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Commissioner

PAMELA CALLOWAY
Commissioner

GILDA GONZALES
Commissioner

KENNETH KATZOFF
Commissioner

MINUTES

Regular Meeting of the Board of Port Commissioners Tuesday, October 6, 2009 - 2:00 p.m.

ROLL CALL

President **Uno** called the Meeting to order at 3:15 p.m., and the following Commissioners were in attendance:

Commissioner **Calloway**, Commissioner **Gonzales**, Vice-President **Gordon**, Commissioner **Katzoff** and President **Uno**.

Commissioner **Batarse** and Vice-President **Head** were excused.

CLOSED SESSION

President **Uno** convened the Meeting in Closed Session at 3:16 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: 2 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:Deborah Ale-Flint, Acting Director of Aviation
Under Negotiation:Terms and Conditions of the Development Agreement

3. **CONFERENCE WITH LABOR NEGOTIATORS**

Agency Negotiator:Austris Rungis
Employee OrganizationsWestern Council of Engineers

ROLL CALL/OPEN SESSION

President **Uno** reconvened the Meeting in Open Session at to order at 4:48 p.m., and the following Commissioners were in attendance:

Commissioner **Calloway**, Commissioner **Gonzales**, Vice-President **Gordon**, Commissioner **Katzoff** and President **Uno**.

Commissioner **Batarse** and Vice-President **Head** were excused.

CLOSED SESSION REPORT

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

Resolution No. 09137 Resolution Approving And Authorizing Execution Of A Settlement And Release Agreement With Hartford Accident And Indemnity Company And Hartford Fire Insurance Company (Collectively, "Hartford") Regarding The East Basin Marina/Parcel F Litigation (City Of Oakland V. Mardeco, Inc. Et Al; US District Court, Northern District Of California, CASE Number C 02 702 EDL)

AVIATION

Commissioner **Gonzales** gave the September 28th Aviation Committee Report. She reported that the Committee had approved for forwarding to the full Board Items A-1 through A-4.

*A Motion to approve Items A-1 through A-4 was made by Vice-President **Gordon** and seconded by Commissioner **Gonzales**.*

- A-1** **Resolution No. 09138** Resolution Authorizing Acceptance Of The Sub-Recipient Agreement With CALSTART For \$170,000 In DERA Grant Funds From EPA Grant To Retrofit Ten (10) Airport Parking Lot Shuttle Buses With Diesel Particulate Filters.
- A-2** **Resolution No. 09139** Approval Of License And Concession Agreement With JetBlue Airways Corporation For Airline And Cargo Operations For A One-Year Term With A Monthly Rental Of \$10,692 (112 Alan Sheppard Way, South Airport).
- A-3** **Resolution No. 09140** Ratification Of Space/Use Permit With Cal-Air Aviation Services, Inc. For Aircraft Maintenance And Repair Services And Ground Service Equipment Maintenance And Repair Services For A One-Year Term With A Monthly Rental Of \$250 Or 10% Of Gross Revenues, Whichever Is Greater (Oakland International Airport).

- A-4 Resolution No. 09141** Ratification Of Right-Of-Entry And Indemnity Agreement With Matrix Aviation Services, Inc. For Passenger, Baggage And Ground Handling Services And Aircraft Cabin Cleaning Services For A One-Year Term With A Monthly Rental Of \$250 Or 10% Of Gross Revenues, Whichever Is Greater (Oakland International Airport).

*The Motion to approve Item A-1 through A-4 passed by the following votes: (5) Ayes:, Commissioner **Calloway**, Commissioner **Gonzales**, Vice-President **Gordon**, Commissioner **Katzoff**, and President **Uno**; (2) Absent: Commissioner **Batarse**, and Vice-President **Head**.*

COMMERCIAL REAL ESTATE

Commissioner **Katzoff** gave the September 23rd Commercial Real Estate Committee Report. He reported that the Committee had approved for forwarding to the full Board Items C-1 and C-2.

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

- C-1 Resolution No. 09142** Approval Of Amendment To Lease With Subway Real Estate Corp. For The Premises Located At 515 Embarcadero West To Exercise First Term Option For Five Years With Total Minimum Rent Of \$166,138.
- C-2 Resolution No. 09143** Approval Of A License & Concession Agreement With Peralta Community College District For The Premises At 560 Water Street, For A One Year Term With An Annual Rental Of \$1.00.

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

MARITIME

Commissioner **Calloway** gave the September 17th Maritime Committee Report. She reported that the Committee had approved for forwarding to the full Board Items M-1 through M-3.

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

- M-1 Resolution No. 09144** Authorization For The Executive Director To Enter Into Baseline Agreements With The State To Receive Up To \$253,500,000 From The Trade Corridor Improvement Fund (TCIF).

Bill Aboudi addressed the Board on Item M-1.

M-2 Resolution No. 09145 Authorizing The Executive Director To Negotiate And Execute An Agreement To Implement, Operate And Maintain A Port Registry With The Selected Consultant Through At Least June 30, 2012, With The Potential To Extend Through June 30, 2013.

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

*A Motion to approve Item M-3 "Option 1" was made by Commissioner **Calloway** and seconded by Vice-President **Gordon**.*

Kelli Wee of Bay Area Air Quality Management District addressed the Board on behalf of BAAQMD Executive Director Jack Broadbent.

Delphine Prevost of, Senior Maritime Projects Administrator gave an explanation of exemptions from "Option 2"

*Vice-President **Gordon** offered a friendly Amendment, accepted by Commissioner Calloway, to: allow a 1 time, 1 day, only pass to no compliant trucks; allow an exemption for overweight/oversize trucks, establish an extensive outreach to the trucking community to advertise the rules of the ban.*

M-3 Port Ordinance 4112 Adopt an Ordinance to Amend Port Tariff 2A To Incorporate The Maritime Comprehensive Truck Management Program ("CTMP") Port Registry Component And A Truck Ban Consistent With The January 2010 California Air Resources Board "(CARB)" Regulatory Deadline.

The following speakers addressed the Board on Item M-3: Scott Taylor, Andy Garcia, John Berge, Bruce Wargo, Stephen Hessenauer, Libby Stahl, Bill Aboudi, Aditi Vaidya, Brian Beveridge, Mari Rose Tarvc, Andy Katz, Ray Kidd, Kent Lewandowski, Julie West, J.C. Wilson, and Christine Cordero.

*The Motion to approve Item M-3 passed by the following votes: (5) Ayes:, Commissioner **Calloway**, Commissioner **Gonzales**, Vice-President **Gordon**, Commissioner **Katzoff**, and President **Uno**; (2) Absent: Commissioner **Batarse**, and Vice-President **Head**.*

Commissioner **Calloway** left the meeting at 6:05 PM.

OPERATIONS

President **Uno** gave the September 16th Audit, Budget and Finance Committee Report. He reported that the Committee had approved for forwarding to the full Board Items O-1 and O-2.

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

O-1 Resolution No. 09146 Authorization To Designate The Chief Financial Officer Of The Port Of Oakland As (1) An Authorized Board Representative Under The Intermediate Lien Master Trust Indenture; (2) Amend Resolution No. 09027 To Include The Chief Financial Officer As An Authorized Board Representative For The Defeasance Of Certain Port Of Oakland Revenue Bonds 2002 Series L And Refunding Revenue Bonds 2002 Series N; And (3) Authorize The Chief Financial Officer To Act For All Purposes For Which The Deputy Executive Director Financial Services Is Authorized To Act; And Take All Necessary Actions In Relation Thereto.

O-2 Resolution No. 09147 Six-Month Extension Of The Agreement Between The Port Of Oakland And Great West Retirement Services For Recordkeeping And Administrative Services For The Port Of Oakland Deferred Compensation Plan (\$0).

*The Motion to approve Item O-1 and O-2 passed by the following votes: (4) **Ayes:**, Commissioner **Gonzales**, Vice-President **Gordon**, Commissioner **Katzoff**, and President **Uno**; (3) **Absent:** Commissioner **Batarse** Commissioner **Calloway**, and Vice-President **Head**.*

The Port Secretary gave the September 22nd Administration Committee Report. He reported that the Committee had approved for forwarding to the full Board Items O-3 through O-7.

*A Motion to approve Items O-3 through O-7 was made by President **Uno** and seconded by Commissioner **Katzoff**.*

O-3 Resolution No. 09148 Extension Of The Eligible List For Aviation Senior Properties Representative From October 7, 2009 Through October 7, 2010 (\$0).

O-4 Resolution No. 09149 Extension Of The Eligible List For Airport Security/ ID Specialist From December 15, 2009 Through December 15, 2010 (\$0).

O-5 Resolution No. 09150 (1) Approval Of Project Manual For Furnishing Maintenance And On-Call Service For Various Elevators, Escalators And Moving Walkways At Port Of Oakland Facilities For The Period Commencing January 1, 2010 And Ending December 31, 2010, 2011, 2012, 2013 Or 2014; (2) Authorization For The Executive Director To Award The Contract To The Lowest Responsible Bidder In An Estimated Annual Amount Of \$240,000; And (3) Authorization For The Executive Director To Reject All Bids And Negotiate And Execute A Contract, If Necessary.

O-6 Resolution No. 09151 Authorization For The Executive Director To Execute A Local Resource Adequacy Capacity Transaction Agreement Between The City Of Santa Clara And The Port Of Oakland, For An Amount Not To Exceed \$150,000 For Calendar Year 2010.

- O-7 Resolution No. 09152** Authorization For The Executive Director To Execute An Amended And Restated Third Phase Agreement With The Northern California Power Agency To Purchase Renewable Electricity From The New Western GeoPower, Inc., Geothermal Power Plant At The Geysers In Sonoma County, For An Annual Amount Not To Exceed \$1.2 Million Starting In December 2011.

*The Motion to approve Item O-3 through O-7 passed by the following votes: (4) Ayes: Commissioner **Gonzales**, Vice-President **Gordon**, Commissioner **Katzoff**, and President **Uno**; (3) Absent: Commissioner **Batarse** Commissioner **Calloway**, and Vice-President **Head**.*

APPROVAL OF THE MINUTES

*On a Motion by Commissioner **Katzoff**, seconded by Commissioner **Gonzales**, the Board approved the Minutes of the Board Meeting of September 15 2009, by the following votes: (4) Ayes: Commissioner **Gonzales**, Vice-President **Gordon**, Commissioner **Katzoff**, and President **Uno**. (4) Absent: Commissioner **Batarse** , Commissioner **Calloway** , and Vice-President **Head**.*

SUMMARY ITEMS

*On a Motion by Commissioner **Katzoff**, seconded by Commissioner **Gonzales**, the Board approved the Items S-2 through S-4 by the following votes: (4) Ayes: Commissioner **Gonzales**, Vice-President **Gordon**, Commissioner **Katzoff**, and President **Uno**. (4) Absent: Commissioner **Batarse** , Commissioner **Calloway**, and Vice-President **Head**.*

Item **S-1** was pulled on the recommendation of staff.

- S-1 PULLED Clear Channel Outdoor, Inc.:** Bay Bridge Toll Plaza. Renovation of existing billboard sign to replace the existing tri-fold display with an LED display. The pole cover and time display will also be replaced. This display area will not change. This project has been determined to be exempt from the requirements of the California Environmental Quality Act pursuant to Section 15301. Valuation of work: \$950,000.
- S-2 Port Ordinance 4109** Ordinance Approving And Authorizing Execution Of A Lease With Oakland Aviation Museum.
- S-3 Port Ordinance 4110** Ordinance Amending Port Ordinance No. 3830, As Amended, Fixing Certain Promotional And Discount Parking Rates In Certain Of The Port's Public Automobile Parking Facilities At Metropolitan Oakland International Airport.
- S-4 Port Ordinance 4111** An Ordinance Amending Port Ordinance No. 867 To Add The Position Of Assistant Secretary Of The Board And To Delete One Position Of Executive Assistant II.

OPEN FORUM

BS Pajroia, Joushan Ashida, Ehab Elsayed, Mohamed Alhemian, and Jatskaran Singh, addressed the Board in Open Forum.

Vice-President **Gordon** gave the September 15th Executive Committee Report.

ADJOURNMENT

There being no additional business, the Board adjourned at 6:48 PM

John Betterton, Secretary

Date