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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, March 17, 2009 - 3:00 p.m.

ROLL CALL

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

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

Commissioner **Katzoff** was excused.

CLOSED SESSION

President **Uno** convened the Board in Closed Session at the hour of 3:16 p.m. to hear the following:

1. **CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION.** Pursuant to subdivision (a) of Section 54956.9.

Theresa O’Guinn and Richmond Apande v. Port of Oakland
Court of Appeal State of California, First Appellate District,
Division Five, Case No. A121658

2. **CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION.** Significant exposure to litigation pursuant to subdivision (b) of Section 54956.9: 4 matter(s)
3. **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 4:45 p.m., and the following Commissioners were in attendance:

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

Commissioner **Katzoff** was excused.

CLOSED SESSION REPORT

The Port Attorney stated that there were no final actions taken in the first Closed Session, but that the Board had not concluded the Closed Session Agenda and would continue with Closed Session after Open Forum.

AVIATION

*A Motion to hear Item A-4 was made by Vice-President **McClure** and seconded by Commissioner **Calloway**.*

Resolution No. 09031, Finding that there is a need to take immediate action, on Aviation Item A-4, and that the need for action came to the attention of the Port after the Agenda was posted, and that failing to act would cause significant harm.

*The Motion to hear Item A-4 passed by the following votes: (6) Ayes: Commissioner **Batarse**, Commissioner **Calloway**, Vice-President **Gordon**, Commissioner **Head**, Commissioner **McClure**, and President **Uno**; (1) Excused: Commissioner **Katzoff**.*

*A Motion to hear Items A-1 through A-3 was made by Vice-President **McClure** and seconded by Commissioner **Calloway**.*

A-1 Port Ordinance No. 4094, 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-2 Resolution No. 09029, Enhancement and Implementation of International Air Service Marketing Incentive Program and Authorization to Amend Airline Operating Agreements to Implement Fee Waivers.

*The Motion to approve Items A-1 and A-2 passed by the following votes: (6) Ayes: Commissioner **Batarse**, Commissioner **Calloway**, Vice-President **Gordon**, Commissioner **Head**, Commissioner **McClure**, and President **Uno**.; (1) Excused: Commissioner **Katzoff**.*

Nancy Watson addressed the Board on Item A-3.

A-3 Resolution No. 09030 (1) Approval Of Draft Plans And Project Manual For The Reconstruction Of East Apron, Phase 3, Taxilane Sierra, And West Ramp, South Field, OIA; (2) Authorization For The Director Of Engineering To Approve Final Plans And Project Manual; And (3) Authorization For Executive Director To Award Contract To The Lowest Responsible Responsive Bidder, In An Amount Not To Exceed \$15,000,000 And \$28,000,000 For The Base Bid And Total Bid, Respectively, Based On Available Federal Funding.

*The Motion to approve Item A-3 passed by the following votes: (5) Ayes: Commissioner **Batarse**, Commissioner **Calloway**, Commissioner **Head**, Commissioner **McClure**, and President **Uno.**; (1) No: Vice-President **Gordon**; (1) Excused: Commissioner **Katzoff**.*

Commissioner **Calloway** was excused from the meeting.

*A Motion to approve Item A-4 was made by Vice-President **McClure** and seconded by Commissioner **Head**.*

A-4 Resolution No. 09032, Approval To Submit Application(S) For, And Take All Actions Necessary To Accept, Economic Recovery (ER) Grant Funds In The Amount Of Up To \$15 Million (100% Federal Share) Through The Federal Aviation Administration (FAA) In Accordance With Requirements Outlined In "Stakeholder Guidance: American Recovery And Reinvestment Act (ARRA) Of 2009, March 3, 2009" To Supplement Airport Improvement Program (AIP) Funds For The East Apron Reconstruction Project, Phase 3 (EAP3) At Oakland International Airport (OAK), Including But Not Limited To Accepting FAA Grant Offer(S) Substantially In The Form Of AIP Grant Offer 47 With The Additions As Required By The ARRA.

*The Motion to approve Item A-4 passed by the following votes: (4) Ayes: Commissioner **Batarse**, Commissioner **Head**, Commissioner **McClure**, and President **Uno.**; (1) No: Vice-President **Gordo**; (2) Excused: Commissioner **Calloway** and Commissioner **Katzoff**.*

COMMERCIAL REAL ESTATE

Commissioner **Head** gave an account of the March 4th Commercial Real Estate Committee. 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 **Head** and seconded by Vice-President **McClure**.*

C-1 Resolution No. 09033, Approval Of An Amendment To An Existing License And Concessions Agreement With ZACCOR Companies, Inc., To Add Approximately 800 Square Feet Of Vacant Land Located Between 6th Avenue And 7th Avenue, In The Oak To Ninth Area.

C-2 **Port Ordinance No. 4095**, Approval Of A Fourth Supplemental Agreement To The Lease Between The Port Of Oakland And Crown Castle, GT Company LLC, For A Cellular Communications Tower Located In The Outer Harbor Area.

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

MARITIME

At the invitation of President **Uno**, Dr. Tony Iton, Director of the Alameda County Public Health Department, made a presentation to the Board on Health Disparities by Neighborhood, Income and Race in Oakland.

M-1 Delphine Prevost, Senior Maritime Projects Administrator, reported to the Board on work performed by Beacon Economics and analysis of impacts related to the Comprehensive Truck Management Plan (CTMP). As requested by the Board at the previous meeting, she presented a revised schedule for implementation of the CTMP.

Vice-President **Gordon**, suggested that staff change the Combined Technical Advisory Committee and Public Meeting on the on the Final Draft CTMP from Monday, May 4th to Saturday, May 2nd in order to increase public participation. The Executive Director, Omar Benjamin, directed staff to make the change.

The following individuals addressed the Board on the CTMP Report: Libby Stahl, Brad Edgar, Doug Bloch, Gerry Haynes, Manuel Rivas, Lorenzo Fernandez, Chuck Mack, Dr. Robert Harrison, Barbara Burgel, Valerie Velazquez, Roberto Flores, Abdul Kahn, Eddie Hernandez, Jesse Zuniga, Antonio Amaya, Zach Goldman, Christopher Tran, Andy Katz, Muhammed Asif, Joe Bezzi, Becca Bursana, Juan Carlos Cascante, Jaime Henriquez, Norman Berg, Mario Guerreo, Abel Zariief, Porfirio Diaz, Bereket Woldeggoris, Kent Lendowski, Aditi Vaidya, Reverend Kurt Kuhlwald, Archbishop Aurora Lewis, Paul Ensmeyer, Eric Gabourel, Bill Aboudi, Jorge Asulear.

BREAK

At the hour of 6:25, President **Uno** called for a 20 minute recess. He called the meeting back to order at 6:45 and the following Commissioners were in attendance:

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

Commissioners **Calloway** and **Katzoff** were excused.

*Vice-President **McClure** made a Motion, seconded by Vice-President **Gordon**, to Agendize for the next Regular Board Meeting, consideration of a Resolution to commit two million dollars to the Truck Retrofit Program.*

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

President **Uno** asked that the author of the Beacon Study be asked to make a presentation at the next Regular Meeting of the Board.

OPERATIONS

Executive Committee

Vice-President **McClure** gave an account of the March 17th Executive Committee Meeting.

Sanjiv Handa addressed the Board on the Executive Committee Report.

Administration Committee

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

- O-1 Resolution No. 09034**, (1) Approval Of Draft Project Manual 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; (2) Authorization For The Director Of Engineering To Approve Final Project Manual; And (3) Authorization For The Executive Director To Award Contract To The Lowest Responsible Responsive Bidder, In The Estimated Annual Amount Of \$150,000.
- O-2 Resolution No. 09035**, (1) Approval Of Draft Project Manual 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; (2) Authorization For The Director Of Engineering To Approve Final Project Manual; And (3) Authorization For The Executive Director To Award Contract To The Lowest Responsible Responsive Bidder, In The Estimated Annual Amount Of \$300,000.
- The Motion to approve Items O-1 and O-2 passed by the following votes: (5) Ayes: Commissioner **Batarse**, Vice-President **Gordon**, Commissioner **Head**, Commissioner **McClure**, and President **Uno**; (2) Excused: Commissioner **Calloway** and Commissioner **Katzoff**.*
- O-3** The Government Relation Manager, Eve Grossman-Bukowski, gave an update on the Port's Federal Legislative Strategy and Economic Stimulus Package.

Audit Budget and Finance Committee

Commissioner **Batarse** gave a report on the March 12th Audit Budget and Finance Committee Meeting. He reported that the Committee had approved for forwarding to the full Board Item O-4.

- O-4 Resolution No. 09036** Authorization To Re-Allocate Previously Approved Open Account Agreement Amounts For FY08-09, Reflecting A \$1,325,000 Reduction For A Revised Aggregate Amount Not To Exceed \$9,677,000.

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

APPROVAL OF THE MINUTES

*On a Motion by Commissioner **Head**, seconded by Vice-President **McClure**, the Board approved by consensus the Minutes of the Regular Meeting of March 3, 2009.*

SUMMARY ITEMS

*A Motion to approve items S-1 through S-5 was made by Vice-President **McClure** and seconded by Vice-President **Gordon**.*

- S-1 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}.
- S-2 Port Ordinance No. 4090** 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).
- S-3 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.

- S-4 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.
- S-5 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 Board approved Summary Items S-1, S-2, S-4 and S-5 by the following votes: (5) Ayes: Commissioner **Batarse**, Vice-President **Gordon**, Commissioner **Head**, Commissioner **McClure**, and President **Uno**; (2) Excused: Commissioner **Calloway** and Commissioner **Katzoff**.*

*The Board approved Item S-3 by the following votes: : (4) Ayes: Commissioner **Batarse**, Commissioner **Head**, Commissioner **McClure**, and President **Uno**.; (1) No: Vice-President **Gordo**; (2) Excused: Commissioner **Calloway** and Commissioner **Katzoff**.*

OPEN FORUM

There were no public speakers for Open Forum.

2ND CLOSED SESSION

President **Uno** reconvened the Board in Closed Session at 7:20.

2ND CLOSED SESSION REPORT

President **Uno** reconvened the Board in Open Session at 7:50.

The Port Attorney stated that there were no final actions taken in Closed Session.

ADJOURNMENT

There being no additional business the Board adjourned at 7:51 p.m.

John Betterton, Secretary

Date