



CITY HALL • 1 FRANK H. OGAWA PLAZA • OAKLAND, CA 94612

JANE BRUNNER
Councilmember
District 1(510) 238-7001
FAX (510) 238-6910
TDD: (510) 238-7413TO: Fellow Councilmembers
FROM: Vice Mayor Jane Brunner
DATE: February 24, 2004

Action Regarding A Report On Billboards At The Port Of Oakland, Which Will Include A Review Of The City Of Oakland's Current Land Use Authority Billboards At The Port Of Oakland And Recommendations As To How The City Can Further Regulate The Installation Of Billboards Within The City Limits, And Request To The Port Of Oakland To Postpone The Approval Of Any New Billboards For 45 Days.

SUMMARY

This report requests staff to review the City of Oakland's current authority to regulate billboards within its municipal boundaries, particularly at the Port of Oakland and along the Oakland Estuary. This report also recommends that the City Council formally request that the Port of Oakland delay any action on approving any franchise agreement or any individual billboard for 45 days in order for the City of Oakland to perform this review.

FISCAL IMPACT

None. This is a policy and regulatory matter with no direct fiscal impact.

BACKGROUND

On February 1, 2005, the Board of Directors of the Port of Oakland directed its staff to begin negotiations with companies to place billboards on Port property. It is not clear if the proceeds from the billboards are to be used for operations at the Port or as possible funding sources for charities.

The Oakland City Council was not involved with of the Port to move forward with these negotiations. As it has been City policy for a number of years to decrease the number of billboards within the City of Oakland, the Port's action is deserves full discussion at the City Council.

KEY ISSUES AND IMPACTS

City Policy Regarding Advertising Signs

The City Council has a policy of discouraging advertising signs:

Planning Code Section 17.104.060

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. (Ord. 12425 § 2, 2002)

Additionally, numerous sections in the Planning Code limit the placement, size, extent and maintenance of advertising signs. For example, the City has a goal of eliminating all billboards in residential areas (Planning Code Section 17.104.050), limiting their size in commercial and industrial zones (Planning Code Section 17.104.020), and even forbidding them in certain zones (Planning Code Section 17.86.090).

The City Council's policy direction in recent years has clearly been to reduce the number of billboards in the city. A community standard has been set by which it is accepted that billboards are unsightly, block panoramic views of both nature and the city skyline, and turn over our public open spaces for the use of advertisers. This trend is not limited to Oakland: communities across America are trying to reverse decades of permissive city planning regarding billboards.

Land Use Jurisdiction in the Port Area

A fundamental question is whether the City of Oakland has any land use jurisdiction whatsoever to regulate billboards in the Port Area. 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.

Generally, the interpretation of this section is that:

- land in the Port Area (whether owned by the Port or by private interests) is generally under the control of the Port Board, and therefore is not subject to Oakland's Planning Code, subdivision regulations and the like.
- land outside of the Port Area (whether owned by the Port, City or private interests) is subject to the Oakland Planning Code.

All development, however, within the Port Area must be consistent with the City's General Plan, and residential housing development must be approved by the Port Board with the consent of the City Council.

Additionally, the Port Area is mapped and such map can be changed with the approval of both the Port Board and the City Council. The last boundary change adjusting the Port Area happened 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 are now subject to the City's land use jurisdiction even though the Port may still own the land.

CONCLUSION:

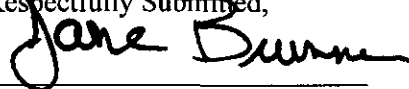
The City has ultimate authority over land use within its borders through its enforcement of the terms of the General Plan. As it has been clear that the direction of the City Council is to limit and/or eliminate billboards within the city limits, I believe that staff should analyze the Municipal Code, Planning Code, and the General Plan (including the LUTE, OSCAR and the Estuary Plan) to see if there is currently a mechanism by which we can regulate billboards in the Port Area. I believe it is the City Council's responsibility to ensure that development anywhere in the City is consistent with the policies it establishes.

RECOMMENDATIONS:

It is the recommendation of this report that the City Council directs staff to move forward with a review as outlined in the Conclusions section above. Staff will return to Council with a report outlining where the City now has jurisdiction to regulate billboards on Port property and how the City can regulate billboards in the Port Area. If the City of Oakland does not have regulatory power over billboards on Port property, staff will return to Council with proposed legislation to grant the City Council such authority, including but not limited to, an amendment to the General Plan.

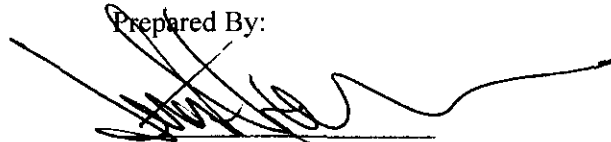
I also recommend that the City Council officially, by resolution, request the Port of Oakland to not approve any individual billboards, or franchise agreements, for 45 days in order for the City Council to perform the abovementioned review.

Respectfully Submitted,



Vice Mayor Jane Brunner
City Councilmember, District 1

Prepared By:



Justin Horner, Chief of Staff
Office of the Vice Mayor