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**VICTOR UNO**  
President

**MARGARET GORDON**  
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, July 21, 2009 - 3:00 p.m.

#### ROLL CALL

President **Uno** called the Meeting to order at 3:19 p.m., and the following Commissioners were in attendance:

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

Commissioner **Katzoff** was excused.

#### CLOSED SESSION

President **Uno** convened the Meeting in Closed Session at 3:20 p.m. to hear the following Items:

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, Bay Area Rapid Transit  
Agency Negotiator: Steve Grossman, Director of Aviation  
Under Negotiation: Terms and Conditions of the Development Agreement

3. **CONFERENCE WITH LABOR NEGOTIATORS**

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

## ROLL CALL/OPEN SESSION

President **Uno** called the Meeting back to order in Open Session at 5:30 p.m., and the following Commissioners were in attendance:

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

Commissioner **Katzoff** was excused.

## CLOSED SESSION REPORT

The Port Secretary reported that the Board had unanimously approved (**5 Ayes**) the following Resolution in Closed Session:

**Resolution No. 09109** Resolution Approving And Authorizing The Executive Director To Execute A Settlement Agreement With DMJM Harris, Inc.

Sanjiv Handa addressed the Board on the Closed Session Report.

## PRESIDENT'S REPORT

Sanjiv Handa addressed the Board on the President's Report.

## EXECUTIVE DIRECTOR'S REPORT

Sanjiv Handa addressed the Board on the Executive Director's Report.

## ELECTION OF OFFICERS

Sanjiv Handa addressed the Board on the Election of Officers

**E-1** On a Motion by Commissioner Head, seconded by Commissioner Calloway the Board unanimously (5Ayes) approved:

**Resolution No. 09110** Declaring The Election Of Officers At The Board Meeting Of July 7, 2009.

## OPERATIONS

The Board elected to hear the Operations Items out of sequence.

Vice-President **Head** gave a report on the July 7<sup>th</sup> Executive Committee Meeting.

*A Motion to approve Items O-1 and O-2 was made by Commissioner **Batarse** and seconded by Vice-President **Gordon**.*

**O-1 Resolution No. 09115** Approval To Enter Into A Third Supplemental Agreement With Nossaman, Guthner, Knox & Elliott, LLP, In The Amount Of \$105,000 (\$90,000 Plus \$15,000 For Unforeseen Work And Expenses) For State Legislative Lobbying Services.

**O-2 Resolution No. 09116** Approval To Enter Into A Second Supplemental Agreement With Lehman, Levi, Pappas & Sadler LLC, In The Amount Of \$75,000 (\$60,000 Plus \$15,000 For Unforeseen Work And Expenses) For State Administrative Lobbying Services.

*The Motion to approve Items O-1 and O-2 passed by the following votes: (4) Ayes: Commissioner **Batarse**, Commissioner **Calloway**, Vice-President **Head** and President **Uno**; (1) No: Vice-President **Gordon**; (1) Absent: Commissioner **Katzoff***

Commissioner **Batarse** gave an account of the July 9<sup>th</sup> Audit, Budget & Finance Committee Meeting. He reported that the Committee had approved for forwarding to the full Board Items O-3 through O-6.

*A Motion to approve Item O-3 was made by Commissioner **Batarse** and seconded by Vice-President **Head**.*

*The Motion was amended on a request by Commissioner **Calloway** to remove from possible elimination the position of Deputy Executive Director/Chief Operating Officer.*

**O-3 Resolution No. 09117** Approval Of The Annual Operating And Capital Budgets For Fiscal Year Ending June 30, 2010.

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

*A Motion to approve Item O-4 was made by Commissioner **Calloway**, seconded by Vice-President **Head**, with the provision that a deadline for further negotiations with Port Unions be extended to Noon on July 29<sup>th</sup> and that outcomes of those negotiations be reported to a Special Meeting of the Executive Committee on July 30, 2009.*

**O-4 Resolution No. 09118** Approval Of Resolution Granting Preliminary Authority To The Executive Director To Eliminate Certain Positions And To Layoff Certain Employees (Reduction Of Expenses In The Fiscal Year 2010 Operating Budget Of Approximately \$8 Million).

*The Motion to approve Item O-4 passed by the following votes: (5) Ayes: Commissioner **Batarse**, Commissioner **Calloway**, Vice-President **Gordon**, Vice-President **Head** and President **Uno**; (1) Absent: Commissioner **Katzoff***

*A Motion to approve Item O-5 (as amended to include acquisition of Evergreen Letter of Credit for no more than 8 Million Dollars and for a term not to exceed two years) was made by Commissioner **Batarse** and seconded by Commissioner **Calloway**.*

- O-5 Resolution No. 09119** Authorization To Renew And Amend The Letter Of Credit Agreement Relating To The Letter Of Credit In The Amount Of \$8,000,000 Between The Board Of Port Commissioners Of The City Of Oakland (The "Port") And BNP Paribas With Beneficiary Ace American Insurance Company.

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

*A Motion to approve Item O-6 was made by Commissioner **Batarse** and seconded by Commissioner **Calloway**.*

- O-6 Resolution No. 09120** Approval Of Fourth Supplemental Agreements For Temporary Employment Agency Services With Plant Maintenance And 9008 Group, Inc., dba Act One Personnel For Temporary Employment Agency Services In An Amount Not To Exceed \$240,136.49.

*The Motion to approve Item O-6 passed by the following votes: (4) Ayes: Commissioner **Batarse**, Commissioner **Calloway**, Vice-President **Head** and President **Uno**; (1) No: Vice-President **Gordon**; (1) Absent: Commissioner **Katzoff***

## AVIATION

*A Motion to approve Item A-1 was made by Vice-President **Head** and seconded by Commissioner **Calloway**.*

- A-1 Port Ordinance 4108** Approval To Amend Port Ordinance 4091 (Airport Rules And Regulations) Schedule A And Schedule B To Suspend Certain Vehicle Requirements Concerning Alternative Fuel And Revise The Vehicle Age Requirement For Taxis.

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

## MARITIME

Vice-President **Gordon** gave the July 16<sup>th</sup> Maritime Committee Report. 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 through M-4 was made by Vice-President **Gordon** and seconded by Vice-President **Head**.*

Items M-1 and M-3 were taken out of sequence.

Bill Aboudi addressed the Board on Item M-1.

**M-1 Resolution No. 09111** Authorization For The Executive Director To Execute A Right Of Entry ("ROE") For A Duration Of 90 Days Followed By A Six-Month Term Exclusive Negotiating Agreement ("ENA") With Teichert Materials.

**Bill Aboudi addressed the Board on Item M-3**

**M-3 Resolution No. 09113** Authorization To Enter Into A Right Of Entry Agreement With The Metropolitan Transportation Commission/Bay Area Toll Authority.

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

## **BREAK**

President Uno called for a 15 minute recess at 7:26 PM. He called the meeting back to order at 7:42 PM and all Commissioners were in attendance, except Commissioner **Katzoff** who had been previously excused.

Joshua Hurwitz, Gene Hazard and Bill Aboudi addressed the Board on Item M-2.

**M-2 Resolution No. 09112** Authorization For The Executive Director To Execute A Six-Month Exclusive Negotiating Agreement ("ENA") With AMB/CCG For The Purpose Of Negotiating The Final Forms Of An Option Agreement And A Master Lease Agreement For A Portion Of The Former Oakland Army Base ("OAB") And Other Lands That Comprise Approximately 168 Acres.

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

*The makers of the original Motion accepted a substitute Motion by Vice-President **Head**, seconded by Commissioner **Calloway**, directing staff to provide a Resolution reflecting comments expressed by Executive Director Benjamin; changes to be shared with all stakeholders; staff to explore best approach for maximum effectiveness in disseminating changes and that the final Resolution be scheduled for a hearing at a Special Executive Committee at Noon on July 30<sup>th</sup>.*

The following individuals addressed the Board on Item M-4: Bill Aboudi, James Jack, Evelina Hwang, Eric Saver, Nick Stein, Doug Bloch, Esdras Diaz, Christina Cordero, Aditi Vaidya, Hector Soto, Cliff Coleman, John Brauer, Lorenzo Fernandez, Bob Branchef, Marty Frates, Anela Omulepu, Dick Coyle, Scott Taylor, Andy Garcia, Ron Cancilla, Josh Gruen, Matt Schrapp and Eric Saver.

**M-4 Resolution No. 09114** Resolutions Adopting a National Good Movement Policy.

**Resolution No. 09114(a)** Acknowledgement And Support Of Findings And Recommendations Of Beacon Economics As Stated In Comprehensive Truck Management Program Economic Impact Analysis Dated April 17, 2009.

*The Motion to approve Item M-4 passed by the following votes: (4) Ayes: Commissioner **Calloway**, Vice-President **Gordon**, Vice-President **Head** and President **Uno**; (1) No: Commissioner **Batarse** (1) Absent: Commissioner **Katzoff***

## **APPROVAL OF THE MINUTES**

*On a Motion by Vice-President **Head**, seconded by Commissioner **Batarse**, the Board unanimously approved (5 Ayes) the Minutes of the Board Meeting of July 7, 2009.*

## **SUMMARY ITEMS**

*On a Motion by Vice-President **Head**, seconded by Commissioner **Batarse**, the Board unanimously approved (5 Ayes) the following Summary Items:*

### **Building Permits**

**S-1 Resolution No. 09121 APM Terminals (APMT):** 1425 Maritime Street, Berth 22: Repair of damaged concrete wharf. The Board authorized the Executive Director to enter into an agreement to allow AMPT to do the work, subject to obtaining a building permit from the Port for the work. This project has been determined to be exempt from the requirements of the California Environmental Quality Act pursuant to Class 1, Sections 15301(b and d). Valuation of work: \$400,000.

**S-1a** On a finding by the Board Item S-1a was added to the Agenda after the posting deadline had elapsed.

**Resolution No. 09122** Resolution Finding And Determining That The Proposed Item Regarding A Building Permit For Ports America Outer Harbor Terminal Gate Improvements At Berths 20-24 (Item S-1a) Is A Matter Of Urgency.

**Resolution No. 09123 Ports America Outer Harbor Terminal (PAOH):** 1425 Maritime Street, Berth 20-24: Gate improvements. Valuation of work: \$8,500,000.

### **Ordinances For Second And Final Reading**

**S-2 Port Ordinance 4104** An Ordinance Approving And Authorizing The Execution Of Space Use Permits With Norcal Ufood, LLC, Gotham Foods Two, LLC, And Taste Inc. dba Vino Volo.

- S-3 Port Ordinance 4105** An Ordinance Approving The Terms And Conditions And Authorizing The Execution Of An Airline Operating Agreement And Space/Use Permit With Concesionaria Vuela Compania De Aviacion, S.A. De C.V. dba Volaris (“Volaris”).
- S-4 Port Ordinance 4106** An Ordinance Amending Port Ordinance No. 3634, As Amended, Relating To Landing And Tenant Terminal Space Rental Fees At Metropolitan Oakland International Airport.
- S-5 Port Ordinance 4107** An Ordinance Amending Port Ordinance No. 867 To Add One Position Of Chief Financial Officer.

**OPEN FORUM**

Troy Mikins addressed the Board in Open Forum.

**SECOND CLOSED SESSION**

The Board reentered Closed Session at 9:16 PM. At the conclusion of the Second Closed Session there were no Items requiring a report.

**ADJOURNMENT**

*There being no additional business, the Board adjourned at 9:50 PM.*

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**John Betterton, Secretary**

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**Date**