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First Vice President

JOHN PROTOPAPPAS
Second Vice President

KENNETH S. KATZOFF
Commissioner

DAVID KRAMER
Commissioner

MARK McCLURE
Commissioner

PATRICIA A. SCATES
Commissioner

MINUTES

Regular Meeting of the Board of Port Commissioners Tuesday, February 6, 2007 - 3:00 p.m.

ROLL CALL

President **Batarse** called the meeting to order at 3:04 p.m., and the following Commissioners were in attendance:

1st Vice-President **Ayers-Johnson**, Commissioner **Katzoff**, Commissioner **Kramer**, Commissioner **McClure**, 2nd Vice-President **Protopappas** and President **Batarse**.

Commissioner **Scates** was excused.

CLOSED SESSION

President **Batarse** convened the Board in Closed Session at 3:07 p.m. to consider the following items:

1. Conference With Legal Counsel – Existing Litigation. Pursuant to subdivision (a) of Section 54956.9. Names of cases:

Joseph Debro v. Turner Construction Company
Alameda County Superior Court Case No. RG 06-277022

City of Oakland v. TIG Insurance Company
Alameda County Superior Court Case No. RG 05-231833

2. Conference With Legal Counsel – Anticipated Litigation. Significant exposure to litigation pursuant to subdivision (b) of Section 54956.9: (10 Matters)

3. Conference With Real Property Negotiator.

Government Code Section 54956.8.

Property: Berth 34 to Berth 37

Negotiating Parties: Port of Oakland and Evergreen Marine Corporation

Agency Negotiator: Director of Maritime, Wilson Lacy

Under Negotiation: Price and Terms of Payment

Property: Berth 21-22 to Berth 24

Negotiating Parties: Port of Oakland and APM Terminals Pacific Ltd.

Agency Negotiator: Director of Maritime, Wilson Lacy

Under Negotiation: Price and Terms of Payment

Property: Berth 30 to Berth 33

Negotiating Parties: Port of Oakland and TRAPAC, Inc.

Agency Negotiator: Director of Maritime, Wilson Lacy

Under Negotiation: Price and Terms of Payment

Property: One Airport Drive, South Airport, Oakland, CA

Negotiating Parties: Port of Oakland, Foster Interstate Media, Inc. and CBS Outdoor, Inc.

Agency Negotiator: Director of Aviation, Steve Grossman

Under Negotiation: Price and Terms of Payment

4. Public Employee Performance Evaluation.

Pursuant to Subdivision (e) of Section 54957.

Title: Executive Director, Omar Benjamin

OPEN SESSION

President **Batarse** reconvened the Board into Open Session at 4:00 p.m.

CLOSED SESSION REPORT

The Board Secretary reported that during Closed Session the Board had approved the following Resolutions on a vote of (6) Ayes: Vice-President Ayers-Johnson, Commissioner Katzoff, Commissioner Kramer, Commissioner McClure, Vice-President Protopappas and President Batarse. (1) Excused: Commissioner Scates :

Resolution No. 07020, Authorizing And Approving Retention Of Special Counsel., Bell Rosenberg & Hughes in connection with the Material Management Program

Resolution No. 07021, Authorizing The Port Attorney To Settle Claims Of John Winslow And Beverly Hewitt.

Resolution No. 07022, Approving The Appointment Of Special Counsel, Kenney & Markowitz in connection with claim and anticipated litigation of Ioan Feurdan.

Port Attorney, David Alexander, announced that the Board had not completed consideration of the Closed Session agenda items and would need a second Closed Session after Open Forum.

PRESIDENT'S REPORT

President **Batarse** noted that Mayor Ron Dellums and former Mayor Elihu Harris were in the audience and welcomed them on behalf of the Board and the Port.

EXECUTIVE DIRECTOR'S REPORT

Executive Director, Omar Benjamin outlined "An Action Plan For The Future Of The Port"

Mayor Dellums addressed the Board and endorsed both the selection of Omar Benjamin as Executive Director and the plan outlined by Mr. Benjamin.

AVIATION

Vice-President **Ayers-Johnson** gave an account of the January 29th Aviation Committee Meeting. She reported that the Committee had approved for forwarding to the full Board Items A-1 Through A-7.

A motion to approve Items A-1 through A-6 was made by Vice-President Ayers-Johnson and seconded by Commissioner Kramer.

The following individuals addressed the Board on Item A-1: Andrea Dehlendorf, Don Robertson, Sonia Bustamante, Samuel Kehinde and Rev. Ricky Jenkins.

- A-1 Resolution No. 07023**, Approval Of A Agreement To Extend Right Of Entry And Indemnity Agreement with Command Security Corporation DBA Aviation Safeguards For Skycap, Wheelchair, Baggage Handling And Security Checkpoint Ticket Reading Services For A Six-Month Term With A Monthly Rental Of \$250 Or 10% Of Gross Revenues, Whichever Is Greater (#1 Airport Drive, South Airport.)
- A-2 First Reading of an Ordinance**, Approving The Terms And Conditions, And Authorizing The Execution Of A Lease With Enterprise Rent-A-Car Company Of San Francisco At A Monthly Rental Of \$9,525. (1029 Wright Street, North Airport).
- A-3 First Reading of an Ordinance**, Approving And Authorizing Execution Of A First Supplemental Agreement With Federal Express Corporation, Which Will Result In A \$57,361 Increase In Monthly Rental (#1 Sally Ride Way, South Airport.)

- A-4 Resolution No. 07024**, Approval Of A License And Concession Agreement With Southwest Airlines Co. For 13,580± Square Feet Of Space At The Cargo Building At An Initial Monthly Rental Of \$21,049.
- A-5 Resolution No. 07025**, Authorization To Execute An Agreement For On-Call Aviation Planning With Ricondo & Associates For \$750,000.
- A-6 Resolution No. 07026**, Authorization To Increase Expenditure Limit For Furnishing Labor And Equipment For On-Call Crushing Services For The Period Commencing January 1, 2005 And Ending December 31, 2006, 2007, 2008 Or 2009, Oakland International Airport, In The Amount Of \$1-Million.

The motion to approve Items A-1 through A-6 passed by the following votes: (6) Ayes: Vice-President Ayers-Johnson, Commissioner Katzoff, Commissioner Kramer, Commissioner McClure, Vice-President Protopappas and President Batarse. (1) Excused: Commissioner Scates

A motion to approve Item A-7 was made by Vice-President Ayers-Johnson and seconded by Commissioner McClure.

Vice-President **Protopappas** took no part in the deliberation or decision on Item A-7 and was absent from the Boardroom during the discussion of the item.

- A-7 Resolution No. 07027**, Approval Of Assignment Of Space/Use Permit For Outdoor Advertising Concession From Foster Interstate Media, Inc. To CBS Outdoor, Inc., And Authorization To Execute Agreement Of Assumption And Amendment No. 2 To Space/Use Permit For Outdoor Advertising Concession (#1 Airport Drive, South Airport).

The motion to approve Item A-7 passed by the following votes: (5) Ayes: Vice-President Ayers-Johnson, Commissioner Katzoff, Commissioner Kramer, Commissioner McClure and President Batarse. (1) Excused: Commissioner Scates (1) Recused: Vice-President Protopappas

MARITIME

A motion to approve Items M-1 and M-2 was made by Commissioner Katzoff and seconded by Commissioner Kramer.

Margaret Gordon addressed the Board on Items M-1 and M-2.

- M-1 Resolution No. 07028**, Approval Of A Project Manual For Furnishing Labor And Equipment For On-Call Material Crushing Services For The Period Commencing April 1, 2007 And Ending December 31, 2007, 2008, 2009, 2010 Or 2011, In The Estimated Annual Amount Of \$400,000.

- M-2 Resolution No. 07029**, Authorization To Dispense With Standard Bidding Procedures For Annual Maintenance Dredging And Berth Deepening, And Furnishing Pile Driver Crew For Repairs To Docks And Waterfront Facilities For The Port Of Oakland For The Period Commencing July 1, 2007 And Ending June 30, 2008, 2009 Or 2010, In The Amount Of \$1.5-Million For Berth Deepening, \$800,000 Each Year For Berth Maintenance, And \$100,000 Each Year For Furnishing Pile Driver Crew, For A Total Of \$4.2-Million.

The motion to approve Items M-1 and M-2 passed by the following votes: (6) Ayes: Vice-President Ayers-Johnson, Commissioner Katzoff, Commissioner Kramer, Commissioner McClure, Vice-President Protopappas and President Batarse. (1) Excused: Commissioner Scates

OPERATIONS

ADMINISTRATION

A motion to approve Items O-1 through O-4 was made by Commissioner Kramer and seconded by Vice-President Ayers-Johnson.

- O-1 Resolution No. 07030**, Authorization To Dispense With Standard Bidding Procedures For Furnishing Labor, Materials And Equipment For Paving, Grading And Associated General Contractor Services For Port Of Oakland Facilities For The Period Commencing April 1, 2007 And Ending June 30, 2008, 2009 Or 2010, In The Amount Of \$11,475,000 As A Three-Year Maximum With Small Business Enterprise (SBE) And Non-SBE Firms.
- O-2 Resolutions Nos. 07031, 07032, 07033**, Approval To Hire Three Consultant Teams To Provide As-Needed Environmental Planning Consulting Services For A Period Of Five Years, In The Amount Of \$800,000 For Each Consultant, For A Total Of \$2.4-Million For All Three Contracts.
- O-3 Resolution No. 07034**, Waiver Of Standard Bidding And Authorization For The Executive Director To Execute An Agreement With Business Edge Solutions, Inc. For Development Of The IT Strategic Plan For \$225,000.
- O-4 Resolution No. 07035**, Adoption Of Policy To Defend And Indemnify Board Members And Port Staff Under Certain Conditions.

The motion to approve Items O-1 through O-4 passed by the following votes: (6) Ayes: Vice-President Ayers-Johnson, Commissioner Katzoff, Commissioner Kramer, Commissioner McClure, Vice-President Protopappas and President Batarse. (1) Excused: Commissioner Scates

APPROVAL OF THE MINUTES

The Board approved the Minutes of December 19, 2006 by the following votes: (5) Ayes: Vice-President Ayers-Johnson, Commissioner Katzoff, Commissioner Kramer, Vice-President Protopappas and President Batarse. (1) Excused: Commissioner Scates (Note: Commissioner McClure took no part in the decision as he was not on the Board at the time of the December Meeting)

The Board approved the Minutes of January 16, 2006 by the following votes: (6) Ayes: Vice-President Ayers-Johnson, Commissioner Katzoff, Commissioner Kramer, Commissioner McClure, Vice-President Protopappas and President Batarse. (1) Excused: Commissioner Scates.

SUMMARY ITEMS

On a Motion by Vice-President Protopappas, seconded by Vice-President Ayers-Johnson the Board approved Summary Items S-1, S-4, and S-7 through S-14 by the following votes: (6) Ayes: Vice-President Ayers-Johnson, Commissioner Katzoff, Commissioner Kramer, Commissioner McClure, Vice-President Protopappas and President Batarse. (1) Excused: Commissioner Scates

- S-1 Port Ordinance No. 3964:** An Ordinance Approving The Terms And Conditions, And Authorizing The Execution Of An Airline Operating Agreement With Empire Airlines, Inc.
- S-4 Port Ordinance No. 3967:** An Ordinance Approving An Increase In AirBart Fares To Cover Increased Capital And Operating Costs.
- S-7 Port Ordinance No. 3970:** An Ordinance Amending Section 5.026 Of Port Ordinance No. 867.
- S-8 Port Ordinance No. 3971:** An Ordinance Amending Section 5.0161 Of Port Ordinance No. 867.
- S-9 Port Ordinance No. 3972:** An Ordinance Amending Port Ordinance No. 867, Amending Section 2.07 And Adding New Section 22.1.
- S-10 Port Ordinance No. 3973:** An Ordinance Amending Port Ordinance No. 867 To Create A New Position Of Assistant Director Of Aviation.
- S-11 Port Ordinance No. 3974:** An Ordinance Amending Port Ordinance No. 867 To Create A New Position Of Director Of Labor Relations.
- S-12 Port Ordinance No. 3975:** An Ordinance Amending Section 2.06 And Adding Section 1.345 To Port Ordinance No. 867 Ratifying And Fixing The Compensation Of Certain Employees Of The Port Department.

S-13 Port Ordinance No. 3976: An Ordinance Amending Section 2.05 Of Port Ordinance No. 867, To Correct Salary Schedule 651.

S-14 Port Ordinance No. 3977: An Ordinance Amending Port Ordinance No. 3962.

Vice-President **Protopappas** took no part in the deliberation or decision on Items S-2, S-3, and S-5 and was absent from the Boardroom during the discussion of the items.

On a Motion by Vice-President Ayers-Johnson, seconded by Commissioner Kramer the Board approved Summary Items S-2, S-3, and S-5 by the following votes: (6) Ayes: Vice-President Ayers-Johnson, Commissioner Katzoff, Commissioner Kramer, Commissioner McClure and President Batarse. (1) Excused: Commissioner Scates (1) Recused: Vice-President Protopappas

S-2 Port Ordinance No. 3965: An Ordinance Approving And Authorizing The Execution Of A Telecommunications License Agreement With New Cingular Wireless PCS, LLC.

S-3 Port Ordinance No. 3966: An Ordinance Approving And Authorizing The Execution Of A Telecommunications License Agreement With TMO CA/NV, LLC Doing Business As T-Mobile USA, Inc.

S-5 Port Ordinance No. 3968: An Ordinance Approving And Authorizing The Execution Of A Telecommunications License Agreement With Sprint Spectrum Realty Company, L.P. And Nextel Of California, Inc. (Sprint Nextel).

Note: Item S-6 Port Ordinance No. 3969: An Ordinance Amending Section 3 Of Port Ordinance No. 2832, As Amended, To Establish Procedures And Fees For Application For Amendment Of Ordinance was carried over to the meeting of February 20th.

OPEN FORUM

Mary Barrentos, Sylvester Grigsby and Sanjiv Handa addressed the Board in Open Forum.

SECOND CLOSED SESSION

President **Batarse** convened the Board in a Second Closed Session at 5:17 p.m. to complete the Closed Session Agenda Items.

There were no Items to report out of the Second Closed Session.

ADJOURNMENT

On a motion by Vice-President Ayers-Johnson, the meeting was adjourned in memory of Theodore Roosevelt Scates, husband of Commissioner Scates and friend to the Port of Oakland.

John Betterton, Secretary

Date