

Port of San Francisco

SUMMARY

San Francisco's 7.5 mile northern and eastern waterfront has given the city a colorful and vital maritime legacy, primarily related to the shipping industry. However, in recent decades, significant changes in methods of commerce and new technology have had a resounding effect on the Port of San Francisco (Port).

In 1968, the Burton Act transferred the Port from the State of California to the City and County of San Francisco, to be held in public trust on behalf of all the people in California. When San Francisco assumed management, the structural property -- piers and buildings -- was in poor condition with a history of deferred maintenance. In general, the Port has not been able to generate sufficient revenue to develop and invest in its own infrastructure, so a policy of deferred maintenance continues.

The waterfront is changing, and important decisions are being made about the direction of the Port. The current administration has placed considerable focus on commercial real estate development as a way of reaching a balanced budget. Two years ago, federal and state funds in the amount of \$9 million were declined by the Port. These funds were available for the development of maritime activity but were deemed not in the best interest of the Port. It was determined that it was best to focus on other areas of Port development.

Through a bond issue approved by the voters approximately eight years ago, funds were made available to develop maritime facilities including Pier 80. Subsequent to its having been improved, Pier 80 was closed. The reason given was the lack of an operator for the pier. Yet no operators were actively sought. The closing of Pier 80 meant the loss of potential revenue for the repayment of the bond. Management's failure to maintain the pier in operation was then characterized as an indication that San Francisco could not support maritime activity.

Recently, a ballot initiative cleared the way for the possibility of building a baseball stadium on Port land directly on the waterfront. A co-generation plant is being considered on the southern waterfront.

It is understandable that the Port of San Francisco emphasize commercial development at this time; the Port is adjacent to some of the most valuable commercial land in the country. At the same time, it is important to note that numerous studies have affirmed that maritime use should be given a high priority in the development of the waterfront given the unique character of this natural demographic asset. Questions are raised: Is the Port experiencing potential revenue losses that are exacerbated by deferred maintenance? Are these losses increasingly self-perpetuating? How does the often reiterated "Shipping is gone in San Francisco" stance affect any potential industrial clients who would like to dock in San Francisco? What is the potential pool of candidates for new leases under current terms and conditions? Is Port management reactive rather than proactive?

Given the concerns of the citizens about the development of the waterfront, the Civil Grand Jury decided to look at the Port of San Francisco.

BACKGROUND

The Port is comprised of the following: The Port Commission consists of five citizens who are appointed by the Mayor and confirmed by the Board of Supervisors. They serve staggered 4-year terms and oversee the management and operation of the Port. The Executive Director (Director) is nominated by the Port Commission and appointed by the Mayor. The Director manages the day-to-day operations of the Port. There is a current staff of approximately 214 employees. The Port budget for FY 1995-1996 is approximately \$32 million.

Under municipal control, the Port is an "Enterprise Fund Department" which does not derive monies from, nor contribute monies to, the General Fund. By law, it must support itself and repay the City of San Francisco for any city services used. The State of Washington subsidizes the shipping industry in Seattle; in contrast, the Port of San Francisco does not receive support from the State of California. Many Port properties are in such poor condition that they are difficult to lease or simply cannot be leased.

In 1990, San Francisco voters approved Proposition H which placed a ban on the building of hotels on waterfront property and a moratorium on non-maritime development of the piers pending the preparation and enactment of a comprehensive land use plan.

With the completion of an environmental impact report (EIR), the new Waterfront Land Use Plan (Plan) will go into effect this year. This Plan was developed through the efforts of a 27-member Citizen's Advisory Committee which studied the Port for four years. The report is available to all citizens interested in Port issues, and they are encouraged to obtain the complete document. It is a thorough study, with excellent findings and recommendations which we hope will be followed by this and future Port administrations. For the purposes of this report, it is important to reiterate that the Plan designates 7 categories of land use:

- continued and expanded maritime use²;
- transitional maritime use (sites north of Broadway);
- open space and areas of public access;
- residential use (restricted to inland properties, mainly north of China Basin -- sea wall lots);
- a broad range of commercial land use opportunities;
- other uses on a limited bases for specific sites (e.g., power plants, sport facilities);
- interim uses.

In addition, the San Francisco Administrative Code (Section 61.1) states that the waterfront should be reserved for maritime uses, public access, and projects which aid in the preservation and restoration of the environment. (Appendix A)

FINDINGS AND RECOMMENDATIONS

Port Management

Findings:

As is the case with most commissions, the Port Commissioners are political appointees. The Commissioners are appointed by the Mayor and reflect the priorities of the Mayor's Office.

With the implementation of the new Waterfront Land Use Plan this year, the Executive Director balances many responsibilities. An empowered and proficient staff with established lines of communication with the Commissioners would facilitate implementing the plan and achieving the intentions of the Citizen's Advisory Committee.

The style of Port management can be characterized as top-down. Repeated efforts on the part of the Civil Grand Jury to gain an understanding of leasing information often resulted in statements such as, "You have to refer that question to top administration." This type of response continued up from level to level.

Whereas maritime uses are accentuated in public documents and there is a clear mandate to give maritime use a high priority, the maritime staff at the Port has been substantially downsized. There is no Maritime Director. There is no strong maritime advocate at the Port nor is there a staff person with strong marketing expertise in shipping.

Recommendations:

The composition of the Port Commission should be diverse in expertise to enforce the San Francisco Administrative Code and the Citizen's Advisory Committee's Waterfront Land Use Plan. The Mayor should appoint representatives with expertise in the major utilization/function areas of the Port. For example: 1 Commissioner with work experience in commercial/residential real estate, 1 Commissioner with work experience in urban planning/public access, 1 Commissioner with work experience in maritime uses, 1 Commissioner with community involvement in Port regulatory/environmental issues, 1 Commissioner with work experience in financial planning/analysis.

To facilitate the flow of information to the Port Commissioners, each Port Commissioner should be in close contact with the corresponding division(s) in the Port which pertains to his/her area of expertise.

There should be funding for a position dedicated to industrial maritime uses. The person hired for this position should have maritime marketing expertise.

The role of division heads should be reevaluated with a view to enabling them to function with the responsibility and authority appropriate to their positions.

Port Leases

Findings:

Lease agreements vary from 66-year leases to month-to-month arrangements. While the current administration has created a standard leasing policy for new leases and has increased rents on many leases as they came up for renewal, many leases (old and new) are well below market rental rates.

Deferred maintenance continues to be a circular problem. The longer piers and pier structures are allowed to deteriorate, the lower the rents which can be charged and thus the less money there will be available to repair the structures. In a move to get around this dilemma, the Port provides "rent credits" whereby a portion of the rent is forgiven if the lessee provides capital improvements or repairs which increase the property's rental value to the Port (this can include such items as air conditioning units and carpeting).³ The development of Pier 38, in close proximity to the proposed baseball stadium at China Basin, is an example of a currently negotiated Port contract.

It was evident to the Civil Grand Jury that, with the proposed Pier 38 lease, the Port will be realizing a minimal return at best. The lessee will receive a significant reduction in rent through the application of rent credits.⁴

It should be noted that no request for proposal (RFP) was issued for this pier despite the fact that an RFP is supposed to be issued for all “business opportunities” -- one method by which minorities and new businesses can enter the waterfront.

Because of the poor condition of so many Port properties and the extent of repairs often required, a lessee frequently must have the resources to finance major construction projects in order to develop the site. This most certainly limits the pool of potential renters given the requirement of an additional financial consideration. A lessee must be willing to go into property development.

The Port has Human Rights Commission (HRC) staff on the premises. “Business opportunities” are supposed to be reviewed by HRC staff and new leases reviewed for compliance with requirements of minority representation. This does not seem to be taken seriously by Port staff.

Recommendations:

There should be a specific rental increase schedule for achieving the established Port minimum standards for all rentals.

There should be guidelines and a cap for rent credits. The development of Port property by a lessee, which the Port calculates as a financial “gain,” should take into consideration the depreciation of capital improvements and/or repairs.

If a lessee wants to vary the lease during its term in any way which requires Port approval, the lease should be scrutinized for more favorable conditions to the Port with an eye to attaining fair market value.

All “business opportunities” should have a Request for Proposal. If there is an inadequate response, the RFP should be extended and resubmitted to the public business community.

Port HRC staff should be provided full information in a timely manner regarding “business opportunities” and contract negotiations and should be active participants in HRC/Port related matters.

Financial Management (Funding Sources, Budget)

Findings:

The Port has a vast amount of raw data in multiple files which often conflict. According to Port staff, a new computer system is being purchased for property management. It is hoped that this new system will contain a comprehensive database sufficient to allow the Port staff, the Commission and the public to form a truer picture of the economic structure of the Port.

To cover costs and invest for the future in the infrastructure and structures, the Port would need to increase revenue (rents, leases), obtain additional funding (loans,

grants), reduce costs further (e.g., consolidate job responsibilities), and/or restructure the budget to provide necessary funds to areas essential for long-term survival.

Although there was a reported surplus in 1994-1995, the general situation, as characterized by Port staff, is that the "Port has no money". Fixed costs continue to go up, but they have currently been contained, and variable costs have been cut. There continues to be no money available for deferred maintenance or for development of, or investment in, Port property.

There is no prioritized list of maintenance projects. Budget allocation for Maintenance Services/Buildings & Structures is relatively low in comparison to other budgetary allocations, a mere 1.16% of the total 1995-1996 budget.

The following are some of the sources of funding that have been available in the past: State of California Department of Boating and Waterways, funding for maritime use (fishing industry) at Pier 45; bond funds from the City and County of San Francisco used to upgrade cargo Piers 80 and 96; federal and state funds to create double-container rail access through the Southern Pacific tunnel; State of California Department of Boating and Waterways Private Sector Marina Loan Program, funds obtained by lessee at Pier 38.

Recommendations:

By September of 1996, the Executive Director should provide to the Port Commissioners information regarding all sources of funding available to the Port. This information should be presented by categories of usage as allowed by the funding source.

There should be a long-term prioritization of deferred maintenance for the renovation of piers and pier structures in conjunction with long-term strategic planning.

A reserve fund should be established sufficient for the maintenance of piers and pier structures.

The Baseball Stadium

Findings:

Recently, San Francisco citizens voted an exception to the 40-foot height limit on the waterfront in order to allow the possibility of building a new baseball stadium on Port land at China Basin. In the past, other such measures have failed at the ballot box primarily because of the direct costs that would have been incurred by San Francisco taxpayers. In part, this last ballot measure was approved because the owners of the baseball team stated that they would substantially finance the construction of the stadium without public funds. What remains to be seen is what the real cost will be for San Franciscans. Certainly there will be costs for the Port. Full disclosure of all costs is important in order to allow a true consideration of this major construction on the waterfront. The citizens should know all of the details.

The Port is in closed negotiations with the owners of the baseball team regarding the stadium.

The Sunshine Ordinance⁶ states that "Draft versions of an agreement being negotiated by representatives of the City with some other party need not be disclosed immediately

upon creation but must be preserved and made available for public review for 10 days prior to the presentation of the agreement for approval by a policy body."

According to news reports, when asked how the team would finance the toxic cleanup of Port lands, the baseball team owner stated that it would happen through rent credits from the Port.

Recommendations:

While it is understandable that some preliminary negotiations are conducted in private, no decisions should be made without public scrutiny. The Port should always be open and honest with the citizens of San Francisco about all details of leasing agreements with the owners of the baseball team and any other interested parties (e.g., Pacific Telesis).

Whereas the Sunshine Ordinance mandates at least a 10-day public review period, the Port should allow a two-month public debate before the final lease agreement is presented to the Port Commission.

Aside from the details of the final lease between the Port and the owners of the baseball team, all other costs which could be incurred by the Port or the City of San Francisco regarding the transfer of this land, i.e., costs of relocating staff and facilities, any rental loss from the site, etc., should be made public at the same time. This information should be made a part of all public hearings.

Responses Required

Mayor

Board of Supervisors

Port Commission

Executive Director, Port of San Francisco

Human Rights Commission

APPENDIX A

Note: Appendices consist of the following items, which can be obtained by contacting the San Francisco Civil Grand Jury.

SAN FRANCISCO ADMINISTRATIVE CODE

CHAPTER 61

WATERFRONT LAND USE