

### PLANNING DEPARTMENT

City and County of San Francisco

1660 Mission Street, Suite 500 San Francisco, CA 94103-2414

(415) 558-6378

PLANNING COMMISSION FAX: 558-6409 ADMINISTRATION FAX: 558-6426 CURRENT PLANNING/ZONING FAX: 558-6409 LONG RANGE PLANNING FAX: 558-6426

#### **EXECUTIVE SUMMARY**

for Hearing on April 6, 2006

**Project Name:** General Advertising Sign Relocation Procedure and Sign Inventory

Case Numbers: 2006.0093T [Board File No. 052021] initiated by President Peskin on

December 13, 2005

**Staff Contact:** Elaine Forbes, Finance Director/ 415.558.6417

**Reviewed By:** Lawrence B. Badiner, Zoning Administrator / 415.558.6350

For Hearing On: April 6, 2006

#### **Report Format**

Supervisor Aaron Peskin introduced an ordinance (File No. 05-2021) that provides a relocation procedure for general advertising signs, requires sign companies to submit inventories of signs, and provides funding through new fees charged to sign companies for the Planning Department to verify such inventories. This report makes recommendations for amendments to this ordinance.

#### **Background Information**

In March of 2002, San Francisco voters approved Proposition G, which amended Planning Code Section 611 to prohibit the permitting of any new general advertising signs effective March 5, 2002. Proposition G also provided for the relocation of existing legally permitted general advertising signs. This ordinance would codify a relocation procedure. The intent of Proposition G was to enhance the City's livability and quality of life by reducing the proliferation of general advertising signs in the City.

The Department estimates that approximately 1,700 general advertising signs are located in the City. The lions share of the approximately 1,700 signs are operated by eleven companies, Clear Channel (formerly Eller Media), CBS Outdoor (formerly Viacom, formerly Infinity), Lamar Outdoor Advertising (formerly Orion), Metro Lights, NEXT Media, ADCO Outdoor Advertising, Farias Outdoor Media, Advertising Display Systems (ADS), Foster Media and On the Wall. Additionally, smaller companies and property owners operate a small percentage of these signs. The Department currently has 281 in-lieu permit requests and 140 code enforcement actions for general advertising signs pending in the backlog.

<sup>1</sup> In May 0f 2001, Planning Code Section 604.1 was amended to require posting of sign company name, permit numbers, and approved dimension of sign(s) and gave the sign owners 18 moths to apply for an "in-lieu" identifying number if the permit could not be located. In the Fall of 2002, following a settlement of a lawsuit that challenged

#### **Ordinance Description**

The proposed ordinance, which is described in detail in Exhibit A of this report, provides for a relocation application process that involves two approval and review processes: (1) a relocation agreement application and (2) a conditional use application. The proposed ordinance also requires sign companies to submit inventories of signs, and provides funding for the Planning Department to verify such inventories through new fees charged to sign companies.

#### **Benefit of Legislation**

The primary benefit of the proposed legislation to the City is the potential to fund a comprehensive sign inventory and assure code compliance of general advertising signs. The completion of a sign inventory will allow the Department to timely process code violation allegations, pursue the removal of signs that are not permitted and/or do not conform to the Planning Code, and provide policy direction on the appropriate locations and use restrictions for general advertising signs. The Department's comprehensive sign inventory would be completed through verifying the sign companies sign inventories, determining the permit status and code compliance of each sign, and locating through fieldwork signs not initially included in the inventories.

#### **Issues and Policy Considerations**

Timing of processing of potential relocation requests. The subject ordinance provides that any general advertising sign company desiring to relocate an existing legally permitted sign first file an application with the Department. The Department would review applications following the criteria specified in the legislation and make recommendations for approval or disapproval of relocation applications to the Board of Supervisors. Different from other project application evaluations, the requirement for the Department's recommendation of a relocation application is that the applicants entire inventory of signs located in the City must be lawfully existing and lawfully permitted, not just those signs proposed for relocation.

The Department estimates that it would be unable to process such relocation requests for <u>at least three years</u> because the Department must first (1) complete or substantially complete a sign inventory, (2) determine the lawfulness of each sign in the inventory, (3) process approximately 281 in-lieu inventory requests, and (4) process approximately 140 code enforcement cases in the backlog and any new signs discovered through the inventory. Staff has developed a work program and estimates that the hours to complete these tasks are 15,600, as described in Exhibit B of this report.

Potential frivolous complaints. The subject ordinance requires that in order for the Planning Department to recommend to the Board of Supervisors review of a relocation application, the Department must confirm that "there are no outstanding code enforcement actions pending against the sign company for violation of Article 6 of the Planning Code or any other applicable law governing general advertising signs" (page 5, lines 18 –20). The Department's validation of the sign inventory will reveal code violations, resulting in Notices of Violation and will allow for the processing of the 140 cases in the backlog. However,

the adoption of Section 604.1, the Planning Director gave sign owners until the Fall of 2003 to submit requests and background information for "in-lieu" numbers.

#### **PLANNING COMMISSION**

Hearing on April 6, 2006

nothing in the legislation would prohibit filing numerous allegations of sign violations in order to stall a relocation application. Staff recommends amending page 5, lines 19 and 20 of the subject ordinance to require no pending Notices of Violation instead of "outstanding code enforcement actions pending" as a remedy to this potential problem. Thus, the filing of an allegation will not prohibit relocation from proceeding, but a Notice of Violation issued by the Department would.

Compliance with sign inventory requirement. The subject ordinance requires that within 60 days of passage, any general advertising company that owns a general advertising sign located in the City must submit to the Department a current, accurate, and complete inventory of its general advertising signs together with the inventory processing fees. Sign companies will be required to update inventories in writing to the Department 30 days following the sale, removal, purchase or relocation of a sign(s). The legislation does not include a penalty outside of legal action for not submitting an inventory. Staff notes that sign companies that do not seek to relocate signs would not have a strong incentive to comply with the requirement. Further, only through the process of verifying submitted inventories through fieldwork might the Department find signs not included in any inventory. Pursuing legal action to compel sign companies to submit an inventory may not be the most effective approach. Staff recommends that the ordinance include penalties for not timely submitting a complete sign inventory and inventory updates, after a process of notification as follows:

- The Department will notify in writing sign companies that have not submitted or have submitted incomplete sign inventories, or have not timely submitted an inventory update.
- Within 30 days of the date of this notification, the sign company shall submit a complete inventory with the inventory processing fee, and a penalty of \$580 per sign.
- If the sign company fails to submit the inventory and payment within 30 days of the date of receipt of the notification, the penalty will double to \$1,160 per sign.
- This penalty decision is appealable to the Board of Appeals.
- The City's Treasure Tax Collector will pursue fees and penalties due after 90 days.
- All revenues received from these penalties would accrue to the Code Enforcement Fund.

Staff also recommends that the proposed legislation be amended to include direction to the Board of Appeals for criteria to apply to determine whether reducing a penalty is appropriate. Specifically, staff recommends that the following language be included in the subject ordinance:

"The Board of Appeals, in reviewing the appeal of the penalty assessed for not timely submitting a sign inventory may reduce the amount of the penalty fee if the Board of Appeals finds that the sign company (1) was not properly notified, or (2) had previously submitted a sign inventory that included the said sign(s), or (3) that any other negligence on the part of the Department resulted in the penalty charge.

Inventory Content Clarification: The subject ordinance includes a list of information that the sign company is to submit to the Planning Department in the sign inventory. Staff recommends the following additions to the required information: (1) nearest intersection in addition to block and lot number, (2) permit application numbers, in addition to permit numbers, (3) permit numbers and permit application numbers for prior modifications that the

Department authorized, (4) evidence that the sign is still in use for general advertising, and (5) information about whether the sign had a prior use as a non-general advertising sign, for example a business sign, and the duration of such use.

Cost recovery. The subject ordinance includes two fees: (1) \$1,000 application for relocation agreement, and (2) \$5,000 initial inventory process fee, plus \$75 per sign. Given the Department's estimate of 1,700 signs in the City, the majority of which 11 sign companies operate, the proposed fees would generate approximately \$187,500 of onetime revenue. To complete or substantially complete the sign inventory would require approximately 15,600 staff hours, as detailed in Exhibit B of this report. The staff requirement of 15,600 hours is equivalent to 10 FTEs for one year, or 3.3 FTEs for three years. Additionally, the program requires City Attorney investigator and DPW surveyor support, software and equipment, microfilm support and transportation for fieldwork. As detailed below, the estimated cost of completing or substantially completing a sign inventory, determining the lawfulness of each sign in the inventory, processing approximately 281 in-lieu inventory requests, and processing approximately 140 code enforcement cases in the backlog is \$1.2M. Therefore, the fees included in the proposed ordinance would generate only 16 percent of the cost of the program and would require a \$1M subsidy.

70 11 4	$\alpha$ $\Delta$ $\mathbf{p}$	
Table 1	<ul> <li>Cost Recovery</li> </ul>	Analycic
Iabici		

Program Cost	
Staffing	
3 FTE Planner IIIs	325,260
3 FTE Planner Is	225,013
4 FTE Intern	197,840
Microfilm tech support (Workorder to DBI)	30,000
City Attorney Investigator and DPW Surveyor (Workorder	
to CAT and DPW)	216,840
Transportation: City carpool rental and fuel	15,000
Software and Equipment	23,000
Department Overhead (31.48%)	<u>164,672</u>
<u>Total</u>	\$1,197,625
Revenue	
Application for Relocation Agreement (\$1,000)	5,000
Initial Inventory Processing Fee (\$5,000, plus \$75 per sign)	182,500
Total	\$187,500
Subsidy	\$1,010,125
Percent cost recovery	16%

Given the Commission's recent policy direction that fees should be set to achieve cost recovery, unless a subsidy is warranted due to a policy consideration, such as public access (Resolution No. 17189), staff recommends that the proposed fees be changed to achieve cost recovery as described in Table 2 below.

**Table 2 – Fee Structure** 

	Transmitted	Planning	Transmitted	Planning
	Legislation	Department	Legislation	Department
Revenue	fee	fee	revenue	revenue
Application for Relocation Agreement	\$1,000	\$1,000	\$5,000	\$5,000
Initial Inventory Processing Fee – Flat fee	5,000	0	55,000	0
Initial Inventory Processing Fee – Per				
sign fee	75	560	127,500	952,000
Annual Inventory Maintenance fee – Per				
sign fee*	0	48	<u>0</u>	244,800
Total			\$187,500	\$1,201,800
Subsidy			1,010,125	(4,175)
Percent cost recovery			16%	100%

The annual inventory maintenance fee would generate \$81,600 of revenue annually, or \$244,800 in three years.

The recommendation for the fee change maintains the relocation agreement fee of \$1,000, and restructures the initial inventory processing fee so that it is based on only a per sign fee of \$560, instead of a flat fee and a per sign charge. The rationale for this recommendation is that the number of signs to be validated in the inventory drives the Department's work requirement. The recommendation also proposes an annual per sign inventory maintenance fee of \$48 to support the ongoing cost of updating the sign inventory. The proposed \$48 annual inventory maintenance fee would support .5 FTE Planner III, Department overhead costs, and \$11,000 for a workorder to the City Attorney. While the Department cannot estimate with certainty the ongoing costs of the program because the level of updates to the sign inventory is not yet know, we believe .5 FTE Planner III to be prudent. Further, the Department would recommend changes to the annual licensing fee if the revenues received from the fee exceeded the cost of maintaining the inventory (see reporting requirement below).

Use of Funds –Additional Reporting Requirement. The subject ordinance requires that the Department use the inventory processing fee solely to compensate the Department for its costs in verifying that the signs identified in the corresponding inventory are lawfully existing and to obtain removal through abatement actions or other code enforcement activities of any signs included on the inventory that the Department determines to be existing illegally.

Staff recommends that an additional annual reporting requirement be included in the ordinance so that concurrent with budget review beginning FY 2008 the Department provide a report to the Commission and to the Board of Supervisors that includes (1) annual revenues from the inventory processing fee, the relocation agreement application fee, and the annual licensing fee (2) annual expenditures for the sign inventory program, and (3) a progress report on the number of general advertising signs verified in the sign inventory, in-lieu requests and code enforcement action processing and backlog.

Wording Clarification – Wall Signs: The subject ordinance defines "signs" as "a legally permitted general advertising sign as defined in Planning Code Section 602.7" (Page 4, line 15). Many general advertising signs are on walls. Staff recommends that the ordinance be

#### **PLANNING COMMISSION**

Hearing on April 6, 2006

amended to clarify that signs structures and wall signs are included in the definition of "signs".

Criteria for Legalization. The proposed legislation does not include criteria for evaluating whether signs are code compliant. The Commission may wish to have a hearing and develop criteria for the Department to apply to determine code compliance. Absent a Commission policy, the Zoning Administrator would interpret code compliance on a case-by-case basis. Notably, all interpretations of the Zoning Administrator are appealable, whereas, a Commission policy decision would not be appealable.

Two-Stage Process. The subject ordinance provides for a relocation application process that involves two approval and review processes: (1) a relocation agreement application and (2) a conditional use application. The Commission may wish to consider whether allowing the applicant to submit a relocation request concurrent with a conditional use application would be a more efficient process. If the Commission recommended to the Board of Supervisors that the legislation be amended to allow for concurrent applications, approval of the conditional use permit must be contingent on the Board of Supervisor's approval of a relocation agreement.

#### **Summary of Recommendations**

Based on the above discussion, staff recommends that the Commission advise the Board of Supervisors to:

- 1. Amend page 5, lines 20 and 21 to strike "no outstanding code enforcement actions" and replace with "pending Notices of Violation."
- 2. Amend Section 604.2 to include a process of notification, penalties and an appeal process for not timely submitting a sign inventory.
- 3. Amend Section 604.2 to provide direction to the Board of Appeals as to criteria to apply to determine whether reducing a penalty is appropriate as follows: "The Board of Appeals, in reviewing the appeal of the penalty assessed for not timely submitting a sign inventory may reduce the amount of the penalty fee if the Board of Appeals finds that the sign owner (1) was not properly notified, or (2) had previously submitted a sign inventory that included the said sign(s), or (3) that any other negligence
- 4. Amend Page 27, line 3 to include nearest intersection, line 4 to add permit number and to require permit numbers and permit application numbers for any subsequent modifications of the sign, including illumination, line 24 to add that the sign is still in use for general advertising; and to require information on whether the sign had a prior use as a nongeneral advertising sign (business sign or exempt sign) and the duration of such use.
- 5. Amend page 22, line 9 from "\$5,000, plus \$75.00 per sign structure" to \$560 per sign structure.
- 6. Amend page 22, to include a \$48 per sign annual inventory maintenance fee.

on the part of the Department resulted in penalty charge.

7. Amend page 28, after line 20 to include an annual reporting requirement for the Department to submit a report to the Commission and to the Board of Supervisors that includes (1) annual revenues from the inventory processing fee and the relocation agreement application fee, (2) annual expenditures for the sign inventory program, and (3) a progress report on the number of general advertising signs verified in the sign inventory, in-lieu requests and code enforcement actions for general advertising signs processing and backlog, and abatement actions.

8. Amend page 4, line 15 from "sign" shall mean a legally permitted general advertising sign as defined in Planning Code Section 602.7, to "sign" shall mean a legally permitted general advertising structure or wall sign as defined in Planning Code Section 602.7.

#### **Summary of Policy Options:**

- 1. Staff recommends that the Commission consider holding a hearing on the evolution of General Advertising sign standards and to adopt criteria for evaluating code compliance.
- 2. Staff recommends that the Commission consider whether allowing an applicant to submit a relocation request concurrent with a conditional use application would be a more efficient process and accordingly make a recommendation to the Board of Supervisors.

#### **Environmental Review Status**

A General Rule Exclusion for the proposed modifications was issued on August 25, 2005 under CEQA Guidelines Sections 15061(b)(3).

#### **Public Comment**

The Department received a copy of March 10, 2006 comments to Supervisor Peskin from San Francisco Beautifu1 (SFB) on the relocation legislation. Their concerns included insufficiency of inventory fees, need for penalties for not submitting inventories and clarity about insuring legality of all signs in an inventory prior to processing relocation agreements. SFB and Robert Klausner have expressed concerns about sign ownership issues between property owners and sign companies particularly with respect to litigation between parties or against the City that could delay or complicate inventory or enforcement work. Phone comment has been received on a general problem of perceived inequities on sign lease renewals practices of large sign companies, particularly to elderly property owners and that the relocation legislation's provision that a property owner for an existing sign must sign off before such a sign could be relocated is not sufficient protection to such property owners.

#### Attachments

Exhibit A: Legislative Digest

Exhibit B: Sign Inventory Time Estimate

Exhibit C: Commission Resolution

Exhibit D: Ordinance 05-2021 General Advertising Signs – Relocation Agreements, Sign

Inventories, and Associated Fees.

Exhibit E: Planning Commission Proposed Changes to General Advertising Sign Relocation

Procedure.

# PLANNING COMMISSION Hearing on April 6, 2006

# **Case Number 2006.0093T** General Advertising Sign Relocations

### Exhibit A

**Legislative Digest** 

[this exhibit appears on the following pages]

# **Exhibit B Sign Inventory Time Estimate**

Case Task	Approx Case Quantity	Est FTE Hours Per Task	Total Hours	Notes
In lieu Inventory	281	8.25	2,318	
In-lieu Inventory	201	0.23	2,310	
Inventory Verification of Legality	1,419	8.25	11,707	reduced by 281
Existing Enforcement Cases	140	11.25	1,575	will increase based on results of inventory
Total	1,840		15,600	
Staffing	Annual Cost	Productive Hours	Total FTE	
5291 Planner III	108,420	1560		assumes step 3, with 39% fringe rate
5277 Planner I				assumes step 3, with 39% fringe rate
5276 Intern	49,460	1560	6	

**PLANNING COMMISSION** Hearing on April 6, 2006

# **Case Number 2006.0093T** General Advertising Sign Relocations

# Exhibit C Commission Draft Resolution

[this exhibit appears on the following pages]

# **PLANNING COMMISSION** Hearing on April 6, 2006

**Case Number 2006.0093T** General Advertising Sign Relocations

# Exhibit D Ordinance 05-2021 General Advertising Signs – Relocation Agreements, Sign Inventories, and Associated Fees

[this exhibit appears on the following pages]

# Exhibit E Planning Commission Proposed Changes to General Advertising Sign Relocation Procedure

The Planning Commission recommends that the Board of Supervisors amend File No. 05-2021 as follows:

- 1. Page 5, lines 20 and 21 to strike "no outstanding code enforcement actions" and replace with "pending Notices of Violation."
- 2. Section 604.2 to include a process of notification, penalties and an appeal process for not timely submitting a sign inventory.
- 3. Section 604.2 to provide direction to the Board of Appeals as to criteria to apply to determine whether reducing a penalty is appropriate as follows:

"The Board of Appeals, in reviewing the appeal of the penalty assessed for not timely submitting a sign inventory may reduce the amount of the penalty fee if the Board of Appeals finds that the sign owner (1) was not properly notified, or (2) had previously submitted a sign inventory that included the said sign(s), or (3) that any other negligence on the part of the Department resulted in penalty charge.

- 4. Page 27, line 3 to include nearest intersection, line 4 to add permit number and to require permit numbers and permit application numbers for any subsequent modifications of the sign, including illumination, line 24 to add that the sign is still in use for general advertising; and to require information on whether the sign had a prior use as a non-general advertising sign (business sign or exempt sign) and the duration of such use.
- 5. Page 22, line 9 from "\$5,000, plus \$75.00 per sign structure" to \$560 per sign structure.
- 6. Page 22, to include a \$48 per sign annual inventory maintenance fee.
- 7. Page 22, to include a cost of living adjustment (COLA) to application and inventory fees
- 8. Page 28, after line 20 to include an annual reporting requirement for the Department to submit a report to the Commission and to the Board of Supervisors that includes (1) annual revenues from the inventory processing fee and the relocation agreement application fee, (2) annual expenditures for the sign inventory program, and (3) a progress report on the number of general advertising signs verified in the sign inventory, in-lieu requests and code enforcement actions for general advertising signs processing and backlog, and abatement actions.
- 9. Page 4, line 15 from "sign" shall mean a legally permitted general advertising sign as defined in Planning Code Section 602.7, to "sign" shall mean a legally permitted general advertising structure or wall sign as defined in Planning Code Section 602.7.
- 10. Page 7, line 6 to allow an applicant to submit a relocation request concurrent with a conditional use application would be a more efficient process and accordingly make a recommendation to the Board of Supervisors.
- 11. Clarification that maintenance is not alteration.