

**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 Chair Moore at 2:08 p.m., Tuesday, January 8, 2013, in the Board Room at 3165 Pacific Highway, San Diego, California.

**ROLL CALL**

Agenda Item 1.

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

OFFICERS: Darbeau, Deuel, McEntee, Russell and Stup

Absent: No Commissioners absent.

Excused: No Commissioners excused.

**PLEDGE OF ALLEGIANCE**

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

**APPROVAL OF MINUTES**

Agenda Item 3. On motion of Commissioner Malcolm, seconded by Commissioner Smith, the Board approved the minutes of the November 13, 2012 regular meeting and the December 11, 2012 special meeting, by the following vote: Yeas-Malcolm, Moore, Nelson, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

## **PUBLIC COMMUNICATIONS**

Agenda Item 4. Erika Lowery addressed the Board in support of funding the Imperial Beach Big Bay Boom fireworks display and honoring US Navy SEAL Tyrone Woods.

## **COMMISSIONER REPORTS**

Agenda Item 5. Commissioner Nelson reported on his participation in a meeting with regional stakeholders to discuss a pedestrian bicycle facility attached in some manner to the San Diego–Coronado Bay Bridge. He offered the next step was the completion of a project study and described the subsequent process should the matter prove to be feasible.

Commissioner Smith acknowledged staff for their planning efforts to accomplish a successful swearing-in ceremony and luncheon. Chair Moore concurred with Commissioner Smith's assessment and recognized staff for their many efforts.

## **DISTRICT CLERK'S ANNOUNCEMENTS**

Agenda Item 5. Chair Moore requested that Timothy Deuel, District Clerk, announce any suggested docket changes.

Mr. Deuel announced that due to recent network difficulties from January 4, 2013 to January 8, 2013, any member of the public who may have sent correspondence regarding an agenda related matter via email should note that it would not have been captured, distributed or included into the public record.

Mr. Deuel then announced the following docket changes for the Board's consideration: **Consent Agenda Item 7A**, Resolution Consenting to Assignment and Assumption of Leasehold Interests of the Knight and Carver Boat Yard in National City from Knight and Carver Yachtcenter, Inc. to Marine Group Boat Works, LLC. and **Consent Agenda Item 7B** Resolution consenting to Sublease of Marine Group Boat Works, LLC to Fraser's Boiler Service, staff requests this item be continued to a future Board meeting; **Consent Agenda Item 9**, Resolution Authorizing an Agreement with \_\_\_\_\_ for Development Planning Consulting Services for the Chula Vista Bayfront Master Plan for a total amount not to exceed \_\_\_\_\_ for a period of \_\_\_\_\_ years staff requests this item be continued to a future Board meeting; **Consent Agenda Item 15**, District-Wide E-Mail Replacement System in accordance with Board of Commissioners adopted Technology Strategic Plan. A) Resolution Selecting and Authorizing an Agreement with \_\_\_\_\_ for \_\_\_\_\_ Software Licensing for an

amount not to exceed \$\_\_\_\_\_. B) Resolution Selecting and Authorizing an Agreement with \_\_\_\_\_ for E-Mail System Implementation Services for an amount not to exceed \$\_\_\_\_\_ for a period of \_\_\_\_\_ years, staff requests this item be continued to a future Board meeting; **Consent Agenda Item 19**, Resolution Granting Renewal for Indemnification Language in Memorandum of Understanding among SANDAG-ARJIS and contributing Member Agencies (Harbor Police) for use and access of regional data in Automated Regional Justice Information System (ARJIS) Enterprise, staff requests this item be continued to a future Board meeting; and **Action Agenda Item 21**, Resolution Authorizing Agreement with H.P. Purdon & Company for Sponsorship of 2013 July 4<sup>th</sup> Big Bay Boom Fireworks Show in the amount of \$125,000 in funding and a not to exceed amount of \$50,000 in District Services, staff requests this item be continued to a future Board meeting.

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

## **CONSENT AGENDA**

On motion of Commissioner Valderrama, seconded by Commissioner Smith, the Board adopted Consent Agenda items 8, 10AB, 11, 12, 13, 14, 16A, 16B, and 17. (**Resolution 2013-01** through and including **Resolution 2013-10** by the following vote: Yeas-Malcolm, Moore, Nelson, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

Agenda Item 7AB. **Item continued to a future Board meeting.**

Agenda Item 8. **Resolution 2013-01**, Granting Concept Approval to Hertz Rent-A-Car for Renovation and Signage Project for leased facilities at 3202 North Harbor Drive, was adopted as part of the consent agenda.

Agenda Item 9. **Item continued to a future Board meeting.**

Agenda Item 10AB. **Resolution 2013-02**, 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 "Climate," a future Public Art Project in support of the District's "Green" Public Art creative direction. B) A Project Planning Document for "Artist in Residence," a future Public Art Program in support of the District's "Working" Public Art creative direction, was adopted as part of the consent agenda.

Agenda Item 11. **Resolution 2013-03**, Selecting and Authorizing a One Year Agreement with Moffat & Nichol-Blaylock for Professional Services for Investigation and recommendations for structural repairs to various berths at National City Marine Terminal in National City, California, in an amount not to exceed \$280,509, was adopted as part of the consent agenda.

Agenda Item 12. **Resolution 2013-04**, 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, was adopted as part of the consent agenda.

Agenda Item 13. **Resolution 2013-05**, Authorizing a Purchase Agreement with Advanced Industrial Solutions, Inc. for a 3,000 lb. Jib Crane to support the Commercial Fisheries Revitalization and Coastal Public Access Plan, in the amount of \$35,470.82, was adopted as part of the consent agenda.

Agenda Item 14. **Resolution 2013-06**, Authorizing Amendment No. 1 to Agreements with BSE Engineering, Inc. and Dahl, Taylor & Associates, Inc. for as needed Electrical Engineering Services to increase the aggregate amount payable under the agreements by \$200,000, for a new maximum aggregate amount payable under the agreements not to exceed \$500,000 and extend the duration of the agreement by six months from December 31, 2013 to June 30, 2014, was adopted as part of the consent agenda.

Agenda Item 15. **Item continued to a future Board meeting.**



Closed Circuit Television (CCTV) Security System Enhancements at Tenth Avenue Marine Terminal (TAMT) and National City Marine Terminal (NCMT) funded by Federal Port Security Grant Program Round 10

Agenda Item 16A. **Resolution 2013-07**, Selecting and Authorizing a Purchase Agreement with Verotek Systems, Inc. for Replacement CCTV Cameras for an amount not to exceed \$130,462.48, was adopted as part of the consent agenda.

Agenda Item 16B. **Resolution 2013-08**, Selecting and Authorizing a Purchase Agreement with Verotek Systems, Inc. for an Upgrade to Existing Object Video Software Licensing to Version 6.0 for an amount not to exceed \$69,386.32, was adopted as part of the consent agenda.

Agenda Item 17. **Resolution 2013-09**, Declaring Items of Equipment to be Surplus to the Needs of the District and Authorizing their Sale or Disposal in accordance with BPC Policy No. 111, was adopted as part of the consent agenda.

Agenda Item 18. **Resolution 2013-10**, Authorizing a Purchase Agreement with Maurer Marine, Inc. in an amount not to exceed \$133,799.25, reimbursable under the FY 2011 Port Security Grant Program, for the purchase of nine (9) Mercury Verado outboard engines for use in Harbor Police Department Fast Response Vessels in support of Homeland Security, Maritime Law Enforcement and Public Safety Dive Operations, was adopted as part of the consent agenda.

Agenda Item 19. **Item continued to a future Board meeting.**

## **ACTION AGENDA**

### **UPDATE PRESENTATION REGARDING IMPLEMENTATION OF THE CHULA VISTA BAYFRONT MASTER PLAN**

Agenda Item 20. Lesley Nishihira, Manager, Environmental and Land Use Management, addressed the Board, presented an update on the implementation of the Chula Vista Bayfront Master Plan, and reviewed the project milestones. (A copy of the staff report and presentation are on file in the Office of the District Clerk.)

Commissioner discussion ensued. Commissioner Valderrama requested and received clarification from Kristine Zortman, Senior Asset Manager, Real Estate, regarding the implosion of the South Bay Power Plant prior to the commencing of bird species nesting season. He requested and received clarification from Chris Hargett, Area Real Estate Manager, Real Estate, regarding the upcoming submittal of the H Street

Extension plan and the subsequent approval process. Linda Scott, Capital Projects Manager, Engineering and Construction, discussed the timeline for the H Street Extension construction, the Environmental Monitoring Plan (EMP) approval, and procurement process.

Commissioner Malcolm requested and received further clarification from Ms. Zortman regarding any requirements that would delay the power plant implosion event in February 2013. Commissioner Malcolm addressed the importance of time management and confirmed that the District was providing oversight to ensure the project moves forward in the most expedient manner possible. In light of the elimination of State redevelopment agencies, he requested and received clarification regarding the updates to the Pacifica Land Exchange agreement re-negotiations from Mr. Hargett. Commissioner Malcolm requested staff look into completing the closing ahead of schedule.

Commissioner Nelson commended Cheryl Cox, Mayor, City of Chula Vista, for her efforts to move the project forward. He requested and received clarification regarding the H Street Extension plan, confirmed the plan for completing the EMP, and discussed the graphic representation of the project components and their completion dates. Commissioner Nelson remarked on the importance of monitoring timeframes and working as efficiently as possible with local government representatives, State agencies, and other stakeholders.

Commissioner Smith thanked staff for their update and reiterated remarks regarding the importance of the project. He commented on the importance of managing the "whole program," the need for active communication regarding the status of the operation, and moving forward with a sense of urgency.

Chair Moore acknowledged staff for their hard work on what she characterized as a very "complicated project." She requested and received confirmation from Mr. Hargett that BF Goodrich is the entity submitting the application for the H Street Extension Construction and Environmental Monitoring Plan to the Regional Water Quality Control Board. Mr. Hargett confirmed that staff was consistently working with BF Goodrich representatives and discussed the timeline commitments offered by BF Goodrich regarding the submittal of the application. Regarding the application submittal and determination from the Regional Water Quality Control Board; she requested and received clarification from Thomas Russell, Port Attorney, as to whether there was any statutory or regulatory requirements regarding the response time required from the reviewing agency. Commissioner Moore requested and received confirmation from Mr. Hargett that he believed that BF Goodrich was submitting their plan under the

Polanco Act, which would specify a required response time from the Regional Water Quality Control Board. She acknowledged that moving forward with some portions of the project was outside of the District's control; expressed concern regarding relying on other parties to fulfill their obligations and act in a timely fashion; and requested that staff assess the District's role in the application process. She requested that staff consider some sort of "secondary plan" should BF Goodrich not submit their application in a timely manner. Mr. Hargett discussed the logistics of the District submitting the plan and confirmed staff would promptly update the Board should BF Goodrich not submit their plan within the expected time period. Chair Moore discussed the timing of the demolition of the power plant and urged staff to work with all stakeholders to ensure timely completion of the implosion. Ms. Zortman reiterated that staff was closely monitoring the progress, discussed the outcome of recent meetings with Dynegy, and stated that the District had indicated its assistance with facilitating outreach support. Chair Moore discussed the importance of the timely completion of the land swap exchange and the awarding of the contract for the H Street Extension project.

**RESOLUTION AUTHORIZING AGREEMENT WITH H.P. PURDON & COMPANY FOR SPONSORSHIP OF 2013 JULY 4<sup>TH</sup> BIG BAY BOOM FIREWORKS SHOW IN THE AMOUNT OF \$125,000 IN FUNDING AND A NOT TO EXCEED AMOUNT OF \$50,000 IN DISTRICT SERVICES**

Agenda Item 21. **Item continued to a future Board meeting.**

**RESOLUTION APPROVING A PROCLAMATION HONORING ASSISTANT PORT ATTORNEY CELIA A. BREWER ON THE OCCASION OF HER DEPARTURE FROM THE SAN DIEGO UNIFIED PORT DISTRICT TO BECOME THE CITY ATTORNEY OF THE CITY OF CARLSBAD**

Agenda Item 22. Thomas Russell, Port Attorney, requested the Board consider adopting a Proclamation honoring Assistant Port Attorney, Celia A. Brewer on her departure from the San Diego Unified Port District to become the City Attorney of the City of Carlsbad. (A copy of the staff report and presentation are on file in the Office of the District Clerk.)

Sophie Silvestri, San Diego Port Tenants Association, addressed the Board and offered her thanks to Ms. Brewer for all her work.

Commissioner discussion ensued. Each Commissioner offered remarks regarding Ms. Brewer's service to the District and wished her well in her new position with the City

of Carlsbad. Wayne Darbeau, Executive Director, offered Ms. Brewer his thanks on behalf of the staff and commended her public service efforts that supported the District.

Ms. Brewer discussed on her time at the District and thanked the Board and staff for their support during her tenure.

On a motion by Commissioner Smith, seconded by Commissioner Malcolm, the Board approved **Resolution 2013-11**, Approving a Proclamation Honoring Assistant Port Attorney Celia A. Brewer on the occasion of her departure from the San Diego Unified Port District to become the City Attorney of the City of Carlsbad, by the following vote: Yeas-Malcolm, Moore, Nelson, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

**RESOLUTION APPROVING A PROCLAMATION HONORING FORMER VICE PRESIDENT, PUBLIC POLICY, IRENE MCCORMACK FOR HER SERVICE TO THE SAN DIEGO UNIFIED PORT DISTRICT**

Agenda Item 23. Randa Coniglio, Executive Vice President, Operations, requested the Board consider adopting a Proclamation honoring former Vice President, Public Policy, Irene McCormack for her service to the San Diego Unified Port District. (A copy of the staff report and presentation are on file in the Office of the District Clerk.)

Ed Plant, President, San Diego Refrigerated Services, addressed the Board and offered his thanks to Ms. McCormack for all her work with the Working Waterfront Group.

Wayne Darbeau, Executive Director, thanked Ms. McCormack on behalf of the staff and commended her many efforts to support the District's mission.

Commissioner discussion ensued. Each Commissioner offered remarks regarding Ms. McCormack's service to the District and wished her well in her new position with the City of San Diego.

On a motion by Commissioner Smith, seconded by Commissioner Nelson, the Board approved **Resolution 2013-12**, Approving a Proclamation Honoring Former Vice President, Public Policy, Irene McCormack for her service to the San Diego Unified Port District, by the following vote: Yeas-Malcolm, Moore, Nelson, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

Ms. McCormack remarked on her time at the District and thanked the Board, the Executive Leadership Group, and staff for their support and hard work.

## **REVIEW AND CONSIDERATION OF PROPOSED BOARD AGENDA FOR THE MEETING FEBRUARY 12, 2013**

Agenda Item 24. On motion of Commissioner Smith, seconded by Commissioner Malcolm, the Board adopted the proposed agenda for the meeting of February 12, 2013, by the following vote: Yeas-Malcolm, Moore, Nelson, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

Chair Moore re-opened public communications.

### **PUBLIC COMMUNICATIONS CONTINUED**

Agenda Item 4. Mark Stephens addressed the Board in support of the potential pedestrian bicycle accommodation on the San Diego–Coronado Bay Bridge, acknowledged the progress on the Chula Vista Bayfront Master Plan, and congratulated the new Board officers.

### **OFFICER'S REPORT**

Agenda Item 25. In accordance with BPC Policy No. 110, the following change orders, executed by the Executive Director or designee, were reported:

Monthly Notification of Change Orders Pursuant to BPC Policy No. 110:

- A) Change Order No. 6 to Contract No. 2009-13 with USS Cal Builders, Inc. to Increase Contract by \$290,850.68 for NEVP Phase 1, San Diego, CA
- B) Change Order No. 2 to Contract No. 2009-15 with Vector Resources, Inc. to Decrease Contract by (\$184,923.26), and Change Order No. 3 for \$10,900.00 Increase, and Change Order No. 4 for 14 Calendar Day Time Extension thru 11/16/2012, and Change Order No. 5 for 23 Calendar Day Time Extension thru 12/9/2012 / For Fiber Optic Installation (Phase 2) Old Town Transit Center to 12th and Imperial Transit Center, San Diego, California
- C) Change Order No. 3 to Contract No. 2011-05 with Hugo Alonso, Inc. to Increase Contract by \$4,500.00 and 20 Calendar Day Time Extension thru 12/4/2012 for B Street Pier Cruise Ship Terminal Canopy Installation, San Diego, California

- D) Change Order No. 1 to Contract No. 2012-04 with SECC Corporation for 12 Calendar Day Time Extension thru 12/14/2012 for Truck Plate Reader Installation and Fiber Optic Cabling Installation (Phase 8) TAMT & NCMT, San Diego, CA
- E) Change Order No. 1 to Contract No. 2012-07 with Ensley Electric, Inc. to Decrease Contract by (\$45,091.16) and 54 Calendar Day Time Extension thru 12/14/2012 for Tenth Avenue Marine Terminal Fiber Optic Interconnect Installation (Phase 8) San Diego, CA
- F) Change Order No. 3 to Contract No. 2012-08 with SECC Corporation for 24 Calendar Day Time Extension thru 12/14/2012 and, Change Order No. 4 to Decrease Contract by (\$947.70) For NCMT Fiber Optic Interconnect Installation (Phase 8)
- G) Change Order No. 1 to Contract No. 2012-18 with Hamilton Pacific, Inc. to Increase Contract by \$1,000.00 for Convention Center Hotel Parking Facility Fire Damage Repair, San Diego, California

## **PRESIDENT'S REPORT**

Agenda Item 26. Wayne Darbeau, Executive Director, introduced the Brookings Institution Metropolitan Export Initiative and turned the presentation over to Joel Valenzuela, Director, Maritime Operations, who discussed the benefits of the program and the project timeline.

Commissioner discussion ensued. Commissioner Nelson acknowledged the important impacts of the program on growing the District's maritime business that leads to regional economic benefits. Regarding the current studies in progress providing data analyzing San Diego's maritime industry, he requested and received clarification from Mr. Valenzuela regarding the study completion timeline and the intent to incorporate the data into the Maritime strategy and implementation plan.

Mr. Darbeau acknowledged Commissioner Nelson's remarks and discussed the potential of growing the District's export business. He offered that the implementation of the study's findings and the planned approach for the coming year would positively affect the District's maritime operations in the near future.

Chair Moore restated her thanks to staff for their hard work, coordination and preparation of the video during the swearing-in ceremony. As there were no additional matters for consideration on the Action Agenda, Chair Moore requested that Thomas Russell, Port Attorney read the Board into Closed Session.

Mr. Russell announced the following matters would be considered during the Closed Session:

## **CLOSED SESSION**

Agenda Item 27. 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

Agenda Item 28. 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 29. CONFERENCE WITH LEGAL COUNSEL - INITIATION OF LITIGATION Pursuant to Subdivision (c) of Government Code Section 54956.9

Two Cases

Regarding **Closed Session Agenda Item 29**, case no. 1, Hopkins v. TDY Industries; San Diego Unified Port District, Case No. 37-2012-00090479-CU-PO-CTL. The Board authorized the Office of the Port Attorney to file a Cross-Complaint against TDY Industries to enforce TDY's obligations under their Lease to indemnify and defend the Port.

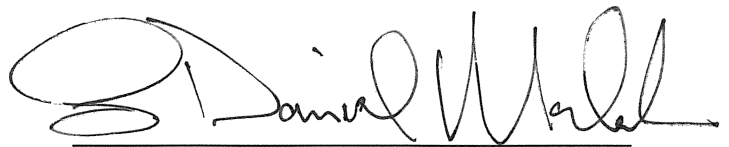
Regarding **Closed Session Agenda Item 29**, case no. 2, the Board approved entering into mediation and if unsuccessful initiating litigation in the matter of the San Diego Gas & Electric Company Tidelands Use & Occupancy Permit (TUOP), on file with the Office of District Clerk as Document #55689.

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, Chair Moore adjourned the meeting.



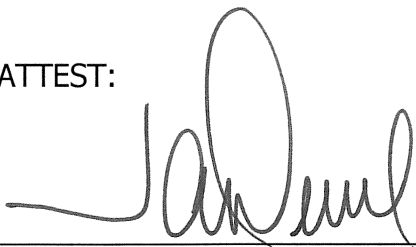
January 8, 2013

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Secretary, Board of Port Commissioners  
San Diego Unified Port District

ATTEST:

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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 Chair Moore at 8:05 a.m., Monday, February 4, 2013, at the Living Coast Discovery Center, 1000 Gunpowder Point Drive, Chula Vista, California.

**ROLL CALL**

Agenda Item 1.

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

OFFICERS: Darbeau, Deuel, McEntee, Russell.

Absent: No Commissioners absent.

Excused: No Commissioners excused.

**PUBLIC COMMUNICATIONS**

Agenda Item 2. None.

**RETREAT**

Agenda Item 3. Chair Moore welcomed the Board and the District Executive Leadership Group (ELG) to the retreat and introduced Steve Alexander, The Steve Alexander Group, as the facilitator for the retreat.

Wayne Darbeau, Executive Director, and Thomas Russell, Port Attorney each offered opening, respectively.

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 exercise regarding the long-term vision for the District. The Board, the ELG and various members of the public worked in groups to identify and discuss key strategies and principles for successful integrated planning efforts. (Copies of all handouts are on file in the Office of the District Clerk).

Chair Moore recessed the workshop for lunch at approximately 12:00 p.m. and called the retreat back to order at approximately 12:30 p.m. The Board and the ELG continued their discussion from the morning session.

Commissioner Malcolm read the following motion into the record:

"Within the next 60 days, the Port will prepare an RFP to be reviewed and approved by the Board at the April Board Meeting. The RFP will be a solicitation to hire the appropriate consultants tasked with the preparation of a long-term strategic plan for the District. The strategic plan will be a document that focuses on the time period 5 to 10 years out. The strategic plan will be a holistic bay-wide plan which will include the following elements: Identifying the inventory of developable property including vacant, underutilized and underperforming properties, identifying the various District-wide diverse needs (parking, parks, recreational, maritime, environmental, visitor serving commercial, tideland commuter transit needs, etc.), identifying appropriate land and water uses for District properties and identifying the District's available and projected sources of capital. In developing the strategic plan, the firm selected will also engage in public outreach with the community, the Port's primary stakeholders and member cities. The selected firm will then analyze all of these elements and outreach with input from Port staff to develop an over-arching, holistic and integrated District-wide long-term strategy document that would be used to prepare a Port Master Plan amendment and make other strategic decisions. The strategic plan will be completed and presented to the Board prior to the end of 2013."

Commissioner Valderrama seconded the motion. Commissioner discussion and direction to staff continued.

The Board adopted the motion as stated by Commissioner Malcolm and seconded by Commissioner Valderrama by the following vote: Yeas-Malcolm, Moore, Nelson, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

Mr. Alexander summed up the day's discussion and thanked the Board and the ELG for their hard work during the retreat.

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

Chair Moore acknowledged the Board, the ELG, and staff for their efforts. She thanked Mr. Alexander for his role during the retreat and then adjourned the open session of the meeting at approximately 2:34 p.m.

## **CLOSED SESSION**

Thomas Russell, Port Attorney, announced the closed session agenda as follows:

### Agenda Item 4.

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

### Agenda Item 5.

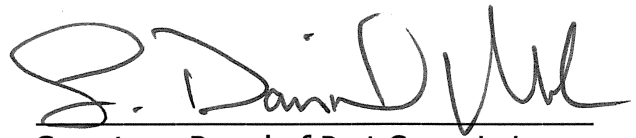
CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION  
Significant exposure to litigation pursuant to Subdivision (b)(1) of Government  
Code Section 54956.9

One Case

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, Chair Moore adjourned the meeting.

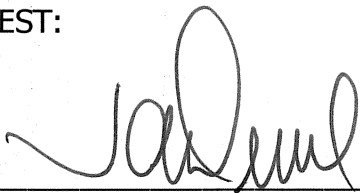
February 4, 2013

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Secretary, Board of Port Commissioners  
San Diego Unified Port District

ATTEST:

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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 Chair Moore at 10:30 a.m., Tuesday, February 12, 2013, in the Board Room at 3165 Pacific Highway, San Diego, California.

**ROLL CALL**

Agenda Item 1.

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

OFFICERS: Darbeau, Deuel, McEntee and Russell

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 – ANTICIPATED LITIGATION

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

Four Cases

Agenda Item 4.

CONFERENCE WITH LEGAL COUNSEL - INITIATION OF LITIGATION  
Pursuant to Subdivision (c) of Government Code Section 54956.9

One Case

Agenda Item 5.

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

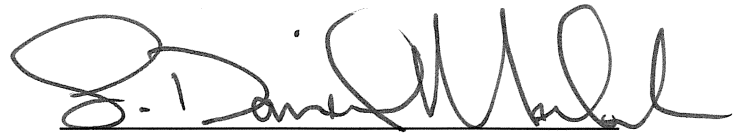
Agenda Item 6.

CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION  
Pursuant to Subdivision (a) of Government Code Section 54956.9  
Johnson, et al. v. San Diego Unified Port District, et al. San Diego Superior Court  
Case No. 37-2009-00103325-CU-PO-CTL

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, Chair Moore adjourned the meeting.

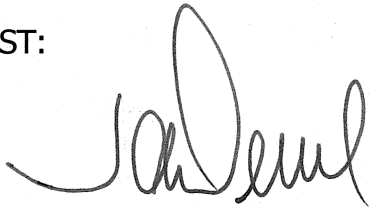
February 12, 2013

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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 Chair Moore at 1:04 p.m., Tuesday, February 12, 2013, in the Board Room at 3165 Pacific Highway, San Diego, California.

**ROLL CALL**

Agenda Item 1.

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

OFFICERS: Darbeau, Deuel, McEntee, Russell and Stup

Absent: No Commissioners absent.

Excused: No Commissioners excused.

**CLOSED SESSION**

Agenda Item 2. As requested by Chair Moore, Thomas Russell, Port Attorney, reported out regarding closed session. He announced that the Board considered all of the items except for **Closed Session Agenda Item 6: CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION**; Pursuant to Subdivision (a) of Government Code Section 54956.9; Johnson, et al. v. San Diego Unified Port District, et al. San Diego Superior Court Case No. 37-2009-00103325-CU-PO-CTL; which would be considered following the conclusion of the regular meeting.

**PLEDGE OF ALLEGIANCE**

Agenda Item 3. Commissioner Nelson led the Pledge of Allegiance, which was followed by a moment of silence to recognize and remember Ian Trowbridge, a community activist committed to open government.

## **PUBLIC COMMUNICATIONS**

Agenda Item 5. Lee Burdick, Commissioner Emeritus, addressed the Board regarding the service of Commissioner Lou Smith during his 2012 term as Chairman of the Board of Port Commissioners. She presented him with a self-published book of quotes titled *Lou Smithisms, The World through the Eyes of a Story Teller 2010-2012*. Commissioner Smith acknowledged Commissioner Burdick for her assistance during his time as a Board member and thanked her.

Ivar Leetma, Marina Gateway, addressed the Board with concerns regarding **Action Agenda Item 35**, a Presentation and direction to staff regarding Pasha Automotive Services Proposed Expansion of Operations at National City Marine Terminal and Consultant Study. He discussed potential impacts to the area hotels, businesses and visitors, encouraged working collaboratively to achieve a “win-win” situation for all stakeholders, and acknowledged staff outreach efforts.

## **APPROVAL OF MINUTES**

Agenda Item 4. On motion of Commissioner Nelson, seconded by Commissioner Malcolm, the Board approved the minutes of the January 8, 2013 special meeting, by the following vote: Yeas-Malcolm, Moore, Nelson, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

## **COMMISSIONER REPORTS**

Agenda Item 6. Chair Moore reported that on January 18, 2013, she participated on a four-person panel at UCLA's 27th Annual Land Use Law and Planning conference with Jim Sandoval from the City of Chula Vista, Alison Rolfe from Pacifica Companies, and Laura Hunter from the Environmental Health Coalition. She stated that roughly 250 people attended the session, which focused on various land use issues relating to the Chula Vista Bayfront Master Plan. The attendees were particularly interested in details about the District's success with the California Coastal Commission, the land exchange, the settlement and financing agreements, and the collaboration between the Port of San Diego, City of Chula Vista, environmentalists and developers.

Chair Moore remarked on successful implosion of the South Bay Power Plant along the Chula Vista bayfront on the morning of Saturday, February 2, 2013. She thanked staff for all their efforts to coordinate the event, which drew several thousand spectators. A video documenting the implosion was played.

Commissioner Valderrama remarked on the implosion and the magnitude of the explosion. He congratulated all of the District staff for their efforts.

## **DISTRICT CLERK'S ANNOUNCEMENTS**

Agenda Item 7. Chair Moore requested that Timothy Deuel, District Clerk, announce any suggested docket changes.

Mr. Deuel stated that the draft resolution published with **Consent Agenda Item 25**, a Resolution Authorizing the Reinstatement of the District's Pool of Investment Banking and Underwriting Firms for a period not to exceed one year, had been revised to correct the firm name. He stated that copies of the revised draft were distributed to the Board and were available at the Clerk's desk.

He announced the following docket changes for the Board's consideration: **Consent Agenda Item 8**, Resolution Waiving BPC No. 110, Part 1.G.3, and Authorizing Change Order No. {X} to Contract No. 2009-13 with USS Cal Builders, Inc. for the North Embarcadero Visionary Plan, Phase 1 extending the contract time by XXX calendar days, increasing the contract from 580 calendar days to XXX calendar days, staff requests this item be continued to a future Board meeting; **Consent Agenda Item 16**, Ordinance Granting Lease to Bay Club Hotel and Marina Extending Lease Term for seven years from January 31, 2036 to December 31, 2042 for its Marina Redevelopment, staff requests this item be continued to a future Board meeting; **Consent Agenda Item 17**, Ordinance Granting Amendment No. 2 to Option Agreement with LPP Lane Field, LLC for development of the Lane Field North Hotel Project to extend time to obtain required project approvals, staff requests Board action no longer required; **Consent Agenda Item 22**, Development of Maritime Operations System in accordance with Board of Port Commissioners Adopted Technology Strategic Plan. Resolution Selecting and Authorizing an Agreement with Port Vision, A Division of Airsys, Inc. for Development of a Maritime Operations System for an amount not to exceed \$\_\_\_\_\_ for a period of 18 months, staff requests this item be continued to a future Board meeting; and **Action Agenda Item 36**, Resolution Amending and Updating BPC Policy No. 355 and Administrative Practices - Real Estate Leasing to streamline Rent Review Process; increase the Minimum Annual Rent for Percentage Rent Leases; establish criteria for calculating Lease Term Extensions; and establish tenant responsibility for Legal and Third Party Consultation Costs, staff requests this item be continued to a future Board meeting.

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

## **CONSENT AGENDA**

On motion of Commissioner Valderrama, seconded by Commissioner Smith, the Board adopted Consent Agenda items 9, 10, 11, 12, 13, 14, 15, 18AB, 19AB, 20AB, 21, 23, 24, 25, 26, 27, 28AB, 29AB, 30 and 31. (**Resolution 2013-13** through and including **Resolution 2013-18**, **Ordinance 2703**, **Resolution 2013-19** through and including **Resolution 2013-31**) by the following vote: Yeas-Malcolm, Moore, Nelson, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

### Agenda Item 8. **Item continued to a future Board meeting.**

Agenda Item 9. **Resolution 2013-13**, Adopting Plans and Specifications and Awarding Contract No. 2012-17 to Fordyce Construction, Inc. for the Crosby Street Pier Modernization Project, South of the Tenth Avenue Marine Terminal, San Diego, California in the amount of \$886,918, was adopted as part of the consent agenda.

Agenda Item 10. **Resolution 2013-14**, Authorizing Reallocation of Funds within the FY 2014-2018 Capital Improvement Program in the amount of \$150,000 from the Imperial Beach Pier Plaza Tot Lot Project (\$100,000) and the Imperial Beach Remaining Street Ends Project (\$50,000) to the Date Avenue Street End Improvement Project and Authorizing Execution of a Memorandum of Understanding with the City of Imperial Beach, was adopted as part of the consent agenda.

Agenda Item 11. **Resolution 2013-15**, Authorizing Change Order No. 5 for \$12,299.00, Change Order No. 7 for \$57,320.00 and 30 calendar days to Contract No. 2011-33 with Flatiron Electric Group, Inc. for the grant-funded North San Diego Bay Fiber Optic Installation (Phase 7) Project, increasing the aggregate contract amount from \$1,273,003.08 to \$1,342,622.08 and extending the contract duration 30 calendar days increasing the contract calendar days from 120 to 150 calendar days, was adopted as part of the consent agenda.

Agenda Item 12. **Resolution 2013-16**, Authorizing Amendment No. 3 to Agreement with Amerit Consulting, Inc., to provide Temporary Staffing Services on an as-needed basis increasing the total agreement amount by \$81,200 for a new total of \$178,200 for Fiscal Year 12/13, was adopted as part of the consent agenda.

Agenda Item 13. **Resolution 2013-17**, Selecting and Authorizing an Agreement with Macias Gini & O'Connell LLP for Professional External Auditing Services for an amount not to exceed \$306,264 for the Audit Years 2013, 2014, and 2015 with two one-year options to extend, which may be granted at the sole discretion of the District for an amount not to exceed \$105,475 per year, was adopted as part of the consent agenda.

Agenda Item 14. **Resolution 2013-18**, Establishing Rent for the Fish Market, Inc. for the period March 1, 2013 to February 28, 2023, was adopted as part of the consent agenda.

Agenda Item 15. **Ordinance 2703**, Granting a Thirty-Six Year, Ten Month Non-Exclusive Easement to Cox Communications for Telecommunications Facilities on Shelter Island Drive, was adopted as part of the consent agenda.

Agenda Item 16. **Item continued to a future Board meeting.**

Agenda Item 17. **Board action no longer required.**

Agenda Item 18AB. **Resolution 2013-19**, Selecting and Authorizing Two Agreements for Development and Financial Strategy Consulting Services for the Chula Vista Bayfront Master Plan, A) Consulting Agreement with Jones Lang Lasalle Americas, Inc. for a total amount not to exceed \$495,000 for a period of eleven months and B) Consulting Agreement with CCI Partners, LLC for a total amount not to exceed \$345,000 for a period of ten months, was adopted as part of the consent agenda.

Agenda Item 19AB. **Resolution 2013-20**, District Wide E-Mail System Replacement in accordance with Board Port of Commissioners Adopted Technology Strategic Plan: A) Authorizing Participation in an Enterprise Agreement Negotiated by the County of Riverside with Microsoft Inc. for Software Support and updates for a period of three years not to exceed \$244,827.00, and B) Selecting and Authorizing an Agreement with Messaging Architects Inc. for Email System Implementation Services for an amount not to exceed \$91,250.00 for a period of 1 year, conditioned upon approval of item A, was adopted as part of the consent agenda.

Agenda Item 20AB. **Resolution 2013-21**, District Wide Enterprise Content Management System in accordance with Board of Port Commissioners Adopted Technology Strategic Plan: A) Selecting and Authorizing an Agreement with Wave Technology Solutions Group, Inc. for Enterprise Content Management Software Licensing for an amount not to exceed \$697,879.00 conditioned upon approval of item B and B) Selecting and Authorizing an Agreement with Wave Technology Solutions Group, Inc. for Enterprise Content Management Implementation Services for an amount not to exceed \$957,000.00 for a period of 29 months, conditioned upon approval of item A, was adopted as part of the consent agenda.

Agenda Item 21. **Resolution 2013-22**, District Wide Enterprise Dashboard System in accordance with Board of Port Commissioners Adopted Technology Strategic Plan: Selecting and Authorizing an Agreement with Zora Analytics for Enterprise Dashboard Implementation Services for an amount not to exceed \$580,000 for a period of two years, was adopted as part of the consent agenda.

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

Agenda Item 23. **Resolution 2013-23**, Selecting and Authorizing a Purchase Agreement with JPK Micro Supply, Inc. for Desktop Computer Workstations for an amount not to exceed \$140,163.10, was adopted as part of the consent agenda.

Agenda Item 24. **Resolution 2013-24**, Selecting and Authorizing a Purchase Agreement with Deanna Wolfe DBA Absolute Surveillance Systems, Inc. for a Portable Surveillance Camera Trailer in furtherance of the Port's Homeland Security mission, for an amount not to exceed \$141,676.93 funded by Port Security Grant Program Round 11, was adopted as part of the consent agenda.

Agenda Item 25. **Resolution 2013-25**, Authorizing the Reinstatement of the District's Pool of Investment Banking and Underwriting Firms for a period not to exceed one year, was adopted as part of the consent agenda.

Agenda Item 26. **Resolution 2013-26**, Agreeing to Limitation of Liability Provision in the online Agreement with the Green Building Certification Institute for use of its LEED Certification Software, was adopted as part of the consent agenda.

Agenda Item 27. **Resolution 2013-27**, Amending Board of Port Commissioner (BPC) Advisory Committee Policies, Charters and Bylaws, and Adopting BPC Policy No. 018A Establishing Board Stakeholder Forums, was adopted as part of the consent agenda.

Agenda Item 28AB. **Resolution 2013-28**, A) Waiving BPC Policy No. 110, Section II.C to Authorize Amendment Number 1 to Agreement with Carpi & Clay extending Legislative Consulting Services in Sacramento from March 31, 2013 to September 30, 2013 and to increase agreement amount by \$51,906; increasing the amount of the agreement from \$293,436 to \$345,342 and B) Authorization to issue a Request for Qualifications for Service Providers to provide Legislative Consulting Services in Sacramento beginning on October 1, 2013, was adopted as part of the consent agenda.

Agenda Item 29AB. **Resolution 2013-29**, A) Waiving BPC Policy No. 110, Part II.C to Authorize Amendment Number 1 to Agreement with Alcalde & Fay Extending Legislative Consulting Services in Washington, D.C. from March 31, 2013 to July 31, 2013 and to increase agreement amount by \$48,000.00; increasing the amount of the agreement from \$378,300.00 to \$426,300.00 and B) Authorization to issue a Request for Qualifications for Service Providers to provide Legislative Consulting Services in Washington D.C. beginning on August 1, 2013, was adopted as part of the consent agenda.

Agenda Item 30. **Resolution 2013-30**, Authorizing Agreement with H.P. Purdon & Company for Sponsorship of 2013 July 4th Big Bay Boom Fireworks Show in the amount of \$125,000 in funding and a not to exceed amount of \$50,000 in District services, was adopted as part of the consent agenda.

Agenda Item 31. **Resolution 2013-31**, Approving Proclamation to Honor and Acknowledge Lisa Johnson, 2012 President of the Chula Vista Chamber of Commerce, for her dedicated service and positive contributions to the City of Chula Vista, was adopted as part of the consent agenda.

## **ACTION AGENDA**

### **PRESENTATION OF THE SAN DIEGO UNIFIED PORT DISTRICT 2012 EMPLOYEE OF THE THIRD QUARTER**

Agenda Item 33. Katie Vigil, Human Resources Technician, Human Resources, addressed the Board and announced that the following employees were nominated for Employee of the Third Quarter: Sofia Bayardo, Park Permit Coordinator, Marketing & Communications; Karen Emison, Finance Technician, Financial Services Department; Donna Morales, Manager, Commissioner Services, Office of Commissioner and Travel Services; and Mario White, Maintenance Planner/Inspector in the General Services and Procurement Department. She turned the presentation over to Karen Porteous, Executive Vice President, Administration, to announce the winner. (A copy of the presentation and staff report is on file in the Office of the District Clerk.)

Ms. Porteous announced that Mario White, Maintenance Planner/Inspector in the General Services and Procurement Department was selected as the 2012 Employee of the Third Quarter. Mr. White was recognized for his high level of innovation in his work that results in creative process solutions.

Mr. White thanked the Board and the District for the recognition. He acknowledged his department teammates and thanked them for their support.

Chair Moore offered her congratulations on behalf of the Board.

### **PRESENTATION OF SERVICE AWARDS TO EMPLOYEES WITH 15 OR MORE YEARS OF SERVICE**

Agenda Item 34. Steve Knapp, Human Resources Analyst, Human Resources, addressed the Board with a presentation regarding the District Employee Service Award recognition program and turned the presentation over to Karen Porteous, Executive Vice President, Administration, to introduce the recipients. (A copy of the staff report and presentation are on file in the Office of the District Clerk.)

Ms. Porteous recognized Paul Brown, Senior Asset Manager, Real Estate, for 20 years of service to the District and Jeffrey Snell, Gardener, General Services and Procurement, for 20 years of service.



**PRESENTATION AND DIRECTION TO STAFF REGARDING PASHA AUTOMOTIVE SERVICES PROPOSED EXPANSION OF OPERATIONS AT NATIONAL CITY MARINE TERMINAL AND CONSULTANT STUDY**

Agenda Item 35. Joel Valenzuela, Director, Maritime Operations, addressed the Board with a presentation regarding the Pasha Automotive Services Proposed Expansion of operations at National City Marine Terminal and reviewed the Mercator Consultant Study results. Mr. Valenzuela turned the presentation over to Nick Markos, Senior Asset Manager, Real Estate, who reviewed the rail storage alternatives and discussed terminal reconfiguration alternatives. (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: Luis Natividad, Vice Mayor, City of National City; Brad Raulston, Community Development Director, City of National City; Juan Acosta, Assistant Vice President, BNSF Railway; Laura Hunter, Environmental Health Coalition; Carolina Martinez, Policy Advocate, Environmental Health Coalition; Margarita Garcia, Environmental Health Coalition, who addressed the Board in Spanish with Ms. Martinez translating; Greg Boeh, General Manager, G.B. Capital Holdings; Mike Rookus, Director of Real Estate, Sycuan; Eric Winters, Railroad Design Manager, RailPros, Inc.; John Pasha, Senior Vice President, Pasha Automotive Services; Ed Plant, Co-chair, Working Waterfront Group; and Sharon Cloward, President, San Diego Port Tenants Association. On behalf of the City of National City, Mr. Natividad presented a letter regarding the matter. (A copy of the letter is on file in the Office of the District Clerk.)

Commissioner discussion ensued. Commissioner Valderrama remarked on the history of the maritime and naval operations in the area and the subsequent constraints on community access to the National City waterfront. He discussed planning for future growth in the vehicle-shipping industry, the finite amount of available land resources, and encouraged all of the stakeholders and community participants to seek for alternative solutions and “look outside the box” to prepare for new business opportunities. He offered a motion directing staff to move forward with the process of analyzing the Mercator Report and to return to the Board with a comprehensive recommendation that results in a “win-win-win” for the City of National City, Pasha and the District.

Commissioner Malcolm seconded the motion.

Commissioner Smith thanked staff, the speakers and those involved in the process. He discussed urban planning use compatibilities, rail line construction, the impacts of rail on maritime business needs and the surrounding neighborhoods. He offered support for the motion and encouraged the stakeholders to work together to solve the regional needs.

Commissioner Malcolm discussed the efficiency of Pasha's operations as documented in the Mercator Report; the importance of the National City Marine Terminal to the region; and the challenges of reconciling land uses for maritime and low cost visitor serving accommodations. He requested and received clarification from Mr. Valenzuela regarding the results of the staff analysis to implement a vertical decking solution; the amount of the Pasha leasehold acreage under the terminal operating agreement; the areas utilized by Pasha under short-term permits and subleases with other tenants, and the total amount of land available for expansion. Commissioner Malcolm offered his support for the motion, acknowledged the competing interests in the area, and encouraged all the parties to work together to come to a "win-win-win" solution. He supported staff's recommendation to provide a notice to Pasha and grant a 365-day extension on the tank farm requirements.

Commissioner Nelson requested and received clarification from Mr. Markos as to how the District acquired land east of the mean high tide line and the acquisition period. He offered support for the motion. He requested and received clarification regarding the land referred to as "B-1" and the cost of the Mercator Report from Mr. Valenzuela. Commissioner Nelson requested and received clarification from Steve Roth, Mercator International, regarding the California setback requirements and calculating the number of railcar spaces. He remarked on the National City Joint Planning process and the statements offered by representatives of G.B. Capital Holdings regarding the development proposals for the areas under discussion. He reiterated his support for the proposal in the context of the historical land uses and in light of the current request of a member city.

Chair Moore thanked the public for their input. She offered her support for the motion and expressed her desire that staff return with a "win-win-win" solution.

On a motion by Commissioner Valderrama, seconded by Commissioner Malcolm, the Board directed staff to move forward with the process of analyzing the Mercator Report and to return to the Board with a comprehensive recommendation, by the following vote: Yeas-Malcolm, Moore, Nelson, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

## **PUBLIC HEARING AGENDA**

### **TENTH AVENUE MARINE TERMINAL SHORE POWER PROJECT**

- A) CONDUCT PUBLIC HEARING AND ADOPT RESOLUTION ADOPTING FINAL MITIGATED NEGATIVE DECLARATION, ADOPTING MITIGATION MONITORING AND REPORTING PROGRAM, AND DIRECTING FILING OF THE NOTICE OF DETERMINATION.**
- B) ADOPT RESOLUTION AUTHORIZING ISSUANCE OF A NON-APPEALABLE COASTAL DEVELOPMENT PERMIT**

Agenda Item 32. Lesley Nishihira, Manager, Environmental and Land Use Management, addressed the Board with a presentation regarding the Tenth Avenue Marine Terminal Shore Power Project and requested that the Board conduct a public hearing regarding the matter. (A copy of the staff report and presentation are on file in the Office of the District Clerk.)

Chair Moore opened the public hearing. Laura Hunter, Environmental Health Coalition, addressed the Board and expressed support for the project. She also referenced Attachment B, page 4, and requested the Board modify item 4 of the draft Coastal Development Permit regarding short-term construction measures by adding to the statement "All trucks hauling loose material during Project construction, either on-site or offsite, shall be adequately covered 'and adhere to adopted truck routes'."

Chair Moore requested and received confirmation from Ms. Nishihira that staff found no issue with the additional language as requested.

Commissioner discussion ensued. Commissioner Smith requested and received clarification from John Bolduc, Chief, Harbor Police, regarding the designated truck routes and the enforcement of the City of San Diego regulations.

As there were no additional speakers, Chair Moore closed the public hearing.

Commissioner Malcolm received confirmation from Chair Moore that not adhering to the designated truck routes would result in a violation of the Coastal Development Permit. He discussed the benefits of shore power and the project was an example of the commitment to the community members residing near the marine terminals. Commissioner Malcolm requested and received clarification from Joel Valenzuela, Director, Maritime Operations, regarding the District's "pro-active" compliance with the 2014 California Air Resources Board regulations, the percentage of compliant vessel fleets calling on the port, and Dole's lease requirements regarding implementing shore

power on their vessels calling on the Port of San Diego. Commissioner Malcolm requested and received confirmation from Mr. Valenzuela that staff anticipated that the project would be completed under the budget allocated in the Capital Improvement Program.

Commissioner Valderrama offered his support for the motion and discussed the investment in the community of Barrio Logan. He requested and received confirmation from Mr. Valenzuela that more ships call at the National City Marine Terminal. In light of the types of ship calling, Commissioner Valderrama expressed concern regarding the lack of cold ironing regulatory requirements at the 24<sup>th</sup> Street facilities.

In regard to compliance with shore power requirements, Commissioner Nelson requested and received clarification from Mr. Valenzuela regarding the ability to track the number of calls a fleet makes to the Port of San Diego.

Commissioner Smith thanked those who participated in implementing the project and requested that everyone remain mindful of the marine operations and that shore power can make positive impacts on adjacent neighborhoods and the Perkins Elementary School community.

On a single motion by Commissioner Malcolm, seconded by Commissioner Smith, the Board, with a single vote, adopted **Resolution 2013-32** Adopting Final Mitigated Negative Declaration, Adopting Mitigation Monitoring and Reporting Program, and Directing Filing of the Notice of Determination, the language modification requested; and **Resolution 2013-33** Authorizing Issuance of a Non-Appealable Coastal Development Permit by the following vote: Yeas-Malcolm, Moore, Nelson, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

## **ACTION AGENDA CONTINUED**

**RESOLUTION AMENDING AND UPDATING BPC POLICY NO. 355 AND ADMINISTRATIVE PRACTICES - REAL ESTATE LEASING TO STREAMLINE RENT REVIEW PROCESS; INCREASE THE MINIMUM ANNUAL RENT FOR PERCENTAGE RENT LEASES; ESTABLISH CRITERIA FOR CALCULATING LEASE TERM EXTENSIONS; AND ESTABLISH TENANT RESPONSIBILITY FOR LEGAL AND THIRD PARTY CONSULTATION COSTS**

Agenda Item 36. **Item continued to a future Board meeting.**

**ORDINANCE ADOPTING SAN DIEGO UNIFIED PORT DISTRICT CODE ARTICLE 11 - REGULATION OF NEWSRACKS ON SAN DIEGO UNIFIED PORT DISTRICT TIDELANDS**

Agenda Item 37. Kirk Nichols, Harbor Police Lieutenant, addressed the Board with the staff presentation regarding an Ordinance adopting the San Diego Unified Port District Code Article 11 - Regulation of Newsracks on San Diego Unified Port District Tidelands. Lieutenant Nichols turned the presentation over to Dave Catalino, Deputy Port Attorney, who addressed the legal status of newsracks and upon conclusion of the report requested the Board's consideration of the matter. (A copy of the staff report and presentation are on file in the Office of the District Clerk.)

Commissioner discussion ensued. Commissioner Nelson thanked staff for their work on the matter.

On a motion by Commissioner Valderrama, seconded by Commissioner Smith, the Board adopted **Ordinance 2704** adopting the San Diego Unified Port District Code Article 11 - Regulation of Newsracks on San Diego Unified Port District Tidelands, by the following vote: Yeas-Malcolm, Moore, Nelson, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

**RESOLUTION AMENDING BPC (BOARD OF PORT COMMISSIONERS) POLICY NO. 110 TO REFLECT CHANGES TO STATE LAW APPLYING TO THE ADMINISTRATION OF CONTRACTS, AND TO UPDATE PROVISIONS FOR AGREEMENTS, AND THE PURCHASE OF SUPPLIES, MATERIALS AND EQUIPMENT**

Agenda Item 38. Dave Catalino, Deputy Port Attorney, addressed the Board with a presentation regarding a Resolution amending BPC Policy No. 110 to reflect changes to State Law applying to the Administration of Contracts, and to update provisions for Agreements, and the Purchase of Supplies, Materials and Equipment. (A copy of the staff report and presentation are on file in the Office of the District Clerk.)

Commissioner discussion ensued. Commissioner Smith acknowledged staff for their efforts regarding the matter and explained that addressing the matters demonstrated commitments to continuous process improvement.

Commissioner Valderrama requested and received confirmation from Dave Thompson, Director, General Services and Procurement, regarding the policy modification of including the Port Attorney Consulting Agreements data into the regular monthly report to the Board.

On a motion by Commissioner Smith, seconded by Commissioner Malcolm, the Board adopted **Resolution 2013-34** amending BPC (Board of Port Commissioners) Policy No. 110 to reflect changes to State Law applying to the Administration of Contracts, and to Update Provisions for Agreements, and the Purchase of Supplies, Materials and Equipment, by the following vote: Yeas-Malcolm, Moore, Nelson, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

**INITIAL SCOPING DISCUSSION AND DIRECTION TO STAFF TO BEGIN PREPARATION OF A SOLICITATION FOR CONSULTANT TEAMS TO CONDUCT ANALYSIS AND DEVELOP A STRATEGY AND WORK PLAN FOR A COMPREHENSIVE INTEGRATED PORT MASTER PLAN UPDATE**

Agenda Item 39. Lesley Nishihira, Manager, Environmental and Land Use Management, addressed the Board regarding an initial scoping discussion and requested Board direction to begin preparation of a solicitation for consultant teams to conduct an analysis and develop a strategy and work plan for a Comprehensive Integrated Port Master Plan Update. (A copy of the staff report is on file in the Office of the District Clerk.)

Commissioner discussion ensued. Commissioner Nelson offered his support for the staff recommendation and integrated planning. He discussed the potential challenges of moving ahead with a planning process while conducting the daily work of the District and encouraged staff to bring recommendations forward to achieve both tasks.

The following members of the public addressed the Board in support of the planning process and an Integrated Port Master Plan Update: Sharon Cloward, President, Port Tenants Association; Laura Hunter, Environmental Health Coalition, who provided a handout offering process and scope of work suggestions; and Jim Peugh, Conservation Chair, San Diego Audubon Society. (A copy of Ms. Hunter's handout is on file in the Office of the District Clerk.)

Commissioner Malcolm discussed the direction offered at the recent Board retreat regarding integrated, holistic planning and the exercise of looking ahead fifty years and prepare for the District's role in the future. He offered a motion to prepare a Solicitation for Consultant Teams to Conduct Analysis and Develop a Strategy and Work Plan for a Comprehensive Integrated Port Master Plan Update.

Chair Moore offered her thanks to staff for their efforts to put together the staff report immediately following the Board's retreat that allowed for the Board's consideration of the matter during the meeting. She discussed the Board's role as stewards of the tideland, the impact of long-range planning, and requested the process encourage community and stakeholder input.

On a motion by Commissioner Malcolm, seconded by Commissioner Valderrama, the Board directed staff to begin preparation of a Solicitation for Consultant Teams to Conduct Analysis and Develop a Strategy and Work Plan for a Comprehensive Integrated Port Master Plan Update, by the following vote: Yeas-Malcolm, Moore, Nelson, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

### **REVIEW AND CONSIDERATION OF PROPOSED BOARD AGENDA FOR THE MEETING MARCH 6, 2013**

Agenda Item 40. On motion of Commissioner Smith, seconded by Commissioner Malcolm, the Board adopted the proposed agenda for the meeting of March 6, 2013, by the following vote: Yeas-Malcolm, Moore, Nelson, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

Commissioner discussion ensued. Commissioner Nelson acknowledged the item on the proposed agenda regarding the number of Commissioners necessary to constitute a quorum and to render decisions by the Board of Port Commissioners. He also thanked his colleagues for their support.

## **OFFICER'S REPORT**

Agenda Item 41. In accordance with BPC Policy No. 110, the following change orders, executed by the Executive Director or designee, were reported:

Monthly Notification of Change Orders Pursuant to BPC Policy No. 110:

- A) Change Order No. 6 to Contract No. 2009-15 / \$4,300.00 Increased & 29 Calendar Day Time Extension thru 1/7/2013 with Vector Resources, Inc. for Fiber Optic Installation (Phase 2) Old Town Transit Center to 12th and Imperial Transit Center, San Diego, CA
- B) Change Order No. 1 to Contract No. 2011-03 / Increased Contract by \$147,829.00 with Marathon Construction Corporation for Tidelands, Various Locations, Fender Repair, San Diego, CA
- C) Change Order No. 2 to Contract No. 2012-04 / Increased Contract by \$2,090.00 with SECC Corporation for Truck Plate Reader Installation and Fiber Optic Cabling Installation (Phase 8) TAMT & NCMT, San Diego, CA
- D) Change Order No. 2 to Contract No. 2012-07 / Increased by \$17,431.77 & 42 Calendar Day Time Extension thru 1/25/2013, and Change Order No. 3 Increased Contract by \$6,570.00, and Change Order No. 4 Increased by \$39,800.00 & 24 Calendar Day Time Extension thru 2/18/2013 with Ensley Electric, Inc. for Tenth Avenue Marine Terminal Fiber Optic Interconnect (Phase 8) Project San Diego, CA
- E) Change Order No. 5 to Contract No. 2012-08 / 35 Calendar Day Time Extension thru 1/18/2013 with SECC Corporation for Fiber Optic Interconnect Installation (Phase 8) National City Marine Terminal, National City, CA
- F) Change Order No. 1 to Contract No. 2012-21 / Increased by \$4,100.00 & 30 Calendar Day Time Extension thru 12/30/2012 with Kinsman Construction Inc. for Relocate Flagship and Horn Blower Ticket Sales Kiosks, San Diego, CA



## **PRESIDENT'S REPORT**

Agenda Item 42. None.

Chair Moore adjourned the regular meeting and announced that the Board would return to Closed Session.

## **CLOSED SESSION CONTINUED**

Agenda Item 6.

CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION

Pursuant to Subdivision (a) of Government Code Section 54956.9

Johnson, et al. v. San Diego Unified Port District, et al.

San Diego Superior Court Case No. 37-2009-00103325-CU-PO-CTL

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, Chair Moore adjourned the meeting.

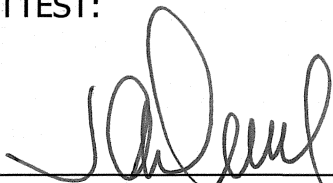
February 12, 2013

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A handwritten signature in dark ink, appearing to read "S. Daniel", written over a horizontal line.

Secretary, Board of Port Commissioners  
San Diego Unified Port District

ATTEST:

A handwritten signature in dark ink, appearing to read "J. Daniel", written over a horizontal line.

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 Chair Moore at 10:03 a.m., Tuesday, March 5, 2013, in the Board Room at 3165 Pacific Highway, San Diego, California.

**ROLL CALL**

Agenda Item 1.

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

OFFICERS: Darbeau, Deuel, McEntee and Russell

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.

PUBLIC EMPLOYEE APPOINTMENT, PERSONNEL EVALUATION OR DISCIPLINE:  
Discipline of Harbor Police Officer  
Government Code Section 54957

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

Agenda Item 5.

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

Five Cases

Agenda Item 6.

CONFERENCE WITH LEGAL COUNSEL - INITIATION OF LITIGATION  
Pursuant to Subdivision (c) of Government Code Section 54956.9

Three Cases

Agenda Item 7.

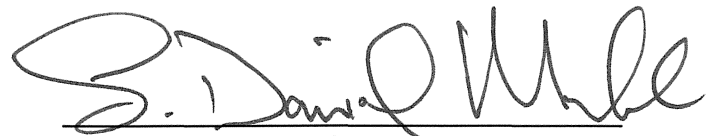
CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION  
Pursuant to Subdivision (a) of Government Code Section 54956.9

Tan v. San Diego Unified Port District, et al.  
San Diego Superior Court Case No.: 37-2012-0091896-CU-CTL

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, Chair Moore adjourned the meeting.

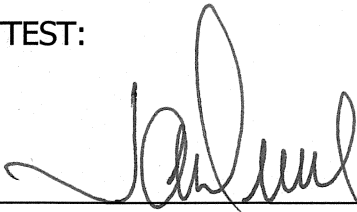
March 5, 2013

page 41

A handwritten signature in cursive script, appearing to read "S. Daniel White".

Secretary, Board of Port Commissioners  
San Diego Unified Port District

ATTEST:

A handwritten signature in cursive script, appearing to read "John [unclear]".

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 Chair Moore at 1:11 p.m., Tuesday, March 5, 2013, in the Board Room at 3165 Pacific Highway, San Diego, California.

**ROLL CALL**

Agenda Item 1.

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

OFFICERS: Darbeau, Deuel, McEntee, Monson, Russell and Stup

Absent: No Commissioners absent.

Excused: No Commissioners excused.

**CLOSED SESSION**

Agenda Item 2. As requested by Chair Moore, Thomas Russell, Port Attorney, reported that the Board considered two of the items on the Closed Session Agenda and the balance of the items would be considered following the conclusion of the regular meeting.

**PLEDGE OF ALLEGIANCE**

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

**APPROVAL OF MINUTES**

Agenda Item 4. On motion of Commissioner Smith, seconded by Commissioner Nelson, the Board approved the minutes of the December 11, 2012 regular meeting, February 12, 2013 special meeting, February 12, 2013 regular meeting, by the following vote: Yeas-Malcolm, Moore, Nelson, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

## PUBLIC COMMUNICATIONS

Agenda Item 5. Elizabeth Morris, President, C-3, addressed the Board commending the District for its recent action to endorse comprehensive planning of the waterfront managed by the District. She announced that her organization urged the Board to delay processing the Port Master Plan Amendment for Phase II of the North Embarcadero Visionary Plan. In light of the pending comprehensive planning studies for the embarcadero areas, she expressed her organization's desire that the District postpone work on infrastructure projects that do not have a Coastal Development Permits. She offered concerns regarding the mooring dolphin project and the USS Midway Museum's vehicle parking and elevated park proposal.

## COMMISSIONER REPORTS

Agenda Item 6. Commissioner Smith remarked on his recent trip in which the District was awarded a Climate Leadership Award from the Environmental Protection Agency for its efforts to address climate change. The award, for Organizational Leadership, was announced on Thursday, February 28, 2013 and presented at the Climate Leadership Conference in Washington, D.C. Congressman Scott Peters joined Commissioner Smith and Cody Hooven, Senior Environmental Specialist, Environmental and Land Use Management, in accepting the award.

## DISTRICT CLERK'S ANNOUNCEMENTS

Agenda Item 5. Chair Moore requested that Timothy Deuel, District Clerk, announce any suggested docket changes.

Mr. Deuel announced the following docket changes for the Board's consideration: **Consent Agenda Item 12**, Resolution Authorizing Memorandum of Agreement between District and the California Coastal Commission for dedicated staff for a term of 3 years at a total cost of \$ \_\_\_\_\_, staff requests this item be continued to a future Board meeting; **Action Agenda Item 23**, Climate Plan Overview, Background, Proposed Next Steps and direction to staff, staff requests this item be continued to a future Board meeting; and **Action Agenda Item 24**, Update and direction to staff on legislation regarding the Department of Pesticide Regulations re-evaluation of copper-based antifouling paints, staff requests Board action no longer required.

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

## **CONSENT AGENDA**

On motion of Commissioner Malcolm, seconded by Commissioner Smith, the Board adopted Consent Agenda items 8, 9, 10, 11, 13, 14, 15, and 16. (**Resolution 2013-35** through and including **Resolution 2013-42**) by the following vote: Yeas-Malcolm, Moore, Nelson, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

Agenda Item 8. **Resolution 2013-35**, Establishing Minimum Annual Rent for Bartell Hotels Humphrey's Half Moon Inn at 2303 Shelter Island Drive in San Diego for the period April 1, 2013 through March 31, 2023, was adopted as part of the consent agenda.

Agenda Item 9. **Resolution 2013-36**, Establishing Minimum Annual Rent for Harbor Island West Marina at 2040 Harbor Island Drive in San Diego for the period April 1, 2013 through March 31, 2018, was adopted as part of the consent agenda.

Agenda Item 10. **Resolution 2013-37**, Selecting and Authorizing Agreement with Environ International Corporation to provide a Maritime Air Emissions Inventory Update for an amount not to exceed \$227,000 for a period of three years, was adopted as part of the consent agenda.

Agenda Item 11. **Resolution 2013-38**, Granting Indemnity to the State Water Resources Control Board and State of California for debris removal from the A-8 Anchorage and surrounds, was adopted as part of the consent agenda.

Agenda Item 12. **Item continued to a future Board meeting.**

Agenda Item 13. **Resolution 2013-39**, Adopting Plans and Specifications and Awarding Contract No. 2012-20 to Diamond Lane Contractors, Inc. for Tenth Avenue Marine Terminal Structural and Mooring Repair and Replacement (Berth 10-1 and 10-2 Fender System), San Diego, California in the amount of \$345,000, was adopted as part of the consent agenda.

Agenda Item 14. **Resolution 2013-40**, Authorizing a Two (2) Year Extension to the Master Equity Lease Agreement with Enterprise Rent A Car of Los Angeles, LLC dba Enterprise Fleet Management and increasing the maximum amount payable under the Master Lease by \$119,678.86 thereby increasing the lease total from \$298,590.72 to \$418,269.58 and continuing the use of eleven (11) leased hybrid vehicles by staff in conducting the business of the Port while supporting the Green Port Strategy, was adopted as part of the consent agenda.



Agenda Item 15. **Resolution 2013-41**, Proclaiming Support of National Purchasing Month from March 1 to March 31, 2013, an annual awareness campaign to inform the public of the importance of the role played by the Procurement Profession In business, industry, and government, was adopted as part of the consent agenda.

Agenda Item 16. **Resolution 2013-42**, Approving an Employment Agreement for the Port Auditor, was adopted as part of the consent agenda.

### **SWEARING-IN**

Karen Porteous, Executive Vice President, Operations, ceremonially administered the oath of office to Robert Monson as Port Auditor. Chair Moore offered her congratulations on behalf of the Board.

### **PUBLIC HEARING AGENDA**

#### **NAVY PIER PUBLIC PARKING**

- A) CONDUCT PUBLIC HEARING ON PROPOSED AMENDMENT TO PARKING RATES AT THE NAVY PIER PUBLIC PARKING LOT.**
- B) ORDINANCE AMENDING PARKING RATES AT THE NAVY PIER PUBLIC PARKING LOT**

Agenda Item 17. Karen Weymann, Director, Real Estate, addressed the Board regarding the Navy Pier Public Parking. She turned the presentation over to Penny Maus, Senior Asset Manager, Real Estate, who continued with a presentation regarding the proposed ordinance amending the parking rates at the Navy Pier Public Parking Lot and requested that the Board conduct a public hearing regarding the matter. (A copy of the staff report and presentation are on file in the Office of the District Clerk.)

Chair Moore opened the public hearing. As no members of the public requested to comment, Chair Moore closed the public hearing.

Commissioner discussion ensued. Commissioner Smith recognized staff for their efforts, acknowledged the work of the Midway Museum, and expressed support for the overnight educational programs parking rate accommodation. He offered a motion to approve the staff recommendation.

Commissioner Nelson seconded the motion.

On a motion by Commissioner Smith, seconded by Commissioner Nelson , the Board adopted **Ordinance 2705** Amending Parking Rates at the Navy Pier Public Parking Lot, by the following vote: Yeas-Malcolm, Moore, Nelson, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

## **ACTION AGENDA**

### **2012 EMPLOYEE RECOGNITION PROGRAM**

- A) PRESENTATION OF THE SAN DIEGO UNIFIED PORT DISTRICT 2012 EMPLOYEE OF THE FOURTH QUARTER.**
- B) PRESENTATION OF THE SAN DIEGO UNIFIED PORT DISTRICT 2012 DISTRICT TEAM OF THE YEAR.**
- C) PRESENTATION OF THE SAN DIEGO UNIFIED PORT DISTRICT 2012 EMPLOYEE OF THE YEAR**

Agenda Item 17. Michelle Corbin, Director, Human Resources, addressed the Board regarding the 2012 Employee Recognition Program. A copy of the staff report and presentation are on file in the Office of the District Clerk.)

Ms. Corbin announced the nominees for the San Diego Unified Port District 2012 Employee of the Fourth Quarter: Ralph Carpio, Document Management Assistant, Office of the District Clerk; Joely Habib, Administrative Assistant II, Environmental & Land Use Management; Patricia Meislik, Senior Management Analyst, Engineering-Construction; and Richard Rodriguez, Harbor Police Officer, Harbor Police. She turned the presentation over to Wayne Darbeau, Executive Director, who announced that Patricia Meislik was selected as Employee of the Fourth Quarter.

Ms. Corbin announced the nominees for the San Diego Unified Port District 2012 Employee of the Year: Chester Wamsley, (First Quarter) Equipment Operator, General Services & Procurement; Romero San Agustin, (Second Quarter) Business Systems Supervisor, Business Information & Technology Services; Mario White, (Third Quarter) Maintenance Planner Inspector, General Services & Procurement; and Patricia Meislik, (Fourth Quarter) Senior Management Analyst in the Engineering-Construction. She turned the presentation over to Mr. Darbeau who announced that Patricia Meislik, Senior Management Analyst, Engineering-Construction Department, was selected as the 2012 Employee of the Year and offered congratulations her for her hard.

Ms. Corbin announced the five nominees for the San Diego Unified Port District 2012 District Team of the Year: Cherry Tree Installation Team; Chula Vista Bay Front Master Plan Team; Retiree Appreciation Reunion Planning Committee; Teledyne Ryan (TDY) Site Demolition Project Team; and Vending & Performance Ordinance Team. She

turned the presentation over to Mr. Darbeau who congratulated all of the nominees. He announced that the Teledyne Ryan (TDY) Site Demolition Project Team was selected as 2012 Team of the Year and offered congratulations to the team members. The members of the 2012 Team of the Year were: Glenn Batuyong, Diane Caminite, Rubi De Guzman, Charlene Dennis, Matt Earle, Marguerite Elicone, Luisa Gendron, Anthony Gordon, David Harris, Bill Holmes, Candice Magnus, Wileen Manaois, Jeffrey McEntee, Bill McMinn, Barbara Moreno, Shane Peterson, Alan Redmon, Angie Ruiz, Jeanette Sales, Carlos Santiago, Maby Smith, Stefanie Sotelo, Kenneth Stillwaggon, Brian Stup, Allison Vosskuhler, and Chong Yim.

Chair Moore offered congratulations to all the nominees and award recipients on behalf of the Board.

#### **PRESENTATION AND UPDATE ON BARRIO LOGAN GATEWAY SIGN PROJECT AS PART OF THE TRANSPORTATION CORRIDOR IMPROVEMENT FUNDS PROGRAM**

Agenda Item 20. David Alvarez, San Diego City Councilmember, Eight Council District, addressed the Board in support of the Barrio Logan Gateway Sign Project and discussed the collaborative nature of the project. He discussed filling San Diego's seats on the Board in the near future and thanked the Board for considering **Action Agenda Item 19**, regarding the number of Board members necessary to constitute a quorum and render decisions.

Jerine Rosato; Senior Manager, Strategy & Business Development, addressed the Board with an update on Barrio Logan Gateway Sign Project final concept design. She introduced Mario Orso, Corridor Director, Caltrans and acknowledged Vicki Estrada, Estrada Land Planning, sign designer. (A copy of the staff report and presentation is on file in the Office of the District Clerk.)

Laura Hunter, Environmental Health Coalition, addressed the Board, expressed the Barrio Logan stakeholders' support of the sign project, and acknowledged the agencies for working together to enhance the community.

Commissioner discussion ensued. The following Commissioners thanked Councilmember Alvarez for his remarks; discussed the community enhancements; expressed support for the sign project; and acknowledged the collaborative process used to move the matter forward: Commissioner Smith, Commissioner Nelson, Commissioner Valderrama, Chair Moore and Commissioner Malcolm.

- A) ORDINANCE CONFIRMING THE NUMBER OF BOARD MEMBERS NECESSARY TO CONSTITUTE A QUORUM AND TO RENDER DECISIONS OF THE BOARD OF PORT COMMISSIONERS.**
- B) RESOLUTION AMENDING BPC POLICY NO. 021 TO CONFORM TO THE ORDINANCE**

Agenda Item 19. In light of the open seats on the Board, Chair Moore acknowledged Thomas Russell, Port Attorney, for his work to bring the matter forward. Mr. Russell discussed the number of Board Members necessary to constitute a quorum and to render decisions of the Board of Port Commissioners and requested the Board's consideration of the staff recommendation related to the matter. (A copy of the staff report is on file in the Office of the District Clerk.)

Commissioner discussion ensued. In that, there were two open seats on the Board that would be filled by representatives from the City of San Diego; Chair Moore requested the Board "rise above" what she characterized as the "current scenario." She explained that there had been instances in the past in which only five members were present to consider matters.

Commissioner Malcolm thanked Mr. Russell for bringing the matter forward, for his analysis of the Board's makeup as representatives of different regional constituencies, and discussed the need for clarity when considering what constituted a quorum. He expressed his support for the staff recommendation. Commissioner Malcolm requested and received additional information from Mr. Russell regarding the results of staff's survey of other agencies. He reiterated his position of erring on the side of conservatism and be more inclusionary regarding the matter. He offered a motion to amend BPC Policy No. 021 that a minimum of four members constitute a quorum and that a minimum of four votes be required to pass any motion.

Commissioner Valderrama seconded the motion.

Commissioner Nelson thanked staff for their prompt work on the matter and expressed support for the motion.

Commissioner Valderrama concurred with Commissioner Malcolm's remarks and reiterated his support for the recommendation and the motion.

Commissioner Smith discussed governance; offered his thanks to Commissioner Malcolm and Mr. Russell; and expressed support for the motion.

Chair Moore requested and received clarification from Commissioner Malcolm that the ordinance and the resolution, as stated in the staff recommendation, would be considered under a single motion. Commissioner Valderrama approved the motion as restated.

On a single motion by Commissioner Malcolm, seconded by Commissioner Valderrama, the Board, with a single vote, adopted **Ordinance 2706** Confirming the Number of Board Members Necessary to constitute a quorum and to render decisions of the Board of Port Commissioners; and **Resolution 2013-43** Amending BPC Policy No. 021 to conform to the Ordinance, by the following vote: Yeas-Malcolm, Moore, Nelson, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

Chair Moore requested and received confirmation from Mr. Russell that the Resolution modifying BPC Policy No. 021 would be effective immediately and the ordinance would take effect in 31 days.

#### **REPORT BY THE EXTERNAL AUDITOR ON THE AUDIT OF THE DISTRICT'S FINANCIAL STATEMENTS FOR THE YEAR ENDING JUNE 30, 2012**

Agenda Item 21. Robert Monson, Port Auditor, addressed the Board External Audit of the District's financial statements. He turned the presentation over to Ken Al-Imam, Shareholder, Mayer Hoffman McCann P.C., who presented the External Audit Report of the District's Financial Statements for the Year Ending June 30, 2012. (A copy of the staff report and presentation are on file in the Office of the District Clerk.)

Commissioner discussion ensued. Commissioner Nelson thanked Mr. Al-Imam and staff for their report and remarked on the District's revenue trend. He requested and received clarification from Mr. Al-Imam and Jeanette Sales, Director, Financial Services, regarding the operating expense increases in the Real Estate and General and Administrative categories.

Commissioner Smith offered his thanks to Mr. Al-Imam for his presentation. He discussed the importance of the audit process to an organization and congratulated staff for their work as demonstrated in the positive audit report results. Commissioner Smith offered a motion to accept the report of the external auditor.

Commissioner Nelson seconded the motion.

Commissioner Valderrama remarked on the District's financial results and the expense versus revenue trends detailed in the audit. He encouraged staff to respond

proactively to the slow financial marketplace recovery as planning for the upcoming budget cycle commences.

On a motion by Commissioner Smith, seconded by Commissioner Nelson , the Board accepted the External Audit Report of the District's Financial Statements for the Year Ending June 30, 2012, by the following vote: Yeas-Malcolm, Moore, Nelson, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

**A) RESOLUTION DENYING CONSENT TO ASSIGNMENT AND ASSUMPTION OF LEASEHOLD INTERESTS OF THE KNIGHT AND CARVER BOAT YARD IN NATIONAL CITY FROM KNIGHT AND CARVER YACHTCENTER, INC. TO MARINE GROUP BOAT WORKS, LLC.**

**B) RESOLUTION DENYING CONSENT TO SUBLEASE OF MARINE GROUP BOAT WORKS, LLC TO FRASER'S BOILER SERVICE**

Agenda Item 26. Timothy Deuel, District Clerk, announced that agenda related material was received following the posting of the agenda to the District website and hardcopies were available at the Clerk's desk.

Adam Meyer, Senior Asset Manager, Real Estate, addressed the Board regarding with the staff recommendation to deny the assignment and assumption of leasehold interests of the Knight and Carver Boat Yard in National City from Knight and Carver Yachtcenter, Inc. to Marine Group Boat Works, LLC. (MGBW); and to deny the consent to sublease of MGBW to Frasier's Boiler Service. Mr. Meyer introduced Victor Vilaplana, District's outside counsel, Foley & Lardner LLP and Kristine Zortman, Area Real Estate Asset Manager, Real Estate. (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: Arthur Engel, CEO, Marine Group Boatworks, LLC; Todd Roberts, Vice President, Marine Group Boatworks, LLC, ceded his time to Mr. Engel; Matt Engel, Member, Marine Group Boatworks, LLC, ceded his time to Mr. Engel; David Engel, Member, Marine Group Boatworks, LLC, ceded his time to Mr. Engel; George Palermo, President, Flagship Cruises and Events, submitted a request to speak but did not address the Board; Sharon Cloward, President, San Diego Port Tenants Association; John Pasha, Working Waterfront Group and Pasha Automotive; Martin Taylor, Counsel for Marine Group Boatworks, LLC., Troutman Sanders LLP, ceded his time to Mr. Engel; John Smaha, counsel for Knight and Carver, Smaha Law Group; Sampson Brown, Debtor Representative CRO, Knight and Carver, submitted a request to speak but did not address the Board; Ed Plant, Working Waterfront Group; Jim Unger, Vice President, Hornblower Cruises.

Commissioner discussion ensued. Chair Moore requested and received clarification, for the record, from Mr. Vilaplana, representing the District, and Mr. Taylor, representing Marine Group Boatworks, LLC, regarding their positions on the District informing MGBW that its consent to the assignment and assumption of the lease to MGBW would be considered based upon satisfying the following conditions: 1) All defaults under the lease are cured; 2) MGBW will be responsible for all obligations under the Lease including past environmental contamination and removal of a drydock; 3) Arthur E. Engel, Herbert G. Engel, David P. Engel, Matthew P. Engel, and Todd Roberts, MGBW's principal owners will guaranty the performance of the Lease and all of its obligations; 4) MGBW provides evidence to satisfy the District that MGBW has the financial wherewithal to pay all obligations under the Lease, and its current lease which covers its operation in Chula Vista including relocation and restoration obligations.

Chair Moore requested and received confirmation from Mr. Vilaplana that prior to the public comments offered during the meeting, Mr. Arthur Engel had not unequivocally agreed to assume all obligations under the lease. She offered Mr. Engel the opportunity to state for the record his position on the condition.

Mr. Taylor spoke on behalf of Mr. Engel and MGBW. He stated that, "it is actually unequivocally untrue that this is the first time they have heard, that the Port staff or Port counsel has heard that we will assume the obligations under the lease." Mr. Taylor continued his response and stated that MGBW would assume the obligations under the lease, as well as the rights under the lease and whatever defenses afforded under the lease.

Regarding condition two, Chair Moore requested and received confirmation from Mr. Taylor that his client agreed to assume all obligations under the lease, including environmental contamination and the removal of the drydock, as determined by law and concurred that the matter of the drydock removal was a matter for determination by the courts.

Chair Moore requested and received clarification from Mr. Vilaplana regarding condition one, that MGBW agrees to cure all defaults under the lease.

Mr. Taylor offered clarification regarding his client's commitments to curing the defaults under the lease as determined by the Bankruptcy Court. He discussed a remedy regarding any "alleged defaults" related to unauthorized sub-tenant leases and discussed MGBW's beliefs regarding the drydock. Mr. Taylor detailed MGBW's position regarding the drydock and characterized it as a "nuisance," and stated his client's belief that the drydock was not a "default" under the lease. He continued by discussing MGBW's proposal to enter into a settlement agreement with Diligence & Company LLC

to maintain the drydock for 180 days post close to allow for their voluntary removal of the drydock.

Chair Moore requested and received clarification from Mr. Taylor regarding next steps should Diligence & Company LLC fail to remove the drydock. Mr. Taylor discussed the matter of approval of the proposed settlement agreement by the Bankruptcy Court and the requirement that Diligence & Company LLC put the drydock title into escrow, to facilitate its transfer to a designated entity, which would be conditioned upon that entity agreeing to remove the drydock from the MGBW's and the District's property. Chair Moore requested and received confirmation from Mr. Vilaplana that the Board had an obligation to protect the District's interests to identify what were believed to be defaults and had done so. She stated the Board was seeking confirmation from MGBW's of their commitment to cure all the defaults as determined by law.

Mr. Vilaplana discussed the obligations under bankruptcy law to cure or assure an approximate cure of all defaults and expressed concern regarding the drydock. He explained that, pursuant to the Bankruptcy Code and as a matter of procedural law, a recent change occurred and the lease was not valid and the drydock was encroaching or trespassing on District property. Mr. Vilaplana confirmed the concerns rose regarding Diligence & Company LLC's inability to follow through on the District's demand to remove the drydock.

Chair Moore reiterated her question to MGBW representatives as to whether they would agree to cure all the defaults as determined by law.

Mr. Taylor stated that the Bankruptcy Court would determine, as a condition of the assumption and assignment of the Knight and Carver lease to MGBW, whether the items discussed were in fact existing defaults. He stated that while MGBW did not believe the matters to be defaults under the lease, however, to the extent the court determines those matters were existing defaults, his client would be obligated under bankruptcy law to either cure the defaults or provide assurances only to the Bankruptcy Court of assurances of a prompt cure. He further clarified their belief that to the extent the court determined that the drydock was in fact a default under the lease, MGBW had stated that it believed that the prompt cure and assurance of prompt cure was the settlement agreement with Diligence & Company LLC, which would result in the removal of the drydock within 180 days. Mr. Taylor offered that with "respect to the comment about the drydock is now trespassing on the land; that is an artifice created by the Port itself. There was a Tidelands Occupancy and Use Permit (TUOP) agreement with Diligence on a month-to-month basis. Diligence offered as part of the settlement agreement, which the Port was originally going to be part of, they were going to pay



the monthly TUOP for that space during the 180-day period. The Port refused to accept that."

Chair Moore requested and received clarification from Mr. Vilaplana regarding staff's satisfaction with the response to condition number three regarding the issue of the financial guarantees. She requested clarification regarding condition number four and the timely submittal of MGBW's financial statements. Mr. Vilaplana discussed staff's request for the statements and referenced staff's question to MGBW as to whether they could perform their obligations if the District required them to move their operations in 2015 or 2016 from Chula Vista to one of the three locations previously designated under the terms of their existing lease. He described MGBW's responses made by Mr. Roberts regarding the questions raised as to their ability to perform their obligations under their existing lease in light of a future move from the Chula Vista operation. Mr. Vilaplana explained those responses elevated staff's concern and they subsequently requested the additional financial information cited in condition four.

Chair Moore requested and received clarification from Mr. Taylor regarding the request for the MGBW financial statements and reviewed the timeline in which his client received and subsequently fulfilled the request.

Mr. Taylor reviewed the MGBW's financial performance. He discussed the timeline for the settlement discussion meetings and the manner in which District's staff had previously reviewed the financial documents provided by MGBW. Mr. Taylor discussed the questions raised regarding MGBW's ability to perform their obligations under its lease and Mr. Robert's comments in light of a future move from the Chula Vista operation should they move to a facility half the size of their current operation. Mr. Taylor stated the following: "... because Mr. Roberts said that we couldn't perform if asked to move under the Chula Vista lease, is not accurate. That's not what was said at all. It was said, if you move us from a space right now, over a million square feet, to a space that's half that size that will ruin our business. That's not a good business model for us. It doesn't mean we can't perform it. But it's a horrible business model for us obviously because we're paying three million dollars to be downsized by fifty percent."

Chair Moore stated, "That was not the quote that we read or that we saw, and basically the quote was for us to move, it's about a seven million to ten million venture which could very well run us out of business." For the record, she requested clarification from staff regarding Mr. Taylor's description of staff's review of the MGBW's financial reports during the settlement discussion meetings and the related timeline.

Mr. Vilaplana stated, "I don't think there's ever been a question that Marine Group can perform, pay the rent under the Knight and Carver lease. That's not the

issue. For the first time we heard on February 13th that they couldn't perform the obligations under the Chula Vista lease, and that's what caused the concern."

Chair Moore requested and received confirmation from Mr. Vilaplana that staff was not asking whether they could perform right now under the Chula Vista lease but queried if the District requested they relocate their operations as early as 2015 how MGBW's would be able to afford to make that move. Mr. Vilaplana stated that, "one, it was never, never the intent of staff and certainly, two, that they would, that Marine Group, would be moved immediately as I think Mr. Taylor indicated. Mr. Vilaplana further stated, "It was never an immediate move. And it never was a move from a million to half a million [square feet] ... it's a move from a, from a million to a million because the National City site is a larger than just the Knight and Carver lease, it includes other parcels that are not part of Knight and Carver, so they're not being asked to downsize."

In light of Mr. Vilaplana's statements, Chair Moore requested confirmation from Mr. Meyer regarding the pre-agreed to location for the move as cited in the MGBW's lease. Mr. Meyer stated, "They would be moving to the Knight and Carver leasehold plus some additional parcel and additional water area; and, it's a parcel that's defined as the National City site in their Chula Vista lease. So this was the pre-approved site that includes total acreage of water and total acreage of land that they have in Chula Vista."

Chair Moore requested and received confirmation from Mr. Meyer that the reference to "a pre-approved site" was pre-approved by MGBW when they entered into that lease extension. Mr. Meyer stated, "Yes, when they [MGBW] entered into the Chula Vista lease, there were three sites that they evaluated and pre-approved as relocation sites in the Chula Vista lease." She requested clarification as to whether MGBW agreed to the particular site under discussion and whether it would be adequate for them to be able to perform their operations. Mr. Meyer stated, "Yes, they did."

Chair Moore requested clarification that the District was not asking MGBW to perform, or to move, and "that was not an issue." Mr. Vilaplana stated, "That is not the issue. The issue was simply, can we get some financial information so that we can have comfort that you'll be able to perform these obligations in light of comments made back on February 13 [2013] by Mr. Robertson, if they're correctly reported in the press, and repeated recently." Mr. Vilaplana stated that staff received the financial information on Monday, March 4, 2013 and it included audited financials [statements] for MGBW for the year concluded 2012, and personal financial statements from most of the guarantors and District staff did not have adequate time to review the reports.

Commissioner Nelson requested and received clarification from Mr. Vilaplana regarding District leases. Mr. Vilaplana confirmed there was no exception of the sub-tenancy provisions in the lease and discussed the matters brought to light by MGBW's regarding the number of sub-tenants on the Knight and Carver leasehold including Fraser's Boiler Service. Commissioner Nelson requested and received confirmation from Mr. Vilaplana that Knight and Carver had not complied with the obligations under their lease. Commissioner Nelson acknowledged that his questions were not regarding Mr. Engel, any of his operations, or the tideland properties. He requested clarification regarding any regulatory agency requirements related to the drydock and possible environmental impacts. Mr. Meyer stated that when the drydock was originally located to the Knight and Carver leasehold and the additional water area, it was a requirement that they move the drydock every 30 days to avoid creating an in-water structure and District did not have documentation that it had been moved for a while. Commissioner Nelson requested and received clarification from Mr. Meyer regarding the District's request for documentation regarding regulatory agency requirement compliance; the initial relocation of the drydock from BAE Systems; the present ownership structure of the drydock by Diligence & Company LLC; and the TUOP, that terminated under an operation of bankruptcy law. Commissioner Nelson requested and received clarification from Mr. Vilaplana regarding the obligation under the Knight and Carver lease to remove any property on the premises at the conclusion of the lease. Commissioner Nelson requested and received clarification from Mr. Meyer regarding the staff understanding of the approximate expenses related to removing the drydock from the leasehold as well as towing and storage fees.

Commissioner Malcolm requested clarification regarding the terminated TUOP for the drydock and the requirement for immediate removal of a tenant's property. Mr. Vilaplana stated, "There is the obligation to remove all the property, whatever may be on that site, at the end of the lease. However, with respect to the drydock, because a portion of that is encroaching on land that is Port-owned; and the portion, as you said is not, we believe, under the lease, there are provisions that talk about the, the lessor being obligated to follow Port Act and Port ordinances." He continued, there is a provision that says, "The Port cannot operate the property in a form that creates waste or nuisance. We believe there are obligations under the lease now, short of the end of the lease because part of it is on, encroaching, that they're obligated to remove it now." Mr. Vilaplana stated that was the issue in dispute and MGBW's contention was not correct. Mr. Vilaplana stated, "But that is certainly our analysis and those are the defaults we told them about." Commissioner Malcolm requested and received confirmation from Mr. Vilaplana that because the Bankruptcy Court has limited jurisdiction a State or Federal court would make a determination regarding the matter of maintaining the drydock despite the potential regulatory or environmental concerns.

Regarding the District's lease and curing a performance default of that nature, Mr. Vilaplana explained that the Bankruptcy Court could determine that in the case of the drydock-matter a 60-day time period was inadequate and could authorize an extension to 180-days, as requested. Commissioner Malcolm requested and received confirmation from Mr. Vilaplana that it was the District's position that the master tenant of the leasehold would be responsible for any burdens that a sub-tenant did not uphold. Commissioner Malcolm offered his thanks to Mr. Engel as well as the other speakers for their public comments regarding the matter and reiterated the District's commitment to maritime business. He reviewed the information presented in the four conditions put forth and stated that he believed that, "denying the assumption today, the assignment and the assumption, would not be correct." He offered a motion, that the Board, would delegate to the Chair, the Executive Director and the Port attorney, the authority to consent to the assignment of the Knight and Carver lease to Marine Group Boat Works provided that the District was satisfied with the following conditions. Conditions: 1) Marine Group has assumed all obligations, has agreed to assume all obligations under the Knight and Carver lease; 2) Marine Group has cured and will promptly cure all defaults under the Knight and Carver lease, including defaults related to the drydock to be determined; 3) Marine Group has provided adequate assurances that it can perform its obligations under the Knight and Carver lease by and among other things, providing guarantees of all obligations under the Knight and Carver lease; and 4) Marine Group has executed documents satisfactory to the District and the District's counsel reflecting all of the above.

Commissioner Smith seconded the motion. He discussed promptly resolving the matter of the drydock; remarked on the importance of maintaining the working waterfront; acknowledged MGBW for their business operations; and recognized the public speakers for their interest in the matter. He expressed support for moving the transaction forward and endorsed the motion.

Commissioner Valderrama remarked on the benefits of the discussion, concurred with the assessments, and offered support for moving the transaction forward. Thus, he endorsed the motion.

Addressing Mr. Engel, Commissioner Nelson stated, "Since you're making a deal with Diligence in which they're going to agree to move that [drydock] out within 180 days, would you agree for Marine Group to guarantee to the Port, as a part of this approval, that you will stand behind that agreement?" Mr. Engel replied, "I won't guarantee it at this time, no. I will guarantee that I would remove it in accordance with the lease. And, the drydock would not remain there in perpetuity. I guarantee that." Commissioner Nelson requested and received clarification from Lesley Nishihira,

Manager, Environmental and Land Use Management, regarding the action taken in 2001 by the California Coastal Commission when it certified a Port Master Plan Amendment that changed the land use designation for the boatyard site from marine-related industrial to commercial recreation. She continued by stating that, at the time of the modification to the land use designation, the Commission made clear it was not yet approving a specified development and required the District to insert text into the Port Master Plan stating that at the time the site is proposed to be redeveloped to a conforming commercial recreation use, the District will be required to complete a bay-wide study to confirm that additional boatyard capacity is available. Commissioner Nelson requested and received confirmation from Ms. Cloward that she was aware of the Coastal Commission decision. Mr. Engle stated, "I was intimately involved in those negotiations. I had the property that lead to that change of use at that time, and the language was put in with the Coastal Commission that additional boatyard facilities or property should be, shall be identified. So it was a swap. We weren't losing a million square feet. We were going to move the boatyard to another million square foot facility."

Chair Moore referenced Mr. Engel's statements and stated she believed that matter had been clarified for the record. She offered her support for the motion. She expressed concern regarding discussions among member of the public incorrectly attributing MGBW's from the Chula Vista Bayfront Master Plan. She stated the matter was regarding the District protecting its interest with respect to the Knight and Carver lease and that was what the Board was proposing to do.

On a motion by Commissioner Malcolm, seconded by Commissioner Smith, the Board authorized **Resolution 2013-44**, conditionally Consenting to Assignment and Assumption of the San Diego Unified Port District's Lease with Knight and Carver Yachtcenter, Inc. to Marine Group Boat Works, LLC and conditionally consenting to Fraser's Boiler Service, Inc.'s sublease with Marine Group Boat Works, LLC, by the following vote: Yeas-Malcolm, Moore, Nelson, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

Regarding the drydock, Commissioner Nelson expressed concerns regarding the possible environmental impacts on water quality and the bay's ecosystem; the follow through of past maintenance requirements; Knight and Carver's demonstrated ability to perform under the lease and the untold expenses related to removing the structure. He offered a motion "to direct the Port Attorney to file an action or actions in the appropriate court or courts to mandate immediate removal and disposition of the drydock, and compel the responsible parties to pay all costs related thereto."

Chair Moore seconded the motion.

Sampson Brown, Knight and Carver, offered comments regarding the maintenance of the drydock; compliance with requests for data from the District; and stated that there were no environmental deficiencies identified by the Regional Water Quality Control Board or violations under the NPDS permit; and adverse impacts of the proposed motion on the pending agreement between MGBW and Diligence & Company LLC.

Thomas Russell, Port Attorney, offered that the drydock was currently on District property without authorization and staff would work with its bankruptcy counsel on identifying an appropriate legal remedy for removal of the drydock.

Regarding the motion under consideration; in light of the Board's previous action to conditionally approve the transaction; and in consideration of the proposed agreement between MGBW and Diligence & Company LLC, Mr. Taylor requested that the Board defer action on the proposed motion to a future Board meeting.

Mr. Russell requested clarification from Mr. Taylor as to whether MGBW had obtained the permission of the District to leave that drydock on port property without authorization for six months.

Mr. Taylor responded that, "we don't own the drydock. The Marine Group does not own the drydock." He offered that he understood the issue and there was a difference of opinion, a disagreement as to the relative rights of the parties."

Chair Moore remarked on the process of resolving the matter of the drydock and discussed that the motion provided a means for the Port Attorney to work with counsel to reach a resolution.

Commissioner Nelson amended his motion from "direct the Port Attorney" to "authorize the Port Attorney." Chair Moore accepted the amended motion.

Commissioner Smith acknowledged the modification to the motion and offered support.

On a motion by Commissioner Nelson, seconded by Commissioner Moore, the Board adopted **Resolution 2013-45**, authorizing the Port Attorney to File an Action in an appropriate Court to Require the Removal of the Drydock, known as The Diligence, from the Knight & Carver Yacht Center, Inc. Leasehold located at 1313 Bay Marina Drive in National City, California, by the following vote: Yeas-Malcolm, Moore, Nelson, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

At 4:10 p.m., Chair Moore announced the Board would take a brief recess. She called the meeting to order at 4:19 p.m.

## **COMPREHENSIVE PRESENTATION ON THE MAJOR MAINTENANCE PROGRAM AND DIRECTION TO STAFF**

Agenda Item 22. Brian Stup, Chief Engineer, Engineering-Construction, addressed the Board with an overview of the Major Maintenance Program process, budgeting, projects and scheduling. He turned the presentation over to Alan Redmon, Manager, Engineering-Construction, who offered a comprehensive presentation of the program. (A copy of the staff report and presentation are on file in the Office of the District Clerk.)

Commissioner discussion ensued. Commissioner Malcolm thanked staff for their comprehensive review of the Major Maintenance Program and acknowledged the project prioritization categories defined in the District's Infrastructure Management Program. He expressed his preference that the Board becomes more involved in the prioritization and/or re-prioritization of projects during the budget review process as well as providing oversight regarding the budget allocations and project timelines. He requested and received clarification from Mr. Stup regarding the staff's decision-making process to defer a project after that expenditure was approved for during a specific budget year. Commissioner Malcolm requested and received clarification from Mr. Stup regarding the budget process and accounting for the "unplanned work" that had been defined as Major Maintenance projects that were completed outside of the fiscal year in which funding was initially allocated. Mr. Stup also discussed "emergency projects" resulting in unplanned expenditures. Commissioner Malcolm reiterated his statements regarding the Board's fiduciary oversight of the budget, capital expenditure prioritization, and property maintenance. He requested that the Board participate in a Major Maintenance workshop to understand the projects, the approval process, the Board's role in prioritization of capital expenditures, and to reconcile the District's needs and projects with budgets.

Wayne Darbeau, Executive Director, offered some background information on the Major Maintenance Workshops and concurred with Commissioner Malcolm's request regarding facilitating a Major Maintenance Workshop in a regular cycle prior to the Board's consideration of the proposed annual budget.

Commissioner Smith stated that he echoed Commissioner Malcolm and Mr. Darbeau's remarks. He acknowledged the District's system of identification and prioritization. He remarked on the importance of planning and completing the projects funded in the designed budget year. He addressed the matter of unplanned work when

facing decreasing revenues. He supported reporting Major Maintenance capital expenses as individual line items in the budget versus a single fund. He reiterated his thanks to staff for their report and agreed that the Board become more involved in the process.

Commissioner Nelson offered his thanks to staff for their presentation and the Board briefings on the Major Maintenance Program. He acknowledged the prioritization process developed by the District. In light of limited budgets, he expressed concern regarding the prioritization process discussed implementing a mechanism to maintain the financial commitments to environmental programs. Commissioner Nelson requested and received clarification from Jeff McEntee, CFO/Treasurer, regarding the accounting convention that distinguishes between capital and expense major maintenance. Mr. McEntee discussed the prioritization process and maintaining revenue-producing assets. Commissioner Nelson requested that staff carefully time the infrastructure improvements to the B Street Pier and the terminal's gangway project in light of the cruise industry season.

Commissioner Valderrama thanked staff for their presentation and concurred with the Board's remarks to conduct a workshop to assess the program, set the project priorities, and review the associated budgets.

Chair Moore also conveyed her thanks to staff for their report and acknowledged her fellow Commissioner's remarks. She concurred that a workshop would be an appropriate forum to clarify the terms of unplanned, undefined and unanticipated projects and address the matter of projects that span several budget years. Thus, she requested a date be set to conduct a workshop to address the concepts and ideas discussed.

## **MID-YEAR BUDGET REVIEW**

### **A) FY12/13 MID-YEAR BUDGET REVIEW**

### **B) ORDINANCE AMENDING THE FY 12/13 BUDGET TO AUTHORIZE TWO UNCLASSIFIED POSITIONS: DEPUTY PORT ATTORNEY I, II OR III AND LEGAL SECRETARY**

Agenda Item 25. Jeff McEntee, CFO/Treasurer, addressed the Board, presented the FY12/13 Mid-Year Budget Review, and requested the Board consider the staff recommendation of adopting an ordinance amending the FY12/13 budget to authorize two unclassified positions: Deputy Port Attorney I, II or III and Legal Secretary. (A copy of the staff report and presentation are on file in the Office of the District Clerk.)

Chair Moore left the dais at 5:20 p.m. and returned at 5:23 p.m.



Commissioner discussion ensued. Commissioner Valderrama requested and received clarification from Ellen Gross, Deputy Port Attorney, regarding the District's non-personnel expenses and the expenditures for outside counsel and expert fees during the past several years.

Commissioner Smith described the FY12/13 budget process as a continuum of the previous year's budget. He commended staff for their hard work to monitor the budget and for preparing the mid-year review. He encouraged staff to continue their efforts to manage expenditures and focus on growing revenues to "live within" the organization's means. He expressed concern regarding utilizing reserve funds to balance the budget.

Commissioner Nelson cited past examples, like the construction of a hotel or receiving settlement funds, which resulted in new revenue spikes that supported the perception of the District's inflated fiscal prosperity. He discussed what he characterized as a "structural deficit" in which steady revenue streams cease. He expressed concern regarding the long-term implications of a "structural deficit" to the organization's budget, staff, and programs. He encouraged staff to focus on presenting revenue growth opportunities, such as the development of franchise revenues, as they prepare the FY13/14 budget.

Commissioner Malcolm offered his thanks to Mr. McEntee for the presentation and for his years of professional service to the District. He discussed the proposed Convention Center expansion and the Chula Vista Bayfront Master Plan development as examples of future revenue generating opportunities. He encouraged staff to think creatively; find ways to increase revenue, such as entitlement cost recovery; and to review the organization's expenses, to seek efficiencies and to continue their efforts to ensure the District's long-term sustainability.

Commissioner Smith offered a motion to accept the briefing and approve the staff recommendation to adopt an ordinance amending the FY12/13 budget to authorize two unclassified positions: Deputy Port Attorney I, II or III and Legal Secretary. Commissioner Valderrama seconded the motion.

Chair Moore acknowledged the Board's discussion and reiterated her support for seeking new sources to drive additional revenue. She requested that staff bring entitlement cost recovery forward in the near future for the Commissioner's consideration. She offered thanks to the staff and District leadership for their efforts regarding managing the budget results presented.

On a single motion by Commissioner Smith, seconded by Commissioner Valderrama, the Board, with a single vote, adopted **Ordinance 2707** amending the FY12/13 budget to authorize two unclassified positions: Deputy Port Attorney I, II or III and Legal Secretary, by the following vote: Yeas-Malcolm, Moore, Nelson, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

#### **CLIMATE PLAN OVERVIEW, BACKGROUND, PROPOSED NEXT STEPS AND DIRECTION TO STAFF**

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

#### **UPDATE AND DIRECTION TO STAFF ON LEGISLATION REGARDING THE DEPARTMENT OF PESTICIDE REGULATIONS RE-EVALUATION OF COPPER-BASED ANTIFOULING PAINTS**

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

#### **REVIEW AND CONSIDERATION OF PROPOSED BOARD AGENDA FOR THE MEETING APRIL 9, 2013**

Agenda Item 27. Commissioner Malcolm offered a motion to approve the proposed agenda for the April 9, 2013 regular meeting.

Commissioner discussion ensued. Referencing a non-District sponsored news conference held in the Administration Building lobby on February 12, 2013, Commissioner Nelson requested adding an Action Item to the agenda. The item would be regarding the Board's "consideration of a policy amendment or a new policy, requiring that inside the Port Administration Building, and, in or on, any Port property not generally intended for public meetings or tidelands access;" he continued, "District staff shall not allow any meeting, presentation, demonstration, news conference other than those initiated by the District."

Thomas Russell, Port Attorney, acknowledged Commissioner Nelson's amendment to the motion; he requested that the Board provide staff the opportunity to complete legal research as to the validity of such a policy to consider any effect on First Amendment rights.

Commissioner Nelson acknowledged the request and confirmed the matter did not require consideration at the next regular meeting; however, he reiterated the desire to give guidance to staff in the interim.

Chair Moore offered that the maker of the motion consider amending their motion with the understanding that the additional matter may not be heard at the next regular Board meeting as additional time for staff preparation could be required.

Mr. Russell offered that the Port Attorney's staff would work to complete the legal work in a timely way but requested that there was sufficient flexibility in the motion to tailor the policy to conform to the law.

Commissioner Malcolm agreed to the modification of the motion. Commissioner Smith seconded the motion.

On motion of Commissioner Malcolm, seconded by Commissioner Smith, the Board adopted the proposed agenda for the meeting of April 9, 2013, by the following vote: Yeas-Malcolm, Moore, Nelson, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

## **OFFICER'S REPORT**

Agenda Item 28. In accordance with BPC Policy No. 110, the following change orders, executed by the Executive Director or designee, were reported:

Monthly Notification of Change Orders Pursuant to BPC Policy No. 110:

- A) Change Order No. 2 to Contract No. 2011-03 / 47 Calendar Day Time Extension thru 06/30/2013 with Marathon Construction Corporation for Tidelands, Various Locations, Fender Repair, San Diego, CA.
- B) Change Order No. 5 to Contract No. 2011-33 / Increases Contract by \$12,299.00 & Change Order No. 6 to Contract No. 2011-33 / 36 Calendar Day Time Extension thru 01/12/2013 with Flatiron Electric Group, Inc. for North San Diego Bay Fiber Optic Installation, San Diego, CA.
- C) Change Order No. 3 to Contract No. 2012-07 / Increases Contract by \$6,570.00 & Change Order No. 4 to Contract No. 2012-07 / \$39,800.00 Increase & 24 Calendar Day Time Extension thru 02/18/2013 with Ensley Electric, Inc. for Tenth Avenue Marine Terminal Fiber Optic Interconnect (Phase 8) Project San Diego, CA.
- D) Change Order No. 6 to Contract No. 2012-08 / (\$7,202.00) Decrease & 31 Calendar Day Time Extension thru 01/18/2013 & Change Order No. 7 to Contract No. 2012-08 / Increases Contract by \$11,820.00 with SECC Corporation for NCMT Fiber Optic Interconnect Installation (Phase 8), National City, CA.

## **OTHER MATTERS**

### **PRESIDENT'S REPORT**

Agenda Item 29. None.

Chair Moore adjourned the regular meeting and announced that the Board would return to Closed Session.

### **CLOSED SESSION CONTINUED**

Agenda Item 3.

PUBLIC EMPLOYEE APPOINTMENT, PERSONNEL EVALUATION OR DISCIPLINE:  
Discipline of Harbor Police Officer  
Government Code Section 54957

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

Agenda Item 5.

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

Five Cases

Agenda Item 6.

CONFERENCE WITH LEGAL COUNSEL - INITIATION OF LITIGATION  
Pursuant to Subdivision (c) of Government Code Section 54956.9

Three Cases

Agenda Item 7.

CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION

Pursuant to Subdivision (a) of Government Code Section 54956.9

Tan v. San Diego Unified Port District, et al.

San Diego Superior Court Case No.: 37-2012-0091896-CU-CTL

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, Chair Moore adjourned the meeting.

March 5, 2013

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Secretary, Board of Port Commissioners  
San Diego Unified Port District

ATTEST:

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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 Timothy Deuel, District Clerk at 5:30 p.m., Thursday, March 7, 2013, at the Sheraton San Diego Hotel & Marina, Marina Tower, Grand Ballroom, 1380 Harbor Island Drive, San Diego, California.

**ROLL CALL**

Agenda Item 1.

Present: COMMISSIONERS Malcolm, Moore, Nelson, Smith.

OFFICERS: Darbeau, Deuel, McEntee, Russell.

Absent: No Commissioners absent.

Excused: Valderrama.

**PUBLIC COMMUNICATIONS**

Agenda Item 2. None

**SAN DIEGO PORT TENANTS ASSOCIATION ANNUAL MEETING**

Agenda Item 3. At approximately 6:45 p.m., Bill Hall, Board Member, Board of Directors, San Diego Port Tenants Association, announced the members of the Board of Port Commissioners present at the San Diego Port Tenants Association Annual Meeting.

Sharon Cloward, President, San Diego Port Tenants Association, 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.

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

Chair Moore adjourned the special meeting at approximately 8:35 p.m.

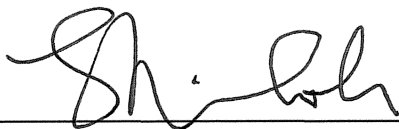
March 7, 2013

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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 Chair Moore at 08:05 a.m., Tuesday, March 27, 2013, in the Board Room at 3165 Pacific Highway, San Diego, California.

**ROLL CALL**

Agenda Item 1.

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

OFFICERS: Darbeau, Deuel, McEntee, Monson, Russell and Stup.

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:

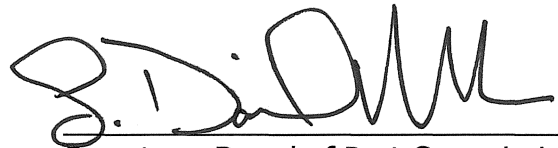
Agenda Item 3.

PUBLIC EMPLOYEE APPOINTMENT, PERSONNEL EVALUATION OR DISCIPLINE:  
Chief Financial Officer/Treasurer  
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, Chair Moore adjourned the meeting.

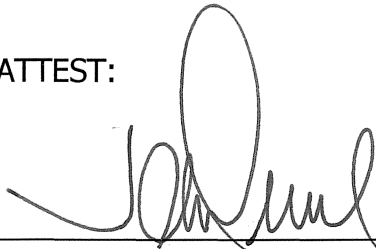
March 27, 2013

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Secretary, Board of Port Commissioners  
San Diego Unified Port District

ATTEST:

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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 Chair Moore at 10:05 a.m., Tuesday, April 9, 2013, in the Board Room at 3165 Pacific Highway, San Diego, California.

**ROLL CALL**

Agenda Item 1.

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

OFFICERS: Darbeau, Deuel, McEntee and Russell

Absent: No Commissioners absent.

Excused: Commissioner Nelson was excused until he arrived at 10:06 a.m.

**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 – ANTICIPATED LITIGATION

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

Five Cases

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 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 5.

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, Jenner Smith,  
Randa Coniglio, Karen Porteous, Jeffrey McEntee- SDUPD

Under Negotiation: Price and Terms

Agenda Item 6.

CONFERENCE WITH LEGAL COUNSEL - INITIATION OF LITIGATION  
Pursuant to Subdivision (c) of Government Code Section 54956.9

Five Cases

Agenda Item 7.

CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION

Pursuant to Subdivision (a) of Government Code Section 54956.9:

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 8.

CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION

Pursuant to Subdivision (a) of Government Code Section 54956.9

Tan v. San Diego Unified Port District, et al.

San Diego Superior Court Case No.: 37-2012-0091896-CU-CTL

Agenda Item 9.

PUBLIC EMPLOYEE DISCIPLINE/DISMISSAL/RELEASE

Government Code Section 54957

Discipline of Harbor Police Officer

As requested by Chair Moore, Thomas Russell, Port Attorney, reported that the Board authorized litigation against Lloyds of London in two separate matters; authorized litigation against AON Risk Insurance Services West, Inc. and Chartis Specialty Insurance Company. He stated that the Board authorized litigation in another matter, the terms of which would be disclosed upon the occurrence of a condition precedent. He concluded his report stating that the Board authorized settlement of the claim of U.S.S. Cal Builders, Inc. regarding the NEVP project and the settlement extends the time for performance 243 days and adds \$571,000 to the contract.

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, Chair Moore adjourned the meeting.

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Secretary, Board of Port Commissioners  
San Diego Unified Port District

ATTEST:

A handwritten signature in black ink, appearing to be "Shirley", written over a horizontal line.

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 Chair Moore at 1:06 p.m., Tuesday, April 9, 2013, in the Board Room at 3165 Pacific Highway, San Diego, California.

**ROLL CALL**

Agenda Item 1.

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

OFFICERS: Darbeau, Deuel, McEntee, Monson, Russell and Stup

Absent: No Commissioners absent.

Excused: No Commissioners excused.

**CLOSED SESSION**

Agenda Item 2. As requested by Chair Moore, Thomas Russell, Port Attorney, reported the Board authorized litigation against Lloyds of London in two separate matters; the Board authorized litigation against AON Risk Insurance Services West, Inc. and Chartis Specialty Insurance Company. He stated that the Board authorized litigation in another matter, the terms of which would be disclosed upon the occurrence of a condition precedent. He concluded his report stating that the Board authorized a settlement of the claim of U.S.S. Cal Builders, Inc. regarding the NEVP project and the settlement extends the time for performance 243 days and adds \$571,000 to the contract.

**PLEDGE OF ALLEGIANCE**

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

**APPROVAL OF MINUTES**

Agenda Item 4. On motion of Commissioner Smith, seconded by Commissioner Nelson, the Board approved the minutes of the February 4, 2013 special meeting, the March 5, 2013 special meeting, and the March 7, 2013 special meeting, by the following

vote: Yeas-Malcolm, Moore, Nelson, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

## **PUBLIC COMMUNICATIONS**

Agenda Item 5. Lee Burdick, Director, Special Projects & Legal Affairs at Mayor's Office, City of San Diego and Commissioner Emeritus, addressed the Board. She announced that Bob Filner, Mayor, City of San Diego, was in route and requested the Chair consider receiving his comments upon his arrival.

## **DISTRICT CLERK'S ANNOUNCEMENTS**

Agenda Item 8. Chair Moore requested that Timothy Deuel, District Clerk, announce any suggested docket changes.

Mr. Deuel announced the following docket changes for the Board's consideration: **Consent Agenda Item 12**, Resolution Authorizing Change Order No. {X} to Contract No. 2009-13 with USS Cal Builders, Inc. for the North Embarcadero Visionary Plan, Phase 1 Project to increase the contract amount by \$\_\_\_\_\_ increasing the aggregate total of the Contract from \$\_\_\_\_\_ to \$\_\_\_\_\_ and Waiving BPC Policy No. 110, Part 1.G.3, extending the contract time by XXX calendar days, increasing the contract from 580 calendar days to XXX calendar days, staff requested the item be continued to a future Board meeting; **Consent Agenda Item 13**, Resolution Authorizing an Agreement with Janet Zweig in the amount of \$275,000 for Design, Fabrication, Installation and De-installation of Artwork for "Connector," a Curatorial Strategy Project in support of the District's "Public" public art creative direction, staff requested the item be continued to a future Board meeting; and **Consent Agenda Item 14**, Resolution Authorizing Amendment No. 2 to the Agreement with the Department of Homeland Security and other law enforcement agencies for the "Operation Stonegarden" Grant Accepting Funds in the amount of \$200,000 per BPC Policy No. 109 and Granting Indemnity to the County of San Diego for Worker's Compensation Claims, Employment Related Claims or Acts or Omissions of District Employees, staff requested the item be continued to a future Board meeting; and **Consent Agenda Item 22**, Resolution Selecting and Authorizing an Agreement with \_\_\_\_\_ for Switches, Fiber Optic Interfaces and Installation Services for Fiber Optic Infrastructure at various District Facilities for an amount not to exceed \$\_\_\_\_\_ funded by FY08 California Port & Maritime Security Grant Program, staff requested the item be continued to a future Board meeting.

On motion of Commissioner Smith, seconded by Commissioner Nelson, the Board accepted the changes to the agenda as requested, by the following vote:



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

Commissioner Malcolm requested that Item 17AB be pulled for a separate vote, and announced he would recuse himself from the vote on the item.

## **CONSENT AGENDA**

On motion of Commissioner Malcolm, seconded by Commissioner Smith, the Board adopted Consent Agenda items 9, 10, 11, 13, 15, 16, 18, 19, 20, 21, 23, 24, 25A, 25B, and 25C. (**Resolution 2013-46** through and including **Resolution 2013-48**; **Ordinance 2708** and **2709**; **Ordinance 2711** and **2712**; **Resolution 2013-50** through and including **Resolution 2013-54**; **Ordinance 2716**; **Resolution 2013-55** and **Ordinance 2714** through and including **Ordinance 2716**) by the following vote: Yeas-Malcolm, Moore, Nelson, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

Agenda Item 9. **Resolution 2013-46**, Confirming Executive Director (President/CEO) Appointment of Robert DeAngelis as Chief Financial Officer/Treasurer, was adopted as part of the consent agenda.

Agenda Item 10. **Resolution 2013-47**, Waiving BPC Policy No. 110, Part II.C to Authorize Amendment No. 3 to the Agreement with Ninyo & Moore Geotechnical and Environmental Sciences Consultants for Construction Oversight Services during Construction of the North Embarcadero Visionary Plan Phase 1 to increase the agreement amount by \$188,842 increasing the aggregate total of the agreement from \$319,972 to \$508,814 and extending the agreement until December 31, 2014, was adopted as part of the consent agenda.

Agenda Item 11. **Resolution 2013-48**, Selecting and Authorizing Three-Year Agreements with Project Design Consultants, Inc. and RBF Consulting, a Company of Michael Baker Corporation, for Surveying Services on an as-needed basis for a total aggregate amount payable under the agreements not to exceed \$300,000, was adopted as part of the consent agenda.

Agenda Item 12. **Item continued to a future Board meeting.**

Agenda Item 13. **Item continued to a future Board meeting.**

Agenda Item 14. **Item continued to a future Board meeting.**

Agenda Item 15. **Ordinance 2708**, Granting a 66-Year Utility Easement to San Diego Gas and Electric for Subsurface Electrical Equipment located on the Old Police Headquarters Leasehold serving Coronado, was adopted as part of the consent agenda.

Agenda Item 16. **Ordinance 2709**, Granting Amended, Restated, and Combined Lease with Pacific Tugboat Service extending lease term for 14-years, 8-months, terminating on December 31, 2027, for leasehold improvements and shore power, located at the foot of Cesar E. Chavez Parkway in San Diego, was adopted as part of the consent agenda.

Agenda Item 18. **Ordinance 2711**, Granting a 39-year Utility Easement to San Diego Gas and Electric Company for Subsurface Electrical Equipment located on the Old Police Headquarters Leasehold, was adopted as part of the consent agenda.

Agenda Item 19. **Ordinance 2712**, Granting a 66-Year Utility Easement to San Diego Gas & Electric Company for Subsurface Electrical Equipment serving G Street Mole and Tuna Harbor, was adopted as part of the consent agenda.

Agenda Item 20. **Resolution 2013-50**, Selecting and Authorizing an Agreement with California Tree Service, Inc. for as-needed Tree Maintenance Services from July 1, 2013 to June 30, 2016 at various District facilities and public park locations in an amount not to exceed \$258,991.50, was adopted as part of the consent agenda.

Agenda Item 21. **Resolution 2013-51, Resolution 2013-52, Resolution 2013-53, and Resolution 2013-54**, Authorizing Agreements with San Diego - Imperial County Regional Communications System and US Mobile Wireless Communications, Inc. for the exchange of District's 800mhz frequencies for buy-in of remaining District 800mhz radios to the San Diego - Imperial County Regional Communications System (RCS), the purchase of 800mhz equipment, and the services to integrate equipment into RCS & decommission the District's 800mhz Radio Infrastructure, funded by the Department of Homeland Security Port Security Grant Program FY2011, was adopted as part of the consent agenda.

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

Agenda Item 23. **Ordinance 2713**, Amending the South Campus Relocation Agreement to extend the current environmental contamination discovery cut-off date of 15 years after closing by ten years, for a new discovery cut-off date after closing of 25 years, ending December 30, 2024, and clarifying roles of the parties and the timing of the removal of the asphalt and concrete covering the site, was adopted as part of the consent agenda.

Agenda Item 24. **Resolution 2013-55**, Amending Board of Port Commissioner (BPC) Policy No. 018 – Board Advisory Committees and the Audit Advisory Committee Charter to allow for three members of the Board of Port Commissioners to be members of the Audit Advisory Committee, was adopted as part of the consent agenda.

Agenda Item 25A. **Ordinance 2714**, Host Hotels & Resorts: Ratifying the "66-Year Lease with Host San Diego LLC for Sheraton San Diego Hotel & Marina (Marina Tower)," with conditions, was adopted as part of the consent agenda.

Agenda Item 25B. **Ordinance 2715**, Host Hotels & Resorts: Ratifying the "66-Year Lease with Host San Diego LLC for Sheraton San Diego Hotel & Marina (Bay Tower)," with Conditions, was adopted as part of the consent agenda.

Agenda Item 25C. **Ordinance 2716**, Host Hotels & Resorts: Ratifying the "50-Year Lease with One Option to extend for 16 years, with conditions, with Host Hotels & Resorts, L.P. for Coronado Island Marriott Resort," with conditions, was adopted as part of the consent agenda.

Commissioner Malcolm left the dais at 1:10 p.m. and returned at 1:13 p.m.

**CELLULAR TELECOMMUNICATION EQUIPMENT INSTALLATIONS WITH VERIZON WIRELESS ON HARBOR DRIVE AND SHELTER ISLAND**

- A) ORDINANCE GRANTING TWO 10-YEAR TIDELAND USE AND OCCUPANCY PERMITS WITH TWO 5-YEAR OPTIONS WITH VERIZON WIRELESS FOR CELLULAR TELECOMMUNICATION EQUIPMENT ON HARBOR DRIVE AND SHELTER ISLAND.**
- B) RESOLUTION CONSENTING TO CO-LOCATION AGREEMENT BETWEEN NEW CINGULAR WIRELESS AND VERIZON WIRELESS FOR CELLULAR TELECOMMUNICATION EQUIPMENT ON HARBOR DRIVE AND SHELTER ISLAND**

Agenda Item 17. Commissioner discussion ensued. Commissioner Smith discussed the importance of camouflaging the cellular telecommunications equipment to maintain the aesthetics of the tideland locations where the towers would be sited.

The Board with a single motion by Commissioner Nelson, seconded by Commissioner Smith, approved **Ordinance 2710** Granting Two 10-Year Tideland Use and Occupancy Permits with Two 5-Year Options with Verizon Wireless for Cellular Telecommunication Equipment on Harbor Drive and Shelter Island and **Resolution 2013-49** Consenting to Co-Location Agreement between New Cingular Wireless and Verizon Wireless for Cellular Telecommunication Equipment on Harbor Drive and Shelter

Island, by the following vote: Yeas-Moore, Nelson, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-Malcolm.

## **COMMISSIONER REPORTS**

Agenda Item 6. Commissioner Valderrama reported that on March 18-20, 2013 he traveled to Washington D.C. with Randa Coniglio, Executive Vice President, Dora McCann, Legislative Policy Administrator, Government & Civic Relations, and Ron Popham, Principal, Trade Development to participate in the American Association of Port Authorities (AAPA) Annual Legislative Policy Spring Conference. He stated that conference held on Monday and Tuesday provided an overview of Port prioritization in the 113<sup>th</sup> Congressional session. He offered it provided a global perspective on available financing sources, the President's U.S. Trade Agenda, and advanced the conversation on how the Army Corps of Engineers needs to modernize to meet present day needs relating to environmental issues, project prioritization, and funding distribution. On Wednesday, the delegates went to the Department of Transportation, and the Office of Budget and Management in an effort to advance unique Port goals. He explained that highlights from those Congressional and Federal meetings included successful furthering of federal MARAD (Maritime Administration) support for the Strategic Port network. Commissioner Valderrama stated the District's team met with the Senate Environment and Public Works Senior Staff on the same day they passed the Water Resources Development Act (WRDA) bill out of their Committee, which guides the Army Corps of Engineers and serves as the primary legislative bill for the District's interests. He concluded his report by offering his observations regarding efforts to support the District's work by the regional representatives in light of the potential impact of Federal sequestration budget cuts.

Chair Moore reported that she and Wayne Darbeau, Executive Director, attended the first annual Japan-U.S. Goodwill Cherry Blossom Festival on April 7, 2013 at the San Diego-Yokohama Sister City Friendship Bell. She stated that the public event was co-hosted by the Port of San Diego and the San Diego-Yokohama Sister City Society. The event featured a performance by the Japanese drumming group, San Diego Taiko; a high school student speech contest; a silent tribute to the victims of the Eastern Japan earthquake and tsunami, and the ringing of the Japanese Friendship Bell. Chair Moore thanked Kaneko Bishop, President, San Diego-Yokohama Sister City Society on behalf of the District.

Mr. Darbeau also remarked that the event was "awe inspiring" and discussed his desire that the event continues to grow and he encouraged port tenant participation.

Commissioner Nelson reported that the City Council of the City of San Diego adopted a policy under which they would consider persons to be appointed to the Board of Port Commissioners. He discussed the background segment of the proposed city policy and reported that additional text from the Port Act was added to the policy adopted. Concerning economic competitiveness references in the policy, he discussed the adoption of his recommendations regarding references to under-utilized leaseholds or vacant properties and encouraged the careful consideration of alternative land uses. He discussed the remarks offered by David Alvarez, San Diego City Councilmember and Bob Filner, Mayor, City of San Diego, regarding the value of the District and Port operations.

## **PUBLIC COMMUNICATIONS**

Agenda Item 5. Bob Filner, Mayor, City of San Diego, addressed the Board regarding his vision for conducting regional collaboration efforts in which representatives from the District, participants from all of the member cities, and a diverse group of stakeholders work together to take advantage of "green" technology and "blue" maritime industries and work toward common goals to build an "aqua economy." He encouraged the Board to consider coming together, with the mayors from each member city and stakeholders, in a "roundtable" type fashion to facilitate a consensus building discussion.

## **PRESIDENT REPORT**

Agenda Item 7. Wayne Darbeau, Executive Director, turned the presentation over to John Bolduc, Harbor Police Chief and Vice President of Public Safety, who addressed the Board regarding the 19<sup>th</sup> Annual Shop with a Cop event sponsored by the San Diego Harbor Police and the Coronado Police departments. He thanked the Board for the District's ongoing support of the event that benefits needy or neglected children from across San Diego County.

At the request of Mr. Darbeau, Randa Coniglio, Executive Vice President Operations, introduced Jason Giffen as the newly appointed Director of Environmental and Land Use Management. Mr. Giffen thanked the Board and District leadership for the opportunity and stated he looked forward to working on moving the District's priorities forward.

Mr. Darbeau introduced Robert "Bob" DeAngelis as the new Chief Financial Officer/Treasurer. Mr. DeAngelis addressed the Board and thanked the Board and the Executive Leadership Group for the opportunity. Mr. Darbeau acknowledged Jeff

McEntee, outgoing CFO/Treasurer for his 25-year tenure with the District. Mr. Darbeau administered the oath of office to Mr. DeAngelis.

Chair Moore welcomed Mr. DeAngelis and Mr. Giffen on behalf of the Board.

## **ACTION AGENDA**

### **PRESENTATION OF SERVICE AWARDS TO EMPLOYEES WITH 15 OR MORE YEARS OF SERVICE**

Agenda Item 26. Michelle Corbin, Director, Human Resources, 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 the following employees: Pete Buddhu, Maintenance Supervisor in General Services & Procurement, 30 years; Jessie Arberry, Maintenance Worker, 15 years; Karl Fulenwider, Marine Mechanic, 15 years; Paul Morison, Lead Gardener, 15 years; Christian Quimpo, Parking Meter Repair/Collector, 15 years all from the General Services & Procurement Department; and Malcolm Meikle, GIS coordinator, Business Information & Technology Services, 15 years. Chair Moore thanked the recipients for their years of service to the District and offered the Board's congratulations. (A copy of the presentation and staff report is on file in the Office of the District Clerk.)

Chair Moore and Mr. Darbeau presented awards to the recipients.

### **RESOLUTION AUTHORIZING ISSUANCE OF A REQUEST FOR QUALIFICATIONS FOR A CONSULTANT TEAM TO CONDUCT ANALYSIS AND DEVELOP A STRATEGY AND WORK PLAN FOR A COMPREHENSIVE INTEGRATED PORT MASTER PLAN UPDATE**

Agenda Item 27. Lesley Nishihira, Manager, Environmental and Land Use Management, addressed the Board with a refined scope of work and requested the Board's consideration of a Resolution authorizing issuance of a Request for Qualifications for a consultant team to conduct analysis and develop a strategy and work plan for a Comprehensive Integrated Port Master Plan Update. (A copy of the staff report and presentation is on file in the Office of the District Clerk.)

Referencing the Board's direction from their recent retreat, Wayne Darbeau, Executive Director, reiterated the staff position that moving forward with the matter was key to planning for the future of the District.

Laura Hunter, Environmental Health Coalition, addressed the Board; expressed support for the staff recommendation; proposed enhancements to the request for qualifications that she believed could augment revenues, guide capital expenditures, support the legislative agenda and address environmental justice and health elements. She concluded her remarks by requesting the Board consider including key stakeholder representatives in the consultant team selection process.

Commissioner discussion ensued. Commissioner Nelson, Commissioner Smith, Commissioner Malcolm and Commissioner Valderrama each offered comments regarding: Chair Moore's leadership role in moving the process forward; encouraged working with the member cities and stakeholder groups to find efficiencies; discussed working in a collaborative fashion with other planning groups; acknowledged staff for their preparation of the report; discussed the importance of holistic strategic planning in light of budget process challenges; and supported moving forward with cost recovery and utilizing grant funding to leverage fiscal resources.

Commissioner Nelson offered a motion to accept the staff recommendation. He proposed that staff reallocate the funding previously planned for deep-water berthing and parking studies into the integrated planning budget.

Chair Moore discussed the importance of long term planning. She remarked on the business benefits of integrated planning. She cited the number of Port Master Plan Amendments processed during the past 10 to 15 years that had required a hearing before the Coastal Commission, which often resulted in compliance conditions and obligated District financial resources.

On a motion by Commissioner Nelson, seconded by Commissioner Smith, the Board, adopted **Resolution 2013-56** Authorizing Issuance of a Request for Qualifications for a consultant team to Conduct Analysis and Develop a Strategy and Work Plan for a Comprehensive Integrated Port Master Plan Update, by the following vote: Yeas-Malcolm, Moore, Nelson, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None

**RESOLUTION AUTHORIZING SPONSORSHIP OF STATE LEGISLATION REGARDING THE DEPARTMENT OF PESTICIDE REGULATION'S REEVALUATION OF COPPER-BASED ANTIFOULING PAINTS**

Agenda Item 28. Patrick Bouteller, Acting Manager, Government and Community Relations, addressed the Board and requested consideration of a Resolution authorizing sponsorship of State Legislation regarding the California Department of Pesticide Regulation's (CDPR) reevaluation of copper-based antifouling paints. (A copy of the staff report and presentation is on file in the Office of the District Clerk.)

Sharon Cloward, President, San Diego Port Tenants Association, offered remarks regarding her constituents' position on the matter and expressed the desire to continue working with California Assemblymember Toni Atkins. She stated that the San Diego Port Tenants Association was not in opposition to District sponsorship of the bill as presented.

Commissioner discussion ensued. Commissioner Nelson requested and received clarification from Karen Holman, Manager, Environmental Programs, Environmental and Land Use Management, who offered that the bill would not change the Total Maximum Daily Load (TMDL) requirements at the Shelter Island Yacht Basin established by the Regional Water Quality Control Board (RWQCB). She explained that the bill might put mitigation measures in place that may lower the allowable leach rates for copper paints. In light of the discussion regarding the conflicting positions between the RWQCB and the CDPR regarding the impacts of copper and the related remedies, Commissioner Nelson suggested taking steps to bring that matter to the attention of California Governor Jerry Brown.

Commissioner Malcolm thanked staff for taking a leading role regarding the matter and he expressed support for the motion with the caveat that the Board be kept apprised of the bill's progress and they are alerted as to any changes and, should circumstances arise, that the Board would retain the authority to reevaluate the District sponsorship. He requested clarification regarding the total decrease in TMDL levels in the Shelter Island Yacht Basin from Ms. Holman who replied by explaining the effects of hull paint conversion, unfilled slip vacancies, and the implementation of hull cleaning regulations. He discussed recent data reported in the "SPAWAR study" regarding the source of copper in San Diego Bay. Commissioner Malcolm discussed the importance of taking a "multi-prong" approach to address the reduction goals, working with the RWQCB, and looking to scientific findings when considering the TMDL levels.



Commissioner Smith acknowledged Commissioner Malcolm's remarks regarding the matter. He expressed concerns related to the "law of unintended consequences" and discussed the "evolution" of putting forward a State bill. He concurred that monitoring of any modifications to the bill's language was required. He suggested that a standardized leach rate be identified for study purposes and discussed that a future ban on copper bottom paint may occur. Commissioner Smith urged the careful consideration of the long-term effects of anti-fouling paint alternatives.

Commissioner Valderrama discussed the District's sponsorship of the bill and offered his support of the staff recommendation. He reiterated the concerns offered regarding the "law of unintended circumstances."

Commissioner Nelson discussed references to the "SPAWAR study" and stated that the document was a yet to be defended unpublished student thesis and was not a study commissioned by the Space and Naval Warfare Systems Center Pacific (SPAWAR). He discussed the concept of bill sponsorship by the San Diego Port Tenants Association, the Environmental Health Coalition, as well as the District. He requested and received clarification from Bill Hall, Board Member, San Diego Port Tenants Association, regarding the organization's sponsorship and discussed the concerns related to the "morphing" of the bill. Commissioner Nelson offered a motion to approve the staff recommendation.

Commissioner Malcolm seconded the motion and requested Commissioner Nelson amends his motion to include a future briefing regarding the findings of scientific studies related to the matters under discussion.

Commissioner Nelson accepted the amendment and offered assistance via the Environmental Advisory Committee.

On a motion by Commissioner Nelson, seconded by Commissioner Malcolm, the Board, adopted **Resolution 2013-57** Authorizing Sponsorship of State Legislation regarding the Department of Pesticide Regulation's reevaluation of copper-based antifouling paints, and directing staff to bring forward a briefing regarding the findings reported in the scientific studies related to the matter, by the following vote: Yeas-Malcolm, Moore, Nelson, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

## **UPDATE ON THE CLIMATE PLAN DEVELOPMENT, NEXT STEPS, AND DIRECTION TO STAFF**

Agenda Item 29. Timothy Deuel, District Clerk, reported additional agenda related materials were received after the publication of the agenda; copies of the documents were distributed to the Board, and were available from the Clerk.

Randa Coniglio, Executive Vice President, Operations, addressed the Board and turned the presentation over to Cody Hooven, Senior Environmental Specialist, Environmental and Land Use Management, who provided an update on the Climate Plan development, discussed next steps, and requested Board direction. (A copy of the staff report and presentation are on file in the Office of the District Clerk.)

Kayla Race, Environmental Health Coalition, addressed the Board, stated support for moving forward with developing the Climate Plan, and commented on the work plan creation, mitigation and adaptation efforts, implementation process, and results measures.

Commissioner discussion ensued. Commissioner Malcolm thanked staff for their efforts. He reiterated his support for a proactive approach with respect to the potential environmental impacts of climate change and integration of such matters into the District's comprehensive planning process. He remarked on the importance of utilizing science-based data to form the plan. Commissioner Malcolm discussed recent reports from the scientific and business community representatives who have taken divergent positions on global warming. He reiterated his concerns regarding sea level rise - inundation maps that depict the long-term projections of areas that fall outside of tideland boundaries. He urged moving ahead with convening a Commissioner retreat regarding the matter to review the proposed plan; to understand the impacts; and to discuss policy implications, before the publication of a District climate plan.

Commissioner Smith thanked staff for their efforts. He discussed the concept of viewing the climate plan as a "toolbox" that offered "the right tool for the right job." He commented on what he described as a complex issue, urged giving staff "data driven direction," and expressed support for conducting a workshop to further define the purpose and distribution of the plan.

Commissioner Nelson discussed climate change, cost-benefit assessments, and the use of the scientific method standards in relation to climate change predictors. He discussed how the proposed goals or targets should be assessed; the inclusion of milestone measures and detailed implementation costs for each goal, and calculating the related charges that could be incurred by stakeholders. He expressed concern

regarding the progress made to date to facilitate industry-specific meetings to assist business operators with developing best management practices that could contribute to the District's achieving its greenhouse gas emission reduction goals.

Commissioner Valderrama concurred that a retreat would be required prior to moving forward. He offered support for the recommendation that the full Board be present at the retreat including the two representatives from San Diego, who were yet to be appointed.

Chair Moore thanked staff for their diligent efforts to refine the staff report. She discussed her vision for a lively and inclusive workshop that engaged all interested stakeholders in the dialogue to guide setting of the Board policy regarding climate change. She offered that while a number of implementation tools were suggested, no Board policy had been enacted. Regarding the greenhouse gas reduction goals, she explained the policy was set as a response to State legislative mandates. While Chair Moore acknowledged the benefit of having the two San Diego representatives present, who were yet to be appointed; she stated the process has been long in coming and urged moving forward in a reasonable timeframe.

Commissioner Nelson stated he shared the sentiments of the Board. He offered a motion to conduct a workshop no later than June, 2013; which would be facilitated in a type of "roundtable environment" with the Board of Port Commissioners, District staff, two representatives from each of the member cities, members of the Environmental Advisory Committee, representatives from the Real Estate Advisory Forum, and representatives from the Maritime Advisory Forum.

Commissioner Valderrama seconded the motion.

Commissioner Smith acknowledged the vision of a "roundtable format" and discussed communication challenges presented by facilitating a very large group of participants. He offered that while many opinions might be offered; the Board was responsible for setting District policy.

Chair Moore responded to Commissioner Smith's concerns. She offered her vision of a participatory workshop and directed staff to ensure that all interested stakeholders were invited. Referencing the motion stated, she commented that while seating such a large number of representatives at one table may not be practical, the participants would be encouraged to attend and express their concerns.

Commissioner Nelson amended his motion and stated that the Board conducts a workshop on the topic of climate mitigation and adaptation, no later than

June, 2013. He offered that there would be a “robust effort” to encourage the attendance and participation from the member cities, the Maritime Advisory Forum, the Real Estate Advisory Forum, the Environmental Advisory Committee, and other parties as identified by staff.

Commissioner Valderrama seconded the restated motion.

Commissioner Nelson discussed his concept for the format for the workshop and expressed a desire for a “debate between legal counsel” regarding matters related to the implications of putting forward drafts of documents projecting the long-term effects of sea level rise. He expressed his preference that several experts have a dialogue regarding their position on the topics; that input from the public is received, followed by the Commissioner discussion.

Commissioner Valderrama reiterated his understanding of the motion, which was to conduct a District sponsored workshop no later than June 2013 and to include as many stakeholders as possible.

Commissioner Malcolm acknowledged the remarks offered by Commissioner Nelson regarding conducting a workshop in a matter that would be as inclusive as possible to receive stakeholders’ input.

To provide staff with a clear direction while maximizing the use of the District’s resources, Wayne Darbeau, Executive Director, requested that the Board reserve time during the workshop to reconcile the discussion and form a “common mental model” of next steps.

On a motion by Commissioner Nelson, seconded by Commissioner Valderrama, the Board directed staff to conduct a workshop regarding the Climate Plan, by the following vote: Yeas-Malcolm, Moore, Nelson, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

## **RESOLUTION SELECTING AND AUTHORIZING A FIVE YEAR AGREEMENT WITH ACE PARKING MANAGEMENT TO OPERATE THE BIG BAY SHUTTLE**

Agenda Item 30. Karen Weymann, Director, Real Estate, addressed the Board regarding with the requirements for implementation of a shuttle program and discussed staff’s fiscal goals for the program. Penny Maus, Senior Asset Manager, Real Estate, presented the staff report regarding a resolution selecting and authorizing a five year agreement with Ace Parking Management to operate the Big Bay Shuttle (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. and returned at 3:37 p.m. Commissioner Malcolm left the dais at 3:37 p.m. and returned at 3:40 p.m.

The following members of the public addressed the Board in support of the shuttle program: Sharon Cloward, President, San Diego Port Tenants Association; Keith Jones, Managing Partner, Ace Parking; and Lindsey Kirkman, Downtown Partnership.

Commissioner discussion ensued. Commissioner Smith thanked staff and Mr. Jones for the presentation. He offered a motion to approve the staff recommendation and then expressed his concerns as follows: 1) government agencies do not exist to compete with the private sector industry; 2) the model under consideration could result in a "forever (financial) entitlement;" and 3) concern regarding a perception of a potential conflict of interest when District staff, as contract administrators in the Real Estate department, seek advertising from port tenants, as a means to provide funding resources for the program. Commissioner Smith expressed concern regarding the fiscal projections for the program in light of the budget forecast for the coming year.

Commissioner Valderrama seconded the motion.

In response to his queries, Commissioner Valderrama received clarification from Ms. Maus regarding staff report references that the Board may consider allocating a portion of the Environmental Fund to support the shuttle program in the future.

Commissioner Smith left the dais at 3:44 p.m. and returned at 3:47 p.m.

Commissioner Malcolm offered support for the concept in accordance with the requirement under the North Embarcadero Visionary Plan Phase I Coastal Development Permit (NEVP CDP). In the context of the budget forecast for the coming year, he expressed concerns regarding the fiscal projections for the program. He requested clarification and Shaun Sumner, Area Asset Manager, Real Estate department, explained that the program was fairly close to meeting the minimum operational hours-requirement while some portions of the program exceeded the minimum requirements. In light of the questions from Commissioner Malcolm related to containing costs for the program and the proposed additional hours of operation in excess to the NEVP CDP requirements, Ms. Maus provided information regarding the costs projected that would likely be offset by advertising revenues.

Chair Moore recognized the environmental benefits of the program and acknowledged the requirements related to the NEVP CDP. Expressing concerns with

offering support for the motion, she proposed continuing the item to allow staff to bring forward a benefit assessment study. She addressed the matter raised by Commissioner Smith regarding the operation of a shuttle service by a government agency. Chair Moore discussed staff members approaching the California Coastal Commission to request a delay in implementing the NEVP CDP condition, due to the District's current financial challenges.

Commissioner Malcolm concurred with Chair Moore's remarks and addressed the matter of moving forward with only operating revenue neutral programs. He requested clarification regarding the potential impacts of delaying consideration of the matter to a future Board meeting.

Ms. Weymann acknowledged that consideration of the item could be continued to the May 7, 2013 regular Board meeting. She addressed the benefits of timing the start of the shuttle service by Memorial Day weekend. She discussed the benefit assessment study, explained it would be completed at the conclusion of the shuttle service season, and the statistics would be derived from ridership data. Ms. Weymann discussed the flexibility in the contract proposed to modify or reduce the hours of operations.

Discussing the agency's fiscal discipline efforts, Commissioner Malcolm offered that the matter be continued, and requested that staff return on April 18, 2013 and present a five-year operating pro forma to make the program revenue neutral.

Commissioner Valderrama requested and received clarification from Ms. Maus that the contract term was for five years; however, it included a 10-day termination clause. Commissioner Valderrama requested and received clarification from Ms. Maus related to the staff report and the proposed allocation of environmental fund resources to the shuttle operation. Commissioner Valderrama reiterated his support for moving forward with the program in consideration of utilizing environmental fund resources to close the budget gap. He discussed the mandate under the NEVP CDP.

Randa Coniglio, Executive Vice President, Operations, concurred with the request that staff return to the Board with the matter, allowing time for further investigation regarding funding of the program and operating it in a revenue neutral manner over the life of the plan.

Commissioner Nelson discussed the narrow period in which companies make their seasonal advertising spend decisions and urged his colleagues to consider the implications of a delay. He discussed the role of government agencies in financially subsidizing public transportation programs. He remarked on the discussions regarding a

reduction to the operating hours and cautioned against returning to the Coastal Commission with a request to delay implementation of the requirement. He acknowledged the concern offered by Commissioner Smith regarding potential conflicts of interest, discussed the staff's initiative to seek funding for the program, and urged senior leadership to consider the matter and implement any policies to avoid any possible conflicts. Ms. Kirkman responded to queries from Commissioner Nelson regarding the private membership component of the Downtown San Diego Partnership's organizational structure; the operation of the Clean and Safe Program; and the limited funding resources to operate a shuttle system outside of the downtown San Diego parking district. He requested and received clarification from Dave Catalino, Deputy Port Attorney, regarding the termination clauses cited in the agreement under consideration. Ms. Maus also offered clarification regarding the periods related to termination of the agreement by the permittee and the District. Mr. Jones acknowledged the matter, confirmed the 10-day window to terminate the agreement was acceptable for his operation, and discussed the potential implications of a delay. Thomas Russell, Port Attorney, offered additional clarification regarding the period in which either party could terminate the agreement.

Chair Moore discussed the 10-day termination clause and implications to the District's compliance condition under the NEVP CDP. She requested that staff work with the permittee to engage the private companies benefitting from the service to explore covering the cost of the program.

Commissioner Smith acknowledged the Board discussion and the importance of budget discipline.

Chair Moore acknowledged a request for a continuance would take precedent over the original motion offered by Commissioner Smith and seconded by Commissioner Valderrama.

Wayne Darbeau, Executive Director, concurred with Ms. Coniglio's statement requesting the item be continued for further staff analysis.

Chair Moore offered a motion to continue the matter no later than April 29, 2013. Commissioner Valderrama seconded the motion.

Commissioner Malcolm reiterated his support for the benefit of the shuttle program and discussed the importance of budget discipline.

Commissioner Nelson offered he would not support the motion to continue the matter and reiterated his concerns regarding a delay.

On a motion by Commissioner Moore, seconded by Commissioner Valderrama, the Board authorized continuing the matter to the April 29, 2013 Special Board Meeting, by the following vote: Yeas-Malcolm, Moore, Smith, and Valderrama; Nays-Nelson; Excused-None; Absent-None; Abstained-None.

Commissioner Valderrama left the dais at 4:22 p.m. and returned at 4:24 p.m.

**RESOLUTION ADOPTING PLANS AND SPECIFICATIONS AND AWARDING CONTRACT NO. 2011-49 TO NEWEST CONSTRUCTION COMPANY, INC. FOR THE TENTH AVENUE MARINE TERMINAL COLD IRONING (SHORE POWER) PROJECT, SAN DIEGO, CALIFORNIA IN THE AMOUNT OF \$2,943,460**

Agenda Item 31. Brian Stup, Chief Engineer, Engineering-Construction, addressed the Board with an overview of the project. He turned the presentation over to Mahmoud Akhavain, Manager, Engineering-Construction, who continued with the presentation and requested the Board's consideration of a resolution adopting plans and specifications and awarding Contract No. 2011-49 to Newest Construction Company, Inc. for the Tenth Avenue Marine Terminal Cold Ironing (Shore Power) Project. (A copy of the staff report and presentation are on file in the Office of the District Clerk.)

Chair Moore left the dais at 4:26 p.m. and returned at 4:29 p.m.

Commissioner discussion ensued. Commissioner Smith offered a motion to adopt the staff recommendation. Commissioner Malcolm seconded the motion and acknowledged the positive environmental impact of the project.

Commissioner Nelson requested and received clarification from Mr. Akhavain regarding the lower project cost when compared to the expenditures that were incurred for implementing shore power at the B Street Cruise Ship Terminal.

On a motion by Commissioner Smith, seconded by Commissioner Malcolm, the Board adopted **Resolution 2013-58** adopting plans and specifications and awarding Contract No. 2011-49 to Newest Construction Company, Inc. for the Tenth Avenue Marine Terminal Cold Ironing (Shore Power) Project, San Diego, California in the amount of \$2,943,460, by the following vote: Yeas-Malcolm, Moore, Nelson, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.



**UPDATE ON BOARD OF PORT COMMISSIONERS POLICY NO. 120 – CAPITAL IMPROVEMENT PROGRAM (CIP) IMPLEMENTATION AND DIRECTION TO STAFF**

Agenda Item 32. Brian Stup, Chief Engineer, Engineering-Construction, addressed the Board with an overview of the project. He turned the presentation over to Charlene Dennis, Manager, Engineering-Construction, who continued with the presentation regarding an update on Board of Port Commissioners Policy No. 120 – Capital Improvement Program (CIP) implementation and requested direction to staff regarding a workshop to be held in the fall 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 the CIP program implementation and their request to move ahead with the North Harbor Drive Realignment Project: Dan Grindle, Attorney, representing Sportfishing Landings/Sun Harbor Marina; Richard Bartell, Bartell Hotels; and Greg Boeh, GB Capital Holdings, LLC. Mr. Grindle submitted a spreadsheet to support his comments. (A copy of the document is on file in the Office of the District Clerk.) Laura Hunter, Environmental Health Coalition, requested the Board review the CIP program projects and assess priorities in conjunction with the strategic planning process. She also remarked on the savings from the shore power project adopted earlier; requested consideration of utilizing the savings to fund environmental capital projects at the National City Marine Terminal to positively impact the area's residents.

Commissioner discussion ensued. Chair Moore requested and received clarification from Ms. Hunter regarding her organization's position regarding the CIP program review process. Chair Moore requested and received clarification from Mr. Bartell regarding the priority of the North Harbor Drive Realignment Project, the cost benefits, and the future need for the parking structure proposed in the area.

Commissioner Smith requested and received clarification from Ms. Coniglio that staff recommended alternative two, as shown in their report. He acknowledged the members of the public for their remarks. Following statements regarding the nature of the capital improvement program and the importance of communication while maintaining the established process, he offered a motion to direct staff to move ahead with alternative two. As noted in the staff report, the alternative is a "modified process" and "under this approach, there would be no project assessment forms received for new CIP projects. However, existing project status and possible funding would be reviewed and an outreach process would be conducted to solicit input from member Cities and the public to facilitate communication regarding future CIP projects.

A Workshop/Special Meeting would be held in the fall of 2013 for Board review and consideration of current project status and the outreach activities."

Commissioner Valderrama seconded the motion for discussion.

Commissioner Malcolm thanked the members of the public for their remarks. He requested and received clarification Jeff McEntee, CFO/Treasurer, Limited, regarding the tenant contributions made under the terms of their leases and placed into the restricted set aside funds for the parking solution as referenced in the comments offered regarding the North Harbor Drive Realignment Project. Ms. Coniglio offered clarification on staff's use of the term "parking solution." She explained that the additional parking along North Harbor Drive might be determined to be "the parking solution." She also discussed the terms of the tenant contribution toward the funding of a parking solution, the timeline, and the District's commitment to working toward a project that would identify a parking solution. Commissioner Malcolm acknowledged Mr. Bartell's comments, discussed the concept of a stand-alone bond for the project, and requested the completion of an economic analysis for the parking solution and the North Harbor Drive Realignment Project. Mr. McEntee acknowledged the request, discussed the assessment of the parking garage in light of the sportsfishing business needs, and recommended that an assessment of the use of the set aside funds for the realignment project would be prudent.

Concerning the agenda item noticed, Chair Moore cited the prior discussion as evidence of moving ahead with alternative two as staff recommended. She also requested that a legal analysis be completed regarding the term "parking solution" to facilitate continuing with the contractual obligations discussion.

Commissioner Nelson requested and received confirmation from the public speakers who commented on the North Harbor Drive Realignment Project and their affiliation with District leaseholds.

Thomas Russell, Port Attorney, offered that, as the North Harbor Drive Realignment Project had been cited in the staff report as a Capital Improvement Program project, the Board could discuss the matter. He stated that making any decisions specifically regarding that project would be beyond the scope of the item noticed for discussion.

Chair Moore expressed concern regarding continuing with a discussion of the North Harbor Drive Realignment Project matter. She offered that staff may need additional time to more adequately prepare for such a specific discussion and reiterated

her support for moving ahead with alternative two; in which existing project status and possible funding would be reviewed.

Commissioner Malcolm acknowledged Chair Moore's position and concurred that additional preparation time was necessary to address the North Harbor Drive Realignment Project matter. He offered support for the motion to move ahead with alternative two.

Commissioner Nelson requested and received clarification from Mr. Boeh and Mr. Grindle as to their positions regarding the District's efforts to move forward with the North Harbor Drive Realignment Project and the parking solution matter.

Mr. Russell clarified for the Board members that the item under consideration was an update on the CIP implementation and direction to staff.

Commissioner Valderrama offered support for alternative two. In light of the process under consideration, he requested that staff reach out to member city stakeholders and confirm the proposed projects remain in alignment with their priorities, and seek feedback regarding any changes.

Commissioner Smith noted that an outreach process to solicit feedback and stakeholder input was included in the staff report.

Chair Moore restated the importance of moving ahead with a discussion regarding the CIP projects as offered in the motion.

On a motion by Commissioner Smith, seconded by Commissioner Valderrama, the Board directed staff to proceed with alternative two, a modified process, in which no project assessment forms would be received for new CIP projects; existing project status and possible funding would be reviewed; and an outreach process would be conducted to solicit input from member cities and the public to facilitate communication regarding future CIP projects, by the following vote: Yeas-Malcolm, Moore, Nelson, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

**RESOLUTION AMENDING AND UPDATING BPC POLICY NO. 355 – REAL ESTATE LEASING POLICY AND ADMINISTRATIVE PRACTICES - REAL ESTATE LEASING TO MAKE THE FOLLOWING CHANGES:**

- A) STREAMLINE RENT REVIEW PROCESS;**
- B) INCREASE THE MINIMUM ANNUAL RENT FOR PERCENTAGE RENT LEASES FROM 75% TO 80% OF MARKET RENT;**
- C) ESTABLISH CRITERIA FOR CALCULATING LEASE TERM EXTENSIONS;**
- D) REQUIRE TENANT TO INDEMNIFY DISTRICT FOR LEGAL EXPENSES AND PAY ALL THIRD-PARTY CONSULTANT COSTS; AND**
- E) ADMINISTRATIVE UPDATES**

Agenda Item 33. Karen Weymann, Director, Real Estate, addressed the Board and offered that BPC Policy No. 355 was not a contract between the District and the tenants. She stated that each individual lease reflects the full agreement with the tenant and she turned the presentation over to Tony Gordon, Area Real Estate Manager, Real Estate, who continued with the presentation and requested the Board consider a resolution amending and updating BPC Policy No. 355 - Real Estate Leasing Policy and Administrative Practices - Real Estate Leasing. (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: Richard Bartell, President, Bartell Hotels; Sophie Silvestri, Director, Operations, San Diego Port Tenants Association, submitted a request to speak form and ceded her time to Mr. Bartell; Sharon Cloward, San Diego Port Tenants Association; Randy Short, Cabrillo Isle Marina; Bill Hall, Chairman, San Diego Port Tenants Association; Laura Hunter, Environmental Health Coalition; Peter H. Flournoy, General Counsel, American Tuna Boat Association.

Commissioner discussion ensued. Commissioner Smith acknowledged staff and the Board for their good work to move forward with updating the policy. He remarked on the benefits to small business owner tenants and offered a motion to adopt the staff recommendations outlined as items A) Streamline rent review process; B) increase in the minimum annual rent for percentage rent leases from 75% to 80% of market rent, C) establish criteria for calculating lease term extensions; D) require tenant to indemnify District for legal expenses and pay all third-party consultant costs; and E) Administrative updates as detailed in the staff report.

Commissioner Valderrama acknowledged the collaborative nature of the process and remarked on the tenant's participation. He offered a second to the motion for items A, C, D and E. Regarding item "B," he explained that there would be no direct fiscal

impact to the District and as a lease can be modified on a case-by-case basis, he requested that the item be considered under a separate motion.

Commissioner Nelson acknowledged Commissioner Malcolm for his work on the matter. He requested and received clarification from Mr. Gordon regarding staff's efforts to inform the members of the public about the Real Estate Stakeholder forum meetings. He encouraged staff to increase their efforts to alert the public regarding such public meetings. Mr. Gordon confirmed that meetings with the San Diego Port Tenants Association and the Real Estate Stakeholder forum participants would be open and noticed meetings in which any member of the public could attend. With respect to the implementation of cost recovery, Commissioner Nelson discussed language on page 3 of 29 of the draft policy regarding the payment of fees and cost recovery. He urged staff to work in a comparable fashion with the members cities to achieve true cost recovery for District services. In light of the prior year's trends of an increase in operating expenses as compared to the increase in revenues, Commissioner Nelson offered support for the motion to increase in the minimum annual rent for percentage rent leases from 75% to 80% of market rent.

Commissioner Malcolm offered his thanks to staff for their efforts and acknowledged the Port Tenants and stakeholders for the spirit in which they engaged in the process that resulted in a "win-win" for the District and the tenants. He remarked on the market rent comparable data presented by the San Diego Port Tenants Association in regards to the proposed increase in the minimum annual rent for percentage rent leases from 75% to 80% of market rent. Commissioner Malcolm offered that the final decision making authority regarding the proposed policy changes rested with the Board.

Chair Moore expressed her gratitude to Commissioner Valderrama and Commissioner Malcolm for their long involvement in the process and for representing the Board at the forum. She expressed concern regarding "item D," requiring tenants to indemnify District for legal expenses and pay all third-party consultant costs. She offered that as a fiduciary of the District, she supported moving ahead with a cost recovery model for processing entitlements; implementing deposits; and perhaps, for the staff time involved, facilitating rent negotiations. She discussed the concept of cost recovery as an agency regulatory function and she explained cost recovery was not a contractual or a negotiation matter and should not be included in BPC Policy No. 355 as drafted. Chair Moore offered that the matter of a comprehensive cost recovery process should come back for the Board's prompt consideration.

Commissioner Smith acknowledged Chair Moore's statements, concurred that the language in all District policies should be consistent, and suggested that until the new cost recovery policy was enacted "item D" remain in place.

Commissioner Nelson concurred with the discussion of an overall cost recovery strategy and tactics for all District functions be brought forward in a timely way. He requested that the maker of the motion consider an amendment regarding references to fees in the proposed policy, as follows: "the District shall charge a transaction processing fee equal to the fully burdened cost of Port staff, consultants and attorneys but not less than \$500." He explained that upon development of a cost recovery strategy in the future, staff would return with a request for any modifications to BPC Policy No. 355 to ensure consistency.

Referencing the robust process utilized to develop the policy under consideration, Commissioner Malcolm expressed concern regarding adopting alternative language without engaging stakeholders.

Chair Moore reiterated her concern that keeping the language requiring tenants to indemnify District for legal expenses and pay all third-party consultant costs in the policy may be interpreted as something that may be subject to negotiation.

Thomas Russell, Port Attorney, referenced the Port Act, Section 36, Fixing of Rates or Charges, which states the Board shall by ordinance fix the rate of wharfage charges and other charges, which are appropriate for the use of any of the facilities, owned and constructed or services furnished or provided by the District. He offered that an ordinance would be enforceable but a leasing policy would not be contractually binding; thus, if the Board wished, staff could return with an ordinance regarding enacting reasonable regulatory cost recovery fees.

In light of the process utilized to develop the policy, Commissioner Smith discussed his concern with making substantive changes to the document and reiterated his desire to approve the document as proposed. He concurred that the matter of cost recovery should come back at a future meeting for Board consideration.

Commissioner Nelson proposed to strike all references to the transaction fees from the draft document and subsequently adopt BPC Policy No. 355. He also offered that a second motion be considered to direct staff to bring forward a cost recovery policy and ordinance to the Board at an upcoming meeting.

Chair Moore acknowledged Commissioner Nelson's recommendations. She requested and received clarification from Mr. McEntee as to the projected timeline

staff had established for bringing forward the cost recovery matter. She remarked on her preference to expedite the matter and bring cost recovery forward at the May 7, 2013 regular Board meeting.

Commissioner Nelson made "a motion to strike those sections of the proposed policy that deal with the payment of fees and take it up another day."

Chair Moore requested clarification as to whether Commissioner Smith would agree to the modification proposed.

Commissioner Valderrama acknowledged the sentiment of the Board regarding cost recovery, discussed the process by which the policy was developed, and reiterated his concern for amending the policy from the dais. Thus, as the member who seconded the original motion, he stated his disagreement with the modifications offered.

Commissioner Smith requested the Board vote on the original motion to adopt the staff recommendations outlined as items A) streamline rent review process; B) increase in the minimum annual rent for percentage rent leases from 75% to 80% of market rent; C) establish criteria for calculating lease term extensions; D) require tenant to indemnify District for legal expenses and pay all third-party consultant costs; and, E) administrative updates as detailed in the staff report.

On a motion by Commissioner Smith, seconded by Commissioner Valderrama, the motion failed for lack of majority, by the following vote: Yeas-Malcolm, Nelson, and Smith; Nays-Moore and Valderrama; Excused-None; Absent-None; Abstained-None.

Commissioner Nelson offered a motion to approve the staff recommendation with the elimination of section VIII. Chair Moore seconded the motion.

Commissioner Malcolm expressed his concerns regarding the motion and offered that he would not support the motion. He discussed the outreach process and the lack of a cost recovery mechanism should the language be removed from the policy proposed.

Commissioner Nelson and Chair Moore each responded to the concerns expressed. They discussed the Board's authority to modify the policy, the outreach process, and the delay in implementing the cost recovery program.

Commissioner Smith offered a motion to approve the staff recommendations outlined as items A) streamline rent review process; C) establish criteria for calculating

lease term extensions; and D) require tenant to indemnify District for legal expenses and pay all third-party consultant costs as detailed in the staff report.

Chair Moore called for a vote on the motion offered by Commissioner Nelson to approve the staff recommendation with the elimination of section VIII.

Commissioner Malcolm reiterated his support for the Board's authority to decide on the matter under discussion. He discussed the public process prior to the adoption of a cost recovery program and the time to put forward the related ordinance. He restated his concern with removing the language in section VIII related to fees and cost recovery.

Commissioner Valderrama also acknowledged the Board's authority as policymakers to decide upon the matter under discussion. He acknowledged the changes proposed, and expressed concern regarding the process.

Commissioner Nelson restated the motion as follows, "I move adoption of the staff recommendation with the exception of, on page 22 of 29 under VIII-A, that it only read, and read only, that the District shall charge a transaction processing fee of not less than \$500."

Chair Moore requested and received clarification from Commissioner Nelson that his motion did not include removing VIII-B.

Mr. Russell offered that his understanding was the section under discussion was formerly section H in the existing policy. He stated that, should the Board adopt the motion, their action would change the existing policy as well as the references from "Port" to "District."

On a motion by Commissioner Nelson, seconded by Chair Moore, the motion to adopt the staff recommendation with the exception of, on page 22 of 29 under VIII-A, that it only read, and read only, that the District shall charge a transaction processing fee of not less than \$500, failed for lack of majority, by the following vote: Yeas-Moore, Nelson, and Smith; Nays-Malcolm and Valderrama; Excused-None; Absent-None; Abstained-None.

On a motion by Commissioner Smith, seconded by Commissioner Nelson, the Board authorized continuing the matter to a future Board Meeting, by the following vote: Yeas-Malcolm, Moore, Nelson, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.



## **REVIEW AND CONSIDERATION OF PROPOSED BOARD AGENDA FOR THE MEETING MAY 7, 2013**

Agenda Item 34. Timothy Deuel, District Clerk, announced that the term for item 20 on the proposed agenda should read the "term is from July 1, 2013 to June 2016."

Commissioner Valderrama offered a motion to approve the proposed agenda for the May 7, 2013 regular meeting.

On motion of Commissioner Valderrama, seconded by Commissioner Smith, the Board adopted the proposed agenda for the meeting of May 7, 2013, by the following vote: Yeas-Malcolm, Moore, Nelson, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

### **OFFICER'S REPORT**

Agenda Item 35. In accordance with BPC Policy No. 110, the following change orders, executed by the Executive Director or designee, were reported:

Monthly Notification of Change Orders Pursuant to BPC Policy No. 110:

- A) Change Order No. 7 to Contract No. 2009-13 with USS Cal Builders, Inc. / Increases Contract by \$218,509.31 for North Embarcadero Visionary Plan, Phase 1, San Diego, CA
- B) Change Order No. 8 to Contract No. 2009-13 with USS Cal Builders, Inc. / Increases Contract by \$57,954.75 for North Embarcadero Visionary Plan, Phase 1, San Diego, CA
- C) Change Order No. 7 to Contract No. 2011-33 with Flatiron Electric Group, Inc. / \$57,320.00 Increase & 30 Calendar Day Time Extension thru 2/11/13 for North San Diego Bay Fiber Optic Installation, San Diego, CA
- D) Change Order No. 1 to Contract No. 2011-40 with NEWest Construction Company / Increases Contract by \$20,340.00 for B- Street Cruise Ship Terminal Fire Protection System Upgrade, San Diego, CA
- E) Change Order No. 3 to Contract No. 2012-04 with SECC Corporation / \$13,120.00 Increase and 108 Calendar Day Time Extension thru 4/01/2013 for Truck Vehicle Plate Reader and Fiber Optic Interconnect (Phase 8) Installation TAMT & NCMT, San Diego and National City, CA
- F) Change Order No. 8 to Contract No. 2012-08 with SECC Corporation / Increases Contract by \$10,300.00 for National City Marine Terminal Fiber Optic Interconnect Installation (Phase 8), National City, California

Chair Moore adjourned the regular meeting and announced that the Board would return to Closed Session.

**CLOSED SESSION CONTINUED**

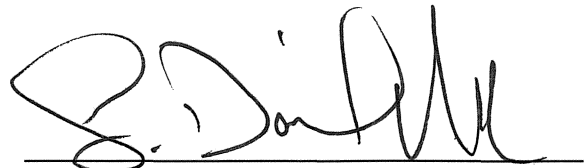
Agenda Item 9.

PUBLIC EMPLOYEE APPOINTMENT, PERSONNEL EVALUATION OR DISCIPLINE:

Discipline of Harbor Police Officer

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, Chair Moore adjourned the meeting.

A handwritten signature in black ink, appearing to be "S. D. Miller", written over a horizontal line.

Secretary, Board of Port Commissioners  
San Diego Unified Port District

ATTEST:

A handwritten signature in black ink, appearing to be "Shirley", written over a horizontal line.

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 Chair Moore at 8:32 a.m., Monday, April 18, 2013, in the Training Room at 3165 Pacific Highway, San Diego, California.

**ROLL CALL**

Agenda Item 1.

Present: COMMISSIONERS, Castellanos, Malcolm, Merrifield, Moore, Nelson, Smith, and Valderrama

OFFICERS: Russell, Stup, Deuel, and McEntee.

Absent: None.

Excused: None.

**PUBLIC COMMUNICATIONS**

Agenda Item 2. None.

**CLOSED SESSION**

Agenda Item 3. Thomas Russell, Port Attorney, announced the closed session agenda as follows:

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

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

Mr. Russell stated the Board considered the item on the closed session agenda and authorized rejection of a settlement offer received from the plaintiff. Commissioner Castellanos recused himself from participation because of a business relationship between his firm and outside counsel.

**PRESENTATION ON THE DISTRICT'S MAJOR MAINTENANCE PROGRAM WITH EMPHASIS ON FISCAL YEAR 2014 MAJOR MAINTENANCE PROJECTS AND DIRECTION TO STAFF.**

Agenda Item 4. Randa Coniglio, Executive Vice President - Operations, introduced Brian Stup, Chief Engineer, who presented the agenda for the workshop which included an overview of the Major Maintenance (MM) Program and preliminary recommendations for the FY14 MM Program. (A copy of the staff report and presentation are on file in the Office of the District Clerk.) Mr. Stup introduced Jeff McEntee, CFO Limited, who reviewed the cash flow forecast and the criteria for making the determination of Capital vs. Expensed Projects.

Chair Moore requested and received clarification from Mr. McEntee regarding whether or not a policy exists regarding how projects are moved to major maintenance. Mr. McEntee stated that there is no policy stating how projects are classified into major maintenance, however there are capitalization guidelines. In response to a question from Commissioner Nelson, Mr. McEntee stated that depreciation is not included in cash flow forecasts. Commissioner Smith suggested reviewing the major maintenance process rather than individual projects. Chair Moore stated that staff would review a few of the MM projects then discuss process.

Alan Redmon, Manager, Engineering-Construction, presented staff recommendations for FY14 MM Projects. Ms. Coniglio stated that staff recommends providing quarterly MM Project Status Reports for the Board describing the execution of the projects. Ms. Coniglio also described a process for unplanned MM projects.

Laura Hunter, representing the Environmental Health Coalition, commented on projects that could be included in the Climate Mitigation and Adaption Plan.

Commissioner discussion ensued. Commissioner Malcolm stated he sees MM as budget process with Board oversight. Commissioner Malcolm stated that the Board needs to be more involved in the MM process. In response to Commissioner Malcolm's request for additional information on project status, Mr. Stup stated that moving forward staff will change the reporting mechanism in order to give the Board more

detailed information on individual projects. Mr. Redmon described the process for ranking projects.

Commissioner Smith stressed the need for Board management and oversight of the MM Program. He stated that any variances in the Capital Improvement Program (CIP) and MM projects should be approved by the Board.

Commissioner Valderrama commented on the need to examine the MM budget and priorities annually in light of the upcoming budget challenges.

Commissioner Castellanos stated that it would be helpful, as basis of comparison, if information regarding whether a project was on budget, on schedule and if work was performed correctly, was provided per fiscal year.

Commissioner Merrifield stated that the MM budget is only one of the variables in balancing the budget.

Commissioner Malcolm stated that the metric used should be linked to maximum accountability, minimum unplanned work and performance on approved projects.

Commissioner Nelson expressed the need for a quarterly report that includes budget, percentage of completion, anticipated total budget and list of changes to approved projects.

Commissioner Valderrama stated that the report should include any substantial changes in the projects that were previously approved by the Board.

Commissioner Nelson further stated any changes in project status for those projects should come back for approval.

Commissioner Merrifield suggested using any existing software reporting capabilities.

Commissioner Smith stated the report format should include budget, schedule, events, and resolved and unresolved issues.

Chair Moore summarized the Board comments as three main issues - process, budget discipline, and accountability. She commented on the process of unplanned projects and the impact on Board approved projects. Chair Moore suggested a Board policy be created for MM similar to how the CIP is handled.

On motion by Commissioner Malcolm, seconded by Commissioner Nelson, the Board directed staff to create a Major Maintenance Board Policy and that the policy should include all staff recommendations; conducting an annual Major Maintenance Workshop; Board approval of the Major Maintenance Budget, which includes ranking information of each project, Board approval of transfer of funds, carryover projects must be included in the MM budget, the Board must approve any substitution, any cancelation or deferral of projects, except in the case of an emergency.

Commissioner Smith offered an amendment to the motion to include a threshold to allow staff to approve changes to projects.

Commissioner Malcolm accepted the amendment.


Chair Moore requested that staff bring back the policy in June.

The motion was approved by the following vote: Yeas-Castellanos, Malcolm, Merrifield Moore, Nelson, Smith, and Valderrama; Nays-None Excused-None; Absent-None; Abstained-None.

Chair Moore 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 Chair Moore at 1:05 p.m., Monday, April 29, 2013, in the Board Room at 3165 Pacific Highway, San Diego, California.

**ROLL CALL**

Agenda Item 1.

Present: COMMISSIONERS, Castellanos, Malcolm, Merrifield, Moore, Nelson, Smith, and Valderrama

OFFICERS: Darbeau, Deuel, Russell, Stup, and DeAngelis.

Absent: None.

Excused: None.

**PUBLIC COMMUNICATIONS**

Agenda Item 2. None.

**WORKSHOP**

Agenda Item 3. Chair Moore called the workshop to order. She requested that Commissioner Nelson lead the Pledge of Allegiance. She offered opening remarks regarding the process and thanked staff for their hard work. Chair Moore requested that Mr. Russell discuss the parameters of the discussion.

Thomas Russell, Port Attorney, discussed the budget approval process as prescribed under the Port Act. He explained that the workshop was the beginning of the budget process; requested the Board provide guidance; and offered that neither specific action, nor any specific decisions regarding the budget were required at this time. He stated that any personnel or staff reduction measures would be considered at a future time, if at all, and that the discussion would be at a high-level dealing with budget and finance issues.



Chair Moore turned the presentation over to staff to begin their presentation. The following members of staff offered a comprehensive presentation on the FY13/14 budget: Bob DeAngelis, CFO/Treasurer; Wayne Darbeau, Executive Director, and Jeff McEntee, CFO/Treasurer, Limited. (Copies of the staff report, workshop handouts, 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 budget related matters: Sharon Cloward, President, San Diego Port Tenants Association; Laura Hunter, Advocate, Environmental Health Coalition; and Scott Ferraioli, Sergeant, San Diego Harbor Police/Treasurer, San Diego Harbor Police Officers Association; Chester Mordasini, President and Business Agenda, Teamsters Local 911.

Ms. Hunter announced she would submit the balance of her comments in writing. The following individuals submitted request to speak forms and ceded their time to Officer Ferraioli: S. Davis, Officer, San Diego Harbor Police/Board Member, San Diego Harbor Police Officers Association; Eric Willms, Officer, San Diego Harbor Police/Secretary, San Diego Harbor Police Officers Association; and Chris Scheil.

Commissioner discussion ensued. Commissioner Merrifield requested and received clarification from Mr. McEntee regarding the reconciliation of the FY12/13 budget year shortfall and the forecasts for the FY13/14 budget year. Commissioner Merrifield requested and received clarification from Mr. McEntee regarding refinancing the District's municipal debt. In light of the current market conditions and favorable interest rates, Commissioner Merrifield supported moving forward with debt refinancing.

Commissioner Nelson requested and received clarification from Sergeant Ferraioli regarding the associated costs to recruit, train, and retain qualified law enforcement personnel. He requested and received clarification from Mr. McEntee regarding the potential savings from refinancing taxable debt versus tax exempt debt. Commissioner Nelson discussed looking into converting the airport note into a bond and the refinancing the current bond debt to leverage more favorable interest rates.

Commissioner Malcolm discussed the current interest rates, the District's bonding capacity, and opportunities to increase bonding capacity in light of currently pending capital projects with set-aside funds such as those for the Harbor Drive realignment project. Mr. McEntee discussed the refinancing of current debt to seek a lower interest rate and the District's current debt capacity in relation to revenue generating projects such as the Convention Center expansion and hotel project. Commissioner Malcolm then requested and received clarification regarding the modification of BPC Policy No. 117 and the five criteria for utilizing the reserve funds. Commissioner Malcolm

discussed presenting a balanced budget, building in contingencies, and moving past what he characterized as a "structural budget issue" when considering the District's long-term fiscal health.

Commissioner Smith remarked on the budget development process during the past two years and urged staff to implement modifications to extend the Board's review period. He offered that the issue of revenues not growing at the same rate as expenses needed to be addressed. Commissioner Smith remarked on the challenges associated with staff reductions and layoffs in the public sector. He expressed concern regarding "tapping in to reserves" and stated that his preference was not to utilize reserve funds as a means to balance the FY 12/13 budget. Regarding references to future year budgets, Commissioner Smith stated that the Commissioners did not have the legal authority to obligate future Board's or their fiduciary decisions. He discussed the workshop materials presented by staff regarding potential scenarios. He requested a "budget book" by which he could consider line item details and the potential organization impacts resulting from each of the scenarios. He suggested that further reductions to projects planned for within the Major Maintenance program should be considered. He requested that the costs associated with the B Street Pier cruise facilities be assessed and that past cost-growth challenges were addressed before moving forward with additional projects. In regard to the projected increase in expenses for water quality related studies, Commissioner Smith requested staff evaluate the District's authority and environmental responsibilities related to that matter. He requested staff review the Technology Strategic Plan schedule and budget targets. He referenced scenario three and requested staff review the "beyond compliance" environmental project expenses, prioritize the Environmental & Land Use Management budget, and reviewing the Public Art Program expense. Citing the proposed reductions in the Marketing program, Commissioner Smith requested staff provide an analysis of the impacts of proposed reductions at the next workshop.

Commissioner Castellanos requested and received clarification from Mr. Russell and Mr. McEntee regarding the references to a "catastrophic operating event and catastrophic economic impact" and the provisions for utilizing reserves as defined in the BPC Policy No. 117 - Operating Reserve Policy. Commissioner Castellanos requested and received clarification from Mr. McEntee regarding the cost recovery revenue projections. Commissioner Castellanos requested and received clarification from both Mr. Russell and Mr. McEntee, who confirmed there was an assumption that should the Board adopt the proposed cost recovery program, the revenues projected would help cover the District's costs in the first year and also discussed future year financial projections and goals. Mr. DeAngelis offered further explanation regarding the cost

recovery revenue projections and the related incremental revenue figures detailed in the staff report.

In light of the budget considerations, Commissioner Valderrama reflected on the efforts that were made to fulfill the overarching goal of ensuring organizational sustainability. He discussed his concerns with utilizing reserve funds to balance the FY 12/13 budget and considering staff reductions through layoffs. He shared his personal experiences with letting staff members go and making difficult business decisions. He acknowledged the challenges faced by the Board and District leadership regarding balancing the budget. He requested that District leadership provide additional information regarding the impacts of the scenarios proposed in the staff report at the upcoming budget workshops.

Chair Moore acknowledged the statements offered by the Board and confirmed that all options were "on the table." In light of the current budget deficit projections and the consideration of employee layoffs, she expressed her concern with maintaining a Public Art Fund to secure additional artwork. She requested that Major Maintenance Projects, like the ones proposed for the B Street Pier, be reviewed on a "more programmatic basis," and a comprehensive study of the Environmental Fund spending be conducted to determine project timeframes and requirements. Chair Moore concurred that additional workshops would be necessary to consider the proposed scenarios. She expressed concern if any reductions to the number of sworn public safety officers were being considered.

Commissioner Nelson discussed the goal of balancing the budget without utilizing reserves or reducing the District's workforce. He spoke about the following matters: the benefit of maintaining healthy reserves as a means to secure funding for future projects; the implementation of a cost recovery program; investigating cost recovery for Harbor Police related services; the need to increase revenues to balance an increase in expenses; developing a long-term sustainability work plan monitoring program to be reviewed quarterly by the Audit Committee; in addition to suspending annual contributions to the Public Art Fund, the Board may consider eliminating the Public Art function and re-assigning permanent collection maintenance to the General Services Department; consideration of the tenants forming a tourism marketing district to determine marketing project support; the actual economic benefit of the cruise industry on the region and to the District; his desire to review and prioritize the planned but not contracted Capital Improvement Program and Major Maintenance Projects; and requested staff include an accurate figure of the projected cost recovery revenues in the proposed budget.

Citing the Early Retirement Program, pension reform, and health care cost reform, Commissioner Malcolm acknowledged the District leadership team's efforts made to sustain the fiscal health of the organization. He spoke about the following matters: the structural deficit problem; the Board's fiduciary responsibility of putting forth a balanced budget; maintaining reserves for unfunded mandates, possible environmental cleanup liabilities and other unforeseen emergencies; making the best effort to avoid staff layoffs and not impacting public safety; public art; the Environmental Fund, and the District's demonstrated commitment to the environment. In light of the budget constraints, he reflected on making "aspirational" decisions versus only moving ahead with required items. Commissioner Malcolm discussed the Board's consideration and prioritization of all the proposed Major Maintenance projects. Acknowledging support for the cruise and maritime terminal business, he stated the District should always work to be "more business-like" in its operations and directed staff to conduct an evaluation and develop better business strategies to ensure positive revenue generation. For the record, he offered his thanks to all staff for their efforts and he reiterated the Board's commitment to balancing the budget. Reflecting on prior year budget projections and financial recovery, Commissioner Malcolm reiterated his remarks that the District must become a sustainable organization in the immediate future.

Commissioner Valderrama offered a motion directing staff to move toward the proposed solution outlined in scenario two detailed in the staff report while taking into consideration the Board's discussion to implement cost cutting measures in an effort to minimize staffing level reductions through layoffs.

Chair Moore requested additional clarification regarding the motion. She opined as to whether the Board wished to go forward with the direction set forth in the specific scenario, or, was it the Commissioners' desire to have the Board consider the various matters addressed during the discussion and direct staff to return to the Board with further recommendations.

Commissioner Valderrama confirmed he preferred Chair Moore's position and adopting a hybrid scenario by which staff would move ahead with their work based upon the direction offered during the Board's discussion.

Commissioner Malcolm offered a second to the motion as it was amended by Chair Moore.

Commissioner Merrifield acknowledged the Commissioner discussion and acknowledged staff for their efforts to address the budget matters. He discussed

reviewing the Capital Improvement Program project list; implementing cost recovery and involving customers in the communication of the fee structure development process.

Chair Moore stated there was a motion on the floor for a hybrid option and suggested next steps for the May 7, 2013 budget workshop. She recommended considering the major maintenance projects and a budget line item review. Regarding the implementation of the cost recovery policy and fee schedule, she stated the matter would be coming forward at the May 7, 2013 regular Board meeting for the public's review and comment as well as Commissioner discussion and consideration.

Commissioner Castellanos discussed the following points: 1) that he only supported use of reserve funds when necessary and in accord with the Board's policy; 2) regarding the concepts of staff reductions or layoffs, he directed staff to be sensitive to the District's personnel; 3) he cautioned making budgetary cuts if those measures result in hindering or "hamstringing" the organization from being innovative and competitive. In light of the geographic location of the port, the District's relationship with the United States Navy, the proposed development of a "blue-green" technology, and the global growth of the Pacific maritime industry, he discussed the need for the District to have the necessary resources to be on the forefront of innovation and to take a long-term strategic view for the future. Commissioner Castellanos remarked on developing a cost recovery policy that was customized and best suited to serve the District's needs. He discussed the perception of cost recovery programs and staff efficiency; the concept of providing tenants a subsidy as a means to achieve long term goals; and finding a means to incentivize tenants to voluntarily take measures to address the climate change related matters. He suggested that the policy should be forward thinking and would serve as a "tool in the tool chest" to assist in achieving environmental stewardship goals.

Commissioner Nelson discussed the challenges presented by implementing partial cost recovery. He recommended pursuing all opportunities to increase revenues by seeking customers to utilize the District's unique resources. He reiterated his request to set financial goals which are reviewed quarterly by the Audit Advisory Committee. He encouraged the review and prioritization of all Major Maintenance and Capital Improvement Program projects when weighing the budgetary requirements necessary for District operations in light of the upcoming integrated planning activities.

Acknowledging that approval of a preliminary budget was in the near future, Commissioner Smith urged staff to refocus on the Commissioners' discussion during the

workshop as they prepare to address those specific matters during their report at the upcoming workshops.

Chair Moore recommended that the Board focus on the Major Maintenance and the Capital Improvement Program projects at the May 7, 2013 Budget Workshop. In light of the Board's discussion, she offered that staff be prepared to present alternatives to close any budget gaps that may result from implementing only a partial cost recovery policy. She restated the motion as follows: to have a hybrid option that takes into consideration all of the statements that had been made by the Commissioners at the workshop.

Commissioner Nelson requested that at least one of the options include a "zero reduction" of full time employees; and, if reductions were required, the District leadership provide the Board with a logical reduction priority order for evaluation.

In light of the discussions, Wayne Darbeau, Executive Director, recommended that the cost recovery reimbursement figures included in the preliminary budget figures remain at a conservative level. Regarding the next budget workshop, scheduled for May 7, 2013, he offered that staff would bring forward operating models and revenue generation concepts as recommended by Commissioner Malcolm. He noted that all operating models have personnel attached and there may be meet and confer issue to consider. In light of Commissioner Smith's request for detailed budget figures, he requested the Board's patience as additional time was required to compile the specific line item data, and he requested specific direction regarding the discussions vis-à-vis the Public Art program reductions and their desire to maintain the department's full time staff.

Commissioner Nelson prefaced his remarks by stating while it was no reflection on the quality of the staff, he believed the District should "get out of the 'public art business' for a couple of years" to allow for a "re-thinking" of the program by the Board. He offered that staff from the General Services and Procurement department maintains the collection and that the Board directs staff to terminate the public art function. He suggested that matters related to tenant art pieces could be managed through a different department.

Commissioner Malcolm concurred with Commissioner Nelson's suggestion regarding the public art program. He stated the District and its departments should be evaluated with same criteria as one would within a business. Referencing the Real Estate Department, Environmental and Land Use Management Department, and cruise and terminal operations; he explained that when assessing departments as "business

lines" it was appropriate to look at them with a traditional profit and loss measure that includes all revenues, expenses, and personnel costs.

Chair Moore offered support for Commissioner Nelson's remarks regarding public art and Commissioner Malcolm's direction regarding assessing departments with a traditional profit and loss measurement tool.

Commissioner Valderrama offered support for Commissioner Nelson's remarks regarding public art. He acknowledged Commissioner Malcolm's remarks and suggested that the Environmental Fund set aside also be reviewed.

Chair Moore and Commissioner Smith requested staff review the audio of the workshop to capture the Board's direction during the discussion. As requested by Mr. Darbeau, Karen Porteous, Executive Vice President, Operations, reviewed the following topics that were discussed: interest savings opportunities, bond capacity, increased bond capacity in relation to the Convention Center expansion opportunity, modifications to BPC Policy No. 117 - Operating Reserve Policy, detailed personnel expense review, Capital Improvement Program and Major Maintenance Program project review and prioritization, and Cost Recovery Program implementation.

Chair Moore suggested staff review the audio recording of the meeting to prioritize the discussion and to establish the next steps for the upcoming budget workshop.

Commissioner Smith requested that staff review the audio recording and distribute a list of the matters put forth by the Board.

Acknowledging Commissioner Smith's request to distribute a list; however, in an effort to avoid any Brown Act issues, Mr. Russell offered that there should not be any communication between the Commissioners regarding the list or any relating from staff as to what another Commissioner may have said.

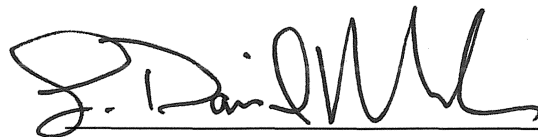
Mr. DeAngelis requested and received clarification from Commissioner Malcolm regarding his request for profit and loss reports detailed by business line from the previous five years.

Chair Moore summarized the motion directing staff to return to the Board with options regarding balancing the budget. She stated, based on the discussion, it was clear that one of the options would include no personnel reductions and that staff could develop alternative options based upon the Board's discussion.

Randa Coniglio, Executive Vice President, Operations, requested and received clarification from Chair Moore regarding the Board's desire for a presentation of information regarding the Capital Improvement Program and Major Maintenance Program project review and prioritization.

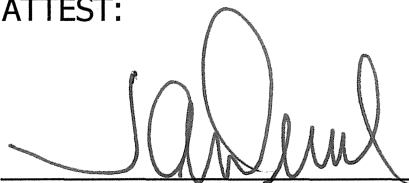
On a motion by Commissioner Valderrama, seconded by Commissioner Malcolm, the Board directed staff to return at the May 7, 2013 budget workshop with alternative or "hybrid budget scenarios" based upon the various matters raised during the discussion, as a means to facilitate further Board recommendations regarding the preparation of the FY 13/14 preliminary budget, by the following vote: Yeas-Castellanos, Malcolm, Merrifield, Moore, Nelson, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

As there were no other docketed matters for consideration, Chair Moore 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 Chair Moore at 9:03 a.m., Tuesday, May 7, 2013, in the Board Room at 3165 Pacific Highway, San Diego, California.

Chair Moore requested that Commissioner Smith lead the Pledge of Allegiance.

**ROLL CALL**

Agenda Item 1.

Present: COMMISSIONERS, Castellanos, Merrifield, Moore, Nelson, Smith, and Valderrama

OFFICERS: Darbeau, Deuel, Russell, Stup, and DeAngelis.

Absent: None.

Excused: Commissioner Malcolm was excused until he arrived at 9:08 a.m.

**PUBLIC COMMUNICATIONS**

Agenda Item 2. Jerry Sanders, President and CEO, San Diego Regional Chamber of Commerce, addressed the Board regarding the regional economic impact of the cruise industry, and in light of the budget discussions, he urged the Commissioner's consideration of support for investments in cruise operation facilities in preparation for the projected increase in the industry.

Efrem Bycer, Manager, Economic Development, San Diego Regional Economic Development Corporation, addressed the Board regarding the regional economic impact of maritime operations and the cruise industry. He requested the Commissioner's support for the cruise operation facilities and offered his organization's support.

Hampton Brown, Director, Air Service Development, San Diego International Airport, addressed the Board regarding the regional economic impact of the cruise industry and requested the Commissioner's support.

Janelle Riella, Vice President, Downtown San Diego Partnership, addressed the Board regarding the regional economic impact of the cruise industry, the benefits from the generation of Transient Occupancy Tax (TOT) revenues, and requested the Commissioner's consider investing in the industry.

## **WORKSHOP**

### **BUDGET WORKSHOP 2: PRESENTATION OF FISCAL YEAR 2013/2014 BUDGET INFORMATION PERTAINING TO MAJOR MAINTENANCE AND PUBLIC ART PROGRAMS AND DIRECTION TO STAFF**

Agenda Item 3. Chair Moore offered opening remarks regarding the workshop and called for the staff report. Bob DeAngelis, CFO/Treasurer, provided a brief overview of the budget process per the Board's direction. He explained staff would review the Public Art program, B Street Terminal improvements and the recommendations for the cruise industry business segment, and the Major Maintenance program priorities. He turned the presentation over to Randa Coniglio, Executive Vice President – Operations. Ms. Coniglio discussed the Public Art Program in the context of the budget considerations and turned the presentation over to Yvonne Wise, Public Art Curator. Ms. Wise provided background on the program operations, the core programs, and sources of funding for the program. Ms. Coniglio reviewed staff's recommendations regarding planned expenditures, pending projects, and the financial model for the program that included the on-going management of the art collection, re-allocating the Public Art reserves, and alternatives regarding retaining the department personnel. (Copies of the staff report, workshop handouts, and presentation are on file in the Office of the District Clerk.)

Board discussion ensued. Chair Moore requested and received clarification from Thomas Russell, Port Attorney, regarding the Board's discussion of personnel retention. Mr. Russell stated the Board had the authority to budget or not budget for particular functions. As set forth in the personnel rules, he stated that decisions regarding lay-offs were a role of management.

Commissioner Nelson requested and received clarification from Jeff McEntee, CFO-limited, regarding the FY13-14 budget in brief and the assumptions made that included fully funding the Public Art Program. Commissioner Nelson requested clarification regarding the status of the Board's action authorizing a \$75,000 contract to engage a firm to investigate funding for the proposed Coronado Bridge Lighting project. Ms. Wise reviewed the progress and stated none of the \$75,000 had been expended or obligated from the Public Art fund to date. Commissioner Nelson requested and

received clarification from Ms. Coniglio regarding the budget implications of the Public Art program personnel and three scenarios proposed.

Commissioner Castellanos requested clarification regarding the time period in which the Public Art reserve had been building to reach its current level. Ms. Wise stated the reserve fund had been slowly growing and depleting over the past 18 years.

Commissioner Malcolm requested and received clarification from Mr. Russell that the Board could make a motion to suspend or eliminate the Public Art Program and the matter of re-assigning or eliminating personnel was a management function. Chair Moore stated that a Board motion could direct staff to decrease a specific area's budget by a certain amount.

David White, Chair, Public Art Committee, addressed the Board regarding the development of the Public Art Program's new Curatorial Strategy and urged the Board to maintain the program and move ahead with funding the pending contracts.

Regarding the savings shown in the staff presentation, Chair Moore requested and received clarification from Ms. Coniglio regarding impacts from the Tenant Percent for Art contribution and any pending expenditures for projects planned for under the Capital Improvement Program. Chair Moore remarked on the proposed Coronado Bay Bridge lighting project and expressed concern regarding recurring maintenance costs of the piece should it be funded and installed. In that the concept for the piece was still pending development, Ms. Wise confirmed that staff did not have figures regarding maintenance costs and offered that the associated maintenance costs would come from donations allocated for the bridge lighting project. As a means to protect the District's interests, Chair Moore requested that the contract include provisions that prioritize the maintenance fund set aside.

Commissioner Valderrama discussed the figures presented regarding the FY12/13 projected budget deficit and the unintended consequences of the proposed reduction of marketing budgets for programs such as the Holiday Bowl. Chair Moore acknowledged Commissioner Valderrama's concern and offered clarification regarding the focus of the workshop and the tasks planned for the May 10, 2013 Budget Workshop.

Commissioner Nelson offered a motion directing staff to prepare future scenarios based upon downsizing the Public Art Program in the following manner: the budget for one full time employee be transferred to the General Services and Procurement Department or another department as determined by management; to eliminate the

budget funds for two full time employees and the disposition of the personnel would be at the discretion of management; to delete \$1.2 million of the 2014 funding of Public Art, and no funds would be drawn from the existing Public Art reserves; suspend the proposed Coronado Bridge Lighting project program for FY13/14, and terminate the three contracted projects proposed; continue the Port Tenant Public Art contributions; continue to include public art in District's proposed Capital Improvement Program plans; the administration of tenant art and Capital Improvement Program pieces be administered internally through existing personnel in a department as deemed appropriate by the Executive Director. Chair Moore called for a second, the motion failed for lack of a second.

Commissioner Smith expressed his desire to continue with a high level discussion and stated that he would not support detailed discussions regarding specific contracts and the like at the present workshop. He discussed the benefits of the recently implemented curatorial strategy for the management of public art; maintaining the program in light of the District's current budget challenges; and acknowledged the Board's ability to utilize fiscal resources when needed to address the current budget deficit. Commissioner Smith offered a motion to adopt option 1 as shown in the staff presentation: Downsize Public Art Program: \$3 million. Savings of \$600,000 annually (funding program budget at 50 percent); plus the use of all or a part of the \$2.4 million from Public Art Reserves, and retaining the staff. Commissioner Smith explained his motion was offered within the context of a more in-depth programmatic review of the budget that would take place at the May 10, 2013 budget workshop. Commissioner Valderrama seconded the motion.

Commissioner Malcolm offered support for the motion and stated the Public Art program had been an important component of the District which supported the tideland activation efforts. In light of the larger budget considerations and the Board's fiduciary responsibilities, he offered that at the end of the budget process the motion could be changed should any budget gaps be found. Commissioner Malcolm acknowledged Commissioner Valderrama's remarks regarding the proposed reductions to marketing budgets in an effort to achieve the proposed FY13/14 budget figures. Instead of a fixed budget allocation, he supported linking the annual percentage allocated for public art directly to the District's actual revenues.

Commissioner Merrifield stated that Board should not surrender its commitment to public art or the long-term strategy and infrastructure and stated he was hopeful that some of the reserve could be maintained. However, in light of the budget projections, he offered support for the motion.

Commissioner Merrifield requested and received clarification regarding the motion from Chair Moore. Randa Coniglio, Executive Vice President – Operations, confirmed staff option 1 did include retaining the current staff positions in the proposed budget.

Commissioner Nelson acknowledged Commissioner Smith's view regarding the Board's ability to utilize all fiscal resources when needed and discussed BPC Policy No. 609 regarding use of the Public Art Fund reserves for the acquisition of major pieces of art. He expressed concern for allocating the entire Public Art Fund reserves as a source for closing the projected budget gap and stated he would not support the motion.

Commissioner Valderrama discussed his support for the motion and the staff direction to make necessary adjustments to the final budget proposal. He acknowledged that the final budget staff proposes requires further Board consideration and action.

Commissioner Castellanos requested and received clarification from Ms. Coniglio regarding the Public Art program annual set-aside budget, expenses, and the source of the Public Art reserve. While acknowledging the operating budget challenges, he also expressed concerns and stated that he did not support the use of the entire Public Art Fund reserve to close the budget gap.

Chair Moore offered support for the motion as a concept and a means to move forward while providing staff with direction for their preparation of the final budget proposal. She queried as to the reason for maintaining the department and personnel to manage the current collection. She stated that decisions regarding the retention and/or reassignment of staff were to be made by the Executive Director and his team. Chair Moore discussed that it was the Board's role to consider the use of reserve funds; assess reductions in marketing budgets; weigh staffing levels; and make the fiduciary decisions required to close the projected budget gap.

Commissioner Malcolm requested and received clarification from Commissioner Smith regarding the motion he offered. Commissioner Smith stated his motion gave budgetary guidance and provided staff with high-level direction to take the necessary action to achieve a \$3 million savings. Chair Moore confirmed the motion directed staff to take the steps necessary to implement an annual savings of \$600,000 from the Public Art budget item.

Commissioner Castellanos discussed: the motion on the floor, the utilization of the entire Public Art reserve to close the budget gap, and retaining some reserves funds

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for the acquisition of a major work of public art as a means to further the direction under the Port Act of activating the waterfront. Referencing the art piece planned for the North Embarcadero Visionary Plan Phase I, (NEVP Phase I) he requested clarification regarding the use of reserve funds to close any gaps in funding for that art piece. Chair Moore requested and received clarification from Ms. Coniglio that the budget for the piece planned for the NEVP Phase I was included in the NEVP Phase I project budget. As requested by Chair Moore, Mr. Russell stated that under BPC Policy No. 609, the Board has the legal right to utilize resources from the fund at its discretion.

Commissioner Nelson discussed the concept of saving money contrasted with the use of reserve funds to resolve the budget gap. He reiterated his concern regarding the use of the Public Art Reserve and impacts to future acquisitions of major works of art.

Commissioner Merrifield offered support for providing staff with general direction regarding the budget preparation including staffing levels and utilizing a lower target amount of the public art reserve fund.

Commissioner Valderrama acknowledged the Board was providing direction to staff to prepare for the final budget presentation.

Commissioner Castellanos stated his agreement with Commissioner Merrifield's preference for a lower target and offered support for the motion in light of providing general direction to staff to further the preparation of the final budget.

Commissioner Smith urged the Board to move forward with more difficult budget reduction decisions and should funds become available it could authorize re-allocations, where possible.

Chair Moore acknowledged Commissioner Nelson's remarks and recognized the benefits of providing staff direction, and then called for the vote.

On a motion by Commissioner Smith, seconded by Commissioner Valderrama, the Board directed staff to downsize the Public Art Program to achieve a \$3 million savings, by the following vote: Yeas-Castellanos, Malcolm, Moore, Smith, and Valderrama; Nays-Nelson and Merrifield; Excused-None; Absent-None; Abstained-None.

Timothy Deuel, District Clerk, announced that additional agenda related materials were received, and distributed to the Board, and that copies were available for the public.

Chair Moore left the dais at 10:30 a.m. and returned at 11:03 a.m. Commissioner Smith left the dais at 10:42 a.m. and returned at 10:46 a.m.

Randa Coniglio, Executive Vice President – Operations, described the staff presentation would begin with Major Maintenance projects related to the B Street Cruise Terminal and the cruise industry business segment; then staff would present a Major Maintenance Program overview, project prioritization and recommendation. She turned the presentation over to Brandy Christian, Vice President, Strategy & Business Development, who offered a presentation on the background of the cruise program in light of the current marketplace trends. She discussed strategic planning for asset maintenance and repairs in lieu of a facility remodel. She discussed the District's efforts to maintain and grow the cruise business and the exploration of alternative operating models. She turned the presentation over to Joel Valenzuela, Director, Maritime Operations, who reviewed the Major Maintenance Projects related to the B Street Cruise Terminal. He offered that the projects proposed were necessary to ensure the maintenance of service standards as well as the safety, security, passenger comfort, and to facilitate efficient cruise line operations.

Brian Stup, Chief Engineer, continued with the presentation of the re-prioritized Major Maintenance project list and reviewed staff's recommendation to defer a number of projects in an effort to facilitate budget savings in the upcoming fiscal year

The following members of the public addressed the Board regarding the impacts of the cruise industry on the regional economy and the return on investment for allocation of marketing initiatives: Allan J. Rappoport; John Hawkins, Cloud 9 Super Shuttle; Edward Gill, CEO, San Diego Symphony; Larry Baumann, Parade of Lights; Bill Hall, Chairman, San Diego Port Tenants Association; Steve Cushman, Chair Civic Strategy, Holiday Bowl Association; Sharon Cloward, San Diego Port Tenants Association spoke on behalf of Sandy Purdon, Executive Director, Big Bay Boom; Sophie Silvestri, San Diego Port Tenants Association spoke on behalf of Scott Hermes, General Manager, Sheraton Harbor Island; and Catherine Miller, San Diego Sportfishing Council. Darren Pudgil, Vice President, San Diego Tourism Authority, submitted a request to speak form but did not address the Board.

Commissioner discussion ensued. Commissioner Malcolm thanked staff for their presentation and discussed his concerns regarding the \$4.9 million budget deficit and urged the creation of "a sustainable path forward" and a "non-structural deficit" for the organization. He requested and received clarification from Mr. Stup regarding the Major Maintenance Projects priority rankings, staff's recommendation of projects to be deferred, and the Infrastructure Management Program. Acknowledging the public



comments regarding the regional economic impacts of the B Street Terminal projects and investments in cruise operations, Commissioner Malcolm expressed concern regarding ROI (return on the investment) from the maintenance expenditures, which had been allocated during the past five years, from a portion of the business that was declining. Commissioner Malcolm expressed unease with approving funding for the gangway project. He recommended that the District secure a binding commitment from a cruise ship company before continuing with the authorization of funding for the recommended B Street Terminal projects.

Commissioner Merrifield left the dais at 11:21 a.m. and returned at 11:28 a.m.

Commissioner Smith thanked staff for their efforts to realize the Board's direction regarding the budget and the work presented to reduce the Major Maintenance Project program's budget by \$3 million. He discussed the recommendations regarding the B Street Pier projects and requested that staff review the proposed timeline in light of the market projections and business demands. He also urged staff to carefully assess the scope of projects and employ testing measures to ensure that budget allocations were accurate and to avoid cost over-runs. Commissioner Smith offered a motion to accept the staff recommendations for FY14 projects numbered 1-20 and defer projects numbered 21-39 for future funding.

Commissioner Nelson seconded the motion.

Commissioner Valderrama stated he concurred with the queries regarding project rankings and acknowledged staff had followed through with the Board's direction.

Commissioner Merrifield also thanked staff for their efforts and for providing the new Commissioners with briefings. He offered support for the motion.

Commissioner Castellanos thanked staff. He acknowledged the challenges faced in light of the uncertainty of the return of the cruise ship business. He expressed concern with the current condition of the B Street Pier and the terminal in the context of the North Embarcadero Visionary Plan upgrades underway for the waterfront.

Commissioner Malcolm acknowledged Commissioner Castellanos' remarks and acknowledged the benefit of "paint or tile work." He reiterated his concern regarding the District's projected budget deficit. Commissioner Malcolm offered support for the motion offered by Commissioner Smith. He restated his concern with the financial requirements necessary to move forward with the gangway project and supporting a

segment of the business that was not projected to produce positive financial returns in the near future.

Commissioner Valderrama requested and received clarification from Commissioner Smith that the motion was to accept the staff recommendation regarding authorizing funding for items 1-20 and un-funding items 21-39. Commissioner Valderrama offered support for the motion as means to provide direction to staff. He expressed concerns regarding the implications of deferring projects to future budget years and the unresolved structural deficits.

Chair Moore offered support for the motion and acknowledged the concerns expressed during the Board's discussion. She concurred with Commissioner Malcolm's remarks regarding the gangway project and the B Street Terminal matters.

Commissioner Smith discussed taking the opportunity to conduct a more thorough analysis of specific budget areas for reducing or increasing of funding levels during the Budget Workshop scheduled for May 10, 2013.

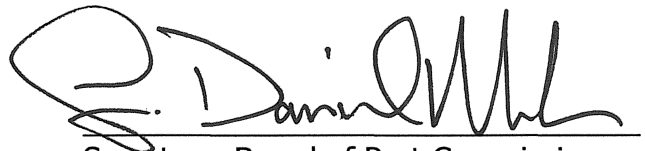
Commissioner Merrifield acknowledged the recent challenges that impacted the cruise industry revenues and discussed the long-term market projections. He supported allocating budget dollars for maintaining the incremental improvements at the B Street Terminal. He requested further information regarding the gangway project be provided.

Commissioner Nelson suggested that the future of the cruise industry business should be addressed during the upcoming Integrated Planning efforts. He discussed the ROI from a home ported vessel versus the incremental revenue derived from passengers visiting downtown during a limited port of call visit. In regard to projects such as the gangway, Commissioner Nelson requested that more discussion with cruise industry representatives was necessary.

Commissioner Valderrama offered support for authorizing the design portion of the gangway project and recommended the Board consider such specific budget matters on May 10, 2013.

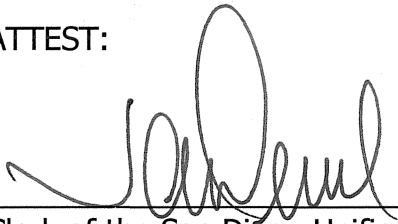
On a motion by Commissioner Smith, seconded by Commissioner Nelson, the Board accepted the staff recommendations for FY14 projects numbered 1-20 and defer projects numbered 21-39 for future funding, by the following vote: Yeas-Castellanos, Malcolm, Merrifield, Moore, Nelson, Smith, and Valderrama; Nays-none; Excused-None; Absent-None; Abstained-None.

As there were no other docketed matters for consideration, Chair Moore adjourned the workshop.

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Secretary, Board of Port Commissioners  
San Diego Unified Port District

ATTEST:

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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 Chair Moore at 12:01 p.m., Tuesday, May 7, 2013, in the Board Room at 3165 Pacific Highway, San Diego, California.

**ROLL CALL**

Agenda Item 1.

Present: COMMISSIONERS, Castellanos, Malcolm, Merrifield, Moore, Nelson, Smith, and Valderrama.

OFFICERS: Deuel and Russell

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 – EXISTING LITIGATION

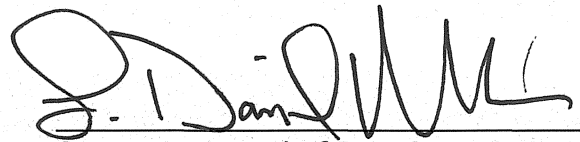
Pursuant to Subdivision (a) of Government Code Section 54956.9:

Theresa Marie Hopkins, et al. v. San Diego Unified Port District, et al.  
San Diego Superior Court Case No.: 37-2012-00090479-CU-PO-CTL

There was no formal or reportable action as to the closed session item, pursuant to Government Code Section 54950 et seq, to report from the closed session; whereupon, Chair Moore adjourned the meeting.

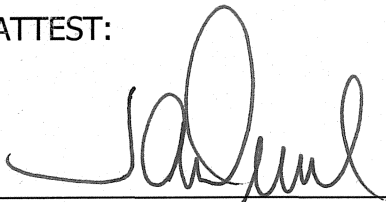
May 7, 2013

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Secretary, Board of Port Commissioners  
San Diego Unified Port District

ATTEST:

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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 Chair Moore at 1:04 p.m., Tuesday, May 7, 2013, in the Board Room at 3165 Pacific Highway, San Diego, California.

**ROLL CALL**

Agenda Item 1.

Present: COMMISSIONERS, Castellanos, Malcolm, Merrifield, Moore, Nelson, Smith, and Valderrama.

OFFICERS: Darbeau, Deuel, DeAngelis, Monson, Russell and Stup

Absent: No Commissioners absent.

Excused: No Commissioners excused.

**CLOSED SESSION**

Agenda Item 2. Thomas Russell, Port Attorney, reported that the Board considered the matter on the May 7, 2013 Closed Session Agenda and took no reportable action.

**PLEDGE OF ALLEGIANCE**

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

**APPROVAL OF MINUTES**

Agenda Item 4. On motion of Commissioner Smith, seconded by Commissioner Nelson, the Board approved the minutes of the April 9, 2013 special meeting, by the following vote: Yeas-Malcolm, Merrifield, Moore, Nelson, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-Castellanos.

## **PUBLIC COMMUNICATIONS**

Agenda Item 5. Sandy Purdon, Executive Producer, Big Bay Boom, addressed the Board with ROI (return on investment) statistics related to the Big Bay Boom Fireworks event. Mr. Purdon distributed a document to the Board regarding the event. (A copy is on file in the Office of the District Clerk.)

Lauren Buscemi, member, Public Art Committee, addressed the Board regarding the Public Art program; the positive regional impacts of public art, and requested the Board reconsider the proposed funding cuts to the District's program.

Herb Massinger and Lee Doxtader, San Diego Brewers Guild Board Members, addressed the Board regarding continuing support of their craft beer event and discussed the benefits of hosting the event at the Broadway Pavilion.

Rebecca Milkey, Director of Marketing, Hornblower Cruise, addressed the Board, thanked the Commissioners for supporting the Big Bay Whale Festival, and requested funding approval.

## **COMMISSIONER REPORTS**

Agenda Item 6. None.

## **PRESIDENT REPORT**

Agenda Item 7. Wayne Darbeau, Executive Director addressed the Board and turned the presentation over to Brian Stup, Chief Engineer, Engineering-Construction, who announced the District was a recipient of the 2013 Project Achievement Award for Ruocco Park from the San Diego Chapter of the Construction Management Association of America.

Randa Coniglio, Executive Vice President Operations, announced that Ace Parking had agreed to accept all of the financial commitment for the operation of the 2013 Big Bay Shuttle Program. She stated the District would grant a Transportation Services Permit to allow for the operation of the shuttle in a manner that fulfills the provisions under the Coastal Development Permit. In light of the Board's direction and the current budget limitations, she offered her thanks on behalf of the District to Ace Parking for their assistance.

**DISTRICT CLERK'S ANNOUNCEMENTS**

Agenda Item 8. Chair Moore requested that Timothy Deuel, District Clerk, announce any suggested docket changes. He announced staff received several agenda related memos after the publication of the agenda package; memos were distributed to the Board and were available for the public at the Clerk's station.

Mr. Deuel announced the following docket changes for the Board's consideration: **Consent Agenda Item 20**, Resolution Authorizing District Executive Director/CEO to reduce or choose not to purchase earthquake insurance for the Convention Center as deemed necessary in accordance with prudent risk management pursuant to Section 12 of the 1998 Convention Center Management Agreement, staff requested the item be continued to a future Board meeting; **Consent Agenda Item 21**, Resolution to Approve the 2013 Annual Work Plan for the Board of Port Commissioner's Audit Advisory Committee, staff requested the item be continued to a future Board meeting; and **Consent Agenda Item 25**, Resolution Authorizing a Memorandum of Understanding between the District and the City of San Diego, City of Oceanside, and County of Orange for the Regional Harbor Monitoring program for a period of five years pursuant to a Section 13225 of the California Water Code to evaluate the status and trends of water, sediments, and aquatic life in the San Diego Region's Harbors, staff requested the item be continued to a future Board meeting; **Consent Agenda Item 27**, Resolution Adopting Plans and Specifications and Awarding Contract No. 2010-06 to \_\_\_\_\_ for H Street Extension Project, Chula Vista, California in the amount of \$\_\_\_\_\_, staff requested the item be continued to a future Board meeting; **Consent Agenda Item 29**, Resolution Suspending BPC Policy No. 255 San Diego Port Tenants Association and San Diego Unified Port District "Port with No Borders" Scholarship Program to allow time to refine program purpose and funding method, staff requested the item be continued to a future Board meeting; **Action Agenda Item 38**, Presentation and direction to staff on Pasha Automotive Services, Operator of the National City Marine Terminal, staff requested the item be continued to a future Board meeting; **Action Agenda Item 39**, Presentation and direction to staff on GB Capital Holdings, LLC's Proposed 20 Acre Destination Vehicle Resort in the National City Marina District, staff requested the item be continued to a future Board meeting, and **Action Agenda Item 40**, Presentation and direction to staff on SANDAG Bayshore Bikeway Segment in National City, staff requested the item be continued to a future Board meeting.

On motion of Commissioner Smith, seconded by Commissioner Malcolm, the Board accepted the changes to the agenda as requested, by the following vote:



Yeas-Castellanos, Malcolm, Merrifield, Moore, Nelson, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

Joel Valenzuela, Director, Maritime Operations, addressed the Board regarding **Consent Agenda Item 10**, a Resolution Adopting a Proclamation Commemorating May 22, 2013 as National Maritime Day. He described a number of community outreach events that were planned to acknowledge National Maritime Day and requested the Board consider adopting the staff recommendation.

Commissioner Smith requested that **Consent Agenda Item 14**, Ordinances Granting Leases with several Rental Car Companies on East Harbor Island, be pulled for comment. He discussed the rental car lease extensions and the long-term site planning efforts for the property under consideration.

Chair Moore acknowledged Commissioner Smith's remarks and discussed the integrated planning work that would be taking place in the near future. She requested and received clarification from Jason Giffen, Director, Environmental & Land Use Management, regarding the status of the request for proposal process seeking a firm to coordinate the integrated planning efforts. Mr. Giffen reviewed the solicitation process progress and offered that staff planned to bring the matter before the Board at their August 13, 2013 regular meeting.

Commissioner Malcolm requested that the following items be pulled for a separate discussion and vote: **Consent Agenda Item 22**, Resolution Selecting and Authorizing an Agreement with Aztec Landscaping, Inc. dba Aztec Janitorial Services for janitorial services from July 1, 2013 to June 30, 2016 at the District's Administration Building, Harbor Police Headquarters and Shelter Island Buildings, Maritime Tenth Avenue Marine Terminal and National City Marine Terminal offices, General Services and Procurement Facility, Joint Harbor Operations Center, and at 21 public restroom facilities located in District parks and common public areas in an amount not to exceed \$1,147,388.60 as part of the District's ongoing effort to effectively run the business at the most economical cost and **Consent Agenda Item 23**, Selecting and Authorizing an Agreement with Nissho of California, Inc., for Park Maintenance Services from July 1, 2013 to June 30, 2016 at Ruocco Park in an amount not to exceed \$537,204 part of a public-private partnership with the San Diego Foundation.

## **CONSENT AGENDA**

On motion of Commissioner Malcolm, seconded by Commissioner Smith, the Board adopted Consent Agenda items 9, 10, 11A, 11B, 12, 13A, 13B, 13C, 13D, 13E, 14A, 14B, 14C, 15, 16, 17, 18, 19, 24, 26, and 28. (**Resolution 2013-62** through and

including **Resolution 2013-71; Ordinance 2717, 2718 and 2719; Resolution 2013-72** through and including **Resolution 2013-78; Resolution 2013-81** through and including **Resolution 2013-83**) by the following vote: Yeas-Castellanos, Malcolm, Merrifield, Moore, Nelson, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

Agenda Item 9. **Resolution 2013-62**, Proclaiming Support of National Public Works Week, May 19-25, 2013, was adopted as part of the consent agenda.

Agenda Item 10. **Resolution 2013-63**, Adopting Proclamation Commemorating May 22, 2013 as National Maritime Day, was adopted as part of the consent agenda.

Agenda Item 11A. **Resolution 2013-64**, Authorizing Amendment No. 1 to the Agreement with the County of San Diego and other Government Agencies retroactively for the FY11 "Operation Stonegarden" Grant, accepting funds in the amount of \$291,245 per BPC Policy No. 109 and Granting Indemnity to the County of San Diego for Worker's Compensation Claims, Employment Related Claims or Acts or Omissions of District Employees, was adopted as part of the consent agenda.

Agenda Item 11B. **Resolution 2013-65**, Amendment No. 2 to the Agreement with the County of San Diego and other Government Agencies for the FY12 "Operation Stonegarden" Grant, Accepting Funds in the amount of \$200,000 per BPC Policy No. 109 and Granting Indemnity to the County of San Diego for Worker's Compensation Claims, Employment Related Claims or Acts or Omissions of District Employees, was adopted as part of the consent agenda.

Agenda Item 12. **Resolution 2013-66**, Establishing Rent for Driscoll Marina, Ltd dba Driscoll's Wharf, located at 4918 North Harbor Drive in San Diego, for the period of May 1, 2013 through April 30, 2018, was adopted as part of the consent agenda.

Agenda Item 13A. **Resolution 2013-67**, Consenting to Subleases from Seaport Village Operating Co., LLC dba the Headquarters (formerly The Old Police Headquarters), located on West Harbor Drive at the foot of Pacific Highway with the following subtenant: PM San Diego, LLC dba Pizzeria Mozza, 10 years with two 5-year options to extend; and Authorizing Execution of Subordination, Non-Disturbance and Attornment (SNDA) Agreements with the same subtenants, was adopted as part of the consent agenda.

Agenda Item 13B. **Resolution 2013-68**, Consenting to Subleases from Seaport Village Operating Co., LLC dba the Headquarters (formerly The Old Police Headquarters), located on West Harbor Drive at the foot of Pacific Highway with the following subtenant: Mexican Street Food, LLC dba Puesto, 10 years with one 7-year option to extend; and Authorizing Execution of Subordination, Non-Disturbance and Attornment (SNDA) Agreements with the same subtenants, was adopted as part of the consent agenda.

Agenda Item 13C. **Resolution 2013-69**, Consenting to Subleases from Seaport Village Operating Co., LLC dba the Headquarters (formerly The Old Police Headquarters), located on West Harbor Drive at the foot of Pacific Highway with the following subtenant: The Cheesecake Factory Restaurants, Inc. dba The Cheesecake Factory, 20 years with one 5-year option to extend; and Authorizing Execution of Subordination, Non-Disturbance and Attornment (SNDA) Agreements with the same subtenants, was adopted as part of the consent agenda.

Agenda Item 13D. **Resolution 2013-70**, Consenting to Subleases from Seaport Village Operating Co., LLC dba the Headquarters (formerly The Old Police Headquarters), located on West Harbor Drive at the foot of Pacific Highway with the following subtenant: N and D Restaurants, Inc. dba Seasons 52, 10 years with two 5-year options to extend; and Authorizing Execution of Subordination, Non-Disturbance and Attornment (SNDA) Agreements with the same subtenants, was adopted as part of the consent agenda.

Agenda Item 13E. **Resolution 2013-71**, Consenting to Subleases from Seaport Village Operating Co., LLC dba the Headquarters (formerly The Old Police Headquarters), located on West Harbor Drive at the foot of Pacific Highway with the following subtenant: N and D Restaurants, Inc. dba Eddie V's, 10 years with two 5-year options to extend; and Authorizing Execution of Subordination, Non-Disturbance and Attornment (SNDA) Agreements with the same subtenants, was adopted as part of the consent agenda.

Agenda Item 14A. **Ordinance 2717**, Granting Lease with the Hertz Corporation dba Hertz Rent a Car, located at 3202 North Harbor Drive in San Diego, 5 Years with one 5-Year Option to extend, expiring on May 31, 2023, was adopted as part of the consent agenda.

Agenda Item 14B. **Ordinance 2718**, Granting Lease with Avis Rent a Car Systems, LLC dba Avis Car Rental, located at 3180 North Harbor Drive in San Diego, 4 Years with one 5-Year Option to extend, expiring on May 31, 2022, was adopted as part of the consent agenda.

Agenda Item 14C. **Ordinance 2719**, Granting Lease with Enterprise Rent a Car Company of Los Angeles, LLC dba National Car Rental, located at 3280 North Harbor Drive in San Diego, 4 Years with one 5-Year Option to extend, expiring on May 31, 2022, was adopted as part of the consent agenda.

Agenda Item 15. **Resolution 2013-72**, Granting Approval to Felcor Hotel Asset Company, L.L.C. for exterior painting of the Wyndham San Diego Bayside Hotel located at 1355 North Harbor drive in San Diego, was adopted as part of the consent agenda.

Agenda Item 16. **Resolution 2013-73**, Authorizing an Amendment with the San Diego Regional Interoperable Command & Control Communications (3Cs) Program to Addendum A the District's Admission Agreement into the 3Cs Memorandum of Understanding to allow 3Cs to participate in and use the San Diego Bay Regional Fiber Optic Infrastructure and requiring use of the infrastructure in compliance with the restrictions set forth by the Department of Homeland Security Port Security Grant Program and the California Port and Maritime Security Grant Program, was adopted as part of the consent agenda.

Agenda Item 17. **Resolution 2013-74**, Selecting and Authorizing Agreement with Agilis Group Inc. dba Agilisit for Switches, Fiber Optic Interfaces, and the services to provide for the integration of fiber optic equipment into the District's Network Infrastructure, funded by the California Port & Maritime Security Grant Program FY2008; **Resolution 2013-75**, Selecting and Authorizing Agreement with Nexus IS Inc. for Switches, Fiber Optic Interfaces, and the services to provide for the integration of fiber optic equipment into the District's Network Infrastructure, funded by the California Port & Maritime Security Grant Program FY2008, and **Resolution 2013-76**, Selecting and Authorizing Agreement with Select Electric Inc. for Switches, Fiber Optic Interfaces, and the services to provide for the integration of fiber optic equipment into the District's Network Infrastructure, funded by the California Port & Maritime Security Grant Program FY2008, were adopted as part of the consent agenda.

Agenda Item 18. **Resolution 2013-77**, Granting Limitation of Liability to Paymetric, Inc. for Software Services in order to securely transfer credit card data, a component of the District's Online Travel and Reimbursement System with projected implementation date of June 1, 2013, was adopted as part of the consent agenda.

Agenda Item 19. **Resolution 2013-78**, Authorizing an Agreement with the District to provide a private connection between the Harbor Police Department and San Diego Police Department over the existing 3Cs Network for an amount not to exceed \$750 per year, which will be used to provide Harbor Police Access to the San Diego Police Property Impound System, was adopted as part of the consent agenda.

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

Agenda Item 21. **Item continued to a future Board meeting.**

Agenda Item 24. **Resolution 2013-81**, Selecting and Authorizing an Agreement with Pacific Tugboat Service for Debris Removal in the A-8 Anchorage for an amount not to exceed \$219,500 which is 100% grant funded for the purpose of improving water quality and navigation, was adopted as part of the consent agenda.

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

Agenda Item 26. **Resolution 2013-82**, Authorizing Amendment No. 1 to the Professional Services Agreement with Transystems Corporation to revise the scope of work at no additional cost for the Grant-Funded Shelter Island Boat Launch Facility Improvement Project, was adopted as part of the consent agenda.

Agenda Item 27. **Item continued to a future Board meeting.**

Agenda Item 28. **Resolution 2013-83**, Authorizing Amendment No. 4 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 \$196,000 increasing the aggregate total of the Agreement from \$481,313 to \$677,313 and extend the term of agreement to June 30, 2015, was adopted as part of the consent agenda.

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

## **ACTION AGENDA**

### **INTRODUCTION OF CHULA VISTA BAYFRONT IMPLEMENTATION CONSULTANT TEAM AND DIRECTION TO STAFF**

Agenda Item 34. Lesley Nishihira, Manager, Land Use & Environmental Services, addressed the Board regarding the progress on the Chula Vista Bayfront master plan and introduced the project implementation team. She turned the presentation to Romik Kesian, Senior Vice President, Jones Lang LaSalle, who was followed by Jim Crabtree, CCI Partners and Randy Morton, Partner, HKS Urban Design Studio who concluded the presentation with an update of the work efforts. (A copy of the staff report and presentation are on file in the Office of the District Clerk.)

Commissioner Castellanos left the dais at 2:02 p.m. and returned at 2:05 p.m. Commissioner Nelson left the dais at 2:05 p.m. and returned at 2:07 p.m. Commissioner Valderrama left the dais at 2:07 p.m. and returned at 2:09 p.m.

Laura Hunter, Environmental Health Coalition, addressed the Board and expressed her excitement for moving forward with the project and working collaboratively.

The following Commissioners remarked on the regional importance of the project, discussed the collaboration of stakeholders, acknowledged the efforts made to date, offered their support for moving forward and expediting the project, and thanked the team and stakeholders: Commissioner Malcolm, Commissioner Valderrama, Commissioner Smith and Chair Moore.

## **PUBLIC HEARING**

### **COST RECOVERY**

- A) RESOLUTION FINDING THE COST RECOVERY PROJECT EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) AS SPECIFIED UNDER SECTION 15273 OF THE CEQA GUIDELINES.**
- B) RESOLUTION ESTABLISHING BOARD OF PORT COMMISSIONERS (BPC) POLICY NO. 106 - COST RECOVERY USER FEE POLICY.**
- C) CONDUCT PUBLIC HEARING AND ADOPT AN ORDINANCE AMENDING ARTICLE 2 OF THE SAN DIEGO UNIFIED PORT DISTRICT CODE TO ADD SECTION 2.00 AUTHORIZING THE ESTABLISHMENT OF A COST RECOVERY USER FEE SCHEDULE**

Agenda Item 30. The following presenters addressed the Board regarding the proposed cost recovery program: Jeff McEntee, CFO/Treasurer – Limited, Thomas Russell, Port Attorney; Erin Payton, Project Manager, MGT of America; Tony Gordon, Area Real Estate Manager, Real Estate; and Robert Monson, Port Auditor. Mr. McEntee read letters into the record from the California State Lands Commission and Todd Gloria, City Council Member, City of San Diego. (A copy of the staff report, presentation and letters are on file in the Office of the District Clerk.)

Commissioner Merrifield left the dais at 2:47 p.m. and returned at 2:50 p.m.

Chair Moore opened the public hearing.

The following members of the public addressed the Board with varying viewpoints regarding the cost recovery matter and the staff recommendation: Sharon Cloward, President, San Diego Port Tenants Association; Uri Feldman, President, Sunroad; Greg Boeh, GB Capital Holdings; Bill Hall, Chairman, San Diego Port Tenants Association; Claudia Valenzuela, Public Affairs Manager, SDG&E; Chester Mordasini, President, Teamsters Local 911 and Laura Hunter, Environmental Health Coalition.

As there were no additional members of the public who requested to speak, Chair Moore Closed the public hearing.

Commissioner discussion ensued. Commissioner Nelson discussed the following items: the implementation of a cost recovery program and the direct impact on the District's financial projections; fulfilling the District's role as a trustee of the tidelands as prescribed by the State of California; consideration of the implementation of exceptions for entities such as member cities and joint power authorities; management's role to implement an effective and efficient tracking method; and instituting an appeal mechanism.

In the context of the Port Act and the requirement to implement a cost recovery schedule of charges, Commissioner Malcolm requested and received confirmation from Mr. Russell that in his opinion the District was not currently in compliance with the Port Act, California State statute AB2620, and per the letter from the State Lands Commission. Mr. Russell stated that there is a legal obligation to charge appropriate charges to users who receive a special benefit. Commissioner Malcolm addressed the challenges raised regarding the costs associated with implementing the program from the perspective of a tenant or developer; the value offered by District staff and the level of service provided; and in light of the commitment to transparent and accountable governance and stakeholder outreach, he offered a motion to continue the matter for 30-days.

Commissioner Valderrama seconded the motion. He acknowledged Commissioner Nelson's remarks. He requested clarification regarding impacts of a 30-day continuance to the implementation of the program. In light of the public notification requirements, Mr. Russell stated there was a 40-day total period before the adoption of the ordinance and the District could begin collecting cost recovery fees. Commissioner Valderrama requested and received confirmation from Mr. McEntee that a significant delay in the adoption and subsequent implementation of the proposed cost recovery program could influence the FY13-14 budget revenue projections.

Chair Moore acknowledged the discussion regarding stakeholder outreach and offered that the Board required some level of certainty with regard to the budget

projections based upon the implementation of a cost recovery program. She offered that the Board consider adopting the ordinance and Board Policy regarding cost recovery, but defer consideration of the specific fee schedule for 30-days.

Commissioner Valderrama expressed support for Chair Moore's recommendation to adopt the policy and defer the approval of the fee schedule.

Commissioner Malcolm expressed support for Chair Moore's recommendation and requested the balance of the Board provide comments prior to modifying his original motion.

Mr. Russell discussed Chair Moore's recommendation and the Board's action regarding the sequence in which the Board would consider the adoption of the ordinance, the related Board Policy, the fee schedule, and modifications or exemptions.

Commissioner Smith recognized staff for their comprehensive presentation and acknowledged the public speakers' remarks. As a means of funding public projects throughout the United States, he discussed the implementation of full cost recovery or assessing user fees by municipalities and government agencies. Commissioner Smith acknowledged the benefit of stakeholder outreach and noted the process would not be one of a "meet and confer" nature, but a discussion with port tenants. He discussed the importance of cost recovery to ensure the District's financial sustainability and business viability into the future. Commissioner Smith offered support for the motion as amended by Chair Moore.

Commissioner Castellanos requested and received clarification from Mr. Gordon regarding the data shown during his presentation citing recent development projects and the estimated fees. He expressed support for employing cost recovery. In an effort to provide clear and detailed billing statements, Commissioner Castellanos discussed the implementation of internal tracking methods and urged staff to utilize the most effective methods to control costs, increase efficiencies and manage productivity to eliminate any duplicative work. Commissioner Castellanos remarked on the organic nature of the process, developing a "tool chest" and considering development incentives. He expressed support for the motion of a continuance for "fine-tuning" and seeking input from stakeholders.

Commissioner Merrifield acknowledged Commissioner Castellanos' remarks and expressed support for implementing cost recovery. In light of the public comments and in an effort to further clarify and refine the draft policy language he concurred with continuing the matter and to provide an opportunity to further engage the District's customers.



Chair Moore discussed cost recovery as a mandate under California State law and the legal obligation of the District to collect fees. She discussed the concept of "a gift of public funds" and the importance of including the implementation of efficiencies within the policy. She discussed the concept of subsidies and stated implementation of cost recovery as a demonstration of good governance and fiscal responsibility.

Commissioner Nelson discussed the Board's responsibility as trustees to the people of California. He offered a substitute motion as follows: the Board would adopt the ordinance presented by staff; defer adoption of the fee schedule; direct staff to utilize the \$1.5 million figure in the FY13-14 budget pro forma; and adopt the Board policy, with the direction to staff, that adoption of the fee schedule would be brought back for further consideration at the June regular Board meeting. He acknowledged Commissioner Malcolm's comments regarding the public trust, stakeholder outreach and commitments to an open and transparent process.

Chair Moore discussed the Commissioner Nelson's motion and urged the Board to work together and seek a solution in which staff would be directed to address the matters raised during the public testimony and Board discussion and return with the policy.

Commissioner Malcolm acknowledged the District's legal obligations and recognized the commitments demonstrated to work collaboratively with stakeholders in an open, fair, and transparent manner when implementing new policies. He clarified his motion as follows: to adopt a resolution finding the cost recovery project exempt from the California Environmental Quality Act (CEQA) as specified under Section 15273 of the CEQA Guidelines; to adopt a resolution establishing a Board policy of cost recovery, but no fee schedule and no policy content would be enacted until the matter was considered by the Board and stakeholder input was reviewed. He explained his belief that further discussion was required regarding the actual fee schedule and aspects of the policy, including waivers, fees, accuracy, and dispute resolution. Commissioner Malcolm recommended putting a "place-holder" number in the budget related to the cost recovery figure.

Commissioner Valderrama offered a second to the motion as amended.

Commissioner Smith reviewed the impact of a delay in implementation on the proposed budget figures, acknowledged the importance of transparency and working with stakeholders, and he offered support for the motion as amended.

Commissioner Nelson requested and received clarification from Mr. Russell regarding the proposed action of adopting the resolution to enact a policy and delay

approval of the proposed fee schedule. Commissioner Nelson offered a substitute motion to adopt the staff recommendations and further direct staff to return to the Board at the June 2013 regular Board meeting with proposed revisions to the policy and present any changes to the fee schedule. There was no second to the substitute motion, thus Mr. Russell advised the Board would continue with their discussion regarding the original motion and the subsequent modifications as was offered by Commissioner Malcolm and seconded by Commissioner Valderrama.

Mr. Russell offered that in light of the Board's discussion and the motion as offered the Board may consider adopting the text of ordinance as follows: "SECTION 2.00 – ESTABLISHMENT OF COST RECOVERY USER FEE SCHEDULE FOR DISTRICT SERVICES. The Board of Port Commissioners shall adopt and may amend from time to time a Cost Recovery User Fee Schedule of the fees to be paid as provided therein for services and administrative acts of the District which fees shall not exceed the costs incurred and which shall apply to requests or applications in process on or after its effective date," but not the detailed policy as attached in the staff report. Mr. Russell also discussed the concept of "reasonableness" in the context of the matter under discussion.

On a single motion by Commissioner Malcolm, seconded by Commissioner Valderrama, the Board adopted **Resolution 2013-84** finding the Cost Recovery Project exempt from the California Environmental Quality Act (CEQA) as specified under Section 15273 of the CEQA Guidelines and **Ordinance 2720** Amending Article 2 of the San Diego Unified Port District Code to add Section 2.00 Authorizing the establishment of a Cost Recovery User Fee Schedule, by the following vote: Yeas-Castellanos, Malcolm, Merrifield, Moore, Nelson, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

Commissioner Merrifield left the dais at 4:20 p.m. and returned at 4:24 p.m.  
Commissioner Castellanos left the dais at 4:20 p.m. and returned at 4:25 p.m.  
Commissioner Malcolm left the dais at 4:20 p.m. and returned at 4:26 p.m.  
Commissioner Valderrama left the dais at 4:26 p.m. and returned at 4:28 p.m.  
Commissioner Smith left the dais at 4:27 p.m. and returned at 4:29 p.m.

## **ACTION AGENDA**

### **RESOLUTION AMENDING AND UPDATING BPC POLICY NO. 355 – REAL ESTATE LEASING POLICY AND ADMINISTRATIVE PRACTICES – REAL ESTATE LEASING TO MAKE THE FOLLOWING CHANGES.**

- A) STREAMLINE RENT REVIEW PROCESS;**
- B) INCREASE THE MINIMUM ANNUAL RENT FOR PERCENTAGE RENT LEASES FROM 75% TO 80% OF MARKET RENT;**
- C) ESTABLISH CRITERIA FOR CALCULATING LEASE TERM EXTENSIONS;**
- D) REQUIRE TENANT TO INDEMNIFY DISTRICT FOR LEGAL EXPENSES AND PAY ALL THIRD-PARTY CONSULTANT COSTS; AND**
- E) ADMINISTRATIVE UPDATES.**

Agenda Item 35. Karen Weymann, Director, Real Estate, addressed the Board with a presentation regarding BPC Policy No. 355 - Real Estate Leasing Policy and Administrative Practices – Real Estate Leasing. She turned the presentation over to Tony Gordon, Area Real Estate Manager, who reviewed the proposed changes and requested direction to staff. (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 matter: Greg Boeh, General Manager, G.B. Capital Holdings; Bill Hall, Chair, San Diego Port Tenants Association; Richard Bartell, Vice Chair, San Diego Port Tenants Association; and Laura Hunter, Environmental Health Coalition.

Commissioner discussion ensued. Commissioner Merrifield requested and received clarification regarding the additional revenue projected in the upcoming fiscal year's budget based on the recommended increase in minimum annual rent for percentage rent leases from 75% to 80% of market rent. Ms. Weymann stated there would be no budgetary impact on the FY13-14 budget. She reviewed implications to long-term revenues and bringing the District rents near full market value, and explained the impact on setting minimum rent at the inception of the lease term.

Commissioner Nelson requested and received clarification from Ms. Weymann regarding the fiscal benefit of implementing the recommended increase and implications for the tenants should their balance sheet show a higher minimum annual rent. Upon request by Commissioner Nelson, Uri Feldman, Sunroad Enterprises, discussed potential implications of the proposed increase that he characterized as "lowering the cushion" for marina operators in light of challenging economic times and industry downturns as had been experienced in the past. Commissioner Nelson requested and

received clarification from Ms. Weymann regarding the matter of depreciation and capital improvements. He discussed the use of the term "non-negotiable" in the policy language and Ms. Weymann offered clarification regarding the separation of the District's role from regulator, fee collector and landlord.

Chair Moore also expressed concern regarding the use of the term "non-negotiable" and discussed her request that the Port Attorney staff prepare alternative language.

Regarding Attachment B: the draft of BPC Policy No. 355, attached to the staff report, Thomas Russell, Port Attorney, discussed the recommendation to remove "non-negotiable" references highlighted in yellow, as well as the language on page three, paragraph seven as follows: "Transaction processing fees established by the District are non-negotiable" and "Any policy, ordinance or resolution adopted by the Board relating to the recovery of costs both internal and/or external, processing fees, user fees, or other mechanisms for reimbursement of services rendered (Cost Recovery Fees) shall supersede all references to Cost Recovery Fees in this Real Estate Leasing Policy and the attached Administrative Practices – Real Estate Leasing," and that the language be replaced with the following: "Fees and costs for services and administrative activities shall be paid in accordance with any applicable District ordinance."

Commissioner Valderrama concurred with the recommendation regarding the language modification related to the "non-negotiable." He reviewed the implications of the proposed increase and expressed his opposition to the recommended increase in minimum annual rent for percentage rent leases from 75% to 80% of market rent.

Commissioner Castellanos requested and received clarification from Mr. Gordon regarding the types of tenants who could be impacted by the recommended increase in minimum annual rent for percentage rent leases from 75% to 80% of market rent.

Commissioner Malcolm acknowledged the collaboration exhibited during the meetings from the tenants, stakeholder partners and the District. He requested and received clarification from Mr. Russell regarding the modification to the language he offered. He acknowledged the limited short-term fiscal implications of the recommended increase in minimum annual rent for percentage rent leases from 75% to 80% of market rent. He discussed benchmarking the Port of San Diego with other comparable west coast ports' real estate portfolios. Commissioner Malcolm discussed the modifications to the policy proposed. He cited text on page five of Attachment B: the draft BPC Policy No. 355, "Minimum rents in new percentage leases and in rent reviews should be set at no less than 80 percent of market rent as determined by the average of the tenant's previous ten accounting years' rental payments, appraisal or

other relevant information.” He offered that the language was included to account for “short-term economic dips” and to provide a “smoothing effect” when considering the increase in minimum annual rent for percentage rent leases from 75% to 80% of market rent. Commissioner Malcolm recommended removing the language modification related to “the average of the tenant’s previous ten account years’ rental payments” he had cited and returning to appraisal language should the Board not move forward with the staff’s recommendation regarding an increase in minimum annual rent for percentage rent leases. He acknowledged staff for their efforts in preparation of the policy recommendations presented.

Commissioner Smith thanked the stakeholders, tenants and staff for their work on the matter. He offered a motion to adopt the staff recommendation as follows: A) streamline rent review process; B) maintain the minimum annual rent for percentage rent leases at 75% market rent and to not accept the policy language modifications and return to previous language regarding appraisals; C) establish criteria for calculating lease term extensions; D) require tenants to indemnify the District for legal expenses and pay all third-party consultant costs; and E) administrative updates including the language proposed by the Port Attorney and to remove references to “non-negotiable”.

Commissioner Valderrama offered a second to the motion.

Commissioner Castellanos requested and received clarification from Commissioner Malcolm regarding the language regarding a ten-year average to implement a “smoothing effect,” and received confirmation that the proposed increase from 75% to 80% would apply to new perspective leases and utilize the current mechanism which is an appraisal.

On a motion by Commissioner Smith, seconded by Commissioner Valderrama the Board adopted **Resolution 2013-85** Amending and Updating BPC Policy No. 355 – Real Estate Leasing Policy and Administrative Practices – Real Estate Leasing to make the following changes: A) streamline rent review process; B) maintain the minimum annual rent for percentage rent leases at 75% market rent and to not approve the policy language modifications regarding “the average of the tenant’s previous ten account years’ rental payments,” and return to previous language regarding appraisals; C) establish criteria for calculating lease term extensions; D) require tenants to indemnify the District for legal expenses and pay all third-party consultant costs; and E) administrative updates including the language proposed by the Port Attorney and to remove references to “non-negotiable”, by the following vote: Yeas-Castellanos, Malcolm, Merrifield, Moore, Nelson, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

**PUBLIC HEARING CONTINUED**

**CONVENTION CENTER PUBLIC PARKING FACILITY LOCATED AT 111 WEST HARBOR DRIVE IN SAN DIEGO:**

- A) CONDUCT PUBLIC HEARING ON PROPOSED AMENDMENT TO PARKING RATES AT THE CONVENTION CENTER PUBLIC PARKING FACILITY.**
- B) ORDINANCE AMENDING PARKING RATES AT THE CONVENTION CENTER PUBLIC PARKING FACILITY**

Agenda Item 31. Karen Weymann, Director, Real Estate, addressed the Board regarding the staff recommendation regarding parking rates. She turned the presentation over to Annette Dahl, Area Real Estate Manager, Real Estate, who addressed the Board regarding the proposed amendment to parking rates at the Convention Center Public Parking Facility, requested a public hearing be conducted regarding the matter, and requested the consider adopting an ordinance amending the parking rates at the same facility. (A copy of the staff report and presentation is on file in the Office of the District Clerk.)

Chair Moore opened the public hearing. As there were no members of the public present who requested to speak, Chair Moore closed the public hearing.

Commissioner discussion ensued. Commissioner Valderrama requested and received confirmation from Ms. Weymann that, while existing revenues from the parking facility was included in the real estate revenue projections, the proposed transaction pending the Board's consideration was not included in the proposed FY13-14 Budget. He offered support for the motion and requested that consistent and accurate revenue projections be reflected in the preliminary budget figures.

Commissioner Nelson offered a motion to approve the staff recommendation. Commissioner Smith seconded the motion.

Commissioner Malcolm discussed the market analysis survey referenced in the staff report and expressed his desire that comparable Centre City parking rate data had been attached. Thus, he queried as to whether the proposed increase was adequate in light of contiguous comparable facilities in the marketplace. He requested and received clarification from Ms. Weymann regarding the staff's recommendation of setting a \$13 General Public and Convention Daily Rate and a Special Event Rate at \$15-\$20.

Commissioner Nelson discussed a total posted rate of \$15, in which \$13 was allocated to the District, and the remaining \$2 was designated for the San Diego Convention Center Corporation (SDCCC) as a source for capital improvements to the

facility. He expressed concern that setting a total rate at \$17 may adversely influence decision makers in such a competitive marketplace.

Commissioner Malcolm discussed that District's role regarding establishing parking rates and the SDCCC had no discretion to set those rates; the SDCCC has responsibility for the building maintenance; and he offered that it could be argued that the SDCCC annual lease rate was below market rent. He stated that \$15 District rate appeared to be reasonable based upon rates at comparable Centre City parking facilities. Thus, he offered a sub-motion to modify the staff recommendation and increase the General Public and Convention Daily Rate to \$15.

Commissioner Smith seconded the substitute motion.

Thomas Russell, Port Attorney, confirmed the Board could modify the staff recommendation and consider the motion proposed even though the public hearing notice was published indicating the proposed rates recommended in the staff report.

On a motion by Commissioner Malcolm, seconded by Commissioner Smith, the Board, adopted **Ordinance 2721** Amending Parking Rates at the Convention Center Public Parking Facility located at 111 West Harbor Drive in San Diego, by the following vote: Yeas-Castellanos, Malcolm, Merrifield, Moore, Smith, and Valderrama; Nays-Nelson; Excused-None; Absent-None; Abstained-None.

**CONVENTION CENTER HOTEL (HILTON BAYFRONT) PUBLIC PARKING FACILITY LOCATED AT 801 HARBOR DRIVE IN SAN DIEGO:**

- A) CONDUCT PUBLIC HEARING ON PROPOSED AMENDMENT TO PARKING RATES AT THE CONVENTION CENTER HOTEL (HILTON BAYFRONT) PUBLIC PARKING FACILITY.**
- B) ORDINANCE AMENDING PARKING RATES AT THE CONVENTION CENTER HOTEL (HILTON BAYFRONT) PUBLIC PARKING FACILITY**

Agenda Item 32. Karen Weymann, Director, Real Estate, addressed the Board regarding the staff recommendation regarding parking rates. She turned the presentation over to Annette Dahl, Area Real Estate Manager, Real Estate, who addressed the Board regarding the proposed amendment to parking rates at the Convention Center Hotel (Hilton Bayfront) Public Parking Facility, located at 801 Harbor Drive in San Diego; requested a public hearing be conducted regarding the matter, and requested the Board consider adopting an ordinance amending the parking rates, at the same facility. (A copy of the staff report and presentation is on file in the Office of the District Clerk.)

Chair Moore opened the public hearing. As there were no members of the public present who requested to speak, Chair Moore closed the public hearing.

Commissioner discussion ensued. Commissioner Valderrama requested and received confirmation from Ms. Weymann that in regards to the matter before the Board, staff included the additional revenue in the FY13-14 real estate revenue projections.

Commissioner Merrifield requested and received clarification from Bob DeAngelis, CFO/Treasurer, regarding the FY13-14 budget deficit projections.

On a motion by Commissioner Valderrama, seconded by Commissioner Smith, the Board adopted **Ordinance 2722** Amending Parking Rates at the Convention Center Hotel (Hilton Bayfront) Public Parking Facility, located at 801 Harbor Drive in San Diego, by the following vote: Yeas-Castellanos, Malcolm, Merrifield, Moore, Nelson, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

#### **SAN DIEGO MARRIOTT MARQUIS & MARINA FACILITIES IMPROVEMENT PROJECT**

- A) CONDUCT PUBLIC HEARING AND ADOPT RESOLUTION ADOPTING THE ADDENDUM TO THE FINAL ENVIRONMENTAL IMPACT REPORT;**
- B) RESOLUTION GRANTING CONCEPT APPROVAL FOR PACIFIC GATEWAY, LTD. FOR PROPOSED FACILITIES IMPROVEMENT PROJECT LOCATED AT 333 WEST HARBOR DRIVE IN THE CITY OF SAN DIEGO; AND**
- C) CONDUCT PUBLIC HEARING AND ADOPT RESOLUTION AUTHORIZING ISSUANCE OF AN APPEALABLE COASTAL DEVELOPMENT PERMIT**

Agenda Item 33. In that the item under consideration was a quasi-judicial matter, Chair Moore requested that each Commissioner announce any ex parte communications related to the agenda item.

Commissioner Smith stated for the record that he had no ex parte communication regarding the matter.

Commissioner Malcolm stated for the record that he had no ex parte communication regarding the matter.

Commissioner Nelson stated that he met with the applicants at the Port Administration Building to discuss the project. He stated he owns a sailboat, which is moored at the San Diego Marriott Marquis & Marina, and pays full market rent. He has no financial interest in the Marriott Marquis & Marina, and stated his belief that he has



no conflict and was capable of making objective decisions when considering the staff recommendations.

Chair Moore stated for the record that she had no ex parte communication regarding the matter.

Commissioner Castellanos stated for the record that he had no ex parte communication regarding the matter.

Commissioner Valderrama stated for the record that he had no ex parte communication regarding the matter.

Commissioner Merrifield stated for the record that he had no ex parte communication regarding the matter.

Jason Giffen, Director, Environmental & Land Use Management, addressed the Board and reviewed the work to date regarding the project, the California Coastal Commission consideration of the project, and the subsequent court challenge to the project, in which the District prevailed. He turned the presentation over to Penny Maus, Senior Asset Manager, Real Estate, who addressed the Board regarding the overall concept. She turned the presentation over to Wileen Manaois, Senior Redevelopment Planner, Environmental & Land Use Management, who reviewed the project, the addendum to the Final Environmental Impact Report and the Port Master Plan Amendment, and requested the Board conduct a public hearing regarding the matter and consider the staff recommendation. (A copy of the staff report and presentation is on file in the Office of the District Clerk.)

Chair Moore opened the public hearing. The following members of the public addressed the Board in support regarding the project: Donna Jones, Partner, Sheppard Mullin Richter & Hampton LLP; Kerry Gaber, Asset Manager, Host Hotels and Resorts; Tuni Kyi, General Manager, Host Hotels and Resorts; Jeffrey J. Gonzalez, Front Desk Agent, San Diego Marriott Marquis & Marina; Ignacio Lozano, Banquet Captain, San Diego Marriott Marquis & Marina; Gwen Mosley, Hotel Housekeeper, San Diego Marriott Marquis & Marina; Rural (Danny) Barber, Bellman, San Diego Marriott Marquis & Marina; Leah Hemze, Public Policy, San Diego Chamber of Commerce; Joyce Summer, downtown San Diego resident; and Gary Smith, President, San Diego Downtown Residents Group. The following individuals submitted request to speak forms "in favor" of the matter, but did not address the Board: Steve Pagano, Hotel Manager, San Diego Marriott; Joe Terzi, President, San Diego Tourism Authority; Janelle Riella, Vice President, Downtown San Diego Partnership. Cara Leone, Transportation Planner, Linscott, Law & Greenspan Engineers, submitted a request to speak but did not address

the Board. As there were no additional members of the public who wished to speak, Chair Moore closed the public hearing.

Commissioner discussion ensued. Commissioner Valderrama acknowledged the proposal presented and offered a motion to accept all three of the staff recommendations as presented.

Chair Moore acknowledged the San Diego Marriott Marquis & Marina team for their efforts to open public access to the waterfront and remarked that the design enhanced the view corridors.

On a motion by Commissioner Valderrama, seconded by Commissioner Smith, the Board, adopted **Resolution 2013-59** Adopting the Addendum to the Final Environmental Impact Report, by the following vote: Yeas-Castellanos, Malcolm, Merrifield, Moore, Nelson, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

Commissioner Smith complimented the tenants and expressed support for the project and improving coastal access.

On a single motion by Commissioner Merrifield, seconded by Commissioner Castellanos, the Board, with a single vote, adopted **Resolution 2013-60** Granting Concept Approval for Pacific Gateway, Ltd. for Proposed Facilities Improvement Project located at 333 West Harbor Drive in the City of San Diego and **Resolution 2013-61** Authorizing Issuance of an Appealable Coastal Development Permit, by the following vote: Yeas-Castellanos, Malcolm, Merrifield, Moore, Nelson, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

## **ACTION AGENDA CONTINUED**

### **BAYSHORE BIKEWAY – PORTION OF SEGMENT 5 NORTH OF BAY MARINA DRIVE IN NATIONAL CITY:**

- A) RESOLUTION ADOPTING THE FINDINGS OF THE MITIGATED NEGATIVE DECLARATION PREPARED BY THE SAN DIEGO ASSOCIATION OF GOVERNMENTS AND AUTHORIZE STAFF TO FILE THE NOTICE OF DETERMINATION.**
- B) RESOLUTION AUTHORIZING THE ISSUANCE OF A NON-APPEALABLE COASTAL DEVELOPMENT PERMIT.**
- C) RESOLUTION AUTHORIZING DISTRICT TO ACCEPT BAYSHORE BIKEWAY IMPROVEMENTS FROM SANDAG.**

Agenda Item 36. The following staff members made a presentation to the Board regarding the proposed Bayshore Bikeway – Portion of Segment 5 north of Bay Marina Drive in National City: Anna Buzaitis, Associate Redevelopment Planner, Environmental and Land Use Management and Charlene Dennis, Manager, Engineering-Construction. Staff requested the Board consider the matters as presented. (A copy of the staff report and presentation is on file in the Office of the District Clerk.)

Commissioner Merrifield left the dais at 6:08 p.m. and returned at 6:11 p.m.

Sharon Cloward, President, San Diego Port Tenants Association; addressed the Board and expressed concern with the area of the project that may affect Tidelands Avenue and Pasha Automotive Services.

Ms. Dennis reviewed the proposed site for the section of the bikeway in question. Randa Coniglio, Executive Vice President, Operation, offered clarification regarding the section of the bikeway under consideration, stated the section in question was "not controversial," and would not affect the District's marine terminal operations.

Chair Moore requested and received confirmation from Ms. Coniglio that the section in question would not affect the other areas under the District's jurisdiction.

Commissioner Malcolm requested and received confirmation from Ms. Coniglio that the section in question would not affect the Tidelands Use and Occupancy Permits (TOUP) with Pasha Automotive Services.

Commissioner Valderrama offered a motion to accept the staff recommendations as presented and directed staff to secure the required maintenance funds as discussed in the staff presentation.

On a motion by Commissioner Valderrama, seconded by Commissioner Smith, the Board, adopted **Resolution 2013-86** Adopting the Findings of the Mitigated Negative Declaration prepared by the San Diego Association of Governments and Authorize Staff to File the Notice of Determination, by the following vote: Yeas-Castellanos, Malcolm, Merrifield, Moore, Nelson, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

Commissioner Nelson requested clarification as to whether the action under consideration would influence decisions regarding the continuation of this route into the areas of concern relative to the respective proposals from GB Capital Holdings and Pasha Automotive Services. Ms. Coniglio offered there were alternative routes for connecting the bikeway segments from Chula Vista with the segment under

consideration, and such discussions were currently underway with the City of National City. Ms. Coniglio restated the matter under consideration would not impact the marine terminal area.

On a single motion by Commissioner Valderrama, seconded by Commissioner Smith, the Board, with a single vote, adopted **Resolution 2013-87** Authorizing the Issuance of a Non-Appealable Coastal Development Permit and **Resolution 2013-88** Authorizing District to Accept Bayshore Bikeway Improvements from SANDAG, by the following vote: Yeas-Malcolm, Moore, Nelson, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

**RESOLUTION APPROVING A PROCLAMATION HONORING OUTGOING CFO/TREASURER, JEFF MCENTEE, FOR HIS SERVICE TO THE SAN DIEGO UNIFIED PORT DISTRICT**

Agenda Item 37. Wayne Darbeau, Executive Director, requested the Board consider a resolution approving a proclamation honoring outgoing CFO/Treasurer, Jeff McEntee, for his service to the San Diego Unified Port District. Mr. Darbeau read the proclamation into the record. (A copy of the staff report and presentation is on file in the Office of the District Clerk.)

Mr. McEntee offered his thanks to the Board members, District leadership and the organization's staff for their support during his 24-year tenure.

Commissioner discussion ensued. The following members of the Board acknowledged Mr. McEntee's service to the District and offered their congratulations upon his upcoming retirement: Commissioner Smith, Commissioner Malcolm, Commissioner Valderrama, Commissioner Nelson, and Chair Moore.

Commissioner Smith offered a motion to approve the staff recommendation. Commissioner Valderrama seconded the motion.

On a motion by Commissioner Smith, seconded by Commissioner Valderrama, the Board, adopted **Resolution 2013-89** Approving a Proclamation Honoring outgoing CFO/Treasurer, Jeff McEntee, for his service to the San Diego Unified Port District, by the following vote: Yeas-Castellanos, Malcolm, Merrifield, Moore, Nelson, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

**PRESENTATION AND DIRECTION TO STAFF ON PASHA AUTOMOTIVE SERVICES, OPERATOR OF THE NATIONAL CITY MARINE TERMINAL**

Agenda Item 38. **Item continued to a future Board meeting.**

**PRESENTATION AND DIRECTION TO STAFF ON GB CAPITAL HOLDINGS, LLC'S PROPOSED 20 ACRE DESTINATION VEHICLE RESORT IN THE NATIONAL CITY MARINA DISTRICT**

Agenda Item 39. **Item continued to a future Board meeting.**

**PRESENTATION AND DIRECTION TO STAFF ON SANDAG BAYSHORE BIKEWAY SEGMENT IN NATIONAL CITY**

Agenda Item 40. **Item continued to a future Board meeting.**

**REVIEW AND CONSIDERATION OF PROPOSED BOARD AGENDA FOR THE MEETING JUNE 11, 2013**

Agenda Item 41. On motion of Commissioner Smith, seconded by Commissioner Valderrama, the Board adopted the proposed agenda for the meeting of June 11, 2013, by the following vote: Yeas-Castellanos, Malcolm, Merrifield, Moore, Nelson, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

**OFFICER'S REPORT**

Agenda Item 42. 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. 2012-13 / 16 Calendar Day Time Extension thru 04/22/13 with Kinsman Construction, Inc. for Point Loma – America's Cup Harbor Pier 4 Upgrade, San Diego, California
- B) Change Order No. 4 to Contract No. 2012-04 / Increases Contract by \$14,010.00 with SECC Corporation for Tenth Avenue Marine Terminal (TAMT) and National City Marine Terminal (NCMT) Truck License Plate Reader and Fiber Optic Interconnect Installation (Phase 8) San Diego and National City, California
- C) Change Order No. 2 to Contract No. 2011-40 / Increases Contract by \$14,388.00 & 15 Calendar Day Time Extension thru 06/06/13 with NEWest Construction Company for B-Street Pier Cruise Ship Terminal Fire Protection System Upgrade, San Diego, California

- D) Change Order No. 1 to Contract No. 2011-27 / Increases Contract by \$720.00 with Khavari Construction, Inc. for Imperial Beach Pier Deck Refurbishment, Imperial Beach, California

### **CONSENT AGENDA CONTINUED**

**RESOLUTION SELECTING AND AUTHORIZING AN AGREEMENT WITH AZTEC LANDSCAPING, INC. DBA AZTEC JANITORIAL SERVICES FOR JANITORIAL SERVICES FROM JULY 1, 2013 TO JUNE 30, 2016 AT THE DISTRICT'S ADMINISTRATION BUILDING, HARBOR POLICE HEADQUARTERS AND SHELTER ISLAND BUILDINGS, MARITIME TENTH AVENUE MARINE TERMINAL AND NATIONAL CITY MARINE TERMINAL OFFICES, GENERAL SERVICES AND PROCUREMENT FACILITY, JOINT HARBOR OPERATIONS CENTER, AND AT 21 PUBLIC RESTROOM FACILITIES LOCATED IN DISTRICT PARKS AND COMMON PUBLIC AREAS IN AN AMOUNT NOT TO EXCEED \$1,147,388.60 AS PART OF THE DISTRICT'S ONGOING EFFORT TO EFFECTIVELY RUN THE BUSINESS AT THE MOST ECONOMICAL COST**

Agenda Item 22. In the context of the current budget deficit projections and in consideration of selecting the most qualified and lowest priced service provider, Commissioner Malcolm requested and received clarification from Dave Thompson, Director, General Services and Procurement, regarding the decision analysis matrix and the ranking criteria of the top three firms. Mr. Thompson explained that upon verification of the data provided, staff found mathematical inconsistencies in the figures provided by the company that submitted the lowest-cost proposal for the services requested; thus, their overall ranking score was lower as reflected in the staff report.

**RESOLUTION SELECTING AND AUTHORIZING AN AGREEMENT WITH NISSHO OF CALIFORNIA, INC., FOR PARK MAINTENANCE SERVICES FROM JULY 1, 2013 TO JUNE 30, 2016 AT RUOCCO PARK IN AN AMOUNT NOT TO EXCEED \$537,204 PART OF A PUBLIC-PRIVATE PARTNERSHIP WITH THE SAN DIEGO FOUNDATION**

Agenda Item 23. Chair Moore requested and received clarification from Dave Thomson, Director, General Services and Procurement, regarding the park upgrades and enhancements' maintenance costs and he verified the maximum annual reimbursement level from the San Diego Foundation for those items. Expressing further concerns regarding the approval of projects that require long-term expenditures, she urged the District's to consider a project's immediate expenditure as well as its the future maintenance costs when assessing proposals.

On a single motion by Commissioner Malcolm, seconded by Commissioner Nelson, the Board with a single vote, adopted **Resolution 2013-79** Selecting and Authorizing an Agreement with Aztec Landscaping, Inc. dba Aztec Janitorial Services for janitorial services from July 1, 2013 to June 30, 2016 at the District's Administration Building, Harbor Police Headquarters and Shelter Island Buildings, Maritime Tenth Avenue Marine Terminal and National City Marine Terminal offices, General Services and Procurement Facility, Joint Harbor Operations Center, and at 21 public restroom facilities located in District parks and common public areas in an amount not to exceed \$1,147,388.60 as part of the District's ongoing effort to effectively run the business at the most economical cost, and **Resolution 2013-80** Selecting and Authorizing an Agreement with Nissho of California, Inc., for Park Maintenance Services from July 1, 2013 to June 30, 2016 at Ruocco Park in an amount not to exceed \$537,204 part of a public-private partnership with the San Diego Foundation, by the following vote: Yeas-Castellanos, Malcolm, Merrifield, Moore, Nelson, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

As the business of the regular meeting was concluded, Chair Moore adjourned the meeting.

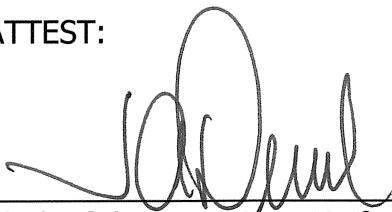
May 7, 2013

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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 Commissioner Valderrama at 8:05 a.m., Friday, May 10, 2013, in the Board Room at 3165 Pacific Highway, San Diego, California.

**ROLL CALL**

Agenda Item 1.

Present: COMMISSIONERS, Castellanos, Merrifield, Smith, and Valderrama

OFFICERS: Darbeau, DeAngelis, Deuel, Monson, Russell, and Stup.

Absent: None.

Excused: Commissioners Malcolm and Nelson were excused until they arrived at 8:08 a.m. Chair Moore was excused until she arrived at 8:12 a.m.

**PUBLIC COMMUNICATIONS**

Agenda Item 2. None.

Commissioner Merrifield announced that the District received an award from the San Diego County Taxpayers Association recognizing the revisions to the District's Travel and Business Expense Reimbursement Policy.

**WORKSHOP**

**BUDGET WORKSHOP 3: PRESENTATION OF FISCAL YEAR 2013/2014  
BUDGET INFORMATION AND DIRECTION TO STAFF.**

Agenda Item 3. Bob DeAngelis, CFO/Treasurer and Jeff McEntee, CFO Limited, provided a summary of the FY 13/14 projected budget deficit and preliminary direction received from the Board at Workshops 1 & 2. To assist staff in moving forward with the FY 13/14 Preliminary Budget, Mr. DeAngelis requested further direction from the Board

regarding the option of restoring funds to the Public Art Fund, the Personnel Contingency and the Marketing budget. (Copies of the presentation are on file in the Office of the District Clerk.)

The following members of the public addressed the Board on a variety aspects of the budget; Commissioner Emeritus Steve Cushman, Holiday Bowl; Phil Lorbred, San Diego Sportfishing Council; Edward Gill, San Diego Symphony; Sophie Silvestri, San Diego Port Tenants Association; Doug Kern, Fisherman's Landing; Art Taylor, Searcher Sportfishing; Ray Ashley, Maritime Museum; Chester Mordasini, Teamsters; Larry Baza, Port Public Art Advisory Committee; and Laura Hunter, Environmental Health Coalition.

Board discussion ensued. Commissioner Nelson requested and received clarification from Mr. DeAngelis and Yvonne Wise, Curator, Public Art regarding line items in the Public Art budget. Randa Coniglio, Executive Vice President, Operations, stated that the FY 13/14 Public Art Budget consists of approximately \$400,000 for staff, approximately \$100,000 for maintaining the existing collection and approximately \$100,000 to support projects as the Board directs. With regard to the marketing and advertising budget, Michelle Gannon, Director, Marketing & Communications and Brandy Christian, Vice President, Strategy & Business Development, stated for FY 13/14 funds for advertising were reduced from \$1,075,000 to \$555,000. Ms. Christian stated staff is recommending zero funding for community based sponsorships and return-on-investment sponsorships for FY 13/14. Commissioner Nelson stated his concern regarding reducing the Public Art Fund and the amount of funding recommended for the Public Art staff.

Commissioner Merrifield requested clarification on the potential interest savings on refinancing the District's debt. Mr. DeAngelis stated that if refinancing began immediately the District would have a potential savings of \$200,000 in March 2014. Commissioner Merrifield recommended listing an estimate of savings in the FY 13/14 budget. Mr. McEntee indicated that staff is in the process of refinancing the 2004 bond debt. Mr. DeAngelis restated that cost recovery is included the FY 13/14. Mr. Nelson stated the need for a more thorough discussion of long term financing needs of the District.

Commissioner Malcolm stated the need to address the structural issues of the budget. Commissioner Malcolm also stated a concern of continuing to finance Public Art staff while reducing the Public Art budget. Commissioner Malcolm stated the importance of re-examining the District's Major Maintenance Policy. Ms. Coniglio stated that staff plans to come back to the Board in June with recommendations regarding the Major Maintenance program. Commissioner Malcolm stressed the significance of not cutting

the marketing budget. Commissioner Malcolm commented on making the District sustainable by right sizing if the economy does not improve. Commissioner Malcolm commented on examining all the organization business segments for improving optimization and efficiency. Commissioner Malcolm discussed the necessity for a larger personnel contingency. Wayne Darbeau, Executive Director, addressed the Board and acknowledged Commissioner Malcolm's comments and also acknowledged the structural deficit of the budget.

Commissioner Smith stated that structural changes need to be made with "data driven decisions". Commissioner Smith discussed the projection revenues, specifically the decline in grants and the increase in concession rents. In response to an inquiry from Commissioner Smith regarding the proposed Environmental & Land Use Management and Real Estate budgets, Ms. Coniglio provided additional details with regard to projected increases. Mr. McEntee stated that the increase in utilities was due to rate increases.

Commissioner Valderrama left the dais at 9:37 a.m. Commissioner Valderrama returned to the dais at 9:39 a.m.

Commissioner Castellanos requested additional information regarding the Public Art Master Plan that was adopted in 2010. Ms. Wise clarified for Commissioner Castellanos that the master plan stated that the Public Art Fund would accumulate each year. Mr. McEntee provided a brief history of contributions made to the Public Art Fund. Commissioner Castellanos expressed his frustration with the structural budget deficit and the overall budget process. Commissioner Castellanos requested additional information regarding the impact on drawing down operating reserves on the District's credit rating. Mr. McEntee stated the debt rating agencies focus more on controlling expenditures and revenue growth. Commissioner Castellanos expressed concern over reducing the Public Art fund while maintaining the current number of staff. Mr. DeAngelis stated that a number of positions have been eliminated resulting in a significant reduction in personnel.

Commissioner Valderrama stated based on previous Board direction, that staff had brought back an alternative scenario with no reductions in staff. Commissioner Valderrama stated the importance of restoring the marketing budget.

Chair Moore agreed with previous Board comments regarding the need to make structural changes to the budget, refinancing the District debt, and not reducing the Marketing budget. Commissioner Malcolm stated that he will not adopt an unbalanced budget. Commissioner Malcolm stated that his recollection of previous Board direction

took nothing "off the table" including reductions in staff. Mr. Darbeau stated with a forward thinking approach and collaboration with the Board, staff will find solutions to the structural issues in the budget.

Chair Moore reminded the Board that there will be a mid-year budget review. Commissioner Smith also reminded the Board that structural change is on-going process. Commissioner Smith made a motion to approve staff recommendation and Chair Moore seconded the motion. Commissioner Nelson suggested establishing milestones for achieving a sustainable budget and assign the Audit Committee to review quarterly the performance of those milestones. In response to an inquiry from Commissioner Nelson, Ms. Wise provided additional detail regarding the Public Art budget. Commissioner Nelson expressed his concern over reducing the Public Art budget and eliminating interns to balance the budget. In response to a vacancy management scenario proposed by Commissioner Nelson, Karen Porteous, Executive Vice President, Administration, provided a brief history regarding how the District has controlled personnel expenses using a vacancy management program.

Commissioner Nelson offered the following friendly amendment to the motion to reduce the funding to Public Art by \$700,000 and give management the preference to reduce the Personnel Expense by \$1,400,000. Commissioner Smith, the maker of the original motion, stated he preferred that Commissioner Nelson make a substitute motion.

Commissioner Nelson, seconded by Commissioner Castellanos, offered a substitute motion to approve staff recommendation with the following exceptions reducing the Public Art Fund by \$700,000 and directing staff to reduce the Personnel Expense by \$1,400,000 for FY 2014. Upon request from Commissioner Merrifield, Commissioner Nelson provided additional clarification with regard to his motion. Mr. Darbeau expressed his concern with incorporating Commissioner Nelson's proposed scenario and getting the budget completed for adoption in July. Commissioner Moore and Commissioner Malcolm expressed their frustration with the proposed budget. Commissioner Nelson further clarified his motion by stating that the budget would delineate a \$1,400,000 for budget savings.

On motion by Commissioner Nelson, seconded by Commissioner Castellanos, the substitute motion to approve staff recommendation with the following exceptions reducing the Public Art Fund by \$700,000 and directing staff to reduce the Personnel Expense by \$1,400,000 for FY 2014 failed by the following vote: Yeas-Castellanos, Merrifield and Nelson; Nays-Malcolm, Moore, Smith and Valderrama; Excused-None; Absent-None; Abstained-None.

On a motion by Commissioner Smith, seconded by Chair Moore, the Board approved staff recommendation, by the following vote: Yeas-Malcolm, Merrifield, Moore, Smith, and Valderrama; Nays-Castellanos and Nelson; Excused-None; Absent-None; Abstained-None.

Chair Moore announced a ten minute break.

**PRESENTATION ON MARINE TERMINAL OPERATING MODEL AND DIRECTION TO STAFF.**

Agenda Item No. 4. Brandy Christian, Vice President, Strategy & Business Development; Joel Valenzuela, Director, Maritime; and Erik Stromberg of Cardno T.E.C. addressed the Board and discussed the vision of Maritime, current operations and the performance of the maritime terminals both cruise and cargo, and operating model trends and options. Ms. Christian also discussed the timeline related to the Request for Proposals (RFP) and Request for Qualifications (RFQ) process. Ms. Christian stated that staff recommends the Board direct further investigation of a non-operating business model approach for both the Tenth Avenue Marine Terminal and cruise terminals and return to the Board with all the due diligence to make a determination as to whether or not to proceed. (Copies of the presentation are on file in the Office of the District Clerk.)

Commissioner Smith left the dais at 11:55 a.m. Commissioner Smith returned to the dais at 11:57 a.m.

The following members of the public addressed the Board regarding this item: Chester Mordasini, representing the Teamsters; and Laura Hunter, representing the Environmental Health Coalition.

Chair Moore adjourned the meeting until 1:00 p.m.

Commissioner discussion ensued. Commissioner Nelson requested clarification from Mr. Stromberg regarding the potential efficiencies of alternative business models. Mr. Stromberg and Mr. Valenzuela discussed the potential impacts of the alternative business models on labor and rail car capacity issues. Commissioner Nelson requested additional information on the effect of alternative models on land use decisions. Mr. Valenzuela stated the District should remain involved in the disposition of what the ultimate product will be in terms of rail service. Ms. Christian clarified for the Board that staff is not proposing the National City Marine Terminal be included in the RFQ. In response to an inquiry from Commissioner Nelson regarding the possible impacts of

an alternative business model on the quality of life in the surrounding neighborhoods, Mr. Valenzuela stated that the environmental issues are part of the due diligence process and any change in the operating model at the terminal is subject to environmental review. Thomas Russell, Port Attorney, reminded the Board that the RFQ process is to gather information and not commit the Board to any course of action. Mr. Russell further stated that decisions on a change in operating model are subject to legal requirements and are bargained in good faith with the District labor partners.

Commissioner Merrifield recommended cruise and cargo operations be bid separately. Commissioner Merrifield also recommended the Chair form an Ad Hoc Committee to gather additional information on the various business models.

Commissioner Malcolm stated the District is committed to Maritime however; the District should look at other business models to determine how to make Maritime stronger and more efficient. Commissioner Malcolm requested and received clarification from Mr. Stromberg regarding the value assessment of the terminals. Commissioner Malcolm discussed the potential efficiencies of bringing in a larger concessionaire with world scope and infrastructure. Mr. Stromberg stated that there could be advantages when bringing in a private operator with global reach however, the risks and opportunities for the District and a prospective tenant need to be examined. Commissioner Malcolm requested and received additional clarification from Mr. Valenzuela regarding the financial performance of the cruise terminal. Commissioner Malcolm made a motion to direct staff to begin the RFQ process for both the Tenth Avenue Marine Terminal and Cruise Ship Terminals. Commissioner Nelson seconded the motion.

Commissioner Valderrama stated his support for the motion. Commissioner Castellanos requested and received clarification from Mr. Stromberg regarding the operating models of other strategic ports. Commissioner Castellanos requested additional information on how the District protects its interests during negotiations with a potential operator. Ms. Christian stated it is imperative that the District have outside financial advisors to assist in negotiating these type of agreements. Commissioner Castellanos requested clarification regarding whether investing in the infrastructure is usually part of the agreement. Mr. Stromberg stated these type of issues can be part of negotiations.

Commissioner Smith requested information from Mr. Russell regarding any applicable laws or regulations that the Board should be aware of before starting this process. Mr. Russell stated that the following four categories of issues should be examined closely 1) meet and confer with District labor partners 2) review existing Real

Estate contracts and obligations 3) conduct an environmental assessment and 4) assess the Coastal Act for any obligations. Commissioner Smith confirmed with Mr. Russell that the Board is not making a decision today on whether to contract out the cargo and cruise terminals. Commissioner Smith suggested moving up the timeline.

Commissioner Merrifield expressed the importance of the Board and staff doing due diligence before making a decision. Commissioner Merrifield suggested visiting other ports that have been through a similar process. In response to an inquiry from Chair Moore, Mr. Valenzuela stated the budgeted amount for this process includes the processing of RFQ and due diligence by a financial advisor. Mr. Valenzuela stated that staff has conducted some preliminary due diligence by contacting other ports. Mr. Darbeau stated his support for the formation of an Ad Hoc Committee. Commissioner Nelson expressed his concern with the timing of this process with other Maritime related capital improvements. Commissioner Nelson suggested utilizing others to assist with the due diligence.

On a motion by Commissioner Malcolm, seconded by Commissioner Nelson, the Board directed staff to begin the Request for Qualifications process for both the Tenth Avenue Marine Terminal and Cruise Ship Terminals, by the following vote: Yeas-Castellanos, Malcolm, Merrifield Moore, Nelson Smith, and Valderrama; Nays-none; Excused-None; Absent-None; Abstained-None.

On a motion by Commissioner Valderrama, seconded by Commissioner Malcolm, the Board directed the staff to bring back to Board at the mid-year budget review with a recommendation regarding right-sizing the District, by the following vote: Yeas-Castellanos, Malcolm, Merrifield Moore, Nelson Smith, and Valderrama; Nays-none; Excused-None; Absent-None; Abstained-None.

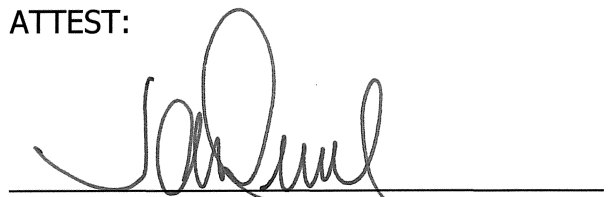
As the business of the special meeting was concluded, Chair Moore adjourned the special meeting.

May 10, 2013

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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 Chair Moore at 9:05 a.m., Friday, May 31, 2013, in the Board Room at 3165 Pacific Highway, San Diego, California.

**ROLL CALL**

Agenda Item 1.

Present: COMMISSIONERS, Castellanos, Merrifield, Moore, Nelson, Smith, and Valderrama.

OFFICERS: Darbeau, Deuel, and Russell

Absent: No Commissioners absent.

Excused: Commissioner Malcolm was excused until he arrived at 9:11 a.m.

Commissioner Nelson led the Pledge of Allegiance.

**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 – ANTICIPATED LITIGATION

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

Three Cases

Regarding Item 3, Commissioner Castellanos recused himself from one of the items involving a significant exposure to litigation and did not participate in that

discussion because of a business relationship between his law firm and one of the parties involved.

Agenda Item 4.

PUBLIC EMPLOYEE DISCIPLINE/DISMISSAL/RELEASE

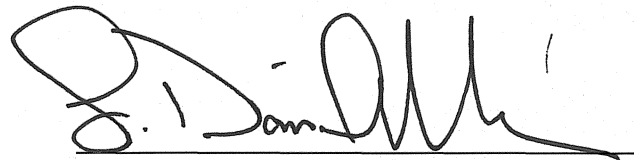
Government Code Section 54957

Discipline of Harbor Police Officer

Regarding item 4, Public employee discipline/dismissal/release pursuant to Government Code Sections 54957 and 54957.1, Discipline of Harbor Police Sergeant, Ellen Gross, Deputy Port Attorney, announced that by a 4-3 vote, the Board of Port Commissioners upheld the findings and recommendations of the Personnel Advisory Board in their entirety.

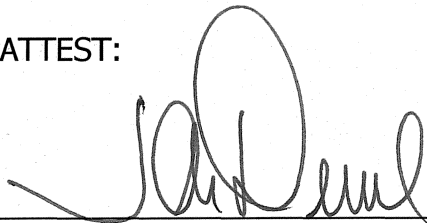
There was no other formal or reportable action as to any closed session items, pursuant to Government Code Section 54950 et seq, to report from the closed session; whereupon, Chair Moore adjourned the meeting.

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Secretary, Board of Port Commissioners  
San Diego Unified Port District

ATTEST:

A handwritten signature in black ink, appearing to read "S. J. San Diego", written over a horizontal line.

Clerk of the San Diego Unified Port District

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

**CLOSED SESSION**

Regarding item 4, Public employee discipline/dismissal/release pursuant to Government Code Sections 54957 and 54957.1, Discipline of Harbor Police Sergeant, Ellen Gross, Deputy Port Attorney, announced that by a 4-3 vote, the Board of Port Commissioners upheld the findings and recommendations of the Personnel Advisory Board in their entirety.

There was no other formal or reportable action as to any other closed session items, pursuant to Government Code Section 54950 et seq.

As previously posted, a special meeting of the Board of Port Commissioners of the San Diego Unified Port District was called to order by Chair Moore at 1:24 p.m., Friday, May 31, 2013, in the Board Room at 3165 Pacific Highway, San Diego, California.

**ROLL CALL**

Agenda Item 1.

Present: COMMISSIONERS, Castellanos, Malcolm, Merrifield, Moore, Nelson, Smith, and Valderrama

OFFICERS: Darbeau, Deuel, Stup, and DeAngelis.

Absent: None.

Excused: None.

Timothy Deuel, District Clerk, announced that additional agenda related materials were received following the publication of the agenda and distributed to the Board. Copies of those materials and the workshop presentation materials were available for the public at the Clerk's station.

## **PUBLIC COMMUNICATIONS**

Agenda Item 2. Lee Burdick, Director Special Projects and Legal Affairs, San Diego Mayor Bob Filner's Office, addressed the Board regarding the long-term planning needs on the tidelands related to climate change and sea level rise.

Katheryn Rhodes addressed the Board regarding seismic safety, requested the investigation of active faults on tidelands, and discussed submitting fault investigation reports to the proper State regulators.

## **WORKSHOP**

### **CLIMATE PLAN WORKSHOP: PRESENTATION ON PRIORITIES FOR THE CLIMATE MITIGATION AND ADAPTATION PLAN AND DIRECTION TO STAFF**

Agenda Item 3. Chair Moore offered opening remarks regarding the purpose of the workshop, thanked the members of the Environmental Advisory Committee for their hard work, recognized Commissioner Nelson, Commissioner Smith and former Commissioner Burdick for their leadership regarding the matter, and then turned the floor over to Peter McCracken, Principal, Strategic Communications who was contracted to facilitate the workshop. Mr. McCracken discussed the goals and focus-areas for the workshop and reviewed the expectations for the session.

Jason Giffen, Director, Environmental & Land Use Management, provided a brief overview of the work to date regarding the climate plan and discussed the creation of a general plan.

Mike Hogan, the District's outside California Environmental Quality Act (CEQA) legal counsel provided an overview regarding California State regulatory requirements and the legal framework related to the matters under discussion. (Copies of the staff report, workshop handouts, and PowerPoint presentation are on file in the Office of the District Clerk.)

Commissioner discussion ensued. Commissioner Castellanos requested and received clarification from Mr. Hogan regarding the District's legal obligation, as a special district, to create a Climate Mitigation and Adaptation Plan (CMAP). He confirmed that the city or county regulations or requirements were different for special districts. Mr. Hogan also discussed the CEQA requirements of a CMAP, should one be adopted.

Commissioner Nelson requested and received clarification from Mr. Hogan regarding the District's responsibilities under CEQA should the Board consider the adoption of a CMAP.

Commissioner Malcolm requested and received clarification from Mr. Hogan as to whether a CMAP was subject to an Environmental Impact Report (EIR) or CEQA review. Mr. Hogan offered a determination regarding the requirement for an EIR and CEQA review was dependent on the goals and measures adopted in the CMAP. Commissioner Malcolm requested and received clarification from Mr. Hogan as to the actions taken to date regarding the Board's direction to staff and establishing greenhouse gas reduction goals. Mr. Hogan stated that the Board's direction did not impose any binding actions on tenants or their projects. As an effort to insulate the District from litigation related to the adoption of a CMAP, Commissioner Malcolm requested and received clarification from Mr. Hogan that staff would only present a plan for the Board's consideration that met the CEQA requirements and included a CEQA compliance document.

In consideration of adopting a CMAP, Commissioner Merrifield requested and received clarification from Mr. Hogan regarding the means by which any unintended consequences that may impact tenants and stakeholders could be avoided. Mr. Hogan reiterated that CEQA considers whether the mitigation measures proposed were feasible or infeasible.

In response to queries from Commissioner Malcolm regarding the Board's prior actions related to greenhouse gas reduction goals, Ellen Gross, Deputy Port Attorney, stated that on June 12, 2012 the Board approved a motion establishing a ten percent greenhouse gas reduction target for the Climate Mitigation and Adaption Plan. She stated no resolution was adopted.

Peter Kennedy, U.S. Navy; Dr. Ron Flick, Scripps Institution of Oceanography, Dr. Emily Young, San Diego Foundation; and Scott J. Anders, Energy Policy Initiatives Center, University of San Diego School of Law, each offered a presentation which provided a high-level scan of regional efforts to address climate change. (Copies of the staff report, workshop handouts, and presentation are on file in the Office of the District Clerk.)

Commissioner Merrifield requested and received clarification from Mr. Anders regarding stakeholder engagement procedures upon undertaking a climate planning procedure.

Commissioner Nelson offered remarks on the next steps in the process; discussed establishing Board policies, and determining organizational priorities. He discussed the materials that would be presented on behalf of the Environmental Advisory Committee and offered a report-out to the Board on what the committee members believed were the most urgent and important priorities.

Commissioner Smith thanked Mr. Anders for his presentation. He acknowledged the information offered by the presenters. He requested that staff provide data regarding the budget and resource requirements as the District moves forward.

Chair Moore offered her thanks to the speakers for their participation and offered appreciation for their attendance at the workshop.

Mr. Giffen and Cody Hooven, Senior Environmental Specialist, Environmental & Land Use Management, addressed the Board with the staff presentation regarding the key elements of a climate plan, the adaptation focus areas, policy measures and requested Board direction.

Commissioner Malcolm expressed his desire for additional background information as to the steps that had been taken to lead the District to its current place in the process.

Commissioner Nelson briefly reviewed the process to date and remarked on the progress made toward establishing related Board policies, the consideration of a CMAP and its related implementation measures and adaptation work plans for the Commissioner's evaluation.

Chair Moore also discussed the progress to date related to the matters that were presented with regard to the District's Compass Strategic Plan. She suggested that the Board discuss general or "broad" policy matters with respect to the plan before considering implementation measures.

Commissioner Smith remarked on the objectives for the balance of the workshop in light of the time allotted.

Commissioner Nelson reviewed the recommended policy measures proposed by the Environmental Advisory Committee. (A copy of the handout is on file in the Office of the District Clerk.)

Commissioner Valderrama requested and received clarification from Commissioner Nelson as to what he recommended as next steps in regard to

consideration and prioritization of the Environmental Advisory Committee recommendations, related to adaptation and mitigation matters, and the climate plan, as a whole. Commissioner Nelson expressed support for forming an ad hoc committee of the Board and/or conducting several additional workshops.

Commissioner Merrifield discussed the requirements related to AB32: California Global Warming Solutions Act of 2006 and providing staff with direction and setting milestones to achieve greenhouse gas emission reduction targets by 2020.

In an effort to make "data driven" decisions, Commissioner Malcolm discussed his need for an understanding of the budget requirements related to the recommendations offered by the Environmental Advisory Committee and the measures reviewed by staff.

Chair Moore discussed the process by which a general plan or long-range plan is created and explained it begins with a concurrence by the members establishing high reaching goals; followed by describing and establishing policies in support of the goals, and then addresses mitigation measures as a means to implement the policies that, in turn, support the high reaching goals. She discussed her vision for the process and offered that work on the goals was required before moving on to policy measures and mitigation measures.

In consideration of establishing adaptation goals related to the matters under discussion, Commissioner Castellanos discussed addressing "risk management" and "resilience" by seeking an insurance coverage assessment to safeguard the financial viability of the District and assure for future development opportunities in the event of a major weather event.

Chair Moore acknowledged that Commissioner Castellanos' statement was an example of a stated goal, followed by a policy measure, and an implementation measure.

Commissioner Nelson's also offered statements regarding the benefits of insurance and Chair Moore concurred that goals and policy measures regarding the protection of the environment, endangered species, and the shoreline were also appropriate to consider.

Wayne Darbeau, Executive Director, requested that work continue toward articulating a collective wisdom and viewpoint of the Board to ensure clarity when providing staff direction as the process continues forward. He offered that from the



staff's point of view, and in light of the resources available, the actions taken towards the goal should be realistic and pragmatic.

The following members of the public addressed the Board with varying viewpoints on the matters discussed: Franco Garcia read into the record statements from Margarita Garcia; Resident Volunteer, Environmental Health Coalition and Maria Martinez, Resident Volunteer, Environmental Health Coalition; Kayla Race, Policy Advocate, Environmental Health Coalition; Laura Hunter, Environmental Health Coalition yielded her time to Ms. Race; Jay Powell, Steering Committee Member, Sierra Club Run with the Sun Program; Sharon Cloward, San Diego Port Tenants Association; Mekaela Gladden, Briggs Law Corporation; John Reaves, Attorney/Mediator, Law offices of John Reaves; Michael R. Bullock, Transportation Chair, Sierra Club, San Diego Chapter; Bill Tippetts, Senior Project Director, The Nature Conservancy; Courtney Cole, Student Attorney, San Diego Coastkeeper; Morgan Embleton, Student Attorney, San Diego Coastkeeper; Clark Dawson, President, Ever Flow Resources, Inc.; and Katheryn Rhodes. Sandy Vissman, Wildlife Biologist, U.S. Fish and Wildlife Service, submitted request to speak forms but did not address the Board.

Per Chair Moore's request, Board discussion ensued regarding next steps.

Commissioner Smith offered his thanks to the public speakers for their participation and acknowledged staff's work. He remarked on the recommendations presented and discussed their feasibility in light of budget constraints. Commissioner Smith did not offer support forming an ad hoc committee, but advocated for conducting another workshop in which the Board worked toward establishing a program that responsibly utilizes the resources available.

Commissioner Merrifield supported requesting staff propose a climate adaptation over-arching goal of planning and adapting for sea level rise and climate change to ensure a resilient port. The goal should include a defined timeframe and estimated budget figures. He reiterated his concern with complying with the regulatory requirements of AB32: California Global Warming Solutions Act of 2006. He acknowledged the general adaptation area categories shown in staff materials and encouraged conducting more workshops as a means to move toward establishing measurable goals.

Commissioner Castellanos requested that staff present an adaptation goal proposal at the next workshop. In regard to mitigation goals and targets, he requested the proposed implementation plan include related costs.

Commissioner Valderrama offered support for the Board's direction. In light of the many tasks that required work by the Environmental & Land Use Planning staff, he requested that the Executive Director return to the Board with a timeframe by which staff can be expected to make progress based upon the Board's direction.

Discussing the time in which the climate matters had been under consideration, Commissioner Malcolm encouraged moving forward with the CMAP in more timely way. He requested that mitigation measures and the adaptation matters be brought forward, and reiterated his concerns that any information provided to the Board should include budget, voluntary versus mandatory requirements, and clarifying the legal authority of the District over its existing leaseholds to implement any measure. Regarding organizational resilience and in terms of sea level rise, Commissioner Malcolm requested that the projected data be compared with actual occurrences to assess congruence. He concluded by encouraging that the District keep an "eye on science" to assess the actual situations occurring.

Commissioner Nelson requested clarification as to whether the operating budget projected for FY13-14 included funding for an EIR for the CMAP. Mr. Giffen stated that funds were not currently allocated to conduct a specific EIR. Commissioner Nelson expressed concern regarding the ability to move forward in the coming year with developing a CMAP in light of budget limitations.

Chair Moore directed staff to bring back to the Board, at the next regular, meeting their recommended work plan to ensure progress under a unified process.

Commissioner Nelson proposed conducting an additional workshop before the July 16, 2013 regular Board meeting.

Chair Moore offered that staff returns at the June regular Board meeting to present a process discussion and work proposal.

Commissioner Nelson offered a motion to adopt the three recommendations proposed by the Environmental Health Coalition. The recommendations were as follows: "Board direct staff to bring back an implementation plan to meet the GHG mitigation goals set last year, with details on specific, priority enforceable mitigation measures that are the most effective, based on all the analysis that's been done. 2. Board direct staff to monitor and report progress on tackling GHG emissions and adaptation annually, so we have an on-ramp for new strategies and an off-ramp for strategies that aren't working. 3. Board direct staff to make this document this plan an eligible CEQA tiering document, in order to give Port tenants, developers and the public a clear set of

actions about what they need to do when new projects come forward.” (A copy of the document dated May 31, 2013 provided by Kayla Race, on behalf of the Environmental Health Coalition, is on file in the Office of the District Clerk.)

Commissioner Castellanos offered an amendment to the motion, that the Board directs staff that in regard to the implementation plan and with respect to the various measures, they must include the anticipated costs to the District, tenants and stakeholders as well as whether the measure was mandatory or voluntary pursuant to Commissioner Malcolm’s remarks.

Commissioner Nelson acknowledged that while there was not yet a second to his motion, he concurred with the modification offered by Commissioner Castellanos regarding the anticipated cost data; however, he expressed concern regarding the “mandatory or voluntary provisions” was a Board policy matter that required further consideration following their review of the data requested from the Port Attorney’s office. He offered that his motion could be amended to include a report from the Port Attorney’s office regarding the legal mechanisms available to the agency to mandate an implementation plan.

Commissioner Castellanos modified his amendment; that in addition to the three Environmental Health Coalition items as proposed by Commissioner Nelson, and in regard to the implementation plan’s various measures; staff includes the anticipated costs to the District, tenants and stakeholders. He also requested the Port Attorney provide an analysis of the enforceability of the various implementation measures, to the extent those measures were mandatory.

Commissioner Nelson accepted the recommendations offered by Commissioner Castellanos and stated that would be his motion.

Chair Moore restated her understanding of Commissioner Nelson and Commissioner Castellanos’ motion, which was directing staff to come back with a plan on the greenhouse gas emission reductions to include overarching goals for emission reduction and adaptation; focus areas targeted to achieve the goals; and policies under each focus area.

Commissioner Nelson requested and received confirmation from Commissioner Castellanos that he seconded the motion with the modifications as stated.

Mr. Darbeau requested clarification regarding the Board’s direction to staff and sought clarity as to the “common framework” of the Board with regard to the matter

under discussion. He expressed concern regarding the adequacy of a timeframe of June 11, 2013 in which the Board requested staff return with the report. Mr. Darbeau concurred that a follow up workshop should be conducted taking into account the Commissioner discussion and as an effort to "come away" with a common framework by which staff executes the Board's direction.

Chair Moore reiterated her understanding of Commissioner Nelson's motion as follows: "...that the Board has a workshop in the June timeframe and then the other portion of the motion is to bring back a plan with respect to greenhouse gas."

Commissioner Nelson stated that would be his motion and offered to put forward two separate motions if preferred.

Commissioner Nelson restated his motion as follows: to adopt the three recommendations proposed by the Environmental Health Coalition, that includes future modifications and details - including costs, and adding language directing the Port Attorney to provide an analysis of the enforceability of the various implementation measures related to greenhouse gas reductions, to the extent those measures are mandatory. He also offered that the Board conducts another climate workshop in June 2013.

Mr. Giffen requested clarification regarding the Board's direction as to the matters the Commissioners preferred to address during the next workshop.

Commissioner Smith expressed concern regarding the motion and having enough time to develop an adequate understanding of the resources required to execute the motion and the subsequent Board direction. He further stated that \$500,000 had been allocated within the Environmental & Land Use Management budget for general studies.

Commissioner Malcolm acknowledged the concerns raised by Commissioner Smith regarding the costs and staff hours associated with the motion under consideration. He supported moving the greenhouse gas mitigation measures forward. In regard to the three requests from the Environmental Health Coalition, he offered that the language shown, "priority, enforceable mitigation measures were policy determinations with respect to what is mandatory, voluntary, legal, do-able, and cost effective." He stated that he did not want the motion to pre-suppose the Board was making a policy determination on any of those areas. He offered support for the direction requesting the Port Attorney's analysis. In the context of addressing the greenhouse gas emission reductions, Commissioner Malcolm queried as to whether the

process was being approached in a "piece-meal" fashion and expressed concern regarding impacts to the CMAP and to EIR and CEQA requirements.

Acknowledging the language presented; in light of the many of stakeholder communications that the Board received related to the matters discussed during the workshop; and due to the lateness of the day to adequately consider the motion, Commissioner Valderrama stated his preference was to provide staff the opportunity to assess the information they received and consider incorporating feedback from a variety of stakeholders in their recommendation. Thus, he stated he would oppose the motion.

Commissioner Nelson requested and received clarification from Mr. Darbeau regarding the work undertaken by staff to date related to the Board's direction regarding greenhouse gas reduction goals. He expressed concern regarding the progress made to date and encouraged senior leadership to move the process forward in an expeditious manner. In regard to the motion and the language provided by the Environmental Health Coalition, Commissioner Nelson concurred with Commissioner Malcolm's comments regarding Board policy matters. He offered that staff provides portions of the CMAP for review so that upon completion of the final document all efforts had been made to alleviate triggering a CEQA review.

Commissioner Castellanos acknowledged Commissioner Malcolm's comments regarding Board policies and Commissioner Nelson's remarks regarding CEQA review. He further acknowledged Commissioner Valderrama's statements encouraging staff to consider stakeholder feedback in a proposed implementation plan. He reiterated his desire to move forward in a "piece-meal" fashion and work toward achieving the goals that had been established related to greenhouse gas emission reductions.

Commissioner Merrifield acknowledged the discussion and requested and received clarification from Commissioner Nelson as to his expectations as to what progress would be anticipated by the June 2013 regular meeting.

Commissioner Smith acknowledged Commissioner Nelson's concerns regarding the progress made to date and cautioned moving forward in a "piece-meal" fashion to avoid any implications under CEQA requirements. He also recognized Commissioner Valderrama's remarks regarding review and consideration of the numerous stakeholder responses and recommendations that were received, thus he acknowledged the benefit of continuing the motion under consideration to the next workshop.

Chair Moore offered support for Commissioner Smith's recommendation to bring the matter back to the next workshop.

Commissioner Nelson expressed concern regarding delaying consideration of the motion to a future workshop.

Randa Coniglio, Executive Vice President – Operations, stated that the project in question was one in which staff had allocated resources to continue work on the climate action plan. She stated funds were budgeted and personnel assigned.

Chair Moore offered that in regard to the motion proposed, should direction be given to bring information back to the Board for further discussion it was reasonable to expect that more dialogue would take place and further direction could be provided. She requested that the Board begin with an assessment of the staff's proposal regarding the greenhouse gas emission reduction goals and mitigation measures as a draft plan.

Commissioner Malcolm called the question.

On a motion by Commissioner Nelson, seconded by Commissioner Castellanos, the Board adopted the motion in light of the Board's discussion as follows: Board adopted the three recommendations proposed by the Environmental Health Coalition. (The recommendations were as follows: Board direct staff to bring back an implementation plan to meet the GHG mitigation goals set last year, with details on specific, priority enforceable mitigation measures that are the most effective, based on all the analysis that's been done. 2. Board direct staff to monitor and report progress on tackling GHG emissions and adaptation annually, so we have an on-ramp for new strategies and an off-ramp for strategies that aren't working. 3. Board direct staff to make this document this plan an eligible CEQA tiering document, in order to give Port tenants, developers and the public a clear set of actions about what they need to do when new projects come forward.) Board directed the Port Attorney provide a legal analysis of mechanisms available to the District to create enforceable mitigation measures. Board directed staff to return at a future workshop with a draft plan regarding the greenhouse gas emission reduction component of the climate plan, including goals, focus areas, policies and implementation with performance metrics and associated costs for the Board's consideration, by the following vote: Yeas-Castellanos, Malcolm, Merrifield, Moore, Nelson, Smith, and Valderrama; Nays-none; Excused-None; Absent-None; Abstained-None.

As there were no other docketed matters for consideration, Chair Moore adjourned the workshop.

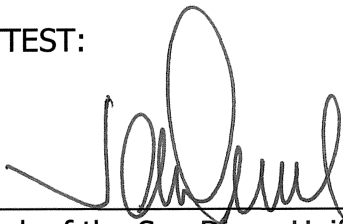
May 31, 2013

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Secretary, Board of Port Commissioners  
San Diego Unified Port District

ATTEST:

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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 Secretary Malcolm at 10:01 a.m., Tuesday, June 11, 2013, in the Board Room at 3165 Pacific Highway, San Diego, California.

**ROLL CALL**

Agenda Item 1.

Present: COMMISSIONERS, Castellanos, Malcolm, Merrifield, Smith, and Valderrama.

OFFICERS: Darbeau, DeAngelis, Deuel, Russell, and Stup

Absent: No Commissioners absent.

Excused: Commissioner Moore was excused until she arrived at 10:06 a.m.  
Commissioner Nelson was excused until he arrived at 10:06 a.m.

**PUBLIC COMMUNICATIONS**

Agenda Item 2. Bill Bruckner, Bruckner Law Firm, stated for the record that he was representing Khavari Construction, Inc. and addressed the Board regarding the proposed termination of the contract with Khavari Construction, Inc. as outlined in Closed Session Agenda Item 6.

**CLOSED SESSION**

Thomas Russell, 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

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



California Regional Water Quality Control Board, San Diego Region  
Tentative Cleanup and Abatement Order (CAO) No. R9-2012-0024

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 - INITIATION OF LITIGATION

Pursuant to Subdivision (c) of Government Code Section 54956.9

One case

Agenda Item 6.

CONFERENCE WITH LEGAL COUNSEL – INITIATION OF LITIGATION

Pursuant to Subdivision (c) of Government Code Section 54956.9

Termination of contract and initiation of litigation against Khavari Construction, Inc., and Hudson Insurance Group

Agenda Item 7.

CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION

Pursuant to Subdivision (a) of Government Code Section 54956.9

Davis v. San Diego Unified Port District, et al.

San Diego Superior Court Case No.: 37-2010-00101008-CU-OE-CTL

Agenda Item 8.

PUBLIC EMPLOYEE DISCIPLINE/DISMISSAL/RELEASE:

Government Code Section 54957

Discipline of Harbor Police Officer

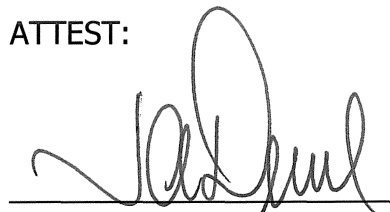
As requested by Chair Moore, Thomas Russell, Port Attorney, reported out regarding closed session. He announced that pursuant to Government Code Section 54956.9, the Board of Port Commissioners by a 7-0 vote directed staff to initiate litigation regarding Khavari Construction, Inc. against Hudson Insurance Group. Mr. Russell also stated for the record that Commissioner Castellanos had recused himself

from all discussion and decisions regarding Closed Session Agenda Item 7 in order to avoid any potential conflict related to his law firm.

There was no other formal or reportable action, pursuant to Government Code Section 54950 et seq to report from the closed session; whereupon, Chair Moore 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 Chair Moore at 1:10 p.m., Tuesday, June 11, 2013, in the Board Room at 3165 Pacific Highway, San Diego, California.

Chair Moore announced the meeting would be dedicated to Cathy Driscoll, who was important member of the Port family and would be dearly missed.

**ROLL CALL**

Agenda Item 1.

Present: COMMISSIONERS, Castellanos, Malcolm, Merrifield, Moore, Nelson, Smith, and Valderrama.

OFFICERS: Darbeau, DeAngelis, Deuel, Monson, Russell and Stup

Absent: No Commissioners absent.

Excused: No Commissioners excused.

Wayne Darbeau, Executive Director, announced that following the ceremonial swearing in of Commissioner Castellanos and Commissioner Merrifield, Karen Porteous, Executive Vice President – Administration would act in his absence.

**CEREMONIAL SWEARING IN**

Commissioner Castellanos and Commissioner Merrifield each introduced their family members and guests, respectively.

David Alvarez, San Diego City Council Member, ceremonially administered the oath of office to newly appointed City of San Diego Commissioner Rafael Castellanos.

Dr. D. Bruce Merrifield, former US Department of Commerce Undersecretary of Economic Affairs, ceremonially administered the oath of office to his son and newly appointed City of San Diego Commissioner Marshall Merrifield.

Chair Moore announced that the Board would take a 15-minute break to host a reception honoring Commissioner Castellanos and Commissioner Merrifield.

Chair Moore called the meeting back to order at 1:35 p.m.

## **PLEDGE OF ALLEGIANCE**

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

## **CLOSED SESSION**

Agenda Item 2. Thomas Russell, Port Attorney, reported that the Board considered the matters on the June 11, 2013 Closed Session Agenda. He announced that pursuant to Government Code Section 54956.9, the Board of Port Commissioners by a 7-0 vote directed staff to initiate litigation regarding Khavari Construction, Inc. against Hudson Insurance Group. Mr. Russell also stated for the record that Commissioner Castellanos had recused himself from all discussion and decisions regarding Closed Session Agenda Item 7, a Conference with Legal Counsel - Existing Litigation, Pursuant to Subdivision (a) of Government Code Section 54956.9, Davis v. San Diego Unified Port District, et al. San Diego Superior Court Case No.: 37-2010-00101008-CU-OE-CTL, in order to avoid any potential conflict related to his law firm. There was no other reportable action.

## **APPROVAL OF MINUTES**

Agenda Item 4. On a motion by Commissioner Smith, seconded by Commissioner Malcolm, the Board approved the minutes of the March 5, 2013 regular meeting, by the following vote: Yeas-Castellanos, Malcolm, Moore, Nelson, Smith, and Valderrama; Nays-None; Excused-Merrifield; Absent-None; Abstained-None.

## **PUBLIC COMMUNICATIONS**

Agenda Item 5. Sharon Cloward, President, San Diego Port Tenants Association, addressed the Board regarding an increase in working waterfront jobs benefitting the region and the District.

Ken Franke, President, Sportfishing Association of California, addressed the Board and thanked them for their support and the demonstration of leadership by participating in the delegation who recently visited Mexico City to address a number of regional business matters.

Megan Baehrens, Executive Director, San Diego Coastkeeper, was accompanied by Sophie Silvestri, Director - Operations, San Diego Port Tenants Association. Ms. Baehrens announced that during the World Oceans Day and Coastal Champion Awards 2013 held on June 4, 2013, the San Diego Port Tenants Association's Operation Clean Sweep event was recognized. They received a "Find & Fix" award for their bay-wide cleanup around the Port tidelands where thousands of volunteers were able to remove 48,000 pounds of waste in 2012 from nine different locations.

Commissioner Merrifield returned to the dais at 1:40 p.m.

## **COMMISSIONER REPORTS**

Agenda Item 6. Commissioner Smith reported out regarding the efforts made on behalf of the port at a recent trade mission to Antwerp, Belgium in which District representatives attended a conference that featured break bulk shipping. He discussed the sales calls made to cultivate business relationships.

Commissioner Merrifield discussed his experience at the American Port Association conference for new commissioners. He remarked on the opportunity to work with a diverse group of attendees and learn more about the maritime industry.

Chair Moore discussed attending the annual NYU International Hospitality Industry Investment Conference to generate awareness regarding investment opportunities on the Chula Vista Bay Front. She remarked on the nature of the conference and the number of international business professionals in attendance. Following meetings with industry representatives, she discussed the positive level of interest expressed in the project and remarked on the recovery in the tourism market.

## **PRESIDENT REPORT**

Agenda Item 7. Karen Porteous, Executive Vice President Administration, introduced the following staff members, who provided reports:

Michele Gannon, Director, Marketing and Communications, addressed the Board regarding the District's outreach efforts featuring the working waterfront and maritime related events. She announced the District was selected as the recipient of the International Association of Ports and Harbors Port Communications award in which the District was recognized with a Bronze Award for the Big Bay website. Ms. Gannon stated the American Association of Port Authorities recognized the District with awards for excellence for video production.

Jason Giffen, Director, Environmental & Land Use Management, announced the District and its many partners received the Coastal America Partnership Award on May 29, 2013, for the South San Diego Bay Restoration and Enhancement Project in which approximately 300 acres of salt marsh habitat was restored. Commissioner Malcolm accepted the award on behalf of the District.

John Bolduc, Vice President Homeland Security/Harbor Police Chief, addressed the Board regarding the following awards: Life Saving Award to Harbor Police Corporal David Marshall; Life Saving Award to Harbor Police Officer Jennifer MacMaster; Commendations for assisting the Harbor Police and the San Diego Police in a significant arrest to Steaven Ortega, Employee, Hornblower Cruises & Events; Rhonda Lockwood, Harbor Police Dispatcher, and Heather Lundstedt, Harbor Police Dispatcher; Life Saving Award to Anthony Scarcella, Life Saving Award to Michael Scarcella, Letter of Commendation to Harbor Police Officer David Ondus; Letter of Harbor Police Commendation Officer José Torre; and a Commendation to Jim Unger, Vice President & General Manager, Hornblower Cruises of San Diego.

## **DISTRICT CLERK'S ANNOUNCEMENTS**

Agenda Item 8. Chair Moore requested that Timothy Deuel, District Clerk, announce any suggested docket changes.

He announced the following docket changes for the Board's consideration: **Consent Agenda Item 10**, Resolution Granting Indemnity to the City of San Diego to allow the District to participate in the City, County, Port Consultant Rotation List, requested the item be continued to a future Board meeting; **Consent Agenda Item 20**, Resolution Selecting and Authorizing a Three (3) Year Agreement with Aztec Landscaping, Inc. for Janitorial Services for B Street Cruise Ship Terminal and the Port

Pavilion at Broadway Pier for an amount not to exceed \$375,000, staff requested the item be continued to a future Board meeting; **Consent Agenda Item 21**, Resolution Authorizing a Memorandum of Understanding between the District and the Regents of the University of California allowing the Regents to cover insurance and operational costs for the use, upkeep, and repair of District Vessel 7716, staff requested the item be continued to a future Board meeting; and **Action Agenda Item 42**, Presentation and direction to staff on the SANDAG Bayshore Bikeway Segment in National City, staff requested the item be continued to a future Board meeting.

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

## **CONSENT AGENDA**

Announcing that his law firm has a relationship with Sunroad, Commissioner Castellanos recused himself from voting on Consent Agenda Item 19A and 19B. On motion of Commissioner Smith, seconded by Commissioner Merrifield, the Board adopted Consent Agenda items 19A and 19B, (**Resolution 2013-98** and **Ordinance 2726**) by the following vote: Yeas-Malcolm, Merrifield, Moore, Nelson, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained- Castellanos.

Commissioner Smith remarked on **Consent Agenda Item 27**, a Resolution Adopting BPC Policy No. 130, Major Maintenance Program. He commended staff for their efforts regarding the matter, and offered that the proposed actions were "a step in the right direction."

Commissioner Smith remarked on **Consent Agenda Item 26**, a Resolution Approving a Proclamation Honoring Retiring City of Imperial Beach City Manager, Gary Brown, for his Service. He recognized Mr. Brown for his service to the community and offered his well wishes.

On motion of Commissioner Smith, seconded by Commissioner Merrifield, the Board adopted Consent Agenda items 9, 11, 12, 13, 14, 15A, 15B, 16A, 16B, 17, 18, 22, 23ABC, 24, 25, 26, 27, 28A, 28B and 29. (**Resolution 2013-90** through and including **Resolution 2013-94**; **Ordinance 2723**; **Resolution 2013-95** through and including **Resolution 2013-97**; **Ordinance 2724** through and including **Ordinance 2725**; **Resolution 2013-99** through and including **Resolution 2013-107**) by the following vote: Yeas-Castellanos, Malcolm, Merrifield, Moore, Nelson, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

Agenda Item 9. **Resolution 2013-90**, 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 10. **Item continued to a future Board meeting.**

Agenda Item 11. **Resolution 2013-91**, Selecting and Authorizing an Agreement with Planetbids, Inc. for Vendor and Bid Management Services from August 1, 2013 to July 31, 2023 in an amount not to exceed \$385,384 to continue facilitating electronic bidding for goods and public projects as a part of the District's ongoing effort to reduce costs through efficient and effective best management practices, was adopted as part of the consent agenda.

Agenda Item 12. **Resolution 2013-92**, authorizing Acceptance of Transportation Security Administration (TSA) FY08 Grant Award Modification #11 extending the grant performance period to 3/31/2014 and adding funds of \$158,737.04, increasing the cumulative grant total to \$1,338,737.04, 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 13. **Resolution 2013-93**, approving Agreements with outside legal counsel, Allen Matkins, Butz Dunn, Hunt Ortmann, and McKenna Long & Aldridge, in substantial form and delegating authority to Port Attorney to enter into agreements in excess of \$175,000 in a total amount not to exceed \$1,400,000, was adopted as part of the consent agenda.

Agenda Item 14. **Resolution 2013-94**, authorizing the President/CEO of the San Diego Unified Port District to Execute Agreements and Grant Indemnity to licensed waste disposal facilities for certification of disposal material, was adopted as part of the consent agenda.

Bay Club Hotel and Marina located at 2131 Shelter Island Drive in San Diego:

Agenda Item 15A. **Ordinance 2723**, granting a Lease with the Bay Club Hotel and Marina, LP, for 29-years, six-months, terminating December 31, 2042 for the previously completed Marina Redevelopment, was adopted as part of the consent agenda.



Agenda Item 15B. **Resolution 2013-95**, consenting to a \$6,000,000 loan between Riversource Life Insurance Co. and Bay Club Hotel and Marina, LP, Encumbering the Leasehold with conditions, was adopted as part of the consent agenda.

Marine Group Boat Works Building Relocation Project:

Agenda Item 16A. **Resolution 2013-96**, granting Concept Approval for Marine Group Boat Works, LLC for the relocation of a 27,145-square-foot building and associated improvements within the leasehold at 997 G Street in Chula Vista, with conditions, was adopted as part of the consent agenda.

Agenda Item 16B. **Resolution 2013-97**, authorizing Issuance of a Non-Appealable Coastal Development Permit, was adopted as part of the consent agenda.

Agenda Item 17. **Ordinance 2724**, granting a 66-Year Utility Easement to San Diego Gas and Electric Company for Subsurface Electrical Equipment located within the Tenth Avenue Marine Terminal at Water Street and East of the Crosby Street Pier, was adopted as part of the consent agenda.

Agenda Item 18. **Ordinance 2725**, accepting a 10-Year Lease from State of California, Department of Transportation (Caltrans) for surface parking for the Port Administration Building located at 3165 Pacific Highway in San Diego, was adopted as part of the consent agenda.

Sunroad Resort Marina at 955 Harbor Island Drive:

Agenda Item 19A. **Resolution 2013-98**, consenting to \$20,000,000 Loan between Compass Bank and Sunroad Marina Partners, LP dba Sunroad Resort Marina, with conditions, was adopted as part of the consent agenda.

Agenda Item 19B. **Ordinance 2726**, granting Amendment No. 9 to Lease with Sunroad Marina Partners, LP to update to current lease provisions, was adopted as part of the consent agenda.

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

Agenda Item 21. **Item continued to a future Board meeting.**

Agenda Item 22. **Resolution 2013-99**, Proclaiming Support for Increased Funding from the State of California for local coastal planning, was adopted as part of the consent agenda.

Agenda Item 23ABC. Resolution 2013-100, amending BPC (Board of Port Commissioners) Policy No. 640 to Authorize the Executive Director or the Port Attorney Authority to: A) Authorize the Executive Director or Port Attorney to Settle Claims against the District in an amount of \$50,000 or Less and Authorize the Executive Director and Port Attorney, if they are in concurrence, to Settle Claims of \$50,000 to \$100,000 or Less for any One Claim; B) Authorize the Executive Director or Port Attorney to Waive or Compromise Claims or Potential Claims by the District for a total amount over \$50,000 or Less and Authorize the Executive Director and Port Attorney, when they are in Concurrence, to Waive or Compromise Claims or Potential Claims by the District for Amounts Over \$50,000 to \$100,000 or Less and Approve Releases, Hold Harmless and Indemnity Provisions in Settlement Agreements as necessary and appropriate; and C) Authorize Executive Director or Port Attorney to Approve Agreements and Licenses for Information Technology Services for \$175,000 or Less that Contain Limitation of Liability and/or Indemnification Language for the Vendor, was adopted as part of the consent agenda.

Agenda Item 24. Resolution 2013-101, amending BPC Policy No. 023 to specify California Government Code Sections 6060 and 6061 as the legal authority for the District is Public Hearing Notices, was adopted as part of the consent agenda.

Agenda Item 25. Resolution 2013-102, selecting and Authorizing Purchase Agreement with Nexus IS Inc. for Switches & Fiber Optic Interfaces for connection to fiber optic infrastructure at various District facilities, funded by the California Port & Maritime Security Grant Program FY2008, was adopted as part of the consent agenda.

Agenda Item 26. Resolution 2013-103, approving a Proclamation Honoring Retiring City of Imperial Beach City Manager, Gary Brown, for his Service, was adopted as part of the consent agenda.

Agenda Item 27. Resolution 2013-104, adopting BPC Policy No. 130, Major Maintenance Program, was adopted as part of the consent agenda.

#### Regional Harbor Monitoring Program

Agenda Item 28A. Resolution 2013-105, authorizing a Memorandum of Understanding between the District and the City of San Diego, City of Oceanside, and County of Orange to share costs and implement the Regional Harbor Monitoring Program to evaluate the status and trends of water, sediments, and aquatic life in the region's harbors for a period of five years pursuant to Section 13225 of the California Water Code. The District will be reimbursed a five-percent administrative cost, was adopted as part of the consent agenda.

Agenda Item 28B. Resolution 2013-106, selecting and authorizing an Agreement with AMEC Environment and Infrastructure, Inc. to provide Regional Harbor Monitoring Program Services for an amount not to exceed \$1,525,000 for a period of five years. The District's contribution will be 56-percent of the overall agreement, was adopted as part of the consent agenda.

Agenda Item 29. Resolution 2013-107, Authorizing District Executive Director/CEO to waive the Purchase of Earthquake Insurance ("EQ") for the Convention Center, was adopted as part of the consent agenda.

## **ACTION AGENDA**

### **PRESENTATION AND UPDATE ON PASHA AUTOMOTIVE SERVICE'S PROPOSAL TO INCREASE OPERATIONS AT THE NATIONAL CITY MARINE TERMINAL**

### **PRESENTATION AND UPDATE ON GB CAPITAL HOLDINGS, LLC'S PROPOSED 20 ACRE DESTINATION VEHICLE RESORT IN THE NATIONAL CITY MARINA DISTRICT**

Agenda Item 33 and 34. Randa Coniglio, Executive Vice President – Operations; Joel Valenzuela, Director, Maritime Operations; Nick Markos, Senior Asset Manager, Real Estate; and Kelly Moden, Asset Manager, Real Estate, addressed the Board with presentations on Pasha Automotive Service's proposal to increase operations at the National City Marine Terminal and GB Capital Holdings, LLC's proposed 20 acre Destination Vehicle Resort in the National City Marina District. (A copy of the staff reports and presentations are on file in the Office of the District Clerk.)

The following members of the public addressed the Board with varying viewpoints regarding Action Agenda Item 33: Ron Morrison, Mayor, City of National City; John Pasha, Senior Vice President, Pasha Automotive Services (Pasha); Carolina Martinez, Environmental Health Coalition; Margarita Garcia, Environmental Health Coalition; Edith Maldonado, Environmental Health Coalition; Laura Hunter, Environmental Health Coalition; Mike Rookus, Corporate Operating Officer, Sycuan Tribal Development; Ivar Leetma, Developer, Marina Gateway Developer Co.; and Sean Howard, Director Port Business Development – PSW, BNSF Railway Co. (Margarita Garcia provided photographs of vehicles in her neighborhood which are on file in the Office of the District Clerk.)

The following members of the public addressed the Board with varying viewpoints regarding Action Agenda Item 34: Ron Morrison, Mayor, City of National City; Greg Boeh, General Manager, GB Capital Holdings; John Grimstad, Principal, Pier

32 Marina, who ceded his time to Mr. Boeh; and Sean Howard, Director Port Business Development – PSW, BNSF Railway Co. Mike Rookus, Corporate Operating Officer, Sycuan Tribal Development submitted a request to speak form but did not address the Board regarding the item.

Commissioner Castellanos left the dais at 2:55 p.m. and returned at 2:58 p.m.

Commissioner Nelson left the dais at 3:03 p.m. and returned at 3:08 p.m.

Commissioner Smith left the dais at 3:05 p.m. and returned at 3:10 p.m.

Commissioner discussion ensued. Commissioner Valderrama discussed Pasha's operational efficiencies and its economic benefit to the region. Acknowledging the increase in operations, he discussed the environmental impacts on residents in Old Town National City. He urged that the environmental condition of the area be addressed while improving efficiencies at Pasha Automotive Services. He strongly advocated for moving forward with consideration of the Pasha proposal and investigating a rail alternative to lot K. He discussed the opportunity provided via the G.B. Capital Holding proposal and offered a motion to direct staff to commence with a lease option negotiation with GB Capital Holding and to reconfirm the Board's direction from December 2012. Commissioner Valderrama discussed the expansion of Pasha's business and the importance of rail infrastructure; the BNSF property; and consideration of a "cost effective" solution versus only a "practical solution" as related to the tank farm improvements. He discussed the importance of maximizing capacity on the land available and requested that staff investigate building of a two-story facility to meet the tenant's goals.

Commissioner Malcolm seconded the motion.

Commissioner Castellanos requested and received clarification from Mr. Valenzuela regarding the status of Pasha's \$4 million capital improvement obligation, the project completion expectations, and the terms of the extension granted.

Mr. Valenzuela discussed the progress to date; next steps; and anticipated time frame in relation to the tank farm. Commissioner Castellanos requested and received clarification from Mr. Valenzuela regarding the proposed amendments to the Terminal Operator Agreement (TOA). Mr. Valenzuela also discussed staff's two-prong planned approach: in the short-term the tank farm matter and related environmental aspect would be addressed; and in the long-term, work on matters such as road closures or tenant relocation would continue.

Commissioner Castellanos requested that the outstanding issues be addressed in the TOA. He suggested that the concerns raised by the area residents, regarding the staging of commercial truck vehicle carriers on their streets, could be addressed when the TOA amendments are considered.

Mr. Valenzuela stated staff's plan was to return to the Board with a draft term sheet to address a number of issues, including the matters raised by the Environmental Health Coalition representatives.

Mr. Markos responded to the queries from Commissioner Castellanos regarding the time in which the tank farm project, the Environmental Health Coalition concerns, and the long-term reconfiguration consideration would be addressed. In light of the Board's discussion, Mr. Markos clarified the time line staff proposed, which included the submittal of a term sheet, the completion of the environmental review for the tank farm project, and the proposed amendment to the TOA.

Commissioner Malcolm thanked Commissioner Valderrama for his comments. He expressed concern regarding the time that had passed since the Statement of Interest and Qualification (SOIQ) was submitted by GB Capital for the Gateway Village project. He acknowledged Mayor Morrison, the residents of National City and the corporate stakeholders for recognizing the need for balance when considering the matters presented. Commissioner Malcolm acknowledged moving forward and compromising to accommodate the needs for Pasha, GB Capital, Sycuan Tribal Development, and the Environmental Health Coalition requests. Concerning road closures on District tidelands and changing land use designations, Commissioner Malcolm requested and received clarification from Anna Buzaitis, Associate Redevelopment Planner, Environmental & Land Use Management, regarding the process. Ms. Buzaitis discussed proposed land use changes for the matters under discussion, the time line and application process, and the California Coastal Commission consideration of a Port Master Plan Amendment. Commissioner Malcolm discussed the project presented in the SOIQ and recognized the developer would assess the feasibility of the project in light of re-designating land uses and fulfilling the land replacement requirements. He discussed coming away with a "win-win-win" and having all parties getting their wants and needs fulfilled out of the process.

Commissioner Nelson thanked Mayor Morrison and the residents of National City for their patience during the planning process. He recognized the current proposal and "the dramatic reduction in the incursion on maritime land." He received clarification from Commissioner Valderrama, regarding land acquired as port tidelands, subject to a Local Coastal Plan, which is under the jurisdiction of the City of National City and the management of rail lines operating on District property. Commissioner Nelson requested

and received clarification from Thomas Russell, Port Attorney, regarding the circumstances in which an environmental review would be required for an existing tenant's operation. Mr. Russell confirmed that amendments to a TOA were subject to California Environmental Quality Act (CEQA) review. Commissioner Nelson stated he was looking for the following: 1) measures to mitigate the visual, safety, air quality, and noise impacts on the existing visitor serving properties including the marina and the off-tidelands hotel located near the facility; 2) receiving a commitment regarding home porting the *Marjorie C*, Pasha's new vessel currently under construction.

Commissioner Smith thanked Commissioner Valderrama for his comments, discussed integrated planning issues, acknowledged Mayor Morrison, and reiterated Commissioner Malcolm's remarks regarding moving forward on projects in a timely manner. In an effort to move past the discussion phase, he offered support for the motion and urged moving forward with a work product.

Commissioner Merrifield recommended that all stakeholders work collaboratively; discussed initiating integrated planning; and moving forward with workable solutions that satisfy all the parties' needs.

Chair Moore thanked Mayor Morrison, the District's partners and Commissioner Valderrama. She offered that the matter under discussion was a practical example of the need for integrated planning. She encouraged the stakeholders to seek cooperation and balance. Chair Moore offered support for the Commissioner's discussion.

Commissioner Valderrama restated his motion as follows: "direct staff to pursue a lease option with GB Capital Holdings, with the understanding that there are obstacles that have to be overcome," and gives direction to start negotiating.

On a motion by Commissioner Valderrama, seconded by Commissioner Malcolm, the Board, directed staff to begin negotiations with GB Capital Holdings regarding a lease term option related to the project submittal titled Pier 32 Gateway Village Resort and Marina, by the following vote: Yeas-Castellanos, Malcolm, Merrifield, Moore, Nelson, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

Commissioner Castellanos left the dais at 3:58 p.m. and returned at 4:02 p.m.

## **PUBLIC HEARING**

### **CONDUCT A PUBLIC HEARING AND ADOPT AN ORDINANCE AMENDING THE SAN DIEGO UNIFIED PORT DISTRICT, PORT OF SAN DIEGO TARIFF NO. 1-G, RATES AND CHARGES, TO INCREASE CERTAIN RATES AND CHARGES AND UPDATE LANGUAGE**

Agenda Item 30. Joel Valenzuela, Director, Maritime Operations, addressed the Board regarding an Ordinance Amending the San Diego Unified Port District, Port of San Diego Tariff No. 1-G, Rates and Charges, to increase certain rates and charges and update language. (A copy of the staff report, presentation and letters are on file in the Office of the District Clerk.)

Chair Moore opened the public hearing.

As there were no members of the public who requested to speak, Chair Moore Closed the public hearing.

Commissioner discussion ensued. Commissioner Malcolm requested and received clarification from Mr. Valenzuela regarding setting prevailing market rates; and the tariff and wharfage rates comparing the District's to similar ports. Mr. Valenzuela offered that annually a line-by-line review of District rates is conducted and comparison rates are compiled based upon specific commodities. Regarding cost recovery, Commissioner Malcolm requested and received clarification from Mr. Valenzuela as to the direct linkage between tariffs and wharfage fees and the maintenance of the District's port infrastructure facilities. Commissioner Malcolm requested and received clarification from Mr. Valenzuela regarding the shore power electrical fee pass through to individual cruise line customers at the B Street Cruise Terminal, and the negotiations with Dole and SDG&E at the Tenth Avenue Marine Terminal. Commissioner Malcolm discussed the concept of cost recovery and encouraged pursuing all opportunities to recuperate facility improvement, maintenance, and operating expenses.

Commissioner Nelson left the dais at 4:04 p.m. and returned at 4:06 p.m.

On a single motion by Commissioner Nelson, seconded by Commissioner Smith, the Board adopted **Ordinance 2727** addressed the Board regarding Ordinance Amending the San Diego Unified Port District, 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-Castellanos, Malcolm, Merrifield, Moore, Nelson, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

**ACTION AGENDA CONTINUED****PRESENTATION OF THE SAN DIEGO UNIFIED PORT DISTRICT 2013 EMPLOYEE OF THE FIRST QUARTER**

Agenda Item 32. Michele Corbin, Director, Human Resources, addressed the Board with a presentation regarding the District Employee of the Quarter program. She announced that Joely Habib, Administrative Assistant II in the Environmental & Land Use Management Department and Lieutenant Kirk Nichols, Harbor Police Department, were nominated for Employee of the First Quarter. She turned the presentation over to Karen Porteous, Executive Vice President – Administration. (A copy of the staff report and presentation are on file in the Office of the District Clerk.)

Ms. Porteous announced that Ms. Habib was selected as the 2013 Employee of the 1st Quarter. Ms. Habib was cited for creating a contract tracking system to monitor the status of budgets, as well as contract end dates, which helps forecast the Request for Proposal process. In addition, she regularly provides content for large regulatory reports, pays invoices, and performs contract tracking, all while keeping the team organized with reminders and appointments. Chair Moore offered her congratulations on behalf of the District. (A copy of the staff report and presentation is on file in the Office of the District Clerk.)

Ms. Habib addressed the Board and thanked them for the recognition. She thanked her supervisor for the nomination and acknowledged her co-workers. She recognized the District administrative staff and her husband.

**PUBLIC HEARING CONTINUED****COST RECOVERY**

- A) CONDUCT PUBLIC HEARING AND ADOPT COST RECOVERY USER FEE SCHEDULE TO ORDINANCE 2720 (ATTACHMENT A).**
- B) RESOLUTION ESTABLISHING BOARD OF PORT COMMISSIONERS (BPC) POLICY NO. 106 - COST RECOVERY USER FEE POLICY**

Agenda Item 31. Timothy Deuel, District Clerk, announced that additional agenda related materials were received after the posting of the agenda and copies were available at the clerk's station. Bob DeAngelis, Chief Financial Officer/Treasurer, addressed the Board regarding the Cost Recovery User Fee Policy and schedule. (A copy of the staff report, presentation and additional agenda related materials are on file in the Office of the District Clerk.)



Chair Moore opened the public hearing.

The following members of the public addressed the Board with varying viewpoints regarding the Cost Recovery Program: Sharon Cloward, President, San Diego Port Tenants Association; Laura Hunter, Environmental Health Coalition; and Bill Bowers, Teamster Local 911. As there were no additional speakers, Chair Moore closed the public hearing.

Commissioner discussion ensued. Commissioner Smith acknowledged full cost recovery was a means to recover the costs of doing business, practice good governance, and stated that the constituents who "reap direct benefits" should bear the related overhead costs. He offered a motion to accept the staff recommendations regarding public hearing agenda items 31A and 31B. Commissioner Nelson seconded the motion.

Commissioner Nelson, Chair Moore, Commissioner Castellanos, Commissioner Malcolm, Commissioner Valderrama and Commissioner Merrifield discussed the following items: the draft policy language show in section 7 regarding User Fee Waivers, the legal defensibility of the proposed language regarding references to "public benefit," and the Board's discretion to determine conditions under which a waiver could be appropriate. During their comments, each Commissioner discussed the importance of implementing cost recovery to support the financial sustainability of the District. The Board thanked the port tenants for their efforts to work with staff and the Board to implement the program.

Commissioner Malcolm discussed the District's structural deficit. Regarding section 8, User Fee Dispute Resolution, he suggested that two appeals per year be authorized, and that appeals in excess of \$50,000 come before the Board. He offered support for implementing the cost recovery program.

Commissioner Smith amended his motion, to include the removal of section 7.a.1 from draft BPC Policy No. 106. Regarding Commissioner Malcolm's request to modify the language in section 8: 1) allowing an applicant to file two appeals per year and 2) allowing any appeal in excess of \$50,000 to come before the Board of Port Commissioners; Commissioner Smith offered that in an effort to make "data driven decisions," the Board move forward with the policy as proposed regarding section and 8a to 8d, and following its implementation and garnering a year's worth of data, the policy could be revised at the Board's discretion.

Commissioner Nelson seconded the motion as amended.

Chair Moore announced that an amendment to the motion to remove section 7.a.1 was offered and seconded.

Commissioner Smith discussed considering the motion on the floor and providing direction to staff to "clean up" the language in section 8 discussed by Commissioner Malcolm and return to the Board with the proposed modifications.

Commissioner Castellanos offered support for removing section 7.a.1 and modifying the number of appeals. Considering modifications to the motion and making amendments to the draft policy, he expressed concern regarding what he described as "foreclosing" on an idea and discussed incentivizing certain start-ups to bring innovative business ideas to the District.

Concerning the motion to strike section 7.a.1, Ellen Gross, Assistant Port Attorney, offered that the Board may wish to consider also striking 7.b as it referred to the section to be removed. Thomas Russell, Port Attorney, reviewed the proposed modifications regarding User Fee Waivers and offered that only waivers related to other government agencies shown as 7.2 in the draft policy would be considered.

Commissioner Smith offered that the motion be considered as stated and seconded, and to authorize staff to make necessary technical corrections to the remaining language in section 7 to implement the intent of the Board.

On a single motion by Commissioner Smith, seconded by Commissioner Nelson, the Board adopted the Cost Recovery User Fee Schedule to Ordinance 2720 and **Resolution 2013-108** Establishing Board of Port Commissioners (BPC) Policy No. 106 - Cost Recovery User Fee Policy and authorizing staff to make necessary technical corrections to the section 7 User Fee Waivers section to implement the intent of the Board, by the following vote: Yeas-Castellanos, Malcolm, Merrifield, Moore, Nelson, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

Commissioner Nelson left the dais at 5:10 p.m. and returned at 5:20 p.m.

Commissioner Nelson requested the Board be provided with a monthly reporting of any adjustments made through the appeal process, and expressed concern with any member of staff, including the Executive Director, being authorized to "write-off" or remove disputed user fees of \$50,000. He stated that a decision to grant an appeal in excess of \$50,000 would be required to come to the Board.

As an assessment tool that provides data regarding the effects of implementing the policy, Commissioner Malcolm concurred with the request for a monthly reporting of

appeals. He also discussed the appeal process and the three-member panel reviewing the appeals.

Commissioner Nelson offered a motion to amend the policy enacted and staff to provide the Board with a monthly report of any adjustments made through the appeal process, and that any appeal granted to remove disputed user fees in excess of \$50,000 would come before the Board for a final decision.

Commissioner Malcolm, Commissioner Nelson, Commissioner Smith, Commissioner Castellanos, Commissioner Valderrama, and Chair Moore discussed the following topics in relation to the motion on the floor: the matter of the appeal process; the dollar threshold in which staff is authorized to make a determination regarding appeals; the mechanism by which a person may appeal the decision and the three-member panel; approval authority levels; monthly transaction reporting; the final decision making body and sending all appeals to the Board; and the unknown amount of additional work required by the Board resulting from appeals.

Commissioner Nelson offered a motion to modify the language in section 8 of BPC Policy No. 106 to allow an applicant to file two appeals per year; disputes in excess of \$50,000 automatically come before the Board of Port Commissioners; and that a monthly report regarding any adjustments, made by staff pursuant to the policy, is distributed to the Board. Commissioner Castellanos seconded the motion.

Commissioner Smith and Commissioner Valderrama expressed their concerns regarding the motion and the proposed modifications to the appeal and dispute process so early into the implementation of the cost recovery program.

Commissioner Nelson withdrew his motion.

Mr. DeAngelis requested and received confirmation from Chair Moore that the Board approved item 31A during the previous motion and vote. Mr. Russell requested and received confirmation from Chair Moore regarding the motion, and she confirmed that 31A and 31B were considered and approved by action taken earlier in the meeting.

**ACTION AGENDA CONTINUED**

**RESOLUTION ADOPTING THE FINDINGS OF THE FINAL PROGRAM ENVIRONMENTAL IMPACT REPORT PREPARED BY THE CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD, SAN DIEGO REGION AND AUTHORIZING STAFF TO FILE THE NOTICE OF DETERMINATION FOR THE SAN DIEGO SHIPYARD SEDIMENT REMEDIATION PROJECT – NORTH SHIPYARD.**

**RESOLUTION ADOPTING THE FINDINGS OF THE FINAL PROGRAM ENVIRONMENTAL IMPACT REPORT PREPARED BY THE CALIFORNIA REGIONAL ADOPTING THE FINDINGS OF THE FINAL PROGRAM ENVIRONMENTAL IMPACT REPORT PREPARED BY THE CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD, SAN DIEGO REGION AND AUTHORIZING STAFF TO FILE THE NOTICE OF DETERMINATION FOR THE SAN DIEGO SHIPYARD SEDIMENT REMEDIATION PROJECT – SOUTH SHIPYARD.**

**SAN DIEGO SHIPYARD SEDIMENT REMEDIATION PROJECT – NORTH SHIPYARD:**

- A) RESOLUTION GRANTING CONCEPT APPROVAL TO BAE SYSTEMS SAN DIEGO SHIP REPAIR, INC. FOR THE SAN DIEGO SHIPYARD SEDIMENT REMEDIATION PROJECT – NORTH SHIPYARD.**
- B) RESOLUTION AUTHORIZING THE ISSUANCE OF A NON-APPEALABLE COASTAL DEVELOPMENT PERMIT**

**SAN DIEGO SHIPYARD SEDIMENT REMEDIATION PROJECT – SOUTH SHIPYARD:**

- A) RESOLUTION GRANTING CONCEPT APPROVAL TO NATIONAL STEEL AND SHIPBUILDING COMPANY, INC. FOR THE SAN DIEGO SHIPYARD SEDIMENT REMEDIATION PROJECT – SOUTH SHIPYARD.**
- B) RESOLUTION AUTHORIZING THE ISSUANCE OF A NON-APPEALABLE COASTAL DEVELOPMENT PERMIT**

Agenda Items 35, 36, 37 and 38. Randa Coniglio, Executive Vice President Operation, addressed the Board and announced that staff required further consideration of some elements of the Coastal Development Permit and requested the Board consider continuing items 35, 36, 37 and 38 to allow for additional stakeholder discussion. (Copies of the staff reports are on file in the Office of the District Clerk.)

Chair Moore acknowledged the staff's request to continue the matter.

Commissioner Valderrama offered support for the staff recommendation and requested Chair Moore's consideration that the members of the public present, who submitted request to speak forms, be polled as to whether they wished to speak on the new staff recommendation, to continue the item.

The following members of the public submitted request to speak form, however in light of the staff request to continue the items, they did not address the Board: Shaun Halvax, Environmental Manager, BAE Systems; David Alvarez, Councilmember, City of San Diego; Michael Tracy, Attorney, DLA Piper for BAE Systems; Laura Hunter, Environmental Health Coalition; Mike Chee, Environmental Manager, National Steel and Shipbuilding Company, Inc. (NASSCO), Jeff Carlin, National Steel and Shipbuilding Company, Inc. (NASSCO), and Courtney Cole, Student Attorney, San Diego Coastkeeper.

On a motion by Commissioner Malcolm, seconded by Commissioner Smith, the Board with single vote continued action agenda items 35, 36, 37 and 38 to a future meeting as determined by staff, by the following vote: Yeas-Castellanos, Malcolm, Merrifield, Moore, Nelson, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

Commissioner Castellanos left the dais at 5:07 p.m. and returned at 5:10 p.m.

**RESOLUTION ADOPTING BOARD OF PORT COMMISSIONERS (BPC) POLICY NO. 090 - TRANSFER BETWEEN OR WITHIN APPROPRIATED ITEMS IN BUDGET**

Agenda Item 39. Robert Monson, Port Auditor, addressed the Board with a presentation regarding a Resolution Adopting Board of Port Commissioners (BPC) Policy No. 090 - Transfer between or within appropriated items in budget. He requested the Board consider staff's request to modify the policy in the following manner: regarding section 2.C –Rules for Transfers within Appropriated Items, staff requested the Board consider eliminating the reference to "or designee" in the passage to read, "Transfer of amounts within each appropriated item requires approval of the Executive Director." He explained that should the Executive Director be officially absent the Executive Vice President would serve as Executive Director and exercise powers pursuant to BPC Policy No. 30. (A copy of the staff report is on file in the Office of the District Clerk.)

On a single motion by Commissioner Valderrama, seconded by Commissioner Smith, the Board adopted **Resolution 2013-109** Adopting Board of Port Commissioners (BPC) Policy No. 090 - Transfer between or within appropriated items in budget, Rates and Charges, to increase certain rates and charges and update language, with the proposed amendment, by the following vote: Yeas-Malcolm, Merrifield, Moore, Nelson, Smith, and Valderrama; Nays-None; Excused-Castellanos; Absent-None; Abstained-None.

Commissioner Valderrama left the dais at 5:35 p.m. and returned at 5:37 p.m.

**ORDINANCE AMENDING THE FY 12/13 BUDGET AS FOLLOWS:**

- A) AMEND THE FY 12/13 OPERATING BUDGET — INCREASING THE OPERATING BUDGET BY \$4.7 MILLION BY TRANSFERRING FUNDS FROM THE OPERATING RESERVES.**
- B) AMEND THE FY 12/13 CAPITAL IMPROVEMENT PROGRAM AND THE FY 12/13 OPERATING BUDGET—DECREASING THE CAPITAL IMPROVEMENT PROGRAM BY \$182,000 AND INCREASING THE OPERATING BUDGET BY \$182,000.**
- C) AMEND THE FY 12/13 MAJOR MAINTENANCE (MM) CAPITAL BUDGET AND THE MM EXPENSE BUDGET DECREASING THE MM EXPENSE PROJECT BY \$700,000 AND INCREASING THE MM CAPITAL BUDGET BY \$700,000.**

Agenda Item 40. Robert Monson, Port Auditor addressed the Board and requested the Commissioners consider adopting an ordinance amending the FY 12/13 budget per the staff recommendation. (A copy of the staff report, presentation and letters are on file in the Office of the District Clerk.)

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

Commissioner Smith expressed concerns regarding the actions under consideration and expressed reservations regarding balancing the budget with reserve funds.

Timothy Deuel, District Clerk, announced that copies of the memorandum Commissioner Nelson submitted to the Board were available at the Clerk's station.

Commissioner Nelson discussed the matter of amending the FY 12/13 Budget and utilizing reserve funds; thus, he offered an additional motion in light of the action under consideration. He requested adding the following language: that the Board acknowledges waiver of BPC Policy No. 730 and provide that in future years as and if

the Port generates a surplus enabling the Board to fully fund and maintain the Operating Reserve pursuant to BPC Policy No. 117, the District shall reclassify \$2.5 million from the surplus into the Environmental Fund; that the Board acknowledges waiver of BPC Policy No. 609 and provide that in future years as and if the Port generates a surplus enabling the Board to fully fund and maintain the Operating Reserve pursuant to BPC Policy No. 117, the District shall reclassify \$1 million from the surplus into the Public Art Fund; and that the Board acknowledges how revenues were forecast for FY 2012-13 and resolves that insurance payments, reimbursement of attorney fees, legal settlements/verdicts, or disputed invoices by the District for services rendered shall not be a basis for revenue assumptions for future fiscal years; and base future year budgets on undisputed revenues from services rendered.

Commissioner Merrifield, Commissioner Malcolm, Commissioner Valderrama, Commissioner Smith, and Commissioner Castellanos remarked on the three recommendations offered by Commissioner Nelson in the context of the staff recommendation proposed. A discussion among the Board included the following matters: the use of reserve funds to balance the budget; cataloguing transactions or relationships that obligate the District to major maintenance or capital improvement projects; addressing the sources of cash and the uses of cash as the organization evolves; conducting quarterly budget workshops; unanticipated things that resulted in the current budget year results; acknowledging the Board's authority to waive BPC Policy No. 730; establishing a contingency fund; solving the organization's structural problems; regarding the replenishment of the "named funds" with future revenue surpluses; concerns were expressed regarding "binding" a future Board's decision; waiving BPC Policy No. 117; providing future Board's with a "sense" of what the Commissioner's felt; expressed concern with "fenced" monies and limiting flexibility during economic downturns; increasing the frequency of communicating budget execution data to the Board; consider policies in which automatic "step ups" are included when considering establishing any new set-aside funds; the "ethical concept" of "promises made, promises kept," and openly communicating to stakeholders the steps taken to remedy situations; and the level of reserves necessary in proportion to unfunded liabilities and potential unfunded mandates; and use of the term surplus.

Commissioner Malcolm offered a motion to approve staff recommendation for action agenda item 40ABC, however that motion was offered earlier in the discussion.

Commissioner Smith discussed the concept of placing revenues, in excess of expenses, into a "sinking fund" and utilizing that as a source for capital expenditures. He remarked on the Board's consideration of where any future "revenues in excess of expenses" should be allocated in the years to come.

Commissioner Valderrama acknowledged the motion on the floor, discussed replenishing the major maintenance fund, and requested that the Board consider the matter before them, and, if desired, another motion may be offered regarding the additional language proposed by Commissioner Nelson.

On a motion by Commissioner Nelson, seconded by Commissioner Smith, the Board adopted **Ordinance 2728** Amending the FY 12/13 Budget as follows: A) Amend the FY 12/13 Operating Budget — Increasing the Operating Budget by \$4.7 million by transferring funds from the Operating Reserves; B) Amend the FY 12/13 Capital Improvement Program and the FY 12/13 Operating Budget—Decreasing the Capital Improvement Program by \$182,000 and increasing the Operating Budget by \$182,000; C) Amend the FY 12/13 Major Maintenance (MM) Capital Budget and the MM Expense Budget decreasing the MM Expense Project by \$700,000 and increasing the MM Capital Budget by \$700,000, by the following vote: Yeas-Castellanos, Malcolm, Merrifield, Moore, Nelson, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

As a means of openly communicating the Board's actions to members of the public, and in acknowledgement of the stakeholder input on the budget related actions under consideration, Commissioner Nelson offered a motion to include the additional language proposed. He acknowledged the concerns with the use of the term "surplus," and offered that any reference to "surplus" be changed to "revenues in excess of expenditures." He proposed adding the following language, in an appropriate form, to the prior actions taken by the Board: 1) that the Board acknowledges its waiver of BPC Policy No. 730 and provide that in future years as and if the Port generates revenues in excess of expenditures enabling the Board to fully fund and maintain the Operating Reserve pursuant to BPC Policy No. 117, the District shall reclassify \$2.5 million from the revenues in excess of expenditures into the Environmental Fund; 2) that the Board acknowledges its waiver of BPC Policy No. 609 and provide that in future years as and if the Port generates revenues in excess of expenditures enabling the Board to fully fund and maintain the Operating Reserve pursuant to BPC Policy No. 117, the District shall reclassify \$1 million from the revenues in excess of expenditures into the Public Art Fund; and that the Board acknowledges how revenues were forecast for FY 2012-13 and 3) the Board resolves that insurance payments, reimbursement of attorney fees, legal settlements/verdicts, or disputed invoices by the District for services rendered shall not be a basis for revenue assumptions for future fiscal years; and base future year budgets on undisputed revenues from services rendered.



Commissioner Smith offered the motion would reflect the "sense of the Board" via the language proposed and take the form of a non-binding resolution. Thus, he seconded the motion.

On a motion by Commissioner Nelson, seconded by Commissioner Smith, the Board resolved to recognize the memorandum, dated June 11, 2013 submitted by Commissioner Bob Nelson, expresses in concept the sense of the Board; by the following vote: Yeas-Castellanos, Malcolm, Merrifield, Moore, Nelson, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

Timothy Deuel, District Clerk, announced that additional agenda related materials were received after the posting of the agenda and copies were available at the clerk's station. He stated that copies of the second document, Commissioner Nelson submitted to the Board, were also available at the Clerk's station

#### **FY 13/14 PRELIMINARY BUDGET**

**A) RESOLUTION ADOPTING THE FY 13/14 PRELIMINARY BUDGET AND SETTING THE DATE FOR PUBLIC HEARING ON THE BUDGET AS JULY 16, 2013.**

**B) ORDINANCE FOR INTERIM APPROPRIATION OF FUNDS NECESSARY FOR THE CONTINUED OPERATIONS OF THE DISTRICT UNTIL THE FINAL FY 13/14 BUDGET IS ADOPTED.**

Agenda Item 41. Bob DeAngelis, Chief Financial Officer/Treasurer, addressed the Board regarding the FY 13/14 Preliminary Budget and requested the Board consider an Ordinance for an interim appropriation of funds necessary for the continued operations of the District until the adoption of the final FY 13/14 Budget. (A copy of the staff report, presentation and letters are on file in the Office of the District Clerk.)

Chair Moore left the dais at 6:15 p.m. and returned at 6:20 p.m.

The following members of the public addressed the Board with varying viewpoints: Larry Baza, Art Gallery Owner, City of San Diego Commission for Arts and Culture and District Public Art Committee member; David White, Chair, District Public Art Committee; Constance Y. White, Art Program Manager, San Diego International Airport; Laura Hunter, Environmental Health Coalition; Bill Bowers, Union Rep Designee, Teamsters Local 911; and Alessandra Moctezuma, City of San Diego Commission for Arts and Culture and District Public Art Committee Member, submitted a request to speak form but did not address the Board. Mr. Baza presented a copy of the City of San Diego Commission for Arts and Culture 2011 Economic Impact Report, titled More Arts

& Culture: Putting Creativity to Work in San Diego The 2011 Economic & Community Impact of 68 Nonprofit Arts & Culture Organizations in San Diego. (A copy of the report is on file in the Office of the District Clerk.)

Commissioner discussion ensued. Commissioner Smith offered a motion to accept the staff recommendations. He remarked on the evolving nature of a budget; acknowledged three changes to the organization's structure; discussed achieving revenue targets and the increases in operating expenses; proposed the Board revisit the public art program to clearly communicate next steps, philosophies and funding; and acknowledged the challenges presented when considering the cost cutting measures necessary for balancing the FY 13/14 Preliminary Budget. He thanked everyone for their hard work.

Commissioner Valderrama seconded the motion.

Commissioner Nelson thanked the District's workforce and the Board acknowledged their sacrifices made in order to meet the Board's expectations and continue the work of the District. He expressed concern regarding the reallocation of funds from the Public Art Fund and accessing operating reserves to balance the budget. Commissioner Nelson discussed the benefits of refinancing the District's debt under favorable circumstances and the related long-term savings that could benefit the agency. In that the District has no source of underlying tax base revenues, he discussed the importance of controlling costs, managing for increases in pension expenses and generating revenues.

Commissioner Merrifield requested and received clarification from Mr. DeAngelis regarding debt refinancing. He recognized the opportunities to generate revenues, the potential benefits of cost recovery, and consolidating personnel costs. Commissioner Merrifield restated the need for reporting sources of additional unbudgeted revenues during the quarterly budget reviews. He thanked staff for their efforts.

Commissioner Valderrama also thanked staff for their efforts and acknowledged the actions taken in the past to mitigate increases in personnel related expenses. He recognized the speakers who address the Board regarding the public art program and acknowledged the challenges faced during the current budget cycle. He offered support for the motion. Commissioner Valderrama acknowledged the need to address the structural deficit challenges and the direction to senior leadership to return to the Board in six months with recommendations to address the organization's structural challenges. He recognized the Board's fiduciary responsibilities and taking the necessary budget related action to ensure the organization's long-term financial viability.

Commissioner Malcolm discussed the measures required to put forward a balanced budget. He acknowledged the Board's "power," on behalf of the agency, to implement taxation and expressed concern regarding doing so. He reiterated his concerns regarding the importance of solving the structural deficit challenges to ensure fiscal sustainability. He stated that without fiscal sustainability then programs such as public art, environmental stewardship programs and new projects would not be viable. He recognized the stakeholders who spoke in support of the public art program. Commissioner Malcolm concluded by stating the first priority was to resolve the organization's structural deficit.

Chair Moore thanked staff and acknowledged the comments offered by the Board. She discussed the implementation of the cost recovery program as a first step toward addressing the structural deficit problem.

On a single motion by Commissioner Nelson, seconded by Commissioner Smith, the Board adopted **Resolution 2013-110** Adopting the FY 13/14 Preliminary Budget and setting the date for a Public Hearing on the budget as July 16, 2013 and **Ordinance 2729** for Interim Appropriation of funds necessary for the continued operations of the District until the final FY 13/14 Budget is adopted, by the following single vote: Yeas-Castellanos, Malcolm, Merrifield, Moore, Nelson, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

In relation to the adoption of the preliminary budget, Commissioner Nelson discussed two proposals. First, he offered a motion to adopt a non-binding sense of the Board resolution acknowledging the Board's waiver of BPC Policy No. 609 and provide that in future years as and if the Port generates revenues in excess of expenses thus enabling the Board to fully fund and maintain the Operating Reserve pursuant to BPC Policy No. 117, the District shall reclassify \$2.1 million from the excess into the Public Art Fund; and acknowledges the Board's waiver of BPC Policy No. 730 and provide that in future years as and if the Port generates revenues in excess of expenses enabling the Board to fully fund and maintain the Operating Reserve pursuant to BPC Policy No. 117, the District shall reclassify \$524,000 from the excess into the Environmental Fund.

Commissioner Castellanos second the motion.

Commissioner Smith discussed his expectations regarding the scheduling of previous mid-year budget reviews and what he characterized as a quarterly budget update. He requested staff provide a simplified form showing the Board the status of the execution of the budget to date on both the revenue and expense sides of the ledger.

On a motion by Commissioner Nelson, seconded by Commissioner Castellanos, the Board adopted **Resolution 2013-111** to recognize the memorandum, dated June 11, 2013 titled Agenda Item #41, Resolution Adopting the FY 13-14 Preliminary Budget submitted by Commissioner Bob Nelson, expressing in concept the sense of the Board as follows: acknowledging the Board's waiver of BPC Policy No. 609 and provide that in future years as and if the Port generates revenues in excess of expenses thus enabling the Board to fully fund and maintain the Operating Reserve pursuant to BPC Policy No. 117, the District shall reclassify \$2.1 million from the excess into the Public Art Fund; and acknowledges the Board's waiver of BPC Policy No. 730 and provide that in future years as and if the Port generates revenues in excess of expenses enabling the Board to fully fund and maintain the Operating Reserve pursuant to BPC Policy No. 117, the District shall reclassify \$524,000 from the excess into the Environmental Fund; by the following vote: Yeas-Castellanos, Malcolm, Merrifield, Moore, Nelson, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

Commissioner Nelson discussed the second portion of his memorandum dated June 11, 2013 titled Agenda Item #41, Resolution Adopting the FY 13-14 Preliminary Budget. He offered that A) more vigorous Board governance was required to regularly track progress on budgeted revenues and expenses and to take timely action to prevent an operating deficit from occurring in FY 13-14; B) that prior to the April 2014 regular Board meeting new revenue streams and/or expense reductions are identified to achieve a balanced budget for FY 14-15 without use of reserves; and C) prior to the May 2014 regular Board meeting five-year revenue and expense model is presented for the Board's consideration to ensure zero deficit budgets for those future years. Thus, he offered a motion, in connection with the adoption of the FY 13-14 budget, that the Board charge the Audit Committee with the tasks identified above and beginning with the October 8, 2013 regular Board meeting, the Audit Committee reports to the Board on the assumptions being made, to the extent they are being realized or not; and to meet with the Board Chair to designate an Audit Committee member who is enabled to draw on reasonable staff resources to implement the course of action; and provide trial balance-like quarterly progress reports to the Board.

Commissioner Malcolm seconded the motion. He acknowledged the intent of the motion and believed it was a means to address the structural deficit issue and for putting infrastructure in place to identify and work on budget matters.

On a motion by Commissioner Nelson, seconded by Commissioner Castellanos, the Board adopted the second part of **Resolution 2013-111** in connection with the adoption of the FY 13-14 budget, that the Board charge the Audit Committee with the tasks identified in the memorandum submitted by Commissioner Nelson dated June 11,

2013, titled Agenda Item #41, and the adoption of the FY 13-14 Preliminary Budget, beginning with the October 8, 2013 regular Board meeting the Audit Committee will provide reports to the Board on the assumptions being made, to the extent they are being realized or not; and the Board Chair will meet with their designated Audit Committee member who was enabled to draw on reasonable staff resources to implement a course of action; and to provide trial balance-like quarterly progress reports to the Board; by the following vote: Yeas-Castellanos, Malcolm, Merrifield, Moore, Nelson, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

#### **PRESENTATION AND DIRECTION TO STAFF ON THE SANDAG BAYSHORE BIKEWAY SEGMENT IN NATIONAL CITY**

Agenda Item 42. Item continued to a future Board meeting.

#### **REVIEW AND CONSIDERATION OF PROPOSED BOARD AGENDA FOR THE JULY 16, 2013 MEETING**

Agenda Item 43. Commissioner discussion ensued. Reflecting on the current meeting's agenda, Commissioner Smith expressed concern regarding the number of modifications made from the approved draft agenda and the final published agenda. He requested minimizing "churn" in an effort to assist the Board in bringing its focus to bear.

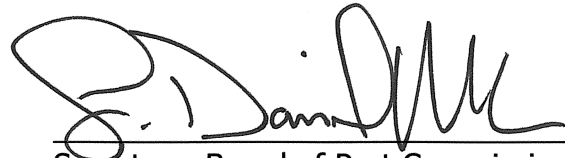
On motion of Commissioner Nelson, seconded by Commissioner Smith, the Board adopted the proposed agenda for the meeting of July 16, 2013, by the following vote: Yeas-Castellanos, Malcolm, Merrifield Moore, Nelson, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

#### **OFFICER'S REPORT**

Agenda Item 44. In accordance with BPC Policy No. 110, the following change orders, executed by the Executive Director or designee, were reported:

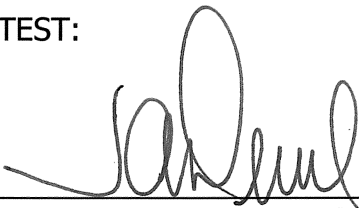
- A) Change Order No. 9 to Contract No. 2009-13 / Increases Contract by \$314,373.06 with USS Cal Builders, Inc. for North Embarcadero Visionary Plan Phase 1, San Diego, California
- B) Change Order No. 10 to Contract No. 2009-13 / Increases Contract by \$571,050.00 & 243 Calendar Day Time Extension thru 05/14/14 with USS Cal Builders, Inc. for North Embarcadero Visionary Plan Phase 1, San Diego, California

- C) Unilateral Change Order No. 2 to Contract No. 2011-27 / Increases Contract by \$13,288.00 with Khavari Construction, Inc. for Imperial Beach Pier Deck Refurbishment, Imperial Beach, California
- D) Change Order No. 1 to Contract No. 2011-29 / 14 Calendar Day Time Extension thru 06/03/13 with Daryl Griffis Acoustics, Inc. for Don L. Nay District Administration Building, First Floor Lobby (Room 101) Ceiling Repair, San Diego, California
- E) Change Order No. 1 to Contract No. 2011-31 / 39 Calendar Day Time Extension thru 08/08/13 with Marina Landscape, Inc. for Harbor Island Water Conservation Landscape Improvements, San Diego, California
- F) Change Order No. 2 to Contract No. 2012-13 / Increases Contract by \$5,000.00 & 8 Calendar Day Time Extension thru 04/30/13 with Kinsman Construction, Inc. for Point Loma – America's Cup Harbor Pier 4 Upgrade, San Diego, California

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Secretary, Board of Port Commissioners  
San Diego Unified Port District

ATTEST:

A handwritten signature in black ink, appearing to read "S. I. Sam...".

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 Chair Moore at 9:02 a.m., Monday, July 15, 2013, at the Coronado Community Center, Nautilus Room, 1845 Strand Way, Coronado, California.

**ROLL CALL**

Agenda Item 1.

Present: COMMISSIONERS Castellanos, Malcolm, Merrifield, Moore, Nelson, Smith, and Valderrama.

OFFICERS: Darbeau, DeAngelis, and Russell.

Absent: No Commissioners absent.

Excused: No Commissioners excused.

**PUBLIC COMMUNICATIONS**

Agenda Item 2. None.

**TEAM BUILDING RETREAT**

Agenda Item 3. Chair Moore welcomed the Board and the Executive Leadership Group (ELG) to the retreat and introduced Steve Alexander, the Steve Alexander Group, as the facilitator for the retreat.

Mr. Alexander reviewed the retreat agenda, purpose, and objectives. The Board and ELG discussed the District's mission, vision, and goals. The Commissioners and staff identified and discussed areas that are working well in addition to the areas that could work better. (Copies of the handouts are on file in Office of the District Clerk.)



Chair Moore acknowledged the Board, the ELG, and staff for their efforts. She thanked Mr. Alexander for his role during the retreat and then adjourned the open session of the meeting at approximately 3:05 p.m.

## **CLOSED SESSION**

Thomas Russell, Port Attorney, announced the closed session agenda as follows:

### Agenda Item 4.

#### CONFERENCE WITH LABOR NEGOTIATOR

Government Code Section 54957.6

District Negotiator: Executive Director

Employee Organizations:

Harbor Police Officers Association; California Teamsters, Public Professional & Medical Employees Union Local 911, Service, Maintenance, Operations and Crafts Unit; California Teamsters, Public Professional & Medical Employees Union Local 911, Non-Sworn Safety Personnel Unit; California Teamsters, Public Professional & Medical Employees Union Local 911, Supervisory Unit; Unrepresented Employees; Executive Director; Port Attorney

### Agenda Item 5.

#### CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION

Pursuant to Subdivision (d)(1) of Government Code Section 54956.9:

*Theresa Marie Hopkins, et al. v. San Diego Unified Port District, et al.*  
San Diego Superior Court Case No.: 37-2012-00090479-CU-PO-CTL

### Agenda Item 6.

#### CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION

Pursuant to Subdivision (d)(1) 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 7.

CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION

Significant exposure to litigation pursuant to Subdivision (d)(2) of Government Code Section 54956.9

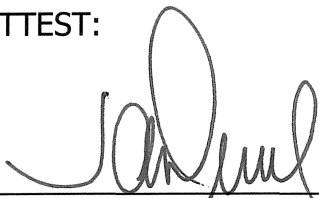
One Case

Port Attorney Russell reported that during the closed session the Board considered the items on the closed session agenda but took no reportable action; whereupon, Chair Moore adjourned the meeting.

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Secretary, Board of Port Commissioners  
San Diego Unified Port District

ATTEST:

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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 Chair Moore at 10:04 a.m., Tuesday, July 16, 2013, in the Board Room at 3165 Pacific Highway, San Diego, California.

**ROLL CALL**

Agenda Item 1.

Present: COMMISSIONERS, Castellanos, Malcolm, Merrifield, Moore, Smith, and Valderrama.

OFFICERS: Darbeau, DeAngelis, Nicholson, Russell, and Stup

Absent: No Commissioners absent.

Excused: Commissioner Nelson was excused until he arrived at 10:06 a.m.

**PUBLIC COMMUNICATIONS**

Agenda Item 2. None.

**CLOSED SESSION**

Thomas Russell, Port Attorney, announced that Board of Port Commissioners would only be hearing Closed Session Agenda Items 3, 4, 5, 6, 7, and 11 from the published agenda for the July 16, 2013 special meeting. He stated, for the record, that Agenda Items 8, 9, and 10 from the published agenda for the July 16, 2013 special meeting were heard by the Board of Port Commissioners at the July 15, 2013 special meeting as previously posted:

Agenda Item 3.

CONFERENCE WITH REAL PROPERTY NEGOTIATOR  
Government Code Section 54956.8

Property: Approximately 116 acres of tidelands area located at the National City Marine Terminal in National City, California

Negotiating Parties: John Pasha, Pasha Automotive Services  
Randa Coniglio, Jason Giffen, Joel Valenzuela, Kristine  
Zortman, Nick Markos, SDUPD

Under Negotiation: Price and Terms

Agenda Item 4.

CONFERENCE WITH REAL PROPERTY NEGOTIATOR  
Government Code Section 54956.8

Property: Approximately 20 acres of tidelands area located at  
Marina Way and 32<sup>nd</sup> Street in National City, California

Negotiating Parties: Greg Boeh, GB Capital Holdings, LLC  
Randa Coniglio, Jason Giffen, Kristine Zortman, Kelly  
Moden, SDUPD

Under Negotiation: Price and Terms

Agenda Item 5.

CONFERENCE WITH REAL PROPERTY NEGOTIATOR  
Government Code Section 54956.8

Property: The Bay Café consisting of approximately 2,400 square  
feet of building area located at 1050 N. Harbor Drive,  
San Diego and the NEVP Café consisting of approximately  
750 square feet of land to be located within the NEVP  
Phase 1 project area

Negotiating Parties: Brad Engel, Vice President, Star & Crescent Boat  
Company dba Flagship Cruises & Events  
Randa Coniglio, Shaun D. Sumner, SDUPD

Under Negotiation: Price and Terms

Agenda Item 6.

CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION  
Pursuant to Subdivision (d)(1) 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

California Regional Water Quality Control Board, San Diego Region  
Cleanup and Abatement Order (CAO) No. R9-2012-0024

Agenda Item 7.

CONFERENCE WITH LEGAL COUNSEL - INITIATION OF LITIGATION  
Pursuant to Subdivision (d)(4) of Government Code Section 54956.9

Five Cases

Agenda Item 8.

CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION  
Pursuant to Subdivision (d)(1) of Government Code Section 54956.9:

*Theresa Marie Hopkins, et al. v. San Diego Unified Port District, et al.*  
San Diego Superior Court Case No.: 37-2012-00090479-CU-PO-CTL

Agenda Item 9.

CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION  
Pursuant to Subdivision (d)(1) 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 10.

CONFERENCE WITH LABOR NEGOTIATOR

Government Code Section 54957.6

District Negotiator: Executive Director

Employee Organizations:

Harbor Police Officers Association; California Teamsters, Public Professional & Medical Employees Union Local 911, Service, Maintenance, Operations and Crafts Unit; California Teamsters, Public Professional & Medical Employees Union Local 911, Non-Sworn Safety Personnel Unit; California Teamsters, Public Professional & Medical Employees Union Local 911, Supervisory Unit; Unrepresented Employees; Executive Director; Port Attorney

Agenda Item 11.

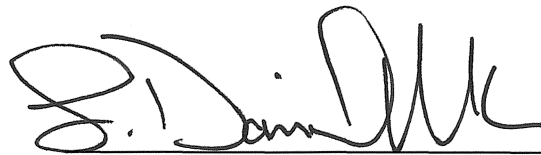
CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION

Significant exposure to litigation pursuant to Subdivision (d)(2) of Government Code Section 54956.9

Two Cases

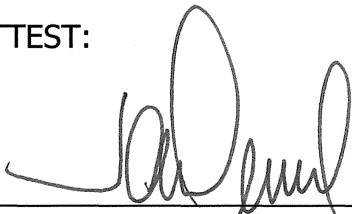
As requested by Chair Moore, Thomas Russell, Port Attorney, reported out regarding closed session. He announced that the Board of Port Commissioners had authorized an administrative appeal in a California Regional Water Quality Control Board matter.

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

A handwritten signature in black ink, appearing to read "S. J. [unclear]", written over a horizontal line.

Secretary, Board of Port Commissioners  
San Diego Unified Port District

ATTEST:

A handwritten signature in black ink, appearing to read "[unclear]", written over a horizontal line.

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 Chair Moore at 2:05 p.m., Tuesday, July 16, 2013, in the Board Room at 3165 Pacific Highway, San Diego, California.

**ROLL CALL**

Agenda Item 1.

Present: COMMISSIONERS, Castellanos, Malcolm, Merrifield, Moore, Nelson, Smith, and Valderrama.

OFFICERS: Darbeau, DeAngelis, Monson, Russell and Stup

Absent: No Commissioners absent.

Excused: No Commissioners excused.

**CLOSED SESSION**

Agenda Item 2. Thomas Russell, Port Attorney, reported out regarding closed session. He announced that the Board of Port Commissioners had authorized an administrative appeal in a California Regional Water Quality Control Board matter. There was no other reportable action as to any closed session items.

**PLEDGE OF ALLEGIANCE**

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

**APPROVAL OF MINUTES**

Agenda Item 4. On a motion by Commissioner Smith, seconded by Commissioner Valderrama, the Board approved the minutes of the April 9, 2013 regular meeting, by the following vote: Yeas-Malcolm, Merrifield, Moore, Nelson, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-Castellanos.



**PUBLIC COMMUNICATIONS**

Agenda Item 5. Mohan G. Bhakta, addressed the Board regarding his use of the District park facilities including the South Embarcadero Park and expressed concern regarding instances in which he stated some areas of the park had been designated for the Summer Pops event and impeded his access to the park; the maintenance of sprinkler systems and litter removal followings special events. Mr. Bhakta distributed a written copy of his remarks to the Board. (A copy of the document is on file in the Office of the District Clerk.)

Chair Moore thanked Mr. Bhakta for his comments and referred the matter to the Executive Director for follow up.

Steve Weathers, President/CEO, World Trade Center of San Diego, addressed the Board, thanked Chair Moore for her service, recognized Wayne Darbeau, Executive Director, for his assistance and acknowledged the District for its support. He discussed upcoming studies regarding import and export business in the region.

Joy Williams, Research Director, Environmental Health Coalition, addressed the Board regarding reductions in diesel emission particulates to lessen the impact of climate change as reported in a study released by the California Air Resources Board. She acknowledged and thanked the District for its efforts to implement programs to reduce diesel emissions on the tidelands and urged the Board to continue working on a developing a climate plan.

**COMMISSIONER REPORTS**

Agenda Item 6. Commissioner Nelson requested and received a report from Larry Baumann, Bali Hai and Tom Ham's Lighthouse, regarding the increase in customer traffic at his Shelter Island businesses on the Independence Day holiday. Mr. Baumann reported the day was very successful for his family operated businesses.

**PRESIDENT REPORT**

Agenda Item 7. None.

**DISTRICT CLERK'S ANNOUNCEMENTS**

Agenda Item 8. Chair Moore requested that Laura Nicholson, Deputy District Clerk, announce any suggested docket changes.

She announced the following docket changes for the Board's consideration: **Consent Agenda Item 9**, Ordinance Amending Ordinance No. 227, to Update and Clarify Regulations for Marine Terminal Operators Performing Stevedoring Functions at the Marine Terminals, staff requested the item be continued to a future Board meeting; **Consent Agenda Item 10**, Resolution Authorizing Amendment No. 2 to the Agreement with Arcadis for Construction Management Services of the North Embarcadero Visionary Plan Phase 1 to increase the agreement amount by \$xxx,xxx, increasing the aggregate total of the agreement from \$1,7xx,xxx to \$2,5yy,yyy and extending the terms of the agreement from December 31, 2013 to September 30, 2014, staff requested the item be continued to a future Board meeting; and **Consent Agenda Item 11**, Resolution Authorizing Amendment No. 3 to the Agreement with Project Design Consultants for Construction Phase Design Services of the North Embarcadero Visionary Plan Phase 1 to increase the agreement amount by \$xxx,xxx, increasing the aggregate total of the agreement from \$1,2xx,xxx to \$1,7yy,yyy and extending the terms of the agreement from December 31, 2013 to September 30, 2014, staff requested the item be continued to a future Board meeting; **Action Agenda Item 21B**, Resolution Authorizing Amendment No. 2 to Memorandum of Understanding with the City of National City to Modify the District's and National City's contributions due to dissolution of the State of California Redevelopment Agencies, staff requested the item be continued to a future Board meeting; **Action Agenda Item 21C**, Ordinance Granting Lease Amendment No. 2 to the City of National City to modify lease terms due to the dissolution of the State of California Redevelopment Agencies and the reallocation of funds, staff requested the item be continued to a future Board meeting, **Action Agenda Item 26**, Presentation by the Downtown San Diego Partnership on its "Our Downtown" Vision Process, staff requested the item be continued to a future Board meeting and **Action Agenda Item 27**, Resolution Approving Recommendation to Suspend BPC Policy No. 255 San Diego Port Tenants Association and San Diego Unified Port District "Port With No Borders" Scholarship Program for one year to allow time to refine program purpose and funding method, staff requested the item be continued to a future Board meeting.

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

Chair Moore announced that a request to speak form was submitted for **Consent Agenda Item 15**, Resolution Selecting and Authorizing a Three (3) Year Agreement with Nova Commercial Co., Inc. for Janitorial and as-needed Porter Services for B Street Cruise Ship Terminal and the Port Pavilion at Broadway Pier to support

cruise ship operations and public events at these locations for an amount not to exceed \$355,000. Thus, the item would be pulled from the vote on the consent agenda and the item trailed to the end of the meeting.

## **CONSENT AGENDA**

On motion of Commissioner Smith, seconded by Commissioner Merrifield, the Board adopted Consent Agenda items 12A, 12B, 13A, 13B, 14, 15, 16, 17, and 18. (**Resolution 2013-112** through and including **Resolution 2013-114; Ordinance 2730; Resolution 2013-115** through and including **Resolution 2013-119**) by the following vote: Yeas-Castellanos, Malcolm, Merrifield, Moore, Nelson, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

Agenda Item 9. **Item continued to a future Board meeting.**

Agenda Item 10. **Item continued to a future Board meeting.**

Agenda Item 11. **Item continued to a future Board meeting.**

Agenda Item 12A. **Resolution 2013-112**, Establishing Minimum Annual Rent for Chula Vista Marina at 550 Marina Parkway, for the period from December 1, 2011 through November 30, 2016, was adopted as part of the consent agenda.

Agenda Item 12B. **Resolution 2013-113**, Establishing Minimum Annual Rent for Chula Vista RV Park at 460 Sandpiper Way, for the period from December 1, 2011 through November 30, 2016, was adopted as part of the consent agenda.

Holiday Inn Bayside at 4875 North Harbor Drive

Agenda Item 13A. **Resolution 2013-114**, Consenting to \$18,500,000 Loan between Union Bank, N.A. and Bartell Hotels, LP dba Holiday Inn Bayside, with conditions, was adopted as part of the consent agenda.

Agenda Item 13B. **Ordinance 2730**, Granting Amendment No. 1 to Lease with Bartell Hotels, LP to update to current standard lease terms, was adopted as part of the consent agenda.

Agenda Item 14. **Resolution 2013-115**, Authorizing the Annual Adoption of BPC Policy No.115, Guidelines for Prudent Investments, was adopted as part of the consent agenda.

Agenda Item 16. **Resolution 2013-117**, Approve the 2013 Annual Work Plan for the Board of Port Commissioner's (Board) Audit Advisory Committee, was adopted as part of the consent agenda.

Agenda Item 17. **Resolution 2013-118**, Approving the Internal Audit Plan for FY 13/14, was adopted as part of the consent agenda.

Agenda Item 18. **Resolution 2013-119**, Resolution Authorizing Acceptance of Transportation Security Administration (TSA) FY08 Grant Award Modification #12 adding funds of \$116,168.73, increasing the cumulative grant total to \$1,454,905.77, 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.

## **PUBLIC HEARING**

### **FY 13/14 FINAL BUDGET**

- A) CONDUCT PUBLIC HEARING AND ADOPT AN ORDINANCE ADOPTING THE FY 13/14 FINAL BUDGET AND INCORPORATING BPC POLICY NO. 090, TRANSFER BETWEEN OR WITHIN APPROPRIATED ITEMS IN BUDGET.**
- B) WAIVE BPC POLICY NO. 609 AND AUTHORIZE A REDUCTION IN THE FY 13/14 ANNUAL DEPOSIT FOR PUBLIC ART FROM \$1.2M TO \$0.6M AND AUTHORIZE USE OF \$1.5M FROM THE PUBLIC ART FUND TO PARTIALLY FUND THE FY 13/14 BUDGET.**
- C) WAIVE BPC POLICY NO. 730 AND AUTHORIZE USE OF \$0.5M FROM THE ENVIRONMENTAL FUND TO PARTIALLY FUND THE FY 13/14 BUDGET.**
- D) ORDINANCE AMENDING SALARY ORDINANCE 2688.**
- E) RESOLUTION ESTABLISHING THE SAN DIEGO UNIFIED PORT DISTRICT (DISTRICT) DIRECTORY OF CLASSIFICATION SPECIFICATIONS FOR FISCAL YEAR 2013-2014**

Agenda Item 19. Bob DeAngelis, CFO/Treasurer addressed the Board regarding the FY 13/14 Final Budget and requested the Board consider the staff recommendations. (A copy of the staff report, presentation and letters are on file in the Office of the District Clerk.)

Chair Moore opened the public hearing. As there were no members of the public who requested to speak, Chair Moore closed the public hearing.

Commissioner discussion ensued. Commissioner Smith acknowledged the challenges the District faced during the current fiscal year and discussed the upcoming

year's expectations to achieve the budget projections and position the agency for long-term fiscal health. He offered a motion to accept the staff recommendations.

Commissioner Valderrama seconded the motion.

Commissioner Merrifield recognized the efforts that were made to close the structural deficit; and he acknowledged the challenges to be faced in the upcoming fiscal year. He expressed support for interim budget reviews and discussed seeking alternative means to reduce the deficit and increase savings. He thanked staff for their hard work.

Commissioner Nelson discussed the agency's budget gap between operating revenues and operating capital expenses over the past two years. He thanked the Port Tenants Association for their participation as the organization implements cost recovery, and he recognized District leadership for their efforts. He stated the desire to put forward a balanced budget in the coming years without utilizing reserves.

Commissioner Valderrama echoed the sentiment of his fellow Commissioners and acknowledged the challenges presented during the budget cycle. Acknowledging that while budget deficits were projected for the next two years, he expressed optimism for the future of the District. He thanked the new Commissioners for their skill and insight during the budget process.

Commissioner Malcolm echoed Commissioner Valderrama's sentiments and thanked the new Board members for their work. He acknowledged his colleagues as well as staff for their efforts during challenging budget times. He discussed the Board's goal of achieving financial sustainability and recognized that decisions were necessary to address the structural deficit. Commissioner Malcolm expressed his desire for a contingency fund and soliciting community support to ensure a fiscally sustainable organization over the long term.

Commissioner Castellanos thanked staff for their efforts and acknowledged his fellow Commissioners for their assistance. He discussed the recent challenging economic environment that presented many factors that were outside of the District's control. He acknowledged the challenging decisions that were ahead and expressed confidence that the Board was doing a good job governing.

Chair Moore also thanked staff for their hard work and effort that went into the budget preparation. She also acknowledged the two new Commissioners, the new Chief Financial Officer, and the Port Tenants Association for their partnership.

On a single motion by Commissioner Smith, seconded by Commissioner Valderrama, the Board adopted **Ordinance 2731** Adopting the FY 13/14 Final Budget and Incorporating BPC Policy No. 090, Transfer Between or Within Appropriated Items in Budget; waived BPC Policy No. 609 and Authorized a Reduction in the FY 13/14 Annual Deposit for Public Art from \$1.2m to \$0.6m and Authorized use of \$1.5m from the Public Art Fund to partially fund the FY 13/14 Budget; waived BPC Policy No. 730 and Authorized Use of \$0.5m from the Environmental Fund to partially fund the FY 13/14 Budget; adopted **Ordinance 2732** Amending Salary Ordinance 2688, and adopted **Resolution 2013-120** Establishing the San Diego Unified Port District (District) Directory of Classification Specifications for Fiscal Year 2013-2014, by the following vote: Yeas-Castellanos, Malcolm, Merrifield, Moore, Nelson, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

## **ACTION AGENDA**

### **AUTHORIZING A LINE ITEM BUDGET IN AN AMOUNT NOT TO EXCEED \$500,000 AND DISTRICT SERVICES NOT TO EXCEED \$626,115 FOR FISCAL YEAR 2013-2014 MARKETING SPONSORSHIP PROGRAM**

Agenda Item 20. Michele Gannon, Director, Marketing and Communications, addressed the Board with an introduction regarding the Marketing Sponsorship Program in light of the budget allocated for the 2013-2014 program. She turned the presentation over to Jim Hutzelman, Manager - Community Services, Marketing and Communications who described the Marketing Sponsorship Program evaluation process, the events that generate a "return on investment" and/or a "return on involvement" and requested consideration of the staff recommendation. (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 staff recommendation: Susan Johnson, Aide to Deputy Mayor Bensoussan, City of Chula Vista; Catherine Miller, San Diego Sportfishing Council; Alexandra Squires, Executive Director, San Diego Fleet Week Foundation; Larry Baumann, President, San Diego Bay Parade of Lights; Jennifer Santander, Aide to Deputy Mayor Bensoussan; Kevin Robertson, Executive Director, Miracle Babies; Lisa Cohen, CEO, Chula Vista Chamber of Commerce; Robyn Gallant, Project Manager, Maritime Museum; Stacy Berman, Recreation Programs Supervisor, City of Coronado; Irene Wills and Kim Hawsen, Event Coordinators, Navy MWR; Sharon Cloward, President, San Diego Port Tenants Association; Sandy Purdon, Producer, Big Bay Boom; Jacqueline Reynoso, President/CEO, National City Chamber of Commerce;

Megan Pogue, Vice President Business Development, San Diego Symphony; and Bruce Binkowsia, San Diego Bowl Game Association.

Commissioner Nelson left the dais at 3:10 p.m. and returned at 3:20 p.m.

Commissioner discussion ensued. Commissioner Valderrama acknowledged staff, thanked the San Diego Port Tenants Association, recognized Commissioner Nelson as well as the Board for allocating budget resources to fund marketing projects and demonstrating a regional commitment to return on investment. He requested and received clarification regarding the request from the Chula Vista Chamber of Commerce to reallocate their award recommended by staff. Ms. Gannon explained staff's position regarding the request, and offered that staff supported re-designating the funds to the Living Coast Discovery Center event.

Chair Moore expressed concern regarding the staff recommendations regarding the New Children's Museum project and the Village Videography's proposal for the "San Diego-Coronado Bridge" documentary broadcast. She requested the Board consider reallocating the funding recommended as follows: \$5,000 be moved from the Children's Museum item to provide additional funds to the Living Coast Discovery Center Animal Days on the Bay event and the Village Videography funds go to the South Bay Alliance Event, South Bay Pride Art & Music Festival, that would be held on the Chula Vista Bay Front. She stated her position that the two projects were more appropriate because they are "more related" to the actual port tidelands and community events, which was the purpose of the funding.

Commissioner Valderrama acknowledged Chair Moore's request. He requested and received clarification from Mr. Hutzelman regarding the New Children's Museum project and the Village Videography's proposal for the "San Diego-Coronado Bridge" documentary broadcast.

Commissioner Smith offered a motion to approve the staff recommendation with the modifications requested by Chair Moore to allocate additional funding to the Living Coast Discovery Center and the South Bay Alliance. While acknowledging the organization's regional benefits, he expressed concern regarding the previous unbudgeted monies provided by the District to the Living Coast Discovery Center. He advocated for the refinements made to the system to distribute the resources in a fair-minded manner to all the member cities. He recognized the staff and Port Tenants Association representatives for all of their hard work processing the applications.

Commissioner Nelson seconded the motion. He discussed the value of all of the events for which applications were submitted; acknowledged the challenges faced when

allocating limited resources; and the assessments based upon "return on investment" and "return on involvement." He thanked staff for all of their assistance.

Chair Moore requested and received confirmation that Commissioner Smith's motion included reallocating the Chula Vista Chamber of Commerce "Night at the Movies" funding of \$1,000 to the Living Coast Discovery Center Animal Days on the Bay event.

Commissioner Merrifield discussed the benefits of the program and offered it was an example of public-private partnerships.

On a motion by Commissioner Smith, seconded by Commissioner Nelson, the Board, adopted **Resolution 2013-121** Authorizing a line item budget in an amount not to exceed \$500,000 and District Services not to exceed \$626,115 for Fiscal Year 2013-2014 Marketing Sponsorship Program with amendments to the staff recommendation per the Board's direction, by the following vote: Yeas-Castellanos, Malcolm, Merrifield, Moore, Nelson, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

#### **NATIONAL CITY AQUATIC CENTER**

- A) RESOLUTION AUTHORIZING REALLOCATION OF FUNDS WITHIN THE FY 2009-2013 CAPITAL IMPROVEMENT PROGRAM IN THE AMOUNT OF \$3,080,000 FROM THE NATIONAL CITY PARK PROJECT TO THE NATIONAL CITY AQUATIC CENTER PROJECT, CONDITIONED ON FUTURE BOARD APPROVAL OF THE MEMORANDUM OF UNDERSTANDING AND LEASE FOR THE AQUATIC CENTER.**
- B) RESOLUTION AUTHORIZING AMENDMENT NO. 2 TO MEMORANDUM OF UNDERSTANDING WITH THE CITY OF NATIONAL CITY TO MODIFY THE DISTRICT'S AND NATIONAL CITY'S CONTRIBUTIONS DUE TO DISSOLUTION OF THE STATE OF CALIFORNIA REDEVELOPMENT AGENCIES. ITEM CONTINUED TO A FUTURE BOARD MEETING.**
- C) ORDINANCE GRANTING LEASE AMENDMENT NO. 2 TO THE CITY OF NATIONAL CITY TO MODIFY LEASE TERMS DUE TO THE DISSOLUTION OF THE STATE OF CALIFORNIA REDEVELOPMENT AGENCIES AND THE REALLOCATION OF FUNDS. ITEM CONTINUED TO A FUTURE BOARD MEETING.**

Agenda Item 21. Brian Stup, Chief Engineer, Engineering-Construction, addressed the Board with an overview of the project and discussed the request by the City of National City to reallocate Capital Improvement Program project funds. He turned the presentation over to Charlene Dennis, Manager, Engineering-Construction, who continued with the presentation regarding staff recommendation to



consider a member city's "out of cycle request" and provided an update on Board of Port Commissioners Policy No. 120 – Capital Improvement Program (CIP) implementation, and requested direction to staff regarding a workshop to be held in the fall of 2013. (A copy of the staff report and presentation are on file in the Office of the District Clerk.)

Upon leaving the dais at 3:20 p.m., Commissioner Nelson was excused for the remainder of the regular meeting for personal business.

In light of the status of the existing Coastal Development Permit for the project and construction timetables, Ron Morrison, Mayor, City of National City, urged the Board to consider approval of the staff recommendation. He requested the reallocation as a means to move the project forward and serve the south bay children who will utilize the National City Aquatic Center services and provide access to the waterfront.

Commissioner discussion ensued. Commissioner Valderrama requested and received clarification from Mayor Morrison regarding the timeframe available for construction in light of the restrictions imposed due to wildlife nesting seasons. Commissioner Valderrama discussed the benefits of the National City Aquatic Center and offered a motion to approve the staff recommendation as an example of activating National City's waterfront.

Commissioner Malcolm seconded the motion.

Commissioner Merrifield offered his support for the recommendation.

Commissioner Smith expressed concern with working outside the policy but stated that he could not, in good conscious, vote against the recommendation.

Commissioner Malcolm thanked Mayor Morrison for his remarks. He offered support for the recommendation, acknowledged the need for flexibility in business, and stated the request was revenue-neutral.

Commissioner Castellanos left the dais at 3:49 p.m. and returned at 3:51 p.m.

Chair Moore acknowledged Commissioner Smith's concerns, recognized the need for flexibility in the process, discussed the important regional benefits of the National City Aquatic Center, and offered support for the motion.

On a motion by Commissioner Valderrama, seconded by Commissioner Malcolm, the Board, adopted **Resolution 2013-122** Authorizing Reallocation of Funds within the FY 2009-2013 Capital Improvement Program in the amount of \$3,080,000 from the

National City Park Project to the National City Aquatic Center Project, conditioned on future Board Approval of the Memorandum of Understanding and lease for the Aquatic Center, by the following vote: Yeas-Castellanos, Malcolm, Merrifield, Moore, Smith, and Valderrama; Nays-None; Excused-Nelson; Absent-None; Abstained-None.

**RESOLUTION CONSIDERING THE FINAL ENVIRONMENTAL IMPACT REPORT PREPARED BY CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD, SAN DIEGO REGION, ADOPTING THE FINDINGS OF FACT AND STATEMENT OF OVERRIDING CONSIDERATIONS, ADOPTING THE MITIGATION MONITORING AND REPORTING PROGRAM, AND AUTHORIZING STAFF TO FILE THE NOTICE OF DETERMINATION FOR THE SAN DIEGO SHIPYARD SEDIMENT REMEDIATION PROJECT - NORTH SHIPYARD**

**RESOLUTION CONSIDERING THE FINAL ENVIRONMENTAL IMPACT REPORT PREPARED BY CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD, SAN DIEGO REGION, ADOPTING THE FINDINGS OF FACT AND STATEMENT OF OVERRIDING CONSIDERATIONS, ADOPTING THE MITIGATION MONITORING AND REPORTING PROGRAM, AND AUTHORIZING STAFF TO FILE THE NOTICE OF DETERMINATION FOR THE SAN DIEGO SHIPYARD SEDIMENT REMEDIATION PROJECT - SOUTH SHIPYARD**

Agenda Items 22 and 23. Jason Giffen, Director, Environmental & Land Use Management, introduced the San Diego Shipyard Remediation Project and provided background on the matter, then he turned the presentation over to Mayra Medel, Assistant Redevelopment Planner, Environmental & Land Use Management. Mr. Giffen reiterated the staff request and thanked the Board for its consideration. (A copy of the staff report and presentation is on file in the Office of the District Clerk.)

Commissioner Merrifield left the dais at 3:54 p.m. and returned at 4:00 p.m.

The following members of the public addressed the Board with varying viewpoints regarding the staff recommendations: Dave Gibson, Executive Officer, San Diego Water Board; Morgan Embleton, Student Attorney, San Diego Coastkeeper; Shaun Halvax, Environmental Manager, BAE Systems; Kelly Richardson, Attorney, Latham & Watkins for National Steel and Shipbuilding Company, Inc. (NASSCO); Mike Chee, Environmental Manager, National Steel and Shipbuilding Company, Inc. (NASSCO), submitted a request to speak for ceding his time to Kelly Richardson; Jeff Carlin, National Steel and Shipbuilding Company, Inc. (NASSCO), submitted a request to speak for ceding his time to Kelly Richardson; and Fritz Ortlieb, Deputy City Attorney, City of San Diego.

Chair Moore requested staff address the corrections to the record offered by Kelly Richardson, Attorney, Latham & Watkins representing NASSCO during the public comment period. Mr. Richardson offered corrections to the record regarding findings of facts, in that staff report indicated NASSCO "been using or potentially using the north BAE lot and site and he wished to correct the record, that there were no plans, at all, of NASCCO doing so." He also requested to correct the anticipated time frames, and stated his client anticipates completing remediation, based upon securing the necessary approval to start in time, under the clean up and abatement order in mid-September and to be done in mid-April. He clarified that while the staff indicated that NASSCO proposed the order, he stated he wished to "remind the Board that NASSCO and the other dischargers, including the Port District, are ordered to implement this, and it is not a voluntary measure."

Ms. Medel stated that the details presented in the presentation came directly from the Coastal Development Permit applications submitted by BAE Systems and NASSCO, and those changes could be incorporated into the Coastal Development Permit. Regarding Action Agenda Item 22 and Action Agenda Item 23, Ms. Ellen Gross, Assistant Port Attorney, provided further clarification regarding incorporating the changes in the Final Environmental Impact Report.

Commissioner discussion ensued. Commissioner Smith offered a motion to approve the staff recommendations for Action Agenda Item 22 and Action Agenda Item 23, with the correction discussed. He commended staff for their efforts in the preparation of a thorough report.

Commissioner Malcolm seconded the motion.

On a single motion by Commissioner Smith, seconded by Commissioner Malcolm, the Board, adopted **Resolution 2013-123** Considering the Final Environmental Impact Report prepared by California Regional Water Quality Control Board, San Diego Region, Adopting the Findings of Fact and Statement of Overriding Considerations, Adopting the Mitigation Monitoring and Reporting Program, and Authorizing staff to file the Notice of Determination for the San Diego Shipyard Sediment Remediation Project - North Shipyard and **Resolution 2013-124** Considering the Final Environmental Impact Report prepared by California Regional Water Quality Control Board, San Diego Region, Adopting the Findings of Fact and Statement of Overriding Considerations, Adopting the Mitigation Monitoring and Reporting Program, and Authorizing staff to file the Notice of Determination for the San Diego Shipyard Sediment Remediation Project - South Shipyard, with a single vote as follows: Yeas-Castellanos, Malcolm, Merrifield, Moore, Smith, and Valderrama; Nays-None; Excused-Nelson; Absent-None; Abstained-None.

**SAN DIEGO SHIPYARD SEDIMENT REMEDIATION PROJECT - NORTH SHIPYARD:**

- A) RESOLUTION GRANTING CONCEPT APPROVAL TO BAE SYSTEMS SAN DIEGO SHIP REPAIR, INC. FOR THE SAN DIEGO SHIPYARD SEDIMENT REMEDIATION PROJECT - NORTH SHIPYARD.**
- B) RESOLUTION AUTHORIZING THE ISSUANCE OF A NON-APPEALABLE COASTAL DEVELOPMENT PERMIT**

**SAN DIEGO SHIPYARD SEDIMENT REMEDIATION PROJECT - SOUTH SHIPYARD:**

- A) RESOLUTION GRANTING CONCEPT APPROVAL TO NATIONAL STEEL AND SHIPBUILDING COMPANY, INC. FOR THE SAN DIEGO SHIPYARD SEDIMENT REMEDIATION PROJECT - SOUTH SHIPYARD.**
- B) RESOLUTION AUTHORIZING THE ISSUANCE OF A NON-APPEALABLE COASTAL DEVELOPMENT PERMIT.**

Agenda Items 24AB and 25AB. Jason Giffen, Director, Environmental & Land Use Management, introduced the second portion of the presentation regarding the San Diego Shipyard Remediation Project, reviewed the coastal analysis and staff recommendations. Mr. Giffen reiterated the staff request for the Board to consider four actions regarding the matter. (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 with varying viewpoints regarding the staff recommendations: Dave Gibson, Executive Officer, San Diego Water Board; Jill Witkowski, Student Attorney, San Diego Coastkeeper; Shaun Halvax, Environmental Manager, BAE Systems; Michael Tracy, Attorney, DLA Piper for BAE Systems; Kelly Richardson, Attorney, Latham & Watkins for National Steel and Shipbuilding Company, Inc. (NASSCO); Mike Chee, Environmental Manager, National Steel and Shipbuilding Company, Inc. (NASSCO), submitted a request to speak for ceding his time to Kelly Richardson; Jeff Carlin, National Steel and Shipbuilding Company, Inc. (NASSCO), submitted a request to speak for ceding his time to Kelly Richardson; and Fritz Ortlieb, Deputy City Attorney, City of San Diego.

Regarding the public comments from Mr. Tracy, Mr. Richardson and Mr. Ortlieb discussing provisions 12, 13 and 14 and co-permittee accommodations related to the issuance of a Non-Appealable Coastal Development Permit (CDP), Ellen Gross, Assistant Port Attorney, offered comments regarding the District's position on the matter. Ms. Gross discussed the demonstrated support for the discretionary action and referenced District correspondence dated March 28, 2013 and March 29, 2013 to BAE

Systems and NAASCO in which District staff set forth the reasons for the inherent discretionary action in approving the Tenant Improvement Application and issuing a CDP. (Copies of the correspondence are on file in the Office of the District Clerk.) Concerning matters of trust and the shipyards as permittees, Ms. Gross offered that in light of on-going federal litigation, she felt it was prudent to practice discretion when commenting due to potential federal confidential mediation settlement negotiations. She encouraged continuing with the progress made by working together to move the matter forward without the need for further litigation. Ms. Gross discussed indemnity provisions tailored to specific situations had been included in CDPs in the past. She commented on the size and scope of the cleanup and stated other tenant improvements, including pier removal, were planned for in conjunction with the project. She discussed the District's regulatory role per the Port District Act. She reviewed the indemnity provision, the performance and payment bond provision, and the prevailing wage provision.

Commissioner discussion ensued. Chair Moore stated that she found that Ms. Gross had adequately stated why adding the conditions to the CDP were reasonable.

Commissioner Malcolm also stated he found that the CDP with the additional conditions was reasonable. He thanked Mr. Gibson, staff and the Regional Water Quality Control Board for their commitment to water and air quality issues. He offered the project under consideration was consistent with the goals and values of the District.

Chair Moore remarked on the statements offered by the City of San Diego regarding indemnification.

Commissioner Smith offered a motion to approve the staff recommendations. He thanked the stakeholders who addressed the Board and supported moving forward with the project. Commissioner Valderrama seconded the motion.

Commissioner Valderrama also thanked the participants present for their comments. He acknowledged the importance of the timely approval of the matter to facilitate moving ahead with the remediation project. He concurred that the CDP, with the additional conditions, was reasonable and consistent with the District's business practices.

Chair Moore echoed Commissioner Malcolm's sentiments regarding working with the Regional Water Quality Control Board and thanked Mr. Gibson for his participation.

On a single motion by Commissioner Smith, seconded by Commissioner Valderrama, the Board, adopted **Resolution 2013-125** Resolution Granting Concept Approval to BAE Systems San Diego Ship Repair, Inc. for the San Diego Shipyard Sediment Remediation Project - North Shipyard; **Resolution 2013-126** Authorizing the Issuance of a Non-Appealable Coastal Development Permit; **Resolution 2013-127** Resolution Granting Concept Approval to National Steel and Shipbuilding Company, Inc. for the San Diego Shipyard Sediment Remediation Project - South Shipyard and **Resolution 2013-128** Authorizing the Issuance of a Non-Appealable Coastal Development Permit, by the following vote: Yeas-Castellanos, Malcolm, Merrifield, Moore, Smith, and Valderrama; Nays-None; Excused-Nelson; Absent-None; Abstained-None

**PRESENTATION BY THE DOWNTOWN SAN DIEGO PARTNERSHIP ON ITS "OUR DOWNTOWN" VISION PROCESS**

Agenda Item 26. **Item continued to a future Board meeting.**

**RESOLUTION APPROVING RECOMMENDATION TO SUSPEND BPC POLICY NO. 255 SAN DIEGO PORT TENANTS ASSOCIATION AND SAN DIEGO UNIFIED PORT DISTRICT "PORT WITH NO BORDERS" SCHOLARSHIP PROGRAM FOR ONE YEAR TO ALLOW TIME TO REFINE PROGRAM PURPOSE AND FUNDING METHOD**

Agenda Item 27. **Item continued to a future Board meeting.**

**CONSENT AGENDA CONTINUED**

**SELECTING AND AUTHORIZING A THREE (3) YEAR AGREEMENT WITH NOVA COMMERCIAL CO., INC. FOR JANITORIAL AND AS-NEEDED PORTER SERVICES FOR B STREET CRUISE SHIP TERMINAL AND THE PORT PAVILION AT BROADWAY PIER TO SUPPORT CRUISE SHIP OPERATIONS AND PUBLIC EVENTS AT THESE LOCATIONS FOR AN AMOUNT NOT TO EXCEED \$355,000**

Agenda Item 15. Marcy Grismer, Vice President Operations, Aztec Janitorial, addressed the Board regarding their proposal and requested the Board reconsider the staff's recommendation and award the contract to her firm.

Commissioner Smith acknowledged the speaker and her firm. He offered a motion to approve the staff recommendation. He discussed the health care benefit criteria and the related scoring methodology. He requested staff return with a

presentation regarding awarding points to firms providing health care when scoring and recommending the award of service contracts.

Commissioner Valderrama briefly discussed the history of the Board's action to award points to firms for providing health benefit coverage to their employees. He requested and received clarification from Dave Thompson, Director, General Services and Procurement, regarding the sliding scale utilized in the scoring criteria related to the level of health benefits provided by the service provider to their employees.

Chair Moore requested and received confirmation from Mr. Thompson that at the time of the proposal, the service provider includes the health coverage data in their submittal. He reviewed the criteria by which the score is awarded.

Commissioner Merrifield seconded the motion. He concurred with Commissioner Smith's request to bring the matter back to the Board to discuss the scoring criteria as related to the level of health benefits provided by the service provider to their employees.

Chair Moore thanked Ms. Grismer for participating in the public process.

On motion of Commissioner Smith, seconded by Commissioner Merrifield, the Board adopted **Resolution 2013-116**, Selecting and Authorizing a Three (3) Year Agreement with Nova Commercial Co., Inc. for Janitorial and as-needed Porter Services for B Street Cruise Ship Terminal and the Port Pavilion at Broadway Pier to support cruise ship operations and public events at these locations for an amount not to exceed \$355,000, by the following vote: Yeas-Castellanos, Malcolm, Merrifield, Moore, Smith, and Valderrama; Nays-None; Excused-Nelson; Absent-None; Abstained-None.

## **ACTION AGENDA CONTINUED**

### **REVIEW AND CONSIDERATION OF PROPOSED BOARD AGENDA FOR THE AUGUST 13, 2013 MEETING**

Agenda Item 28. On motion of Commissioner Smith, seconded by Commissioner Malcolm, the Board adopted the proposed agenda for the meeting of August 13, 2013, by the following vote: Yeas-Malcolm, Moore, Smith, and Valderrama; Nays-None; Excused-Nelson; Absent-None; Abstained-None.

## **OFFICER'S REPORT**

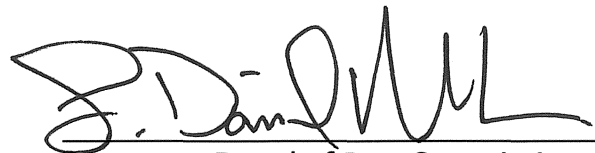
Agenda Item 29. In accordance with BPC Policy No. 110, the following change orders, executed by the Executive Director or designee, were reported:

- A) Change Order No. 3 to Contract No. 2011-03 / Decreases Contract by (\$81,504.83) with Marathon Construction Corporation for Tidelands, Various Locations, Fender Repair, San Diego and National City, California
- B) Change Order No. 3 to Contract No. 2011-40 / 22 Calendar Day Time Extension thru 6/28/2013 and Change Order No. 4 / Increases Contract by \$21,869.00 with NEWest Construction Company for B Street Pier Cruise Ship Terminal Fire Protection System Upgrade, San Diego, California
- C) Change Order No. 1 to Contract No. 2012-17 / \$19,853.00 Increase with Fordyce Construction, Inc. for Tenth Avenue Marine Terminal Crosby St. Pier Modernization, San Diego, California



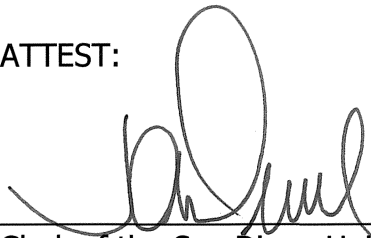
July 16, 2013

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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 Chair Moore at 10:02 a.m., Tuesday, August 13, 2013, in the Board Room at 3165 Pacific Highway, San Diego, California.

**ROLL CALL**

Agenda Item 1.

Present: COMMISSIONERS, Castellanos, Merrifield, Moore, Nelson, Smith, and Valderrama.

OFFICERS: Darbeau and Deuel

Absent: No Commissioners absent.

Excused: Commissioner Malcolm was excused for personal business.

**PUBLIC COMMUNICATIONS**

Agenda Item 2. None.

**CLOSED SESSION**

Ellen Gross, Assistant Port Attorney, announced the closed session agenda as follows:

Agenda Item 3.

CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION

Pursuant to Subdivision (d)(1) 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

California Regional Water Quality Control Board, San Diego Region  
Cleanup and Abatement Order (CAO) No. R9-2012-0024

Agenda Item 4.

CONFERENCE WITH LEGAL COUNSEL - INITIATION OF LITIGATION  
Pursuant to Subdivision (d)(4) of Government Code Section 54956.9

Two Cases

Agenda Item 5.

CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION  
Significant exposure to litigation pursuant to Subdivision (d)(2) of Government  
Code Section 54956.9

One Case

Agenda Item 6.

CONFERENCE WITH REAL PROPERTY NEGOTIATOR  
Government Code Section 54956.8

Property:	The Bay Café consisting of approximately 2,400 square feet of building area located at 1050 N. Harbor Drive, San Diego and the NEVP Café consisting of approximately 750 square feet of land to be located within the NEVP Phase 1 project area
Negotiating Parties:	Brad Engel, Vice President, Star & Crescent Boat Company dba Flagship Cruises & Events; Randa Coniglio, Shaun D. Sumner, SDUPD
Under Negotiation:	Price and Terms

Agenda Item 7.

CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION

Pursuant to Subdivision (d)(1) of Government Code Section 54956.9

*San Diegans for Open Government, et al. v. California Coastal Commission;*

*San Diego Unified Port District, et al.*

San Diego Superior Court Case No. 37-2013-00057492-CU-TT-CTL

Ellen Gross, Assistant Port Attorney, stated for the record that Commissioner Castellanos had recused himself from all discussion and decisions regarding Closed Session Agenda Item 7 in order to avoid any potential conflict related to his law firm.

Agenda Item 8.

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:	Carol Wallace, San Diego Convention Center Corporation; Karen Weymann, Shaun Sumner, Shahriar Afshar, Lesley Nishihira, Jason Giffen, Randa Coniglio, Karen Porteous, SDUPD
Under Negotiation:	Price and Terms

Agenda Item 9.

CONFERENCE WITH LABOR NEGOTIATOR  
Government Code Section 54957.6

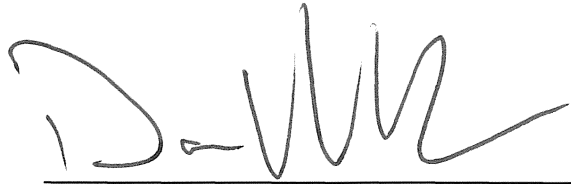
District Negotiator: Executive Director

Employee Organizations: Harbor Police Officers Association; California Teamsters, Public Professional & Medical Employees Union Local 911, Service, Maintenance, Operations and Crafts Unit; California Teamsters, Public Professional & Medical Employees Union Local 911, Non-Sworn Safety Personnel Unit; California Teamsters, Public Professional & Medical Employees Union Local 911, Supervisory Unit; Unrepresented Employees; Executive Director; Port Attorney

Agenda Item 10.

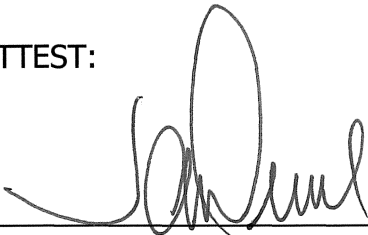
PUBLIC EMPLOYEE APPOINTMENT, PERSONNEL EVALUATION OR DISCIPLINE:  
EXECUTIVE DIRECTOR, PORT ATTORNEY AND PORT AUDITOR  
Government Code Section 54957

There was no reportable action as to any closed session items, pursuant to Government Code Section 54950 et seq, from the closed session; whereupon, Chair Moore adjourned the meeting.

A handwritten signature in black ink, consisting of a large 'D' followed by several loops and a long horizontal stroke.

Secretary, Board of Port Commissioners  
San Diego Unified Port District

ATTEST:

A handwritten signature in black ink, featuring a large 'D' and several loops.

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 Chair Moore at 1:06 p.m., Tuesday, August 13, 2013, in the Board Room at 3165 Pacific Highway, San Diego, California.

**ROLL CALL**

Agenda Item 1.

Present: COMMISSIONERS, Castellanos, Merrifield, Moore, Nelson, Smith, and Valderrama.

OFFICERS: Darbeau, Deuel, and Monson.

Absent: No Commissioners absent.

Excused: Commissioner Malcolm excused for personal business.

**CLOSED SESSION**

Agenda Item 2. Ellen Gross, Assistant Port Attorney, reported that the Board considered the matters on the August 13, 2013 Closed Session Agenda and there was no reportable action. She stated for the record that Commissioner Castellanos had recused himself from all discussion and decisions regarding Closed Session Agenda Item 7 in order to avoid any potential conflict related to his law firm.

**PLEDGE OF ALLEGIANCE**

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

**APPROVAL OF MINUTES**

Agenda Item 4. On motion of Commissioner Smith, seconded by Commissioner Valderrama, the Board approved the minutes of the March 27, 2013 special meeting and the April 29, 2013 special meeting, by the following vote: Yeas-Castellanos, Merrifield, Moore, Nelson, Smith, and Valderrama; Nays-None; Excused-Malcolm; Absent-None; Abstained-None.

## **PUBLIC COMMUNICATIONS**

Agenda Item 5. Ron Morrison, Mayor, City of National City, addressed the Board with a letter from Leslie Deese, City Manager, City of National City, regarding Consent Agenda Item 13 and the National City Aquatic Center matters funding. (A copy of the letter is on file in the Office of the District Clerk.)

Sophie Silvestri, Director Operations, San Diego Port Tenants Association, addressed the Board regarding the annual Operation Clean Sweep event scheduled for August 24, 2013.

Laura Hunter, Environmental Health Coalition, addressed the Board regarding the Coastal Conservancy Climate Ready Grant application deadline. Chair Moore stated the matter would be turned over to Wayne Darbeau, Executive Director and staff.

## **COMMISSIONER REPORTS**

Agenda Item 6. Chair Moore announced that the California State American Planning Association selected the Chula Vista Bayfront Master Plan as the winner of the 2013 Planning Achievement Award: Hard-Won Victories.

Commissioner Nelson reported that he and Miguel Reyes, Manager, Maritime Trade Development, represented the Port of San Diego on the Japan Trade Mission from July 17 through July 24, 2013. He explained that meetings were conducted with a variety of current clients, shipping lines, logistic companies, manufacturers, and transportation decision makers within Japan's Self-Defense Forces (JSDF). He remarked on the import and export activities at the Tenth Avenue Marine Terminal that support the joint military training conducted by the JSDF and the U.S. Armed Forces.

## **PRESIDENT REPORT**

Agenda Item 7. None.

## **DISTRICT CLERK'S ANNOUNCEMENTS**

Agenda Item 8. Timothy Deuel, District Clerk, stated that an additional agenda related item was received regarding **Action Agenda Item 25**, a Resolution Selecting and Authorizing an Agreement for Professional Consulting Services to complete Phase I of the Comprehensive Integrated Planning Port Master Plan Update in substantial form and conformance with the RFQ and selected proposal, and copies were available for the public. Mr. Deuel announced that staff requested the following items be continued to a future Board meeting: **Consent Agenda Item 10**, Ordinance Granting 66 Year Utility



Easement to Pacific Bell Telephone Company dba AT&T California for Subsurface Telecommunications Equipment located on Harbor Drive between A Street and F Street in San Diego; **Consent Agenda Item 17**, Resolution Selecting and Authorizing Purchase Agreement with \_\_\_\_\_ for Internal Plant Fiber Optic Infrastructure for Connection to San Diego Bay Regional Fiber Optic Infrastructure at Various District Facilities for an amount not to exceed \_\_\_\_\_, Funded by the Department of Homeland Security Port Security Grant Program (PSGP) FY2011; **Consent Agenda Item 18**, Resolution Approving a Proclamation honoring Kaneko Bishop, President, San Diego Yokohama Sister City Society; **Action Agenda Item 24**, City of San Diego Barrio Logan Community Plan and local Coastal Program Update Presentation and direction to staff; **Action Agenda Item 27**, Presentation by the Downtown San Diego Partnership on its "Our Downtown" Vision Process; and **Action Agenda Item 28**, Chula Vista Bayfront Development Implementation Update Presentation and direction to staff.

On motion of Commissioner Smith, seconded by Commissioner Castellanos, the Board accepted the requested docket changes, by the following vote: Yeas-Castellanos, Merrifield, Moore, Nelson, Smith, and Valderrama; Nays-None; Excused-Malcolm; Absent-None; Abstained-None.

Commissioner Smith offered a motion to approve the Consent Agenda and requested to comment on **Consent Agenda Item 19**, Review of Unplanned Work – Low Cost Visitor-Serving Accommodations and direction to staff. Commissioner Castellanos seconded the motion.

Commissioner Smith remarked on Consent Agenda 19, he acknowledged the implementation of the unplanned work process and discussed his desire to strive for the continuous improvement of the organization.

## **CONSENT AGENDA**

On motion of Commissioner Smith, seconded by Commissioner Valderrama, the Board adopted Consent Agenda items 9, 11A, 11B, 12A, 12B, 13A, 13B, 14, 15, 16, and 20. (**Resolution 2013-129** through and including **Resolution 2013-132; Ordinance 2733; Resolution 2013-133; Ordinance 2734; Resolution 2013-134** through and including **Resolution 2013-137**) by the following vote: Yeas-Castellanos, Merrifield, Moore, Nelson, Smith, and Valderrama; Nays-None; Excused-Malcolm; Absent-None; Abstained-None.

August 13, 2013

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Agenda Item 9. **Resolution 2013-129**, Granting Concept Approval to CP Kelco, Inc. for proposed Cooling Tower Replacement Project located in the City of San Diego, was adopted as part of the consent agenda.

Agenda Item 10. **Item continued to a future Board meeting.**

Agenda Item 11A. **Resolution 2013-131**, Consenting to Sublease from Seaport Village Operating Co., LLC dba The Headquarters (Formerly the Old Police Headquarters), located on West Harbor Drive at the Foot of Pacific Highway with the following Subtenant: Gepetto's Inc., dba Gepetto's A Child's Fantasy, 5 years with one 5-year option to extend, was adopted as part of the consent agenda.

Agenda Item 11B. **Resolution 2013-130**, Consenting to Sublease from Seaport Village Operating Co., LLC dba The Headquarters (Formerly the Old Police Headquarters), located on West Harbor Drive at the Foot of Pacific Highway with the following Subtenant: Gelato Paradiso, LLC dba Gelato Paradiso, 10 years, was adopted as part of the consent agenda.

EICHENLAUB MARINE, INC. LOCATED AT 2608 SHELTER ISLAND DRIVE IN THE CITY OF SAN DIEGO:

Agenda Item 12A. **Resolution 2013-132**, Consenting to Assignment and Assumption of 25% Leasehold Interest of James P. Papenhausen and 25% Leasehold Interest of James P. Papenhausen II to Leo and Annette Beus, was adopted as part of the consent agenda.

Agenda Item 12B. **Ordinance 2733**, Granting Amendment No. 1 to Eichenlaub Marine, Inc. to include current lease provisions, was adopted as part of the consent agenda.

National City Aquatic Center

Agenda Item 13A. **Resolution 2013-133**, Authorizing Amended and Restated Memorandum of Understanding with the City of National City to modify the District's and National City's contributions due to the dissolution of the State of California Redevelopment Agencies, was adopted as part of the consent agenda.

Agenda Item 13B. **Ordinance 2734**, Granting Lease Amendment No. 2 to the City of National City to modify lease terms due to the dissolution of the State of California Redevelopment Agencies, was adopted as part of the consent agenda.

Agenda Item 14. **Resolution 2013-134**, Approving Calendar Year 2013 Annual Work Plan for the Accessibility Advisory Committee, was adopted as part of the consent agenda.

Agenda Item 15. **Resolution 2013-135**, Appointing Kimberlee Eskierka as Chairperson of the Personnel Advisory Board (PAB) from September 2, 2013 to September 1, 2014, was adopted as part of the consent agenda.

Agenda Item 16. **Resolution 2013-136**, Authorizing a Memorandum of Understanding between the District and the Regents of the University of California allowing the Regents to cover insurance and operational costs for the use, upkeep, and repair of District Vessel 7716 for research related to San Diego Bay and Coastal Ecosystems, was adopted as part of the consent agenda.

Agenda Item 17. **Item continued to a future Board meeting.**

Agenda Item 18. **Item continued to a future Board meeting.**

Agenda Item 19. Review of Unplanned Work – Low Cost Visitor-Serving Accommodations and direction to staff, was adopted as part of the consent agenda.

Agenda Item 20. **Resolution 2013-137**, Authorizing Acceptance of Transportation Security Administration (TSA) FY08 Grant Award Modification #13 adding funds of \$27,921.02, increasing the cumulative grant total to \$1,482,826.79, 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.

## **ACTION AGENDA**

### **PRESENTATION OF SERVICE AWARDS TO EMPLOYEES WITH 15 OR MORE YEARS OF SERVICE**

Agenda Item 23. Michelle Corbin, Director, Human Resources, addressed the Board with a presentation regarding the District's Employee Service Award recognition program. She turned the presentation over to Wayne Darbeau, Executive Director, who recognized the following employees: Dominick Boccia, Harbor Police Sergeant, Harbor Police - 25 years; John Forsythe, Harbor Police Lieutenant, Harbor Police - 25 years; and Luis Moreno, Painter, General Services & Procurement - 25 years. Chair Moore thanked the recipients for their years of service to the District and offered congratulations on behalf of the Board. Mr. Moreno thanked the Board, District

leadership, and his co-workers for their support. (A copy of the presentation and staff report is on file in the Office of the District Clerk.)

Chair Moore and Mr. Darbeau presented awards to the recipients.

## **PUBLIC HEARING AGENDA**

### **H STREET EXTENSION PROJECT**

#### **A) RESOLUTION ADOPTING AN ADDENDUM TO THE FINAL ENVIRONMENTAL IMPACT REPORT FOR THE CHULA VISTA BAYFRONT MASTER PLAN AND PORT MASTER PLAN AMENDMENT.**

#### **B) CONDUCT PUBLIC HEARING AND ADOPT RESOLUTION AUTHORIZING ISSUANCE OF AN APPEALABLE COASTAL DEVELOPMENT PERMIT.**

Agenda Item 21. Jason Giffen, Director, Environmental & Land Use Management and Lesley Nishihira, Manager, Environmental & Land Use Management addressed the Board regarding the H Street Extension Project matters. (A copy of the presentation and staff report is on file in the Office of the District Clerk.)

Chair Moore opened the public hearing. Ross Tyler, Chula Vista Marina Tenants Association, spoke in opposition to the staff recommendations.

Chair Moore addressed Mr. Tyler's comments regarding the RV park relocation and she stated that the Chula Vista Bayfront Master Plan (CVBMP) identified two alternative sites. Referencing a California Coastal Commission requirement, Ms. Nishihira explained that prior to the construction of the conference center; the RV Park must be relocated and operational. Chair Moore requested and received clarification from Ms. Nishihira regarding the implementation of the required mitigation measures and maintaining access to the bayfront during the H Street Extension Project construction phase.

As there were no additional speakers, Chair Moore closed the public hearing.

Commissioner discussion ensued. Referencing the public speaker's position on the project, Commissioner Valderrama discussed the level of public outreach conducted during the Chula Vista Bayfront Master Plan process. He expressed support for the project.

Commissioner Nelson requested and received clarification from Linda Scott, Capital Project Manager, Engineering & Construction, regarding easement rights and the installation of a railroad-crossing signal at the intersection in question. Ms. Nishihira confirmed that the CVBMP acknowledges the presence of a non-utilized railroad as an

existing condition. She stated that the Environmental Impact Report (EIR) did not anticipate reactivation of the line; however, should the railroad be used in the future, the appropriate California Environmental Quality Act (CEQA) analysis would be conducted. Commissioner Nelson requested and received confirmation from Ms. Nishihira that should the railway be reactivated she believed the adopted nearby uses would be compatible.

Regarding the H Street Extension Project, Chair Moore offered a motion to adopt an Addendum to the Final Environmental Impact Report for the Chula Vista Bayfront Master Plan and Port Master Plan Amendment and to adopt a Resolution Authorizing Issuance of an Appealable Coastal Development Permit. Commissioner Smith seconded the motion.

On a single motion by Chair Moore, seconded by Commissioner Smith the Board adopted **Resolution 2013-138**, an Addendum to the Final Environmental Impact Report for the Chula Vista Bayfront Master Plan and Port Master Plan Amendment and **Resolution 2013-139**, Authorizing Issuance of an Appealable Coastal Development Permit, by the following vote: Yeas-Castellanos, Merrifield, Moore, Nelson, Smith, and Valderrama; Nays-None; Excused-Malcolm; Absent-None; Abstained-None.

#### **KONA KAI RESORT EXPANSION PROJECT AT 1551 SHELTER ISLAND DRIVE IN SAN DIEGO**

- A) RESOLUTION ADOPTING AN ADDENDUM TO THE FINAL MITIGATED NEGATIVE DECLARATION FOR THE SHELTER POINTE HOTEL (KONA KAI RESORT) EXPANSION PROJECT.**
- B) RESOLUTION GRANTING CONCEPT APPROVAL FOR WESTGROUP KONA KAI, LLC FOR PROPOSED EXPANSION PROJECT.**
- C) CONDUCT PUBLIC HEARING AND ADOPT RESOLUTION AUTHORIZING ISSUANCE OF AN APPEALABLE COASTAL DEVELOPMENT PERMIT.**

Agenda Item 22. Jason Giffen, Director, Environmental & Land Use Management; Penny Maus, Senior Asset Manager, Real Estate; and Lesley Nishihira, Manager, Environmental & Land Use Management addressed the Board regarding the Kona Kai Resort Expansion Project at 1551 Shelter Island Drive in San Diego items. (A copy of the presentation and staff report is on file in the Office of the District Clerk.)

Commissioner Nelson left the dais at 1:50 p.m. and returned at 1:54 p.m.

Chair Moore opened the public hearing. Jamie Colee, President of Development, Noble House Hotels, addressed the Board and spoke in favor of the staff recommendations.

As there were no additional speakers, Chair Moore closed the public hearing.

Commissioner discussion ensued. Commissioner Nelson acknowledged the developer's work and expressed support for the project. He requested and received clarification from Ms. Maus regarding the proposal and the District's future revenue projections.

Commissioner Valderrama offered support for the project and acknowledged the developer and their proposal.

Commissioner Smith offered a motion to support the staff recommendations. Commissioner Nelson seconded the motion.

On a single motion by Commissioner Smith, seconded by Commissioner Nelson the Board adopted **Resolution 2013-140**, Adopting an Addendum to the Final Mitigated Negative Declaration for the Shelter Pointe Hotel (Kona Kai Resort) Expansion Project; **Resolution 2013-141**, Granting Concept Approval for Westgroup Kona Kai, LLC for Proposed Expansion Project; and Port Master Plan Amendment and **Resolution 2013-142**, Authorizing Issuance of an Appealable Coastal Development Permit, by the following vote: Yeas-Castellanos, Merrifield, Moore, Nelson, Smith, and Valderrama; Nays-None; Excused-Malcolm; Absent-None; Abstained-None.

## **ACTION AGENDA CONTINUED**

### **CITY OF SAN DIEGO BARRIO LOGAN COMMUNITY PLAN AND LOCAL COASTAL PROGRAM UPDATE PRESENTATION AND DIRECTION TO STAFF**

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

### **RESOLUTION SELECTING AND AUTHORIZING AN AGREEMENT FOR PROFESSIONAL CONSULTING SERVICES TO COMPLETE PHASE I OF THE COMPREHENSIVE INTEGRATED PLANNING PORT MASTER PLAN UPDATE IN SUBSTANTIAL FORM AND CONFORMANCE WITH THE RFQ AND SELECTED PROPOSAL.**

Agenda Item 25. Jason Giffen, Director, Environmental & Land Use Management and Lesley Nishihira, Manager, Environmental & Land Use Management addressed the Board regarding the presentation and evaluation process for selecting and authorizing an agreement for Professional Consulting Services to complete Phase I of the Comprehensive Integrated Planning Port Master Plan Update. (A copy of the staff presentation and the staff report is on file in the Office of the District Clerk.)

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

Commissioner Castellanos left the dais at 2:03 p.m. and returned at 2:07 p.m.

Chair Moore stated that due to the importance of the project, it was determined that the decision making process was to be conducted in as transparent a manner as possible, thus the presentations and selection process would be held during the public meeting. She announced the scoring methodology, explained that the non-presenting teams were sequestered, and discussed the question and answer process. Timothy Deuel, District Clerk, announced copies of the presentations were available to the public.

The following members of the public addressed the Board with varying viewpoints on comprehensive integrated planning; stakeholder input; the RFQ requirements and the consulting firm selection process: Laura Hunter, Environmental Health Coalition, and Sharon Cloward, President, San Diego Port Tenants Association.

Chair Moore thanked the public commenters. Referencing the materials provided, she requested the Commissioners "keep an open mind" as they received all of the presentations and listened to the questions and answers, and then complete their ranking.

Representatives from the following firms presented their proposals: AECOM Technical Services, Inc.; HKS Urban Design Studio; Moore Iacofano Goltsman, Inc.; Skidmore, Owings & Merrill LLP, and SWA Group. (Copies of each of the firm's proposals and presentations are on file in the Office of the District Clerk.)

Commissioner discussion ensued. Commissioner Nelson requested and received clarification from Simon Kann, Deputy Port Attorney, who offered that in addition to the other four factors discussed for evaluating the proposals, at the current stage in the process pricing was also an appropriate consideration.

Commissioner Nelson, Chair Moore, Commissioner Merrifield, and Commissioner Smith commented on pricing as well as the four evaluation criteria and considering the proposals as a "whole package."

The Board engaged representatives from the firms in a question and answer session regarding: their proposals and services; their experience running port master plan projects; their disclosure of any team members who may be working on projects for member cities, other local public agencies, or any port tenants; their approach to the types of factors to be considered when creating a vision plan for the next fifty years; their approach to engaging member cities and facilitating the public process and

stakeholder outreach activities; their philosophy regarding the proposal submitted and the related budget projections; disclosure of any other conflicts of interest; consensus building processes; relevant experience with climate mitigation and adaptation plans; the role of the consultant in shaping the Board's and the public's engagement in the visioning stage; a coastal and marine spatial planning concept; their experience with military uses or strategic port designations; their previous engagement in the Chula Vista Bayfront Master Plan process; facilitating transparency during the assessment and engagement process with the District Executive Leadership Group, the Board, and the public during workshops and charrettes; and the public engagement process in creating the guiding principles and vision. Representatives from SWA Group; Skidmore, Owings & Merrill LLP; Moore Iacofano Goltsman, Inc.; HKS Urban Design Studio and AECOM Technical Services, Inc. each participated in the question and answer session.

Chair Moore announced the Board would take a break and instructed the Board not to discuss the matter until they returned to the dais. Chair Moore called the meeting back to order. Timothy Deuel, District Clerk, reported that during the break the scoring results were tabulated and he announced firms in order of most preferred, as follows: 1) HKS Urban Design Studio; 2) AECOM Technical Services, Inc. and Moore Iacofano Goltsman, Inc.; 3) SWA Group; and 4) Skidmore, Owings & Merrill LLP (SOM). The Board meeting was in recess from 4:39 p.m. to 4:55 p.m.

Commissioner Smith offered a motion to authorize an agreement for Professional Consulting Services to complete Phase I of the Comprehensive Integrated Planning Port Master Plan Update in substantial form and conformance with the Request for Proposal (RFQ) with HKS Urban Design Studio. Commissioner Castellanos seconded the motion.

On motion of Commissioner Smith, seconded by Commissioner Castellanos, the Board authorized an agreement for Professional Consulting Services to complete Phase I of the Comprehensive Integrated Planning Port Master Plan Update in substantial form and conformance with the Request for Proposal (RFQ) with HKS Urban Design Studio, by the following vote: Yeas-Castellanos, Merrifield, Moore, Smith, and Valderrama; Nays-None; Excused-Malcolm, Nelson; Absent-None; Abstained-None.

Commissioner Merrifield returned to the dais at 4:56 p.m.

Commissioner Smith thanked all the firms for their proposals and discussed the master planning efforts and the role of the District to manage the tidelands for the State of California.

Commissioner Nelson returned to the dais at 5:03 p.m.



Commissioner Valderrama offered a motion to reconsider the vote to allow all of the Board members present to participate. Commissioner Smith seconded the motion.

On motion of Commissioner Valderrama, seconded by Commissioner Smith, the Board authorized a reconsideration of the vote, by the following vote: Yeas-Castellanos, Merrifield, Moore, Smith, and Valderrama; Nays-None; Excused-Malcolm; Absent-None; Abstained-Nelson.

Commissioner Smith offered a motion to authorize an agreement for Professional Consulting Services to complete Phase I of the Comprehensive Integrated Planning Port Master Plan Update in substantial form and conformance with the Request for Proposal (RFQ) with HKS Urban Design Studio. Commissioner Valderrama seconded the motion.

Commissioner Nelson thanked all the firms for their proposals and requested that specific budget considerations or constraints would be more clearly communicated in future request for proposals. He acknowledged the selected team and offered support for the motion.

On motion of Commissioner Smith, seconded by Commissioner Valderrama, the Board adopted **Resolution 2013-143** authorizing an agreement for Professional Consulting Services to complete Phase I of the Comprehensive Integrated Planning Port Master Plan Update in substantial form and conformance with the Request for Proposal (RFQ) with HKS Urban Design Studio, by the following vote: Yeas-Castellanos, Merrifield, Moore, Nelson, Smith, and Valderrama; Nays-None; Excused-Malcolm; Absent-None; Abstained-None.

Commissioner Valderrama discussed the process. He expressed a desire that additional discussion and feedback among the Commissioners would have occurred following the question and answer period. He requested that such discussion take place in the future. Chair Moore acknowledged the feedback.

**UPDATE ON APPROACH FOR FEASIBILITY OF MARINE TERMINAL OPERATING MODELS AND DIRECTION TO STAFF TO PROCEED WITH A REQUEST FOR PROPOSALS FOR A TERMINAL OPERATOR FOR THE CRUISE SHIP TERMINALS.**

Agenda Item 26. Brandy Christian, Director, Strategy & Business Development and Joel Valenzuela, Director, Maritime Operations addressed the Board regarding an update on the approach for feasibility of Marine Terminal Operating Models and requested the Board's direction to staff to proceed with a Request For Proposals for a terminal operator for the Cruise Ship Terminals. (A copy of the presentation and staff report is on file in the Office of the District Clerk.)

Commissioner Valderrama left the dais at 5:04 p.m. and returned at 5:06 p.m.

Commissioner discussion ensued. Commissioner Merrifield offered support for moving forward with the staff recommendation. He discussed the District's cargo operations and acknowledged the work by the sub-committee evaluating terminal operating models.

The following members of the public addressed the Board with varying viewpoints regarding the terminal operator matters, institutional memory and local control of public assets: Chester Mordasini, President and Business Agent, Teamsters Local 911 and Laura Hunter, Environmental Health Coalition.

Commissioner Smith offered a motion to adopt the staff recommendation. Commissioner Valderrama seconded the motion.

Commissioner Smith recognized Commissioner Malcolm, Commissioner Merrifield and staff for their efforts regarding the matter. He discussed taking steps to operate as a more effective and efficient port. Commissioner Smith stated the proposed Board action did not obligate the District to award a contract.

Commissioner Nelson offered support for public private partnerships and concession models. He expressed support for the staff recommendation. As the process moves forward regarding operations at the Tenth Avenue Marine Terminal, he requested that staff reach out to all stakeholders and solicit their input. Commissioner Nelson discussed the importance of the respondents' ability to provide quality customer service.

Commissioner Valderrama acknowledged the value of flexibility when investigating alternative operating models while running a business. He offered support for the motion.

Chair Moore also thanked Commissioner Malcolm, Commissioner Merrifield and staff for their efforts regarding the matter. She acknowledged the speakers for their comments. She reiterated that the matter before the Board was the beginning of the process and that additional time for public discussion of the matter would be allotted in the future.

In light of the sub-committee structure, Commissioner Merrifield requested and received clarification from Chair Moore regarding her support for holding public meetings or forums on the related matter.

On motion of Commissioner Smith, seconded by Commissioner Valderrama, the Board directed staff to proceed with a request for proposals for a terminal operator for

the Cruise Ship Terminals, by the following vote: Yeas-Castellanos, Merrifield, Moore, Nelson, Smith, and Valderrama; Nays-None; Excused-Malcolm; Absent-None; Abstained-None.

**PRESENTATION BY THE DOWNTOWN SAN DIEGO PARTNERSHIP ON ITS "OUR DOWNTOWN" VISION PROCESS**

Agenda Item 27. Item continued to a future Board meeting.

**CHULA VISTA BAYFRONT DEVELOPMENT IMPLEMENTATION UPDATE PRESENTATION AND DIRECTION TO STAFF**

Agenda Item 28. Item continued to a future Board meeting.

**REVIEW AND CONSIDERATION OF PROPOSED BOARD AGENDA FOR THE MEETING SEPTEMBER 10, 2013**

Agenda Item 29. On motion of Commissioner Smith, seconded by Commissioner Valderrama, the Board adopted the proposed agenda for the meeting of September 10, 2013, by the following vote: Yeas-Castellanos, Merrifield, Moore, Nelson, Smith, and Valderrama; Nays-None; Excused-Malcolm; Absent-None; Abstained-None.

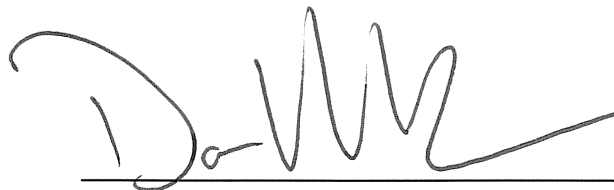
**OFFICER'S REPORT**

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. 11 to Contract No. 2009-13 / Increases Contract by \$101,979.63 with USS Cal Builders, Inc. for North Embarcadero Visionary Plan - Phase 1, San Diego, CA
- B) Change Order No. 2 to Contract No. 2011-31 / 80 Calendar Day Time Extension thru 10/27/2013 with Marina Landscape, Inc. for Harbor Island Water Conservation Landscape Improvements, San Diego, California
- C) Change Order No. 1 to Contact No. 2011-38 / 25 Calendar Day Time Extension thru 8/26/2013 with Adams Mallory Construction Co. Inc. for Tenth Avenue Marine Terminal - Transit Shed #1, Bay 'D' and Headhouse 1 Demolition, San Diego, CA
- D) Change Order No. 1 / \$45,103.00 Increase; Change Order No. 2 / \$10,797.00 Increase; and Change Order No. 3 / \$90,002.00 Increase to Contract No. 2011-49 with NEWest Construction Company for Tenth Avenue Marine Terminal (TAMT) Cold Ironing Project, San Diego, CA

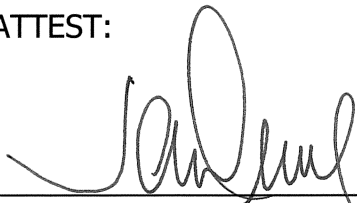
- E) Change Order No. 2 / \$11,525.00 Increase; and Change Order No. 3 / \$11,586.00 Increase & 15 Calendar Day Time Extension thru 7/26/2013 to Contract No. 2012-17 with Fordyce Construction, Inc. for Tenth Avenue Marine Terminal Crosby St. Pier Modernization, San Diego, California
- F) Change Order No. 1 to Contract No. 2013-05 / Increases Contract by \$4,014.25 with Veteran Solutions, Inc. for District Administration Building Remodel Port Attorney Offices, San Diego, CA
- G) Change Order No. 1 to Contract No. 2013-11 / Increases Contract by \$16,089.00 with Fordyce Construction, Inc. for Tenth Avenue Marine Terminal On-Shore Improvements Phase II-B San Diego, California

Chair Moore adjourned the regular meeting and announced that the Board would return to Closed Session.

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Secretary, Board of Port Commissioners  
San Diego Unified Port District

ATTEST:

A handwritten signature in black ink, appearing to be 'Janet' followed by a long horizontal stroke.

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 Chair Moore at 1:09 p.m., Thursday, August 28, 2013, in the Board Room at 3165 Pacific Highway, San Diego, California.

Chair Moore requested that Commissioner Smith lead the Pledge of Allegiance.

**ROLL CALL**

Agenda Item 1.

Present: COMMISSIONERS, Castellanos, Malcolm; Merrifield, Moore, Nelson, Smith, and Valderrama

OFFICERS: Darbeau, DeAngelis, Monson, Russell, and Stup.

Absent: None.

Excused: None.

**PUBLIC COMMUNICATIONS**

Agenda Item 2. None.

Cynthia Holder, Deputy District Clerk, announced that additional agenda related materials were received after the posting of the agenda and copies were available at the clerk's station.

## **WORKSHOP**

### **CLIMATE WORKSHOP II: PRESENTATION ON GREENHOUSE GAS COMPONENT OF PLAN AND DIRECTION TO STAFF**

Agenda Item 3. Chair Moore offered opening remarks regarding the purpose of the workshop and discussed the next steps planned for the development of a climate action plan. She introduced Steve Alexander, the Steve Alexander Group, as the facilitator for the workshop.

Mr. Alexander reviewed the workshop agenda, purpose, and objectives.

Commissioner Nelson requested and received clarification from Chair Moore regarding the workshop process, the public comment period, and the timeframe in which the Greenhouse Gas (GHG) Component of the plan would be presented to the Board. She confirmed the Board would discuss policy issues, develop criteria with respect to the implementation measures, and during the next Board workshop the Commissioners would consider actual implementation measures. Chair Moore announced a workshop would be held to receive stakeholder comment and the resulting materials would be presented to the Board for further discussion. Commissioner Nelson offered statements regarding the importance of clear communication, discussed the opportunity to form policy, and moving the implementation process forward.

Jason Giffen, Director, Environmental & Land Use Management, offered the staff presentation on the GHG component of the plan. (Copies of the staff report, workshop handouts, and presentation are on file in the Office of the District Clerk.)

Commissioner discussion ensued. Commissioner Merrifield requested and received clarification from Doug Daugherty, Managing Principal, ENVIRON International Corporation, regarding the means by which the emission inventory data was calculated which resulted in the total number of metric tons of emissions shown in the staff report.

Commissioner Smith requested clarification regarding any potential challenges to the District's established base line year in regard to AB32: California Global Warming Solutions Act of 2006 requirements. Mike Hogan, the District's outside California Environmental Quality Act (CEQA) legal counsel, offered it was his belief that the District could not be successfully challenged; and rather than referring to a baseline, AB32 refers to reducing emissions to 1990 levels by a specific date.

Commissioner Malcolm requested clarification regarding what AB32 required the agency to do with respect to GHG reduction; and the District's legal requirements as a regulator, in terms of its tenants and leaseholds.

Mr. Hogan offered that AB32 does not require the District to adopt a climate action plan and AB32 does not designate or authorize the District to serve as a regulator of GHG emissions. He stated AB32 directs the California Air Resources Board (CARB) to take certain actions to enable the State and its citizens to reduce GHG emissions back to 1990 levels. He stated AB32 is largely concerned with CARB as the regulatory agency.

Stating that to the extent that the Board adopts policies which engender specific programs that may become mandatory at some point in the future; and the District becomes a regulator running those programs and ensures compliance, Commissioner Malcolm queried as to whether the District may run afoul of CARB or the law by putting the District in a regulatory posture with respect to GHG reduction policies.

Mr. Hogan responded no, the District would not run afoul of AB32 or regulations on a general basis because the Board would be taking actions as a result of policy as granted by the Port Act.

Commissioner Nelson remarked on AB32 and the previous actions taken by the Board regarding establishing GHG reduction goals. He discussed the benefits of adopting reduction targets in relation to California Environmental Quality Act (CEQA) applications for new projects. He requested and received confirmation from Mr. Daugherty regarding setting the baseline year as 2006, who acknowledged it was a source of reliable maritime activity data that could be used to generate a percentage of the District's GHG inventory. As requested by Commissioner Nelson, and in regard to the basis by which the District established its goals to be in alignment with State-wide public policy, Mr. Daugherty discussed the GHG emission levels generated by private residences and other economic sectors in which municipalities set their baselines and reduction goals.

Commissioner Valderrama requested and received clarification from Mr. Giffen and Mr. Hogan regarding the previous Board direction in which GHG reduction targets were established and the development of the climate plan. Regarding Board policy matters, Mr. Hogan offered that the GHG reduction targets were to be, in effect, the first step of the process, and would be included in a draft climate action plan which the Board would ultimately take action on.



The following members of the public addressed the Board with varying viewpoints on the matters presented in the workshop: Bill Tippets, Senior Project Director, The Nature Conservancy; Kayla Race, Environmental Health Coalition; Laura Hunter, Environmental Health Coalition; Michael R. Bullock, Transportation Chair, Sierra Club; Amanda Winchell, Climate Fellow, San Diego Foundation; Craig Anderson, Solar Turbines; Jack Monger, Executive Director, IEA; Jim Unger, Vice President, Hornblower Cruises; Christie Hill, Senior Legal & Policy Analyst, CPI; and Efrem Bycer, Manager, Economic Development, San Diego Regional EDC. The following individuals submitted request to speak forms, but did not address the Board: Monseuratte Hernandez, Environmental Health Coalition; Sharon Cloward, President, Port Tenants Association and Emily Young, Ph.D, Vice President Environment Initiatives, San Diego Foundation. Chair Moore encouraged the speakers to provide written comments.

Commissioner Merrifield left the dais at 2:01 p.m. and returned at 2:05 p.m.

Mr. Giffen provided a brief summary of the comments offered during the public comment period including: a request for additional transparency and dialogue; comments on the 2020 and 2035 reduction targets; interest in the GHG matter; interest in resiliency related to sea level rise; statements regarding the manner in which policies are written related to the District as a landlord; and a request for focus on the evaluation criteria during the workshop.

In light of the discussion, Chair Moore requested and received clarification from Thomas Russell, Port Attorney, regarding voluntary and/or mandatory requirements. In regard to enacting Board action, he reviewed the District's general categories of implementation-methods and offered that consideration of such matters required a detailed legal analysis; particularly when statutory schemes by other government entities were in place. Mr. Russell stated that a detailed legal analysis can be completed at the adoption of specific policies and direction stage. He stated that, at the present time, many of the measures are voluntary and prospective in nature.

Chair Moore reviewed the differences between policies and implementation measures.

Mr. Giffen continued the staff presentation and introduced the GHG emission reduction categories and the policies. He discussed the strategic framework that would be utilized to move the GHG portion of the plan forward. Mr. Alexander facilitated the Board's discussion. Based upon the staff presentation of the proposed GHG policies for each GHG emission reduction category in the draft Climate Plan, the Commissioners discussed the following matters: the relationship of the policy to the upcoming Port

Master Plan update/integrated planning process; coordination with the organizational priorities; feasibility assessments; providing budget data and projected program-related costs; managing administrative resources; the proposed policies' general content; a legal analysis regarding voluntary and/or mandatory requirements; incentive programs; theme changes; policy additions; power generation opportunities; working collaboratively with member cities, other agencies and stakeholders; considering planning integration opportunities with other agencies; public awareness efforts to drive efficiencies; benchmarking other agencies' policies to gather information regarding their experience; and specific wording changes. (Copies of the policy discussion handouts are on file in the Office of the District Clerk.)

Commissioner Valderrama left the dais at 3:26 p.m. and was excused for personal business for the remainder of the workshop. Commissioner Castellanos left the dais at 3:36 p.m. and returned at 3:40 p.m. Commissioner Merrifield left the dais at 3:37 p.m. and returned at 3:43 p.m. Commissioner Smith left the dais at 3:45 p.m. and returned at 3:47 p.m.

Mr. Alexander and Mr. Giffen reviewed the direction to staff captured during the discussion of the GHG emission reduction categories and the policies. They requested and received feedback from the Board regarding the workshop process.

Cody Hooven, Senior Environmental Specialist, Environmental & Land Use Management, requested and received clarification from Chair Moore regarding the sense of the Board regarding voluntary and/or mandatory requirements.

Chair Moore offered that the topic of voluntary and/or mandatory requirements would be "parked" until the implementation measures were addressed. She discussed the public outreach efforts planned and offered that, following those meetings, additional policies may come forward for the Board's consideration. In an effort to aid in the discussion, Chair Moore requested that staff create a sample program in which the implementation is conceptualized and the District's role as a regulatory body is defined.

Commissioner Nelson discussed partnering with businesses or organizations like Clean Tech to address the matters regarding alternative energy generation and suggested the District could serve as a "laboratory of sorts." He recommended consulting with member cities in regard to the development of best practices. Chair Moore acknowledged the concept of partnering with outside groups and the member cities on projects such as a "smart grid" and energy generation.

Referencing Attachment E to the staff report, Mr. Giffen presented the twelve evaluation criteria as part of the proposed GHG implementation framework. Mr. Alexander facilitated a discussion in which the Board provided input into the evaluation of criteria for GHG mitigation measures. In light of the scoring method utilized, the Board discussed the need for flexibility should timely opportunities arise; they provided input on the relative importance of the evaluation criteria; and staff explained the information they obtained would be used to create a draft implementation plan with prioritized measures. The Board discussed implementation mechanisms, the cost of implementation, and requested staff provide related case studies.

Chair Moore thanked staff and the facilitator for their assistance. She offered that, in addition to the public outreach meeting, another Board workshop would be scheduled soon. Considering the available time and resources, she discussed utilizing similar tactics to address adaptation.

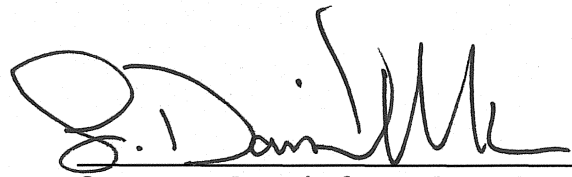
Commissioner Nelson requested that the work continue toward adopting a Climate Plan policy by the end of 2013 and discussed providing Board guidance regarding prioritizations and the allocation of budget resources.

Mr. Alexander facilitated an evaluation of the meeting and requested each Board member provided input into the workshop process. They discussed the following general topics: a request to distribute meeting materials to stakeholders as far ahead of the meeting as possible; the level of detail provided in the staff report and supplemental materials; facilitation of the Commissioners' in-depth policy discussion; recognized the staff prep-work and briefings; setting clear direction and providing "read-ahead" materials to help the Commissioners with their preparation; minimizing the time allocated for staff presentations to allow for more "work" during the workshop; and presenting the materials in a clear fashion. From the audience, Laura Hunter, Environmental Health Coalition, acknowledged staff for their efforts to clearly present materials regarding the focused topic under consideration.

Chair Moore requested and received confirmation from Mr. Giffen that staff had the direction they required to move forward. As there were no other docketed matters for consideration, she adjourned the workshop.

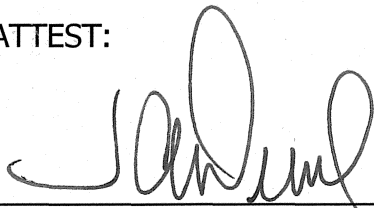
August 28, 2013

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Secretary, Board of Port Commissioners  
San Diego Unified Port District

ATTEST:

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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 Commissioner Malcolm at 9:07 a.m., Tuesday, September 10, 2013, in the Board Room at 3165 Pacific Highway, San Diego, California.

**ROLL CALL**

Agenda Item 1.

Present: COMMISSIONERS, Castellanos, Malcolm, Merrifield, Smith, and Valderrama.

OFFICERS: DeAngelis, Deuel, Russell and Stup

Absent: No Commissioners absent.

Excused: Commissioners Nelson was excused until he arrived at 9:10 a.m.  
Chair Moore was excused until she arrived at 9:10 a.m.

**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 - EXISTING LITIGATION  
Pursuant to Subdivision (d)(1) 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

California Regional Water Quality Control Board, San Diego Region  
Cleanup and Abatement Order (CAO) No. R9-2012-0024

Agenda Item 4.

CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION

Pursuant to Subdivision (d)(1) of Government Code Section 54956.9

*Hensel Phelps et al. v. San Diego Unified Port District, et al.*

San Diego Superior Court Case No. 37-2013-00053225-CU-NP-CTL

Agenda Item 5.

CONFERENCE WITH LABOR NEGOTIATOR

Government Code Section 54957.6

District Negotiators: Executive Director; Executive Vice President

Employee Organizations: Harbor Police Officers Association; California Teamsters, Public Professional & Medical Employees Union Local 911, Service, Maintenance, Operations and Crafts Unit; California Teamsters, Public Professional & Medical Employees Union Local 911, Non-Sworn Safety Personnel Unit; California Teamsters, Public Professional & Medical Employees Union Local 911, Supervisory Unit; Unrepresented Employees; Executive Director; Port Attorney; Port Auditor

Agenda Item 6.

CONFERENCE WITH REAL PROPERTY NEGOTIATOR

Government Code Section 54956.8

Property: Covering 20,665 square feet of land and 65,950 square feet of water area located at 2702 Shelter Island Drive

Negotiating Parties: William Ayyad and Tom Driscoll, Intrepid Landing, LLC and Driscoll, Inc.  
Randa Coniglio, Karen Weymann, Tony Gordon, SDUPD

Under Negotiation: Price and Terms

Agenda Item 7.

CONFERENCE WITH REAL PROPERTY NEGOTIATOR  
Government Code Section 54956.8

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

Negotiating Parties: Rob Lankford, LPP Lane Field, LLC  
Randa Coniglio, Karen Weymann, Shaun Sumner, Jenner Smith, SDUPD

Under Negotiation: Price and Terms

Agenda Item 8.

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: Carol Wallace, San Diego Convention Center Corporation; Karen Weymann, Shaun Sumner, Shahriar Afshar, Lesley Nishihira, Jason Giffen, Randa Coniglio, Karen Porteous, SDUPD

Agenda Item 9.

CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION  
Significant exposure to litigation pursuant to Subdivision (d)(2) of Government Code Section 54956.9

Five Cases

Agenda Item 10

CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION

Pursuant to Subdivision (d)(1) 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 11.

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

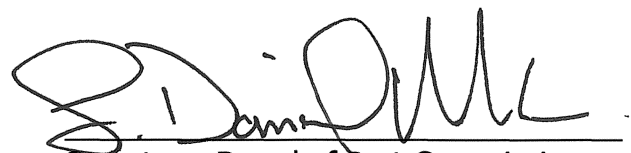
Negotiating Parties: David Sloan, Sunstone Hotel Investors, Inc.;  
Karen Weymann, Shaun Sumner, Nick Markos, Randa Coniglio, Karen Porteous - SDUPD

Agenda Item 12.

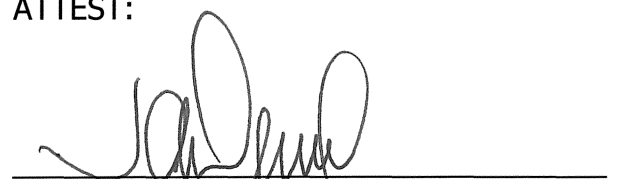
PUBLIC EMPLOYEE APPOINTMENT, PERSONNEL EVALUATION OR DISCIPLINE:  
EXECUTIVE DIRECTOR, PORT ATTORNEY AND PORT AUDITOR  
Government Code Section 54957

There was no other reportable action as to any closed session items, pursuant to Government Code Section 54950 et seq, to report from the closed session; whereupon, Chair Moore 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 Chair Moore at 1:19 p.m., Tuesday, September 10, 2013, in the Board Room at 3165 Pacific Highway, San Diego, California.

**ROLL CALL**

Agenda Item 1.

Present: COMMISSIONERS, Castellanos, Malcolm, Merrifield, Moore, Nelson, Smith, and Valderrama.

OFFICERS: DeAngelis, Deuel, Monson, Russell and Stup

Absent: No Commissioners absent.

Excused: No Commissioners excused.

**CLOSED SESSION**

Agenda Item 2. Thomas Russell, Port Attorney, reported that the Board considered the matters on the September 10, 2013 Closed Session Agenda, with the exception of Closed Session Agenda item 6 and item two of the matters under Closed Session Agenda item 9. He offered that the Board would address those items in the future and may return to Closed Session following the conclusion of the regular meeting to consider them. The Board took no reportable action.

**PLEDGE OF ALLEGIANCE**

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

**APPROVAL OF MINUTES**

Agenda Item 4. On a motion by Commissioner Smith, seconded by Commissioner Castellanos, the Board approved the minutes of the May 7, 2013 special meeting and May 31, 2013 special meeting, by the following vote: Yeas-Castellanos, Malcolm, Merrifield, Moore, Nelson, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

## **PUBLIC COMMUNICATIONS**

Agenda Item 5. Robert Jackson, President, Point Loma Association, addressed the Board regarding the community's concern with median landscaping on Harbor Drive from Scott Street to the Regional Public Safety Training Institute. He offered his organization's assistance. Chair Moore stated the matter would be directed to the Executive Director.

The following members of the public addressed the Board and requested the Commissioners and District leadership attend the San Diego City Council meeting in which the Barrio Logan Community Plan Update Scenario 1 would be considered; they expressed concern regarding the potential residential encroachment on industrial and commercially zoned areas; discussed the importance of maintaining the viability of the ship repair industry including the ship yards that service the U.S. Navy and the related subcontractors; impacts on the regional economy; balancing the needs of residential, industrial and commercial stakeholders, and requested the District support Scenario 2: Bill Hall, Chair, San Diego Port Tenants Association; Sharon Cloward, President, San Diego Port Tenants Association; Tom Fetter, Founding Member, San Diego Port Tenants Association; Les Rovang, Ship Manager, General Dynamics NASSCO; Joe Pritchard, General Dynamics NASSCO and Port of San Diego Ship Repair Association; Amanda Powers, Environmental Engineer Associate, General Dynamics NASSCO; Pat Fulton, President, Performance Contracting, Inc.; Jack Monger, Executive Director, Industrial Environmental Association; and Jim Unger, Vice President, Hornblower Cruises & Events.

Georgette Gomez, Environmental Health Coalition, addressed the Board regarding the City of San Diego's zoning efforts; the Barrio Logan Community Plan Update; and discussed the needs of the residents of Barrio Logan. She discussed a city official's correspondence regarding the matter of removing sensitive receptors and establishing a transition zone buffer to protect against residential encroachment. She discussed the Environmental Health Coalition efforts to protect waterfront jobs. Ms. Gomez requested the District either offer support for Scenario 1 or "not get involved at all." She provided copies of a fact sheet regarding Scenario 1. (A copy of the hand out is on file in the Office of the District Clerk.)

The following individuals submitted request to speak forms but were not present to address the Board: Dan Flood, VP and General Manager, Continental Maritime of San Diego and Erik Bruvold, President, National University System Institute.

## **COMMISSIONER REPORTS**

Agenda Item 6. Commissioner Nelson reported on the progress of the proposed Convention Center expansion project. He offered his thanks to the many stakeholders who provided assistance with the preparations for the upcoming California Coastal Commission hearings.

Commissioner Valderrama thanked the District staff and his fellow Commissioners for offering their condolences upon the death of his mother.

## **PRESIDENT REPORT**

Agenda Item 7. Karen Porteous, Executive Vice President – Administration, offered remarks on behalf of Wayne Darbeau, Executive Director, who was traveling on business. Ms. Porteous read Mr. Darbeau's letter into the record in which he recognized Chair Moore for her leadership during the recent Climate Plan Workshop. (A copy of the letter is on file in the Office of the District Clerk.)

Chair Moore thanked District staff for their hard work as well as her fellow Commissioners for their efforts.

Ms. Porteous announced the District's General Services and Procurement Department was recognized with an Achievement in Excellence Award from the National Purchasing Institute for the fifth consecutive year. Chair Moore joined Dave Thompson, Director, General Services and Procurement Department; Matt Earle, Managing Procurement Manager, General Services and Procurement Department; and Ms. Porteous for a photo commemorating the award.

Ms. Porteous announced the completion of the demolition of Transit Shed 10 at the Tenth Avenue Marine Terminal. She stated the project was approved as part of the amended 2009-2013 Capital Improvement Program. Ms. Porteous offered that it resulted in an increase of approximately 58,000 square feet of paved open space at the terminal as well as increasing the flexibility at the facility; improving truck and rail efficiencies; and providing for revenue growth opportunities by attracting new customers.

## **DISTRICT CLERK'S ANNOUNCEMENTS**

Agenda Item 8. Chair Moore requested that Timothy Deuel, District Clerk, announce any suggested docket changes.

He announced the following docket changes for the Board's consideration: **Action Agenda Item 28**, Presentation by the Living Coast Discovery Center on its Strategic Planning Process, staff requested the item be continued to a future Board meeting; **Action Agenda Item 34**, Legislative Update and direction to staff, staff requested Board action no longer required and staff requested that **Action Agenda Item 25**, Authorizing a Proclamation Honoring Kaneko Bishop, President of the San Diego-Yokohama Sister City Society, be moved to the Consent Agenda as Ms. Bishop was unable to attend the meeting.

Mr. Deuel announced additional agenda related materials regarding **Consent Agenda Item 23** were received following the publication of the agenda and copies were available at the Clerk's station.

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

Regarding **Consent Agenda Item 15**, a Resolution Granting Indemnity to the State of California for the Implementation of the Feasibility Study Phase of the San Diego – Coronado Bridge Artistic Lighting Public Art Project within the State Highway right-of-way, Chair Moore expressed concern regarding the indemnification of the State of California in regard to the encroachment permit to allow consultants onto the San Diego – Coronado Bridge.

Regarding **Consent Agenda Item 23**, an Ordinance Authorizing Staff to: (I) Refinance the Outstanding Series 2004B Non-Amortizing Revenue Bonds, (II) Refinance the Outstanding San Diego County Regional Authority Promissory Note and (III) Increase the Refinancing Amount with Additional Cash to the Extent Supported by Cash Flows, Commissioner Malcolm discussed the timely nature of addressing the matter to ensure that a final analysis is conducted to ensure cost savings benefits.

Commissioner Nelson requested consideration of continuing the item to a future Board meeting for further discussion.

Bob DeAngelis, CFO/Treasurer, requested that the matter be considered and that the proposed action would enable staff to move forward, authorize staff to begin the evaluation process, and consider opportunities in light of changes in the economy. Mr. DeAngelis offered the action provides staff the opportunity to continue the process through December 2014 and places the District in a position to move ahead should the rates prove favorable.

**CONSENT AGENDA**

On motion of Commissioner Smith, seconded by Commissioner Nelson, the Board adopted Consent Agenda items 9A, 9B, 10, 11, 12, 13, 14, 15, 16, 17A, 17B, 17C, 17D, 18, 19, 20, 21, 22A, 22B, 22C, 22D, 23, 24 and Action Agenda item 25. (**Ordinance 2735; Resolution 2013-144** through and including **Resolution 2013-147; Ordinance 2736; Resolution 2013-148** through and including **Resolution 2013-162; Ordinance 2737; Ordinance 2738** and **Resolution 2013-163**) by the following vote: Yeas-Castellanos, Malcolm, Merrifield, Moore, Nelson, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

**Schedule of Compensation**

Agenda Item 9A. **Ordinance 2735**, 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 9B. **Resolution 2013-144**, Amending the San Diego Unified Port District Directory of Classification Specifications for Fiscal Year 2013 – 2014, was adopted as part of the consent agenda.

Agenda Item 10. **Resolution 2013-145**, Authorizing Amendment No. 3 to the Agreement with Arcadis U.S., Inc. for Construction and Project Management Services of the North Embarcadero Visionary Plan Phase 1 Project to increase the agreement amount by \$513,623, increasing the aggregate total of the Agreement from \$1,822,279 to \$2,335,902 and extending the term of the agreement from December 31, 2013 to September 30, 2014, was adopted as part of the consent agenda.

Agenda Item 11. **Resolution 2013-146**, Authorizing Amendment No. 3 to the Agreement with Project Design Consultants for Construction Phase Design Services of the North Embarcadero Visionary Plan Phase 1 to increase the agreement amount by \$575,000, increasing the total aggregate total of the agreement from \$1,093,145 to \$1,668,145 extending the term of the agreement from December 31, 2013 to September 30, 2014, was adopted as part of the consent agenda.

Agenda Item 12. **Resolution 2013-147**, Authorizing Agreement with Tetra Tech, Inc. for litigation support and Environmental Services related to the Chula Vista Bayfront Master Plan project for a term of three years in an amount not to exceed \$560,000, and waiving the solicitation provisions of BPC Policy No. 110 (II), was adopted as part of the consent agenda.

Agenda Item 13. **Ordinance 2736**, Amending the South Campus Relocation Agreement to: 1) Extend the current Environmental Contamination Discovery cut-off date of 15 years after closing by an additional 10 years, for a new discovery cut-off date after closing of 25 years, ending December 30, 2024; 2) Clarify roles of the parties; 3) Clarify the timing of the removal of the asphalt and concrete covering the site; and 4) Transferring the Rights and Obligations under the Agreement of Successor Agency of the Chula Vista Redevelopment Agency under the Agreement, to the City of Chula Vista, was adopted as part of the consent agenda.

Agenda Item 14. **Resolution 2013-148**, Amending BPC Policy No. 021 - Meeting of the Board of Port Commissioners - to specify that the following shall be attached to each of the Final Published Agenda Sheets, or made available in the Office of the District Clerk or on the internet: (A) Proposed Resolutions and Ordinances for Board Adoption, (B) Draft Agreements, Permits or Other Documents on which the Board Action is based or that require Board approval, and (C) Any Other Documents or Materials Referenced in an Agenda Sheet, was adopted as part of the consent agenda.

Agenda Item 15. **Resolution 2013-149**, Granting Indemnity to the State of California for Implementation of the Feasibility Study Phase of the San Diego – Coronado Bridge Artistic Lighting Public Art Project within the State Highway right-of-way, was adopted as part of the consent agenda.

Agenda Item 16. **Resolution 2013-150**, Consenting to \$3,000,000 loan between California Bank & Trust and Shelter Cove Marina Ltd. located at 2240 Shelter Island Drive in the City of San Diego, with conditions, was adopted as part of the consent agenda.

Resolutions Consenting to Subleases from Seaport Village Operating Co., LLC dba the Headquarters (Formerly the Old Police Headquarters), located on West Harbor Drive at the foot of Pacific Highway with the following Subtenants:

Agenda Item 17A. **Resolution 2013-151**, Consenting to Subleases from Seaport Village Operating Co., LLC dba The Headquarters (Formerly the Old Police Headquarters), located on West Harbor Drive at the foot of Pacific Highway with Dallmann Confections, Inc., DBA Dallmann Fine Chocolates, 5 years with one 3-year option to extend, was adopted as part of the consent agenda.

Agenda Item 17B. **Resolution 2013-152**, Consenting to Subleases from Seaport Village Operating Co., LLC dba The Headquarters (Formerly the Old Police Headquarters), located on West Harbor Drive at the foot of Pacific Highway with

Starbucks Corporation, DBA Starbucks, 10 Years with two 5-year options to extend, was adopted as part of the consent agenda.

Agenda Item 17C. **Resolution 2013-153**, Consenting to Subleases from Seaport Village Operating Co., LLC dba The Headquarters (Formerly the Old Police Headquarters), located on West Harbor Drive at the foot of Pacific Highway with LG Retail Enterprises, Inc., DBA Urban Beach House, 10 Years, was adopted as part of the consent agenda.

Agenda Item 17D. **Resolution 2013-154**, Consenting to Subleases from Seaport Village Operating Co., LLC dba The Headquarters (Formerly the Old Police Headquarters), located on West Harbor Drive at the foot of Pacific Highway with Venissimo Cheese, Inc., DBA Venissimo Cheese, 5 Years with one 5-year option to extend, was adopted as part of the consent agenda.

Agenda Item 18. **Resolution 2013-155**, Waiving the Requirements set forth in BPC Policy No. 110, Section II.C, and Authorizing a Sole Source, Direct Negotiated Service Agreement with Terex Corporation, D.B.A., Terex Gottwald to provide and install Proprietary Programmable Logic Control System Upgrades on the Port's Gottwald Model Hmk300e Mobile Harbor Crane in support of Maritime Operations at the Tenth Avenue Marine Terminal in an amount not to exceed \$300,000 as approved in the FY 13/14 Equipment Outlay Budget Adopted by the Board on July 16, 2013, was adopted as part of the consent agenda.

Agenda Item 19. **Resolution 2013-156**, Selecting and Authorizing a Purchase Agreement with Hutton Communications, Inc. for Internal Plant Fiber Optic Infrastructure and Testing Equipment for connection to San Diego Bay Regional Fiber Optic Infrastructure at various District Facilities for an amount not to exceed \$36,287.37; \$21,882.45 funded by the Department of Homeland Security Port Security Grant Program (PSGP) 2011 which is included in the FY2009-2013 Capital Improvement Program amended by the Board on December 11, 2012 and \$14,404.92 funded by the FY13/14 Technology Management Program Budget adopted by the Board on July 16, 2013, was adopted as part of the consent agenda.

Agenda Item 20. **Resolution 2013-157**, Granting Indemnity to the San Diego Air Pollution Control District for processing and/or approval of a permit application submitted by the San Diego Unified Port District to operate a new, upgraded emergency generator at the Shelter Island Harbor Control Building, was adopted as part of the consent agenda.



Agenda Item 21. **Resolution 2013-158**, Authorizing an Agreement with the San Diego Symphony Orchestra Association for a Marketing Sponsorship in amounts not to exceed \$30,000 in funding and \$204,300 in District Services, was adopted as part of the consent agenda.

H Street Extension Project

Agenda Item 22A. **Resolution 2013-159**, Authorizing Reallocation of Funds within the FY 2009-2013 Capital Improvement Program in the amount of \$400,000 from the Chula Vista South Campus Demolition Project to the H Street Extension Project, was adopted as part of the consent agenda.

Agenda Item 22B. **Resolution 2013-160**, Adopting Plans and Specifications and Awarding Contract No. 2010-06R to LB Civil Construction, Inc. for H Street Extension Project, Chula Vista, California, in the amount of \$7,191,582.50, was adopted as part of the consent agenda.

Agenda Item 22C. **Resolution 2013-161**, Authorizing Indemnification Language in License Agreement with Rohr, Inc., a United Technologies Aerospace Systems Company, was adopted as part of the consent agenda.

Agenda Item 22D. **Resolution 2013-162**, Authorizing Indemnification Language in License Agreement with Chula Vista Marina, was adopted as part of the consent agenda.

Agenda Item 23. **Ordinance 2737**, Authorizing Staff to: (I) Refinance the Outstanding Series 2004B Non-Amortizing Revenue Bonds, (II) Refinance the Outstanding San Diego County Regional Authority Promissory Note and (III) Increase the Refinancing Amount with Additional Cash to the Extent Supported by Cash Flows, was adopted as part of the consent agenda.

Agenda Item 24. **Ordinance 2738**, Amending the FY 13/14 Budget to add \$500,000 to the CIP Item to accelerate and complete three approved CIP Projects, was adopted as part of the consent agenda.

Agenda Item 25. **Resolution 2013-163**, Authorizing a Proclamation Honoring Kaneko Bishop, President of the San Diego-Yokohama Sister City Society was adopted as part of the consent agenda.

## **ACTION AGENDA**

### **PRESENTATION BY THE DOWNTOWN SAN DIEGO PARTNERSHIP ON ITS "OUR DOWNTOWN" VISION PROCESS**

Agenda Item 26. Brandy Christian, Vice President of Strategy & Development, introduced Kris Michell, President/CEO, Downtown San Diego Partnership, who provided a presentation titled "Our Downtown" Vision Process. (A copy of the staff report and presentation is on file in the Office of the District Clerk.)

Commissioner discussion ensued. Commissioner Nelson requested and received clarification from Ms. Michell regarding opportunities in which the District could assist with reducing homelessness, and she discussed the installation of red meters on the tidelands as part of the "Make Change Count" campaign to reduce panhandling. He requested and received clarification regarding the "Bay to Park" link. Ms. Michell discussed working collaboratively to connect the District's shuttle with a downtown circulator shuttle to connect the waterfront to Balboa Park.

Commissioner Smith thanked Ms. Michell and the Downtown San Diego Partnership. He discussed bringing a middle school and additional elementary schools into the downtown community to address the needs of a growing downtown population.

Commissioner Merrifield also thanked Ms. Michell and the Downtown San Diego Partnership for its leadership in the visioning process. He remarked on the District's efforts regarding the Convention Center expansion project and the North Embarcadero Visionary Plan. He discussed the District's master planning efforts and working with stakeholders like the Downtown San Diego Partnership. Commissioner Merrifield challenged his fellow Commissioners and encouraged senior staff to join him at the next "We All Count" census event sponsored by the Regional Task Force on the Homeless. Ms. Michell remarked on the United Way's efforts to address homelessness in the region.

Commissioner Castellanos offered his thanks to Ms. Michell. He discussed opportunities to work collaboratively with the Downtown San Diego Partnership and the San Diego Foundation to leverage their research and data as the District begins its integrated planning efforts and Port Master Plan updates. He encouraged staff to work with the Downtown San Diego Partnership and the San Diego Foundation on public outreach efforts.

Chair Moore also thanked Ms. Michell for her presentation and discussed "synergy." She expressed a desire to work collaboratively on projects of mutual interest. She recognized the opportunity to work together on the "Bay to Park" shuttle.

**PRESENTATION BY THE SOUTH COUNTY ECONOMIC DEVELOPMENT COUNCIL ON ITS "SOUTH COUNTY VISIONING PROJECT"**

Agenda Item 27. Brandy Christian, Vice President of Strategy & Development, introduced Cindy Gompper-Graves, CEO, South County Economic Development Council (SCEDC), who provided a presentation on projects generating economic opportunities in the south county and the South County Visioning Project. (A copy of the staff report and presentation is on file in the Office of the District Clerk.)

Commissioner discussion ensued. Commissioner Malcolm thanked Ms. Gompper-Graves for the presentation, recognized her advocacy on behalf of the south bay, and acknowledged the SCEDC for its efforts. He offered that the Chula Vista Bay Front Master Plan project will not only provide south county benefits but described it as a "regional opportunity." Commissioner Malcolm encouraged working collaboratively and incorporating data from the SCEDC economic plan into the District's integrated planning efforts and Port Master Plan update. He announced the construction of the new Marriott Signature Hotel in Imperial Beach that is contiguous to a District park and the District's managed beach. He urged Ms. Gompper-Graves to include that property in her next presentation.

Commissioner Valderrama echoed similar comments made by Commissioner Malcolm. He acknowledged the number of the projects under way in the south county and recognized Ms. Gompper-Graves for her efforts to ensure positive action is taken. She confirmed that on September 13, 2013 the SCEDC would host its Annual Summit and recognized Commissioner Valderrama for his service on the SCEDC Board.

Commissioner Smith also thanked Ms. Gompper-Graves for her "tireless" efforts. He remarked on the information presented and the business opportunities in the south county.

Commissioner Nelson thanked Ms. Gompper-Graves and remarked on his tour of the south county. He requested clarification regarding her opinion when considering the best economic value for Pond 20 could be as an ecological reserve. In the context of the Master Planning process, Ms. Gompper-Graves discussed finding a way to do both. She discussed the need to develop businesses and create more employment opportunities in the south county and consideration of setting a portion of the property aside for reserve purposes. Commissioner Nelson urged the business community to

consider the potential opportunities if Pond 20 became an attractive visitor drawing amenity.

Chair Moore also thanked Ms. Gompper-Graves. She stated that Ms. Gompper-Graves was instrumental in getting the Chula Vista Bay Front Master Plan project done. She acknowledged the leadership of the SCEDC and recognized the visioning plan's benefits. Chair Moore discussed working collaboratively as the District embarks on its integrated planning efforts.

Ms. Gompper-Graves offered her thanks to District staff and the Board for their assistance.

**PRESENTATION BY THE LIVING COAST DISCOVERY CENTER ON ITS STRATEGIC PLANNING PROCESS.**

Agenda Item 28. **Item continued to a future Board meeting.**

**PRESENTATION OF THE SAN DIEGO UNIFIED PORT DISTRICT 2013 EMPLOYEE OF THE SECOND QUARTER.**

Agenda Item 29. Michele Corbin, Director, Human Resources, addressed the Board with a presentation regarding the District Employee of the Quarter program. She announced that Michael Arons, Manager, Financial Services, Financial Services Department; Enrique Lemus, Electrician, General Services and Procurement Department; Ruben Rico, Gardener, General Services and Procurement Department; and Stephen Sithiporn, System Support Analyst I Business Information and Technology Services Department (BITS), were nominated for Employee of the Second Quarter. She turned the presentation over to Karen Porteous, Executive Vice President – Administration. (A copy of the staff report and presentation are on file in the Office of the District Clerk.)

Ms. Porteous announced that Mr. Sithiporn was selected as the 2013 Employee of the Second Quarter. Mr. Sithiporn was cited an invaluable resource and an integral team member to the BITS Department. In his position, he has demonstrated superior resourcefulness, dedication, and excellent customer service skills. In addition, during the District's migration to Windows 7, he synergistically collaborated with multiple team members to proactively solve complex software compatibility issues. Due to his research, the District was able to save thousands of dollars in licensing fees and training materials that would have needed to be purchased. Chair Moore offered her congratulations on behalf of the District. (A copy of the staff report and presentation is on file in the Office of the District Clerk.)

Mr. Sithiporn addressed the Board and thanked them for the recognition. He thanked his colleagues and the interns for their hard work. He recognized the BITS department leaders for developing cross-functional teams to provide efficiency and effectiveness to the District.

**PRESENTATION OF GREEN PORT PROGRAM 2012/2013 YEAR IN REVIEW AND RECOGNITION OF GREEN PORT MONTH.**

Agenda Item 30. Jason Giffen, Director, Environmental & Land Use Management Department, Cody Hooven, Senior Environmental Specialist, Environmental & Land Use Management Department, and Michelle White, Environmental Policy Manager, Environmental & Land Use Management Department, addressed the Board with a presentation regarding the Green Port Program 2012/2013 Year in Review; announced the kick off of the annual Green Port Month and the recipients of the 2013 Employee Environmental Awards. (A copy of the staff report and presentation is on file in the Office of the District Clerk.)

Ms. White announced the recipients of the 2013 Employee Environmental Awards: Jose Cravo, Gardener II, General Services and Procurement; Ryan Harris, Administrative Assistant II, General Services and Procurement; Monique Halgrims, Administrative Assistant II, Real Estate; and Mark Taylor, Marine Terminal Superintendent, Maritime. Karen Porteous, Executive Vice President – Administration, highlighted the employees' efforts as "green ambassadors" and offered congratulations on behalf of the District.

Laura Hunter, Environmental Health Coalition, addressed the Board and acknowledged the benefits of the Green Port Program and recognized the SDG&E funding support. She expressed concern regarding the effectiveness of voluntary or self-motivated efforts that translates into meeting reduction targets and goals.

Commissioner discussion ensued. Commissioner Nelson requested and received clarification from Ms. Hooven regarding the source of the 27 tons of recycling reported. He discussed the recycling efforts by the San Diego Convention Center and remarked on recognizing the tenants who make significant "green business" operating decisions. Concerning utility rate structures and increases, Commissioner Nelson requested and received clarification from Ms. Hooven regarding the District's role as an "intervener" at the Public Utility Commission proceedings. She stated the District was an intervener but did not address rate increases as a consumer. In light of the expenditures made by the District and its tenants for gas and electricity service, he requested that the Executive Director and the Port Attorney look at the structure of rate increases for fairness, and discussed the Department of Ratepayer Advocates role. Acknowledging Ms. Hunter's

concern regarding the effectiveness of voluntary compliance efforts, Commissioner Nelson requested and received clarification from Mr. Giffen regarding the next steps toward the adoption of a Climate Plan; expectations based upon the Board's direction for the next workshop; and the cycle on which a detailed inventory is completed. Commissioner Nelson discussed providing numerical data when staff reports on the assessment and implementation processes related to the scope and scale of the efforts required for attaining green house gas reduction targets.

Commissioner Merrifield discussed the District's decrease in energy usage and increase in expenses. He requested putting out a request for information regarding the benefits discussed should the District create its own energy and explore the formation of a "co-op."

Commissioner Smith congratulated the team and discussed the District's commitment to being a green port. He remarked on the long-term challenges to maintain the green port results and discussed exploring opportunities for green leases and other components that provide a greater return as the program matures.

Chair Moore thanked staff for their efforts and the on-going dedication necessary to implement and maintain the program.

Commissioner Nelson remarked on the Sheraton Hotel fuel cells and assessing energy consumption on a granular level. Ms. White discussed the collaboration between Clean Tech and Energy Management System who are working on an initiative called Smart San Diego, a pilot program in downtown San Diego assessing energy management systems to reduce overall peak demand. She discussed opportunities for a pilot program to assess energy usage and management at the cruise ship terminal.

**PRESENTATION OF THE SAN DIEGO UNIFIED PORT DISTRICT (DISTRICT) EQUAL OPPORTUNITY PROGRAM ANNUAL REPORT FOR FISCAL YEAR 2013 (JULY 1, 2012 THROUGH JUNE 30, 2013).**

Agenda Item 31. 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 2013. (A copy of the presentation and staff report is on file in the Office of the District Clerk.)

Commissioner discussion ensued. Commissioner Valderrama thanked staff for providing the report. He stated his concerns regarding the under representation of the largest minority group in the region, Hispanics, at the senior management level in the organization. As a proponent of hiring the most qualified candidate, he queried as to

whether the District's recruitment efforts were as effective as possible in light of the available pool of qualified minority applicants.

In light of the budget considerations and hiring freeze, Commissioner Nelson commended the Executive Leadership Group for continuing their commitment to a diverse workforce and the over-all percentage that are classified as women or minority. He acknowledged Commissioner Valderrama's concerns regarding recruitment and hiring of more Hispanics for leadership roles in the workforce. He queried as to whether the management opportunities at the District were apparent to applicants and discussed expending the resources necessary to expand recruiting efforts to address the matter.

Commissioner Castellanos thanked Ms. Hirai for the presentation. He requested clarification as to whether there were agencies in the County of San Diego who demonstrated success in the areas of small business contracting and minority hires. Ms. Hirai offered that in regard to the contracting, the District excels because the processes are embedded in the District's operational structure. Regarding providing information on business opportunities, he requested and received clarification regarding the outreach efforts to companies who are certified as a minority owned, women owned or a small business.

Chair Moore thanked Ms. Hirai for the presentation.

#### **UPDATE ON LOW WAGE SERVICE PROVIDER HEALTH CARE BENEFITS PROGRAM AND DIRECTION TO STAFF.**

Agenda Item 32. Dave Thompson, Director, General Services and Procurement addressed the Board with an update on the Low Wage Service Provider Health Care Benefits Program and requested direction to staff. (A copy of the presentation and staff report is on file in the Office of the District Clerk.)

Commissioner discussion ensued. Commissioner Valderrama discussed the staff recommendation of Option 3 – to discontinue the program, and return to the use of standard bidding and proposal procedures for all services in light of the implementation of the National Affordable Health Care program. In that the program was not yet in place, he recommended adopting Option 1 to continue the current program without modification.

Commissioner Merrifield congratulated Mr. Thompson and his team for receiving the Achievement in Excellence Award. While acknowledging the implementation of the National Affordable Health Care program, he concurred with Commissioner Valderrama

and offered support to continue the current program without modification as a means to encourage employers to maintain health benefits for their staff.

Commissioner Smith offered congratulations to Mr. Thompson and his team on receiving the Achievement in Excellence Award for the fifth consecutive year. He put forward a motion to adopt Option 2 to Modify the current program so that the maximum number of bonus points that can be awarded is 10 points for firms providing 75% or more of the health care benefits for their employees, five points for firms providing between 50% and 75% of benefits, and no points for firms providing less than 50%. Commissioner Nelson seconded the motion.

Commissioner Malcolm echoed the Commissioners congratulations on the award. He discussed weighing the cost of doing business with what he described as "doing the right thing." He offered that the Low Wage Service Provider Health Care Benefits Program demonstrated the District's values as a responsible business organization. Commissioner Malcolm offered that when the National Affordable Health Care program was fully implemented the matter could be re-evaluated. In the meantime, he offered support for the motion.

Commissioner Nelson acknowledged the Board discussion, expressed admiration for his colleagues, remarked on the importance of having access to quality health care, and offered support for the motion.

Commissioner Castellanos echoed Commissioner Nelson's statements. He also expressed his admiration for his colleagues for taking their position on the matter. He stated the program demonstrated how the District cares for people and offered support for the motion.

Chair Moore echoed the comments offered by Commissioner Nelson and Commissioner Castellanos. She acknowledged Commissioner Valderrama for his leadership on the matter. Chair Moore expressed support for the motion.

On a motion by Commissioner Smith, seconded by Commissioner Nelson, the Board directed staff to modify the current Low Wage Service Provider Health Care Benefits Program so that the maximum number of bonus points awarded is 10 points for firms providing 75% or more of the health care benefits for their employees, five points for firms providing between 50% and 75% of benefits, and no points for firms providing less than 50%; by the following vote: Yeas-Castellanos, Malcolm, Merrifield Moore, Nelson, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.



**REVIEW AND CONSIDERATION OF PROPOSED BOARD AGENDA FOR THE OCTOBER 8, 2013.**

Agenda Item 33. On motion of Commissioner Malcolm, seconded by Commissioner Smith, the Board adopted the proposed agenda for the meeting of October 8, 2013, by the following vote: Yeas-Castellanos, Malcolm, Merrifield Moore, Nelson, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

**LEGISLATIVE UPDATE AND DIRECTION TO STAFF.**

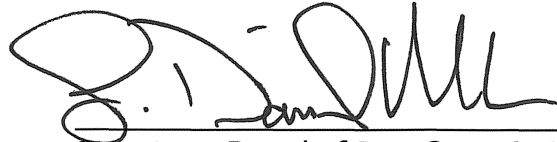
Agenda Item 34. **Board Action No Longer Required.**

**OFFICER'S REPORT**

Agenda Item 35. Monthly Notification of Change Orders Pursuant to BPC Policy No. 110:

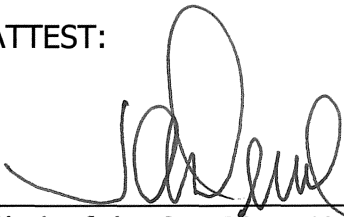
- A) Change Order No. 4 to Contract No. 2012-17 / \$10,000.00 Increase & 21 Calendar Day Time Extension thru 8/16/2013 with Fordyce Construction, Inc. for Tenth Avenue Marine Terminal Crosby St. Pier Modernization, San Diego, California.
- B) Change Order No. 2 to Contract No. 2013-11 / \$17,910.00 Increase with Fordyce Construction, Inc. for Tenth Avenue Marine Terminal On-Shore Improvements Phase II-B, San Diego, California.

Chair Moore announced the Board would adjourn back to Closed Session. Tom Russell, Port Attorney, announced the Board would consider Closed Session Agenda Item 6 and two of the matters under Closed Session Agenda Item 9.

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Secretary, Board of Port Commissioners  
San Diego Unified Port District

ATTEST:

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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 Chair Moore at 3:06 p.m., Friday, September 13, 2013, in the Board Room at 3165 Pacific Highway, San Diego, California.

**ROLL CALL**

Agenda Item 1.

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

OFFICERS: Darbeau, DeAngelis, Deuel, and Russell

Absent: No Commissioners absent.

Excused: Commissioners Merrifield excused for personal business.

**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 - EXISTING LITIGATION

Pursuant to Subdivision (d)(1) 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-WQH(BGS)

California Regional Water Quality Control Board, San Diego Region  
Cleanup and Abatement Order (CAO) No. R9-2012-0024.

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: Carol Wallace, San Diego Convention Center Corporation; Karen Weymann, Shaun Sumner, Shahriar Afshar, Lesley Nishihira, Jason Giffen, Randa Coniglio, Karen Porteous, SDUPD

Under Negotiation: Price and Terms

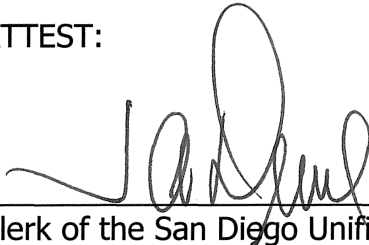
Thomas Russell, Port Attorney, announced that the Board would not be hearing Closed Session Agenda Item 4 at this meeting.

There was no reportable action as to any closed session items, pursuant to Government Code Section 54950 et seq, from the closed session; whereupon, Chair Moore adjourned the meeting.

A handwritten signature in black ink, consisting of a large 'D' followed by several loops and a final flourish.

Secretary, Board of Port Commissioners  
San Diego Unified Port District

ATTEST:

A handwritten signature in black ink, appearing to be 'Janet' followed by a large loop and a final flourish.

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 Chair Moore at 10:05 a.m., Tuesday, October 1, 2013, in the Board Room at 3165 Pacific Highway, San Diego, California and at 1:00 p.m. via teleconference at Loews Madison Hotel, Hamilton A Room – 2nd Floor, 1177 15th Street, NW, Washington, D.C.

**ROLL CALL**

Agenda Item 1.

Present: COMMISSIONERS, Castellanos, Merrifield, Moore, Nelson, Smith, and Valderrama.

OFFICERS: Darbeau, Deuel, and Russell

Absent: No Commissioners absent.

Excused: No Commissioners excused.

**PUBLIC COMMUNICATIONS**

Agenda Item 2. Cory Briggs, San Diego Navy Broadway Complex Coalition, addressed the Board regarding his concerns with the proposed expansion of the San Diego Convention Center. In addition, Diane Coombs and Don Wood each submitted request to speak forms ceding their time to Mr. Briggs.

## **CLOSED SESSION**

Thomas Russell, 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: Carol Wallace, San Diego Convention Center Corporation;  
Steve Cushman, City of San Diego;  
Kip Howard, One Park Boulevard, LLC  
Karen Weymann, Shaun Sumner, Shahriar Afshar, Lesley Nishihira, Jason Giffen, Randa Coniglio, Karen Porteous, SDUPD

Under Negotiation: Price and Terms.


### Agenda Item 4.

#### CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION

Significant exposure to litigation pursuant to Subdivision (d)(2) of Government Code Section 54956.9

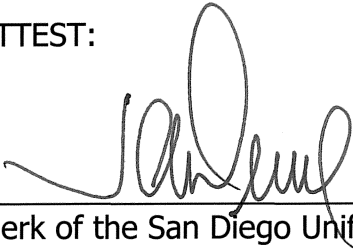
One Case

There was no reportable action as to any closed session items, pursuant to Government Code Section 54950 et seq, from the closed session; whereupon, Chair Moore adjourned the meeting.

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Secretary, Board of Port Commissioners  
San Diego Unified Port District

ATTEST:

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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 Vice Chairman Nelson at 10:05 a.m., Tuesday, October 8, 2013, in the Board Room at 3165 Pacific Highway, San Diego, California.

**ROLL CALL**

Agenda Item 1.

Present: COMMISSIONERS, Castellanos, Merrifield, Nelson, Smith, and Valderrama.

OFFICERS: Darbeau, Deuel, and Russell

Absent: No Commissioners absent.

Excused: Chair Moore was excused for personal business.

**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 - EXISTING LITIGATION

Pursuant to Subdivision (d)(1) 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- WQH (BGS)

California Regional Water Quality Control Board, San Diego Region  
Cleanup and Abatement Order (CAO) No. R9-2012-0024

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: Carol Wallace, San Diego Convention Center Corporation; Steve Cushman, City of San Diego; Kip Howard, One Park Boulevard, LLC  
Karen Weymann, Shaun Sumner, Shahriar Afshar, Lesley Nishihira, Jason Giffen, Randa Coniglio, Karen Porteous, SDUPD

Agenda Item 5.

CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION  
Pursuant to Subdivision (d)(1) of Government Code Section 54956.9

*San Diegans for Open Government, et al. v. California Coastal Commission; San Diego Unified Port District, et al.*  
San Diego Superior Court Case No. 37-2013-00057492-CU-TT-CTL

Agenda Item 6.

CONFERENCE WITH REAL PROPERTY NEGOTIATOR  
Government Code Section 54956.8

Property: SDUPD - Chula Vista RV Park consisting of approximately 578,929 square feet of land at 460 Sandpiper Way, Chula Vista

Negotiating Parties: W. Major Chance and Kevin Moriarty - Chula Vista Marina/RV Park, Ltd.  
Randa Coniglio, Karen Weymann, Adam Meyer, and Chris Hargett, SDUPD

Under Negotiations: Price and Terms

Agenda Item 7.

CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION

Significant exposure to litigation pursuant to Subdivision (d)(2) of Government Code Section 54956.9

One Case

Agenda Item 8.

CONFERENCE WITH LEGAL COUNSEL - INITIATION OF LITIGATION

Pursuant to Subdivision (d)(4) of Government Code Section 54956.9

One Case

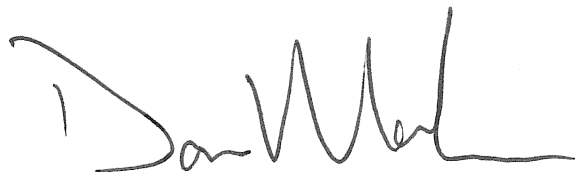
Agenda Item 9.

PUBLIC EMPLOYEE APPOINTMENT, PERSONNEL EVALUATION OR DISCIPLINE:  
EXECUTIVE DIRECTOR, PORT ATTORNEY AND PORT AUDITOR

Government Code Section 54957

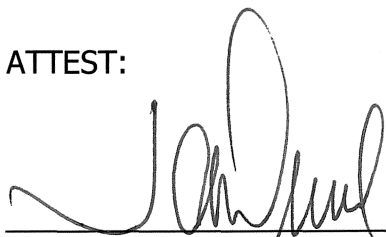
As requested by Chair Moore, Thomas Russell, Port Attorney, reported out regarding closed session. He stated for the record that Commissioner Castellanos had recused himself from all discussion and decisions regarding Closed Session Agenda Item 5 in order to avoid any potential conflict related to his law firm.

There was no reportable action as to any closed session items, pursuant to Government Code Section 54950 et seq, from the closed session; whereupon, Chair Moore adjourned the meeting.

A handwritten signature in black ink, appearing to read "Dan Marshall", written over a horizontal line.

Secretary, Board of Port Commissioners  
San Diego Unified Port District

ATTEST:

A handwritten signature in black ink, appearing to read "Janet", written over a horizontal line.

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 Vice Chairman Nelson at 1:02 p.m., Tuesday, October 8, 2013, in the Board Room at 3165 Pacific Highway, San Diego, California.

**ROLL CALL**

Agenda Item 1.

Present: COMMISSIONERS, Castellanos, Malcolm, Merrifield, Nelson, Smith, and Valderrama.

OFFICERS: Darbeau, DeAngelis, Deuel, Monson, Stup, and Russell.

Absent: No Commissioners absent.

Excused: Chair Moore excused for personal business.

**CLOSED SESSION**

Agenda Item 2. Thomas Russell, Port Attorney, reported that the Board considered the items on the Closed Session agenda but took no reportable action. He stated for the record that Commissioner Castellanos had recused himself from all discussion and decisions regarding Closed Session Agenda Item 5 in order to avoid any potential conflict related to his law firm.

**PLEDGE OF ALLEGIANCE**

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

**APPROVAL OF MINUTES**

Agenda Item 4. On a motion by Commissioner Smith, seconded by Commissioner Castellanos, the Board approved the minutes of the April 18, 2013 special meeting and the minutes of the May 7, 2013 special meeting, by the following vote: Yeas-Castellanos, Malcolm, Merrifield, Nelson, Smith, and Valderrama; Nays-None; Excused-Moore; Absent-None; Abstained-None.

## **PUBLIC COMMUNICATIONS**

Agenda Item 5. In that a request to speak form was submitted and staff had requested that **Action Agenda Item 28**, a Presentation from staff on a request from Intrepid Landing, LLC and Driscoll, Inc. to extend lease and option deadlines for the following three Agreements at 2702 Shelter Island Drive In San Diego: A) Extension of Construction period in lease with Intrepid Landing, LLC to develop Parcels 2 and 5. B) Extension of Option Term and conditions precedent in option with Intrepid Landing, LLC to lease and develop Parcel 1. C) Extension of Option Term and conditions precedent in option with Driscoll, Inc. to lease and develop Parcels 3 and 4, be continued to a future Board meeting, Vice Chairman Nelson offered Seth Dorros, Vice President of Land Acquisition, CR Point Loma Town Homes LLC, the opportunity to address the Board. Mr. Dorros addressed the Board regarding the Intrepid Landing, LLC and Driscoll, Inc. projects and development opportunities in the area.

Laura Hunter addressed the Board regarding the Barrio Logan Community Plan and thanked the Board on behalf of Environmental Health Coalition and its stakeholders.

David Ritter addressed the Board regarding infraction and citation matters, his experience with the Harbor Police Department, his vessel, and the A-8 anchorage. (Mr. Ritter provided documents concerning his remarks to the Board, a copy of which is on file in the Office of the District Clerk.) Vice Chairman Nelson thanked Mr. Ritter for his remarks and requested the Port Attorney review his documentation.

Ken Franke, President, Sportfishing Association of California, addressed the Board and thanked the District and Commissioners Castellanos, Malcolm and Merrifield for representing the District on a recent trip to Washington D.C. and meeting with Senate and Congressional representatives. He discussed the Mexican government's implementation of an electronic reporting process for vessels entering their waters.

Sophie Silvestri, Director of Operations, San Diego Port Tenants Association, addressed the Board regarding the 2013 Operation Clean Sweep event. She thanked the Board, District staff and acknowledged the volunteers for their assistance. (A copy of the presentation is on file in the Office of the District Clerk.) Vice Chairman Nelson thanked Ms. Silvestri and the Port Tenants Association for their sponsorship, discussed the benefits of the Operation Clean Sweep event, and acknowledged the volunteers for their hard work.

## **COMMISSIONER REPORTS**

Agenda Item 6. Commissioner Castellanos discussed a recent trip to Washington D.C. and remarked on the importance of building relationships on behalf of the District, the region, and its stakeholders.

Commissioner Merrifield echoed Commissioner Castellanos' comments. He commended the San Diego Regional Chamber of Commerce for their coordination of the "Commerce's Seventh Annual One Region, One Voice" mission to Washington D.C. He offered that the event provided an opportunity to meet with top Washington officials, and San Diego regional leaders. He also remarked on the meeting with the American Port Association, and recognized the bipartisanship exhibited during the meetings.

Commissioner Malcolm offered that the trip was productive despite the Federal Government's shutdown. He stated that it was his belief that the region was represented well; discussed the meeting with Senator Dianne Feinstein; acknowledged the benefit of the event to the District and stakeholders such as Ken Franke of the Sportfishing Association of California. He acknowledged staff for their assistance.

Tanya Castaneda, Principal Marketing/Public Relations Representative, announced the winner of the "Port for All" photo contest that took place over the summer, where the public was invited to submit their pictures from around the waterfront of San Diego Bay as part of the Port's 50th anniversary celebration. She explained that the entries were gathered for final judging by Chair Moore, who selected a photograph of the sunrise over boats in America's Cup Harbor taken by CiCi Sayer of San Diego as the winning photo. Vice Chairman Nelson presented the certificate to Ms. Sayer. On behalf of Chair Moore, Ms. Castaneda addressed the Board and reported on the Chula Vista HarborFest at Bayside Park held on September 21, 2013.

## **PRESIDENT REPORT**

Agenda Item 7. Wayne Darbeau, President, announced that October was National Disability Employment Awareness Month and publicly thanked the District's Accessibility Advisory Committee for their service and dedication to help make the tidelands accessible for all.

John Bolduc, Vice President Homeland Security/Harbor Police Chief, addressed the Board acknowledged Harbor Police Officer Cynthia Markley who was recently recognized by the California Peer Support Association as the State of California's 2013 Peer Supporter of the Year. Officer Markley thanked Chief Bolduc, Assistant Chief Mark Stainbrook, and her fellow officers for their support of the program.

Chief Bolduc recognized Jessica Thomas, Facility Security Coordinator, as one of six maritime security professionals from around the country who was recognized with an Excellence in Maritime Security Award at the International Facility Security Conference.

Mr. Darbeau announced that the California Association of Port Authorities (CAPA) has recognized its LGBT Ports Diversity Group as an official affinity group, and commemorated the decision on October 4, 2013 with a resolution presented at the Port of San Diego. He stated that Vice Chairman Bob Nelson, California State Assembly Majority Leader Toni Atkins and San Diego Interim Mayor Todd Gloria attended the formal presentation of the resolution in the Port of San Diego's Boardroom. Also present were staff and commissioners from the Ports of Oakland, San Francisco and Long Beach, the San Diego International Airport, and San Diego County Supervisor Dave Roberts' office. Mr. Darbeau read the resolution into the record. (A copy of the resolution is on file in the Office of the District Clerk.)

Vice Chairman Nelson extended his thanks from all the Port representatives to the CAPA Board and discussed the business benefits of the affinity group.

#### **DISTRICT CLERK'S ANNOUNCEMENTS**

Agenda Item 8. Vice Chairman Nelson requested that Timothy Deuel, District Clerk, announce any suggested docket changes.

He announced the following docket changes for the Board's consideration: **Consent Agenda Item 10**, Resolution Authorizing Change Order No. 3 for \$90,002 to Contract No. 2011-49 with NEWest Construction Company for the Tenth Avenue Marine Terminal Cold Ironing Project, increasing the aggregate contract amount from \$2,999,360 to \$3,089,362, staff requested the item be continued to a future Board meeting; **Consent Agenda Item 13**, Resolution Waiving BPC Policy No. 360 to enter into Exclusive Negotiations with Chula Vista Marina/RV Park, Ltd., for an Option to Lease and Develop an RV Park on a Site Located within the Chula Vista Bayfront Northwest of Bay Boulevard and E Street, staff requested the item be continued to a future Board meeting; **Consent Agenda Item 14C**, Resolution Consenting to Subleases from Seaport Village Operating Co., LLC dba The Headquarters (Formerly the Old Police Headquarters), located on West Harbor Drive at the foot of Pacific Highway with the following Subtenant: LC Partners, Inc., dba Lolo by the Sea, 5 year Sublease with one 3-year Option, staff requested the item be continued to a future Board meeting; **Consent Agenda Item 14D**, Resolution Consenting to Subleases from Seaport Village Operating Co., LLC dba The Headquarters (Formerly the Old Police Headquarters), located on West Harbor Drive at the foot of Pacific Highway with the following Subtenant: Seaside Home and Paper, LLC, dba Seaside Home and Paper, 10 year Sublease, staff determined Board action was no longer required; **Consent Agenda Item 14E**, Resolution Consenting to Subleases from Seaport Village Operating Co., LLC dba The Headquarters (Formerly the Old Police Headquarters), located on West Harbor Drive at the foot of Pacific Highway with the following Subtenant: Sunglass



Hut Trading, LLC, dba Sunglass Hut, 10 year Sublease with one 5-year Option, staff requested the item be continued to a future Board meeting; **Consent Agenda Item 17**, Resolution Authorizing Amendment No. 2 to the Agreement with Pae White Studio, Inc. for consulting services related to North Embarcadero Visionary Plan Phase I to increase the agreement amount by \$84,000, increasing the aggregate total of the agreement from \$147,400 to \$231,400, staff requested the item be continued to a future Board meeting; **Action Agenda Item 28**, Presentation from staff on a request from Intrepid Landing, LLC and Driscoll, Inc. to extend lease and option deadlines for the following three Agreements At 2702 Shelter Island Drive In San Diego: A) Extension of Construction period in lease with Intrepid Landing, LLC to develop Parcels 2 and 5. B) Extension of Option Term and conditions precedent in option with Intrepid Landing, LLC to lease and develop Parcel 1. C) Extension of Option Term and conditions precedent in option with Driscoll, Inc. to lease and develop Parcels 3 and 4, staff requested the item be continued to a future Board meeting and **Action Agenda Item 30**, Presentation by the Living Coast Discovery Center on its Strategic Plan, staff requested the item be continued to a future Board meeting.

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

Commissioner Smith requested that **Consent Agenda Item 18**, Environmental Fund Projects: A) Resolution Authorizing Funding from the Environmental Fund in the amount of \$37,200 over three years for a project with the Chula Vista Elementary School District to fund bus transportation to the Living Coast Discovery Center for the Coastal Education Program. B) Resolution Authorizing Funding from the Environmental Fund in the amount of \$154,000 over three years for a project with the Living Coast Discovery Center to fund the Environmental Education Program; Special Exhibits and Lecture Series; Animal Supplies; Shuttle Bus and the Endangered Light-Footed Clapper Rail Propagation Programs and **Consent Agenda Item 19**, Resolution to: A) Amend BPC Policy No. 110 to Authorize the Port Auditor to enter into service provider agreements for Auditing Services which do not exceed \$175,000. B) Amend BPC Policy No. 110 to require Executive Director Authorization to issue unilateral change orders. C) Amend BPC Policy No. 110, Section IV Grant-Funded Agreements for Board Acceptance of Grant Awards. D) Rescind BPC Policy No. 109 - Board Approval of Grant Awards be pulled for a separate discussion and vote.

## CONSENT AGENDA

On motion of Commissioner Valderrama, seconded by Commissioner Merrifield, the Board adopted Consent Agenda items 9, 11, 12, 13B, 14A, 14B, 15, 16, 20, 21, 22, 23, 24, and 25. (**Resolution 2013-164** through and including **Resolution 2013-168**; **Ordinance 2739** through and including **Ordinance 2744**; **Resolution 2013-171** through and including **Resolution 2013-175**) by the following vote: Yeas-Castellanos, Malcolm, Merrifield, Nelson, Smith, and Valderrama; Nays-None; Excused-Moore; Absent-None; Abstained-None.

Agenda Item 9. **Resolution 2013-164**, Authorizing an Agreement Limiting Liability and Granting Indemnity to the State of California Department of Transportation for access for the District to maintain a fence along Palm Avenue and Pond 20 South Property Line, was adopted as part of the consent agenda.

Agenda Item 10. **Item continued to a future Board meeting.**

Agenda Item 11. **Resolution 2013-165**, Agreeing to a Limitation of Liability for San Diego Gas and Electric for the interconnection agreement with the District for Tenth Avenue Marine Terminal Cold Ironing Project, was adopted as part of the consent agenda.

Agenda Item 12. **Resolution 2013-166**, Establishing Minimum Annual Rent for Callahills, Inc. dba Red Sails Inn at 2614 Shelter Island Drive in San Diego for the period December 1, 2013 through November 30, 2023, was adopted as part of the consent agenda.

Agenda Item 13. **Item continued to a future Board meeting.**

Agenda Item 14A. **Resolution 2013-167**, Consenting to Subleases from Seaport Village Operating Co., LLC dba The Headquarters (Formerly the Old Police Headquarters), located on West Harbor Drive at the foot of Pacific Highway with Warm Water Galleries Inc., dba Aaron Chang Ocean Art Gallery, 5 year Sublease with one 3-year Option, was adopted as part of the consent agenda.

Agenda Item 14B. **Resolution 2013-168**, Consenting to Subleases from Seaport Village Operating Co., LLC dba The Headquarters (Formerly the Old Police Headquarters), located on West Harbor Drive at the foot of Pacific Highway with Madison San Diego, LLC, dba Madison San Diego, 5 year sublease with one 5-year option, was adopted as part of the consent agenda.

Agenda Item 14C. **Item continued to a future Board meeting.**

Agenda Item 14D. **Board Action No Longer Required.**

Agenda Item 14E. **Item continued to a future Board meeting.**

Agenda Item 15. **Ordinance 2739**, Granting 66 Year Utility Easement to Pacific Bell Telephone Company dba AT&T California for Subsurface Telecommunications Equipment located on Harbor Drive between "A" Street and the prolongation of "F" Street in San Diego, was adopted as part of the consent agenda.

Agenda Item 16. **Ordinance 2740**, Granting Amendment No. 2 to Option Agreement with LPP Lane Field, LLC for development of the Lane Field North Hotel Project to extend the option term for an initial two-month extension plus an additional two-month extension, with conditions, not to extend beyond April 30, 2014, was adopted as part of the consent agenda.

Agenda Item 17. **Item continued to a future Board meeting.**

Agenda Item 20. **Ordinance 2741**, Amend Unified Port District Code Sections 4.10 and 4.13 and repeal Sections 4.11 and 4.12, regarding regulation of terminal operators, to update the requirements for entities performing Stevedoring Terminal Operator services at all marine terminals, was adopted as part of the consent agenda.

Agenda Item 21. **Resolution 2013-171**, Accepting the FY2013 Port Security Grant Program Award from the Department of Homeland Security for the San Diego Unified Port District for an allocation amount up to \$501,424 for security related projects, was adopted as part of the consent agenda.

Agenda Item 22. **Resolution 2013-172**, Granting Indemnity to the City of San Diego to allow the District to participate in the City, County, Port Consultant Rotation List, was adopted as part of the consent agenda.

Agenda Item 23. **Resolution 2013-173**, Authorizing the Distribution of the Final Preliminary Official Statement for the District's 2013 Debt Refinancing and Issuance, was adopted as part of the consent agenda.

Agenda Item 24ABCD. **Resolution 2013-174**, Memorandum of Understanding. A) Resolution to Approve Memorandum of Understanding between the San Diego Unified Port District and the California Teamsters Public, Professional and Medical Employees Union, Local 911 – Service, Maintenance, Operations and Crafts Unit. B) Resolution to Approve Memorandum of Understanding between the San Diego Unified Port District and

the California Teamsters Public, Professional and Medical Employees Union, Local 911 – Non-Sworn Safety Personnel Unit. C) Resolution to Approve Memorandum of Understanding between the San Diego Unified Port District and the California Teamsters Public, Professional and Medical Employees Union, Local 911 – Supervisory Unit. D) Resolution to Approve Memorandum of Understanding between the San Diego Unified Port District and the San Diego Harbor Police Officers Association, was adopted as part of the consent agenda.

Agenda Item 25. **Resolution 2013-175**, Approving First Amendment to Agreement with Outside Counsel, Allen Matkins, increasing not-to-exceed compensation in the amount \$200,000 for a total of \$400,000, 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 26. Elsa Juarez, Manager, Human Resources, introduced the District's Service Award Program. Wayne Darbeau, President, announced that Rita Smith-Pomatto, Marine Terminal Supervisor, Maritime Operations, was being recognized for 20 years of service to the District. Ms. Smith-Pomatto thanked her co-workers in the Maritime Department. (A copy of the staff reports and presentations are on file in the Office of the District Clerk.)

Commissioner Smith left the dais at 1:55 p.m. and returned at 1:58 p.m.

### **PRESENTATION ON OPTIONS FOR FUNDING UNANTICIPATED COSTS FOR THE NORTH EMBARCADERO VISIONARY PLAN PHASE 1 PROJECT AND DIRECTION TO STAFF.**

Agenda Item 27. Shaun Sumner, Area Manager, Real Estate, offered a presentation on Options for Funding Unanticipated Costs for the North Embarcadero Visionary Plan (NEVP) Phase 1 Project and requested direction to staff. (A copy of the staff reports and presentations are on file in the Office of the District Clerk.)

Commissioner discussion ensued. Commissioner Smith requested and received clarification from Mr. Sumner concerning the consulting firms, which manage the personalized paver and the street furniture-naming programs and establishing standard language criteria.

Vice Chairman Nelson requested and received clarification from Mr. Sumner regarding environmental grants to recover the costs of remediating portions of the project area and the District's eligibility to seek grants before and/or after the commencement of construction. Vice Chairman Nelson urged staff to develop a means to "imbed" remediation grant opportunities for future projects into the "institutional memory".

Commissioner Merrifield offered support for the creative funding projects and discussed the positive impacts of the NEVP Phase 1 promenade to the cruise industry.

Commissioner Valderrama offered a motion to support the staff recommendation and directed staff to move forward with the development of a personalized paver program and a street furniture-naming program for NEVP Phase 1 and return to the Board for future direction and approvals as needed. Commissioner Smith seconded the motion.

Commissioner Malcolm discussed the NEVP Phase 1 project and acknowledged employing creative entrepreneurial ideas to close the projected budget gap.

Vice Chairman Nelson acknowledged Commissioner Malcolm's comments. He discussed the consideration of moving funds within the Capital Improvement Program (CIP) to pay forthcoming expenses. He requested and received confirmation from Brian Stup, Chief Engineer, who stated that staff understood that should the recovery efforts prove successful any advanced funds, would be returned to the CIP. Mr. Sumner provided further clarification regarding the project's financing including meetings with the District, the City of San Diego and Civic San Diego; the fund raising and revenue generating opportunities tied to project milestones, and providing a CIP contingency.

On a motion by Commissioner Valderrama, seconded by Commissioner Smith, the Board directed staff to move forward with the development of a personalized paver program and a street furniture-naming program for NEVP Phase 1 and return to the Board for future direction and approvals as needed, by the following vote: Yeas-Castellanos, Malcolm, Merrifield, Nelson, Smith, and Valderrama; Nays-None; Excused-Moore; Absent-None; Abstained-None

**PRESENTATION FROM STAFF ON A REQUEST FROM INTREPID LANDING, LLC AND DRISCOLL, INC. TO EXTEND LEASE AND OPTION DEADLINES FOR THE FOLLOWING THREE AGREEMENTS AT 2702 SHELTER ISLAND DRIVE IN SAN DIEGO:**

- A) EXTENSION OF CONSTRUCTION PERIOD IN LEASE WITH INTREPID LANDING, LLC TO DEVELOP PARCELS 2 AND 5.**
- B) EXTENSION OF OPTION TERM AND CONDITIONS PRECEDENT IN OPTION WITH INTREPID LANDING, LLC TO LEASE AND DEVELOP PARCEL 1.**
- C) EXTENSION OF OPTION TERM AND CONDITIONS PRECEDENT IN OPTION WITH DRISCOLL, INC. TO LEASE AND DEVELOP PARCELS 3 AND 4**

Agenda Item 28ABC. **Item continued to a future Board meeting.**

**RESOLUTION ELECTING CHAIRPERSON, VICE CHAIRPERSON AND SECRETARY OF THE BOARD OF PORT COMMISSIONERS FOR CALENDAR YEAR 2014**

Agenda Item 29. On a motion by Commissioner Smith, the following candidates were proposed as officers for the 2014 Calendar Year: Bob Nelson, Chairperson, Dan Malcolm, Vice Chairperson, and Marshall Merrifield, Secretary.

Commissioner Valderrama seconded the motion.

On a motion by Commissioner Smith, seconded by Commissioner Valderrama, the Board adopted **Resolution 2013-176**, Electing: Bob Nelson as Chairperson, Dan Malcolm as Vice Chairperson and Marshall Merrifield as Secretary of the Board of Port Commissioners for Calendar Year 2014, by the following vote: Yeas-Castellanos, Malcolm, Merrifield, Nelson, Smith, and Valderrama; Nays-None; Excused-Moore; Absent-None; Abstained-None.

**PRESENTATION BY THE LIVING COAST DISCOVERY CENTER ON ITS STRATEGIC PLAN**

Agenda Item 30. Item continued to a future Board meeting.

**REVIEW AND CONSIDERATION OF PROPOSED BOARD AGENDA FOR THE DECEMBER 10, 2013 MEETING**

Agenda Item 31. On motion of Commissioner Smith, seconded by Commissioner Malcolm, the Board adopted the proposed agenda for the meeting of December 10, 2013, by the following vote: Yeas-Castellanos, Malcolm, Merrifield, Nelson, Smith, and Valderrama; Nays-None; Excused-Moore; 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:

Monthly Notification of Change Orders Pursuant to BPC Policy No. 110:

- A) Change Order No. 4 to Contract No. 2011-49 / \$1,108.00 Increase with NEWest Construction Company for Tenth Avenue Marine Terminal Cold Ironing Project, San Diego, California.
- B) Change Order No. 5 to Contract No. 2012-17 / \$15,000.00 Increase & 21 Calendar Day Time Extension thru 09/06/2013 with Fordyce Construction, Inc. for Tenth Avenue Marine Terminal Crosby St. Pier Modernization, San Diego, California.
- C) Change Order No. 3 to Contract No. 2013-11 / \$10,419.00 Increase & 15 Calendar Day Time Extension thru 09/06/2013 and Change Order No. 4 / \$16,514.00 Increase & 7 Calendar Day Time Extension thru 09/13/2013 with Fordyce Construction, Inc. for Tenth Avenue Marine Terminal On-Shore Improvements Phase II-B, San Diego, California.

## **CONSENT AGENDA CONTINUED**

### **ENVIRONMENTAL FUND PROJECTS**

- A) RESOLUTION AUTHORIZING FUNDING FROM THE ENVIRONMENTAL FUND IN THE AMOUNT OF \$37,200 OVER THREE YEARS FOR A PROJECT WITH THE CHULA VISTA ELEMENTARY SCHOOL DISTRICT TO FUND BUS TRANSPORTATION TO THE LIVING COAST DISCOVERY CENTER FOR THE COASTAL EDUCATION PROGRAM.**
- B) RESOLUTION AUTHORIZING FUNDING FROM THE ENVIRONMENTAL FUND IN THE AMOUNT OF \$154,000 OVER THREE YEARS FOR A PROJECT WITH THE LIVING COAST DISCOVERY CENTER TO FUND THE ENVIRONMENTAL EDUCATION PROGRAM; SPECIAL EXHIBITS AND LECTURE SERIES; ANIMAL SUPPLIES; SHUTTLE BUS AND THE ENDANGERED LIGHT-FOOTED CLAPPER RAIL PROPAGATION PROGRAMS.**

Agenda Item 18. While acknowledging the work of the organization, Commissioner Smith offered a motion to continue the item in its entirety in light of the recent financial challenges experienced by the Living Coast Discovery Center (LCDC).

Commissioner Malcolm acknowledged Commissioner Smith's position. He remarked on the organization's fiscal situation, the status of funding set forth in the

resolution should the facility close and expressed concern with providing additional fiscal support from the District.

Ben Vallejos, Chief Operating Officer, LCDC, addressed the Board regarding the matter and requested support in light of their fund raising efforts and the implementation of a new strategic plan.

Wayne Darbeau, President, expressed concern regarding delaying action on the matters before the Board and offered support for the project. He qualified the matter under discussion, as one of relatively "low risk" to the District should the LCDC not meet its fundraising goal and subsequently cease operations.

Commissioner Valderrama expressed concern regarding the LCDC's business model. He acknowledged the benefits of the organization to the region and expressed his opposition to the motion. He acknowledged the need for a demonstration of positive action to signal support to other potential funding sources.

Commissioner Castellanos requested and received clarification from Mr. Vallejos regarding the matter before the Board and that the sum indicated in the proposed action would not be included in their immediate fund raising goal. Commissioner Castellanos requested and received confirmation from Mr. Vallejos that the matter before the Board was a critical demonstration of support to local corporations to aid in their fundraising efforts. In light of the low risk, Commissioner Castellanos stated he would not support the motion.

Commissioner Merrifield requested and received clarification from Mr. Vallejos regarding the LCDC's monthly income to operating expense ratio. Commissioner Merrifield offered that a consideration could be made to allocate the contract for a shorter period to allow for the results of their fundraising efforts to be considered.

Vice Chairman Nelson remarked on the evaluation process utilized by staff and the work by the Environmental Advisory Committee, which resulted in the recommendations before the Board. Vice Chairman Nelson requested clarification from the Port Attorney as to the discussion regarding the LCDC's fiscal health and the Brown Act. Thomas Russell, Port Attorney, offered that in light of the Board's fiduciary obligation, the information was relevant and it was fair to look beyond the information offered in the staff report. Vice Chairman Nelson expressed concerns regarding the discussion in light of the adopted Board policies and discussed past Board actions allocating funding support for the center. He offered support for the motion to continue the matter.

Jason Giffen, Director, Environmental & Land Use Management offered that staff followed the standard competitive process regarding the matter.

Commissioner Smith discussed the equity of grant funding and offered that all children from the member cities should have the opportunity to experience the LCDC. He reiterated his reasoning for the motion to continue the matter for one month.



Commissioner Valderrama acknowledged Commissioner Smith's comments; however, he expressed opposition to the motion in light of the relatively low risk to the District and demonstrated positive momentum for the Center's fundraising efforts.

Commissioner Merrifield requested and received clarification from Mr. Vallejos regarding the center's press release and its operating status should the fundraising goal not be achieved. Commissioner Merrifield offered that a more rigorous evaluation of the matter was required and restated his opposition to the motion.

Vice Chairman Nelson stated the matter before the Board was for services not a donation.

Commissioner Malcolm associated himself with Commissioner Smith's comments. Referencing Vice Chairman Nelson's statements, he discussed the role of the Board in light of its committee's recommendations and stated it was within the Board's purview to establish any other criteria necessary to make a responsible decision with respect to public funds. He expressed concern regarding the LCDC business plan and stated his need for additional information to make a "data driven" decision regarding the matter. He offered support for the motion.

Commissioner Castellanos requested and received clarification from Mr. Giffen regarding the grant and the way in which the program helps to meet the outreach and education goals under the District's Municipal Storm Water Permit. Commissioner Castellanos requested and received clarification from Mr. Giffen regarding the contracting process and when the District would begin to accrue expenses. Stating that "money attracts money" and as a demonstration of confidence, Commissioner Castellanos stated he would not support the motion to continue the matter.

Vice Chairman Nelson acknowledged the challenges presented, recognized the Board's decision-making authority and acting with discretion, taking actions that followed the established processes, and reiterated his support for the motion. Vice Chair Nelson requested and received clarification from Mr. Vallejos regarding the timeframe by which his organization must reach their immediate fund raising goal or cease operations. Mr. Vallejos confirmed the matter before the Board and acknowledged the funds under consideration would only be spent for the items outlined in the staff report.

On motion of Commissioner Smith, seconded by Commissioner Malcolm, the Board voted to continue Consent Agenda Item 18AB, a Resolution Authorizing Funding from the Environmental Fund in the amount of \$37,200 over three years for a project with the Chula Vista Elementary School District to fund bus transportation to the Living Coast Discovery Center for the Coastal Education Program and a Resolution Authorizing Funding from the Environmental Fund in the amount of \$154,000 over three years for a project with the Living Coast Discovery Center to fund the Environmental Education Program; Special Exhibits and Lecture Series; Animal Supplies; Shuttle Bus and the Endangered Light-Footed Clapper Rail Propagation Programs, the motion failed for lack

of majority by the following vote: Yeas-Malcolm, Nelson, and Smith; Nays-Castellanos, Merrifield, and Valderrama; Excused-Moore; Absent-None; Abstained-None.

Commissioner Valderrama offered a motion to modify the staff recommendation regarding Consent Agenda Item 18B to approve the agreement for one year and re-evaluate the request annually for the next two years should the LCDC business plan be acceptable. Commissioner Merrifield seconded the motion.

Commissioner Smith reiterated his earlier concerns regarding the matter and discussed the practice of allocating funds for off-tidelands purposes.

Commissioner Castellanos offered support for the motion and stated that it was important to send a signal, as a public agency, that the District was willing to help.

Concerning discontinuing funding should the organization cease operations, Commissioner Malcolm requested and received clarification from Mr. Russell that the draft contract could include language related to any filing of bankruptcy and the timing of the funding. Commissioner Malcolm requested and received confirmation from Mr. Giffen regarding the process by which funds would be drawn was based upon invoices submitted for the services rendered.

Commissioner Valderrama offered an amendment to his motion to approve conditionally the one-year commitment and directing staff return with additional information regarding the concerns raised by the Board.

While Commissioner Malcolm reiterated his concerns regarding the LCDC's long-term financial viability, he offered support for the motion and stated he was hopeful the action could provide the center with the necessary support to secure additional funding commitments.

Commissioner Merrifield seconded the amended motion.

In that the sum under consideration was within the authority of the Executive Director to sign a contract, Mr. Russell requested clarification from Commissioner Valderrama, as the maker of the motion, regarding his preference to bring the contract approval back to the Board. Mr. Valderrama stated that due to the concerns raised and in light of the policy discussion, he preferred that the matter of approving the contract be returned to the Board. Mr. Russell requested and received confirmation from Mr. Vallejos that the Board action adopting the resolution but not issuing the contract was sufficient commitment for this organization.

Mr. Darbeau confirmed that before any funds were distributed, the LCDC would have to be under contract with the District. He stated that the LCDC was required to render services before receiving any payments.

Commissioner Valderrama confirmed that the motion was to authorize a resolution to conceptually support funding in the amount of \$51,333 for one year and that the Commissioners have the opportunity to review the contract for the funding at the next Board meeting.

Vice Chairman Nelson offered support for the motion. He restated the funding was allocated for the purposes stated in the staff report and funds would be reimbursed as services were rendered.

On a motion by Commissioner Valderrama, seconded by Commissioner Merrifield the Board adopted **Resolution 2013-169** to conceptually support funding from the Environmental Fund in the amount of \$51,333 for a Project with the Living Coast Discovery Center for the Environmental Education Program; Special Exhibits and Lecture Series; Animal Supplies; Shuttle Bus and the Endangered Light-Footed Clapper Rail Propagation Program, by the following vote: Yeas-Castellanos, Malcolm, Merrifield, Nelson, Smith, and Valderrama; Nays-None; Excused-Moore; Absent-None; Abstained-None.

Commissioner Merrifield referenced Commissioner Smith's earlier statements regarding providing services to all the member city stakeholders, and expressed his opposition to the staff recommendation.

Commissioner Nelson offered a motion to continue the matter to a future Board meeting.

Commissioner Smith acknowledged the work by the committee and concurred with the motion to continue the matter.

Commissioner Valderrama seconded the motion to continue the matter.

On motion of Commissioner Nelson, seconded by Commissioner Valderrama, the Board continued Consent Agenda Item 18A, a Resolution Authorizing Funding from the Environmental Fund in the amount of \$37,200 over three years for a project with the Chula Vista Elementary School District to fund bus transportation to the Living Coast Discovery Center for the Coastal Education Program, by the following vote: Yeas-Castellanos, Malcolm, Merrifield, Nelson, Smith, and Valderrama; Nays-None; Excused-Moore; Absent-None; Abstained-None.

#### **RESOLUTION TO:**

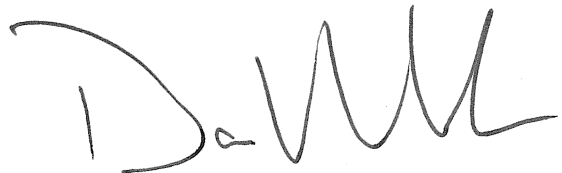
- A) AMEND BPC POLICY NO. 110 TO AUTHORIZE THE PORT AUDITOR TO ENTER INTO SERVICE PROVIDER AGREEMENTS FOR AUDITING SERVICES WHICH DO NOT EXCEED \$175,000.**
- B) AMEND BPC POLICY NO. 110 TO REQUIRE EXECUTIVE DIRECTOR AUTHORIZATION TO ISSUE UNILATERAL CHANGE ORDERS.**
- C) AMEND BPC POLICY NO. 110, SECTION IV GRANT-FUNDED AGREEMENTS FOR BOARD ACCEPTANCE OF GRANT AWARDS.**
- D) RESCIND BPC POLICY NO. 109 - BOARD APPROVAL OF GRANT AWARDS.**

Agenda Item 19. Commissioner Smith expressed concern regarding amendments to BPC Policies being considered on the Consent Agenda.

Commissioner Castellanos seconded the motion.

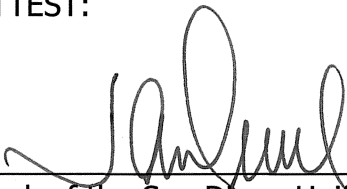
Commissioner Valderrama acknowledged the concerns and concurred with Commissioner Smith's position on the matter.

On a motion by Commissioner Smith, seconded by Commissioner Castellanos the Board adopted **Resolution 2013-170** Amending BPC Policy No. 110 to Authorize the Port Auditor to enter into service provider agreements for Auditing Services which do not exceed \$175,000; Amending BPC Policy No. 110 to require Executive Director Authorization to issue unilateral change orders; Amending BPC Policy No. 110, Section IV Grant-Funded Agreements for Board Acceptance of Grant Awards; and Rescinding BPC Policy No. 109 - Board Approval of Grant Awards, by the following vote: Yeas-Castellanos, Malcolm, Merrifield, Nelson, Smith, and Valderrama; Nays-None; Excused-Moore; Absent-None; Abstained-None.

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Secretary, Board of Port Commissioners  
San Diego Unified Port District

ATTEST:

A handwritten signature in black ink, featuring a large 'J' and several loops.

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 Chair Moore at 9:10 a.m., Wednesday, October 9, in the Board Room at 3165 Pacific Highway, San Diego, California.

Chair Moore welcomed everyone to the workshop and thanked Commissioner Smith and Commissioner Castellanos for their service on the Capital Improvement Program Ad Hoc Committee.

**ROLL CALL**

Agenda Item 1.

Present: COMMISSIONERS, Castellanos, Malcolm; Merrifield, Moore, Nelson, Smith, and Valderrama

OFFICERS: Darbeau, DeAngelis, Deuel, Monson, Russell, and Stup.

Absent: None.

Excused: None.

**PUBLIC COMMUNICATIONS**

Agenda Item 2. A non-agenda public comment was received.

**WORKSHOP**

**RESOLUTION APPROVING AMENDMENTS TO THE FY 2009-2013 AND FY 2014-2018 CAPITAL IMPROVEMENT PROGRAM**

Agenda Item 3. Chair Moore introduced Steve Alexander, the Steve Alexander Group, as the facilitator for the workshop. Mr. Alexander reviewed the workshop agenda, purpose, and objectives.

The following staff members presented the staff report and requested the Board's consideration of amendments to the FY 2009-2013 and FY 2014-2018 Capital Improvement Program (CIP): Randa Coniglio, Executive Vice President – Operations; Bob DeAngelis, CFO/Treasurer; Brian Stup, Chief Engineer; Charlene Dennis, Manager, Engineering-Construction; Joel Valenzuela, Director, Maritime Operations; Shaun Sumner, Area Real Estate Manager, Real Estate; Lesley Nishihira, Manager, Land Use Planning, Environmental & Land Use Management; Paul Fanfera, Assistant Director, Engineering-Construction. (Copies of the staff report, workshop handouts, and presentation are on file in the Office of the District Clerk.) 48:00

Commissioner discussion ensued. The following Commissioners discussed the source of funding for CIP projects; replenishing the operating reserves; cash restriction funds; contingency accounts; the definition of budget surplus; restoration of the Public Art Fund and the Environmental Fund; and a request for an additional discussion regarding the management of the program: Commissioner Merrifield, Commissioner Malcolm, Commissioner Smith and Commissioner Nelson.

Ms. Dennis, Mr. DeAngelis, and Ms. Coniglio provided clarification regarding the CIP budgets; the representation of current year figures as a portion of the total budget shown in the staff report; and that the source of upcoming CIP funds would be based on projected cash flow.

Ms. Dennis reviewed the staff recommendation to allocate additional funding to the four projects in the current CIP and requested Board consideration. Mr. Valenzuela discussed project #3B – Tenth Avenue Marine Terminal (TAMT) Phase II Demolition and requested consideration of increasing the budget by \$600,000.

Commissioner discussion ensued. The Board discussed the following items: they requested additional data to drive their decisions; confirmed that the item was included in the 2014-2018 CIP; results from the consideration of the project by the Maritime Ad Hoc Committee; the definition of increased enterprise value and fiscal benefits to the District; the benefit of the expenditure in light of exploring a terminal operator business model; entrepreneurial thinking regarding expanding business at TAMT; capitalizing on future revenue potential in regard to the maritime business segment; clarifying as to whether the project under consideration was for an environmental study such as an Environmental Impact Report; clarification regarding the total construction cost and the phased completion of the project; discussions regarding optimizing the facility by the Maritime Ad Hoc Committee; the original purpose of the warehouses/storage sheds and current operational needs for flexible open storage; and creating attractive opportunities to secure funds from the U.S. Department of Transportation's (DOT)

Transportation Investment Generating Economic Recovery (TIGER) discretionary grant program.

Wayne Darbeau, Executive Director, acknowledged the need for data driven decisions; remarked on the challenges building maritime business in an urban environment; discussed the interest in the project by the Department of Transportation and the Federal Government; discussed requirements as a designated Strategic Port; reviewed business opportunities in the "spot market;" and offered that the remaining open space at the Terminal could prove attractive to potential operators.

Commissioner Nelson left the dais at 10:24 a.m. and returned at 10:26 a.m.

Mr. Sumner discussed project #3C – North Embarcadero Visionary Plan (NEVP) Phase I, and requested the Board's consideration of increasing the budget by \$1.25 million.

Commissioner discussion ensued. The Board discussed the following items: the obligations under the existing NEVP Joint Powers Agreement (JPA); the relationship with the City of San Diego and Civic San Diego, a city-owned non-profit, to provide fifty-percent of the project costs; the District's future fiscal liability related to the project; sources and opportunities for additional revenue to close the budget gap; the renewed commitments by the City of San Diego leadership; as to whether the obligations of the Centre City Development Corporation (CCDC) were adequately passed on to Civic San Diego; the percentage of the project completed to date; the accuracy of the estimated cost over-run in regard to the original budget; the expected number of change orders; recommending assessing the project within the larger context of the CIP program; acknowledging the project had challenges; posed a question as to whether enough information was available to determine if the additional funding request was adequate; and the consideration of additional CIP funding in light of the process by which the City of San Diego begins their evaluation process to allocate additional resources.

Ms. Nishihira and Mr. Fanfera discussed project #3A – H Street Extension, and requested the Board's consideration of increasing the budget by \$1.2 million and project #3D – Chula Vista Bayfront Predesign/Design and requested the Board's consideration of increasing the budget by \$1.0 million.

Commissioner discussion ensued. The Board discussed the following items: the efforts by the District and the City of Chula Vista to structure a Joint Powers Authority (JPA) within the coming year; financing through a debt obligation such as a bond of indebtedness with an amount to be determined based upon the scope of the project;



reimbursement for capital expenses to the City of Chula Vista as well as the District; concerns regarding the notion of seeking bond funding as a means to reimburse the District for capital expenditures in light of previously allocated CIP funds to member cities; their request for coordination with the CFO, Port Attorney, Bond Counsel, the City of Chula Vista and the District to clarify what expenses were recoverable under a bond; ensuring that adequate funding would be available in the future for infrastructure needs; the benefits of financing via bonds versus making immediate cash expenditures; maintaining equity within the CIP program allocations; the history of the H Street project and the District's obligation; and the concept of bond financing and expense reimbursements in light of an existing Memorandum of Understanding.

Ms. Coniglio provided a brief summary of the process and explained the staff recommendations were separated into four actions as a means to allow for the Board's consideration and modification as they saw fit.

Commissioner Valderrama left the dais at 11:14 a.m. and returned at 11:17 a.m.

The following members of the public addressed the Board with varying viewpoints on the matters presented in the workshop: Gary Halbert, Assistant City Manager, City of Chula Vista, read a letter on behalf of Chula Vista Mayor Cheryl Cox; Brad Raulston, Executive Director, City of National City; Bill Hall, Chair, San Diego Port Tenants Association; John Alvarado, Executive Director, The Good Neighbor Project; Monserrat Hernandez, Barrio Logan Resident; Maria Moya, Organizer, Environmental Health Coalition, who shared the concerns of behalf of the principal from Perkins K-8 School in Barrio Logan; and Laura Hunter, Environmental Health Coalition. (Copies of the letters from Mayor Cheryl Cox, City of Chula Vista, and Principal of Perkins K-8 School, Fernando J. Hernandez, are on file in the Office of the District Clerk.)

Mr. Stup summarized the comments offered by the speakers.

Commissioner Smith left the dais at 11:37 a.m. and returned at 11:39 a.m.

Commissioner Malcolm discussed the initial CIP process and BPC Policy No. 120 that was put forward by the Ad Hoc Committee members, and an "inclusive strategic criteria based process." He discussed his understanding of how staff was directed to move ahead with a "modified process"; the scope of projects under consideration; and the reallocation of \$4 million dollars of capital, as put forward in the staff recommendations that were discussed during the workshop. He discussed utilizing an established public process that stakeholder's trust. Commissioner Malcolm remarked on

outstanding monies in the CIP budget, reviewing projects in light of changing business models, and considering the reallocation of capital funds.

Chair Moore acknowledged Commissioner Malcolm's "process related" comments and discussed the direction taken by staff regarding the "modified approach" in light of briefings with the CIP Subcommittee members. She offered that, should the Board desire to do so, they could discuss any of the individual CIP projects.

Commissioner Malcolm acknowledged the benefits of the projects under consideration and the staff's recommendations.

Commissioner Smith also acknowledged Commissioner Malcolm's "process related comments" and discussed the various actions taken related to capital projects. He recognized the need to address the management of the capital improvement program and questioned how to "close-out" approved projects that remain in a pending status.

Chair Moore summarized next steps for the workshop.

Thomas Russell, Port Attorney, offered, for the benefit of the public, that the Board was acting consistently with BPC Policy No. 120. He stated the policy provides that while the CIP is developed every five years using a long-range land use planning strategy, annually each fall, it would be revisited, reevaluated and revised to ensure that the project selection is consistent with the Port District's strategic goals and (the Compass Plan) and the current business and operational needs in light of changing circumstances.

Chair Moore called for a lunch recess at 11:50 a.m. The workshop was called back to order at 12:30 p.m.

Ms. Coniglio stated that, while staff stood by its recommendation in regard to Project #3B – TAMT Phase II Demolition, they would support deferring that decision and referring the matter to the Maritime Ad Hoc Committee for its consideration as long as the flexibility remained to bring it the Board during a public meeting to adhere to the application deadline for a federal TIGER Grant.

Commissioner Nelson offered a motion to approve staff recommendation #1 Completed projects with remaining budgets and staff recommendation #2, Current active projects projected to be completed under budget, thus the new CIP contingency would be \$4,481,700.

Commissioner Smith seconded the motion.

On a single motion by Commissioner Nelson, seconded by Commissioner Smith the Board, with a single vote the Board adopted **Resolution 2013-177**, approving the staff recommendations #1, Completed projects with remaining budgets and #2, Current active projects projected to be completed under budget, thus the new CIP contingency would be \$4,481,700, by the following vote: Yeas-Castellanos, Malcolm, Merrifield, Moore, Nelson, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

Commissioner Nelson offered a motion to approve staff recommendation #3A – Projects Requiring additional funding in FY 13/14 or FY 14/15 – Chula Vista Bayfront – H Street Extension: Increase budget by \$1.2 million for construction and construction support services. Proposed funding source is from the CIP contingency. Chair Moore offered support for the motion and Commissioner Smith seconded.

Commissioner discussion ensued. Commissioner Merrifield and Chair Moore requested and received clarification regarding the Chula Vista Bayfront – H Street Extension. Mr. Stup discussed the following topics: the planned uses for the proposed additional funding and the progress to date; an in-depth review of the items associated with the costs; and offered that the recommendation was in conformance with BPC Policy No. 110 and the project's budget contingency level.

Commissioner Valderrama requested and received clarification from Chair Moore regarding the workshop discussion process in light of the staff recommendations.

Commissioner Smith reiterated his support for the staff recommendation and the project.

Commissioner Nelson also offered support for the project and acknowledged the item under consideration was an example of staff's pro-active project management of the Chula Vista Bayfront – H Street Extension project. In light of the challenges that arose on the NEVP Phase I project, he expressed concern regarding the construction managers' value and subcontractor's performance under contract with the District and urged staff to seek the necessary assistance related to construction management of the Chula Vista Bayfront – H Street Extension project.

Commissioner Malcolm concurred with Commissioner Nelson's statements and acknowledged the value of professional construction management. He clarified his

request for a discussion regarding process review. He reiterated his support for the Chula Vista Bayfront – H Street Extension project.

On a motion by Commissioner Nelson, seconded by Commissioner Smith, the Board the Board adopted **Resolution 2013-177**, approving staff recommendation #3A – Projects Requiring additional funding in FY 13/14 or FY 14/15 – Chula Vista Bayfront – H Street Extension: Increase budget by \$1.2 million for construction and construction support services, by the following vote: Yeas-Castellanos, Malcolm, Merrifield, Moore, Nelson, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

Chair Moore discussed Ms. Coniglio's remarks regarding the revised staff recommendation on #3B – TAMT Phase II Demolition.

Commissioner Malcolm requested and received clarification from Mr. Darbeau regarding the recommendation, the TIGER Grant funding cycle in the spring of 2014 and the matching fund requirements.

On a motion by Commissioner Malcolm, seconded by Commissioner Smith, the Board directed staff to refer #3B – TAMT Phase II Demolition to the Maritime Ad Hoc Committee for further review; to bring the matter before the Board in a public meeting, and to adhere to the timing necessary to apply for a federal TIGER Grant, by the following vote: Yeas-Castellanos, Malcolm, Merrifield, Moore, Nelson, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

In regard to staff recommendation #3C – NEVP Phase I: Authorize an increase in budget for the NEVP Phase I project of \$1.25 million (District Share). Since the proposed funding source would be from the CIP contingency, Commissioner Smith acknowledged Commissioner Nelson's remarks regarding the City of San Diego funding process; discussed the project "burn rate" and upcoming kiosk construction portions of the project; discussed cash flow and reimbursements; and requested consideration of postponing the decision for six months.

Commissioner Nelson expressed concerns regarding Commissioner Smith's recommendation to re-consider the action in six months.

In regard to Commissioner Smith's statements and in regard to the recommendation, Ms. Coniglio offered clarification regarding cash flow and the District's authorization to enter into any kind of commitments such as issuing a purchase order or authorizing additional work.

Chair Moore remarked on the improvement benefits of the NEVP Phase I project and discussed the District's role in the project. She supported funding the additional monies and discussed her desire that the City of San Diego's partnership commitment would be realized. Chair Moore explained that the matter could come back to the Board for discussion and a determination regarding next steps should the City of San Diego's funding not be realized.

Commissioner Valderrama requested and received clarification from Mr. Russell regarding the District's position related to the NEVP Joint Powers Agreement; successor agency role and funds, splitting costs equally between the District and the City of San Diego, and cost overruns. Commissioner Valderrama offered support for the District to fund its "fair share" of cost overruns and that staff be directed to manage the project as expertly as possible.

Commissioner Nelson discussed his understanding of the City of San Diego's funding allocation process. He offered that the action be positioned such that the District authorizes an additional \$1.25 million contingent on a match by the City of San Diego. Proposed funding source is from the CIP contingency.

Commissioner Merrifield offered a motion to adopt the staff recommendation #3C – NEVP Phase I: Authorize an increase in budget for the NEVP Phase I project of \$1.25 million (District Share) contingent on a \$1.25 million match by the City of San Diego and/or its successor redevelopment agency. Proposed funding source is from the CIP contingency.

Commissioner Castellanos seconded the motion.

Commissioner Smith acknowledged the motion in regard to the \$1.25 million and remarked on potential unknown risks to the District which could result in financial obligations from claims or additional delays.

Chair Moore acknowledged concerns with the NEVP JPA agreement; however she offered support for the motion.

Commissioner Malcolm offered an amendment to the motion. He recommended the motion be stated as follows: "to adopt the staff recommendation #3C – NEVP Phase I: Authorize an increase in budget for the NEVP Phase I project "up to" \$1.25 million (District Share) contingent on a match "up to: \$1.25 million by the City of San Diego and/or its successor redevelopment agency.

Commissioner Merrifield accepted the amendment to the motion. Commission Castellanos seconded the amended motion.

On a motion by Commissioner Merrifield, seconded by Commissioner Castellanos the Board adopted **Resolution 2013-177**, approving staff recommendation #3C – NEVP Phase I: Authorized an increase in budget for the NEVP Phase I project “up to” \$1.25 million (District Share) contingent on a match “up to: \$1.25 million by the City of San Diego and/or its successor redevelopment agency; proposed funding source was from the CIP contingency, by the following vote: Yeas-Castellanos, Malcolm, Merrifield, Moore, Nelson, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None. 03:29:13

Commissioner Nelson offered a motion to adopt the staff recommendation #3D – Chula Vista Bayfront – Predesign/Design Chula Vista Bayfront Master Plan – Authorize increase in budget of \$1.0 million for Chula Vista Bayfront – Predesign/Design Chula Vista Bayfront Master Plan. Proposed funding source is from the CIP contingency. Commissioner Malcolm seconded the motion.

Chair Moore offered support for the motion in light of the progress made to date.

Commissioner Smith and Commissioner Merrifield offered support for the project and discussed establishing a new CIP account as the project would be due for completion in 2018. Chair Moore and Ms. Coniglio acknowledged the staff recommendation was to facilitate expediting the RFQ process related to the fulfillment of obligations in the first phase of design and that moving ahead could take advantage of the favorable economy.

Commissioner Nelson requested staff return to the Board to address projects that extend past the next five-year CIP program. Chair Moore and Commissioner Valderrama concurred with the direction.

On a motion by Commissioner Nelson, seconded by Commissioner Malcolm the Board adopted **Resolution 2013-177**, approving staff recommendation #3D – Chula Vista Bayfront – Predesign/Design Chula Vista Bayfront Master Plan – Authorized an increase in budget of \$1.0 million for Chula Vista Bayfront – Predesign/Design Chula Vista Bayfront Master Plan. Proposed funding source was from the CIP contingency, by the following vote: Yeas-Castellanos, Malcolm, Merrifield, Moore, Nelson, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

In light of the Board's action, Mr. Stup announced that the adjusted contingency was \$1,031,700.

The Board discussed the following general topics for follow up by staff: a discussion of the process for allocating Maritime Terminal Impact Funds (MTIF); that the presentation of information should be in the context of the whole capital program; a review of the FY 2009-2013 existing projects; the need to revisit the policy issues with the CIP program; providing analysis information on the business drivers regarding the staff's recommendations related to the need for timely action; a process to address "out of cycle projects" in light of dynamic changes in the market; a means to evaluate approved projects and make changes as necessary outside of "parochial beliefs" regarding funding allocations and projects; the examination of priorities in a "business-like fashion;" the need to review budgeted versus actual environmental remediation costs and schedules going back 10-years; the delta to restore the six-month operating reserve and replenish the environmental fund and the public art fund; information regarding the safety at Cesar Chavez Park; exploration of dedicating a certain portion of TAMT redevelopment construction projects dollars into the MTIF; explore utilizing MTIF funds in a joint use project for Perkins K-8 School with the City of San Diego and the area school district; consideration of Ad Hoc Committees as open meetings if the discussion was not essential to the competitive nature of business activities; establishment of a date for the spring 2014 Capital Improvement Program discussion meeting; from a policy point of view, keep "capital is capital" from a corporate point of view; and engaging the Ad Hoc Committee to suggest language modifications to BPC Policy No. 120 to evaluate the project list and make recommendations as appropriate.

Chair Moore discussed available dates to conduct another workshop in which the Ad Hoc Committee members could report on their findings and discuss the policy matters that arose.

Commissioner Castellanos left the dais at 1:40 p.m. and was excused for personal business for the remainder of the meeting.

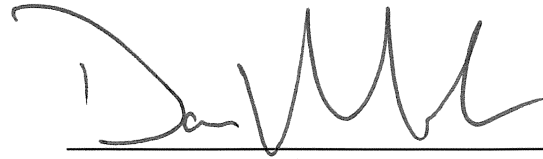
The Board offered comments on the workshop; the material presented; and extended their thanks to the Ad Hoc Committee; District staff and Chair Moore.

Mr. Darbeau also offered his thanks to the District leadership, staff, Chair Moore, and the Board for their work as a unified port.

As there were no other docketed matters for consideration, she adjourned the workshop.

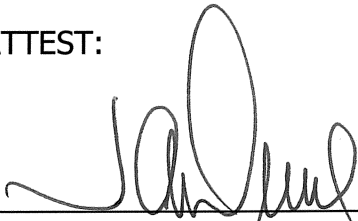
October 9, 2013

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Secretary, Board of Port Commissioners  
San Diego Unified Port District

ATTEST:

A handwritten signature in black ink, featuring a large 'S' and several loops.

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 Chair Moore at 8:38 a.m., Tuesday, November 12, 2013, in the Board Room at 3165 Pacific Highway, San Diego, California.

**ROLL CALL**

Agenda Item 1.

Present: COMMISSIONERS, Castellanos, Malcolm; Merrifield, Moore, Nelson, Smith, and Valderrama

OFFICERS: Darbeau, DeAngelis, Monson, and Russell.

Absent: None.

Excused: None.

**PUBLIC COMMUNICATIONS**

Agenda Item 2. None.

**WORKSHOP**

**CLIMATE WORKSHOP III:  
PRESENTATION ON GREENHOUSE GAS REDUCTION STRATEGY AND  
DIRECTION TO STAFF**

Agenda Item 3. Chair Moore called the meeting to order and introduced Steve Alexander, the Steve Alexander Group, as the facilitator for the workshop. Mr. Alexander discussed the format for the workshop.

Jason Giffen, Director, Environmental & Land Use Management, offered the staff presentation on the Greenhouse Gas Component (GHG) reduction strategy. He presented the following segments of the staff report: Attachment A: Draft Policies

for the Greenhouse Gas Component of the Climate Plan – Summary of Staff recommendations; Attachment B: Draft Measure Evaluation Criteria Definitions and Score; Attachment D: Conceptual Draft GHG Implementation Plan; and Attachment E: Case Studies. (Copies of the staff report, workshop handouts, and presentation are on file in the Office of the District Clerk.)

Commissioner discussion ensued. Commissioner Nelson discussed the scoring of new measure 4 (Attachment D – no. 42) to implement California Assembly Bill 1103 (AB1103), which requires owners of nonresidential buildings in California to measure and report to the California Energy Commissions the building's energy use via the U.S. EPA Energy Star Portfolio Manager and disclose the information to prospective buyers, lessees, and lenders. Mr. Giffen acknowledged the criteria scoring and acknowledged a correction would be made that would move the matter forward into the Phase 1 implementation ranking. Commissioner Nelson acknowledged the hard work and efforts by staff, the port tenants and the members of the environmental community to move the matter forward.

The following members of the public addressed the Board with varying viewpoints on the matters presented: Sharon Cloward, President, Port Tenants Association; Laura Hunter, Environmental Health Coalition; Mike Bullock, Transportation Chair, Sierra Club; and Uri Feldman, President, Sunroad.

Commissioner Nelson requested and received clarification from Mr. Bullock regarding his recommendations related to the "true value" of public parking on the tidelands; showing employee parking as compensation on pay stubs; and the opportunity to increase revenues and decrease GHG emissions.

Mr. Giffen and Mr. Alexander guided the Board through a discussion regarding the following topic: Attachment A: Draft Policies for the Greenhouse Gas Component of the Climate Plan – Summary of Staff recommendations.

The Board provided over-arching comments on the draft policies that focused on: working with member cities, local and state government to ensure that the policy is aligned with existing regulations; providing guidance to tenants to ensure implementation of the policy is consistent with all regulator's standards; the ways that implementation of a policy was similar to adopting a regulation; the review of costs to implement and regulate the policy; the measurement of impacts on business and the organization; language modifications that effect voluntary, compulsory or mandatory implementation; to provide further clarification regarding the specific costs of the policy; comparing criteria of a policy and costs related to implementation measures;

modification to policy word choices and including action verbs; consideration of contractual relationships as a regulatory body; development of tracking methods; member city coordination; working to simplify implementation; the GHG reduction goal and progress toward the 2020 target; cost implications for tenants and District; the “tension” regarding implementation measures and following the policy language as proposed; and coordination with member city regulations. The Board acknowledged that despite the technology available the District would use a reliable data set as the established baseline figures to conform to State standards.

Commissioner Castellanos offered a motion to adopt additional policy language as follows: 1) the implementation of the policies will be subject to legal authority, budget considerations and economic impact and 2) that implementation of policies will take into account existing local, State and Federal laws, regulations and programs, to avoid duplication, minimize uncertainty, and maximize regulatory predictability.

Chair Moore acknowledged Commissioner Castellanos’ recommendations. She reiterated the differences between policies and implementation measures.

Commissioner Malcolm offered support for Commissioner Castellanos’ additional policy recommendations. He discussed the development of metrics to measure results.

Chair Moore offered the members of the public the opportunity to discuss the two additional policies proposed.

Commissioner Nelson suggested that the Board consider Commissioner Castellanos’ additional policies first and then open the discussion regarding specific policy recommendations.

Commissioner Castellanos restated the policies in the motion that he offered. Chair Moore discussed including language that the District should allow for the overlap between State or Federal or local laws in other jurisdictions.

As requested by Commissioner Merrifield, Thomas Russell, Port Attorney, confirmed that a policy was not a regulation. Commissioner Merrifield requested and received clarification from Commissioner Castellanos regarding his intent regarding the use of the term “economic impact” and then offered a second to the motion.

Commissioner Valderrama offered support for the additional policy recommendations.

While he did not see the need to review each of the draft policy recommendations, Commissioner Smith requested the opportunity to address some of the draft policies.

Commissioner Malcolm proposed the following modifications to Commissioner Castellanos' recommendation as follows: to adopt additional policy language as follows: 1) the implementation of the policies will be subject to legal authority, cost, budget considerations, economic impact costs, as determined periodically at the discretion of the Board of Port Commissioners; and, 2) that implementation of policies will take into account existing local, State and Federal laws, regulations and programs, to avoid duplication, minimize uncertainty, and maximize regulatory predictability. Commissioner Castellanos accepted the modifications proposed.

In light of the discussion, Chair Moore again offered members of the public the opportunity to speak on the two additional policies proposed. The following members of the public offered comments with varying viewpoints on the additional policies: Laura Hunter, Environmental Health Coalition; Sharon Cloward, President, Port Tenants Association; Bill Hall, Chair, Port Tenants Association; Mike Bullock, Transportation Chair, Sierra Club; and Jack Monger, Industrial Environmental Association.

Regarding the public comments, Chair Moore concurred with the suggestion to include language that references "the consideration of adopting matters that are "technologically feasible and cost effective."

Commissioner Castellanos offered a modified recommendation as follows: to adopt additional policy language as follows: 1) the implementation of the policies will be subject to legal authority, cost, budget considerations, economic impact costs, technological feasibility, as determined periodically at the discretion of the Board of Port Commissioners; and, 2) that implementation of policies will take into account existing local, State and Federal laws, regulations and programs, to avoid duplication, minimize uncertainty, and maximize regulatory predictability. Commissioner Merrifield accepted the modifications proposed.

Chair Moore requested the Board vote on adding the two policies as proposed.

On a Motion by Commissioner Castellanos, seconded by Commissioner Merrifield the Board added two additional policies as follows for consideration to the list of proposed policies: 1) the implementation of the policies will be subject to legal authority, cost, budget considerations, economic impact costs, technological feasibility, as determined periodically at the discretion of the Board of Port Commissioners; and, 2)

that implementation of policies will take into account existing local, State and Federal laws, regulations and programs, to avoid duplication, minimize uncertainty, and maximize regulatory predictability, by the following vote: Yeas-Castellanos, Malcolm, Merrifield, Moore, Nelson, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

The Board discussed modifications to the policies and provided direction to staff regarding the draft policies for the Greenhouse Gas Component of the Climate Plan as shown in the staff report.

Commissioner Merrifield left the dais at 11:00 a.m. and returned at 11:05 a.m. Commissioner Castellanos left the dais at 11:02 and returned at 11:05 a.m. Commissioner Valderrama left the dais at 11:08 and returned at 11:10 a.m.

Commissioner Nelson offered that additional policy statements be considered regarding: inventorying and reporting to the District GHG emissions from operating equipment such as forklifts at the marine terminals or at other industrial tenant sites, and a policy that helps the District "to address disproportionate impacts of climate change and air pollution on low-income communities adjacent to the port by identifying air emissions near impacted communities and partnering with adjacent communities on mitigation and adaptation strategies."

In regard to comments by Commissioner Merrifield, Chair Moore, and Commissioner Malcolm, Commissioner Nelson offered the following modifications to his proposed language: "to address impacts of climate change and greenhouse gas emissions on residential communities adjacent to the port, by identifying greenhouse gas emissions near impacted communities and partnering with adjacent communities on mitigation strategies."

Commissioner Nelson offered a motion to direct staff to bring the Policies for the Greenhouse Gas Component of the Climate Plan back to the Board for consideration.

On a Motion by Commissioner Nelson, seconded by Commissioner Merrifield the Board directed staff to bring the Policies for the Greenhouse Gas Component of the Climate plan back to the Board for consideration, by the following vote: Yeas-Castellanos, Malcolm, Merrifield, Moore, Nelson, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

Mr. Giffen, Mr. Alexander and the Board discussed the following topic: Attachment B: Draft Measure Evaluation Criteria Definitions and Score. Chair Moore reiterated the process of adopting a policy, establishing criteria and implementation of mitigation measures.

The Board provided over-arching comments on the draft measure evaluation criteria definitions and score that focused on: acknowledging the Board's discretion over the matter; providing additional specific cost implication data; cost effectiveness and return on investment; the need to evaluate criteria with member city input; moving the points allocated from the "authority" category to the "cost" category; the correlation of a high score with implementation due to budget conditions; and putting forth a Board policy that captures the implementation process.

On a Motion by Commissioner Smith, seconded by Commissioner Merrifield the Board directed staff to bring back a "weighting policy" that captures the implementation process with the GHG item to the Board for consideration of both matters, by the following vote: Yeas-Castellanos, Malcolm, Merrifield, Moore, Nelson, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

Commissioner Castellanos left the dais at 12:05 p.m. and returned at 12:08 p.m.

In regard to the measure evaluation criteria, Commissioner Nelson remarked on the concept of "cost effectiveness" and not simply "cost."

Chair Moore acknowledged Commissioner Nelson's remarks and discussed future funding potential and matching grant opportunities.

On a Motion by Commissioner Smith, seconded by Commissioner Nelson the Board directed staff to return to the Board with an updated scoring criteria reflecting the Board's modifications and a proposed policy regarding flexibility and strong implementation measures, by the following vote: Yeas-Malcolm, Merrifield, Moore, Nelson, Smith, and Valderrama; Nays-None; Excused-Castellanos; Absent-None; Abstained-None.

Mr. Giffen and Mr. Alexander guided the Board through a discussion regarding the following topic: Attachment D: Conceptual Draft GHG Implementation Plan and the phased implementation approach proposed by staff.

The Board provided over-arching comments on the Conceptual Draft GHG Implementation Plan and the phased implementation approach that focused on: the Board's support for the phased approach; moving the next scheduled GHG audit

timetable forward; consideration of budget amendments to accelerate items such as the next GHG audit; moving forward with implementation measures utilizing strong business practices; and modifications to the budget process and program or work plan reviews.

Wayne Darbeau, Executive Director, discussed the phased approach presented and discussed the resources necessary to accelerate labor intensive projects.

On a Motion by Commissioner Malcolm, seconded by Commissioner Nelson the Board accepted the conceptual approach to the Draft GHG Implementation Plan and the phased implementation proposed by staff, by the following vote: Yeas-Castellanos Malcolm, Merrifield, Moore, Nelson, Smith, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

Mr. Giffen summarized the direction provided and explained that staff would move ahead with the GHG reduction strategy, before and independent, of the adaptation strategy. He stated that staff understood the GHG reduction strategy would move forward with the environmental review and/or California Environmental Quality Act (CEQA) review that would accompany the plan. Mr. Giffen discussed the timeframe in which staff anticipated returning to the Board with a final draft GHG strategy and the associated Board policy for consideration and adoption.

Chair Moore requested that a specific timeframe for the GHG plan be established and that the matter come back to the Board for adoption and implementation in the most expedient way possible.

Mr. Giffen discussed the proposed time frame. Mr. Russell discussed the timeframe regarding the environmental evaluation and assessment.

Chair Moore discussed the time necessary for an environmental assessment and subsequent evaluation. She requested the matter come back to the Board in December in light of the evaluation process.

Commissioner Nelson discussed the staff's preparation of the Board's revisions and processing the CEQA requirements as related to the policy to reduce GHG emission levels.

Chair Moore expressed her desire to maintain momentum on the work. She discussed moving forward with policy changes and the related CEQA evaluation.

Mr. Russell acknowledged Chair Moore's recommendation and discussed the process by which a CEQA evaluation would be required. He acknowledged that staff would move forward in a timely manner.

Chair Moore requested that staff bring back a status update in December.

Commissioner Nelson restated that in regard to new measure 4 (Attachment D – no. 42) to implement California Assembly Bill 1103 (AB1103), the scoring criteria was to be corrected and that would move the matter forward into Implementation Phase 1 implementation ranking. He discussed new measure 8 (Attachment D – no. 61) to Set project-level thresholds of significance, in tons of CO<sub>2</sub>/yr., for use in the California Environmental Quality Act (CEQA) review process and queried as to moving the matter forward. Mr. Giffen acknowledged the query regarding new measure 8. Commissioner Nelson requested staff investigate moving new measure 8 (Attachment D – no. 61) into Phase 1.

Chair Moore offered her thanks to all of the participants in the workshop and acknowledged the efforts made toward bringing back a greenhouse gas reduction plan.

## **CLOSED SESSION**

Thomas Russell, Port Attorney, announced the closed session agenda as follows:

### Agenda Item 4.

#### CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION

Significant exposure to litigation pursuant to Subdivision (d)(2) of Government Code Section 54956.9

Two Cases

### Agenda Item 5.

#### CONFERENCE WITH LEGAL COUNSEL - INITIATION OF LITIGATION

Pursuant to Subdivision (d)(4) of Government Code Section 54956.9

One Case

### Agenda Item 6.

#### CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION

Pursuant to Subdivision (d)(1) 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

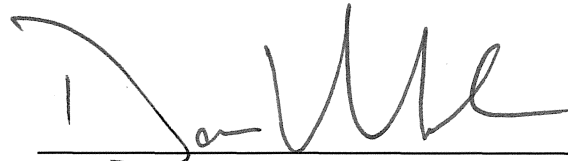
Agenda Item 7.

CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION

Pursuant to Subdivision (d)(1) of Government Code Section 54956.9

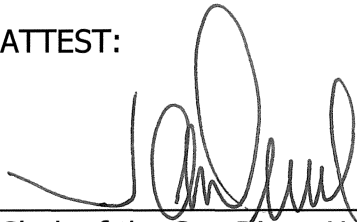
San Diego Unified Port District v. Hudson Insurance Company, et al.  
San Diego Superior Court Case No.: 37-2013-00069754-CU-BC-CTL

There was no reportable action as to any closed session items, pursuant to Government Code Section 54950 et seq, from the closed session; whereupon, Chair Moore adjourned the meeting.

A handwritten signature in dark ink, consisting of a large, stylized 'D' followed by a series of loops and a long horizontal stroke.

Secretary, Board of Port Commissioners  
San Diego Unified Port District

ATTEST:

A handwritten signature in dark ink, featuring a large, stylized 'J' followed by several loops and a long horizontal stroke.

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 Vice Chair Nelson at 10:02 a.m., Tuesday, November 19, 2013, in the Board Room at 3165 Pacific Highway, San Diego, California.

**ROLL CALL**

Agenda Item 1.

Present: COMMISSIONERS, Castellanos, Merrifield, Moore, Nelson, Smith, and Valderrama.

OFFICERS: Darbeau, Deuel, and Russell

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 REAL PROPERTY NEGOTIATOR  
Government Code Section 54956.8

Property: Covering 20,665 square feet of land and 65,950 square feet of water area located at 2702 Shelter Island Drive

Negotiating Parties: William Ayyad and Tom Driscoll, Intrepid Landing, LLC and Driscoll, Inc.  
Randa Coniglio, Karen Weymann, Tony Gordon, SDUPD

Under Negotiation: Price and Terms

Agenda Item 4.

CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION

Significant exposure to litigation pursuant to Subdivision (d)(2) of Government Code Section 54956.9

One Case

Agenda Item 5.

CONFERENCE WITH REAL PROPERTY NEGOTIATOR

Government Code Section 54956.8

Property: Seaport Village Redevelopment located at 849 West Harbor Drive in the City of San Diego

Negotiating Parties: Alex Liftis, Seaport Village Operating Company, LLC  
Randa Coniglio, Karen Weymann, Jenner Smith, SDUPD

Under Negotiation: Price and Terms

Agenda Item 6.

CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION

Pursuant to Subdivision (d)(1) 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- WQH (BGS)

California Regional Water Quality Control Board, San Diego Region  
Cleanup and Abatement Order (CAO) No. R9-2012-0024

Agenda Item 7.

CONFERENCE WITH REAL PROPERTY NEGOTIATOR

Government Code Section 54956.8

Property: Approximately 20 acres located west of Marina Parkway in the City of Chula Vista

Negotiating Parties: Jennifer Lucchesi, State Lands Commission  
Randa Coniglio, Karen Weymann, SDUPD

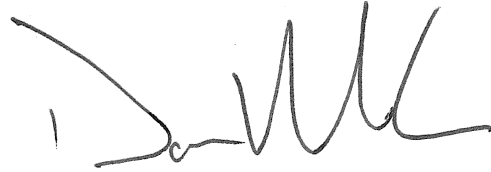
Under Negotiation: Price and Terms

Agenda Item 8.

PUBLIC EMPLOYEE APPOINTMENT, PERSONNEL EVALUATION OR DISCIPLINE:  
EXECUTIVE DIRECTOR, PORT ATTORNEY AND PORT AUDITOR

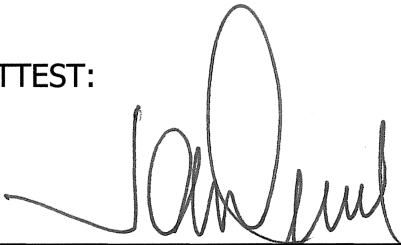
Government Code Section 54957

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, Chair Moore adjourned the meeting.

A handwritten signature in black ink, consisting of a series of loops and a long horizontal stroke at the end.

Secretary, Board of Port Commissioners  
San Diego Unified Port District

ATTEST:

A handwritten signature in black ink, featuring a large, prominent loop at the beginning and a series of smaller loops and strokes following.

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 Chair Moore at 1:02 p.m., Tuesday, November 19, 2013, in the Board Room at 3165 Pacific Highway, San Diego, California.

**ROLL CALL**

Agenda Item 1.

Present: COMMISSIONERS, Castellanos, Merrifield, Moore, Nelson and Smith.

OFFICERS: Darbeau, DeAngelis, Deuel, Monson, and Russell.

Absent: No Commissioners absent.

Excused: Commissioner Malcolm and Commissioner Valderrama were excused for personal business.

**CLOSED SESSION**

Agenda Item 2. Thomas Russell, Port Attorney, reported that with respect to Closed Session Agenda Items 3, 4, and 5 there was no reportable action. He stated that Closed Session Agenda Items 6, 7 and 8 would be heard following the regular meeting.

**PLEDGE OF ALLEGIANCE**

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

**APPROVAL OF MINUTES**

Agenda Item 4. On a motion by Commissioner Smith, seconded by Commissioner Castellanos, the Board approved the minutes of the following meetings: for the May 7, 2013 Regular Meeting, the May 10, 2013 Special Meeting, the May 31, 2013 Special Meeting, the June 11, 2013 Special Meeting, the June 11, 2013 Regular Meeting, the July 15, 2013 Special Meeting, the July 16, 2013 Special Meeting, the July 16, 2013 Regular Meeting, the August 28, 2013 Special Meeting, the September 10, 2013 Special Meeting, and September 10, 2013 Regular Meeting, by the following vote: Yeas-

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

## **PUBLIC COMMUNICATIONS**

Agenda Item 5. None.

## **COMMISSIONER REPORTS**

Agenda Item 6. Chair Moore discussed the launch of the Integrated Planning Initiative on October 13, 2013. She discussed Phase I of the Visioning Process and recognized the stakeholders, Commissioner Emeritus Steve Cushman, representatives from the California Coastal Commission, and members of the HKS Urban Design Studio planning team for their participation.

Commissioner Nelson reported on the unveiling of the District commissioned World Connected by Water exhibit at the Maritime Museum, which was displayed aboard the *Star of India*. He explained the unveiling of the exhibit was part of a larger series of events that celebrated the 150th birthday of the *Star of India* and recognized the 50th anniversary of the San Diego Unified Port District.

Commissioner Smith announced that on October 19, 2013 he attended the Downtown San Diego Partnership's Alonzo Award ceremony in which the Port of San Diego was honored with a Sustainable Business Practices 2013 award. He accepted the award on behalf of the Port, and acknowledged the District's efforts in continuing to advance the sustainability of operations and for steering efforts to enhance the local environment while growing the local economy. Commissioner Smith also recognized the Port Tenants and the Green Business network.

Commissioner Castellanos reported on the recent South America Trade Mission. He stated that he attended the trade mission with Commissioner Valderrama, Wayne Darbeau, Executive Director; Miguel Reyes, Manager, Maritime Trade; and Ed Plant, President, San Diego Refrigerated Services. He discussed the objectives of the trade mission, which included retaining the current cargo business and identifying potential cargo opportunities, including exports and imports; introducing trade mission participants to cargo interests abroad; and to facilitate joint marketing of the Port's maritime facilities with Port tenants. Commissioner Castellanos stated that the participants met with Dole's senior management in Guayaquil, Ecuador and visited two banana farms and toured Dole's container terminal.



## PRESIDENT REPORT

Agenda Item 7. None.

## DISTRICT CLERK'S ANNOUNCEMENTS

Agenda Item 8. Timothy Deuel, District Clerk, announced the following docket change, for the Board's consideration, and he stated that Commissioner Castellanos recused himself from the vote: **Public Hearing Agenda Item 33**, Sunroad Harbor Island Hotel Project and East Harbor Island Subarea Port Master Plan Amendment. A) Conduct Public Hearing and Adopt Resolution Certifying Revised Final 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) Resolution Granting Concept Approval for 175-Room Sunroad Harbor Island Hotel Project at 955 Harbor Island Drive staff requested the item be continued to a future Board meeting.

In that request to speak forms were submitted and staff had requested that **Action Agenda Item 33** be continued to a future Board meeting, Chair Moore offered the speakers the opportunity to address the Board regarding the continuance. No speakers requested to address the Board.

On motion of Commissioner Smith, seconded by Commissioner Nelson, the Board accepted the staff recommendation to continue **Public Hearing Agenda Item 33**, by the following vote: Yeas-Merrifield, Moore, Nelson, and Smith; Nays-None; Excused-Malcolm and Valderrama; Absent-None; Abstained-Castellanos.

Mr. Deuel continued his announcements, and stated that staff requested consideration of the following docket changes: **Consent Agenda Item 14**, Resolution Authorizing an Amended and Restated Exchange Agreement and Escrow Instructions for land in the Chula Vista Bayfront between North C.V. Waterfront, L.P. (Pacifica) and the District, revising conditions resulting from the elimination of the Chula Vista Redevelopment Agency and to allow additional time to satisfy the remaining conditions to close escrow, staff requested the item be continued to a future Board meeting; **Consent Agenda Item 20**, Resolution Authorizing Agreement with Moffatt & Nichol-Blaylock for the design of National City Marine Terminal Berth 24-10 Structural Improvements in the amount of \$\_\_\_\_\_ for the initiation of Phase I of a multi-year, multi-phase Major Maintenance Project, staff requested the item be continued to a future Board meeting; **Consent Agenda Item 22**, Resolution Adopting Plans and

Specifications and Awarding Contract No. 2012-10 to {Company Name} for Broadway Pier Surface Enhancements at a cost of approximately \$\_\_\_\_\_, to be funded by Civic San Diego, and the Security Fence and Gate System in the amount of \$200,000 to be funded by a grant from Homeland Security, staff requested the item be continued to a future Board meeting; **Public Hearing Agenda Item 35ABCD**, Modifications to Rates and Hours and Days of Operation for Tideland Public Parking Meters. A) Resolution Finding the Modification to Rates, Hours, and Days of Operation for Tideland Public Parking Meters exempt from the California Environmental Quality Act (CEQA) as specified under Section 15273 of the CEQA Guidelines. B) Conduct a Public Hearing to Establish a Range of Rates from \$1.00 to \$2.50 per hour and to modify Hours and Days of Operation for Tideland Public Parking Meters. C) Ordinance Establishing a Range of Rates from \$1.00 to \$2.50 per hour for Tideland Public Parking Meters. D) Ordinance Amending Port Code Section 8.14 Modifying Hours and Days of Operation for Tideland Public Parking Meters., staff requested the item be continued to a future Board meeting; and **Action Agenda Item 36**, Presentation of First Quarter FY14 Major Maintenance Report in accordance with BPC Policy No. 130, staff requested the item be continued to a future Board meeting; **Consent Agenda Item 28AB**, Resolution Adopting an Ordinance Amending the FY 13/14 Budget to include additional grant funding of \$650,000 from previously approved Port Security Grant Round FY 11 and place the funds in the appropriate cost centers: A) Amend the FY 13/14 Non-Personnel (NPE) Budget – increasing Harbor Police Department NPE Budget by \$330,000 for various security related projects. B) Amend the FY 13/14 Equipment Outlay Budget - increasing the Harbor Police Equipment Outlay Budget by \$320,000 for various security related projects, staff determined Board action was no longer required; and **Consent Agenda Item 29**, Resolution Adopting an Ordinance Amending the FY 13/14 Budget pursuant to BPC Policy No. 090 – increasing Maritime Equipment Outlay Budget by \$12,000 by transferring from the FY 13/14 Maritime Non-Personnel Expense Budget for the purchase of a used forklift, staff determined Board action was no longer required.

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

## **CONSENT AGENDA**

Commissioner Smith offered support for **Consent Agenda Item 26**, consideration of a Resolution Authorizing staff to enter into a Memorandum of Agreement and Grant Indemnity to Civic San Diego for the maintenance of Way-finding Signage to be installed in the Port Tidelands Area of Downtown San Diego. He spoke to

the benefit of working with Civic San Diego and the importance of “way-finding” to assist visitors to the area. He requested that work continue regarding the allocation of budget funds to implement “way-finding” solutions all around the bay.

Commissioner Nelson associated himself with the comments offered by Commissioner Smith regarding **Consent Agenda Item 26**. He offered there were many areas of the District that could benefit from “way-finding” enhancements for visitors. Commissioner Nelson remarked that the matter became significant during the California Coastal Commission hearing regarding the Convention Center expansion and the ease in which a visitor gains access to the bay.

Commissioner Nelson discussed **Consent Agenda Item 18**, a Resolution Authorizing the Issuance of a Request for Proposals for one or more Tenants for an approximately 925 square foot Information Center Building to be located within North Embarcadero Visionary Plan Phase 1 at West Broadway and North Harbor Drive in the City of San Diego. He offered support for the item, discussed assessing the responses for the level of customer service to be offered in the proposals, and suggested that the Board may need to give special consideration regarding the District’s involvement, both financially and operationally, in a formal visitor center.

On motion of Commissioner Smith, seconded by Commissioner Castellanos, the Board adopted Consent Agenda items 10, 11, 12A, 12B, 13A, 13B, 15, 16, 17, 18, 19, 21A, 21B, 23, 24, 25, 26, 27, 30 and 31. (**Resolution 2013-164** through and including **Resolution 2013-168; Ordinance 2739** through and including **Ordinance 2744; Resolution 2013-171** through and including **Resolution 2013-175**) by the following vote: Yeas-Castellanos, Merrifield, Moore, Nelson, and Smith; Nays-None; Excused-Malcolm and Valderrama; Absent-None; Abstained-None.

Agenda Item 10. **Resolution 2013-178**, Consenting to Assignment of Sublease for South Bay Fish and Grill at the Chula Vista Marina from Santa Maria and San Karas Enterprises, Inc. to Chahal N. Sidhu’s, Inc., was adopted as part of the consent agenda.

Agenda Item 11. **Resolution 2013-179**, Waiving BPC Policy No. 360 to enter into Negotiations with Chula Vista Marina/RV Park, Ltd., for an Option to Lease and Develop an RV Park on a site located within the Chula Vista Bayfront Northwest of Bay Boulevard and “E” Street, was adopted as part of the consent agenda.

San Diego Unified Port District Pacific Highway Employee Parking Lot Reconfiguration

Agenda Item 12A. **Resolution 2013-180**, Considering the Final Environmental Impact Report and Final Supplemental Environmental Impact Report prepared by the

San Diego County Regional Airport Authority for the San Diego International Airport Master Plan, Adopting the Findings of Fact and Statement of Overriding Considerations, Adopting the Mitigation Monitoring and Reporting Program, and Authorizing staff to file the Notice of Determination, was adopted as part of the consent agenda.

Agenda Item 12B. **Ordinance 2742**, Accepting Amendment No. 1 to Sublease from the San Diego County Regional Airport Authority to reconfigure the San Diego Unified Port District's Pacific Highway Employee Parking Lot, conditioned upon approval by the San Diego County Regional Airport Authority, was adopted as part of the consent agenda.

Agenda Item 14. **Item continued to a future Board meeting.**

San Diego County Regional Airport Authority Access Road at Southwest Corner of Palm Street and Pacific Highway

Agenda Item 13A. **Resolution 2013-181**, Considering the Final Environmental Impact Report and Final Supplemental Environmental Impact Report prepared by the San Diego County Regional Airport Authority for the San Diego International Airport Master Plan, Adopting the Findings of Fact and Statement of Overriding Considerations, Adopting the Mitigation Monitoring and Reporting Program, and Authorizing staff to file the Notice of Determination, was adopted as part of the consent agenda.

Agenda Item 13B. **Ordinance 2743**, Granting Amendment No. 2 to Lease with the San Diego County Regional Airport Authority to increase leased premises by 3,988 square feet at the Southwest Corner of Palm Street and Pacific Highway, conditioned upon acceptance by the San Diego County Regional Airport Authority, was adopted as part of the consent agenda.

Agenda Item 14. **The Board will consider staff's request to continue this item to a future Board Meeting.**

Agenda Item 15. **Resolution 2013-182**, Consenting to Sublease from Seaport Village Operating Co., LLC dba The Headquarters (formerly The Old Police Headquarters), located on West Harbor Drive at the foot of Pacific Highway with Sunglass Hut Trading, LLC dba Sunglass Hut for 5 years with one 5-year option to extend, was adopted as part of the consent agenda.

Agenda Item 16. **Ordinance 2744**, Granting a 10 Year Lease with one 5-year option to extend with Old Town Trolley Tours of San Diego, Inc. for a ticket kiosk

located at 1040 North Harbor Drive in San Diego, was adopted as part of the consent agenda.

Agenda Item 17. **Resolution 2013-183**, Establishing Minimum Annual Rent for Waterfront Harbor GL, LLC dba Hilton San Diego Airport at 1960 Harbor Island Drive in San Diego for the period of January 1, 2014 through December 31, 2018, was adopted as part of the consent agenda.

Agenda Item 18. **Resolution 2013-184**, Authorizing the Issuance of a Request for Proposals for one or more Tenants for an approximately 925 square foot Information Center Building to be located within North Embarcadero Visionary Plan Phase 1 at West Broadway and North Harbor Drive in the City of San Diego, was adopted as part of the consent agenda.

Agenda Item 19. **Resolution 2013-185**, Establishing the Board of Port Commissioners' Regular Meeting Dates for Calendar Year 2014, was adopted as part of the consent agenda.

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

Tenth Avenue Marine Terminal Shore Power Project

Agenda Item 21A. **Resolution 2013-186**, Authorizing an increase in the project budget by \$90,002.00 in order to credit the project budget for a change requested by Dole in the amount of \$90,002.00, was adopted as part of the consent agenda.

Agenda Item 21B. **Resolution 2013-187**, Authorizing a credit to the Executive Director's Change Order Authority in the amount of \$90,002.00, was adopted as part of the consent agenda.

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

Agenda Item 23. **Resolution 2013-188**, Adopting Plans and Specifications and Authorizing the Award of Contract No. 2011-46 to Sierra Pacific West, Inc. in the amount of \$5,625,355.00 for the Chula Vista Bayfront South Campus Demolition Phase 4A, contingent upon issuance of the Amended Coastal Development Permit, to prepare the site in accordance with the Land Exchange Agreement and Escrow Instructions with North Chula Vista Waterfront L.P. (Pacifica), was adopted as part of the consent agenda.

Agenda Item 24A. **Resolution 2013-189**, Authorizing an Update to the "The San Diego Bay Integrated Natural Resources Management Plan," a coordinated effort

between the District and U.S. Navy for Natural Resource Management of the San Diego Bay, was adopted as part of the consent agenda.

Agenda Item 25. **Resolutions 2013-190, 2013-191, 2013-192, 2013-193, 2013-194, and 2013-195,** Selecting and Authorizing Purchase Agreements with Verotek Systems Inc., Surveillance Systems Integration, TRL Systems Inc., Nexus IS Inc., and Cascade Networks Inc. and Authorizing Task Authorization No. 10 for Agreement 156-2012 with Verotek Systems Inc. for CCTV Infrared Camera Enhancements at various tideland locations for an amount not to exceed \$539,587.37 funded by the Department of Homeland Security Port Security Grant Program (PSGP) FY2011 which is included in the FY2009-2013 Capital Improvement Program amended by the Board on December 11, 2012, were adopted as part of the consent agenda.

Agenda Item 26. **Resolution 2013-196,** Authorizing staff to enter into a Memorandum of Agreement and Grant Indemnity to Civic San Diego for the maintenance of Way-finding Signage to be installed in the Port Tidelands Area of Downtown San Diego, was adopted as part of the consent agenda.

Agenda Item 27. **Resolution 2013-197,** Confirming Executive Director (President/CEO) Appointment of Timothy Deuel as District Clerk and Ernesto Medina as Chief Engineer/Engineering – Construction, was adopted as part of the consent agenda.

Agenda Item 28. **Item continued to a future Board meeting.**

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

Agenda Item 30. **Resolution 2013-198**, Authorizing Funding from the Environmental Fund in the amount of \$37,250 over three years for the Chula Vista Elementary School District to fund bus transportation to the Living Coast Discovery Center or the San Diego Bay National Wildlife Refuge and District Shoreline Coastal Education Program, was adopted as part of the consent agenda.

Agenda Item 31. **Resolution 2013-199**, Authorizing Funding from the Environmental Fund and an Agreement with the Living Coast Discovery Center Using the Environmental Fund in the amount of \$51,383 to fund the Environmental Education Program; Special Exhibits and Lecture Series; Animal Supplies; Shuttle Bus and the Endangered Light-Footed Clapper Rail Propagation Program for one year, was adopted as part of the consent agenda.

## **ACTION AGENDA**

### **PRESENTATION BY THE LIVING COAST DISCOVERY CENTER ON ITS NEW STRATEGIC PLAN**

Agenda Item 9. Brandy Christian, Vice President Strategy & Business Development; J. Scofield (Scody) Hage, Chair, Living Coast Discovery Center Task Force; and Carl Nettleton, Strategy Facilitator, Nettleton Strategies, LLC addressed the Board with a presentation on the Living Coast Discovery Center's new strategic plan. (A copy of the staff report and presentation are on file in the Office of the District Clerk.)

Commissioner discussion ensued. Commissioner Merrifield recognized the process the team engaged in and the progress made by the Living Coast Discovery Center. He acknowledged the new mission, vision and goals of the organization. He recommended that the Center's staff seek opportunities to work with the District's new tenant, the National Oceanic and Atmospheric Administration (NOAA).

Chair Moore thanked the Living Coast Discovery Center Task Force team members. She recognized her fellow Board members, Wayne Darbeau, Executive Director; Jim Sandoval, Chula Vista City Manager, and Ben Vallejos, Interim Chief Executive Officer, Living Coast Discovery Center, for their support.

## **SWEARING-IN**

Wayne Darbeau, Executive Director, introduced the members of the Medina family who were present for the ceremony. Mr. Medina addressed the Board and offered congratulations to his son. Ernesto Medina was sworn-in as Chief

Engineer/Engineering – Construction by his father Ernesto T. Medina. Chair Moore offered congratulations on behalf of the Board to Mr. Medina on his appointment.

**PRESENTATION OF THE SAN DIEGO UNIFIED PORT DISTRICT 2013 EMPLOYEE OF THE THIRD QUARTER.**

Agenda Item 32. Michele Corbin, Director, Human Resources, addressed the Board with a presentation regarding the District's Employee of the Quarter program. She announced that the following employees were nominated: Cynthia Markley, Officer, Harbor Police Department; Shelly Numan, Staff Assistant II, Maritime Operations; Sandy O'Connor, Manager, Financial Planning & Analysis, Financial Services; Shane Peterson, Estimator, Engineering – Construction; Miguel Reyes, Manager, Maritime Trade Development, Maritime Operations; and Derek Richard, Community Service Officer (CSO), Harbor Police Department. She turned the presentation over to Wayne Darbeau, Executive Director. (A copy of the staff report and presentation are on file in the Office of the District Clerk.)

Mr. Darbeau announced that Officer Cynthia Markley was selected as the 2013 Employee of the 3rd Quarter. Officer Markley was cited for representing the Harbor Police Department and the District with the highest standards of the District's Mission, Vision, and Strategic Goals. In addition to her role as a Harbor Police Department Officer, she also serves as one of the District's Peer Support Officers. Chair Moore offered her congratulations on behalf of the Board. (A copy of the staff report and presentation is on file in the Office of the District Clerk.)

**SUNROAD HARBOR ISLAND HOTEL PROJECT AND EAST HARBOR ISLAND SUBAREA PORT MASTER PLAN AMENDMENT**

- A) CONDUCT PUBLIC HEARING AND ADOPT RESOLUTION CERTIFYING REVISED FINAL 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) RESOLUTION GRANTING CONCEPT APPROVAL FOR 175-ROOM SUNROAD HARBOR ISLAND HOTEL PROJECT AT 955 HARBOR ISLAND DRIVE**



Agenda Item 33ABC. Item continued.

**ESTABLISH PARKING RATES FOR NEW PUBLIC PARKING FACILITIES ON B STREET PIER AND AMEND PARKING RATES AT LANE FIELD:**

- A) RESOLUTION FINDING THE ESTABLISHMENT OF PARKING RATES ON B STREET PIER AND THE AMENDMENT OF PARKING RATES AT LANE FIELD EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) AS SPECIFIED UNDER SECTION 15273 OF THE CEQA GUIDELINES.**
- B) CONDUCT PUBLIC HEARING ON PARKING RATES AT B STREET PIER AND LANE FIELD FOR PUBLIC PARKING.**
- C) ORDINANCES ESTABLISHING PARKING RATES AT B STREET PIER AND LANE FIELD FOR PUBLIC PARKING**

Agenda Item 34ABC. Kristine Love, Asset Manager, Real Estate addressed the Board with a presentation regarding establishing parking rates for new public parking facilities on B Street Pier and amending parking rates at Lane Field. (A copy of the staff report and presentation or on file in the Office of the District Clerk.)

Chair Moore opened the public hearing. As no members of the public requested to comment, Chair Moore closed the public hearing.

Commissioner discussion ensued. Commissioner Nelson requested and received clarification from Ms. Love regarding the hourly meter rates proposed as compared to the rates at nearby public parking lots.

Commissioner Smith offered a motion to accept the staff recommendations. He thanked staff for their work on the matter.

Commissioner Nelson seconded the motion.

Chair Moore requested clarification from Ms. Love regarding the existing use of the parking lot at the B Street Pier when it was not being utilized for the cruise ship operations. Ms. Love stated, for the record, that currently B Street Pier could be used for public parking and was often utilized for that purpose; however, since approximately 2002 the District had not been enforcing the parking rates. Chair Moore requested and received confirmation from Ms. Love that the B Street Pier lot was currently being used for parking when the cruise ships are not present. Chair Moore stated that parking was an important issue and it required additional work to address the long-term needs in the area.

On a single motion by Commissioner Smith, seconded by Commissioner Nelson, the Board, with a single vote, adopted **Resolution 2013-200**, finding the establishment of Parking Rates on B Street Pier and the Amendment of Parking Rates at Lane Field Exempt from the California Environmental Quality Act (CEQA) as specified under section 15273 of the CEQA guidelines, and **Ordinance 2745**, Establishing Parking Rates at B Street Pier and Lane Field for public parking, by the following vote: Yeas-Castellanos, Merrifield, Moore, Nelson, and Smith; Nays-None; Excused-Malcolm and Valderrama; Absent-None; Abstained-None.

**MODIFICATIONS TO RATES AND HOURS AND DAYS OF OPERATION FOR TIDELAND PUBLIC PARKING METERS:**

- A) RESOLUTION FINDING THE MODIFICATION TO RATES AND HOURS AND DAYS OF OPERATION FOR TIDELAND PUBLIC PARKING METERS EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) AS SPECIFIED UNDER SECTION 15273 OF THE CEQA GUIDELINES.**
- B) CONDUCT A PUBLIC HEARING TO ESTABLISH A RANGE OF RATES FROM \$1.00 TO \$2.50 PER HOUR AND TO MODIFY HOURS AND DAYS OF OPERATION FOR TIDELAND PUBLIC PARKING METERS.**
- C) ORDINANCE ESTABLISHING A RANGE OF RATES FROM \$1.00 TO \$2.50 PER HOUR FOR TIDELAND PUBLIC PARKING METERS.**
- D) ORDINANCE AMENDING PORT CODE SECTION 8.14 MODIFYING HOURS AND DAYS OF OPERATION FOR TIDELAND PUBLIC PARKING METERS**

Agenda Item 35ABCD. Item continued to a future Board meeting.

**PRESENTATION OF FIRST QUARTER FY14 MAJOR MAINTENANCE REPORT IN ACCORDANCE WITH BPC POLICY NO. 130**

Agenda Item 36. Item continued to a future Board meeting.

## **REVIEW AND CONSIDERATION OF PROPOSED BOARD AGENDA FOR THE DECEMBER 10, 2013 MEETING**

Agenda Item 37. On motion of Commissioner Smith, seconded by Commissioner Merrifield, the Board adopted the proposed agenda for the meeting of December 10, 2013, by the following vote: by the following vote: Yeas-Castellanos, Merrifield, Moore, Nelson, and Smith; Nays-None; Excused-Malcolm and Valderrama; Absent-None; Abstained-None.

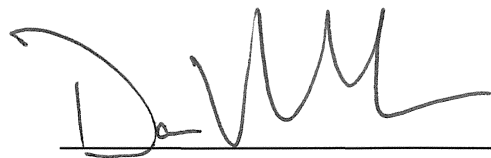
### **OFFICER'S REPORT**

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. 6 to Contract No. 2012-17 / \$20,500.00 Increase & 14 Calendar Day Time Extension thru 09/20/2013 with Fordyce Construction, Inc. for Tenth Avenue Marine Terminal Crosby St. Pier Modernization, San Diego, California
- B) Change Order No. 1 to Contract No. 2012-28 / \$2,872.00 Increase with Chula Vista Electric Co. for Imperial Beach Palm Avenue Storm Water Pump System Improvements, Imperial Beach, California.

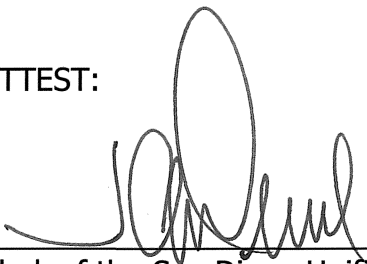
### **CLOSED SESSION CONTINUED**

Agenda Item 2. There was no reportable action as to any closed session items, pursuant to Government Code Section 54950 et seq, from the closed session; whereupon, Chair Moore adjourned the meeting.

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Secretary, Board of Port Commissioners  
San Diego Unified Port District

ATTEST:

A handwritten signature in black ink, featuring a large 'S' and several loops.

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 Chair Moore at 10:01 a.m., Tuesday, December 10, 2013, in the Board Room at 3165 Pacific Highway, San Diego, California.

**ROLL CALL**

Agenda Item 1.

Present: COMMISSIONERS, Castellanos, Malcolm, Merrifield, Moore, Nelson, Smith, and Valderrama.

OFFICERS: Darbeau, DeAngelis, Deuel, and Russell

Absent: No Commissioners absent.

Excused: No Commissioners excused.

**PUBLIC COMMUNICATIONS**

Agenda Item 2. Donald English, English & Gloven, APC addressed the Board regarding **Closed Session Agenda Item 4**, a Conference with Real Property Negotiator, Government Code Section 54956.8; Property: Covering 20,665 square feet of land and 65,950 square feet of water area located at 2702 Shelter Island Drive; Negotiating Parties: William Ayyad and Tom Driscoll, Intrepid Landing, LLC and Driscoll, Inc. and Randa Coniglio, Karen Weymann, Tony Gordon, Penny Maus, SDUPD; Under Negotiation: Price and Terms. (A copy of the presentation is on file in the Office of the District Clerk.)

Prior to Mr. English beginning his formal remarks, Chair Moore offered the following statements for the record: she acknowledged that Mr. English could move forward with his prepared presentation and clarified that the item was on the Closed Session Agenda as instructions to the District negotiators.

Commissioner discussion ensued. Chair Moore offered for the record that it was understood that by hearing the request the Board was not agreeing that Driscoll, Inc. or Intrepid Landing, LLC has any right to have a request to change its agreement heard by

the Board at a public meeting. She also stated for the record that there were existing agreements with Mr. English's clients that were due to expire soon; modifications to existing agreements were requested, and to date negotiations between staff and Driscoll and Intrepid regarding the modifications had not been successfully completed. Chair Moore stated the Board has the right, under the law, to meet in Closed Session to provide direction to District negotiators.

Commissioner Nelson requested and received clarification from Mr. English regarding the Building "C" construction timeline. Commissioner Nelson requested clarification from Mr. English as to whether his client had paid the City of San Diego "expedite fees" for the project. Mr. English stated the "expedite fee" would be paid with the submittal of the plans.

Commissioner Merrifield requested and received confirmation from Mr. English that revenue was being generated from the existing marina business. Mr. English discussed the operation and the expectation of marina tenants in regard to the balance of the shower support facility and office project. Commissioner Merrifield requested and received clarification from Mr. English regarding the payment of rent at the Marina and the application of certain negotiated credits resulting from past environmental remediation.

## **CLOSED SESSION**

Thomas Russell, Port Attorney, announced the closed session agenda as follows:

### Agenda Item 3.

PUBLIC EMPLOYEE APPOINTMENT, PERSONNEL EVALUATION OR DISCIPLINE:  
EXECUTIVE DIRECTOR, PORT ATTORNEY AND PORT AUDITOR

Government Code Section 54957

### Agenda Item 4.

CONFERENCE WITH REAL PROPERTY NEGOTIATOR  
Government Code Section 54956.8

Property:                      Covering 20,665 square feet of land and 65,950 square feet of water area located at 2702 Shelter Island Drive

Negotiating Parties:      William Ayyad and Tom Driscoll, Intrepid Landing, LLC and Driscoll, Inc.

Randa Coniglio, Karen Weymann, Tony Gordon, Penny Maus, SDUPD

Under Negotiation: Price and Terms

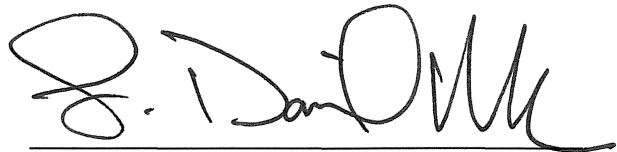
Agenda Item 5.

CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION

Significant exposure to litigation pursuant to Subdivision (d)(2) of Government Code Section 54956.9

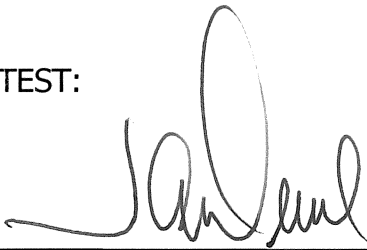
One Case

There was no reportable action as to any closed session items, pursuant to Government Code Section 54950 et seq, to report from the closed session; whereupon, Chair Moore 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 Chair Moore at 1:02 p.m., Tuesday, December 10, 2013, in the Board Room at 3165 Pacific Highway, San Diego, California.

**ROLL CALL**

Agenda Item 1.

Present: COMMISSIONERS, Castellanos, Malcolm, Merrifield, Moore, Nelson, Smith and Valderrama.

OFFICERS: Darbeau, DeAngelis, Deuel, Medina, Monson, and Russell.

Absent: No Commissioners absent.

Excused: No Commissioners excused.

**CLOSED SESSION**

Agenda Item 2. Thomas Russell, Port Attorney, reported that the Board considered **Closed Session Agenda Item 3**, Public Employee Appointment, Personnel Evaluation or Discipline: Executive Director, Port Attorney and Port Auditor, Government Code Section 54957. He stated that **Closed Session Agenda Item 4**, a Conference with Real Property Negotiator, Government Code Section 54956.8; Property: Covering 20,665 square feet of land and 65,950 square feet of water area located at 2702 Shelter Island Drive; Negotiating Parties: William Ayyad and Tom Driscoll, Intrepid Landing, LLC and Driscoll, Inc. and Randa Coniglio, Karen Weymann, Tony Gordon, Penny Maus, SDUPD; Under Negotiation: Price and Terms and **Closed Session Agenda Item 5**, a Conference with Legal Counsel – Anticipated Litigation, Significant exposure to litigation pursuant to Subdivision (d)(2) of Government Code Section 54956.9, One Case; would be heard following the regular meeting.

**PLEDGE OF ALLEGIANCE**

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

## **APPROVAL OF MINUTES**

Agenda Item 4. Timothy Deuel, District Clerk, announced the following modifications to the draft minutes were requested for the Board's consideration: August 13, 2013 Regular Meeting: the passage on page 2 "...remarked on the import and export activities at the Tenth Avenue Marine Terminal that support the joint military training conducted by the JSDF and U.S. Marines" be changed to "...remarked on the import and export activities at the Tenth Avenue Marine Terminal that support the joint military training conducted by the JSDF and U.S. Armed forces;" from the October 13, 2013 Special Meeting: the passage on page 9 "...Commissioner Nelson directed..." be changed to "...Commissioner Nelson requested..." and from the November 12, 2013 Special Meeting: the passage on page 8 "...Commissioner Nelson directed..." be changed to "...Commissioner Nelson requested...."

On a motion by Commissioner Smith to accept the minutes with the proposed modifications, seconded by Commissioner Malcolm, the Board approved the minutes of the following meetings: for the August 13, 2013 special meeting, the August 13, 2013 regular meeting, the September 13, 2013 special meeting, the October 1, 2013 special meeting, the October 8, 2013 special meeting, the October 8, 2013 regular meeting, the October 9, 2013 special meeting, November 12, 2013 special meeting, the November 19, 2013 special meeting and the November 19, 2013 regular meeting, by the following vote: Yeas-Castellanos, Malcolm, Merrifield, Moore, Nelson, Smith and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

## **PUBLIC COMMUNICATIONS**

Agenda Item 5. Sharon Cloward, President, San Diego Port Tenants Association (SDPTA), accompanied by members of the SDPTA Board members, acknowledged Commissioner Smith and thanked him for this service to the District.

## **COMMISSIONER REPORTS**

Agenda Item 6. None.

## **PRESIDENT REPORT**

Agenda Item 7. Wayne Darbeau, Executive Director, announced that the District was proud to honor Kaneko Bishop for her leadership and efforts in forging cultural understanding, goodwill and close friendships between sister cities, ports and nations in her role as President of the San Diego-Yokohama Sister City Society. He acknowledged her willingness to serve as a cultural liaison, to the Port of San Diego for numerous

visits of official delegations from Japan, was highly commendable and appreciated. Mr. Darbeau announced that at the September 10, 2013 Board Meeting, the Board of Port Commissioners approved a resolution authorizing a proclamation honoring Mrs. Kaneko Bishop, President of the San Diego-Yokohama Sister City Society. He announced that Mrs. Bishop was present to accept the proclamation and accompanied by her spouse Kenneth Bishop. Mr. Darbeau read the Proclamation Honoring Kaneko Bishop into the record. (A copy of the staff report and presentation are on file in the Office of the District Clerk.)

Mrs. Bishop addressed the Board, discussed the San Diego-Yokohama Sister City Society efforts to build relationships, and thanked the District for its support and recognition. Chair Moore also recognized Mrs. Bishop on behalf of the Board. Chair Moore and Mr. Darbeau presented the proclamation to Mrs. Bishop.

#### **DISTRICT CLERK'S ANNOUNCEMENTS**

Agenda Item 8. Timothy Deuel, District Clerk, announced additional agenda related materials regarding **Public Hearing Agenda Item 24** and **Public Hearing Agenda Item 25** received after the publication of the agenda and copies were available at the Clerk's desk. He announced the following docket change, for the Board's consideration: **Consent Agenda Item 14**, Ordinance Granting a 15 Year Lease with One Five-Year Option to Extend with Star & Crescent Boat Company for a Walk-up Café located at 1050 North Harbor Drive in San Diego, staff requested the item be continued to a future Board meeting; **Consent Agenda Item 20**, Ordinance Amending Ordinance No. 1603, pursuant to the National Transportation Safety Board recommendations regulating pilotage and pilots for the Port of San Diego, to recognize the San Diego Bay Pilots Association as the organization conducting piloting on San Diego Bay, and implement new reporting, training, professional development and oversight requirements, staff requested the item be continued to a future Board meeting; and **Action Agenda Item 28**, Update on Implementation of the Chula Vista Bayfront Development. Presentation of Development Strategy Recommendations and direction to staff, staff requested the item be continued to a future Board meeting.

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

## **ACTION AGENDA**

### **RESOLUTION APPROVING A PROCLAMATION POSTHUMOUSLY HONORING DAN E. WILKENS, FORMER EXECUTIVE VICE PRESIDENT, FOR HIS SERVICE TO THE SAN DIEGO UNIFIED PORT DISTRICT.**

Agenda Item 26. On motion of Commissioner Valderrama, seconded by Commissioner Smith, the Board adopted **Resolution 2013-219**, Approving a Proclamation Posthumously Honoring Dan E. Wilkens, former Executive Vice President, for his Service to the San Diego Unified Port District, by the following vote: Yeas-Castellanos, Malcolm, Merrifield, Moore, Nelson, Smith and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None. (A copy of the staff report is on file in the Office of the District Clerk.)

Wayne Darbeau, Executive Director, acknowledged that individuals present at the meeting included Mr. Wilken's family members, friends, former Port Commissioners, civic leaders, colleagues, retirees and current employees. He read the proclamation honoring Mr. Wilkens into the record.

Carmen Barcena, Mr. Wilken's widow, and Laura Wilkens, Mr. Wilken's daughter, addressed the Board regarding Mr. Wilken's role as a public servant. (A copy of the letter presented by Ms. Wilkens from the Curtis L. Fossum, Retired Annuitant, California State Lands Commission, is on file in the Office of the District Clerk.)

Commissioner Smith and Commissioner Valderrama acknowledged Mr. Wilken's service to the District. Chair Moore announced that family members, retirees and staff members were invited to a reception held at the Port Administration building following the presentation of the proclamation.

## **ALPHA PROJECT HOMELESS OUTREACH SERVICES**

- A) RESOLUTION AUTHORIZING AN AGREEMENT WITH ALPHA PROJECT TO PROVIDE HOMELESS OUTREACH SERVICES ON PORT TIDELANDS FOR THE REMAINDER OF FY 13/14 IN AN AMOUNT NOT TO EXCEED \$50,000.**
- B) ORDINANCE AMENDING THE DISTRICT'S FY 13/14 BUDGET BY TRANSFERRING \$50,000 FROM PERSONNEL TO NON-PERSONNEL WITHIN THE HARBOR POLICE BUDGET.**
- C) DIRECT STAFF TO CONDUCT FURTHER ASSESSMENT OF THE IMPACTS TO THE PORT DISTRICT OF HOMELESSNESS ON PORT TIDELANDS, INVESTIGATE EFFORTS OF ADJACENT CITIES AND THE COUNTY TO ADDRESS HOMELESSNESS, AND PREPARE HOMELESSNESS BEST**

**PRACTICES POLICY RECOMMENDATION FOR THE BOARD OF PORT COMMISSIONERS' CONSIDERATION BY MAY 15, 2014.**

Agenda Item 27. John Bolduc, Chief Harbor Police/Vice President Public Safety, addressed the Board with a presentation regarding homelessness on the tidelands and requested consideration of the staff recommendation. (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 in support of the staff recommendation: Jennifer LeSar, representative, United Way of San Diego County; Mary Herron; Kris Michell, CEO, Downtown Partnership; Karen Brilean, San Diego Social Venture Partners; Anne Kerr; Dolores Diaz, Executive Director, Regional Task Force on the Homeless; Heather Pollock, Executive Director, Girls Think Tank ceded her time to Danny McCray, Security/Manager, Girls Think Tank. Sharon Cloward, President, San Diego Port Tenants Association (SDPTA), submitted a request to speak form but was not present when called upon.

Commissioner discussion ensued. Commissioner Castellanos requested and received clarification from Chief Bolduc regarding the approximate percentage of Harbor Police calls related to "homeless on homeless incidents" and violent crime reports related to homelessness. Commissioner Castellanos offered a motion to accept the staff recommendation. Commissioner Merrifield seconded the motion.

The following Board members acknowledged the public speakers' remarks; discussed the impact of homelessness on the community; remarked that the matter was an appropriate use of District funds; urged finding resources to continue funding the program in future budget years, and offered support for the staff recommendation: Commissioner Merrifield, Commissioner Smith, Commissioner Nelson, Commissioner Malcolm, Commissioner Valderrama and Chair Moore.

Commissioner Valderrama requested that staff look into the matter raised by Mr. McCrea regarding the Girls Think Tank Transitional Storage Center site and the impending deadline to relocate the storage bins to a permanent location. Chair Moore also offered support for the staff request to look into the matter.

On a single motion of Commissioner Castellanos, seconded by Commissioner Merrifield, the Board adopted **Resolution 2013-220**, Authorizing an Agreement with Alpha Project to provide Homeless Outreach Services on Port Tidelands for the remainder of FY 13/14 in an amount not to exceed \$50,000, and **Ordinance 2750**, Amending the District's FY 13/14 Budget by transferring \$50,000 from Personnel to Non-Personnel within the Harbor Police Budget, by the following vote: Yeas-Castellanos,

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

## **CONSENT AGENDA**

Commissioner Smith requested to make a comment regarding **Consent Agenda Item 17**, Resolution Adopting Revisions to the following Board of Port Commissioners (BPC) Policies pursuant to changes in State Law: A) BPC Policy No. 358 – Contractors’ and Lessees’ Compliance with Equal Employment Opportunity and Nondiscrimination. B) BPC Policy No. 359 – Equal Opportunity Contracting. C) BPC Policy No. 361 – Equal Employment Opportunity and Nondiscrimination; **Consent Agenda Item 18**, Resolution to Amend the San Diego Unified Port District Personnel Rules and Regulations, Rule 9 Appointments, Rule 17 - Drug and Alcohol Policy and Rule 18 – Searches; and **Consent Agenda Item 19**, Resolution Approving Board of Port Commissioners (BPC) Policy No. 035: Powers and Functions of Port Auditor prior to the vote.

Commissioner Nelson requested that **Consent Agenda Item 10**, Resolution Rejecting All Bids for Contract No. 2012-10, Broadway Pier Surface Enhancements and Security Fence and Gate System, San Diego, California, due to all bids exceeding the project budget and Authorizing revisions to reduce the scope of the improvements and re-advertise for new bids, be pulled for a separate discussion and consideration.

Commissioner Smith offered support for **Consent Agenda Item 17**, **Consent Agenda Item 18** and **Consent Agenda Item 19** and stated his preference that even minor revisions to policies be placed on the Action Agenda.

On motion of Commissioner Smith, seconded by Commissioner Malcolm, the Board adopted Consent Agenda items 9, 11A, 11B, 11C, 12, 13A, 13B, 15, 16, 17ABC, 18, 19, 20, 21, 22, and 23. (**Resolution 2013-201; Resolution 2013-202; Ordinance 2746; Resolution 2013-203** through and including **Resolution 2013-205; Ordinance 2747; Ordinance 2748, Resolution 2013-206** through and including **Resolution 2013-212**) by the following vote: Yeas-Castellanos, Malcolm, Merrifield, Moore, Nelson, Smith and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

Agenda Item 9. **Resolution 2013-201**, Adopting Plans and Specifications and Awarding Contract No. 2013-14 to Richard Phillips Marine, Inc. for the construction of the major maintenance project, Tuna Harbor Floating Docks Repair, in the amount of \$233,000, was adopted as part of the consent agenda.

Bartell Hotels dba Humphrey's Half Moon Inn and Suites located at 2303 Shelter Island Drive

Agenda Item 11A. **Resolution 2013-202**, Granting Concept Approval for Bartell Hotels dba Humphrey's Half Moon Inn and Suites for proposed interior renovations and exterior enhancements, was adopted as part of the consent agenda.

Agenda Item 11B. **Ordinance 2746**, Granting a New 40 Year Lease with Bartell Hotels dba Humphrey's Half Moon Inn and Suites, was adopted as part of the consent agenda.

Agenda Item 11C. **Resolution 2013-203**, Consenting to Encumbrance of Bartell Hotels dba Humphrey's Half Moon Inn and Suites Leasehold in an amount not to exceed \$15,000,000 in favor of Union Bank, with conditions, was adopted as part of the consent agenda.

Agenda Item 12. **Resolution 2013-204**, Authorizing Amendment No. 4 to the Land Exchange Agreement with North C.V. Waterfront, L.P., dba Pacifica Companies, extending the close of escrow for three months from December 15, 2013 to March 15, 2014 to allow additional time to amend the agreement due to the elimination of the Chula Vista Redevelopment Agency, was adopted as part of the consent agenda.

Bartell Hotels dba Best Western Island Palms Hotel and Marina located at 2051 Shelter Island Drive

Agenda Item 13A. **Resolution 2013-205**, Granting Concept Approval for Bartell Hotels dba Best Western Island Palms Hotel and Marina for proposed exterior enhancements, was adopted as part of the consent agenda.

Agenda Item 13B. **Ordinance 2747**, Authorizing an Amended and Restated Lease with Bartell Hotels dba Best Western Island Palms Hotel and Marina, extending the term by 10 years, was adopted as part of the consent agenda.

Agenda Item 14. Ordinance Granting a 15 Year Lease with One Five-Year Option to Extend with Star & Crescent Boat Company for a Walk-up Café located at 1050 North Harbor Drive in San Diego. **Item continued to a future Board meeting.**

Agenda Item 15. **Ordinance 2748**, Granting Amended Restated and Combined Lease with the San Diego Joint Port Labor Relations Committee comprised of the International Longshore & Warehouse Union Local No. 29 and the Pacific Maritime Association for property at 1000 Bay Marina Drive in National City to add three five-year options to extend the lease through November 20, 2032, was adopted as part of the consent agenda.

Agenda Item 16. **Resolution 2013-206**, Authorizing Amendment No. 1 to the Consulting Agreement between the District and Jones Lang LaSalle Americas, Inc. for support and implementation of the Chula Vista Bayfront Development increasing the agreement amount by \$585,000 and extending the term from January 12, 2014 through January 31, 2015, was adopted as part of the consent agenda.

Agenda Item 17ABC. **Resolution 2013-207**, Adopting Revisions to the following Board of Port Commissioners (BPC) Policies pursuant to changes in State Law: A) BPC Policy No. 358 – Contractors’ and Lessees’ Compliance with Equal Employment Opportunity and Nondiscrimination. B) BPC Policy No. 359 – Equal Opportunity Contracting. C) BPC Policy No. 361 – Equal Employment Opportunity and Nondiscrimination, was adopted as part of the consent agenda.

Agenda Item 18. **Resolution 2013-208**, to Amend the San Diego Unified Port District Personnel Rules and Regulations, Rule 9 Appointments, Rule 17 - Drug and Alcohol Policy and Rule 18 - Searches, was adopted as part of the consent agenda.

Agenda Item 19. **Resolution 2013-209**, Approving Board of Port Commissioners (BPC) Policy No. 035: Powers and Functions of Port Auditor, was adopted as part of the consent agenda.

Agenda Item 20. Ordinance Amending Ordinance No. 1603, pursuant to the National Transportation Safety Board recommendations regulating pilotage and pilots for the Port of San Diego, to recognize the San Diego Bay Pilots Association as the organization conducting piloting on San Diego Bay, and implement new reporting, training, professional development and oversight requirements. **Item continued to a future Board meeting.**

Agenda Item 21. **Resolution 2013-210**, Selecting and Authorizing Agreements with California Center for Sustainable Energy and Cardno TEC, Inc. for a period of one year for on-call energy efficiency services in an amount not to exceed \$200,000, reimbursable through the SDG&E Local Government Partnership, was adopted as part of the consent agenda.



Agenda Item 22. Resolution 2013-211, Authorizing Amendment No. 2 to the Agreement with Pae White Studio, Inc. for Consulting Services related to North Embarcadero visionary Plan Phase 1 to increase the agreement amount by \$69,200, increasing the aggregate total of the agreement from \$147,400 to \$216,600, was adopted as part of the consent agenda.

Agenda Item 23. Resolution 2013-212, Authorizing Amendment No. 2 to the Carl Moyer Program Grant Agreement, which provided funding for the B Street and Broadway Pier Cruise Ship Terminals, extending time of agreement until 2023 to meet emission reduction requirements, was adopted as part of the consent agenda.

Commissioner Merrifield left the dais at 2:17 p.m. and returned at 2:22 p.m.

#### **PUBLIC HEARING AGENDA**

##### **SHELTER ISLAND BOATYARD CRANE REPLACEMENT AND PIER ADDITION PROJECT AT 2330 SHELTER ISLAND DRIVE IN SAN DIEGO**

- A) CONDUCT PUBLIC HEARING AND ADOPT RESOLUTION ADOPTING THE FINAL NEGATIVE DECLARATION AND DIRECTING FILING OF THE NOTICE OF DETERMINATION;**
- B) ORDINANCE GRANTING AN OPTION AGREEMENT TO SHELTER ISLAND YACHTWAYS, LTD. FOR A NEW 30-YEAR LEASE;**
- C) ADOPT RESOLUTION GRANTING CONCEPT APPROVAL FOR SHELTER ISLAND YACHTWAYS, LTD. FOR PROPOSED CRANE REPLACEMENT AND PIER ADDITION PROJECT;**
- D) ADOPT RESOLUTION AUTHORIZING ISSUANCE OF A NON-APPEALABLE COASTAL DEVELOPMENT PERMIT; AND**
- E) ADOPT RESOLUTION CONSENTING TO \$3,300,000 LOAN BETWEEN AMERICAN WEST BANK AND SHELTER ISLAND YACHTWAYS, LTD., WITH CONDITIONS**

Agenda Item 24ABCDE. Jason Giffen, Director, Environmental & Land Use Management; Wileen Manaois, Senior Redevelopment Planner, Environmental & Land Use Management and Ryan Donald, Assistant Asset Manager, Real Estate addressed the Board with a presentation regarding the Shelter Island Boatyard Crane Replacement and Pier Addition Project. (A copy of the staff report and presentation are on file in the Office of the District Clerk.)

Chair Moore opened the public hearing.

Roy Hobbs, CEO, Shelter Island Yachtways, addressed the Board in support of the staff recommendation. He remarked on the process utilized to move the matter forward in an efficient manner.

Laura Hunter, Environmental Health Coalition, addressed the Board regarding opportunities to acquire cranes fueled by alternative energy sources and the District leasing practices in light of the pending action regarding the Board's consideration of the District Climate Action Plan and adopting guidelines for implementing the Greenhouse Gas Reduction Measures. She discussed references on page A-39 of the Final Negative Declaration to the greenhouse gas emission analysis and clarifying the text regarding the 2006 baseline based on port operations. She also discussed opportunities during lease negotiations and incorporating Greenhouse Gas Reduction efforts.

Concerning Ms. Hunter's remarks regarding the text on page A-39 of the Final Negative Declaration and prior to filing, Mr. Giffen offered that staff would include a clarification that the baseline and inventory were based on all "port run" maritime operations and the conditions identified in the initial study did not include "private run" operations. (A copy of the Final Negative Declaration is on file in the Office of the District Clerk.)

As no other members of the public requested to speak, Chair Moore closed the public hearing.

Commissioner discussion ensued. Commissioner Nelson discussed that there was no feasible means to acquire an alternative fuel crane. Commissioner Nelson offered a motion to approve the staff recommendation with the clarification offered by Mr. Giffen regarding the reference noted on page A-39 of the Final Negative Declaration. Commissioner Nelson requested and received clarification from Karen Weymann, Director, Real Estate, regarding qualifying investments under BPC Policy No. 355 and the District's practices regarding specialized equipment acquisition and infrastructure improvements to a tenant's business. Commissioner Nelson reiterated his motion to adopt all of the staff recommendations. Commissioner Valderrama seconded the motion.

Commissioner Valderrama and Commissioner Malcolm acknowledged Mr. Hobbs and his commitment to the District's Maritime business segment.

Mr. Hobbs discussed the importance of the gantry crane, the lease requirements, and the impact to local jobs. He introduced Bill Roberts, General Partner, Shelter Island Yachtways, and thanked the Board and staff for their support.

On a single motion by Commissioner Nelson, seconded by Commissioner Valderrama, the Board, with a single vote, adopted **Resolution 2013-213**, Adopting the Final Negative Declaration and Directing filing of the Notice of Determination, **Ordinance 2749**, Granting an Option Agreement to Shelter Island Yachtways, LTD. for a new 30-Year Lease, **Resolution 2013-214**, Granting Concept Approval for Shelter Island Yachtways, LTD. for Proposed Crane Replacement and Pier Addition Project, **Resolution 2013-215**, Authorizing Issuance of a Non-Appealable Coastal Development Permit, and **Resolution 2013-216**, Consenting to \$3,300,000 Loan between American West Bank and Shelter Island Yachtways, Ltd., with conditions, by the following vote: Yeas-Castellanos, Malcolm, Merrifield, Moore, Nelson, Smith and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

Commissioner Merrifield left the dais at 2:44 p.m. and returned at 2:46 p.m.

#### **ESTABLISH CLIMATE ACTION PLAN – GREENHOUSE GAS (GHG) REDUCTION STRATEGY**

- A) CONDUCT A PUBLIC HEARING TO ADOPT A “CLIMATE ACTION PLAN” THAT INCLUDES A STRATEGY TO REDUCE GHG EMISSIONS ON PORT TIDELANDS.**
- B) RESOLUTION ADOPTING A “CLIMATE ACTION PLAN” FOR THE DISTRICT THAT INCLUDES A STRATEGY TO REDUCE GHG EMISSIONS ON PORT TIDELANDS.**
- C) AUTHORIZE A RESOLUTION ADOPTING BOARD OF PORT COMMISSIONERS (BPC) POLICY NO. 750 – GUIDELINES FOR IMPLEMENTING GREENHOUSE GAS (GHG) REDUCTION MEASURES**

Agenda Item 25ABC. Jason Giffen, Director, Environmental & Land Use Management, addressed the Board with a presentation regarding Climate Action Plan – Greenhouse Gas (GHG) Reduction Strategy and requested Board consideration of the staff recommendations. (A copy of the staff report and presentation are on file in the Office of the District Clerk.)

Chair Moore opened the public hearing. The following members of the public addressed the Board regarding the matter: Lianna Rios, Supervisor-Local Government Partnership, San Diego Gas & Electric; Laura Hunter, Environmental Health Coalition; Kayla Race, Policy Advocate, Environmental Health Coalition; Bill Tippetts, San Diego Project Director, The Nature Conservancy; Sharon Cloward, President, San Diego Port Tenants Association and Jack Monger submitted a request to speak form but was not present when called upon.

Ms. Race presented a document titled Environmental Health Coalition Requested additions to the Climate Action Plan Implementation Policy BPC 750. (A copy of the document is on file in the Office of the District Clerk.)

Chair Moore requested and received clarification from Mr. Giffen regarding Ms. Race's document, the proposed language change and the related requests made during the public hearing. He offered clarification regarding the action under consideration. Regarding the proposed additions to the Procedure Section, Mr. Giffen stated that the Board currently has discretion regarding implementation and timetables and could add the language should they desire. He discussed the creation of "Phase 1" based upon the criteria reviewed, the next steps for prioritizing the components of the work plan, and ranking of measures.

Chair Moore closed the public hearing.

Commissioner Merrifield requested and received confirmation from Cody Hooven, Senior Environmental Specialist, Environmental & Land Use Management, that the greenhouse gas inventory was an estimate for all activity on port tidelands. In light of audits, she discussed the inventory data and timeframe for the next inventory.

Commissioner Nelson discussed the work by the San Diego Association of Governments (SANDAG) and the assumptions regarding greenhouse gas emissions and three development types in the region; projected emission level reductions, and population growth. He offered remarks regarding the challenges presented with establishing and implementing regulations in light of a possible conflict with legislation or regulation already enacted.

Chair Moore discussed the proposal presented by Ms. Race and reiterated that the specific requests regarding the measures was premature in that Phase 1 was not yet developed nor related to the action under consideration.

Commissioner Valderrama acknowledged the stakeholder participation; expressed support for the staff's recommendation; and offered that regarding the proposed additions, he preferred to have the matter come back to the Board following an evaluation by the staff and after stakeholder review.

Commissioner Smith offered a motion to approve the staff recommendations. He thanked staff and the members of the Environmental Health Coalition for their work on the matter. Commissioner Smith discussed his belief that market forces respond to environmental matters; remarked on the allocation of staff resources necessary to move the project forward, and requested samples of the types of reporting mechanisms

proposed. He reiterated Commissioner Valderrama's position regarding the proposed additions, maintaining and "open and transparent process," and making modifications to the policy from the dais.

Commissioner Malcolm thanked staff and stakeholders for their work. He discussed the importance of the matter and moving forward with the plan in his role as a Board member of a public agency. He remarked on Commissioner Nelson's comments regarding SANDAG, their climate study, and planning. Commissioner Malcolm discussed balancing regulations while encouraging business growth and development. He expressed his desire that the plan continues to be linked to science; remarked on resource management and the consideration of the issue of "mandatory versus voluntary" implementation; and acknowledged the impact of "market-driven" change. Commissioner Malcolm offered support for the staff recommendation.

Commissioner Nelson seconded the motion.

Commissioner Castellanos thanked staff for their work on the matter. He discussed the challenges presented by operating a business within multiple jurisdictions. He expressed his desire that the plan continues to be linked to law and adhere to existing regulations. Commissioner Castellanos discussed the importance of education and outreach. Regarding the modifications proposed, he concurred with Chair Moore's position regarding Phase 1, and, as to part one of Ms. Race's recommendation, he deferred to his fellow Commissioners' discussion regarding making modifications to the policy "from the dais."

In light of adopting the plan as proposed, Commissioner Nelson discussed the proposed changes and prioritizing the measures presented by Ms. Race and the Environmental Health Coalition. He remarked on some of the proposed language changes; moving forward with the work plan; the creation of a green leasing policy during the coming year; conducting an industrial tenant inventory; and offered support for implementing a program to install technologies for generating energy from renewable resources.

In light of the additions proposed by Ms. Race, Chair Moore clarified the action that was before the Board was the adoption of the plan and the BPC policy. She requested and received clarification from Cody Hooven, Senior Environmental Specialist, Environmental and Land Use Planning, regarding the measures cited by Ms. Race and the next steps in the process related to the Phase 1 Work Plan. Mr. Giffen added that all measures would be evaluated during the next step in the process, and he elaborated on the development of the work plan for the Board's review and consideration as part of

the budget process. Chair Moore offered her thanks to the team members for their hard work on the climate action plan and developing the policy.

On a single motion by Commissioner Smith, seconded by Commissioner Nelson, the Board, with a single vote, adopted **Resolution 2013-217**, Adopting a "Climate Action Plan" for the District that includes a strategy to reduce GHG Emissions on Port Tidelands, and **Resolution 2013-215**, Resolution Adopting Board of Port Commissioners (BPC) Policy No. 750 – Guidelines For Implementing Greenhouse Gas (GHG) Reduction Measures, by the following vote: Yeas-Castellanos, Malcolm, Merrifield, Moore, Nelson, Smith and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

#### **ACTION AGENDA CONTINUED**

#### **UPDATE ON IMPLEMENTATION OF THE CHULA VISTA BAYFRONT DEVELOPMENT. PRESENTATION OF DEVELOPMENT STRATEGY RECOMMENDATIONS AND DIRECTION TO STAFF**

Agenda Item 28. Item continued to a future Board meeting.

#### **RESOLUTION ADOPTING BOARD OF PORT COMMISSIONERS (BPC) POLICY NO. 752 – GUIDELINES FOR CONDUCTING PROJECT CONSISTENCY REVIEW, RELATED TO THE INTEGRATED PORT MASTER PLAN UPDATE**

Agenda Item 29. Jason Giffen, Director, Environmental & Land Use Management and Keith Walzak, Manager, Environmental & Land Use Management addressed the Board with a presentation regarding BPC Policy No. 752 – Guidelines for Conducting Project Consistency Review, related to the Integrated Port Master Plan Update. (A copy of the staff report and presentation are on file in the Office of the District Clerk.)

On a motion by Commissioner Smith, seconded by Commissioner Malcolm, the Board adopted **Resolution 2013-221**, BPC Policy No. 752 – Guidelines for Conducting Project Consistency Review, by the following vote: Yeas-Castellanos, Malcolm, Merrifield, Moore, Nelson, Smith and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

**RESOLUTION APPROVING A PROCLAMATION AND APPOINTING LOU SMITH AS COMMISSIONER EMERITUS EFFECTIVE JANUARY 3, 2014**

Agenda Item 30. Laura Hunter, Environmental Health Coalition thanked Commissioner Smith for his service to the District and visiting the neighborhoods adjacent to port terminal operations. She presented Commissioner Smith with a membership in the Environmental Health Coalition.

Commissioner Nelson offered a motion to authorize a proclamation appointing Lou Smith 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.)

Commissioner discussion ensued. Each member of the Board remarked on Commissioner Smith's service to the District, offered congratulations on his impending Commissioner Emeritus status, and wished him well.

Thomas Russell, Port Attorney, acknowledged Commissioner Smith for his service and support.

On behalf of the staff and the Executive Leadership Group, Wayne Darbeau, Executive Director, offered sincere regards to Commissioner Smith for his service. As a token of appreciation, Mr. Darbeau presented a framed collage of photographs depicting events during Commissioner Smith's time at the District.

Commissioner Smith thanked the District staff, senior leadership, his fellow Commissioners, and the members of the public to whom he served.

On a motion by Commissioner Nelson, seconded by Commissioner Malcolm, the Board adopted **Resolution 2013-222**, Approving a Proclamation and Appointing Lou Smith as Commissioner Emeritus effective January 3, 2014, by the following vote: Yeas-Castellanos, Malcolm, Merrifield, Moore, Nelson, and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-Smith.

**REVIEW AND CONSIDERATION OF PROPOSED BOARD AGENDA FOR THE JANUARY 14, 2014 MEETING**

Agenda Item 31. On motion of Commissioner Valderrama, seconded by Commissioner Malcolm, the Board adopted the proposed agenda for the meeting of January 14, 2014, by the following vote: Yeas-Castellanos, Malcolm, Merrifield, Moore, Nelson, 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. 12 for \$594,093.46 Decrease to Contract No. 2009-13 with USS Cal Builders, Inc. for North Embarcadero Visionary Plan Phase I, San Diego, California.
- B) Reconciliation Change Order No. 2 for \$93,162.85 Decrease to Contract No. 2011-38 with Adams Mallory Construction Co., Inc. for Tenth Avenue Marine Terminal Transit Shed No. 1, Bay 'D' and Headhouse No. 1 Demolition and New 90' High Mast Light Poles, San Diego, California.
- C) Change Order No. 1 to for \$9,788.39 Increase to Contract No. 2012-01 with Kinsman Construction, Inc. for Broadway Pier Utility Relocation, San Diego, California.
- D) Change Order No. 2 for \$365.00 Increase and 16 Calendar Day Extension to Contract No. 2012-28 with Chula Vista Electric Co. for Imperial Beach Palm Avenue Storm Water Pump System Improvements, Imperial Beach, California.

## **CONSENT AGENDA CONTINUED**

### **RESOLUTION REJECTING ALL BIDS FOR CONTRACT NO. 2012-10, BROADWAY PIER SURFACE ENHANCEMENTS AND SECURITY FENCE AND GATE SYSTEM, SAN DIEGO, CALIFORNIA, DUE TO ALL BIDS EXCEEDING THE PROJECT BUDGET AND AUTHORIZING REVISIONS TO REDUCE THE SCOPE OF THE IMPROVEMENTS AND RE-ADVERTISE FOR NEW BIDS**

Agenda Item 10. Commissioner Nelson, Commissioner Valderrama, Chair Moore, and Commissioner Smith requested and received clarification regarding the staff recommendation, the consideration of accepting the lowest responsive bid submitted, putting forward a budget amendment, and continuing the matter to a future meeting from: Ernesto Medina, Chief Engineer, Dave Catalino, Deputy Port Attorney, Thomas Russell, Port Attorney, and Dave Thompson, Director of General Services and Procurement.

On a motion by Commissioner Nelson, seconded by Commissioner Valderrama, the Board continued **Consent Agenda Item 10**, a Resolution Rejecting All Bids for Contract No. 2012-10, Broadway Pier Surface Enhancements and Security Fence and Gate System, San Diego, California, due to all bids exceeding the project budget and Authorizing revisions to reduce the scope of the improvements and re-advertise for new



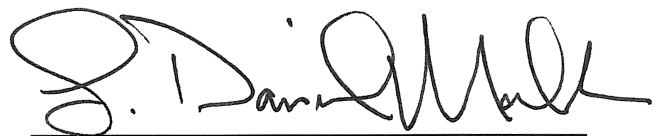
bids, to a future meeting, by the following vote: Yeas-Castellanos, Malcolm, Merrifield, Moore, Nelson, Smith and Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

**CLOSED SESSION CONTINUED**

Agenda Item 2. With respect to Closed Session Agenda Items 6, 7 and 8 there was no reportable action.

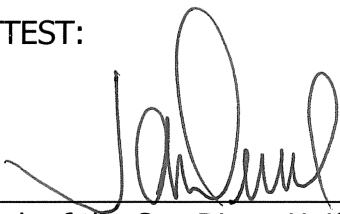
December 10, 2013

page 374

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Secretary, Board of Port Commissioners  
San Diego Unified Port District

ATTEST:

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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 Chair Moore at 9:05 a.m., Thursday, December 12, 2013, in the Board Room at 3165 Pacific Highway, San Diego, California.

**ROLL CALL**

Agenda Item 1.

Present: COMMISSIONERS, Castellanos, Malcolm, Merrifield, Moore, Nelson, Smith, and Valderrama

OFFICERS: Darbeau, Deuel, Medina, Monson, and Russell.

Absent: None.

Excused: None.

**PUBLIC COMMUNICATIONS**

Agenda Item 2. Laura Hunter, Environmental Health Coalition, addressed the Board regarding the public hearing process and “the practice of making changes from the dais” in relation to her organization’s recommendations regarding the Climate Action Plan – Greenhouse Gas (GHG) Reduction Strategy item from the December 10, 2103 regular meeting.

## **WORKSHOP**

### **INTEGRATED PORT MASTER PLAN UPDATE: PHASE I VISIONING WORKSHOP**

Agenda Item 3. Chair Moore remarked on the importance of long range planning and visioning. Jason Giffen, Director, Environmental & Land Use Management, offered introductory remarks regarding the process and stated that Heidi Gantwerk, Viewpoint Learning, was the facilitator for the workshop. Ms. Gantwerk discussed the format for the workshop. The following HKS team members offered a comprehensive presentation and update on the project: Jon Schmid, Cook & Schmid; Randy Morton, HKS; Matthew Martinez, Moffatt & Nichol, Jim Crabtree, CCI; and Martin Poirier, Spurlock Poirier Landscape Architects. (Copies of the staff report, workshop handouts, and presentation are on file in the Office of the District Clerk.)

Commissioner discussion ensued. Commissioner Merrifield requested and received clarification from Mr. Morton regarding the portion of tidelands occupied by the U.S. Navy and the U.S. Coast Guard.

Chair Moore requested and received clarification from Mr. Morton regarding the average ratio and distribution of open space, infrastructure, and development acreage as compared to other port cities.

Commissioner Nelson and Commissioner Malcolm discussed open space ratios, developable areas, building height, and requested the review of riverfront developments in other cities.

Commissioner Smith and Commissioner Malcolm requested the firms review and confirm that they integrate the direction provided in the San Diego Unified Port District Act of 1962 (Port Act) and the BPC Policies into their assessments, work-product and recommendations.

Commissioner Malcolm offered that, in light of the Port Act, the team also considers opportunities for alternative land uses and think of that enabling document in a more dynamic way.

Commissioner Merrifield, Chair Moore, and Commissioner Nelson discussed the concept of maintaining current land uses. Retaining the U.S. Navy presence was cited as an example of maintaining current land uses. They encouraged looking at the Port

Act with an open-mind and allowing for an opportunity to put forward State legislative action when considering a 50-year plan and the vision for the District's future.

The consultant team continued with their presentation regarding infrastructure improvements, the consideration of water depth and vessel needs, maintaining an awareness of any potential future realignment of the armed forces, and "green" public realm spaces.

In light of strategic planning and visioning, Chair Moore discussed the need to ensure that the economic and infrastructure investments that are made would best serve the District's future needs.

Commissioner Nelson discussed the current use of land by the United States Armed Forces and concurred that long-term assessments were necessary.

Commissioner Smith acknowledged the presentation materials regarding the District's public park spaces, discussed the term "remnant park" and "passive park," and offered that the District's parks were designed based upon direction from the California State Lands Commission.

Commissioner Valderrama, Commissioner Nelson, Commissioner Merrifield and Chair Moore discussed the number of parks in each member city; the percentage of tideland acreage designated as park space; assessing the stakeholder uses of District parks; working with member cities on adjacent land uses and street access; planning for waterfront access points; and putting forward a developer's guide.

In the context of the presentation, Commissioner Castellanos discussed "tactical urbanism," public transportation, and vehicle parking requirements in the future. Mr. Poirier discussed urbanization and trends related to personal automobiles and alternative transportation solutions.

Commissioner Smith, Chair Moore, Commissioner Malcolm, Commissioner Nelson, Commissioner Valderrama, and Wayne Darbeau, Executive Director, offered comments regarding the following topics: the concept maps and charts shown in the presentation that indicate "developable land" and the park space; ensuring that the materials presented during the workshop and at outreach activities were labeled as representing "concepts" and "not final" plans; creating an "inventory" of land and describing its potential purpose; inventorying current parking solutions and completing a needs assessment for the future; the "developable or usable" land shown in the slides as being near Seaport Village and around the San Diego Convention Center in light of the

expansion plans; requirements regarding the implementation of a shuttle system by the District and the regional airport; the life-span of concrete structures, keeping an open mind when assessing alternative land uses, actual parking needs, open spaces, and development opportunities.

Mr. Morton, Mr. Schmid and Mr. Crabtree continued the presentation and discussed the data inventory, assessing the District's role and what it "does best," the District as an enabling agency, the project approval and the development process; current challenges faced by prospective developers, increasing waterfront access, and creation of the District's business model in regard to the Port Master Plan.

The following members of the public addressed the Board with varying viewpoints on the matters presented: Cindy Gompper-Graves, South County Economic Development Corporation; Scott Andrews; Laura Hunter, Environmental Health Coalition; and Bill Tippetts, Project Director, The Nature Conservancy.

The Board provided over-arching comments on the Phase I Visioning Workshop that focused on: data showing the land inventory and opportunities available with proper planning; encouraging the team to "think outside of the box" and initially moving ahead with an unconstrained vision; reviewing plan elements while maintaining a financially sustainable organization; assessing the core competency of the District; easing the development process; looking at the current land uses and assessing any legislative needs as the District continues to evolve into the next 50 years; starting the planning process with the water and the activity on the bay; the concept of a south bay channel; capturing more complete data regarding the number of vessels and traffic on the bay; energy consumption and attaining climate objectives and sustainability goals; consideration of water quality in the bay; considering developing canals and second-story structures at the terminals to maximize the land; recognizing the west coast ship building industry and encouraging increasing capacity; meeting the needs of the sailing community and navigating to the south bay; developing financially successful projects; being a financially sustainable port that drives job creation; continuing active outreach efforts to stakeholders within all five member cities, sustaining a "big picture" viewpoint; consideration of development of a signature park; maintaining an agile plan; creating a better parking strategy; preserving the U.S. Navy and U.S. Coast Guard's presence in the region; encouraging entrepreneurial business opportunities in planning; consideration of California Environmental Quality Act (CEQA) reform for small developers; investigating dredging needs, exploring opportunities for business development in the south bay; "big picture" visioning as opposed to "piece-meal planning" of projects; positioning the Port of San Diego as "world class" destination that inspires iconic visual images like the ones shown during the presentation; prioritizing

parks and waterfront access points; incorporating the discussion of change and visioning while maintaining business operations; and working with adjacent jurisdictions to develop a system of public parks and also address parking and shuttle solutions. During the discussion, the Board members recognized Chair Moore for her leadership and commitment to the process.

In light of the visioning process, Thomas Russell, Port Attorney, offered remarks regarding the Port Act and State case law should the Board consider alternative land uses; discussed amending the Port Act; exploring 'a non-public trust' uses; and assessing land exchange opportunities.

Mr. Darbeau discussed the concept of "beginning with the end in mind." He remarked on maritime business opportunities in light of the close proximity to Mexico; the impact on the regional economy of the U.S. military and preserving a strategic port designation; maintaining fiscal responsibility and creating a financially sustainable business model, and concluded by offering his thanks to the Board and staff for their efforts.

Mr. Giffen reviewed next steps, vision plan development, and discussed the timeline proposed in the staff report.

Chair Moore recognized her fellow Board members. She thanked staff, the consultants, and the senior leadership. She acknowledged the time and efforts put forth by the entire team throughout her year as Board Chair.

## **CLOSED SESSION**


Thomas Russell, Port Attorney, announced the closed session agenda as follows:

### Agenda Item 4.

CONFERENCE WITH REAL PROPERTY NEGOTIATOR  
Government Code Section 54956.8

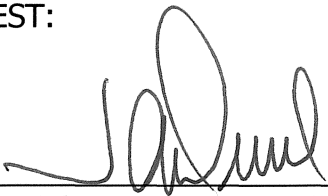
Property:	Lane Field located at the Northeast Corner of Harbor Drive and West Broadway in the City of San Diego
Negotiating Parties:	Rob Lankford, LPP Lane Field, LLC Randa Coniglio, Karen Weymann, Shaun Sumner, SDUPD
Under Negotiation:	Price and Terms

There was no reportable action as to the closed session item, pursuant to Government Code Section 54950 et seq, from the closed session; whereupon, Chair Moore adjourned the meeting.

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Secretary, Board of Port Commissioners  
San Diego Unified Port District

ATTEST:

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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 Chair Moore at 2:00 p.m., Monday, December 16, 2013, in the Board Room at 3165 Pacific Highway, San Diego, California.

**ROLL CALL**

Agenda Item 1.

Present: COMMISSIONERS, Castellanos, Malcolm, Merrifield, Moore, Nelson, Smith, and Valderrama.

OFFICERS: Darbeau, DeAngelis, Deuel, and Russell

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 REAL PROPERTY NEGOTIATOR  
Government Code Section 54956.8

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

Negotiating Parties: Rob Lankford, LPP Lane Field, LLC  
Randa Coniglio, Karen Weymann, Shaun Sumner, SDUPD

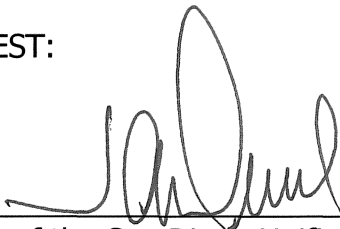
Under Negotiation: Price and Terms

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

A handwritten signature in black ink, appearing to be "S. D. Moore", written over a horizontal line.

Secretary, Board of Port Commissioners  
San Diego Unified Port District

ATTEST:

A handwritten signature in black ink, appearing to be "Janet Moore", written over a horizontal line.

Clerk of the San Diego Unified Port District