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Executive Director

**DOUGLAS WARING**  
Deputy Executive Director

**JOE WONG**  
Deputy Executive Director

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**VICTOR UNO**  
President

**MARK McCLURE**  
First Vice-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, March 3, 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**, Commissioner **Calloway**, Vice-President **Gordon**, Commissioner **Head**, Commissioner **Katzoff**, Commissioner **McClure**, and President **Uno**.

The Port Attorney reported that a matter not agendaized for Closed Session had come to the attention of the staff after posting of the Agenda, and that there was a need to take immediate action.

*On a Motion by Commissioner **Head**, seconded by Commissioner **Katzoff**, the Board unanimously approved the need to take immediate action on Closed Session Item 3, and that the need for action came to the attention of the Port after the Agenda was posted, and that the need to take action was required to avoid a substantial adverse impact that would occur if the action were deferred to a subsequent Special or Regular Meeting. (Resolution No. 09019)*

#### CLOSED SESSION

President **Uno** convened the Board in Closed Session at the hour of 3:14 p.m. to hear the following:

**Conference With Legal Counsel – Anticipated Litigation.** Significant exposure to litigation pursuant to subdivision (b) of Section 54956.9: 5 matters

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

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

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

Property: Former Oakland Army Base and Adjacent Properties  
Negotiating Parties: Port of Oakland, Burlington Northern Santa Fe and Union Pacific  
Agency Negotiator: Director of Maritime, James Kwon  
Under Negotiation: Price and Terms of Payment

**ROLL CALL/OPEN SESSION**

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

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

**CLOSED SESSION REPORT**

The Port Attorney stated that there was nothing to report out of Closed Session.

**PRESIDENT'S/EXECUTIVE DIRECTOR'S REPORTS**

Sanjiv Handa addressed the Board on the President's and Executive Director's Reports.

**ELECTION OF OFFICERS**

*On a Motion by Commissioner **Katzoff**, seconded by Commissioner **Calloway** the Board unanimously (7 Ayes) ratified the election of Mark McClure to the position of 1<sup>st</sup> Vice-President.*

**E-1 Resolution No. 09020**, A Resolution Declaring The Election Of First Vice President At The Board Meeting Of February 3, 2009.

## AVIATION

Vice-President **McClure** gave an account of the February 23<sup>rd</sup> Aviation Committee. He reported that the Committee had approved for forwarding to the full Board Items A-1 through A-5. Additionally, he reported that Item A-6 had been approved for forwarding to the full Board at the January 26<sup>th</sup> Meeting.

*A motion to approve Item A-1 through A-5 (excluding A-3) was made by Vice-President **McClure** and seconded by Commissioner **Head**.*

**A-1 Resolution No. 09021 & Port Ordinance No. 4089**, First Reading Of Ordinance Approving The Terms And Conditions And Authorizing The Execution Of An Airline Operating Agreement And Ratification Of License And Concession Agreement With Airship Ventures, Inc. For The Greater Of \$125.00 Per Day Or 1% Of Gross Passenger Proceeds {Vicinity Of Runway 33/Hangar 10 (7799 Earhart Road), North Airport}.

**A-2 Port Ordinance No. 4090 and the First Reading Of An Ordinance**, Approving And Authorizing Execution Of An Amended And Restated Lease With Federal Express Corporation, Which Will Extend The Term Of The Existing Lease, Add 1.557± Acres To The Premises, And Result In A \$9,374 Increase In Monthly Rental (#1 Sally Ride Way, South Airport).

Item A-3 was pulled on the recommendation of staff, who reported that it would be brought back for consideration at the March 17<sup>th</sup> Board Meeting.

**A-3 PULLED** Adoption Of An Ordinance Approving And Authorizing Execution Of A Lease With Jagpreet Enterprises, Inc., dba Sukhi's Gourmet Indian Foods And Quick-N-Ezee Indian Foods In Building (M-111) At An Initial Monthly Rental Of \$16,757 (50 Neil Armstrong Way).

**A-4 Resolution No. 09022**, Ratification Of License And Concession Agreement With JetDirect Aviation, Inc. At A Monthly Rental Of \$3,609.07 (Port Building L-810/Bay "D"), 7843 Earhart Road, North Airport).

**A-5 Resolution No. 09023**, Ratification Of Acceptance Of The Federal Aviation Administration (FAA) Grant Offer (AIP-47) In The Amount Of \$1,843,521.

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

*A motion to approve Item A-6 was made by Vice-President **McClure** and seconded by Commissioner **Head**.*

President **Uno** announced that due to the large number of speakers on Items A-6 and Maritime Items M-4, M-5 and M-6, that public speakers would be limited to 1 minute.

The following individuals yielded their time to other speakers on Item A-6: Mohebullah Ahmadi, Amin Kirimi, Mohammed Hamidi, Hakim, Ah Huqqani, Shalizi Asad, Ehsan Sayed.

The following individuals addressed the Board on Item A-6: James Wickersham, Frank Assar, Shaghasi, Mohamed, Frank Fakraei, Ali, David Cincotta and Steve Douglas

- A-6** **Port Ordinance No. 4091** Approval Of Amending And Restating Port Ordinance 3549 (Airport Rules And Regulations) Including Amending And Restating Port Ordinance 3542 (Taxicab Operations) And Ordinance 3648 (All Other Ground Transportation Operations) To Increase Certain Ground Transportation Fees (Including Off-Airport Parking Fees), And To Amend Certain Other Provisions.

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

## COMMERCIAL REAL ESTATE

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

- C-1** **Port Ordinance No. 4092** Authorization For The Executive Director To Execute An Indenture Agreement For A Public Right Of Way Encroachment Permit For A Pedestrian Bridge And An Irrevocable Dedication Of A Public Service Easement For A Public Sidewalk Located In Jack London Square.

*The Motion to approve Item C-1 passed by the following votes: (7) Ayes: Commissioner **Batarse**, Commissioner **Calloway**, Vice-President **Gordon**, Commissioner **Head**, Commissioner **Katzoff**, Commissioner **McClure**, and President **Uno**.*

## MARITIME

Vice-President **Gordon** gave an account of the February 19<sup>th</sup> Maritime Committee. She reported that the Committee had approved for forwarding to the full Board Items M-1, M-2 and M-3.

*A motion to approve Items M-1 and M-2 was made by Vice-President **Gordon** and seconded by Commissioner **Head**.*

**M-1 Resolution No. 09024** Approval To Dispense With Standard Bidding Procedures For Work In The BART Area, For Berths 30-33 Yard And Gate Reconstruction, Outer Harbor, In An Amount Disclosed To The Board Of Port Commissioners; Authorization For An Extension Of, Or New, Right Of Entry Agreement With BART To Complete Portions Of The Work; And Approval To Increase The Change Order Authority Amount By \$250,000.

**M-2 Resolution No. 09025** (1) Approval Of A Change Order To The Contract, Relocation Of BART Anodes And Cables For Anodes 45IC, 47AC, 50IC And 50AC, Outer Harbor, Oakland, California, FTA Project No. CA-03-0675, To Repair Damaged Anode Cables For BART; (2) Ratify And Increase The Change Order Authority Amount Due To Changed Conditions To The Contract, In An Amount Disclosed To The Board Of Port Commissioners; And (3) Authorization To Prepare And Execute Amendment No. 2 To The Agreement With San Francisco Bay Area Rapid Transit District (BART) Regarding Oakland Harbor Navigation Improvement (-50 Foot) Project (“Dredging Project”).

*The Motion to approve Items M-1 and M-2 passed by the following votes: (7) Ayes: Commissioner **Batarse**, Commissioner **Calloway**, Vice-President **Gordon**, Commissioner **Head**, Commissioner **Katzoff**, Commissioner **McClure**, and President **Uno**.*

*A motion to approve Item M-3 was made by Commissioner **Katzoff** and seconded by Commissioner **Gordon**.*

The following Port staff and outside consultants spoke on Item M-1.

Omar Benjamin, Executive Director  
James Kwon, Director of Maritime  
Doug Waring, Deputy Executive Director & Chief Financial Officer  
Richard Sinkoff, Director of Environmental Programs & Planning  
David Alexander, Port Attorney  
Doug Montague, of Montague DeRose  
Tim Bath, RBC Financial  
Garfield Gatton, Ricondo Associates  
Peter Stone, Ports America  
Bill Peterson, Ports America  
Josh Horowitz, Ports America

The following individuals addressed the Board on Item M-3: Jon Roselle (SSA Terminals), Frank Capo (Total Terminals Inc.), Dean Wilson (Total Terminals, Inc.) and Bill Aboudi (AB Trucking)

**M-3 Port Ordinance No. 4093** Authorizing The Executive Director To Execute A Concession And Lease Agreement With Ports America Outer Harbor, LLC For The Use And Operation Of Berths 20 Through 24 In The Outer Harbor And To Make Certain Findings In Connection Therewith.

*The Motion to approve Item M-3 passed by the following votes: (7) Ayes: Commissioner **Batarse**, Commissioner **Calloway**, Vice-President **Gordon**, Commissioner **Head**, Commissioner **Katzoff**, Commissioner **McClure**, and President **Uno**.*

**M-4** Delphine Prevost, Sr. Maritime Projects Administrator, gave an update on the Beacon Economic Study Report.

**M-5** Delphine Prevost, Sr. Maritime Projects Administrator gave an update on the Comprehensive Truck Management Program (CTMP).

**M-6** Richard Sinkoff, Director of Environmental Programs & Planning, gave an update on the Maritime Air Quality Improvement Plan (MAQIP).

The following individuals spoke on the Maritime Staff Reports: Brad Edgar, Doug Bloch, Milton Lewis, Jennifer Lin, Adeeti Waydia, Alex Desautels, Mohammed Asif, Michael Smith, Gail Bateson, Diane Bailey, T.C. Wilson, Brian Beveridge, Lorenzo Fernandez and Libby Stahl.

## **BREAK**

At the hour of 6:20, President **Uno** called for a 20 minute recess. He called the meeting back to order at 6:42 and all Commissioners were in attendance.

President **Uno** elected to take the Audit, Budget & Finance Items out of sequence to accommodate the Port's outside consultant.

## **AUDIT, BUDGET & FINANCE**

Commissioner **Batarse** gave a report on the February 26<sup>th</sup> Audit Budget and Finance Committee. He reported that the Committee had approved for forwarding to the full Board Items O-2 and O-3.

*A motion to approve Items O-2 and O-3 was made by Commissioner **Batarse** and seconded by Commissioner **Calloway**.*

Sanjiv Handa addressed the Board on the Committee Report.

**O-2** **Resolution No. 09027**, Authorization To Partially Defeas Revenue Bonds, 2002 Series L (AMT) And Refunding Revenue Bonds, 2002 Series N (AMT) And To Take Certain Actions Related Thereto.

**O-3 Resolution No. 090278**, Authorization To Partially Defease Port Of Oakland Revenue Bonds, 2000 Series K (AMT) And To Take Certain Actions Related Thereto.

*The Motion to approve Items O-2 and O-3 passed by the following votes: (7) Ayes: Commissioner **Batarse**, Commissioner **Calloway**, Vice-President **Gordon**, Commissioner **Head**, Commissioner **Katzoff**, Commissioner **McClure**, and President **Uno**.*

### **COMPREHENSIVE TRUCK MANAGEMENT PLAN (CTMP)**

*Commissioner **Head** offered a Motion, Seconded by Commissioner **Calloway**, to direct Staff to target May 21<sup>st</sup> to have the final Comprehensive Truck Management Plan (CTMP) presented to the Board, and to bring back to the Board, subsequent to that meeting, resources and policy changes necessary to achieve finalizing the plan by May 21<sup>st</sup>.*

*The Motion was approve on the following vote: (5) Ayes: Commissioner **Calloway**, Vice-President **Gordon**, Commissioner **Head**, Commissioner **McClure**, and President **Uno**; (2) Noes: Commissioner **Batarse** and Commissioner **Katzoff***

## **OPERATIONS**

### **EXECUTIVE COMMITTEE**

Vice-President **McClure** gave a report on the February 17<sup>th</sup> Executive Committee Meeting.

In reference to the Executive Committee Report on the Federal Legislative Strategy and Economic Stimulus Package, President **Uno** asked that the report be given to the full Board at the next Regular Board Meeting.

### **ADMINISTRATION COMMITTEE**

Commissioner **Batarse** gave a report on the February 24<sup>th</sup> Administration Committee. He reported that the Committee had approved for forwarding to the full Board Item O-1.

*A motion to approve Item O-1 was made by Commissioner **Batarse** and seconded by Commissioner **Calloway**.*

**O-1 Resolution No. 09026**, Authorization For The Executive Director To (1) Execute An Exclusive Negotiating Agreement With Pacific Biogas Energy For The Lease Of Property In North Field, OIA; And A Power Purchase Agreement With Pacific Biogas Energy For Renewable Energy Generated On The Leased Site.

*The Motion to approve Item O-1 passed by the following votes: (7) Ayes: Commissioner **Batarse**, Commissioner **Calloway**, Vice-President **Gordon**, Commissioner **Head**, Commissioner **Katzoff**, Commissioner **McClure**, and President **Uno**.*

## **APPROVAL OF THE MINUTES**

*On a Motion by Commissioner **Calloway**, seconded by Commissioner **Head** the Board unanimously approved the Minutes of the Regular Meeting of February 3, 2009.*

## **SUMMARY ITEMS**

*On a Motion by Commissioner **Head**, seconded by Commissioner **Calloway** the Board unanimously approved the following Summary Items:*

- S-1 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.
- S-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).
- S-3 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).
- S-4 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).

## **OPEN FORUM**

Bill Aboudi addressed the Board in Open Forum.

**ADJOURNMENT**

*There being no additional business the Board adjourned at 9:00 p.m.*

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**John Betterton, Secretary**

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**Date**