

FILED

JUL 30 2020

ORDINANCE NO. 1943

BY [Signature] DEPUTY
REGISTRAR OF VOTERS

AN ORDINANCE OF THE CITY OF UPLAND CALLING A SPECIAL ELECTION ON NOVEMBER 3, 2020 TO SUBMIT TO THE CITY ELECTORS THE QUESTION OF ABANDONMENT AND DISCONTINUANCE OF USE AS A PUBLIC PARK AN APPROXIMATELY 4.63-ACRE PORTION OF MEMORIAL PARK; AND OVERRULING ALL PUBLIC PROTESTS REGARDING THE SAME

A. RECITALS.

(i) Memorial Park is an approximately 38.5-acre parcel owned by the City and operated as the City's largest public park. The City's acquisition of the park was not funded by any special assessment, bond, or any federal or state grant, nor was the land acquired via dedication pursuant to the Subdivision Map Act.

(ii) In 2017, San Antonio Regional Hospital ("SARH") approached the City about the possibility of selling approximately 4.63 acres in the southwest corner of Memorial Park, consisting of a baseball field, bleachers, scoreboard, lights, parking lot, vacant land and a snack bar/restrooms, more particularly described in the legal description found Exhibit A to this Ordinance (the "Park Parcel"). Since that time, SARH has completed a new 4-story patient tower, emergency room, and 60,000 square foot medical office building, all of which have created a demand for additional land for parking and future expansion opportunities. SARH intends to purchase the Park Parcel for no less than \$4,300,000.00, to add new facilities and increase capacity for critically-needed medical services.

(iii) If the City were to sell the Park Parcel, SARH would grant the City an easement for public parking on the Park Parcel, and the City would use the sale proceeds solely for making public improvements to the other parts of Memorial Park, which improvements may include a new baseball field, additional public parking and other new public amenities, landscaping, structures, and walking trails.

(iv) SARH has requested that the City Council submit the question of discontinuing use of the Park Parcel to the City's electors at the November 3, 2020 general election pursuant to Government Code Section 38440 *et seq.*, which establishes a procedure for the City Council to submit the question to the City's electors following notice and an opportunity for public protest and hearing.

(v) On June 22, 2020, the City Council adopted Resolution No. 6551, declaring that public interest or convenience requires the discontinuance of the use of the Park Parcel as a public park and the City Council's intention to call a special election to submit the question of discontinuance to the city electors so the Park Parcel may be sold to SARH, and setting a public hearing to hear and consider any protests from the public or persons particularly interested in the matter for July 27, 2020.

(vi) On July 27, 2020, the City Council held a duly noticed public hearing to hear and pass upon all written protests and to hear all persons wishing to speak on the matter.

(vii) The City Council has received all protests against the proposed abandonment and discontinuance of the Park Parcel or to the extent thereof provided to the City before adoption of this Ordinance.

(viii) All legal prerequisites to the adoption of this Ordinance have occurred.

B. ORDINANCE.

THE CITY COUNCIL OF THE CITY OF UPLAND ORDAINS AS FOLLOWS:

Section 1. Recitals. All facts set forth in the recitals above are correct.

Section 2. Protests Overruled. The City Council hereby overrules all protests presented to the City before and during the public hearing held on July 27, 2020.

Section 3. Election. The City Council has previously called a general municipal election to be held in the City on Tuesday, November 3, 2020, as established and implemented by the City Council in Resolution Number 6543, adopted on June 1, 2020. Pursuant to California Government Code Section 38450 and California Elections Code Section 9222, the City Council hereby orders that at the said election, an ordinance entitled "City of Upland Memorial Park Measure" be submitted to the voters for approval. The full text of the City of Upland Memorial Park Measure, which is attached to this Ordinance as Exhibit A and hereby incorporated by this reference, shall be printed in the voter pamphlet. The measure to be submitted to the voters shall appear and be printed on the ballot as follows:

In order to secure at least \$4,300,000 for the City of Upland to use solely for public improvements to Memorial Park, which may include a new baseball field, additional public parking and other new public amenities, landscaping, structures, and walking trails, shall the City discontinue using approximately 4.63 acres of Memorial Park so it may be sold to San Antonio Regional Hospital to add new facilities and increase capacity for critically-needed medical services?	Yes
	No

Section 4. Effect of Voter Approval. Pursuant to California Government Code Sections 38451 through 38460, if a majority of the City electors voting on the measure are in favor of it, the City Council shall adopt an ordinance declaring that use of the Park Parcel is discontinued and abandoned, and the land will be deemed held by the City in fee and may be sold or otherwise disposed of in the same manner as other property no longer required for municipal purposes. If less than a majority of City electors vote for the measure, the City Council shall not initiate proceedings for discontinuance of the use of the Park Parcel for park purposes for one year after the election.

Section 5. Ballots. The ballots to be used at the election shall be in the form and content as required by law. The City Clerk is authorized, instructed and directed

to coordinate with the County of San Bernardino Registrar of Voters to procure and furnish any and all official ballots, notices, printed matter and all supplies, equipment and paraphernalia that may be necessary in order to properly and lawfully conduct the election.

Section 6. Impartial Analysis: The City Attorney is hereby directed to prepare an impartial analysis of the measure pursuant to Elections Code Section 9280.

Section 7. Ballot Arguments: That arguments for and against said measure may be filed in accordance with applicable provisions of the law. That the Council does not authorize the Council as a body or any individual member of the Council to file a written argument or any rebuttal argument for or against the measure. The City Clerk shall consider other arguments and rebuttal arguments filed by bona fide associations or individual residents who are eligible to vote in accordance with Elections Code Sections 9282 and 9285.

Section 8. Consolidation. Pursuant to Resolution No. 6543, adopted on June 1, 2020, the City Council previously called a general municipal election to be held in the City on Tuesday, November 3, 2020, and requested pursuant to the requirements of California Elections Code Section 10403, that the Board of Supervisors of the County of San Bernardino consent and agree to the consolidation of a General Municipal Election with the Statewide General Election to be held on the same date. Accordingly, the consolidated election shall be held and conducted in the manner prescribed in California Elections Code Section 10418.

Section 9. Conduct of the Election. The polls for the election shall be open at seven o'clock a.m. the day of the election and shall remain open continuously from that time until eight o'clock p.m. of the same day when the polls shall be closed, except as provided in California Elections Code Section 14401, or as determined by the County Elections Official for the consolidated election. In all particulars not recited in this Ordinance, the election shall be held and conducted as provided by law for holding consolidated municipal elections.

Section 10. Cost of Election. The City of Upland recognizes that additional costs will be incurred by the County by reason of this consolidation and agrees to reimburse the County for any costs, in accordance with the County's normal charges for such services, upon presentation of valid invoices from the County for the same.

Section 11. Notice of Election. Notice of the time and place of holding the election is given and the City Clerk is authorized, instructed, and directed to give further or additional notice of the election, in time, form, and manner as required by law. Notwithstanding the generality of the foregoing, the City Clerk is hereby instructed to act in conformance with Elections Code Section 10403 along with Resolution No. 6543, and to file a certified copy of this Ordinance with the Board of Supervisors of San Bernardino County, and to transmit a certified copy of the same to the San Bernardino County Elections Official.

Section 12. Effective Date. This Ordinance shall become effective immediately upon adoption pursuant to California Government Code Section 36937(a).

Section 13. Certification. The City Clerk shall certify the adoption of this Ordinance and cause it to be published in the manner required by law.


PASSED, APPROVED and ADOPTED this 27th day of July, 2020.



Debbie Stone, Mayor

I, Keri Johnson, City Clerk of the City of Upland, do hereby certify that the foregoing Ordinance was introduced and adopted at a regular meeting of the City Council held on the 27th day of July, 2020, by the following vote:

AYES: Mayor Stone, Councilmembers Velto, Zuniga
NOES: Councilmember Elliott
ABSENT: None
ABSTAINED: None

ATTEST: 

Keri Johnson, City Clerk