

CITY OF OAKLAND

AGENDA REPORT

OFFICE OF THE CITY CLERK

2006 FEB 16 PM 9:04

TO: Office of the City Administrator
ATTN: Deborah Edgerly
FROM: Community & Economic Development Agency
DATE: February 28, 2006

RE: **REPORT ON THE CITY'S MUTUAL DISCUSSION WITH THE PORT OF OAKLAND FOR THE MANAGEMENT AND REGULATION OF OUTDOOR ADVERTISING SIGNS (BILLBOARDS) IN THE CITY OF OAKLAND, INCLUDING THE PORT AREA.**

SUMMARY

At the June 14, 2005 Community & Economic Development Committee (Committee), staff was directed to begin discussions with the Port of Oakland (Port) for production of a Memorandum Of Understanding (MOU) requiring new outdoor advertising signs be permitted only upon approval by the City Council and the Port Board of Directors. In the event that an MOU is not produced, staff was asked to return to Committee for direction regarding the possible development of a General Plan Amendment to extend the City's jurisdiction for new outdoor advertising signs in the Port Area land.

Following the direction of the Council, staff initiated a number of meetings with designated Port staff to discuss existing land use regulations and to develop baseline information on existing billboards. During the time period of June 2005 to present, there have been no changes to the number of new billboards in Port Area land. The Port did finalize plans for billboards approved in spring 2005 and extended existing billboard agreements. However, City discussions with Port staff have not resulted in a MOU for new billboards in the Port Area.

Staff requests Council direction on the nature and extent of a proposed General Plan Amendment to extend the City's jurisdiction for new billboards in the Port Area land 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 City Council can amend the General Plan to require that new outdoor advertising signs be permitted only pursuant to a franchise agreement or relocation agreement authorized by the Oakland City Council for *designated locations* currently under the jurisdiction of the Port.

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.

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FISCAL IMPACTS

There are no direct fiscal impacts to the City for any of the options listed above.

BACKGROUND

Land in the Port Area (whether owned by the Port or by private interests) is generally under the complete and exclusive control of the Port Board (Charter section 706) and therefore 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)].

Following the direction of the City Council in June 2005, staff from the Community and Economic Development Agency met with their counterparts at the Port. Discussions regarding outdoor advertising signs were incorporated into both the agenda of standing meetings between City and Port staff (i.e. City-Port Development Team meetings) along with several meetings that focused on billboards only. These meetings resulted in the following outcomes:

- Routine communication between Port and City staff as part of the monthly real estate meetings
- Analysis and review of existing and often overlapping land use authority by regulatory agencies, such as the Federal Aviation Administration, California State Lands Commission, CalTrans, Bay Conservation and Development Commission and City of Oakland, that can limit the placements of outdoor advertising signs
- Comparative analysis of fiscal impacts to the Port from Maritime activities versus outdoor advertising signs
- Port providing City staff with schedules and periodic updates of existing outdoor advertising signs

- Discussed and commented on the Port's agreement with the advertising industry regarding voluntary liquor content limitation agreement

KEY ISSUES

As indicated above, City and Port staffs have worked to meet the direction set by the City Council. However, our discussions with the Port staff have not resulted in an MOU regarding new outdoor advertising signs in the Port Area. Therefore, the City Council can extend its jurisdiction to include land in the Port area for regulating outdoor advertising signs through the following two options for amending Oakland's General Plan:

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.

Option B: The City Council can amend the General Plan to require that new outdoor advertising signs be permitted only pursuant to a franchise agreement or relocation agreement authorized by the Oakland City Council for designated locations currently under the jurisdiction of the Port. Similar to Option A, this option would allow the Council to require a franchise agreement or relocation agreement prior to any new outdoor advertising sign being constructed. However, unlike Option A, under Option B the jurisdiction of the Council will be limited to pre-designated areas, such as commercial corridors or other heavy public usage areas under Port jurisdiction, currently under the jurisdiction of the Port.

It should be noted that currently Oakland is limited to only four General Plan amendments in each calendar year for each of the mandatory elements of the General Plan. The proposed General Plan amendments included in this report would be included in the Land Use element of

the General Plan. To date, the regulatory requirements for some developments projects, such as the Kaiser Hospital Medical Center Expansion, former Army Base, East Maritime, and Oak to Ninth project, submitted for review and approval by the Planning Commission require General Plan amendments. In addition, such General Plan amendments require a substantive amount of staff resources and separate action and recommendation from the Planning Commission.

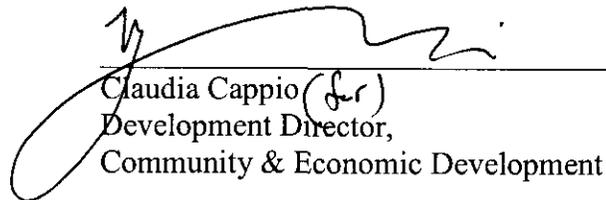
RECOMMENDATION AND RATIONALE

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 and East Maritime. These current tasks all stand to have great benefits for the City. Furthermore, since the original staff report back in June 2005 no new outdoor advertising signs have been approved by the Port and staff is not aware of any 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. Staff will continue to keep lines of communication and dialogue open between City and Port staff.

ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends no action be taken at this time. Staff will continue to maintain open communication between City and Port staff.

Respectfully submitted,



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Community & Economic Development Agency

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APPROVED AND FORWARDED TO THE COMMUNITY & ECONOMIC DEVELOPMENT COMMITTEE:



Office of the City Administrator