

**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 2:06 p.m., Tuesday, January 6, 2009, 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, Peters, Spane, and Valderrama.

OFFICERS Bennett, Kirkpatrick, Liner, McEntee, and Wurster.

Bruce Hollingsworth (former President/CEO)

Absent: No Commissioners absent.

Excused: Commissioner Najera was excused for personal business.

SWEARING-IN OF CHAIR, VICE CHAIR AND SECRETARY FOR 2009

Agenda Item 3. Chairman Bixler announced that Commissioner Najera would be sworn in as Secretary at a later time.

Mary Ann Liner, District Clerk, administered the Oath of Office to newly elected Vice-Chair, Robert "Dukie" Valderrama.

Lori Moore and Debra Parrish jointly administered the Oath of Office to newly elected Chairman, Stephen P. Cushman.

Chairman Cushman announced that the Board had appointed Charles D. Wurster as President and CEO (Executive Director) of the District. Mary Ann Liner, District Clerk,

administered the oath of office to newly appointed Executive Director, Charles D. Wurster.

APPROVAL OF MINUTES

Agenda Item 4. On motion of Chairman Cushman, seconded by Commissioner Black, the Board approved, in a single vote, the minutes submitted for the special and regular meetings of December 2, 2008, December 18, 2008 and December 19, 2008, by the following vote: Yeas-Bixler, Black, Cushman, Spane, Valderrama; Nays-None; Excused-Najera ; Absent-None; Abstained-Peters.

PUBLIC COMMENTS

Agenda Item 4. Laura Hunter, Environmental Health Coalition, addressed the Board in support of **Consent Agenda items 21ab** regarding the **Analysis of the Sea Level Rise**.

Commissioner Valderrama stated that the Mayor of the City of National City requested that **Presentation Agenda item 32, a Presentation by the Mayor of the City of National City**, be continued to a future meeting.

Commissioner Valderrama also requested that **Action Agenda item 35, Preliminary Project Approval and Direction to begin design and California Environmental Quality Act (CEQA) review of: a) Boundary adjustments, street closures and b) Restoration and Paving of the former SDG&E Tank Farm Site at the National City Marine Terminal** be continued to the February 3, 2009 Board meeting.

CONSENT AGENDA

Bruce Hollingsworth, former President/CEO, announced a correction to Consent Agenda item 28, **Ordinance Granting an Easement to Pasha Automotive Services for Communication Cables at the National City Marine Terminal for the Period November 1, 2008 to October 31, 2018**. He explained that the term noted in the staff report should have stated that the easement term is 10 years commencing November 1, 2008 and ending October 31, 2018.

On motion of Commissioner Valderrama, seconded by Commissioner Black, the Board, with a single vote, adopted Consent Agenda items 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20a, 20b, 21a, 21b, 22, 23, 24a, 24b, 25, 26, 27, 28, 29, 30, 31, (**Ordinance 2540; Resolution 2009-25; Resolutions 2009-01** through and

including **2009-12**; **Ordinances 2541** through and including **2542**; **Resolutions 2009-13** through and including **Resolution 2009-18**; **Ordinance 2543**; **Resolution 2009-19**; **Ordinances 2544** through and including **2545**; **Resolutions 2009-20** through and including **2009-22**; by the following vote: Yeas-Bixler, Black, Cushman, Peters, Spane, Valderrama; Nays-None; Excused-Najera; Absent-None; Abstained-None.

Agenda Item 6. **Ordinance 2540**, Amending Salary Ordinance 2519, 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 7. **Resolution 2009-25**, Establishing a Hybrid Retirement Plan for Employees of the San Diego Unified Port District, was adopted as part of the consent agenda.

Agenda Item 8. **Resolution 2009-01**, Authorizing Staff to apply for approval of projects from the \$2,897,000 funds allocated to the San Diego Port Area by the Department of Homeland Security in its Fiscal Year 2009 Port Security Grant Program, was adopted as part of the consent agenda.

Agenda Item 9. **Resolution 2009-02**, Authorizing Staff to submit Fiscal Year 2008 California Port and Maritime Security Grant Program Application(s) to the Governor's Office of Homeland Security and to accept any and all funds that may be awarded from the applications, was adopted as part of the consent agenda.

Agenda Item 10. **Resolution 2009-03**, Selecting and Authorizing an Agreement with Innovative Emergency Management, Inc. (IEM) to develop grant funded Strategic Risk Management and Trade Resumption/Resiliency Plans for the San Diego Port Area for the period February 1, 2009 through January 31, 2010 in an amount not to exceed \$334,342.95 , was adopted as part of the consent agenda.

Agenda Item 11. **Resolution 2009-04**, Selecting and Authorizing Agreements with Dudek, Jones & Stokes Associates, Inc., and Helix Environmental Planning, Inc. for on-call, as-needed environmental review consulting services in an aggregate amount not to exceed \$500,000 for two years with a one-year option to extend, was adopted as part of the consent agenda.

Agenda Item 12. **Resolution 2009-05**, Selecting and Authorizing an Agreement with Dudek to provide environmental review consulting services for the L-Ditch Remediation Project for an amount not to exceed \$145,000 and for a term of nine (9) months, was adopted as part of the consent agenda.

Agenda Item 13. **Resolution 2009-06**, Adopting Plans and Specifications and Awarding Contract No. 2007-30 to 3-D Enterprises, Inc. for North Gate Improvements Tenth Avenue Marine Terminal, San Diego, California, in the amount of \$522,776, was adopted as part of the consent agenda.

Agenda Item 14. **Resolution 2009-07**, Authorizing payments up to \$238,238.50 to Centre City Development Corporation for District's share of Amendment No. 1 to Agreement with Project Design Consultants for North Embarcadero Visionary Plan, was adopted as part of the consent agenda.

Agenda Item 15. **Resolution 2009-08**, Selecting and Authorizing Agreements with Harris & Associates, PBS&J, and Jacobs Field Services for as needed engineering, project management and construction management services for an aggregate amount not to exceed \$3,000,000 over a three-year period, was adopted as part of the consent agenda.

Agenda Item 16. **Resolution 2009-09**, Consenting to Assignment and Assumption of Agreement from Testing Engineers San Diego, Inc., to Bureau Veritas North America, Inc., was adopted as part of the consent agenda.

Agenda Item 17. **Resolution 2009-10**, Authorizing Change Order No. 2 to Contract No. 2007-34, Tenth Avenue Marine Terminal Security Lighting, Phase III, with Ensley Electric, Inc. for 60 calendar day extension through March 2, 2009, was adopted as part of the consent agenda.

Agenda Item 18. **Resolution 2009-11**, Establishing Proposed Rent for ABC Barge & Equipment, Inc. dba Tonga Landing for the Period June 15, 2008 to April 30, 2012, was adopted as part of the consent agenda.

Agenda Item 19. **Resolution 2009-12**, Authorizing Assignment of Lease from Anchorage Lane II, LLC to the Anchorage Homeowners Association for 1,215 square feet of District Tidelands, was adopted as part of the consent agenda.

Agenda Item 20a. **Ordinance 2541**, Authorizing Amendment No. 2 to 30-Year Lease from the City of Coronado to the District covering the Coronado Linear Park to relocate the Boat House Club Room with conditions, was adopted as part of the consent agenda.

Agenda Item 20b. **Ordinance 2542**, Authorizing Amendment No. 2 to 30-Year Sublease to the City of Coronado covering the Coronado Linear Park to relocate the Boat House Club Room with conditions, was adopted as part of the consent agenda.

Agenda Item 21a. **Resolution 2009-13**, Resolution Authorizing Amendment No. 2 to Grant Agreement with California Coastal Conservancy for \$15,000 to conduct Sea Level Rise Analysis, was adopted as part of the consent agenda.

Agenda Item 21b. **Resolution 2009-14**, Authorizing Amendment No. 1 to Agreement with Lisa Wise Consulting for \$15,000 to Perform Sea Level Rise Analysis, was adopted as part of the consent agenda.

Agenda Item 22. **Resolution 2009-15**, Establishing Rent for Sunroad Asset Management, Inc. for the 145,979 square foot restaurant parcel located on the East End of Harbor Island for the period January 1, 2009 to December 31, 2013, was adopted as part of the consent agenda.

Agenda Item 23. **Resolution 2009-16**, Selecting and Authorizing an Agreement with Stantec Consulting, Inc. to provide professional services for parking feasibility studies for an amount not to exceed \$175,000, was adopted as part of the consent agenda.

Agenda Item 24a. **Resolution 2009-17**, Authorizing Marina Cortez to replace and reconstruct the existing Marina and install Shoreline Protection, was adopted as part of the consent agenda.

Agenda Item 24b. **Resolution 2009-18**, Resolution Consenting to Encumbrance of Marina Cortez Leasehold in the amount of \$7,971,500 in favor of San Diego National Bank with conditions , was adopted as part of the consent agenda.

Agenda Item 25. **Ordinance 2543**, Granting Easement to the City of San Diego for Segment of Waterline relocated to accommodate Dole Fresh Fruit Company at the Northeastern Portion of Tenth Avenue Marine Terminal, in San Diego , was adopted as part of the consent agenda.

Agenda Item 26. **Resolution 2009-19**, Granting Indemnity to the Burlington Northern and Santa Fe Railway Company for the North Gate Access Improvements at the Tenth Avenue Marine Terminal, San Diego, California, was adopted as part of the consent agenda.

Agenda Item 27. **Ordinance 2544**, Granting a 66-Year Easement with San Diego Gas & Electric Company at Tenth Avenue Marine Terminal, San Diego, California, was adopted as part of the consent agenda.

Agenda Item 28. **Ordinance 2545**, Granting an Easement to Pasha Automotive Services for Communication Cables at the National City Marine Terminal for the Period November 1, 2008 to October 31, 2018, was adopted as part of the consent agenda.

Agenda Item 29. **Resolution 2009-20**, Authorizing Grant of Indemnity to the City of San Diego for project-related engineering services for the "Engagement" and "Walking Figures" artworks, was adopted as part of the consent agenda.

Agenda Item 30. **Resolution 2009-21**, Accepting the County Registrar of Voter's official certification of the results of the November 4, 2008 Presidential General Election relating to Proposition B "Shall the San Diego Unified Port District's Master Plan be Amended by the Adoption of The Port of San Diego Marine Freight Preservation and Bayfront Redevelopment Initiative?" was adopted as part of the consent agenda.

Agenda Item 31. **Resolution 2009-22**, Authorizing Amendment No. 2 to Agreement with Fujitsu Consulting Inc. for \$50,000 and one year extension to June 30, 2010, was adopted as part of the consent agenda.

PRESENTATION AGENDA

PRESENTATION BY THE MAYOR OF THE CITY OF NATIONAL CITY

Agenda Item 32. Item Continued.

STAFF UPDATE ON THE "SAFER ALTERNATIVES TO COPPER ANTIFOULING PAINTS" PROJECT

Agenda Item 33. Karen Holman, Senior Environmental Specialist, Environmental Services, addressed the Board with an update regarding the "Safer Alternatives to Copper Antifouling Paints" project. (Copies of the staff report and presentation are on file in the Office of the District Clerk.)

Commissioner discussion ensued. Chairman Cushman thanked staff for their efforts, and he stated that the District was leading the nation by addressing this matter.

Commissioner Bixler requested and received confirmation from Ms. Holman that staff has implemented copper load monitoring at Pier 32 in National City.

Commissioner Peters requested clarification regarding how the District compels compliance by slip holders. Ms. Holman stated that, in the first phase, staff is working with stakeholders to voluntarily transition to the utilization of antifouling paints, and staff is also evaluating policies to further compliance with future regulations.

Bruce Hollingsworth, former President/CEO, stated that leases require that the tenants comply with all state and federal laws. Mr. Hollingsworth, further stated that the District has proactively worked with the stakeholders and the San Diego Regional Water Quality Control Board to address the matter with a phased approach.

Chairman Cushman left the dais at 2:40 p.m. and returned at 2:42 p.m.

Regarding the concerns of the San Diego Regional Water Quality Control Board, Commissioner Black stated that the project was a good example of mitigation of the impaired waters.

PUBLIC HEARING/ACTION AGENDA

BROADWAY CRUISE SHIP TERMINAL: CONDUCT PUBLIC HEARING AND ADOPT RESOLUTION APPROVING A DE MINIMIS PORT MASTER PLAN AMENDMENT FOR CENTRE CITY EMBARCADERO PLANNING DISTRICT 3 AND DIRECT FILING WITH THE CALIFORNIA COASTAL COMMISSION FOR CERTIFICATION

Agenda Item 34. John Helmer, Director, Land Use Planning, addressed the Board and presented the staff report regarding the agenda item. (Copies of the staff report and presentation are on file in the Office of the District Clerk.)

Chairman Cushman stated, for the record, that staff had requested the item be continued to a future meeting; there would be no further Board discussion regarding the item during the meeting, and that the item would be appropriately re-noticed for hearing at the February 3, 2009 Board meeting.

In light of the item being continued, Chairman Cushman requested and received confirmation from Diane Coombs, Citizens Coordinated for Century 3, who had requested to speak that she would make her comments at a future meeting.

PUBLIC HEARING/ACTION AGENDA

PRELIMINARY PROJECT APPROVAL AND DIRECTION TO BEGIN DESIGN AND CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) REVIEW OF: BOUNDARY ADJUSTMENTS, STREET CLOSURES AND, RESTORATION AND PAVING OF THE FORMER SDG&E TANK FARM SITE AT THE NATIONAL CITY MARINE TERMINAL

Agenda Item 35ab. Item continued.

PACIFIC TUGBOAT SERVICE

Agenda Item 36ab. Connie LeFevre, Senior Maritime Trade Account Manager, Maritime Properties, addressed the Board and presented the staff report regarding the agenda item. (Copies of the staff report and presentation are on file in the Office of the District Clerk.)

On a motion by Commissioner Black, seconded by Commissioner Valderrama, the Board adopted **Resolution 2009-23**, Granting Concept Approval for Pacific Maritime Freight, Inc. dba Pacific Tugboat Service proposed \$2,000,000 Pier and Leasehold Improvements located at the Foot of Cesar E. Chavez Parkway in San Diego, by the following vote: Yeas-Bixler, Black, Cushman, Peters, Spane, Valderrama; Nays-None; Excused-Najera; Absent-None; Abstained-None.

On a motion by Commissioner Black, seconded by Commissioner Valderrama, the Board adopted **Ordinance 2546**, Granting Lease Amendment No. 1 to Pacific Maritime Freight, Inc. dba Pacific Tugboat Service for Leasehold located at the foot of Cesar E. Chavez Parkway in San Diego, by the following vote: Yeas-Bixler, Black, Cushman, Peters, Spane, Valderrama; Nays-None; Excused-Najera; Absent-None; Abstained-None.

RESOLUTION SELECTING AND AUTHORIZING A MAINTENANCE, OPERATION, AND ENGINEERING SERVICES AGREEMENT FOR SAN DIEGO UNIFIED PORT DISTRICT'S PORT-WIDE SECURITY AND ACCESS CONTROL SYSTEM WITH VEROTEK SYSTEMS FOR A PERIOD OF THREE (03) YEARS IN AN AMOUNT NOT TO EXCEED \$3.0 MILLION

Agenda Item 37. Paul Libuda, Facility Security Officer, Maritime Properties, addressed the Board and presented the staff report regarding the agenda item. (Copies of the staff report and presentation are on file in the Office of the District Clerk.)

Commissioner Black left the dais at 2:55 p.m. and returned at 2:56 p.m.

On a motion by Commissioner Valderrama, seconded by Commissioner Bixler, the Board adopted **Resolution 2009-24**, Selecting and Authorizing a Maintenance, Operation, and Engineering Services Agreement for San Diego Unified Port District's Port-Wide Security and Access Control System with VeroTek Systems for a period of three (03) years in an amount not to exceed \$3.0 million, by the following vote: Yeas-Bixler, Black, Cushman, Peters, Spane, Valderrama; Nays-None; Excused-Najera; 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. Chairman Cushman stated that in light of the discussion at the January 5 and January 6, 2009 Board retreat, staff has stated there was no new information or additional data to report.

Laura Hunter, Environmental Health Coalition, addressed the Board and urged their consideration of the timely de-commissioning and subsequent removal of the South Bay Power Plant.

REVIEW AND CONSIDERATION OF PROPOSED BOARD AGENDA FOR MEETING OF FEBRUARY 3, 2009

Agenda Item 39. Bruce Hollingsworth, former President/CEO, stated that item 34, Broadway Cruise Ship Terminal: Conduct Public Hearing and Adopt Resolution Approving a de minimis Port Master Plan Amendment for Centre City Embarcadero Planning District 3 and Direct Filing with the California Coastal Commission for Certification, would be added to the February 3, 2009 agenda.

Commissioner Valderrama requested and received confirmation from Mr. Hollingsworth that item 35, Preliminary Project Approval and Direction to begin Design and California Environmental Quality Act (CEQA) review of: Boundary Adjustments, Street Closures and, Restoration and Paving of the former SDG&E Tank Farm Site at the National City Marine Terminal, would be added to the agenda.

On motion of Commissioner Spane, seconded by Commissioner Peters, the Board approved the placement of the proposed agenda of February 3, 2009, by the following vote: Yeas-Bixler, Black, Cushman, Peters, Spane, Valderrama; Nays-None; Excused-Najera; Absent-None; Abstained-None.

RESOLUTION ADOPTING PLANS AND SPECIFICATIONS AND AWARDED CONTRACT NO. 2008-17 TO _____ FOR HARBOR POLICE ADMINISTRATION FACILITY IMPROVEMENTS IN THE AMOUNT OF \$_____.

Agenda Item 40. Item continued.

NOTIFICATION OF SETTLEMENT

Agenda Item 41. First State Insurance Company (Hartford).

Duane Bennett, Port Attorney, announced that the matter had been settled and was on file in the Office of the District Clerk.

OFFICER'S REPORT

Agenda Item 42. In accordance with BPC Policy 110, the following change orders, executed by the Executive Director, were reported:

- a) Change Order No. 1 for \$4,959.09 and 0 Calendar Days to Contract No. 2007-02 with Remedial Civil Constructors, Inc. (RCC) for Tuna Boat Basin Seawall and Revetment, San Diego, California.
- b) Change Order No. 2 for \$73,232.25 and 9 Calendar Days to Contract No. 2007-31 with Reyes Construction, Inc. for Palm Avenue Street End Improvements, Imperial Beach, California.
- c) Change Order No. 3 for \$29,362.00 and 0 Calendar Days to Contract No. 2007-31 with Reyes Construction, Inc. for Palm Avenue Street End Improvements, Imperial Beach, California.
- d) Change Order No. 4 for \$5,000.00 and 0 Calendar Days to Contract No. 2007-31 with Reyes Construction, Inc. for Palm Avenue Street End Improvements, Imperial Beach, California.

- e) Change Order No. 1 for \$0.00 and 0 Calendar Days to Contract No. 2007-14 with Alpha Mechanical Heating and Air Conditioning, Inc. for Administration Building Boiler and Chiller Repair, San Diego, California.
- f) Change Order No. 2 for (\$420.00) and 0 Calendar Days to Contract No. 2007-35 with Ace Restoration and Waterproofing, Inc. for Tuna Boat Pier and Fleet Landing Repairs North Embarcadero, San Diego, California.

PRESIDENT'S REPORT

Agenda Item 43. Charles D. Wurster, Executive Director, thanked the Board, the staff and Bruce Hollingsworth, former President/CEO, for their warm welcome.

BOARD COMMITTEE REPORTS

Agenda Item 44. None.

COMMISSIONER COMMENTS

Agenda Item 45. Chairman Cushman welcomed Commissioner Peters and incoming Executive Director Wurster.

Commissioner Valderrama thanked and acknowledged Commissioner Bixler for his service as Chairman of the Board.

Chairman Cushman thanked Bruce Hollingsworth, former President/CEO, for his many efforts on behalf of the District and congratulated him on receiving the 2008 Chairman's Cup Award.

CLOSED SESSION

Chairman Cushman noted that there were no additional items on the open session agenda for discussion; whereupon, he announced the Board would convene in closed session. Duane Bennett, Port Attorney, announced agenda item 46 for the closed session agenda as follows:

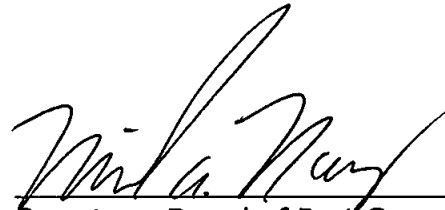
Agenda Item 46.

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

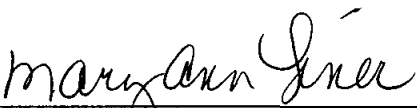
SDUPD vs. TDY Industries, Inc., et al
United States District Court, Southern District of California,
No. 03 CV 1145-B (POR)

There was no formal or reportable action as to item 46, pursuant to Government Code Section 54950 et seq to report from the closed session.

At the conclusion of the Closed Session, Chairman Cushman adjourned the meeting.


Secretary, Board of Port Commissioners
San Diego Unified Port District

ATTEST:


Clerk of the San Diego Unified Port District