

**MINUTES
BOARD OF PORT COMMISSIONERS
SAN DIEGO UNIFIED PORT DISTRICT**

The special meeting of the Board of Port Commissioners of the San Diego Unified Port District was called to order by Chairman Peters at 10:02 a.m., Tuesday, January 9, 2012, in the West Coast Ballroom at the Holiday Inn on the Bay at 1355 North Harbor Drive, San Diego, California.

ROLL CALL

Agenda Item 1.

Present: COMMISSIONERS Burdick, Malcolm, Moore, Nelson, Peters, Smith, and Valderrama.

OFFICERS: Darbeau, Deuel

Absent: No Commissioners absent.

Excused: No Commissioners excused.

PUBLIC COMMUNICATIONS

Agenda Item 2. None.

CLOSED SESSION

Tim Deuel, District Clerk, announced the closed session agenda as follows:

Agenda Item 3.

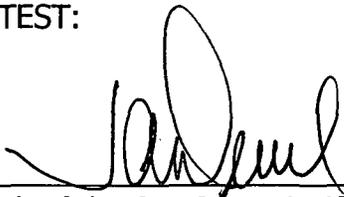
PUBLIC EMPLOYEE APPOINTMENT, PERSONNEL EVALUATION OR DISCIPLINE:
APPOINTMENT OF THE PORT ATTORNEY
Government Code Section 54957

There was no formal or reportable action as to any closed session items, pursuant to Government Code Section 54950 et seq, to report from the closed session; whereupon, Chairman Peters adjourned the meeting.



Secretary, Board of Port Commissioners
San Diego Unified Port District

ATTEST:



Clerk of the San Diego Unified Port District

**MINUTES
BOARD OF PORT COMMISSIONERS
SAN DIEGO UNIFIED PORT DISTRICT**

The special meeting of the Board of Port Commissioners of the San Diego Unified Port District was called to order by Chairman Peters at 10:35 a.m., Tuesday, January 10, 2012, in the Council Chambers at the City of Coronado City Hall at 1825 Strand Way, Coronado, California.

ROLL CALL

Agenda Item 1.

Present: COMMISSIONERS Burdick, Moore, Nelson, Peters, Smith, and Valderrama.

OFFICERS: Darbeau, Brewer and Deuel

Absent: No Commissioners absent.

Excused: Commissioner Malcolm was excused until he arrived at approximately 10:50 a.m.

PUBLIC COMMUNICATIONS

Agenda Item 2. None.

CLOSED SESSION

Celia Brewer, Interim Port Attorney, announced the closed session agenda as follows:

Agenda Item 3.

CONFERENCE WITH REAL PROPERTY NEGOTIATOR
Government Code Section 54956.8

Property: Lane Field located at the Northeast Corner of Harbor Drive and West Broadway, San Diego.

Negotiating Parties: Jerome Trammer, Lane Field San Diego Developers, LLC;

Karen Weymann, Shaun D. Sumner, Nick Markos, Jeffrey McEntee, Randa Coniglio, Karen Porteous – SDUPD

Under Negotiations: Price and Terms

Agenda Item 4.

CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION
Significant exposure to litigation pursuant to Subdivision (b)(1) of Government Code Section 54956.9

Three Cases

Agenda Item 5.

CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION
Pursuant to Subdivision (a) of Government Code Section 54956.9

City of San Diego v. San Diego Unified Port District, et al.
United States District Court Case No. 09-CV-2275-AJB BGS

Agenda Item 6.

CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION
Pursuant to Subdivision (a) of Government Code Section 54956.9

San Diego Unified Port District v. General Dynamics, Tow Basin, et al.
United States District Court Case No.: 07-CV-1955 AJB WVG

Agenda Item 7.

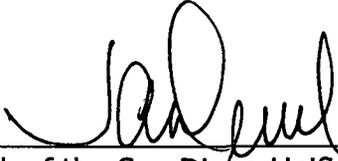
PUBLIC EMPLOYEE APPOINTMENT, PERSONNEL EVALUATION OR DISCIPLINE:
APPOINTMENT OF THE PORT ATTORNEY
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There was no formal or reportable action as to any closed session items, pursuant to Government Code Section 54950 et seq, to report from the closed session; whereupon, Chairman Peters adjourned the meeting.



Secretary, Board of Port Commissioners
San Diego Unified Port District

ATTEST:



Clerk of the San Diego Unified Port District

**MINUTES
BOARD OF PORT COMMISSIONERS
SAN DIEGO UNIFIED PORT DISTRICT**

A special meeting of the Board of Port Commissioners of the San Diego Unified Port District was called to order by Chairman Smith at 1:31 p.m., Tuesday, January 10, 2012, in the Council Chambers at the City of Coronado City Hall at 1825 Strand Way, Coronado, California.

ROLL CALL

Agenda Item 1.

Present: COMMISSIONERS Burdick, Malcolm, Moore, Nelson, Peters, Smith, and Valderrama.

OFFICERS: Brewer, Darbeau, Deuel, McEntee and Stup

Absent: No Commissioners absent.

Excused: No Commissioners excused.

CLOSED SESSION

As requested by Chairman Smith, Celia Brewer, Interim Port Attorney, stated there was no reportable action from the closed session.

PLEDGE OF ALLEGIANCE

Agenda Item 2. Commissioner Malcolm led the Pledge of Allegiance.

APPROVAL OF MINUTES

Agenda Item 3. Commissioner Burdick requested that the text of the draft minutes on page 10 be amended for accuracy purposes and cited the following passage: "Commissioner Burdick requested and received clarification as to whether it may be possible with respect to the judicial validation action regarding the city's abilities to foreclose on Port tidelands property to establish some kind of 'action that precludes the District from coming forward and receiving declaratory relief from the action.'" She requested it be corrected to read "...to establish some kind of mechanism that clarifies

the District's rights in foreclosure and establishing the City's foreclosure mechanism on tidelands leaseholds." She also quoted from page 11, "Ms. Brewer stated that it was not staff's intention to construct the meeting and the commissioner's decision making process such that they would not preclude the future use of the Board's discretion." She requested that the sentence read, "Ms. Brewer stated that it was staff's intention to construct the meeting and the commissioner's decision making process such that they would have the future use of the Board's discretion." On motion of Commissioner Valderrama, seconded by Commissioner Burdick, the Board approved the minutes for the regular meeting of November 29, 2011 with the corrections requested, by the following vote: Yeas-Burdick, Nelson, Malcolm, Moore, Peters, Smith and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

ACTION AGENDA

RESOLUTION AUTHORIZING MEMORANDUM OF UNDERSTANDING BETWEEN SAN DIEGO UNIFIED PORT DISTRICT, CITY OF SAN DIEGO AND CITY OF IMPERIAL BEACH TO EXPLORE USES FOR POND 20 DISTRICT

Agenda Item 25. Adam Meyer, Asset Manager, Real Estate, addressed the Board with a presentation and requested the Board's consideration of authorizing a Memorandum of Understanding (MOU) between the San Diego Unified Port District, the City of San Diego and the City of Imperial Beach to explore uses for the Pond 20 District. He turned the presentation over to Michelle White, Environmental Policy Manager, Government & Community Relations, who addressed the Board regarding the stakeholder process. Ms. White stated, for the record, that in a memo sent to the Board regarding proposed amendments to the MOU from Laura Hunter, staff incorrectly attributed those amendments to Ms. Hunter as Chair of the Wildlife Advisory Committee; when, in fact, Ms. Hunter submitted the comments as an advocate for the Environmental Health Coalition. (A copy of the staff report, the presentation and memos are on file in the Office of the District Clerk.)

Commissioner Valderrama left the dais at 1:43 p.m. and returned at 1:45 p.m.

The following members of the public addressed the Board in support of the staff recommendation: David Alvarez, City of San Diego City Council Member; Mayor Jim Janney, City of Imperial Beach; Cindy Gompper Graves, South County Economic Development Council (SCEDC); Christine Moore, SCEDC; Angelika Villagrana, SCEDC; Jeff Howard, SCEDC; Doug Kerner, SCEDC; Anne Marie Mowatt, SCEDC/Tapatia Strategy Group.

Commissioner Peters left the dais at 1:55 p.m. and returned at 1:59 p.m.

The following members of the public addressed the Board with varying viewpoints regarding the matter: Kurt Farrington, Bayside Villas Homeowners Association; Steve Schroeder, Chairman Otay Mesa/Nestor Community Planning Group; Maria Mendoza, Otay Mesa/Nestor Community Planning Group; Laura Hunter, Environmental Health Coalition; and Dr. Andrew J. Schneller, WILDCOAST.

Commissioner discussion ensued. Commissioner Malcolm acknowledged the public speakers and stakeholders for their input and then read a passage from a letter written by Laura Hunter on behalf of the South Bay Wildlife Advisory Group. (A copy of the letter is on file in the Office of the District Clerk.) He spoke to stakeholder outreach and the District's commitment to inclusiveness in the process. He offered that the uses for the site could result in "wins" for the District, the City of Imperial Beach, the City of San Diego and the environment. Commissioner Malcolm stated that in 1998, when the South Bay Wildlife Refuge created Pond 11, a restoration project that was recently dedicated on December 8, 2011, all parties agreed that Pond 20 was excluded as a development parcel. In that the site is 95 acres, he suggested looking for some limited development opportunities in harmony with restoration. He reiterated that he did not have any preconceived notions for Pond 20, encouraged active participation and community outreach. Commissioner Malcolm stated that Commissioner Nelson had proposed some inclusive language that addressed the Otay Mesa/Nestor Special Planning Study area. He offered a motion to approve the MOU including Commissioner Nelson's revised language pursuant to the staff recommendation. Commissioner Nelson seconded the motion.

Commissioner Nelson spoke about the collaborative process and thanked all stakeholders for their efforts and he acknowledged Commissioner Malcolm's earlier remarks regarding the process. He read out his proposed language changes to the MOU. (A copy of the memo was made available to the Board prior to the meeting, copies for the public were available at the Clerk's desk and the document is on file in the Office of the District Clerk.) Chairman Smith confirmed the amendments were included as part of Commissioner Malcolm's motion.

Commissioner Valderrama stated that he was in support of the remarks offered by members of the SCEDC. He reiterated that the process would be open to all members of the public, encouraged their participation and acknowledged that opportunities for including comments would be afforded to all stakeholders. He stated that the MOU was the necessary next step to move the process forward. Commissioner Valderrama thanked the participants and expressed his support of the motion.

Commissioner Burdick concurred with her colleagues remarks and in light of the overlapping jurisdictions, she expressed her support for the MOU between the District, the City of San Diego and the City of Imperial Beach. She also acknowledged that the Otay Mesa/Nestor Community Planning Group had a role to play as a jurisdictional entity. She reiterated that the MOU was about process and did not in anyway, nor, was it intended to presuppose an outcome, including any development or whether the land would be preserved for environmental mitigation beyond any current commitments. She spoke in support of the changes that Commissioner Nelson put forth. She requested that a modification be made to paragraph one under stakeholder outreach. She offered a friendly amendment to the motion and requested that the sentence "the parties shall compile and 'review' prior stakeholder input including that related to the community plan" be revised to read "the parties shall compile and 'consider' prior stakeholder input including that related to the community plan."

Commissioner Malcolm accepted the amendment to the motion. Commissioner Nelson concurred with the amendment. Commissioner Valderrama accepted the amendment to the motion.

Commissioner Valderrama stated, for the record, that he accepted the friendly amendment proposed because it was a minor change in the language. He then expressed concern regarding requests to consider major amendments to the staff recommendation that could change intent. Thus, without adequate time allotted for a thorough analysis of the proposed amendments he would request that such items be continued to a future meeting to facilitate additional review.

Chairman Smith acknowledged Commissioner Valderrama's point.

On motion of Commissioner Malcolm, seconded by Commissioner Valderrama, the Board adopted **Resolution 2012-11**, authorizing Memorandum of Understanding between San Diego Unified Port District, City of San Diego and City of Imperial Beach to explore uses for Pond 20 District, by the following vote: Yeas-Burdick, Malcolm, Moore, Nelson, Peters, Smith and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

Chairman Smith also thanked the members of the public for their involvement in the process.

Commissioner Peters left the dais at 2:24 p.m. and returned at 2:26 p.m.

UPDATE ON EMBARCADERO BAYFRONT SHUTTLE AND DIRECTION TO STAFF

Agenda Item 26. Item Continued.

SAN DIEGO NATIONAL CITY MARINA DISTRICT JOINT PLANNING EFFORT:

A) PRESENTATION ON THE OUTCOME OF THE NATIONAL CITY MARINA DISTRICT JOINT PLANNING PROCESS.

B) RESOLUTION AUTHORIZING STAFF TO WORK JOINTLY WITH THE CITY OF NATIONAL CITY TO ISSUE A REQUEST FOR QUALIFICATIONS FROM PARTIES INTERESTED IN LEASING AND DEVELOPING UP TO 20 ACRES OF TIDELANDS ON 32ND STREET ACROSS FROM PIER 32 MARINA DISTRICT

Agenda Item 27. Anna Buzaitis, Associate Redevelopment Planner, Environmental and Land Use Management, addressed the Board regarding the San Diego National City Marina District Joint Planning Effort. She presented the outcome of the National City Marina District Joint Planning process; requested the Board consider the staff recommendation to authorize staff to work jointly with the City of National City to issue a Request for Qualifications from parties interested in leasing and developing up to 20 acres of tidelands on 32nd Street across from Pier 32 Marina District. Ms. Buzaitis turned the presentation over to Christopher J. Marrow, Project Design Consultants, who discussed the report prepared by his firm titled National City Bayfront Marina District Vision Plan National City, California, December 2011 and reviewed the three conceptual land use alternatives. Ms. Buzaitis clarified for the record that staff was seeking direction regarding 20 acres; the reference to 8 acres shown in the draft resolution was not correct. Ms. Buzaitis continued with the staff report, presented the staff recommended alternative, discussed next steps and requested the Board's consideration of the matter. (A copy of the staff report, the presentation and the Project Design Consultants report is on file in the Office of the District Clerk.)

Members of the public addressed the Board with varying viewpoints regarding the matter. Mayor Ron Morrison, City of National City, addressed the Board in opposition to the staff recommendation. The following members of the public addressed the Board in support of the staff recommendation: Sharon Cloward, Port Tenants Association; John Pasha, Pasha Automotive Services; Ivar Leetma, MRW Group representing Sycuan Tribal Development Corporation; Greg Boeh, GB Capital Holdings, Pier 32 Marina, the Waterfront Grill. Carolina Martinez, Environmental Health Coalition, took a neutral position on the matter.

Commissioner Peters left the dais at 4:02 p.m. and returned at 4:05 p.m.

Chairman Smith requested that staff respond to issues raised by the public speakers. Kristine Zortman, Area Real Estate Manager, Real Estate, described the current tenant operations located in the National Distribution Center (NDC) area, she described the 20 acre area under consideration in the alternative recommended by staff, she also clarified the reasoning staff was recommending a specific 7 acre area under consideration for a proposed development.

Commissioner discussion ensued. Commissioner Valderrama requested that staff reply to the issues raised regarding the process and the distribution of meeting notifications by Mr. Pasha. Ms. Buzaitis stated that prior to every meeting, notices were sent to stakeholders, business owners and residents within 300 feet of the project study area. She stated that notices were published in newspapers, posted on the District website prior to every meeting; and offered information on the requested updates to the postcard notification mailing list. Commissioner Valderrama offered his perspective on all potential bayfront development in National City that serves the community stakeholders and maintains the land designated for maritime industrial uses. He offered his support for the staff recommendation presented and discussed his fiduciary responsibilities to the District.

Commissioner Nelson requested and received clarification regarding Mr. Marrow's knowledge of the Port Act.

Commissioner Moore requested and received confirmation from Mr. Marrow that the preferred alternative, which was developed through a work effort by the City of National City, District staff and the consultant team, was a conceptual plan that included a condition that any redevelopment of maritime lands be replaced before the project begins. She expressed her concern regarding offering support for a staff recommendation that a member city's mayor did not support.

Randa Coniglio, Executive Vice President, Operations, offered clarification that staff endeavored to wrap up the joint planning process that began last year. She stated that that in light of the concerns expressed by Mayor Morrison on behalf of the City of National City, staff recommended that consideration of the item be continued to a future Board meeting and allow more time to work with the stakeholders.

Commissioner Moore acknowledged Ms. Coniglio's request to continue the item. Chairman Smith stated it was his preference to hear the Board discussion on the matter prior to acting on the request to continue the matter.

Commissioner Nelson referenced the Port Act as the enabling legislation for the District and requested and received clarification from Mr. Marrow as to how the preferred alternative reconciled with the direction stated in the Port Act. Mr. Marrow stated his opinion had been based on the direction staff provided to the consultants and by working in a collaborative manner with stakeholders; thus, the goals and objectives cited by Commissioner Nelson had been acknowledged. Commissioner Nelson requested and received clarification regarding staff report Attachment B, Results from Public Survey, and Mr. Marrow discussed the outreach efforts made to the United States Navy and commented on the opinion survey taken during the workshop process. He stated that the workshop participants included stakeholders with varying interests including members of the Working Waterfront Group and the Environmental Health Coalition. As requested by Commissioner Nelson, Mr. Marrow clarified his earlier statement when he referred to "Alternative C" as the most radical. Regarding the presentation and planning process results, Commissioner Nelson discussed the importance of the District's trade missions to develop additional import and export business and the uncertainty of impacts resulting from the widening of the Panama Canal. He expressed concern regarding the possible dislocation of the facility used for securing the household property of armed forces personnel. He discussed the shift of military forces and associated resources from the Atlantic coast to the Pacific coast. Commissioner Nelson expressed concern regarding the consideration of relocating land designated for mitigation and the importance of maintaining credibility with stakeholders and regulatory agencies.

Commissioner Peters stated that the Board had a fiduciary duty to preserve maritime industrial land. He offered comments regarding the benefits of approving the staff alternative as a means to continue moving the process forward. He expressed concerns regarding approving the preferred plan as it had been presented because of the number of unanswered questions it raised. Commissioner Peters expressed his support for Commissioner Valderrama's recommendation to move forward with the staff recommendation.

Commissioner Malcolm acknowledged Commissioner Moore's concerns, recognized the statements offered by Mayor Morrison, and the Commissioner discussion regarding the fiduciary responsibility of preserving maritime industrial land. He requested and received clarification from Ms. Zortman regarding the staff recommendation of issuing a Request for Qualifications (RFQ) and the next steps in the process, which included a Request for Proposal (RFP) process. She also responded to queries regarding the staff alternative and the benefits of exploring redevelopment opportunities at 20 acre portion under discussion.

Commissioner Burdick acknowledged Commissioner Malcolm's inquiries and offered comments regarding the benefits of issuing an RFP and RFQ simultaneously. She offered comments regarding her discussions with former Senator Denise Ducheny regarding her intent of sponsoring Senate Bill 1039. Commissioner Burdick expressed her concerns regarding the level of progress that had been made during the outreach efforts to balance the needs of both the City of National City and the District. She stated her desire to create a unified planning district reaching from the 10th Avenue Marine Terminal down to the National City Marine Terminal and engage the communities in a master planning process with respect to the residents' needs and the Working Waterfront's needs. She concurred with Commissioner Peter's remarks and acknowledged Commissioner Valderrama's comments regarding beginning the process and issuing an RFQ or RFP to assess the feasibility of the staff recommended alternative. Commissioner Burdick stated that should the staff recommendation not be adopted, her recommendation was to consider moving forward with a unified planning effort and look at the "big picture" regarding planning, mitigation and stakeholder needs.

Commissioner Moore acknowledged implementing a master planning concept for the area. She requested and received clarification from Ms. Buzaitis regarding the differences in District staff recommended alternative and the preferred alternative. Ms. Zortman confirmed that the matter at hand was the initial step and agreed that the southern portion of the District staff recommended alternative was very similar to the preferred alternative that had resulted from the outreach efforts. Commissioner Moore discussed the importance of communicating with the City of National City that the matter at hand was only the first step in the process and did not prevent future stakeholder input.

Wayne Darbeau, Executive Director, acknowledged the benefits of the type of dialogue that had been offered by the Board. He noted that an integrated planning approach was adopted as part of the Compass Strategic Goals. He offered that, should the Board decide to move ahead with the staff recommendation, such action would provide guidance to the District and may improve overall organizational effectiveness leading to long-term regional benefits.

In that the staff alternative would not result in any negative impact on the existing maritime industrial land, Commissioner Valderrama offered a motion to accept the staff recommendation. Commissioner Peters seconded the motion.

On motion of Commissioner Valderrama, seconded by Commissioner Peters, the Board adopted **Resolution 2012-12**, authorizing staff to work jointly with the City

of National City to issue a Request for Qualifications from parties interested in leasing and developing up to 20 acres of tidelands on 32nd Street across from Pier 32 Marina District, by the following vote: Yeas-Burdick, Malcolm, Moore, Nelson, Peters, Smith and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

PUBLIC COMMUNICATIONS

Agenda Item 4. Jesus Preciado Castro addressed the Board and presented a handout to the Board regarding the South West Frontera Institute. He requested the Board's consideration regarding sponsorship to assist with the forming of the organization that would encourage job creation. (A copy of the handout is on file in the Office of the District Clerk.)

Commissioner Moore left the dais at 3:53 p.m.

CONSENT AGENDA

Chairman Smith requested that Timothy Deuel, District Clerk, announce any suggested docket changes. Mr. Deuel announced the proposed changes to the agenda as follows: **Consent Agenda Item 17**, Resolution Authorizing Acceptance of Grant Funds and enter into an Agreement with the California Coastal Conservancy for a Grant Award in the amount of \$285,500, for the Renovation of a Commercial Fishing Facility at Driscoll's Wharf On Shelter Island; staff requests this item be continued to a future Board meeting; **Consent Agenda Item 18**, Ordinance Granting an Option Agreement to Lease and Develop Lane Field North, including Options to Lease and Develop Lane Field South and 1220 Pacific Highway, to Lane Field San Diego Developers, LLC, with Conditions; staff requests this item be continued to a future Board meeting; **Consent Agenda Item 19**, Resolution Authorizing Assignment and Assumption of Agreement between MACTEC Engineering & Consulting, Inc. and ESR; staff requests this item be continued to a future Board meeting; **Presentation Agenda Item 23**, Presentation on North Embarcadero Port Master Plan Amendment Proposed Project Components; staff requests this item be continued to a future Board meeting; **Presentation Agenda Item 24**, Presentation on the Public Realm Spaces of the San Diego Convention Center Hotel and Phase III Expansion Project and Update from staff on status of environmental review; staff requests this item be continued to a future Board meeting; **Action Agenda Item 26**, Update on Embarcadero Bayfront Shuttle and direction to staff; staff requests this item be continued to a future Board meeting. On motion of Commissioner Nelson, seconded by Commissioner Valderrama, the Board accepted the suggested changes to the agenda, by the following vote: Yeas-Burdick,

Malcolm, Nelson, Peters, Smith, and Valderrama; Nays-None; Excused-Moore; Absent-None; Abstained-None.

Commissioner Moore returned to the dais at 3:57 p.m.

Commissioner Burdick requested that **Consent Agenda Item 10ABCD**, Marina, Boatyard & Commercial Building Project at 2702 Shelter Island Drive (Formerly Kettenburg), be pulled for discussion.

Commissioner Valderrama requested clarification regarding **Consent Agenda Item 6**, Resolution Adopting Plans and Specifications and Awarding Contract No. 2011-13 to Kinsman Construction, Inc. for the polishing of concrete floors at the Broadway Pier Port Pavilion in the amount of \$160,092.

Commissioner Malcolm requested that **Consent Agenda Item 16**, Resolution Adopting the five-year Public Art Curatorial Strategy for 2012-2016, be pulled for discussion.

RESOLUTION ADOPTING PLANS AND SPECIFICATIONS AND AWARDED CONTRACT NO. 2010-27 TO ALVAND CONSTRUCTION, INC., FOR THE INSTALLATION OF ROLL-UP DOORS AND SECURITY GRILLES AT THE B STREET PIER CRUISE SHIP TERMINAL IN SAN DIEGO CALIFORNIA IN THE AMOUNT OF \$183,930

Agenda Item 6. Commissioner Valderrama expressed concern regarding the request to authorize the expenditure from the remaining balance in the Environmental Fund, which was originally established to provide resources to implement environmental projects into the Broadway Pier Pavilion.

On motion of Commissioner Burdick, seconded by Commissioner Peters, the Board adopted Consent Agenda items 5, 6, 7, 8, 9, 11, 12, 13, 14 and 15 (**Resolution 2012-01** through and including **Resolution 2012-05**, **Ordinance 2662**, **Resolution 2012-07**, **Ordinance 2663**, **Resolution 2012-08** through and including **Resolution 2012-09**) by the following vote: Yeas-Burdick, Malcolm, Moore, Nelson, Peters, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

Agenda Item 5. **Resolution 2012-01**, Declaring Items of Equipment to be Surplus to the Needs of the Port District and Authorizing their sale or disposal in accordance with BPC Policy No. 111, was adopted as part of the consent agenda.

Agenda Item 6. **Resolution 2012-02**, Adopting Plans and Specifications and Awarding Contract No. 2011-13 to Kinsman Construction, Inc. for the polishing of concrete floors at the Broadway Pier Port Pavilion in the amount of \$160,092, was adopted as part of the consent agenda.

Agenda Item 7. **Resolution 2012-03**, Adopting Plans and Specifications and Awarding Contract No. 2010-35 to Kronos Painting, Inc., for B Street Pier Cruise Ship Terminal cleaning and painting of interior ceilings, walls and hangers in the amount of \$168,950, was adopted as part of the consent agenda.

Agenda Item 8. **Resolution 2012-04**, Adopting Plans and Specifications and Awarding Contract No. 2010-27 to Alvand Construction, Inc., for the installation of roll-up doors and security grilles at the B Street Pier Cruise Ship Terminal in San Diego California in the amount of \$183,930, was adopted as part of the consent agenda.

Agenda Item 9. **Resolution 2012-05**, Authorizing Amendment No. 4 to Agreement with Moffatt & Nichol-Blaylock and Amendment No. 2 to Agreement with Triton Engineers, Inc. for as-needed marine structural engineering services to increase the aggregate amount payable under the agreements by \$100,000 for a new maximum aggregate amount payable under the agreement not to exceed \$500,000, was adopted as part of the consent agenda.

Agenda Item 11. **Ordinance 2662**, Accepting Quitclaim Deed from the City of San Diego for an Abandoned Water Line Easement on North Harbor Drive, was adopted as part of the consent agenda.

Agenda Item 12. **Resolution 2012-07**, Establishing Minimum Annual Rent for Sunroad Marina Partners, LP dba Sunroad Resort Marina for the period from February 1, 2012 through January 31, 2017, was adopted as part of the consent agenda.

Agenda Item 13. **Ordinance 2663**, Granting Amendment No. 15 to Seaport Village Operating Co., LLC Option Agreement for redevelopment of the Old Police Headquarters Amending the Option and Exhibit No. 1 (Lease) to the Option, was adopted as part of the consent agenda.

Agenda Item 14. **Resolution 2012-08**, Authorizing Memorandum of Understanding to Establish a Sister Port Relationship between the San Diego Unified Port District with the Port of Nanjing, located in the Jiangsu Province in China, was adopted as part of the consent agenda.

Agenda Item 15. **Resolution 2012-09**, Authorizing Memorandum of Understanding to Establish a Sister Port Relationship between the San Diego Unified Port District with the Port of Yangzhou, located in the Jiangsu Province in China, was adopted as part of the consent agenda.

Agenda Item 17. **Item Continued**

Agenda Item 18. **Item Continued**

Agenda Item 19. **Item Continued**

PRESENTATION AGENDA

PRESENTATION BY THE COUNTY OF SAN DIEGO ON ITS 10-YEAR HEALTH STRATEGY AGENDA; LIVE WELL SAN DIEGO!: BUILDING BETTER HEALTH, AND DIRECTION TO STAFF

Agenda Item 20. Wayne Darbeau, Executive Director, announced the representatives from the County of San Diego were unable to stay to present their item and he requested the Board's consideration of continuing the item to a future regular meeting. (A copy of the staff report is on file in the Office of the District Clerk.)

On motion of Commissioner Peters, seconded by Commissioner Malcolm, the Board continued the matter to a future Board meeting, by the following vote: Yeas-Burdick, Malcolm, Moore, Nelson, Peters, Smith and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

Commissioner Peters left the dais at 4:03 p.m. and returned at 4:04 p.m. Commissioner Smith left the dais at 4:05 p.m. and returned at 4:07 p.m.

CONSENT AGENDA CONTINUED

MARINA, BOATYARD & COMMERCIAL BUILDING PROJECT AT 2702 SHELTER ISLAND DRIVE (FORMERLY KETTENBURG):

- A) ORDINANCE GRANTING AMENDED, RESTATED AND COMBINED LEASE AND ASSIGNMENT TO INTREPID LANDING, LLC TO DEVELOP A MARINA ON PARCELS 2 AND 5 OF THE PROPERTY LOCATED AT 2702 SHELTER ISLAND DRIVE.**

- B) RESOLUTION CONSENTING TO LOAN FROM THE NORTHERN TRUST COMPANY TO INTREPID LANDING, LLC FOR \$1,850,000 TO CONSTRUCT LEASEHOLD IMPROVEMENTS TO INCLUDE A MARINA AND PUBLIC IMPROVEMENTS LOCATED AT 2702 SHELTER ISLAND DRIVE.**
- C) ORDINANCE GRANTING OPTION WITH INTREPID LANDING, LLC TO LEASE AND DEVELOP COMMERCIAL BUILDINGS ON PARCEL 1 AT 2702 SHELTER ISLAND DRIVE WITH CONDITIONS.**
- D) ORDINANCE GRANTING OPTION WITH DRISCOLL INC. TO LEASE AND DEVELOP A BOATYARD ON PARCELS 3 AND 4 AT 2702 SHELTER ISLAND DRIVE WITH CONDITIONS.**

Agenda Item 10. Commissioner Burdick stated her belief that the option consideration fees and transaction-processing fees assessed by the District were too low. Commissioner Burdick requested and received clarification from Karen Weymann, Director, Real Estate, regarding the matter before the Board in which the consideration is a transaction-processing fee of \$500. Ms. Weymann explained that in the case under discussion, the developer is an existing tenant who previously installed approximately \$2.7 million worth of grading and landside improvements and made riprap improvements along the shoreline on the option property. She stated that if the lease was granted, the tenant would also be implementing off-site improvements, which includes the promenade connecting America's Cup Harbor to Shelter Island. Ms. Weymann explained that if the tenant were to default under any provision of the option, then all of the improvements would revert to the District and therefore the consideration could be considered to be the value of the improvements.

Speaking as a Board member with fiduciary responsibilities, Commissioner Burdick clarified her position by stating that the transaction fee is either a transaction fee or it is option consideration "they cannot be the same." She acknowledged staff's view that existing investments in infrastructure could be considered valuable consideration for the purpose of holding the option. As a means of clarifying tenant expectations, she stated that the record should be very clear as to what the District treats as option considerations and what it does not. For purposes of a clear record, she stated that \$500 was an acceptable transaction fee because a Port Master Plan Amendment or Environmental Impact Report were not necessary, and the District was holding the infrastructure improvements as the option consideration.

Commissioner Nelson concurred with Commissioner Burdick's comments. He discussed the sum charged for transaction fees and offered it may be insufficient

when considering the allocation of District resources necessary to process the requests. He offered that business costs to process those types of transactions must be assessed fairly to recover the related District expenses.

On a motion of Commissioner Peters, seconded by Commissioner Burdick, with a single vote, the Board adopted **Ordinance 2659**, Granting Amended, Restated and Combined Lease and Assignment to Intrepid Landing, LLC to develop a marina on Parcels 2 and 5 of the property located at 2702 Shelter Island Drive, **Resolution 2012-06**, Consenting to Loan from the Northern Trust Company to Intrepid Landing, LLC for \$1,850,000 to construct leasehold improvements to include a marina and public improvements located at 2702 Shelter Island Drive, **Ordinance 2660**, Granting Option with Intrepid Landing, LLC to Lease and develop commercial buildings on Parcel 1 at 2702 Shelter Island Drive with conditions, and **Ordinance 2661**, Granting Option with Driscoll Inc. to Lease and develop a boatyard on Parcels 3 and 4 at 2702 Shelter Island Drive with conditions, by the following vote: Yeas-Burdick, Malcolm, Moore, Nelson, Peters, Smith and Valderrama; Nays-None; Excused-; Absent-None; Abstained-None.

RESOLUTION ADOPTING THE FIVE-YEAR PUBLIC ART CURATORIAL STRATEGY FOR 2012-2016

Agenda Item 16. Commissioner discussion ensued. In reference to BPC Policy No. 609, Commissioner Malcolm requested clarification regarding how the Public Art Committee's recent decision to not pursue a donation for a replacement piece for the sculpture titled *Unconditional Surrender* fit into the Curatorial Strategy. He discussed his belief that part of the Public Art Program should include pieces that reflects the relevance of the history of the City of San Diego.

Yvonne Wise, Art Curator, explained that the review process for proposed donations of artwork is separate from the Curatorial Strategy. She stated that proposed donations of artwork falls under BPC Policy No. 609; explained the Public Art Committee used the 'Evaluation Criteria for Reviewing Proposed Donations of Artwork' to consider the proposal regarding *Unconditional Surrender* and they found that the piece did not meet the Board adopted criteria. She offered that the Curatorial Strategy is a new planning tool for proactively approaching public art for placement on tidelands. (A copy of the staff report and the presentation is on file in the Office of the District Clerk.)

Commissioner Malcolm requested and received confirmation from Ms. Wise that the Curatorial Strategy and BPC Policy No. 609 are two separate processes. He expressed concern regarding the committee's decision regarding *Unconditional Surrender*. He restated his desire that the Curatorial Strategy acknowledge and reflect

the relevance of the history of the City of San Diego when are pieces are selected for placement on the tidelands.

Commissioner Peters offered a motion to approve the Curatorial Strategy. He requested that Ms. Wise provide a more detailed analysis of the decision rationale related to *Unconditional Surrender* and BPC Policy No. 609. He stated that, at the appropriate time, he would argue that the Commissioners should not have been involved in that decision making process.

Commissioner Valderrama expressed his support for the Curatorial Strategy and stated his concern regarding the decision related to *Unconditional Surrender*. He requested that staff prepare a report for presentation at an upcoming Board meeting to review the criteria and decision-making process related to *Unconditional Surrender* sculpture.

Commissioner Nelson requested that the matter regarding *Unconditional Surrender* be taken up at a future time.

Commissioner Peters restated his motion to approve the staff recommendation regarding the Curatorial Strategy, and directed staff to address the request from Commissioner Valderrama to present the criteria and decision-making process related to *Unconditional Surrender* sculpture.

On motion of Commissioner Peters, seconded by Commissioner Burdick, the Board adopted **Resolution 2012-10**, adopting the five-year Public Art Curatorial Strategy for 2012-2016, and directed staff to present the criteria and decision-making process used by the Public Art Committee to not pursue a donation for a replacement piece of sculpture titled *Unconditional Surrender*, by the following vote: Yeas-Burdick, Malcolm, Moore, Nelson, Peters, Smith and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

PRESENTATION AGENDA CONTINUED

PRESENTATION OF THE SAN DIEGO UNIFIED PORT DISTRICT (DISTRICT) EQUAL OPPORTUNITY PROGRAM ANNUAL REPORT FOR FISCAL YEAR 2011 (JULY 1, 2010 THROUGH JUNE 30, 2011)

Agenda Item 21. Shirley Grothen, Manager, Equal Opportunity Program, addressed the Board with a presentation of the District Equal Opportunity Program Annual Report for Fiscal Year 2011. (A copy of the staff report and presentation are on file in the Office of the District Clerk.)

Commissioner discussion ensued. Commissioner Nelson congratulated District leadership for their efforts regarding diversity and recognized staff for the success of the 2011 Diversity Fair. He complemented staff on the positive results shown in the report presented. He stated that he was sensitive to the data that showed a decline in awards to Small Business Enterprises including women and minority owned businesses and that the data required further evaluation. He observed that the percentage of those identified as Hispanics in the District workforce was under represented when compared to the percentage of individuals identified as being of Hispanic origin among the regional population.

Commissioner Valderrama echoed many of Commissioner Nelson's statements regarding diversity. He acknowledged a commitment to hiring the most qualified individuals and based on the figures reported he expressed concern regarding the lack of improvement in the number of Hispanics that hold management level positions in the District's workforce.

Commissioner Smith thanked Ms. Grothen and the management team for their efforts for a well-run Equal Opportunity Program.

Commissioner Burdick left the dais at 4:32 p.m. and returned to the dais at 4:35 p.m.

PRESENTATION ON SAN DIEGO UNIFIED PORT DISTRICT (DISTRICT) UNIVERSAL DESIGN INITIATIVES

Agenda Item 22. Shirley Grothen, Manager, Equal Opportunity Program, addressed the Board with a presentation regarding the District's Universal Design Initiatives and next steps. (A copy of the staff report and presentation are on file in the Office of the District Clerk.)

Commissioner discussion ensued. Commissioner Peters commented on his role as Chair of the Accessibility Advisory Committee and acknowledged Ms. Grothen for her efforts. He discussed the tenant response to dialogues with members of the Accessibility Advisory Committee and discussed the voluntary efforts of developers to find ways of implementing Universal Design on the tidelands, which would prove beneficial to all members of the community.

Commissioner Nelson left the dais at 4:38 p.m. and returned at 4:41 p.m.

Commissioner Valderrama left the dais at 4:53 p.m. and returned at 4:55 p.m.

ACTION AGENDA CONTINUED

CONSIDERATION OF TENANTS' REQUEST THAT DISTRICT BECOME SOLE NPDES PERMIT HOLDER FOR FIREWORKS DISPLAYS AND DIRECTION TO STAFF

Agenda Item 28. Ellen Gross, Deputy Port Attorney, addressed the Board with a presentation and requested the Board's consideration of tenants' request that District become sole National Pollutant Discharge Elimination System (NPDES) Permit holder for fireworks displays, offered the staff recommendation and requested direction to staff. (A copy of the staff report and presentation are on file in the Office of the District Clerk.)

The following members of the public addressed the Board with varying opinions regarding the matter: Marco Gonzalez, Coastal Environmental Rights Foundation (CERF); Sharon Cloward, San Diego Port Tenants Association; Gary Brown, Pyro Spectaculars, Inc.; Eric Lund, San Diego Convention and Visitors Bureau; Peter Opsal, Armed Services YMCA; Dave Guebert, Armed Services YMCA; Kathie Zortman, Armed Services YMCA; Kelly Commerford, Manchester Grand Hyatt and Sandy Purdan, Armed Services YMCA/Big Bay Boom.

Commissioner discussion ensued. Commissioner Peters discussed Mr. Gonzalez's statements regarding the "statistically significant environmental impacts" of fireworks displays on the environment. He discussed the benefit of the District participating in the permitting process. He suggested to Wayne Darbeau, Executive Director, that the goal was to develop a comprehensive program to facilitate a reasonable number of firework displays annually. Regarding the NPDES Permit matter before the Board, he expressed concern with moving ahead in a "piece-meal" fashion. Commissioner Peters requested clarification from Ms. Gross regarding the monitoring requirements set forth by the San Diego Regional Water Quality Control Board (RWQCB). She explained that the monitoring requirements had not been determined by the RWQCB due to pending petitions that may affect fireworks on a State-wide level and reiterated the staff recommendation. Commissioner Peters requested clarification regarding when staff would return to the Board for follow-up should the Board adopt the staff recommendation. Ms. Gross offered that staff could return in 60 days. He offered a motion to decline the tenants' request that the District become the sole NPDES permit holder, continue working with the RWQCB, and explore the opportunity for third-party management of the firework displays with the tenants or the District.

Commissioner Burdick seconded the motion. She acknowledged the enjoyment of fireworks and the large number of people drawn to the bay to experience the related events. She acknowledged Mr. Gonzalez's remarks and that he raised questions regarding potential environmental impacts. She offered remarks regarding the importance of being proactive concerning the mitigation of any potential environmental impacts. In light of the District's fiduciary and statutory responsibilities, she discussed the importance of thoroughly reviewing the matter. She clarified that the matter of fulfilling the District's legal responsibility had nothing to do with the services offered by the Armed Services YMCA or its stakeholders. Commissioner Burdick explained that the Board has a responsibility to ensure that the District follows through on its mission to draw visitors to the tidelands; to be an economic engine for the region; to serve as environmental stewards; and to acknowledge the fiduciary responsibility of protecting public resources and exercises the duty to mitigate threats and possible risks and guard against litigation damages. She expressed her concerns regarding the tenants' request that the District become the sole NPDES permit holder, the inability of the event sponsor to secure insurance and provide the District indemnification, and the associated risks that may result in financial liability. Commissioner Burdick also discussed her concerns regarding the District assuming the responsibility as the sole NPDES permit holder and offered that by taking responsibility away from the event sponsors it could create an unintended circumstance and threaten public resources should the matter go to court. Regarding alternatives cited in the staff report, she pointed out that it indicated the work with the RWQCB would be on the tenants' behalf. She clarified that the motion did not include the reference to "working on behalf of the tenants regarding future monitoring" and it should not be implied that the District was a surrogate for the tenants. She explained that the work with the RWQCB was as fiduciaries to the public and the District would attempt to find the balance between being an economic engine that drives people to the tidelands while at the same time trying to manage environmental responsibility. She explained her belief that if a tenant found challenges with the proposed permitting fees and implementing a monitoring program then someone would step in and fill that void in the market and fireworks displays on the bay would continue. Commissioner Burdick supported working with all parties to find the best balance particularly as the issue evolves and the State regulatory agencies come to some clarity regarding their expectations.

Commissioner Peters left the dais at 5:21 p.m. and returned at 5:23 p.m.

Commissioner Nelson thanked staff for their report and clarifying complex information. He concurred with Commissioner Burdick's remarks and discussed that the Board acts on behalf of the people of the State of California in their roles as stewards of the tidelands. He discussed the way in which the Big Bay Boom fireworks activate the

waterfront and the benefits to the families of active duty military personnel. He acknowledged the staff memo that provided a transparent financial reconciliation of the sponsorship funding for the Big Bay Boom. (A copy of the memo is on file in the Office of the District Clerk.) In reference to monitoring programs and a lack of data, Commissioner Nelson expressed concern regarding the unknown impacts to the water column resulting from discharging fireworks. While he acknowledged Mr. Gonzalez's work on behalf of protecting the environment, he challenged the assertion that a funding source or donor could be held liable under the California Environmental Quality Act. He offered concern regarding the efficacy of coming to some understanding of the law with the RWQCB when another party could bring forth litigation challenging the RWQCB authority.

Commissioner Moore acknowledged staff's efforts to bring the matter before the Board and thanked Ms. Gross.

Commissioner Malcolm echoed support for Commissioner Peter's remarks and the motion. He thanked Mr. Purdon for his efforts. He requested and received clarification from Ms. Gross with respect to considering third party vendors and whether they offer insurance or indemnification that would protect the District. She explained that based on staff's preliminary investigation, there were some fireworks providers that do have their own permit and they can add another entity as a co-permittee for a single event. She stated that some fireworks providers may have a standing permit with the RWQCB and further investigation was required. Ms. Gross offered that being a permit holder for a single 20-minute event would likely mitigate liability rather than holding a permit for multiple years. Commissioner Malcolm requested to see the range of possibilities related to permitting, liability and indemnification when staff returns with their update report. He acknowledged Mr. Gonzalez's remarks. He stated his desire to keep fireworks displays while maintaining a healthy environment and then discussed the regional economic benefits of activation events.

Commissioner Smith acknowledged staff for their efforts. He offered that he would like to see a more global solution and expressed concern that there were still a number of unknowns. He offered that analysis of technical data would have to be obtained and then analyzed before making any determination. He expressed his support for the military families and the Armed Services YMCA and acknowledged the Board's fiduciary responsibility to protect the District's interests.

On motion of Commissioner Peters, seconded by Commissioner Burdick, the Board adopted the staff recommendation: to decline the tenants' request that the District become the sole NPDES permit holder, to continue working with the Regional

Water Quality Control Board, and explore the opportunity for third-party management of the firework displays with the tenants or the District, by the following vote: Yeas-Burdick, Malcolm, Moore, Nelson, Peters, Smith and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

REVIEW AND CONSIDERATION OF PROPOSED BOARD AGENDA FOR THE MEETING OF FEBRUARY 14, 2012

Agenda Item 25. Commissioner Malcolm requested that an update regarding the public art piece, *Unconditional Surrender*, be added to the proposed agenda. Commissioner Valderrama seconded the motion.

Commissioner Nelson requested that presentation item 20, Presentation by the County of San Diego on its 10-Year Health Strategy Agenda; Live Well San Diego!: Building Better Health, and direction to staff, be added to the February 14, 2012 agenda.

On motion of Commissioner Nelson, seconded by Commissioner Moore, the Board adopted the proposed agenda, as amended, for the meeting of February 14, 2012, by the following vote: Yeas-Burdick, Malcolm, Moore, Nelson, Smith and Valderrama; Nays-None; Excused-Peters; Absent-None; Abstained-None.

OFFICER'S REPORT

Agenda Item 30. In accordance with BPC Policy No. 110, the following change orders, executed by the Executive Director or designee, were reported:

- A) Change Order No. 1 to Contract No. 2009-17R with Jose Pereira Engineering & Mechanical, Inc. / Decrease Contract Amount by (\$10,231.00) & 21 Calendar Day Time Extension thru 6/2/2012 for TAMT Communications and Fire Alarm System Upgrade, San Diego, California
- B) Change Order No. 2 to Contract No. 2009-23 with R.E. Staite Engineering, Inc. / 5 Calendar Day Time Extension thru 12/16/2011 for Embarcadero Marina Park South Revetment Replenishment, San Diego, CA
- C) Change Order No. 4 to Contract No. 2009-30 with PAL General Engineering, Inc. / 80 Calendar Day Time Extension thru 2/29/2012 for Tidelands ADA Accessibility Improvements Phase II, San Diego, CA
- D) Change Order No. 2 to Contract No. 2010-10 with Ledcor Construction Inc. / Transfer Contract Amount of \$10,000.00 for Ruocco Park, San Diego, CA

- E) Change Order No. 10 to Contract No. 2010-11 with Becerra's HVAC / Reconciliation for Actual Time and Material Cost to do Work on Item No. 5 of Change Order No. 9 for Unforeseen Related Costs for Administration Building 5th Floor IT Server Room HVAC Upgrade, San Diego, CA
- F) Change Order No. 2 to Contract No. 2010-26 with The Glass Company dba C & C Glass / \$1,980.00 Increase for B Street Pier Cruise Ship Terminal Install Storefront Entrance at Door No. 2, San Diego, CA
- G) Change Order No. 1 to Contact No. 2011-02 with R.E. Staite Engineering, Inc. / Changes to Bid Documents for B Street Pier South Berth Fender System Upgrade, San Diego, CA
- H) Change Order No. 1 to Contract No. 2011-24 with Alpha Mechanical, Inc. / Increase Contract Amount by \$5,905.00 for Administration Building Annex Emergency HVAC Upgrade, San Diego, CA
- I) Change Order No.1 to Contract No. 2011-25 with American Pacific Constructors / Increase Contract Amount by \$1,777.08 for Administration Building 6th Fl. Kitchen and Break Room Improvements, San Diego, CA
- J) Change Order No. 1 to Contract No. 2011-30 with American Pacific Constructors / \$2,005.00 Increase for North Embarcadero Former Next Level Sailing Floating Dock Deck Refurbishment, San Diego, California.

PRESIDENT'S REPORT

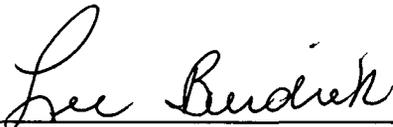
Agenda Item 28. None.

COMMISSIONER COMMENTS/REVIEW OF TODAY'S MEETING

Agenda Item 29. Commissioner Burdick acknowledged and thanked Commissioner Peters for his leadership as Chairman of the Board in 2011.

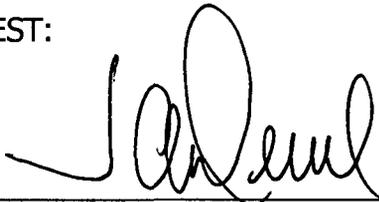
Commissioner Nelson also thanked Commissioner Peters for his service as Chairman and providing a strong foundation of guidance.

Chairman Smith acknowledged Commissioner Peters for his service.



Secretary, Board of Port Commissioners
San Diego Unified Port District

ATTEST:



Clerk of the San Diego Unified Port District

**MINUTES
BOARD OF PORT COMMISSIONERS
SAN DIEGO UNIFIED PORT DISTRICT**

As previously posted, a special meeting of the Board of Port Commissioners of the San Diego Unified Port District was called to order by Chairman Smith at 9:15 a.m., Thursday, February 9, 2012, at the US Fish and Wildlife Services (Co-located with Chula Vista Nature Center), 1080 Gunpowder Point Drive, Chula Vista, California.

ROLL CALL

Agenda Item 1.

Present: COMMISSIONERS Burdick, Malcolm, Moore, Nelson, Peters, Smith, and Valderrama.

OFFICERS: Bennett, Darbeau, Deuel, McEntee.

Absent: No Commissioners absent.

Excused: No Commissioners excused.

PUBLIC COMMUNICATIONS

Agenda Item 2.

Sharon Cloward, President, San Diego Port Tenants Association (SDPTA), addressed the Board of Port Commissioners (Board) and the Executive Leadership Group (ELG) regarding the SDPTA's support of the District's maritime operations and expressed concern regarding the status of the sportfishing industry in Mexico.

RETREAT

Agenda Item 3.

Chairman Smith welcomed the Board and the ELG to the retreat and introduced Steve Alexander, The Steve Alexander Group, as the facilitator for the retreat.

Mr. Alexander provided the Board and the ELG with the retreat agenda and discussed the objectives and facilitation guidelines for the retreat. Mr. Alexander reviewed the pre-session questionnaire results and observations and conducted a team

effectiveness exercise. The Board and the ELG identified and discussed teambuilding issues and the characteristics of effective teams. (Copies of all handouts are on file in the Office of the District Clerk).

Chairman Smith recessed the workshop for lunch at 11:32 a.m. and called the retreat back to order at 12:25 p.m. The Board and the ELG continued their discussion from the morning session. Discussion ensued about District communication priorities and staff resources available to meet priority needs. Mr. Alexander summed up the day's discussion and thanked the Board and the ELG for their hard work during the retreat.

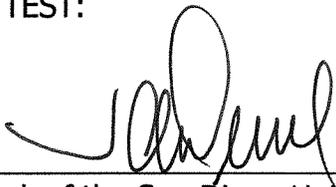
Wayne Darbeau, Executive Director and the members of the Board thanked the members of the ELG, the staff and each other for their participation in the retreat.

Chairman Smith also thanked the Board, the ELG and staff for their efforts, thanked Mr. Alexander for his role during the retreat and adjourned the meeting at 3:00 p.m.



Secretary, Board of Port Commissioners
San Diego Unified Port District

ATTEST:



Clerk of the San Diego Unified Port District

**MINUTES
BOARD OF PORT COMMISSIONERS
SAN DIEGO UNIFIED PORT DISTRICT**

The special meeting of the Board of Port Commissioners of the San Diego Unified Port District was called to order by Chairman Smith at 10:00 a.m., Tuesday, February 14, 2012, in the Board Room at 3165 Pacific Highway, San Diego, California.

ROLL CALL

Agenda Item 1.

Present: COMMISSIONERS Burdick, Malcolm, Moore, Nelson, Peters, Smith, and Valderrama.

OFFICERS: Brewer, Darbeau, Deuel and McEntee

Absent: No Commissioners absent.

Excused: No Commissioners excused.

PUBLIC COMMUNICATIONS

Agenda Item 2. None.

CLOSED SESSION

Celia Brewer, Interim Port Attorney, announced the closed session agenda as follows:

Agenda Item 3.

CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION
Significant exposure to litigation pursuant to Subdivision (b)(1) of Government Code Section 54956.9

Two Cases

Agenda Item 4.

CONFERENCE WITH REAL PROPERTY NEGOTIATOR
Government Code Section 54956.8

Property: Approximately 5 acres of tideland area leased to the San Diego Convention Center Corporation along Convention Way, all bayward of the San Diego Convention Center

Negotiating Parties: Charles Black, City of San Diego;
Karen Weymann, Shaun Sumner, Nick Markos,
Jeffrey McEntee, Randa Coniglio, Karen Porteous, SDUPD

Under Negotiation: Price and Terms

Agenda Item 5.

CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION
Pursuant to Subdivision (a) of Government Code Section 54956.9

Castellanos/Johnson, et al. v. San Diego Unified Port District, et al.
San Diego Superior Court Case No. 37-2009-00103325-CU-PO-CTL

Agenda Item 6.

PUBLIC EMPLOYEE APPOINTMENT, PERSONNEL EVALUATION OR DISCIPLINE:
EXECUTIVE DIRECTOR AND PORT ATTORNEY
Government Code Section 54957

Agenda Item 7.

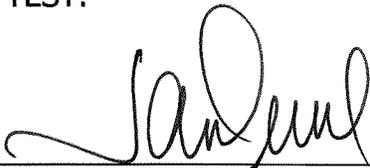
PUBLIC EMPLOYEE APPOINTMENT, PERSONNEL EVALUATION OR DISCIPLINE:
APPOINTMENT OF THE PORT ATTORNEY
Government Code Section 54957

There was no formal or reportable action as to any closed session items, pursuant to Government Code Section 54950 et seq, to report from the closed session; whereupon, Chairman Peters adjourned the meeting.



Secretary, Board of Port Commissioners
San Diego Unified Port District

ATTEST:



Clerk of the San Diego Unified Port District

**MINUTES
BOARD OF PORT COMMISSIONERS
SAN DIEGO UNIFIED PORT DISTRICT**

A regular meeting of the Board of Port Commissioners of the San Diego Unified Port District was called to order by Chairman Smith at 1:00 p.m., Tuesday, February 14, 2012, in the Board Room at 3165 Pacific Highway, San Diego, California.

ROLL CALL

Agenda Item 1.

Present: COMMISSIONERS Burdick, Malcolm, Moore, Nelson, Peters, Smith, and Valderrama.

OFFICERS: Brewer, Darbeau, Deuel, McEntee and Stup

Absent: No Commissioners absent.

Excused: No Commissioners excused.

CLOSED SESSION

As requested by Chairman Smith, Celia Brewer, Interim Port Attorney, stated there was no reportable action from the closed session.

PLEDGE OF ALLEGIANCE

Agenda Item 2. Commissioner Burdick led the Pledge of Allegiance.

APPROVAL OF MINUTES

Agenda Item 3. On motion of Commissioner Valderrama, seconded by Commissioner Peters, the Board approved the minutes for the December 13, 2011 special meeting, December 13, 2011 regular meeting, January 9, 2012 special meeting and January 10, 2012 special meeting, by the following vote: Yeas-Burdick, Nelson, Malcolm, Moore, Peters, Smith and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

ACTION AGENDA

RESOLUTION, PRESENTATION AND ACCEPTANCE FOR DONATION OF PINK CLOUD CHERRY TREES FROM THE CONSULATE-GENERAL OF JAPAN, IN HONOR OF THE JAPAN - U.S. CHERRY BLOSSOM CENTENNIAL

Agenda Item 23. Jerine Rosato, Senior Manager, External Relations, addressed the Board with a presentation and requested the Board's consideration of adopting a resolution accepting a donation of Pink Cloud Cherry Trees from the Consulate General of Japan, in Honor of the Japan - U.S. Cherry Blossom Centennial. Ms. Rosato introduced Ms. Kuniko Nakamura, a Consul with the Consulate-General of Japan. In light of the 100th anniversary of the first gift of cherry trees from Japan to the United States as well as the strong bond between the Japanese people and the people of San Diego, she requested the Board accept the offer of the cherry trees "as a symbol of friendship between the United States and Japan." (A copy of the staff report and the presentation are on file in the Office of the District Clerk.)

Commissioner discussion ensued. Chairman Smith thanked Counsel Nakamura and acknowledged the donation. He requested that Commissioner Moore join in a gift exchange.

On motion of Commissioner Peters, seconded by Commissioner Malcolm, the Board adopted **Resolution 2012-21**, accepting a donation of Pink Cloud Cherry Trees from the Consulate General of Japan, in Honor of the Japan - U.S. Cherry Blossom Centennial, by the following vote: Yeas-Burdick, Malcolm, Moore, Nelson, Peters, Smith and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

RESOLUTION AUTHORIZING PRE-DEVELOPMENT AGREEMENT BETWEEN DISTRICT, CITY OF SAN DIEGO, AND ONE PARK BOULEVARD, LLC CONCERNING THE PROPOSED SAN DIEGO CONVENTION CENTER HOTEL AND PHASE III EXPANSION PROJECT

Agenda Item 24. Item continued.

PRESENTATION AGENDA

SERVICE AWARD PRESENTATION TO EMPLOYEES WITH 15 OR MORE YEARS OF SERVICE

Agenda Item 18. Michele Corbin, Director, Human Resources, addressed the Board regarding the Service Recognition Program, which recognizes employees for their service to the San Diego Unified Port District. Ms. Corbin turned the presentation over to Wayne Darbeau, Executive Director who introduced the employees. Chairman Smith and Mr. Darbeau presented Meritorious Services Awards to three employees for their longevity in service to the District. Martin Corona, Equipment Operator, General Services & Procurement was recognized for 25 years of service; Cynthia Markley, Harbor Police Officer, Harbor Police Department was recognized for 25 years of service; and Ralph Oliver, Manager Procurement Services, General Services & Procurement Department, was recognized for 25 years of service. (A copy of the staff report and the presentation is on file in the Office of the District Clerk.)

Commissioner Peters left the dais at 1:19 p.m. and returned at 1:23 p.m.

PUBLIC COMMUNICATIONS

Agenda Item 4. Todd Gloria, Council Member District 3, San Diego City Council, addressed the Board regarding the benefits of the working waterfront to the region. He acknowledged that San Diego had been designated a strategic port and discussed the economic benefits to the region. He thanked the Commissioners for their efforts to support the working waterfront.

Don Wood addressed the Board and requested the Commissioners allow adequate time for staff presentations and public comments to consider all of the matters on the docket.

Joan Dahlin, League of Women Voters San Diego, addressed the Board regarding the planning process for the North Embarcadero Visionary Plan; the public's access to open meetings and public records; the mooring dolphins and catwalk project; B Street Pier; the USS Midway Museum proposal and safe guarding view corridors. She also requested restoring the Citizen Advisory Committee to encourage public involvement in the process. (A copy of her remarks is on file in the Office of the District Clerk.)

Scott Andrews addressed the Board with concerns regarding waterfront development planning study area and the Port Master Plan Amendment process; and the language in the preparation of the Environmental Impact Report. He requested that

the public be invited to plan the embarcadero and that their recommendations be included as alternatives.

CONSENT AGENDA

Chairman Smith requested that Timothy Deuel, District Clerk, announce any suggested docket changes. Mr. Deuel announced that several comment letters were received and made available to the Commissioners; copies were available for the public and they would be posted to the District website. He offered the proposed changes to the agenda as follows: **Consent Agenda Item 5**, Resolution Authorizing Agreement with V3IT Consulting, Inc. for SAP Basis Administration and Oracle Support for \$100,000 per year for three years with the option for up to two additional 1-year extensions, total amount not to exceed \$500,000; staff requests this item be continued to a future Board meeting; **Consent Agenda Item 7AB**, ADA Accessibility Improvements; staff requests this item be continued to a future Board meeting; **Action Agenda Item 24**, Resolution Authorizing Pre-Development Agreement between District, City of San Diego, and One Park Boulevard, LLC concerning the Proposed San Diego Convention Center Hotel and Phase III Expansion Project; staff requests this item be continued to a future Board meeting; **Action Agenda Item 31**, Resolution Authorizing First Amendment to Compass Strategic Plan FY 2012–2017; staff requests this item be moved to the consent agenda; **Consent Agenda Item 17**, Ordinance Accepting 49 Year Lease from California State Lands Commission for construction and maintenance of a concrete Mooring Dolphin and Catwalk at the end of the "B" Street Pier; staff determined that Board action no longer required; **Action Agenda Item 25**, Resolution Authorizing Joint Community Facilities Agreement between the San Diego Unified Port District and the City of San Diego to allow for the formation of Convention Center Facilities District No. 2012-1 and the financing of improvements to the San Diego Convention Center; staff requests this item be moved to the consent agenda; **Action Agenda Item 28**, Resolution Adopting Plans and Specifications and Awarding Contract No. 2011-23 to PAL General Engineering, Inc. for Pavement Maintenance, Imperial Beach, National City, Coronado & San Diego, California in the amount of \$1,067,280.69; staff requests this item be moved to the consent agenda; **Action Agenda Item 29**, Resolution Adopting Plans and Specifications and Awarding Contract No. 2011-19 to Kinsman Construction, Inc. for B Street Pier Cruise Ship Terminal Roof Replacement in the amount of \$1,023,477; staff requests this item be moved to the consent agenda; **Action Agenda Item 33**, Presentation and direction to staff regarding procedure for the Administration of Contracts, Agreements, and the Purchasing of Supplies, Materials, and Equipment; staff determined that Board action no longer required.

Commissioner Burdick requested that **Action Agenda Item 25**, Resolution Authorizing Joint Community Facilities Agreement between the San Diego Unified Port District and the City of San Diego to allow for the formation of Convention Center Facilities District No. 2012-1 and the financing of improvements to the San Diego Convention Center, be pulled for discussion.

Mr. Deuel announced that a request to speak form had been submitted regarding **Action Agenda Item 29**, Resolution Adopting Plans and Specifications and Awarding Contract No. 2011-19 to Kinsman Construction, Inc. for B Street Pier Cruise Ship Terminal Roof Replacement in the amount of \$1,023,477, thus the item would be pulled for comment.

On motion of Commissioner Peters, seconded by Commissioner Burdick, the Board accepted the suggested changes to the agenda, by the following vote: Yeas-Burdick, Malcolm, Moore, Nelson, Peters, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

On motion of Commissioner Peters, seconded by Commissioner Burdick, the Board adopted Consent Agenda items 8, 9, 10, 11, 14, 16 and Action Agenda items 28 and 31 (**Resolution 2012-13** through and including **Resolution 2012-17**, **Resolution 2012-19**, **Resolution 2012-20**, **Resolution 2012-23** and **Resolution 2012-25**) by the following vote: Yeas-Burdick, Malcolm, Moore, Nelson, Peters, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

Agenda Item 5. **Item Continued.**

Agenda Item 7AB. **Item Continued.**

Agenda Item 8. **Resolution 2012-14**, Granting Indemnity to City of San Diego for Encroachment Maintenance and Removal Agreements for Americas Cup Harbor Parking Facility, was adopted as part of the consent agenda.

Agenda Item 9. **Resolution 2012-15**, Authorizing Amendment No. 2 to Agreement with Harris & Associates, Inc., Amendment No. 3 to Agreement with Atkins North America Inc., and Amendment No. 2 to Agreement with Jacobs Project Management Company for as-need engineering, project management, and construction management services to increase the aggregate amount payable under the agreements by \$350,000, for a new maximum aggregate amount payable under the agreements not to exceed \$3,350,000, was adopted as part of the consent agenda.

Agenda Item 10. Resolution 2012-16, Selecting and Authorizing a Purchase Agreement with Altec Industries, Inc., for the purchase of one hydraulic telescopic crane truck in the amount of \$154,606.29, was adopted as part of the consent agenda.

Agenda Item 11. Resolution 2012-17, Selecting and Authorizing a Purchase Agreement with Haaker Equipment Company for the purchase of one mechanical street sweeper in the amount of \$220,149.15, was adopted as part of the consent agenda.

Agenda Item 14. Resolution 2012-19, Authorizing Acceptance of Grant Funds and Authorizing an Agreement with the California Coastal Conservancy for a Grant Award in the amount of \$285,500, for the renovation of a commercial fishing facility at Driscoll's Wharf on Shelter Island, was adopted as part of the consent agenda.

Agenda Item 16. Resolution 2012-20, Granting Indemnity to the Dole Fresh Fruit Company, San Diego Refrigerated Services, Inc. and Cemex Construction Materials Pacific, LLC for construction activities within their leaseholds at Tenth Avenue Marine Terminal, was adopted as part of the consent agenda.

Agenda Item 17. Board action no longer required.

Action Agenda Item 28. Resolution 2012-23, Adopting Plans and Specifications and Awarding Contract No. 2011-23 to PAL General Engineering, Inc. for Pavement Maintenance, Imperial Beach, National City, Coronado & San Diego, California in the amount of \$1,067,280.69, was adopted as part of the consent agenda.

Action Agenda Item 31. Resolution 2012-25, Resolution Authorizing First Amendment to Compass Strategic Plan FY 2012–2017, was adopted as part of the consent agenda.

PRESENTATION AGENDA CONTINUED

REPORT BY THE INDEPENDENT AUDITOR OF THE RESULTS OF THE AUDIT OF DISTRICT FINANCIAL STATEMENTS FOR THE YEAR ENDING JUNE 30, 2011

Agenda Item 27. Jeff McEntee, CFO/Treasurer, addressed the Board regarding Section 52 of the San Diego Unified Port District Act, explained that the firm of Mayer Hoffman McCann P.C. (MHM) was the District's independent auditor. As per the Audit Advisory Committee charter, Mr. McEntee requested that the Board receive the report and consider accepting the results of the annual audit. He turned the presentation over to Ken Al-Imam, the MHM partner in charge, who presented the results of the Audit of District Financial Statements for the year ending June 30, 2011. (A copy of the Audit of

District Financial Statements for the year ending June 30, 2011 by independent auditor Mayer Hoffman McCann P.C., the staff report, and the presentation is on file in the Office of the District Clerk.)

Commissioner discussion ensued. Commissioner Valderrama offered a motion to accept the results of the annual audit. Commissioner Peters seconded the motion.

Chairman Smith acknowledged the results of the audit and commended staff for their efforts to prepare for the review. He also thanked the auditors for their hard work.

On motion of Commissioner Valderrama, seconded by Commissioner Peters, the Board accepted the results of the Audit of District Financial Statements for the year ending June 30, 2011 by independent auditor Mayer Hoffman McCann P.C., by the following vote: Yeas-Burdick, Malcolm, Moore, Nelson, Peters, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

ACTION AGENDA CONTINUED

DISCUSSION ON SAN DIEGO UNIFIED PORT DISTRICT'S PUBLIC INTEREST OBLIGATIONS REGARDING MARITIME OPERATIONS ON TIDELANDS AND DIRECTION TO STAFF

Agenda Item 26. Randa Coniglio, Executive Vice President - Operations, addressed the Board with a presentation regarding the District's public interest obligations regarding maritime operations on tidelands. She turned the presentation over to Joel Valenzuela, Director, Maritime Operations. Mr. Valenzuela addressed the Board with a comprehensive overview of the work at the marine terminals; the strategic port designation; the use of the facility to support the national defense by the United States armed forces; the economic impact to the region, and emerging worldwide trade opportunities. Wayne Darbeau, Executive Director, addressed the Board regarding the positive impacts of the California Port System on global trade. He discussed the California Port System's importance to the local, state and national economy. He acknowledged that the District supports San Diego Mayor Jerry Sanders' proposal regarding the consideration of a new Charger stadium in the East Village at the MTS Bus Depot location. Mr. Darbeau discussed that the California Legislature granted land for public trust purposes and reiterated the importance of maintaining the working waterfront, the Tenth Avenue Marine Terminal and the deepwater berths for maritime activities. (A copy of the staff report is on file in the Office of the District Clerk.)

The following members of the public addressed the Board regarding the District's Marine Terminals, maritime operations impacts on the regional economy and many speakers offered comments regarding the recent *UT San Diego* newspaper editorial that proposed professional sports venues and recreational area development on the site of the Tenth Avenue Marine Terminal: Commissioner Emeritus Steve Cushman, Special Assistant to San Diego Mayor Jerry Sanders; Commissioner Emeritus Michael Bixler; Commissioner Emeritus Bill Hall; Charles Wurster; Bella Huele, World Trade Center San Diego; Lorena Gonzalez, San Diego Labor Council; Mike Witek, Teamsters Local 36; Art Canto, Teamsters Local 36; Chester Mordasini, Teamsters Local 911; William Penick, Skyline Paradise Hills Planning Committee; Michael Norris, 100 Strong; Robert Robinson, United African American Ministerial Action Council, Reverend Gerald W. Brown, United African American Ministerial Action Council; Dr. John E. Warren, publisher, San Diego Voice & View Point Newspaper; Jim Unger, Chairman, San Diego Port Tenants Association; Ray Leyba, ILWU Local 29; Jack Monger, member, San Diego Port Tenants Association; Sharon Cloward, San Diego Port Tenants Association; Dirk Mathiasen; Jennifer Klein, BNSF Railway; Tim Schott, California Association of Port Authorities; Peter Hekman, Southwest Defense Alliance; Cindy Gompper Graves, South County Economic Development Council; John Pasha, Pasha Automotive; and Diane Takvorian, Environmental Health Coalition. Mike Allen, Black Chamber of Commerce, submitted a request to speak form but did not address the Board.

Commissioner Valderrama left the dais at 3:04 p.m. and returned at 3:05 p.m.

Commissioner discussion ensued. The following Commissioners offered remarks regarding the Tenth Avenue Marine Terminal; the recent *UT San Diego* newspaper editorials proposing a sports stadium development at the site; the Port of San Diego's strategic port designation and the importance of maritime operations to the region: Commissioner Peters, Commissioner Valderrama, Commissioner Malcolm, Commissioner Nelson, Commissioner Burdick, Commissioner Moore and Chairman Smith. (A certified transcript was prepared for Agenda Item 26, which is available upon request from the Office of the District Clerk.)

Commissioner Peters left the dais at 3:24 p.m. and returned at 3:26 p.m.

Commissioner Valderrama offered a motion in support of growing the region's maritime industry to continue working toward a national system of ports that recognizes the necessity of the national waterborne good transportation system. Commissioner Peters seconded the motion.

On a motion by Commissioner Valderrama, seconded by Commissioner Peters the Board supported growing the region's maritime industry to continue working toward a national system of ports that recognizes the necessity of the national waterborne good transportation system, by the following vote: Yeas-Burdick, Malcolm, Moore, Nelson, Peters, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

PRESENTATION AGENDA CONTINUED

PRESENTATION ON NORTH EMBARCADERO PORT MASTER PLAN AMENDMENT PROPOSED PROJECT COMPONENTS TO BE STUDIED IN THE NORTH EMBARCADERO PORT MASTER PLAN AMENDMENT ENVIRONMENTAL IMPACT REPORT

Agenda Item 19. Karen Holman, Acting Director, Environmental & Land Use Planning Management, addressed the Board regarding the item; introduced the project team members; explained that the item was a presentation only; and offered that no immediate Board action would be required and any Board action would occur later in the Environmental Impact Report (EIR) process. She then turned the presentation over to James Hirsch, Manager, Environmental & Land Use Planning Management. Mr. Hirsch offered a presentation regarding the North Embarcadero Port Master Plan Amendment (NE-PMPA) Proposed Project Components and the reasonable range of alternatives to be studied in the North Embarcadero Port Master Plan Amendment Environmental Impact Report (NE-PMPA EIR). Mr. Hirsch explained that a member of the Citizens Advisory Committee, Jim Frost, requested to address the Board regarding his phased development scheme that would utilize existing infrastructure and his renderings were loaded into the staff's slide presentation. (A copy of the staff report and presentation is on file in the Office of the District Clerk.)

Commissioner Burdick left the dais at 3:50 p.m. and returned at 3:51 p.m.

The following members of the public addressed the Board with varying viewpoints regarding the matter: Jim Frost; Shaun Lynch and Stephan Mann ceded their time to Jim Frost; Michele Vives, Development Manager, Tucker Sadler Architects; Michael J. Mulalley; Diane Coombs, Citizens Advisory Committee member; Ian Trowbridge, Navy Broadway Complex Coalition; Kathryn Lembo submitted a speaker slip but she was not present when called to speak, and thus did not address the Board and a member of the public announced Ms. Lembo would submit written remarks; Eric Nylene, Senior Vice President, Felcor Lodging Trust - Holiday Inn on the Bay; Dick Goldman; Scott Andrews; John Lomac, C3 - Citizens Coordinate for Century 3;

Bridgette Browning, UNITE HERE, submitted a speaker slip but she was not present when called to speak and thus did not address the Board; Graham Forbes, UNITE HERE; Don Wood submitted a speaker slip but he was not present when called to speak, and thus did not address the Board.

Commissioner discussion ensued. Commissioner Moore requested clarification as to whether staff intended to study both of the USS Midway Museum's (Midway) concept proposals at the project level. Mr. Hirsch stated that the staff discussed the matter of studying both the "park above parking" and the "park at ground level" concept proposals at the project level with Mike Hogan, the District's outside California Environmental Quality Act (CEQA) counsel. He explained that staff had not determined whether both concept proposals would be studied at the project level because the document under discussion was a program level EIR. Commissioner Moore expressed concern with moving forward with an EIR that is contrary to the existing permit condition for the Midway. Mr. Hogan offered that the EIR could include a study of both proposals. He stated that the California Coastal Commission (Coastal Commission) requirements on the existing Coastal Development Permit (CDP) are part of the existing conditions in that area and for that site in particular. He stated that the District did not really need to study the effects of leaving that condition in place; and that the District has a project applicant, the Midway, who has made a proposal to satisfy that condition. He offered that while the Coastal Commission may not accept the Midway proposal, they are the party that is subject to the condition and that was the reason staff recommended including the Midway's proposal as part of the proposed project in the EIR for the PMPA. Mr. Hogan stated that the District recognizes that the Coastal Commission has expressed strong concerns about parking in the location, maintaining parking on the pier, and whether it should be converted to park use. In that light, staff also recommended studying maintaining or replacing the existing vehicle parking with a park as an alternative to the Midway's specific proposal. In terms of level of review, his suggestion was to do away with terms like project and program do as much disclosure and analysis as possible with the available information. In response to Commissioner Moore's concern, he stated it was his belief that staff will study whatever project it is given and analyze that information to the fullest extent possible. Commissioner Moore acknowledged that the level of analysis for alternatives can vary. Thus, she requested clarification as to whether staff proposed to perform an analysis of the alternatives at such a level that one of the alternatives could be considered for approval in the future. Mr. Hogan stated that directing that level of analysis was within the Board's discretion; he also explained that typically a project alternative is not studied to the same level of detail as a proposed project. He offered an example and explained that there were circumstances during the Chula Vista Bayfront Master Plan EIR in which the District

decided to study an alternative to the same level of detail as the proposed project. He reiterated that such a level of study could be prepared and would require additional resources. Based upon the Coastal Commission's response to the proposal from the Midway, Commissioner Moore offered that studying the alternatives would allow the District flexibility with moving the process forward. Mr. Hogan concurred.

Commissioner Peters left the dais at 4:43 p.m. and returned at 4:47 p.m.

Commissioner Nelson requested and received clarification from Mr. Hirsch that the purpose of the environmental review was for the North Embarcadero Port Master Plan Amendment project as a whole and not individual development projects within that area. Mr. Hirsch stated that the Board was addressing a plan amendment and there were relatively few development projects proposed as part of it. As there was no preferred alternative stated and given the level of resources available, Commissioner Nelson queried as to whether staff would exercise a certain amount of discretion based on the appearance of feasibility when allocating the District's limited resources to study the proposed alternatives. Mr. Hirsch confirmed that discretion would be used regarding the appropriate allocation of resources under CEQA. Commissioner Nelson requested and received confirmation from Mr. Hirsch that all the graphics presented were for illustration and discussion purposes only and did not represent any specific proposal from any stakeholder; nor were the graphic representations establishing a record of what the District was exactly studying. Commissioner Nelson requested and received confirmation from Mr. Hirsch that in addition to the 150-foot and 250-foot setbacks staff could add an alternative and study a 50-foot setback at the Holiday Inn property site. Regarding Mr. Frost's presentation, Commissioner Nelson requested and received confirmation from Mr. Hirsch that staff proposed to study his interim design as an alternative in the EIR. Commissioner Nelson requested that, in the event that Mr. Frost's interim alternative was brought forward, staff provide the Board with information regarding any incremental cost increase comparisons in relationship to the other plans being studied.

Commissioner Burdick acknowledged Commissioner Moore's queries regarding the level of detail in which the alternatives would be studied. She requested the three alternatives that staff proposed to be studied should be examined in such detail as to provide the appropriate level of analysis to facilitate future Board action. She discussed the benefits of studying Mr. Frost's alternative as a means to beautify the waterfront on an interim basis while the District moves forward to secure funding for a more robust North Embarcadero Visionary Plan NEVP implementation program. In light of the April 2011 Coastal Commission hearing regarding the consideration of the NEVP Phase I, she offered remarks regarding the Navy Pier alternatives and the Midway proposal.

Commissioner Burdick explained that she had attended all three of the Midway's public outreach sessions and District staff had conveyed her concerns to the Midway staff, which responded by fine-tuning their presentation and clarifying that the outreach efforts were facilitated by the Midway. Commissioner Burdick requested and received confirmation from Mr. Hogan that while the District was being discouraged from characterizing EIRs as either programmatic or project level, it was her understanding that the EIR for the PMPA for the North Embarcadero was intended to be what was traditionally called programmatic. She requested confirmation that the Board would be allowed decision-making authority regarding that project because the Midway had specifically come forward with a project proposal and requested it be studied at a project level. Mr. Hogan concurred with her statements. She discussed her review of the CDP and the USS Midway Museum's project; the December 9, 2011 letter from Coastal Commission staff regarding the Midway proposal; and the presumption that a minimum number of parking spaces would be provided on the pier for an interim period of time. She expressed her concerns that the study findings may indicate that there was no compelling reason to do anything different from the commitment made to the Coastal Commission in the NEVP Phase 1. However, she acknowledged the benefits of the study as a means to make an informed decision.

Commissioner Malcolm requested and received information from Mr. Hirsch regarding alternative no. 8, redirecting traffic on Harbor Drive, and the likelihood of acquiring the necessary property on Grape Street by working with the County of San Diego. Mr. Hirsch introduced John Keating, Principal, Linscott Law & Greenspan, who provided more information regarding the redirect concept as a possible means to alleviate traffic congestion in the area. Commissioner Malcolm also thanked Mr. Frost for his efforts and requested that staff study the interim alternative at the appropriate level.

Regarding Commissioner Burdick's earlier comments, Commissioner Moore stated that the matter before the Board was more than one or two individual projects. She expressed concerns that narrowing the study of alternatives could result in lack of flexibility and cause a delay processing the entire plan. She offered that the letter from the Coastal Commission staff had signaled their concerns regarding the Midway's proposal, expressed that the Board was steadfast in honoring the District's commitments made to the Coastal Commission, and acknowledged the existing commitments regarding the NEVP Phase I and Navy Pier.

Commissioner Peters requested and received confirmation from Mr. Hirsch that Mr. Frost's alternative would be included for study as part of the EIR. He offered a motion to accept the staff report and provide the following direction to staff that

reflected the position of the Board: the original park at ground level proposed for the Navy Pier would be studied to a project level; the staff recommended deck-concept would be studied; that staff consider the other configurations as an alternative; that staff consider alternate locations for the Wings of Freedom architectural element; and to include the study of Mr. Frost's interim alternative for the road configuration.

On a motion by Commissioner Peters, seconded by Commissioner Moore, the Board accepted the staff report and provided the following direction to staff that reflected the position of the Board: the original park at ground level proposed for the Navy Pier would be studied to a project level; the staff recommended deck-concept would be studied; that staff consider the other configurations as an alternative; that staff consider alternate locations for the Wings of Freedom architectural element; and to include the study of Mr. Frost's interim alternative for the road configuration, by the following vote: by the following vote: Yeas-Burdick, Malcolm, Moore, Nelson, Peters, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

PRESENTATION ON THE PUBLIC REALM SPACES OF THE SAN DIEGO CONVENTION CENTER HOTEL AND PHASE III EXPANSION PROJECT AND UPDATE FROM STAFF ON STATUS OF ENVIRONMENTAL REVIEW, FINANCIAL IMPACTS OF THE PROJECT, AND THE CITY OF SAN DIEGO'S PROPOSED FINANCING PLAN

Agenda Item 20. Karen Weymann, Director, Real Estate, addressed the Board with a brief staff update and then introduced Charles Black, representing the City of San Diego, who addressed the Board with remarks regarding the goals of the San Diego Convention Center, the expansion's projected financial impact to the region, and offered a presentation of the Public Realm Spaces of the San Diego Convention Center Hotel and Phase III Expansion Project. (A copy of the staff report and presentation is on file in the Office of the District Clerk.)

Commissioner Smith left the dais at 5:27 p.m. and returned at 5:28 p.m. Commissioner Moore left the dais at 5:29 p.m. returned at 5:32 p.m.

Commissioner discussion ensued. Commissioner Peters requested and received clarification from Mr. Black regarding the second level balconies depicted on the expansion renderings.

Commissioner Malcolm requested and received clarification from Mr. Black that the proposal had not been presented to the California Coastal Commission staff; however guidance from the Coastal Commission and the public concern influenced the

planning and design of the public realm space. Commissioner Malcolm acknowledged and thanked staff for their work with Economic & Planning Systems (EPS) and PKF Consulting to perform updated studies and a robust sensitivity analysis regarding the projections of incremental revenue to the District from the Convention Center Expansion and the Hilton Hotel Expansion.

Commissioner Valderrama requested and received confirmation from Mr. Black that a 500-room hotel was depicted and he briefly discussed the two alternatives as shown in the renderings.

Don Wood submitted a speaker slip in opposition to the staff recommendation, but was not present when called to speak, and thus did not address the Board. Diane Coombs expressed concern regarding allocating District funds to any other projects until the conditions were met regarding the acquisition of the property at 1220 Pacific Highway, as memorialized in the North Embarcadero Visionary Plan Phase I Memorandum of Understanding with the Navy Broadway Complex Coalition.

PRESENTATION ON THE PROPOSED DONATION & LOAN STATUS OF ARTWORK "UNCONDITIONAL SURRENDER"

Agenda Item 21. Irene McCormack, Vice President, External Relations, addressed the Board and turned the presentation over to Yvonne Wise, Art Curator, who discussed the proposed donation and loan status of the artwork *Unconditional Surrender*. Ms. McCormack concluded the presentation and requested the Board consider extending the loan period for the exhibition of the temporary piece. (A copy of the staff report and the presentation is on file in the Office of the District Clerk.)

Commissioner Peters left the dais at 5:52 p.m. and returned at 5:54 p.m.

The following members of the public addressed the Board regarding the matter and advocated for accepting the proposed donation: Commissioner Emeritus Michael Bixler; Donald Reeves; Ray Carpenter; Jim Unger, Chairman of San Diego Port Tenants Association, and Mac McLaughlin, USS Midway Museum. Karen Clare and George Clare submitted speaker slips in support of keeping the piece, but were not present when called to speak, and thus did not address the Board. Evelyn Guster submitted a speaker slip in opposition to the staff recommendation, but was not present when called to speak, and thus did not address the Board.

Commissioner discussion ensued. Commissioner Burdick acknowledged Commissioner Emeritus Bixler and the other members of the public for their comments

regarding the matter. In that this was the first piece to be considered under the new Public Art Master Plan, she stated her concern was regarding whether the Board was acting in accordance with BPC Policy 609 section 23-H-4 regarding the evaluation of proposed donations. In reference to the criteria for Board review section, she stated her understanding was that the Board's job was to determine whether the Public Art Committee members had properly followed the District's policy. She requested clarification from staff as to under which of the policy criteria the piece had failed and requested staff provide such detail in the future.

Ms. Wise explained the criteria were used as a shared guideline and as a set of goals. She stated the members did not cast a vote on each of the criteria individually. Ms. Wise then described the holistic nature of the consideration process to determine if the proposed donation adequately met the criteria. She also reviewed the concerns regarding the piece that were expressed by the committee. She stated that the vote of the committee was 6-4 to decline the donation.

Commissioner Burdick discussed her recollection of the Board action taken over the past two years regarding the piece. She acknowledged that the District issued a support letter to the fundraising group. She described her conversations with Mr. Reeves regarding the matter of providing District support to assist with the facilitation of processing donations to limit administrative costs. She discussed the Public Art Master Plan process under which the possible donation was examined. Commissioner Burdick discussed the notion of extending the temporary loan for 90-days and offered that removing the temporary piece may spur fundraising efforts for a permanent piece. She acknowledged the USS Midway Museum's comments and offered remarks regarding art acquired by a tenant. Commissioner Burdick requested that staff remain flexible and provide the necessary support should a tenant assist in the acquisition of a permanent piece. She concluded her remarks by stating her affection for the piece and acknowledged consistently following the Public Art Master Plan rules and processes.

Commissioner Malcolm thanked the public speakers who addressed the Board and acknowledged the committee members for their service. He requested and received confirmation from Bill McMinn, Deputy Port Attorney, that the Board has the ultimate fiduciary authority and that under BPC Policy No. 609 the Board is allowed ultimate oversight and authority over any decision made at the advisory committee level. Mr. McMinn stated that the policy was not State law and the Board could waive the policy or overturn a committee decision should they desire.

Commissioner Malcolm offered statements regarding: the Board's decision making role in regard to the Curatorial Strategy; the Board's role in the past regarding selecting public art and the desire of artists to place their work on the tidelands. He offered that in the rare situation, such as the matter under discussion, it was appropriate for the Board review of the committee decision. Commissioner Malcolm stated that the criteria for donation did not include consideration of the pieces' relevance to the history of the region. In light of the Public Art Advisory Committee's 6-4 vote on November 17, 2011, he offered a motion that an action item regarding the piece of art under discussion be placed on the agenda for the March 6, 2012 regular Board meeting; and that the Board, in its oversight role, re-consider the matter of accepting the proposed donation of a painted bronze sculpture, establish the conditions of the acceptance and set the fundraising timeline given the current state of the economy. Commissioner Valderrama seconded the motion.

Commissioner Moore thanked the members of the Public Art Advisory Committee for their service. She acknowledged the challenges with implementing new policies, as was the case with the matter before the Board. Commissioner Moore requested that staff review the policy and consider including additional steps when the committee recommends the denial of a donation; address how the donation criteria is considered, in light of the public's support for a piece of public art; and consideration of the donation criteria in relationship to the District's Strategic Goals. She supported Commissioner Malcolm's motion.

Commissioner Nelson respectfully acknowledged the members of the public and his fellow Commissioner's statements regarding the matter. He expressed his opposition to the motion; the proposed loan extension; and the concept of reconsidering the sculpture as a tenant art piece outside of the standard process. He acknowledged that the Board has the authority to waive a BPC Policy. Commissioner Nelson expressed concerns about waiving BPC Policy No. 609 based upon the situation under discussion, managing by public opinion, setting District policy based on a Commissioner's personal view or taste in art, and whether the Board should override an expert opinion. In light of the discussion, he offered that consideration could be given to eliminating the function and turning the public art proposal review and decision making back to the Board. Commissioner Nelson offered that while he personally liked the piece, he acknowledged the need to follow the established review process, and, with respect to his colleagues, he intended to vote against the motion.

Commissioner Peters discussed his desire to resolve the matter under discussion without dismantling the entire public art program. He offered that in hindsight the piece should have been exempt from the new Public Art Master Plan. He explained he would

consider a permanent sculpture under the tenant art program if the USS Midway Museum secured the funding. Regarding the 3-month loan extension, Commissioner Peters acknowledged that the existing piece was meant as a temporary installation and was not constructed of materials suitable for a permanent exhibition and the piece would have to be removed in the near term. He offered comments regarding the process in which the Public Art Master Plan was developed and implemented. He stated that one of the key pieces of the plan was to remove Commissioners from judging the content of art and place artist experts in that position. He discussed his experience with the City of San Diego Commissioner for Arts and Culture and the Murals of La Jolla project. He reiterated his preference to consider the donation of the piece outside of the new Public Art Master Plan process; thus he offered support for the motion. Moving forward, he urged his colleagues to maintain the public art program and the process implemented to utilize the expertise of the members of the Public Art Advisory Committee when selecting art for the waterfront.

Commissioner Valderrama stated he supported the motion, expressed concern regarding the narrowness of the committee member vote and recognized Commissioner Peters' comment that the piece should have been considered outside of the new Public Art Master Plan process. He stated his support for maintaining the Public Art program. He expressed concern that, based upon the committee's findings, had the donor raised the necessary funds for a permanent piece, it would not be accepted regardless of the public's opinion regarding the sculpture. He stated he liked the piece and would be voting in favor of the motion.

Commissioner Moore requested and received confirmation from Mr. McMinn that there were no advisory committees that made final decisions. She expressed her support for maintaining the Public Art program and the Board valued the committee's expertise, however the Board maintains fiduciary responsibility as trustees of the tidelands. She offered that a mechanism be implemented so that matters, such as the one under discussion, would return to the Board for consideration.

Commissioner Nelson acknowledged his fellow Commissioner's remarks and expressed concern regarding the statements made regarding accepting a donation of art that a Commissioner may personally like. He cautioned about governing a public agency under such a belief system.

Commissioner Malcolm acknowledged his fellow Commissioner's opinions and acknowledged the challenges that were raised during the discussion, the good efforts of the Public Art staff, the work by members of the Public Art Committee and recognized the budget funds allocated to the program. Commissioner Malcolm reiterated that the

Board should hold the ultimate responsibility as trustees for what occurs on the tidelands and the matter before the Commissioners was precedent setting. He offered that situations like the one before the Board would be a rare occurrence; however, philosophically, the Board must reserve unto itself the ultimate authority over a decision of that nature.

Commissioner Peters offered that the policy could be placed on the agenda for discussion at a future meeting. He reiterated his support for the motion. He requested that Chairman Smith call the question, if appropriate.

Celia Brewer, Interim Port Attorney, offered that the Board could apply BPC Policy No. 609 in a way that tries to harmonize the different parts of the policy and allow staff to bring the item before the Board for further analysis.

Chairman Smith thanked everyone for their thoughtful and reasoned discourse on the matter. He discussed the need to utilize the existing systems and acknowledged that at times leadership must call for "a system-override" of an accepted process. He concurred that the matter at hand should not be cause to dismantle the Public Art Program and encouraged a "win-win" outcome for all stakeholders. He requested that staff research the prior action taken regarding the piece and report back.

On motion of Commissioner Malcolm, seconded by Commissioner Valderrama, the Board directed staff to docket an action item on the March 6, 2012 regular Board meeting agenda to consider the matter of accepting the proposed donation of a permanent painted bronze edition of the sculpture titled *Unconditional Surrender*, to establish the conditions of the acceptance, and set the fundraising timeline given the current state of the economy, by the following vote: Yeas-Burdick, Malcolm, Moore, Nelson, Peters, Smith and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

MID-YEAR BUDGET REVIEW

Agenda Item 22. On motion of Commissioner Nelson, seconded by Commissioner Peters, the Board continued the Presentation on Mid-Year Budget Review, to a future Board meeting, by the following vote: Yeas-Burdick, Malcolm, Moore, Nelson, Peters, Smith and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

ACTION AGENDA CONTINUED

PRESENTATION ON PROPOSED CHANGES TO THE MARKETING SPONSORSHIP & FEE-FOR-SERVICE PROGRAM AND DIRECTION TO STAFF

Agenda Item 30. Brandy Christian, Vice President, Strategy & Business Development introduced the item. (A copy of the staff report is on file in the Office of the District Clerk.)

Commissioner Burdick offered a motion to continue the item to a future Board meeting. Commissioner Malcolm seconded the motion.

Rita Vandergaw, Senior Director, Business Development & Marketing, addressed the matter of continuing the item to the March 6, 2012 regular Board meeting and explained the timeline for distributing the Marketing and Fee for Service Program application process in relationship to the FY12-13 budget preparation.

Chairman Smith requested clarification as to whether the continuance would impact the District's budget. Ms. Christian replied that a continuance would not impact the budget process, and explained that by using historical figures, staff planned to recommend the same level of program funding in the FY12-13 budget. Commissioner Burdick re-affirmed her motion to continue the matter.

Commissioner Nelson requested that staff evaluate the implementation of a requirement that event sponsors prepare a results report, for the Board's review, no later than 60-days after the occurrence of a District sponsored out-of-cycle event and cited the AC45 America's Cup World Series Races as such an example.

On motion of Commissioner Burdick, seconded by Commissioner Malcolm, the Board continued the Presentation on Proposed Changes to the Marketing Sponsorship & Fee-for-Service Program and direction to staff to a future Board meeting, by the following vote: Yeas-Burdick, Malcolm, Moore, Nelson, Peters, Smith and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

DISCUSSION BOARD ADVISORY COMMITTEES AND DIRECTION TO STAFF

Agenda Item 32. Commissioner Malcolm announced he discussed the matter with port tenants and various stakeholders. He explained he was not comfortable with convening a meeting of the Real Estate Advisory Committee until the full Board has discussed the matter and achieved consensus on committee structure rules.

Commissioner Burdick offered a motion to continue the item to a future Board meeting. Commissioner Moore seconded the motion.

Chairman Smith acknowledged the Board's desire to continue the item and explained that he had intentionally delayed committee appointments until the matter was discussed.

On motion of Commissioner Burdick, seconded by Commissioner Moore, the Board continued the Discussion Board Advisory Committees and direction to staff, to a future Board meeting, by the following vote: Yeas-Burdick, Malcolm, Moore, Nelson, Peters, Smith and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

REVIEW AND CONSIDERATION OF PROPOSED BOARD AGENDA FOR THE MEETING OF MARCH 6, 2012

Agenda Item 34. Chairman Smith requested that the items which were continued be included on the March 6, 2012 docket. He also requested that staff provide an overall status update regarding the Chula Vista Bayfront development be added to the March 6, 2012 docket.

Commissioner Valderrama requested that the continued matters be heard near the beginning of the meeting, and to ensure that stakeholders could be present, that the Chula Vista Bayfront matter be listed as "a time certain item". Chairman Smith acknowledged the request.

On motion of Commissioner Peters, seconded by Commissioner Malcolm, the Board adopted the proposed agenda, as amended, for the meeting of March 6, 2012, by the following vote: Yeas-Burdick, Malcolm, Moore, Nelson, Smith and Valderrama; Nays-None; Excused-Peters; Absent-None; Abstained-None.

CONSENT AGENDA CONTINUED

RESOLUTION ADOPTING PLANS AND SPECIFICATIONS AND AWARDED CONTRACT NO. 2011-35 TO R.E. STAITE ENGINEERING, INC. FOR TENTH AVENUE MARINE TERMINAL AND BROADWAY PIER FENDER SYSTEMS REPAIRS IN THE AMOUNT OF \$271,785

Agenda Item 6. Scott Andrews submitted a speaker slip, but was not present when called to speak, and thus did not address the Board.

On motion of Commissioner Peters, seconded by Commissioner Nelson, the Board adopted **Resolution 2012-13**, Adopting Plans and Specifications and Awarding Contract No. 2011-35 to R.E. Staite Engineering, Inc. for Tenth Avenue Marine Terminal and Broadway Pier Fender Systems Repairs in the amount of \$271,785, by the following vote: Yeas-Burdick, Malcolm, Moore, Nelson, Peters, Smith and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

RESOLUTION AUTHORIZING AMENDMENT #3 TO AGREEMENT WITH DUDEK FOR ENVIRONMENTAL CONSULTING SERVICES FOR THE NORTH EMBARCADERO PORT MASTER PLAN AMENDMENT ENVIRONMENTAL IMPACT REPORT TO ADD ADDITIONAL TASKS TO THE SCOPE OF SERVICES, MODIFY HOURLY RATES PAID AND INCREASE THE MAXIMUM EXPENDITURE PAYABLE UNDER THE AGREEMENT BY \$415,296 FOR A NEW TOTAL MAXIMUM EXPENDITURE NOT TO EXCEED \$762,874

Agenda Item 12. In light of the earlier Board discussion regarding **Presentation Item 19**, Randa Coniglio, Executive Vice President, Operations, recommended that the matter be continued to a future Board meeting.

Diane Coombs confirmed that while she had submitted a speaker slip, she concurred with the staff request to continue the matter and withdrew her request to address the Board.

On motion of Commissioner Peters, seconded by Commissioner Burdick, the Board continued **Consent Agenda Item 12**, Resolution Authorizing Amendment #3 to Agreement with Dudek for Environmental Consulting Services for the North Embarcadero Port Master Plan Amendment Environmental Impact Report to add additional tasks to the scope of services, modify hourly rates paid and increase the maximum expenditure payable under the agreement by \$415,296 for a new total maximum expenditure not to exceed \$762,874, to a future Board meeting, by the following vote: Yeas-Burdick, Malcolm, Moore, Nelson, Peters, Smith and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

RESOLUTION APPOINTING JEFFREY MILLER TO THE SAN DIEGO UNIFIED PORT DISTRICT AUDIT ADVISORY COMMITTEE (AAC) FOR A TERM OF THREE YEARS COMMENCING JANUARY 1, 2012; APPOINT EID FAKHOURI TO THE AAC FOR A TERM OF THREE YEARS COMMENCING MARCH 1, 2012

Agenda Item 13. Ray Leyba submitted a speaker slip, but was not present when called to speak, and thus did not address the Board.

On motion of Commissioner Nelson, seconded by Commissioner Moore, the Board adopted **Resolution 2012-18**, Appointing Jeffrey Miller to the San Diego Unified Port District Audit Advisory Committee (AAC) for a term of three years commencing January 1, 2012; Appoint Eid Fakhouri to the AAC for a term of three years commencing March 1, 2012, by the following vote: Yeas-Burdick, Malcolm, Moore, Nelson, Peters, Smith and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

ORDINANCE GRANTING AN OPTION AGREEMENT TO LANE FIELD SAN DIEGO DEVELOPERS, LLC TO LEASE AND DEVELOP LANE FIELD NORTH WITH OPTIONS TO DEVELOP LANE FIELD SOUTH AND 1220 PACIFIC HIGHWAY

Agenda Item 15. Scott Andrews submitted a speaker slip, but was not present when called to speak, and thus did not address the Board. Ian Trowbridge, Navy Broadway Complex Coalition, submitted a speaker slip in favor of the staff recommendation, but was not present when called to speak, and thus did not address the Board. Jerry Trammer, Lane Field, submitted a speaker slip in favor of the staff recommendation but waived his opportunity to address the Board. Brigette Browning, UNITE HERE, submitted a speaker slip in favor of the staff recommendation, but was not present when called to speak, and thus did not address the Board. Graham Forbes, UNITE HERE, submitted a speaker slip but waived his opportunity to address the Board. Don Wood submitted a speaker slip in favor of the staff recommendation, but was not present when called to speak, and thus did not address the Board. John McNab submitted a speaker slip in opposition to the staff recommendation, but was not present when called to speak, and thus did not address the Board. Sharon Cloward, San Diego Port Tenants Association, submitted a speaker slip in favor of the staff recommendation but waived her opportunity to address the Board.

On motion of Commissioner Peters, seconded by Commissioner Nelson, the Board adopted **Ordinance 2664**, Granting an Option Agreement to Lane Field San Diego Developers, LLC to lease and develop Lane Field North with options to develop Lane Field South and 1220 Pacific Highway, by the following vote: Yeas-Burdick, Malcolm, Moore, Nelson, Peters, Smith and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

ACTION AGENDA CONTINUED

RESOLUTION AUTHORIZING JOINT COMMUNITY FACILITIES AGREEMENT BETWEEN THE SAN DIEGO UNIFIED PORT DISTRICT AND THE CITY OF SAN DIEGO TO ALLOW FOR THE FORMATION OF CONVENTION CENTER FACILITIES DISTRICT NO. 2012-1 AND THE FINANCING OF IMPROVEMENTS TO THE SAN DIEGO CONVENTION CENTER

Agenda Item 25. Celia Brewer, Interim Port Attorney, announced that special counsel members were present to address the Board should they desire. Shaun Sumner, Area Manager, Real Estate, confirmed there was no formal presentation and staff was available for questions. (A copy of the staff report is on file in the Office of the District Clerk.)

The following members of the public addressed the Board and expressed their opposition to the staff recommendation: Diane Coombs; Graham Forbes, UNITE HERE and Ian Trowbridge, Navy Broadway Complex Coalition. Don Wood submitted a speaker slip in opposition to the staff recommendation, but was not present when called to speak, and thus did not address the Board.

Commissioner discussion ensued. Commissioner Burdick offered comments regarding the City of San Diego's resolutions forming the Convention Center Facilities District, their declaration of the need to incur bond indebtedness, and the proposed special mailed-ballot election of the qualified electors. She acknowledged the concerns raised by the speakers regarding the legality of the City's actions, and, based upon the results of the proposed special election, she offered those concerns would likely be addressed in the courts by a judicial validation action. In reference to the Draft Joint Community Facilities Agreement, labeled Attachment B to the staff report, she expressed concern regarding the language in section 4 and read into the record the following: "The Port District will not participate in nor be considered to be a participant in the proceedings respecting establishment or administration of the Convention Center Facilities District..." and offered that the language was too broad. She requested that staff re-negotiate the language and requested that specific language be included in the Draft Joint Community Facilities Agreement (JCFA) and in the District's draft resolution for Action Agenda Item 25. She offered that specific language be added to the documents which recognizes the District has an interest in the creation of the JCFA, there is a desire to protect that interest, and that nothing in the agreements should be interpreted to restrict the District's ability to represent its interests in those proceedings.

Commissioner Nelson requested clarification from Celia Brewer, Interim Port Attorney, as to whether it was legal for the Board to take the action before them. Ms. Brewer confirmed it was legal. In reference to prior action taken by the City of San Diego City Council, he requested clarification as to whether by taking action the Board was obligating the District to something not included in the document. Ms. Brewer acknowledged the query and offered clarification regarding the proposed action. She offered that in the event that the City of San Diego successfully forms the JCFA the action is a financing mechanism that would allow the City of San Diego to expend funds on the port tidelands and the document includes additional protections for the District in the event of a delinquency. She acknowledged Commissioner Burdick's earlier comments regarding the District's involvement in any judicial validation action and offered that language would likely be included in the agreement as well. Ms. Brewer further explained that the proposed action does not predispose the Board from taking future action regarding the project, or indicates any predetermined decision or action including the consideration of the California Environmental Quality Act (CEQA) documents. She concluded that should the Board desire, the Community Facilities District Law allows for the Board to postpone the decision on the matter. Commissioner Nelson expressed his concerns regarding future impacts to the District should the City of San Diego be unable to resolve matters related to the project in a timely fashion. He offered support for the item.

Commissioner Peters offered a motion in support of the matter with Commissioner Burdick's comments requesting amendments to the document language. Commissioner Valderrama seconded the motion. He acknowledged the public speakers remarks and the benefits of seeking community participation and support. Commissioner Peters stated he would continue to speak with the City of San Diego leadership to encourage achieving a broader consensus with all stakeholders.

Commissioner Malcolm expressed support for the motion. In regard to the Board's action taken in November 2011 and the City of San Diego's pursuit of a validation action, he requested clarification as to whether the validation action would be pursued prior to the vote or after the vote. Commissioner Burdick stated that the validation action would not take place until after the vote; and based on the outcome of the vote it could trigger the formation of the Convention Center Facilities District. Mr. Sumner confirmed that was also staff's understanding.

On motion of Commissioner Peters, seconded by Commissioner Valderrama, the Board adopted **Resolution 2012-22**, Authorizing Joint Community Facilities Agreement between the San Diego Unified Port District and the City of San Diego to allow for the formation of Convention Center Facilities District No. 2012-1 and the

financing of improvements to the San Diego Convention Center, with additional language regarding the District's interest in the Convention Center Facilities District and any subsequent judicial validation actions, by the following vote: Yeas-Burdick, Malcolm, Moore, Nelson, Peters, Smith and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

RESOLUTION ADOPTING PLANS AND SPECIFICATIONS AND AWARDING CONTRACT NO. 2011-19 TO KINSMAN CONSTRUCTION, INC. FOR B STREET PIER CRUISE SHIP TERMINAL ROOF REPLACEMENT IN THE AMOUNT OF \$1,023,477

Agenda Item 29. Don Wood submitted a speaker slip in opposition to the staff recommendation, but was not present when called to speak, and thus did not address the Board.

Commissioner discussion ensued. In that a bid protest was submitted and staff found it to be invalid, Commissioner Burdick requested that the Board make a specific finding of agreeing with the staff recommendation and that the Board's finding be included in the resolution. Commissioner Burdick made a motion to adopt the staff recommendation with the amendment to the resolution as requested.

Commissioner Valderrama seconded the motion.

On motion of Commissioner Burdick, seconded by Commissioner Valderrama, the Board adopted **Resolution 2012-24**, Adopting Plans and Specifications and Awarding Contract No. 2011-19 to Kinsman Construction, Inc. for B Street Pier Cruise Ship Terminal Roof Replacement in the amount of \$1,023,477, by the following vote: Yeas-Burdick, Malcolm, Moore, Nelson, Peters, Smith and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

OFFICER'S REPORT

None.

PRESIDENT'S REPORT

Agenda Item 35. None.

COMMISSIONER COMMENTS/REVIEW OF TODAY'S MEETING

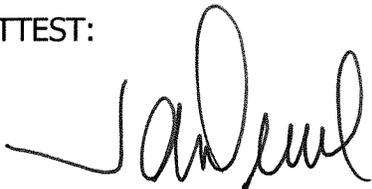
Agenda Item 36. Commissioner Burdick announced that the Chair of the Centre City Development Corporation (CCDC) rejected the application submitted by the developer of the Fat City Lofts project. She stated for the record that the District appreciates the Chair of CCDC giving the matter full and difficult consideration.

Chairman Smith shared the results of the Green Port Business Challenge, he discussed the stakeholder benefits derived from the program, and cited the work as an example of being an exemplary port.



Secretary, Board of Port Commissioners
San Diego Unified Port District

ATTEST:



Clerk of the San Diego Unified Port District

**MINUTES
BOARD OF PORT COMMISSIONERS
SAN DIEGO UNIFIED PORT DISTRICT**

The special meeting of the Board of Port Commissioners of the San Diego Unified Port District was called to order by Chairman Smith at 10:02 a.m., Tuesday, March 6, 2012, in the Board Room at 3165 Pacific Highway, San Diego, California.

ROLL CALL

Agenda Item 1.

Present: COMMISSIONERS Burdick, Moore, Nelson, Peters, Smith, and Valderrama.

OFFICERS: Brewer, Darbeau, Deuel and McEntee

Absent: No Commissioners absent.

Excused: Commissioner Malcolm was excused until he arrived at 10:03 a.m.

PUBLIC COMMUNICATIONS

Agenda Item 2. None.

CLOSED SESSION

Celia Brewer, Interim Port Attorney, announced the closed session agenda as follows:

Agenda Item 3.

CONFERENCE WITH REAL PROPERTY NEGOTIATOR
Government Code Section 54956.8

Property: Approximately 5 acres of tideland area leased to the San Diego Convention Center Corporation along Convention Way, all bayward of the San Diego Convention Center

Negotiating Parties: Charles Black, City of San Diego;
Karen Weymann, Shaun Sumner, Nick Markos,
Karen Porteous, Randa Coniglio, Jeffrey McEntee, SDUPD

Under Negotiation: Price and Terms

Agenda Item 4.

CONFERENCE WITH REAL PROPERTY NEGOTIATOR
Government Code Section 54956.8

Property: Approximately 10.7 acres of tideland area located on the southwest corner of Harbor Drive and Eighth Avenue in the City of San Diego, California

Negotiating Parties: David Sloan, Sunstone Hotel Investors, Inc.
Karen Weymann, Shaun Sumner, Nick Markos,
Karen Porteous, Randa Coniglio, Jeffrey McEntee, SDUPD

Under Negotiation: Price and Terms

Agenda Item 5.

CONFERENCE WITH REAL PROPERTY NEGOTIATOR
Government Code Section 54956.8

Property: Approximately 1.65 acres of tideland area, collectively known as "E" and "F" Streets, under easements to the United States Navy within the San Diego Navy Broadway Complex

Negotiating Parties: Karen Ringel, United States Navy;
Karen Weymann, Shaun Sumner, Nick Markos,
Karen Porteous, Randa Coniglio, Jeffrey McEntee, SDUPD

Under Negotiation: Price and Terms

Agenda Item 6.

CONFERENCE WITH REAL PROPERTY NEGOTIATOR
Government Code Section 54956.8

Property: Approximately 3.4 acres of tideland area leased to the United States Navy at 1220 Pacific Highway in the City of San Diego, California

Negotiating Parties: Karen Ringel, United States Navy;
Karen Weymann, Shaun Sumner, Nick Markos,
Karen Porteous, Randa Coniglio, Jeffrey McEntee, SDUPD

Under Negotiation: Price and Terms

Agenda Item 7.

CONFERENCE WITH REAL PROPERTY NEGOTIATOR
Government Code Section 54956.8

Property: SDUPD - Knight and Carver YachtCenter consisting of approximately 265,758 square feet of land and approximately 98,424 square feet of water located at 1313 Bay Marina Drive, National City

Negotiating Parties: Michael J. O'Leary, President /CEO, Knight and Carver YachtCenter, Inc.
Randa Coniglio, Karen Weymann, Kristine Zortman,
Adam Meyer, Karen Porteous, Jeffrey McEntee SDUPD

Under Negotiation: Price and Terms

Agenda Item 8.

CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED
LITIGATION
Significant exposure to litigation pursuant to Subdivision (b)(1) of Government Code Section 54956.9

One Case

Agenda Item 9.

PUBLIC EMPLOYEE APPOINTMENT, PERSONNEL EVALUATION OR DISCIPLINE:
EXECUTIVE DIRECTOR AND PORT ATTORNEY
Government Code Section 54957

Agenda Item 10.

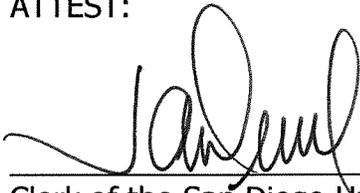
PUBLIC EMPLOYEE APPOINTMENT, PERSONNEL EVALUATION OR DISCIPLINE:
APPOINTMENT OF THE PORT ATTORNEY
Government Code Section 54957

There was no formal or reportable action as to any closed session items, pursuant to Government Code Section 54950 et seq, to report from the closed session; whereupon, Chairman Peters adjourned the meeting.



Secretary, Board of Port Commissioners
San Diego Unified Port District

ATTEST:



Clerk of the San Diego Unified Port District

**MINUTES
BOARD OF PORT COMMISSIONERS
SAN DIEGO UNIFIED PORT DISTRICT**

The regular meeting of the Board of Port Commissioners of the San Diego Unified Port District was called to order by Chairman Smith at 1:03 p.m., Tuesday, March 6, 2012, in the Board Room at 3165 Pacific Highway, San Diego, California.

ROLL CALL

Agenda Item 1.

Present: COMMISSIONERS Burdick, Malcolm, Moore, Nelson, Peters, Smith, and Valderrama.

OFFICERS: Bennett, Darbeau, Deuel, McEntee and Stup

Absent: No Commissioners absent.

Excused: No Commissioners excused.

CLOSED SESSION

As requested by Chairman Smith, Celia Brewer, Interim Port Attorney, stated there was no reportable action from the closed session.

PLEDGE OF ALLEGIANCE

Agenda Item 2. Commissioner Peters led the Pledge of Allegiance.

APPROVAL OF MINUTES

Agenda Item 3. Commissioner Nelson requested that the minutes from the February 9, 2012 special meeting be amended and the following words be added: "discussion ensued about Port communication priorities and staff resources available to meet priority needs." On motion of Commissioner Nelson, seconded by Commissioner Burdick, the Board approved the minutes for the special meeting of February 9, 2012 with the correction requested; and the special meeting of February 14, 2011, by the following vote: Yeas-Burdick, Nelson, Malcolm, Moore, Peters, Smith and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

PUBLIC COMMUNICATIONS

Agenda Item 4. William Penick, Greater Skyline Hills Community Association, addressed the Board regarding their retreat, organizational goals and requested the District participate in a Southeast Job Fair at Morris High School scheduled for May 9, 2012 as a means to collaborate with the community members in a more diverse manner.

Kelly Sarber, Biofuels Digestion, requested that the Board direct staff to docket a renewable energy request for proposal (RFP) at the April regular Board meeting. She discussed the benefits of the service to the port tenants as well as the environment and requested the Board consider placing a renewable energy facility on tidelands.

John Adriany stated he intended to address the Board regarding SB623, however, the item was continued. He thanked the Board for the opportunity to speak.

CONSENT AGENDA

Chairman Smith requested that Timothy Deuel, District Clerk, announce any suggested docket changes. Mr. Deuel announced the proposed changes to the agenda as follows: **Consent Agenda Item 5**, Resolution Granting Indemnity to Sonian, Inc. in Newton, Massachusetts for hosted email data archiving services; staff requests this item be continued to a future Board meeting; **Consent Agenda Item 14**, Resolution Selecting and Authorizing a five-year Agreement with _____ to provide Benefit Consulting for an amount not to exceed \$_____ per year and a total of \$_____.; staff requests this item be continued to a future Board meeting; **Action Agenda Item 20**, Presentation from One Park Boulevard, LLC, Lessee of the Hilton San Diego Bayfront Hotel, on the proposed 500-room expansion of the hotel; staff requests this item be continued to a future Board meeting; **Action Agenda Item 22**, Presentation on Embarcadero Bayfront Shuttle and direction to staff; staff requests this item be continued to a future Board meeting; **Action Agenda Item 25**, Resolution Authorizing Agreement between the San Diego Unified Port District and the City of Chula Vista for financing of the Chula Vista Bayfront Master Plan; staff requests this item be continued to a future Board meeting; and **Action Agenda Item 29**, Government and Community Relations Update on Senate Bill 623 (Kehoe) and direction to staff; staff requests this item be continued to a future Board meeting.

On motion of Commissioner Burdick, seconded by Commissioner Nelson, the Board accepted the suggested changes to the agenda, by the following vote: Yeas-

Burdick, Malcolm, Moore, Nelson, Peters, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

In that members of the public had submitted request to speak slips, Chairman Smith announced that the following items would be trailed to the end of the meeting for public comments and Board consideration: **Consent Agenda Item 10**, Resolution Authorizing the Third Amendment to Agreement with Dudek to provide Environmental Consulting Services for the North Embarcadero Port Master Plan Amendment Environmental Impact Report to modify the scope of services, modify the hourly rates paid and increase the maximum expenditure payable under the agreement by \$457,000 for a new total maximum expenditure not to exceed \$804,578, **Consent Agenda Item 11**, Resolution Adopting Plans and Specifications and Awarding Contract No. 2011-05 to Hugo Alonso, Inc. for B Street Pier Cruise Ship Terminal canopy installation, San Diego, California, in the amount of \$1,097,526 and **Consent Agenda Item 16**, Resolution Authorizing Revised Memorandum of Understanding Between San Diego Unified Port District, City of San Diego and City of Imperial Beach to Explore Uses for Pond 20.

On motion of Commissioner Burdick, seconded by Commissioner Nelson, the Board adopted Consent Agenda items 6, 7, 8, 9, 12, 13 and 15, (**Resolution 2012-26** through and including **Resolution 2012-29**, **Resolution 2012-32** through and including **Resolution 2012-34**) by the following vote: Yeas-Burdick, Malcolm, Moore, Nelson, Peters, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

Agenda Item 5. Item Continued

Agenda Item 6. **Resolution 2012-26**, Authorizing Agreement with V3IT Consulting, Inc. for SAP Basis Administration and Oracle Support for \$100,000 per year for three years with the option for up to two additional 1-year extensions, total amount not to exceed \$500,000, was adopted as part of the consent agenda.

Agenda Item 7. **Resolution 2012-27**, Waiving BPC Policy No. 110 and Authorizing an Agreement with the William N. Hofman Company for as-needed staff consulting services for total fees not to exceed \$200,000, was adopted as part of the consent agenda.

Agenda Item 8. **Resolution 2012-28**, Authorizing Amendment No. 1 to Agreement with ENVIRON International Corporation for an additional \$50,000 for a new total agreement amount of \$350,000 to complete the climate mitigation and adaptation plan, was adopted as part of the consent agenda.

Agenda Item 9. Resolution 2012-29, Authorizing Amendment No. 1 to the Agreement with University of Washington to increase the amount by \$100,000 for a new agreement amount of \$200,000, and extension of the term for an additional 18 months through September 14, 2013, was adopted as part of the consent agenda.

Agenda Item 12. Resolution 2012-32, Consenting to Assignment and Assumption of Agreement from MACTEC Engineering and Consulting, Inc. to AMEC Environment & Infrastructure, Inc., was adopted as part of the consent agenda.

Agenda Item 13. Resolution 2012-33, Authorizing Acceptance of Transportation Security Administration (TSA) FY11 Grant Award Modification #9 in the amount of \$35,283.31 for the Harbor Police Department (HPD) Explosives Detection Canine Team Program per BPC Policy No. 109, was adopted as part of the consent agenda.

Agenda Item 14. Item Continued

Agenda Item 15. Resolution 2012-34, Extending the Duration of the Enhanced Military Leave Policy for all Classified and Unclassified Employees through March 31, 2014, was adopted as part of the consent agenda.

PUBLIC HEARING AGENDA

HARBOR POLICE

- A) CONDUCT A PUBLIC HEARING AND ADOPT AN ORDINANCE ADDING SECTION 8.29 TO THE SAN DIEGO UNIFIED PORT DISTRICT (UPD) CODE ESTABLISHING A NEGLIGENT VEHICLE IMPOUND PROCESSING (NVIP) FEE.**
- B) CONDUCT A PUBLIC HEARING AND ADOPT A RESOLUTION ESTABLISHING PROCEDURES, FEES AND CHARGES FOR THE RECOVERY OF PUBLIC SAFETY COSTS FOR EMERGENCY RESPONSES DIRECTLY RELATED TO DRIVING UNDER THE INFLUENCE INCIDENTS**

Agenda Item 17AB. Captain Kim Fives, Harbor Police Department, addressed the Board with a presentation regarding cost recovery programs. She requested the Board consider adopting an ordinance adding Section 8.29 to the San Diego Unified Port District (UPD) Code establishing a Negligent Vehicle Impound Processing (NVIP) Fee; and a resolution establishing procedures, fees and charges for the recovery of public safety costs for emergency responses directly related to driving under the influence

(DUI) incidents. Captain Fives requested the Chairman open a public hearing for public comment regarding both items. (A copy of the staff report and presentation are on file in the Office of the District Clerk.)

Chairman Smith opened the public hearing for agenda items 17A and 17B. As no members of the public requested to speak, he closed the public hearing.

Commissioner discussion ensued. Commissioner Peters offered a single motion to adopt the staff recommendation regarding the proposed ordinance and the proposed resolution. Commissioner Valderrama seconded the motion.

Commissioner Nelson requested and received clarification from Captain Fives regarding the vehicle release fee schedule charts as shown in the staff report. She confirmed the data compares the fees assessed by member city for similar services.

Commissioner Valderrama requested and received clarification from Captain Fives regarding the average number of DUI arrests made by the Harbor Police on an annual basis.

On a single motion of Commissioner Peters, seconded by Commissioner Valderrama, the Board adopted by a single vote **Ordinance 2665**, adding Section 8.29 to the San Diego Unified Port District (UPD) Code establishing a Negligent Vehicle Impound Processing (NVIP) Fee, and **Resolution 2012-36**, Establishing Procedures, Fees and Charges for the recovery of public safety costs for emergency responses directly related to driving under the influence incidents, by the following vote: Yeas-Burdick, Malcolm, Moore, Peters, Smith and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

ACTION AGENDA

2011 EMPLOYEE RECOGNITION PROGRAM

- A) PRESENTATION OF THE 2011 SAN DIEGO UNIFIED PORT DISTRICT EMPLOYEE OF THE FOURTH QUARTER.**
- B) PRESENTATION OF THE 2011 SAN DIEGO UNIFIED PORT DISTRICT TEAM OF THE YEAR.**
- C) PRESENTATION OF THE 2011 SAN DIEGO UNIFIED PORT DISTRICT EMPLOYEE OF THE YEAR.**

Agenda Item 18ABC. Michele Corbin, Director, Human Resources introduced the Employee Recognition Awards Program and turned the presentation over to Katie Vigil, Human Resources Technician, who announced the nominees for Employee of the 4th Quarter, Employee of the Year and Team of the Year. She turned the presentation over to Wayne Darbeau, Executive Director to announce the winners.

Mr. Darbeau announced that Ursula Green, Lead Accounting Technician, Financial Services Department, was selected as 2011 Employee of the Fourth Quarter. Ms. Green was cited for her works on accounts payable for the Financial Services Department; her efforts proved to be a significant asset and she displays a high level of initiative in her work. The other employees nominated for Employee of the 4th Quarter were Donald Jones, Lead Gardener, General Services and Procurement; Penny Maus, Senior Asset Manager, Real Estate Management; and Melissa Steeg, Senior Training and Organization Development Specialist, Business Development and Marketing.

Mr. Darbeau announced that Jenny Lybeck, Assistant Environmental Specialist, Environmental and Land Use Management was selected as the 2011 Employee of the Year. She was originally nominated for, and selected as, the 2011 Employee of the Third Quarter. Ms. Lybeck was nominated for her effort on a number of projects that reduce the District's environmental impact as well as reduce utility costs. The other employees nominated for Employee of the Year were 2011 Employee of the First Quarter, Renee Errasquin, Acting Payroll Supervisor, Human Resources; 2011 Employee of the Second Quarter, Terrie Eichholz, Commissioner Services Assistant, Office of the District Clerk; and 2011 Employee of the Fourth Quarter, Ursula Green, Lead Accounting Technician, Financial Services Department.

Mr. Darbeau announced Harbor Police Department Boat/Fire School Instructor Team was as the 2011 Team of the Year. He cited the team for utilizing grant funding to acquire new patrol vessels which had different operating requirements from the previous vessels as well as entirely new firefighting equipment. The instructor team was tasked with developing a curriculum to train officers in the use of the new vessels and equipment, as well as conducting hands-on training to certify all Harbor Police Officers on the use of the new equipment. The members of the Harbor Police Department Boat/Fire School Instructor Team are: Harbor Police Officer Greg Avalos; Harbor Police Sergeant Donald Brick; Harbor Police Lieutenant Stephen Byrd; Harbor Police Officer James Dreher; Harbor Police Sergeant Scott Ferraioli; Harbor Police Sergeant David Fouser; Harbor Police Corporal Jeffrey Geary; Harbor Police Officer Michael Hart; Harbor Police Officer Shannon Larson; Harbor Police Officer Raul Munoz; Harbor Police Officer Troy Nicol; Harbor Police Officer David Ondus; Harbor Police Officer Rick Robershaw; Harbor Police Officer Christopher Scheil; Harbor Police Officer Wayne Schmidt; Harbor

Police Corporal Jennifer Spearel; Harbor Police Officer Robert Twardy; Harbor Police Officer James Wolfe; Harbor Police Officer Shawn Woody and Harbor Police Corporal Christopher Woodward.

The other employees nominated for Team of the Year included the Chula Vista Wildlife Reserve Restoration and Enhancement Team: Steve Austin, Kurt Brickley, David Catalino, Philip Gibbons, Aricia Leighton, Eileen Maher, William Melton and Cynthia Mertes; General Services and Procurement Tool Crib Team: Walter Harrington and Nicolasa Tatum; Harbor Police Department Investigations unit Michael Dye, Jennifer Spearel, Jonathan Taylor and Eric Womack; Harbor Police Department Weapons Training Unit: Pedro Arce, Michael Bishop, Dominick Boccia, Sam Davis, Michael Dye, Brian Jensen, Eric Mitchell, Christopher Moore, Troy Nicol, Jared Osselaer, Joseph Sharp and Robert Twardy; The North Embarcadero Visionary Plan Team: Celia Brewer, Darlene Nicandro, Sal Ochoa, Thomas Ortiz, Linda Scott and Shaun Sumner; The Office of the District Clerk Team: Liza Anderson, Alice Ayala, Ralph Carpio, Timothy Deuel, Terrie Eichholz, Cynthia Holder, Amber Jensen, Laura Nicholson and Jeffrey Regala; and The Traffic Enforcement Officers Team: Earl Bailey, Francisco Gomez, Dale Goodman, Shawn Mahaffey, Derek Richard and Maria Santos. (A copy of the staff report and presentation is on file in the Office of the District Clerk.)

Commissioner discussion ensued. Commissioner Nelson acknowledged all of the nominees as well as those staff members selected to receive the 2011 awards. He acknowledged the District as a self-sustaining revenue generating enterprise and stated that no local, state or federal tax revenues were used to fund employee recognition activities.

RESOLUTION PROCLAIMING SUPPORT OF NATIONAL PURCHASING MONTH, MARCH 1-31, 2012, AND RECOGNIZING THE PORT'S PROCUREMENT SERVICES STAFF FOR RECEIVING THE 2011 ACHIEVEMENT OF EXCELLENCE IN PROCUREMENT AWARD FROM THE NATIONAL PURCHASING INSTITUTE

Agenda Item 19. Dave Thompson, Director, General Services and Procurement addressed the Board regarding National Purchasing Month from March 1-31, 2011 and requested the Board consider adopting a resolution in support of National Purchasing Month. Commissioner Peters offered a motion to accept the staff recommendation. Commissioner Burdick seconded the motion.

Commissioner discussion ensued. Commissioner Nelson acknowledged the General Services and Procurement staff as well as District leadership for the District being recognized by the National Purchasing Institute.

Wayne Darbeau, Executive Director announced the District was one of 20 special districts nationwide selected to receive the 2011 Achievement of Excellence in Procurement Award from the National Purchasing Institute. (A copy of the staff presentation and staff report is on file in the Office of the District Clerk.)

On a motion by Commissioner Peters, seconded by Commissioner Burdick the Board adopted **Resolution 2012-37**, in support of National Purchasing Month, March 1-31, 2012, by the following vote: Yeas-Burdick, Malcolm, Moore, Nelson, Peters, Smith and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

PRESENTATION FROM ONE PARK BOULEVARD, LLC, LESSEE OF THE HILTON SAN DIEGO BAYFRONT HOTEL, ON THE PROPOSED 500-ROOM EXPANSION OF THE HOTEL

Agenda Item 20. Item continued to a future Board meeting.

PRESENTATION AND STATUS UPDATE OF THE CLIMATE MITIGATION AND ADAPTATION PLAN

Agenda Item 21. James Hirsch, Acting Director, Environmental & Land Use Planning Management, introduced the item and turned the presentation over to Cody Hooven, Senior Environmental Specialist, Environmental & Land Use Planning Management, who offered a presentation and status update on the Climate Mitigation and Adaptation Plan (CMAP). (A copy of the staff report and presentation is on file in the Office of the District Clerk.)

Members of the public addressed the Board with varying viewpoints on the matter. Sharon Cloward, President, San Diego Port Tenants Association, addressed the Board and urged the District to prioritize its efforts and resources on the adaptation aspects of the CMAP rather than mitigation measures. She discussed the benefits of encouraging voluntary efforts to address the matters under consideration and expressed concern regarding implementing emission standards and mandatory requirements that could negatively affect tenants' business in a competitive marketplace. Kayla Race, Environmental Health Coalition, addressed the Board regarding her organizations participation in the CMAP process and thanked District leadership and staff for its commitment. She urged the Board to embrace the severity of the matter and lead the District in its preparation for the possible impacts of climate change through implementing adaptation and mitigation efforts. She requested the CMAP findings be incorporated into all District projects and land use matters going forward.

Commissioner discussion ensued. Commissioner Burdick thanked staff for their responsiveness to the stakeholder input and acknowledged them for bringing the update before the Board well in advance of a request for Board action. She acknowledged both speakers and their opinions on the matter. She offered remarks regarding the District's role in long-term planning for the impacts of sea level rise and urged her colleagues to become educated on what she characterized as a complex matter. She discussed the CMAP impact on the organization and the challenges the Commissioners may face when considering tideland development opportunities, adaptation cost and associated impacts on developers, and member city requests in the future.

Commissioner Peters thanked staff and his colleagues on the Environmental Committee for their efforts on groundbreaking work. He addressed both public speakers and offered that going forward, as in the past, the District has endeavored to work with all stakeholders to be responsive to environmental concerns and tenant business needs to reach a "win-win" outcome.

Commissioner Nelson thanked Commissioner Valderrama, Commissioner Peters and Commissioner Burdick for their work. He acknowledged the work of staff and the expert consultants for presenting the information in a manner that all participants in the process could understand and follow.

Commissioner Malcolm discussed the positive impacts of the District's leadership and the Board's stewardship to drive the environmental improvements in the water quality of San Diego Bay and the air quality around the tidelands. He offered comments regarding the CMAP and noted that there were alternative scientific viewpoints on the related issues. Commissioner Malcolm stated that approaching the issue and moving forward with the CMAP was the correct thing to do based upon the consensus on current science. He requested that his colleagues consider that scientific consensus may change and, as policymakers, they should look to the science for guidance. Commissioner Malcolm offered concerns regarding the duty of governmental agency when approving a plan that includes an area map that models San Diego Bay sea level rise in 2050 and 2100. Stating that he was not making a judgment, but simply raising the issue that consideration should be given on potential impacts on property owners, businesses and the District by releasing such modeling data. (A copy of the referenced map was a slide in the staff presentation, which is on file in the Office of the District Clerk.) He requested staff return with additional information regarding: the matter of mandatory compliance versus voluntary compliance; consideration of implementing an associated Board policy; enforcement requirements and the resources necessary to implement compliance programs. He thanked staff for their efforts, acknowledged the

complexity of the issue, and requested the matter be looked at for intended as well as unintended consequences.

Commissioner Valderrama acknowledged the comments offered by Commissioner Malcolm regarding the modeling map data, and recognized that the data may impact future generations. He concurred that the matter needed review and acknowledged the complexity of the issue. He thanked his colleagues as well as the committee members for their service.

Commissioner Nelson acknowledged Commissioner Malcolm's remarks regarding the modeling map data and offered comments regarding the manner in which government agencies have often looked at the approach of natural phenomena that are beyond their control. He acknowledged that while there is a small level of disagreement, the vast majority of climatologists agree about the occurrence of climate change and sea level rise. He offered comments regarding the opinions of climatologists regarding the issue.

Commissioner Moore stated, for the record, her desire that a careful review of land use maps be conducted when moving forward with consideration of the climate change mitigation plan, and before any land uses changes are proposed.

Chairman Smith thanked staff and the entire team for their work, remarked on the possible impacts on future generations, and acknowledged Commissioner Burdick's statements regarding facing challenging decisions in the future.

PRESENTATION ON EMBARCADERO BAYFRONT SHUTTLE AND DIRECTION TO STAFF

Agenda Item 22. Item continued to a future Board meeting.

MID-YEAR BUDGET REVIEW

Agenda Item 23. Jeffrey McEntee, CFO/Treasurer, addressed the Board with a presentation of the mid-year budget review. (A copy of the staff report and presentation is on file in the Office of the District Clerk.)

Commissioner Valderrama left the dais at 2:21 p.m. and returned at 2:23 p.m. Commissioner Burdick left the dais at 2:29 p.m. and returned at 2:32 p.m.

Commissioner discussion ensued. Commissioner Malcolm thanked staff for their efforts to bring forward the information and acknowledged the benefits of sharing the

information with the Board and the public that supports the District's commitment to being an open and transparent public agency.

Commissioner Smith thanked staff for their hard work and acknowledged the benefits of developing best practices and providing information in an open and transparent manner.

RESOLUTION AUTHORIZING ACCEPTANCE OF THE PROPOSED DONATION OF A BRONZE EDITION OF ARTWORK "UNCONDITIONAL SURRENDER" BY ARTIST SEWARD JOHNSON

Agenda Item 24. Irene McCormack, Vice President, External Relations, addressed the Board and turned the presentation over to Yvonne Wise, Curator, Public Art, who offered a brief history of the exhibition of the piece on tidelands, discussed the process by which the Public Art Committee arrived at its recommendation, and offered next steps regarding the staff recommendation. (A copy of the staff report and presentation is on file in the Office of the District Clerk.)

The following members of the public addressed the Board in opposition to the staff recommendation of accepting the proposed donation: Michael Krichman, District's Public Art Committee Member; David White, District's Public Art Committee Member; Hector Perez, District's Public Art Committee Member; Marisol Rendon, District's Public Art Committee Member; Larry Baza, District's Public Art Committee Member; and Margaret Tuite. Donald Reeves, Save Our Sculpture, declined to speak when Chairman Smith called him. Marti Kranzberg addressed the Board regarding public art and the community. Fran Preisman addressed the Board in opposition to the staff recommendation. Mac McLaughlin, USS Midway Museum, addressed the Board in support of the staff recommendation and discussed the Midway's interest in facilitating the acceptance of the painted bronze piece.

Commissioner discussion ensued. Commissioner Nelson thanked the members of the Public Art Committee for their work; offered remarks regarding the piece; concurred with Ms. Rendon's public comment that the piece is an attraction and an amusement; and discussed the intent of the District to create a world-class public art collection. In response to Ms. Tuite's public comment regarding her feelings that the piece represented an improper advance upon women by another person, he acknowledged her statements and offered his concern. He stated he could not support the staff recommendation.

Commissioner Peters left the dais at 3:12 p.m. and returned at 3:14 p.m.

Commissioner Malcolm thanked the members of the Public Art Committee for providing their opinions on the piece. He recounted his recent experience of surveying members of the public regarding the piece and discussed the positive responses he received. He offered remarks regarding the piece, how art can evoke feelings, and that art spurs waterfront activation. Commissioner Malcolm discussed the Board's fiduciary role as the body appointed to exercise appropriate oversight in all District matters, including committee recommendations. He reiterated the value of the Public Art Committee; acknowledged their contribution to the District, and their opinions. He stated that taking Board action in opposition to the committee's recommendation would likely be rare, but making such a decision was the appropriate role of a fiduciary. In consideration of the piece of art, its historical relevance, judging the impact to activation and its public popularity, he offered a motion in support of the staff recommendation to accept the donation based on the conditions stated in the staff report. Commissioner Valderrama seconded the motion.

Commissioner Burdick offered gratitude to the members of the Public Art Committee for their service to the agency. She requested and received confirmation from Ms. Wise that the proposed donor intended to cast the piece in bronze with a painted finish. She requested and received confirmation from Ms. Wise, that of the members of the committee who found the preferred donation met the aesthetic criteria were not among the committee members who spoke during public comment. She reiterated that the committee members who spoke did not find the piece met the aesthetic criteria. Regarding the matter of whether the piece is popular, she stated for the record, that under the District Act one of the fiduciary obligations of the Board was to manage the public assets in a way that invites people to come to the tidelands, thus it could be found that keeping a bronze of the piece could meet that obligation. She stated she did not find that fiduciary obligation necessary to make a finding in the public interest. Nor, did she find it necessary to make a finding that the piece exemplifies a moment in time that happened 66 years ago in New York City that some may feel represents an assault and battery. She stated that she did not need to position the piece as an exception to the Public Art Master Plan or the Curatorial Strategy in order to support the motion. She stated her belief that the Board can abide the Public Art Master Plan and the Curatorial Strategy and respect the committee, while accepting the proposed donation, because the committee was not provided with specific direction regarding applying the aesthetic criteria. She expressed her concern regarding due process and the manner by which the committee accessed the piece; the concept of the criteria being considered as guidelines, and that each committee member was not directed to make their choice on each of the criteria by a separate vote. She stated that she could not give deference to the committee based on the process, she

acknowledged that accepting the proposed donation of the piece, presented in the context of its location next to the USS Midway Museum, was consistent with the Board's fiduciary responsibility to activate the waterfront. Thus, she stated that she would accept the motion not for the reasons offered in the staff report and not as the characterization as an exception to the Public Art Master Plan. She stated that when the Public Art Committee considers such matters in the future, she requested that staff do everything possible to empower the committee to make decisions that would withstand procedural scrutiny. She concluded her remarks and cited page two of the draft resolution, "Whereas, the District's Public Art Committee carefully reviewed the proposed donation..." and requested the word "careful" be deleted because she believed the committee was not provided the review tools necessary under the Public Art Master Plan.

Commissioner Peters offered his thoughts on the matter, discussed the intent of creating the Public Art Master Plan and that the resulting committee charter is different than the other advisory committees by design. He expressed concern regarding the practice of public officials participating in the selection of public art. He offered remarks regarding his experience with the Murals of La Jolla Program, the professional artists who commission the pieces, and the nationwide publicity for the program that promotes tourism and drives additional revenue to the area economy. Commissioner Peters requested that Mr. Perez clarify the committee vote results. Mr. Perez stated the non-professional artist appointees cast the four votes in support of accepting the proposed donation. Commissioner Peters concurred with the remarks that the Board has a fiduciary duty for the art on the waterfront as it does with all other matters, and he offered that an engineering decision was under consideration, the Commissioners would not substitute their judgment for the engineers' expertise. He offered that the Board has an obligation to listen to experts in all fields and stated his belief that the fiduciary role of the Board, in the matter under discussion, was to allow the Public Art Committee to do its work. He stated his role was not to comment on the art piece, but his role was to create a Master Plan for art, to enact that plan into policy and to follow the policy. He stated his hope that the progress made regarding the public art program could be appreciated and offered the committee members his support for the process.

Commissioner Valderrama reiterated his second. He discussed the commitment of the non-professional artist members of the committee and acknowledged their time and effort. He explained that the Board was tasked to consider committee recommendations and acknowledged the frustration one could feel when a committee decision is overturned. He shared his recent experience of surveying members of the public regarding the piece and discussed the positive responses he received. He discussed the piece as a means to activate the waterfront and acknowledged

Mr. McLaughlin's statements regarding raising funds for the casting and installation of a permanent piece. Commissioner Valderrama offered his commitment and appreciation to the Public Art Committee and stated he valued their input.

Commissioner Moore announced she would be leaving the meeting and wished to register her "yes" vote for the motion. She concurred with Commissioner Burdick's statement that the matter should not be considered an exception and the policy should be reviewed accordingly. She stated that she understood the goal of creating a critically acclaimed art collection, and offered that the goal be balanced with a tolerance and respect for the public's desires and needs. She stated her decision was a reflection of that balance.

Commissioner Nelson offered comments regarding the process and stated that he was not aware that the policy provided for decisions to be appealed to the Board. Commissioner Nelson conducted a brief survey among the individuals who addressed the Board regarding the matter during public comment. He commented on the motion and providing prospective donors with the opportunity to purchase and install the statue.

Commissioner Moore left the dais at 3:56 p.m. and was excused for the remainder of the regular meeting.

Commissioner Burdick stated for the record, that BPC Policy No. 609, sub-section 23(h)(4) sets forth "Criteria for Board Review: 4. a) The District's policy, as set forth herein, and as administered by the Public Art Office and/or the Public Art Committee, have been followed properly." She stated that was the point of criteria by which she could not determine whether the committee had followed the criteria properly based on the manner in which the committee conducted its business.

Chairman Smith thanked everyone for his or her remarks regarding the matter. He thanked the members of the Public Art Committee for their service. He discussed the impact of the piece and acknowledged that the matter under consideration spurred many emotions among stakeholders.

Celia Brewer, Interim Port Attorney, requested and received confirmation from Commissioner Nelson and Commissioner Valderrama that the motion included Commissioner Burdick's request to amend the text of the resolution.

On a motion of Commissioner Malcolm, seconded by Commissioner Valderrama, the Board adopted **Resolution 2012-38**, Authorizing Acceptance of the Proposed Donation of a Bronze Edition of Artwork "Unconditional Surrender" by Artist Seward Johnson, by the following vote: Yeas-Burdick, Malcolm, Smith and Valderrama; Nays-Nelson, Peters; Excused-Moore; Absent-None; Abstained-None.

RESOLUTION AUTHORIZING AGREEMENT BETWEEN THE SAN DIEGO UNIFIED PORT DISTRICT AND THE CITY OF CHULA VISTA FOR FINANCING OF THE CHULA VISTA BAYFRONT MASTER PLAN

Agenda Item 25. Item continued to a future Board meeting.

Commissioner Malcolm left the dais at 4:05 p.m. and returned at 4:07 p.m.

Chairman Smith left the dais at 4:06 p.m. and returned at 4:08 p.m.

PRESENTATION ON PROPOSED CHANGES TO THE MARKETING SPONSORSHIP AND FEE-FOR-SERVICE PROGRAM AND DIRECTION TO STAFF

Agenda Item 26. Brandy Christian, Vice President, Strategy & Business Development addressed the Board with a presentation on proposed changes to the Marketing Sponsorship and Fee-for-Service Program and requested direction to staff.

The following members of the public addressed the Board regarding the proposed changes to the program, the preparation of a third-party matrix, the cost of preparing economic impact reports and the benefits of activating the waterfront: Sandy Purdon, Big Bay Boom Fireworks and Sharon Cloward, San Diego Port Tenants Association.

Commissioner discussion ensued. Commissioner Valderrama requested that staff respond to Ms. Cloward's statements regarding the economic impact report requirement proposed in the staff recommendation. Ms. Christian clarified that the recommendation applies to sponsors of events that receive District funding in excess of \$75,000. She confirmed the applicant would bear the cost of the economic impact report preparation and acknowledged that applicants may increase their funding request to offset the cost of the report. Commissioner Valderrama requested and received confirmation that staff met with representatives from each of the member cities who expressed support for the process.

Commissioner Nelson thanked staff for their efforts to move the program forward. In response to his queries, Ms. Christian confirmed staff would draft and

implement an administrative procedure and incorporate the recommendations under consideration. He expressed his concern regarding the results reported in the summary report from the SEA San Diego America's Cup World Series (AC45), an out-of-cycle event sponsored by the District. Paul Fanfera, Principal, Business Development & Finance, Business Development & Marketing department, responded to Commissioner Nelson's questions regarding District expenses for the event, revenue projections, and the resulting revenue. He offered remarks regarding the expense associated with creating a third-party matrix. He suggested staff consider alternative ways to conduct surveys to measure results in addition to the expense related to preparing an economic impact report. He requested staff work with applicants to develop study criteria.

Commissioner Peters offered a motion in support of the staff recommendation. Regarding the proposed cost of conducting a study to measure the economic impact, he offered that he would rather allocate the limited funds available to promotion activities rather than using the grant funds for administrative costs to conduct studies.

Regarding the motion, Chairman Smith requested and Ms. Christian stated the staff recommendation, as outlined in the staff report, was to restructure the program into separate processes with different measurement criteria, a) eliminate the Fee-for-Service Program and transition the contracting for professional services to a staff function; b) establish Promotional-Revenue Generating Sponsorships (PRGS) and c) establish a program for Community Sponsorships.

Commissioner Burdick requested clarification regarding the community sponsorship events, cited the staff report reference to "District city" and Ms. Christian confirmed the events were intended to encourage member city citizen participation. Commissioner Burdick referenced page three of the staff report and requested whether staff could conceive of a possibility in which an applicant may request sponsorship support for District Services or park fee waivers, and that the actual service costs would exceed the actual revenue generated back to the District. Rita Vandergaw, Senior Director, Marketing, confirmed she could conceive of that possibility and explained that new events may take several years to become established in the community before showing a net return in revenue. Commissioner Burdick stated the importance of staff assessing the actual fee for service expenses waivers when considering applications and finding that the waived costs balances with the anticipated revenues. Ms. Christian offered a correction to page four of the staff report and explained that the Community Sponsorship Events would not be required to complete a return-on-investment (ROI) analysis. Commissioner Burdick requested and received clarification from Ms. Christian and Ms. Vandergaw regarding the program expense projections shown on Attachment B to the staff report and FY12-13 budget plans. In regard to the preparation an economic

analysis and as a means to address the additional expense for the economic impact report, she requested staff consider investing in an analytics template or a modeling program. Staff would provide event sponsors with a list of verifiable information data to collect that would be entered into the template to facilitate preparation of the proposed reporting requirement.

Commissioner Valderrama requested and received confirmation from Ms. Vandergaw that the programs shown in the attachments to the staff report received funding in the past and staff would be considering funding request applications for the upcoming fiscal year. Ms. Christian explained the recommendation to change to the process was in response to the concerns raised regarding the limited number of south bay events receiving District sponsorship in the past.

On a motion by Commissioner Peters, seconded by Commissioner Malcolm, the Board accepted the proposed changes to the Marketing Sponsorship and Fee-for-Service Program, by the following vote: Yeas-Burdick, Malcolm, Nelson, Peters, Smith, and Valderrama; Nays-None; Excused-Moore; Absent-None; Abstained-None

DISCUSSION OF BOARD ADVISORY COMMITTEES AND DIRECTION TO STAFF

Agenda Item 27. Randa Coniglio, Executive Vice President, Operations, addressed the Board with a presentation regarding the Board Advisory Committees, the Maritime Advisory Committee, the Real Estate Advisory Committee, and requested direction to staff. (A copy of the staff report and presentation is on file in the Office of the District Clerk.)

Sharon Cloward, Port Tenants Association, thanked staff for their work regarding the matter and their stakeholder outreach efforts. She acknowledged the staff recommendations and explained the tenants' preference that two Commissioners serve on both the Maritime Advisory Committee and the Real Estate Advisory Committee.

Commissioner discussion ensued. Commissioner Burdick acknowledged the staff presentation. She offered remarks regarding the overarching purpose, value and the role of committees to the District. She disagreed with the staff recommendation proposing that persons with a financial interest in the scope of the committee's work-plan be excluded from serving on the committees and offered that separate mitigation measures be developed to avoid potential conflict of interest situations. She discussed the role of Commissioners serving on the committees and stated her beliefs as to why Commissioners should not be voting on committee matters. In reference to the staff report, she offered that Commissioners who serve on committees with financially

interested members should be not called "liaisons" as that may imply a two-way discussion between the Board and Committee. Commissioner Burdick offered that Commissioner serving as committee members should be called "facilitators" and staff would continue to provide the committee action reports to the Board. She also recommended that a Commissioner be appointed to chair those committees that have no financially interested members.

As a means to standardize committee-voting procedures, Commissioner Burdick offered a multi-part motion regarding advisory committee governance: 1) no more than two Commissioners serve on any advisory committee and Commissioners are non-voting members of any advisory committee; 2) any Commissioners appointed to an advisory committee with financially interested members serve only as facilitators, they are not members of the committee nor considered a liaison to the Board and staff will continue to be responsible for objectively reporting back to the Board any committee action; 3) regarding Committees with no financially interested members, one of the Commissioners assigned would serve as Chair of that committee; 4) the Board Chair is authorized to immediately remove any committee member who violates the tenets of the policy. Commissioner Peters seconded the motion.

Commissioner Malcolm offered comments regarding financially interested parties serving on an advisory committee, the importance of avoiding any possible Government Code Section 1090 violations, and expressed concern regarding requiring advisory committee members to file a Form 700 Statement of Economic Interests. He offered that the motion was communicating to the public that the Board was avoiding any actual, perceived or potential conflicts of interest. He discussed his concern with the staff recommendation to bar parties with economic interests serving on advisory committees. He discussed the importance of having those individuals discuss matters of interest to the District and that dialogue being communicated back to the Board. Regarding her motion, he requested clarification from Commissioner Burdick as to whether advisory committee members with financial interest would take action by voting on matters.

Commissioner Burdick clarified her position and offered that no Commissioners serving on the committee would vote under any circumstances; she believed the advisory committee members should try to achieve a consensus; and, to the extent that the committee members do not achieve a consensus, then the committee members should vote on the matter.

Ms. Coniglio further clarified that the staff recommendation regarding advisory committee members not voting was only in reference to the re-constituted Real Estate

Advisory Committee. She offered that the Real Estate Advisory Committee would become more of a landlord-tenant advisory committee and a venue to evaluate relevant issues from tenant stakeholders. She reiterated that the Board would receive staff reports regarding the committee member consensus.

Commissioner Malcolm offered that all participants in the landlord-tenant advisory committee should not vote, but a general discussion of issues would be reported in the staff report or minutes from the meeting.

Commissioner Peters stated that he withdrew his second in that he would be leaving prior to the conclusion of the discussion. Commissioner Peters requested and received confirmation from Ms. Coniglio that it was staff's intent that the Audit Advisory Committee and the Public Art Committee would continue as currently structured. He offered comments regarding Commissioners serving on policy-making advisory committees and that at least two Commissioners should serve on each committee. He offered remarks regarding the benefits of the BPC Chairperson appointing three Commissioners to serve on an advisory committee. He acknowledged that the BPC Chairperson review the advisory committee work-plans and requested that the work-plans be brought before the Board for review prior to beginning work and considered on the consent agenda. Ms. Coniglio requested and received clarification regarding Commissioner Peter's comments regarding the committee work-plan reviews.

Commissioner Peters left the dais at 5:03 p.m. and was excused for the remainder of the meeting.

Commissioner Valderrama offered a second to Commissioner Burdick's original motion.

Commissioner Nelson requested and received confirmation from Ms. Brewer that the discussion was a means to implement a process to avoid any instances of self-dealing transactions that could possibly result from advisory committee actions and to avoid conflict of interest of any sort. Per his request, Commissioner Burdick clarified her motion regarding whether individuals with financial interest may serve on committees and whether those members may cast votes and the role of Commissioners serving on committees. Commissioner Nelson expressed his support for two Commissioners serving on an advisory committee, the BPC Chairperson would appoint one of those Commissioners as committee chair and the other would serve as vice-chair. He expressed concern with three commissioners serving and quorum related issues. Commissioner Nelson offered further comment regarding whether a Board member should offer motions during the advisory committee meetings, staff providing reports

from advisory committee meetings, and he requested further clarification from staff as to whether the action under consideration could help avoid potential problems.

Ms. Brewer restated that it was staff's intent to seek the Board's guidance in amending the advisory committee policies and to build-in some overarching policies to help avoid any conflicts whether real or perceived. She stated that the governance motion, as offered, would be added to each advisory committee policy; the amended Board policies, governing each of the committees and subcommittees would come back before the Board for consideration before implementation. She offered that committee specific rules would also come back before the Board for review, consideration and direction.

Commissioner Valderrama requested that the Board consider each portion of the original motion for a separate vote.

On a motion by Commissioner Burdick, seconded by Commissioner Valderrama, the Board directed staff to amend the District policy regarding committee governance and standardizing advisory committee voting, in that Commissioners will not offer a motion or vote at any advisory committee meeting and that no more than two Commissioners serve on any advisory committee, by the following vote: Yeas-Burdick, Malcolm, Nelson, Smith and Valderrama; Nays-None; Excused-Moore, Peters; Absent-None; Abstained-None.

Regarding the motion in which a Commissioner serves as a facilitator on a committee with financially interested members, Commissioner Nelson requested and received clarification from Chairman Smith that the BPC Chairperson would appoint those advisory committee's chairpersons.

Commissioner Malcolm requested and received confirmation from Chairman Smith and Commissioner Burdick that the matter before the Board was an overall or "umbrella" governance for all of the advisory committees and "case-by-case" guidance would also be considered for each advisory committee.

On a motion by Commissioner Burdick, seconded by Commissioner Valderrama the Board directed staff to amend the policy regarding committee governance and that, in instances when financially interested members are serving on an advisory committee, the Commissioners appointed will serve only as facilitators, not liaisons or members of the committee, and that staff is responsible for reporting any advisory committee action to the Board, by the following vote: Yeas-Burdick, Malcolm, Nelson, Smith and Valderrama; Nays-None; Excused-Moore, Peters; Absent-None; Abstained-None.

On a motion by Commissioner Burdick, seconded by Commissioner Valderrama, the Board directed staff to amend the policy regarding committee governance of committees with no financially interested members, so that one of the Commissioners appointed by the BPC Chairperson would serve as chair of that committee, by the following vote: Yeas-Burdick, Malcolm, Nelson, Smith; Nays-None; Excused-Moore, Peters; Absent-None; Abstained-None.

On a motion by Commissioner Burdick, seconded by Commissioner Valderrama, the Board directed staff to amend the policy regarding committee governance to provide that the BPC Chairperson is authorized to immediately remove any advisory committee member who violates the tenets of the policy, by the following vote: Yeas-Burdick, Malcolm, Nelson, Smith; Nays-None; Excused-Moore, Peters; Absent-None; Abstained-None.

Commissioner Burdick explained why she did not support the staff recommendation to re-name the Real Estate Advisory Committee the Port Tenant Advisory Committee. She offered a motion regarding the Real Estate Advisory Committee: 1) no Commissioners would serve as members of the committee, instead they would act as facilitators; 2) pursuant to the governance motion previously adopted the Real Estate Advisory Committee would be re-formed to be a Board of Port Commissioner-tenant discussion forum, with industry subject matter experts invited as recommended by staff; 3) staff would convene the advisory committee on as-needed basis; 4) in that there would be financially-interested parties serving on the committee, no voting would occur, and staff would endeavor to achieve member consensus; 5) staff would report the nature of the advisory committee discussions to the Board of Port Commissioners; 6) an annual work-plan adopted by the Real Estate Advisory Committee would be approved by the Board; 7) the Chairperson of the Board of Port Commissioners would consider matters requested by staff, the committee or tenants for placement on the agenda prior to convening a meeting of the Real Estate Advisory Committee; and 8) the Board may refer matters to the Real Estate Advisory Committee without the approval of the BPC Chairperson.

Commissioner Malcolm seconded the motion.

Commissioner Valderrama requested the maker of the motion include a provision that a minimum of two members of the Board of Port Commissioners serve as facilitators to the committee. Commissioner Burdick accepted the amendment to the motion; stated that the amendment deviated from the governance motion adopted and restated that a minimum of two members of the Board of Port Commissioners would be

appointed by the Board Chairperson to serve as facilitators to the Real Estate Advisory Committee.

Commissioner Nelson reiterated his concern regarding appointing three Commissioners to an advisory committee. He requested and received clarification from Ms. Coniglio whether members of the public, who were not part of the real estate industry, had served as committee members. He offered that in the future staff consider including non-technical experts on the committee. Commissioner Burdick clarified that her motion afforded staff the ability to invite subject matter experts to advise the committee in a guest speaker role as the need arises. He offered concerns regarding establishing an environment in which public policy is set with only landlords and tenants and discussed the benefits of having other community members participate as at-large members to provide alternative points of view from outside of the industry. Commissioner Burdick offered that under the Brown Act, the meetings are publicly noticed and all members of the community may participate public meetings.

On a motion by Commissioner Burdick, seconded by Commissioner Malcolm, the Board adopted the following provisions regarding the Real Estate Advisory Committee: 1) no Commissioners would serve as members of the committee, instead they would act as facilitators; 2) pursuant to the governance motion adopted earlier in the March 6, 2012 regular meeting of the Board of Port Commissioners, the Real Estate Advisory Committee would be re-formed as a Board-Tenant discussion forum with industry subject matter experts invited upon staff recommendation; 3) staff would convene the advisory committee on as-needed basis; 4) in that there are financially-interested parties serving on the committee, no voting would occur and staff would endeavor to achieve member consensus; 5) staff would report back the nature of the advisory committee discussions to the Board of Port Commissioners; 6) an annual work-plan adopted by the Real Estate Advisory Committee would be approved by the Board; 7) the Chairperson of the Board of Port Commissioners would consider matters requested by staff, the committee or tenants for placement on the agenda prior to convening a meeting of the advisory committee; 8) the Board may refer matters to the Real Estate Advisory Committee without the approval of the BPC Chairperson and 9) the Chairman of the Board shall appoint a minimum of two members of the Board of Port Commissioners as Real Estate Advisory Committee facilitators, by the following vote: Yeas-Burdick, Malcolm, Nelson, Smith and Valderrama; Nays-None; Excused-Peters, Moore; Absent-None; Abstained-None.

Commissioner Burdick offered a motion, seconded by Commissioner Malcolm that the Board adopt the following provisions regarding the Maritime Advisory Committee: 1) no Commissioners would serve as members of the committee, instead they would act

as facilitators; 2) pursuant to the governance motion adopted earlier in the March 6, 2012 regular meeting of the Board of Port Commissioners, the Maritime Advisory Committee would be re-formed as a stakeholder discussion forum and may include, but is not limited to, maritime experts, stevedore companies, other California port representatives, shipping lines, logistic companies, and other interested stakeholders; 3) staff would convene the advisory committee on as-needed basis; 4) in that there are financially-interested parties serving on the committee, no voting would occur and staff would endeavor to achieve member consensus; 5) staff would report the nature of the advisory committee discussions back to the Board of Port Commissioners.

Commissioner Valderrama offered that he was in support of the motion, and requested that prior to the reforms being implemented he convene a meeting of the current committee with a member of the Port Attorney's staff present to inform them of the Board's action.

Commissioner Nelson acknowledged the motion and reiterated his support for the BPC Chairperson appointing various stakeholders who may represent other segments of the community.

Wayne Darbeau, Executive Director, requested Commissioner Burdick consider including members of organized labor be represented on the committee. She concurred and amended the motion to include the following: 6) an annual work-plan adopted by the Maritime Advisory Committee would be approved by the Board; 7) the Chairperson of the Board of Port Commissioners would consider matters requested by staff, the committee or tenants for placement on the agenda prior to convening a meeting of the advisory committee.

Commissioner Valderrama reiterated his request that prior to adoption the matter be taken back before the committee for review.

Commissioner Nelson requested and received confirmation from Chairman Smith that the Board may refer matters to the Maritime Advisory Committee without the approval of the Chairperson.

On motion by Commissioner Burdick, seconded by Commissioner Malcolm, the Board adopted the following provisions regarding the Maritime Advisory Committee: 1) no Commissioners would serve as members of the committee, instead they would act as facilitators; 2) pursuant to the governance motion adopted earlier in the March 6, 2012 regular meeting of the Board of Port Commissioners, the Maritime Advisory Committee would be re-formed as a stakeholder and may include but is not limited to

maritime experts, stevedore companies, other California port representatives, shipping lines, logistic companies, and other interested stakeholders; 3) staff would convene the advisory committee on as-needed basis; 4) in that there are financially-interested parties serving on the committee, no voting would occur and staff would endeavor to achieve member consensus; 5) staff would report back to the Board of Port Commissioners the nature of the advisory committee discussions; 6) an annual work-plan adopted by the Maritime Advisory Committee would be approved by the Board; 7) the Chairperson of the Board of Port Commissioners would consider matters requested by staff, the committee or tenants for placement on the agenda prior to convening a meeting of the advisory committee, and 8) the Board may refer matters to the Maritime Advisory Committee without the approval of the BPC Chairperson by the following vote: Yeas-Burdick, Malcolm, Nelson, Smith and Valderrama; Nays-None; Excused-Peters, Moore; Absent-None; Abstained-None.

Commissioner Nelson left the dais at 5:35 p.m. and returned at 5:38 p.m.

RESOLUTION GRANTING CONCEPT APPROVAL FOR THE PROPOSED LANE FIELD SETBACK PARK/PLAZA FOR NEVP PHASE 1D

Agenda Item 28. Karen Weymann, Director, Real Estate, addressed the Board regarding the concept approval for the proposed Lane Field Setback Park/Plaza for North Embarcadero Visionary Plan Phase 1D. She turned the presentation over to Shaun Sumner, Area Real Estate Manager, Real Estate, who presented the matter, explained that the project was planned for a phased implementation and requested the Board's consideration of the concept. Scott Jordon, Civitas, and Jerry Trammer, Lane Field Developers, LLC, were present to answer any questions. (A copy of the staff report and presentation are on file in the Office of the District Clerk.)

Chairman Smith left the dais at 5:37 p.m. and returned at 5:39 p.m.

Timothy Deuel, District Clerk, requested that Mr. Sumner stop his presentation until a quorum was re-established. Commissioner Nelson returned at 5:38 p.m. at which time the meeting resumed and Mr. Sumner continued with his presentation.

Chairman Smith returned at 5:39 p.m.

Mr. Sumner clarified the staff report and stated that the park plaza project was previously approved by the Coastal Commission under NEVP Phase I. The park plaza project was not a separate project.

The following members of the public submitted a request to speak form: Jerry Trammer, Lane Field Developers, LLC, declined the opportunity to speak. Ian Trowbridge and Graham Forbes submitted speaker slips, but were not present when called to speak, and thus did not address the Board.

Commissioner discussion ensued. Commissioner Burdick acknowledged the design concept, acknowledged the District's desire to acquire the parcel at 1220 Pacific Highway and to simultaneously move forward with the entire park project. She offered a motion to accept the staff recommendation. Commissioner Nelson seconded the motion. Commissioner Burdick stated her understanding was that the project was intended to be one long park running from the San Diego County Administration Building to Broadway and discussed the setback distances under consideration. She requested staff consider the following concerns as the concept develops: the placement of trees depicted in the renderings may break up the long expansive park view; regarding public safety, she offered concerns regarding the baseball diamond concept and it could become an "attractive nuisance" and the pitching mound was an inherent temptation for people to pitch a ball and that activity could cause injury; and she discussed the potential safety concerns regarding the notion of intimate garden rooms created by the plantings that would be covered from visual observation.

Commissioner Valderrama expressed a similar concern regarding the baseball diamond and pitching mound concept and concurred with Commissioner Burdick's observations. He offered that a statue or some remembrance of Ted Williams placed at home plate could deter pitching and hitting.

Commissioner Nelson acknowledged the concerns offered by the Commissioners and suggested that the concerns be balanced with the overall artistry of the concept. He offered consideration be given regarding placing a sculpture of Ted Williams in the park. Commissioner Nelson requested and received clarification from Mr. Jordan regarding the intimate garden room concept. Mr. Jordan clarified the plantings would be a maximum height of approximately 3-feet tall with low plantings and trees and seated individuals would be visible. He acknowledged the concerns and offered remarks regarding the uninterrupted linear space concept in the plan and the visual line of palm trees proposed to draw the eye.

Commissioner Malcolm discussed his experience with the Pier Plaza Park proposal in Imperial Beach and that similar concerns were voiced regarding a large football field size green space. He stated that 12 years later those well-intentioned concerns had not yet materialized. He offered his support for the concept and acknowledged the concern regarding the potential "attractive nuisance" be balanced

with the attractiveness of the design of tracing the base line path. He offered his concepts for depicting Ted Williams as a baseball player and as a uniformed member of the armed services that could be placed at the site.

Commissioner Smith stated he liked the park concept and concurred with the discussion regarding incorporating a statue of Ted Williams at the site.

On a motion of Commissioner Burdick, seconded by Commissioner Nelson, the Board adopted **Resolution 2012-39**, Granting Concept Approval for the Proposed Lane Field Setback Park/Plaza for NEVP Phase 1D, by the following vote: Yeas-Burdick, Malcolm, Nelson, Smith; Nays-None; Excused-Peters, Moore; Absent-None; Abstained-None.

GOVERNMENT AND COMMUNITY RELATIONS UPDATE ON SENATE BILL 623 (KEHOE) AND DIRECTION TO STAFF

Agenda Item 29. Item continued to a future Board meeting.

REVIEW AND CONSIDERATION OF PROPOSED BOARD AGENDA FOR THE MEETING OF APRIL 10, 2012

Agenda Item 30. In lieu of the Climate Mitigation and Adaptation Plan discussion and before moving forward with Board consideration of the plan, Sharon Cloward, Port Tenants Association, addressed the Board and requested their consideration and directing staff to add an item regarding the progress of the development of renewable energy project. Ms. Cloward stated that two advisory committees had recommended the Board consider approval of the renewable energy project discussed at the January 10, 2012 Board meeting.

Randa Coniglio, Executive Vice President, Operations, addressed the request and stated that, prior to moving forward, staff was seeking further written information from the State Lands Commission regarding their concerns. Thus, she requested the Board's consideration to defer docketing the item.

Commissioner Burdick requested and received clarification from Ms. Coniglio that it was staff's desire to have written comments from the State Lands Commission in the near future.

In response to Ms. Cloward's earlier statements asserting committee approval of the matter, Commissioner Nelson clarified his understanding of the action taken by the Environmental Advisory Committee and the Maritime Advisory Committee regarding the

renewable energy project. He explained that the Maritime Advisory Committee voted to move the matter before the Board for discussion and consideration. He stated, for the record, his concern regarding **item 9** on the proposed agenda: a Resolution Authorizing the Execution and Delivery of an Expansion Lease for the existing Convention Center Expansion to be entered into in connection with the refunding of the outstanding Convention Center Expansion Financing Authority Lease Revenue Bonds, Series 1998A and approving other documents and actions required in connection with said refunding.

Celia Brewer, Interim Port Attorney, offered that the item was not regarding a new project but a matter related to the Convention Center Expansion Financing Authority Lease Revenue Bonds.

On motion of Commissioner Valderrama, seconded by Commissioner Malcolm, the Board adopted the proposed agenda for the meeting of April 10, 2012, by the following vote: Yeas-Burdick, Malcolm, Nelson, Smith; Nays-None; Excused-Peters, Moore; Absent-None; Abstained-None.

OFFICER'S REPORT

Agenda Item 31. In accordance with BPC Policy No. 110, the following change orders, executed by the Executive Director or designee, were reported:

- A) Change Order No. 3 for (\$24,753.05) and 0 Calendar Days to Contract No. 2009-23 with R.E. Staite Engineering, Inc. for Embarcadero Marina Park South Revetment Replenishment, San Diego, CA
- B) Change Order No. 5 for \$5,268.75 and 0 Calendar Days to Contract No. 2009-30 with PAL General Engineering, Inc. for Tidelands ADA Accessibility Improvements Phase II, San Diego, CA
- C) Change Order No. 1 for \$5,750 and 30 Calendar Day to Contract No. 2010-25R with Tetra Tech Construction Services, Inc. for NCMT Admin Bldg Wireless Connectivity Project, San Diego, CA
- D) Change Order No. 2 for \$23,608.35 and 0 Calendar Days to Contract No. 2011-02 with R.E. Staite Engineering, Inc. for B Street Pier South Berth Fender System Upgrade, San Diego, CA.

CONSENT AGENDA CONTINUED

RESOLUTION AUTHORIZING THE THIRD AMENDMENT TO AGREEMENT WITH DUDEK TO PROVIDE ENVIRONMENTAL CONSULTING SERVICES FOR THE NORTH EMBARCADERO PORT MASTER PLAN AMENDMENT ENVIRONMENTAL

IMPACT REPORT TO MODIFY THE SCOPE OF SERVICES, MODIFY THE HOURLY RATES PAID AND INCREASE THE MAXIMUM EXPENDITURE PAYABLE UNDER THE AGREEMENT BY \$457,000 FOR A NEW TOTAL MAXIMUM EXPENDITURE NOT TO EXCEED \$804,578.

Agenda Item 10. Nick Marinovich offered remarks regarding finding a means to lower consultant costs. In light the uncertainty regarding sources of funding for redevelopment projects, he expressed concern regarding the proposed expenditure for studying alternatives which he stated may not be feasible.

Marilyn Fields submitted a request to speak form in opposition to the staff recommendation, but she was not present when called upon to speak and thus did not address the Board.

Diane Coombs announced from the audience her request to speak, Chairman Smith stated he did not receive a request to speak form from her regarding the item.

James Hirsch, Acting Director, Environmental & Land Use Planning Management, acknowledged that a portion of the consulting services were used for urban design and planning work. He stated that this was due to the nature of the issues raised during the Citizen's Advisory Council meetings, however that the bulk of the funds were used for California Environmental Quality Control (CEQA) related work. He offered that it was his understanding that Ms. Coombs concerns were whether the USS Midway Museum's (Midway) was funding their portion of the CEQA analysis costs that would be incurred related to the tenant's proposed alternatives. Mr. Hirsch stated, for the record, that the existing lease with the Midway provides the tenant would fund up to \$100,000 to offset the cost of preparing the alternatives and project descriptions for their proposal. Given the diversity of the proposal, he stated that there was an on-going negotiation with the Midway to increase that sum.

Commissioner Valderrama requested clarification from Ms. Coombs as to whether her concerns were properly characterized by staff. Ms. Coombs concurred that her concerns were expressed and stated she looked forward to hearing that the negotiations were successful and the Midway would cover the full costs of the proposal.

On a motion by Commissioner Burdick, seconded by Commissioner Valderrama the Board adopted **Resolution 2012-30**, authorizing the Third Amendment to agreement with Dudek to provide Environmental Consulting Services for the North Embarcadero Port Master Plan Amendment Environmental Impact Report to modify the scope of services, modify the hourly rates paid and increase the maximum expenditure

payable under the agreement by \$457,000 for a new total maximum expenditure not to exceed \$804,578, by the following vote: Yeas-Burdick, Malcolm, Nelson, Smith and Valderrama; Nays-None; Excused-Peters, Moore; Absent-None; Abstained-None.

RESOLUTION ADOPTING PLANS AND SPECIFICATIONS AND AWARDED CONTRACT NO. 2011-05 TO HUGO ALONSO, INC. FOR B STREET PIER CRUISE SHIP TERMINAL CANOPY INSTALLATION, SAN DIEGO, CALIFORNIA, IN THE AMOUNT OF \$1,097,526

Agenda Item 11. Nick Marinovich, C3, addressed the Board in opposition to the staff recommendation. In light of the current use of the pier for cruise ship operations, he requested that the Board undertake long-term planning efforts and study the opportunity for developing alternative uses for B Street Pier as a means to better activate waterfront.

Diane Coombs addressed the Board in opposition to the staff recommendation. She expressed concern regarding budget priorities and that those priorities be aligned to facilitate the acquisition of the property at 1220 Pacific Highway for the proposed set back park development. She expressed concern regarding funding for mooring dolphins. She stated that she would bring her concerns to the California Coastal Commission and, if necessary, she would take the matter to court as a member of the new Broadway Complex Coalition.

Marilyn Fields submitted a request to speak form in opposition to the staff recommendation, but was not present when called upon to speak and thus did not address the Board.

John Lomak, C3, 2012 President, addressed the Board in opposition to the staff recommendation. He shared his experience as a cruise passenger embarking from the B Street Cruise Ship Terminal. He discussed the recent challenges faced by the cruise industry. He expressed concern regarding the impacts of homeland security requirements and Traffic Safety Administration (TSA) procedures necessary to service the cruise industry on a visitor-serving area of the waterfront. Mr. Lomak requested the Board use the funding allocated for the canopy installation to explore planning, waterfront activation and alternatives for relocating cruise operations.

Joel Valenzuela, Director, Maritime Operations, addressed the Board regarding the staff recommendation and requested their consideration to authorize staff to move forward with the major maintenance project. He explained that due to the disrepair of

the canopy the District receives a number of service complaints because passengers are often exposed to the inclement weather.

Commissioner Nelson acknowledged the speakers' remarks and discussed the challenges with relocating the cruise ship facilities. He offered a motion that the consideration of the matter be continued for thirty-days to accommodate upcoming meetings with cruise industry professionals to discuss future business opportunities. Commissioner Malcolm seconded the motion.

Brian Stup, Chief Engineer, addressed the motion and expressed concern regarding a delay. He explained that the project included a six-month construction schedule and the timeline was based upon staff's desire to complete the project prior to cruise season commencing in the fall.

Commissioner Nelson acknowledged the concern and reaffirmed his motion.

Mr. Valenzuela offered, for the Board's consideration, that a delay would adversely affect the opening of the fall cruise season. He explained that a ship scheduled for the beginning of the season was a prospective client's vessel and that the District was actively working to develop more business with that cruise line.

Commissioner Burdick stated she her opposition to the motion. Regarding the public statements asserting the project was a major facility renovation, she offered that it was her belief that matter was a maintenance project to a public facility, and was necessary to address public safety and passenger comfort needs. She also acknowledged the speaker's concerns offered regarding the facility and the request for long-term planning for the pier.

Commissioner Valderrama commented on the motion to continue the item, acknowledged the importance of making the best possible first impression with a potential client and expressed concern that the delay would affect scheduling and completion of the project.

Commissioner Malcolm offered he believed the motion was reasonable. He recognized that Commissioner Nelson would soon be meeting with cruise industry leaders on behalf of the District. He acknowledged that a potential customer was visiting and reiterated his support for the motion.

Brandy Christian, Vice President, Strategy & Business Development, Business Development & Marketing department, offered background regarding the matter and that staff worked to prioritize the maintenance needs at the B Street Cruise Ship

Terminal. She reiterated that the canopies had been a long-standing maintenance issue and a source of customer concern. In light of the competition for the limited cruise business opportunities, she explained that operators place a high value on the customer experience and their exposure to the elements was of concern. Thus, staff determined replacing the canopies was important for the customer's experience and an improvement to the facility aesthetics.

Chairman Smith acknowledged the importance of addressing maintenance projects at waterfront facilities and the preference of completing repairs when passengers are not present. He acknowledged the desire to look at long-term planning regarding the facility and the cruise industry business. He stated he was opposed to the motion to continue the matter.

The motion by Commissioner Nelson, seconded by Commissioner Malcolm to continue the item to the April 10, 2012 regular Board meeting, failed due to lack of majority by the following vote: Yeas-Malcolm, Nelson; Nays-Burdick, Smith and Valderrama None; Excused-Moore, Peters; Absent-None; Abstained-None.

On a motion by Commissioner Burdick, seconded by Commissioner Valderrama the Board adopted **Resolution 2012-31**, Adopting Plans and Specifications and Awarding Contract No. 2011-05 to Hugo Alonso, Inc. for B Street Pier Cruise Ship Terminal canopy installation, San Diego, California, in the amount of \$1,097,526, by the following vote: Yeas-Burdick, Malcolm, Smith and Valderrama; Nays-Nelson; Excused-Peters, Moore; Absent-None; Abstained-None.

RESOLUTION AUTHORIZING REVISED MEMORANDUM OF UNDERSTANDING BETWEEN SAN DIEGO UNIFIED PORT DISTRICT, CITY OF SAN DIEGO AND CITY OF IMPERIAL BEACH TO EXPLORE USES FOR POND 20

Agenda Item 16. Kurt Farrington, Bayside Villas Home Owners Association, addressed the Board and read a statement into the record regarding the residents concerns about the exploration of uses for Pond 20. Mr. Farrington offered he would forward a copy of the letter to the District for distribution to the Board. (A copy of the letter is on file in the Office of the District Clerk.)

Cindy Gompper Graves, South County Economic Development Corporation, addressed the Board in support of the staff recommendation. She acknowledged the staff's efforts to answer stakeholder questions and the recent presentation regarding the matter. She discussed the desire for a short-term plan to improve the aesthetics of Pond 20 site. She commented on long-term planning for Pond 20 and the exploration of

economic opportunities. Ms. Gompper Graves expressed concern regarding the current condition of the site and requested the Board take action and direct staff to address the short-term concerns.

Michele White, Environmental Policy Manager, Government & Community Relations, discussed the District's outreach efforts to solicit stakeholder feedback and concerns. She explained that staff was compiling all the public comments and that information would be made available to potential project proposers.

Commissioner Malcolm thanked Ms. Gompper Graves and acknowledged her comments. He confirmed that when the South Bay Wildlife Refuge was created, Pond 20 was excluded for later future potential economic development as memorialized in a letter on file with the District. With respect to Mr. Farrington's comments, Commissioner Malcolm stated the District, the City of San Diego and the City of Imperial Beach are engaged in a process to determine what may be feasible for the site, staff is pursuing outreach efforts and actively seeking stakeholder input, and no project has been determined for the site. He stated the Board has no preconceived notions with respect to what will happen on the property. Commissioner Malcolm offered a motion to adopt the staff recommendation. Commissioner Burdick seconded the motion.

Commissioner Nelson thanked the Mr. Farrington for his comments and for speaking on behalf of his fellow association members. He stated that outreach efforts would be facilitated to ensure that all stakeholders have the opportunity to participate in the process and that their input is considered. He reiterated there was no predetermined project planned for the property. Commissioner Nelson called the question and Commissioner Burdick concurred with the request.

On a motion by Commissioner Malcolm, seconded by Commissioner Burdick the Board adopted **Resolution 2012-35**, Authorizing Revised Memorandum of Understanding Between San Diego Unified Port District, City of San Diego and City of Imperial Beach to Explore Uses for Pond 20, by the following vote: Yeas-Burdick, Malcolm, Nelson, Smith and Valderrama; Nays-None; Excused-Peters, Moore; Absent-None; Abstained-None.

PRESIDENT'S REPORT

Agenda Item 32. None

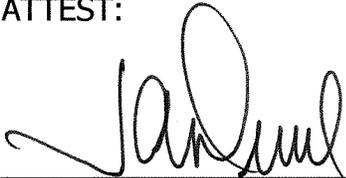
COMMISSIONER COMMENTS/REVIEW OF TODAY'S MEETING

Agenda Item 33. Commissioner Burdick provided an update regarding the recent Asia trade mission to China and Japan. She offered that the trade mission was very productive; she discussed her tour of the Port of Yokohama and remarked on the newly constructed cruise ship terminal with a rooftop park that is accessed as public space by more than one million visitors annually. She discussed the media event hosted at the Nanjing World Trade Center and signing the International Trade Agreement with the Port of Nanjing on behalf of the District. Commissioner Burdick offered that the Port of Nanjing representatives acknowledged their relationship with Wayne Darbeau, Executive Director, and that they looked forward to learning about environmental stewardship, public access and waterfront activation from the District.

As an example of the commitment to being an exemplary port, Chairman Smith discussed the results of the trade mission to India in which Wayne Darbeau, Executive Director and Ron Popham, Principal, Trade Development generated new direct cargo business with Suzlon Wind International Company. The presentation noted that four shipments were received at the Tenth Avenue Marine Terminal between December 2011 to March 2012 and generated estimated revenue of \$160,000. Chairman Smith stated that more business was expected. The cargo included engines and covers from India and Europe as well as wind energy towers from South Korea and totaled 65,000 cubic meters and 7,340 metric tons. He continued the presentation by explaining the cargo was sent to the Tehachapi Mountains in California. He explained that Mr. Darbeau was one of two United States Port Directors who traveled to India with United States Under Secretary of Commerce for International Trade Francisco Sanchez to explore opportunities in the ports and maritime technology sector. (A copy of the presentation is on file in the Office of the District Clerk.)


Secretary, Board of Port Commissioners
San Diego Unified Port District

ATTEST:


Clerk of the San Diego Unified Port District

**MINUTES
BOARD OF PORT COMMISSIONERS
SAN DIEGO UNIFIED PORT DISTRICT**

As previously posted, a special meeting of the Board of Port Commissioners of the San Diego Unified Port District was called to order by Chairman Smith at 8:35 a.m., Wednesday, April 4, 2012, in the Training Room at 3165 Pacific Highway, San Diego, California.

ROLL CALL

Agenda Item 1.

Present: COMMISSIONERS Burdick, Malcolm, Moore, Nelson, Peters, Smith, and Valderrama.

OFFICERS: Brewer, Darbeau, Deuel, McEntee and Stup

Absent: No Commissioners absent.

Excused: No Commissioners excused.

PUBLIC COMMUNICATIONS

Agenda Item 2. Mary Coakley Munk and Don Goertz, AIA, addressed the Board regarding constructing safe public restroom facilities on the tidelands.

CAPITAL RESOLUTION APPROVING AMENDMENTS TO THE FY 2009-2013 CAPITAL IMPROVEMENT PROGRAM

Agenda Item 3. Chairman Smith introduced Steve Alexander from the Steve Alexander Group who reviewed the agenda, described the workshop process, explained his role as a facilitator and introduced the members of staff who would be presenting the staff recommendation and assisting during the workshop. He explained the objectives of the Capital Improvement Program (CIP) Workshop.

Each Commissioner offered brief opening remarks regarding their expectations for the workshop.

Wayne Darbeau, Executive Director, began the staff presentation and acknowledged the former, as well as current Board members, for serving on an ad hoc

committee to address the CIP process. He stated that, through their efforts, the refinements to BPC Policy No. 120 were implemented. He thanked staff for their commitment to the CIP program and for planning for the workshop. Mr. Darbeau offered an overview of the workshop presentations and turned the presentation over to Brian Stup, Chief Engineer.

Mr. Stup addressed the Board and reviewed the program methodology and offered definitions of the following: 1) a capital improvement project, 2) a major maintenance project and 3) a project fully funded with grant resources. He reviewed the goals for the FY 2009-2013 CIP workshop in conjunction with the District's Strategic Goals.

Regarding the workshop process, Commissioner Burdick requested and received clarification from Mr. Stup that later in the workshop each project would be reviewed systematically and staff would be available to address specific questions. Mr. Stup turned the presentation over to Jeff McEntee, CFO/Treasurer.

Mr. McEntee provided an overview of the various sources of funding for the CIP. He reviewed the available funds for the FY 2009-2013 CIP and for the upcoming FY 2014-2018 CIP. Mr. McEntee responded to Commissioner Valderrama's queries regarding the composition of the funds shown in the designated or restricted reserves. Mr. McEntee offered the staff recommendation regarding the funding resources for the CIP through FY 2018. Mr. McEntee responded to Commissioner Malcolm's queries regarding the CIP funding sources. Mr. McEntee responded to Commissioner Nelson's queries regarding the FY 2018 revenue projections. Commissioner Malcolm offered follow up remarks regarding future-year budget projections, operating deficits, funding of CIP projects and major maintenance needs and offered that Board policy decisions would be required to address funding in the future. Chairman Smith acknowledged Commissioner Malcolm's statements and offered that the District budget policy matters and funding for major maintenance needs would be discussed during the upcoming budget workshop process.

Mr. McEntee turned the presentation over to Charlene Dennis, Capital Project Manager, Engineering and Construction who addressed the Board with a brief review of the proposed changes to the current FY 2009-2013 CIP and the associated projects in Category 1: Currently funded projects needing additional funding (6 projects); Category 2: New projects proposed for FY 2013 funding authorization (4 projects) and Category 3: Currently funded projects proposed for reallocation (2 projects).

Commissioner queries requesting clarification regarding the following CIP projects were responded to by staff: the former Navy Pier Head House demolition project (Reference No. 210); NEVP Phase 1D – Lane Field Setback Park/Plaza; H Street Extension (Reference No. 19); Crosby Street Pier Modification and TAMT Staff Relocation - National Oceanic and Atmospheric Administration (NOAA). (A copy of the

staff report, presentation and supplemental reference materials are on file in the Office of the District Clerk.)

The following members of the public addressed the Board regarding the CIP projects: Jim Sandoval, City Manager, City of Chula Vista; Richard Bartell, Bartell Hotels; Sharon Cloward, San Diego Port Tenants Association; Alice Lamberger, Point Loma Marina and Georgette Gómez, Environmental Health Coalition.

Commissioner Burdick acknowledged Mr. Bartell's public comments related to the Harbor Drive realignment project. She requested and received clarification regarding the benefits from the additional parking that would be gained by moving forward with the realignment project. Mr. Bartell also offered comments regarding issuing a request for proposal for the construction of the proposed parking structure by a private developer as a facility to supply more customer and visitor parking.

Mr. Alexander discussed the filter mechanism proposed by staff to assist with facilitating the Board discussion regarding the priority of projects and subsequent funding considerations.

Chairman Smith announced the Board would take a brief recess at 9:25 a.m. All of the Commissioners were present and the workshop resumed at 9:35 a.m.

After the recess, Mr. Alexander suggested that the Board move ahead with the workshop and explained that upon reflection, staff determined the proposed filter mechanism would not be utilized. Alternatively, as a means to seek consensus, staff would review each of projects under recommendation and requested Commissioners offer comments or questions regarding each project and the associated funding request.

The Board requested and received clarification on a variety of CIP project related issues regarding the following CIP projects: TAMT Shore Power – Design (Reference No. 40B); America's Cup Harbor Improvements - Phase II Parking Facility – Westy's (Reference No. 212); Chula Vista Filling of the "L" Ditch Habitat Replacement/Remediation (Reference No. 40); and the H Street Extension (Reference No. 19).

Randa Coniglio, Executive Vice President, Operations, distributed a letter to the Board from Stuart Jablon, Vice President, Operations, Dole Fresh Fruit Company, dated April 3, 2012, regarding their fleet of ships utilizing shore power at the District's terminals. (A copy of the letter is on file in the Office of the District Clerk)

Regarding the discussion of allocating the recommended additional funding proposed in the FY 2014-2018 CIP for the Chula Vista Filling of the "L" Ditch Habitat Replacement/Remediation (Reference No. 40) and the H Street Extension (Reference No. 19), Commissioner Burdick offered a motion, seconded by Commissioner Malcolm that the Board proceed with consideration of coming to a consensus regarding those two projects. In addition, the Board would defer consideration of the B Street Pier

Mooring Dolphin (Reference No. 229) and the Navy Pier Head House Demolition (Reference No. 210) to the June 7, 2012 FY 2014-2018 CIP Workshop.

Commissioner Nelson requested clarification from Joel Valenzuela, Director, Maritime Operations, regarding deferring consideration of the Mooring Dolphin project. Mr. Valenzuela acknowledged the motion and recommended starting with the Environmental Impact Report on the project.

Commissioner Peters offered remarks regarding his preferences for funding of the H Street Extension project.

Commissioner Moore offered comments regarding the importance of moving forward with the L Ditch and H Street Extension projects.

The review of projects continued and the Board requested and received clarification on issues related to the following CIP projects: NEVP Phase 1D (Lane Field Setback Park/Plaza) - (Reference No. New); Pre-Design Chula Vista Bayfront Master Plan (CVBMP) - (Reference No. New) and Crosby Street Pier Modernization and TAMT Staff Relocation (NOAA) - (Reference No. New).

The Board recessed at 12:30 p.m. Chairman Smith reconvened the workshop at 1:15 p.m. Chairman Smith announced that all of the Commissioners were present except for Commissioner Burdick and then called the special meeting back to order.

Mr. McEntee continued with the staff presentation and reviewed the America's Cup Harbor Improvements, Phase I North Harbor Drive Realignment (Phase I North Harbor Drive Realignment). Timothy Deuel, District Clerk, distributed a letter to Board from Jerry Sanders, Mayor, City of San Diego, dated April, 4, 2012, regarding the conveyance of an easement for street purposes covering a portion of North Harbor Drive and Scott Street (between Nimitz Boulevard and Scott Street) to address one of the conditions of the Board of Port Commissioners November 2011 conditional approval of the District's financial support for the proposed Phase 3 expansion of the San Diego Convention Center. Mr. McEntee also discussed possibly creating additional metered parking spaces as a means to generate additional revenue for the District and encourage the use of the proposed parking structure. (A copy of the letter is on file in the Office of the District Clerk.)

Commissioner discussion ensued regarding the project. Commissioner Nelson discussed the benefits of the project and offered his support. He expressed concern regarding the pace of the response from the Mayor's Office and the City of San Diego regarding the matter and read from a portion of the City's letter. Concerning the period of time in which the matter had been under consideration, Ms. Coniglio offered background information and confirmation that one of the conditions for District funding support for Phase 3 of the proposed Convention Center expansion project was the City of San Diego's assistance with the conveyance of the easement and the right-of-way

related to the project. Commissioner Nelson reiterated his support for the Phase I North Harbor Drive Realignment project.

Commissioner Moore expressed her support of the Phase I North Harbor Drive Realignment project and discussed the benefits of the project to the District and the area business people.

Commissioner Peters briefly discussed the matter of the easement, the past responses from the City of San Diego, the funding for the proposed expansion of the Convention Center and the importance of granting the right-of-way. He expressed his support for the Phase I North Harbor Drive Realignment project and adopting the staff recommendation for allocating funding.

Commissioner Valderrama concurred that the Phase I North Harbor Drive Realignment project was worthwhile and requested the decision be deferred until the June 2012 CIP workshop to gain additional information regarding the City of San Diego's actions to address the easement matter.

Commissioner Malcolm acknowledged the importance of the Phase I North Harbor Drive Realignment project, discussed the benefits of the project and concurred with Commissioner Valderrama's statements regarding the matter. He offered that the conveyance of the easement from the City of San Diego be a condition of approving allocating the CIP funds for the project.

Chairman Smith concurred with the comments made by Commissioner Valderrama and Commissioner Malcolm regarding the easement matter and questioned the need for the funding to be allocated in the FY 2013 CDP program. He offered that the matter be considered at the June workshop.

Commissioner Peters requested his colleagues consider allocating the funds for the Phase I North Harbor Drive Realignment project in the current CIP program. He discussed the benefit of budgeting funds for the project as the action indicates the District's commitment and also encourages the City of San Diego's timely response regarding the easement. He offered that the associated funds could be reallocated should the City of San Diego not grant the necessary easement.

Commissioner Burdick concurred with Commissioner Peter's recommendation to allocate funding in the FY 2013 CIP for the Phase I North Harbor Drive Realignment project.

Mr. Darbeau reported on recent meetings with Chairman Smith and San Diego Mayor Jerry Sanders regarding the 11 conditions under which the Board approved funding for the proposed Convention Center expansion. He offered that staff concurred with Commissioner Peters' and Commissioner Burdick's position regarding the Phase I North Harbor Drive Realignment matter.

Commissioner Moore concurred with Commissioner Peters' comments and offered her support for the funding the Phase I North Harbor Drive Realignment in the FY 2013 CIP.

Commissioner Nelson expressed support for allocating the funding in the FY 2013 CIP and reiterated his concerns regarding the City of San Diego's actions regarding granting the necessary easement.

Chairman Smith offered his support for allocating the funding in the in the FY 2013 CIP, remarked on the benefits of the Harbor Drive realignment to the area businesses, and concurred that, should the easement not be granted, the CIP funding would be reallocated to another project.

In hopes of encouraging the timely resolution of the easement matter, Commissioner Malcolm suggested that his colleagues give consideration to adding a time certain condition for allocating the funds. Thus, in the event the easement was not granted by the specified date, those funds would automatically be reallocated.

Commissioner Peters offered that the conveyance was a condition of the Convention Center expansion funding.

Commissioner Nelson requested and received clarification from Karen Weymann, Director, Real Estate, regarding the City of San Diego's efforts to address Section K of Resolution 2011-161, by which the Board approved allocating funding for the proposed Convention Center expansion project.

Chairman Smith acknowledged the Commissioners questions and requested that the Board re-focus their consideration on the Phase I North Harbor Drive Realignment project and the staff recommendation.

Mr. Alexander requested and received confirmation from Chairman Smith that the Board consensus was to accept the staff recommendation regarding the America's Cup Harbor Improvements; Phase I North Harbor Drive Realignment.

Charlene Dennis, Capital Project Manager, Engineering and Construction, reviewed the staff recommendations to remove for the following Category 3 items from the current CIP project list and reallocate approximately \$328,000 of the previously approved funding: Maritime Administration (MARAD) Memorandum of Understanding (MOU) (Reference No. 216) and Reconstruct 32nd Street.

Mr. McEntee reviewed the funding sources for the CIP projects under consideration.

Commissioner Peters acknowledged staff's efforts to maintain the current level of operating reserves while remaining fiscally responsible. Based upon the District's current reserve fund level, he offered his support for the prudent use of reserves for good business purposes.

Commissioner Burdick acknowledged Commissioner Peters' remarks regarding the reserve funds. She concurred with the consensus offered by the Board regarding

the staff recommendations. She requested and received clarification from Mr. McEntee regarding his recommendation of the funding sources.

Commissioner Moore offered that the District should move forward based upon the funding recommendations shown for the projects discussed.

Acknowledging the allocation for funding the projects as shown, Commissioner Valderrama expressed his concern with considering those recommendations without considering the projects proposed in the FY 2014-2018 CIP program.

Commissioner Malcolm acknowledged Commissioner Valderrama's concerns regarding approving the recommendations without considering the projects proposed in the FY 2014-2018 CIP program. He also acknowledged Commissioner Peters' comments regarding the level of operating reserves. Commissioner Malcolm offered that information be provided regarding consideration of bonding capacity as related to an agency's level of operating reserve.

Commissioner Nelson expressed support for moving forward and acknowledged the concerns expressed by Commissioner Valderrama and Commissioner Malcolm regarding the FY 2014-2018 CIP program. He also offered remarks regarding the District's level of operating reserves and the importance of reserves for the future.

Chairman Smith acknowledged his colleagues for their efforts and thanked staff for their work to prioritize the projects offered for the Board's consideration. He offered that the Board has the authority to take action to change the recommendations as required.

Commissioner Peters offered a motion to approve the additional funding of \$14.8 million for the following FY 2009-2013 CIP projects: TAMT Shore Power – \$6.5 million; Chula Vista L Ditch Habitat Replacement/Remediation - \$500,000; H Street Extension \$3.5 million; Pre-Design CVBMP - \$500,000; Crosby Street Pier Modernization and TAMP Staff Relocation - \$250,000; ACH Improvements – Phase I North Harbor Drive Realignment - \$3.5 million and funding reallocation of FY 2009-2013 projects: MARAD MOU - \$100,000 and Reconstruct 32nd Street - \$228,000. He reiterated that the Board may consider changes to the CIP budget at any point simply by docketing the matter at a regular Board meeting. He clarified his remarks regarding the consideration of using operating reserves to fund worthy projects to benefit the District.

Commissioner Valderrama stated his support for the motion and acknowledged that the upcoming FY 2014-2018 CIP program workshop would bring about additional discussion and considerations.

On a motion by Commissioner Peters, seconded by Commissioner Moore, the Board voted to adopt the **Resolution 2012-40**, to approve the additional funding of \$14.8 million for the following FY 2009-2013 CIP projects and reallocate \$328,000 from FY2009-2013 Approved CIP projects, by the following vote: Yeas-Burdick, Malcolm,

Moore, Nelson, Peters, Smith and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

Commissioner Valderrama acknowledged staff for their work.

BOARD DISCUSSION – IMPLEMENTATION OF BPC POLICY NO. 120 AND JUNE 7, 2012 WORKSHOP/SPECIAL MEETING

Agenda Item 4. Brian Stup, Chief Engineer, addressed the Board and reviewed implementation of BPC Policy No. 120 and offered remarks regarding the structure of the June 7, 2012 workshop regarding the FY 2014-2018 CIP workshop. Mr. Stup turned the presentation over to Charlene Dennis, who addressed the Board with a brief review of the process. She announced that staff received 69 project submittal forms from various sources. She explained that, in addition to outreach meetings, staff posted additional information and FAQ's to the District's website. Ms. Dennis discussed the steps staff had taken to make the process open and transparent and discussed the project ranking process and sequencing to be utilized under BPC Policy No. 120.

Ms. Dennis turned the presentation over to Celia Brewer, Interim Port Attorney, who offered clarification regarding the process by which the Port Attorney's Office would be considering funding requests submitted for off-tideland projects.

Jim Frost addressed the Board regarding the June 7, 2012 workshop process and encouraged the District to work on projects in a timely way even though funding may be allocated in future years.

Requesting direction to staff, Mr. Alexander facilitated a Board discussion regarding how they would like the June 7, 2012 workshop be conducted.

Commissioner Moore offered that the printed materials were helpful.

Commissioner Burdick acknowledged staff for their efforts to implement BPC Policy No. 120 and discussed Ms. Brewer's remarks regarding consideration of funding off-tidelands projects. She discussed the criteria set forth under section 3c and section 4d of BPC Policy No. 120, by which the Board could consider a project and she explained that complete information must be provided in order to assure that the Board could consider a project. In that this was a new process, she stated her desire that staff provide projects proponents and stakeholders with the information regarding the policy and work with them to submit all of the essential data required for the Board to consider their project at the workshop.

Commissioner Peters acknowledged staff for their efforts to develop a productive and business-like process that started with the District's strategic goals.

Chairman Smith reiterated Commissioner Peters' comments and discussed the importance of preparation for the upcoming workshop. He offered remarks regarding the process by which BPC Policy No. 120 was created and the rationale by which the project submittal criteria was developed. In addition to the District financing projects, he encouraged staff to look at alternative methods for financing projects.

Commissioner Nelson acknowledged the efforts by the Board to do the best for the District and work as a unified body. He thanked staff for their work. He requested that staff provide the Board with information regarding staff's throughput capacity for proposed projects. Commissioner Nelson discussed the importance of clarifying the sources of funding projects and for funding the on-going project operations. He offered comments regarding consideration of projects in light of the suggested data related to climate change and sea level rise.

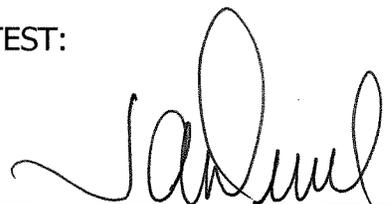
Mr. Alexander requested and received clarification from the Commissioners regarding the workshop environment. Commissioner Burdick offered comments regarding the benefits of holding meetings and workshops in the member cities.

Mr. Alexander facilitated a review with the Board and Mr. Darbeau of the "parking lot items" and the concepts raised during the workshop.

Chairman Smith thanked the Board and staff for their efforts and adjourned the workshop.


Secretary, Board of Port Commissioners
San Diego Unified Port District

ATTEST:


Clerk of the San Diego Unified Port District

**MINUTES
BOARD OF PORT COMMISSIONERS
SAN DIEGO UNIFIED PORT DISTRICT**

The special meeting of the Board of Port Commissioners of the San Diego Unified Port District was called to order by Chairman Smith at 10:02 a.m., Tuesday, April 10, 2012, in the Board Room at 3165 Pacific Highway, San Diego, California.

ROLL CALL

Agenda Item 1.

Present: COMMISSIONERS Malcolm, Moore, Peters, Smith, and Valderrama.

OFFICERS: Brewer, Darbeau, Deuel and McEntee

Absent: No Commissioners absent.

Excused: Commissioner Burdick was excused for personal reasons.
Commissioner Nelson was excused until he arrived at 10:04 a.m.

PUBLIC COMMUNICATIONS

Agenda Item 2. None.

CLOSED SESSION

Celia Brewer, Interim Port Attorney, announced the closed session agenda as follows:

Agenda Item 3.

CONFERENCE WITH REAL PROPERTY NEGOTIATOR
Government Code Section 54956.8

Property: Knight and Carver YachtCenter consisting of approximately 265,758 square feet of land and approximately 98,424 square feet of water located at 1313 Bay Marina Drive, National City

Negotiating Parties: Michael J. O'Leary, President /CEO, Knight and Carver YachtCenter, Inc.
Randa Coniglio, Karen Weymann, Kristine Zortman,
Adam Meyer, Karen Porteous, Jeffrey McEntee SDUPD

Under Negotiation: Price and Terms

Agenda Item 4.

CONFERENCE WITH REAL PROPERTY NEGOTIATOR
Government Code Section 54956.8

Property: Approximately 10.7 acres of tideland area located on the southwest corner of Harbor Drive and Eighth Avenue in the City of San Diego, California

Negotiating Parties: David Sloan, Sunstone Hotel Investors, Inc.
Karen Weymann, Shaun Sumner, Nick Markos,
Randa Coniglio, Jeffrey McEntee, Karen Porteous, SDUPD

Under Negotiation: Price and Terms

Agenda Item 5.

CONFERENCE WITH REAL PROPERTY NEGOTIATOR
Government Code Section 54956.8

Property: Tenth Avenue Marine Terminal, San Diego consisting of approximately 96 acres

Negotiating Parties: John Pasha, Pasha Automotive Services
Joel Valenzuela, Randa Coniglio, Karen Porteous,
Jeffrey McEntee, SDUPD

Under Negotiation: Price and Terms

Agenda Item 6.

CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION

Significant exposure to litigation pursuant to Subdivision (b)(1) of Government Code Section 54956.9

One Case

As requested by Chairman Smith, Celia Brewer, Interim Port Attorney, announced at the beginning of the April 10, 2012 regular Board meeting that in regard to **Closed Session Item 6**, by a 6-0 vote with Commissioner Burdick excused, the Board voted to appeal being named as a primary discharger in the Cleanup and Abatement Order issued by the San Diego Regional Water Quality Control Board in the recent Shipyard Sediment Site administrative action R9-2012-0025. She stated the appeal would not request a stay to stop implementation of the order or seek to postpone any remedial actions regarding the sediment site. The basis for the appeal was that the District was improperly named as a primary discharger in the Order. As a public representative for the People of the State of California, the District contends that it was an abuse of discretion and a violation of public policy to designate the District a primary party responsible for environmental discharge activities of private parties relative to San Diego Bay. Despite its vote to appeal being named as a primary discharger, by a 6-0 vote with Commissioner Burdick excused, the Board voted to express its full support for the efforts and objectives of the San Diego Regional Water Quality Control Board and issuance of a Cleanup and Abatement Order to the responsible parties. Ms. Brewer stated that the District would remain actively involved in the Shipyard Sediment Site remediation process which is consistent with its role as trustee and environmental steward of San Diego Bay, which concluded her report.

Agenda Item 7.

PUBLIC EMPLOYEE APPOINTMENT, PERSONNEL EVALUATION OR DISCIPLINE:
EXECUTIVE DIRECTOR AND PORT ATTORNEY
Government Code Section 54957

Commissioner Peters announced that he requested the port tenants refrain from donating to his campaign for United States Congress. However, Sunstone had made a donation to his campaign fund, thus he announced that he would recuse himself from Item 4 on the closed session agenda and agenda items related to the Sunstone properties docketed on the regular meeting agenda.

There was no other formal or reportable action as to any closed session items, pursuant to Government Code Section 54950 et seq, to report from the closed session; whereupon, Chairman Smith adjourned the meeting.

A handwritten signature in black ink, reading "Lee Burdick". The signature is written in a cursive style with a large initial "L".

Secretary, Board of Port Commissioners
San Diego Unified Port District

ATTEST:

A handwritten signature in black ink, appearing to read "Janet". The signature is written in a cursive style.

Clerk of the San Diego Unified Port District

**MINUTES
BOARD OF PORT COMMISSIONERS
SAN DIEGO UNIFIED PORT DISTRICT**

The regular meeting of the Board of Port Commissioners of the San Diego Unified Port District was called to order by Chairman Smith at 1:03 p.m., Tuesday, April 10, 2012, in the Board Room at 3165 Pacific Highway, San Diego, California.

ROLL CALL

Agenda Item 1.

Present: COMMISSIONERS, Malcolm, Moore, Nelson, Peters, Smith, and Valderrama.

OFFICERS: Brewer, Darbeau, Deuel, McEntee and Stup

Absent: No Commissioners absent.

Excused: Commissioner Burdick excused for personal reasons.

CLOSED SESSION

Agenda Item 2. As requested by Chairman Smith, Celia Brewer, Interim Port Attorney, announced that in regard to **Closed Session Item 6**, by a 6-0 vote with Commissioner Burdick excused, the Board voted to appeal being named as a primary discharger in the Cleanup and Abatement Order issued by the San Diego Regional Water Quality Control Board in the recent Shipyard Sediment Site administrative action R9-2012-0025. She stated the appeal would not request a stay to stop implementation of the order or seek to postpone any remedial actions regarding the sediment site. The basis for the appeal was that the District was improperly named as a primary discharger in the Order. As a public representative for the People of the State of California, the District contends that it was an abuse of discretion and a violation of public policy to designate the District a primary party responsible for environmental discharge activities of private parties relative to San Diego Bay. Despite its vote to appeal being named as a primary discharger, by a 6-0 vote with Commissioner Burdick excused, the Board voted to express its full support for the efforts and objectives of the San Diego Regional Water Quality Control Board and issuance of a Cleanup and Abatement Order to the responsible parties. Ms. Brewer stated that the District would remain actively involved in the Shipyard Sediment Site remediation process which is

consistent with its role as trustee and environmental steward of San Diego Bay, which concluded her report.

PLEDGE OF ALLEGIANCE

Agenda Item 3. Commissioner Nelson led the Pledge of Allegiance.

APPROVAL OF MINUTES

Agenda Item 4. Commissioner Valderrama offered a motion to approve the minutes, seconded by Commissioner Malcolm.

Commissioner Nelson requested that the minutes from the March 6, 2012 regular meeting be amended and the portion attributed to him read regarding Action Agenda Item 21: "He acknowledged that while there is a small level of disagreement, the vast majority of climatologists agree about the occurrence of climate change and sea level rise."

On motion of Commissioner Valderrama, seconded by Commissioner Malcolm, the Board approved the minutes for the regular meeting of February 14, 2012; the special meeting of March 6, 2011, and the regular meeting of March 6, 2012 as amended, by the following vote: Yeas-Nelson, Malcolm, Moore, Peters, Smith and Valderrama; Nays-None; Excused-Burdick; Absent-None; Abstained-None.

PUBLIC COMMUNICATIONS

Agenda Item 5. Marilyn Cornwell, Event Co-Chair, Celebration of Champions benefiting Rady Children's Hospital, addressed the Board and requested sponsorship in the form of a park fee waiver for the Celebration of Champions event hosted by the La Playa Unit of the Rady Children's Hospital Auxiliary. The event at Embarcadero Marina Park North is scheduled for June 2, 2012.

Marjo Miller, Event Co-Chair, Celebration of Champions benefiting Rady Children's Hospital, stated that Ms. Cornwall had spoken to the matter and did not wish to offer further comments, however she was available for any follow-up questions.

COMMISSIONER COMMENTS/REVIEW OF TODAY'S MEETING

Agenda Item 6. Commissioner Malcolm provided an update regarding the recent District related business trip to Washington D.C. from March 19-21, 2012. He offered that the District team met with representatives from the Congressional delegation, the

Department of Transportation, the Department of Commerce, and the Department of Homeland Security regarding important issues of relevance to the District. Commissioner Malcolm announced that they met personally with four of the region's five Congressional members: Congresswoman Davis, Congressman Hunter, Congressman Filner and Congressman Bilbray. They were briefed about the District's strategic port designation and the value of maritime operations to the local economy, the regional economy, the State economy and the national economy. In addition, they were briefed on cruise operations and District infrastructure needs in order to be a more efficient port. Commissioner Malcolm stated that at the Maritime Administration, under the Department of Transportation, they spoke to Administrator David Matsuda about national priorities such as the need for a national system of ports and port infrastructure funding. Commissioner Malcolm recognized Wayne Darbeau, Executive Director, for his leadership when speaking about the development of a national system of ports. He stated the District attended the American Association of Port Authorities (AAPA) Legislative Spring Conference and shared best practices with sister Ports from across the nation. He announced the team was successful in getting AAPA to adopt a position on the imports of windmill components from Vietnam and China that takes into account the port work that would be threatened if high tariffs were charged. He stated that with the Department of Homeland Security, the Harbor Police force was discussed and as a result, the District would be hosting one segment of a Department of Homeland Security Congressional Site Visit on April 11, 2012. Representative Sheila Jackson Lee from Texas, Representative James Sensenbrenner from Wisconsin and Representative Judy Chu of California would be visiting multiple areas in the county and concluding their fact-finding tour at the Port of San Diego. Chief John Bolduc would be instrumental in that educational tour. Commissioner Malcolm stated the team met with David Long, Director of Service Industries, Department of Commerce, and updated him and his staff about the recent trade activities by the District's trade team in China and India. They also reaffirmed the District's application to be a member of the Advisory Committee on Supply Chain Competitiveness. He offered it was a successful trip and one that he believed would bear fruit in the future. He stated that the Congressional trip served as a reminder of the importance to always build upon old and new relationships in the Port community; maintain the necessary work with elected officials to promote the best results for the five member cities and one port, and always try to support legislative opportunities that would preserve the District.

Commissioner Peters offered, for the benefit of the public, that Commissioner Burdick was under the weather and thus excused. He acknowledged the recent development reported in the local news regarding the leadership at the San Diego Convention Center and offered his support to the Center's Executive Director, Carol

Wallace. Regarding the permitting process for the proposed convention center expansion, he offered that the District be supportive of a structure that would bring together public consensus and cooperation as a means to move the project forward.

Commissioner Nelson reported on the recent trip to Miami, Florida for the Sea Trade Convention. He offered that the delegation met with representatives of several cruise lines. Topics under discussion were cruise ship safety; the Congressional hearings regarding new Federal mandates for the North America Emission Control Area and possible impacts to US cruise operations who are competing internationally for passengers; the development of a new program developed by District staff called "California Coastal Cruising" which was received favorably by senior executives of the cruise industry. He offered that staff is working on the program and acknowledged that work was moving ahead on securing support for the necessary federal legislation. He stated that *Celebrity Solstice*, a new class of cruise ships, would be visiting San Diego on their first trip to the west coast. He offered San Diego was being considered for home porting a vessel. He stated that interest was expressed by Norwegian Cruise Line for bringing their Epic Class vessels to San Diego. Commissioner Nelson discussed the need for mooring dolphins, a project that is currently under environmental review, to facilitate service to those types of vessels. He announced that Carnival Cruise Lines agreed to invest \$150 million in port infrastructure in Mexico's Pacific coast and Caribbean coast and offered remarks regarding the country's commitment to the tourism industry.

CONSENT AGENDA

Chairman Smith requested that Timothy Deuel, District Clerk, announce any suggested docket changes. Mr. Deuel stated an additional agenda related material, a letter dated April 10, 2012 from Christopher Ford Vice President, Asset Management, Host Hotels & Resorts, was received regarding agenda item 28 and copies of the document were available at the Clerk's office.

Mr. Deuel announced the proposed changes to the agenda as follows: **Public Hearing Agenda Item 18**, Conduct a Public Hearing and Adopt an Ordinance Amending Section 8.15 of the San Diego Unified Port District Code - Parking Regulations Enforcement for an increase of selective parking violation fees; staff requests this item be continued to a future Board meeting; **Action Agenda Item 22**, Presentation by the County of San Diego on its 10-Year Health Strategy Agenda; Live Well San Diego!: Building Better Health; staff requests this item be continued to a future Board meeting; **Action Agenda Item 23**, Presentation on Embarcadero Bayfront Shuttle and direction to staff; staff requests this item be continued to a future Board meeting; **Action**

Agenda Item 24, Resolution Authorizing Agreement between San Diego Unified Port District and City of Chula Vista for joint participation in financing infrastructure improvements for the Chula Vista Bayfront Master Plan; staff requests this item be continued to a future Board meeting and **Action Agenda Item 25**, Government and Community Relations Update on Senate Bill 623 (Kehoe) regarding Marine Antifouling Paint and direction to staff; staff requests this item be continued to a future Board meeting. Mr. Deuel confirmed that while staff had considered requesting moving **Action Agenda Item 28** to the consent agenda; they determined it would remain on the Action Agenda.

On motion of Commissioner Valderrama, seconded by Commissioner Malcolm, the Board accepted the suggested changes to the agenda, by the following vote: Yeas-Malcolm, Moore, Nelson, Peters, Smith, and Valderrama; Nays-None; Excused-Burdick; Absent-None; Abstained-None.

AUTHORIZING AGREEMENT WITH PORTABLE COMPUTER SYSTEMS, INC. DBA PCS MOBILE FOR LAW ENFORCEMENT IN-VESSEL/IN-VEHICLE AUDIO/VIDEO AND EVIDENTIARY SYSTEM FOR AN AMOUNT NOT TO EXCEED \$475,000

Agenda Item 7. Commissioner Valderrama requested and received clarification from John Bolduc, Harbor Police Chief/Vice President, Public Safety, who explained a grant was awarded for funding the evidentiary system equipment. Chief Bolduc confirmed that under the procurement terms of the agreement, the District was under no contractual obligation to exercise the option to install equipment in the balance of the department's vehicles or vessels; nor was the District required to expend any future funds for that additional equipment.

ORDINANCE GRANTING LEASE AMENDMENT NO. 1 WITH THE CITY OF IMPERIAL BEACH FOR LIFEGUARD OPERATIONS AT THE DEMPSEY HOLDER SAFETY CENTER UPDATING TERMINATION PROVISION

Agenda Item 13. Stating his support for the staff recommendation, Commissioner Valderrama requested and received clarification from Adam Meyer, Asset Manager, Real Estate, who offered that the modifications to the lease contract language regarding the termination provision would be consistent with the language in the National City Aquatic Center contract. Commissioner Valderrama reiterated his desire to have consistency in the lease contract language.

On motion of Commissioner Nelson, seconded by Commissioner Peters, the Board adopted Consent Agenda items 7, 8, 9, 10, 11, 12, 13, 14, 15, 16 and 17AB, (**Resolution 2012-41** through and including **Resolution 2012-46**, **Ordinance 2666**, **Resolution 2012-47** through and including **Resolution 2012-50**) by the following vote: Yeas-, Malcolm, Moore, Nelson, Peters, Smith, and Valderrama; Nays-None; Excused-Burdick; Absent-None; Abstained-None.

Agenda Item 7. **Resolution 2012-41**, Authorizing Agreement with Portable Computer Systems, Inc. dba PCS Mobile for Law Enforcement In-Vessel/In-Vehicle Audio/Video and Evidentiary System for an amount not to exceed \$475,000, was adopted as part of the consent agenda.

Agenda Item 8. **Resolution 2012-42**, Granting Indemnity and Agreeing to a Limitation of Liability for hosted email archiving services with Sonian, Inc. for a total amount not to exceed \$120,000 for 4 years, was adopted as part of the consent agenda.

Agenda Item 9. **Resolution 2012-43**, Authorizing Amendment 1 to Addendum A to the Memorandum of Understanding for the San Diego Regional Interoperable Command & Control Communications (3Cs) Program to allow the City of San Diego use of District fiber optic cable, was adopted as part of the consent agenda.

Agenda Item 10. **Resolution 2012-44**, Authorizing Execution and Delivery of an Amended and Restated Expansion Lease for the existing Convention Center as June 1, 2012, lease initially dated as of September 1, 1998; and approving other documents and actions required in connection therewith, was adopted as part of the consent agenda.

Agenda Item 11. **Resolution 2012-45**, Selecting and Authorizing an Agreement with Tierra Data Incorporated to prepare a Natural Resource Management Plan for the Chula Vista Bayfront for an amount not to exceed \$199,734.03, was adopted as part of the consent agenda.

Agenda Item 12. **Resolution 2012-46**, Selecting and Authorizing a Five-Year Agreement with Willis Insurance Services of California, Inc. to provide benefit consulting for an amount not to exceed \$165,000 per year and a total of \$825,000, was adopted as part of the consent agenda.

Agenda Item 13. **Ordinance 2666**, Granting Lease Amendment No. 1 with the City of Imperial Beach for Lifeguard Operations at the Dempsey Holder Safety Center updating termination provision, was adopted as part of the consent agenda.

Agenda Item 14. **Resolution 2012-47**, Authorizing Change Order No. 4 to Contract No. 2010-25R to Tetra Tech Construction Services, Inc. for National City Marine Terminal to Administration Building Wireless Connectivity Project for amount of \$44,850 and 65 calendar day extension through June 29, 2012, was adopted as part of the consent agenda

Agenda Item 15. **Resolution 2012-48**, Consenting to Assignment and Assumption of Agreement for as needed engineering consulting services for the demolition of the former Teledyne Ryan Aeronautical Facility from Winzler & Kelly to GHD, Inc, was adopted as part of the consent agenda.

Agenda Item 16. **Resolution 2012-49**, Adopting Plans and Specifications and Awarding Contract No. 2011-45 to R.E. Staite Engineering for Upgrade Bulkhead East of Berth 10-8 at Tenth Avenue Marine Terminal, San Diego in the amount of \$489,435, was adopted as part of the consent agenda.

Agenda Item 17AB. **Resolution 2012-50**, A) Purchase Agreements with Anixter, Inc. for the Acquisition of Fiber Optic Cabling for Fiber Optic Projects (Phase 2, Phase 7, and Phase 8) in the amount of \$114,926.47 and B) A Purchase Agreement with American Industrial Control, Inc. dba American Industrial Control and Electrical Supply for the Acquisition of fiber optic interduct for the Fiber Optic Project (Phase 2) in the amount of \$9,490.49, was adopted as part of the consent agenda.

PUBLIC HEARING AGENDA

CONDUCT A PUBLIC HEARING AND ADOPT AN ORDINANCE AMENDING SECTION 8.15 OF THE SAN DIEGO UNIFIED PORT DISTRICT CODE - PARKING REGULATIONS ENFORCEMENT FOR AN INCREASE OF SELECTIVE PARKING VIOLATION FEES

Agenda Item 18. Item Continued.

ACTION AGENDA

RESOLUTION APPROVING PROCLAMATION HONORING SAN DIEGO COUNTY LAW ENFORCEMENT OFFICERS' MEMORIAL DAY ON MAY 2, 2012

Agenda Item 19. John Bolduc, Harbor Police Chief/Vice President Public Safety, addressed the Board and requested the Commissioners consider a resolution approving a proclamation honoring San Diego County Law Enforcement Officers' Memorial Day on May 2, 2012. (A copy of the staff report is on file in the Office of the District Clerk.)

Commissioner Nelson offered a motion to accept the staff recommendation. Commissioner Malcolm seconded the motion

Commissioner discussion ensued. Chairman Smith acknowledged the service of the law enforcement officers and the involvement of their families. He offered remarks regarding the Law Enforcement Officers' Memorial Day and encouraged his colleagues to attend the commemoration event if possible.

On a motion of Commissioner Nelson, seconded by Commissioner Malcolm, the Board adopted **Resolution 2012-51**, Approving Proclamation Honoring San Diego County Law Enforcement Officers' Memorial Day on May 2, 2012, by the following vote: Yeas-Malcolm, Moore, Nelson, Peters, Smith, and Valderrama; Nays-None; Excused-Burdick; Absent-None; Abstained-None.

PRESENTATION OF THE ASSOCIATION OF ENVIRONMENTAL PROFESSIONALS 2011 "OUTSTANDING ENVIRONMENTAL TECHNICAL REPORT" AWARD BY JULIE WANG, PRESIDENT OF THE ASSOCIATION OF ENVIRONMENTAL PROFESSIONALS FOR WORK ON THE TELEDYNE RYAN AERONAUTICAL COMPANY HISTORICAL AMERICAN BUILDING SURVEY REPORT AND THE RYAN AERONAUTICAL WEBSITE

Agenda Item 20. Brian Stup, Chief Engineer, addressed the Board regarding the item and turned the presentation over to Julie Wang, Chapter President, Association of Environmental Professionals – San Diego Chapter. Ms. Wang announced the District received the 2011 Outstanding Environmental Technical Report Award that recognized the work on the Teledyne Ryan Aeronautical Company Historical American Building Survey Report and interpretive display. Charlene Dennis, Capital Project Manager, Engineering-Construction addressed the Board regarding the award and announced the District team members who worked on the multi-year project. (A copy of the staff report and presentation is on file in the Office of the District Clerk.)

Chairman Smith congratulated the team. A photograph of the team with Chairman Smith, Wayne Darbeau, Executive Director and Ms. Wang was taken.

UPDATE ON THE CHULA VISTA BAYFRONT MASTER PLAN

Agenda Item 21. Karen Weymann, Director, Real Estate, introduced the item and turned the presentation over to Lesley Nishihira, Manager, Environmental and Land Use Planning, who offered an overview presentation and provided a status update on the Chula Vista Bayfront Master Plan. Ms. Nishihira turned the presentation over to Chris Hargett, Area Manager, Real Estate. Mr. Hargett addressed the Board regarding the implementation efforts, and then turned the presentation over to Ernie Medina, Associate Engineer, Engineering-Construction, who concluded the report with a review of the District's Capital Improvement Program projects that lay the groundwork for the plan. (A copy of the staff report and presentation is on file in the Office of the District Clerk.)

Cheryl Cox, Mayor, City of Chula Vista, addressed the Board and thanked the Commissioners on behalf of the City of Chula Vista for their policy setting and commitment to the project. She acknowledged District staff for their collaboration with the City of Chula Vista staff and their hard work on the project. She discussed the importance of the California Coastal Commission's consideration of the project.

Allison Rolfe, Project Manager, Pacifica Companies, addressed the Board and thanked them for their commitment to the project. She acknowledged staff for their hard work and dedication. She remarked on Pacifica Companies' desire for the matter to be heard at the July 2012 California Coastal Commission hearing.

Commissioner discussion ensued. Commissioner Nelson offered that as a condition of the Board's approval of the financing for the San Diego Convention Center Corporation, the City of San Diego would formally declare its support for the Chula Vista Bayfront Master Plan. He stated he looked forward with anticipation to the San Diego City Council so proclaiming. Commissioner Nelson requested clarification as to why staff believed the timing of the marketing study was appropriate in light of current trends in the financial markets. Ms. Weymann confirmed staff believed the timing was appropriate. Mr. Hargett explained that staff intended to wait until after approval of the Port Maser Plan Amendment and Local Coastal Program amendment by the California Coastal Commission to move ahead with an updated market study. Then the District would move ahead with a request for qualifications or a request for proposal for the project. Commissioner Nelson requested and received confirmation from Ms. Weymann that the study would be conducted in the FY13-14 budget year.

Commissioner Moore personally thanked staff for their commitment and hard work. She remarked on the many ways in which the project is important; cited the

improvements in public access to the waterfront and how the project serves as a means to provide more protection of the natural resources in the area. She stated that the project would benefit the residents of Chula Vista, the South Bay region, as well as the District. She thanked her colleagues for their continued support that was demonstrated by the Board's recent commitment at the Capital Improvement Program workshop. Concluding her remarks, she re-stated her desire for the project to move forward.

Commissioner Malcolm thanked Mayor Cox for attending and acknowledged her remarks. He thanked staff for their work on the project, which has been more than 10 years in the making. He recognized that the project has enormous potential benefits to the City of Chula Vista as well as the San Diego region. He discussed the collaboration of all stakeholders to move the project forward and encouraged the positive momentum. Commissioner Malcolm stated that the project could be viewed as a model for proper planning in the community.

Commissioner Peters acknowledged the benefits of the project; he recognized Mayor Cox and thanked her for the staff compliments. He also thanked staff for their hard work and stated that he looked forward to the final phase of approval.

Commissioner Valderrama acknowledged the challenges with slow-moving projects. He recognized the efforts to develop a stronger working relationship with the City of Chula Vista; the hard work of District staff, including Ms. Nishihira and Mr. Hargett; and acknowledged Commissioner Moore for consistently pushing the project forward. He expressed his desire for the matter to be considered at the summer Coastal Commission hearing and looked forward to construction commencing in the near future.

Chairman Smith thanked Mayor Cox, the staff and then acknowledged Wayne Darbeau, Executive Director, for his leadership. He offered this was a demonstration of being an extemporary port. He also thanked the many stakeholders from the environmental community and the development community for working together to move such a large project forward.

PRESENTATION BY THE COUNTY OF SAN DIEGO ON ITS 10-YEAR HEALTH STRATEGY AGENDA; LIVE WELL SAN DIEGO!: BUILDING BETTER HEALTH

Agenda Item 22. Item continued to a future Board meeting.

PRESENTATION ON EMBARCADERO BAYFRONT SHUTTLE AND DIRECTION TO STAFF

Agenda Item 23. Item continued to a future Board meeting.

RESOLUTION AUTHORIZING AGREEMENT BETWEEN SAN DIEGO UNIFIED PORT DISTRICT AND CITY OF CHULA VISTA FOR JOINT PARTICIPATION IN FINANCING INFRASTRUCTURE IMPROVEMENTS FOR THE CHULA VISTA BAYFRONT MASTER PLAN

Agenda Item 24. Item continued to a future Board meeting.

GOVERNMENT AND COMMUNITY RELATIONS UPDATE ON SENATE BILL 623 (KEHOE) REGARDING MARINE ANTIFOULING PAINT AND DIRECTION TO STAFF

Agenda Item 25. Item continued to a future Board meeting.

RESOLUTION GRANTING CONCEPT APPROVAL FOR PROPOSED BROADWAY PIER SURFACE ENHANCEMENTS FOR SPECIAL CONDITION #2 OF THE NORTH EMBARCADERO VISIONARY PLAN PHASE 1 COASTAL DEVELOPMENT PERMIT

Agenda Item 26. Brian Stup, Chief Engineer, introduced the item and then turned the presentation over to Mark McIntire, Capital Project Manager, Engineering-Construction. Mr. McIntire offered a presentation regarding the Proposed Broadway Pier Surface Enhancements for Special Condition #2 of the North Embarcadero Visionary Plan (NEVP) Phase 1 Coastal Development Permit and requested the Board's consideration of the staff recommendation. He discussed the outreach efforts, explained the concept was currently in the design phase and reviewed the timeline for the project. Mr. McIntire turned the presentation over to Scott Jordan, Design Consultant, Civitas, Inc., who presented the initial concept design that takes into account the need for designing a flexible use of the pier space. Mr. Jordan requested the Commissioners provide input into the design. (A copy of the staff report and presentation is on file in the Office of the District Clerk.)

Commissioner Valderrama left the dais at 2:00 p.m. and returned at 2:03 p.m.

Commissioner discussion ensued. Commissioner Nelson acknowledged the work of the team members and offered his support for the concept design. He requested and received clarification from Mr. McIntire regarding the intent to relocate the utilities island, relocate the backflow preventers, and that the City of San Diego sewer pump station would be abandoned as part of a separate project under NEVP Phase I, thus there would be no utilities in that space. Mr. Jordan addressed the aesthetics of the

proposed security fence as depicted in the renderings and explained that, in an effort to make the area more inviting, a bi-fold fence would be designed.

On a motion of Commissioner Nelson, seconded by Commissioner Peters, the Board adopted **Resolution 2012-52**, Granting Concept Approval for Proposed Broadway Pier Surface Enhancements for Special Condition #2 of the North Embarcadero Visionary Plan Phase 1 Coastal Development Permit, by the following vote: Yeas-Malcolm, Moore, Nelson, Peters, Smith, and Valderrama; Nays-None; Excused-Burdick; Absent-None; Abstained-None.

Commissioner Peters announced that he had requested the port tenants, who may have matters before the board, refrain from donating to his campaign for election to the United States Congress. However, Sunstone had donated to his campaign fund, thus, he announced that he recused himself from the discussion regarding item 4 on the Closed Session Agenda and would do so regarding Action Agenda items 27 and 28. Commissioner Peters left the dais at 2:15 p.m.

UPDATE FROM ONE PARK BOULEVARD, LLC, LESSEE OF THE HILTON SAN DIEGO BAYFRONT HOTEL, ON THE PROPOSED 500-ROOM EXPANSION OF THE HOTEL AND DIRECTION TO STAFF

Agenda Item 27. Karen Weymann, Director, Real Estate, addressed the Board with an update from One Park Boulevard, LLC, Lessee of the Hilton San Diego Bayfront Hotel, on the proposed 500-room expansion of the hotel and requested direction to staff. Ms. Weymann turned the presentation over to Kip Howard, Development Manager, Allegis Development, representing the developer on the project. Mr. Howard and Ellis Katz, Executive Vice President, Director of Hospitality Studio, John Portman & Associates, addressed the Board with a design presentation of the proposed hotel expansion project. (A copy of the staff report and presentation is on file in the Office of the District Clerk.)

Commissioner discussion ensued. Commissioner Nelson requested clarification regarding how the pedestrian crossing linking the Hilton Hotel complex to the Convention Center would be addressed. Shaun Sumner, Area Real Estate Manager, Real Estate, offered the matter would be addressed during the design process of the proposed expansion of the Convention Center and as the Hilton project moves forward, they would be working on their portion of the walkway. Mr. Howard acknowledged the concern and explained their intent was to use the same landscape architect that the Convention Center engages to ensure there is a cooperative effort to address patron

safety. Mr. Howard stated more solutions would be shared as the project design moves forward.

RESOLUTION AUTHORIZING EXCLUSIVE NEGOTIATING AGREEMENT WITH ONE PARK BOULEVARD, LLC, DBA HILTON SAN DIEGO BAYFRONT HOTEL, FOR THE PROPOSED EXPANSION OF THE HOTEL

Agenda Item 28. Karen Weymann, Director, Real Estate, addressed the Board regarding authorizing an Exclusive Negotiating Agreement (ENA) with One Park Boulevard, LLC, dba Hilton San Diego Bayfront Hotel, for the proposed expansion of the hotel. (A copy of the staff report is on file in the Office of the District Clerk.)

John G. Wotzka, addressed the Board and requested a before and after rendering of the view from the new public library reading room to the San Diego Bay be provided by the Hilton architects.

Commissioner discussion ensued. Commissioner Valderrama thanked staff for their efforts and offered his support for the recommendation. He offered a motion to adopt a resolution authorizing an ENA with One Park Boulevard, LLC, dba Hilton San Diego Bayfront Hotel, for the proposed expansion of the hotel. Commissioner Nelson seconded the motion.

Commissioner Malcolm expressed concern regarding the ENA. He read aloud from the letter sent by Host Marriott in which they objected to the provision in the ENA dealing with the restriction on additional hotel rooms and found that was a negative impact on other convention center serving hotels. Commissioner Malcolm offered comments regarding the provision restricting the number of hotel rooms for a specific period of time could be viewed as a precedent setting decision by the Board. Thus, he stated he would not support the motion offered. However, Commissioner Malcolm stated publicly, for the record, that he was in full support of the proposed Convention Center expansion and acknowledged the regional economic benefit to local businesses, hotels and restaurants.

Commissioner Moore offered that she also supported the expansion of the hotel and the Convention Center; however, she expressed her concern that the hotel restriction could be setting a precedent. She stated, for the record, her concern with the provision in the ENA regarding the enforcement of the exclusivity provision even if the Convention Center expansion was not to occur. She thanked staff for working diligently regarding the matter. Commissioner Moore stated her belief in the importance of

moving the Convention Center expansion forward and reiterated that her concerns with the provision in the ENA should be included for the record.

Commissioner Nelson thanked his colleagues and acknowledged the concerns they raised. He stated that he did not find the matter precedent setting, but rather his support was offered as a means to address a unique situation. He discussed the importance of securing the park-land and stated it was essential to the development of the proposed San Diego Convention Center expansion. Commissioner Nelson offered comments regarding the unknown impacts on the proposed Convention Center expansion project that could result from a delay in moving the action under consideration forward. He discussed the amount of work put forth by San Diego Mayor Jerry Sanders' team to bring the expansion development closer to completion. Regarding the Board's action to support the financing of the proposed San Diego Convention Center expansion and based on the assumptions cited in District commissioned economic studies, he addressed the importance of the Hilton Hotel expansion and the related revenue stream planned for by the District. He spoke about the many regional economic benefits of the proposed San Diego Convention Center expansion project. Regarding the Host letter, Commissioner Nelson offered there was no other proposal for the development of additional hotel rooms within the Port Master Plan for the area. He stated there was no entitlement available, nor did Host request any entitlement; and, to his knowledge, there was no project to fill the funding gap should the Hilton Hotel expansion not move forward. He reiterated his respect for his colleagues and acknowledged their stated concerns.

Commissioner Moore requested staff state, for the record, the need for immediate action regarding the matter.

Ms. Weymann stated the reason for such timely action was in connection with the vote of hoteliers under the Convention Center Financing District (CCFD) on April 24, 2012 and the action would give the necessary assurance that the land required for the proposed Convention Center expansion project was available to move that vote forward. She stated that the District's action would provide assurance to Sunstone and its lender that in agreeing to relinquish the park space for the advancement of the Convention Center; in return, they would have the right to get the Hilton Hotel expansion project built.

Commissioner Moore requested and received confirmation from Ms. Weymann that the ENA action was necessary to guarantee relinquishing the park site by the hotel developer and in turn, it would allow them to work with their lender.

Chairman Smith thanked staff for their efforts to move the matter forward in a timely way. He acknowledged his colleagues and their stated concerns. He offered remarks regarding the challenging work required to facilitate moving forward with complex public projects. Chairman Smith discussed the regional benefits of the proposed Convention Center expansion and expressed his support for the motion.

On a motion of Commissioner Valderrama, seconded by Commissioner Nelson, the Board adopted **Resolution 2012-53**, authorizing Exclusive Negotiating Agreement with One Park Boulevard, LLC, dba Hilton San Diego Bayfront Hotel, for the proposed expansion of the hotel, by the following vote: Yeas-Moore, Nelson, Smith, and Valderrama; Nays-Malcolm; Excused-Burdick; Absent-None; Abstained-Peters.

Commissioner Emeritus Steve Cushman, Special Assistant to San Diego Mayor Jerry Sanders, addressed the Board, thanked them for their timely consideration of the matter and acknowledged District staff for their continued work on the matter.

REVIEW AND CONSIDERATION OF PROPOSED BOARD AGENDA FOR THE MEETING OF MAY 8, 2012

Agenda Item 29. On motion of Commissioner Malcolm, seconded by Commissioner Valderrama, the Board adopted the proposed agenda for the meeting of May 8, 2012, by the following vote: Yeas-Malcolm, Moore, Nelson, Peters, Smith and Valderrama; Nays-None; Excused-Burdick; Absent-None; Abstained-None.

OFFICER'S REPORT

Agenda Item 30. In accordance with BPC Policy No. 110, the following change orders, executed by the Executive Director or designee, were reported:

- A) Change Order No. 1 for \$995.00 and 0 Calendar Days to Contract No. 2011-16 with Stanford Sign & Awning, Inc. DBA Western Sign & Awning, Inc. for Shelter Island Monument Sign, San Diego, California.
- B) Change Order No. 2 for \$0.00 and 45 Calendar Days to Contract No. 2010-25R with Tetra Tech Construction Services for National City Marine Terminal to Administration Building Wireless Connectivity Project, San Diego, California.
- C) Change Order No. 1 for \$55,382.42 and 0 Calendar Days to Contract No. 2010-23 with Miller Environmental, Inc. for TDY Site Demolition Project Phase III, San Diego, California.

- D) Change Order No. 2 for \$74,772.64 and 67 Calendar Days to Contract No. 2010-23 with Miller Environmental, Inc. for TDY Site Demolition Project Phase III, San Diego, California.

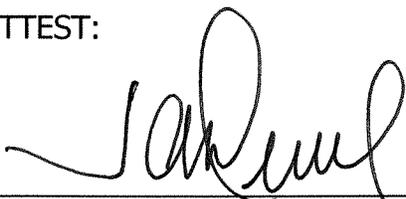
PRESIDENT'S REPORT

Agenda Item 31. None



Secretary, Board of Port Commissioners
San Diego Unified Port District

ATTEST:



Clerk of the San Diego Unified Port District

**MINUTES
BOARD OF PORT COMMISSIONERS
SAN DIEGO UNIFIED PORT DISTRICT**

As previously posted, a special meeting of the Board of Port Commissioners of the San Diego Unified Port District was called to order by Chairman Smith at 7:30 p.m., Wednesday, April 11, 2012, at the Marriott Marquis & Marina Ballroom, South Tower, 3rd Floor, 333 West Harbor Drive, San Diego, California.

ROLL CALL

Agenda Item 1.

Present: COMMISSIONERS Burdick, Malcolm, Moore, Nelson, Peters, Smith.

OFFICERS: Darbeau, Deuel, and McEntee.

Absent: No Commissioners absent.

Excused: Valderrama.

PUBLIC COMMUNICATIONS

Agenda Item 2. None

SAN DIEGO PORT TENANTS ASSOCIATION ANNUAL MEETING

Agenda Item 3.

Chairman Smith announced that, due to the fact that a quorum of the Board of Port Commissioners was scheduled to be present at the San Diego Port Tenants Association Annual Meeting (Meeting), the Meeting had been properly noticed as a special meeting of the Board of Port Commissioners of the San Diego Unified Port District.

Chairman Smith, Vice-Chair Moore and President/CEO, Wayne Darbeau participated in a panel discussion with the San Diego Port Tenants Association (Tenants Association).

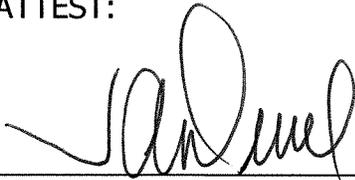
Commissioner Burdick offered remarks regarding public art on the tidelands. The panel members each thanked the Tenants Association for their efforts and for the

opportunity to address them during the Meeting. Chairman Smith adjourned the special meeting at 8:15 p.m.



Secretary, Board of Port Commissioners
San Diego Unified Port District

ATTEST:



Clerk of the San Diego Unified Port District

**MINUTES
BOARD OF PORT COMMISSIONERS
SAN DIEGO UNIFIED PORT DISTRICT**

As previously posted, a special meeting of the Board of Port Commissioners of the San Diego Unified Port District was called to order by Chairman Smith at 2:00 p.m., Monday, April 30, 2012, in the Board Room at 3165 Pacific Highway, San Diego, California.

ROLL CALL

Agenda Item 1.

Present: COMMISSIONERS, Burdick, Malcolm, Moore, Nelson, Peters, Smith, and Valderrama

OFFICERS: Brewer, Darbeau, Deuel, McEntee and Stup.

Absent: No Commissioners were absent.

Excused: No Commissioners were excused.

PUBLIC COMMUNICATIONS

Agenda Item 2. Chester Mordasini, President, Teamsters Local 911, addressed the Board and expressed support for the budget recommendation as presented by staff.

WORKSHOP

Agenda Item 3. Chairman Smith called the workshop to order. He turned the presentation over to Jeff McEntee, CFO/Treasurer. Mr. McEntee began the staff presentation by discussing the on-going economic challenges presented by the Great Recession (2008–10), reviewed the revenue generating goals for the future, and requested the Board consider the budget as a planning tool that can be amended at any time. He provided an overview of the budget and presented four alternatives to fill the projected budget gap. Mr. McEntee offered a brief presentation regarding the District's reserves funds. He reviewed the projected revenues and expenses.

Mr. McEntee turned the presentation over to Brian Stup, Chief Engineer who discussed the major maintenance program and briefly reviewed a number of the major maintenance projects included in the FY12-13 preliminary budget. (Copies of the staff report, the handouts, and presentation are on file in the Office of the District Clerk.)

Commissioner discussion ensued. Commissioner Peters offered a motion to adopt the staff recommendation. Commissioner Valderrama seconded the motion. Commissioner Peters announced that prior to the staff presentation each Board member received a briefing on the FY12-13 preliminary budget which provided an opportunity for additional clarification of specific matters. He stated that the work was well thought out and appreciated the staff's efforts.

Commissioner Valderrama requested and received clarification from John Bolduc, Vice President Public Safety/Harbor Police Chief, regarding the proposed overtime budget for the Harbor Police department and staff's consideration of hiring additional personnel. Chief Bolduc explained the overtime budget should begin to trend downward as the training gap for maritime policing support closes. Commissioner Valderrama requested and received clarification from Mr. McEntee that there was no policy in place regarding the funding percentage rate commitment for District contributions to the retirement reserves. Commissioner Valderrama stated he did not support scenario four related to deferring contributions to the pension plan to close the budget gap. Mr. McEntee reviewed the District's ratio of full pension plan funding during the recent past and explained the percentage of funding downturn was due to market fluctuations.

Commissioner Malcolm requested and received clarification from Mr. McEntee regarding the revenue assumptions that were based on the District receiving full cost recovery reimbursement from the San Diego County Regional Airport Authority (Airport) for Harbor Police security services as based on the Maximus study cost allocation plan. Commissioner Malcolm stated his concern regarding the cost recovery reimbursement in light of the reports from the recent negotiations with the Airport leadership. He requested the Board be more involved in assessing large major maintenance capital items as they affect the budget and their impacts on future year budgets. Mr. McEntee acknowledged the request and proposed alternatives in addition to quarterly reports such as one-on-one briefings, regular Board meeting presentations, or a workshop as a means to more fully review the projects and related funding data. Commissioner Malcolm thanked staff for their efforts in preparing the budget.

Commissioner Nelson echoed Commissioner Malcolm's acknowledgement of staff's efforts regarding the presentation of the data during the budget briefings. He expressed concern regarding the proposed budget and the operating deficit figure

should the reimbursement revenue for Airport services fall short. He discussed the scenario proposed to balance the budget by redirecting the use of the annual contributions to the Environmental Fund and Public Art Fund. He suggested that consideration of such a scenario may call for a policy discussion by the Board.

Commissioner Peters stated that, while not his preference, he understood the reasoning for the recommendation to redirect resources from the Public Art Fund and the Environmental Fund. Mr. McEntee acknowledged Commissioner Peters' request for additional information regarding maintaining the level of resources in the District's reserve funds as compared to other member cities. He referenced a *UT San Diego* newspaper article reporting the cash reserve fund levels held by local governments. (A copy of the article is on file in the Office of the District Clerk.) In reference to Commissioner Nelson's comments and upon consideration of reallocating Public Art Fund resources, Commissioner Peters explained that should consideration of the acquisition of a permanent piece of art for the tidelands arise in the future he would consider authorizing the use of operating reserves to fund the piece as long as the reserve levels remain strong. He discussed the use of a portion of the Environmental Fund to make up the budget short-fall since there was no immediate need for those resources. He discussed scenario four and the implications of underfunding the pension plan and cautioned against pursuing that alternative.

Commissioner Burdick acknowledged the thoughtfulness staff put into the budget preparation process and the Commissioner briefings. In addition to the four alternatives staff proposed to close the projected budget gap, she offered that the Board members consider other options. She expressed concern regarding the alternative to underfund the pension plan. She requested and received clarification from Mr. McEntee regarding the source of the projected \$700,000 FY11/12 surplus and the impact to Capital Improvement Program (CIP) funding for infrastructure projects. She offered remarks regarding her discomfort with the proposed scenario of utilizing the Public Art Fund and Environmental Fund's excess reserves to balance the budget. In the spirit of a more transparent action, she suggested that the Board vote to waive the FY12/13 annual contributions for the two programs as set forth under BPC Policy No. 609 and BPC Policy No. 730. Before the Environmental Fund reserves were re-allocated for general operating expense uses, she requested staff review the budget to determine if any projects listed qualify for funding from the Environmental Fund reserves. Commissioner Burdick reviewed her proposal to close the proposed budget deficit. In light of financial projections and CIP budget needs, she suggested that consideration be given to analyzing whether a fair-market rate was being charged for wharfage fees. She offered that wharfage fees should also remain competitive with other California ports. She requested that the Port Attorney's Office prepare an analysis of the District's

scope of its taxing authority and present the parameters of considering taxes as an alternative revenue stream, in addition to the tenant generated revenues.

In light of Commissioner Burdick's comments regarding future revenue generating opportunities, Commissioner Moore requested that staff explore the concept of cost reimbursement of staff time for projects and whether the District should absorb the mitigation costs for projects. She offered her support for the staff recommendation, acknowledged the concerns with the reallocating funding from the Public Art Fund reserves and Environmental Fund reserves and concurred with Commissioner Peters' comments regarding utilizing the necessary resources to balance the budget. Commissioner Moore questioned the recommendation regarding waiving BPC Policy No. 609 and BPC Policy No. 730. She concurred with Commissioner Malcolm's remarks regarding assessing the major maintenance program. She thanked staff for their efforts to present the budget material in an easy to understand approach.

Commissioner Nelson returned to his concern regarding the likelihood of realizing the budgeted revenue target for the Airport security services reimbursement. In lieu of the staff recommendation, he offered an alternative to the staff recommendation to close the budget gap that included reallocating funds from a number of areas.

Commissioner Peters agreed with the direction to the staff offered during the discussion and accepted those items as amendments to the motion. Commissioner Valderrama accepted the amendments to the motion.

Wayne Darbeau, Executive Director, acknowledged Commissioner Burdick's request that staff review the projects and assess whether any of them could be funded with Environmental Fund resources. Mr. Darbeau also offered comments regarding the Board discussion and noted the possible impacts to the business stakeholders and member city relationships.

Chairman Smith requested and received that Commissioner Nelson was not offering a motion regarding his proposed alternative. The Chairman acknowledged staff for their efforts to improve the budget process. He acknowledged the significant efforts made to allocate the necessary funds to begin support for a multi-year technology improvement program. In lieu of purchasing technology equipment he requested that staff investigate lease opportunities. He expressed his concern that an apparent trend may have been developed regarding over-budgeting for professional services. Chairman Smith explained that budgets were dynamic documents that change and offered remarks regarding revenue projections and the related expenditures. He acknowledged

the challenges that can arise with reallocating “fenced funds” for specific programs and expressed his support for the staff recommendation.

Commissioner Malcolm restated his concern regarding the possible challenges and impacts to bonding rates if the budgeted revenue target for the Airport security services reimbursements projected over the next four years were not realized. He discussed the District’s practice of funding CIP projects with operating surpluses. He offered remarks regarding considering funding operating deficits with operating surpluses.

Commissioner Nelson expressed concern regarding the budgeted revenues and the plan for how those projections would be realized.

Commissioner Peters acknowledged Commissioner Nelson and Commissioner Malcolm’s concerns and offered that the Board action under consideration was to assess the staff recommendations presented. He then offered that the concerns raised by his colleagues would require further analysis and Board direction to address those matters.

Chairman Smith also responded to the concerns raised, discussed multi-year budget cycles, and realizing revenue projections. He acknowledged the District’s ability to operate within its annual budget and to address the likely variances.

Commissioner Burdick acknowledged Commissioner Peters’ comments and discussed the Board’s requests for additional information from the staff. Mr. McEntee reiterated that the preliminary budget consideration opens the 30-day public comment window prior to consideration of the final budget before June 15, 2012. Commissioner Burdick clarified that her request was to have as much additional information as possible be made available for the public. Referencing the public art program policies, she offered clarification regarding the allocation of funds for public art for specific CIP projects, described the few exemptions to the policy and offered remarks regarding future CIP funding projections. She acknowledged Commissioner Malcolm’s remarks regarding the allocation of any operating surpluses.

Mr. Darbeau acknowledged the Board’s recommendations and offered that staff would assess them and provide pragmatic responses for those that were “do-able,” and also respond to the items that require longer-term thinking. He acknowledged the concerns regarding the Airport reimbursements study which may spur the need for strategic long-term planning regarding providing the Airport security services. He thanked the Board for their leadership efforts during all of the recent workshops.

Commissioner Nelson expressed his opposition to the motion and restated his desire that staff resolve the Airport funding concerns raised prior to consideration of adopting the budget at the June 12, 2012 regular Board meeting.

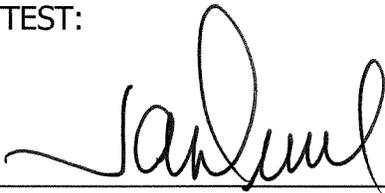
On a motion by Commissioner Peters, seconded by Commissioner Valderrama, the Board voted to adopt the staff recommendation and directed staff to: involve the Board in assessing large major maintenance capital projects; address the reimbursement for Airport security services; determine which environmental projects could qualify for funding from the Environmental Fund reserves; analyze wharfage fees; perform an analysis of the District's scope of its taxing authority and present the parameters of considering tax revenue as an alternative funding resource; explore the concept of cost reimbursement of staff time for projects and determine whether the District should absorb the mitigation costs for projects; by the following vote: Yeas-Burdick, Malcolm, Moore, Peters, Smith and Valderrama; Nays-Nelson; Excused-None; Absent-None; Abstained-None.

Chairman Smith announced that there were no additional comments and adjourned the workshop.



Secretary, Board of Port Commissioners
San Diego Unified Port District

ATTEST:



Clerk of the San Diego Unified Port District

**MINUTES
BOARD OF PORT COMMISSIONERS
SAN DIEGO UNIFIED PORT DISTRICT**

The special meeting of the Board of Port Commissioners of the San Diego Unified Port District was called to order by Chairman Smith at 9:03 a.m., Tuesday, May 8, 2012, in the Training Room at 3165 Pacific Highway, San Diego, California.

ROLL CALL

Agenda Item 1.

Present: COMMISSIONERS Burdick, Malcolm, Moore, Nelson, Peters, Smith, and Valderrama.

OFFICERS: Brewer, Darbeau, Deuel and McEntee

Absent: No Commissioners absent.

Excused: No Commissioners excused.

PUBLIC COMMUNICATIONS

Agenda Item 2. None.

WORKSHOP

ALIGNING PORT RESOURCES TO MATCH THE BOARD'S STRATEGIC GOALS AND PRIORITIES AND DIRECTION TO STAFF

Agenda Item 3. Chairman Smith called the special meeting to order and turned the presentation over to Steve Alexander from the Steve Alexander Group who reviewed the agenda, described the workshop process, explained his role as a facilitator and introduced the District leadership presenting the staff report during the workshop. He explained the objectives of the workshop and discussed the collaborative nature of the process. (A copy of the staff report is on file in the Office of the District Clerk.)

Wayne Darbeau, Executive Director, began the staff presentation, acknowledged the Board members for their service, and provided background information that motivated holding the workshop. Mr. Darbeau offered an overview of the workshop presentations.

Randa Coniglio, Executive Vice President Operations, continued the presentation and discussed the workload assessment process. Stating that the Port Act guides the District, she then described the myriad of sources where additional work requests originate.

Brandy Christian, Vice President Strategy and Business Development, continued the presentation and discussed the workload assessment and the methods staff used to ensure that the planned projects and services were in alignment to achieve the District's strategic goals. She also discussed unplanned projects and the impacts to the District operations and requested guidance from the Board regarding prioritizing those items.

Karen Porteous, Executive Vice President Administration, continued the presentation and discussed the organization of the District's workforce, the distribution of labor resources, and reviewed the management of project resources.

Mr. Darbeau thanked the participants, summarized the staff presentation and requested Board input and direction.

Mr. Alexander explained the next steps and facilitated the Board discussion.

Board discussion ensued. Commissioner Moore requested and received clarification from Mr. Darbeau that the staff request was for Board assistance to address the matter of the unplanned and unbudgeted work. Ms. Coniglio acknowledged Commissioner Moore's recommendation that work plans for Board committees be developed and approved.

Concerning the staff's analysis of the total work, Commissioner Peters offered remarks regarding the current percentage of unplanned work and encouraged staff to establish an expected percentage of unplanned work in a similar way that a budget contingency was developed and managed. He also recommended, "hiring-out" temporary staff to complete unplanned work and for short-term project-based needs.

Mr. Darbeau acknowledged Commissioner Peters' comments. He requested Board counsel regarding the development of a vetting mechanism to allocate resources to support the dynamic nature of unplanned work requests that arises outside of the planned systematic approach.

Commissioner Burdick expressed her appreciation for the efforts of staff to present the information in a clear manner. Except for the unplanned work that staff was proposing to delay and in light of balancing performance with capacity she requested

clarification as to whether staff believed they were prepared with the current resources to do all of the planned work.

Responding to Commissioner Burdick's query, Ms. Christian acknowledged the work list presented was ever changing, and in light of the need for a vetting process, she offered she did not believe staff was prepared to do all of the planned and unplanned work shown in the staff report. Ms. Porteous also responded and offered further clarification regarding the challenges faced to complete the work with the current level of resources. Mr. Darbeau offered that staff was "at capacity."

Commissioner Burdick requested clarification regarding what staff believed was a maximum efficient workload capacity that matched available resources and maintained performance. Ms. Christian offered each division and department would have to be looked at to assess its capacity to provide the most accurate response. Mr. Darbeau confirmed that staff would report to the Board with the information requested.

Commissioner Nelson offered his compliments to staff for acknowledging the need to assess the matter. He discussed his role, as a Commissioner, in putting forward projects that may add to the unplanned workload. He encouraged his colleagues to conduct a similar personal assessment of suggested projects. He discussed working with staff and committees in a cooperative and confident way. Commissioner Nelson offered that on the occasions when staff determines an unplanned work project cannot fit into the flow of capacity, the Executive Director bring the matter to the Board's Executive Committee for dispatching.

Mr. Darbeau acknowledged Commissioner Nelson's remarks and concurred with the concept of utilizing the Board's Executive Committee as needed.

Commissioner Valderrama offered his appreciation to staff and acknowledged the workload data presented in the staff report. He encouraged staff to provide the Board with timely feedback regarding the workload and staff's maximum capacity. He acknowledged Commissioner Nelson's remarks regarding the assessment of Board driven projects. Commissioner Valderrama expressed concern regarding the ability to control external influences and requested staff communicate with the Board regarding internal influences. He offered remarks regarding staff's ability to return with a mechanism to seek Board consensus regarding work priorities.

Commissioner Moore offered comments regarding "criteria-setting" when assessing the work priorities for planned projects. Based upon the discussion at the Board's retreat, she offered her understanding that staff requested the Board consider the unplanned work list and offer its recommendations for postponing work on some

projects. She acknowledged her fellow Commissioner's suggestions regarding the use of a Board's Executive Committee to assess the unplanned work and returning to the full Board with recommendations. She reiterated the importance of developing disciplined Board committee work plans.

Mr. Darbeau acknowledged Commissioner Moore's comments. He offered that, in light of the workshop schedule an assessment of the project list could be taken up in the near future. He also discussed the past roles of the Executive Committee and future opportunities.

Celia Brewer, Interim Port Attorney, also discussed the Board Policy governing the Executive Committee and the District's current practices. She stated the District Clerk was reviewing the policy and he will propose updates to more accurately reflect the committee's function for the Board's consideration.

Commissioner Malcolm thanked staff and acknowledged their efforts to complete the analysis shown in the staff report. He acknowledged that unplanned work will be ongoing and concurred that some kind of time contingency was necessary to manage that work. In addition to looking at the impacts of new unplanned work, he offered that there are benefits for assessing the planned work, based upon staff capacity; a determination can be made regarding the likelihood of completing all the planned work. He recommended looking at the organization's structural issues to determine whether those items are necessary. He offered examples of such structural issues including the current Board committees and outsourcing or privatizing existing staff level functions.

Ms. Coniglio acknowledged Commissioner Malcolm's remarks. She stated staff looked at the structural issues and continues seeking opportunities to increase efficiencies. She offered that staff has begun to assess the body of planned work to determine whether the District should be the lead agency driving those projects forward. She stated staff was seeking opportunities to team with other agencies such as the United States Navy or San Diego Association of Governments (SANDAG) to direct some of the land use planning projects.

Chairman Smith thanked staff for their efforts to present such a complicated matter clearly. He requested clarification regarding whether staff believed that the work level shown was typical for the year.

Mr. Darbeau described a number of unexpected factors leading to what he stated was not "typical year." Mr. Darbeau then explained that regarding the unexpected and

unplanned work requests, it was a "typical year" and one of the reasons staff requested Board direction.

Chairman Smith offered that contingency resources should also be budgeted for unexpected or unplanned work. He discussed the importance of implementing system discipline and explained that with each new item added an existing item would be stopped.

Commissioner Peters offered that consideration be given to developing a hierarchy for responses based upon the available resources. He offered that the Commissioners distinguish the committee functions between "policy making matters" and "running the business." He questioned maintaining the business management committees, such as the Real Estate Advisory Committee and the Maritime Advisory Committee, in that staff manages those segments of the business. He also discussed the importance of having public policy committees, such as the Public Art Advisory Committee and the Environmental Advisory Committee, and offered remarks regarding the importance of outreach as a means to seek stakeholder input. Commissioner Peters offered support for utilizing the Executive Committee to assist with prioritization and urged staff to continue assigning resources as the District's operational managers.

Commissioner Nelson also discussed assessing the current need for business management committees such as the Cruise Industry Advisory Committee and the Maritime Advisory Committee. He offered that maintaining a forum for a stakeholder dialogue was important. He offered that the District should focus its resources on its core competencies and also rely on other agencies to perform their core competencies.

Commissioner Moore discussed assessing the current need for business management committees such as the Marketing Advisory Committee. She discussed establishing prioritization criteria which included emergency response matters; work derived from planned projects and assessing what could be completed by another public agency or organization.

Concerning the discussion, Mr. Darbeau explained that the staff Executive Leadership Group would retain responsibility as the "clearinghouse" for internal operations. He explained that when a business case was made then staff leaders would assess and validate ideas and allocate the necessary resources to move forward. He discussed the role of the Board's Executive Committee. Mr. Darbeau suggested the development of an evaluation process for inventive ideas or "fly-ins" to encourage responding to unplanned opportunities presented outside of the standard operating procedures. He discussed the concept of lead agency roles and reassessing the use of

District's resources. Mr. Darbeau discussed the concept of opening doors for the consideration of value-added opportunities that lead to unplanned work.

Mr. Alexander reviewed the following concepts and ideas captured during the workshop: review the committee structures and their current role and work plans; developing contingency planning mechanisms; establish a means to evaluate incoming unplanned work; determine Executive Committee role in assessing current planned and unplanned work; focus on the District's Strategic Plan as a guide; assure that the Executive Director is empowered to allocate resources for projects; consider outsourcing or moving tasks to other agencies; assess work and set evaluation criteria for the Executive Committee members; and develop a process by which value-added unplanned opportunities can be vetted and processed.

Commissioner Burdick requested clarification regarding the term "interference" that was introduced at the beginning of the workshop and questioned whether the Board requests impacted the staff's efficiency.

John Bolduc, Vice President Safety/Harbor Police Chief, offered remarks regarding cross-discipline projects and explained that sometimes work that originates from other District departments would have an impact on the Harbor Police Department operations.

Mr. Darbeau explained that in a management sense, "interference" was executing anything that is not part of an agreement; or, anything that was neutral in value and unplanned. He discussed his desire to implement systems to manage the unplanned work.

Commissioner Valderrama requested that Mr. Darbeau provide specific instances in which Board driven requests could be categorized as "interference" during his one-on-one meetings with each Commissioner.

Ms. Coniglio offered the recent allocation of the resources necessary to provide research into matters, as a means to correct misinformation was an example of "interference."

Commissioner Moore reflected on the discussion and expressed her concerns regarding whether the staff believed they were empowered to say "no" to requests that generate unplanned work. She discussed putting a mechanism in place to allow the staff to respond to requests for unplanned work.

Mr. Darbeau concurred that a system was necessary to assess unplanned work. In regard to Commissioner Valderrama's remarks, he discussed the importance of working with the Board as a single body while being conscious of individual relationships.

Jeff McEntee, CFO/Treasurer, offered his definition of "interference" and discussed the need to change direction and marshal the necessary resources, which impacts the previously planned work. He discussed the need for a vetting process and setting the organization's priorities.

Commissioner Nelson discussed his interpretation of "interference" and suggested the use of the word "distraction" could be used as an alternative. He discussed the influence of proactive communication by the Board and staff with stakeholders, and the effect of once-a-month Board meetings on other agencies.

Commissioner Malcolm offered that he saw an opportunity to streamline unplanned work that stems from individual initiatives. He discussed the importance of including major maintenance - capital improvement projects in the assessments of the current work.

Ms. Christian responded to the discussion from a strategic planning point of view and offered insights into the District's earlier pattern of planning relative to available resources and project execution.

Mr. McEntee acknowledged Commissioner Malcolm's remarks regarding the benefit of major maintenance planning and suggested having a workshop to prioritize the work and assess resource requirements.

Commissioner Malcolm reiterated the importance of completing projects as budgeted to maximize staff resources.

Chairman Smith discussed addressing "interference" with a systematic approach. He encouraged staff to effectively communicate with the Board regarding the level of staff time required to address the Commissioner's inquiries and/or suggestions that could make for unplanned work. He acknowledged the challenges posed for the District by responding to unplanned work and diverting staff resources from their highest and best possible uses.

Ms. Porteous acknowledged the benefits of the discussion and remarked on the workshop as an opportunity for an open dialogue regarding the impacts of internal "interference" and unplanned work.

Mr. Alexander explained that staff would take the ideas captured during the workshop and assess them with the Executive Committee. The resulting recommendation would then return to the Board for consideration.

Commissioner Peters left the dais at 11:03 a.m.

Chairman Smith concluded the workshop and requested counsel read the Board into closed session.

CLOSED SESSION

Celia Brewer, Interim Port Attorney, announced the closed session agenda as follows:

Agenda Item 4.

CONFERENCE WITH REAL PROPERTY NEGOTIATOR
Government Code Section 54956.8

Property: Approximately 5 acres of tideland area leased to the San Diego Convention Center Corporation along Convention Way, all bayward of the San Diego Convention Center

Negotiating Parties: Charles Black, City of San Diego;
Karen Weymann, Shaun Sumner, Nick Markos,
Randa Coniglio, Karen Porteous, Jeffrey McEntee, SDUPD

Under Negotiation: Price and Terms

Agenda Item 5.

CONFERENCE WITH REAL PROPERTY NEGOTIATOR
Government Code Section 54956.8

Property: Approximately 4,080 square feet of land and approximately 140,700 square feet of water area leased to the Community Development Agency of the City of Coronado, and approximately 132,100 square feet of adjacent uplands owned by the City of Coronado.

Negotiating Parties: Blair King, Tom Ritter, City of Coronado;
Karen Weymann, Annette Dahl, Randa Coniglio,
Karen Porteous, Jeffrey McEntee, SDUPD

Under Negotiation: Price and Terms

Agenda Item 6.

CONFERENCE WITH REAL PROPERTY NEGOTIATOR
Government Code Section 54956.8

Property: SDUPD - Marine Group Boat Works, LLC consisting of
approximately 411,758 square feet of land and
approximately 371,344 square feet of water located at
997 G Street, Chula Vista, CA

Negotiating Parties: Todd Roberts, Vice President,
Marine Group Boat Works, LLC;
Karen Weymann, Chris Hargett, Lesley Nishihira,
Adam Meyer, Randa Coniglio, Karen Porteous,
Jeffrey McEntee, SDUPD

Under Negotiations: Price and Terms

Agenda Item 7.

CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION
Significant exposure to litigation pursuant to Subdivision (b)(1) of Government
Code Section 54956.9

One Case

Agenda Item 8.

PUBLIC EMPLOYEE APPOINTMENT, PERSONNEL EVALUATION OR DISCIPLINE:
PORT AUDITOR
Government Code Section 54957

Agenda Item 9.

PUBLIC EMPLOYEE APPOINTMENT, PERSONNEL EVALUATION OR DISCIPLINE:
APPOINTMENT OF PORT ATTORNEY
Government Code Section 54957

Timothy Deuel, District Clerk, announced the Board received one agenda related material regarding **Closed Session Agenda Item No. 6**. (A copy is available in the Office of the District Clerk.)

Agenda Item 7.

PUBLIC EMPLOYEE APPOINTMENT, PERSONNEL EVALUATION OR DISCIPLINE:
EXECUTIVE DIRECTOR AND PORT ATTORNEY
Government Code Section 54957

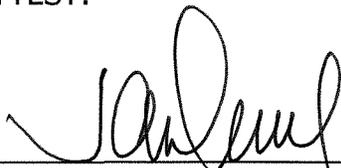
As requested by Chairman Smith, Celia Brewer, Interim Port Attorney, announced at the beginning of the May 8, 2012 regular Board meeting that in regard to **Closed Session Item 6**, Marine Group Boat Works, LLC, she stated the District offered the following statement, "In order to consider the request of maritime tenant's request, Marine Group Boat Works, and to implement the Chula Vista Bayfront Master Plan, the Board directed staff to negotiate an amendment to the Marine Group Boat Works lease provided that the amendment to the lease is brought back to the Board for approval by its July 2012 regular Board meeting. The amendment may extend the lease by 10 years to January 30, 2030 and with an option to extend the lease up to an additional 11 years to January 30, 2041. We anticipate that a letter of understanding will be brought back before the Board at its next meeting regarding the item."

There was no other formal or reportable action as to any closed session items, pursuant to Government Code Section 54950 et seq, to report from the closed session; whereupon, Chairman Smith adjourned the special meeting.

A handwritten signature in cursive script, reading "Lee Berdick".

Secretary, Board of Port Commissioners
San Diego Unified Port District

ATTEST:

A handwritten signature in cursive script, appearing to read "Janet".

Clerk of the San Diego Unified Port District

**MINUTES
BOARD OF PORT COMMISSIONERS
SAN DIEGO UNIFIED PORT DISTRICT**

CLOSED SESSION

Agenda Item 2. As requested by Chairman Smith, Celia Brewer, Interim Port Attorney, announced that in regard to **Closed Session Agenda Item 6**, Marine Group Boat Works, LLC, the District offered the following statement, "In order to consider the request of maritime tenant, Marine Group Boat Works, and to implement the Chula Vista Bayfront Master Plan, the Board directed staff to negotiate an amendment to the Marine Group Boat Works lease, provided that the amendment to the lease is brought back to the Board for approval by its July 2012 regular Board meeting. The amendment may extend the lease by 10 years to January 30, 2030; and, with an option to extend the lease up to an additional 11 years to January 30, 2041. We anticipate that a letter of understanding will be brought back before the Board at its next meeting regarding the item." Ms. Brewer stated there was no further reportable action.

The regular meeting of the Board of Port Commissioners of the San Diego Unified Port District was called to order by Chairman Smith at 1:03 p.m., Tuesday, May 8, 2012, in the Board Room at 3165 Pacific Highway, San Diego, California.

ROLL CALL

Agenda Item 1.

Present: COMMISSIONERS, Burdick, Malcolm, Moore, Nelson, Smith, and Valderrama.

OFFICERS: Brewer, Darbeau, Deuel, McEntee and Stup

Absent: No Commissioners absent.

Excused: Commissioner Peters was excused until he arrived at 1:10 p.m.

PLEDGE OF ALLEGIANCE

Agenda Item 3. Commissioner Valderrama led the Pledge of Allegiance.

APPROVAL OF MINUTES

Agenda Item 4. Commissioner Burdick stated she would abstain from voting on the April 10, 2012 minutes. She offered a motion to approve the minutes for the April 4, 2012 special meeting and the April 11, 2012 special meeting, seconded by Commissioner Valderrama.

On motion of Commissioner Burdick, seconded by Commissioner Valderrama, the Board approved the minutes for the special meetings of April 4, 2012 and April 11, 2012, by the following vote: Yeas-Burdick, Nelson, Malcolm, Moore, Smith and Valderrama; Nays-None; Excused-Peters; Absent-None; Abstained-None.

PUBLIC COMMUNICATIONS

Agenda Item 5. Brian Joseph, Executive Director, Living Coast Discovery Center, addressed the Board and thanked the Commissioners and the City of Chula Vista for their assistance to help the center achieve sustainability. He announced the recent rebranding of the organization; discussed their economic impact to the region and bayfront development; offered remarks regarding their mission and invited the Board to visit their new exhibit.

Commissioner Peters arrived at 1:10 p.m.

COMMISSIONER COMMENTS/REVIEW OF TODAY'S MEETING

Agenda Item 6. Chairman Smith offered remarks regarding examples of an exemplary port. He discussed a letter received from Tom Torlakson, State Superintendent of Public Instruction, who acknowledged the District for its commitment to investing resources in the Chula Vista Nature Center (Living Coast Discovery Center) and the Birch Aquarium at Scripps. Chairman Smith announced that prior to recent news articles he and the District's leadership had determined it would study the District's Travel Policy as a commitment to continuous improvement and directed staff to bring the matter back to the Board to assess the policy during a regular Board

meeting. Chairman Smith turned the presentation over to John Bolduc, Vice President Public Safety/Harbor Police Chief.

Chief Bolduc introduced Harbor Police Officers Robert Brownyard and Patrick Hennigan, who along with Harbor Police Sergeant Robert Mickschl, responded to a single car rollover collision on December 18, 2011. The officers found the driver had no pulse, began performing CPR (cardiopulmonary resuscitation) and deployed an automated external defibrillator (AED) to help revive the victim. Chief Bolduc stated the driver was transported to the hospital and survived the incident. Life Saving Awards were presented to Officer Bownyard and Officer Hennigan.

Chief Bolduc reported that on April 13, 2012, a 25-year-old woman collapsed on the escalators at the San Diego International Airport, the two civilians who assisted her discovered she had no pulse and began CPR while the Harbor Police was contacted. Harbor Police Officer Michelle Rodriguez, Harbor Police Officer Joseph Jones, Harbor Police Officer Sara Madvay and Harbor Police Officer Columbus Offord arrived and began to attend to the woman. The officers continued with CPR, deployed the AED and restored her pulse and breathing before paramedics transported her to the hospital. Chief Bolduc read from a letter of thanks from the woman's father who offered praise to all who came to her aid. Life Saving Awards were presented to the responding officers.

Chairman Smith offered his thanks to the officers. Lorelee Olejnick, San Diego Project Heartbeat, addressed the Board and thanked the District for their ongoing commitment to CPR and AED training.

Chief Bolduc announced that the San Diego Association of Public Safety Dispatchers selected Rhonda Lockwood, a District Public Safety Dispatcher, as the San Diego County Dispatcher of the Year.

Chairman Smith and Wayne Darbeau, Executive Director, congratulated the staff members. Photographs of the staff members with Chairman Smith, Wayne Darbeau, Executive Director and the Project Heartbeat representatives were taken.

Commissioner Burdick acknowledged the efforts of the Harbor Police Department. She offered remarks regarding the incident in which two Harbor Police Officers suffered eye injuries on May 4, 2012 when a laser was pointed at them while aboard their vessel on a routine patrol off Shelter Island. She expressed her concern regarding the matter and expressed her desire that the responsible party would be brought to justice with the help of the community.

Commissioner Peters also acknowledged the Harbor Police officers for their efforts to ensure public safety.

CONSENT AGENDA

Chairman Smith requested that Timothy Deuel, District Clerk, announce any suggested docket changes. Mr. Deuel announced the proposed changes to the agenda as follows: **Consent Agenda Item 12**, Resolution Authorizing the Second Amendment to the Agreement with MJE Marketing Services, Inc. to fund period three, FY 12/13 in an amount not to exceed \$650,000 for marketing and advertising services, media buying and campaign development; staff requests this item be continued to a future Board meeting; **Consent Agenda Item 15**, Resolution Waiving BPC Policy No. 110 and Authorizing a Design Agreement with GHD for the partial demolition of Transit Shed No. 1 and Warehouse C and Site Improvements at Tenth Avenue Marine Terminal for Tiger IV Grant Funding application, in an amount not to exceed \$_____; staff requests this item be continued to a future Board meeting; **Consent Agenda Item 17**, Resolution Adopting Amendments to the FY 2009-2013 Capital Improvement Program; staff requests that Board action is no longer required; **Consent Agenda Item 19**, Resolution Granting Approval for General Indemnification Language for Vessel Operators During Shore Power Testing; staff requests this item be continued to a future Board meeting; **Action Agenda Item 25**, Ordinance Granting a 24.5 Year Lease to Dole Fresh Fruit Company for 954,864 square feet of land for refrigerated container operations to import and export fresh fruit at the Tenth Avenue Marine Terminal; staff requests this item be continued to a future Board meeting; and **Action Agenda Item 30**, Discussion of Coastal Consultant Services Strategy and direction to staff; staff requests this item be continued to a future Board meeting.

On motion of Commissioner Malcolm, seconded by Commissioner Peters, the Board accepted the suggested changes to the agenda, by the following vote: Yeas-Burdick, Malcolm, Moore, Nelson, Peters, Smith and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

Commissioner Burdick requested that **Consent Agenda Item 8AB**, Resolutions regarding Silver Gate Yacht Club at 2091 Shelter Island Drive and **Consent Agenda Item 21**, Resolution Approving the Individual Project Plan for "Tidelands Art" - A Public Art Annual Commissioning Program under the District's "Public" creative direction, as outlined in the adopted five-year Curatorial Strategy 2012-2016, be pulled for a separate discussion and vote. Chairman Smith announced a request to speak form was submitted regarding the following **Consent Agenda Item 13**, Resolution Adopting Plans and Specifications and Awarding Contract No. 2009-15 to Vector Resources, Inc. for the Fiber Optic Installation (Phase 2) from Old Town Transit Center to 12th and Imperial Transit Center in the amount of \$306,467.92 in support of Homeland Security for District Maritime Facilities, which would be trailed to the end of the meeting.

On motion of Commissioner Malcolm, seconded by Commissioner Nelson, the Board adopted Consent Agenda items 7, 9, 10, 11, 14, 16, 18, and 20 (**Resolution 2012-54, Resolution 2012-56** through and including **Resolution 2012-58, Resolution 2012-60** through and including **Resolution 2012-63**) by the following vote: Yeas-Burdick, Malcolm, Moore, Nelson, Peters, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

Agenda Item 7. **Resolution 2012-54**, Consenting to Sublease from Manchester Grand Hyatt to Travel Traders to operate a gift shop for a term of five years with one five year option to extend, was adopted as part of the consent agenda.

Agenda Item 9. **Resolution 2012-56**, Granting Concept Approval for the Proposed Pool and Landscape Improvement Project at the Hilton San Diego Bayfront Hotel, with conditions, was adopted as part of the consent agenda.

Agenda Item 10. **Resolution 2012-57**, Authorizing the First Amendment to the Agreement with Amerit Consulting, Inc., to provide temporary staffing services on an as-needed basis, increasing the total agreement amount by \$100,000 for a total amount of \$289,100 for Fiscal Year 11/12, was adopted as part of the consent agenda.

Agenda Item 11. **Resolution 2012-58**, Proclaiming Support of National Small Business Week, May 20-26, 2012, was adopted as part of the consent agenda.

Agenda Item 12. Item Continued.

Agenda Item 14. **Resolution 2012-60**, Adopting Plans and Specifications and Awarding Contract No. 2011-33 to Flatiron Electric Group, Inc. for the North San Diego

Bay Fiber Optic Installation (Phase 7) in the amount of \$1,110,000 in support of Homeland Security for District Maritime Facilities, was adopted as part of the consent agenda.

Agenda Item 15. Item Continued.

Agenda Item 16. **Resolution 2012-61**, Approving Proclaiming Supporting of National Public Works Week, May 20-26, 2012, was adopted as part of the consent agenda.

Agenda Item 17. Board action no longer required.

Agenda Item 18. **Resolution 2012-62**, Authorizing Execution of a Memorandum of Understanding (MOU) between the City of San Diego and the District and granting mutual indemnity with the City of San Diego to participate in the Urban Area Security Initiative (UASI) Grant Program, was adopted as part of the consent agenda.

Agenda Item 19. Item Continued.

Agenda Item 20. **Resolution 2012-63**, Approving the 2012 Annual Work Plan for the Audit Advisory Committee, was adopted as part of the consent agenda.

ACTION AGENDA

RESOLUTION AUTHORIZING FINANCING AGREEMENT BETWEEN THE SAN DIEGO UNIFIED PORT DISTRICT AND THE CITY OF CHULA VISTA OUTLINING FUTURE INFRASTRUCTURE FINANCING OF THE CHULA VISTA BAYFRONT MASTER PLAN.

Agenda Item 26. Karen Weymann, Director, Real Estate, addressed the Board with a presentation and requested consideration of a Resolution authorizing a Financing Agreement between the San Diego Unified Port District and the City of Chula Vista outlining future infrastructure financing of the Chula Vista Bayfront Master Plan (CVBMP). She turned the presentation over to Christian Anderson, Senior Asset Manager, Real Estate, who discussed the financing agreement and the related project. (A copy of the staff report and presentation is on file in the Office of the District Clerk.)

Cheryl Cox, Mayor, City of Chula Vista, addressed the Board in support of the resolution. She characterized the action as the first step in implementing the CVBMP and expressed her hope that the California Coastal Commission schedules a hearing on the matter at their July 2012 meeting.

Commissioner discussion ensued. Commissioner Moore thanked Mayor Cox and the City of Chula Vista staff for their work. She acknowledged the efforts of staff. She explained that the project was a model for partnership that could be used on other projects. She reiterated Mayor Cox's remarks that the action was the first step in implementing the CVBMP. Commissioner Moore offered a motion to accept the staff recommendation. Commissioner Malcolm seconded the motion.

Commissioner Burdick offered her support for the staff recommendation to move forward with the financing agreement for the CVBMP. She requested clarification regarding section 14 referencing Proposition G, from page 19 of the draft agreement. Mr. Anderson offered his understanding based upon a discussion with the Chula Vista City Attorney who stated that the provision will be rendered unlawful.

Commissioner Peters also noted section 14 referencing Proposition G, from page 19 of the draft agreement, and requested clarification from staff as the project is planned for District property.

Celia Brewer, Interim Port Attorney, stated that the District has engaged special counsel Kathleen Leak, Orrick Herrington & Sutcliffe, who was available to clarify further the District's position regarding the matter. Ms. Brewer offered clarification that upon review, staff determined that section 14 referencing Proposition G could stand as written in light of the new law that was recently passed.

Commissioner Nelson recognized staff for their efforts. He offered remarks acknowledging the contributions of Mayor Cox and San Diego County Supervisor Greg Cox on moving the project forward.

Offering remarks regarding the initial planning for the CVBMP, Commissioner Malcolm also thanked Mayor Cox. He concurred with Commissioner Moore's remarks that the project was a model for good government in the region. He discussed the fiscal benefits of the project as well as the "Return on Involvement" by enhancing the bayfront for all stakeholders.

Commissioner Valderrama discussed the timeline for the project and offered his belief that the CVBMP was the biggest project to impact the south bay. He expressed his support for the staff recommendation and looked forward to approval by the California Coastal Commission.

Chairman Smith thanked the team for their efforts regarding the project. He acknowledged Mayor Cox for her efforts to continue moving the CVBMP forward.

On a motion of Commissioner Moore, seconded by Commissioner Malcolm, the Board adopted **Resolution 2012-66**, Authorizing Financing Agreement between the San Diego Unified Port District and the City of Chula Vista Outlining Future Infrastructure Financing of the Chula Vista Bayfront Master Plan, by the following vote: Yeas-Burdick, Malcolm, Moore, Nelson, Peters, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

PUBLIC HEARING AGENDA

CONDUCT A PUBLIC HEARING AND ADOPT AN ORDINANCE AMENDING SECTION 8.15 OF THE UNIFIED PORT DISTRICT (UPD) CODE - PARKING REGULATIONS ENFORCEMENT.

Agenda Item 22. Jeff McEntee, CFO/Treasurer, addressed the Commissioners and requested the Board Conduct a Public Hearing regarding the adoption of an ordinance amending Section 8.15 of the Unified Port District (UPD) Code - Parking Regulations Enforcement. (A copy of the staff report and presentation is available in the Office of the District Clerk.)

Chairman Smith opened the public hearing. As there were no speakers present to address the matter, Chairman Smith closed the public hearing.

On a motion of Commissioner Peters, seconded by Commissioner Moore, the Board adopted **Ordinance 2668**, Amending Section 8.15 of the Unified Port District (UPD) Code - Parking Regulations Enforcement, by the following vote: Yeas-Burdick, Malcolm, Moore, Nelson, Peters, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

ACTION AGENDA CONTINUED

RESOLUTION ADOPTING PROCLAMATION COMMEMORATING MAY 22, 2012 AS NATIONAL MARITIME DAY.

Agenda Item 23. Joel Valenzuela, Director, Maritime Operations, addressed the Board regarding the benefits of the maritime industry, the strategic port designation, the awareness events planned around National Maritime Day and requested the Commissioners consider a resolution adopting a proclamation commemorating May 22, 2012 as National Maritime Day. (A copy of the staff report is on file in the Office of the District Clerk.)

Commissioner discussion ensued. Chairman Smith acknowledged celebrating San Diego's maritime heritage and the positive impacts of the maritime industry to the region.

On a motion of Commissioner Peters, seconded by Commissioner Nelson, the Board adopted **Resolution 2012-65**, Adopting Proclamation Commemorating May 22, 2012 as National Maritime Day, by the following vote: Yeas-Burdick, Malcolm, Moore, Nelson, Peters, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

Commissioner Nelson left the dais at 1:43 p.m. and returned at 1:48 p.m.

MARKETING AND COMMUNICATION PRESENTATION ON UPDATED PORT TENANT STIMULUS CAMPAIGN – THE BIG BAY.

Agenda Item 24. Rita Vandergaw, Director, Marketing and Business Development, addressed the Board with an update on the Port Tenant Stimulus Campaign - The Big Bay. She discussed the emerging opportunities in the eco-tourism market. (A copy of the staff report and presentation is on file in the Office of the District Clerk.)

On the occasion of her impending retirement, each Commissioner offered congratulations to Ms. Vandergaw. They thanked her for her many contributions to the District, the Big Bay marketing program, and leadership in building the District's cruise industry business. Wayne Darbeau, Executive Director, thanked Ms. Vandergaw on behalf of the staff for 21 years of service.

Ms. Vandergaw thanked the Board and acknowledged the team of staff members for their support and assistance.

ORDINANCE GRANTING A 24.5 YEAR LEASE TO DOLE FRESH FRUIT COMPANY FOR 954,864 SQUARE FEET OF LAND FOR REFRIGERATED CONTAINER OPERATIONS TO IMPORT AND EXPORT FRESH FRUIT AT THE TENTH AVENUE MARINE TERMINAL.

Agenda Item 25. Item continued to a future Board meeting.

Commissioner Burdick left the dais at 2:01 p.m. and returned at 2:07 p.m.

PRESENTATION AND DIRECTION TO STAFF ON IMPLEMENTATION OF AN EMBARCADERO CIRCULATOR SHUTTLE SYSTEM.

Agenda Item 27. Karen Weymann, Director, Real Estate, addressed the Board with a presentation and requested direction to staff on the implementation of an Embarcadero Circulator Shuttle System. She turned the presentation over to Shaun Sumner, Area Manager, Real Estate, who discussed the shuttle system. (A copy of the staff report and presentation is on file in the Office of the District Clerk.)

Commissioner discussion ensued. Commissioner Peters requested and received clarification from Mr. Sumner regarding his conversation with the Downtown Partnership staff. Mr. Sumner stated they were excited about the program. Commissioner Peters stated the project was a good idea and a means to provide an alternative to dedicating more space to vehicle parking. He acknowledged the funding mechanism for the program proposed by staff and congratulated Mr. Sumner. Commissioner Peters offered a motion to accept the staff recommendation.

Commissioner Malcolm seconded the motion.

Thomas Workman, Superintendent, National Park Service, addressed the Board in favor of the staff recommendation and thanked staff for involving the Cabrillo National Monument in the shuttle service route.

Commissioner Malcolm echoed Commissioner Peter's comments. He discussed looking at alternative funding methods such as advertising on the vehicles that could benefit the District's tenants. He looked forward to reviewing matrix data that would include ridership levels, revenue figures and tenant feedback regarding the trial program.

Commissioner Moore congratulated staff for developing a well thought out program. She offered that the shuttle system could prove helpful in resolving parking issues that arise as new projects are considered.

On a motion of Commissioner Peters, seconded by Commissioner Malcolm, the Board directed staff to move forward with implementation of an Embarcadero Circulator Shuttle System, by the following vote: Yeas-Burdick, Malcolm, Moore, Nelson, Peters, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

Commissioner Valderrama left the dais at 2:16 p.m. and returned at 2:19 p.m.

RESOLUTION AUTHORIZING ISSUANCE OF A REQUEST FOR PROPOSALS TO CONSTRUCT A 400-SPACE PUBLIC PARKING FACILITY AT 4975 NORTH HARBOR DRIVE BETWEEN MIDWAY DRIVE AND SCOTT STREET IN THE CITY OF SAN DIEGO.

Agenda Item 28. Karen Weymann, Director, Real Estate, addressed the Board with a presentation and requested the Board adopt a Resolution Authorizing Issuance of a Request for Proposals (RFP) to construct a 400-Space Public Parking Facility at 4975 North Harbor Drive between Midway Drive and Scott Street in the City of San Diego. She turned the presentation over to Tony Gordon, Area Manager, Real Estate, who discussed the need for parking management in the Americas Cup Harbor Master Plan area and the surrounding neighborhoods. (A copy of the staff report and presentation is on file in the Office of the District Clerk.)

Commissioner discussion ensued. Commissioner Burdick offered remarks regarding the unique challenges faced when considering constructing the proposed parking facility. Discussing the year-round use of the facility, she remarked on the seasonal nature of sportfishing in the area, traffic congestion, and mitigating off-tidelands impacts on the adjacent neighborhoods. She discussed the benefit of private-public partnership when considering the financing of the project and urged staff to preserve as much of the District's capital improvement revenue resources as possible during the negotiations with prospective developers. Commissioner Burdick requested

and received clarification from Ms. Weymann regarding the proposed standard lease clause regarding collecting rent for non-permitted uses. Ms. Weymann offered that one example of non-permitted uses could be the installation of a building wrap for advertising purposes. Commissioner Burdick requested and received confirmation from Ms. Weymann that staff would look at the rate and consider increasing it for non-permitted uses.

Commissioner Burdick offered a motion to accept the staff recommendation to issue the RFP.

Commissioner Nelson seconded the motion.

In light of the discussion regarding non-permitted uses and associated fees included as a lease provision, Commissioner Nelson requested clarification as to whether non-permitted uses could be either viewed as "forbidden" or "unanticipated." Ms. Weymann stated a non-permitted use could be viewed as either as "forbidden" or "unanticipated" and offered that one example of an unanticipated non-permitted use was the temporary installation of advertisement building wraps at tideland hotels during large conventions. His remarks continued with acknowledging Sharon Cloward, President, Port Tenants Association and Kevin Faulconer, San Diego City Council Member, for their assistance with the project. He acknowledged staff for investigating alternative funding opportunities and private-public partnership. Commissioner Nelson offered that staff remain mindful of possible impacts to parking and traffic flow during the construction of the projects in the area.

Commissioner Moore requested and received clarification from Ms. Weymann that staff did not intend for local hotel property leaseholders to contribute to the private funding for the parking structure. She offered that the hotel leaseholds had self-contained parking and the proposed structure could be used for events should overflow parking needs arise. Commissioner Moore offered concerns regarding the seasonal use of the facility and requesting developers of projects mitigate their own demands for parking. She concluded by offering her support for the staff recommendation to move forward with the RFP. Ms. Weymann discussed the results of the parking study completed as part of the America's Cup Harbor Master Plan Amendment and described the intended use of the additional metered parking.

Commissioner Peters left the dais at 2:25 p.m. and returned at 2:31 p.m.

Commissioner Malcolm acknowledged staff for bringing forward the matter, discussed the benefits of Board review of the RFP and remarked on seeking alternative funding through public-private partnerships. In relationship to the construction of the parking facility, he requested and received clarification from Mr. Anderson regarding the percentage of projected new-revenue from new projects or tenant redevelopments in the area that would be depending upon that structure.

Commissioner Nelson acknowledged Commissioner Moore's queries regarding the need for the facility and discussed the assessment of the demand to merit construction. In that the tenants have provisions in their agreements that they will make payments toward the cost of constructing the parking facility, he requested and received confirmation from Ms. Weymann that it was her belief that the previous District actions, as well as the action the Board was currently considering, had substantially complied with the terms of the existing agreements.

Chairman Smith thanked staff for their efforts to move the project forward. He cited the Port Pavilion on Broadway as an example of the District's use of innovative financing means.

On a motion of Commissioner Burdick, seconded by Commissioner Nelson, the Board adopted **Resolution 2012-67**, Authorizing Issuance of a Request for Proposals to Construct a 400-Space Public Parking Facility at 4975 North Harbor Drive between Midway Drive and Scott Street in the City of San Diego, by the following vote: Yeas-Burdick, Malcolm, Moore, Nelson, Peters, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

RESOLUTION ADOPTING THE FY 12/13 PRELIMINARY BUDGET AND SETTING THE DATE FOR PUBLIC HEARING ON THE BUDGET AS JUNE 12, 2012.

Agenda Item 29. Jeff McEntee, CFO/Treasurer, introduced the item and requested the Board adopt a resolution adopting the FY12/13 preliminary budget and set a date for the public hearing on the budget as June 12, 2012. He announced that in light of the Budget Workshop/Special public meeting held on April 30, 2012, he would only provide a high-level summary of the preliminary budget. (A copy of the staff report and presentation is on file in the Office of the District Clerk.)

Commissioner discussion ensued. Commissioner Malcolm acknowledged staff for their efforts to prepare the annual budget. He discussed the projected revenue assumptions for Harbor Police services provided at the San Diego International Airport (Airport) were based upon the Maximus study methodology used to determine the reimbursement allocation. Commissioner Malcolm requested and received confirmation from Mr. McEntee that the projected revenue shown in the budget was based on the Maximus study findings. He offered that discussions continue with the Airport to resolve the reimbursement matter. He discussed the use of operating surpluses to fund the Capital Improvement Program projects. Commissioner Malcolm offered that consideration be given to investigate a policy in which operating surpluses would be allocated for an operating contingency fund. Thus, should an operating deficit be projected in the future, the Board could direct staff to access the operating contingency fund to close any gaps to operate in a financially sustainable and responsible manner.

Commissioner Nelson offered a motion to accept the staff recommendation. Commissioner Peters seconded the motion.

Commissioner Nelson described the budget as an action plan for the year and a statement of intent. He acknowledged Commissioner Malcolm's remarks and expressed his concern regarding revenue forecasts related to the level of Airport reimbursement revenue for the Harbor Police services. He requested and received confirmation from Mr. McEntee regarding the District's revenue projects for the next three to five years and acknowledged that staff recommended funding any projected deficits using undesignated reserve funds. Mr. McEntee discussed the short-term and the long-term cash-flow projections for the District.

Commissioner Burdick requested and received confirmation from Mr. McEntee regarding her statements describing the action the Board was considering related to the adoption of the FY 12/13 Preliminary Budget, the public review period, and setting the date for Public Hearing on the Budget as June 12, 2012. Regarding staff's recommendations to close the projected FY 12/13 budget deficit, she discussed the importance of communicating the District's intents to the public in a clear and concise manner to foster trustworthiness and reliability within the community. She expressed her concern with the staff recommendation regarding the use of Environmental Fund reserves to balance a portion of the general operating budget and then stated that she would support the motion. Commissioner Burdick stated for the record, that upon consideration of the matter at the June 12, 2012 regular meeting, staff review the recommendation and communicate to the public that they have considered the use of the Environmental Fund resources for legitimate environmental expenditures consistent

with BPC Policy No. 730, rather than using Environmental Reserves for general operating uses. Mr. McEntee acknowledged and agreed with Commissioner Burdick's recommendations. Wayne Darbeau, Executive Director, also concurred with Commissioner Burdick recommendations. In lieu of funding the CIP program, she acknowledged the use of \$700,000 of projected FY11/12 surpluses to address the projected FY12/13 budget deficit. She expressed concern regarding the manner in which the use of Public Art funds to fill the remaining projected FY12/13 budget deficit had been communicated. She urged staff to be transparent regarding the matter and request consideration of waiving BPC Policy No. 608, public art fund set-aside, for the upcoming year as a means to cut the District's expenses to balance the budget. Commissioner Burdick concluded by restating her support for the motion and requested staff reconsider how it communicates the budget-balancing recommendations to the public in a manner consistent with the District's values.

Commissioner Valderrama discussed the Board's role as the District's fiduciary body to approve a balanced the budget. He acknowledged Commissioner Burdick's statement regarding communication and taking Board action to waive funding for one year as set forth in BPC Policy No. 608. Commissioner Valderrama requested and received clarification from Mr. McEntee between "designated or restricted operating reserves," "discretionary or undesignated operating reserves" and the FY11/12 operating surpluses.

Commissioner Nelson offered comments regarding the California Association of Port Authorities consideration of rate stabilization in relation to the consumer price index. He requested staff proceed with careful review and consider any impacts to future budgets. He expressed concern regarding the use of the Public Art funds to close the budget gap and requested that staff propose an alternative solution by decreasing non-personnel expenses. He did not advocate personnel cuts and expressed concern regarding the current staffing levels related to the current and future workload. Regarding Commissioner Burdick direction to designate specific projects to be funded with Environmental Fund resources, Commissioner Nelson requested and received clarification from Mr. McEntee as to how staff would proceed when presenting the final budget on June 12, 2012 for the Board's consideration.

Commissioner Malcolm requested and received clarification regarding the original source of the \$12 million undesignated reserves and the CIP/major maintenance projected allocations from Mr. McEntee.

Chairman Smith thanked District staff for their hard work to bring forward what he characterized as a transparent budget for the Board's consideration. He offered his support to the staff members for making challenging decisions in preparing the budget as proposed.

Mr. Darbeau offered that the District is a strong agency and the long-term financial prospects are good.

On a motion of Commissioner Peters, seconded by Commissioner Nelson, the Board adopted **Resolution 2012-68**, Adopting the FY 12/13 Preliminary Budget and setting the date for Public Hearing on the Budget as June 12, 2012, by the following vote: Yeas-Burdick, Malcolm, Moore, Nelson, Peters, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

Commissioner Moore left the dais at 3:30 p.m. and returned at 3:38 p.m.

DISCUSSION OF COASTAL CONSULTANT SERVICES STRATEGY AND DIRECTION TO STAFF.

Agenda Item 30. Item continued.

ORDINANCES REGULATING VENDING AND PERFORMING ON THE DISTRICT TIDELANDS:

- A) ORDINANCE AMENDING UNIFIED PORT DISTRICT (UPD) CODE SECTION 8.05 – BUSINESS AND COMMERCIAL ACTIVITIES REGULATED.**
- B) ORDINANCE AMENDING UNIFIED PORT DISTRICT (UPD) CODE SECTION 8.02 – PARK AREAS REGULATED.**
- C) ORDINANCE REPEALING UNIFIED PORT DISTRICT (UPD) CODE SECTION 8.04 – NON-PROFIT SALES REGULATED.**

Agenda Item 31ABC. Ellen Gross, Deputy Port Attorney, addressed the Board regarding proposed ordinances regulating vending and performing on the District Tidelands. (A copy of the staff report is on file in the Office of the District Clerk.)

The following members of the public addressed the Board with varying viewpoints regarding the proposed ordinances: Micheal Fath, artist/owner of Maritimes Names; Sheryl Rabiee; Frank H. Johnson; Luz Elena Benitez of Mark Anthony Exotic Animals; Darryl Murray; Stacey Murray; Rita Minkin; Dr. Iris Carlton; Mark Anthony Calvario of Mark Anthony's Exotic Pet Show; Bein Smith, Adisa, and Sharon Cloward, President, San Diego Port Tenants Association. Christopher Hanson submitted a request to speak form and did not address the Board.

Commissioner discussion ensued. Commissioner Peters offered remarks regarding the concerns voiced by the public speakers about the practicality of the artists working in an 8'x8' space as proposed under the ordinance. He requested and received confirmation from Ms. Gross that staff determined face painting was a personal service and not permitted under the proposed definition of graphic arts included in the proposed ordinance. He discussed the concerns raised regarding the proposed designation of personal services and the exclusion of face painting and henna application to the skin. He did not support tattooing due to the type of procedure required. He stated that he did not personally object to face painting or henna application as a form of entertainment. He acknowledged the issue regarding vending, and stated staff's approach was appropriate.

Commissioner Moore offered remarks regarding the consideration of expanding the 8'x8' spaces as proposed. She also offered comments regarding permitting personal services such as henna application. In reference to the public comments, she offered the tarot card readings and fortune telling or intuitive reading services could have a spiritual core and expressed concern regarding presupposing a common belief that it is just a performance arts.

Commissioner Nelson offered similar remarks regarding the staff report as those offered by the other Commissioners regarding the consideration of face painting, henna application, expanding the 8'x8' spaces and tarot card or intuitive reading services. Commissioner Nelson requested and received further clarification from Ms. Minkin regarding her earlier public comments and the impacts of the proposed ordinance on her husband's jewelry making business. Ms. Gross responded to a public speaker and explained jewelry making and jewelry would be considered a utility of purpose item and would not fall under the definition set forth under the proposed ordinance.

Commissioner Burdick thanked all of the members of the public for their comments and offered a motion to defer consideration of the matter to allow for a site visit and further assessment of the area to determine the potential impacts to the current stakeholders. She discussed the need to balance the interests set forth in the "enabling" statute with the interests of the vendors so that we encourage the public to visit the tidelands. For the record, she requested and received confirmation from Ms. Gross that the staff recommendation of not allowing the application henna on the skin under the ordinance was not a public safety health issue. Ms. Gross offered additional clarification regarding the activities, which were determined to be personal services charged for money. Acknowledging the comments regarding the existing rules that could be characterized as ambiguous, Commissioner Burdick offered it was important that the District move expeditiously to a fair and proper result. She requested and received confirmation from Jim Hutzelman, Manager, Community Services, Marketing and Communication, that staff would meet with Ms. Murray and report-back about her assertion regarding interactions with the Harbor Police and the circumstances of the alleged confiscation and non-return of her art pieces. In response to Commissioner Burdick's queries, Mr. Hutzelman confirmed that Quality Coast had hired a vendor, who was selling similar types of merchandise as other vendors in the area, as a sub-tenant under their permit. Commissioner Burdick requested staff respond as to whether a "variance rule" could be built-into the ordinance in which an applicant showing a compelling reason could request an exemption under such a variance to the rules. Ms. Gross offered her concerns for consideration of a variance. She offered that creating room for discretion under the

proposed ordinance could lead to unintended consequences. Ms. Gross further explained staff's intent was to keep the area open for expressive activities under the First Amendment of the United States Constitution. She offered clarification as to why staff found a utility of purpose item, such as jewelry, did not fall under the same category of expressive activity. Ms. Gross confirmed that the District does not require or issue permits for the current activities. She discussed staff's efforts to investigate a waterfront activation opportunity that could include an artisan marketplace and/or farmer's market. Commissioner Burdick acknowledged the challenges presented and requested staff proceed with thoughtfulness regarding the proposed action.

Commissioner Burdick offered a motion to defer consideration of the matter for 30 days.

Commissioner Valderrama seconded the motion and concurred with remarks offered by his fellow Board members. He discussed his preference was to visit the area and personally assess the situation. Ms. Gross confirmed that selling the pieces created by the Murray's would not be allowed under the proposed ordinance.

Commissioner Peters requested staff draft new language regarding the matters raised by the Board such as the application of henna, face painting and expanding the 8'x8' areas. He acknowledged the distinction between entertaining activities and vending. Commissioner Peters discussed the Board's responsibility to the tenants as a regulatory body.

Commissioner Malcolm thanked the speakers for their remarks and acknowledged that the Board was committed to listening and considering the issues. He offered his support for the motion to continue the matter. Commissioner Malcolm supported adjusting the proposed space size while necessary maintaining the pedestrian and/or handicapped public access. He discussed the definition of art and requested the District investigate whether there could be a distinction between "handcrafted and handmade art" and an item mass-produced offshore. He also addressed henna application and offered that it could also be a demonstration of artistic expression. Commissioner Malcolm requested staff consider expanding the definitions in the proposed ordinances to allow the vendors to continue using the tidelands while maintaining a vibrant waterfront. He addressed the matter of personal services that offered no clear art component and stated his belief the District has a governmental interest in regulating those types of activities.

Chairman Smith thanked the speakers. He acknowledged the staff's work to bring the matter forward. He recognized the request by Commissioner Burdick to amend the motion to allow for a 60-day continuance. Commissioner Valderrama accepted the change. Chairman Smith offered comments regarding the need for a framework regarding the matter to be fair to the tenants, shop owners and the public.

On a motion of Commissioner Burdick, seconded by Commissioner Valderrama, the Board directed staff to continue the matter for 60 days, by the following vote: Yeas-Burdick, Malcolm, Moore, Nelson, Peters, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

REVIEW AND CONSIDERATION OF PROPOSED BOARD AGENDA FOR THE MEETING JUNE 12, 2012.

Agenda Item 32. On motion of Commissioner Valderrama, seconded by Commissioner Malcolm, the Board adopted the proposed agenda for the meeting of June 12, 2012, by the following vote: Yeas-Burdick, Malcolm, Moore, Nelson, Peters, Smith and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

OFFICER'S REPORT

Agenda Item 33. In accordance with BPC Policy No. 110, the following change orders, executed by the Executive Director or designee, were reported:

- A) Change Order No. 1 for \$0.00 and 0 Calendar Days for Contract No. 2009-13 with USS Cal Builders, Inc. for NEVP Plan Phase 1, San Diego, California.
- B) Change Order No. 3 for \$66,335.24 and 0 Calendar Days to Contract No. 2011-02 with R.E. Staite Engineering, Inc. for B St. Pier South Berth Fender System Upgrade, San Diego, California.
- C) Change Order No. 1 for (\$32,239.35) and 50 Calendar Days to Contract No. 2011-07 with Whillock Contracting, Inc. for Marina Parkway Sand Filter, San Diego, California.
- D) Change Order No. 1 for \$0.00 and 45 Calendar Days to Contract No. 2011-15 with Hearne Corporation for Administration Building First & Second Floor Security Upgrade – 2008 CPMSGP, San Diego, California.
- E) Change Order No. 1 for \$0.00 and 0 Calendar Days to Contract No. 2010-27 with Alvand Construction, Inc. for B St. Pier Cruise Ship Terminal Install Poll-up Doors and Rolling Grilles, San Diego, CA.

- F) Change Order No. 1 for \$3,297.63 and 0 Calendar Days to Contract No. 2010-34 with Ensley Electric, Inc. for B St. Pier Cruise Ship Terminal Electrical Upgrade, San Diego, CA.
- G) Change Order No. 3 for \$14,700.00 and 30 Calendar Days to Contract No. 2010-25R with Tetra Tech Construction Services, Inc. for NCMT to Administration Building Wireless Connectivity Project, San Diego, Coronado & National City, California.

PRESIDENT'S REPORT

Agenda Item 34. Wayne Darbeau, Executive Director, announced the recent death of a former District employee, Donell Pleasant. Mr. Pleasant worked as a lead painter at the District for 30 years and was instrumental in the beginning of developing the outstanding labor peace relations found at the agency today.

Mr. Darbeau offered a detailed report regarding the maritime cargo activity at the National City Marine Terminal and the Tenth Avenue Marine Terminal. He reported on the activity at the cruise ship terminals. He announced that the three cruise vessels in port contribute positively to the economy of the District as well as the region.

CONSENT AGENDA CONTINUED

SILVER GATE YACHT CLUB AT 2091 SHELTER ISLAND DRIVE:

- A) RESOLUTION CONSENTING TO LOAN FROM U.S. BANK TO SILVER YACHT CLUB TO CONSTRUCT A NEW CLUBHOUSE BUILDING IN AN AMOUNT NOT TO EXCEED \$4.0 MILLION.**
- B) ORDINANCE GRANTING AMENDMENT NO. 1 TO THE DISTRICT'S LEASE WITH SILVER GATE YACHT CLUB TO UPDATE TO CURRENT LEASE PROVISIONS.**

Agenda Item 8. Commissioner Burdick requested and received clarification from Karen Weymann, Director, Real Estate, regarding her "form questions" and Attachment F, Agreement for Amendment of Lease Amendment No. 1 and Attachment G, Clerk's Document No. 54626, Lease to Silver Gate Yacht Club, to the staff report. Ms. Weymann confirmed the additional paragraph would be number 49 not 50 as indicated in the staff report. (A copy of the staff report and attachments are on file in the Office of the District Clerk.)

Commissioner Burdick requested and received clarification from Ms. Weymann that the Board action under consideration was to amend the Hold Harmless clause,

which was paragraph 21 in Clerk's Document No. 54626. Ms. Weymann acknowledged the numbering error in Attachment F.

On a motion of Commissioner Burdick, seconded by Commissioner Valderrama, the Board adopted with a single vote, **Resolution 2012-55**, consenting to Loan from U.S. Bank to Silver Yacht Club to construct a new Clubhouse Building in an amount not to exceed \$4.0 Million and **Ordinance 2667** Granting Amendment No. 1 to the District's lease with Silver Gate Yacht Club to update to current lease provisions by the following vote: Yeas-Burdick, Malcolm, Moore, Nelson, Peters, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

RESOLUTION ADOPTING PLANS AND SPECIFICATIONS AND AWARDING CONTRACT NO. 2009-15 TO VECTOR RESOURCES, INC. FOR THE FIBER OPTIC INSTALLATION (PHASE 2) FROM OLD TOWN TRANSIT CENTER TO 12TH AND IMPERIAL TRANSIT CENTER IN THE AMOUNT OF \$306,467.92 IN SUPPORT OF HOMELAND SECURITY FOR DISTRICT MARITIME FACILITIES

Agenda Item 13. Dr. Iris Carlton submitted a speaker regarding the matter but was not present to speak when called upon.

On a motion by Commissioner Burdick, seconded by Commissioner Peters, the Board adopted, **Resolution 2012-59**, Adopting Plans and Specifications and Awarding Contract No. 2009-15 to Vector Resources, Inc. for the Fiber Optic Installation (Phase 2) from Old Town Transit Center to 12th and Imperial Transit Center in the amount of \$306,467.92 in support of Homeland Security for District Maritime Facilities, by the following vote: Yeas-Burdick, Malcolm, Moore, Nelson, Peters, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

RESOLUTION APPROVING THE INDIVIDUAL PROJECT PLAN FOR "TIDELANDS ART" - A PUBLIC ART ANNUAL COMMISSIONING PROGRAM UNDER THE DISTRICT'S "PUBLIC" CREATIVE DIRECTION, AS OUTLINED IN THE ADOPTED FIVE-YEAR CURATORIAL STRATEGY 2012-2016

Agenda Item 21. Commissioner Burdick offered remarks in support of the project. She expressed her concern by stating that in implementing the Public Art Master Plan, the Board is giving great deference to the District staff and the members of the Public Art Committee, only because the Board gets to weigh-in in various places in the process. She continued by noting on page four of the staff report, the Board's review is typically limited to whether the procedures were followed and whether the

Curatorial Strategy had been followed. She discussed the information provided during the Board member briefings. She explained that to give the matter meaningful review, more specific details must be included in the staff reports. Commissioner Burdick remarked about the commitment regarding an equitable distribution of art around the tidelands and the information offered by staff during the Commissioner briefings regarding the District's intent to dedicate the first installment to south bay cities. She expressed concern that the designation of the zone information was not referenced in the staff report or in the anticipated program timelines attached to the staff report. (A copy of the staff report is on file in the Office of the District Clerk.) In light of the recently adopted Curatorial Strategy, she acknowledged that the processes were new and reiterated her need for details to ensure that Board members can give staff and the Public Art Committee the kind of deference that is called for in the Public Art Master Plan. At the update, she requested staff provide more detail regarding: how the zones were defined, which member cities will get it in Phase 1 and Phase 2, and more detail describing the plan.

Commissioner Peters requested clarification from Yvonne Wise, Curator, Public Art, regarding how staff determined it would be going to the south bay first. Ms. Wise stated that the Public Art Committee had been working with staff to define zones and collaborating with the Real Estate department. Commissioner Peters requested an amendment to the motion that the first installment is in the south bay and

Commissioner Burdick accepted the amended motion. He requested that his colleagues allow the staff to work out the program. He acknowledged the need to provide clarifying information for the Board but requested they do so without adding to the workload as discussed during the May 8, 2012 Prioritization Workshop.

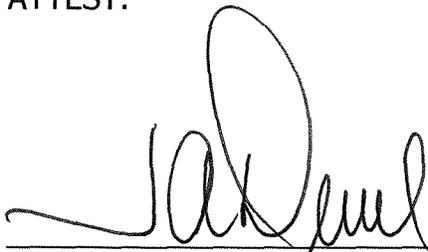
On a motion by Commissioner Burdick, seconded by Commissioner Peters, the Board adopted, **Resolution 2012-64**, Approving the Individual Project Plan for "Tidelands Art" - A Public Art Annual Commissioning Program under the District's "Public" creative direction, as outlined in the adopted five-year Curatorial Strategy 2012-2016, by the following vote: Yeas-Burdick, Malcolm, Moore, Nelson, Peters, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

As there was no further discussion, Chairman Smith adjourned the meeting.



Secretary, Board of Port Commissioners
San Diego Unified Port District

ATTEST:



Clerk of the San Diego Unified Port District

**MINUTES
BOARD OF PORT COMMISSIONERS
SAN DIEGO UNIFIED PORT DISTRICT**

As previously posted, a special meeting of the Board of Port Commissioners of the San Diego Unified Port District was called to order by Chairman Smith at 8:35 a.m., Thursday, June 7, 2012, in the Port Pavilion at 1000 North Harbor Drive, San Diego, California.

ROLL CALL

Agenda Item 1.

Present: COMMISSIONERS Burdick, Malcolm, Moore, Smith, and Valderrama.

OFFICERS: Brewer, Darbeau, Deuel, McEntee and Stup

Absent: No Commissioners absent.

Excused: Commissioner Nelson was excused until he arrived at 8:39 a.m.
Commissioner Peters was excused until he arrived at 9:09 a.m.

**STAFF PRESENTATION AND DISCUSSION OF PROPOSED FY 2014–2018
CAPITAL IMPROVEMENT PROGRAM WORKSHOP**

Agenda Item 2. Chairman Smith introduced Steve Alexander from the Steve Alexander Group who reviewed the agenda, described the workshop process, explained his role as a facilitator and introduced the staff members presenting their recommendation and assisting during the workshop. He explained the objectives of the Capital Improvement Program (CIP) Workshop.

Chairman Smith thanked the Board members and staff for their assistance in preparing for the workshop. He acknowledged the members of the public present and announced that in light of the number of request to speak forms submitted, each person would be allotted two minutes to make their statement; computer slide presentations could not be accommodated; and no more than five minutes would be ceded to one speaker.

Jeff McEntee, CFO/Treasurer, began the staff presentation and provided an overview of the FY 2014-2018 CIP. He acknowledged the Board members who served

on the CIP Ad Hoc Committee for their commitment to addressing the CIP process. He stated that, through their efforts, a systematic approach to the CIP was implemented. He thanked staff for their commitment to the CIP program and for their efforts to facilitate the workshop. Mr. McEntee offered an overview of the workshop presentations and turned the presentation over to Brian Stup, Chief Engineer/Director Engineering and Construction.

Mr. Stup thanked the Board, staff and the members of the public for their participation in the process. He addressed the Board and reviewed the program methodology and, referencing BPC Policy No. 120, reviewed the goals for the FY 2014-2018 CIP. Mr. Stup turned the presentation back over to Mr. McEntee.

Mr. McEntee provided an overview of the various sources of funding for the CIP. He also provided an overview of the composition of the funds shown in the designated or restricted reserves. He reviewed the three levels of funding staff recommended allocating for the FY 2014-2018 CIP. Mr. McEntee turned the presentation over to Charlene Dennis, Capital Project Manager, Engineering and Construction.

Ms. Dennis explained her role and announced that staff had facilitated public outreach and stakeholder meetings regarding the FY 2014-2018 CIP. She reviewed the staff assessment process, the project proposal submittal forms analysis and discussed the ranking committee process. She reviewed the projects included in the staff recommendation and offered an analysis of the proposed projects shown in the staff report. (A copy of the staff report, presentation and supplemental reference materials are on file in the Office of the District Clerk.) She turned the presentation over to Celia Brewer, Interim Port Attorney.

Ms. Brewer offered the Board and members of the public information regarding legal constraints the District has when spending funds off-tidelands. She discussed the District's obligations under the Tidelands Trust and provided an overview of the State Lands Commission's legal structure by which the District may spend funds off-tidelands. Concluding her remarks, she stated that, should the Board consider off-tideland projects, additional analysis could be required. Ms. Brewer turned the presentation back over to Ms. Dennis.

Ms. Dennis offered information regarding the number of project submittals for off-tideland projects and the set-aside for off-tideland Maritime Terminal Impact Funds (MTIF). She concluded her presentation and reviewed the available fund level and the recommended projects for the Board's consideration. Ms. Dennis turned the presentation back over to Mr. McEntee.

In that the application and review process utilized under BPC Policy No. 120 was new, Mr. McEntee explained that staff had received valuable feedback from member city and public stakeholders regarding the process. He explained that staff valued the feedback and would take it under consideration when assessing "lessons learned."

Addressing the audience, Mr. Alexander explained how the workshop would progress and confirmed each speaker would be given two minutes for their remarks.

Commissioner discussion ensued. Commissioner Moore requested clarification regarding the status of Tenth Avenue Marine Terminal (TAMT) staff relocation and National Oceanic and Atmospheric Administration (NOAA) Project. Joel Valenzuela, Director, Maritime Operations, addressed the status of the NOAA decision-making process and the funding consideration. He offered that staff believed there was a high possibility of receiving the funding from NOAA necessary for the project and a final determination was scheduled for June 20, 2012.

Commissioner Malcolm requested and received clarification from Mr. Valenzuela regarding the actual breakdown of the NOAA project costs and the District costs for the staff relocation as well as the associated demolition costs for the structure at the TAMT.

Commissioner Moore requested and received confirmation from Mr. Valenzuela that the staff recommendation was to move forward with the staff and tenant relocation portion of the project regardless of whether the NOAA project occurred.

The following members of the public addressed the Board regarding the FY 2014-2018 CIP: Ron Morrison, Mayor, City of National City; Michael Bixler, Commissioner Emeritus; Brad Raulston, Executive Director, City of National City; Lauree Sahba, Chief Operating Officer, San Diego Regional Economic Development Corporation; Lisa Schmidt, Deputy Chief of Staff for San Diego City Councilmember David Alvarez; Doug Kerner, Member, South County Economic Development Corporation; Cindy Gompper Graves, CEO, South County Economic Development Corporation; John G. Wotzka; Mary Montgomery, Manager Public & Government Relations, General Dynamics, NASSCO; Dave Manchester; Robert Godinez, President, Boiler Makers; Mary Coakley Munk; Jo Sand, Owner, Administrator, Eastgate Chapel, Inc., dba Dunamis Academy; John Alvarado, Executive Director, Good Neighbor Project San Diego; Michael A. Gess; Mary Alvarado; John Alvarado; Bonnie Carpenter, Committee Member, District's Cruise Industry Advisory Committee; Don Goertz; Sharon Cloward, President, San Diego Port Tenants Association; Eric Lund, Vice President, San Diego Convention and Visitors Bureau; Jim Frost; Allan J. Rappoport, Committee

Member, District's Cruise Industry Advisory Committee and Georgette Gomez, Environmental Health Coalition.

In regard to some of the public comments, Commissioner Peters requested clarification regarding the Barrio Logan parking projects. Randa Coniglio, Executive Vice President, Operations, offered additional information regarding the related parking study project that was initially funded under the FY 2009-2013 CIP. She explained the funding the next steps to address the Barrio Logan parking projects matter was under consideration in the FY 2014-2018 CIP. He requested that staff look at the design of family friendly restrooms as projects move ahead. Commissioner Peters requested and received clarification from Ms. Dennis regarding the Pond 20 funding level recommended by staff and acknowledged working with stakeholders to secure grant funding for the improvements. He requested and received clarification from Darlene Nicandro, Director, Environmental and Land Use Management, regarding whether the interim improvement on Harbor Drive project had been incorporated into the North Embarcadero Visionary Plan (NEVP) Phase II Port Master Plan Amendment Environmental Impact Report (PMPA-EIR) as part of the traffic studies for the California Environmental Quality Act (CEQA) process. In regard to Mayor Morrison's comments related to funding sources for National City projects, Commissioner Peters requested and received clarification from Mr. McEntee regarding the staff recommendation to use MTIF as a resource for the Tidelands Avenue road reconditioning project.

Commissioner Peters left the dais at 10:15 a.m. and returned at 10:18 a.m.

Commissioner Burdick requested clarification as to whether there were any California Environmental Quality Act (CEQA) issues regarding making a financial decision to commit funds before the environmental review for the NEVP Phase II project was completed. Ms. Brewer confirmed that an issue could be raised should a decision be made before the environmental review was completed. Regarding the family friendly restroom issues, Commissioner Burdick requested staff look into whether a policy regarding restroom design should be developed. She reported that at the May 17, 2012 NEVP-Joint Powers Authority (JPA) meeting the members determined that implementing the family restroom design suggested in the first phase of the NEVP would add an additional cost. Thus, the members recommended the design principles be considered for facilities to be included in the setback park design. In regard to Pond 20, Commissioner Burdick offered her concerns regarding the outreach process and the work plan schedule and Ms. Dennis clarified the funding proposed in the staff recommendation for the project and offered that a small percentage of the funding allocation was considered for environmental review. Ms. Nicandro also addressed the level of CEQA review that may be required when considering any project for Pond 20,

including the replacement of the fence or any other, yet to be determined, short-term improvements. Commissioner Burdick requested and received clarification regarding the concept, timeline and staff resources required for the development of the Perkins Elementary School project from Ms. Coniglio. Commissioner Burdick offered an observation regarding the level of funding allocated for the City of National City in the FY 2014-2018 CIP and expressed concern regarding the distribution of the resources. Ms. Dennis provided a brief overview of the nine National City projects proposed and explained the ranking committee's assessment and subsequent recommendation.

Commissioner Nelson requested and received clarification from Mayor Morrison that he believed the design, planning and construction for the bike path item would be of a higher priority than the project put forth in the staff recommendation. He offered the project could serve as a mitigation measure to remove bike traffic off of Tidelands Avenue and offered more benefits to community members. Regarding the opportunity for utilizing San Diego Association of Governments (SANDAG) funding for the project, Mayor Morrison offered he was uncertain of whether SANDAG resources were available to fund that portion of the bikeway. Commissioner Nelson requested staff engage the City of National City team to assess opportunities and determine whether there was funding available through SANDAG for bikeway projects. Ms. Coniglio acknowledged the request, offered that SANDAG representatives would be present at the June 12, 2012 regular Board meeting, and that staff would endeavor to seek further clarification regarding the funding of bikeways. Commissioner Nelson expressed his support for the proposed Perkins Elementary School project.

Commissioner Burdick left the dais at 10:31 a.m. and returned at 10:33 a.m.

Commissioner Malcolm thanked all of the stakeholders for their participation in the process. He offered his support for the \$6 million funding level and expressed concern regarding allocating an additional \$9 million from reserves unless a project arose that offered an identifiable and measurable return on the investment. He offered remarks regarding the CIP process and shared the concerns of the City of Imperial Beach policymakers who did not participate in the project prioritization discussions. Commissioner Malcolm acknowledged the public comments from the South County Economic Development Corporation representatives regarding Pond 20. He requested and received clarification from Michelle White, Environmental Policy Manager, Government and Civic Relations, regarding short-term improvements, the efforts to gather public input through the current outreach program and the statements that a chain link fence around a property could be considered as a finding of blight in redevelopment areas. Commissioner Malcolm expressed his city councils' desire to put forward short-term improvements to address the stakeholder concern regarding

the current conditions at the Pond 20 site. He encouraged staff to maximize any available grant funding to augment the \$250,000 CIP allocation recommended. Mr. McEntee offered that the fence had not been replaced within the past 18 months however; repairs may have been made more recently. Regarding the funding recommendation, Mr. McEntee offered the monies were available in July 2013.

Commissioner Valderrama acknowledged the efforts of staff. Regarding the CIP funds available he did not support accessing operating reserves to augment the CIP budget. He discussed the concerns raised by the City of National City stakeholders regarding the equitable distribution of resources. In light of the project submittal process criteria concerns voiced by stakeholders, Commissioner Valderrama acknowledged that senior leadership had indicated that they were receptive to discussions and there would likely be opportunities in the future to adjust the proposed five-year CIP plan to accommodate unforeseen prospects and address project changes.

Commissioner Malcolm acknowledged Commissioner Valderrama's comments. He requested and received confirmation from Mr. McEntee that the CIP is a dynamic process and offered that in the past, the Board had reprioritized and/or substituted projects as warranted by various circumstances.

Commissioner Moore acknowledged staff for their efforts, discussed the \$6 million budget for the upcoming program, and offered that her city was pleased with the synergy of working with staff. In regard to the Pond 20 project and addressing the site aesthetics, she offered that in some instances, such as requesting a CEQA exemption, the CIP funds may not be required for environmental review study documents. Discussing National City project development opportunities, she acknowledged the concerns regarding the equitable distribution of funds and the comments regarding confusion during the application process.

Commissioner Smith thanked staff, the review committee, and the Board for their work. He acknowledged all of the public speakers for their participation in the process. He discussed the level of funds available and acknowledged that the process was fair and equitable. Commissioner Smith stated that all budgets are dynamic documents and reiterated Commissioner Valderrama's statements that over time the CIP recommendation can be amended to meet a member city's need.

Commissioner Peters discussed "equity" in regard to quality of life projects and economic-based projects, he continued by offering remarks on the differences between what he characterized as "amenity monies" and "economic development funding." He acknowledged the CIP process enhancements and encouraged staff to work more

closely with all city stakeholders to be attentive to their needs when prioritizing projects and resources. Commissioner Peters offered a motion to approve the staff recommendation shown as Option B. He continued that his motion was offered with the understanding that following discussions with member city stakeholders, the project list be brought back to the Board in three months for consideration and any "quality of life" projects could be "swapped out" for other projects.

Commissioner Moore seconded the motion.

Mr. McEntee confirmed the total sum for Option B was \$5.5 million.

Commissioner Peters left the dais at 11:09 am and returned at 11:11 a.m.

Commissioner Nelson requested and received clarification from Ms. Dennis regarding the differences between the staff recommendations labeled as Option A and Option B in the staff report. He discussed the District's six month reserve fund level and acknowledged the staff's efforts to maintain the agency reserves in light of its obligations. Commissioner Nelson requested and received clarification from Mr. McEntee regarding the impact of reallocating \$171,000 from the operating reserves and the unpredictable nature of carrying out capital projects within projected timelines. Referencing an understanding of community needs, he offered a substitute motion to approve the staff recommendation labeled Option C. Regarding the item labeled "Perkins Elementary Joint Use Project for Active Open Space," he offered for the record that through the motion the Board approved the concept of committing funds with in the CIP to the project, directed staff to review and evaluate the project and bring the matter back to the Board for further consideration, concept approval and approval of the funding level allocation. He acknowledged that staff could move forward with planning, under the appropriate policy level discretion and upon evaluation of the available budget and resources, and provide updates the Board on their progress.

Commissioner Malcolm seconded the substitute motion.

Commissioner Burdick offered her support for the substitute motion without the caveat that the staff could move forward with the Perkins Elementary School project without coming back to the Board.

Chairman Smith stated that Commissioner Nelson, as the maker of the substitute motion, and Commissioner Malcolm, as the maker of the second, agreed with Commissioner Burdick's request. Thus the caveat that the staff could move forward without coming back to the Board was removed from the motion.

In light of the discussion regarding the submittal process and project prioritization, Commissioner Burdick requested clarification from Commissioner Malcolm, Commissioner Valderrama and Commission Smith as to whether they had an indication or specific direction from their respective appointing authorities regarding priority requests and the substituting of projects. She offered that the discussion of such projects could be facilitated and the Board could consider acting on those requests within the current workshop setting by amending the staff recommendation. She commented on the discussion and offered the following friendly amendments: 1) authorize conditional funding approval to the Crosby Street Pier Modernization and TAMT staff relocation (NOAA) and 2) consider applying the \$50,000 MOU funds to augment the CIP allocation for the Pond 20 – Short Term Aesthetic Improvements. Commissioner Burdick discussed the application of BPC Policy No. 120 and the use of the word “equitable” in the earlier discussions as a reference to an equal distribution of investment funds. She stated the word “equitable” does not appear, nor was it inferred in BPC Policy No. 120 and restated that one of the objectives of the policy was to distribute the District’s capital investments in a balanced manner throughout the tidelands located in all of the member cities. Acknowledging Commissioner Peters’ remarks regarding the capital improvement investments as “public amenity monies” or “economic development funding,” she offered that both have a return on investment and the policy was developed to provide a balance. She stated that Option C offered a better member city balance. Commissioner Burdick discussed the \$171,000 sum to be allocated from the operating reserves and acknowledged that there would be more CIP Board reviews prior to spending the sum in 2016. She discussed her reading of the use of operational reserves to fund Capital Improvement Projects as shown in BPC Policy No. 117, Operating Reserve Policy.

Chairman Smith requested clarification as to whether the maker and second of the motion agreed to Commissioner Burdick’s friendly amendments.

Commissioner Nelson requested and received clarification from Mr. McEntee regarding funding level allocated for the Crosby Street Pier Modernization and TAMT staff relocation (NOAA) project should the District not be awarded the NOAA grant. Mr. McEntee discussed the Transit Shed #1 demolition, the associated tenant relocation, and the staff relocation as a means to improve terminal operations.

Commissioner Burdick restated her friendly amendment to the motion regarding revisiting the funding of the Crosby Street Pier Modernization and TAMT staff relocation (NOAA) project.

Commissioner Nelson accepted her friendly amendment.

Commissioner Malcolm also expressed concern regarding the funding allocation of the item authorizing the Crosby Street Pier Modernization and TAMT staff relocation (NOAA) project should the NOAA grant not be awarded to the District. He stated that while he appreciated Commissioner Burdick's friendly amendment regarding adding the \$50,000 MOU funds to the Pond 20 project allocation, he believed such a decision would also require the other two city's approval.

Commissioner Burdick amended her motion that the District would seek approval from the other two parties to authorize convert the \$50,000 MOU funds to the CIP allocation.

Commissioner Nelson and Commissioner Burdick restated the substitute motion with the friendly amendments regarding the Crosby Street Pier Modernization and TAMT staff relocation (NOAA) project and the Pond 20 – Short Term Aesthetic Improvements.

Commissioner Moore offered her support for the substitute motion and the friendly amendments. She requested clarification from Mr. McEntee regarding the Pond 20 matter and whether there would be more flexibility in the use of the funds if the \$50,000 were kept in the MOU and separate from the CIP allocation. Mr. McEntee offered that he believed that flexibility remained under either option. She acknowledged the Crosby Street Pier Modernization and TAMT staff relocation (NOAA) project would return to the Board for consideration if the District was not awarded the NOAA grant.

Commissioner Valderrama requested that an additional friendly amendment be added to the substitute motion; that the CIP project list return for Board consideration in three months to address the member city project ranking concerns discussed earlier. Commissioner Nelson and Commissioner Malcolm accepted the friendly amendment.

Commissioner Malcolm commented on allocating the additional sum of \$170,000 to support Option C. He offered remarks, for the record, that he did not view the \$170,000 as simply coming from reserves, but based upon agency spending history, it could be funded within a future operating budget. He explained that while he could not state with certainty which projects his city leadership would re-prioritize, he acknowledged the opportunity for policymakers to revisit the member city's project ranking.

Chairman Smith also expressed his support for the substitute motion regarding Option C and called for the vote.

On a motion by Commissioner Nelson, seconded by Commissioner Malcolm, the Board voted to adopt the substitute motion of accepting the staff recommendation regarding Option C as amended in lieu of the first motion offered, by the following vote: Yeas-Burdick, Malcolm, Moore, Nelson, Peters, Smith and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

PUBLIC COMMUNICATIONS

Agenda Item 3. None.

RESOLUTION ADOPTING THE FY 2014 – 2018 CAPITAL IMPROVEMENT PROGRAM (CIP)

Agenda Item 4. On a motion by Commissioner Nelson, seconded by Commissioner Malcolm, the Board voted to adopt **Resolution 2012-69**, Adopting the FY 2014 – 2018 Capital Improvement Program (CIP), Whereas, a total of \$6,170,000.00 in additional funds were approved as set forth in Attachment "A" for projects or programs as follows: TAMT Phase II Demo – Transit Shed #1 Bay A,B & C (Design) \$500,000; B Street Mooring Dolphin \$400,000; Chula Vista BMP – Pre-design/Design \$1,000,000; Boat Launch and Self Cleaning Station \$470,000; Imperial Beach Pier Plaza Tot-Lot \$100,000; Cesar Chavez Park Activation Study \$50,000; Crosby Street Pier Modernization and TAMT Staff Relocation (NOAA) \$2,550,000; Pond 20 – Short Term Aesthetic Improvements \$250,000; Directional Sign/Way Finding \$200,000; B Street terminal Baggage Facility – Pre-design \$200,000; South Seacoast Restroom and Shower Facility \$75,000; Imperial Beach Remaining Street End Improvements \$200,000; Tidelands Avenue & Civic Center Drive Resurfacing \$175,000; Perkins Elementary School Joint Use Project for Active Open Space TBD, by the following vote: Yeas-Burdick, Malcolm, Moore, Nelson, Peters, Smith and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

Commissioner Nelson left the dais at 11:48 a.m. and returned at 11:50 a.m.

Mr. Alexander reviewed the following direction to staff he had captured during the workshop: investigate restroom design policy from an engineering perspective; work with stakeholders to seek grant funding opportunities for Pond 20; work with SANDAG regarding bike path funding opportunities in National City, and provide clarification regarding the project funding related to the NOAA grant.

Chairman Smith left the dais at 11:50 a.m. and returned at 11:56 a.m.

Mr. Alexander facilitated a lessons-learned review with the Board regarding BPC Policy No. 120 and the workshop process.

As a member of the CIP Ad Hoc Committee and based upon meeting with stakeholders, Commissioner Burdick offered her observations that the application of BPC Policy No. 120 had gone very smoothly; she acknowledged staff for their efforts to make the process as easy as possible; and expressed her preference for an annual review process. Regarding lessons learned, she offered for the record, that public stakeholders reported one of the obstacles they encountered in making proposals for consideration under the policy was including costing information data. She stated her belief that going forward, the Board should set a standard, and clearly communicate to the public as a matter of due process, as to what was regarded as an acceptable submission and how the Board will be treat an inadequate or unacceptable submission. She offered that by using a literal interpretation or translation of the policy in the application forms had caused a stumbling block for some stakeholders, thus she recommended revising the templates regarding the type of cost data information necessary to comply with the application process. Commissioner Burdick offered that the policy, as implemented and applied, created one of the most transparent and open processes with a government agency. The process allowed various stakeholders to come forward and provide input into how public resources were to be used and deployed for the public benefit.

Commissioner Peters offered that the process was an improvement and thanked Commissioner Burdick and Chairman Smith for their leadership. He acknowledged staff for their efforts. He recommended that consideration be given to allocating a little more deference to the member cities regarding the parks and recreation components of the program prioritization.

Commissioner Malcolm thanked the CIP Ad Hoc Committee members and the staff for their efforts to improve the process. He offered the following observations as lessons learned: the need to communicate to all stakeholders early in the process with clearly defined expectations regarding the funding level available for projects; to provide an opportunity for member cities to give a ranking of their own proposals; and the city's ranking information become one of the factors used when compiling the final ranking in the staff recommendation. He remarked on the need to assess the totality of all capital projects and offered that the major maintenance projects be considered with the same degree of transparency as was done with the CIP projects. He recommended that such a major maintenance projects capital expenditure policy consideration discussion be conducted in a similar workshop fashion.

Commissioner Valderrama thanked Commissioner Burdick, Chairman Smith and former Commissioner Padilla for their efforts to spearhead the CIP process improvements. He acknowledged the efforts to reach out to all of the stakeholders and include the member cities in the process.

Commissioner Moore thanked Commissioner Burdick and Chairman Smith for their leadership in crafting BPC Policy No. 120 and the implementation of the CIP process. She thanked staff for well-organized materials and facilitating an effective workshop. She concurred with Commissioner Malcolm's statements regarding the Board discretion regarding the allocation of funding for the major maintenance projects in a similarly open and transparent manner.

Commissioner Nelson thanked Commissioner Burdick and Chairman Smith for their leadership and guidance in making for a smooth process. He thanked staff for their assistance and providing clarification regarding the information under consideration. He offered comments regarding the public comments related to parking in the Barrio Logan area and acknowledged that it was a matter that was on the minds of the Commissioners as well as senior members of staff. He discussed the parking study the District would be presenting to the City of San Diego and offered that the solution called for in the study recommendations could cost between \$50 and \$70 million. Regarding a probable solution, Commissioner Nelson offered that a project of such scale was most likely to be achieved through a public-private partnership.

Mr. Alexander shared the staff's lessons learned list that included: providing the member cities with an estimate of available funds; provide a longer application process; provide a prioritized list from the member cities; understand the level of staff pre-work required for facilitating the process; educating stakeholders and managing expectations regarding what constitutes a CIP project.

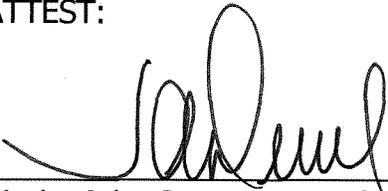
Chairman Smith offered thanks to the Board and staff for their hard work. He discussed a number of questions raised regarding financing during the process; the need to determine whether a project was a capital project or part of an operating fund project; and in lieu of the past practice of accumulating capital reserves, the need to consider alternative financing sources for the future.

As there was no additional discussion Chairman Smith adjourned the workshop.

A handwritten signature in cursive script, reading "Lee Berdick".

Secretary, Board of Port Commissioners
San Diego Unified Port District

ATTEST:

A handwritten signature in cursive script, appearing to read "S. [unclear]".

Clerk of the San Diego Unified Port District

**MINUTES
BOARD OF PORT COMMISSIONERS
SAN DIEGO UNIFIED PORT DISTRICT**

The special meeting of the Board of Port Commissioners of the San Diego Unified Port District was called to order by Chairman Smith at 10:02 a.m., Tuesday, June 12, 2012, in the Board Room at 3165 Pacific Highway, San Diego, California.

ROLL CALL

Agenda Item 1.

Present: COMMISSIONERS Burdick, Peters, Nelson, Smith, and Valderrama.

OFFICERS: Brewer, Darbeau, Deuel and McEntee

Absent: No Commissioners absent.

Excused: Commissioner Malcolm was excused until he arrived at 10:03 a.m.
Commissioner Moore was excused until she arrived at 10:05 a.m.

PUBLIC COMMUNICATIONS

Agenda Item 2. None.

CLOSED SESSION

Celia Brewer, Interim Port Attorney, announced the closed session agenda as follows:

Agenda Item 3.

CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION
Pursuant to Subdivision (a) of Government Code Section 54956.9

San Diego Unified Port District v. San Diego Refrigerated Services, et al.
San Diego Superior Court Case No. 37-2012-00094896-CU-BC-CTL

Agenda Item 4.

CONFERENCE WITH REAL PROPERTY NEGOTIATOR
Government Code Section 54956.8

Property: SDUPD - Approximately 82,043 square feet of land located at Tenth Avenue Marine Terminal.

Negotiating Parties: Stuart Jablon, Vice President Operations, Dole Fresh Fruit Co.
Randa J. Coniglio, Karen Weymann, Kristine A. Zortman, Joel Valenzuela, Jeffrey McEntee, John Bolduc for Karen Porteous, SDUPD

Under Negotiation: Price and Terms

Agenda Item 5.

CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION

Significant exposure to litigation pursuant to Subdivision (b)(1) of Government Code Section 54956.9

One Case

Agenda Item 6.

CONFERENCE WITH REAL PROPERTY NEGOTIATOR
Government Code Section 54956.8

Property: Approximately 4,080 square feet of land and approximately 140,700 square feet of water area leased to the Community Development Agency of the City of Coronado.

Negotiating Parties: Blair King, Tom Ritter, City of Coronado; Randa Coniglio, Karen Weymann, Annette Dahl, Jeffrey McEntee, John Bolduc for Karen Porteous, SDUPD

Under Negotiation: Price and Terms

Agenda Item 7.

CONFERENCE WITH REAL PROPERTY NEGOTIATOR
Government Code Section 54956.8

Property: Approximately 10.7 acres of tideland area
located on the southwest corner of Harbor Drive and
Eighth Avenue in the City of San Diego, California

Negotiating Parties: David Sloan, Sunstone Hotel Investors, Inc.
Karen Weymann, Shaun Sumner, Nick Markos,
Randa Coniglio, John Bolduc for Karen Porteous,
Jeffrey McEntee, SDUPD

Under Negotiation: Price and Terms

Agenda Item 8.

CONFERENCE WITH REAL PROPERTY NEGOTIATOR
Government Code Section 54956.8

Property: Tenth Avenue Marine Terminal,
San Diego consisting of approximately 96 acres

Negotiating Parties: John Pasha, Pasha Automotive Services
Joel Valenzuela, Randa Coniglio, Jeffrey McEntee,
John Bolduc for Karen Porteous, SDUPD

Under Negotiation: Price and Terms

Agenda Item 9.

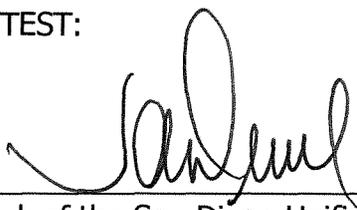
PUBLIC EMPLOYEE APPOINTMENT, PERSONNEL EVALUATION OR DISCIPLINE:
EXECUTIVE DIRECTOR AND PORT ATTORNEY
Government Code Section 54957

There was no other formal or reportable action as to any closed session items, pursuant to Government Code Section 54950 et seq, to report from the closed session; whereupon, Chairman Smith adjourned the meeting.



Secretary, Board of Port Commissioners
San Diego Unified Port District

ATTEST:



Clerk of the San Diego Unified Port District

**MINUTES
BOARD OF PORT COMMISSIONERS
SAN DIEGO UNIFIED PORT DISTRICT**

The regular meeting of the Board of Port Commissioners of the San Diego Unified Port District was called to order by Chairman Smith at 1:03 p.m., Tuesday, June 12, 2012, in the Board Room at 3165 Pacific Highway, San Diego, California.

ROLL CALL

Agenda Item 1.

Present: COMMISSIONERS, Burdick, Malcolm, Nelson, Peters, Smith, and Valderrama.

OFFICERS: Brewer, Darbeau, Deuel, McEntee and Stup

Absent: No Commissioners absent.

Excused: Commissioner Moore was excused until she arrived at 1:06 p.m.

CLOSED SESSION

Agenda Item 2. As requested by Chairman Smith, Celia Brewer, Interim Port Attorney, announced that there was no reportable action regarding the closed session.

PLEDGE OF ALLEGIANCE

Agenda Item 3. Commissioner Burdick led the Pledge of Allegiance.

APPROVAL OF MINUTES

Agenda Item 4. Commissioner Malcolm offered a motion to approve the minutes for the April 10, 2012 special meeting, April 10, 2012 regular meeting, April 30, 2012 special meeting and the May 8, 2012 special meeting. Commissioner Peters seconded the motion. Commissioner Burdick announced she would abstain from voting on the April 10, 2012 special meeting minutes and the April 10, 2012 regular meeting minutes, as she was not present for those meetings.

On motion of Commissioner Malcolm, seconded by Commissioner Peters, the Board approved the minutes for minutes for the April 10, 2012 special meeting,

April 10, 2012 regular meeting, April 30, 2012 special meeting and the May 8, 2012 special meeting, by the following vote: Yeas-Nelson, Malcolm, Peters, Smith and Valderrama; Nays-None; Excused-Moore; Absent-None; Abstained-Burdick.

PUBLIC COMMUNICATIONS

Agenda Item 5. Bobby Ewing addressed the Board regarding separating entertainers from vendors, establishing a performance code of ethics and requested the Commissioners consider eliminating vending on the waterfront. (Mr. Ewing submitted materials that were distributed to the Board, and a copy is on file in the Office of the District Clerk.) Michael Bullock, Transportation Chair, San Diego Sierra Club San Diego Chapter, addressed the Board regarding climate change and decreasing greenhouse gas emission levels. (Mr. Bullock submitted a presentation via email that was distributed to the Board prior to the meeting and a copy is on file in the Office of the District Clerk.) Chester Mordasini, President, Teamster Local 911, addressed the Board and thanked District leadership and the stakeholders who traveled to Sacramento on May 24, 2012 to address the Tenth Avenue Marine Terminal usage matters. In preparation for his presentation at the July 10, 2012 regular meeting Dr. Brian Joseph, Executive Director, Living Coast Discovery Center, addressed the Board and requested that any questions regarding the Center be directed to District staff.

COMMISSIONER COMMENTS/REVIEW OF TODAY'S MEETING

Agenda Item 6. Commissioner Moore offered a report regarding the International Association of Ports and Harbors Mid-Term Conference that she and Commissioner Burdick attended in Jerusalem, Israel on May 21-24, 2012. She announced that the conference covered wide range of topics of interest to the District. She provided comments regarding the presentation titled Global Economic and Trade Trends: Game Changer for Ports, by Dr. Theo Notteboom, President, Institute Transport & Maritime Management, University of Antwerp. She also discussed the presentation by representatives from the Port of Los Angeles regarding Building Strong Community Relationships: Strategies for Creating Consensus and Support. Commissioner Moore discussed the Women in the Port Industry forum and stated that Commissioner Burdick volunteered to take a key role in establishing one of its first committees. She offered that they visited the Ashdod Port and observed its state of the art security measures. She explained that she and Commissioner Burdick would be meeting with staff to discuss a number of the items.

Commissioner Nelson reported on the European trade mission trip in which he and Ron Popham, Senior Trade Representative attended the Breakbulk Europe

conference. He offered remarks regarding their meeting with Gamesa, a manufacturer of wind turbines components, in Pamplona, Spain. He acknowledged San Diego's local dockworkers and crane operators and offered that their high level of service helps drive additional business to the port. Commissioner Nelson offered remarks regarding the visit to Oslo, Norway, and the need to follow up with clients regarding the creation of regularized outbound shipping capabilities from San Diego. He reported on meetings with steel manufacturers in Hamburg. He concluded by stating that the trip was a success and the results would be reflected in the upcoming fiscal year's revenue reports.

Chairman Smith offered remarks regarding the importance of the District sponsored over-seas trade trips, stating that they were a tool for facilitating global trade opportunities and benefited the port as well as the regional and national economy.

Chairman Smith turned the presentation over to John Bolduc, Vice President, Public Safety/Harbor Police Chief. Chief Bolduc introduced the newest members of the Narcotics Detection Canine Team, Quinny, three-year-old German Shepard imported from Holland and her handler, Officer Pedro Arce. Chief Bolduc discussed the team's results in locating narcotics and related paraphernalia since graduating on May 3, 2012 from the Sheriff's Basic Narcotics Detection Academy.

As an example of being an exemplary port, Chairman Smith acknowledged Roland Ashurst, Fleet Maintenance Technician, General Services & Procurement. Mr. Ashurst recommended a way to his manager to improve efficiency that has resulted in performing on-site mechanical maintenance and technology equipment updates on Harbor Police vehicles.

CONSENT AGENDA

Chairman Smith requested that Timothy Deuel, District Clerk, announce any suggested docket changes. Mr. Deuel stated additional agenda related materials were received after the agenda was published and copies of the documents were available at the Clerk's desk.

Mr. Deuel announced the proposed changes to the agenda as follows: **Consent Agenda Item 8**, Resolution Granting Indemnity and Agreeing to a Limitation of Liability for hosted Expense Reimbursement Management Services with SAP Inc.; staff requests this item be continued to a future Board meeting; **Consent Agenda Item 9**, Resolution Granting Indemnity and Agreeing to a Limitation of Liability for Data Protection with American Express Travel Related Services Company, Inc.; staff requests

this item be continued to a future Board meeting; **Consent Agenda Item 21**, Resolution Waiving BPC Policy No. 110 and Authorizing a Design Agreement with GHD, Inc. for the partial demolition of Transit Shed No. 1 and Warehouse C at Tenth Avenue Marine Terminal in an amount not to exceed \$_____, and Authorizing District staff to Enter into an Agreement with GHD, Inc. for Design, Bid and Construction Phase Services for site improvements at Tenth Avenue Marine Terminal in an amount not to exceed \$_____, for TIGER IV Grant funding application; staff requests this item be continued to a future Board meeting; **Consent Agenda Item 28**, Resolution Granting Approval for General Indemnification Language for Vessel Operators during shore power testing; staff requests this item be continued to a future Board meeting; **Action Agenda Item 35**, Ordinance Granting a 24.5 Year Lease to Dole Fresh Fruit Company for 954,864 square feet of land for refrigerated container operations to import and export fresh fruit at the Tenth Avenue Marine Terminal; staff requests this item be continued to a future Board meeting; and **Action Agenda Item 37**, Presentation on Proposed Marketing Advisory Committee and Cruise Advisory Committee Structure and direction to staff; staff requests this item be continued to a future Board meeting; **Consent Agenda Item 7**, Resolution Granting Indemnity and Agreeing to a Limitation of Liability for as needed SAP System Enhancement Consulting Services with SAP Inc., staff determined that Board action is no longer required, and **Consent Agenda Item 13**, Resolution Authorizing Funding of One Environmental Fund Project for Operation Clean Sweep for an amount not to exceed \$xx,xxx, staff determined that Board action is no longer required

On motion of Commissioner Burdick, seconded by Commissioner Valderrama, the Board accepted the suggested changes to the agenda, by the following vote: Yeas-Burdick, Malcolm, Moore, Nelson, Peters, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

On motion of Commissioner Malcolm, seconded by Commissioner Burdick, the Board adopted Consent Agenda items 10, 11, 12, 14, 15, 16, 17, 18, 19, 20, 22, 23, 24, 25, 26, 27, 28.1 (**Resolution 2012-70** through and including **Resolution 2012-74**, **Ordinance 2669** through and including **Ordinance 2670**, **Resolution 2012-75** through and including **Resolution 2012-83**) by the following vote: Yeas-Burdick, Malcolm, Moore, Nelson, Peters, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

Agenda Item 7. **Board action no longer required.**

Agenda Item 8. **Item Continued.**

Agenda Item 9. **Item Continued.**

Agenda Item 10. **Resolution 2012-70**, Authorizing Amendment No. 3 to the Agreement with Jones & Stokes, Inc., the City of San Diego, and One Park Boulevard for Environmental Review Consulting Services for the completion of the San Diego Convention Center Phase III Expansion and Expansion Hotel Project Environmental Impact Report to increase the agreement amount by \$100,000, increasing the aggregate total of the agreement from \$554,277 to \$654,277, was adopted as part of the consent agenda.

Agenda Item 11. **Resolution 2012-71**, Selecting and Authorizing an Agreement with AMEC Environment and Infrastructure, Incorporated to provide professional services to continue the long-term monitoring of the Sediment Cap at the former Campbell Shipyard for a total amount not to exceed \$640,384 for four years, was adopted as part of the consent agenda.

Agenda Item 12. **Resolution 2012-72**, Authorizing Amendment No. 2 to the Agreement with RBF Consulting for Stormwater Data Management Services to increase the Agreement amount by \$33,600 and extend the term by 12 months, increasing the aggregate total of the agreement from \$125,000 to \$158,600 and extending the term from June 30, 2012 to June 30, 2013, was adopted as part of the consent agenda.

Agenda Item 13. **Board action no longer required.**

Agenda Item 14. **Resolution 2012-73**, Authorizing Second Amendment to Agreement with Amerit Consulting, Inc., to provide Temporary Staffing Services on an as-needed basis, to fund period two, of the three year Agreement, for an amount not to exceed \$97,000, for Fiscal Year 12/13 and increasing the aggregate total from \$289,100 to \$386,100, was adopted as part of the consent agenda, was adopted as part of the consent agenda.

Agenda Item 15. **Resolution 2012-74**, Approving 2012 Work Plan for the Real Estate Advisory Committee, was adopted as part of the consent agenda.

Agenda Item 16. **Ordinance 2669**, Granting a Sixty-Six Year Electrical Easement to San Diego Gas and Electric to provide service to the North Embarcadero Visionary Plan Phase I and Bay Tour Facilities, was adopted as part of the consent agenda.

Agenda Item 17. **Ordinance 2670**, Granting a Thirty-One Year and Five Month Electrical Easement to San Diego Gas and Electric to provide service to the USS Midway Museum, was adopted as part of the consent agenda.

Agenda Item 18. **Resolution 2012-75**, Adopting Plans and Specifications and Awarding Contract No. 2012-08 to SECC Corporation for the National City Marine Terminal Fiber Optic Interconnect Installation (Phase 8), in the amount of \$415,455.00 in support of Homeland Security for District Maritime Facilities, was adopted as part of the consent agenda.

Agenda Item 19. **Resolution 2012-76**, Adopting Plans and Specifications and Awarding Contract No. 2012-07 to Ensley Electric, Inc. for the Tenth Avenue Marine Terminal Fiber Optic Interconnect Installation (Phase 8), in the amount of \$189,000 in support of Homeland Security for District Maritime Facilities, was adopted as part of the consent agenda.

Agenda Item 20. **Resolution 2012-77**, Adopting Plans and Specifications and Awarding Contract No. 2012-04 to SECC Corporation for the Tenth Avenue Marine Terminal and National City Marine Terminal Truck License Plate Reader in support of Emission Reduction and Fiber Optic Interconnect Installation (Phase 8) in the amount of \$381,082.50 in support of Homeland Security for District Maritime Facilities, was adopted as part of the consent agenda.

Agenda Item 21. **Item Continued.**

Agenda Item 22. **Resolution 2012-78**, Authorizing Change Order No. 4 to Contract No. 2010-23 with Miller Environmental, Inc. for TDY Site Demolition Project Phase III to increase the contract amount by \$114,052.18 increasing the aggregate total of the contract from \$12,075,458.15 to \$12,189,510.33 and extending the contract time by 77 calendar days, increasing the contract from 365 calendar days to 442 calendar days; and Authorizing additional extensions up to 90 additional calendar days through November 27, 2012, was adopted as part of the consent agenda.

Agenda Item 23. **Resolution 2012-79**, Authorizing Amendment No. 1 to the Agreement with Cook + Schmid, LLC for services in support of Public Relations to increase the Agreement amount by \$125,000, increasing the aggregate total of the Agreement from \$175,000 to \$300,000, was adopted as part of the consent agenda.

Agenda Item 24. **Resolution 2012-80**, Authorizing Amendment No. 1 to Agreement with Public Works, Inc. for services in support of Activation of the Port Tidelands to increase the Agreement amount by \$152,000, increasing the aggregate total of the agreement from \$195,000 to \$347,000, was adopted as part of the consent agenda.

Agenda Item 25. **Resolution 2012-81**, Authorizing Amendment No. 2 to the Agreement with MJE Marketing Services, Inc. for Marketing and Advertising Services, Media Buying and Campaign Development to increase the agreement amount by \$650,000, increasing the aggregate total of the agreement from \$1,150,000 to \$1,800,000, was adopted as part of the consent agenda.

Agenda Item 26. Accepting a Letter of Understanding with the Marine Group Boat Works regarding conditions for negotiating a lease amendment, was adopted as part of the consent agenda.

Agenda Item 27. **Resolution 2012-82**, Authorizing Memorandum of Understanding with the San Diego Urban Area Working Group (SDUAWG) and other agencies to join the Regional Computer-Aided-Dispatch Interoperability Project (RCIP) and granting indemnity to all parties, was adopted as part of the consent agenda.

Agenda Item 28. **Item Continued.**

Agenda Item 28.1. **Resolution 2012-83**, Amending Resolution 2011-71 Authorizing Approval of Agreement with H.P. Purdon & Company, Inc. in place of San Diego Armed Services YMCA for the 2012 Big Bay Boom July 4th Fireworks Show, was adopted as part of the consent agenda.

CLOSED SESSION AGENDA

Celia Brewer, Interim Port Attorney, announced that after the posting of the agenda certain facts and circumstances arose regarding anticipated litigation that required discussion by the Board in closed session. In light of the staff's information regarding the matter; and, as such that the need arose after the posting of the agenda, she requested that the Board consider hearing an additional closed session agenda item at the end of the regular meeting.

On a motion by Commissioner Burdick, seconded by Commissioner Moore, the Board voted to add one item: a Conference with Legal Counsel – Anticipated Litigation Significant Exposure to Litigation Pursuant to Subdivision (b)(1) of Government Code Section 54956.9, to the agenda by the following vote: Yeas-Burdick, Malcolm, Moore, Nelson, Peters, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

PUBLIC HEARING AGENDA

NAVY PIER PUBLIC PARKING

A) CONDUCT PUBLIC HEARING ON PROPOSED \$1.00 PARKING RATE INCREASE FOR THE ONE TO FOUR HOUR PARKING RATE FROM \$7.00 TO \$8.00 AT NAVY PIER PUBLIC PARKING LOT; AND

B) ORDINANCE ESTABLISHING \$1.00 PARKING RATE INCREASE FOR THE ONE TO FOUR HOUR PARKING RATE FROM \$7.00 TO \$8.00 AT NAVY PIER PUBLIC PARKING LOT.

Agenda Item 29AB. Karen Weymann, Director, Real Estate Department, addressed the Board regarding the Navy Pier Public Parking rate increase and the trial run of the summer bayfront shuttle program. She turned the presentation over to Shaun Sumner, Area Manager, Real Estate Department, who offered the staff presentation for the proposed parking rate increase. (A copy of the staff report and presentation is on file in the Office of the District Clerk.)

Chairman Smith opened the public hearing. Michael Bullock, Transportation Chair, Sierra Club, San Diego Chapter, addressed the Board with his concerns regarding the incremental rate increase. He discussed optimum system development and the equitable distribution of parking. As there were no additional speakers, Chairman Smith closed the public hearing.

Commissioner discussion ensued. Commissioner Peters congratulated staff and offered a motion to accept the staff recommendation. He responded to Mr. Bullock's remarks and explained the Board had a commitment to developing a public transportation system to alleviate parking individual vehicles along the waterfront. Commissioner Peters offered that the shuttle system was a great step forward and could lead to good things in the future. Commissioner Valderrama seconded the motion.

On a motion of Commissioner Peters, seconded by Commissioner Valderrama, the Board adopted **Ordinance 2671**, establishing \$1.00 Parking Rate Increase for the One to Four Hour Parking Rate from \$7.00 to \$8.00 at Navy Pier Public Parking Lot, by the following vote: Yeas-Burdick, Malcolm, Moore, Nelson, Peters, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

SAN DIEGO CONVENTION CENTER PUBLIC PARKING GARAGE

A) CONDUCT PUBLIC HEARING ON PROPOSED TEMPORARY \$1.00 INCREASE IN THE DAILY PARKING RATE FROM \$10.00 TO \$11.00 TO ASSIST IN FUNDING THE EMBARCADERO SHUTTLE FOR A PERIOD COMMENCING JULY 13, 2012 AND ENDING NOVEMBER 13, 2012.

B) ORDINANCE ESTABLISHING TEMPORARY \$1.00 INCREASE IN THE DAILY PARKING RATE FROM \$10.00 TO \$11.00

Agenda Item 30AB. Karen Weymann, Director, Real Estate Department, addressed the Board regarding the San Diego Convention Center Public Parking Garage temporary rate increase to support funding for the trial run of the summer bayfront shuttle program. She turned the presentation over to Nick Markos, Senior Asset Manager, Real Estate Department, who offered the staff presentation for the proposed parking rate increase. (A copy of the staff report and presentation is on file in the Office of the District Clerk.)

Chairman Smith opened the public hearing. Michael Bullock, Transportation Chair, Sierra Club, San Diego Chapter, addressed the Board regarding moving forward with an optimum system development; the equitable distribution of parking; how parking fees are established and the public benefit of parking. As there were no additional speakers, Chairman Smith closed the public hearing.

Commissioner discussion ensued. Commissioner Peters offered a motion to adopt the staff recommendation. Commissioner Nelson seconded the motion.

Commissioner Malcolm thanked staff for their work. He discussed the benefit of the rate increase as a means to assist the District with funding the shuttle service that will benefit many stakeholders. He offered the shuttle service facilitates moving forward with the District's commitment to the California Coastal Commission to implement a transit system along the Embarcadero.

On a motion of Commissioner Peters, seconded by Commissioner Nelson, the Board adopted **Ordinance 2672**, Proposed Temporary \$1.00 Increase in the Daily Parking Rate from \$10.00 To \$11.00 to assist in Funding The Embarcadero Shuttle for a period commencing July 13, 2012 and ending November 13, 2012 at the San Diego Convention Center Public Parking Garage, by the following vote: Yeas-Burdick, Malcolm, Moore, Nelson, Peters, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

FY 12/13 FINAL BUDGET

- A) CONDUCT PUBLIC HEARING AND ADOPT ORDINANCE ADOPTING THE FY 12/13 FINAL BUDGET.**
- B) APPROVE ENVIRONMENTAL RELATED PROJECTS AND ACTIVITIES TOTALING \$2.0M TO RECEIVE FUNDING FROM THE ENVIRONMENTAL FUND.**
- C) WAIVE BPC POLICY NO. 609 AND AUTHORIZE A REDUCTION IN THE FY 12/13 ANNUAL DEPOSIT FOR PUBLIC ART FROM \$1.2M TO \$0.2M. AUTHORIZE USE OF THE \$1.0M DIFFERENCE TO PARTIALLY FUND THE FY 12/13 BUDGET DEFICIT**
- D) AUTHORIZE USE OF \$0.7M FROM THE FY 11/12 ESTIMATED SURPLUS TO FUND THE REMAINING BUDGET DEFICIT.**
- E) ORDINANCE AMENDING SALARY ORDINANCE NO. 2648.**
- F) RESOLUTION ESTABLISHING THE SAN DIEGO UNIFIED PORT DISTRICT (DISTRICT) DIRECTORY OF CLASSIFICATION SPECIFICATIONS FOR FISCAL YEAR 2012 – 2013.**

Agenda Item 31ABCDEF. Jeff McEntee, CFO/Treasurer, addressed the Board with a presentation regarding the FY 12/13 Final Budget. He discussed the recommendations offered by the Environmental Health Coalition regarding the staff recommendation for partially funding the budget gap with resources from the Environmental Fund. He reviewed the changes between the preliminary budget and the final budget. Mr. McEntee offered comments regarding funding of the proposed capital major maintenance projects. He requested the Board conduct a public hearing on the FY 12/13 budget and then consider the recommendations as detailed in the staff report. (A copy of the staff report and presentation is on file in the Office of the District Clerk.)

Commissioner Peters left the dais at 1:57 p.m. and returned at 1:59 p.m.

Chairman Smith opened the public hearing.

Diane Takvorian, Executive Director, Environmental Health Coalition (EHC) thanked staff for their briefings regarding the budget process and she addressed the Board regarding the recommendation to the partially fund the budget gap with a portion of the Environmental Fund. She acknowledged that EHC supported funding the majority of the proposed projects. However, Ms. Takvorian expressed concern regarding the use of approximately 20% of the funds for the following items: Goodrich South Campus Investigation, Site Investigation and Marine Biology, San Diego Gas and Electric (SDG&E) Energy Program and the South Bay Power Plant Investigation. She summarized her remarks and requested the Board modify the staff recommendation. (Ms. Takvorian provided an analysis handout to the Board and a copy is on file in the Office of the District Clerk.)

Chester Mordasini, President, Teamsters Local 911, addressed the Board regarding the budget process and thanked the staff and the Commissioners for their efforts. He remarked on the job creation benefits of moving forward with the capital major maintenance projects in the budget.

As there were no additional speakers, Chairman Smith closed the public hearing.

Commissioner discussion ensued. Commissioner Burdick requested clarification from Mr. McEntee regarding the items of concern shown in Ms. Takvorian's analysis handout discussed during the public hearing. Concerning the SDG&E energy program cost allocation matter, Mr. McEntee concurred that staff planned to add those incoming funds to the general fund. He offered that upfront costs for the expenditures related to the other three items would be required from the District. He explained that it was yet to be determined whether those upfront costs would be reimbursable as part of an insurance recovery opportunity. Commissioner Burdick requested and received confirmation from Mr. McEntee that staff had determined the expenses under discussion would comply with BPC Policy No. 730. She expressed her concern with the staff recommendation regarding the proposed use of the SDG&E energy program cost allocation reimbursement for generic general fund expenses. She complimented staff on the manner in which they conducted the budget process and commended them for the public outreach efforts. Commissioner Burdick acknowledged the remarks offered by EHC staff regarding funding of projects that were "above and beyond compliance" but offered that the Board had modified BPC Policy No. 730 to include expenditures that are "not above and beyond compliance." Referencing the economic downturn, she

expressed concern regarding the circumstances that led the Board to consider the use of the Environmental Fund for compliance obligations. She offered that allocating resources for compliance obligation related expenses from the Environmental Fund was consistent with BPC Policy No. 730. Discussing EHC's request to consider the Environmental Fund resources a loan, she explained that while she could not characterize those funds as a loan to be repaid, she offered that, should circumstances present themselves in the future, it would be her desire to replenish the resources. Commissioner Burdick discussed the importance of transparency and accountability and requested that the SDG&E energy program funds be removed from the staff recommendation. Regarding the other three items, and in the event that alternative reimbursements were secured, she requested those revenues be returned to the Environmental Fund. She offered a motion to accept the staff recommendation regarding Agenda Item 31ABCDEF with the exception of the four items shown on the EHC exhibit. Regarding the four items noted in the EHC analysis, she offered a condition to her motion that, to the extent alternative reimbursements was secured, such revenue would be returned to the Environmental Fund.

Commissioner Peters seconded the motion.

Per Commissioner Nelson's request, the Clerk distributed his handout titled Proposed Condition to Agenda Item 31A, to the Board. The text was as follows: Use of Environmental Fund monies in the FY 12/13 budget is a one-time occurrence to finance \$2 million in environmental projects that meet the criteria for funding defined in BPC Policy No. 730, but that would more typically paid through current year revenues. In authorizing the one-time use of these funds, it is the Board's intention to return at least \$2 million to the Environmental Fund through allocations from future surplus revenues as soon as possible. He reviewed the condition regarding the one-time use of Environmental Fund monies in FY12/13 to finance \$2 million dollars in environmental projects and requested whether Commissioner Burdick's motion would incorporate his proposed condition. (A copy of the handout is available in the Office of the District Clerk.)

Commissioner Burdick offered clarification regarding her motion, the items that EHC had expressed concerns with, and reiterated her understanding of Mr. McEntee's statement that all of the projects under consideration were consistent with BPC Policy No. 730.

Commissioner Nelson requested and received clarification from Commissioner Burdick regarding her motion and she stated that should the District receive reimbursement for the Goodrich South Campus Investigation, Site Investigation and

Marine Biology, and the South Bay Power Plant Investigation, those funds would be returned to the Environmental Fund. She did not support putting the SDG&E Energy Program expense reimbursements back into the general fund for generic expenses. Commissioner Burdick explained that she could not predict when future revenues would be available to reimburse the Environmental fund, nor could she state the use of the Environmental Fund would be a one-time use. In response to Commissioner Nelson's query, she stated that she was not comfortable with amending her motion to incorporate the proposed condition regarding the use of Environmental Fund monies or "tying" a future Board to the condition.

Commissioner Peters acknowledged Commissioner Nelson's sentiments. He stated that budgeting occurs annually. He offered that the budget process was an opportunity for the Board to state their intents, thus he stated that while he concurred with Commissioner Nelson's proposed condition to restore the funds, he could not bind a future Board during the budgeting process.

Commissioner Malcolm thanked staff for their hard work and the efforts to achieve a balanced budget in an era of difficult financial circumstances. He offered that as good fiscal stewards, the Board had a commitment to finding ways to balance budgets in the future through increasing revenue and decreasing expenses. He discussed the need for assessing major maintenance capital requirements and looked forward to an open and public conversation regarding those expenditures.

Commissioner Valderrama expressed support for Commissioner Burdick's motion. He acknowledged staff for their efforts. In response to Commissioner Nelson's proposed condition, he discussed the likely challenges facing the District when considering the projected budget figures through 2016. He concurred that reimbursements should go back into the Environmental Fund but cautioned against making future allocation commitments until revenues exceed expenses.

Chairman Smith discussed the amount of work that goes into the budget process. He offered that the budget is a dynamic document and would likely change. Regarding the budget preparation and in light of recent challenges, he acknowledged the efforts of the District staff to find ways for the organization to live within its means.

On a motion by Commissioner Burdick, seconded by Commissioner Valderrama, the Board with a single vote, adopted **Ordinance 2641** FY 12/13 Final Budget.; approved Environmental Related Projects and Activities totaling \$2.0m to receive funding from the Environmental Fund; waived BPC Policy No. 609 and authorized a reduction in the FY 12/13 Annual Deposit for Public Art from \$1.2m to \$0.2m;

authorized use of the \$1.0m difference to partially fund the FY 12/13 budget deficit and authorized use of \$0.7m from the FY 11/12 Estimated Surplus to fund the remaining budget deficit. Adopted **Ordinance 2674** amending Salary Ordinance No. 2648 and **Resolution 2012-85** establishing the San Diego Unified Port District (District) Directory of Classification Specifications for FY 12/13, by the following vote: Yeas-Burdick, Malcolm, Moore, Nelson, Peters, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

ACTION AGENDA

PRESENTATION BY THE CITY OF SAN DIEGO AND THE SAN DIEGO ASSOCIATION OF GOVERNMENTS ON THE BAYSHORE BIKEWAY, AND RELATED STUDIES.

Agenda Item 32. Randa Coniglio, Executive Vice President - Operations, addressed the Board regarding the Bayshore Bikeway project (Bikeway) and related studies. She introduced the speakers from the City of San Diego and the San Diego Association of Governments (SANDAG). Ms. Coniglio turned the presentation over to Stephan Vance, Senior Regional Planner, SANDAG, who addressed the Board. Mr. Vance turned the presentation over to Lara Gates, Barrio Logan Community Plan Update Project Manager, City of San Diego Development Services Department. Ms. Coniglio concluded the presentation and requested Board comment and/or direction. (A copy of the staff report is on file in the Office of the District Clerk.)

The following members of the public addressed the Board regarding the Bayshore Bikeway, stakeholders related concerns, and impacts on parking: Supervisor Greg Cox, County of San Diego; John Pasha, Co-Chair, Working Waterfront Group and Senior Vice President, Pasha Automotive Services, and Lee Wilson, San Diego Port Tenants Association.

Commissioner discussion ensued. Commissioner Peters thanked Supervisor Cox for his leadership on the Bikeway project. He discussed the need to address the parking challenges for the residents living in the neighborhoods near the marine terminals and advocated for providing public amenities such as completed streets and as well as a range of transportation options for under-served communities. He supported continuing the work on the issues as outlined in the staff recommendation.

Commissioner Burdick acknowledged the need for the improvements along the bikeway and stated she was encouraged by the momentum behind the improvement projects. She applauded the cooperation shown by the City of San Diego and SANDAG

for their willingness to work with the District to make improvements. She expressed support for the staff recommendation. She requested and received clarification from Ms. Gates regarding the construction in the area along Harbor Drive to install new sewer pipes. Commissioner Burdick requested clarification from Mr. Vance regarding SANDAG's responsibility to mitigate parking impacts upon implementation of the Bayshore Bikeway. Mr. Vance offered that the parking impacts would be analyzed. SANDAG would contribute to mitigating the loss if it was determined that any of the eliminated parking spaces were needed. He stated that, in light of the area's existing parking issues, there was an important need to address a long-term solution. Commissioner Burdick offered remarks regarding the need for a diverse group of stakeholders to work together to address the parking challenges. Acknowledging the benefits of exploring alternative development-funding options, including private-public partnerships, she discussed the importance of someone taking a leadership role to move the project forward. She requested and received comments from Ms. Gates and Mr. Vance regarding the parking facility study and funding alternatives. Commissioner Burdick stated the District would seek SANDAG's assistance to mitigate off-tideland impacts to on-tideland operations resulting from the Bikeway project. She encouraged the stakeholders to work with maritime tenants and local businesses to evaluate possible alternatives and assess routing the Bikeway to the east in the National City area.

Commissioner Moore thanked Supervisor Cox for his leadership on the project. She concurred with staff's recommendation and supported the District's active engagement. She stated it was important to involve all stakeholders when addressing the parking matter to work together to develop a solution. Commissioner Moore requested and received clarification from Ms. Gates that the new Mercado del Barrio Residential/Commercial Center planned for the area was not only "fully parked" but also "over parked" per the land development code and it did not contribute to the parking challenges in the neighborhood. In response to a query regarding the San Diego Community College District campus, Ms. Gates stated the campus project came in under its required level of parking and city staff required mitigation as part of the Coastal Development Permit process. Thus, the Community College District proposed a 301-space parking garage at the corner of National Avenue and Cesar E. Chavez Parkway to mitigate their parking issues. Commissioner Moore encouraged seeking solutions to the parking challenges in a global fashion.

Commissioner Nelson offered that the Bikeway was a transportation solution for a number of people as well as a community amenity. He acknowledged the cooperation demonstrated by a diverse group of stakeholders. In light of the District's budget projections in the next several years, he encouraged the participating public agencies to

seek alternative funding solutions. Commissioner Nelson requested and received clarification from Ms. Gates regarding the process by which an assessment district proceeds forward. Celia Brewer, Interim Port Attorney, also provided clarification regarding the formation of the assessment district and the associated proceedings.

Commissioner Valderrama acknowledged the support for the Bayshore Bikeway. He supported staff's recommendation to remain engaged in the process and acknowledged the remarks from the public speakers regarding the matter. He encouraged stakeholders to remain involved in the implementation process.

Chairman Smith thanked Supervisor Cox and Commissioner Peters for their leadership regarding the project. He thanked the representatives from the various agencies for their participation and reiterated the importance of moving forward as one team to service the needs of the Barrio Logan neighborhood residents in a fair manner.

Commissioner Nelson left the dais at 3:11 p.m. and returned at 3:19 p.m.

Commissioner Moore left the dais at 3:12 p.m. and returned at 3:14 p.m.

Commissioner Peters left the dais at 3:19 p.m. and returned at 3:22 p.m.

COASTAL STRATEGY

A) PRESENTATION ON COASTAL CONSULTANT SERVICES AND DIRECTION TO STAFF.

B) PRESENTATION ON PROPOSED AGREEMENT WITH THE CALIFORNIA COASTAL COMMISSION FOR FUNDING A COASTAL STAFF POSITION AT THAT AGENCY AND DIRECTION TO STAFF.

Agenda Item 33AB. Darlene Nicandro, Director, Environmental and Land Use Management, addressed the Board with a presentation on staff's recommendation regarding the District's proposed two-prong Coastal Strategy. She reviewed the Coastal Consultant Services model, summarized the experience levels of the four consulting firms responding to the request for qualification, and reviewed the proposed agreement with the California Coastal Commission for funding a coastal staff analyst position at that agency. Following the presentation, Ms. Nicandro requested the Board consider the staff recommendations and provide direction to staff. (A copy of the presentation and staff report is on file in the Office of the District Clerk.)

Susan McCabe, CEO, McCabe & Company, addressed the Board offering she was present to answer questions. She distributed a handout regarding responses to the request for qualifications questions and a list of clients. (A copy of the handout is on file in the Office of the District Clerk.)

Commissioner discussion ensued. Commissioner Burdick offered support for staff's recommendation regarding the consideration of a proposed agreement with the California Coastal Commission for the District funding of a coastal staff analyst position at that agency. She requested and received confirmation from Ms. Nicandro that during initial conversations, the Coastal Commission staff indicated they would not be able to do a "true-up" at the end of the two-year contract period, nor could they provide a refund for any non-District project work performed by the analyst. Ms. Nicandro offered that the Board could provide direction to staff to begin negotiations with Coastal Commission to address contractual conditions. Randa Coniglio, Executive Vice President - Operations, offered that another benefit of tracking the analyst's time was to provide a mechanism by which the District could seek reimbursement from tenants for their proposed projects. Commissioner Burdick acknowledged the benefits of cost recovery. As a way to best utilize public funds, she recommended staff negotiate with the Coastal Commission for an exact "true-up" based upon the ability of their analyst to track their time. She offered that staff could propose conditions including a "trigger threshold" in the agreement. She explained that a refund could be issued based upon the pre-agreed upon amount of time the District funded analyst works on District projects. She offered a motion to accept the staff recommendation, continue negotiations with the Coastal Commission staff on the final conditions of the agreement regarding funding one of the Coastal Commission staff analyst positions, and bring back a final agreement to the Board for consideration at a future meeting.

Commissioner Peters seconded the motion.

Commissioner Moore offered support for the motion and acknowledged the value of having a contract with the Coastal Commission staff. However, she expressed her concern regarding the likelihood of the Board approving a contract in which the District funded a full-time position for two years with no provision in the agreement regarding the percentage of time the coastal staff analyst would actually dedicate to port tideland projects. She encouraged staff to continue negotiating the terms and conditions in the contract.

Commissioner Malcolm acknowledged the District's need in regards to the number of upcoming development projects pending in the pipeline. In light of the recent considerations required to close the budget deficit, he expressed concern

regarding the agency funding an analyst position whose workload the District could not control. In lieu of the recommendation under discussion, he suggested utilizing consultants, who would be solely dedicated to following the District's direction regarding projects, as a means to complete the work. He remarked on tracking and implementing a project cost recovery mechanism. Commissioner Malcolm expressed concern regarding the expense being perceived as a gift of public funds should the analyst not be working on District projects.

Commissioner Valderrama offered his support for the motion. He acknowledged the concerns raised by Commissioner Malcolm. He offered that as a means to address the District's future budget needs; the development projects in the pipeline require forward momentum. Thus, based upon information from the Coastal Commission staff regarding their lack of adequate staffing level to move forward on District projects, he supported continuing negotiations. About the concerns raised about a gift of public funds, Commissioner Valderrama explained the matter would return to the Board for consideration before accepting the contract terms and such concerns could be addressed at that time as well.

Commissioner Peters acknowledged the concerns discussed by Commissioner Malcolm. In light of the number of large projects pending consideration that affect the District's economic development, including the Convention Center expansion and the Chula Vista Bayfront development, he stated that the Coastal Commission had indicated they would not be able to consider those projects without additional staff members. Based upon those factors and the level of funding under consideration, Commissioner Peters stated he would support the motion.

Commissioner Nelson commented on the discussion and acknowledged the challenges presented moving projects through the State's government departments due to furloughs and lower staffing levels. He requested and received confirmation from Ms. Nicandro that the Coastal Commission staff indicated that in order to move ahead with the District projects, they required additional staff resources and looked to the District to fund that analyst position.

Chairman Smith offered he had like experiences during his professional career and had engaged in similar arrangements with comparable regulatory control departments. He acknowledged that while there may be challenges, this type of arrangement was likely to occur more often in the future.

On a motion of Commissioner Burdick, seconded by Commissioner Peters, the Board directed staff to continue negotiations with the Coastal Commission staff on the

final conditions of the agreement regarding funding one of the Coastal Commission staff analyst positions, and bring back a final agreement to the Board for authorization at a future meeting, by the following vote: Yeas-Burdick, Moore, Nelson, Peters, Smith, and Valderrama; Nays-Malcolm; Excused-None; Absent-None; Abstained-None.

Commissioner Burdick stated she viewed the use of Coastal Consultant Services as an essential strategic decision of the Board. She reviewed the efforts the District had made to rebuild the relationship with the Coastal Commission. She expressed a number of the reasons for her disappointment regarding the staff recommendations as presented. She discussed her previous request to include in all staff reports proposing to award a contract or an RFP the primary office locations and the cost data submitted by every respondent, regardless of whether the firm was included in the staff recommendation. She expressed concern regarding the staff recommendation to consider negotiating with multiple consultants; discussed the resources required to manage multiple consultants; and how it strategically failed to leverage the credibility of working with one consultant with the Coastal Commission.

Acknowledged that Ms. McCabe was present at the meeting, Commissioner Burdick explained that in light of Ms. McCabe past actions regarding inappropriate remarks that resulted in public embarrassment to the District, she expressed concern regarding the consideration of contracting with McCabe & Company to represent the District before the Coastal Commission.

She read into the record passages from a newspaper article titled "Emails Put California Coastal Commission Member in Awkward Spot," published by the *Los Angeles Times* on July 9, 2010. Commissioner Burdick noted for the record, that the investigation of the Coastal Commissioner regarding the potential conflict of interest was later determined to be unfounded.

Commissioner Burdick discussed her testimony before the Coastal Commissioners regarding the North Embarcadero Visionary Plan - Phase I (NEVP), where she explained the many changes have been implemented at the District demonstrating the agency's commitment to starting anew. She cautioned against considering McCabe & Company and explained that the recent incident was not long forgotten; nor did it demonstrate the firm's ability to perform the services necessary to serve the District, as a public agency, in the best possible manner before the Coastal Commission. She offered that consideration of a firm's past performance should be considered as part of the selection criteria. She offered a motion to adopt option two in the staff recommendation and direct staff to negotiate agreements with two on-call consultants, California Strategies and RRM Design Group.

Commissioner Nelson disclosed that he had been acquainted with a number of individuals associated with the responders for many years. He requested and received clarification from Ms. Nicandro that staff had not requested information from the responders as to how they would work together as a team. Representatives from each of the responding firms responded to the question from Commissioner Nelson regarding their practice of working collaboratively as a team. He requested and received clarification from Ms. Nicandro regarding the information staff had discovered regarding the professional reputation of the responders and their win-loss ratio of projects presented before the Coastal Commission in which they were the lead organization. Jared Ficker, California Strategies, responded to inquiries regarding his firm's win-loss ratio with Commissioner Nelson. He requested and received confirmation that despite Ms. McCabe's email correspondence reported in the *Los Angeles Times*, she still maintained a number of clients who utilized her professional services. He acknowledged staff for proposing a group approach when considering contracting of the firms services on a project-by-project basis. He stated that he would not support the motion.

Commissioner Peters offered his support for option number one in the staff recommendation that would direct staff to negotiate agreements with all four on-call consultants on a project-by-project basis. Regarding the NEVP Phase I, Commissioner Peters offered that the approval was not due to the sole effort of a consultant, but rather he extended credit to former Chairman Valderrama for his negotiations with vested stakeholders and the work done by the District staff and Board members. He drew similar comparisons to the anticipated successful approval of the Chula Vista Bayfront Master Plan project due to be presented to the Coastal Commissioner in the near future. He commented on the discussion regarding win-loss records. He remarked on the email correspondence from Ms. McCabe and noted her professional reputation. Commissioner Peters discussed the benefits of having multiple firms on call. He explained that many of the projects included working in conjunction with member cities and those stakeholders would likely have an opinion regarding the selection of a firm. Commissioner Peters requested and received clarification from Ms. Nicandro regarding the process of Board approval for the firms' services agreements and the fiscal impact of the firms' services.

Commissioner Moore offered support for the motion because of the strong emotions expressed and the need to move forward. She thanked Wayne Darbeau, Executive Director, for expediting the execution of an emergency contract for the Chula Vista projects. She remarked on the delay in bringing the consultant matters before the Board and expressed concern regarding the associated impacts on the Chula Vista projects under currently under consideration. She urged staff to move forward in an expedient manner in the future.

Commissioner Valderrama stated that Ms. McCabe's email correspondence were unfortunate and caused embarrassment to the District. He explained his motivation for offering his support for the motion and stated why moving forward with negotiations with McCabe & Company was problematic. He discussed the importance of moving revenue-producing projects through the approval process and continuing with the positive momentum. Commissioner Valderrama offered support for California Strategies.

Chairman Smith offered his support for the motion, remarked on the "tools" that consulting services bring to the agency, and he discussed the importance of moving forward. He acknowledged the concerns expressed regarding considering contracting with McCabe & Company in the near future. He explained that opportunities would likely present themselves again in the future and the consultants who were not selected could re-apply.

On a motion of Commissioner Burdick, seconded by Commissioner Valderrama, the Board adopted option two in the staff recommendation and directed staff to negotiate agreements with two on-call consultants, California Strategies and RRM Design Group, and bring back a final agreement to the Board for authorization at a future meeting, by the following vote: Yeas-Burdick, Malcolm Moore, Smith and Valderrama; Nays-Nelson, Peters; Excused-None; Absent-None; Abstained-None.

PRESENTATION TO BOARD AND DIRECTION TO STAFF ON PROPOSED GREENHOUSE GAS REDUCTION TARGET FOR THE CLIMATE MITIGATION AND ADAPTATION PLAN.

Agenda Item 34. Darlene Nicandro, Director, Environmental and Land Use Management department, addressed the Board regarding the greenhouse gas reduction (GHG) portion of the District's draft Climate Mitigation and Adaptation Plan (Climate Plan). She turned the presentation over to Cody Hooven, Senior Environmental Specialist, Environmental and Land Use Management department. Ms. Hooven continued with the staff presentation and discussed the GHG emissions by sectors and activity. She then concluded the presentation with a review of the proposed GHG targets for 2020 and 2035. Following the presentation staff requested that the Board consider the recommendations and provide direction. (A copy of the presentation and staff report is on file in the Office of the District Clerk.)

The following members of the public addressed the Board with varying viewpoints regarding the proposed GHG reduction targets and the climate plan: Sharon Cloward, President, San Diego Port Tenants Association; Sylvia Leon, Resident; Jack Monger, Executive Director, IEA (Industrial Environmental Association); Francisca

Jimenez; Maria Martinez and Kayla Race, Policy Advocate, Environmental Health Coalition. Norma Noriega, Environmental Health Coalition and Mike Bullock, Transportation Chair, San Diego Chapter of the Sierra Club submitted request to speak forms but did not address the Board.

Commissioner discussion ensued. Commissioner Burdick provided contextual information regarding the process utilized by the Climate and Energy Working Group and the Environmental Advisory Committee that led to the recommendations presented by staff. She offered that the matter under consideration regarding the GHG reduction targets would drive a number of future policy decisions and set review standards under the California Environmental Quality Act (CEQA). She reviewed the approaches regarding the 7.5%, 10% and 12% proposed reduction level recommendations in association with the statewide targets established in AB 32. Commissioner Burdick recommended selecting the best defensible compliance strategy. She shared the outcome of the votes cast by the Environmental Advisory Committee members regarding the proposed reduction level percentages for 2020 and 2035. She acknowledged the importance of evaluating the targets and the associated risks in light of changes to regulatory guidelines that may be implemented in the future. She offered that the Board would continue to consider the various viewpoints of stakeholders. Commissioner Burdick put forward a motion to accept the staff recommendation of setting a 10% GHG reduction target by 2020 for the Climate Mitigation and Adaptation Plan.

Chairman Smith left the dais at 5:03 p.m. and returned at 5:07 p.m. Commissioner Moore left the dais at 5:04 p.m. and returned at 5:07 p.m.

Commissioner Nelson seconded the motion. He thanked Commissioner Burdick for her efforts as the Chair of the Environmental Advisory Committee and the facilitator of the Energy Working Group. He acknowledged staff, the consultant firm and the members of the public for their participation. He recognized port tenants and industrial business leaders for their commitments to setting reduction levels. Referring to the staff presentation slide depicting the percentage contribution by industry, Commissioner Nelson discussed the need to assist tenants in reaching the 2020 compliance levels. He requested staff return with recommendations regarding ways in which the District can assist the tenants, industry-by-industry, with creating best management practices to facilitate compliance.

Commissioner Burdick left the dais at 5:09 p.m. and returned at 5:011 p.m.

Commissioner Malcolm discussed his understanding that AB 32 mandated a 10% reduction in greenhouse gas emission on a statewide level, thus when considering a sector like the Port of San Diego that does not include residential, agricultural or office sectors, he requested clarification as to how the District reconciled its goals with AB 32's goals. Ms. Hooven clarified that AB 32 mandated a reduction to 1990 levels and, with the calculations of consultants, staff determined that level to be approximately 10% statewide. She offered that, in light of the level of complexity regarding the matter, staff recommended a 10% reduction goal for the District. Michael Hogan, legal consultant, offered comment regarding the defensibility of the 10% reduction goal and the 7.5% reduction goal.

Based upon the sectors that the port does not have, Commissioner Malcolm queried as to whether the 10% reduction goal was actually more accurate. He discussed the emission requirements set on a project-by-project basis and queried as to how those requirements worked with the Climate Plan goals. Acknowledging the complexity of the matter, Mr. Hogan discussed the concept of "threshold of acceptance" in terms of CEQA review, explained there is no specific statewide level set, and the determination of acceptable levels and relative impacts was at the discretion of each agency. Mr. Hogan explained the benefits of a climate plan to streamline project review and decrease the time and related costs; however, he offered that such a plan would not eliminate the project-by-project review under CEQA.

Commissioner Malcolm acknowledged the District's fiduciary obligations as environmental stewards of the tidelands and discussed the associated responsibilities to assure clean air and water through environmental initiatives to benefit all stakeholders including residents and tenants. He offered the discussion was an example of how public agencies implement regulations. He stated that regulations cost time, money and are a burden on business. He explained his belief that regulation must be balanced with the burdens. Commissioner Malcolm acknowledged Ms. Cloward and Mr. Monger's remarks. Based upon a number of other factors and in erring on the side of caution, he expressed his preference for implementing the 7.5% reduction level, yet he stated his support for the motion. He remarked on mandating compliance absent any such language in existing lease documents, and stated his belief that compliance with the reduction target would be voluntary. Commissioner Malcolm requested clarification regarding the District's management of monitoring mechanisms and the related costs. In response, Ms. Hooven offered that should a reduction percentage be adopted by the Board, staff would move ahead with writing the mitigation plan, which would include an implementation plan and a proposed budget. She offered that emission inventories would be performed in regular intervals as a means to track progress toward reaching the targets and mitigation measures would be evaluated to determine effectiveness.

prior to implementation. Commissioner Malcolm requested and received clarification from Ms. Hooven regarding the process by which an emission inventory is conducted. He summarized his comments regarding the matter and recommended proceeding in a cautious manner due to the related impacts.

Concerning the climate program process, he stated concern regarding the 2050/2100 inundation level maps that included the District's logo and depicted areas outside of the District's jurisdiction. He requested clarification as to whether the maps in question would return to the Board for discussion and consideration. Ms. Hooven offered the maps were not included with the materials regarding the matter before the Board as the focus was on GHG reduction levels. She explained the maps and a description of how they were analyzed, developed and that the subsequent recommended uses would return with the draft of the plan as a whole.

Commissioner Moore thanked the members of the Environmental Advisory Committee, acknowledged the importance of developing GHG emission targets and expressed support for the motion. She offered that there were two parts to a Climate Plan: the target and the implementation plan. Regarding voluntary versus mandatory compliance issues, she offered that it would depend upon the mitigation measures imposed in the actual implementation plan and the type of voluntary incentives provided. Prior to the preparation of the final environmental review recommendations, she requested that staff bring forward specific information requested when the Climate Plan is presented for Board consideration. She stated that such information was very important and would influence successfully implementing the target emission goals and would be important to all stakeholders. Commissioner Moore discussed the matters under consideration was of great importance, thus it was the Board's responsibility to evaluate the data and set the related policies. She commented on her experience with the successful implementation of GHG emission targets and offered the 20% goal established did not adversely affect development in Chula Vista.

Commissioner Peters congratulated Mr. Monger on his new position and offered that environmental quality and economic development were both necessary. He acknowledged his personal support for the 12% goal, but acknowledged the motion and recognized the benefits of achieving a 10% reduction goal.

Chairman Smith acknowledged Commissioner Peter's comments regarding environmental quality and economic development. He thanked everyone for his or her hard work on the matter.

On a motion by Commissioner Burdick, seconded by Commissioner Nelson, the Board established a 10% greenhouse gas reduction target by 2020 for the Climate Mitigation and Adaptation Plan, by the following vote: Yeas-Burdick, Malcolm, Moore, Nelson, Peters, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

Commissioner Nelson left the dais at 5:31 p.m. and was excused for the remainder of the regular meeting.

ORDINANCE GRANTING A 24.5 YEAR LEASE TO DOLE FRESH FRUIT COMPANY FOR 954,864 SQUARE FEET OF LAND FOR REFRIGERATED CONTAINER OPERATIONS TO IMPORT AND EXPORT FRESH FRUIT AT THE TENTH AVENUE MARINE TERMINAL.

Agenda Item 35. Item continued.

RESOLUTION AUTHORIZING FUNDING IN AN AMOUNT NOT TO EXCEED \$385,250 AND DISTRICT SERVICES NOT TO EXCEED \$752,918 FOR FISCAL YEAR 2013 MARKETING SPONSORSHIP PROGRAMS.

Agenda Item 36. The following members of the public addressed the Board with varying viewpoints regarding the matter: Susan Johnson, Senior Council Aide, City of Chula Vista; Jennifer Santander, aid to Councilwoman Bensoussan, City of Chula Vista; Jacqueline Reynoso, President and CEO, National City Chamber of Commerce; Irene Wells, Regional Sponsorship Coordinator, Navy Morale Welfare and Recreation; Sharon Cloward, President, San Diego Port Tenants Association; Don Johnson, President, South Bayfront Artists; Fred Thompson, Ukulele Festival; Jerret, Ukulele Festival; Catherine Miller, Representative, San Diego Sportfishing Council; Stacy Berman, Recreation Program Supervisor, City of Coronado; Sandy Purdon, Executive Producer, Big Bay Boom and Jim Behun, Sunroad Marina General Manager, representing the San Diego Boat Show. The following members of the public submitted request to speak forms and did not address the Board: Kim Hansen, Bridge Run Event Coordinator, Navy Morale Welfare and Recreation and John Campbell, Director, Yellowtail Derby.

Commissioner discussion ensued. Commissioner Moore thanked Chairman Smith, the Marketing Advisory Committee members and staff for their efforts. She offered a motion to accept the staff recommendation regarding the 2013 Marketing Sponsorship programs.

Commissioner Valderrama seconded the motion. He thanked Commissioner Moore for her leadership on the committee and acknowledged staff for their coordination efforts.

Commissioner Burdick referenced data shown in staff report Attachment D (Marketing Advisory Committee Recommendations for Revenue and Promotion Generating Sponsorships). She requested clarification regarding why the staff recommended proposal deviated from the committee's recommendation for six events. Paula Digerness, Marketing and Communications Manager, Marketing and Communications Department, explained that staff initially recommended the funding levels shown in Attachment D as an effort to stay within the \$300,000 budget allocated for the Revenue and Promotion Generating Sponsorships program. Ms. Digerness further offered that upon review of the total program staff concurred with the recommendation offered by the Marketing Advisory Committee regarding the funding allocation levels.

Commissioner Malcolm thanked staff and Commissioner Moore for her Committee leadership. He referenced the remarks offered from Ms. Miller regarding the funding level recommended to promote the San Diego Sportfishing Council's Day at the Docks event. He acknowledged the challenges faced by the sportfishing industry. He offered his support for the staff recommendation. Rather than a basic assessment of the results of a single event, Commissioner Malcolm suggested that the future assessment of the sponsorship opportunity also include the multiplier effect gained in the community by promoting the sportfishing industry.

Chairman Smith thanked staff for their efforts to improve the process and provide the best possible experience for all the applicants as well as the Committee members.

On a motion by Commissioner Moore, seconded by Commissioner Valderrama, the Board adopted **Resolution 2012-84**, authorizing funding in an amount not to exceed \$385,250 and District Services not to exceed \$752,918 for Fiscal Year 2013 Marketing Sponsorship Programs, by the following vote: Yeas-Burdick, Malcolm, Moore, Peters, Smith and Valderrama; Nays-None; Excused-Nelson; Absent-None; Abstained-None.

PRESENTATION ON PROPOSED MARKETING ADVISORY COMMITTEE AND CRUISE ADVISORY COMMITTEE STRUCTURE AND DIRECTION TO STAFF.

Agenda Item 37. Item continued.

REVIEW AND CONSIDERATION OF PROPOSED BOARD AGENDA FOR THE MEETING JULY 10, 2012.

Agenda Item 38. On motion of Commissioner Malcolm, seconded by Commissioner Peters, the Board adopted the proposed agenda for the meeting of July 10, 2012, by the following vote: Yeas-Burdick, Malcolm, Moore, Peters, Smith and Valderrama; Nays-None; Excused-Nelson; Absent-None; Abstained-None.

OFFICER'S REPORT

Agenda Item 39. In accordance with BPC Policy No. 110, the following change orders, executed by the Executive Director or designee, were reported:

- A) Change Order No. 2 to Contract No. 2009-13 with USS Cal Builders, Inc. / \$458,262.97 Increase & 20 Calendar Day Time Extension thru 9/14/2013.
- B) Change Order No. 1 for (\$11,657.59) and 0 Calendar Days to Contract No. 2009-20 with Bowcon Company, Inc. for Tuna Harbor Promenade Pavers and Flatwork Repair, San Diego, CA.
- C) Change Order No. 1 for \$16,611.00 and 35 Calendar Days to Contract No. 2010-35 with Kronos Painting, Inc. for B Street Pier Cruise Ship Terminal Clean and Paint Ceilings and Hangers.
- D) Change Order No. 2 to Contract No. 2011-07 with Whillock Contracting, Inc. / \$29,289.28 Increase.
- E) Change Order No. 3 to Contract No. 2011-07 with Whillock Contracting, Inc. / \$3,213.00 Increase & 14 Calendar Days Time Extension thru 6/6/2012.

PRESIDENT'S REPORT

Agenda Item 40. None.

As regular meeting agenda had concluded, Chairman Smith adjourned the meeting to Closed Session.

SPECIAL CLOSED SESSION AGENDA

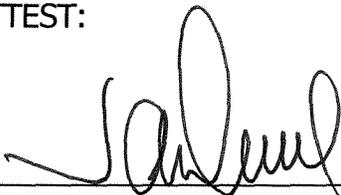
- 8. CONFERENCE WITH LEGAL COUNSEL — ANTICIPATED LITIGATION
Significant Exposure to Litigation Pursuant to Subdivision (b)(1) of Government Code Section 54956.9

There was no other formal or reportable action as to any closed session items, pursuant to Government Code Section 54950 et seq, to report from the special closed session; whereupon, Chairman Smith adjourned the meeting.



Secretary, Board of Port Commissioners
San Diego Unified Port District

ATTEST:



Clerk of the San Diego Unified Port District

**MINUTES
BOARD OF PORT COMMISSIONERS
SAN DIEGO UNIFIED PORT DISTRICT**

The special meeting of the Board of Port Commissioners of the San Diego Unified Port District was called to order by Chairman Smith at 10:01 a.m., Tuesday, July 10, 2012, in the Board Room at 3165 Pacific Highway, San Diego, California.

ROLL CALL

Agenda Item 1.

Present: COMMISSIONERS Burdick, Malcolm, Nelson, Peters, Smith, and Valderrama.

OFFICERS: Brewer, Darbeau, Deuel and McEntee

Absent: No Commissioners absent.

Excused: Commissioner Moore was excused for personal business.

PUBLIC COMMUNICATIONS

Agenda Item 2. None.

CLOSED SESSION

Celia Brewer, Interim Port Attorney, announced the closed session agenda as follows:

Agenda Item 3.

CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION
Pursuant to Subdivision (a) of Government Code Section 54956.9

San Diego Unified Port District v. San Diego Refrigerated Services, Inc.
San Diego Superior Court Case No.: 37-2010-00094896-CU-BC-CTL

Agenda Item 4.

CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION
Significant exposure to litigation pursuant to Subdivision (b)(1) of Government
Code Section 54956.9

One Case

Agenda Item 5.

CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION
Government Code Section 54956.9:

City of San Diego v. San Diego Unified Port District, et al.
United States District Court Case No.: 09-CV-2275 WQH (BGS)

Agenda Item 6.

CONFERENCE WITH REAL PROPERTY NEGOTIATOR
Government Code Section 54956.8

Property: Sheraton San Diego Hotel & Marina consisting of
Approximately 27 Acres of Tideland and Water
Area located at 1380 and 1590 Harbor Island Drive

Negotiating Parties: Christopher Ford, Vice President, Asset Management, Host
Hotels & Resorts Inc.; Craig Mason, Senior Vice President,
Asset Management, Host Hotels & Resorts, Inc.;
Penny Maus, Annette Dahl, Karen Weymann,
Randa Coniglio, John Bolduc represented Karen Porteous
and Jeffrey McEntee, SDUPD

Under Negotiation: Price and Terms

Agenda Item 7.

CONFERENCE WITH REAL PROPERTY NEGOTIATOR
Government Code Section 54956.8

Property: SDUPD - Crosby Street Pier and Adjacent Land Area
located at the Tenth Avenue Marine Terminal in
San Diego, California

Negotiating Parties: General Services Administration (GSA)
Randa Coniglio, Karen Weymann, Joel Valenzuela,
Kristine Zortman, Isabel Ortega, John Bolduc represented
Karen Porteous and Jeffrey McEntee, SDUPD

Under Negotiations: Price and Terms

Agenda Item 8.

PUBLIC EMPLOYEE APPOINTMENT, PERSONNEL EVALUATION OR DISCIPLINE:
APPOINTMENT OF PORT ATTORNEY
Government Code Section 54957

Ms. Brewer announced the item would be continued to a future Board meeting.

Agenda Item 9.

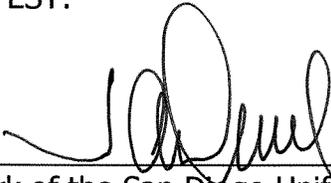
PUBLIC EMPLOYEE APPOINTMENT, PERSONNEL EVALUATION OR DISCIPLINE:
EXECUTIVE DIRECTOR (PRESIDENT/CEO) PERFORMANCE EVALUATION
Government Code Section 54957

There was no other formal or reportable action as to any closed session items, pursuant to Government Code Section 54950 et seq, to report from the closed session; whereupon, Chairman Smith adjourned the meeting.

A handwritten signature in cursive script, reading "Lee Berdick".

Secretary, Board of Port Commissioners
San Diego Unified Port District

ATTEST:

A handwritten signature in cursive script, appearing to be "J. Daniel".

Clerk of the San Diego Unified Port District

**MINUTES
BOARD OF PORT COMMISSIONERS
SAN DIEGO UNIFIED PORT DISTRICT**

The regular meeting of the Board of Port Commissioners of the San Diego Unified Port District was called to order by Chairman Smith at 1:02 p.m., Tuesday, July 10, 2012, in the Board Room at 3165 Pacific Highway, San Diego, California.

ROLL CALL

Agenda Item 1.

Present: COMMISSIONERS, Burdick, Malcolm, Moore, Nelson, Peters, Smith, and Valderrama.

OFFICERS: Brewer, Darbeau, Deuel, McEntee and Stup

Absent: No Commissioners absent.

Excused: No Commissioners absent.

CLOSED SESSION

Agenda Item 2. As requested by Chairman Smith, Celia Brewer, Interim Port Attorney, announced that there was no reportable action regarding the closed session.

PLEDGE OF ALLEGIANCE

Agenda Item 3. Commissioner Peters led the Pledge of Allegiance.

APPROVAL OF MINUTES

Agenda Item 4. Commission Malcolm offered a motion to approve the minutes for the May 8, 2012 regular meeting, June 7, 2012 special meeting and the June 12, 2012 special meeting; Commissioner Burdick seconded the motion. Commissioner Burdick requested that the May 8, 2012 regular meeting minutes revised to reflect her remarks more accurately. She requested the passage be revised to read, "...she discussed the need to balance the interests set forth in the enabling statute with the interests of the vendors so that we encourage the public to visit the tidelands." She also requested a correction to the following passage regarding agenda item 21, "She

explained that to give the matter meaningful review more specific details must be included in the staff reports."

Commissioner Nelson offered corrections regarding item 4 of the May 8, 2012 meeting to Commissioner Burdick's title and he requested a superfluous comma on page 26 be removed after the title "County Supervisor." With respect to item 28, Commissioner Nelson offered that, while he believed the Clerk accurately captured the content of the discussion, the minutes as presented left no record of exactly the Board intent with respect to the question of "non-permitted, forbidden, and unanticipated" uses. He stated that "as near as he could tell" the subsequent resolution did not include reference to any of those words. He queried as to where the record stands regarding the item.

Timothy Deuel, District Clerk, requested that the minutes for the May 8, 2012 regular meeting be pulled from consideration to allow for additional staff review of the recording and the draft minutes as presented. Chairman Smith acknowledged the Clerk's recommendation and Commissioner Nelson concurred.

Regarding the June 7, 2012 special meeting minutes, Commissioner Nelson acknowledged his belief that while the Clerk accurately captured the comments, he requested the final motion to approve the Capital Improvement Program recommendation be clarified to restate the Board's direction.

In light of Commissioner Nelson's request, Mr. Deuel also offered that the minutes for the June 7, 2012 special meeting would be pulled for additional staff review.

Commissioner Malcolm offered an amendment to his motion to approve the minutes for the special meeting of June 12, 2012. He offered that the Board of Port Commissioner meeting audio recordings are available on the District website for the public's review. Commissioner Burdick seconded the amended motion.

On motion of Commissioner Malcolm, seconded by Commissioner Burdick, the Board approved the minutes for the special meeting of June 12, 2012, by the following vote: Yeas-Burdick, Nelson, Malcolm, Moore, Peters, Smith and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

PUBLIC COMMUNICATIONS

Agenda Item 5. None.

COMMISSIONER COMMENTS/REVIEW OF TODAY'S MEETING

Agenda Item 6. Commissioner Valderrama thanked John Bolduc, Vice President Public Safety/Harbor Police Chief and the Harbor Police staff for their response during a recent head-on traffic collision near the airport.

Commissioner Peters requested staff provide more clarification regarding the July 4th Big Bay Boom fireworks show malfunction. He suggested the report be during the President's Report.

Chairman Smith discussed the efforts made by staff regarding the implementation of the multi-year Technology Strategic Plan as an example of the exemplary port. He acknowledged the successful implementation of the recent upgrades to Microsoft Office 2010 and the document management system on every District computer workstation. He congratulated Chrissy Joslin, Dave Kerberg and Ed Seeber as well as the Business Information Technology Systems staff for their hard work.

CONSENT AGENDA

Chairman Smith requested that Timothy Deuel, District Clerk, announce any suggested docket changes.

Mr. Deuel announced the proposed changes to the agenda as follows: **Consent Agenda Item 7ABC**, regarding the Sunroad Harbor Island Hotel Project; staff requests this item be continued to a future Board meeting; **Consent Agenda Item 10**, Ordinance Granting Indemnity and Agreeing to a Limitation of Liability for Data Protection with American Express Travel Related Services Company, Inc.; staff requests this item be continued to a future Board meeting; **Consent Agenda Item 13**, Ordinance Granting 40-Year Lease with the City of Coronado for Glorietta Bay Marina; requests this item be continued to a future Board meeting; **Consent Agenda Item 16**, Resolution Authorizing Memorandum of Understanding with Princess Cruise Line, Ltd. to Grant Indemnity for testing of shore power equipment and Granting Authority to staff to enter into similar Memorandums of Understanding with other Cruise Lines to grant indemnity; staff requests this item be continued to a future Board meeting; **Action Agenda Item 27**, Presentation on the Proposed Funding Strategy for the San Diego-Coronado Bridge Lighting Public Art Project and direction to staff; staff requests this item be continued to a future Board meeting; **Action Agenda Item 28**, Resolution Adopting the District's 2012 Legislative Platform and Direction to Staff; staff requests this item be continued to a future Board meeting; and **Action Agenda Item**

30, Presentation of Navy Joint Land Use Study (JLUS) Opportunity and direction to staff; staff requests this item be continued to a future Board meeting.

On motion of Commissioner Burdick, seconded by Commissioner Malcolm, the Board accepted the suggested changes to the agenda, by the following vote: Yeas-Burdick, Malcolm, Moore, Nelson, Peters, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

Commissioner Burdick requested **Consent Agenda Item 15**, Resolution waiving BPC Policy No. 110, Part 1.G.3, to increase the Executive Director's Change Order Execution Authority from 4% to 10% of the original contract amount for Contract No. 2009-13, North Embarcadero Visionary Plan, Phase 1 in San Diego, be pulled for a separate discussion and vote.

Commissioner Peters requested and received clarification from Darlene Nicandro, Director, Environmental and Land Use Management Department, regarding **Consent Agenda Item 8**, Resolution Authorizing Issuance of a Request for Proposals to solicit projects to benefit San Diego Bay through the Environmental Fund. She confirmed the action under consideration was consistent with the process utilized in previous years and necessary to begin the request for proposal process.

Commissioner Moore offered her thanks to staff regarding their efforts to bring **Consent Agenda Item 12**, an Ordinance Granting Amendment No. 1 to the Lease with Marine Group Boat Works, LLC to extend the term by 10 years with one additional 11-year option, for a total of 21 years; add relocation option; and update the lease provisions, in a timely manner.

On motion of Commissioner Burdick, seconded by Commissioner Moore, the Board adopted Consent Agenda items 8, 9, 11, 12, 14, 17, 18, 19, 20, 21 (**Resolution 2012-86, Ordinance 2675, Resolution 2012-87, Ordinance 2676, Resolution 2012-88, Resolution 2012-90** through and including **Resolution 2012-94**) by the following vote: Yeas-Burdick, Malcolm, Moore, Nelson, Peters, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

Agenda Item 7ABC. **Item Continued.**

Agenda Item 8. **Resolution 2012-86**, Authorizing Issuance of a Request for Proposals to solicit projects to benefit San Diego Bay through the Environmental Fund, was adopted as part of the consent agenda.

Agenda Item 9. **Ordinance 2675**, Granting 30-Year Lease with Harbor Hotel Associates, LLC dba Comfort Inn at the Harbor for a 6,454 square foot Parcel at the corner of Scott and Garrison Streets in Point Loma, was adopted as part of the consent agenda.

Agenda Item 10. **Item Continued.**

Agenda Item 11. **Resolution 2012-87**, Consenting to Loan for \$1,885,359 from Investment Funding, Inc. to Intrepid Landing, LLC to construct leasehold improvements to include a Marina and Public Improvements located at 2702 Shelter Island Drive, was adopted as part of the consent agenda.

Agenda Item 12. **Ordinance 2676**, Granting Amendment No. 1 to the Lease with Marine Group Boat Works, LLC to extend the term by 10 years with one additional 11-year option, for a total of 21 years; add relocation option; and update the lease provisions., was adopted as part of the consent agenda.

Agenda Item 13. **Item Continued.**

Agenda Item 14. **Resolution 2012-88**, Authorizing Amendment No. 3 to Agreement with Glenn A. Rick Engineering and Development Corporation, dba Rick Engineering Company for additional professional services for the extension of H Street in Chula Vista to increase the agreement amount by \$88,500 increasing the aggregate total of the agreement from \$392,813 to \$481,313, was adopted as part of the consent agenda.

Agenda Item 16. **Item Continued.**

Agenda Item 17. **Resolution 2012-90**, Consenting to Assignment and Assumption of Agreement to provide Security Services for Marine Terminal Entrances and Facilities from Richman Management Services Corporation dba Heritage Security Services to Universal Protection Services, LP, was adopted as part of the consent agenda.

Agenda Item 18. **Resolution 2012-91**, Authorizing Acceptance of Transportation Security Administration (TSA) FY11 Grant Award Modification #10 in the amount of \$267,716.69, increasing the cumulative FY2008 to FY2013 grant total to \$1,180,000, for the Harbor Police Department (HPD) Explosives Detection Canine Team Program pursuant to BPC Policy No. 109, was adopted as part of the consent agenda.

Agenda Item 19. **Resolution 2012-92**, Selecting and Authorizing an Agreement with Alpha Mechanical Service, Inc. for HVAC Maintenance Services at various Port Facilities for the period commencing September 1, 2012 and ending June 30, 2015 for a total amount to exceed \$378,736, was adopted as part of the consent agenda.

Agenda Item 20. **Resolution 2012-93**, Approving the Internal Audit Work Plan for FY 12/13, was adopted as part of the consent agenda.

Agenda Item 21. **Resolution 2012-94**, Authorizing the Annual Adoption of BPC Policy No. 115, Guidelines for Prudent Investments, was adopted as part of the consent agenda.

ACTION AGENDA

PRESENTATION OF THE SAN DIEGO UNIFIED PORT DISTRICT 2012 EMPLOYEE OF THE FIRST QUARTER

Agenda Item 22 Wayne Darbeau, Executive Director, introduced Michele Corbin, Director, Human Resources, who addressed the Board with a presentation regarding the District Employee of the Quarter program. She turned the presentation over to Katie Vigil, Human Resources Technician, who announced that Chester Wamsley, Equipment Operator, General Services & Procurement Department and Chrissy Joslin, Senior Management Analyst, Business Information & Technology Services Department, were nominated for Employee of the First Quarter. She turned the presentation over to Wayne Darbeau, Executive Director.

Mr. Darbeau announced that Mr. Wamsley was selected as the 2012 Employee of the 1st Quarter. Mr. Wamsley was cited for developing efficient ways to conduct port business by improving the operation of the gateway system for the departure and arrival of cruise ships by requiring one equipment operator instead of two. Chairman Smith offered his congratulations on behalf of the District. (A copy of the staff report and presentation is on file in the Office of the District Clerk.)

PRESENTATION OF SERVICE AWARDS TO EMPLOYEES WITH 15 OR MORE YEARS OF SERVICE

Agenda Item 23. Wayne Darbeau, Executive Director introduced Michele Corbin, Director, Human Resources, who addressed the Board with a presentation regarding District Employee Service Award recognition program. She turned the presentation over

to Wayne Darbeau, Executive Director who recognized Steve Austin, Senior Engineer, Engineering & Construction Department, for 20 years of service to the District.

Mr. Austin thanked the Board and District leadership, acknowledged his family members present and recognized his wife for her support. (A copy of the presentation and staff report is on file in the Office of the District Clerk.)

Commissioner Smith and Mr. Darbeau presented the awards to the two recognized employees.

CONSIDER RECOMMENDATIONS FOR STREAMLINING BOARD ADVISORY COMMITTEES AND PROVIDE DIRECTION TO STAFF

Agenda Item 24. Randa Coniglio, Executive Vice President Operations, addressed the Board with a presentation regarding staff's efforts to streamline the Board Advisory Committees as a means to realign staff resources and their workloads. Ms. Coniglio discussed the criteria and the process staff used to assess the committees. She reviewed the three categories in which staff had grouped the committees. In conclusion, she offered the staff recommendation and requested the Board's direction. (A copy of the presentation is on file in the Office of the District Clerk.)

Sharon Cloward, President, San Diego Port Tenants Association, addressed the Board in support of the staff recommendation.

Commissioner discussion ensued. Commissioner Burdick acknowledged the District's Executive Leadership Group for their efforts to assess the matter while focusing on the agency resources and bringing forward the recommendations presented. She offered a motion that the Board consent to accepting the staff recommendation regarding the following committees: Accessibility, Audit, Compensation, Cruise, Maritime, Public Art, Real Estate, and Tidelands Forestry Committee.

Commissioner Peters seconded the motion.

Commissioner Moore requested and received clarification from Commissioner Burdick that it was her intent to "pull" the Environmental Committee, Marketing Committee, and Port Scholarship Committee for a separate discussion and consideration. Commissioner Moore offered an amendment to the motion to pull the Real Estate Committee for a separate discussion and vote. Commissioner Burdick and Commissioner Peters accepted the amendment to the motion, respectively.

Chairman Smith offered an amendment to the motion to pull the Public Art Committee for a separate discussion and vote. Commissioner Burdick and Commissioner Peters accepted the motion, respectively.

On a motion by Commissioner Burdick, seconded by Commissioner Peters, the Board consented to adopting the staff recommendation regarding the following committees: Accessibility Committee, Audit Committee, Compensation Committee, Cruise Industry Advisory Committee, Maritime Committee, and Tidelands Forestry Committee; by the following vote: Yeas-Burdick, Malcolm, Moore, Nelson, Peters, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

Commissioner discussion resumed. Commissioner Burdick offered her concerns regarding the staff recommendation for the Environmental Committee. She provided background information regarding the need for monthly meetings to address the amount of work docketed on each agenda. In support of the District's effort as an environmental steward, she discussed the concept of the committee acting as a "reactive-arm" of the Board versus "proactively" bringing matters before the Board and seeking its consideration. She discussed the report regarding the number of staff members present at committee meetings. She commented on the amount of staff resources necessary to facilitate the work of the committee. In light of staff's assessment, Commissioner Burdick recommended that the Environmental Committee "be pulled" from the consideration to allow for "re-thinking" as to how the committee could be "fine-tuned" to better serve the District's needs. Thus, she offered a motion to docket the Environmental Committee matter, for further discussion and consideration regarding its structure and function, at a future meeting. Commissioner Valderrama seconded the motion.

Commissioner Malcolm offered his support for the motion. He acknowledged the work of the Environmental Committee and expressed concern about the committee shifting from a "reactive stance" to a "pro-active stance" on its own. Commissioner Malcolm expressed concern regarding potential conflict of interest matters and committee members. He stated that the committee's activities needed to be directed by the Board and they should proceed under a Board approved scope of work.

Commissioner Nelson concurred with Commissioner Malcolm regarding the need for an approved scope of work. He explained his belief that the committees should operate in a similar fashion to the committee structure within the United States Congress. He explained that ideas are "pre-digested" and the ideas that survive the committee-process move forward for a vote. He discussed the expertise of the committee members and their ability to provide helpful insight into complex

environmental matters, which result in constructive dialogue that can lead to good policy. He concurred with the motion to bring the matter back to the Board and recommended that input be sought from stakeholders. Commissioner Nelson discussed the benefits of the committee breaking out into smaller sub-groups to address complex matters.

Commissioner Peters supported the motion of the continuance. He concurred with Commissioner Malcolm by stating that, if the Committee members are advisors then generally, the Board should set the subject matter. He continued by stating he was sensitive that the content should not always be set by the Commissioners to encourage an open dialogue regarding all matters. He acknowledged the benefits of the committee members' expertise and encouraged hearing different their points of views. He acknowledged staff's request that the Board consider the amount of resources required to facilitate the committee work as currently structured. Commissioner Peters discussed the benefits of streamlined workgroups to address specific complex matters. He encouraged his colleagues to bring specific concerns regarding the staff recommendations forward as a means to direct staff as to how the committee can best serve the Board and the organization.

Commissioner Moore stated she concurred with Commissioner Peter's remarks. Acknowledging her colleagues, she offered support for the motion. She then stated her support for the staff recommendation and discussed the role of the committees as advisors to the Board. She acknowledged that Board policy requires work plans and stated that the Environmental Committee work plan had not been submitted for Commissioner consideration. She also expressed concern about the committee shifting from a "reactive stance" to a "pro-active stance" on its own; remarked on the staff time reported to facilitate the committee work and discussed the benefits of small working groups to address specific technical matters. Commissioner Moore stated that the staff recommendation afforded a means to facilitate discussion of items outside of the designated work plan.

Commissioner Burdick thanked her colleagues for their comments. She provided a point of information regarding recent changes to BPC Policy No. 18 regarding the governing of committees that requires a work plan and addresses conflict of interest issues. She explained that the Environmental Committee had adopted a work plan a number of months ago that had not yet been brought before the Board for its consideration. She offered that the committee could be "pro-active" in determining its recommendation regarding a work plan. She explained the Board could then take action regarding the request to approve the Environmental Committee's proposed work plan.

Chairman Smith advocated for providing unifying direction regarding the advisory committee governance and acknowledged the importance of standardizing the committee's roles. He expressed support for the motion to continue the matter regarding the Environmental Committee.

On a motion by Commissioner Burdick, seconded by Commissioner Valderrama, the Board directed staff to return to the Board at a future meeting with a separate presentation and recommendation regarding the Environmental Committee; by the following vote: Yeas-Burdick, Malcolm, Moore, Nelson, Peters, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

Commissioner discussion continued. Commissioner Burdick offered observations regarding the level of outside input and support required from industry professionals that was required. She discussed a forum for Port Tenants to discuss marketing efforts such as the Big Bay campaign. Commissioner Burdick commented on the committee role in evaluating the financial assistance applications and marketing fee-for-service proposals. She commented on the staff recommendation and the possible direction for the Marketing Committee.

Commissioner Malcolm explained that he was prepared to support the staff recommendation and reiterated his concern regarding potential conflict of interest matters and committee members.

Commissioner Burdick offered a point of information that at the March 6, 2012 regular meeting, the Board adopted an overall governing policy, which applied to all of the advisory committees.

Commissioner Malcolm requested clarification from staff regarding their understanding of provisions set forth to prevent possible committee member conflict of interest issues. He described the following rules: 1) no more than two Commissioners would serve on a committee, 2) no voting would take place at the committee level, and 3) minutes summarizing committee consensus would be prepared. He restated his request for confirmation from staff that the motion passed had reflected the changes described.

Ms. Coniglio offered that upon staff's review of the March 6, 2012 regular Board meeting minutes, they understood that the rules described applied to all of the committees and stated she concurred with his remarks.

Referencing the Public Art Committee and the Audit Advisory Committee, Celia Brewer, Interim Port Attorney and Ms. Coniglio offered further clarification that exceptions could be considered on a case-by-case basis for specific committees.

Commissioner Malcolm acknowledged staff's response and offered a motion to support staff's recommendation regarding the Marketing Committee.

Commissioner Moore seconded the motion. She discussed the waterfront activation program and expressed her belief that such programs would not come before the committee. She discussed the staff's recommendation and acknowledged the benefit of gaining expertise from the community while better managing staff-time and resources. She made a point of reference regarding BPC Policy No. 018 and offered that the work plan had been in place since 2009.

Commissioner Peters requested and received clarification from Brandy Christian, Vice President Strategy & Business Development, regarding the evolution of the Marketing Committee's roles. She discussed the sponsorship program review role of a committee comprised of community based members and reviewed the provisions staff implemented to address any potential conflict of interest concerns. She also offered the benefit of engaging industry experts for special initiatives and/or to review new processes on an as-needed basis.

Commissioner Nelson discussed the benefits of segregating marketing and fee-for-service programs. He discussed focusing on providing financial support for community programs. He offered his general support of staff's recommendation regarding the Marketing Committee. Commissioner Nelson discussed marketing efforts for the purpose of waterfront activation and/or to drive revenue. He suggested implementing "co-op activities" to finance major marketing activities such as the Big Bay Boom fireworks program. He requested and received clarification from Ms. Christian regarding staff's efforts to work directly with port tenants to enhance marketing Big Bay related campaigns.

Sharon Cloward, President, Port Tenants Association, responded to Commissioner Nelson's inquiries regarding measuring the return on investment of large events such as the Big Bay Balloon Parade events and the Big Bay Boom. She discussed the efforts by the San Diego Port Tenants Association's Marketing Committee and their assessment of events based on revenue return. She explained that the subsequent ranking data matrix was provided to District staff and reviewed by the District's Marketing Committee. Ms. Cloward confirmed her support for the staff's recommendation.

Commissioner Valderrama expressed his support for the staff recommendation. He acknowledged the recent process improvements implemented by the committee. He acknowledged staff, as well as the Board members serving on the committee, for their efforts.

On a motion by Commissioner Malcolm, seconded by Commissioner Moore, the Board consented to adopting the staff recommendation regarding the Marketing Committee; by the following vote: Yeas-Burdick, Malcolm, Moore, Nelson, Peters, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

Commissioner discussion resumed. Referencing the Financial Assistance Program, Commissioner Burdick offered her queries regarding maintaining the Port Scholarship Committee on an on-going basis. She offered observations about the District's economics during the time when the committee was established as contrasted with the District's current financial obligations. She discussed the public's perception and transparency of a scholarship program established to benefit a narrow group of individuals such as the children of port tenants and District employees. She offered that, following the 2012 award, the committee be discontinued, and, that should the Port Tenants Association or another organization wish to maintain the program, they could do so.

Acknowledging Commissioner Burdick's comments, Commissioner Malcolm discussed his experience serving on the Scholarship Committee. He discussed the program's "real world" impacts and how the monies assist the students with funding their education. In response to the remarks regarding the narrow group eligible to apply for the scholarships, he offered that the program was open to all employees of the 600 District tenants, which represents a considerable number of area residents. He explained the scholarship program was a means to leverage port funds with private funds for area youth. Commissioner Malcolm offered a motion to accept the staff recommendation in light of the modest levels of staff resources required to administer the program.

Commissioner Nelson seconded the motion. He offered that, in the future, a discussion be conducted to consider narrowing the eligibility criteria and focusing on providing scholarships to young people with an interest in pursuing maritime targeted studies.

Commissioner Moore concurred with Commissioner Burdick's comments. She expressed her concern regarding the public perception of the program and the idea of using public monies for scholarships awards to dependents of employees.

She recommended the program be eliminated or expand the criteria to include any worthy applicant.

Commissioner Valderrama offered his support for the motion as presented. He spoke about the program as a partnership with the Port Tenants Association, addressed the remarks regarding "perception" and offered comments regarding his experience as a committee member and the positive impact of the program on the scholarship recipients. He confirmed that a small cash award is given to the District employee selected as Employee of the Quarter. Commissioner Valderrama stated that he was not in favor of Commissioner Burdick's suggestion to end the program as there were funds remaining in the account. He offered that as long as the Port Tenants Association partnership remains in place and funds are in the account then maintaining the program was the right thing to do.

Chairman Smith discussed his experience as chair of the Port Scholarship Committee; acknowledged Commissioner Burdick's observations regarding the program; referenced Commissioner Moore's comments and offered that the program had served some great students. He offered support for the motion and suggested that, in the future, the Board and staff consider the original intent of the program and make an assessment regarding the direction of the committee.

On a motion by Commissioner Malcolm, seconded by Commissioner Nelson, the Board consented to adopting the staff recommendation regarding the Port Scholarship Committee; by the following vote: Yeas-Malcolm, Nelson, Peters, Smith, and Valderrama; Nays-Burdick, Moore; Excused-None; Absent-None; Abstained-None.

Commissioner discussion resumed. Chairman Smith offered his observations regarding the hierarchical structure of the Public Art Committee and compared the committee's operations to that of a department within the organization. He expressed concern that the work of the committee can seem "detached" from the Board and questioned whether it was serving the function of a committee.

Commissioner Peters acknowledged Chairman Smith's remarks and discussed the considerable efforts made during the formation of the Public Art Master Plan. He offered a motion that the staff recommendation be followed to allow the committee to function as planned.

Commissioner Burdick seconded the motion. She acknowledged that the Public Art Committee was intentionally structured in a different way. She stated that, as with

all of the committees, the Board has the authority to accept or reject the recommendations as presented.

On a motion by Commissioner Peters, seconded by Commissioner Burdick, the Board consented to adopting the staff recommendation regarding the Public Art Committee; by the following vote: Yeas-Burdick, Malcolm, Moore, Nelson, Peters, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

Commissioner discussion resumed. Commissioner Moore requested clarification regarding the Real Estate Committee staff recommendation and expressed concern about references to informally meeting and conferring with tenants on various issues without initiating the public process. She discussed Government Code section 1090 and conflict of interest issues in relation to the committee and its tenant members with active leases.

Ms. Coniglio discussed the staff recommendation and the desire to clarify expectations regarding the types of items to be presented before the Real Estate Advisory Committee. She discussed the practices in place to inform the Port Tenants Association about matters of interest to the leaseholders in advance of the District implementing changes with operational practices.

Commissioner Burdick offered a point of information regarding the action taken at the March 6, 2012 regular meeting in which the Board adopted revisions to BPC Policy No. 018 regarding the conflict of interest rules. She clarified the actions were taken to specifically address conflict of interest issues, and the Real Estate Advisory Committee and the implementation of the facilitator role for the Commissioner serving on that committee. She discussed the "forum structure" to fulfill the meet and confer obligations under BPC Policy No. 355 and discussed her understanding of the "meet and confer" reference in the staff report.

Ms. Coniglio confirmed that Commissioner Burdick's understanding of the reference was accurate. She noted, for the record, that at the June 12, 2012 regular Board meeting the Board approved the Real Estate Advisory Committee work plan.

Commissioner Burdick requested comment as to whether the Board wished to rename the committee the Real Estate Advisory Forum.

Commissioner Moore expressed her preference for the term forum. She requested the Port Attorney explain how, by not having the Commissioner serving as the chair, potential Government Code Section 1090 or conflict of interest issues would

be resolved. She discussed the work of the forum and that the members would not make a recommendation regarding a specific agreement or a form agreement for which they would have a financial interest.

Celia Brewer, Interim Port Attorney, concurred that Commissioner Moore's understanding was correct. She offered that by making the Commissioner a non-voting member on a non-voting committee, it was essentially functioning as a landlord-tenant forum to talk over real estate issues. She discussed the revisions to the policy and that members would be required to adhere to the conflict of interest language.

Commissioner Moore suggested that staff proceed carefully with the descriptions and use of the "meet and confer" wording, and, in light of the language shown in the staff recommendation, staff consider re-doing the language in the policies and rename the committee to be called a forum.

Referencing the March 6, 2012 regular Board meeting minutes, Commissioner Malcolm offered, for the record, that the Commissioners represented on the Real Estate Committee were not "non-voting members." He continued by citing that no Commissioners would serve as "members" of the committee but instead they would act as facilitators. He clarified that Commissioners were not present in a member role and that went "right to the heart of 1090". He stated that the Board action to adopt "no voting" was also to address similar Government Code section 1090 and conflict of interest issues in relation to the committee. He expressed support for the staff recommendation. Commissioner Malcolm stated that he had no problem with calling it a forum or a discussion work group but it had to link back to BPC Policy No. 018, which sets the framework for publicly noticed meetings. He requested clarification as to whether renaming the committee would impact meeting notifications under BPC Policy No. 018.

Ms. Brewer offered there were several series of changes the Board had recently directed staff to make to various documents. The documents included BPC Policy No. 018 as well as specific committee related documents. She stated that following those modifications, all of the draft documents would return to the Board for review and consideration. She requested the Board consider this review process in regard to additional direction to staff requests.

Commissioner Nelson expressed support for the staff recommendation and offered that a reference be added to the new resolution that the Real Estate Forum was formed pursuant to BPC Policy No. 018. He offered a motion to approve the name

change from the Real Estate Advisory Committee to the Real Estate Forum and that the enacting resolution refers to BPC Policy No. 018.

Commissioner Moore offered a second to the motion, and requested amending the motion to include that the relevant policies be changed to reflect that forum concept. Commissioner Nelson accepted the amendment to the motion.

Commissioner Burdick, requested clarification from Commissioner Nelson regarding the motion and reiterated the following: 1) the Board would adopt the staff recommendation; 2) rename it to an Advisory Forum and 3) change BPC Policy No. 18 to cover advisory committees as well as advisory forums.

Commissioner Nelson stated that with his motion he intended that rather than create a new category called "Forums," the action would reflect the Board's intent in creating the Real Estate Forum was that it be treated as an advisory committee under BPC Policy No. 018. As requested by Commissioner Burdick, Commissioner Moore also confirmed that was also her understanding of the motion.

Regarding the staff recommendation, to convene "as-needed public meetings" to discuss BPC Policy No. 355 and other issues as directed by the Board, Commissioner Burdick requested and received clarification as to whether it was the intent of staff that such public meetings would satisfy a "meet and confer" obligation under BPC Policy No. 355. Ms. Coniglio affirmed that it would satisfy the obligation. She requested that the staff recommendation, "staff to informally meet and confer with tenants on various issues without initiating a public process," be modified as follows: remove the "meet and confer" reference. Thus, the recommendation would read "staff to informally meet with tenants on an on-going basis on various issues without initiating a public process."

Commissioner Nelson accepted the requested modification as a friendly amendment to the motion. Commissioner Moore also accepted the friendly amendment to the motion. Commissioner Burdick announced her support of the motion.

Chairman Smith concurred with the language modification to the staff recommendation and expressed support for the motion.

On a motion by Commissioner Nelson, seconded by Commissioner Moore, the Board consented to adopting the modified staff recommendation regarding the Real Estate Advisory Committee; by the following vote: Yeas-Burdick, Malcolm, Moore, Nelson, Peters, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

Chairman Smith announced that consideration of the Environmental Committee matter would return at a future Board meeting. Ms. Coniglio requested further Board direction relative to the Environmental Committee. Chairman Smith explained that the Board would like more information regarding the following topics: the staff suggested changes, the mission of the committee, evolution of the committee's work and the Board reporting format.

Commissioner Nelson offered remarks regarding the reported amount of staff time and encouraged leadership to track the related costs.

Commissioner Burdick concurred with Commissioner Nelson comments, requested clarification regarding tracking staff costs and remarked on efficiently utilizing staff resources. She requested that staff consider from a philosophical viewpoint the scheduling frequency of Environmental Committee meetings.

Wayne Darbeau, Executive Director, acknowledged the Board's comments regarding the management of staff resources. Regarding the discussion of a "reactive" versus "pro-active" approach to the Environmental Committee scope of work, he suggested that staff and the committee members assess consideration of streamlining the committee. Thus, staff would present a recommendation regarding the matter that was developed through a collaborative process.

Commissioner Moore requested that staff address the concerns raised by a number of the Commissioners regarding the related policy and the concept of being "reactive" versus "pro-active."

ORDINANCE AMENDING SAN DIEGO UNIFIED PORT DISTRICT CODE SECTION 4.14 - REGULATION OF IN-WATER HULL CLEANING

Agenda Item 25. Darlene Nicandro, Director, Environmental and Land Use Management Department, addressed the Board and turned the presentation over to Karen Holman, Manager, Environmental Programs, Environmental and Land Use Management, who addressed the Board regarding an Ordinance Amending San Diego Unified Port District Code Section 4.14 - Regulation of In-Water Hull Cleaning. (A copy of the staff report and the presentation is on file in the Office of the District Clerk.)

Commissioner Nelson left the dais at 2:58 p.m. and returned to the dais at 3:04 p.m. Burdick left the dais at 2:59 p.m. and returned to the dais at 3:04 p.m. Commissioner Moore left the dais at 3:02 p.m. and returned to the dais at 3:07 p.m.

Sharon Cloward, President, San Diego Port Tenants Association, thanked staff for their assistance regarding the matter. She discussed the importance of implementing District issued permit cards to divers performing the services defined under the proposed ordinance.

Commissioner discussion ensued. Commissioner Peters expressed his support for the staff recommendation and offered a motion to accept the staff recommendation. Commissioner Nelson seconded the motion.

Commissioner Malcolm expressed support for the motion and discussed the benefit of the program. He requested and received confirmation from Ms. Holman that a list of approved divers was posted on the District's website. He addressed the matter of the Total Maximum Daily Load (TMDL) and expressed concern regarding the requirements in place to meet compliance standards within the designated Regional Water Quality Control Board's timeframe. He discussed recent data reported in the "SPAWAR study" regarding the source of copper in the bay and requested that staff acknowledge such additional information in its future reports regarding TMDL and testing in the Shelter Island Yacht Basin. He encouraged staff to "follow the science" while fulfilling the role as stewards for clean water and the San Diego Bay environment. He discussed the role of the Center for Bay and Coastal Dynamics and research programs.

Commissioner Burdick quoted from item six on page three of the draft ordinance: "each business with an in-water hull cleaning permit shall comply with each and every provision of the in-water hull cleaning permit." She requested staff expand the language in the passage for clarity and requested the following text be added: "thou shall comply with the permit, the ordinance and the rules and regulations."

Commissioner Nelson requested and received clarification from Ellen Gross, Deputy Port Attorney, that the request regarding the modifications to the language offered by Commissioner Burdick would not lessen the effectiveness of the ordinance. She discussed the permit being a "living document" and the ability of staff to make administrative modifications as necessary to ensure the ability for enforcement. He concurred with Commissioner Malcolm regarding the need to "follow the science;" made reference to Senator Christine Kehoe's deferring Senate Bill 623 regarding copper-bottom paint and announced that the District was under a state order to reduce the TMDL. Commissioner Nelson discussed references to the "SPAWAR study" and stated that the document was a yet to be defended and unpublished student's thesis and was not a study commissioned by the Space and Naval Warfare Systems Center

Pacific (SPAWAR). He requested that the Center for Bay and Coastal Dynamics consider studying "leaching" as well as "hull-cleaning" when accessing copper levels.

Commissioner Burdick acknowledged Ms. Gross' response to Commissioner Nelson regarding the ordinance modification and withdrew her request to revise the language in section six. Concerning references to a "business," she requested clarification as to whether it was staff's intention that an individual cleaning their own vessel would be required to secure a permit.

Ms. Holman stated that it was not the intent that an individual would be required to secure a permit to clean their own vessel; however, they would be required to follow the best Management Practices (BMPs) and clean without creating a visible paint plume.

Commissioner Burdick offered additional comment regarding the language included referring to a business and non-professional hull cleaning processes and such related activity.

Ms. Gross offered clarification regarding the language revision and discussed a person who while they may not be a "professional hull-cleaner" may do so in exchange for some sort of consideration. She explained it was staff's intent that those persons would be required to secure a permit. After further discussion by Commissioner Nelson and Commissioner Burdick, Ms. Gross acknowledged staff would modify the language to clarify the term professional versus non-professional and compensation for services.

As requested by Chairman Smith, Ms. Gross offered the following modification to the ordinance: "Business means any public or private activity, facility or person involved or engaged in or that provides in-water hull cleaning services for compensation."

Commissioner Peters accepted the modification as the maker of the motion. Commissioner Nelson concurred.

On motion of Commissioner Peters, seconded by Commissioner Nelson, the Board accepted the revised language to the Ordinance Amending San Diego Unified Port District Code Section 4.14 - regulation of in-water hull cleaning, by the following vote: Yeas-Burdick, Malcolm, Moore, Nelson, Peters, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

RESOLUTION APPROVING RECOMMENDATION OF THE PORT SCHOLARSHIP ADVISORY COMMITTEE TO AUTHORIZE AWARD OF FOUR (4) SCHOLARSHIPS TOTALING \$6,000 TO RECIPIENTS OF THE 2012/2013 PORT WITH NO BORDERS SCHOLARSHIP

Agenda Item 26. Ron Powell, Program Manager, Marketing and Communications, addressed the Board with a presentation and requested the Board consider approving the recommendation of the Port Scholarship Advisory Committee to authorize the award of four scholarships totaling \$6,000 to recipients of the 2012/2013 Port With No Borders scholarship. (A copy of the staff report and presentation are on file in the office of the District Clerk.)

Commissioner discussion ensued. Commissioner Malcolm offered remarks regarding the scholarship applicants and offered a motion to accept the staff recommendation to award the scholarships. Commissioner Valderrama seconded the motion.

Commissioner Valderrama requested clarification regarding the revised staff recommendation. He stated that the recommendation of the Port Scholarship Committee was to award the scholarships and supported replenishing the scholarship fund with the District matching the sum raised by the San Diego Port Tenants Association.

Commissioner Malcolm confirmed his motion was to match the San Diego Port Tenants Association funds and authorizing the District to add \$7,750 to the scholarship fund.

Brandy Christian, Vice President, Business Strategy & Development, acknowledged that the original staff recommendation requested the Board's consideration to award the scholarships as well as authorize the matching funds. She continued her remarks and clarified the revised staff recommendation based upon staff's subsequent review of BPC Policy No. 255. Ms. Christian offered that, in light of the earlier Board committee discussion, staff planned to bring the Port Scholarship Advisory Committee matter back to the Board for further consideration and revisit the scope, purpose and funding mechanisms.

Commissioner Malcolm reiterated the committee's recommendation was that the District matches the port tenants' funds.

Commissioner Valderrama confirmed the recommendation described by Commissioner Malcolm was correct. For the record, he requested that the committee be informed of the staff recommendation to defer consideration of the matching funds.

Chairman Smith confirmed the matter under consideration was to award the scholarships per the committee's recommendation and to return at a future meeting to discuss the Port Scholarship Advisory Committee matter and future funding.

Commissioner Malcolm revised his motion to include the recommendation of the Port Scholarship Advisory Committee to award the scholarships as well as authorizing the District matching the sum of \$7,750 raised by the San Diego Port Tenants Association to replenish the scholarship fund. Commissioner Valderrama seconded the motion.

Commissioner Peters offered support for the motion and that he believed it was appropriate to fund scholarships for students to further careers in ports. In light of the small size of the expenditure, he cautioned against utilizing an inappropriate amount of staff time and resources to research administering the matter.

Commissioner Burdick expressed concern regarding the amendment to the motion. Concerning the scholarship evaluation criteria, she requested clarification as to which of the criteria requires the awardees to pursue careers in maritime or port positions. Mr. Powell offered the criterion is outlined under BPC Policy No. 255 and explained that the course of study and subsequent careers are not limited only to maritime but all port careers. Commissioner Burdick expressed concern regarding the foundation on which the scholarship program was based was not directly related to maritime careers. She offered support for the motion and requested that during the evaluation and benchmarking process staff explore the following matters: 1) if, in fact, there were other public agencies that award scholarships, are they limited to employees of the people in those agencies and or companies that do business with those agencies; 2) benchmark a broad category of public agencies, SANDAG-like (San Diego Association of Governments) regional agencies, that actually have scholarship programs, and 3) if those agencies previously had scholarship program, the timeframe in which the scholarship program ended.

Commissioner Nelson expressed support for the motion. He remarked on the benefits of higher education and offered comment on the differences amongst the District and other public agencies. He requested consideration be given to narrowing the scholarship criteria and focusing on funding scholarships in the maritime field.

Commissioner Nelson also requested staff investigate avenues by which a sustaining endowment fund could be built.

Chairman Smith requested and received clarification from Mr. Powell that a sum of \$7,750 would match the Port Tenants Association contribution. Chairman Smith requested clarification from the Port Attorney regarding the Board's legal authority to authorize funding for the purpose of awarding scholarships.

Celia Brewer, Interim Port Attorney, explained she could not offer a definitive response to the query as made. Ms. Brewer offered that in response to significant Commissioners' concern, staff had already begun review of the policy and the authorizing documents. She discussed the Port Attorney review would include the matter of consistency with the District's trust purposes. She offered that staff would return with recommendations for the Commissioners' consideration regarding a structure that fulfills the Board's purpose and that is legal and defensible. Chairman Smith acknowledged the benefits of the scholarship program and discussed the fiduciary challenges. He recommended that the Board approve the scholarships and defer consideration of the allocating matching funds until staff returns with its findings.

Commissioner Valderrama stated that the Board members consider the motion as offered, and, should the Port Attorney return with information finding the action authorizing the match was not permitted; then the Board's action would be rescinded.

Chairman Smith offered he would support the motion subject to the availability of funds.

Jeff McEntee, CFO/Treasurer, offered that while the sum under discussion was small it was not budgeted in the FY12/13 annual budget. He recommended the Board consider a budget amendment to approve the expenditure.

Commissioner Moore stated for the record that the scholarships are wonderful and remarked on her personal experience as a law student attending school with the aid of a scholarship. She offered that her preference was to consider approval of the scholarship award recommendations and postpone consideration of the matter of funding to a future meeting to allow staff the time necessary to address the concerns raised.

Sharon Cloward, President, San Diego Port Tenants Association, offered remarks regarding the port tenant's involvement. She expressed support for the Board's decision regarding the scholarship program. Commissioner Malcolm requested and received

confirmation that the San Diego Port Tenants Association conducted its fundraising efforts under the auspices that the District would match the donations.

Commissioner Malcolm reiterated his belief regarding his motion and offered that a representation had been made in the community that the District would match the San Diego Port Tenants Association fundraising efforts. He acknowledged the issues raised by staff regarding the investigation the matter of legality; the budget issues raised and remarked on the sum of the expenditure in light of the projected operating surplus.

Commissioner Nelson requested and received confirmation from Mr. Powell that the San Diego Foundation (Foundation) processes the awards received by the scholarship recipients. He discussed the nature of a "donor advised fund" and requested confirmation that the District advises the Foundation. Commissioner Nelson stated the Foundation independently makes the decision. Mr. Powell confirmed Commissioner Nelson's remarks. Commissioner Nelson offered it was his understanding that the transactions, as they currently occur, are lawful activities.

On motion of Commissioner Malcolm, seconded by Commissioner Valderrama, the Board adopted the **Resolution 2012-95**, Approving Recommendation of the Port Scholarship Advisory Committee to Authorize Award of four (4) scholarships totaling \$6,000 to recipients of the 2012/2013 Port With No Borders Scholarship and to authorize \$7,750 in matching funds be contributed to the Port With No Borders Scholarship fund, by the following vote: Yeas-Burdick, Malcolm, Moore, Nelson, Peters, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

PRESENTATION ON THE PROPOSED FUNDING STRATEGY FOR THE SAN DIEGO-CORONADO BRIDGE LIGHTING PUBLIC ART PROJECT AND DIRECTION TO STAFF

Agenda Item 27. Item continued.

RESOLUTION ADOPTING THE DISTRICT'S 2012 LEGISLATIVE PLATFORM AND DIRECTION TO STAFF

Agenda Item 28. Item continued.

**PRESENTATION ON FUNDING FOR THE LIVING COAST DISCOVERY CENTER
(FORMERLY CHULA VISTA NATURE CENTER)**

Agenda Item 29. Darlene Nicandro, Director, Environmental and Land Use Management Department, addressed the Board regarding the funding request from the Living Coast Discovery Center (formerly Chula Vista Nature Center). She presented the staff recommendation in consideration of the FY12/13 District Operating Budget and the Environmental Fund Request for Proposal (RFP) process. She introduced Dr. Brian Joseph, Executive Director, Living Coast Discovery Center, (Center) who continued the presentation, discussed the center's mission, youth outreach services, endangered wildlife programs, and requested consideration of his organization's request of the Board authorizing \$500,000 in emergency funding to sustain operations. (A copy of the staff report and presentation is on file in the Office of the District Clerk.)

Commissioner discussion ensued. Commissioner Moore acknowledged that the Center is a San Diego Bay asset aligned with the District's mission and goals. She offered it could serve to draw visitors to the area and guests to the Sweetwater hotel site proposed under the Chula Vista Bayfront Master Plan. Commissioner Moore offered the Center could also serve as way to fulfill a number of the education requirements put forth in the Chula Vista Bayfront Master Plan. She acknowledged the District's budget constraints; recognized that the donation request was a large sum and discussed the critical need for funding in light of the future Environmental Fund RFQ process. She requested and received clarification from Ms. Nicandro regarding the FY11/12 funding allocation for the center. Ms. Nicandro explained the FY11/12 funding of \$125,000 was allocated from the Environmental and Land Use Management Department budget; however, no funds were allocated during the department's FY12/13 budget planning or approval process. Commissioner Moore offered a motion for interim funding of \$125,000 for the Center and suggested the Environmental Fund serve as the source of the interim funding. She discussed that the Board had authorized Environmental Fund resources in the past that were used to fund education programs and to support the endangered light-footed clapper rail captive breeding and relocation program.

Commissioner Burdick seconded the motion.

Commissioner Peters requested and received clarification from Dr. Joseph that the operating budget of the Center was approximately \$1.5 million. Commissioner Peters discussed the recent rebranding/renaming of the Center. He offered comments of concern with the name selected. He discussed the importance of having sought out District input prior to the launch of the rebranding and suggested that efforts be made to work with the City of Chula Vista to change the name of the road to communicate

clearly the Center's geographic location. He commented on the level of District engagement that would have been required for the Board to consider a grant of \$500,000. He remarked on efforts necessary to create interpretive center for the San Diego Bay. Commissioner Peters offered that he was inclined to support Commissioner Moore's motion, supported the reasoning behind allocating Environmental Fund resources and acknowledged that the Center is an important asset.

Dr. Joseph acknowledged Commissioner Peters' concerns and shared that a tag line under the logo referred to San Diego Bay and Chula Vista.

While recognizing Commissioner Peters' comments, Commissioner Nelson stated that he liked the Center's name and the rebranding. He offered support for the motion. He commented on recent Board action to allocate Environmental Fund resources as a means to close a portion of the funding gap in the District operating budget. He requested that staff and Commissioners engage in a meaningful way with the Center's staff and address the District's relationship with the Center at a strategic level.

Celia Brewer, Interim Port Attorney, offered clarification regarding the Center's location and stated that the property under discussion was not state tidelands. She explained that the property is Federal refuge land and the District has certain constraints when allocating its financial resources for off-tideland uses. She stated the District was required to provide notice to the State Lands Commission for expenditures less than \$250,000 and seek permission for expenditures in excess of \$250,000 on property adjacent to tidelands.

Commissioner Burdick offered comments regarding the rebranding and the selection of the Center's name. She expressed a number of concerns regarding matters related to the Center since it separated from the City of Chula Vista and became a 501(c)(3) non-profit organization. She discussed the importance of facilitating relationships with area research organizations. Commissioner Burdick expressed distress regarding the Center's statement as to their need for consistent public funding as a component for a sustainable business plan. In the event that the Center receives donations with matching fund requirements, she requested that Dr. Joseph return to the Board to discuss additional support. Commissioner Burdick requested and received clarification from Jeff McEntee, CFO/Treasurer, regarding the balance of the Environmental Fund in light of recent allocations. She reiterated her support for the motion and encouraged staff to look for ways to work with the Center to create a viable independently sustainable entity.

In response to the Commissioner discussion, Wayne Darbeau, Executive Director, offered that he personally, as well as staff, had worked closely with the Center. He offered that his three concerns were regarding: 1) defining a financial sustainable model; 2) determining the nexus between the Center's mission and the District's work on San Diego Bay and the tidelands and 3) clarification as to how the District's contributions or "seed-money" would be used. Mr. Darbeau stated his belief that the Center is an important part of the Bay and strongly encouraged Dr. Joseph to seek assistance from stakeholders.

Commissioner Moore thanked the Commissioners for their support and expressed her belief that, in the long-term, the Center has the potential to be a wonderful asset. She acknowledged the concept of changing the street name and stated it was her hope that the Center would pursue that recommendation with the City of Chula Vista. She acknowledged Dr. Joseph's efforts regarding requesting funding from the District. Commissioner Moore requested that he work with the District, via an ad hoc committee or in a "working group fashion," to address the concerns raised by the Board and the District's Executive Director to implement a way to change course toward becoming a true nature interpretive center.

Commissioner Valderrama offered his support for the organization and the motion. He expressed concern regarding the Center's business plan and questioned the next steps should the organization not find the balance of funding necessary to maintain operations. Dr. Joseph responded to Commissioner Valderrama's inquiries regarding the monthly "short gap" in operating revenues and the Center's plan under its current business model to close the monthly gap. Commissioner Valderrama offered his concerns regarding the Center's long-term viability based upon its current business model and remarked on the budgetary challenges faced by the District. He acknowledged the good works of the Center; however, he explained that he could not support the motion as a District fiduciary.

Commissioner Malcolm acknowledged Commissioner Valderrama's comments and supported the concerns voiced regarding the Center's business plan. He thanked Dr. Joseph for his presentation and acknowledged the work at the Center. He discussed the nexus between the Center's work and the District's responsibilities as environmental stewards. Commissioner Malcolm explained the District's budgetary restraints in light of the Center's request for an annual donation of \$500,000. He questioned the actual benefit of the short-term remedy offered by allocating \$125,000. Commissioner Malcolm explained that prior to considering such an investment, he looks for: a complete business plan, the path to achieving profitability, a means to understand funding sources, and the details regarding expense cost-cutting measures. He acknowledged

the State Lands Commission requirements necessary to allocate funding. Commissioner Malcolm reiterated remarks regarding the business plan, the Center's worth and his struggle considering the request and the subsequent motion.

Commissioner Nelson acknowledged the discussion and expressed concern that the Board member recommendations, as well as the consultative support offered by the District in the past, appeared to be passed over by the organization's leadership. He restated his support for the motion. He queried as to whether the allocation should be made from the Environmental Fund or the District's unrestricted general revenues. Commissioner Nelson discussed the challenges a company faces with a lack of cash flow and urged the Center's leadership to re-examine the organization's needs at a strategic level.

Chairman Smith acknowledged the challenges faced by the Center and offered his support for the motion. He concurred with the Board's discussion regarding the business plan execution. He discussed balancing the use of public funds and the loss of an irretrievable asset. Chairman Smith discussed the unique services the Center offers and expressed his desire for the organization to continue operations.

On a motion by Commissioner Moore, seconded by Commissioner Peters, the Board directed staff to allocate \$125,000 in funding for the Living Coast Discovery Center (formerly Chula Vista Nature Center), by the following vote: Yeas-Burdick, Malcolm, Moore, Nelson, Peters, and Smith; Nays-Valderrama; Excused-None; Absent-None; Abstained-None.

Mr. Darbeau requested that Dr. Joseph return to the Center's Board of Directors and request they consider the organization's branding include the San Diego Bay. He encouraged the Center's leadership to investigate the redevelopment efforts that were made in the south seaport area in New York City. He restated his offer of assistance.

Chairman Smith acknowledged the professional efforts of Ms. Nicandro who would be leaving the District and her position as Director of the Environmental and Land Use Management Department later in the month. The Commissioners personally acknowledged Ms. Nicandro's efforts on behalf of the District, discussed her work with the California Coastal Commission, her commitment to serving the public and stakeholders, and recognized her professional growth and success. The Board wished her well.

Ms. Nicandro thanked the Board members for their support and kind words. She thanked District leadership and port staff.

PRESENTATION OF NAVY JOINT LAND USE STUDY (JLUS) OPPORTUNITY AND DIRECTION TO STAFF

Agenda Item 30. Item continued to a future Board meeting.

REVIEW AND CONSIDERATION OF PROPOSED BOARD AGENDA FOR THE MEETING AUGUST 14, 2012.

Agenda Item 31. On motion of Commissioner Burdick, seconded by Commissioner Peters, the Board adopted the proposed agenda for the meeting of August 14, 2012, by the following vote: Yeas-Burdick, Malcolm, Moore, Nelson, Peters, Smith and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

OFFICER'S REPORT

Agenda Item 32. In accordance with BPC Policy No. 110, the following change orders, executed by the Executive Director or designee, were reported:

- A) Change Order No. 2 for \$15,574.00 & 10 Calendar Days to Contract No. 2009-17R with Jose Pereira Engineering & Mechanical, Inc. for TAMT Communications and Fire Alarm System Upgrade, San Diego, California.
- B) Change Order No. 3 to Contract No. 2009-17R with Jose Pereira Engineering & Mechanical, Inc. / 28 Calendar Day Time Extension thru 7/10/2012.
- C) Change Order No. 3 for \$36,632.09 & 31 Calendar Days to Contract No. 2010-23 with Miller Environmental for TDY Site Demolition Project, San Diego, CA.
- D) Change Order No. 2 for \$6,680.04 & 10 Calendar Days to Contract No. 2010-34 with Ensley Electric for B Street Pier Cruise Ship Terminal Electrical Upgrades, San Diego, CA.
- E) Change Order No. 4 to Contract No. 2011-02 with R.E. Staite Engineering, Inc. / Decrease Contract by (\$8,589.79).
- F) Change Order No. 2 for \$3,984.00 and 30 Calendar Days to Contract No. 2011-15 with Hearne Corporation for Administration Building First & Second Floor Security Upgrade - 2008 CPMSGP.
- G) Change Order No. 1 for \$1,000.00 & 0 Calendar Days to Contract No. 2012-11 with Bowcon Company for Shelter Island Lot 01 Tree Replacement and Median Repair, San Diego, California.

PRESIDENT'S REPORT

Agenda Item 33. Wayne Darbeau, Executive Director, requested that Brandy Christian, Vice President of Business Strategy & Development, provide an update to the Board regarding the malfunction at the July 4th Big Bay Boom fireworks show that triggered all of the fireworks to ignite simultaneously. She offered an update regarding the investigation of the failure; discussed environmental impacts; and the subsequent review of the contractual obligations. Ms. Christian explained that further information would be provided as Garden State Fireworks of Millington, N.J., the fireworks show producer worked to understand the problem.

Jim Hutzelman, Manager, Community Services, Business Development & Marketing Department, addressed the Board with video presentations featuring two recent waterfront activation events. A Night by the Bay, on June 22, 2012, showcased the Chula Vista waterfront; and, the Imperial Beach waterfront was showcased during the Imperial Beach Kids Fest on June 30, 2012. The events were part of an on-going effort by the District to enliven the San Diego Bay waterfront with diverse community events.

CONSENT AGENDA CONTINUED

RESOLUTION WAIVING BPC POLICY NO. 110, PART 1.G.3, TO INCREASE THE EXECUTIVE DIRECTOR'S CHANGE ORDER EXECUTION AUTHORITY FROM 4% TO 10% OF THE ORIGINAL CONTRACT AMOUNT FOR CONTRACT NO. 2009-13, NORTH EMBARCADERO VISIONARY PLAN, PHASE 1 IN SAN DIEGO

Agenda Item 15. Commissioner discussion ensued. Commissioner Burdick acknowledged the challenges that are discovered when construction on a project commences that necessitate related change orders. She expressed her concerns from a fiduciary standpoint with the staff recommendation. She offered a motion that the Board to increase the Executive Director's Change Order Execution Authority from 4% to 7%.

Commissioner Moore seconded the motion.

Commissioner Peters expressed his approval of the staff recommendation as presented; however, in light of Commissioner Burdick's concerns, he offered his support for the motion.

Commissioner Nelson acknowledged Commissioner Burdick's motion. He requested clarification regarding impacts to construction schedules should a change

order in excess of the Executive Director's authority be required. Brian Stup, Chief Engineer/Director Engineering-Construction, explained that staff was carefully monitoring milestones within the project, stated he was comfortable with the 7% and did not anticipate any Board related action to put the timely completion of the project at risk.

Wayne Darbeau, Executive Director, acknowledged the Commissioners' comments and offered the 7% was workable. He explained that staff's main intent for bringing the item to the Board was to keep the project moving forward.

Commissioner Valderrama acknowledged the challenges presented with construction projects, expressed concern regarding the impacts of delays and concluded by offering his support for the motion.

Commissioner Smith offered his support for the motion. He acknowledged the normalcy of having high change order rates for complex multi-jurisdictional construction projects. He stated the importance for the Board to retain their oversight responsibilities and encouraged staff to communicate with the Commissioners regarding the potential for change orders that exceed the 7% threshold.

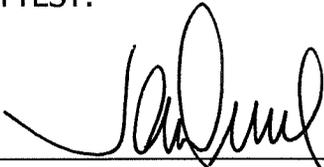
On motion of Commissioner Burdick, seconded by Commissioner Moore, the Board adopted the **Resolution 2012-89**, waiving BPC Policy No. 110, part 1.G.3, to increase the Executive Director's Change Order Execution Authority From 4% to 7% of the Original Contract Amount for Contract No. 2009-13, North Embarcadero Visionary Plan, Phase 1 in San Diego, by the following vote: Yeas-Burdick, Malcolm, Moore, Nelson, Peters, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

As the business of the regular meeting was concluded, Chairman Smith adjourned the meeting.



Secretary, Board of Port Commissioners
San Diego Unified Port District

ATTEST:



Clerk of the San Diego Unified Port District

**MINUTES
BOARD OF PORT COMMISSIONERS
SAN DIEGO UNIFIED PORT DISTRICT**

The special meeting of the Board of Port Commissioners of the San Diego Unified Port District was called to order by Chairman Smith at 10:09 a.m., Monday, August 13, 2012, in the Coronado Room at the Kona Kai Resort Spa Marina 1551 Shelter Island Drive, San Diego, California.

ROLL CALL

Agenda Item 1.

Present: COMMISSIONERS, Malcolm, Moore, Nelson, Peters, Smith, and Valderrama.

OFFICERS: Deuel

Absent: No Commissioners absent.

Excused: Commissioner Burdick was excused until she arrived at 10:23 a.m.

PUBLIC COMMUNICATIONS

Agenda Item 2. None.

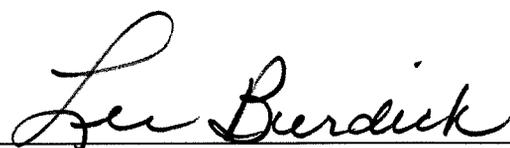
CLOSED SESSION

Timothy Deuel, District Clerk, announced the closed session agenda as follows:

Agenda Item 3.

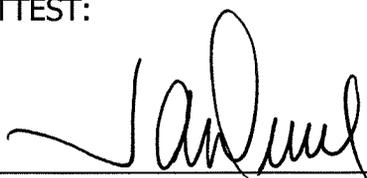
PUBLIC EMPLOYEE APPOINTMENT, PERSONNEL EVALUATION OR DISCIPLINE:
APPOINTMENT OF THE PORT ATTORNEY
Government Code Section 54957

There was no formal or reportable action as to any closed session items, pursuant to Government Code Section 54950 et seq, to report from the closed session; whereupon, Chairman Smith adjourned the meeting.

A handwritten signature in cursive script, reading "Lee Berdick".

Secretary, Board of Port Commissioners
San Diego Unified Port District

ATTEST:

A handwritten signature in cursive script, appearing to read "Janet".

Clerk of the San Diego Unified Port District

**MINUTES
BOARD OF PORT COMMISSIONERS
SAN DIEGO UNIFIED PORT DISTRICT**

The special meeting of the Board of Port Commissioners of the San Diego Unified Port District was called to order by Chairman Smith at 9:03 a.m., Tuesday, August 14, 2012, in the Board Room at 3165 Pacific Highway, San Diego, California.

ROLL CALL

Agenda Item 1.

Present: COMMISSIONERS Burdick, Malcolm, Nelson, Peters, Smith, and Valderrama.

OFFICERS: Brewer and Deuel

Absent: No Commissioners absent.

Excused: Commissioner Moore was excused until she arrived at 9:04 a.m.

PUBLIC COMMUNICATIONS

Agenda Item 2. None.

CLOSED SESSION

Celia Brewer, Interim Port Attorney, announced the closed session agenda as follows:

Agenda Item 3.

PUBLIC EMPLOYEE APPOINTMENT, PERSONNEL EVALUATION OR DISCIPLINE:
APPOINTMENT OF THE PORT ATTORNEY
Government Code Section 54957

Agenda Item 4.

CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION

Significant exposure to litigation pursuant to Subdivision (b)(1) of Government Code Section 54956.9

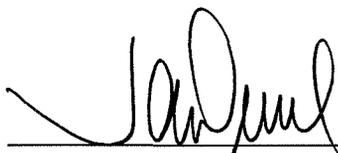
Two Cases

There was no formal or reportable action as to any closed session items, pursuant to Government Code Section 54950 et seq, to report from the closed session; whereupon, Chairman Smith adjourned the meeting.



Secretary, Board of Port Commissioners
San Diego Unified Port District

ATTEST:



Clerk of the San Diego Unified Port District

**MINUTES
BOARD OF PORT COMMISSIONERS
SAN DIEGO UNIFIED PORT DISTRICT**

The regular meeting of the Board of Port Commissioners of the San Diego Unified Port District was called to order by Chairman Smith at 1:02 p.m., Tuesday, August 14, 2012, in the Board Room at 3165 Pacific Highway, San Diego, California.

ROLL CALL

Agenda Item 1.

Present: COMMISSIONERS, Burdick, Malcolm, Moore, Nelson, Peters, Smith, and Valderrama.

OFFICERS: Brewer, Darbeau, Deuel and Stup

Absent: No Commissioners absent.

Excused: No Commissioners excused.

PLEDGE OF ALLEGIANCE

Agenda Item 3. Commissioner Nelson led the Pledge of Allegiance.

ACTION AGENDA

ORDINANCE GRANTING 24.5 YEAR LEASE TO DOLE FRESH FRUIT COMPANY FOR 954,864 SQUARE FEET OF LAND FOR REFRIGERATED CONTAINER OPERATIONS TO IMPORT AND EXPORT FRESH FRUIT AT THE TENTH AVENUE MARINE TERMINAL AND GRANTING INDEMNITY TO DOLE FRESH FRUIT COMPANY FOR DISTRICT CONSTRUCTION OF IMPROVEMENTS WITHIN LEASED PREMISES

Agenda Item 34. Kristine Zortman, Area Real Estate Manager, Real Estate Department, addressed the Board with a presentation regarding an Ordinance granting a 24.5 year Lease to Dole Fresh Fruit Company for 954,864 square feet of land for refrigerated container operations to import and export fresh fruit at the Tenth Avenue Marine Terminal and granting indemnity to Dole Fresh Fruit Company for District construction of improvements within leased premises. She announced representatives

from Dole were present to answer any questions. In conclusion, she offered the staff recommendation and requested the Board's direction. (A copy of the presentation is on file in the Office of the District Clerk.)

Ron Morrison, Mayor, City of National City, addressed the Board and stated that while he was not speaking against Dole or the proposal, he expressed concern regarding the term of the contract proposed in relation to the Capital Improvement Program process. He discussed impacts to the proposals offered by National City for projects in the joint planning area. He discussed concerns with the Bayshore Bikeway project planning efforts; impacts on Tidelands Avenue relocation planning efforts; Bay Marina Drive traffic capacity and the stakeholder accommodations that would increase truck traffic in National City and affect west-side neighborhoods emission levels. He concluded by expressing his support for the Tenth Avenue Marine Terminal and the 24th Street operations and reiterated his intent to end moving other city's "undesirables" to National City.

The following members of the public expressed support for the staff recommendation: Hugh Constant, Interim President & CEO, World Trade Center San Diego; Jerry Shipman, President, ILWU Local 29; David Graham, Deputy Policy Director, Office of the Mayor (Jerry Sanders of San Diego); Diane Takvorian, Executive Director, Environmental Health Coalition; and Maria Martinez, Barrio Logan Resident.

The following members of the public express opposition to the staff recommendation and encouraged the Board to postpone its consideration of the matter to accommodate additional public input on projects at the Tenth Avenue Marine Terminal: Perry Dealy, Dealy Development; Lindsay Kirkman, Downtown San Diego Partnership, and Sean Karafin, San Diego County Tax Payers Association.

Commissioner discussion ensued.

Commissioner Valderrama stated that the proposal was consistent with the Maritime Business Plan. He recognized Dole as a business partner with the District and cited their efforts to address the environmental impact concerns of area stakeholders residing near their trucking operation in Barrio Logan. He acknowledged Mayor Morrison's statements. Commissioner Valderrama offered that the District's Executive Leadership Group and Dole representatives were willing to work with Mayor Morrison to address the stakeholders' needs in a collaborative manner.

Randa Coniglio, Executive Vice President - Operations, explained that staff understood the location of the area of concern discussed by Mayor Morrison; she stated

that parcel four was intended for parking and truck staging just outside of the National City Distribution Center. She stated that as a means to address what Mayor Morrison characterized as his "primary concern," staff recommended that the District agree, that if, in the future, Tidelands Avenue was relocated to the east in a manner that impacts parcel four, the District would relocate or replace the area for Dole. She stated her understanding that Stuart Jablon, Vice President Operations, Dole Fresh Fruit Company, was agreeable to the recommendation.

Commissioner Valderrama stated that Mr. Jablon affirmatively acknowledged Ms. Coniglio's statement from his seat in the Boardroom. He offered a motion to support the staff recommendation and incorporate that the District agreed that if, in the future, Tidelands Avenue was relocated to the east in a manner that impacted parcel four, the District would relocate or replace the area for Dole. Commissioner Malcolm seconded the motion.

Commissioner Peters stated the Dole agreement was good news for the District. He requested and received confirmation from Ms. Coniglio that the District was a member of the Downtown San Diego Partnership. He stated the contract renewal negotiations with Dole had been conducted in an open manner. In response to the public comments regarding considering alternative land uses for the Tenth Avenue Marine Terminal, he offered that the cargo handling operations was consistent with the designated uses for the area. Commissioner Peters acknowledged that land use designations could be changed; however, until a land use for the property under discussion was changed the District would continue the permitted port operations. He offered that termination provisions were included in the lease should a "better use" be presented and approved by the local, State and Federal stakeholders. Commissioner Peters announced he was happy to listen to ideas and participate in planning discussions. He remarked on San Diego Mayor Jerry Sanders' recommendation for a location of a downtown football stadium that would not displace the downtown marine terminal, which is important to the regional economy. He offered support for the motion.

Commissioner Nelson responded to the public speakers that requested the matter be continued for further public review. He explained that the negotiations were publicly noticed on closed session agendas many times during the past two years in which he had served on the Board. He offered congratulations to staff and the Board members for their efforts to negotiate the agreement. He discussed the marketing benefits of Dole's long-term agreement and offered that such a commitment served as a "seal of approval" to the worldwide maritime business community. He discussed the

cargo-handling infrastructure benefits of Dole's weekly crossing. Commissioner Nelson discussed the length of the contract and the terminal's infrastructure benefits.

Commissioner Malcolm also remarked on the term of the lease, discussed his experience with similar commercial real estate leases and cautioned against delaying consideration of the staff recommendation. He acknowledged the staff negotiating team for retaining a tenant that brings a fixed revenue stream to the District, which benefits all of the member cities. He remarked on the partnerships impact to the local economy and on job creation. Commissioner Malcolm acknowledged the environmental protections incorporated into the lease and efforts to work with representatives from the Environmental Health Coalition to mitigate operation impacts on stakeholders.

Commissioner Burdick thanked the individuals for participating in the public process by speaking and sharing their opinions, views, and concerns. She offered that the District is an administrative agency mandated to operate in the public's interest and the Board is obligated to base its decision on the public record. She explained that the Public Trust Doctrine does not allow the Board to consider external public pressure that was not part of the administrative record. Referencing Board action at the February 14, 2012 regular Board meeting, she discussed that after hearing the public testimony the Commissioners reaffirmed that the marine terminal operations were consistent with the District's land use mandate. Commissioner Burdick offered she was willing to hear any vision for any piece of land managed by the District. She explained it was her duty acting in the public trust to re-evaluate land uses that were in the public interest and to assess better ways to manage the public resources. She stated the evidence presented supported the recommendation and proved it was good for the District, stakeholders, and the regional economy. She reiterated that the local media outlets could state their concerns for the evidentiary record for the Board's consideration. She thanked staff for their hard work and diligence. She acknowledged Dole for their willingness to discuss a joint economic opportunity that was mutually beneficial.

Commissioner Moore reiterated that as a port, shipping and maritime uses are a function of the District. She also acknowledged the speaker's concerns regarding the lease term and offered she believed that the term was rather short when considering the agency's normal business practices. Regarding the request to postpone consideration of the matter and assess alternative land uses for the terminal, Commissioner Moore stated that no "do-able" alternative had been brought forward for the Board's consideration. She explained such a delay would not serve the local economy and could jeopardize area jobs. She thanked staff for their hard work and Dole for their business partnership.

Chairman Smith offered that the opportunity was a good business deal for both parties; good for the regional economy; good for the residents around the Tenth Avenue Marine Terminal; and good for the environment because the ships would be utilizing shore power or cold ironing. He thanked staff, as well as the Board, for their hard work. He thanked the representatives from Dole.

On motion of Commissioner Valderrama, seconded by Commissioner Malcolm, the Board adopted **Ordinance 2682**, Granting 24.5 Year Lease to Dole Fresh Fruit Company for 954,864 square feet of land for refrigerated container operations to import and export fresh fruit at the Tenth Avenue Marine Terminal and Granting Indemnity to Dole Fresh Fruit Company for District Construction of Improvements within leased premises, and acknowledged that the District agreed that if, in the future, Tideland Avenue was relocated to the east and in a manner that impacted parcel four as designated in the lease, the District would relocate or replace the area for Dole, by the following vote: Yeas-Burdick, Nelson, Malcolm, Moore, Peters, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

Chairman Smith announced the Board would take a brief recess to commemorate the approval of the lease.

Chairman Smith called the regular meeting back to order at 2:00 p.m.

CLOSED SESSION

Agenda Item 2. As requested by Chairman Smith, Celia Brewer, Interim Port Attorney, announced that there was no reportable action from the closed session.

APPROVAL OF MINUTES

Agenda Item 4. Commission Valderrama offered a motion to approve the minutes for the May 8, 2012 regular meeting, June 7, 2012 special meeting, June 12, 2012 regular meeting and the July 10, 2012 special meeting. Commissioner Moore seconded the motion.

Commissioner Malcolm requested that the draft of the June 12, 2012 regular meeting minutes on page 23, line 28 be revised to read "Based upon the sectors that the port does not have, Commissioner Malcolm queried as to whether the 7.5% reduction goal was actually more accurate." Chairman Smith acknowledged the request.

Commissioner Burdick requested the sentence on page 11, line 32 be changed to read, "Commissioner Burdick acknowledged the remarks offered by EHC staff regarding

funding of projects that were not "above and beyond compliance" but offered that the Board had modified BPC Policy No. 730."

On motion of Commissioner Valderrama, seconded by Commissioner Moore, the Board approved the minutes for the May 8, 2012 regular meeting, June 7, 2012 special meeting, the June 12, 2012 regular meeting and the July 10, 2012 special meeting, by the following vote: Yeas-Burdick, Nelson, Malcolm, Moore, Peters, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

PUBLIC COMMUNICATIONS

Agenda Item 5. Ethan Devine, Asia Desk Manager, World Trade Center San Diego, addressed the Board and commended the District for their efforts in hosting the Chinese delegation from the Port of Nanjing. He discussed the sister-port agreement with the District and the Port of Nanjing that was signed by Commissioner Burdick during a 2011 Asia trade mission. He thanked the Board, the Executive Leadership Group, and key staff members for their efforts. Mr. Devine reported on the efforts to explore new business opportunities, stated the delegates expressed their gratitude and extended an invitation to the team to visit their port in the near future.

Chairman Smith thanked Mr. Devine for his assistance and translating skills during the delegations visit.

Sophie Silvestri, Director - Operations, San Diego Port Tenants Association, addressed the Board and announced that the annual Operation Clean Sweep event would take place on August 25, 2012 and described the areas scheduled for cleaning.

Kevin Haumschilt, Strategic Account Executive, Toshiba Business Solutions, addressed the Board and offered the services provided by his company for the Board's consideration. He provided a handout to the Board. (A copy of the handout is on file in the Office of the District Clerk.)

Dave Hunt, Executive Director, Association of Pacific Ports, addressed the Board and discussed the organization's upcoming events and seminars. He provided an information packet to the Board. (A copy of the information packet is on file in the Office of the District Clerk.)

Commissioner Valderrama remarked on the benefits of attending the Association of Pacific Ports conferences as the District's representative. He offered comments on the opportunity to network with representatives from other ports.

COMMISSIONER COMMENTS/REVIEW OF TODAY'S MEETING

Agenda Item 6. Chairman Smith remarked on the recent trade mission and traveling with Irene McCormack, Vice President, Public Policy, and Miguel Reyes, Manager, Maritime Trade Development, to the west coast of South America. He discussed the team's visit to the location of Dole's primary shipping operation in Guayaquil, Ecuador and their tour of a banana plantation and the processing plant. He also discussed his trip to Lima, Peru and the meetings with clients to develop new business for the port. Chairman Smith offered that the trade missions provide a means for the District to explore expanding its marketing opportunities in the global economy. He stated that District staff continued on to Santiago, Chili to meeting with potential clients.

CONSENT AGENDA

Chairman Smith requested that Timothy Deuel, District Clerk, announce any suggested docket changes. Mr. Deuel announced that additional agenda related materials related to Agenda Item 35 and Agenda Item 38, which were received after the publication of the agenda. He stated copies of the materials were available for review at the Clerk's desk and would be posted to the District website.

Mr. Deuel announced the proposed changes to the agenda as follows: **Consent Agenda Item 21**, Resolution Authorizing Change Order No. 1 to Contract No. 2009-15 with Vector Resources, Inc. to comply with the North County Transit District Right of Entry Permit for the Fiber Optic Installation from Old Town Transit Center to 12th and Imperial Transit Center (Phase 2), San Diego, California to increase the contract amount by \$_____, increasing the aggregate total of the contract from \$_____ to \$_____; staff requests this item be continued to a future Board meeting; **Action Agenda Item 33**, Presentation by the County of San Diego on its 10-Year Health Strategy Agenda; Live Well San Diego!: Building Better Health, and direction to staff; staff requests this item be continued to a future Board meeting; **Consent Agenda Item 13**, Resolution Consenting to Assignment of Ownership Interests within Pier 32 Marina Group, LLC to Associated Family Trusts; staff requests that Board action is no longer required; and **Consent Agenda Item 24**, Resolution Selecting and Authorizing an Agreement with California Tree Service, Inc. for as-needed tree maintenance services on Port Tidelands for the period commencing October 1, 2012 and ending June 30, 2014 for a total amount not to exceed \$149,605; staff requests that Board action is no longer required.

On motion of Commissioner Burdick, seconded by Commissioner Peters, the Board accepted the suggested changes to the agenda, by the following vote: Yeas-Burdick, Malcolm, Moore, Nelson, Peters, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

On motion of Commissioner Burdick, seconded by Commissioner Malcolm, the Board adopted Consent Agenda items 7, 8, 9, 10, 11AB, 11C, 12, 14, 15, 16A, 16B, 16C, 17, 18, 19, 20, 22, 23, 25 and 26 (**Ordinance 2677, Ordinance 2678, Resolution 2012-86, Resolution 2012-96, Ordinance 2679, Resolution 2012-97, Ordinance 2680, Resolution 2012-98** through and including **Resolution 2012-116, and Ordinance 2681**) by the following vote: Yeas-Burdick, Malcolm, Moore, Nelson, Peters, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

Agenda Item 7. Ordinance 2677, Granting a new 40-Year Lease Agreement with City of Coronado for the Glorietta Bay Marina, was adopted as part of the consent agenda.

Agenda Item 8. Ordinance 2678, Granting 66-Year Easement to FC Acquisition Company, LLC for ingress and egress access to the Fat City Hotel Development over a 5,235 Square Foot Land Area along Pacific Highway, was adopted as part of the consent agenda.

Agenda Item 9. Resolution 2012-96, Establishing Rent for Ferry Landing Associates, LLC for the period from September 1, 2012 through August 31, 2022, was adopted as part of the consent agenda.

Agenda Item 10. Ordinance 2679, Accepting 31-Year Lease from the City of Imperial Beach to combine two Existing Leases for Ocean Boulevard (Beachfront).

Agenda Item 11AB. Resolution 2012-97, Consenting to Transfer of Ownership Interests within Lane Field San Diego Developers, LLC, and Consenting to Assignment and Assumption of Lane Field North Option to Lease Agreement from Lane Field San Diego Developers, LLC to LPP Lane Field, LLC, was adopted as part of the consent agenda.

Agenda Item 11C. Ordinance 2680, Granting Amendment No. 1 to Lane Field North Option to Lease Agreement Substituting LPP Lane Field, LLC as Optionee and Substituting the Option and Lease Guarantors, was adopted as part of the consent agenda.

Agenda Item 12. **Resolution 2012-98**, Consenting to an increase of the Encumbrance of Marina Cortez, Inc.'s Leasehold from \$8,120,000 to \$9,870,000 in favor of Mutual of Omaha Bank with conditions, was adopted as part of the consent agenda.

Agenda Item 13. **Board Action No Longer Required.**

Agenda Item 14. **Resolution 2012-99**, Establishing Minimum Annual Rent for Shelter Cove Marina, Ltd., dba Shelter Cove Marina for the period of September 1, 2012 through August 31, 2022, was adopted as part of the consent agenda.

Agenda Item 15. **Resolution 2012-100**, Authorizing Agreements with California Strategies & Advocacy, LLC and RRM Design Group for on-call, as-needed coastal consulting services in an aggregate amount not to exceed \$400,000 for a period of two (2) years from August 19, 2012 through August 19, 2014, was adopted as part of the consent agenda.

Agenda Item 16A. **Resolution 2012-101**, Rescinding Resolution 2011-90 Certifying Environmental Impact Report, Adopting Findings of Fact and a Statement of Overriding Considerations, Adopting Mitigation Monitoring and Reporting Program, and Directing Filing of the Notice of Determination, was adopted as part of the consent agenda.

Agenda Item 16B. **Resolution 2012-102**, Rescinding Resolution 2011-91 Approving East Harbor Island Subarea Port Master Plan Amendment and Directing Filing with the California Coastal Commission for Certification, was adopted as part of the consent agenda.

Agenda Item 16C. **Resolution 2012-103**, Rescinding Resolution 2011-92 Granting Concept Approval for Hotel Project, was adopted as part of the consent agenda.

Agenda Item 17. **Resolution 2012-104**, Adopting Plans and Specifications and Awarding Contract No. 2011-03 to Marathon Construction Corporation for the Major Maintenance of Fender Repairs at Various Tidelands Locations, San Diego and National City, California in the amount of \$2,837,777, was adopted as part of the consent agenda.

Agenda Item 18. **Resolution 2012-105**, Selecting and Authorizing Agreements with Arcadis US, Inc.; Atkins North America, Inc.; GHD Group Pty Ltd.; Harris & Associates, Inc., and URS Corporation dba URS Corporation Americas for Engineering,

Construction Management, and Project Management Services on an as-needed basis for a total aggregate amount payable under the agreements not to exceed \$3,000,000 for a period of three (3) years, was adopted as part of the consent agenda.

Agenda Item 19. **Resolution 2012-106**, Authorizing License Agreements with and Granting Indemnity to BNSF Railroad Company for the Fiber Optic Interconnect Phase 8 Projects for a total fee in the amount of \$67,750, was adopted as part of the consent agenda.

Agenda Item 20. **Resolution 2012-107**, Adopting Plans and Specifications and Awarding Contract No. 2011-40 to NEWest Construction Company for the Major Maintenance of the B-Street Pier Cruise Ship Terminal Fire Protection System, San Diego, California in the Amount of \$659,800, was adopted as part of the consent agenda.

Agenda Item 21. **Item continued to a future meeting.**

Agenda Item 22. **Resolution 2012-108**, Approving 2012 Annual Work Plan for the Accessibility Advisory Committee, was adopted as part of the consent agenda.

Agenda Item 23. **Resolution 2012-109**, Appointing Laura Martella as Chairperson of the Personnel Advisory Board (PAB) from September 2, 2012 to September 1, 2013, was adopted as part of the consent agenda.

Agenda Item 24. **Board action no longer required.**

Agenda Item 25. **Resolution 2012-110**, Selecting and Authorizing an Agreement with Quality Technology Services, Inc., dba TCR Services, to provide toner cartridges for the period from September 1, 2012 to August 31, 2015 in an amount not to exceed \$140,778.51, was adopted as part of the consent agenda.

Agenda Item 26. **Resolution 2012-111**, Declaring Items of Equipment to be Surplus to the Needs of the Port District and Authorizing their Sale or Disposal in Accordance with BPC Policy No. 111, was adopted as part of the consent agenda.

Agenda Item 27A. **Resolution 2012-112**, Authorizing Memorandum of Understanding with Disney Cruise Lines, LTD. to Grant Disney Indemnity for testing and subsequent operations of shore power infrastructure, was adopted as part of the consent agenda.

Agenda Item 27B. **Resolution 2012-113**, Authorizing Memorandum of Understanding with Princess Cruise Lines, Ltd. to Grant Princess Indemnity for testing and subsequent operations of shore power infrastructure, was adopted as part of the consent agenda.

Agenda Item 27C. **Resolution 2012-114**, Authorizing the Executive Director to enter into similar Memorandums of Understanding with other vessel operators to Grant them Indemnity for testing and subsequent operations of shore power infrastructure, was adopted as part of the consent agenda.

Agenda Item 28. **Resolution 2012-115**, Selecting and Authorizing a Five-Year Agreement with Raphael's Party Rentals, Inc. for Temporary Tent Structures and other Equipment Rental Services to support Cruise Ship operations in an amount not to exceed \$350,000, was adopted as part of the consent agenda.

Agenda Item 29. **Resolution 2012-116**, Authorizing the Write-Off of Uncollectible Accounts Receivable related to Shore Power Usage Electrical Charges totaling \$336,266 (Offset by a Shore Power Rebate received from San Diego Gas & Electric in the amount of \$270,970), was adopted as part of the consent agenda.

Agenda Item 30. **Ordinance 2681**, Amending Unified Port District Code Section 4.14 - Regulation of In-Water Hull Cleaning, was adopted as part of the consent agenda.

Commissioner Peters left the dais at 2:20 p.m. and returned at 2:22 p.m.

ACTION AGENDA (continued)

RESOLUTION PROCLAIMING AUGUST 14, 2012, LESLEY NISHIHIRA AND MARISA LUNDSTEDT DAY IN HONOR OF CALIFORNIA COASTAL COMMISSION APPROVAL OF THE CHULA VISTA BAYFRONT MASTER PLAN.

Agenda Item 42. Commissioner Moore thanked all of the individuals who assisted with the Chula Vista Bayfront Master Plan's approval by the California Coastal Commission. She stated it was victory for the District, the City of Chula Vista, and the entire south bay region. She thanked a number of individuals from the City of Chula Vista including Chula Vista Mayor Cheryl Cox. Commissioner Moore recognized District staff for their work on the timely processing of the Marine Boatworks lease, as well as Wayne Darbeau, Executive Director, and Randa Coniglio, Executive Vice President - Operations. She thanked former Chula Vista Port Commissioners Bill Hall, Mike Najera,

and Steven Padilla as well as the current Board members. She personally thanked Lesley Nishihira, Manager, Land Use Planning, and Marisa Lundstedt, Environmental Project Manager, City of Chula Vista.

Wayne Darbeau, Executive Director, requested recognition for Commissioner Moore for her leadership. Mr. Darbeau read a proclamation declaring August 14, 2012, Lesley Nishihira and Marisa Lundstedt Day in Honor of the California Coastal Commission Approval of the Chula Vista Bayfront Master Plan. (A copy of the staff report is on file in the Office of the District Clerk.)

Commissioner discussion ensued. Commissioner Malcolm acknowledged the efforts of Commissioner Moore to move the project forward. He recognized staff and discussed the regional benefits of the Chula Vista Bayfront Master Plan.

On behalf of those from San Diego who supported the project, Commissioner Burdick offered her congratulations for moving forward what she characterized as "the most important port development in play now." She discussed the level of stakeholder outreach and acknowledged the Board and staff's strategic efforts to ensure the project work continued forward as efficiently as possible to receive the Coastal Commission's approval. She recognized Ms. Nishihira and Ms. Lundstedt as well as the team for their hard work.

Chairman Smith added his thanks to the team for their performance.

On motion of Commissioner Moore, seconded by Commissioner Malcolm, the Board adopted the **Resolution 2012-42**, a proclamation declaring August 14, 2012, Lesley Nishihira and Marisa Lundstedt Day in Honor of the California Coastal Commission Approval of the Chula Vista Bayfront Master Plan, by the following vote: Yeas-Burdick, Malcolm, Moore, Nelson, Peters, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

Commissioner Moore left the dais at 2:34 p.m. and returned at 2:39 p.m.

PUBLIC HEARING

BAE SYSTEMS PIER 4 REPLACEMENT PROJECT

- A) CONDUCT PUBLIC HEARING AND ADOPT RESOLUTION CERTIFYING THE FINAL ENVIRONMENTAL IMPACT REPORT FOR THE "BAE SYSTEMS PIER 4 REPLACEMENT PROJECT", ADOPT FINDINGS OF FACT, ADOPT MITIGATION MONITORING AND REPORTING PROGRAM, AND DIRECT FILING OF THE NOTICE OF DETERMINATION.**
- B) CONDUCT PUBLIC HEARING AND ADOPT RESOLUTION AUTHORIZING ISSUANCE OF A NON-APPEALABLE COASTAL DEVELOPMENT PERMIT.**
- C) ADOPT RESOLUTION GRANTING CONCEPT APPROVAL TO BAE SYSTEMS SAN DIEGO SHIP REPAIR, INC., FOR THE PIER 4 REPLACEMENT PROJECT.**

Agenda Item 31. Kristine Zortman, Area Real Estate Manager, Real Estate, addressed the Board with a presentation regarding the BAE Systems Pier 4 Replacement Project. She requested the Board conduct a public hearing and consider the staff's recommendations. (A copy of the presentation and the staff report is on file in the Office of the District Clerk.)

Chairman Smith opened the public hearing for Item 31A and 31B. No members of the public requested to speak and Chairman Smith closed the public hearing.

Commissioner discussion ensued. Commissioner Nelson requested and received clarification from Eric Munoz, Staff Extension Planner, Environmental and Land Use Management, as to how the determination was made that one-foot of additional elevation would be sufficient to "deal with" the anticipated sea level rise during the life of the project. Commissioner Nelson requested clarification as to whether the design modification would meet the possible ranges depicted in draft sea level rise inundation maps. Ms. Zortman offered that staff anticipated the pier life expectancy to be 40 to 50 years. Referring to the 100-year plan for sea level rise, she offered staff did not did not anticipate the pier to survive that plan.

Commissioner Peters offered a motion to approve the staff recommendations. Commissioner Nelson seconded the motion.

Commissioner Malcolm offered his support for the project. He stated that the \$12 million project cost would be counted toward a lease term extension qualifying investment under BPC Policy No. 355. In that as the tenant would be

returning for a lease extension based upon a qualifying investment he stated, for the record, his preference that the staff report include some analysis and calculation based upon that investment under Marshall & Swift, a building cost analysis firm. Thus, that information that showed the amount of qualifying investment at that time would be included in the public record.

On single motion of Commissioner Peters, seconded by Commissioner Nelson, the Board with a single vote adopted **Resolution 2012-119** Certifying the Final Environmental Impact Report for the "BAE Systems Pier 4 Replacement Project", Adopt Findings of Fact, Adopt Mitigation Monitoring and Reporting Program, and Direct Filing of the Notice of Determination; **Resolution 2012-120** authorizing Issuance of a Non-Appealable Coastal Development Permit; and **Resolution 2012-121** Granting Concept Approval to BAE Systems San Diego Ship Repair, Inc., for the Pier 4 Replacement Project, by the following vote: Yeas-Burdick, Malcolm, Moore, Nelson, Peters, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

ACTION AGENDA (continued)

PRESENTATION TO RECIPIENTS OF SCHOOL YEAR 2012/2013 PORT WITH NO BORDERS SCHOLARSHIPS.

Agenda Item 32. Ron Powell, Program Manager, Marketing and Communications, addressed the Board with a presentation regarding the Port with No Borders Scholarship program. Mr. Powell announced the recipients of the 2012/2013 Port with No Borders Scholarships: April Amezquita, Victor Barajas, Brett Boeh, and Claire Brown. Chairman Smith, Wayne Darbeau, Executive Director, and Mr. Powell presented checks to Ms. Amezquita, Mr. Barajas, and Ms. Claire Brown, respectively. Ms. Boeh was not able to attend the presentation.

PRESENTATION BY THE COUNTY OF SAN DIEGO ON ITS 10-YEAR HEALTH STRATEGY AGENDA; LIVE WELL SAN DIEGO!: BUILDING BETTER HEALTH, AND DIRECTION TO STAFF.

Agenda Item 33. Item continued to a future Board meeting.

VENDING AND PERFORMING ON DISTRICT TIDELANDS.

A) ORDINANCE REGULATING VENDING AND PERFORMING ON TIDELANDS.

- 1) ORDINANCE AMENDING UNIFIED PORT DISTRICT (UPD) CODE SECTION 8.05 – BUSINESS AND COMMERCIAL ACTIVITIES REGULATED.**
- 2) ORDINANCE AMENDING UNIFIED PORT DISTRICT (UPD) CODE SECTION 8.02 – PARK AREAS REGULATED**
- 3) ORDINANCE REPEALING UNIFIED PORT DISTRICT (UPD) CODE SECTION 8.04 – NON-PROFIT SALES REGULATED**

B) OPTIONS FOR ACCOMMODATING THE COMMERCIAL SALES OF HANDCRAFTS ON THE TIDELANDS AND DIRECTION TO STAFF.

Agenda Item 35. Ellen Gross, Deputy Port Attorney, addressed the Board with a presentation regarding the ordinances regulating vending and performing on District tidelands and requested the Board consider the recommendations. Ms. Gross turned the presentation over to Jim Hutzelman, Manager, Community Services, Marketing & Communications, who addressed the Board regarding options for accommodating the commercial sales of handcrafts on the tidelands. (A copy of the staff report and presentation are on file in the office of the District Clerk.)

The following members of the public addressed the Board with varying viewpoints regarding the matter: Samantha Olenick, Kite Flite Swings n things & Wind Song owner, Seaport Village tenant ceded her time to Terry B. Hall; Adisa, Vendor – Psychic; Terry B. Hall, General Manager, Seaport Village; Saadiq Murray, Metal Sculpture – Jewelry Art, submitted a request to speak form but was not present when called; Amy Wiechert; Bobby the Magician; Sheryl Rabiee, henna artist; Judy Skinner, Tarot Reader; Jeff Minkin, Artist/Jeweler; and Sharon Cloward, President, San Diego Port Tenants Association ceded her time to Jim Unger, San Diego Port Tenants Association/ Hornblower Cruises.

Commissioner discussion ensued. Commissioner Burdick acknowledged the members of the community for attending the meeting and offering their comments. She shared her observations regarding a recent visit to the tideland area under discussion. She requested and received clarification from Ms. Gross regarding the use of sunshades and umbrellas who also acknowledged that accommodations could be made under the

American's with Disabilities Act. Commissioner Burdick offered that she understood the reasoning behind the recommendation to exclude handcrafts. She commended staff for their resourcefulness in considering options such as an art fair for the commercial sales of handcrafts on the tidelands and the opportunity for waterfront activation. She offered a motion to support the staff recommendations.

Commissioner Valderrama seconded the motion.

Commissioner Peters offered his thanks to district staff for their work regarding the matter and facilitating the stakeholder input into the development of the ordinance.

Commissioner Nelson thanked staff, tenants, and the citizens for their participation in the process. He discussed the means by which the Harbor Police would enforce the new ordinance and acknowledged the remarks regarding accommodations for sunshades and umbrellas. He offered support for the development of a craft market and encouraged consulting with port tenants and other members of the community to explore alternatives for handcraft sellers.

Commissioner Valderrama discussed his observations of the activities in the area and, as such, concurred with the staff recommendation regarding the exclusion of selling handcrafts and jewelry. He offered support for the motion.

Chairman Smith acknowledged the diversity of the vendors offering their services on the tidelands. He discussed the benefit of the public process and thanked the community members for their participation. He acknowledged staff for their efforts to draft the ordinance and expressed support for the motion for hand.

On a single motion of Commissioner Burdick, seconded by Commissioner Nelson, the Board with a single vote adopted **Ordinance 2683** Amending Unified Port District (UPD) Code Section 8.05 – Business and Commercial Activities Regulated; **Ordinance 2684** Amending Unified Port District (UPD) Code Section 8.02 – Park Areas Regulated; **Ordinance 2685** Repealing Unified Port District (UPD) Code Section 8.04 – Non-Profit Sales Regulated, by the following vote: Yeas-Burdick, Malcolm, Moore, Nelson, Peters, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

Commissioner Moore left the dais at 3:20 p.m. and was excused for personal business for the remainder of the meeting.

REVIEW OF THE ENVIRONMENTAL ADVISORY COMMITTEE

- A) CONSIDER RECOMMENDATIONS FOR STREAMLINING THE ENVIRONMENTAL ADVISORY COMMITTEE.**
- B) RESOLUTION APPROVING 2012/2013 WORK PLAN FOR THE ENVIRONMENTAL ADVISORY COMMITTEE.**

Agenda Item 36. Randa Coniglio, Executive Vice President - Operations, addressed the Board with a presentation to facilitate a discussion regarding the Environmental Advisory Committee to determine how it might best serve the Board. She requested the Commissioners consider staff recommendations regarding streamlining the Environmental Advisory Committee and consider approval of the 2012/2013 Work Plan. (A copy of the staff report and presentation are on file in the office of the District Clerk.)

Public comment ensued. Diane Takvorian, Environmental Health Coalition, addressed the Board regarding the staff recommendation and requested the Board defer approval of the presented Work Plan. She suggested re-evaluating the work plan to ensure that it supports the District's environmental goals and aligns with the Strategic Plan. In an effort to streamline the work plan she discussed making only "action or advice" and "goal related" presentations at the committee meetings.

Sharon Cloward, President, Port Tenants Association, addressed the Board regarding the staff recommendation and stated she concurred with Ms. Takvorian to adopt a modified work plan that reflects the Commissioner's direction for the committee.

Commissioner discussion ensued. Commissioner Burdick reported on the Environmental Advisory Committee meeting discussion regarding the Board's position on the matter during its July 10, 2012 regular meeting. She offered the committee acknowledged the Board's oversight role and discussed how to allow work to continue on a variety of environmental matters that could provide the Commissioners with important environmental-steward support. She addressed her specific concerns with the staff recommendation and cautioned against making changes that could impact openness and transparency as well as hinder consensus building on important environmental matters that impact the District and its stakeholders. She reviewed the committee's recommendations: 1) maintain a schedule of monthly meetings and cancel if the work load did not dictate meeting; 2) continue to form targeted working groups in which experts and impacted stakeholders focus on specialized matters; 3) approved

only convening public workshops to address specific needs; 4) in regard to the committee taking a “reactive” versus “pro-active” approach to matters, the committee suggested presenting amendments to the Board-approved work plan should issues arise, to consider allocating additional staff resources; and 5) regarding referring certain environmental items directly to the full Board, she expressed concern with the amount of Commissioner time that it would require and discussed the benefits of utilizing the committee to evaluate a matter before it may come to the full Board. She offered remarks regarding the level of staff time reported and the importance of committing the necessary District resources to support the Environmental Advisory Committee’s work plan which would demonstrate that the Board believed in the importance of the work.

Commissioner Malcolm acknowledged Commissioner Burdick’s remarks and recognized the work performed by the Environmental Advisory Committee. He discussed the Board’s oversight of the committee while allowing the important work to continue. Commissioner Malcolm requested and received clarification from Commissioner Burdick regarding the description of the committee’s desire to remain proactive as referenced in the staff report. She restated that the committee requested that new projects would be presented as amendments to the approved work plan for the Board’s consideration. He stated that he believed it was very reasonable for the Board to exercise some control over the work plan, the associated costs, and oversee the budget implications. In regard to the Climate Mitigation and Adaptation Plan (CMAP), Commissioner Malcolm offered that in his opinion “it was an example of when the committee went outside of the bounds of where the Board may, or may not, have wanted it to go, especially with respect to the sea level inundation map.” He expressed concern with the inundation maps depicting areas outside of the District’s jurisdiction, publishing the maps with a District logo and offered that was an example of an instance in which the Board should have the ability to exercise discretion over the committee’s work. In regard to the District’s financial position and the current number of District staff, he discussed the staff hours reported and requested consideration be made to streamline meetings and use the associated resources in an efficient way to continue to do the level of work necessary to be good environmental stewards for the tidelands. He discussed addressing overarching conflict of interest matters raised related to the committees and requested more information with regard to the Environmental Advisory Committee.

Commissioner Peters acknowledged that he understood his colleagues’ positions. As requested during the strategic planning and resource allocation discussions, he offered that the Board should be responsive to staff’s request for assistance. He discussed the work regarding copper hull paint which was facilitated via the committee process by engaging a diverse group of stakeholders. He offered that while he did not

agree with Commissioner Malcolm's position regarding the CMAP matter, Commissioner Peters stated that it was an area for community outreach and stakeholder input via the Environmental Advisory Committee. He discussed the work plan as presented and requested it be refined to include activities that achieve specific results or to address specific Board driven questions. He requested that the reports regarding the Center for Bay and Coastal Dynamics would be made directly to the Board and it was not necessary to allocate time for those reports within the Environmental Advisory Committee meetings. Commissioner Peters discussed the need for the committees and he found them helpful when they respond to the needs of the Board in specific ways.

Commissioner Malcolm restated his request for staff to address the conflict of interest issue and discuss the analysis of potential conflicts in light of the affiliations of the Environmental Advisory Committee members.

Commissioner Peters left the dais at 4 p.m. and was excused for the remainder of the meeting.

Ms. Coniglio acknowledged the request and explained that, in light of prior Board discussions, the Environmental Advisory Committee was structured as a "non-financially interested" committee. She offered that the committee members were advised about conflict of interest on a number of occasions by the Committee chair and that in the event that there was any chance for a perceived or actual conflict that member should abstain from the discussion or remove themselves from the committee.

Celia Brewer, Interim Port Attorney, offered that prior to the March Board action regarding advisory committee governance when the most recent changes were adopted there was an existing Environmental Policy that addressed conflict of interest and Government Code 1090. She offered that the BPC Policy No. 730 stated all committee members had to work in compliance with the Political Reform Act and Government Code 1090. She offered that BPC Policy No. 018, which governs subcommittees, also addresses conflict of interest. Ms. Brewer explained that the Port Attorney's Office staff had spoken to members of the Environmental Advisory Committee on a number of occasions in an effort to avoid such issues. She explained the office was currently analyzing the instances when a committee member would like to participate as an individual but may have an affiliation with another entity, and they would be drafting a Board memo regarding their opinion on the matter. She offered her assurance that the Port Attorney's Office does everything within its power to prevent any conflict of interest occurring on any committee.

Ms. Coniglio also stated that while they may offer comments, the Environmental Advisory Committee members do not vote on any of the recommendations for funding of any of the Environmental Fund projects.

Wayne Darbeau, Executive Director, acknowledged the public speakers as well as Board member's comments regarding environmental stewardship being a key component of the business of the District. He remarked on balance and prudently managing limited resources to achieve the good things for the community. Mr. Darbeau offered that additional discussion was required to find that balance and achieve Board driven results.

Commissioner Nelson offered his reassurance that extensive discussion regarding the issue of conflict of interest had occurred during the Environmental Advisory Committee meetings and the members are very mindful of the matter. He offered that a certain amount of detailed data should be reviewed at the committee level. He remarked on the matter of the CMAP, sea level rise, effects of storm surge, and the jurisdictional boundaries shown on projected inundation maps referenced by Commissioner Malcolm. Commissioner Nelson offered his belief that the staff accurately reflected the consensus of the committee members in its report.

Commissioner Valderrama acknowledged Mr. Darbeau's remarks and concurred that further discussion regarding the matter was necessary. He suggested referring the matter back to staff and requested further clarification at a future meeting.

Commissioner Burdick offered, in regard to Commissioner Malcolm's concerns regarding conflict of interest, that the Board adopted revisions to its governing policy regarding conflict of interest on March 6, 2012. She explained that at the time staff agreed to return to the Board with recommendations and how the governing guidelines applied to each specific committee. She concurred with Commissioner Malcolm that the Environmental Advisory Committee had not yet come back as work was delayed due to the results of the Prioritization Workshop which allowed allow for the assessment of the committee restructuring. Based upon the pending Board direction she expressed confidence that staff would return with an application of the governing policy adopted in March as it would apply to the Environmental Advisory Committee. She offered that the inundation maps discussed were not a result of the Environmental Advisory Committee but created by consultants hired by the District to provide assistance in the development of a Climate Mitigation and Adaptation Plan. Regarding Commissioner Nelson's remarks, she clarified that her concern was with the wording of the staff report and a reference in the Executive Summary, she cited "and its desire to discuss and address environmental issues as they arise proactively rather than be limited to acting

strictly in accordance with the long-term work plan." She offered that she believed it was an erroneous statement and explained the committee was more than willing to act in accordance with a long-term work plan but they want to be able to communicate to the Board when they feel the Board might want to modify the work plan to give direction to the committee. Commissioner Burdick reported that the committee agreed to abide the Board's direction. She offered that the matter be returned to staff for further consideration in light of the Board discussion. She requested staff complete two pieces of evaluation: 1) as offered by Commissioner Peters, a refinement of the work plan to include a statement regarding the items or activities listed and what questions would be answered for the Board and what resources would be required to facilitate the work plan and 2) provide the Board with information regarding how much additional resources staff anticipates would be required to support the committee for the work plan proposed.

Chairman Smith acknowledged the efforts of staff to review 11 of the Board committees. He acknowledged the challenges presented with the evaluation of and recommendations for the Environmental Advisory Committee. He posed the question "what was trying to be solved." He concurred with Commissioner Burdick and Mr. Darbeau that further consideration and discussion was necessary. Chairman Smith acknowledged Commissioner Burdick on behalf of the District for her efforts, commitment, and work on the committee.

Ms. Coniglio offered her thanks to the Board for their input and suggested that benefits could be found by engaging the committee again to address the Board's questions as to "what is trying to be solved."

Commissioner Nelson requested clarification as to whether staff believed it could work within the current operating budget to facilitate the work plan presented. Ms. Coniglio offered a qualified confirmation that staff believed it could support the work plan submitted if no additional requests for resources were generated. Commissioner Nelson requested and received confirmation from Ms. Coniglio that the committee agreed to bring modifications to the work plan before the Board for their consideration. Mr. Darbeau acknowledged Commissioner Nelson line of questioning, he offered that the issues raised by the Board members were complex and required additional assessment to prepare a staff recommendation that was in alignment with the Board's goals. Commissioner Nelson discussed the commitment to address environmental concerns even in light of difficult economic times.

Chairman Smith acknowledged Commissioner Nelson's statements and discussed establishing an organizational structure that was sustainable during times of economic prosperity as well as in difficult economic times.

RESOLUTION ADOPTING REVISIONS TO BOARD OF PORT COMMISSIONERS (BPC) POLICY NO. 641, TRAVEL AND BUSINESS EXPENSE REIMBURSEMENT POLICY.

Agenda Item 37. Donna Morales, Manager of Commissioner Services, addressed the Board with a presentation regarding BPC Policy No. 641, the Travel and Business Expense Reimbursement Policy and requested consideration of the resolution to adopt the proposed policy revisions. (A copy of the staff report and presentation are on file in the office of the District Clerk.)

Commissioner discussion ensued. Commissioner Burdick acknowledged staff's efforts to research the matter by surveying other agencies and for reaching out to stakeholders. She discussed the recommendation regarding domestic and long distance international travel. She offered that business class accommodations aids in facilitating the efforts made by Commissioners, who were traveling on behalf of District, to do the public's work in the most effective manner possible. She offered her support for the staff recommendation.

Chairman Smith acknowledged Ms. Morales' efforts to prepare the recommendation for a complex matter. He acknowledged Commissioner Burdick's comments and concurred with the challenges presented with long distance international travel. He read into the record a portion of the letter from the San Diego City Tax Payers Association encouraging Board support for the staff recommendation. (A copy of the letter is on file in the office of the District Clerk.)

On a motion by Commissioner Burdick, seconded by Commissioner Malcolm, the Board approved **Resolution 2012-118**, Adopting Revisions to Board of Port Commissioners (BPC) Policy No. 641, Travel and Business Expense Reimbursement Policy, by the following vote: Yeas-Burdick, Malcolm, Nelson, Smith, and Valderrama; Nays-None; Excused-Moore, Peters; Absent-None; Abstained-None.

Commissioner Nelson left the dais at 4:53 p.m. and was excused for the remainder of the regular Board meeting.

STAFF RECOMMENDATION TO ACCEPT PRELIMINARY PROJECT REVIEW FOR THE PROPOSED LANE FIELD NORTH HOTEL DEVELOPMENT PROJECT WITH CONDITIONS

Agenda Item 38. Kristine Zortman, Area Real Estate Manager, Real Estate Department, addressed the Board and turned the presentation over to Nick Markos, Senior Asset Manager, Real Estate Department. Mr. Markos offered a presentation regarding the preliminary project review for the Proposed Lane Field North Hotel Development Project with conditions, and requested Board direction. (A copy of the staff report is on file in the office of the District Clerk.)

The following members of the public addressed the Board with varying viewpoints regarding the preliminary project review, the project design and requested the developers consider alternatives to an above ground parking garage at the site: Gary Smith, President, Downtown San Diego Residents Group; Mark G. Stephens; Walt Pennington, Chair, Lane Field Committee, Grande South Homeowners Association; David Steel, UNITE HERE Local 30; Jerry Trammer, Project Executive, Lane Field San Diego Developers, LLC; Rob Lankford, Lankford & Associates; Lindsay Kirkman, Downtown San Diego Partnership; Eric Wilson, Phelps Development; Roger Zampel, Portman Holdings; Stacey Lankford Pennington, President, SLP Urban Planning, submitted a request to speak form in favor of the project and waived her opportunity to speak; Jim Shiner; Brian Keele, Portman Associates; and Sharon Cloward, President, San Diego Port Tenants Association, submitted a request to speak form in favor of the project and waived her opportunity to speak.

Commissioner discussion ensued. Commissioner Malcolm thanked the staff, Mr. Trammer, and the development team for their hard work on the project. He discussed the special nature of the project and offered that the Board was looking forward to a special concept and architectural design for such unique location so the structures really stand out and become a "jewel" for downtown. He offered the design should be one that is striking for people who arrive in downtown San Diego by air, water or ground. He acknowledged the public comments regarding the parking structure, discussed the economics of an underground parking project, and commented on the aesthetics of the cladding applied on an above ground garage to help mitigate light and noise. Commissioner Malcolm acknowledged the economic challenges of the past five years and recognized the development team for their commitment and for working collaboratively with the staff and stakeholders.

Commissioner Burdick acknowledged the representatives from the development team as well as the representatives from UNITE HERE for their support of the project.

She discussed the need for additional parking due to changes in circumstances of a number of projects and/or developments that were planned by other agencies or developers for the surrounding areas. She requested the team explore parking alternatives that includes above ground and below ground options as well as parking below the setback park. She requested that data derived from the parking and traffic study be brought back to the Board with the conceptual approval presentation. Commissioner Burdick recognized the concerns voiced by the area residents regarding an above ground parking structure and offered that a public art solution could be considered to help buffer the possible impacts and enhance the visual aesthetics.

Commissioner Valderrama acknowledged Mr. Trammer for his consistency and recognized the balance of the development team for their talents. He stated that he echoed his fellow Commissioner's remarks.

Chairman Smith also stated that he echoed his fellow Commissioner's remarks and voiced his support for the development team. He offered thoughts regarding the economics of underground parking and urged everyone to develop the best aesthetic solution given the budget allocated while being mindful of the downtown tideland location.

SHELTER ISLAND, INC., DBA TOM HAM'S LIGHTHOUSE

A) RESOLUTION GRANTING CONCEPT APPROVAL TO SHELTER ISLAND, INC., FOR RESTAURANT RENOVATION; AND

B) ORDINANCE GRANTING AN OPTION AGREEMENT WITH SHELTER ISLAND, INC., FOR A NEW 30-YEAR LEASE WITH A 10-YEAR OPTION TO EXTEND.

Agenda Item 39. Kristine Zortman, Area Real Estate Manager, Real Estate Department, addressed the Board and turned the presentation over to Jenner Smith, Senior Asset Manager, Real Estate Department, who presented the concept approval for the Shelter Island, Inc., dba Tom Ham's Lighthouse restaurant renovation and requested consideration of an ordinance granting a new lease and an option to extend. (A copy of the staff report and presentation is on file in the Office of the District Clerk.)

Commissioner discussion ensued. Commissioner Malcolm offered that the developers have "lived up" to the District's development standards. He discussed the successful execution of the Bali Hai redevelopment and stated that he was looking forward to the redevelopment of Tom Ham's Lighthouse restaurant including the

enhanced pedestrian access, the lookout park, and the wedding area. He offered a motion to accept the staff recommendation.

Commissioner Valderrama seconded the motion. Concurring with Commissioner Malcolm's sentiments, he offered that the area under discussion was a "primo" location along the tidelands and looked forward to the completion of the project.

Commissioner Burdick thanked the developers and concurred with the discussion regarding the beauty of the location of Tom Ham's Lighthouse. She discussed the development of a green leasing policy to provide incentives to tenants who decide to invest in green and sustainable building practices by incorporating those types of improvements during their renovations. She discussed adding language to the ordinance that would allow the tenant to return to the District and apply for additional consideration for any qualifying investment that they might make in green and sustainable technology or during construction as part of the project. She offered the following: In the event that the District develops a green leasing policy and, Tom Ham's Lighthouse restaurant improvements qualify for additional consideration under that policy the tenant can move to have the District apply the new policy to any qualifying investment during this stage of the renovation. Commissioner Burdick requested Commissioner Malcolm consider her request as a friendly motion to his amendment.

Commissioner Malcolm requested staff respond to the proposed modification of the ordinance.

Tony Gordon, Area Real Estate Manager, Real Estate Department, acknowledged the Real Estate Advisory Forum had included the consideration of a green leasing policy in its 2012/2013-work plan. He acknowledged the request would be acceptable to staff and restated consideration of accepting the amendment was at the Board's discretion.

Commissioner Burdick offered that the proposed modification would be added to the ordinance but not the tenant's lease. She explained her request was to preserve, for the record, the tenant's right to come back in the future if they so desired.

Celia Brewer, Interim Port Attorney, offered that upon discussions with staff and in instances when a policy was under development, she believed it was an appropriate action to qualify the redevelopment project. She offered that such action would not assure or guarantee the tenant any particular results as related to the Board's consideration of a green leasing policy.

Chairman Smith offered that from a contracts point of view, he cautioned against making modifications from the dais. He requested clarification as to what could be gained by adding something to the ordinance when he believed the agreement could be modified in the future.

Commissioner Burdick offered that the tenant would gain enough of an assurance that by the Board's action offering that the project would be considered under a future green leasing policy may incentivise a change.

Chairman Smith requested Commissioner Malcolm, as the maker of the motion, to consider the request. Commissioner Malcolm acknowledged the request and amended the motion to include the modification proposed by Commissioner Burdick.

Commissioner Valderrama seconded the amended motion.

Chairman Smith commended the tenant for their long-term business commitment to the region, an industry and to the tidelands. He expressed his concern for making modifications at the dais and the law of unintended consequences.

On a motion of Commissioner Malcolm, seconded by Commissioner Valderrama, the Board adopted, with a single vote, **Resolution 2012-122** Granting Concept Approval to Shelter Island, Inc., for Restaurant Renovation; and **Ordinance 2686** Granting an Option Agreement with Shelter Island, Inc., for a new 30-Year Lease with a 10-Year Option to extend, by the following vote: Yeas-Burdick, Malcolm, Smith, and Valderrama; Nays-None; Excused-Moore, Nelson, Peters; Absent-None; Abstained-None.

RESOLUTION AUTHORIZING AGREEMENT WITH DISCOVERY STUDIOS, LLC FOR THE PURPOSE OF FILMING DAY TO DAY OPERATIONS OF THE HARBOR POLICE DEPARTMENT BY FOR INCLUSION IN A TELEVISION PROGRAM.

Agenda Item 40. John Bolduc, Vice President Public Safety/Harbor Police Chief, addressed the Board with a presentation requesting the Board's consideration of adopting a resolution authorizing an agreement with Discovery Studios, LLC for filming day-to-day operations of the Harbor Police Department for inclusion in a television program. (A copy of the presentation and staff report is on file in the office of the District Clerk.)

Commissioner discussion ensued. Commissioner Burdick requested and received assurances from Chief Bolduc that he did not foresee any potential operational impediments to the officer's performing their duties or any public safety issues that may

unexpectedly come into play by granting the request. He offered that he was comfortable that the department's operations and the safety of any officers in the field would not be hindered. Commissioner Burdick requested clarification from Port Attorney's Office regarding whether they perceived any potential risk of liability that the District may assume in the event of an incident.

Dave Catalino, Deputy Port Attorney, offered to go over the provisions of the agreement and how they relate to the risk of liability to the District. He offered that a provision, within the agreement, stated, that there are confidentiality agreements, pursuant to Government Code Section 3300, that would protect the District if anything confidential was captured. He acknowledged that provision was "very broad" under the Government Code Section.

Commissioner Burdick restated her concerns regarding any potential risks of liability to the District should an incident occur, and someone was injured. Mr. Catalino acknowledged the concern and stated that the agreement did not include a liability waiver, that waives "their" (Discovery Studios, LLC) liability rights against the District in such a situation.

Celia Brewer, Interim Port Attorney, offered that if the matter of a liability waiver was a concern for the Board, the Commissioners could consider a conditional approve of the recommendation, based upon executing such waivers or indemnification provisions, to the satisfaction of the Port Attorney's Office, prior to signing the District's portion of the agreement.

Commissioner Burdick made a motion to accept the staff recommendation conditionally based upon executing a liability waiver and/or indemnification provision to the satisfaction of the Port Attorney's Office, prior to signing the District's portion of the agreement, thus the matter would not require further the Board approval.

Commissioner Valderrama discussed maintaining officer safety and requested clarification regarding how the action would benefit the District.

Chief Bolduc offered the District would benefit by an increased visibility of the Harbor Police Department and it provides an opportunity to educate the public on the role of the department as a regional asset to public safety. He offered additional comments regarding Government Code Section 3300 and the department would control the display of items of an evidentiary nature, and that he believed the department could safely participate in the program.

Commissioner Malcolm discussed the benefits of highlighting the San Diego Bay and the Harbor Police team for a national television audience.

Wayne Darbeau, Executive Director, offered that he did not come to approving the item easily and acknowledged the Board's discussion of the matter. He offered his support for Chief Bolduc and the Harbor Police Department leadership.

Chairman Smith discussed what he characterized as the serious nature of considering the matter at hand. He expressed his commitments to the safety of the District's law enforcement professionals and to maintaining the reputation of the Harbor Police Department. He offered his support for the motion.

On motion of Commissioner Burdick, seconded by Commissioner Malcolm, the Board adopted **Resolution 2012-124**, Authorizing Agreement with Discovery Studios, LLC for the purpose of filming day to day operations of the Harbor Police Department for inclusion in a television program with conditions including execution of a liability waiver and/or indemnification provision to the satisfaction of the Port Attorney's Office, thus the matter would not require further Board approval, by the following vote: Yeas-Burdick, Malcolm, Smith, and Valderrama; Nays-None; Excused-Moore, Nelson, Peters; Absent-None; Abstained-None.

REVIEW AND CONSIDERATION OF PROPOSED BOARD AGENDA FOR THE MEETING SEPTEMBER 19, 2012.

Agenda Item 41. Chairman Smith requested and received confirmation from Randa Coniglio, Executive Vice President - Operations, that the consideration of the environmental documents related to the proposed expansion of the San Diego Convention Center was docketed for the September 19, 2012 meeting. On motion of Commissioner Malcolm, seconded by Commissioner Burdick, the Board adopted the proposed agenda for the meeting of September 19, 2012, by the following vote: Yeas-Burdick, Malcolm, Smith, and Valderrama; Nays-None; Excused-Moore, Nelson, Peters; Absent-None; Abstained-None.

OFFICER'S REPORT

Agenda Item 43. In accordance with BPC Policy No. 110, the following change orders, executed by the Executive Director or designee, were reported:

- A) Change Order No. 4 to Contract No. 2010-34 with Ensley Electric, Inc. / \$7,500.00 Increase & 54 Calendar Day Time Extension thru 8/22/2012 for B Street CST Electrical Upgrade, San Diego, CA.
- B) Change Order No. 1 to Contract No. 2012-03 with Omega II, Inc. / \$900.00 Increase for TAMT Fuel Line Replacement, San Diego, CA.
- C) Change Order No. 1 to Contract No. 2011-23 with PAL General Engineering, Inc. / \$19,633.59 Increase & 42 Calendar Day Time Extension thru 8/3/2012 for the FY 11 Pavement Maintenance Various Tidelands Locations, Imperial Beach, National City, Coronado, & San Diego, California.
- D) Change Order No. 3 to Contract No. 2010-34 with Ensley Electric, Inc. / \$3,632.18 Increase & 10 Calendar Day Time Extension thru 6/29/2012 for B Street CST Electrical Upgrade, San Diego, CA.
- E) Change Order No. 1 to Contract No. 2011-19 with Kinsman Construction Inc. / \$52,720.00 Increase & 40 Calendar Day Time Extension thru 7/30/2012 for B Street Pier Cruise Ship Terminal Roof Replacement, San Diego, CA.
- F) Change Order No. 3 to Contract No. 2009-17R with Jose Pereira Engineering & Mechanical, Inc. / 28 Calendar Day Time Extension thru 7/10/2012 for TAMT Communications and Fire Alarm System Upgrade, San Diego, California.
- G) Change Order No. 3 to Contract No. 2010-10 with Ledcor Construction Inc. / 64 Calendar Day Time Extension thru 9/20/2012 for Ruocco Park, San Diego, CA.
- H) Change Order No. 1 to Contract No. 2011-35 with R.E. Staite Engineering, Inc. / 50 Calendar Day Time Extension thru 8/31/2012 for Tenth Avenue Marine Terminal and Broadway Pier Fender Systems Repairs, San Diego, California.
- I) Change Order No. 5 to Contract No. 2010-25R with Tetra Tech Construction Services, Inc. / 15 Calendar Day Time Extension thru 7/14/12 for National City Marine Terminal to Administration Building Wireless Connectivity Project, San Diego, CA.
- J) Change Order No. 2 to Contract No. 2010-27 with Alvand Construction, Inc. / \$18,390.00 Increase & 12 Calendar day Time Extension thru 6/19/2012 for B Street Pier Cruise Ship Terminal Install Roll-up Doors and Rolling Grilles, San Diego, California.
- K) Change Order No. 1 to Contract No. 2011-45 with R.E. Staite Engineering, Inc. / \$2,137.55 Increase for Upgrade Bulkhead East of Berth 10-8 Tenth Avenue Marine Terminal, San Diego, California.

PRESIDENT'S REPORT

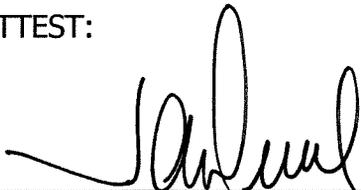
Agenda Item 44. Due to the late hour, Wayne Darbeau, Executive Director, stated he would defer his remarks until the September 19, 2012 meeting.

As the business of the regular meeting was concluded, Chairman Smith adjourned the meeting.



Secretary, Board of Port Commissioners
San Diego Unified Port District

ATTEST:

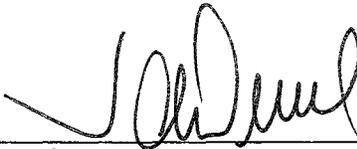


Clerk of the San Diego Unified Port District

**MINUTES
BOARD OF PORT COMMISSIONERS
SAN DIEGO UNIFIED PORT DISTRICT**

At the last regularly scheduled meeting of the Board of Port Commissioners of the San Diego Unified Port District on August 14, 2012, the Chairman adjourned the next scheduled meeting of the Board of Port Commissioners to the September 19, 2012 Special Meeting at the Don L. Nay Port Administration Building, 3165 Pacific Highway, San Diego, California, which convened at 1:00 p.m.

Timothy A. Deuel
Clerk of the Board of Port Commissioners
San Diego Unified Port District

by 
District Clerk

**MINUTES
BOARD OF PORT COMMISSIONERS
SAN DIEGO UNIFIED PORT DISTRICT**

The special meeting of the Board of Port Commissioners of the San Diego Unified Port District was called to order by Chairman Smith at 10:02 a.m., Wednesday, September 19, 2012, in the Board Room at 3165 Pacific Highway, San Diego, California.

ROLL CALL

Agenda Item 1.

Present: COMMISSIONERS, Moore, Nelson, Peters, Smith, and Valderrama.

OFFICERS: Brewer, Darbeau, Deuel and McEntee

Absent: No Commissioners absent.

Excused: Commissioner Malcolm was excused until he arrived at 10:03 a.m.
Commissioner Burdick was excused until she arrived at 10:04 a.m.

PUBLIC COMMUNICATIONS

Agenda Item 2. None.

CLOSED SESSION

Celia Brewer, Interim Port Attorney, announced the closed session agenda as follows:

Agenda Item 3.

CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION
Government Code Section 54956.9:

Unite Here Local 30 v. San Diego Unified Port District, et al.
San Diego Superior Court, Case Number: 37-2011-00094537-CU-TT-CTL

Agenda Item 4.

CONFERENCE WITH REAL PROPERTY NEGOTIATOR
Government Code Section 54956.8

Property: SDUPD - Knight and Carver YachtCenter consisting of approximately 265,758 square feet of land and approximately 98,424 square feet of water located at 1313 Bay Marina Drive, National City

Negotiating Parties: Michael J. O'Leary, President /CEO, Knight and Carver YachtCenter, Inc. ;
Randa Coniglio, Karen Weymann, Kristine Zortman, Adam Meyer, Matthew J. Riopelle, Victor Vilaplana, Jeffrey McEntee and Karen Porteous – SDUPD

Under Negotiations: Price and Terms

Agenda Item 5.

CONFERENCE WITH REAL PROPERTY NEGOTIATOR
Government Code Section 54956.8

Property: Hilton Harbor Drive consisting of approximately 10.7 acres of tideland area located on the southwest corner of Harbor Drive and Eighth Avenue in the City of San Diego, California

Negotiating Parties: David Sloan, Sunstone Hotel Investors, Inc. ;
Karen Weymann, Shaun Sumner, Nick Markos, Jeffrey McEntee, Randa Coniglio and Karen Porteous - SDUPD

Under Negotiation: Price and Terms

Agenda Item 6.

PUBLIC EMPLOYEE APPOINTMENT, PERSONNEL EVALUATION OR DISCIPLINE:
APPOINTMENT OF THE PORT ATTORNEY

Government Code Section 54957

Agenda Item 7.

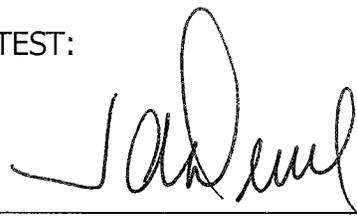
PUBLIC EMPLOYEE APPOINTMENT, PERSONNEL EVALUATION OR DISCIPLINE:
EXECUTIVE DIRECTOR PERFORMANCE EVALUATION

Government Code Section 54957

There was no formal or reportable action as to any closed session items, pursuant to Government Code Section 54950 et seq, to report from the closed session; whereupon, Chairman Smith adjourned the meeting.


Secretary, Board of Port Commissioners
San Diego Unified Port District

ATTEST:


Clerk of the San Diego Unified Port District

**MINUTES
BOARD OF PORT COMMISSIONERS
SAN DIEGO UNIFIED PORT DISTRICT**

The regular meeting of the Board of Port Commissioners of the San Diego Unified Port District was called to order by Chairman Smith at 1:04 p.m., Tuesday, September 19, 2012, in the Board Room at 3165 Pacific Highway, San Diego, California.

ROLL CALL

Agenda Item 1.

Present: COMMISSIONERS, Burdick, Malcolm, Moore, Nelson, Peters, Smith, and Valderrama.

OFFICERS: Brewer, Darbeau, Deuel, McEntee and Stup

Absent: No Commissioners absent.

Excused: No Commissioners excused.

CLOSED SESSION

Agenda Item 2. As requested by Chairman Smith, Celia Brewer, Interim Port Attorney, announced that there was no reportable action from the closed session.

PLEDGE OF ALLEGIANCE

Agenda Item 3. Commissioner Valderrama led the Pledge of Allegiance.

APPROVAL OF MINUTES

Agenda Item 4. Commissioner Peters offered a motion to re-approve the minutes for the June 12, 2012 regular meeting, the approval of the minutes for the July 10, 2012 regular meeting, August 13, 2012 special meeting, August 14, 2012 special meeting, and the August 14, 2012 regular meeting. Commissioner Burdick seconded the motion.

Referencing page 25 of the June 12, 2012 draft minutes, Commissioner Nelson requested that staff provide clarification, in the future, regarding the method utilized to track the Environmental Fund re-payments. Commissioner Nelson requested and

received confirmation from Timothy Deuel, District Clerk, that the June 7, 2012 special meeting minutes had been reviewed by staff, resubmitted for consideration at the August 14, 2012 regular meeting, and were subsequently approved. Commissioner Nelson requested that on page three, line 100 of the August 14, 2012 regular meeting minutes be amended to read, "He explained that the negotiations were 'publicly noticed' on closed session agendas many times during the past two years in which he had served on the Board."

On motion of Commissioner Peters, seconded by Commissioner Burdick, the Board re-approved the minutes for the June 12, 2012 regular meeting, approved the minutes of the July 10, 2012 regular meeting, August 13, 2012 special meeting, August 14, 2012 special meeting, and the August 14, 2012 regular meeting as amended, by the following vote: Yeas-Burdick, Nelson, Malcolm, Moore, Peters, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

PUBLIC COMMUNICATIONS

Agenda Item 5. Jeff Minkin addressed the Board and requested their consideration of granting him a variance to the recent updates to UPD Code 8.05, which regulates performing and vending activities on the San Diego Bay waterfront, including the sales of merchandise and services by for-profit, non-profits, and individuals on lands managed by the District. Mr. Minkin requested the Clerk assist with passing around samples of his handmade jewelry for the Board's review.

Rita Minkin addressed the Board regarding UPD Code 8.05 and requested the Commissioners consider granting a variance to her husband, Jeff Minkin.

Sophie Silvestri, Director of Operations, San Diego Port Tenants Association, addressed the Board with a report regarding the 22nd Annual Operation Clean Sweep, an event held on August 25, 2012, at which volunteers work together to remove trash and debris from a number of shoreside locations. She thanked Navy Region Southwest, the community volunteers, and District staff members for their support.

Chairman Smith thanked Ms. Silvestri and acknowledged the many members of the community for their involvement with the Operation Clean Sweep event.

COMMISSIONERS' REPORTS

Agenda Item 6. Commissioner Moore offered a report on the recent trip in which a delegation from the District, representatives from the World Trade Center, and the Chula Vista City Manager participated in a trade mission to China. She stated her belief

that the trip could result in future business opportunities for the District. She offered that one of the purposes of the trip was to investigate international funding opportunities as a means to move the Chula Vista Bayfront Master Plan development forward and that Chinese investment could augment traditional domestic funding sources. Commissioner Moore discussed a number of presentations that were offered to several potential investors and development companies. She discussed the visit with representatives from the Port of Nanjing. She concluded by expressing her support for the efforts to move forward with the development in the South Bay. Commissioner Moore turned the presentation over to Paul Fanfera, Interim Director, Environmental and Land Use Management department.

Mr. Fanfera read into the record a letter from Jim Sandoval, Chula Vista City Manager, who offered remarks on the trip and interest in the development project. (A copy of the letter is on file in the Office of the District Clerk.) He shared his observations regarding the trip and discussed the opportunities for funding future development in the region. He turned the presentation over to Wayne Darbeau, Executive Director.

Mr. Darbeau discussed the on-going trade business conducted between the District and several Chinese companies. He reviewed the financial impact of the business relationship and discussed Fitch Ratings' affirmation of the District's "A+ stable" status.

Commissioner Peters discussed his participation as the District's representative to the regional delegation attending the San Diego Regional Chamber of Commerce's Sixth Annual Trip to Washington D.C. He discussed the important issues facing the San Diego region such as defense cuts, sequestration, the challenges regarding the border crossing and implications to trade, and the development of a national freight strategy.

Chairman Smith remarked on his meeting with the Army Corps of Engineers, Mayor Jim Janney, the City of Imperial Beach and Gary Gallegos, Executive Director, San Diego Association of Governments. He discussed the Army Corps sand distribution efforts in the coastal communities.

CONSENT AGENDA

Chairman Smith requested that Timothy Deuel, District Clerk, announce any suggested docket changes. Mr. Deuel announced that additional agenda related materials were received after the publication of the agenda. He stated copies of the

materials were available for review at the Clerk's desk and would be posted to the District website.

Mr. Deuel announced the proposed changes to the agenda as follows: **Consent Agenda Item 9**, Ordinance Granting to Pacific Bell Company dba AT&T a 66-year Communications Utility Easement on Harbor Drive from Ash to "E" Street; staff requests this item be continued to a future Board meeting; **Consent Agenda Item 10**, Ordinance Granting to San Diego Gas & Electric Company a 66-Year Electricity Utility Easement on Tuna Lane in Tuna Harbor; staff requests this item be continued to a future Board meeting; **Consent Agenda Item 20A**, North Embarcadero Visionary Plan Phase 1: Resolution Authorizing Amendment No. 2 to Agreement 46-2011 with Project Design Consultants for the North Embarcadero Visionary Plan, Phase 1 Design Support Services to increase the agreement amount by [approx. \$350,000], increasing the aggregate total of the agreement from \$567,287.46 to [approx. \$917,xxx.xx]; staff requests this item be continued to a future Board meeting; and **Consent Agenda Item 20B**, North Embarcadero Visionary Plan Phase 1: Resolution Authorizing Amendment No. 2 to Agreement 47-2011 with Arcadis US, Inc. for the North Embarcadero Visionary Plan, Phase 1 Construction Management Services to increase the agreement amount by [approx. \$400,000], increasing the aggregate total of the agreement from \$1,697,278.72 to [approx. \$2,1xx.xxx.xx]; staff requests this item be continued to a future Board meeting.

On motion of Commissioner Burdick, seconded by Commissioner Valderrama, the Board accepted the suggested changes to the agenda, by the following vote: Yeas-Burdick, Malcolm, Moore, Nelson, Peters, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

On motion of Commissioner Burdick, seconded by Commissioner Moore, the Board adopted Consent Agenda items 7, 8, 11, 12, 13, 14, 15AB, 16, 17AB, 18A, 18B, 19, and 20C (**Resolution 2012-117, Resolution 2012-125, Resolution 2012-126, Ordinance 2687, Resolution 2012-127** through and including **Resolution 2012-131, Ordinance 2688, Resolution 2012-132** through and including **Resolution 2012-134**) by the following vote: Yeas-Burdick, Malcolm, Moore, Nelson, Peters, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

Agenda Item 7. Resolution 2012-117, Selecting and Authorizing Agreements with AMEC Environment and Infrastructure, Inc., and Merkel & Associates Inc. to provide as-needed laboratory and bioassay services for a total amount not to exceed \$525,000 for a period of three years, was adopted as part of the consent agenda.

Agenda Item 8. **Resolution 2012-125**, Consenting to a new 10-Year Management Agreement with one 5-year option between Wyndham Hotel Management, Inc. and BHR Operations, L.L.C. for operation of the Holiday Inn on the Bay at 1355 North Harbor Drive, with Wyndham Hotel Management, Inc. as the new hotel operator, was adopted as part of the consent agenda.

Agenda Item 9. **Item continued to a future meeting.**

Agenda Item 10. **Item continued to a future meeting.**

Agenda Item 11. **Resolution 2012-126**, Consenting to Loan from California Bank and Trust to Silver Gate Yacht Club to construct a new clubhouse building in an amount not to exceed \$4,000,000, was adopted as part of the consent agenda.

Agenda Item 12. **Ordinance 2687**, Granting Amended Restated and Combined Lease for one additional five-year lease term extension to Weyerhaeuser Company expiring on May 31, 2019 for property located in National City, was adopted as part of the consent agenda.

Agenda Item 13. **Resolution 2012-127**, Granting Concept Approval for the proposed Solar Turbines Building 10 Seismic Upgrade Project, was adopted as part of the consent agenda.

Agenda Item 14. **Resolution 2012-128**, Selecting and Authorizing Three Year Agreements with Glen A Rick Engineering & Development Corporation DBA Rick Engineering Company, RBF Consulting, Psomas, Nasland Engineering, and Halcrow, Inc. for as-needed civil engineering services for an amount not to exceed \$1,500,000, was adopted as part of the consent agenda.

Agenda Item 15AB. **Resolution 2012-129**, Approving two individual project plans for Public Art Projects outlined in the Adopted five-year Curatorial Strategy 2012-2016: A) A project planning document for "Wrap," a future public art project in support of the District's "Working" public art creative direction and B) A project planning document for "Connector," a future public art project in support of the District's "Public" public art creative direction; was adopted as part of the consent agenda.

Agenda Item 16. **Resolution 2012-130**, Granting Indemnity and Agreeing to a Limitation of Liability with SAP Public Services, Inc. for Software Services to enable online, paperless travel and expense reimbursement processing, was adopted as part of the consent agenda.

Agenda Item 17. **Resolution 2012-131**, California Public Safety Procurement Program Section 1033, Excess Property Program: A) Authorizing Memorandum of Understanding with the California Emergency Management Agency and Granting Indemnification to the United States Government, California Emergency Management Agency, and the State of California and B) Authorizing a Weapons Agreement with the California Emergency Management Agency and Granting Indemnity to the United States Government and the State of California; was adopted as part of the consent agenda.

Agenda Item 18A. **Ordinance 2688**, Establishing a Schedule of Compensation for All Officers and Employees of the San Diego Unified Port District, was adopted as part of the consent agenda.

Agenda Item 18B. **Resolution 2012-132**, Amending the San Diego Unified Port District Directory of Classification Specifications For Fiscal Year 2012 – 2013, was adopted as part of the consent agenda.

Agenda Item 19. **Resolution 2012-133**, Granting Indemnity and Agreeing to a limitation of liability for Data Protection with American Express Travel Related Services Company Inc., was adopted as part of the consent agenda.

Agenda Item 20A. **Item continued to a future meeting.**

Agenda Item 20B. **Item continued to a future meeting.**

Agenda Item 20C. **Resolution 2012-134**, Waiving BPC Policy No. 110, Part II.C to Authorize Amendment No. 1 to the Agreement with Ninyo & Moore for Construction Oversight Services during Construction of the North Embarcadero Visionary Plan Phase 1 to increase the agreement amount by \$195,000, increasing the aggregate total of the agreement from \$124,972 to \$319,972, and extending the agreement until March 31, 2014, was adopted as part of the consent agenda.

Chairman Smith announced that a request to speak form was submitted regarding Consent Agenda Item 8 and the matter would be trailed to the end of the meeting.

PUBLIC HEARING AGENDA

SAN DIEGO CONVENTION CENTER PHASE III EXPANSION AND EXPANSION HOTEL

- A) CONDUCT PUBLIC HEARING AND ADOPT RESOLUTION CERTIFYING ENVIRONMENTAL IMPACT REPORT, ADOPTING FINDINGS OF FACT AND A STATEMENT OF OVERRIDING CONSIDERATIONS, ADOPTING MITIGATION MONITORING AND REPORTING PROGRAM, AND DIRECTING FILING OF THE NOTICE OF DETERMINATION.**

- B) CONDUCT PUBLIC HEARING AND ADOPT RESOLUTION APPROVING PORT MASTER PLAN AMENDMENT, AND DIRECTING FILING WITH THE CALIFORNIA COASTAL COMMISSION FOR CERTIFICATION.**

- C) ORDINANCE GRANTING AMENDMENT NO. 1 TO THE AMENDED, RESTATED, AND COMBINED LEASE BETWEEN THE DISTRICT AND THE SAN DIEGO CONVENTION CENTER CORPORATION FOR THE CONVENTION CENTER EXPANSION PROJECT, WITH CONDITIONS.**

- D) ORDINANCE AUTHORIZING A SUPPORT AGREEMENT BETWEEN THE DISTRICT AND THE CITY OF SAN DIEGO FOR THE CONVENTION CENTER EXPANSION PROJECT, WITH CONDITIONS.**

Agenda Item 23AB. Jerry Sanders, Mayor, City of San Diego, addressed the Board regarding the Convention Center Phase III Expansion Project and discussed the economic benefits to the region. He requested the Board consider the matter and adopt the staff recommendations.

Randa Coniglio, Executive Vice President – Operations, addressed the Board with a staff report regarding the Convention Center Phase III Expansion Project. Ms. Coniglio reported that based upon recent negotiations, staff had modified the published recommendations for Items 23C and 23D. Thus, she requested the Board consider Items 23C and 23D “without conditions” and that modified ordinances were prepared and distributed for review. She discussed the efforts made regarding the condition related to “equity or balance of investments” among the five member cities. Ms. Coniglio turned the presentation over to Anna Buzaitis, Associate Redevelopment Planner, Environmental and Land Use Management Department. (A copy of the presentation and the staff report is on file in the Office of the District Clerk.)

Ms. Buzaitis presented the project’s Environmental Impact Report (EIR) and Proposed Port Master Plan Amendment (PMPA) for the Board’s consideration. She explained that the staff report and the fifth recital in the draft resolution for Item 23A stated that the City (of San Diego) currently holds a lease with the District for the Convention Center expansion and that the resolution should be revised to reflect that, it

is in fact the San Diego Convention Center Corporation that holds the lease. Upon concluding her presentation, she requested that the Board receive the presentation from the project applicants and then conduct a public hearing on the matters of the EIR and the PMPA.

She turned the presentation over to Charles Black, Expansion Project Manager, City of San Diego, who addressed the Board regarding the proposed development and the recommendation. Mr. Black turned the presentation over to David Sloane, One Park Boulevard – Sunroad Hotels, and Kipland Howard, Allegis Development - representing One Park Boulevard, who discussed the hotel-expansion project proposed.

Chairman Smith opened the public hearing. The following members of the public addressed the Board with varying viewpoints regarding the matter: David Steel, Researcher, UNITE HERE! Local 30; Ellen Trescott, Attorney, San Diego Coalition for a Better Convention Center; Tom Lemmon, Manager, San Diego County Building and Construction Trades Council ceded his time to Ms. Trescott; Diane Coombs, Co-Chair, Navy Broadway Complex Coalition; Rudolph Pimentel; Kevin Dayton, Labor Issues Solutions, LLC; Sharon Bernie-Cloward, President, San Diego Port Tenants Association; Kris Michell, President/CEO, Downtown San Diego Partnership; Ignacio De La Torea, Chairman, Downtown San Diego Partnership; Paul Webster, Vice President, San Diego Regional Chamber of Commerce; Gary Floyd, Bellman, Hilton Bayfront Hotel; Todd Shallan, Chairman, CONVIS; Elisa Wolensky, Housekeeping, Hilton Bayfront Hotel; Pat Stark, Vice Chair, Center City Advisory Committee; Allen Bushman, Engineer, Hilton Bayfront Hotel; Mitchell Woodbury, Chairman of the Board, San Diego Symphony; Chris Duggon, Director Government Affairs, California Restaurant Association; Lorena Gonzalez; Perry Dealy, Board Member, Downtown San Diego Partnership, and Ruben Barrales, President & CEO, San Diego Regional Chamber of Commerce. Chairman Smith confirmed that while David Sloan and Kipland Howard had submitted request to speak forms, they had offered their comments earlier.

As no other members of the public requested to speak regarding the matter, Chairman Smith closed the public hearing on the two matters. He offered staff the opportunity to address the matters raised during the public hearing.

Michael Hogan, Special Counsel for the District, announced that staff had begun review of a 400-page document regarding the matter that was submitted approximately one-hour prior to the commencement of the regular meeting by Adams Broadwell Joseph & Gardozo Attorneys at Law (Adams Broadwell et al.) representing the San Diego Coalition for a Better Convention Center. He requested that Chairman Smith consider taking a brief recess to allow staff to complete their review those documents.

Concerning Commissioner Nelson's request for clarification, Chairman Smith stated his preference that staff complete their review of the Adams Broadwell et al. document prior to taking document-related questions from the Board.

Chairman Smith acknowledged the staff request and announced that the Board would take a 15-minute recess. The Board recessed at 2:50 p.m. Chairman Smith called the meeting back to order at 3:09 p.m.

Ms. Buzaitis addressed the questions raised regarding an "appealable" versus a "non-appealable" PMPA project list and offered that staff believed the retail uses, such as coffee shops and restaurants, cited in the convention center expansion project were ancillary uses and staff maintained the non-appealable criteria established was appropriate. She noted that the previous convention center projects' Coastal Development Permits (CDP) were also non-appealable and explained that the criteria regarding "appealable" versus a "non-appealable" permit was addressed in California Coastal Commission staff reports.

Regarding the relocation of the water transportation center, Ms. Buzaitis offered that staff found it to be a "non-appealable" CDP matter as it was consistent with the existing water transportation center.

Regarding the public outreach efforts, she offered that staff had prepared a list of the numerous meetings held regarding the expansion project.

Mr. Hogan addressed a number of matters cited in the Adams Broadwell et al. document. He offered that upon review of the statements regarding the adequacy of the EIR or the District's responses to previous public comments submitted by the firm on behalf of UNITE HERE! Local 30, staff found them to be follow-up comments to responses. He offered that staff assessed that most of the material reflected a disagreement of either methodologies, assumptions, or other ways of analyzing impacts; however, there were a number of comments that contained good suggestions that staff believed merited a response. He reviewed four points for the Commissioners' consideration and recommended a slight revision to certain mitigation measures, which were recommended in the EIR. The four points were as follows: 1) The clarification of the language regarding the requirement of a Phase II study of potential hazardous material contamination does apply to the entire project site. 2) In regard to prior testing for certain compounds considered hazardous or toxic as listed on page 19 of the Adams Broadwell et al. letter submitted, he offered staff would revise mitigation measures titled MM-HAZ-1a and MM-HAZ-1b in the EIR to include the list of compounds including: furans, polychlorinated dibenzo-p-dioxins and polychlorinated-dibenzo-p-furans, phenols

and cyanide. 3) In addressing references to air quality impacts and the purchase of emission credits, staff determined that no additional mitigation measures were necessary regarding operation of the stationary facility and related long-term emissions. However, regarding unmitigated construction emission impacts, staff recommended adding a provision to mitigation measure AQ-1 to state "if available and if applicable, the project applicants will purchase air quality off-set credits and off-sets through the established emission banking program in San Diego County." 4) He clarified the mitigation measures included in the EIR regarding the cumulative impacts to traffic in the area and stated the proposal regarding re-striping of some of the City of San Diego streets in that area to accommodate additional traffic flow. Mr. Hogan concluded by offering that, while there were a number of other matters expressed in the Adams Broadwell et al. document and that there may be differing opinions with how an analysis was conducted, staff believed those matters had been adequately and completely addressed in the EIR or in previous responses to comments. (A copy of the staff report, presentation and Adam Broadwell et al. submittal is on file in the Office of the District Clerk.)

Commissioner discussion ensued. Commissioner Nelson acknowledged the leadership shown by Mayor Sanders and his efforts to work with stakeholders regarding the proposed expansion. He offered that the process would serve as a model for other municipalities. In light of the comments offered during the public hearing, he expressed his hope that all of the stakeholders would find a way to work together to move the project through the California Coastal Commission review process to ensure success. In regard to any requirements to consult with State or County agencies regarding current or past landfills at the site prior to certifying the EIR, Commissioner Nelson requested and received clarification from Mr. Hogan that there was no further action required beyond the mitigation measures MM-HAZ-1a and MM-HAZ-1b discussed earlier. Commissioner Nelson requested and received confirmation from Mr. Hogan that he believed the District had adequately responded to the Department of Toxic Substance Controls' comments. Commissioner Nelson requested and received confirmation from Mr. Hogan that he did not believe there was any need for further evaluation of the wastewater flows prior to the Board proceeding with its consideration of certifying the EIR and the related actions. Commissioner Nelson requested and received confirmation from Mr. Hogan that the 2010 Traffic Study did not "endanger the survivability" of the EIR. Commissioner Nelson requested and received confirmation from Mr. Hogan that the District adequately evaluated the proposed desalination and water treatment facilities, the resulting energy, and the disposal of brine resulting from the desalination process.

Concerning whether a project is "appealable" or "non-appealable," Commissioner Nelson requested further clarification regarding the California Coastal Commission's criteria.

Ms. Buzaitis stated that the definitions of "appealable" or "non-appealable" Coastal Development Permits were defined in the Port of San Diego Coastal Development Permit Regulations.

Commissioner Nelson requested and Mr. Hogan affirmed that it was the opinion of the District's counsel that the project was a "non-appealable" project.

Commissioner Burdick noted, for the record, that during the past five days she had spent a significant amount of time reviewing the final EIR (FEIR); the Mitigation Monitoring and Reporting Program; the Finding of Facts and the Statement of Overriding Considerations. She stated that she reviewed the PMPA and exhibits, the amended and re-stated Convention Center Agreement and the Support Agreement. She acknowledged hearing all of the oral arguments that were proposed, and stated she felt she did a thorough review of the Adams Broadwell et al. letter and exhibits in a very short period.

Concerning Ms. Trescott's remarks regarding dioxins in burn ash and related land contamination issues, Commissioner Burdick requested clarification regarding whether dioxins would be on the list of contaminants included in the revised mitigation measures document labeled MM-HAZ-1.

Mr. Hogan offered that staff intended to include dioxin in the list.

Concerning Ms. Trescott's remarks as to the mitigation analysis of potentially contaminated locations disclosed in the Draft Environmental Impact Report (DEIR), Commissioner Burdick requested clarification as to whether only the Campbell Shipyard capped location was investigated, or, whether the District performed mitigation analysis on the entire site.

Mr. Hogan offered that the Phase II Environmental Site Assessment would apply to the entire site, and requested that Charles Richmond, Project Manager, ICF International, provide further clarification.

Mr. Richmond offered that the DEIR identified pockets of contamination or potential pockets of contamination throughout the project site, explained that substantial remediation had taken place during other phases of development at the site,

and offered that the analysis could not predict any extensive encounters of contaminated soils during excavation.

Commissioner Burdick requested clarification as to whether potential contamination would be looked for throughout the site, or, only in the designated disclosed areas. He confirmed that in the FEIR, a clarification had been made and the Phase II Environmental Site Assessment covered the entire site and figure 4.7.1 was modified to indicate the site that would undergo a Phase II Environmental Site Assessment (ESA) evaluation.

In light of the public comments regarding changes in the DEIR and requests for extending the review period of the FEIR, Commissioner Burdick requested staff respond the following questions, for the record.

Commissioner Burdick requested clarification as to whether the FEIR found any substantial environmental impacts that were not previously identified in the DEIR.

Mr. Hogan stated staff did not.

Commissioner Burdick requested clarification as to whether any of the revisions to the DEIR that were included in the FEIR result in any situation where a previously determined "adequate mitigation measure" or a "significant environmental impact that could be adequately mitigated" changed to "unmitigatable" in the FEIR?

Mr. Hogan replied, no.

Commissioner Burdick requested clarification as to whether any of the revisions leading to the FEIR change a significant "unmitigatable" impact to one that could be "adequately mitigated" under the MMRP?

Mr. Hogan replied, no.

Commissioner Burdick remarked, for the record, that one of the statements in the Adams Broadwell et al. letter was regarding whether the District adequately evaluated alternative sites and read from page 6 of their letter. She requested clarification as to whether staff investigated some off-site alternatives.

Mr. Hogan confirmed off-site alternatives were investigated; offered clarification regarding how alternatives could be evaluated, and stated that more detail regarding the non-contiguous, off-site alternate locations investigated for the convention center expansion was included in the FEIR.

Commissioner Burdick queried as to whether the District was legally obligated to evaluate "every single possible" off-site alternative that any party might suggest.

Mr. Hogan replied, no.

Concerning page 8 of the Adams Broadwell et al. letter, Commissioner Burdick requested clarification regarding staff's decision to use the Bay Area Air Quality Management District's (BAAQMD) guidelines for estimated greenhouse gas emissions and air quality and not the City of San Diego's standard.

Mr. Hogan offered that there is no set standard required regarding the study of greenhouse gas emissions; and the California Environmental Quality Act (CEQA) states that each agency is to determine its own standard and authorizes the use of a standard developed by others. He continued by describing why the District found the BAAQMD standards appropriate for the project under consideration and offered that further clarification was available in the FEIR.

Commissioner Burdick requested and received confirmation from Mr. Hogan that he believed the environmental review of the BAAQMD standards were still under review.

Concerning page 9, Section 4 of the Adams Broadwell et al. letter, Commissioner Burdick requested clarification regarding the statement, "The EIR fails to incorporate all feasible mitigation measures necessary to reduce such impacts to a level of insignificance." She requested clarification as to whether all feasible mitigation measures required to be included in the EIR adequately mitigate the impacts to an insignificant level.

Mr. Hogan replied no, as long as the District adopts measures that reduce the impact below significance, and, there may be additional measures that could be adopted but the District was not required to adopt all of the measures.

Commissioner Burdick discussed her observations regarding the Statements of Overriding Considerations, described the public benefit of the rooftop park plaza installed on Osanbashi Yokohama International Passenger Terminal in Yokohama, Japan, and offered that such a rooftop park space atop the proposed convention center expansion would also be a public amenity.

Commissioner Malcolm acknowledged Mayor Sanders' remarks and recognized him for his leadership. He disclosed that he had also spent a considerable amount of time reading the materials, the PMPA, the staff materials, and listened to the speakers' comments. He offered that, as lead agency, the Board makes its determination based

upon an understanding of what was in the record. Concerning a statement on page 3 of the Adams Broadwell et al. letter referencing "new information" and "The Project description has been revised to indicate that the Project will include a brackish water desalination and contamination treatment system capable of treating 140,000 gallons...", Commissioner Malcolm requested clarification as to whether the information had been "already talked about" in the EIR.

Mr. Hogan confirmed it was in the EIR, and the issue was addressed in the responses to comments in the FEIR.

Concerning a statement on page 3 of the Adams Broadwell et al. letter referencing "The Sewer Capacity Study has been revised to indicate that wastewater flows from the Convention Center and surrounding facilities will be almost three times the flows predicted in the DEIR," Commissioner Malcolm requested clarification regarding that statement.

Mr. Hogan confirmed the matter was also discussed and staff acknowledged that the flows would be greater than predicted in the DEIR. He stated that staff also determined that the recommended improvements in the area and the installation of a larger sewer pipe would be sufficient to handle the flows. Mr. Hogan offered that from a legal point of view, staff found it did not result in a significant impact.

Concerning a statement on page 10 of the Adams Broadwell et al. letter, "The EIR is incorrect and provides no evidence that the Project will have no effect on the existing designated Park Boulevard major view corridor," and referencing a letter received from the Ball Park Village regarding the 6th Avenue view corridor, Commissioner Malcolm requested a response regarding the assertion.

Ms. Buzaitis offered information regarding the multi-year timeframe in which actions taken by the District and the City of San Diego that led to the elimination of what was the 6th Avenue view corridor and the 8th Avenue view corridor. She explained that in 2006 the City of San Diego changed their Community Plan to show that Park Boulevard was the only designated view corridor in the project area. She offered that Park Boulevard was designated as the "park to bay link" and the project would preserve the Park Boulevard view corridor.

Regarding the Phase II Environmental Site Assessment, Commissioner Malcolm requested and received confirmation from Mr. Richmond that significant studies at the site were conducted over the course of time.

In regard to page 12 of the Adams Broadwell et al. letter stating, "The Port has refused to address the impacts to traffic, air quality, human health, and greenhouse gas emissions associated with transporting soil that is likely contaminated with lead, polyaromatic hydrocarbons, and dioxins to an appropriate landfill facility located several hours away," Commissioner Malcolm requested whether the District had addressed the soil transporting matter in the EIR.

Mr. Richmond offered that the issue of soil transporting was highly regulated by existing Department of Transportation regulations and the project applicant was required to abide by those laws. He confirmed that matter was addressed in the EIR.

Discussing the rooftop park proposed to replace the existing park; Commissioner Malcolm requested and received confirmation from Ms. Buzaitis about the level of research staff conducted regarding the uses of elevated or rooftop urban park facilities and the worldwide trend for developing such spaces.

Commissioner Malcolm requested clarification as to whether there were indemnifications for the District pursuant to the EIR being legally challenged.

Celia Brewer, Interim Port Attorney, offered there were legal indemnifications for the District in proportional shares from the City of San Diego and One Park Boulevard.

Commissioner Peters requested clarification as to why staff did not recommend recirculating the EIR based upon new information.

Mr. Hogan offered that CEQA provided clear guidelines and standards as to when recirculation was required. Staff had reviewed all of the comments received and found that there were no "new or more substantially severe impacts" that had not been studied previously, thus determining recirculation was not required. He discussed the intent of the amended mitigation measures and the recirculation guidelines provided under CEQA.

Commissioner Peters offered a motion to adopt the staff recommendation for item 23A: to adopt a Resolution certifying the Environmental Impact Report, adopting the Findings of Fact and a Statement of Overriding Considerations, adopting a Mitigation Monitoring and Reporting Program, and directing a filing of the Notice of Determination; and for item 23B: to adopt a Resolution approving a Port Master Plan Amendment, and directing Filing with the California Coastal Commission for certification. Commissioner Nelson seconded the motion.

Given the importance of the project to the District, the City, and the region, Commissioner Peters offered his assistance to work with interested stakeholders to facilitate discussions regarding the project in an effort to “make peace” and avoid lawsuits.

Commissioner Moore thanked Mayor Sanders for his assistance and for expressing his support, on the record, for the Chula Vista Bayfront Master Plan. She concurred with Commissioner Peters’ remarks regarding the benefits of working collaboratively to resolve any project concerns. She acknowledged the importance of the project and offered her support.

Commissioner Valderrama concurred with the Commissioner’s remarks regarding the project. He requested and received confirmation from Mr. Hogan that staff believed they had addressed the questions that were raised, and supported moving forward with the FEIR as recommended. He acknowledged the importance of the project for the District, the City, and the region; supported moving forward; and expressed his desire to address the stakeholder concerns raised.

Commissioner Nelson discussed the presentation of the design. He offered several examples of projects that had labor-peace agreements in place. He discussed the concept of a tolling agreement to allow additional time to continue negotiations before one of the parties begin filing of a lawsuit.

Chairman Smith requested and received clarification from Commissioner Peters that his motion regarding items 23A and 23B approving the staff recommendations shown in the staff report and the amendments offered by staff following the earlier recess.

Commissioner Nelson confirmed the intent of the motion as the member who offered the second.

Chairman Smith thanked Mayor Sanders, acknowledged the efforts of the team members who brought such an intricate matter forward and discussed the importance of the project for the region.

On a single motion by Commissioner Peters, seconded by Commissioner Nelson, the Board with a single vote adopted **Resolution 2012-135** certifying the Environmental Impact Report, adopting Findings of Fact and a Statement of Overriding Considerations, adopting Mitigation Monitoring and Reporting Program, and directing filing of the Notice of Determination and **Resolution 2012-136**, approving Port Master

Plan Amendment, and directing filing with the California Coastal Commission for certification, by the following vote: Yeas-Burdick, Malcolm, Moore, Nelson, Peters, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

SAN DIEGO CONVENTION CENTER PHASE III EXPANSION AND EXPANSION HOTEL

C) ORDINANCE GRANTING AMENDMENT NO. 1 TO THE AMENDED, RESTATED, AND COMBINED LEASE BETWEEN THE DISTRICT AND THE SAN DIEGO CONVENTION CENTER CORPORATION FOR THE CONVENTION CENTER EXPANSION PROJECT, WITH CONDITIONS.

Agenda Item 23C. Nick Markos, Senior Asset Manager, Real Estate Department, offered a presentation regarding an ordinance unconditionally granting Amendment No. 1 to the Amended, Restated, and Combined Lease between the District and the San Diego Convention Center Corporation for the Convention Center Expansion Project, and requested the Board's consideration of the matter. (A copy of the staff report is on file in the Office of the District Clerk.)

Commissioner discussion ensued. Commissioner Peters offered a motion to adopt the staff recommendation to adopt an ordinance unconditionally granting Amendment No. 1 to the Amended, Restated, and Combined Lease between the District and the San Diego Convention Center Corporation for the Convention Center Expansion Project. Commissioner Moore seconded the motion.

Celia Brewer, Interim Port Attorney, announced that an amended ordinance had been distributed earlier, and Commissioner Peters confirmed that his motion was to approve that amended ordinance.

Commissioner Malcolm requested additional clarification from staff regarding the separation of the "option" from the "other obligations and burdens" of the lease transfer and specifically the payment of rent.

Mr. Markos confirmed that the current agreement allowed for the assignment from the Convention Center Corporation to the City of San Diego. He explained that the assignment of the option portion built within the lease would provide the City of San Diego with the ability to exercise the option and continue pursuing the expansion and before development, the remaining requirements in the lease would rest with the San Diego Convention Center Corporation including paying of rent and other maintenance responsibilities. He stated that once the City of San Diego commences

construction the existing Amended, Restated, and Combined Lease would then be terminated.

In response to Commissioner Malcolm's request for clarification, Shaun Sumner, Area Real Estate Manager, Real Estate Department, also offered that not only would the existing lease be terminated, but, it would be superseded by a new comprehensive management agreement of the entire premises that would vest total responsibility with the City of San Diego.

Timothy Deuel, District Clerk, announced copies of the revised ordinance were available for the public and would also be posted to the District website.

On a motion by Commissioner Peters, seconded by Commissioner Moore, the Board adopted **Ordinance 2689**, unconditionally granting Amendment No. 1 to the Amended, Restated, and Combined Lease between the District and the San Diego Convention Center Corporation for the Convention Center Expansion Project, by the following vote: Yeas-Burdick, Malcolm, Moore, Nelson, Peters, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

SAN DIEGO CONVENTION CENTER PHASE III EXPANSION AND EXPANSION HOTEL

D) ORDINANCE AUTHORIZING A SUPPORT AGREEMENT BETWEEN THE DISTRICT AND THE CITY OF SAN DIEGO FOR THE CONVENTION CENTER EXPANSION PROJECT, WITH CONDITIONS.

Agenda Item 23D. Shaun Sumner, Area Real Estate Manager, Real Estate Department, addressed the Board with a presentation and requested consideration of an ordinance authorizing a Support Agreement between the District and the City of San Diego for the Convention Center Expansion Project. Mr. Sumner announced that a revised ordinance was distributed and that staff requested consideration of the matter without conditions. He discussed the results of the economic impact studies and the sensitivity analysis data. He stated for the record that a typographical error on page 10 in section 6.07 of the Support Agreement (Attachment I to item 23D) cited references to "Section 3.01(d)" and should be stricken, and replaced with references to "Section 3.01(e)." Mr. Sumner concluded his report and requested consideration of the staff recommendation without conditions. (A copy of the presentation and the staff report is on file in the Office of the District Clerk.)

Commissioner discussion ensued. Commissioner Peters offered his thanks to Mayor Sanders and the City of San Diego for working to address all of the conditions requested by the District. He thanked staff for their efforts and offered a motion to approve the amended staff recommendation.

Commissioner Burdick seconded the motion. She also thanked Mayor Sanders and his staff members for addressing the conditions that were necessary for the District to fulfill its fiduciary responsibilities, and to support what she characterized as one of the most important regional economic development projects. She thanked staff for their efforts to address the Board's concerns and for completing successful negotiations among multiple government agencies. She acknowledged the data reported in the sensitivity analysis reports that provided important evidence to support the decision in the public trust.

Commissioner Nelson opined on the circumstances that may have affected the ability to capture data regarding the number of convention attendees. He offered that reservations made outside of the San Diego Convention Center Corporation reservation services were referred to as "out of block bookings" which were often made via on-line travel services and would not have been captured in the audited data. He requested that District staff consider a way to work with the City of San Diego's independent auditor in the future to "set the record straight." Commissioner Nelson spoke to the integrity of the data reported in the staff commissioned sensitivity analysis conducted by PKF Consulting and Economic & Planning Systems (EPS).

Commissioner Malcolm discussed the regional benefits of the Convention Center expansion project and offered that the District was making a prudent investment decision. He acknowledged the importance of the data presented in the enhanced sensitivity analysis. He congratulated all the stakeholders for their hard work to move the project forward.

Commissioner Valderrama concurred with Commissioner Malcolm's remarks and then acknowledged Steven Cushman, Commissioner Emeritus, for his efforts to move the project forward.

Chairman Smith also acknowledged his fellow Commissioners for their efforts and acknowledged staff for working with stakeholders to work through the conditions and present a project that benefits the District plus the entire San Diego region. He also acknowledged Steven Cushman, Commissioner Emeritus, for his efforts.

On a motion by Commissioner Peters, seconded by Commissioner Burdick, the Board adopted **Ordinance 2690**, authorizing a Support Agreement between the District and the City of San Diego for the Convention Center Expansion Project, without conditions, by the following vote: Yeas-Burdick, Malcolm, Moore, Nelson, Peters, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

Commissioner Moore left the dais at 4:32 p.m. and returned at 4:38 p.m.

ACTION AGENDA

PRESENTATION OF THE SAN DIEGO UNIFIED PORT DISTRICT 2012 EMPLOYEE OF THE SECOND QUARTER.

Agenda Item 21. Michele Corbin, Director, Human Resources introduced the Employee Recognition Awards Program and turned the presentation over to Wayne Darbeau, Executive Director to announce the winner.

Mr. Darbeau announced that Romero San Agustin, Business Systems Supervisor, Business Information & Technology Services Department, was selected as 2012 Employee of the Second Quarter. Mr. San Agustin was cited for taking prompt and independent action to find new and better ways of performing his job. Utilizing his knowledge and understanding of SAP, he worked with customers to implement a number of business process improvements in the General Services and Procurement Department. (A copy of the presentation and the staff report is on file in the Office of the District Clerk.)

Chairman Smith recognized Mr. San Agustin's children present for the award presentations and acknowledged that their father's work touches every District employee. Mr. San Agustin addressed the Board, thanked his team members and recognized his children.

PRESENTATION OF GREEN PORT PROGRAM 2011/2012 YEAR IN REVIEW, RECOGNITION OF GREEN PORT MONTH, AND EMPLOYEE ENVIRONMENTAL AWARDS.

Agenda Item 22. Paul Fanfera, Interim Director, Environmental and Land Use Management Department, introduced the item and turned the presentation over to Jenny Lybeck, Assistant Environmental Specialist, Environmental and Land Use Management Department. Ms. Lybeck provided an overview of the Green Port Program,

discussed the 2011/2012 Year in Review and discussed the Employee Environmental Awards.

Chairman Smith recognized the Employee Environmental Award winners: Sheila Kanoya, Special Events Associate, Marketing and Communications Department; Larry Sherry, Manager, Engineering Construction Department; and Barbara Moreno and Glenn Batuyong, Web Team, Marketing and Communications Department. He acknowledged the District's commitment to the Green Port Program and environmental stewardship.

Kayla Race, Environmental Health Coalition, addressed the Board, commended the results reported; discussed tenant participation levels in the San Diego Gas & Electric (SDG&E) Energy Audit and rebate program. She acknowledged the education effort made and advocated for increasing the tenant's active participation in environmental stewardship efforts. She discussed the recommendations in her email related to the Climate Mitigation and Adaptation Plan (CMAP) goals and a decrease in funding from SDG&E. (A copy of Ms. Race's email is on file in the Office of the District Clerk.)

Timothy Deuel, District Clerk, announced copies of Ms. Race's email were available for the public.

Jeff Alexander, Program Administrator, SDG&E, addressed the Board regarding his corporation's support for working collaboratively with the District on the various Green Port Program initiatives. He acknowledged staff for their efforts to implement green programs and offering that they are a model for the local government, the region and the State. He concluded by offering his thanks to the Board and the District.

PUBLIC HEARING AGENDA CONTINUED

CONDUCT PUBLIC HEARING AND ADOPT AN ORDINANCE AMENDING THE PORT OF SAN DIEGO TARIFF NO. 1-G, RATES AND CHARGES, TO INCREASE CERTAIN RATES AND CHARGES AND UPDATE LANGUAGE.

Agenda Item 24. Joel Valenzuela, Director, Maritime Operations, addressed the Board and offered a presentation regarding the proposed ordinance to amend the Port of San Diego Tariff No. 1-G. He requested that a public hearing be opened; the Commissioners take public comment; and then consider staff recommendation. (A copy of the staff report is on file in the Office of the District Clerk.)

Chairman Smith opened the public hearing. As no members of the public requested to speak, Chairman Smith closed the public hearing.

Commissioner discussion ensued. Commissioner Burdick requested clarification regarding the staff's recommendation in light of the California Association of Port Authorities' recommendation against any general rate increase for the year. Mr. Valenzuela offered that based upon the market analysis; the District, as well as two other California ports, determined that an increase would be "on par" with other ports on the West Coast of the United States. Being mindful of maximizing revenue potential while maintaining client relationships, he further clarified that the proposed rates would be plus or minus 10 percent of other ports' rates. Concerning a passage on page four of the staff report regarding customer notification letters, Mr. Valenzuela clarified, for the record, that the letters sent to customers indicated that a rate increase was proposed and pending consideration by the Board, thus if approved, any tariff increase would be effective on November 1, 2012. In light of the clarification regarding the notification letters, Commissioner Burdick offered a motion to support the staff recommendation to adopt the ordinance.

Commissioner Malcolm seconded the motion.

Commissioner Valderrama requested and received clarification from Mr. Valenzuela regarding the customer responses and the concerns expressed regarding the notification of proposed increases. Mr. Valenzuela remarked on the outcome of discussions with the customers who had expressed concern regarding the proposed rates.

On a motion by Commissioner Burdick, seconded by Commissioner Malcolm, the Board adopted **Ordinance 2691**, amending the Port of San Diego Tariff No. 1-G, Rates and Charges, to increase Certain Rates and Charges and Update Language, by the following vote: Yeas-Burdick, Malcolm, Moore, Nelson, Peters, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

ACTION AGENDA CONTINUED

REVIEW AND CONSIDERATION OF PROPOSED BOARD AGENDA FOR THE MEETING OCTOBER 9, 2012.

Agenda Item 25. Commissioner Malcolm offered a motion to approve the proposed agenda. Commissioner Moore seconded the motion.

Commissioner Peters requested that staff contemplate putting a tolling agreement regarding the Convention Center on the upcoming agenda if it would be useful to the appellants and the City of San Diego. The maker of the motion and the seconder accepted the amendment to the motion.

On motion of Commissioner Malcolm, seconded by Commissioner Moore, the Board adopted the proposed agenda for the meeting of October 9, 2012 with an amendment, by the following vote: Yeas-Burdick, Malcolm, Moore, Nelson, Peters Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

OFFICER'S REPORT

Agenda Item 26. In accordance with BPC Policy No. 110, the following change orders, executed by the Executive Director or designee, were reported:

- A) Change Order No. 4 to Contract No. 2009-17R with Jose Pereira Engineering & Mechanical, Inc. / \$12,925.00 Increase & 35 Calendar Day Time Extension thru 8/15/2012 for TAMT Communications and Fire Alarm System Upgrade, San Diego, California
- B) Change Order No. 5 to Contract No. 2009-17R with Jose Pereira Engineering & Mechanical, Inc. / \$20,000.00 Increase & 3 Calendar Day Time Extension thru 8/18/2012 for TAMT Communications and Fire Alarm System Upgrade, San Diego, California
- C) Change Order No. 2 to Contract No. 2011-19 with Kinsman Construction Inc. / \$6,391.00 Increase & 45 Calendar Day Time Extension thru 9/13/2012 for B Street Pier Cruise Ship Terminal Roof Replacement, San Diego, California
- D) Change Order No. 3 to Contract No. 2011-19 with Kinsman Construction Inc. / \$2,190.00 Increase & 8 Calendar Day Time Extension thru 9/21/2012 for B Street Pier Cruise Ship Terminal Roof Replacement, San Diego, CA
- E) Change Order No. 2 to Contract No. 2011-23 with PAL General Engineering, Inc. / \$44,081.85 Increase & 0 Calendar Day for B Street CST Electrical Upgrade, San Diego, California
- F) Change Order No. 3 to Contract No. 2011-35 with R.E. Staite Engineering, Inc. / 30 Calendar Day Time Extension thru 10/1/2012 for Tenth Avenue Marine Terminal and Broadway Pier Fender Systems Repairs, San Diego, California
- G) Change Order No. 2 to Contract No. 2011-35 with R. E. Staite Engineering, Inc. / \$23,225.43 Increase & 0 Calendar Day for Tenth Avenue Marine Terminal and Broadway Pier Fender Systems Repairs, San Diego, California

- H) Amended Change Order No. 1 to Contract No. 2011-45 with R.E. Staite Engineering, Inc. / \$2,137.08 Increase & 0 Calendar Day for Upgrade Bulkhead East of Berth 10-8 Tenth Avenue Marine Terminal, San Diego, California

CONSENT AGENDA CONTINUED

Commissioner Moore explained that there were members of the public present who requested to speak regarding Consent Agenda Item 8. Thus, she offered a motion to rescind the earlier Board action regarding the approval of Consent Agenda Item 8 to allow the Commissioners to consider additional information. Commissioner Burdick seconded the motion.

On a motion by Commissioner Moore, seconded by Commissioner Burdick the Board rescinded the previous action to approve the resolution consenting to a new 10-Year Management Agreement with one 5-year option between Wyndham Hotel Management, Inc. and BHR Operations, L.L.C. for operation of the Holiday Inn on the Bay at 1355 North Harbor Drive, with Wyndham Hotel Management, Inc. as the new hotel operator, as part of the consent agenda to consider additional information, by the following vote: Yeas-Burdick, Malcolm, Moore, Nelson, Peters Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

RESOLUTION CONSENTING TO A NEW 10-YEAR MANAGEMENT AGREEMENT WITH ONE 5-YEAR OPTION BETWEEN WYNDHAM HOTEL MANAGEMENT, INC. AND BHR OPERATIONS, L.L.C. FOR OPERATION OF THE HOLIDAY INN ON THE BAY AT 1355 NORTH HARBOR DRIVE, WITH WYNDHAM HOTEL MANAGEMENT, INC. AS THE NEW HOTEL OPERATOR.

Agenda Item 8. David Catalino, Deputy Port Attorney, addressed the Board and requested the Board consider the staff recommendation regarding a resolution consenting to a new 10-year management agreement with one 5-year option between Wyndham Hotel Management, Inc. and BHR Operations, L.L.C. for the operation of the Holiday Inn on the Bay at 1355 North Harbor Drive, with Wyndham Hotel Management, Inc. as the new hotel operator. Mr. Catalino offered that FelCor Hotel Asset Company holds the ground lease with the District through 2029 and that their present management company, Intercontinental Hotels Group or Intercontinental Hotels Resources (IHG). He explained that IHG currently manages the hotel under the Holiday Inn flag. FelCor was requesting consent to enter into a new management agreement with Wyndham Hotel Management, Inc. Mr. Catalino explained that IHG opposed the consent, and/or in the alternative, IHG was requesting that if consent was granted that

the District not take a position as to a determination on IHG's rights as an agent. He offered that the Board has a legal right to consent to the Wyndham management agreement as recommended by staff or the Board may, if it desired, consent to the management agreement and acknowledge that the District was not taking a position on IHG's rights as an agent of FelCor. He stated that FelCor and IHG's possible legal issues did not preclude the Board from considering the matter and consenting to the management agreement as proposed by staff. (A copy of the staff report is on file in the Office of the District Clerk.)

The following members of the public addressed the Board in opposition to the staff recommendation: Tony Lovoy, General Manager, Holiday Inn/IHG and David Dunwoody, Partner, Sheppard Mullin Richter & Hampton.

Erik Nylén, Senior Vice President, FelCor Lodging Trust addressed the Board in support of the staff recommendation. The following members of the public submitted request to speak forms in support of the staff recommendation and ceded their time to Mr. Nylén: Mike Holmes, outside counsel for FelCor, Allen Matkins Law Firm; Jonathan Yellen, Executive Vice President, General Counsel & Secretary, FelCor Lodging Trust; and James Renard, outside counsel for FelCor, Partner with Bickel & Brewer Law Firm.

Commissioner discussion ensued. Commissioner Burdick stated, for the record, that it was not the District's practice to get involved in contractual matters between its tenants' lessees and their vendors or managers. She offered that the only instances she was aware of when the District would get involved were in circumstances when an agent of the tenant was actually managing the property in a way that was inconsistent with the lease or inconsistent with law. Thus, the District would become involved to compel compliance with the lease or compliance with the law. Commissioner Burdick requested and received confirmation from Mr. Catalino that IHG had not provided the District with any notice of non-compliance with the lease nor with any notice of non-compliance with the law. Commissioner Burdick requested and received confirmation from Mr. Catalino that the situation described by the speakers was not one that the District would involve itself. She offered that the Board did not wish to take any action that would suggest the District would be concluding "one way or the other" as to what the contractual rights and obligations were of the parties. She stated that she had no problem amending staff's recommendation to say "we" take no position on that. She stated the Board was limited by the lease from unreasonably denying consent to the appointment of a property manager by FelCor. She offered that the remarks offered by Mr. Dunwoody did not allude to Wyndham's ability to perform pursuant to the lease or to perform in the manner consistent with the law applicable to use of the property. Commissioner Burdick offered a motion to adopt the staff recommendation as drafted

with the additional finding that the District takes no position with respect to the legal rights of IHG and BHR or FelCor.

Commissioner Valderrama seconded the motion.

Commissioner Peters requested and received confirmation from staff that the resolution under consideration reflected consenting to the agreement. Even though the speakers discussed possible litigation, he offered that the Board had no part in the dispute and was obligated to consider the request and respond based upon the evidence presented. He offered support for the motion.

Commissioner Moore concurred that the District had no part in the dispute and stated that it was an unfortunate situation. She requested clarification to whether staff believed it would be unreasonable to postpone action on the consent and seek some sort of validation action to avoid potential litigation, and whether the District had some sort of indemnification by the parties against costs if drawn in to the matter.

Mr. Catalino offered that the District did not have a basis, nor was there a legal reason to withhold consent or to give a 30-day continuance. Regarding the query regarding indemnification, he explained FelCor was willing to defend and indemnify the District with regard to any litigation the District might be "brought into" between FelCor and IHG.

Commissioner Nelson requested clarification as to whether the draft document included indemnification language. Mr. Catalino explained that the draft did not include indemnification language and staff would amend the document based upon Board action.

Commissioner Moore offered that she preferred the indemnification language be included in the consent agreement not in the resolution.

Celia Brewer, Interim Port Attorney, explained that if the resolution was the only consent required and there was not a consent agreement, staff would include an independent indemnification of the tenant's agreement.

Commissioner Burdick amended her motion to include the provision that the approval of the resolution was contingent upon negotiation of an indemnification agreement to the satisfaction of the Port Attorney's Office.

Commissioner Valderrama seconded the amended motion.

Commissioner Nelson expressed his desire for the District to recover its true costs and overhead for tenant-initiated requests for changes in the way they do business. He also expressed support for indemnifying the District from any actions that could result by granting consent to such tenant-initiated requests.

Commissioner Valderrama acknowledged his support for the motion in light of guidance offered by the Port Attorney's office staff counsel.

Commissioner Malcolm requested clarification from staff as to whether they believed that, given the circumstances, withholding consent would be deemed unreasonable. Mr. Catalino offered that staff did believe that withholding consent would be deemed unreasonable given the circumstances.

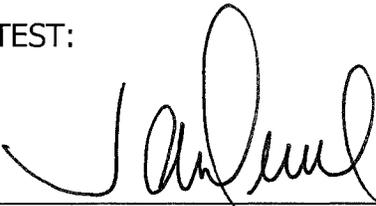
On a motion by Commissioner Burdick, seconded by Commissioner Valderrama the Board adopted **Resolution 2012-125**, Consenting to a new 10-Year Management Agreement with one 5-year option between Wyndham Hotel Management, Inc. and BHR Operations, L.L.C. for operation of the Holiday Inn on the Bay at 1355 North Harbor Drive, with Wyndham Hotel Management, Inc. as the new hotel operator, with the additional finding that the District takes no position with respect to the legal rights of IHG, BHR or FelCor; and contingent on negotiation of an indemnification agreement, by the following vote: Yeas-Burdick, Malcolm, Moore, Nelson, Peters Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

As the business of the regular meeting was concluded, Chairman Smith adjourned the meeting.



Secretary, Board of Port Commissioners
San Diego Unified Port District

ATTEST:



Clerk of the San Diego Unified Port District

**MINUTES
BOARD OF PORT COMMISSIONERS
SAN DIEGO UNIFIED PORT DISTRICT**

The special meeting of the Board of Port Commissioners of the San Diego Unified Port District was called to order by Chairman Smith at 10:00 a.m., Tuesday, October 9, 2012, in the Board Room at 3165 Pacific Highway, San Diego, California.

ROLL CALL

Agenda Item 1.

Present: COMMISSIONERS, Burdick, Malcolm, Moore, Peters, Smith, and Valderrama.

OFFICERS: Brewer, Darbeau, Deuel and McEntee

Absent: No Commissioners absent.

Excused: Commissioner Nelson was excused until he arrived at 10:02 a.m.

PUBLIC COMMUNICATIONS

Agenda Item 2. None.

CLOSED SESSION

Celia Brewer, Interim Port Attorney, announced the closed session agenda as follows:

Agenda Item 3.

CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION
Pursuant to Subdivision (a) of Government Code Section 54956.9

Jennifer MacMaster et al. v. San Diego Unified Port District, et al.
San Diego Superior Court Case No. 37-2011-00096552-CU-OE-CTL

Agenda Item 4.

CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION
Pursuant to Subdivision (a) of Government Code Section 54956.9

Kelsy Davis v. SDUPD, San Diego Harbor Police Department; Corporal Laura Sweeney, et al.
San Diego Superior Court Case No.: 37-2010-00101008-CU-OE-CTL

Agenda Item 5.

CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION
Significant exposure to litigation pursuant to Subdivision (b)(1) of Government Code Section 54956.9

Two Cases

Agenda Item 6.

CONFERENCE WITH LEGAL COUNSEL - INITIATION OF LITIGATION
Pursuant to Subdivision (c) of Government Code Section 54956.9

One Case

Agenda Item 7.

CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION
Pursuant to Subdivision (a) of Government Code Section 54956.9

Traylor Bros., Inc. v. San Diego Unified Port District, et al.
United States District Court Case No.: 08-CV-1019 L WVG

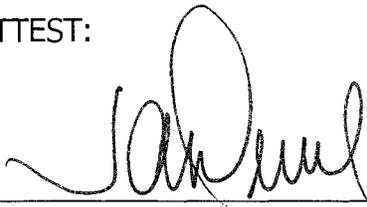
As requested by Chairman Smith, Celia Brewer, Interim Port Attorney, reported out regarding closed session. She announced that pursuant to Government Code Section 54956.9, the Board of Port Commissioners by a 7-0 vote directed staff to initiate litigation for an environmental clean-up. She stated that the action, defendants and other particulars shall, once formally commenced, would be disclosed upon request.

There was no other formal or reportable action, pursuant to Government Code Section 54950 et seq to report from the closed session; whereupon, Chairman Smith adjourned the meeting.



Secretary, Board of Port Commissioners
San Diego Unified Port District

ATTEST:



Clerk of the San Diego Unified Port District

**MINUTES
BOARD OF PORT COMMISSIONERS
SAN DIEGO UNIFIED PORT DISTRICT**

The regular meeting of the Board of Port Commissioners of the San Diego Unified Port District was called to order by Chairman Smith at 1:02 p.m., Tuesday, October 9, 2012, in the Board Room at 3165 Pacific Highway, San Diego, California.

ROLL CALL

Agenda Item 1.

Present: COMMISSIONERS, Burdick, Malcolm, Moore, Nelson, Peters, Smith, and Valderrama.

OFFICERS: Brewer, Darbeau, Deuel, McEntee and Stup

Absent: No Commissioners absent.

Excused: No Commissioners excused.

CLOSED SESSION

Agenda Item 2. As requested by Chairman Smith, Celia Brewer, Interim Port Attorney, reported out regarding closed session. She announced that pursuant to Government Code Section 54956.9, the Board of Port Commissioners, by a 7-0 vote, directed staff to initiate litigation for an environmental clean-up. She stated that the action, defendants and other particulars shall, once formally commenced would be disclosed upon request.

PLEDGE OF ALLEGIANCE

Agenda Item 3. Commissioner Burdick led the Pledge of Allegiance.

APPROVAL OF MINUTES

Agenda Item 4. Commission Burdick offered a motion to approve the minutes for the September 19, 2012 special meeting. Commissioner Malcolm seconded the motion.

On motion of Commissioner Burdick, seconded by Commissioner Malcolm, the Board approved the minutes for the September 19, 2012 special meeting, by the

following vote: Yeas-Burdick, Nelson, Malcolm, Moore, Peters, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

PUBLIC COMMUNICATIONS

Agenda Item 5. Jaron Wright, Account Manager, Clean Energy Fuels, addressed the Board and announced that his firm had opened a clean energy fueling station on India Street. He discussed the use of compressed natural gas to fuel vehicles as a means to lower carbon emissions.

Peter H. Flournoy, Principal, International Law Offices, addressed the Board regarding a "gentlemen's agreement" regarding the implementation of a fisherman's seafood market as a means for San Diego County licensed commercial fishermen to sell locally-caught seafood directly to the public from their vessels near the entrance to the public piers.

COMMISSIONER COMMENTS/REVIEW OF TODAY'S MEETING

Agenda Item 6. None.

CONSENT AGENDA

Chairman Smith requested that Timothy Deuel, District Clerk, announce any suggested docket changes.

Mr. Deuel announced the proposed changes to the agenda as follows: **Action Agenda Item 20**, Ordinance Granting 10-Year Lease with One 5-Year Option Extension to General Services Administration for the National Oceanic and Atmospheric Administration Vessel Berthing and related warehouse and office space at Crosby Street Pier South of the Tenth Avenue Marine Terminal; staff requests this item be continued to a future Board meeting and **Consent Agenda Item 27**, Consideration of a Tolling Agreement between the District, the City of San Diego and (to be determined) extending the time period for filing CEQA challenges to the Environmental Impact Report for the San Diego Convention Center Phase III Expansion and Expansion Hotel; staff determined that Board action was no longer required.

On motion of Commissioner Burdick, seconded by Commissioner Valderrama, the Board accepted the suggested changes to the agenda, by the following vote: Yeas-Burdick, Malcolm, Moore, Nelson, Peters, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

Commissioner Malcolm announced, for the record, that he would abstain from voting on Item 8.

Commissioner Peters announced, for the record, that he would abstain from voting on Item 9.

Commissioner Burdick requested that **Consent Agenda Item 7**, a Resolution Selecting and Authorizing Agreements with Geosyntec Consultants and Rick Engineering Company for Stormwater Management Services in an aggregate amount not to exceed \$500,000 for a period of two years and **Consent Agenda Item 10**, a Resolution Selecting and Authorizing Three-Year Agreements with Triton Engineers, Inc., Transystems Corporation, and BergerABAM, Inc. for Marine Structural Engineering Services on an as-needed basis for a total aggregate amount payable under the agreements not to exceed \$900,000, be pulled for separate discussion and vote.

On motion of Commissioner Nelson, seconded by Commissioner Moore, the Board adopted Consent Agenda items 8, 9, 11, 12, 13, 14, 15, 16, and 17 (**Ordinance 2692, Ordinance 2693, Resolution 2012-137** through and including **Resolution 2012-140, Ordinance 2694, Resolution 2012-141, Resolution 2012-142**) by the following vote: Yeas-Burdick, Malcolm, Moore, Nelson, Peters, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

Agenda Item 8. **Ordinance 2692**, Accepting an Easement from the City of Imperial Beach for fifteen street ends in Imperial Beach connecting the beach to Seacoast Drive, was adopted as part of the consent agenda.

Agenda Item 9. **Ordinance 2693**, Granting a 66-Year Utility Easement to San Diego Gas & Electric Company for Subsurface Electrical Equipment on Quay Avenue and 28th Street in National City, was adopted as part of the consent agenda.

Agenda Item 10. **Item continued to a future meeting.**

Agenda Item 11. **Resolution 2012-137**, Adopting Plans and Specifications and Awarding Contract No. 2012-01 to Kinsman Construction, Inc. for the Broadway Pier Utility Relocation Project, San Diego, California in the amount of \$499,000, was adopted as part of the consent agenda.

Agenda Item 12. **Resolution 2012-138**, Authorizing the Purchase Agreement with Strey Consulting dba idsoftware, Inc. for the acquisition of fourteen portable TWIC card readers for an amount not to exceed \$122,767.95 in support of Homeland Security for the District Maritime Facilities, was adopted as part of the consent agenda.

Agenda Item 13. **Resolution 2012-139**, Waiving BPC Policy No. 110, Part I.G.3 for North Embarcadero Visionary Plan Phase 1 Project Contract No. 2009-13, to increase the Executive Director's Change Order Execution Authority from 7% to 9.7% of the original contract amount, was adopted as part of the consent agenda.

Agenda Item 14. **Resolution 2012-140**, Selecting and Authorizing Two Five-Year Service Agreements with Prudential Retirement to provide 457(B) and 401(A) Plan Record Keeping and Administrative Services and Granting Indemnity to Prudential Retirement, was adopted as part of the consent agenda.

Agenda Item 15. **Ordinance 2694**, Amending the Conflict of Interest Code of the San Diego Unified Port District, was adopted as part of the consent agenda.

Agenda Item 16. **Resolution 2012-141**, Authorizing Amendment No. 5 to Agreement 125-2009 for Janitorial Services with Aztec Landscaping, Inc. dba Aztec Janitorial Services extending the agreement term to June 30, 2013, and increase the agreement amount by \$326,384.83, increasing the aggregate total of the agreement from \$1,633,625.26 to \$1,960,010.09, was adopted as part of the consent agenda.

Agenda Item 17. **Resolution 2012-142**, Approving Proclamation Recognizing the 30th Anniversary of the Port of San Diego and Port of Sasebo, Japan Sister Port Agreement, was adopted as part of the consent agenda.

ACTION AGENDA

PRESENTATION OF SERVICE AWARDS TO EMPLOYEES WITH 15 OR MORE YEARS OF SERVICE.

Agenda Item 18. Wayne Darbeau, Executive Director introduced Michele Corbin, Director, Human Resources, who addressed the Board with a presentation regarding the District Employee Service Award recognition program. She turned the presentation over to Wayne Darbeau, Executive Director who recognized Marguerite Elicone, Principal Marketing/Public Relations Representative, Business Development and Marketing Department, for 20 years of service to the District. Commissioner Smith and Mr. Darbeau presented the awards to the Ms. Elicone. She thanked the Board and District leadership, her colleagues and acknowledged her family members present. (A copy of the presentation and staff report is on file in the Office of the District Clerk.)

RESOLUTION APPROVING 2012/2013 WORK PLAN FOR THE ENVIRONMENTAL ADVISORY COMMITTEE

Agenda Item 19. Randa Coniglio, Executive Vice President - Operations, addressed the Board with a follow-up presentation regarding the Environmental Advisory Committee, provided additional information regarding work plan items, reviewed the committee governance as a means to address any potential or perceived conflicts of interests. She requested clarification regarding the consideration of a potential Green Leasing Policy in relation to the Real Estate Advisory Forum's work plan and the proposed work plan for the Environmental Advisory Committee. Commissioner consideration of the 2012/2013 Work Plan was requested. (A copy of the staff report and presentation are on file in the office of the District Clerk.)

Peter H. Flournoy, Principal, International Law Offices, addressed the Board regarding the 2012/2013 Work Plan and offered that he believed the plan was "pretty ambitious" and queried whether completion of all the work was possible.

Commissioner discussion ensued. Commissioner Burdick expressed, for the record, her gratitude to the committee members for their work to assist the District in performing its role as an environmental steward and acknowledged the expertise and diversity of the members. She expressed gratitude to staff for their efforts to facilitate the assessment process. She offered that a consensus was reached and the committee would "do no more" than staff resources permit. She provided context and clarified the committee's position regarding the Center for Bay and Coastal Dynamics' presentation, which would be broadened to cover Bay-wide research, in lieu of a separate workshop on Bay research. Thus, she stated for the record, "the intent of the Bay-wide research was always to give signals to the research community and our extraordinary oceanographic and environmental institutions in the area as to what they may get Environmental Funding for, if they were to come to us, and, if it were helpful in leveraging those resources to assist the other research that we were doing pursuant to our partnership with the Center for Bay and Coastal Dynamics." She then offered remarks regarding the committee's discussion and subsequent vote regarding the consideration of a proposed Green Leasing Policy as one component of the Climate Plan. She discussed her understanding of what the Real Estate Advisory Forum's work could be on the proposed development of a Green Leasing Policy. Commissioner Burdick offered further information regarding the Environmental Committee's role in determining what green and sustainable investments would trigger the Green Leasing Policy incentive structure proposed by the Real Estate Advisory Forum. She clarified staff's request for Board direction as to whether the work on the policy by the advisory groups should be conducted simultaneously or in a serial manner. She stated her preference that the two components are worked on simultaneously as a means to expedite the development, consideration, and implementation of a Green Leasing Policy. Commissioner Burdick offered a motion to adopt the staff

recommendation and to direct staff that the Green Leasing Policy component, regarding qualifying investments, be considered by the Environmental Advisory Committee simultaneously with the incentive program being considered by the Real Estate Advisory Forum.

Commissioner Nelson seconded the motion. He commended Commissioner Burdick for her efforts as Chair of the Environmental Advisory Committee. He acknowledged the efforts by stakeholders to move the District forward in the improvement of the environment, recognized the commitment to reduce greenhouse gas emissions, and expressed his desire that the movement on environmental matters proceed at a swifter pace. He discussed the need for pairing the staff resources necessary to expedite the work of improving air quality in the neighborhoods around the Bay and to improve the water quality. He discussed the Climate Mitigation and Adaptation Plan (CMAP) goals and urged the development of industrial working groups to assist with understanding the "art of the possible" when developing best management practices within each of the different industries. Commissioner Nelson supported Commissioner Burdick's position that the Environmental Advisory Committee and the Real Estate Advisory Forum undertake work on the proposed Green Leasing Policy simultaneously and encouraged District leadership to assess resource levels to make the necessary staffing available.

Commissioner Malcolm offered his thanks to the Environmental Advisory Committee members for their work on accessing the work plan and the committee structure in light of the available staff resources. He remarked on the Board's demonstrated commitment to environmental stewardship and efforts to improve air quality around the tidelands and water quality in the Bay. He discussed his concern regarding the allocation of resources in relationship to all of the Board's advisory committees and acknowledged the efforts to streamline the work plans. Commissioner Malcolm also discussed the Board's oversight role in light of committees and the policy decision-making role of the Commissioners. He stated his belief that the Board should prioritize the committee functions and provide input as to committee's work. He explained that following an assessment of the issues related to the CMAP the Board should provide direction to stakeholders, working groups and the like. He reiterated his concern regarding the maps depicting the long-term sea level rise projections. Commissioner Malcolm commented on the proposed Green Leasing Policy program and his interpretation of the related-work to be done by the Real Estate Advisory Forum. Regarding the proposed Green Leasing Policy, he stated that the Board should hear a staff report on the matter and the Board should provide clear direction regarding the scope of the program prior to the respective committees proceeding with work. He addressed similar concerns regarding the Board's understanding of the matter and

providing direction as to the scope of work concerning the Total Maximum Daily Load for Dissolved Copper in the Shelter Island Yacht Basin. He stated his preference was that a presentation from Regional Water Quality Control Board on the Draft Stormwater Permit should be made before the full Board. Commissioner Malcolm restated that the committees serve useful purposes, remarked on what he believed was the best governance model and stated that those committees should take direction from the Board. He suggested that, perhaps, an amendment to the motion was in order and reiterated his desires to support the motion; to facilitate a clear understanding of the matter by the Board; and that the work "get done". He referenced the staff report and then discussed his concerns regarding conflict of interest among the committee members in light of their related affiliations and potential financial interests when voting to consider certain grants or studies. He requested the Port Attorney review his conflict of interest concerns and provide additional analysis regarding voting by the potentially financially interested committee members.

Commissioner Moore acknowledged Commissioner Malcolm's statements and offered that she shared similar concerns regarding resource allocation and governance. She acknowledged the time and effort given by the committee members as well as the Commissioners serving on the Environmental Advisory Committee. She discussed her concerns regarding the committee considering policy matters such as the CMAP and the Regional Water Quality Control Board presentation on monitoring the Bay with respect to fireworks. She stated that the committee first needs direction from the entire Board before moving forward with its work. She expressed her concern regarding the work plan reference to the CMAP and the recommendation of presenting the finished plan to the Board after the CEQA review was completed, which would require the utilization of additional resources to implement any Board modifications to the finished plan. Commissioner Moore stated that she would not support the motion without amendments.

Commissioner Peters acknowledged Commissioner Malcolm and Commissioner Moore's statements regarding looking at environmental matters at the Board level. He then offered that it was his belief that the motion was not in conflict with the Commissioners' requests nor would it preclude the matters cited from being looked at by the Board or the committee. He requested and received clarification from staff as to whether the addition of the Green Leasing Policy work could be supported with existing resources. Ms. Coniglio confirmed that staff believed they had adequate resources to support the recommendation put forward in the motion. He stated support for both the Environmental Advisory Committee and the Real Estate Advisory Forum to be involved in developing the Green Leasing Policy. He discussed the benefits of having the committees discuss the matter to facilitate a give-and-take with stakeholders and seek

consensus before presentation to the Board. He remarked on the Center for Bay and Coastal Dynamics item. Regarding the CMAP item shown on the work plan list, he expressed support for the Committee's participation, acknowledged listening to the science supporting the matter and concurred that those decisions around adoption of policies regarding the climate plan remain with the Board. Commissioner Peters offered his support for the motion as amended to include the Green Leasing Policy work. He acknowledged the efforts expended to bring forward the work plan.

Commissioner Valderrama requested clarification regarding the motion. Commissioner Nelson reiterated the motion was to adopt the staff recommendation and to direct staff that the Green Leasing Policy component regarding qualifying investments would be considered by the Environmental Advisory Committee simultaneously with the incentive program being considered by the Real Estate Advisory Forum.

Commissioner Moore requested clarification regarding the CMAP and the timing of the Environmental Impact Report. Ms. Coniglio clarified that staff had requested to bring forward an update on the climate plan at the November 13, 2012 regular meeting and that their intent was to bring forward updates and opportunities periodically for Board input.

Commissioner Valderrama expressed concern with the motion presented as it relates to the Real Estate Advisory Forum, in that their work plan was approved earlier in the year and in light of their resource level.

Commissioner Malcolm confirmed the Real Estate Advisory Forum work plan approved by the Board included a discussion of the general leasing incentives and the Green Leasing Program is a subset of that topic. He further stated that the scope of the Green Leasing Program was undefined. He reiterated that there was a need for a Board discussion regarding the matter prior to the work beginning at the advisory committee or advisory forum level.

Commissioner Valderrama expressed his concern to the motion as proposed in light of the governance issues raised.

Commissioner Burdick acknowledged the concerns discussed by the Board regarding governance. She discussed the role of the committees and offered the work plan process was the means for the Board to provide direction to the committees. She urged the Board to consider the work plan presented. She stated that those were very important issues that require more frequent communications and updates, at regular

Board meetings. Commissioner Burdick discussed that the opportunity to docket such items for future meetings. She acknowledged the items to review more frequently included the climate plan, the Total Maximum Daily Load for dissolved copper in the Shelter Island Yacht Basin, and the proposed Green Leasing Policy. She clarified her motion and stated that, because the proposed Green Leasing Policy was a subset of the Real Estate Advisory Forum work plan, there was nothing in her motion that gave any direction to the Real Estate Advisory Forum. She continued by stating the only thing that was being considered in her motion was that as the Real Estate Advisory Forum proceeded at its pace in regard to the proposed Green Leasing Policy, the Environmental Advisory Committee would also be allowed to simultaneously proceed with its consideration of what might be a qualified green investment in the tidelands.

Chairman Smith thanked the Board for their candid discussion of the matter. He acknowledged staff and the committee members for their hard work and dedicated efforts. He expressed concern that the consideration of the Environmental Advisory Committee work plan was wrapped into discussions regarding committee governance issues and the frequency of Commissioner briefings. He offered support for moving the Environmental Advisory Committee work plan forward. Chairman Smith discussed the proposed Green Leasing Policy and green contracting matters. He stated his desire to have staff return to the Board and discuss committee governance matters.

Wayne Darbeau, Executive Director, addressed the matter of staffing levels as discussed during the Board discussion. He offered that it was his belief there was no need to increase the staff levels to address the present needs.

Celia Brewer, Interim Port Attorney, clarified for the record that the District has a policy in place that governs the committee members' conduct and regulates conflict of interest matters. She explained the policy states that members must comply with the Political Reform Act and other conflict of interest rules to prevent any member of the committee from voting on a matter in which they have a financial interest, or, from engaging in self-interested dealings.

Commissioner Nelson offered his belief that there was a prolongation occurring in action by the District in a number of environmental matters because it is "more desirable to take the pain later" than "to deal with it sooner." He expressed his desire to quicken the pace of the work. He offered his understanding regarding the discussion regarding committee governance and policymaking. He stated the Environmental Advisory Committee serves to advise the Board and has no authority regarding District operations. Commissioner Nelson reiterated the counsel offered during committee meetings to its members regarding the topic of conflict of interest and permissible

behavior. He discussed the development of the CMAP, stating the work was performed by consultants under the direction of staff, and discussed next steps in setting targets and reduction goals. Commissioner Nelson discussed the remarks regarding the Environmental Impact Report (EIR) process. He summarized his remarks by commenting on whether or not the advisory committees should be eliminated, which could trigger increasing the frequency of Board meetings; or, maintaining the advisory committees and accepting the recommendations of the professionals serving.

Commissioner Malcolm thanked Commissioner Burdick, acknowledged the good work of the committee and stated that his intention was to initiate a discussion regarding the committee governance issue. He requested that staff bring reports back to the Board regarding CMAP, the Shelter Island TMDL and proposed Green Leasing Policy. He also offered direction to staff, requested additional analysis regarding the matter of conflict of interest, and advocated for parody so that each committee operates consistently.

Chairman Smith acknowledged Commissioner Malcolm's requests for direction to staff and reiterated the matter under consideration was regarding the Environmental Advisory Committee work plan.

Commissioner Moore concurred with Chairman Smith that the consideration of the work plan was a separate matter from a briefing regarding committee governance. She supported providing Commissioner briefings regarding major policy issues that would be coming before the Board for consideration. She clarified for the record her remarks regarding CEQA and the EIR process in relation to the on-going work developing the CMAP. She offered that Board consideration of the CMAP, as a policy matter, be taken before moving it forward for environmental review to avoid delays and costly re-work requirements.

Commissioner Peters called the question.

On a motion by Commissioner Burdick, seconded by Commissioner Nelson, the Board adopted **Resolution 2012-143** approving the 2012/2013 Environmental Advisory Committee Work Plan, by the following vote: Yeas-Burdick, Malcolm, Moore, Nelson, Peters, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

Commissioner Malcolm confirmed his earlier direction to staff to return with briefings regarding the specific matters stated during the discussion and to provide additional analysis regarding the matter of conflict of interest.

Ms. Coniglio acknowledged the direction to staff regarding presentations on the CMAP, the Shelter Island TMDL and the proposed Green Leasing Policy. She stated staff would return with a discussion regarding committee governance and legal analysis regarding conflict of interest matters.

Commissioner Burdick remarked on the matter of committee governance and the implementation of the revisions to the overall committee policies and reiterated her concern regarding the timing of the application of the policy to the Environmental Advisory Committee and any of the other advisory committees.

Timothy Deuel, District Clerk, announced that additional agenda related materials were received after the publication of the agenda regarding Agenda Item 21 and Agenda Item 22, and copies were available from staff.

ORDINANCE GRANTING 10-YEAR LEASE WITH ONE 5-YEAR OPTION EXTENSION TO GENERAL SERVICES ADMINISTRATION FOR THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION VESSEL BERTHING AND RELATED WAREHOUSE AND OFFICE SPACE AT CROSBY STREET PIER SOUTH OF THE TENTH AVENUE MARINE TERMINAL.

Agenda Item 20. Chairman Smith announced that staff requested the item be continued to a future Board meeting. He stated that a request to speak form had been submitted by Peter H. Flournoy, representing the American Tuna Boat Association, Western Fishingboat Owners Association and American Fishermens Research Foundation. Mr. Flournoy stated that he would waive speaking as the item had been continued.

RESOLUTION GRANTING CONCEPT APPROVAL TO LPP LANE FIELD, LLC FOR THE PROPOSED LANE FIELD NORTH HOTEL DEVELOPMENT PROJECT, WITH CONDITIONS.

Agenda Item 21. Karen Weymann, Director, Real Estate, addressed the Board with a staff presentation regarding granting concept approval to LLP Lane Field, LLC for the proposed Lane Field North Hotel Development project, with conditions. She turned the presentation over to Gordon Beckman, Project Architect, John Portman & Associates, Inc. who provided an overview of the project. Nick Markos, Senior Asset Manager, Real Estate, concluded the staff presentation and requested the Board's consideration of the matter and provides direction to staff. (A copy of the staff report and presentation are on file in the Office of the District Clerk.)

The following members of the public addressed the Board with varying viewpoints on the design and requested the Board consider underground parking for the project: Scott Andrews; Len Campanaro; Walt Pennington, Gary Smith, San Diego Downtown Residents Group; Thyme Curtis, Policy Director, City of San Diego, Council District 2; Jerry Trammer, Project Executive, Lane Field; Thyme Curtis, Policy Director, City of San Diego, Council District 2 representing Kevin Faulconer, San Diego City Council Member; Robert J. Piskole, and Brigette Browning, President, UNITE HERE! Local 30.

Commissioner discussion ensued. Notwithstanding the concerns raised regarding the above ground parking facility, Commissioner Peters requested and received clarification from Ms. Weymann; Shaun Sumner, Area Manager, Real Estate Department, and Mr. Beckman regarding the process used to evaluate the aesthetic look of the project to ensure it would be realized in the finished development. They discussed the internal District review processes, the establishment of design requirements, and the public outreach process that influenced the overall building design. In light of the public comments regarding above ground parking and being that the permitting process had not yet been completed, Commissioner Peters requested that the investigation of below ground parking solutions, including an evaluation of elevators or automated parking alternatives, continue. He offered a motion to accept the staff recommendation with the understanding that the issues regarding the parking matter would continue to be considered. Commissioner Nelson seconded the motion.

Commissioner Moore requested and received clarification regarding the parking study methodology in light of the changes to the project and the number of parking spaces designated for the development from Mr. Markos. Mr. Markos confirmed public parking would still be required at the site. She requested and received clarification from Mr. Markos regarding the benefits of the parking study requirement and the District's expected benefit would be to validate the number of parking spaces for the project. Commissioner Moore requested and received clarification from Mr. Sumner regarding the requirement to conduct a parking study for the south portion of the project at the beginning of the process. She requested and received confirmation from Mr. Sumner that District staff reviewed the underground parking report. Mr. Sumner also stated that it was very likely that the south portion of the project would have underground parking. Commissioner Moore offered her support for the project and acknowledged the developer had demonstrated their willingness to work with the labor unions and community stakeholders to resolve a number of their concerns. She also stated her concern with the parking matter and expressed her desire that the District complete additional analysis.

Commissioner Burdick requested and received clarification from Mr. Sumner regarding the total number of parking spaces in the north tower project, the number of public spaces allotted and the cost per stall. She requested and received confirmation from Mr. Markos that the resolution offered for the Board's consideration was based upon the developer's concept proposal to put all 365 parking spaces in an above ground podium. In response to her inquiries, Mr. Markos stated the cost was \$25,000 per stall for all above ground, approximately \$35,000 per stall for above ground and one level below ground parking and approximately \$45,000 per stall for all below ground parking.

In relation to the Port Master Plan Amendment process, Mr. Sumner confirmed the District's intent to complete a comprehensive parking analysis of the Embarcadero that would be used to assess the south tower parking needs as well as the needs for public parking in the area.

Mr. Trammer also offered remarks regarding the two underground parking concepts that were planned for the south tower project parking and offered that he could not state the number of spaces that would be feasible under the South Lane Field footprint.

Commissioner Burdick discussed taking a broader long-term planning view for the project and the area, and expressed the need for more data regarding alternatives at the site to avoid adding more above ground parking structures along the waterfront. Commissioner Burdick acknowledged the developer's efforts to work with and accommodate the needs of various stakeholders. She acknowledged the need to put forward a financially viable project. Commissioner Burdick requested clarification as to whether there was any value to sending more than one alternative of the concept approval to the Coastal Commission for their consideration. Mr. Sumner clarified that in the past the Coastal Commission staff requested the District select only one project to present and provided additional information regarding the expectation that 300 public parking spaces would be designated between the two towers.

Commissioner Burdick reiterated her concern for seeking long-term solutions, discussed her appreciation of the evolution of the concept design, stated support for a commitment to the green design or the public art design for the parking screening, and her support of the motion. About the parking matter, she stated, for the record, her concern and she would be opposed to any effort in the phase two development of south Lane Field to reduce the number of public parking spaces or any efforts to bring the parking above ground. She reiterated her support for the motion and requested that as Lane Field South is developed, the District or developer endeavor to add as much public parking below ground as possible.

Commissioner Nelson congratulated the development team for working hard to move forward with the project. He offered his concern regarding the parking; discussed the feasibility of financing underground parking during the term of the lease and commented on the impacts of the additional cost to hotel guests that could ultimately impact the District's revenues. He requested that staff investigate parking systems that may be more cost effective and environmentally friendly and encouraged staff to review existing data regarding mechanical garage solutions.

Commissioner Valderrama offered his support for the motion and thanked the developers for their efforts. He acknowledged the importance of moving forward with a financially feasible select service hotel project and stated he was pleased with the evolution of the design.

On a motion by Commissioner Peters, seconded by Commissioner Nelson, the Board adopted **Resolution 2012-144**, granting Concept Approval to LLP Lane Field, LLC for the Proposed Lane Field North Hotel Development Project, with conditions, by the following vote: Yeas-Burdick, Malcolm, Moore, Nelson, Peters, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

ATLAS KONA KAI, LLC

- A) RESOLUTION CONSENTING TO ASSIGNMENT AND ASSUMPTION OF OWNERSHIP INTERESTS OF THE KONA KAI RESORT FROM ATLAS KONA KAI, LLC TO WESTGROUP KONA KAI, LLC; AND**
- B) ADOPT THE FOLLOWING RESOLUTIONS AND ORDINANCE, CONDITIONED UPON CONSENT OF THE PREVIOUS BOARD ACTION:**
 - 1) RESOLUTION CONSENTING TO ASSIGNMENT OF AMENDED AND RESTATED RECIPROCAL EASEMENT AGREEMENT FOR ATLAS KONA KAI, LLC TO WESTGROUP KONA KAI, LLC; AND**
 - 2) RESOLUTION CONSENTING TO ASSIGNMENT OF SUBLEASE FROM ATLAS KONA KAI, LLC TO WESTGROUP KONA KAI, LLC; AND**
 - 3) ORDINANCE GRANTING AMENDMENT NO. 2 TO AMENDED AND RESTATED LEASE WITH WESTGROUP KONA KAI, LLC; AND**
 - 4) STAFF RECOMMENDATION TO ACCEPT PRELIMINARY PROJECT REVIEW FOR THE PROPOSED KONA KAI RESORT REDEVELOPMENT PROJECT; AND**
 - 5) ORDINANCE GRANTING AN OPTION AGREEMENT WITH WESTGROUP KONA KAI, LLC FOR A NEW 35-YEAR LEASE WITH A POTENTIAL INCREASE IN TERM TO 50-YEARS; AND**

6) RESOLUTION CONSENTING TO LOAN FROM COLUMBIA BANK TO WESTGROUP KONA KAI, LLC IN AN AMOUNT NOT TO EXCEED \$11.4 MILLION, WITH CONDITIONS

Agenda Item 22. Karen Weymann, Director, Real Estate, addressed the Board with a staff presentation regarding the Atlas Kona Kai matters; she announced the proposed buyers had reached an agreement with UNITE HERE! Local 32 to extend the collective bargaining agreement. Ms. Weymann turned the presentation over to Jenner Smith, Asset Manager, Real Estate who presented the staff report and requested the Board consider the staff recommendations. (A copy of the staff report and presentation are on file in the Office of the District Clerk.)

Commissioner Moore left the dais at 3:45 p.m. Commissioner Burdick left the dais at 3:46 p.m. Commissioner Burdick and Commissioner Moore returned to the dais at 3:52 p.m.

The following members of the public addressed the Board: Brigette Browning, UNITE HERE! Local 31, Ms. Browning translated for Jose Lopez, hotel worker, Kona Kai Resort.

Commissioner discussion ensued. Commissioner Peters offered a motion to support the staff recommendations. Commissioner Malcolm seconded the motion.

On a single motion of Commissioner Peters, seconded by Commissioner Malcolm, the Board with a single vote adopted **Resolution 2012-145** Consenting to Assignment and Assumption of Ownership Interests of the Kona Kai Resort from Atlas Kona Kai, LLC to Westgroup Kona Kai, LLC; **Resolution 2012-146** Consenting to Assignment of Amended and Restated Reciprocal Easement Agreement for Atlas Kona Kai, LLC to Westgroup Kona Kai, LLC; **Resolution 2012-147** Consenting to Assignment of Sublease from Atlas Kona Kai, LLC to Westgroup Kona Kai, LLC; **Ordinance 2695** Granting Amendment No. 2 to Amended and Restated Lease with Westgroup Kona Kai, LLC; **Ordinance 2696** Granting an Option Agreement with Westgroup Kona Kai, LLC for a New 35-Year Lease with a potential increase in term to 50-years and **Resolution 2012-148** Consenting to Loan from Columbia Bank to Westgroup Kona Kai, LLC in an amount not to exceed \$11.4 million, with conditions by the following vote: Yeas-Burdick, Malcolm, Moore, Nelson, Peters, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

HOST HOTELS & RESORTS, INC

- A) ORDINANCE GRANTING A 66-YEAR LEASE WITH HOST SAN DIEGO HOTEL LLC FOR SHERATON SAN DIEGO HOTEL & MARINA (MARINA TOWER), WITH CONDITIONS.**
- B) ORDINANCE GRANTING A 66-YEAR LEASE WITH HOST SAN DIEGO HOTEL LLC FOR SHERATON SAN DIEGO HOTEL & MARINA (BAY TOWER), WITH CONDITIONS.**
- C) ORDINANCE GRANTING A 50-YEAR LEASE WITH ONE OPTION TO EXTEND FOR 16 YEARS, WITH CONDITIONS, TO HOST HOTELS & RESORTS, L.P. FOR CORONADO ISLAND MARRIOTT RESORT, WITH CONDITIONS.**

Agenda Item 23. Karen Weymann, Director, Real Estate, addressed the Board with a staff presentation regarding the Host Hotels & Resorts, Inc. (Sheraton San Diego Hotel & Marina (Marina Tower), Sheraton San Diego Hotel & Marina (Bay Tower), and the Coronado Island Marriott Resort) lease extension matters. Ms. Weymann offered that two undeveloped parcels on the Sheraton leasehold would be considered under the lease extensions. She turned the presentation over to Penny Maus, Asset Manager, Real Estate who presented the staff report and requested the Board consider the staff recommendations. (A copy of the staff report and presentation are on file in the Office of the District Clerk.)

Commissioner Malcolm left the dais at 3:55 p.m. Commissioner Peters left the dais at 3:56 p.m. Commissioner Malcolm returned to the dais at 3:58 p.m. Commissioner Peters returned to the dais at 3:59 p.m. Commissioner Valderrama left the dais at 3:59 p.m. and returned at 4:01 p.m.

Commissioner discussion ensued. Regarding the staff recommendation of pursuing the proposed change in classification of the parcels from open space to commercial recreation, Commissioner Moore requested and received clarification from Ms. Maus who explained the consideration was consistent with staff's intent to approach the redevelopment of the Harbor Island area in a holistic manner.

Commissioner Nelson acknowledged staff and the Host Hotels partners for their efforts. He requested clarification regarding the section of the Port Master Plan regarding open space in the context of the "dirt lot" parcel discussed. Ms. Maus responded to the request for clarification and stated there was no designated use for open space under the Port Master Plan. As requested by Commissioner Nelson, Ms. Maus read the clause in the proposed lease agreement regarding the District's efforts to seek the change in land use designation for parcels three and four and required

approval of any future development on those parcels. David Catalino, Assistant Port Attorney, offered that the District was seeking the land use change designation as part of the overall master plan policy and there was no inconsistency with the District requiring approval for any future proposed development, nor was the District required to approve any future development under the lease terms presented. Commissioner Nelson requested and received confirmation from Mr. Catalino as well as Chris Ford, Asset Manager, Host Hotels Partners, who stated that they concurred with the provision of the lease as stated and understood the Board, at its discretion, could approve or disapprove any potential development on the parcels in question. Referencing a recent Board decision regarding the proposed China Camp/Fat City Lofts development, Commissioner Nelson requested and received confirmation from Mr. Catalino that the site under discussion was not designated for residential use but for commercial recreation use, which included hotels. Commissioner Nelson requested and received confirmation from Mr. Catalino that, should building occur at the site, there would be no endangerment to the working waterfront activities. As two of the properties under discussion were in close proximity to the San Diego International Airport, Commissioner Nelson requested clarification regarding the outreach efforts to the San Diego Regional Airport Authority (Airport) and representatives from the City of San Diego regarding the proposed change of use designation. Ms. Weymann explained that the item under consideration was a rent review for an existing lease, and as no new project was proposed for the dirt lot, the District had not engaged stakeholders such as the Airport at the time because the use proposed under the lease had not changed. As alternative uses for the parcels under discussion arise, Commissioner Nelson encouraged staff to engage stakeholders and Ms. Weymann concurred. He offered a motion to approve the staff recommendation.

Commissioner Peters seconded the motion.

Referencing the Sunroad Marina lease, Commissioner Burdick queried as to why there was no language included in the lease documents that states that the tenant agrees to conform to all labor laws and all negotiating and employment laws, as was the current practice. Mr. Catalino offered that on page 40, paragraph 18, section 19 staff included language related to the conformance with all of the District's laws, regulations and general rules. Commissioner Burdick expressed her concern that the specific language that called out conformance with labor and employment laws was not included. She offered that the motion be considered pending approval by the tenant of the standard provision requiring conformance to labor and employment laws. Ms. Weymann explained her belief that the negotiations of the leases in question may have begun before the new standard language was adopted thus she offered that staff would review the documents as requested. Commissioner Burdick reiterated the

importance of including the language in leases. Celia Brewer, Interim Port Attorney, offered that the Board could condition its approval on the inclusion of the new standard language.

Commissioner Nelson accepted the amendment to his motion to conditionally approve the staff recommendation based upon the tenant accepting the new standard language in which they agree to the conformance with labor and employment laws. Commissioner Peters also accepted the amendment to the motion.

Commissioner Smith acknowledged his concerns regarding the proposed change to the land use designation and the condition of the parcel in question. He offered support for the motion.

On a motion by Commissioner Nelson, seconded by Commissioner Peters the Board adopted the staff recommendation upon condition of the tenant accepting additional language in the three leases, by the following vote: Yeas-Burdick, Malcolm, Moore, Nelson, Peters, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

Clerk's Note: Substantive changes to the documents were made during the regular meeting and the matter will be docketed for a future Board meeting for Commissioner consideration.

PRESENTATION AND DIRECTION TO STAFF REGARDING PLAN FOR COMMEMORATION OF THE 50TH ANNIVERSARY OF THE SAN DIEGO UNIFIED PORT DISTRICT.

Agenda Item 24. Michelle Gannon, Director, Marketing & Communications, addressed the Board, introduced the item, and turned the presentation over to Paula Digerness, Program Manager, Marketing & Communications. Ms. Digerness addressed the Board with a presentation regarding the plan for the commemoration of the 50th Anniversary of the San Diego Unified Port District and requested direction. (A copy of the staff report and presentation are on file in the Office of the District Clerk.)

Commissioner discussion ensued. Commissioner Peters requested that the District be involved in the Balboa Park celebration and wished the team good luck in their efforts.

UPDATE ON OPTIONS FOR PRODUCTION OF FIREWORKS SHOWS AND DIRECTION TO STAFF.

Agenda Item 25. Jim Hutzelman, Assistant Director, Community Services, Marketing & Communications, addressed the Board with an updated on options for production of fireworks shows and requested direction to staff. Mr. Hutzelman turned the presentation over to Ellen Gross, Deputy Port Attorney, who continued the presentation. Mr. Hutzelman concluded the presentation and outlined staff's options regarding sponsorship support for the Big Bay Boom fireworks show and requested direction to staff. (A copy of the staff report and presentation are on file in the Office of the District Clerk.)

Commissioner Nelson left the dais at 4:21 p.m. and returned at 4:27 p.m.

Commissioner discussion ensued. Commissioner Malcolm remarked on the staff recommendation, confirmed staff was only requesting the Board select an option, and noted, for the record, the recent incident in which all of the fireworks were launched simultaneously. He offered support for option two, discussed the benefits of the show as a major activation event for the District and acknowledged Sandy Purdon of HP Purdon and Company for the efforts to produce the event in a cost effective manner and recognized his ability to engage the community in fundraising efforts to finance the annual 4th of July fireworks show. He offered a motion to support staff recommendation number two, to provide support through the Port Marketing Sponsorship Program for the production of fireworks shows.

Commissioner Nelson seconded the motion.

Commissioner Burdick also stated, for the record, the events of July 4, 2012 drew a significant amount of attention to the tidelands. She offered support for option two and acknowledged staff's efforts to evaluate all of the options and for providing the Board with more complete information by which to make their decision. She stated for the record, that the Regional Water Quality Control Board (RWQCB) requires a National Pollutant Discharge Elimination System (NPDES) permit to discharge fireworks over the Bay. Regarding option two she stated, for the record, that the agreement should include provisions that recognize circumstances like changes to regulations or monitoring requirements that may change over the course of a multi-year contract and the service provider would agree to comply with any changing regulations from any governing agency. She requested that indemnification provisions be included in the agreement to ensure the District would not be responsible for any failure to comply as a discharger. She offered that a bonding requirement might be necessary in the future.

Commissioner Burdick discussed the District's role as environmental stewards acting at a high level of integrity and concern for the environment while supporting a successful activation program. She offered support for the motion with the matters she discussed should a multi-year agreement be negotiated.

Commissioner Peters also acknowledged Mr. Purdon's service to the District and suggested the District utilize its resources to assist Mr. Purdon and his organization with the permitting process. He stated the fireworks program has unquestioned benefits to the District and the region and offered his support for the motion.

Commissioner Nelson discussed the RWQCB's desire to have one master permit holder, he acknowledged Commissioner Peter's comments, remarked on the level of resources that may be required, and suggested the City of San Diego could also provide assistance as well with facilitating the permitting process. Commissioner Peters responded that the other four member cities benefit as well. Commissioner Nelson suggested the member cities could also provide assistance.

On a motion by Commissioner Malcolm, seconded by Commissioner Nelson, the Board selected option two of the staff recommendation to provide support through the Port Marketing Sponsorship Program for the production of fireworks shows, by the following vote: Yeas-Burdick, Malcolm, Moore, Nelson, Peters, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

RESOLUTION RESCINDING BOARD OF PORT COMMISSIONERS (BPC) POLICIES

A) NO. 025 – FINANCIAL ASSISTANCE PROGRAM.

B) NO. 454 – TIDELANDS FORESTRY MANAGEMENT POLICY.

Agenda Item 26. Donna Morales, Manager of Commissioner Services, addressed the Board with a presentation requesting the Board consider a resolution rescinding BPC Policy No. 025 – Financial Assistance Program and BPC Policy No. 454 – Tideland Forestry Management Policy. (A copy of the staff report and presentation are on file in the office of the District Clerk.)

On a motion by Commissioner Valderrama, seconded by Commissioner Malcolm, the Board approved **Resolution 2012-149**, Rescinding Board of Port Commissioners (BPC) Policies: No. 025 – Financial Assistance Program and No. 454 – Tideland Forestry Management Policy, by the following vote: Yeas-Burdick, Malcolm, Moore,

Nelson, Peters, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

CONSIDERATION OF A TOLLING AGREEMENT BETWEEN THE DISTRICT, THE CITY OF SAN DIEGO AND (TO BE DETERMINED) EXTENDING THE TIME PERIOD FOR FILING CEQA CHALLENGES TO THE ENVIRONMENTAL IMPACT REPORT FOR THE SAN DIEGO CONVENTION CENTER PHASE III EXPANSION AND EXPANSION HOTEL.

Agenda Item 27. Board action no longer required. 3:43:44

RESOLUTION ELECTING CHAIRPERSON, VICE CHAIRPERSON AND SECRETARY OF THE BOARD OF PORT COMMISSIONERS FOR CALENDAR YEAR 2013.

Agenda Item 28. Commissioner Valderrama offered a motion nominating the following individuals to serve as officers for the 2013 calendar year: Ann Moore, as Chair, Lee Burdick as Vice Chair and Dan Malcolm as Secretary. Commissioner Peters seconded the motion.

On a motion by Commissioner Valderrama, seconded by Commissioner Peters, the Board approved **Resolution 2012-150**, selecting the Ann Moore, as Chair, Lee Burdick as Vice Chair and Dan Malcolm as Secretary for calendar year 2013, by the following vote: Yeas-Burdick, Malcolm, Moore, Nelson, Peters, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

Chairman Smith congratulated the new officers.

REVIEW AND CONSIDERATION OF PROPOSED BOARD AGENDA FOR THE MEETING NOVEMBER 13, 2012.

Agenda Item 29. On motion of Commissioner Valderrama, seconded by Commissioner Malcolm, the Board adopted the proposed agenda for the meeting of November 13, 2012, by the following vote: Yeas-Burdick, Malcolm, Moore, Nelson, Peters, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

OFFICER'S REPORT

Agenda Item 30. In accordance with BPC Policy No. 110, the following change orders, executed by the Executive Director or designee, were reported:

- A) Change Order No. 3 to Contract No. 2009-13 with USS Cal Builders, Inc. / \$189,426.20 Increase for North Embarcadero Visionary Plan Phase 1, San Diego, CA.
- B) Change Order No. 1 to Contract No. 2009-15 with Vector Resources, Inc. / \$10,857.00 Increase & 16 Calendar Day Time Extension thru 9/25/2012 for Fiber Optic Installation (Phase 2) Old Town Transit Center to 12th and Imperial Transit Center, San Diego, CA.
- C) Change Order No. 4 to Contract No. 2010-10 with Ledcor Construction Inc. / 30 Calendar Day Time Extension thru 10/20/2012 for Ruocco Park, San Diego, CA
- D) Change Order No. 5 to Contract No. 2010-23 with Miller Environmental Inc. / \$153,710.29 Increase for TDY Site Demolition Project Phase III, San Diego, CA.
- E) Change Order No. 5 to Contract No. 2010-34 with Ensley Electric, Inc. / \$8,403.73 Increase & 30 Calendar Day Time Extension thru 9/21/2012 for B Street Pier Cruise Ship Terminal Electrical Upgrades, San Diego, CA.
- F) Change Order No. 6 to Contract No. 2010-34 with Ensley Electric, Inc. / 16 Calendar Day Time Extension thru 10/07/2012 for B Street Pier Cruise Ship Terminal Electrical Upgrades, San Diego, CA.
- G) Change Order No. 2 to Contract No. 2011-45 with R.E. Staite Engineering, Inc. / \$6,004.77 Increase for Upgrade Bulkhead East of Berth 10-8 Tenth Avenue Marine Terminal, San Diego, California.
- H) Change Order No. 1 to Contract No. 2012-16 with Western Pump, Inc. for \$380.63 Increase and 46 Calendar Day Time Extension thru 9/20/12 for Harbor Police Vehicle Lift Installation.

PRESIDENT'S REPORT

Agenda Item 31. None.

CONSENT AGENDA CONTINUED

In light of the request for complete information detailing the location and pricing for all of the responding bidders in the staff reports for Consent Agenda Item 7 and Consent Agenda Item 10, Commissioner Burdick offered a motion to table the items and consider them to a future Board meeting.

Commissioner Peters requested and received confirmation from Brian Stup, Chief Engineer, that a continuance would be satisfactory and sufficient funds were available to carry the District forward into December.

RESOLUTION SELECTING AND AUTHORIZING AGREEMENTS WITH GEOSYNTEC CONSULTANTS AND RICK ENGINEERING COMPANY FOR STORMWATER MANAGEMENT SERVICES IN AN AGGREGATE AMOUNT NOT TO EXCEED \$500,000 FOR A PERIOD OF TWO YEARS.

Agenda Item 7. On a motion by Commissioner Burdick, seconded by Commissioner Peters, the Board continued the matter and directed staff to bring the item forward at a future Board meeting, by the following vote: Yeas-Burdick, Malcolm, Moore, Nelson, Peters, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

RESOLUTION SELECTING AND AUTHORIZING THREE-YEAR AGREEMENTS WITH TRITON ENGINEERS, INC., TRANSYSTEMS CORPORATION, AND BERGERABAM, INC. FOR MARINE STRUCTURAL ENGINEERING SERVICES ON AN AS-NEEDED BASIS FOR A TOTAL AGGREGATE AMOUNT PAYABLE UNDER THE AGREEMENTS NOT TO EXCEED \$900,000.

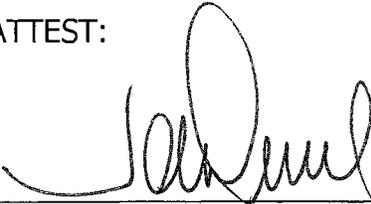
Agenda Item 10. On a motion by Commissioner Burdick, seconded by Commissioner Peters, the Board continued the matter and directed staff to bring the item forward at a future Board meeting, by the following vote: Yeas-Burdick, Malcolm, Moore, Nelson, Peters, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

As the business of the regular meeting was concluded, Chairman Smith adjourned the meeting.



Secretary, Board of Port Commissioners
San Diego Unified Port District

ATTEST:



Clerk of the San Diego Unified Port District

**MINUTES
BOARD OF PORT COMMISSIONERS
SAN DIEGO UNIFIED PORT DISTRICT**

The special meeting of the Board of Port Commissioners of the San Diego Unified Port District was called to order by Chairman Smith at 10:02 a.m., Tuesday, November 13, 2012, in the Board Room at 3165 Pacific Highway, San Diego, California.

ROLL CALL

Agenda Item 1.

Present: COMMISSIONERS, Burdick, Moore, Smith, and Valderrama.

OFFICERS: Brewer, Darbeau, Deuel and McEntee

Absent: No Commissioners absent.

Excused: Commissioner Peters was excused for personal business.
Commissioner Malcolm was excused until he arrived at 10:02 a.m.

PUBLIC COMMUNICATIONS

Agenda Item 2. None.

CLOSED SESSION

Celia Brewer, Assistant Port Attorney, announced the closed session agenda as follows:

Agenda Item 3.

CONFERENCE WITH REAL PROPERTY NEGOTIATOR
Government Code Section 54956.8

Property: Approximately 10.7 acres of tideland area located on the southwest corner of Harbor Drive and Park Boulevard in the City of San Diego, California

Negotiating Parties: David Sloan, Sunstone Hotel Investors, Inc.;
Karen Weymann, Shaun Sumner, Nick Markos,
Randa Coniglio, Karen Porteous, Jeffrey McEntee -
SDUPD

Under Negotiation: Price and Terms

Agenda Item 4.

CONFERENCE WITH REAL PROPERTY NEGOTIATOR
Government Code Section 54956.8

Property: 1220 Pacific Highway

Negotiating Parties: Karen Ringel, Naval Facilities Engineering Command
Southwest, Department of the Navy;
Karen Weymann, Shaun Sumner, Nick Markos
Randa Coniglio, Karen Porteous, Jeffrey McEntee -
SDUPD

Under Negotiation: Price and Terms

Agenda Item 5.

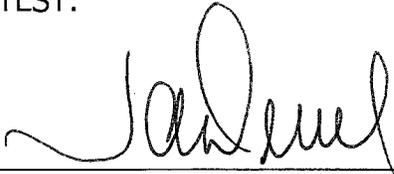
PUBLIC EMPLOYEE APPOINTMENT, PERSONNEL EVALUATION OR DISCIPLINE:
EXECUTIVE DIRECTOR PERFORMANCE EVALUATION
Government Code Section 54957

There was no formal or reportable action, pursuant to Government Code Section 54950 et seq to report from the closed session; whereupon, Chairman Smith adjourned the meeting.

A handwritten signature in cursive script that reads "Lee Berdick".

Secretary, Board of Port Commissioners
San Diego Unified Port District

ATTEST:

A handwritten signature in cursive script, likely belonging to the Clerk of the San Diego Unified Port District.

Clerk of the San Diego Unified Port District

**MINUTES
BOARD OF PORT COMMISSIONERS
SAN DIEGO UNIFIED PORT DISTRICT**

The regular meeting of the Board of Port Commissioners of the San Diego Unified Port District was called to order by Chairman Smith at 1:02 p.m., Tuesday, November 13, 2012, in the Board Room at 3165 Pacific Highway, San Diego, California.

ROLL CALL

Agenda Item 1.

Present: COMMISSIONERS, Burdick, Malcolm, Moore, Nelson, Smith, and Valderrama.

OFFICERS: Brewer, Darbeau, Deuel, McEntee and Stup

Absent: No Commissioners absent.

Excused: Commissioner Peters excused for personal business.

CLOSED SESSION

Agenda Item 2. As requested by Chairman Smith, Celia Brewer, Interim Port Attorney, report out regarding closed session. She announced there was no reportable action.

PLEDGE OF ALLEGIANCE

Agenda Item 3. Commissioner Burdick led the Pledge of Allegiance.

APPROVAL OF MINUTES

Agenda Item 4. Timothy Deuel, District Clerk, requested that consideration of approval of the minutes of the September 19, 2012 regular meeting and the October 9, 2012 special meeting to the December 11, 2012 regular meeting, be continued to a future Board meeting.

On motion of Commissioner Malcolm, seconded by Commissioner Burdick, the Board approved the request to continue their approval of the minutes of the September 19, 2012 regular meeting and the October 9, 2012 special meeting to the December 11,

2012 regular meeting, by the following vote: Yeas-Burdick, Nelson, Malcolm, Moore, Smith, and Valderrama; Nays-None; Excused-Peters; Absent-None; Abstained-None.

PUBLIC COMMUNICATIONS

Agenda Item 5. Mayor Jim Janney, City of Imperial Beach, addressed the Board and thanked the District for their participation in the Regional Sand Beach Project. He acknowledged the local, Federal and State agencies as well as the stakeholders for their cooperation and assistance.

Chairman Smith commended Mayor Janney and his staff who collaborated with all of the agencies involved to successfully complete the sand replenishment project.

John L. Holder, Wildcoast, addressed the Board regarding Pond 20. In light of the future discussions regarding possible uses for the site, he offered support for a mitigation and habitat restoration site, spoke about the protection of the site, and stated his organization continued to gather signatures in support of restoration and mitigation. He provided copies of the petitions supporting Wildcoast's position to the District Clerk. (A copy of the document is on file in the Office of the District Clerk.)

CONSENT AGENDA

Chairman Smith requested that Timothy Deuel, District Clerk, announce any suggested docket changes.

Mr. Deuel announced the proposed changes to the agenda as follows: **Consent Agenda Item 8**, Ordinance Accepting a Reconveyance of the City of San Diego's surface easement interest in the Southerly 64 feet of North Harbor Drive located between Nimitz Boulevard and Scott Street to Facilitate Development of the North Harbor Drive Realignment and Improvement Project; staff requests this item be continued to a future Board meeting; **Consent Agenda Item 22**, Resolution Selecting and Authorizing Three-Year Agreements with Triton Engineers, Inc., Transystems Corporation, and BergerABAM, Inc. for Marine Structural Engineering Services on an as-needed basis for a total aggregate amount payable under the agreements not to exceed \$900,000; staff requests this item be continued to a future Board meeting and **Action Agenda Item 31**, Resolution Approving the San Diego Unified Port District's legislative platform for Calendar Year 2013; staff requests this item be continued to a future Board meeting.

On motion of Commissioner Burdick, seconded by Commissioner Moore, the Board accepted the suggested changes to the agenda, by the following vote:

Yeas-Burdick, Malcolm, Moore, Nelson, Smith, and Valderrama; Nays-None; Excused-Peters; Absent-None; Abstained-None.

Commissioner Burdick offered a motion to approve the Consent Agenda. Commissioner Malcolm seconded the motion. Commissioner Burdick offered her gratitude to staff for their efforts to respond to her request at the October 9, 2012 regular meeting for providing additional information in the staff reports for the procurement of competitively bid contracts for goods or services. Regarding **Consent Agenda Item 16**, Resolution Authorizing a Purchase Agreement with Raceway Ford for the acquisition of various trucks (New and Unused Goods) to support maintenance and repair activities throughout the District in an amount not to exceed \$174,561.08, she offered support for the staff recommendation and requested that staff begin including alternative-fuel vehicles in the specifications for replacement District vehicles.

On motion of Commissioner Nelson, seconded by Commissioner Moore, the Board adopted Consent Agenda items 7, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 23, 24, and 25 (**Resolution 2012-151, Ordinance 2698, Resolution 2012-152** through and including **Resolution 2012-166**) by the following vote: Yeas-Burdick, Malcolm, Moore, Nelson, Smith, and Valderrama; Nays-None; Excused- Peters; Absent-None; Abstained-None.

Agenda Item 7. Resolution 2012-151, Approving two individual Project Plans for Public Art Projects outlined in the adopted five-year Curatorial Strategy 2012-2016. A) A project planning document for "Energy," a future public art project in support of the District's "Green" Public Art creative direction. B) A project planning document for "Water," a future public art project in support of the District's "Public" Public Art creative direction, was adopted as part of the consent agenda.

Agenda Item 8. Item continued to a future meeting.

Agenda Item 9. Ordinance 2697, Granting a 66-Year Utility Easement to San Diego Gas & Electric Company for Subsurface Electrical Equipment on Quay Avenue and 28th Street in National City, was adopted as part of the consent agenda.

Agenda Item 10. Resolution 2012-152, Selecting and Authorizing Agreement with Verotek Systems Inc. for Closed Circuit Television (CCTV) Surveillance System Service and Maintenance in an amount not to exceed \$3,250,000 for a period of five years, was adopted as part of the consent agenda.

Agenda Item 11. **Resolution 2012-153**, Selecting and Authorizing a Purchase Agreement with Centricsit, LLC for Switches and Fiber Optic Interfaces for Fiber Optic Infrastructure at Port Marine Terminals for an amount not to exceed \$74,544.86, was adopted as part of the consent agenda.

Agenda Item 12. **Resolution 2012-154**, Adopting the Revised Internal Audit Charter defining the Purpose, Authority, and Responsibilities of Internal Audit, was adopted as part of the consent agenda.

Agenda Item 13. **Resolution 2012-155**, Amending the Audit Advisory Committee Charter outlining the Composition and Reporting duties of the Audit Advisory Committee, was adopted as part of the consent agenda.

Agenda Item 14. **Resolution 2012-156**, Accepting the 2012 Port Security Grant Program Award for the San Diego Unified Port District for a combined total award amount of \$403,650, was adopted as part of the consent agenda.

Agenda Item 15. **Resolution 2012-157**, Accepting Grant Funding and Authorizing an Agreement with the National Oceanic and Atmospheric Administration for \$120,000 to remove marine debris from the A-8 Anchorage and the 350-acre surrounds, was adopted as part of the consent agenda.

Agenda Item 16. **Resolution 2012-158**, Authorizing a Purchase Agreement with Raceway Ford for the acquisition of various trucks (New and Unused Goods) to support maintenance and repair activities throughout the District in an amount not to exceed \$174,561.08, was adopted as part of the consent agenda.

Agenda Item 17. **Resolution 2012-159**, Establishing the Board of Port Commissioners' Meeting Dates for Calendar Year 2013, was adopted as part of the consent agenda.

Agenda Item 18. **Resolution 2012-160**, Adopting Plans and Specifications and Awarding Contract No. 2011-27 to Khavari Construction, Inc. for Imperial Beach Pier Deck Refurbishment, Imperial Beach, California in the amount of \$420,000, was adopted as part of the consent agenda.

Agenda Item 19. **Resolution 2012-161**, Adopting Plans and Specifications and Awarding Contract No. 2011-31 to Marina Landscape, Inc. for the Harbor Island Water Conservation Landscape Improvements, San Diego, California in the amount of \$309,900, was adopted as part of the consent agenda.

Agenda Item 20. **Resolution 2012-162**, Authorizing Change Order No. 4 to Contract No. 2011-33 with Flatiron Electric Group, Inc. to extend the Fiber Optic Infrastructure for the Grant-Funded North San Diego Bay Fiber Optic Installation (Phase 7) Project, San Diego, California and to increase the contract amount by \$143,003.08 increasing the aggregate total of the contract from \$1,130,000.00 to \$1,273,003.08 and extending the contract duration for 30 calendar days, was adopted as part of the consent agenda.

Agenda Item 21. **Resolution 2012-163**, Consenting to Novation/Assignment and Assumption of Agreement for as-needed Civil Engineering Services from Halcrow, Inc. to CH2M Hill Engineers, Inc, was adopted as part of the consent agenda.

Agenda Item 22. **Item continued to a future meeting.**

Agenda Item 23. **Resolution 2012-164**, Selecting and Authorizing Agreements with Geosyntec Consultants, Inc. and Glenn A Rick Engineering and Development Corporation dba Rick Engineering Company for Stormwater Management Services in an aggregate amount not to exceed \$500,000 for a period of two years, was adopted as part of the consent agenda.

Agenda Item 24. **Resolution 2012-165**, Adopting BPC Policy No. 080, Unplanned Work Consideration, was adopted as part of the consent agenda.

Agenda Item 25. **Resolution 2012-166**, Approving an Employment Agreement for the Port Attorney, was adopted as part of the consent agenda.

COMMISSIONER REPORTS

Agenda Item 6. Chairman Smith conducted the swearing in of the newly appointed Port Attorney, Thomas Russell. He discussed the following matters under the exemplary port initiatives: a thank you letter was received from the County of San Diego Grand Jury for the on-boarding support; recognition of the successful completion of the Teledyne Ryan site demolition project; and acknowledging the General Services and Procurement Department for receiving their fourth consecutive National Purchasing Institute's Excellence in Procurement Award. Chairman Smith acknowledged the team members, then he and Wayne Darbeau, Executive Director presented the trophy to Dave Thompson, Director, General Services and Procurement; Ralph Oliver, Procurement Services Manager and Bobby Engram, Manager of Distribution and Storage.

Mark Stainbrook, Assistant Chief, San Diego Harbor Police, presented life-savings awards and commendations. Harbor Police Officers Sam Davis, David Zacchilli, Daniel Giese, and Kevin Seelicke were recognized for their actions during a fire on September 30, 2012 at a naval housing complex near North Harbor Drive. Lifesaving awards were presented to Corporal David Marshall and Corporal Joseph Sharp for saving the life of a man who fell into San Diego Bay on August 18, 2012. Lifesaving awards were also awarded to Officer Andres Mendoza, Navy Chief Petty Officer Joshua Erickson and San Diego Police Officer Chris Harrison, for helping to save the life of a woman who was found unconscious in San Diego Bay on September 16, 2012. Additionally, certificates of commendation were presented to Harbor Police Officers Raul Munoz and David Zacchilli, for their assistance in the incident.

Commissioner Nelson reviewed his comments from a previous Board meeting regarding expediting the agency's efforts to reduce air pollution within the District. He acknowledged the benefits of the implementation of the Clean Truck Program by the District that had successfully impacted emission reductions.

ACTION AGENDA

PRESENTATION OF THE SAN DIEGO UNIFIED PORT DISTRICT (DISTRICT) EQUAL OPPORTUNITY PROGRAM ANNUAL REPORT FOR FISCAL YEAR 2012 (JULY 1, 2011 THROUGH JUNE 30, 2012).

Agenda Item 26. Shirley Hirai, Equal Opportunity Program Manager, addressed the Board and presented the San Diego Unified Port District (District) Equal Opportunity Program Annual Report for Fiscal Year 2012 (July 1, 2011 through June 30, 2012). (A copy of the presentation and staff report is on file in the Office of the District Clerk.)

Commissioner discussion ensued. Commissioner Valderrama offered his thanks for a comprehensive report. He stated, for the record, his desire that the District continue to address the underrepresentation of certain minority groups and that management team members make efforts to include such groups during recruitment and employment offers.

Chairman Smith offered his personal thanks to Ms. Hirai for her efforts to monitor the data and he recognized Wayne Darbeau, Executive Director, for his leadership of a team committed to the Equal Opportunity Program.

ORDINANCE GRANTING 10-YEAR LEASE WITH ONE 5-YEAR OPTION EXTENSION TO GENERAL SERVICES ADMINISTRATION FOR THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION VESSEL BERTHING AND RELATED WAREHOUSE AND OFFICE SPACE AT CROSBY STREET PIER, SOUTH OF THE TENTH AVENUE MARINE TERMINAL

Agenda Item 27. Joel Valenzuela, Director, Maritime Operations, addressed the Board with a presentation and requested the Board consider the staff recommendation regarding an Ordinance Granting a 10-Year Lease with One 5-Year Option Extension to the General Services Administration for the National Oceanic and Atmospheric Administration (NOAA) Vessel Berthing and related warehouse and office space at Crosby Street Pier, South of the Tenth Avenue Marine Terminal. He turned the presentation over to Kristine Zortman, Area Real Estate Manager, Real Estate, who discussed the details of the proposed lease. (A copy of the staff report and presentation are on file in the office of the District Clerk.)

The following member of the public addressed the Board with varying viewpoints regarding the matter: Dr. Bruce Applegate, Associate Director, Scripps Institution of Oceanography; William W. Fox, Jr., Vice President Fisheries, World Wildlife Fund; Roger Hewitt, Assistant Director, Southwest Fisheries Science Center – NOAA Fisheries Service and Sarah Mesnick, Science Liaison, Southwest Fisheries Science Center – NOAA Fisheries Service ceded their time to Dr. Werner. Francisco Werner, Director, Southwest Fisheries Science Center – NOAA Fisheries Service; Mike Swartz, Vice President, International Longshore and Warehouse Union, Local 29; Michael Jones, The Maritime Alliance; Joy Williams, Environmental Health Coalition; Don Kent, President, HUBBS – Seaworld Research; Dr. Cynthia Smith, Executive Director, National Marine Mammal Foundation; Sharon Cloward, President, Port Tenants Association and Ken Franke, President, Sportfishing Association of California.

Commissioner discussion ensued. Commissioner Nelson commended District staff for their efforts during what he characterized as a “highly competitive process,” which resulted in NOAA selecting San Diego Bay as the location to homeport its research vessel. He acknowledged the multifaceted benefits of granting the lease. He offered a motion to accept the staff recommendation.

Commissioner Valderrama seconded the motion.

Commissioner Malcolm concurred with the comments offered by the members of the community and expressed his support for the staff recommendation. He stated the berthing lease of the research vessel was an appropriate land use under the Port Act

and would bring a positive economic impact to the region. He discussed the responsibility of the Board to monitor the fiscal sustainability of the organization and the related lease transactions. Commissioner Malcolm discussed the fiscal impacts of the proposal and expressed concern regarding the District's overall negative rate-of-return of "the deal." He acknowledged the regional benefits of the lease and discussed the obligations under BPC Policy No. 355 to disclose any tenant subsidies by the District to the public.

Commissioner Burdick commended staff for identifying and bringing forward what she characterized as an "extraordinary opportunity" to the organization that supported the District's strategic vision. She stated, for the record, that the selection of the District for homeporting the NOAA vessel was timely in light of the recent City of San Diego Mayoral Race results and that incumbent mayor, Bob Filner, had remarked on leveraging the Port of San Diego's maritime assets and the development of a "aqua-hub" to benefit the region. In reference to the staff report, Commissioner Burdick stated, for the record, "the District anticipates receiving approximately \$2.3 million in total rental revenue over the proposed 15-year lease term" and that she did "not want the record to suggest that reimbursable tenant improvement costs can be properly characterized as rental revenue." She discussed the projected rental revenue and responded to Commissioner Malcolm's remarks regarding the District subsidizing a tenant. Commissioner Burdick referenced the comments offered by the members of the public; acknowledged that, at the present time, the indirect-benefits and potential revenues to the District were immeasurable and offered that the benefits would likely come from additional jobs and activity related expenditures. She compared the Board's role to review a project proposed by a member city or another government organization with a project put forward as a purely commercial enterprise. She offered her support for the staff recommendation.

Commissioner Valderrama acknowledged Commissioner Malcolm's comments regarding the financial aspects of the lease and the commitment to transparency. He concurred with Commissioner Burdick's remarks regarding the indirect benefits of the homeporting opportunity; acknowledged staff for their efforts to secure the opportunity, and discussed the regional benefits of the project.

Commissioner Moore also commended Commissioner Malcolm for his comments and his commitment to transparency and fiscal responsibility. She acknowledged the public benefit of the project and the organizational and regional opportunities it would present. She stated her support for moving forward with the staff recommendation.

Commissioner Malcolm thanked his colleagues for their remarks and reiterated his statement regarding transparency and the importance of analyzing all financial matters. He expressed his support for moving forward with the project, and stated his belief that a subsidy was merited with respect to the District's commitment to environmental stewardship and based upon all the regional benefits afforded by the homeporting of the NOAA vessel.

Chairman Smith commended the team's effort.

On a motion by Commissioner Nelson, seconded by Commissioner Valderrama, the Board adopted **Ordinance 2698** Granting 10-Year Lease with One 5-Year Option Extension to General Services Administration for the National Oceanic and Atmospheric Administration Vessel Berthing and related warehouse and office space at Crosby Street Pier, South of the Tenth Avenue Marine Terminal, by the following vote: Yeas-Burdick, Malcolm, Moore, Nelson, Smith, and Valderrama; Nays-None; Excused-Peters; Absent-None; Abstained-None.

Timothy Deuel, District Clerk, announced an additional Agenda Related Material regarding **Agenda Item 28** was received after the posting of the agenda and copies were available from the Clerk's desk.

UPDATE ON DEVELOPMENT OF THE CLIMATE PLAN, INCLUDING AN IMPLEMENTATION STRATEGY, AND REQUEST FOR FEEDBACK.

Agenda Item 28. Cody Hooven, Senior Environmental Specialist, Environmental and Land Use Management, addressed the Board with a staff presentation and update on the Climate Plan, including an implementation strategy and requested feedback from the Board. (A copy of the staff report and presentation are on file in the Office of the District Clerk.)

Kayla Race, Policy Advocate, Environmental Health Coalition, addressed the Board and expressed her organization's support for creating the Climate Plan. She offered remarks on utilizing the expertise of the committee members when assessing complex matters and considering the Environmental Committee member's recommendations. She posed questions regarding the implementation and timeline for the Climate Plan, the setting of performance target measures for the mitigation efforts, and determining greenhouse gas reduction potential.

Commissioner discussion ensued. Commissioner Burdick requested and received clarification from staff regarding questions that were received following the publication

of the staff report. Ms. Hooven offered that staff was "in-line" with the original scope of work approved by the Board. Regarding alternative energy offsets, Ms. Hooven offered that while there was not currently a measure for such matters, staff would proceed with research per the Board's direction. Regarding industry specific goals, she stated that such specific levels of detail would be presented in the implementation plan. Concerning options for District-wide actions, the adoption of ordinances, and the implementation of specific measures, Ms. Hooven offered such matters would be driven by specific Board direction.

Commissioner Moore remarked on the progress of the Climate Plan project, acknowledged the remarks offered by Ms. Race regarding the Environmental Committee's work on the project, and stated her belief that priority setting was a matter of policy and a Board function.

Commissioner Nelson requested that the adaptation portion of the Climate Plan and the related Board policy matters, implementation strategies, and related costs should be discussed at a future meeting. He discussed the concept of voluntary participation and compliance. He offered remarks on the District's role to reduce emission levels, as well the agency's role in ensuring the goal-compliance of its tenants. Regarding industry specific goals, he requested and received confirmation from Ms. Hooven that staff intended to bring forward measures and describe industry specific measures during the implementation phase. Ms. Hooven confirmed staff would evaluate "cap-and-trade" programs or other energy offset alternatives in an effort to achieve emission reduction levels. He discussed the concepts of fuel cells or other alternative energy generation solutions and the consideration of implementing port-wide regulation by those businesses emitting greenhouse gasses from mobile and/or stationary sources. Commissioner Nelson also remarked on the need for a long-term staff reporting process detailing the historical progress and efforts made to address the Climate Plan goals.

Commissioner Burdick acknowledged the complexity of the issues related to the Climate Plan. She discussed the terms "adaptation" and "mitigation" in the context of the Climate Plan and used the reduction of greenhouse gas emissions and sea level rise to illustrate the terms, respectively. She discussed the financial resources required to fund the capital expenditures necessary to address the implementation of adaptation and mitigation projects. Commissioner Burdick discussed her views regarding the inclusion of adaptation strategies and mitigation reviews in the California Environmental Quality Act (CEQA) process and spoke about the need for transparency in communicating expectations to prospective developers who bring projects before the Board for consideration. She remarked on the process by which the Climate Plan would

be adopted, and expressed her desire that the plan include a high-level implementation strategy that targets priorities and includes direction on focused actions.

Commissioner Moore responded to the Commissioner discussion and stated that, in her view, requiring a developer to bring forward adaptation strategies was a form of mitigation. She discussed the concept raised of adding adaptation and sea level rise to the CEQA process and offered that while it could present public policy benefits, she explained that careful consideration of such Board direction would be required and cautioned that such matters would not have to be part of the CEQA process to implement the Climate Plan. She acknowledged that moving forward with the implementation of the Climate Plan and discussing the strategies to address sea level rise could be facilitated at a Board retreat and in a similar manner by which the long-range Compass Strategic Plan adoption was achieved. Commissioner Moore acknowledged Commissioner Nelson's discussion regarding the development of a "smart grid" and energy districts for the port's operations.

Commissioner Valderrama concurred with Commissioner Moore regarding utilizing a retreat to set the long-term goals for the implementation of the Climate Plan.

Commissioner Malcolm also concurred with Commissioner Moore regarding utilizing a retreat and actively involving the Board in the process of selecting strategies and setting long-term goals for the implementation of the Climate Plan. He acknowledged Commissioner Burdick's comments and for defining "mitigation" and "adaptation." Concerning the greenhouse gas issues, he discussed the existing levels of regulation on businesses at local, regional, and the State level and encouraged thinking locally as well as globally to address such related matters. He discussed the level of regulation that tenants, business owners and developers are currently required to manage; thus, he requested that all stakeholders' related costs incurred from implementing the potential "toolbox of strategies" should also be considered and understood. Regarding the sea level rise inundation maps drafted that he had previously discussed, Commissioner Malcolm reiterated his concern with the areas shown that were beyond tidelands boundaries and requested the draft maps come before the Board for detailed review and discussion. He concluded his remarks by thanking the Environmental Committee members and stakeholders for their hard work.

Chairman Smith offered his commendation to all of those involved for their hard work. He offered comments regarding the impact to District resources and the level of staff work that would be required as the adoption and implementation process moves forward. He stated his concern regarding the "law of unintended consequences."

Randa Coniglio, Executive Vice President – Operations, discussed the work plan recommendation put forward during the staff presentation. She offered that staff also supported the concept of a retreat or workshop to thoroughly discuss the matter and welcomed a review of the allocation of resources within each annual budget cycle.

Commissioner Burdick acknowledged the importance of what she characterized as “meaningful Commissioner dialogue.” She concurred with Commissioner Malcolm’s remarks regarding the importance of understanding the related costs of implementing the Climate Plan and the associated strategies and goals. She remarked on a passage in the staff report that indicated that studies showed that risk management and sea level rise planning would cost significantly less than waiting to address impacts when they occurred. She also acknowledged the remarks offered by Commissioner Moore regarding CEQA, mitigation and adaptation. She offered that project proponents could bring sea level rise adaptation strategies forward as part of a project review program, and it would not have to be part of the CEQA review.

Commissioner Nelson associated himself with Commissioner Malcolm’s request for additional information. Regarding the maps referenced, he acknowledged a future discussion was appropriate. He offered that funding agencies, such as not-for-profits or government entities, would likely respond to grant requests from agencies taking leadership positions and such funding could serve as a means to address the fiscal needs that would be uncovered through the Climate Plan implementation process.

NORTH EMBARCADERO VISIONARY PLAN PHASE 1

- A) RESOLUTION WAIVING BPC POLICY NO. 110, PART 1.G.3 FOR CONTRACT NO. 2009-13, TO INCREASE THE EXECUTIVE DIRECTOR'S CHANGE ORDER EXECUTION AUTHORITY FROM 9.7% TO 20% OF THE ORIGINAL CONTRACT AMOUNT.**
- B) RESOLUTION AUTHORIZING AMENDMENT NO. 2 TO AGREEMENT WITH PROJECT DESIGN CONSULTANTS FOR DESIGN SUPPORT SERVICES TO INCREASE THE AGREEMENT AMOUNT BY \$525,858.00, INCREASING THE TOTAL AMOUNT PAYABLE UNDER THE AGREEMENT FROM \$567,287.46 TO \$1,093,145.46.**

Agenda Item 29. Brian Stup, Chief Engineer/Director, Engineering and Construction, addressed the Board with a staff presentation regarding the North Embarcadero Visionary Plan Phase 1 progress and requested the Board’s consideration

of the staff recommendations. (A copy of the staff report and presentation are on file in the Office of the District Clerk.)

Commissioner Nelson left the dais at 3:30 p.m. Commissioner Burdick left the dais at 3:30 p.m. Commissioner Burdick returned to the dais at 3:35 p.m. Commissioner Nelson returned to the dais at 3:36 p.m. Commissioner Malcolm left the dais at 3:36 p.m. and returned at 3:42 p.m.

Sharon Cloward, President, Port Tenants Association, address the Board and urged approval of the staff recommendation as a means to facilitate moving the project forward in the most timely manner possible.

Commissioner discussion ensued. Commissioner Valderrama requested and received clarification from Mr. Stup regarding the contingency funds and the staff recommendations. While Commissioner Valderrama acknowledged the unforeseen challenges presented when working on underground projects that cross multiple jurisdictions and a number of utility providers, he offered remarks regarding completing the project within the budget allocated and expressed concern regarding exceeding the allocated contingency fund. He offered support for the staff recommendation to facilitate the expedient management of the project.

Commissioner Nelson discussed the "unique nature" of the project and the unforeseen challenges. He requested that, following the completion of Phase 1 of the project, staff report to the Board on its lessons learned.

Commissioner Moore requested and received clarification that the source of the initial funding of the \$28 million was funded in equal proportion between the District and the Center City Development Corporation (CCDC). She queried as to whether the CCDC and the District would also share equally in any cost overruns that could occur should the contingency fund be exhausted. Mr. Stup acknowledged the question and stated staff was reviewing the Joint Powers Authority Agreement, and addressing that very matter with Civic San Diego (as CCDC had been dissolved) and City of San Diego leadership. Commissioner Moore requested and received confirmation from Celia Brewer, Assistant Port Attorney that the Port Attorney's office staff would also be looking into the contract and the matter of joint funding. In light of the State's recent dissolution of redevelopment agencies, Commissioner Moore remarked on the importance of resolving the matter. She encouraged beginning discussions with the relevant agencies regarding unforeseen construction issues before the subsequent phases of the project begin. Mr. Stup acknowledged that staff has begun implementing their new project management approach to proactively address such matters.

She offered a motion to adopt the staff recommendations, requested an update following the investigation by the District's legal team regarding the members of the Joint Powers Authority legal obligations, and that staff provide an update on the planning for the subsequent phases of the project.

Commissioner Malcolm seconded the motion.

Commissioner Burdick discussed her concerns with authorizing the approval of change orders. She expressed support for the recent changes in the project management team. She requested and received clarification from Mr. Stup regarding the discussions with the contractor regarding the pothole matters at the site and determining the financial responsibility for the associated repairs.

Chairman Smith expressed concern regarding the progress that had been made to date on the project. He stated he was encouraged that the District's senior management had taken the lead to address the concerns that had resulted in the change orders and the use of contingency funds. Chairman Smith requested and received confirmation from Mr. Stup that, based upon the information presently available and the project site trends to date, he was confident that the project could be finished with the balance of the remaining contingency. Chairman Smith offered his support for the staff recommendation. He encouraged staff to assess the situation as the balance of the project moves forward to ensure that public funds are safeguarded and prudently utilized.

On a single motion of Commissioner Moore, seconded by Commissioner Malcolm, the Board with a single vote adopted **Resolution 2012-167**, Waiving BPC Policy No. 110, Part 1.G.3 for Contract No. 2009-13, to increase the Executive Director's Change Order Execution Authority from 9.7% to 20% of the original contract amount and **Resolution 2012-168**, Authorizing Amendment No. 2 to Agreement with Project Design Consultants for Design Support Services to increase the agreement amount by \$525,858.00, increasing the total amount payable under the agreement from \$567,287.46 to \$1,093,145.46, with conditions by the following vote: Yeas-Burdick, Malcolm, Moore, Nelson, Smith, and Valderrama; Nays-None; Excused-Peters; Absent-None; Abstained-None.

RESOLUTION APPROVING PROPOSED FUNDING STRATEGY FOR THE SAN DIEGO - CORONADO BAY BRIDGE ARTISTIC LIGHTING PUBLIC ART PROJECT

Agenda Item 30. Irene McCormack, Vice President – Public Policy, addressed the Board regarding the Coronado Bay Bridge Artistic Lighting Public Art Project funding

strategy. Ms. McCormack turned the presentation over to Yvonne Wise, Curator, Public Art, who presented the staff report and requested the Board consider the staff recommendations. (A copy of the staff report and presentation are on file in the Office of the District Clerk.)

Commissioner discussion ensued. Commissioner Moore stated the project was an exciting opportunity. She urged staff to address the maintenance and operation obligations early in the process to ensure that any endowment or annuity funds would adequately meet the District's obligations over the life of the piece.

Commissioner Burdick discussed the project and explained her support for accepting the staff recommendation to fund the consultant's fee to review, access and report back regarding both the feasibility of the project and the fundraising opportunity. She discussed the diversity of the proposed funding sources. She explained that each stage of the project's feasibility would be assessed and required approval before moving on to the next step. She requested and received clarification from Ms. Wise regarding staff's intent to move forward with individual phases of the project when the necessary fundraising milestones were met for each phase. Commissioner Burdick requested and received clarification from Ms. Wise regarding the process staff recommended for hiring the strategic support committee consultant. She offered a motion in support of the staff's recommendation and the fundraising proposal.

Commissioner Nelson seconded the motion. He requested and received clarification from Ms. Wise that the total feasibility study expense was approximately \$750,000. Ms. Wise discussed that a tenant could dedicate their 1% for public art to the project. Celia Brewer, Assistant Port Attorney, further clarified the resolution under consideration would allow a tenant to designate their contribution during the fundraising period to the specific project under discussion.

Commissioner Valderrama expressed support for the project and discussed the importance of stakeholder support and community outreach to the neighborhoods in direct proximity to the Coronado Bridge structure.

Commissioner Malcolm acknowledged Commissioner Valderrama's remarks regarding community outreach efforts. He offered support for what he termed an "iconic project for San Diego." He encouraged staff to continue with member city, community, and stakeholder outreach to access the level of support for the project. He requested that staff proactively assess any environmental concerns that may result from the lighting design.

Commissioner Moore acknowledged the benefits of allocating the funding from the Public Art fund to move forward with hiring the consultant. She reiterated her request that staff address the maintenance responsibilities and obligations for the art piece early in the evaluation process.

Ms. McCormack discussed that staff was working on creating a community task force with representatives from the Barrio Logan and Coronado area as well as other stakeholders. She explained that the artist's feasibility study would be used to address environmental concerns.

Chairman Smith offered that while the project was exciting, he had not observed a "ground swell" of support in his community of Coronado or by members of the Barrio Logan community. Cautioning against marketing artist's conceptual renderings, he encouraged staff to engage the adjacent community members to proactively drive support for the actual concept and design of the project as it would be realized. He offered support for the staff recommendation and encouraged staff to move ahead as directed.

On a motion by Commissioner Burdick, seconded by Commissioner Nelson, the Board adopted **Resolution 2012-169** Approving Proposed Funding Strategy for the San Diego - Coronado Bay Bridge Artistic Lighting Public Art Project, by the following vote: Yeas-Burdick, Malcolm, Moore, Nelson, Smith, and Valderrama; Nays-None; Excused-Peters; Absent- None; Abstained-None.

RESOLUTION APPROVING THE SAN DIEGO UNIFIED PORT DISTRICT'S LEGISLATIVE PLATFORM FOR CALENDAR YEAR 2013

Agenda Item 31. **Item continued to a future Board meeting.**

REVIEW AND CONSIDERATION OF PROPOSED BOARD AGENDA FOR THE MEETING DECEMBER 11, 2012.

Agenda Item 32. Commissioner Nelson requested and received confirmation from Irene McCormack, Vice President – Public Policy, that a review of the possible impacts of the Passengers Vessel Services Act as related to operating casinos aboard cruise ships traveling along the California coast would be included in the legislative update item. Wayne Darbeau, Executive Director, also remarked on the Passengers Vessel Services Act and the unlikely impact on the cruise industry in California.

On motion of Commissioner Malcolm, seconded by Commissioner Nelson, the Board adopted the proposed agenda as announced by the District Clerk, by the

following vote: Yeas-Burdick, Malcolm, Moore, Nelson, Smith, and Valderrama; Nays-None; Excused-Peters; Absent-None; Abstained-None.

OFFICER'S REPORT

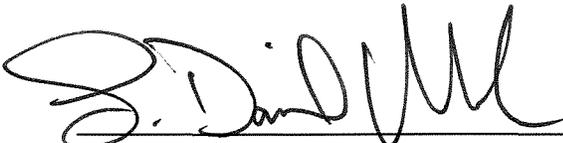
Agenda Item 33. In accordance with BPC Policy No. 110, the following change orders, executed by the Executive Director or designee, were reported:

- A) Change Order No. 4 to Contract No. 2009-13 with USS Cal Builders, Inc. / Increases Contract by \$24,511.00 for North Embarcadero Visionary Plan Phase 1, San Diego, California.
- B) Change Order No. 5 to Contract No. 2009-13 with USS Cal Builders, Inc. / Amends the Requirement of General Conditions Article 5.9.1.1 for North Embarcadero Visionary Plan Phase 1, San Diego, California.
- C) Change Order No. 1 to Contract No. 2011-05 with Hugo Alonso, Inc. / \$60,000.00 Increase & 21 Calendar Days Time Extension thru 10/15/2012 for B Street CST Canopy Installation, San Diego, California
- D) Change Order No. 4 to Contract No. 2011-07 with Whillock Contracting, Inc. / Increases Contract by \$72,000.00 for Marina Parkway Sand Filter, Chula Vista, California.
- E) Change Order No. 1 to Contract No. 2011-33 with Flatiron Electric Group, Inc. / 32 Calendar Days Time Extension thru 10/16/2012 for North San Diego Bay Fiber Optic Installation (Phase 7) San Diego, California.
- F) Change Order No. 4 to Contract No. 2011-35 with R.E. Staite Engineering, Inc. / \$3,940.65 Increase & 30 Calendar Days Time Extension thru 10/31/2012 for Tenth Avenue Marine Terminal and Broadway Pier Fender Systems Repairs, San Diego, California.
- G) Change Order No. 3 to Contract No. 2011-45 with R. E. Staite Engineering, Inc. / \$8,840.79 Increase for Upgrade Bulkhead East of Berth 10-8 Tenth Avenue Marine Terminal, San Diego, California.
- H) Change Order No. 1 to Contract No. 2012-08 with SECC Corporation / \$9,988.00 Increase & 10 Calendar Days Time Extension thru 10/31/2012 for NCMT Fiber Optic Interconnect Installation (Phase 8), National City, California.

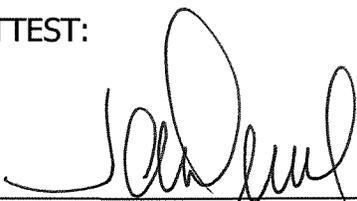
PRESIDENT'S REPORT

Agenda Item 31. None.

As the business of the regular meeting was concluded, Chairman Smith adjourned the meeting.


Secretary, Board of Port Commissioners
San Diego Unified Port District

ATTEST:


Clerk of the San Diego Unified Port District

**MINUTES
BOARD OF PORT COMMISSIONERS
SAN DIEGO UNIFIED PORT DISTRICT**

The special meeting of the Board of Port Commissioners of the San Diego Unified Port District was called to order by Chairman Smith at 11:02 a.m., Tuesday, November 13, 2012, in the Board Room at 3165 Pacific Highway, San Diego, California.

ROLL CALL

Agenda Item 1.

Present: COMMISSIONERS, Burdick, Malcolm, Moore, Nelson, Peters, Smith, and Valderrama.

OFFICERS: Russell, Darbeau, Deuel and McEntee

Absent: No Commissioners absent.

Excused: No Commissioners excused.

PUBLIC COMMUNICATIONS

Agenda Item 2. None.

CLOSED SESSION

Thomas Russell, Port Attorney, announced the closed session agenda as follows:

Agenda Item 3.

CONFERENCE WITH LEGAL COUNSEL – INITIATION OF LITIGATION
Pursuant to Subdivision (c) of Government Code Section 54956.9

One Case

Agenda Item 4.

CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION
Pursuant to Subdivision (a) of Government Code Section 54956.9

Knight & Carver Yachtcenter, Inc.
Bankruptcy Petition No.: 12-03440-LT11

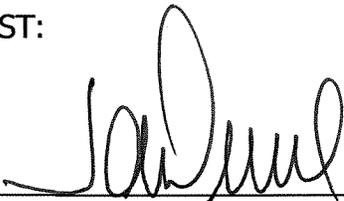
Regarding Closed Session Agenda Item No. 3, Mr. Russell reported that by a 6-0 vote the Board authorized the initiation of litigation in one matter upon the occurrence of a certain condition. He stated that details of the litigation would be announced upon the occurrence of that condition. Mr. Russell stated that Commissioner Burdick had recused herself from that decision.

There was no other formal or reportable action, pursuant to Government Code Section 54950 et seq to report from the closed session; whereupon, Chairman Smith adjourned the meeting.



Secretary, Board of Port Commissioners
San Diego Unified Port District

ATTEST:



Clerk of the San Diego Unified Port District

**MINUTES
BOARD OF PORT COMMISSIONERS
SAN DIEGO UNIFIED PORT DISTRICT**

The regular meeting of the Board of Port Commissioners of the San Diego Unified Port District was called to order by Chairman Smith at 1:02 p.m., Tuesday, December 11, 2012, in the Board Room at 3165 Pacific Highway, San Diego, California.

ROLL CALL

Agenda Item 1.

Present: COMMISSIONERS, Burdick, Malcolm, Moore, Nelson, Peters, Smith, and Valderrama.

OFFICERS: Darbeau, Deuel, McEntee, Russell and Stup

Absent: No Commissioners absent.

Excused: No Commissioners excused.

PLEDGE OF ALLEGIANCE

Agenda Item 3. Commissioner Moore led the Pledge of Allegiance.

APPROVAL OF MINUTES

Agenda Item 4. Concerning the September 19, 2012 regular meeting minutes draft, Commissioner Nelson requested that the "Convention and Visitors Bureau" reference on page 19 be corrected to read "San Diego Convention Center Corporation."

Commissioner Peters offered that while he supported the motion, he announced he would abstain from voting on the November 13, 2012 special meeting minutes, as he was not in attendance.

On motion of Commissioner Malcolm, seconded by Commissioner Burdick, the Board approved the minutes of the September 19, 2012 regular meeting with the noted correction, the October 9, 2012 special meeting, the October 9, 2012 regular meeting, and the November 13, 2012 special meeting, by the following vote: Yeas-Burdick, Malcolm, Moore, Nelson, Peters, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-Peters (November 13, 2012).

CLOSED SESSION

Agenda Item 2. As requested by Chairman Smith, Thomas Russell, Port Attorney, reported out on the Closed Session. Regarding **Closed Session Agenda Item 3**, Mr. Russell reported that by a 6-0 vote the Board authorized the initiation of litigation in one matter upon the occurrence of a certain condition. He stated that details of the litigation would be announced upon the occurrence of that condition. Mr. Russell stated that Commissioner Burdick had recused herself from that decision. He concluded his report by stating there was no other formal or reportable action.

PUBLIC COMMUNICATIONS

Agenda Item 5. Don Wood addressed the Board regarding the District's progress on the North Embarcadero Visionary Plan (NEVP) Phase I. He offered support for the completion and review of two studies, regarding the bay-wide pier infrastructure and the Embarcadero-wide parking needs alternatives, before finalizing the NEVP Phase II draft Environmental Impact Report and Port Master Plan Amendment. He urged the Board to work with local stakeholders regarding the Harbor Drive realignment planning and on establishing a funding mechanism for the NEVP redevelopment. He offered his thanks to Commissioner Peters and Commissioner Burdick for their service to the District. Mr. Wood offered support for the Bayfront Shuttle matter.

Mark Stephens recognized Commissioner Peters and Commissioner Burdick, wished them well on their future endeavors, and thanked them for their service. He addressed the Commissioners regarding the NEVP, encouraged taking a "holistic planning approach" for the waterfront, and urged them to direct staff to work with stakeholders with needs that lie beyond the Port tidelands.

Dick Goldman addressed the Board and requested that, within the context of holding the public trust, the Commissioners think of the future needs of the downtown residents and their children when considering planning and development along the waterfront. He offered thanks to Commissioner Peters and wished him well. He endorsed the importance of the studies referenced by Mr. Wood. He requested that the Board consider moving vehicle parking away from the waterfront and exploring a shuttle service to off-site parking facilities.

Jeff Alexander, Program Advisor, San Diego Gas & Electric (SDG&E) addressed the Board in support of **Consent Agenda Item 7**, a Resolution Authorizing Amendment Number One to the San Diego Gas and Electric Energy Efficiency Partnership Program Agreement to Authorize Reimbursement up to \$1,385,680 and to

extend the Partnership Program through December 2014. He offered his firm's support for continuing the partnership with the District and the Green Business Network.

Sharon Cloward, President, San Diego Port Tenants Association, expressed support for **Consent Agenda Item 7**, a Resolution Authorizing Amendment Number One to the San Diego Gas and Electric Energy Efficiency Partnership Program Agreement to Authorize Reimbursement up to \$1,385,680, and to extend the Partnership Program through December 2014. Ms. Cloward and Sophie Silvestri, San Diego Port Tenants Association, addressed the Board and recited original poems that acknowledged the service of Commissioner Peters and Commissioner Burdick, respectively.

COMMISSIONER REPORTS

Agenda Item 6. Commissioner Burdick offered follow up remarks about the public speaker's comments regarding the direction offered at the North Embarcadero Visionary Plan (NEVP) Joint Powers Authority (JPA) meeting on November 28, 2012; the bay-wide pier infrastructure study and the Embarcadero-wide parking needs alternatives study; the NEVP Phase II Port Master Plan Amendment process; and the Environmental Impact Report review comment period. Commissioner Burdick offered praise for the Green Business Network event, "San Diego's Top Green Chef Competition" held on December 3, 2012 at SDG&E's Energy Innovation Center.

Chairman Smith turned the presentation over to John Bolduc, Harbor Police Chief/Vice President, Public Safety, for the exemplary port presentation. Chief Bolduc recounted an incident in which two officers were flagged down at the Lindberg Field for a minor vehicle collision. The officers responded to the collision and found the driver slumped over the wheel not breathing and with no pulse. The officers applied an Automated External Defibrillator (AED) and called paramedics. Paramedics and San Diego Fire Department arrived and assumed lifesaving efforts. Chief Bolduc reported the victim made a full recovery. Chairman Smith and Wayne Darbeau, Executive Director, joined Chief Bolduc in presenting Life Saving Awards to Officer Joseph Jones and Sergeant Michael Rich. Officer Michelle Rodriguez, was recognized, but was unable to attend the Board meeting presentation. Lorelee Olejnick, Community Relations Specialist, San Diego Project Heartbeat, commended the award recipients and the emergency responders for their life saving efforts and acknowledged the District for its continued efforts with the AED program.

Commissioner Peters left the dais at 1:23 p.m. and returned at 1:26 p.m.

ACTION AGENDA

RESOLUTION AUTHORIZING PROCLAMATION AND APPOINTING SCOTT H. PETERS AS COMMISSIONER EMERITUS EFFECTIVE JANUARY 3, 2013.

Agenda Item 34. Commissioner Valderrama offered a motion to authorize a proclamation appointing Scott H. Peters as Commissioner Emeritus. Commissioner Moore seconded the motion. (A copy of the staff report and presentation are on file in the Office of the District Clerk.)

Commissioner discussion ensued. Each member of the Board thanked Commissioner Peters for his service to the District, congratulated him on his impending Commissioner Emeritus status, and wished him well in his new post representing the 52nd Congressional District in Washington D.C.

Commissioner Peters graciously thanked the District staff, the Port tenants, and his fellow Commissioners.

On a motion by Commissioner Valderrama, seconded by Commissioner Moore, the Board approved **Resolution 2012-188**, Authorizing a Proclamation and Appointing Scott H. Peters as Commissioner Emeritus effective January 3, 2013, by the following vote: Yeas-Burdick, Malcolm, Moore, Nelson, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-Peters.

RESOLUTION AUTHORIZING PROCLAMATION AND APPOINTING LEE BURDICK AS COMMISSIONER EMERITUS EFFECTIVE DECEMBER 12, 2012.

Agenda Item 35. Commissioner Valderrama offered a motion to authorize a proclamation appointing Lee Burdick as Commissioner Emeritus. Commissioner Malcolm seconded the motion. (A copy of the staff report and presentation are on file in the Office of the District Clerk.)

The following members of the public addressed the Board regarding the staff recommendation and thanked Commissioner Burdick for her service: Diane Coombs and Don Wood. Ms. Coombs distributed a notice regarding a public forum on Saturday, December 15, 2012. (A copy of the notice is on file in the Office of the District Clerk.)

Commissioner discussion ensued. Each member of the Board remarked on Commissioner Burdick's service to the District, offered congratulations on her impending Commissioner Emeritus status, and wished her well in her new post in the Mayor's Office at the City of San Diego.

Commissioner Burdick graciously thanked the District staff, senior leadership, her fellow Commissioners, and the members of the public to whom she served.

On a motion by Commissioner Valderrama, seconded by Commissioner Malcolm, the Board approved **Resolution 2012-189**, Authorizing a Proclamation and Appointing Lee Burdick as Commissioner Emeritus effective December 12, 2012, by the following vote: Yeas-Malcolm, Moore, Nelson, Peters, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-Burdick.

PRESIDENT'S REPORT

Agenda Item 39. On behalf of the staff and the Executive Leadership Group, Wayne Darbeau, Executive Director, offered sincere regards to Commissioner Burdick and Commissioner Peters for their service. As a token of appreciation, he presented each of them with a framed collage of photographs depicting events during their time at the District.

Commissioner Nelson left the dais at 2:08 p.m. and returned at 2:14 p.m.

CONSENT AGENDA

Chairman Smith requested that Timothy Deuel, District Clerk, announce any suggested docket changes.

Mr. Deuel announced the proposed changes to the agenda as follows: **Consent Agenda Item 20**, Resolution Waiving BPC Policy No. 110, Part II.C to Authorize Amendment to the Agreement with PJM Strategies Inc. dba Strategic Communications for Strategic Communication and Strategic Project Management Services to increase the agreement amount by \$120,000, increasing the aggregate total of the agreement from \$123,000 to \$243,000, and extending the agreement until January 31, 2014; Board action was no longer required; **Action Agenda Item 29**, Update Presentation Regarding Implementation of the Chula Vista Bayfront Master Plan; staff requests this item be continued to a future Board meeting and **Action Agenda Item 30**, Update Presentation on the status of the South Bay Power Plant Demolition; staff requests this item be continued to a future Board meeting.

On motion of Commissioner Burdick, seconded by Commissioner Peters, the Board accepted the suggested changes to the agenda, by the following vote: Yeas-Burdick, Malcolm, Moore, Peters, Smith, and Valderrama; Nays-None; Excused-Nelson; Absent-None; Abstained-None.

Commissioner Malcolm offered a motion to approve the Consent Agenda. Commissioner Burdick seconded the motion. In light of campaign contributions from the parties affiliated with matters under consideration, Commissioner Peters announced he would recuse himself from voting on **Consent Agenda Item 7** and **Consent Agenda Item 16**.

On motion of Commissioner Malcolm, seconded by Commissioner Burdick, the Board adopted Consent Agenda items 7, 8, 9, 10AB, 11, 12, 13, 14A, 14B, 15, 16, 17, 18, 19, 21A, 21B, 22, 23A, and 23B, (**Resolution 2012-170** through and including **Resolution 2012-171**, **Ordinance 2699**, **Resolution 2012-172** through and including **Resolution 2012-175**, **Ordinance 2700**, **Resolution 2012-176** through and including **Resolution 2012-181**, **Ordinance 2701**, **Resolution 2012-182** through and including **Resolution 2012-184**, and **Ordinance 2702**) by the following vote: Yeas-Burdick, Malcolm, Moore, Peters (Items 8-14 and 16-23), Smith, and Valderrama; Nays-None; Excused-Nelson; Absent-None; Abstained-Peters (Items 7 and 15).

Agenda Item 7. **Resolution 2012-170**, Authorizing Amendment Number One to the San Diego Gas and Electric Energy Efficiency Partnership Program Agreement to Authorize Reimbursement up to \$1,385,680 and extend the Partnership Program through December 2014, was adopted as part of the consent agenda.

Agenda Item 8. **Resolution 2012-171**, Authorizing the Fourth Amendment to Agreement with Dudek to Provide Environmental Consulting Services for the North Embarcadero Port Master Plan Amendment Environmental Impact Report to modify the scope of services, and increase the maximum expenditure payable under the agreement by \$300,000, increasing the aggregate total of the agreement from \$804,578 to \$1,104,578, was adopted as part of the consent agenda.

Agenda Item 9. **Ordinance 2699**, Accepting a Conveyance of the City of San Diego's surface easement interest in approximately 2.4 acres of Frontage Road South of North Harbor Drive between Nimitz Boulevard and Scott Street to enable the North Harbor Drive Realignment and Improvement Project, was adopted as part of the consent agenda.

Agenda Item 10AB. **Resolution 2012-172**, Adopting Plans and Specifications and Awarding Contract No. 2011-38 to Adams Mallory Construction Co., Inc. for the Tenth Avenue Marine Terminal Transit Shed #1, Bay D, and Head House 1 Demolition, San Diego, California in the amount of \$2,121,621.27 and Amending the FY 2009-2013 CIP and Authorizing a budget increase in the amount of \$500,000 for the Tenth Avenue Marine Terminal Transit Shed #1, Bay D and Head House 1 Demolition, was adopted as part of the consent agenda.

Agenda Item 11. **Resolution 2012-173**, Adopting Plans and Specifications and Awarding Contract No. 2012-13 to Kinsman Construction, Inc. for the Americas Cup Harbor Pier 4 Upgrade, San Diego, California in the amount of \$384,850, was adopted as part of the consent agenda.

Agenda Item 12. **Resolution 2012-174**, Amending the FY 2009-2013 CIP and Authorizing Budget Increase of \$200,000 for the Shelter Island Boat Launching Facility Project, San Diego, California, to complete the California Environmental Quality Act Requirements to qualify for disbursement of the \$495,000 Department of Boating and Waterways Grant, was adopted as part of the consent agenda.

Agenda Item 13. **Resolution 2012-175**, Authorizing Reallocation of Funds within the FY 2009-2013 Capital Improvement Program in the total amount of \$80,000 from the Maritime Truck Routes Project (\$30,000) and the Parking District Project (\$50,000) to the National City Park Project, was adopted as part of the consent agenda.

Agenda Item 14A. **Ordinance 2700**, Granting Lease Amendment No. 1 to the City of National City to extend project deadlines for 12 months due to the dissolution of the State of California Redevelopment Agencies, was adopted as part of the consent agenda.

Agenda Item 14B. **Resolution 2012-176**, Authorizing Amendment No. 1 to Memorandum of Understanding to the City of National City to extend the construction commencement deadline for 12 months from December 31, 2012 through December 31, 2013 due to the dissolution of the State of California Redevelopment Agencies, was adopted as part of the consent agenda.

Agenda Item 15. **Resolution 2012-177**, Authorizing Amendment No. 3 to Land Exchange Agreement with North C.V. Waterfront, L.P., dba Pacifica Companies, extending the close of escrow for one year from December 15, 2012 to December 15, 2013 due to the elimination of the Redevelopment Agency and to allow additional time

to satisfy the remaining conditions precedent, was adopted as part of the consent agenda.

Agenda Item 16. **Resolution 2012-179**, Consenting to Encumbrance of the Bali Hai Restaurant Leasehold in favor of American West Bank in an amount of \$2.5 million, with conditions, was adopted as part of the consent agenda.

Agenda Item 17. **Resolution 2012-178**, Selecting and Authorizing an Agreement with Universal Protection Service, LP, for Security Guard Services from February 1, 2013 to June 30, 2015 at various District locations in an amount not to exceed \$458,194.50, was adopted as part of the consent agenda.

Agenda Item 18. **Resolution 2012-180**, Selecting and Authorizing a Purchase Agreement with Case Dealer Holding Company LLC dba Case Power and Equipment for the purchase of one articulated wheel loader in the amount of \$141,211.88 for beach maintenance at Imperial Beach, was adopted as part of the consent agenda.

Agenda Item 19. **Resolution 2012-181**, Adopting the 2013-2017 San Diego Unified Port District Legislative Platform, was adopted as part of the consent agenda.

Agenda Item 20. Board action no longer required.

Agenda Item 21A. **Ordinance 2701**, Amending Salary Ordinance 2688 Establishing a Schedule of Compensation for All Officers and Employees of the San Diego Unified Port District, was adopted as part of the consent agenda.

Agenda Item 21B. **Resolution 2012-182**, Amending the San Diego Unified Port District Directory of Classification Specifications for Fiscal Year 2012 – 2013, was adopted as part of the consent agenda.

Agenda Item 22. **Resolution 2012-183**, Approving an Amendment to the Employment Agreement for the Executive Director (President/CEO), was adopted as part of the consent agenda.

Agenda Item 23A. **Resolution 2012-184**, Establishing a Financial Model to be used to purchase Municipal Services from member cities from FY 12/13 to FY 20/21 and Authorizing the Executive Director to Negotiate and Execute Agreements based on the financial model, was adopted as part of the consent agenda.

Agenda Item 23B. Ordinance 2702, Amending the FY 12/13 Budget increasing the Ordinary Annual Expense Budget by \$1.2M to reimburse Member Cities for costs for services on non-taxpaying tidelands, was adopted as part of the consent agenda.

ACTION AGENDA CONTINUED

NATIONAL CITY MARINA DISTRICT VISION PLAN.

- A) PRESENTATION ON A RESPONSE FROM GB CAPITAL HOLDINGS, LLC TO A SOLICITATION FOR INTEREST AND QUALIFICATIONS FOR POTENTIAL COMMERCIAL DEVELOPMENT IN THE NATIONAL CITY MARINA DISTRICT.**
- B) RESOLUTION AUTHORIZING STAFF TO WORK JOINTLY WITH THE CITY OF NATIONAL CITY TO ENTER INTO NEGOTIATIONS WITH GB CAPITAL HOLDINGS, LLC FOR DEVELOPING UP TO 20 ACRES OF TIDELANDS IN THE NATIONAL CITY MARINA DISTRICT.**
- C) RESOLUTION AUTHORIZING FUNDING FOR A PRELIMINARY PLANNING PROJECT IN THE NATIONAL CITY MARINA DISTRICT VISION PLAN AREA IN THE AMOUNT OF \$500,000 AND AMENDING THE FY 2014-2018 CAPITAL IMPROVEMENT PROGRAM**

Agenda Item 24. Randa Coniglio, Executive Vice President, Operations, addressed the Board with a staff presentation regarding the National City Marina District Vision Plan and the property under consideration. She turned the presentation over to Kelly Moden, Asset Manager, Real Estate, who concluded the staff presentation regarding **Action Agenda Item 24AB**. Staff requested the Board's consideration of the matter and direction. (A copy of the staff report and presentation are on file in the Office of the District Clerk.)

The following members of the public addressed the Board with varying viewpoints on the matter: Ron Morrison, Mayor, City of National City; Diane Takvorian, Executive Director, Environmental Health Coalition; and Gregory W. Boeh, General Manager, GB Capital Holding, LLC.

Commissioner discussion ensued. The following Commissioners offered remarks regarding the National City Marina District Vision Plan: Commissioner Moore, Commissioner Burdick, Commissioner Malcolm, Commissioner Nelson, Commissioner Burdick, Commissioner Malcolm, Commissioner Valderrama and Chairman Smith.

(A certified transcript of the staff report and discussion was prepared for **Agenda Item 24ABC** and is on file in the Office of the District Clerk.)

On a motion by Commissioner Peters, seconded by Commissioner Nelson, the Board adopted **Resolution 2012-185**, authorizing staff to work jointly with the City of National City to enter into Negotiations with GB Capital Holdings, LLC for developing up to 20 acres of tidelands in the National City Marina District, by the following vote: Yeas-Burdick, Malcolm, Moore, Nelson, Peters, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

Commissioner Burdick left the dais at 2:43 p.m. and returned at 2:46 p.m.

PRESENTATION AND DIRECTION TO STAFF ON A REQUEST FROM PASHA AUTOMOTIVE SERVICES, THE DISTRICT'S OPERATOR OF THE NATIONAL CITY MARINE TERMINAL, TO AMEND ITS TERMINAL OPERATOR AGREEMENT FOR POTENTIAL NEW BUSINESS OPPORTUNITIES

Agenda Item 25. Joel Valenzuela, Director, Maritime Operations, addressed the Board with a staff presentation regarding the request from Pasha Automotive Services, the District's Operator of the National City Marine Terminal, to amend its Terminal Operator Agreement for potential new business opportunities. Mr. Valenzuela turned the presentation over to Nick Markos, Asset Manager, Real Estate who presented the staff report and requested Board direction. (A copy of the staff report and presentation are on file in the Office of the District Clerk.)

The following members of the public addressed the Board with varying viewpoints on the matter: Gregory W. Boeh, General Manager, GB Capital Holding, LLC.; Ron Morrison, Mayor, City of National City; Jennifer Klein, Director, Business Development, BNSF Railway; Ivar Leetma, Developer, Marina Gateway; and Mike Rookus, Director of Real Estate, Sycuan.

Commissioner Nelson left the dais at 3:08 p.m. and returned at 3:13 p.m.

Commissioner discussion ensued. The following Commissioners offered remarks regarding the presentation and direction to staff on a request from Pasha Automotive Services, the District's operator of the National City Marine Terminal, to amend its Terminal Operator Agreement for potential new business opportunities: Commissioner Valderrama, Commissioner Burdick, Commissioner Peters, Commissioner Malcolm, Commissioner Moore, Commissioner Nelson and Chairman Smith. Thomas Russell, Port Attorney responded to the Board's requests for clarification. (A certified transcript of the

staff report and discussion was prepared for Agenda Item 25, and is on file in the Office of the District Clerk.)

NATIONAL CITY MARINA DISTRICT VISION PLAN.

C) RESOLUTION AUTHORIZING FUNDING FOR A PRELIMINARY PLANNING PROJECT IN THE NATIONAL CITY MARINA DISTRICT VISION PLAN AREA IN THE AMOUNT OF \$500,000 AND AMENDING THE FY 2014-2018 CAPITAL IMPROVEMENT PROGRAM

Agenda Item 24C. Charlene Dennis, Manager, Engineering and Construction, addressed the Board with a staff report regarding a Resolution Authorizing Funding for a Preliminary Planning Project in the National City Marina District Vision Plan Area in the amount of \$500,000 and amending the FY 2014-2018 Capital Improvement Program. (A copy of the staff report and presentation are on file in the Office of the District Clerk.)

Commissioner Malcolm left the dais at 4:15 p.m. and returned at 4:16 p.m. Commissioner Nelson left the dais at 4:16 p.m. and returned at 4:21 p.m. Commissioner Moore left the dais at 4:17 p.m. and returned at 4:19 p.m.

The following members of the public addressed the Board regarding the matter: Ron Morrison, Mayor, City of National City and Brad Raulston, Executive Director, City of National City.

Commissioner discussion ensued. The following Commissioners offered remarks regarding the presentation and discussed the proposed resolution authorizing funding for a Preliminary Planning Project in the National City Marina District Vision Plan Area, in the amount of \$500,000, and amending the FY 2014-2018 Capital Improvement Program: Commissioner Valderrama, Commissioner Burdick, Commissioner Nelson, Commissioner Peters and Chairman Smith. Wayne Darbeau, Executive Director also offered remarks regarding the matter. (A certified transcript of the staff report and discussion was prepared for Agenda Item 25 and is on file in the Office of the District Clerk.)

On a motion by Commissioner Peters, seconded by Commissioner Nelson, the Board adopted **Resolution 2012-186**, Authorizing Funding for a Preliminary planning Project in the National City Marina District Vision Plan Area in the amount of \$500,000 and amending the FY 2014-2018 Capital Improvement Program, by the following vote:

Yeas-Burdick, Malcolm, Moore, Nelson, Peters, and Valderrama; Nays-Smith; Excused-None; Absent-None; Abstained-None.

PRESENTATION BY THE COUNTY OF SAN DIEGO ON ITS 10-YEAR HEALTH STRATEGY AGENDA; LIVE WELL SAN DIEGO!: BUILDING BETTER HEALTH AND DIRECTION TO STAFF.

Agenda Item 27. Wayne Darbeau, Executive Director, addressed the Board, introduced the Live Well, San Diego! program, and turned the presentation over to Nick Macchione, Health and Human Services Director, County of San Diego (County). Mr. Macchione reviewed the long-term strategy of the wellness program and offered information as to how the District could become directly involved in the regional program to address public health concerns in the County. (A copy of the staff report and presentation are on file in the Office of the District Clerk.)

Commissioner Moore left the dais at 4:34 p.m. and returned at 4:37 p.m. Commissioner Valderrama left the dais at 4:35 p.m. and returned at 4:39 p.m.

Diane Takvorian, Executive Director, Environmental Health Coalition, addressed the Board regarding the matter in the context of environmental health and District operations.

Commissioner discussion ensued. Commissioner Burdick acknowledged Mr. Macchione and thanked him for the report and she spoke about policy-making and working toward creating a culture that helps individuals sustain long-term health related changes. She encouraged Mr. Darbeau to continue the efforts to expand the organizational cultural changes at the District to support the County's program.

Commissioner Peters thanked Mr. Macchione. He encouraged the County of San Diego to include the District logo on the Bayshore Bikeway branding materials. He spoke about the District's commitment to a waterfront that encourages walking and activity. He expressed concern that the County and the United States Navy were not involved in the North Embarcadero Visionary Plan - Joint Powers Authority. Commissioner Peters discussed the plans to move most of the parking away from the waterfront and the implementation of the trial run of the Big Bay Shuttle. He requested assistance from the County regarding modifying visitor serving usage restrictions along the tidelands and finding ways to implement food or grocery sales along the waterfront.

Commissioner Peters left the dais at 5:00 p.m. and returned at 5:04 p.m.

Commissioner Nelson thanked Mr. Macchione for his report and recognized County Supervisor Ron Robert's efforts on behalf of stakeholders. In regard to the pediatric asthma cases, he discussed the early intervention efforts for those residents living in the communities near the tidelands. He recognized Eric McDonald, M.D., Deputy Public Health Officer, County of San Diego, and thanked him for his efforts to serve the region. Commissioner Nelson offered support for assisting the community in providing better health.

Chairman Smith thanked Mr. Macchione for his report and acknowledged the efforts made by the County of San Diego to address the importance of excellence in public health.

DISCUSSION OF GOVERNANCE OF THE ENVIRONMENTAL ADVISORY COMMITTEE AND DIRECTION TO STAFF; DISCUSS MODIFICATIONS TO REAL ESTATE AND MARITIME FORUMS; AND CONSIDER AN AMENDMENT TO BPC (BOARD OF PORT COMMISSIONERS) POLICY NO. 018 TO ADDRESS CONFLICTS OF INTEREST ON ALL ADVISORY COMMITTEES

Agenda Item 26. Randa Coniglio, Executive Vice President, Operations, addressed the Board with a staff presentation regarding the matter. Ms. Coniglio then turned the presentation over to Thomas Russell, Port Attorney, who continued the presentation and requested direction to staff. (A copy of the staff report is on file in the office of the District Clerk.)

Commissioner Nelson left the dais at 5:10 p.m. and returned at 5:14 p.m.

The following members of the public addressed the Board regarding the matter: Diane Takvorian, Director, Environmental Health Coalition and Sharon Cloward, President, San Diego Port Tenants Association.

Commissioner discussion ensued. Commissioner Moore spoke about Government Code Section 1090 that addresses contractual conflicts of interest related to the Real Estate Advisory Forum members and their financial interests in the contracts for the tideland properties and the work done by the District's committees. She requested clarification regarding the staff recommendation and sought confirmation that there would be no members appointed to the forums, that no "invitation to serve letters" would be sent to stakeholders, and any interested party or person could attend the meetings and speak. Mr. Russell confirmed that Commissioner Moore correctly understood the recommendation regarding the Real Estate Forum and the Maritime Forum; he discussed the State Attorney General's position regarding committee

member responsibilities and concurred that no members would be appointed to a forum and the essence of a conflict of interest could be avoided. Regardless of whether the body was called a forum or a committee with appointed or invited members, Commissioner Moore acknowledged the benefit of receiving advice from trusted stakeholders.

Commissioner Malcolm acknowledged the staff for their thorough analysis of the matter. He acknowledged the benefits of implementing processes related to the Board committees and advisory forums that demonstrate to the public that the District has resolved any questions regarding potential conflicts of interest. Commissioner Malcolm requested and received clarification from Mr. Russell regarding his opinion on potential Government Code Section 1090 conflict of interest matters and members of the Environmental Advisory Committee. Mr. Russell offered that, in lieu of the District presenting the facts and seeking an opinion from the Fair Political Practices Commission (FPPC), the committee members should be strongly cautioned to recuse themselves should they find that any remote conflict were to arise. Mr. Russell also offered that a committee member could approach the FPPC for assistance as an individual.

Commissioner Malcolm offered a motion that the Real Estate Advisory Committee and the Maritime Advisory Committee structures be modified and become stakeholder forums. He continued that the Board would not appoint members to the stakeholder forums and that the language in BPC Policy No. 730 and BPC Policy No. 018 be modified with the following language: "To the extent required by law, the committee will operate in compliance with the Political Reforms Act and Government Code Section 1090 regarding conflicts of interest. Committee members will be required to disclose an interest and abstain from any participation in the matter."

Commissioner Nelson seconded the motion.

Commissioner Burdick detailed the process that led to the Board's consideration of the motion offered. She thanked the Mr. Russell for his "reasoned approach" to the matter. She expressed concern regarding the delays in implementing the Board's action regarding revisions to the Board's committee governance policies. She offered support for the motion presented "to the extent that it opens the Real Estate Advisory Forum and the Maritime Advisory Forum to all stakeholders" and it adopts the language modifications proposed.

Commissioner Nelson offered his appreciation to the Port Attorney's Office team for providing information in the staff report that clarified the matter under discussion.

He reiterated that the motion was only regarding the Real Estate Advisory Committee and the Maritime Advisory Committee.

Chairman Smith discussed that his initial request to District leadership that was to provide consistency in the advisory committee governance. He thanked the staff, the committee members, and the Commissioners for their efforts to implement the recommendations.

In light of the amount of time that the Board dedicated to addressing the matter of the advisory committees, Commissioner Moore acknowledged the benefits of the reports offered by the Port Attorney's office, which served to provide the clarification necessary to conclude the Board's work on the committee governance matter.

On a motion by Commissioner Malcolm, seconded by Commissioner Nelson, the Board directed staff to modify the structure of the Real Estate Advisory Committee and the Maritime Advisory Committee structures to become stakeholder forums; acknowledged the Board would not appoint members to the stakeholder forums, and to modify the language in BPC Policy No. 730 and BPC Policy No. 018 as follows: "To the extent required by law the committee will operate in compliance with the Political Reforms Act and Government Code Section 1090 regarding conflicts of interest. Committee members will be required to disclose an interest and abstain from any participation in the matter," by the following vote: Yeas-Burdick, Malcolm, Moore, Nelson, Peters, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

Commissioner Burdick left the dais at 5:40 p.m. and returned at 5:44 p.m.

Commissioner Nelson left the dais at 5:41 p.m. and returned at 5:45 p.m.

UPDATE PRESENTATION ON THE ACTIVITIES OF THE CENTER FOR BAY AND COASTAL DYNAMICS, A COLLABORATION BETWEEN SCRIPPS INSTITUTION OF OCEANOGRAPHY, SAN DIEGO STATE UNIVERSITY, HUBBS SEAWORLD RESEARCH INSTITUTE, AND THE SAN DIEGO UNIFIED PORT DISTRICT TO DEVELOP AN INTEGRATED APPROACH TO UNDERSTANDING SAN DIEGO BAY ECOSYSTEMS, AND DIRECTION TO STAFF

Agenda Item 28. Irene McCormack, Vice President of Public Policy, addressed the Board and turned the presentation over to Michele White, Environmental Policy Manager, Environmental and Land Use Management, who continued with a presentation regarding the activities of the Center for Bay and Coastal Dynamics

(Center) and direction to staff. (A copy of the staff report and presentation are on file in the office of the District Clerk.)

John Adriany, Shelter Island Master Leaseholders addressed the Board regarding the matter, commented on the bay wide process to manage the water quality and resources, urged process improvement considerations, stakeholder involvement and peer review processes.

Commissioner discussion ensued. Commissioner Nelson offered his thanks to Commissioner Malcolm for his service at the Center. Commissioner Nelson referenced the Dissolved Organic Carbon (DOC) Testing in Attachment A to the staff report titled, Center for Bay and Coastal Dynamics Collaborative Research Plan 2012-2013. He requested clarification as to whether the marina operators and environmental stakeholders had acknowledged that the DOC testing was an appropriate methodology and whether they would find the data reliable following completion of all the testing. Ms. White discussed the District's intent during the plan development process was to form a scope of work. She spoke about their work with the Center and the Regional Water Quality Control Board (RWQCB) to seek their consideration of the DOC testing and explained that following the RWQCB's consideration of the scope of work, then staff would approach stakeholders regarding the proposed testing methodology. Commissioner Nelson offered an alternative approach, suggested that key District stakeholders be engaged regarding the consideration of the DOC testing, and encouraged them to become involved in the process. Commissioner Nelson requested and received confirmation from Ms. White that the current assumptions regarding leaching was not part of the current work plan for the Center but the Department of Pesticide Regulation was looking at the leach rates from paints. Commissioner Nelson requested clarification regarding funding of the projects and Ms. White offered that staff was pursuing a grant from the National Science Foundation in addition to investigating other funding mechanisms.

Chairman Smith left the dais at 5:54 p.m. and returned at 5:56 p.m.

Commissioner Malcolm acknowledged the benefits of the collaboration and urged staff to leverage the Center's work as well as that of the local research community to address the matters affecting the District, San Diego Bay and the region's water quality.

Commissioner Peters thanked Commissioner Malcolm for his service. In light of recent budget reductions at the State level, he spoke about the benefits of the Center as one of the ways to provide trustworthy data and "good science" to the State regulatory agencies.

UPDATE PRESENTATION REGARDING IMPLEMENTATION OF THE CHULA VISTA BAYFRONT MASTER PLAN

Agenda Item 29. Item continued to a future Board meeting.

UPDATE PRESENTATION ON THE STATUS OF THE SOUTH BAY POWER PLANT DEMOLITION

Agenda Item 30. Item continued to a future Board meeting.

PRESENTATION OF THE COPPER REDUCTION PROGRAM AND UPDATE ON THE SHELTER ISLAND YACHT BASIN TMDL

Agenda Item 31. Randa Coniglio, Executive Vice President – Operations, addressed the Board regarding the matter. Ms. Coniglio turned the presentation over to Karen Holman, Manager, Environmental Programs, Environmental and Land Use Management Department, who offered a presentation on the Copper Reduction Program and the Shelter Island Yacht Basin Total Maximum Daily Load (TMDL) and requested direction to staff. (A copy of the staff report and presentation are on file in the office of the District Clerk.)

The following member of the public addressed the Board regarding the matter: Deborah Jayne, Senior Environmental Scientist, California Regional Water Quality Control Board (RWQCB) - San Diego Region (San Diego Water Board); Deborah Pennell, Chairman, Shelter Island Master Leaseholders TMDL Group; and Sharon Cloward, President, San Diego Port Tenant's Association.

Commissioner discussion ensued. Commissioner Nelson acknowledged the representative of the RWQCB and commented on Ms. Jayne's remarks regarding the commitment to working collaboratively with the District on their organization's objectives, priorities, and strategies to restore the health of San Diego Bay. He discussed the District's obligation to comply with the State order regarding the Shelter Island Yacht Basin TMDL; expressed concern regarding the impacts to tenants, marine industry workers and boat owners in that portion of the Bay; raised the issue of implementing a balanced State-wide solution that would be phased-in over time to enable boat owners to adapt to the regulatory requirements. In light of the data shown regarding compliance trends, Commissioner Nelson requested that staff and the Port Attorney prepare Board briefing information regarding the possible ways the District could compel hull paint conversion through marinas, boatyards, and boat owners or through compulsory regulation, fees, taxes or tariffs, or any other methods identified by

the staff. He offered his support to approve senior leadership's request for the additional resources necessary to complete the report and the briefing he had requested.

Chairman Smith requested clarification from staff regarding Commissioner Nelson's request regarding the preparation of the report and subsequent briefing.

Thomas Russell, Port Attorney, acknowledged the request for further investigation into the District's regulatory authority regarding copper regulation.

Wayne Darbeau, Executive Director, responded to Chairman Smith's request for clarification, stated that resources assessment would be completed, and acknowledged staff would move forward as directed by the Board to complete the task requested.

Commissioner Nelson offered to work with staff to define the scope of work and identify the required the resources necessary to complete the report and briefing project.

PRESENTATION FROM STAFF ON THE SUMMER 2012 TRIAL RUN OF THE BIG BAY SHUTTLE AND RESOLUTION DIRECTING TO STAFF TO ISSUE A REQUEST FOR PROPOSALS TO OPERATE THE BIG BAY SHUTTLE COMMENCING SUMMER 2013

Agenda Item 32. Karen Weymann, Director, Real Estate, addressed the Board regarding the Big Bay Shuttle program, the economics of the service, and the requirements for Port Master Plan Amendments and/or Coastal Development Permits for projects under consideration along the Embarcadero. She turned the presentation over to Penny Maus, Senior Asset Manager, Real Estate, who continued with a presentation regarding the results of the 2012 Trial Run of the Big Bay Shuttle and requested the Board consider directing staff to issue a Request for Proposals to operate the Big Bay Shuttle commencing in the summer of 2013. (A copy of the staff report and presentation are on file in the office of the District Clerk.)

The following members of the public addressed the Board regarding their support for the shuttle program: Scott Hermes, General Manager, Sheraton San Diego and Superintendent Thomas Workman, National Park Service – Cabrillo National Monument.

Commissioner discussion ensued. Chairman Smith discussed the public amenities and the many diverse activities at the Cabrillo National Monument.

Commissioner Peters thanked the port tenants for their support during his tenure on the Board. He then offered remarks regarding the evolution of the shuttle project and the benefits of the project to the region. Commissioner Peters offered a motion to adopt the resolution as requested in the staff recommendation. Commissioner Nelson seconded the motion.

Commissioner Moore commended staff for their efforts to implement the program. As the process for a comprehensive investigation of long-term parking lot requirements for the area begins, she recommended that staff also look for “synergy” opportunities with the shuttle service.

Chairman Smith offered support for Commissioner Peter’s motion. He offered statements of caution regarding the District operating a service that was not part of its core business competencies. He discussed the benefit of engaging the private sector to operate such businesses. He suggested that staff plan for the replacement of Federal grant funds and investigate alternative funding sources to create a sustainable business model for the shuttle service.

Commissioner Nelson offered remarks regarding his belief that the majority of rapid transit systems within the United States operate with financial subsidies from some governmental agency. In an effort to address the movement of people and goods around the tidelands, with the least impact to the environment, he offered that some sort of financial subsidy would likely be required to make the program viable.

On a motion by Commissioner Peters, seconded by Commissioner Nelson, the Board approved **Resolution 2012-187**, directing to staff to issue a Request for Proposals to operate the Big Bay Shuttle commencing summer 2013, by the following vote: Yeas-Burdick, Malcolm, Moore, Nelson, Peters, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

2012 FEDERAL LEGISLATIVE AFFAIRS PRESENTATION BY DISTRICT STAFF AND FEDERAL CONSULTANTS ALCALDE AND FAY

Agenda Item 33. Irene McCormack, Vice President of Public Policy, addressed the Board and introduced the presentation team, Dora McCann, Federal Affairs Legislative Policy Administrator, Government & Civic Relations and Cynthia Colenda, Partner, Alcalde and Fay. Ms. McCormack turned the presentation over to Ms. McCann who continued with the update regarding the 2012 Federal Legislative Affairs. Ms. McCann turned the presentation over to Ms. Colenda who discussed her firm’s efforts on behalf of the District and reviewed legislative priorities in the 113th Congress.

(A copy of the staff report and presentation are on file in the office of the District Clerk.)

Commissioner Peters left the dais at 6:55 p.m. and returned at 6:57 p.m.

Commissioner discussion ensued. Commissioner Peters acknowledged staff for their presentation and stated he looked forward to working on the matters in Washington, D.C.

Chairman Smith recognized staff's hard work representing the District. He thanked them for their efforts in what could prove to be "challenging environments" in Washington and Sacramento, respectively.

Wayne Darbeau, Executive Director, also thanked the Washington firm of Alcalde and Fay and the Sacramento based firm of Carpi and Clay for their assistance.

RESOLUTION ELECTING VICE CHAIRPERSON OF THE BOARD OF PORT COMMISSIONERS FOR CALENDAR YEAR 2013

Agenda Item 36. Commissioner Burdick offered a motion nominating Commissioner Bob Nelson to serve as Vice Chair for calendar year 2013. Commissioner Malcolm seconded the motion.

Commissioner discussion ensued. Commissioner Peters acknowledged Commissioner Nelson's nomination and thanked Commissioner Burdick for her service. He offered his thanks to Chairman Smith for his leadership.

Commissioner Moore also offered her thanks to Chairman Smith for "a great year."

On a motion by Commissioner Burdick, seconded by Commissioner Malcolm, the Board approved **Resolution 2012-190**, selecting Bob Nelson as Vice Chair for calendar year 2013, by the following vote: Yeas-Burdick, Malcolm, Moore, Peters, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-Nelson.

Commissioner Nelson thanked his fellow Commissioners for their consideration and the commitment to working together as "one port."

REVIEW AND CONSIDERATION OF PROPOSED BOARD AGENDA FOR THE MEETING JANUARY 8, 2013.

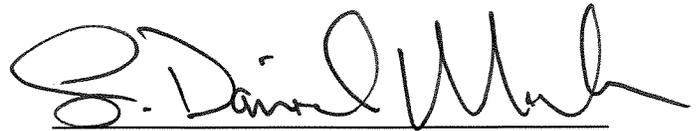
Agenda Item 37. On motion of Commissioner Malcolm, seconded by Commissioner Valderrama, the Board adopted the proposed agenda for the meeting of January 8, 2013, by the following vote: Yeas-Malcolm, Moore, Nelson, Peters, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-Burdick.

OFFICER'S REPORT

Agenda Item 38. In accordance with BPC Policy No. 110, the following change orders, executed by the Executive Director or designee, were reported:

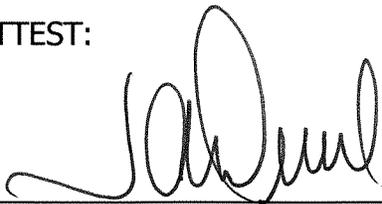
- A) Change Order No. 2 to Contract No. 2011-05 with Hugo Alonso, Inc. / \$1,300.00 Increase & 30 Calendar Days Time Extension thru 11/14/2012 for B Street CST Canopy Installation, San Diego, CA.
- B) Change Order No. 2 to Contract No. 2011-33 with Flatiron Electric Group, Inc. / 17 Calendar Days Time Extension thru 11/2/2012 for North San Diego Bay Fiber Optic Installation (Phase 7), San Diego, CA.
- C) Change Order No. 3 to Contract No. 2011-33 with Flatiron Electric Group, Inc. / \$20,000.00 Increase & 5 Calendar Days Time Extension thru 11/7/2012 for North San Diego Bay Fiber Optic Installation (Phase 7), San Diego, CA.
- D) Change Order No. 4 to Contract No. 2011-45 with R.E. Staite Engineering, Inc. / \$2,142.12 Increase & 30 Calendar Days Time Extension thru 11/3/2012 for Upgrade Bulkhead East of Berth 10-8 Tenth Avenue Marine Terminal, San Diego, California.
- E) Change Order No. 2 to Contract No. 2012-08 with SECC Corporation / \$693.00 Increase & 20 Calendar Days Time Extension thru 11/20/2012 for NCMT Fiber Optic Interconnect Installation (Phase 8), National City, CA.

Chairman Smith offered his thanks to the entire team for their hard work during the past year and offered his best regards to his colleagues. As the business of the regular meeting was concluded, Chairman Smith requested that Commissioner Burdick gavel the meeting adjourned.



Secretary, Board of Port Commissioners
San Diego Unified Port District

ATTEST:



Clerk of the San Diego Unified Port District