

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

The regular meeting of the Board of Port Commissioners of the San Diego Unified Port District was called to order by Chairman Bixler at 1:09 p.m., Tuesday, November 4, 2008, in the Board Room at 3165 Pacific Highway, San Diego, California.

**PLEDGE OF ALLEGIANCE**

Agenda Item 1. Chairman Bixler led the Pledge of Allegiance.

**ROLL CALL**

Agenda Item 2.

Present: COMMISSIONERS Bixler, Black, Cushman, Najera, Rios, Spane, Valderrama;  
OFFICERS Bennett, Liner, Kirkpatrick and McEntee  
Vice President Mathiasen was present on behalf of the Executive Director.

Absent: No Commissioners absent.

Excused: No Commissioners excused.

Chairman Bixler announced that the Board convened in closed session and requested a report from Duane Bennett, Port Attorney. Mr. Bennett reported that the Board met in closed session regarding **closed session agenda item 3**, a CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION Significant exposure to litigation pursuant to Subdivision (b)(1) of Government Code Section 54956.9: Two Cases; and the Board gave direction and there was no formal or reportable action regarding the matters. Mr. Bennett also reported that the Board discussed **closed session agenda item 4**, a CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION Significant exposure to litigation pursuant to Subdivision (a) of Government Code Section 54956.9: First State Insurance Company vs. SDUPD, United States District Court, Southern District of California, Case No. 08 CV 1046 L RBB, and that the Board approved, on a 7-0 vote, a settlement agreement and a settlement with First State Insurance Company which will be memorialized in a settlement agreement that will be filed in the Office of the District Clerk in the near future.

## **APPROVAL OF MINUTES**

Agenda Item 3. On motion of Commissioner Rios, seconded by Commissioner Black, the Board approved, in a single vote, the minutes submitted for the October 2, 2008 special meeting and the special and regular meetings of October 7, 2008, by the following vote: Yeas-Bixler, Black, Cushman, Najera, Rios, Spane, Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

## **PUBLIC COMMENTS**

Agenda Item 4. On behalf of Mayor Ron Morrison, City of National City, Patricia Beard addressed the Board regarding the impact to residents during construction of the proposed freeway access projects. She also requested that funds be allocated to address the vehicle parking at Pasha Automotive Services to facilitate better use of the Bayfront property.

Joy Sunyata addressed the Board and requested that a bicycle rack be placed at the District Administration Building and that more bicycle racks be placed along Harbor Drive.

## **CONSENT AGENDA**

**Chairman Bixler stated that the following consent agenda items would be pulled from the November 4, 2008 regular meeting and continued to a future meeting:**

Agenda Item 13a. National City Marine Terminal Capacity Enhancement Projects: Resolution Authorizing \$2,000,000 from the 2009-2013 Capital Development Program to begin design of the National City Marine Terminal Capacity Enhancement Projects; Wharf Extension and Vehicle Processing Facility.

Agenda Item 13b. National City Marine Terminal Capacity Enhancement Projects: Direction to staff to begin the Environmental and CEQA processes.

Agenda Item 28. Resolution Authorizing Amendment No. 2 to Agreement with Marine Group Boat Works for abandoned and derelict vessel towing, storage and related services to remove "not to exceed" language from the agreement.

Agenda Item 29. Resolution Authorizing a Waiver of Park Fees at Shelter Island Park for the Make-a-Wish Foundation Tuna Challenge in September 2009.

**Chairman Bixler stated that the following consent agenda items would be pulled from the November 4, 2008 regular meeting and no longer required Board action:**

**Agenda Item 27.** Resolution Accepting Limitation of Liability with Experian Information Solutions, Inc. for background checks and limited information not to exceed \$25,000.

**Agenda Item 30.** Resolution Authorizing Agreement for Opentext Global Services and acceptance of Limitation of Liability Language for an amount not to exceed \$15,000.

**Chairman Bixler stated that the following presentation and/or action agenda items would be pulled from the November 4, 2008 regular meeting and continued to a future meeting:**

**Agenda Item 32.** Staff Update on the "Safer Alternatives to Copper Antifouling Paints for Marine Vessels" Project.

**Agenda Item 33.** Pier 32 National City Marina Project: Conduct Public Hearing and Adopt Resolution Authorizing Issuance of an Amendment to an Appealable Coastal Development Permit #CDP-2006-02.

**Agenda Item 34a.** Fifth Avenue Landing: Resolution Authorizing Memorandum of Understanding between San Diego Unified Port District, San Diego Convention Center Corporation and Fifth Avenue Landing, LLC concerning the future expansion of the San Diego Convention Center; and

**Agenda Item 34b.** Fifth Avenue Landing: Adopt the following Ordinance Conditioned upon the Board's approval of item A above: Ordinance Authorizing Amendment No. 5 to Fifth Avenue Landing, LLC Option Agreement to extend the term to November 30, 2009.

**Agenda Item 38.** Discussion of State Legislation of Interest to the Port of San Diego, Status Report and possible direction to staff if any.

Chairman Bixler stated that **consent agenda item 14**, Resolution Authorizing Memorandum of Understanding with the San Diego Association of Governments (SANDAG) for initiating design of the Port of San Diego Freeway Access Projects for an amount not to exceed \$5,330,000 and **consent agenda item 15**, Resolution Authorizing Two Contribution Agreements with CALTRANS to allow the use of Federal

SAFETEA-LU Funds for the Port of San Diego Freeway Access Projects: \$2,400,000 for National City Marine Terminal Serving Intersection Improvements and \$400,000 for grade separation of Cesar Chavez at the entrance to the Tenth Avenue Marine Terminal, would be pulled for discussion.

Commissioner Najera requested that **consent agenda item 26**, Resolution Amending Resolution 2008-64 Authorizing Fee for Service and Marketing Sponsorship Program - San Diego County Hispanic Chamber of Commerce, be pulled for discussion.

Commissioner Valderrama requested that **consent agenda item 21**, Resolution Authorizing Executive Director to Execute Amendment No. 1 to Agreement 13-2008 with URS Corporation dba URS Corporation Americas for project management services for Chula Vista Bayfront Phase I Infrastructure in the amount of \$700,000, for a total of \$1,236,000 and extend the term to December 31, 2009, be pulled for discussion.

On motion of Commissioner Najera, seconded by Commissioner Valderrama, the Board, with a single vote, adopted Consent agenda items 5a, 5b, 6, 7, 8, 9, 10, 11a, 11b, 11c, 11d, 11e, 11f, 11g, 12, 16, 17, 18, 19, 20, 22, 23, 24a, 24b, 14c and 25 (**Resolutions 2008-218** through and including **2008-232**; **Ordinances 2530** through and including **2531**; **Resolutions 2008-235** through and including **2008-237**; and **Resolutions 2008-239** through and including **2008-244**) by the following vote: Yeas-Bixler, Black, Cushman, Najera, Rios, Spane, Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

Agenda Item 5a. **Resolution 2008-218**, Establishing Proposed Rent for Bartell Hotels dba Best Western Island Palms for the period December 1, 2008 to November 30, 2018, was adopted as part of the consent agenda.

Agenda Item 5b. **Resolution 2008-219**, Consenting to transfers of interests in Bartell Hotels, a California General Partnership, was adopted as part of the consent agenda.

Agenda Item 6. **Resolution 2008-220**, Consenting to Encumbrance of Southwestern Yacht Club's Leasehold Estate in the amount of \$6.4 million in favor of San Diego National Bank with conditions, was adopted as part of the consent agenda.

Agenda Item 7. **Resolution 2008-221**, Consenting to Assignment of Long-Term Sublease from B&B Restaurant Ventures, LLC to SDO Ventures, LLC for a Fox Sports Grill Restaurant in the Hilton San Diego Bayfront Hotel , was adopted as part of the consent agenda.

Agenda Item 8. **Resolution 2008-222**, Authorizing Acceptance of Transportation Security Administration (TSA) Grant Award Modification 1 for the Harbor Police Department (HPD) Explosives Detection Canine Team Program per BPC Policy No. 109, was adopted as part of the consent agenda.

Agenda Item 9. **Resolution 2008-223**, Authorizing a Three-Year Agreement and Acceptance of Mutual Indemnity Language with the County of San Diego to receive grant funds in the amount of \$297,961 for "Operation Stonegarden", was adopted as part of the consent agenda.

Agenda Item 10. **Resolution 2008-224**, Selecting and Authorizing a Three (3) Year Agreement with Visionary Integration Professionals, LLC (VIP) for consulting services to provide support services for SAP Administration for an amount not to exceed \$300,000, was adopted as part of the consent agenda.

Agenda Item 11a. **Resolution 2008-225**, Revising Board of Port Commissioners Policy (BPC) No. 10 – The San Diego Unified Port District Board of Port Commissioners Policy Manual , was adopted as part of the consent agenda.

Agenda Item 11b. **Resolution 2008-226**, Revising Board of Port Commissioners Policy (BPC) Policy No. 21 – Meetings of the Board of Port Commissioners, was adopted as part of the consent agenda.

Agenda Item 11c. **Resolution 2008-227**, Revising Board of Port Commissioners Policy (BPC) Policy No. 50 – Public Notice Regarding Agenda Matters, was adopted as part of the consent agenda.

Agenda Item 11d. **Resolution 2008-228**, Revising Board of Port Commissioners Policy (BPC) Policy No. 105 – Uncollectible Accounts, was adopted as part of the consent agenda.

Agenda Item 11e. **Resolution 2008-229**, Revising Board of Port Commissioners Policy (BPC) Policy No. 116 – Credit and Debit Card Acceptance Program, was adopted as part of the consent agenda.

Agenda Item 11f. **Resolution 2008-230**, Revising Board of Port Commissioners Policies (BPC) Policy No. 250 – Service Recognition Program, was adopted as part of the consent agenda.

Agenda Item 11g. **Resolution 2008-231**, Revising Board of Port Commissioners Policy (BPC) Policy No. 601 – Document Reproduction for the Public, was adopted as part of the consent agenda.

Agenda Item 12. **Resolution 2008-232**, Establishing the Board of Port Commissioners' Meeting Dates for the Calendar Year 2009, was adopted as part of the consent agenda.

Agenda Item 13a. **Item Continued**, Resolution Authorizing \$2,000,000 from the 2009-2013 Capital Development Program to begin design of the National City Marine Terminal Capacity Enhancement Projects; Wharf Extension and Vehicle Processing Facility.

Agenda Item 13b. **Item Continued**, Direction to staff to begin the Environmental and CEQA processes.

Agenda Item 16. **Ordinance 2530**, Granting Lease Amendment No. 1 to the United States Department of Homeland Security Revising Leased Premises at Tenth Avenue Marine Terminal, was adopted as part of the consent agenda.

Agenda Item 17. **Ordinance 2531**, Authorizing Lease Amendment No. 3 to Lease with American Mushrooms, Inc. dba American Produce Distributors for a one-year term extension in National City, was adopted as part of the consent agenda.

Agenda Item 18. **Resolution 2008-235**, Adopting Plans and Specifications and Awarding Contract No. 2008-04 to Fibwrap Construction, Inc for Chula Vista Bayside Park Pier Repair, Chula Vista, California in the amount of \$533,406.80, was adopted as part of the consent agenda.

Agenda Item 19. **Resolution 2008-236**, Adopting Plans and Specifications and Awarding Contract No. 2007-26 to Randall Construction, Inc. for tidelands comfort station refurbishment at various locations; Chula Vista, Coronado, Imperial Beach, National City and San Diego, California in the amount of \$1,980,097.48, was adopted as part of the consent agenda.

Agenda Item 20. **Resolution 2008-237**, Selecting and Authorizing Agreement with Halcrow, Inc. for conducting a Marine Oil Terminal Engineering and Maintenance Standards (MOTEMS) Audit of the oil cargo operations at the Tenth Avenue Marine Terminal, San Diego, California in the not to exceed amount \$529,910, was adopted as part of the consent agenda.

Agenda Item 22. **Resolution 2008-239**, Authorizing Amendment No. 3 to Agreement with Bermello Ajamil and Partners, Inc. for additional professional design services for Broadway Pier Cruise Ship Terminal Improvements in an amount of \$900,000 for a new total of \$3,152,507, was adopted as part of the consent agenda.

Agenda Item 23. **Resolution 2008-240**, Authorizing Change Order No. 1 to Contract No. 2007-35 with Ace Restoration & Waterproofing, Inc. for \$49,700.00 increase and 21 calendar day time extension through December 24, 2008, was adopted as part of the consent agenda.

Agenda Item 24a. **Resolution 2008-241**, Adopting Revisions to Board of Port Commissioners (BPC) Policy No. 025 - Request for Financial Assistance, was adopted as part of the consent agenda.

Agenda Item 24b. **Resolution 2008-242**, Adopting Revisions to Board of Port Commissioners (BPC) Policy No. 109 - Board Approval of Grant Awards, was adopted as part of the consent agenda.

Agenda Item 24c. **Resolution 2008-243**, Adopting Revisions to Board of Port Commissioners (BPC) Policy No. 451 - Rental of District's Portable Stage , was adopted as part of the consent agenda.

Agenda Item 25. **Resolution 2008-244**, Adopting Board of Port Commissioners (BPC) Policy No. 737 - Integrated Pest Management Policy, was adopted as part of the consent agenda.

Agenda Item 27. **Board Action No Longer Required**, Resolution Accepting Limitation of Liability with Experian Information Solutions, Inc. for background checks and limited information not to exceed \$25,000.

Agenda Item 28. **Item Continued**, Resolution Authorizing Amendment No. 2 to Agreement with Marine Group Boat Works for abandoned and derelict vessel towing, storage and related services to remove "not to exceed" language from the agreement.

Agenda Item 29. **Item Continued**, Resolution Authorizing a Waiver of Park Fees at Shelter Island Park for the Make-a-Wish Foundation Tuna Challenge in September 2009.

Agenda Item 30. **Board Action No Longer Required**, Resolution Authorizing Agreement for Opentext Global Services and acceptance of Limitation of Liability Language for an amount not to exceed \$15,000.

**RESOLUTION AUTHORIZING MEMORANDUM OF UNDERSTANDING WITH THE SAN DIEGO ASSOCIATION OF GOVERNMENTS (SANDAG) FOR INITIATING DESIGN OF THE PORT OF SAN DIEGO FREEWAY ACCESS PROJECTS FOR AN AMOUNT NOT TO EXCEED \$5,330,000**

Agenda Item 14. Commissioner discussion ensued. Commissioner Rios expressed her concern regarding such a sizeable expenditure and requested additional information regarding the funding strategy proposed to support the Port of San Diego Freeway Access projects. Dirk Mathiasen, Vice President, stated that the projects under consideration were the Proposition 1B Freeway projects and in the long run matching funds will need to be addressed. He requested that Dan Wilkens, Executive Vice President, provide a staff report regarding the item to address the Commissioner's concern. Mr. Wilkens addressed the Board with a staff presentation regarding the funding strategy. (A copy of the staff report and presentation are on file in the Office of the District Clerk.)

Commissioner Cushman left the dais at 1:34 p.m. and returned at 1:35 p.m.

Commissioner Valderrama requested information regarding a public-private partnership and received confirmation from Mr. Wilkens that staff has determined that the new market tax credits would be a primary source for funding the in/out vehicle roll-off structure proposed for the National City Marine Terminal.

Commissioner Black stated that she was supportive of the staff recommendation and encouraged continued collaboration with local municipalities and public agencies to move the projects forward.

Commissioner Cushman stated that he looks forward to making significant progress toward addressing the infrastructure needs and concurrently addressing quality of life concerns for area residents. In consideration of the \$5.3 million design expenditure, Commissioner Cushman requested clarification regarding the percentage of the projects that have adequate funding resources and are slated for completion. Mr. Wilkens introduced Gary Gallegos, Executive Director of the San Diego Association of Governments (SANDAG) who affirmed to Commissioner Cushman that the projects, to be supported by the \$5.3 million in District funds would be completed.

Commissioner Spane requested and received confirmation from Mr. Wilkens that the Proposition 1B funds require a dollar-for-dollar match. Mr. Wilkens further explained that staff has proposed to utilize State of California funds and also seek funding from the United States Maritime Administration.

On motion of Commissioner Cushman, seconded by Commissioner Rios, the Board approved **Resolution 2008-233**, authorizing a Memorandum of Understanding with the San Diego Association of Governments (SANDAG) for initiating design of the Port of San Diego Freeway Access Projects for an amount not to exceed \$5,330,000, by the following vote: Yeas-Bixler, Black, Cushman, Najera, Rios, Spane, Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

**RESOLUTION AUTHORIZING TWO CONTRIBUTION AGREEMENTS WITH CALTRANS TO ALLOW THE USE OF FEDERAL SAFETEA-LU FUNDS FOR THE PORT OF SAN DIEGO FREEWAY ACCESS PROJECTS: \$2,400,000 FOR NATIONAL CITY MARINE TERMINAL SERVING INTERSECTION IMPROVEMENTS AND \$400,000 FOR GRADE SEPARATION OF CESAR CHAVEZ AT THE ENTRANCE TO THE TENTH AVENUE MARINE TERMINAL**

Agenda Item 15. On motion of Commissioner Rios, seconded by Commissioner Black, the Board with a single vote approved **Resolution 2008-234** and **Resolution 2008-248**, authorizing Two Contribution Agreements with CALTRANS to allow the use of Federal SAFETEA-LU Funds for the Port of San Diego Freeway Access Projects: \$2,400,000 for National City Marine Terminal Serving Intersection Improvements and \$400,000 for grade separation of Cesar Chavez at the entrance to the Tenth Avenue Marine Terminal, by the following vote: Yeas-Bixler, Black, Cushman, Najera, Rios, Spane, Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

**PRESENTATION**

**PRESENTATION OF LIFE SAVING COMMENDATIONS AND MEDALS TO THREE HARBOR POLICE OFFICERS**

Agenda Item 31. Harbor Police Chief Kirk Sanfilippo presented Life Saving commendation awards, certificates, and shirt bars to Harbor Police Officers Pedro Arce, Eric Mitchell, and Raul Munoz for their life saving efforts. On August 30, 2008, the Harbor Police Officers responded to a call involving a male subject who appeared to be unconscious in the San Diego Bay. The responding officers pulled the subject from the bay and administered Cardio Pulmonary Resuscitation (CPR) until San Diego Fire Department Medics took over care of the subject. The actions of the Harbor Police Officers ultimately contributed to the resuscitation of the subject. Chairman Bixler and Vice President, Dirk Mathiasen presented the certificates and shirt bars.

## CONSENT AGENDA

### **RESOLUTION AUTHORIZING EXECUTIVE DIRECTOR TO EXECUTE AMENDMENT NO. 1 TO AGREEMENT 13-2008 WITH URS CORPORATION DBA URS CORPORATION AMERICAS FOR PROJECT MANAGEMENT SERVICES FOR CHULA VISTA BAYFRONT PHASE I INFRASTRUCTURE IN THE AMOUNT OF \$700,000, FOR A TOTAL OF \$1,236,000 AND EXTEND THE TERM TO DECEMBER 31, 2009**

Agenda Item 21. Commissioner discussion ensued. Commissioner Valderrama stated that he was in support of the item. He also requested and received confirmation from Jeff McEntee, CFO/Treasurer, that staff would be presenting a full accounting of the cash reserves at a future Board retreat.

On motion by Commissioner Valderrama, seconded by Commissioner Black, the Board adopted **Resolution 2008-238**, Authorizing Executive Director to Execute Amendment No. 1 to Agreement 13-2008 with URS Corporation dba URS Corporation Americas for project management services for Chula Vista Bayfront Phase I Infrastructure in the amount of \$700,000, for a total of \$1,236,000, and extend the term to December 31, 2009, by the following vote: Yeas-Bixler, Black, Cushman, Najera, Rios, Spane, Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

### **RESOLUTION AMENDING RESOLUTION 2008-64 AUTHORIZING FEE FOR SERVICE AND MARKETING SPONSORSHIP PROGRAM – SAN DIEGO COUNTY HISPANIC CHAMBER OF COMMERCE**

Agenda Item 26. Commissioner discussion ensued. Commissioner Najera requested and received a report from Rita Vandergaw, Director of Marketing, regarding the staff recommendation. Ms. Vandergaw explained that the San Diego County Hispanic Chamber of Commerce (SDCHCC) requested that the funds that had previously been approved by the Board under the Marketing and Fee for Service Program, in the amount of \$10,000, for trade missions to Mexico be reallocated. Ms. Vandergaw further explained that the SDCHCC was requesting that those funds be reallocated to the following two signature events: The 10<sup>th</sup> Viva El Mariachi! Festival on Saturday, November 15, 2008 at Symphony Hall and the Hispanic Chamber Family Day Event at Embarcadero Park South. Commissioner Najera made a motion to support the staff recommendation and approve the item.

Commissioner Cushman expressed his concern regarding the SDCHCC reallocation request and reiterated the current need for maritime trade missions. Commissioner Cushman requested that Commissioner Najera consider amending his motion to authorize \$5,000 to support the Viva el Mariachi! Family Day event to be held on the tidelands and retain the remaining \$5,000 to fund a trade mission to Mexico.

Marco Polo Cortes, SDCHCC President and CEO, addressed the Board regarding his organization's reallocation request. Mr. Cortes stated that the SDCHCC supported trade missions and was currently investigating the importation of avocados.

Regarding Commissioner Cushman's suggestion, Commissioner Valderrama requested and received clarification from Mr. Cortes that his organization was in support of the staff recommendation to reauthorize the total sum to support the events outlined in the staff report. Commissioner Valderrama stated that, in light of the recent restructuring of the organization, he would support on a one-time basis the staff recommendation to reauthorize the funds. Mr. Cortes stated that the SDCHCC is diligently working toward expanding their trade mission program in FY2009-2010.

Commissioner Spane requested that the Board reauthorize the total sum for the Mariachi events and allocate an additional \$5000-\$7,000 for a future trade mission.

Commissioner Cushman reiterated his concern that the concert would be held at Symphony Hall and not on tidelands. Commissioner Cushman stated that he would not support the staff recommendation to reauthorize the funds. He further stated that his focus was on trade missions.

Chairman Bixler expressed that in light of the competitive process utilized to allocate the Financial Assistance and Fee for Service funds, his concern was that the funding was originally allocated to support trade missions and that he would not support the staff recommendation to reauthorize the funds for the off tidelands event. Regarding the Board's mission of team, trust and transparency, Chairman Bixler suggested that the SDCHCC decline the funds authorized for trade missions and make a new request for their organization's specific needs. Chairman Bixler supported Commissioner Cushman's suggestion that the District allocate \$5,000 to support the Viva el Mariachi! Family Day event and hold the remaining \$5,000 to fund trade missions.

Commissioner Najera stated that, in the past, the District had supported the Mariachi Festival located at the Summer Pops venue and had also supported other off tideland events. In light of the current economy's impact to area not-for-profit

organizations, Commissioner Najera requested that the Board support the staff recommendation to reauthorize the funds and urged his fellow Commissioners to recognize the regional marketing opportunity that the event would present. Commissioner Najera stated that he supported Commissioner Spane's recommendation to reauthorize the \$10,000 for the Mariachi Festival events and also authorize \$5,000 to fund a future trade mission to Mexico.

Chairman Bixler clarified the motion that \$5,000 would be reallocated to the Family Day event, \$5,000 for trade missions would be allocated from the Marketing Sponsorship and Fee for Service Program, and an additional \$5,000 for the Mariachi Festival to be held off-tideland property, would be allocated from the District's Operating budget.

Commissioner Cushman stated, for the record, that via the public process, the Marketing Sponsorship and Fee for Service Program committee authorized \$10,000 to fund two trade missions to Mexico.

On a motion by Commissioner Najera, seconded by Commissioner Valderrama, the Board adopted **Resolution 2008-245**, Amending Resolution 2008-64 Authorizing Fee for Service and Marketing Sponsorship Program – San Diego Hispanic Chamber of Commerce, by the following vote: Yeas-Black, Najera, Rios, Spane, Valderrama; Nays-None; Excused-None; Absent-None; Abstained-Cushman and Bixler.

## **PRESENTATION**

### **STAFF UPDATE ON THE "SAFER ALTERNATIVES TO COPPER ANTIFOULING PAINGS FOR MARINE VESSELS" PROJECT**

Agenda Item 32. Item Continued.

## **PUBLIC HEARING/ACTION AGENDA**

### **PIER 32 NATIONAL CITY MARINA PROJECT: CONDUCT PUBLIC HEARING AND ADOPT RESOLUTION AUTHORIZING ISSUANCE OF AN AMENDMENT TO AN APPEALABLE COASTAL DEVELOPMENT PERMIT #CDP-2006-02**

Agenda Item 33. Item Continued.

## **ACTION AGENDA**

**FIFTH AVENUE LANDING: ADOPT THE FOLLOWING ORDINANCE CONDITIONED UPON THE BOARD'S APPROVAL OF ITEM A ABOVE: ORDINANCE AUTHORIZING AMENDMENT NO. 5 TO FIFTH AVENUE LANDING, LLC OPTION AGREEMENT TO EXTEND THE TERM TO NOVEMBER 30, 2009**

Agenda Item 34a. Item Continued.

**FIFTH AVENUE LANDING: ADOPT THE FOLLOWING ORDINANCE CONDITIONED UPON THE BOARD'S APPROVAL OF ITEM A ABOVE: ORDINANCE AUTHORIZING AMENDMENT NO. 5 TO FIFTH AVENUE LANDING, LLC OPTION AGREEMENT TO EXTEND THE TERM TO NOVEMBER 30, 2009**

Agenda Item 34b. Item Continued.

**RESOLUTION AUTHORIZING AGREEMENT WITH THE SAN DIEGO FOUNDATION ACCEPTING DONATION IN THE AMOUNT OF APPROXIMATELY \$3.5 MILLION FOR A WATERFRONT PARK LOCATED ADJACENT TO THE OLD POLICE HEADQUARTERS**

Agenda Item 35. Chairman Bixler discussed the waterfront park project and thanked the representatives of the San Diego Foundation that administer the gift from the Lloyd and Ilse Ruocco Fund.

Commissioner Cushman requested and received confirmation from Dan Wilkens that a previously received grant from Doug Manchester for \$500,000 would be combined with the grant to support the park.

On motion of Commissioner Spane, seconded by Commissioner Cushman, the Board approved **Resolution 2008-246**, authorizing agreement with the San Diego Foundation accepting donation in the amount of approximately \$3.5 million for a waterfront Park located adjacent to the Old Police Headquarters, by the following vote: Yeas-Bixler, Black, Cushman, Najera, Rios, Spane, Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

Commissioner Valderrama left the dais at 2:16 p.m. and returned to the dais at 2:18 p.m.

In light of the Board recommendation to continue action agenda item 34a, Chairman Bixler requested and received confirmation from Joy Sunyata that she withdrew her request to speak regarding the matter.

Commissioner Cushman left the dais at 2:22 p.m. and returned to the dais at 2:25 p.m.

### **RESOLUTION ADOPTING RESTORATION AND ENHANCEMENT PLAN TO BENEFIT THE BAY'S NATURAL RESOURCES**

Agenda Item 36. Laura Hunter, Environmental Health Coalition, addressed the Board and spoke in favor of staff's recommendation.

Eileen Maher, Assistant Director, Environmental Services addressed the Board with a brief presentation regarding the guidance document. (A copy of the staff report is on file in the Office of the District Clerk.)

Commissioner discussion ensued. Commissioner Spane acknowledged the efforts of the Environmental Committee and the Environmental Services staff to develop a master plan that may be considered as a road map to prioritize the District's restoration projects.

Chairman Bixler requested clarification regarding the inclusion of properties that were not on Port Tidelands into the plan. Ms. Maher stated that after the completion of all of the restoration projects on Port Tideland properties, there are provisions in the Port Act allowing for capital expenditures for restoration projects for non-tideland properties.

Chairman Bixler requested and received clarification that there is written documentation that the restoration projects funds must be prioritized to address Port Tideland properties first. Ms. Maher stated that expenditure of funds for projects off tidelands is cited in section 30.5 of the Port Act. Ellen Corey Born, Assistant Port Attorney, stated that certain findings of fact must be made before funds may be expended for projects off tidelands. Chairman Bixler requested and received confirmation from Ms. Maher that the "beyond mitigation" environmental projects will be brought before the Board for approval.

Commissioner Cushman left the dais at 2:26 p.m. and returned at 2:28 p.m.

Commissioner Black stated that the Board has approved off-tideland projects in the recent past and cited the Chollas Creek cleanup project.

Duane Bennett, Port Attorney, stated in the event that funds are expended for projects off tidelands, certain findings of fact must be made and those findings would come to the Board through the agenda presentation. The Board would adopt those findings in conjunction with the expenditure.

In light of previously planned development by the cities of San Diego and Imperial Beach, Chairman Bixler expressed his concern regarding the inclusion of Pond 20, shown as item eight in the report. (A copy of the report is on file in the Office of the District Clerk.)

Commissioner Spane suggested that Pond 20 be removed from the Restoration and Enhancement Plan.

Commissioner Valderrama supported excluding Pond 20 in the Restoration and Enhancement Plan and suggested that in the future it may be re-added.

Commissioner Spane made a motion to approve the Restoration and Enhancement Plan with the exclusion of Pond 20.

On motion of Commissioner Spane, seconded by Commissioner Najera, the Board approved **Resolution 2008-247**, Adopting Restoration and Enhancement Plan to Benefit the Bay's Natural Resources, by the following vote: Yeas-Bixler, Black, Cushman, Najera, Rios, Spane, Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

## **REVIEW AND CONSIDERATION OF PROPOSED BOARD AGENDA FOR MEETING OF DECEMBER 2, 2008**

Agenda Item 37. On motion of Commissioner Najera, seconded by Commissioner Rios, the Board approved the placement of the proposed agenda of December 2, 2008, by the following vote: Yeas-Bixler, Black, Cushman, Najera, Rios, Spane, Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

**DISCUSSION OF STATE LEGISLATION OF INTEREST TO THE PORT OF SAN DIEGO, STATUS REPORT AND POSSIBLE DIRECTION TO STAFF**

Agenda Item 38. Item continued.

**OFFICER'S REPORT**

Agenda Item 39. In accordance with BPC Policy 110, the following change orders, executed by the Executive Director, were reported:

- a) Change Order No. 1 for Reallocate \$9,100.00 from Bid Item No. 18 to Administration Building Parking Lot & Harbor Drive Wharf Parking Lot Striping and 0 Calendar Days to Contract No. 2007-48 with Frank & Son Paving, Inc. Pavement Maintenance.

**PRESIDENT'S REPORT**

Agenda Item 40. None.

**BOARD COMMITTEE REPORTS**

Agenda Item 41. None.

**COMMISSIONER COMMENTS**

Agenda Item 42. Chairman Bixler stated that he had recently returned from a successful trade mission to Asia. Chairman Bixler acknowledged the efforts of Ron Popham, Assistant Vice President, International Trade and Industry Development, and Joel Valenzuela, Manager, Maritime Trade Development.

Chairman Bixler noted that there were no additional items on the open session agenda for discussion; whereupon, he announced the Board would reconvene to closed session to discuss remaining closed session items.

**CLOSED SESSION**

Agenda Item 5.

CONFERENCE WITH REAL PROPERTY NEGOTIATOR  
Government Code Section 54956.8

Property: Approximately 30 Acres West of Marina Parkway  
and South of G Street, Chula Vista

Negotiating Parties: Bennett Westbrook, Gaylord Entertainment  
Randa Coniglio, SDUPD

Under Negotiation: Price and Terms

Agenda Item 6.

PUBLIC EMPLOYEE APPOINTMENT, PERSONNEL EVALUATION OR  
DISCIPLINE: EXECUTIVE DIRECTOR AND PORT ATTORNEY

Government Code Section 54957.6

Agenda Item 7.

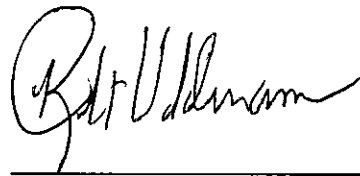
CONFERENCE WITH REAL PROPERTY NEGOTIATOR  
Government Code Section 54956.8

Property: Approximately 97 acres of vacant land west of  
Bay Boulevard at F Street, Chula Vista, bound by  
Sweetwater National Wildlife Refuge on the north,  
Chula Vista Nature Center on the west, and Lagoon Drive  
on the south; and approximately 15 acres of vacant land  
located west of the former BF Goodrich South Campus in  
Chula Vista, at J Street, and bound by Marina Parkway on  
the south and west.

Negotiating Parties: Ashok Israni, Chula Vista Capital,  
a California Limited Partnership  
Paul Fanfera, SDUPD

Under Negotiation: Price and Terms

There was no formal or reportable action, pursuant to Government Code Section 54950 et seq to report from the closed session; whereupon, Chairman Bixler 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