

DRAFT LETTER AND RESPONSES FROM THE CITY OF NATIONAL CITY

Honorable Michael T. Smyth
Presiding Judge
San Diego County Superior Court
1100 Union Street
San Diego, CA 92101

RE: City of National City Response to San Diego County Grand Jury Report: “Governance of San Diego Bay and its Tidal Lands and Regions”

Thank you for the opportunity to respond to the Grand Jury report. National City has struggled historically with the Unified Port of San Diego in regard to the equitable distribution of resources. National City, a historically disadvantaged community, has been disproportionately impacted by Navy and maritime operations. These uses have had significant environmental impacts on local residents and communities. National City residents have had limited access to the San Diego Bay, not only to the natural environment and recreational facilities, but also to economic access and to a fair share of revenue generated by industries.

In contrast, in more affluent communities the maritime uses have been pushed out to make room for hotel, commercial and recreational activities and the public has significant access to the Bay. These activities have less environmental impact on their surrounding communities and generate significant resources to those communities. Although the report acknowledges some examples of these concerns by referencing “Balanced Interests,” and the Dole Fruit short-haul trucking and the Mitsubishi Cement Factory examples, it focuses on governance issues which are not the primary issues.

We believe that the current Board of Port Commissioners and National City’s Port Commissioner have made a good effort towards starting to correct this long standing issue of inequity but there is still a lot of work to be done. The real challenge is how to continue to invest in National City while protecting the environment, reducing community impacts, ensuring access to the bay and recreation and social events that are meaningful to National City residents, and generating revenues to National City economy.

The National City Balanced Plan and the \$1.1 billion hotel and convention center currently under construction in Chula Vista is an example of what we are talking about. We embrace the process of planning for Port investments and uses, activities, and operations that promote the access, health, and social wellbeing of community members and cleaner industries that yield sustainable economic benefit to National City by creating revenue for the City, and generating jobs and business opportunity for its residents.

Please see the responses from the City of National City to the finding and recommendations of the Report included with this letter as Attachment “A.”

Sincerely,

Ron Morrison
Mayor

Attachment A:

Pursuant to California Penal Code sections 933 and 933.05, the following specific responses are submitted to you regarding the 2022-2023 Grand Jury Findings and Recommendations pertaining to *Governance of San Diego Bay and Its Tidal Lands and Regions*.

FINDINGS

Finding 01: Port Commissioners are only required to represent the perspectives, not the interests of the Port City appointing them to the Board of Port Commissioners.

Response: The City of National City agrees with this finding, However, although not required to represent the interest of their Community, a successful Commissioner finds ways to both represent the perspectives and the interest of the City they represent and the Port as a whole.

Finding 02: The Port District acts as an independent special district without direct oversight from local city or county governments.

Response: National City agrees with this finding.

Finding 03: Because the interests of residents of Port Cities and the County of San Diego are subject to the interpretations of the unelected Board of Port Commissioners, their interests may not be heard, prioritized or represented accurately.

Response: National City agrees with this finding.

Finding 04: Briefings by Port Commissioners to Port City Councils in noticed public meetings regarding issues affecting their jurisdictions, will increase the level of public participation and knowledge regarding Port District activities, Port Master Plans, Master Plan Updates, Port Master Plan amendments or additions.

Response: National City agrees with this finding.

Finding 05: Currently, the Board of Port Commissioners does not have term limits. Considering term limits would foster democratic principles by providing more opportunities for diverse and talented individuals to serve, prevent the accumulation of influence, and uphold the public trust by keeping the Board representative responsive to its community.

Response: National City ~~agrees with the finding, disagrees partially with the finding.~~ There is no factual data that indicates term limits would prevent the accumulation of influence, and that term limits uphold the public trust by keeping the Board representative responsive to its community. Term limits do foster democratic principles, however, the power to impose term limits on Port Commissioners should rest on the local authority of the Port City Councils. For example, National City has a policy which stipulates that anyone wishing to be

re-appointed to any Board, Commission, or Committee and has served two or more full terms already, must be approved by a 4/5th vote of the City Council (City Council Policy No. 107 (10)).

Finding 06: With three of seven port commissioners appointed to the Board of Port Commissioners by the City of San Diego, the potential exists for the City of San Diego to exert dominance over the priorities, resources and decisions of the Port District.

Response: National City agrees with this finding,

Finding 07: The Port District is incentivized to maximize revenue to fund its operations, a goal that may create conflicts of interest in the priorities, allocation of resources and other decisions made by the Port Commission.

Response: National City agrees with this finding. However, active participation by the member Cities [havehas](#) resulted in a more “balanced” approach to the overall goals of the Port District.

Finding 08: Success in the development of the Chula Vista Hotel and Convention Center has been obtained because of a close collaboration and alignment of interests between the Port District and the City of Chula Vista.

Response: National City agrees with this finding.

Finding 09: The Port Commissioners decision to move short-haul truck staging for local deliveries of Dole Fruit products relocated a source of pollution from the Barrio Logan community to communities in National City

Response: National City agrees with this finding.

Finding 10: The controversy surrounding the Mitsubishi Cement Corporation Project's potential health effects on the Barrio Logan neighborhood and other nearby residents damaged the Port District's community relations with these communities and contributed to the decision to discontinue the project.

Response: National City agrees with this finding.

Finding 11: Oversight of the Mitsubishi Cement Corporation project by the City of San Diego or San Diego County governments might have given greater priority to the health concerns of community members and resulted in a more equitable balance between economic and health concerns earlier in the project's evaluation process.

Response: National City ~~agrees with this finding~~ disagrees partially with the finding. [Although the County of San Diego should not have political jurisdiction over Port matters,](#)

it is in the interest of all for the City of San Diego and County of San Diego to use its departmental and specialized resources to provide assessments and further studies on the potential of environmental impacts to the Port Cities and the region including air and water quality, habitat preservation, and human health and wellness. Smaller cities like National City do not have resources to make to complete these important assessments. We don't believe the County of San Diego would have any jurisdiction over this item.

Finding 12: The Port's decision to approve the Cottages at the Cays development proposal could negatively impact access to San Diego Bay and approving the plan favors those willing or able to pay costly hotel rates typical of the Coronado area.

Response: National City agrees that what was approved could impact public access, and the Port should always work to ensure that access for all communities is maintained when considering uses that potentially reduce access to the Bay.

Finding 13: Given a preference for informal channels of communication by Port City councils and mayors with their appointed Port District representatives, neither Port Commissioners nor Port City Councils maintain completely open and transparent relationships allowing for public involvement or awareness of Port District activities.

Response: National City strongly disagrees with this finding. Decisions on Port activities are made at duly advertised public meetings of the Port Board of Commissioners and cities have the opportunity to provide feedback on their actions by submitting letters to the Board, attending the Board meeting or providing public comments to their Port Commissioner at public meetings of the City Council. Likewise, all decisions related to the Port by National City are made at publicly noticed City Council meetings attended by the public.

Finding 14: In its current form, the Port Master Plan and Master Plan Update documents published by the Port District are overly complex, difficult to understand and too broad in scope to foster meaningful comprehension by Port City residents, elected municipal or county officials.

Response: National City agrees with this finding.

Finding 15: Ratification of Port Master Plans, Master Plan Updates or Master Plan Amendments would allow residents of Port City Planning districts and San Diego County to acknowledge and confirm their understanding of Port District development plans and projects within their municipal and county boundaries and provide reliable documents for communities to plan for the future.

Response: National City agrees ~~disagrees partially~~ with this finding. As stated under Finding 11, in-house resources available at San Diego County should be used to further study impacts of Port Master Plans, Updates, and Amendments. ~~We don't agree that the County's involvement will help in the Port Master Plan~~

~~review process. This item should be studied in greater detail if it were to move forward.~~

RECOMMENDATIONS

23-90: Enact ordinance or policies placing a two-term limit on the number of terms that a Port Commissioner can serve.

Response: Term limits do foster democratic principles, however, the power to impose term limits on Port Commissioners should rest on the local authority of the Port City Councils. For example, National City has a policy which stipulates that anyone wishing to be re-appointed to any Board, Commission, or Committee and has served two or more full terms already, must be approved by a 4/5th vote of the City Council (City Council Policy No. 107 (10)). ~~National City disagrees with the concept of term limits on its Port Commissioner. The City has recognized the benefit of term limits and has adopted term limits for our elected officials. We believe that the City should determine if they want term limits for their Commissioner and what those limits should be. Unlike elected officials that are hard to remove from office, Port Commissioners can be removed by City Council action therefore the need for term limits is not as imperative.~~

23-91: Institute ordinances or formal policies requiring the appointed Commissioners from each city be required to give at a minimum, quarterly updates to the City Councils at officially scheduled city council meetings open to the public.

Response: ~~The recommendation is not warranted.~~ We agree with the necessity of having Port Commissioners keeping the public and City Council informed of what is happening at the Port. We don't think an ordinance or a formal policy is needed to ensure that this is happening. As a matter of practice our Port Commissioner attends the Council meetings on a more frequent (at least monthly) basis to update the Mayor, City Council and public.

23-92: Institute ordinances or formal policies that require ratification of the Port Master Plans, proposed Port Master Plan Updates or amendments to the Port Master Plan for Port District planning districts within each city's boundaries.

Response: ~~While National City agrees with the concept,~~ This recommendation requires further analysis on how a ratification process would work and how would the planning process work if ratification was not forth coming.

23-93: In consultation with San Diego County Board of Supervisors, explore and implement an alternate form of governance for the Port District allowing for participation in, and oversight of Port District activities and decision by the San Diego County Board of Supervisors and the elected city councils of the five Port Cities.

Response: National City disagrees with this concept. The Port and its five-member Port Cities work well together. In our opinion, if the Port District brought in another agency to govern Port matters, with no direct interest in the Port matters, it would only complicate the governance process and reduce the Port's overall effectiveness. However, as previously

stated in the National City's response to Finding 11, the County can play a key role in studying the impact of Port activities on the quality of life in Port Cities and the region.

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