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ANTHONY A. BATARSE, JR
Commissioner

PAMELA CALLOWAY
Commissioner

GILDA GONZALES
Commissioner

KENNETH KATZOFF
Commissioner

MINUTES

Regular Meeting of the Board of Port Commissioners Tuesday, November 17, 2009 - 2:00 p.m.

ROLL CALL

President **Uno** called the Meeting to order at 2:25 P.M., and the following Commissioners were in attendance:

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

Commissioners **Batarse** and **Calloway** were excused.

CLOSED SESSION

President **Uno** convened the Meeting in Closed Session at 2:26 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: 8 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

Property: Various Parcels in Oakland
Negotiating Parties: Port of Oakland and Various Tenants – “Annual License and Concession Agreement Target Rents”
Agency Negotiator: Director of Commercial Real Estate
Under Negotiation: Price and Terms of Agreement

3. CONFERENCE WITH LABOR NEGOTIATORS

Agency Negotiator: Austris Rungis
Employee Organizations: Western Council of Engineers

OPEN SESSION/ROLL CALL

President **Uno** reconvened the Meeting in Open Session at 4:09 P.M., and the following Commissioners were in attendance:

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

Commissioners **Batarse** and **Calloway** were excused.

CLOSED SESSION REPORT

The Board Secretary reported that the Board had approved in Closed Session the following

Resolution No. 09161 Approving And Authorizing Execution Of The Following Two Settlement Agreements With Zurich American Insurance Company, As Successor In Interest To Zurich Insurance Company, U.S. Branch By Operation Of Law (Collectively, “Zurich”) : 1) Settlement Agreement And Partial Release With Respect To The Former McGuire Terminal Site On A Portion Of Berths 25/26; And 2) Settlement Agreement And Partial Release With Respect To The Former Mobil Oil Site At Berths 23/24.

AVIATION

*A Motion to approve Items A-1, A-2, A-4 and A-5 was made by Vice-President **Head** and seconded by Commissioner **Gonzales**.*

A-1 **Resolution No. 09162** Authorization To Negotiate And Execute A Change Order And Modification To The Amount Of The Original Contract With Gallagher & Burk, Inc., For The Reconstruction Of East Apron, Phase 3, Taxilane Sierra, And West Ramp, South Field, OIA, AIP 3-06-0170-47, AIP 3-06-0170-48, AIP 3-06-0170-49, And AIP 3-06-0170-51, In The Amount Of \$3,284,520.00.

- A-2 Resolution No. 09163** Authorization To Negotiate And Execute A Change Order And Modification To The Amount Of The Original Contract With Ghilotti Bros., Inc., For The Construction Of Midfield Aircraft Ron Parking Apron, South Field, OIA, AIP 3-06-0170-42 And AIP 3-06-0170-44, In The Amount Of \$726,004.50.

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

Item A-3 was pulled by President **Uno** on the recommendation of staff.

- A-3 PULLED** Authorization To Negotiate And Execute A Change Order To The Contract With Bales Engineering Contractors, Inc., For Airfield Lighting Enhancement And Rehabilitation, North Field, OIA, AIP 3-06-0170-46, To Replace Collapsed Conduit At The North Field Lighting Vault, In An Amount Disclosed To The Board Of Port Commissioners.

BART Board President Carole Ward-Allen, BART Executive Director Dorothy Dugger and Marshall Loring addressed the Board on Item A-4.

- A-4** First Reading Of An Ordinance Authorizing The Executive Director To Execute A Development Agreement And An Use, Operation And Maintenance Agreement With The San Francisco Bay Area Rapid Transit District ("BART") For The BART-Oakland International Airport Connector, An Automated Guideway Transit System, To Connect The Airport With BART's Existing Regional Rail Transit System, In An Amount Not To Exceed An Additional \$43,900,000 In Port Contribution.

*The Motion to approve Item A-4 failed on the following votes: (3) Ayes: Commissioner **Gonzales**, Vice-President **Head**, and President **Uno**; (1) No: Commissioner **Katzoff**; (1) Abstain: Vice-President **Gordon**; (2) Excused: Commissioner **Batarse** and Commissioner **Calloway**.*

*Commissioner **Gonzales** made a Motion, seconded by Vice-President **Head**, to reconsider Item A-4 at the December 1, 2009 Regular Meeting of the Board.*

*The Motion passed on the following votes: (4) Ayes: Commissioner **Gonzales**, Vice-President **Gordon**, Vice-President **Head**, and President **Uno**; (1) Abstain: Commissioner **Katzoff**; (2) Excused: Commissioner **Batarse** and Commissioner **Calloway**.*

*Commissioner **Gonzales** made a Motion, seconded by Vice-President **Head**, to postpone action on Item A-5 until the December 1, 2009 Regular Meeting of the Board.*

*The Motion passed on the following votes: (5) Ayes: Commissioner **Gonzales**, Vice-President **Gordon**, Vice-President **Head**, Commissioner **Katzoff** and President **Uno**; (2) Excused: Commissioner **Batarse** and Commissioner **Calloway**.*

- A-5** Resolution Authorizing A Third Amendment To The November 7, 2000 Settlement Agreement With The City Of San Leandro, Extending The Project Obligations Period For The Completion Of The Residential Sound Insulation Program.

COMMERCIAL REAL ESTATE

Commissioner **Katzoff** reported on the November 4th Commercial Real Estate Committee Meeting. He reported that the Committee had approved for forwarding to the Board Item C-1.

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

- C-1** **Resolution No. 09164** Approval Of Fiscal Year 09/10 Annual Target Rental Rates For License And Concession Agreements.

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

OPERATIONS

Vice-President **Head** reported on the November 3rd Executive Committee Meeting.

Vice-President **Gordon** reported on the November 5th City/Port Liaison Committee Meeting.

*A Motion to approve Item O-1 was made by Vice-President **Head**, and seconded by Vice-President **Gordon**.*

- O-1** **Resolution No. 09165** Approval of the November 2009 Edition of the Port of Oakland Standard Contract Provisions for Public Works Contracts. (No Significant Budgetary Impact)

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

APPROVAL OF THE MINUTES

*On a Motion by Vice-President **Gordon**, seconded by Vice-President **Head**, the Board approved the Minutes of the Regular Board Meeting of November 3, 2009, by the following votes: (5) Ayes: Commissioner **Gonzales**, Vice-President **Gordon**, Vice-President **Head**, Commissioner **Katzoff** and President **Uno**; (2) Excused: Commissioner **Batarse** and Commissioner **Calloway**.*

SUMMARY ITEMS

*On a Motion by Vice-President **Gordon**, seconded by Vice-President **Head**, the Board approved S-1 and S-2, by the following votes: (5) Ayes: Commissioner **Gonzales**, Vice-President **Gordon**, Vice-President **Head**, Commissioner **Katzoff** and President **Uno**; (2) Excused: Commissioner **Batarse** and Commissioner **Calloway**.*

- S-1 Resolution No. 09166 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 4113** Ordinance Establishing Design, Construction, Testing, And Inspection Standards For Sanitary Sewer Facilities, And Limits On The Type, Character, And Volume Of Allowable Discharges To The Sanitary Sewer System.

OPEN FORUM

John Salawi, Carol Ward-Allen and Dorothy Dugger addressed the Board in Open Forum

ADJOURNMENT

President **Uno** acknowledged the impending retirement of Phillippa Stephens, Secretary to the Executive Director and Catherine Uemura, Assistant Secretary of the Board and thanked both for their outstanding service to the Port and the Board.

There being no additional business, the Board adjourned at 5:22 PM.

John Betterton, Secretary

Date