inclusion Program:

This agenda sheet has no direct DEI impact on District workforce or contract reporting at this time.

PREPARED BY:

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Director, Parks & Recreation

Attachment(s):

Attachment A: Proposed Amendments to Unified Port District Code Section 8.02 – Park Areas Regulated

Endnotes

¹ Port Code Section 8.02 notes that any Public Park or recreational facility subject to the 10:30pm closing time, the Executive Director may extend the closing time for up to one (1) hour to accommodate any District approved event. It also clarifies that the Embarcadero Marina Park South fishing Pier, the Shoreline Park fishing pier on Shelter Island, including the automobile

² Port Code Section 8.02 does allow children’s toy balloons that are not inflated with any flammable material to be flown in public parks.

³ Port Code Sect. 0.11 – General Penalty states (a) Unless otherwise stated in the San Diego Unified Port District Code, any person violating the provisions or failing to comply with any mandatory requirements of the District Code shall be guilty of a misdemeanor, unless at the sole option of the District, the violation is cited and prosecuted as an infraction or addressed through the assessment of civil penalties as provide in Subsection (i).