



NOTICE OF SPECIAL CITY COUNCIL MEETING

Special Meeting
Tuesday, June 16, 2009 -- 4:30 p.m.
Council Chambers
East side of Monte Verde Street between
Ocean and Seventh Avenues

Live video streaming available at:
www.ci.carmel.ca.us

Broadcast date
Sunday, June 21, 2009
8:00 a.m., KMST Channel 26

- I. Call to Order
- II. Roll Call
- III. Pledge of Allegiance
- IV. Announcements from Closed Session (if any)
- V. Protest Hearing
 - A. Receive protests regarding the discontinuance and abandonment of the Flanders Mansion Property as Public Park Land.
- VI. Resolutions
 - A. Consideration of a Resolution of the City Council Overriding All Protests Against Discontinuance and Abandonment of Use of the Flanders Mansion Property as Public Park Land
- VII. Ordinances
 - A. Consideration of an Ordinance (1st Reading) of the City Council Calling and Fixing the Date of a Special Election to Submit to the City Electors the Question of Discontinuance and Abandonment of the Use of Public Park Land on Which Protests Were Overruled.
- VIII. Adjournment

Any writings or documents provided to a majority of the City Council regarding any item on this agenda will be made available for public inspection at Carmel-by-the-Sea City Hall, on the east side of Monte Verde Street, between Ocean and 7th Avenues, during normal business hours.

CITY OF CARMEL-BY-THE-SEA**STAFF REPORT**

TO: MAYOR MCCLOUD AND CITY COUNCIL MEMBERS

FROM: RICH GUILLEN, CITY ADMINISTRATOR

DATE: 16 JUNE 2009

**SUBJECT: CONSIDERATION OF ACTIONS RELATED TO DISCONTINUING
AND ABANDONING THE USE OF THE FLANDERS MANSION
PROPERTY AS PUBLIC PARKLAND**

INTRODUCTION

On 12 May 2009, the City Council determined that the Flanders Mansion Property should be sold with conservation easements and mitigations. To accomplish this, the City must first hold a protest hearing, vote to override protests and place before the voters at a special election whether the use of this public park land should be discontinued and abandoned. At the meeting of 16 June 2009, the Council will consider the following:

- Hold the protest hearing
- A Resolution to override all protests
- First reading of an Ordinance calling for a special election

PROTEST HEARING

California statutes provide safeguards against the loss of public parkland. The public must first have an opportunity to protest, both orally and in writing. After hearing all protests, the City Council may decide whether or not to proceed with the sale. The Statute requires a two-thirds vote of the Council. A proposed Resolution for this decision is attached.

ORDINANCE

If the protests are overridden, the Council then may adopt an Ordinance, calling for a special election. The Ordinance identifies the property and specifies the date of the election. A proposed Ordinance would call the special election for November 3, 2009, to coincide with the General Election set for that date. This would be a first reading. Second reading (adoption) would occur at the next regular City Council meeting on 7 July 2009.

**City Council
Agenda Item Summary**

Name: Consideration of a Resolution Overriding All Protests Against Discontinuance and Abandonment of Use of the Flanders Mansion Property as Public Park Land.

Description: The proposed resolution will override all protests received during the protest hearing and allow for the discontinuance and abandonment of the Flanders Mansion Property as Public Parkland.

Overall Cost:

City Funds: N/A

Grant Funds: N/A

Staff Recommendation: Adopt the Resolution.

Important Considerations: California Statutes provide safeguards against the loss of public parkland. The public must first be given an opportunity to protest, both orally and in writing. After hearing all protests, the City Council can decide if it still wants to proceed with the sale. The Statute requires a two-thirds vote of the Council

Decision Record: N/A

Reviewed by:

Rich Guillen, City Administrator

Date

CITY OF CARMEL-BY-THE-SEA

CITY COUNCIL

RESOLUTION 2009-

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
CARMEL-BY-THE-SEA OVERRIDING ALL PROTESTS AGAINST DISCONTINUANCE
AND ABANDONMENT OF USE OF THE FLANDERS MANSION PROPERTY AS
PUBLIC PARK LAND**

WHEREAS, the specific property subject to this action is an approximately 1.252 acre parcel located at 25800 Hatton Road in Carmel, Monterey County, California, and situated within the Mission Trail Nature Preserve (APN -010-061-005), and is commonly known as the Flanders Mansion Property; and

WHEREAS, the City Council has determined that the public interest or convenience requires the discontinuance of the use of such land as a public park, that the Flanders Mansion property is no longer necessary for the City's use and that the Flanders Mansion Property should be discontinued as abandoned for use as public parkland; and

WHEREAS, the City scheduled a protest hearing for 16 June 2009 and provided public notice through publication twice in the Carmel Pine Cone on May 15 and 22, 2009, physical posting of the property a minimum of every 300 feet around the perimeter beginning May 14, 2009, and posting of notice at City Hall, the Harrison Memorial Library and the Post Office; and

WHEREAS, the City Council held a protest hearing on 16 June 2009 to receive public comments on the proposed discontinuance and abandonment of the Flanders Mansion Property as public parkland; and

WHEREAS, the City Council has carefully reviewed and considered all written and oral testimony received at, and prior to, the hearing.

NOW, THEREFORE, BE IT RESOLVED THAT THE CITY OF CARMEL-BY-THE-SEA DOES:

Override all written and oral protests against the proposed discontinuance and abandonment of use of the Flanders Mansion Property as public parkland.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF CARMEL-BY-THE-SEA this 16th day of June, 2009, by the following roll call vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST:

SIGNED,

Heidi Burch, City Clerk

SUE McCLOUD, MAYOR

City Council Agenda Item Summary

Name: Consideration of an Ordinance (First Reading) Calling and Fixing the Date of a Special Election to Submit to the City Electors the Question of Discontinuance and Abandonment of the Use of Public Park Land on Which Protests Were Overruled.

Description: The proposed Ordinance will allow for a special election to be set to allow the City Electors to vote on the discontinuance and abandonment of the Flanders Mansion Property as Public Park Land.

Overall Cost:

City Funds: N/A
Grant Funds: N/A

Staff Recommendation: Adopt the Ordinance.

Important Considerations: If the protests are overridden, the Council may then adopt an Ordinance calling for a special election. The Ordinance identifies the property and specifies the date of the election.

Decision Record: N/A

Reviewed by:

Rich Guillen, City Administrator

Date

CITY OF CARMEL-BY-THE-SEA

CITY COUNCIL

ORDINANCE 2009-

**AN ORDINANCE OF THE CITY COUNCIL CALLING AND FIXING THE DATE OF
A SPECIAL ELECTION TO SUBMIT TO THE CITY ELECTORS THE QUESTION OF
DISCONTINUANCE AND ABANDONMENT OF THE USE OF PUBLIC PARK LAND
ON WHICH PROTESTS WERE OVERRULED (FIRST READING)**

WHEREAS, the City Council has determined that the parkland known as the Flanders Mansion property is no longer necessary for the City's use; and

WHEREAS, the public interest or convenience requires the discontinuance of the use of the Flanders Mansion Property as parkland; and

WHEREAS, in accordance with California State Statutes, discontinuance of public park land requires public notice, an opportunity for protests at a public hearing and a subsequent vote of the electorate if the protests are overruled; and

WHEREAS, the City scheduled a protest hearing for 16 June 2009 and provided public notice through publication twice in the in the Carmel Pine Cone on May 15 and 22, 2009, physical posting of the property a minimum of every 300 feet around the perimeter beginning May 14, 2009, and posting of notice at City Hall, the Harrison Memorial Library and the Post Office; and

WHEREAS, the City Council held a protest hearing on 16 June 2009 and has carefully considered all written and oral testimony received at, and prior to, the hearing; and

WHEREAS, the City Council has determined to overrule all protests by a two-thirds majority vote.

NOW, THEREFORE, the City Council of the City of Carmel-by-the-Sea does hereby ordain as follows:

Section One. Call Special Election. A special election is hereby called to put to a vote of the City's electors the question of whether the use of that specific public park land known as the Flanders Mansion Property should be discontinued and abandoned. The specific property subject to this action is an approximately 1.252 acre parcel located at 25800 Hatton Road in Carmel, Monterey County, California and situated within the Mission Trail Nature Preserve (APN 010-061-005).

Section Two. Date of Election. The election is hereby called, and will take place on 3 November 2009.

Section Three. Severability. If any part of this ordinance, even as small as a word or phrase, is found to be unenforceable such finding shall not affect the enforceability of any other part.

Section Four. Effective Date. This ordinance shall become effective 30 days after final adoption.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF CARMEL-BY-THE-SEA this ____th day of _____ by the following roll call vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

SIGNED,

SUE McCLOUD, MAYOR

ATTEST:

Heidi Burch, City Clerk