OMAR BENJAMIN
Executive Director

DOUGLAS WARING
Deputy Executive Director

JOE WONG
Deputy Executive Director

DAVID L. ALEXANDER
Port Attorney

JOHN T. BETTERTON
Secretary of the Board

PORT OF OAKLAND

BOARD OF PORT COMMISSIONERS

530 Water Street • Oakland, California 94607

Telephone: (510) 627-1100
Facsimile: (510) 451-5914
TDD/TTY – Dial 711

E-Mail: board@portoakland.com
Website: www.portofoakland.com

VICTOR UNO
President

MARGARET GORDON
Vice-President

ANTHONY A. BATARSE, JR
Commissioner

PAMELA CALLOWAY
Commissioner

JAMES W. HEAD
Commissioner

KENNETH KATZOFF
Commissioner

MARK McCLURE
Commissioner

MINUTES

Regular Meeting of the Board of Port Commissioners

Tuesday, February 3, 2009 - 3:00 p.m.

ROLL CALL

President **Uno** called the Meeting to order at 3:05 p.m., and the following Commissioners were in attendance:

Commissioner **Batarse,** Vice-President **Gordon**, Commissioner **Head**, Commissioner **Katzoff**, Commissioner **McClure**, and President **Uno**.

Commissioner **Calloway** was excused.

The Port Attorney reported that a matter not agendized for Closed Session had come to the attention of the staff, and that there was a need to take immediate action and that the need for action came to the attention of the Port subsequent to the agenda being posted.

The Commissioners unanimously (7 Ayes) agreed to hear the following two items.

CONFERENCE WITH REAL PROPERTY NEGOTIATOR - As provided under California Government Code Section 54956.8:

Property:	Berths 20-24 Outer Harbor Terminal Facilities
Negotiating Parties:	Port of Oakland and APMT, Hutchinson, HMM/Yang Ming / K-Line, Maher Terminals and Ports America
Agency Negotiator:	Director of Maritime, James Kwon
Under Negotiation:	Price and Terms of Agreement

CLOSED SESSION

President **Uno** convened the Board in Closed Session at 1:20 p.m. to hear the following matters:

1. **CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION**. Significant exposure to litigation pursuant to subdivision (b) of Section 54956.9: 2 matter(s)

Port Employee 400748, Jean Parks and Millie Cleveland addressed the Board on Item 2 in Closed Session.

2. **PUBLIC EMPLOYEE DISCIPLINE/DISMISSAL/RELEASE.**
Government Code Section 54947: 1 matter

OPEN SESSION/ROLL CALL

President **Uno** called the Meeting back to order at 5 :24 p.m., and the following Commissioners were in attendance:

Commissioner **Batarse,** Vice-President **Gordon**, Commissioner **Head**, Commissioner **Katzoff**, Commissioner **McClure**, and President **Uno**.

Commissioner **Calloway** was excused.

ROLL CALL

Commissioner **Batarse,** Commissioner **Calloway,** Commissioner **Head,** Vice-President **Gordon**, Commissioner **Katzoff**, Commissioner **McClure**, and President **Uno**.

CLOSED SESSION REPORT

Sanjiv Handa addressed the Board during the Closed Session Report.

The Port Attorney reported that the Board would require an additional Closed Session at the end of the meeting to finish the Closed Session Agenda.

The Board Secretary reported that the Board had approved (6 Ayes, 1 Excused) in the Closed Session the following Resolutions:

Resolution No. 08272, Resolution Approving And Authorizing Execution Of Four Settlement Agreements And Partial Releases With Zurich American Insurance Company, As Successor In Interest To Zurich Insurance Company, U.S. Branch By Operation Of Law (Collectively, “Zurich”) Regarding The 205-209 Brush Street [CNG Facility] (“Brush Street”), Gray And Reynolds [AKA Brooklyn Basin] (“G&R”), Charles P. Howard Terminal (“Howard Terminal”) And Berth 10 [Non-EDC Debris Area] (“Berth 10”) Sites.

AVIATION

Vice-President **McClure** gave the January 26th Aviation Committee Report. He reported that the Committee had approved for forwarding to the full Board Items A-2 through A-9

*A motion to approve Item A-1 through A-9 was made by Vice-President **McClure** and seconded by Commissioner **Head**.*

A-1 **Resolution No. 08273,** Ratification Of License And Concession Agreement With KaiserAir, Inc. At A Monthly Rental Of $18,344.52 (Port Building L310-East, 8991 Earhart Road, North Airport).

A-2 **Port Ordinance No. 4086,** First Reading Of Ordinance Approving The Terms And Conditions And Authorizing The Execution Of An Airline Operating Agreement With Allegiant Air, LLC At Oakland International Airport With An Anticipated Monthly Revenue Of $5,000 (#1 Airport Drive, South Airport).

A-3 **Resolution No. 08274** Ratification Of A Stipulation Between Skybus Airlines, Inc. And The Port To Terminate Certain Agreements With The Port And For Skybus Airlines, Inc. To Pay The Port $42,773.42 In Past Costs And Rejection Damages (#1 Airport Drive, South Airport).

A-4 **Resolution No. 08275,** Submittal Of Passenger Facility Charge (PFC) Application #14 To The Federal Aviation Administration (FAA) In The Amount Of $293,000,000.

A-5 **Resolution No. 08276,** Ratification Of Submittal Of Applications To The Federal Aviation Administration (FAA) In The Amount Of $1,843,521.

A-6 **Resolution No. 08277,** Ratification Of Addenda; And Authorization To Reject All Bids, Dispense With Standard Bidding Procedures, And Negotiate A Contract For Furnishing Maintenance And Service Of Access Control And Alarm Monitoring System (ACAMS) And Video Surveillance System (VSS) For The Period Commencing January 1, 2009 And Ending June 30, 2009, 2010, 2011, 2012, Or 2013, For The Estimated Annual Amount Of $350,000.

A-7 **Resolution No. 08278,** Approval Of First Supplemental Agreement With HNTB Corporation To Provide As-Needed Engineering Design Services For Pavement Analysis And Improvement Projects At The Oakland International Airport, In An Amount Disclosed To The Board Of Port Commissioners.

A-8 **Resolution No. 08279** Approval Of First Supplemental Agreement With Wood Rodgers, Inc., To Provide As-Needed Engineering Design Services For Pavement Analysis And Improvement Projects At The Oakland International Airport, In The Amount Of $400,000.

A-9 **Resolution No. 08280,** Approval Of First Supplemental Agreement With Kimley-Horn And Associates, Inc., To Provide As-Needed Engineering Design Services For Pavement Analysis And Improvement Projects At The Oakland International Airport, In The Amount Of $500,000.

Thom Labasco gave a report on Item A-10.

A-10 Information Report On Award Of Contract For Construction Of Asphalt Concrete Overlay Of Taxiway B From Taxiway T To Taxiway B1, South Field OIA, AIP 3-06-0170-42, AIP 3-06-0170-44, In The Amount Of $3,555,620.

The Motion to approve Items A-1 through A-9 carried by the following votes: ***(6) Ayes:*** Commissioner **Batarse,** Vice-President **Gordon**, Commissioner **Head**, Commissioner **Katzoff**, Commissioner **McClure**, and President **Uno*; (1) Excused:*** *Commissioner* ***Calloway.***

MARITIME

Vice-President **Gordon** gave the January 29th Maritime Committee Report. She reported that the Committee had approved for forwarding to the full Board Items M-1 and M-2.

A motion to approve Item M-2 was made by Vice-President **Gordon** *and seconded by Commissioner* ***Batarse****.*

Item M-1 was pulled on the recommendation by staff.

M-1 **PULLED** ~~Approval Of The Maritime Air Quality Improvement Plan~~**.**

M-2 **Resolution No. 08281,** Authorization For The Executive Director To Negotiate And Execute A Second Amendment To The Port Of Oakland Middle Harbor Shoreline Park Management Agreement With The East Bay Regional Park District To Reduce Staffing For A Savings Of Approximately $86,935 And Authorizing The Executive Director To Execute Future Amendments To The Management Agreement.

The Motion to approve Items M-2 carried by the following votes: ***(6) Ayes:*** Commissioner **Batarse,** Vice-President **Gordon**, Commissioner **Head**, Commissioner **Katzoff**, Commissioner **McClure**, and President **Uno*; (1) Excused:*** *Commissioner* ***Calloway.***

OPERATIONS

Commissioner **Batarse** gave the January 27th Administration Committee Report. He reported that the Committee had approved for forwarding to the full Board Items O-1 through O-11, excluding Item O-4 which was sent without a Recommendation from the Committee.

A motion to approve Item O-1 through O-10 (excluding O-5) was made by Commissioner

Batarse *and seconded by Commissioner* ***Katzoff****.*

O-1 **Port Ordinance No. 4087,** Deletion Of One (1) Position Of Senior Equipment Systems Engineer And The Addition Of One (1) Position Of Port Utilities Foreman In The Aviation Division. (Estimated Cost Savings Of $105,950 For FY 08-09; No Effect On Annualized Cost)

O-2 **Port Ordinance No. 4088,** Deletion Of One (1) Position Of Contract Compliance Officer And The Addition Of One (1) Position Of Assistant Contract Compliance Officer In The Social Responsibility Division. (Estimated Cost Savings Of $111,550 For FY 08-09; Annualized Cost Savings Of $8,592)

O-3 **Resolution No. 08282,** Extension Of The Delegation Of Authority To The Executive Director To Renew Contracts For Certain Employee Benefits. ($0)

O-4 **Resolution No. 08283,** Authorization For The Executive Director To Enter Into An Agreement With Global Search Associates, Trading As Boyden Global Executive Search, For Executive Search Services For The Position Of Director Of Engineering. ($78,000 Professional And Administrative Fees, Plus Up To $25,000 For Additional Expenses)

O-6 **Resolution No. 08285,** Authorization For The Executive Director To Execute A Professional Services Agreement With Malcolm Pirnie, Inc., To Provide Engineering Services For The Development Of Specific Water Operations And Maintenance Programs, In The Estimated Amount Of $150,000.

O-7 **Resolution No. 08286,** Authorization For The Executive Director To Execute An Interconnection And Maintenance Agreement Between The Port Of Oakland And The City And County Of San Francisco.

O-8 **Resolution No. 08287,** Authorization For The Executive Director To Execute A Transfer Equipment Agreement With Northern California Power Agency, For An Amount Not To Exceed $500.

O-9 **Resolution No. 08288,** Authorization For The Executive Director To Execute An ERP Phase 2 Consultant Agreement For An Amount Disclosed To The Board Of Port Commissioners.

O-10 **Resolution No. 08289,** Authorization For The Executive Director To Execute A Supplemental Agreement With Oak Street Associates, Inc. To Provide Project Management Services To Address Payment Card Industry Data Security Standard (PCI DSS) Compliance And Other Issues For $130,000.

Item 11 was pulled on the recommendation of staff.

O-11 **PULLED** ~~Declare Surplus And Authorize Donation Of One William Scotsman 12' X 60' Office Trailer No. XU-99 To The West Oakland Environmental Indicators Project (WOEIP) In Support Of The Port's Comprehensive Truck Management Program~~.

The Motion to approve Items O-1 through O-10 passed by the following votes: ***(6) Ayes:*** Commissioner **Batarse,** Vice-President **Gordon**, Commissioner **Head**, Commissioner **Katzoff**, Commissioner **McClure**, and President **Uno*; (1) Excused:*** *Commissioner* ***Calloway.***

APPROVAL OF THE MINUTES

With the correction noted by President **Uno** on Item M-1 on the November 19th Minutes, The Board on a Motion by President **Uno**, seconded by Commissioner **Head** approved the Minutes of the Regular Meetings of November 19, December 2 and December 18, 2008

SUMMARY ITEMS

On a Motion by Commissioner ***Katzoff****, seconded by Commissioner* ***McClure*** *the following Summary Items were unanimously approved (6 Ayes,* ***Calloway*** *Excused)):*

S-1 **Port Ordinance No. 4084:** An Ordinance Authorizing The Executive Director To Execute An Amendment To The Non-Exclusive Preferential Assignment Agreement ("NEPAA") With Evergreen Marine Corporation (Taiwan) LTD. ("ASSIGNEE") For Approximately 15 Acres Within The Berth 34 Terminal Yard Facilities, Effective Until The Expiration On June 20, 2013, Of The Ben E. Nutter ("NUTTER") NEPPA.

S-2 **REVISED (Presented For First Reading) Port Ordinance No. 4085:** Ordinance Amending Port Ordinance No 867 Ratifying And Fixing The Compensation Of Certain Employees Of The Port Department, Amending Section 1.191 Providing For Additional Compensation For Employees Belonging To Employee Representation Units I, K And L Under The Terms Of The Performance Management Program And Amending Section 1.0301 Providing Professional Development Benefits For Certain Officers And Employees.

ELECTION OF OFFICERS

Sanjiv Handa addressed the Board on the Election of Officers.

Commissioner **Batarse** nominated Commissioner **McClure** for 1st Vice-President and the nomination was seconded by Commissioner **Katzoff**.

The Motion to elect Commissioner McClure was approved by the following votes: ***(6) Ayes:*** Commissioner **Batarse,** Vice-President **Gordon**, Commissioner **Head**, Commissioner **Katzoff**, Commissioner **McClure**, and President **Uno*; (1)*** *Excused:* *Commissioner* ***Calloway.***

OPEN FORUM

Reverend Henry Williams, Kenneth Joyner, Sanjiv Handa, Dianne Bailey, Pastor Eric Gabourel addressed the Board in Open Forum.

SECOND CLOSED SESSION

President **Uno** reconvened the Board in Closed Session at 6:45 p.m. to hear the following:

4. PUBLIC EMPLOYEE DISCIPLINE/DISMISSAL/RELEASE.
Government Code Section 54947: 1 matter

SECOND OPEN SESSION

President **Uno** reconvened the Board in Second Open Session at 6:15 p.m.
In attendance were Commissioner **Batarse,** Vice-President **Gordon**, Commissioner **Head**, Commissioner **McClure**, and President **Uno**.

Commissioners **Calloway** and **Katzoff** were excused.

SECOND CLOSED SESSION REPORT

Sanjiv Handa Addressed the Board on Item O-5.

O-5 The Board Secretary reported that Employee 400188 and Port Staff had reached a binding agreement (**Resolution No. 08269)** which was read into the record.

ADJOURNMENT

There being no additional business the Board adjourned at 8:10 p.m.

_____ _____

John Betterton, Secretary **Date**