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Second Vice-President

ANTHONY A. BATARSE, JR
Commissioner

PAMELA CALLOWAY
Commissioner

JAMES W. HEAD
Commissioner

KENNETH KATZOFF
Commissioner

MINUTES

Regular Meeting of the Board of Port Commissioners Tuesday, June 2, 2009 - 3:00 p.m.

ROLL CALL

President **Uno** called the Meeting to order at 3:13 p.m., and the following Commissioners were in attendance:

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

Commissioner **Calloway** was excused.

CLOSED SESSION

Ronald Brown, Barry Macdonnell, Shelia Lawton and Millie Cleveland addressed the Board on Closed Session Item 4.

1. **CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION.** Significant exposure to litigation pursuant to subdivision (b) of Section 54956.9: 3 matter(s)

2. **Conference With Real Property Negotiator.** Government Code Section 54956.8.

Property: #1 Airport Drive, South Airport
Negotiating Parties: Port of Oakland, and Bay Area Rapid Transit
Agency Negotiator: Steve Grossman, Director of Aviation
Under Negotiation: Terms and Conditions of the Development Agreement

3. **~~PULLED PUBLIC EMPLOYEE DISCIPLINE/DISMISSAL/RELEASE.~~**
~~Government Code Section 54947: 1 matter~~

4. **CONFERENCE WITH LABOR NEGOTIATORS**

Agency Negotiator: Austris Rungis
Employee Organizations: IBEW Local 1245, IFPTE Local 21, SEIU Local 1021, and
Western Council of Engineers

OPEN SESSION/ ROLL CALL

President **Uno** called the Meeting back to order in Open Session at 5:03 p.m., and the following Commissioners were in attendance:

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

Commissioner **Calloway** was excused.

CLOSED SESSION REPORT

Sanjiv Handa addressed the Board on the Closed Session Report.

The Port Secretary stated that the following Resolution had been passed unanimously (5ayes, 1excused) by the Board in Closed Session:

Resolution No. 09076 Resolution Granting Authority To The Executive Director To Negotiate A Settlement And Release Agreement With Montezuma Wetlands, LLC.

AVIATION

Commissioner **Head** gave an account of the June 1st Aviation Committee Meeting. He reported that the Committee had approved for forwarding to the full Board Items A-2 through A-5.

*A Motion to approve Items A-2 through A-6 was made by Commissioner **Head** and seconded by Vice-President **Gordon**.*

Item A-1 was pulled on the recommendation of staff.

- A-1 PULLED** ~~(1) Approval To Dispense With Standard Bidding Procedures; And (2) Authorize The Executive Director To Approve And Execute A Contract With Promedia For Text To Speech Courtesy Announcement System (TCAS) For The Oakland International Airport, In The Amount Of \$100,000.~~
- A-2 Port Ordinance No. 4102** First Reading Of Ordinance Approving The Terms And Conditions And Authorizing The Execution Of A Multi-Year License And Concession Agreement With Business Jet Center Oakland, L.P. For Aircraft Storage With A Monthly Rental Of \$16,760.05 (Building L-810/Bay "B", 7843 Old Earhart Road, North Airport).
- A-3 Resolution No. 09067** Ratification Of License And Concession Agreement With KaiserAir, Inc. At A Monthly Rental Of \$4,176.00 (Port Building L-710/Bay "B"), 7951 Earhart Road,

North Airport).

A-5 Resolution No. 09069 Authorization For The Executive Director To Execute A Five-Year Agreement To Provide Management Of Airport Exhibits And Other Related Art And Display Programs For An Amount Not To Exceed \$2,128,555 Consisting Of Three Years With One Two-Year Option And Approval Of Space Use Agreement For A Three Year Term With One Two Year Optional Term With No Monthly Rental (#1 Airport Drive, South Airport And 7951 Earhart Drive, North Airport).

A-6 PULLED ~~Submittal Of Passenger Facility Charge (PFC) Application #15 To The Federal Aviation Administration (FAA) In The Amount Of \$70,435,000.~~

*The Motion to approve Items A-2, A-3, and A-5 passed by the following votes: (5) Ayes: Commissioner **Batarse**, Commissioner **Gordon**, Vice-President **Head**, Commissioner **Katzoff**, and President **Uno**; (1) Excused: Commissioner **Calloway***

Commissioner **Katzoff** was recused on Item A-4, and was absent from the room for the discussion and decision on Item A-4.

A-4 Resolution No. 09068 Approval Of First Amendment To License And Concession Agreement With Safeway, Inc. To Add Premises And Increase Monthly Rent By \$3,609.07 (7843 Old Earhart Road, North Airport).

*The Motion to approve Item A-4, passed by the following votes: (4) Ayes: Commissioner **Batarse**, Commissioner **Gordon**, Vice-President **Head**, and President **Uno**; (1) Recused: Commissioner **Katzoff**; (1) Excused: Commissioner **Calloway***

COMMERCIAL REAL ESTATE

*A Motion to approve Items C-1 and C-2 was made by Commissioner **Katzoff** and seconded by Commissioner **Head**.*

C-1 Resolution No. 09070 Approval Of License And Concession Agreement With Jetto Cash & Carry/Restaurant Depot (RD/JET LLC) For Warehouse Space Located At 105 Embarcadero.

C-2 Resolution No. 09071 Ratification Of Extension Of The Service Agreement With ABM Engineering Services From February 1, 2009 To January 31, 2010, In The Estimated Amount Of \$325,123.00.

MARITIME

Vice-President **Gordon** gave an account of the May 26th Maritime Committee Meeting. She reported that the Committee had approved for forwarding to the full Board Items M-1 through M-4.

*A Motion to approve Items M-1 and M-2 was made by Commissioner **Katzoff** and seconded by Commissioner **Head**.*

M-1 Resolution No. 09072 Authorization For The Port's Facilities Security Officer To Take All

Actions Necessary To Formally Apply For Port Security Grant Funding In Accordance With Applicable State And Federal Program Guidelines, And Authorizing the Executive Director To (i) Accept The FY2008 California Port And Maritime Security Grant Program (CPMSGP), Proposition 1B Award, (ii) Advertise For Proposals For A Comprehensive Geospatial Mapping Program, And (iii) Negotiate A Change Order To The Contract With GTSI For The Extension Of The Network For The Fiber Optic Telecommunication Linkage To The Oakland Police Department In An Amount Not To Exceed The Amount Disclosed To the Board In A Confidential Memo.

- M-2 Resolution No. 09073** Authorizing And Approving An Amendment To Section 6.1(c) Of The Concession And Lease Agreement With Ports America Outer Harbor Terminal, LLC To Replace HHH MTC Holdings, Inc. With HHH Oakland Holdings, LLC.

*The Motion to approve Items M-1 and M-2 passed by the following votes: (5) Ayes: Commissioner **Batarse**, Commissioner **Gordon**, Vice-President **Head**, Commissioner **Katzoff**, and President **Uno**; (1) Excused: Commissioner **Calloway***

Item M-3 was pulled on the recommendation of staff.

The Author of the Beacon Study, John Haverman, spoke to the Board on Item M-3, and was invited by President **Uno** to speak again at the next Board meeting

- M-3 PULLED** ~~Acknowledgment And Support Of Findings And Recommendations Of Beacon Economics As Stated In Comprehensive Truck Management Program Economic Impact Analysis Dated April 17, 2009.~~

Delphine Prevost, Senior Maritime Projects Administrator, gave a Staff Report on Item M-4.

The following individuals addressed the Board on Item M-4: Doug Bloch, Dianne Bailey, Christine Cordero, Alex Desautels, Chuck Mack, Jose Jesse Zuniga, Brian Beveridge, Sharon Cornu, Jill Ratner, Elizabeth de Rham, Sean Bovell, Justin Buskirk, Randy Del Rosario, Aditi Vaidya, Ron Swisher, Laura Williams, Matt Schrap, Josh Gruen, Libby Stahl, Cory Peters, Scott Taylor, Mak Menezes, Andy Garcia, James Jack, Greg Roche, Jenny Bard, Bill Aboudi, Daryl Meshack, Steve Lowe and Steve Soderstrom.

- M-4 FAILED** Adoption Of The Port Of Oakland Maritime Comprehensive Truck Management Program (CTMP).

*Commissioner **Head** made a Motion, seconded by Vice-President **Gordon**, to approve the CTMP with an Amendment to adopt a total ban on all non-compliant trucks. The makers of the Motion accepted a friendly Amendment by President **Uno**, to direct Staff to bring back an implementation plan within 90 days.*

*The Motion failed on the following vote: (3) Ayes: Vice-President **Gordon**, Commissioner **Head**, and President **Uno**; (2) Noes: Commissioner **Batarse** and Commissioner **Katzoff**; (1) Excused: Commissioner **Calloway**.*

Vice-President **Gordon** made a Motion to Reconsider Item M-4 at the next Board Meeting
The Motion was seconded by Commissioner **Head**.

The Motion failed on the following vote: **(3) Ayes:** Vice-President **Gordon**, Commissioner **Head**, and President **Uno**; **(2) Noes:** Commissioner **Batarse** and Commissioner **Katzoff**; **(1) Excused:** Commissioner **Calloway**

Commissioner **Katzoff** made a Motion, seconded by Commissioner **Batarse** to approve Item M-4 as expressed in Option 1 of the Agenda Report.

The Motion failed on the following vote: **(2) Ayes:** Commissioner **Batarse** and Commissioner **Katzoff**; **(3) Noes:** Vice-President **Gordon**, Commissioner **Head**, and President **Uno**; **(1) Excused:** Commissioner **Calloway**

OPERATIONS

Commissioner **Batarse** gave an account of the May 26th Administration Committee Meeting. He reported that the Committee had approved for forwarding to the full Board Items O-3 and O-4.

A Motion to approve Items O-3 and O-4 was made by Commissioner **Batarse** and seconded by Vice-President **Gordon**.

Items O-1, O-2 and O-5 were pulled on the recommendation of Staff.

- O-1 PULLED** ~~Approval Of Amendments To The Port Of Oakland's Reasonable Accommodation Policy For Individuals With Disabilities (Administrative Policy No. 451) (\$0).~~
- O-2 PULLED** ~~Public Employee Discipline/Dismissal/Release.~~
- O-3 Resolution No. 09074** Authorization For Northern California Power Agency (NCPA) Staff To Participate In The California Independent System Operator Corporation (CAISO) Congestion Revenue Rights (CRR) Auction As The Port's Business Agent.
- O-4 Resolution No. 09075** (1) Approval Of Change Order To Add The Oakland International Airport On-Call Material Crushing Services To The Contract With Evans Brothers Inc., 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, Outer Harbor, (Port Contract #2007-02-M1); And (2) Authorization To Increase Contract Limits By \$1,000,000 Due To Operating Both The Maritime And Oakland International Airport Materials Management Sites.
- O-5 PULLED** ~~Resolution in Support of HR 1409/S 560 (the Employee Free Choice Act of 2009).~~

The Motion to approve Items O-3 and O-4 passed by the following votes: **(5) Ayes:** Commissioner **Batarse**, Commissioner **Gordon**, Vice-President **Head**, Commissioner **Katzoff**,

and President **Uno**; (1) **Excused**: Commissioner **Calloway**

APPROVAL OF THE MINUTES

*On a Motion by Commissioner **Head** seconded by Vice-President **Gordon** the Board approved by consensus the Minutes of the Special Board Meeting of May 15, 2009.*

SUMMARY ITEMS

There was no action taken on the Informational Reports under Summary Items.

- S-1 Informational Report** Executive Director Award Of Contract For Removal And Disposal Of Hazardous Waste, Universal Waste, And Other Contaminated Materials For The Period Commencing July 1, 2009, And Ending June 30, 2010, 2011, 2012, 2013 Or 2014, In An Estimated Annual Amount Of \$300,000.
- S-2 Informational Report** Executive Director Award Of Contract For Performing Emergency Spill Response Or Emergency Repairs In A Hazardous Environment For Port Of Oakland Facilities For The Period Commencing July 1, 2009, And Ending June 30, 2010, 2011, 2012, 2013 Or 2014, In An Estimated Annual Amount Of \$150,000.

OPEN FORUM

The following individuals addressed the Board in Open Forum: Steve Soderstrom, Donald Jelinek, Monday Young, and Mr Shaghasi.

ADJOURNMENT

There being no additional business, the Board adjourned at 7:34 P.M.

John Betterton, Secretary

Date