

*Proposition B: Port of San Diego Marine Freight Preservation and Bayfront Redevelopment Initiative*

**Board Recommendation:**

**OPPOSE**

**Rationale:**

If passed, the Port of San Diego Marine Freight Preservation and Bayfront Redevelopment Initiative will require the Board of Port Commissioners to redevelop the 10<sup>th</sup> Avenue Marine Terminal, following the guidelines set forth within the measure. Rather than voting on a specific project, citizens of Chula Vista, Coronado, Imperial Beach, National City and San Diego will decide whether or not to amend the terminal's master plan to include specific uses other than maritime. Passage of the measure will require voters to make future amendments to the 10<sup>th</sup> Avenue Marine Terminal Precise Plan rather than allow the Board of Port Commissioners to make land-use policy decisions.

Although the intent of the measure is to utilize the 96 acres of "air rights" above the existing terminal, there is no clause within the language requiring the selected developer to do so. Instead, development of new public and commercial recreational uses and a new parking facility can occur on existing terminal property. Current activities must only be given "priority" in the overall design and acreage allocation in the redeveloped area. It is likely that the interpretation of the language will be challenged in court if the measure were to pass.

Therefore, the possibility exists that current maritime operations at the 10<sup>th</sup> Avenue Marine Terminal will be greatly affected by passage of this measure. Large companies and organizations heavily invested in the port such as Dole, NASSCO, and the Navy may see their ability to conduct operations at the terminal significantly reduced. As a result, the net economic impact of the terminal may decrease as those higher wage jobs are replaced by retail and hotel jobs, typically lower wage jobs than those in the maritime profession.

**Background:**

The 10<sup>th</sup> Avenue Marine Terminal is a 96-acre, multi-purpose facility that offers modern dockside cool/frozen storage, breakbulk, dry/liquid bulk, small-scale container operations and warehousing services. Approximately \$25 billion of international goods come through both the 10<sup>th</sup> Avenue Marine Terminal and National City Cargo Terminal each year. In 2006, it is estimated maritime cargo activity at the Port's terminals generated \$1.6 billion and \$100 million in state and local taxes; and supported 19,298 regional jobs<sup>1</sup>.

The Working Waterfront Group has projected an increase in maritime operations over the next 25 years. The expected growth in operations during that time includes:

- 350,000 additional automobiles

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<sup>1</sup> Working Waterfront Group

- 525,000 additional tons of bananas
- 200,000 to 750,000 additional tons of imported cement
- 120,000 additional tons of imported steel

In the past four years, cargo operations have increased by more than 50 percent at both the 10<sup>th</sup> Avenue and National City terminals.

The proponents of the measure, San Diegans for Community Solutions, state within the initiative the terminal and the surrounding area are “currently aging and underutilized, threatening the long-term survival of maritime freight activities”. The measure further states “the redevelopment project will create thousands of new jobs and generate millions of dollars in new tax revenues”.

To place this measure on the November ballot, San Diegans for Community Solutions were required to submit 34,462 signatures. Approximately 60,000 signatures were submitted, qualifying the initiative to be placed on the November 2008 ballot.

**Proposal:**

The question that will be put forth before voters will read:

**Redevelopment of 10<sup>th</sup> Avenue Marine Terminal:**

The amendment states redevelopment of the terminal will give priority to:

“The [preservation] of the existing marine freight activities and employment; attracting new marine freight by modernizing or constructing new marine freight and storage facilities; developing a new cruise ship terminal to replace or supplement existing facilities; and implementing infrastructure improvements to ameliorate access to the terminal and the waterfront”.

The initiative calls for the creation of a new subarea within the marine terminal named the 10<sup>th</sup> Avenue Marine Terminal Multi-Use Maritime District. The District will contain land previously allocated for “Marine Related Industrial Use” as well as “Marine Terminal”.

Table 1 below illustrates the change in land and water use allocations set forth within this measure. The Multi-Use Maritime District will comprise of 96 acres of port land, made up of the currently existing Marine Terminal land and 37.3 acres of land designated towards Marine Related Industrial.

<b>Table 1</b>			
<b>10th Avenue Marine Terminal - Precise Plan Land and Water Use Allocation</b>			
<b>LAND USE</b>	<b>ACRES</b>	<b>WATER USE</b>	<b>ACRES</b>
INDUSTRIAL	228.7	INDUSTRIAL	113.9
<del>Marine Terminal</del>	<del>58.7</del>	Terminal Berthing	15.3
Marine Related Industrial	<del>132.7</del> 170.0	Specialized Berthing	98.6
<u>Multi-Use Maritime District</u>	<u>96</u>		
PUBLIC RECREATION	3.5		
Park/Plaza	3.5		
PUBLIC FACILITIES	17.6		
Streets	17.6		
<b>TOTAL LAND AREA</b>	<b>249.8</b>	<b>TOTAL WATER AREA</b>	<b>113.9</b>
<b>PRECISE PLAN AND WATER ACREAGE TOTAL</b>			<b>363.7</b>

#### **10<sup>th</sup> Avenue Marine Terminal Multi-Use Maritime District:**

This measure will amend the Port of San Diego Master Plan to include a subarea known as the Multi-Use Maritime District. The intent of the redevelopment plan for this subarea is to “retain flexibility for consideration of a wide array of development options consistent with the following uses: the creation of an off-site parking structure that will serve the marine terminal, cruise ship terminal, and Convention Center; and establishing additional public recreation facilities, such as walkways, bicycle paths, parks and other open space”. Among the supportive uses specifically outlined within the amendment include:

- Downtown aquarium
- Arena, or other venue for large meetings, concerts and sports events
- Hotels, restaurants and specialty retail establishments to accommodate convention visitors and cruise ship passengers
- Other entertainment, community and commercial activities consistent with the maritime character of the area

#### *Air-Rights*

The most important element of the redevelopment plan, as outlined within the measure, is the ability to develop approximately 96 acres of “air rights” above the marine terminal and adjacent grounds. The development of this area is intended to accommodate port-related industrial and commercial uses, as well as public recreational, cultural and visitor-serving commercial uses.

Even though the development of new public and commercial recreational facilities is anticipated to be located within the new development above the terminal facility, there is no requirement within the measure to utilize those “air rights”. Therefore, the selected

developer may use the existing terminal for these new facilities so long as the existing marine related industrial uses “are still given priority in the overall design and allocation of acreage in the redevelopment area”. These uses are updated with the new measure and are outlined above.

#### *Effect on Cargo Operations*

Currently eight berths surround the proposed Multi-Use Maritime District. These berths are used for general cargo, petroleum products, fish and bulk export cargo. The newly proposed district would eliminate the specific berth descriptions outlined within the Port Master Plan. Despite the lack in language specifically identifying the uses of the eight berths, the proposed language states the preservation of current maritime activities and the modernization and construction of new facilities shall be given priority in the redevelopment of the 10<sup>th</sup> Avenue Marine Terminal.

#### **Funding of Redevelopment:**

This initiative specifically states that the redevelopment of the marine terminal “shall be privately financed, without the use of any existing general fund or tax revenues of the Port or of any of the constituent Port Cities.” The measure further states any additional tax revenues generated by newly developed activities can be used to execute the master plan.

#### **Exclusive Negotiating Agreement & Redevelopment Plan:**

Under this measure, the Port of San Diego is required to enter into an Exclusive Negotiating Agreement with a private development no later than sixty (60) days after passage of the initiative. The ENA must outline the terms and conditions of a comprehensive Master Cooperative Development Agreement for the development of the 10<sup>th</sup> Avenue Marine Terminal Multi-Use Maritime District. The amendment further states the ENA must require the Port and the selected developer to prepare a redevelopment plan for the Multi-Use Maritime District no later than 180 days after the ENA is agreed upon.

The Master Cooperative Development Agreement between the Port and the developer must specifically address the following matters:

1. A specific site design and plan for the development of the 10<sup>th</sup> Avenue Marine Terminal Multi-Use Maritime District
2. The preparation and processing of the environmental documentation necessary for the redevelopment project
3. A financing mechanism for the redevelopment project
4. The terms and conditions of an option and lease agreement with the selected private development entity for redevelopment of the site

#### *Cooperative Agreements and Joint Development Agreements*

Cooperative agreements, joint development agreements, or similar agreements must be entered into between the selected developer and existing tenants of the marine terminal. The intent of the agreement is to ensure the concerns of these tenants and employees are incorporated into the redevelopment plan and its implementation. These same agreements

must be offered to representatives of the tenants or establishments for inclusion in the redevelopment plan.

The measure does not outline what is to be included in these agreements with the port tenants. Therefore, the tenants may have no legal authority to prevent any development that may harm their operations on port land.

### **Fiscal Impact:**

If the Registrar of Voters determines enough signatures were submitted to qualify the initiative, the Port of San Diego must pay the cost of placing the measure on the ballot.

If the measure passes, it is likely that the interpretation of the amendment will be challenged in court. Additionally the language and any forthcoming projects must comply with state laws such as the California Coastal Act and the Public Trust Doctrine.

### **Policy Discussion:**

There has been an attempt over the current and previous election to shift the role of land use decisions to citizens through ballot initiative. Voters in the city of Chula Vista recently opposed an initiative requiring any developments not within the general plan guidelines to go before a vote of the people. Citizens within the city of San Marcos will vote on a similar measure during the November election. In each case, SDCTA opposed the measures due to its opposition of “ballot-box planning”. If passed, any future amendments to the 10<sup>th</sup> Avenue Marine Terminal Precise Plan must go to a vote of the people for approval following ratification by the Port Commissioners.

The Port of San Diego Marine Freight Preservation and Bayfront Redevelopment Initiative is similar in that voters are asked to make a land-use decision through a ballot initiative, rather than policymakers (the Board of Port Commissioners) amending the master plan. Furthermore, voters will not be voting on a specific project, and will not be providing input as to what types of projects will be beneficial to the Port. The measure simply requires the Port Commissioners to redevelop the 10<sup>th</sup> Avenue Marine Terminal within the timeline and guidelines outlined in the amendment.

It is difficult to determine the potential economic impact of the measure since specific projects are not outlined. The proponents of the measure state within the “Findings and Purposes” the redevelopment project will “create thousands of new jobs and generate millions of dollars in new tax revenues”. If the construction of a deck to utilize the “air-rights” is not possible, the existing ground areas can be redeveloped to fulfill the requirements of the master plan. It is unclear if the proposed uses can coexist with the maritime operations of the port without the development of the 96 acres of “air-rights”.

The expansion of the definition of “Marine Related Industrial Uses” allows for the inclusion of activities such as a parking facility, restaurants, lodging and retail shopping establishments within the proposed Multi-Use Maritime District. The measure states priority shall be given to these activities as well as maritime operations in the redevelopment, most likely due to

plans to construct a deck atop the current terminal. With no requirement set forth within the measure to utilize the “air-rights” above the terminal, there remains no clear indication of which activities will receive the highest “priority” as no rankings of projects are listed.