

**CITY OF OAKLAND
COUNCIL AGENDA REPORT**

FILED
OFFICE OF THE CITY CLERK
OAKLAND

2005 JUN -2 PM 7:21

TO: Office of the City Administrator
ATTN: Deborah Edgerly
FROM: Community & Economic Development Agency
DATE: June 14, 2005

RE: A REPORT OUTLINING THE CITY'S LAND USE AUTHORITY AND OPTIONS FOR THE MANAGEMENT AND REGULATION OF OUTDOOR ADVERTISING SIGNS (BILLBOARDS) IN THE CITY OF OAKLAND, INCLUDING THE PORT AREA.

SUMMARY

At the March 8, 2005 Community & Economic Development Committee (Committee), staff was directed to return to the Committee with a report outlining options for permitting the City Council (Council) authority in regulating outdoor advertising signs (commonly referred to as billboards) on property owned by the Port of Oakland (Port).

Currently, land in the Port Area (whether owned by the Port or by private interests) is generally *under complete and exclusive control of the Port Board of Directors (Port Board) and therefore is not subject to the City of Oakland's Planning Code, subdivision regulations and other such land use authority (Charter section 706)*. The City Council may extend its jurisdiction to include land in the Port area for regulating outdoor advertising signs through the following options:

Option A: The City Council can amend the General Plan to include language similar to that contained in Oakland Planning Code section 17.104.060 "General Limitations on Advertising Signs", such that new outdoor advertising signs are permitted only pursuant to a franchise agreement or relocation agreement authorized by the Oakland City Council.

Option B: The Port Area boundary can be adjusted, with the approval of both the Port Board and the City Council (Charter sections 706(4) and 725). Such an action will take the Port Area and make it subject to the City's land use jurisdiction, even though the Port may still own the land.

Option C: The City Council and the Port Board can enter into a memorandum of understanding stating that new outdoor advertising signs are permitted only pursuant to a franchise agreement or relocation agreement authorized by the Council and the Board.

Alternatively, the Council can choose to maintain the current separation of land use authority to allow the Port Board to direct the future port and harbor development activities.

FISCAL IMPACTS

None. There are no direct fiscal impacts to the City for either option.

Item No. 10
CED Com
June 14, 2005

BACKGROUND

At present land in the Port Area (whether owned by the Port or by private interests) is generally under complete and exclusive control of the Port Board (Charter section 706) and therefore is not subject to Oakland's Planning Code, subdivision regulations and the like. Specifically, according to the City Charter (section 706(4)), the Port of Oakland is given the following authority:

To have control and jurisdiction of that part of the City hereinafter defined as the "Port Area " and enforce therein general rules and regulations, to the extent that may be necessary or requisite for port purposes and harbor development, and in carrying out the powers elsewhere vested in the Board. Provided, however, that with the approval of the Council the Board may relinquish to the Council control of portions of the said area, and likewise, upon request of the Board, the Council may, by ordinance, enlarge the Port Area.

Conversely, land outside of the Port Area (whether owned by the Port, City or private interests) is subject to the Oakland Planning Code. However, all development within the Port Area must be consistent with the City's general plan (Charter section 727) and residential housing development must be approved by the Port Board with the consent of the City Council (Charter section 706(23)).

OPTIONS FOR THE CITY COUNCIL AND THEIR IMPACTS

The City Council can extend its jurisdiction to include land in the Port area for regulating outdoor advertising signs through the following three options:

Option A: The City Council can amend the General Plan to include language similar to that contained in Oakland Planning Code section 17.104.060, such that new outdoor advertising signs are permitted only pursuant to a franchise agreement or relocation agreement authorized by the Oakland City Council.

Section 17.104.060 of the Planning Code, titled "General Limitations on Advertising Signs" states that:

Notwithstanding any provisions to the contrary contained within the Planning Code, advertising signs are not permitted in Oakland except (1) as otherwise provided for in this Code, or (2) pursuant to a franchise agreement or relocation agreement authorized by the Oakland City Council, which expressly allows advertising signs and then only under the terms and conditions of such agreements.

By amending the City's General Plan to include section 17.104.060 of the Planning Code, the Port will be required to obtain authorization from the City Council prior to the establishment of any outdoor advertising signs. The authorization from the Council, in the form of a franchise agreement or relocation agreement, can include both resources for public amenities, as well as limitations on the size, height, materials, and other components of outdoor advertising signs. Any agreement can also require that existing billboards be removed/relocated.

It should be noted that currently Oakland is limited to only three General Plan amendments in each calendar year. In addition, such General Plan amendments require a substantive amount of staff resources and separate action and recommendation from the Planning Commission. Given that the Port Board has already made a decision regarding the placement of outdoor advertising signs, and the commitment of time and staff resources necessary for adopting General Plan amendments, this option will not provide the Council authority to regulate the outdoor advertising signs that were at issue in March 2005.

Option B: The Port Area boundary can be adjusted, with the approval of both the Port Board and the City Council (Charter sections 706(4) and 725). The last boundary change adjusting the Port Area was approved and implemented in the spring of 2000 when, in part, the Estuary Plan area, including Jack London Square and Oak-to-Ninth, was taken out of the Port Area and thus is now subject to the City's land use jurisdiction even though the Port may still own the land.

In particular, section 725 of the Charter states that "Port Area" under the exclusive jurisdiction of the Board of Port Commissioners shall be the same area that existed immediately prior to the adoption of this Section, as it has been defined by Charter and by ordinance, and as it may hereafter be altered by Council ordinance in accordance with and upon the recommendation of the Board, or by amendment of this Charter. (Amended by: Stats. November 1988.)

Given that the placement of outdoor advertising signs on Port area in the future is unknown at this time, staff believes that changing the Port map area is not likely an efficient or effective mechanism for the Council to regulate outdoor advertising signs on Port area.

Option C: The City Council and the Port Board of Directors can enter into a memorandum of understanding stating that new outdoor advertising signs are permitted only pursuant to a franchise agreement or relocation agreement authorized by the Council and the Board. Option C requires that a legally enforceable agreement (i.e. a memorandum of understanding) be developed to capture a formal and voluntary agreement that the Port Board not approve other outdoor advertising signs on the Port area from a specified date forward without also obtaining the approval of the City Council for a franchise agreement or relocation agreement. Although Option C does not require the lengthy processes for a General Plan amendment, a large time commitment is required in order to complete negotiations with the Port on such matters.

RECOMMENDATION AND RATIONALE

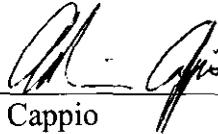
Staff recommends that the Council take a broad perspective of how this item correlates with existing City Council goals and objectives, along with current, standing and pending planning and land use priorities identified by the City Council. As identified and prioritized by City Council goals and objectives, the Planning Department's current work includes the establishment of commercial zone design review, the pending redevelopment of the Army Base and Oak-to-Ninth lands, transit village planning, the life safety and infrastructure capacity issues of the Panoramic Hill Area and large projects such as the Kaiser Hospital Medical Center Expansion.

These five current tasks all stand to have great benefits for the City. With the current allocation of staffing and operational resources for the Planning Department, the implementation of the options outlined in this report will likely necessitate a delay in other current and strategic planning projects. If the Council decides to direct staff to prepare the analysis and legislation necessary for any of the options presented in this report, the Council may want to also indicate which of the current planning projects are acceptable to delay. We also note that the Port Board has already made a decision regarding the placement of outdoor advertising signs and no option would necessarily affect that decision. In addition, staff is not aware of any other pending activities involving outdoor advertising signs in the Port Area. At this time, staff recommends that no further action be taken on this item, and the current separation of land use authority between the Port and the City remain.

ACTION REQUESTED OF THE CITY COUNCIL

Staff is requesting the Council give direction to staff regarding their preferred option. If deemed appropriate, the Council may further direct staff to return with the necessary legislation at a future meeting and indicate what current planning projects are acceptable to delay.

Respectfully submitted,



Claudia Cappio
Development Director,
Community & Economic Development Agency

Prepared by:
Maziar M. Movassaghi
Community & Economic Development Agency

APPROVED AND FORWARDED TO THE COMMUNITY & ECONOMIC DEVELOPMENT COMMITTEE:



Office of the City Administrator