

**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 Cushman at 1:02 p.m., Tuesday, August 4, 2009, in the Board Room at 3165 Pacific Highway, San Diego, California.

PLEDGE OF ALLEGIANCE

Agenda Item 1. Commissioner Burdick led the Pledge of Allegiance.

ROLL CALL

Agenda Item 2.

Present: COMMISSIONERS Bixler, Burdick, Cushman, Hall, Peters, Spane, and Valderrama.

OFFICERS Bennett, Kirkpatrick, McEntee, and Wurster.

Deputy District Clerk Nicholson and Deputy District Clerk Deuel were present.

Absent: No Commissioners absent.

Excused: None.

APPROVAL OF MINUTES

Agenda Item 3. On motion of Commissioner Hall, seconded by Commissioner Valderrama, the Board approved in a single vote, the minutes submitted for the regular and special meetings of July 7, 2009 by the following vote: Yeas-Bixler, Burdick, Cushman, Hall, Peters, Spane, Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

PUBLIC COMMENTS

Agenda Item 4. Nip Shah addressed the Board regarding a proposed Gandhi Peace Monument for consideration at the South Embarcadero Marina Park. (A copy of the document is on file in the Office of the District Clerk.)

CONSENT AGENDA

Chairman Cushman announced that the following Consent Agenda Items would be continued to a future meeting:

Agenda Item 26. **Resolution Selecting and Authorizing an Agreement for as needed Information Technology Auditing and Consulting Service for an amount not to exceed \$225,000 for the period September 1, 2009 to June 30, 2012.**

Agenda Item 27. **Resolution Authorizing Amendment No. 1 to the Agreement with Enterprise Fleet Management for hybrid vehicle leasing services increasing the agreement amount by \$2,500 for a new agreement total of \$298,665.**

Chairman Cushman announced that Presentation Agenda Item 31 would be continued to a future meeting.

Agenda Item 31. **Presentation on Proposed Hotel and Phase III Convention Center Expansion Project.**

Chairman Cushman announced that Action Agenda Item 34 would also be continued.

Agenda Item 34. **Discussion of State Legislation of interest to the Port of San Diego, Status Report and possible direction to Staff, if any.**

Commissioner Peters announced that any members of the public who wished to address the Board regarding a Consent Agenda item should do so at that time.

Chairman Cushman announced that Consent Agenda item 17 had been pulled for public comment.

On motion of Commissioner Valderrama, seconded by Commissioner Hall, the Board, with a single vote, adopted Consent Agenda items 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15a, 15b, 16, 18A, 18B, 19, 20, 21, 22, 23, 24, 25 (**Resolution 2009-139** through and including **Resolution 2009-149**; **Ordinance 2573**; **Resolution 2009-150** through and including **Resolution 2009-152**; **Ordinance 2575** through and including **Ordinance 2576**; **Resolution 2009-153** through and including **Resolution 2009-157**) by the following vote: Yeas-Bixler, Burdick, Cushman, Hall, Peters, Spane, Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

Agenda Item 5. **Resolution 2009-139**, Appointing John Gandy as Chairperson of the Personnel Advisory Board from September 18, 2009 to September 17, 2010, was adopted as part of the consent agenda.

Agenda Item 6. **Resolution 2009-140**, 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 7. **Resolution 2009-141**, Authorizing Amendment No. 3 to Agreement with Marine Group Boat Works for Vessel Related Services increasing the agreement by \$140,000 for a new agreement total not to exceed \$680,000, was adopted as part of the consent agenda.

Agenda Item 8. **Resolution 2009-142**, Selecting and Authorizing Agreement with Alpha Mechanical Service for HVAC Maintenance Services for an aggregate amount not to exceed \$445,270 over a three (3) year period, was adopted as part of the consent agenda.

Agenda Item 9. **Resolution 2009-143**, Selecting and Authorizing Agreement with Merkel and Associates, Inc. for Professional Environmental and Civil Design Services on the Chula Vista Wildlife Reserve Restoration and Enhancement Project in an amount not to exceed \$133,539, was adopted as part of the consent agenda.

Agenda Item 10. **Resolution 2009-144**, Authorizing a Purchase Agreement with Oldcastle Precast, Inc. for the acquisition of twenty (20) Pre-cast Concrete Fender Piles (new and unused goods) for an amount not to exceed \$171,453.75, was adopted as part of the consent agenda.

Agenda Item 11. **Resolution 2009-145**, Adopting Plans and Specifications and Awarding Contract No. 2008-32 to NEWest Construction Company for Imperial Beach Fishing Pier Repair in the amount of \$639,860, was adopted as part of the consent agenda.

Agenda Item 12. **Resolution 2009-146**, Clarifying the changes made to the Capital Development Program at the July 7, 2009 Board Meeting, was adopted as part of the consent agenda.

Agenda Item 13. **Resolution 2009-147**, Granting Indemnity to San Diego Gas & Electric for San Diego Unified Port District participation in the 2009 Sustainable Communities Program for the Broadway Cruise Ship Terminal, was adopted as part of the consent agenda.

Agenda Item 14. **Resolution 2009-148**, Consenting to Assignment of Ownership Interests within Bartell Hotels, a California Limited Partnership dba Holiday Inn Bayside, was adopted as part of the consent agenda.

Agenda Item 15a. **Resolution 2009-149**, Consenting to Assignment of Ownership Interests within Bartell Hotels, a California Limited Partnership dba Humphrey's Half Moon Inn and Suites, was adopted as part of the consent agenda.

Agenda Item 15b. **Ordinance 2573**, Granting Amendment No. 1 to Lease with Bartell Hotels, a California Limited Partnership dba Humphrey's Half Moon Inn and Suites updating lease provisions, was adopted as part of the consent agenda.

Agenda Item 16. **Resolution 2009-150**, Consenting to \$8,500,000 Encumbrance of San Diego Yacht Club's Leasehold in favor of Union Bank of California, was adopted as part of the consent agenda.

Agenda Item 18A. **Resolution 2009-151**, Consenting to a 15-Year Sublease from Ferry Landing Associates, LLC to Star and Crescent Boat Company dba San Diego Harbor Excursion, was adopted as part of the consent agenda.

Agenda Item 18B. **Resolution 2009-152**, Consenting to Encumbrance of Ferry Landing Associates, LLC Leasehold Estate by \$1,685,000 Trust Deed in favor of California Bank & Trust, was adopted as part of the consent agenda.

Agenda Item 19. **Ordinance 2575**, Granting a 14-Year and 4-Month Easement to San Diego Gas & Electric Company for Electrical Utilities at Quay Avenue, National City for the period from September 1, 2009 to December 31, 2023, was adopted as part of the consent agenda.

Agenda Item 20. **Ordinance 2576**, Granting an 8-Year Easement to San Diego Gas & Electric Company for Electrical Utilities at Belt Street and on Leasehold of Continental Maritime of San Diego, Inc. for the Period September 1, 2009 to August 31, 2017, was adopted as part of the consent agenda.

Agenda Item 21. **Resolution 2009-153**, Granting Concept Approval for CP Kelco U.S., Inc. for proposed Sound Attenuation Wall, was adopted as part of the consent agenda.

Agenda Item 22. **Resolution 2009-154**, Authorizing Exclusive Negotiating Agreement with Wallenius Wilhelmsen Logistics Americas, LLC, was adopted as part of the consent agenda.

Agenda Item 23. **Resolution 2009-155**, Waiving BPC Policy No. 360 and Authorizing Exclusive Negotiating Agreement with Cemera San Diego, LLC, was adopted as part of the consent agenda.

Agenda Item 24. **Resolution 2009-156**, Establishing Rent for Shelter Island, Inc., dba Tom Ham's Lighthouse for the period from October 1, 2005 through September 30, 2010, was adopted as part of the consent agenda.

Agenda Item 25. **Resolution 2009-157**, Ratification of Settlement in the amount of \$150,000 in the Matter of *Powell v. San Diego Unified Port District*, San Diego Superior Court Case No. GIC 879731, was adopted as part of the consent agenda.

Agenda Item 26. Item continued.

Agenda Item 27. Item continued.

ORDINANCE GRANTING AMENDMENT NO. 1 TO LEASE AGREEMENT WITH DRISCOLL, INC. DBA KETTENBURG MARINE TO EXTEND CONSTRUCTION PERIOD TO DECEMBER 31, 2010

Agenda Item 17. Rand Wassem addressed the Board, stated that he had no issue with the extension of the construction period, and he requested confirmation that the project, which he described as buildings A, B, C, the public plaza, and public promenade, would be constructed in the manner that was approved by the Board of Port Commissioners. Mr. Wassem provided a handout to the Commissioners regarding the boatyard operations. (A copy of the document is on file in the Office of the District Clerk.) He concluded his remarks and requested that the project be done as it was promised and not diminished in anyway.

Chairman Cushman requested staff to respond to Mr. Wassem's statement. Real Estate Department Senior Asset Manager, Kristine Zortman affirmed that, at the current time, the project would be built as it was approved by the Board.

On motion of Commissioner Valderrama, seconded by Commissioner Hall, the Board, adopted **Ordinance 2574** Granting Amendment No. 1 to Lease Agreement with Driscoll, Inc. dba Kettenburg Marine to extend construction period to December 31, 2010, by the following vote: Yeas-Bixler, Burdick, Cushman, Hall, Peters, Spane, Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

PRESENTATION AGENDA

PRESENTATION OF PROCLAMATION TO REAR ADMIRAL LEN HERING SR., U.S. NAVY, TO HONOR AND ACKNOWLEDGE HIS CONTRIBUTION TO THE DISTRICT'S OVERARCHING REGIONAL PORT AND SEAPORT SECURITY STRATEGY IN HIS ROLE AS COMMANDER, NAVY REGION SOUTHWEST

Agenda Item 28. Chairman Cushman thanked Rear Admiral Len Hering Sr., U.S. Navy, for his assistance during his tenure as Commander, Navy Region Southwest. The Chairman stated that it had been the Board and staff's sincere pleasure to work with Rear Admiral Hering. The Chairman and President Charlie Wurster presented Rear Admiral Len Hering with a framed proclamation in honor of his service.

Rear Admiral Len Hering thanked the Board for their support during the past four years. Regarding port safety, Rear Admiral Len Hering acknowledged the collaborative efforts of the District's security staff to form an integrated harbor operations facility that had become a model for the rest of the country.

PRESENTATION OF PROCLAMATION TO CHIEF TRACY JARMAN, SAN DIEGO FIRE DEPARTMENT, TO HONOR AND ACKNOWLEDGE HER POSITIVE PUBLIC SAFETY CONTRIBUTIONS TO THE PORT OF SAN DIEGO REGIONAL COMMUNITY.

Agenda Item 29. San Diego Harbor Police Chief Kirk Sanfilippo acknowledged Chief Tracy Jarman of the San Diego Fire Department thanked her, on behalf of the District, for her efforts. Chairman Cushman and President Charlie Wurster presented Chief Jarman with a proclamation to honor and acknowledge her service and partnership with the San Diego Harbor Police Department.

Chief Jarman thanked the Board for the recognition. She acknowledged Chief Sanfilippo and the Harbor Police for their efforts to build a regional partnership to ensure the region's safety.

Commissioner Peters acknowledged Chief Jarman's efforts. Chairman Cushman thanked her and wished her the best in her future endeavors.

PRESENTATION BY THE WORKING WATERFRONT GROUP ON THE COALITION'S ACCOMPLISHMENTS DURING ITS FIRST FIVE YEARS AND THE COALITION'S FUTURE PRIORITIES

Agenda Item 30. John Pasha, Pasha Automotive Group, addressed the Board with a presentation regarding the Working Waterfront Group Coalition's accomplishments and future goals. (A copy of the staff report and presentation are on file in the Office of the District Clerk.)

On behalf of the Board, Chairman Cushman thanked Mr. Pasha, the members of the Working Waterfront Group Coalition and the Port Tenants for their time, talent, and the financial support they gave to defeat Proposition B.

Lorena Gonzalez, San Diego and Imperial Counties Labor Council, addressed the Board regarding the importance of balance when the Commissioners consider the various tideland uses described in the Port Act. Ms. Gonzalez acknowledged the efforts of the Working Waterfront Group Coalition.

Laura Hunter, Environmental Health Coalition (EHC), stated that her organization appreciated partnering with the Working Waterfront Group Coalition to further their organizational goals. Ms. Hunter stated that EHC looked forward to continuing a partnership with the Working Waterfront Group Coalition, the District and other agencies to proactively seek funding to address the environmental issues impacting the region.

PRESENTATION ON PROPOSED HOTEL AND PHASE III CONVENTION CENTER EXPANSION PROJECT

Agenda Item 31. Item continued.

PUBLIC HEARING/ACTION AGENDA

2701 NORTH HARBOR DRIVE DEMOLITION PROJECT (FORMER TELEDYNE RYAN FACILITY)

Agenda Item 32AB. Wileen Manaois, Senior Redevelopment Planner, Land Use Planning, addressed the Board regarding the 2701 North Harbor Drive Demolition Project, the former Teledyne Ryan Facility. (A copy of the staff report and presentation are on file in the Office of the District Clerk.) She introduced several representatives from the San Diego County Regional Airport Authority including Bob Watkins, Chair; Tom Smisek, former Mayor of the City of Coronado; and Bruce Boland. She also

introduced Mike Hogan, District outside legal counsel; Candice Disney Magnus, Associate Redevelopment Planner, Land Use Planning; and Mark Edwards, Preservation and Policy Senior Practice Leader, URS Corporation.

Addressing the remarks included in the letters that were submitted by the public during the 45-day comment period, Mr. Edwards addressed the Board regarding the criteria utilized to determine the buildings' historical significance. He stated that all of the buildings, known as a cluster, would be defined as a historic district. He also reviewed the following: 1) key findings regarding renovating and/or relocating all of the buildings as a historic district, and 2) a proposed reduced project alternative that would facilitate relocating a few specific buildings.

In consideration of the California Environmental Quality Act (CEQA) findings and building preservation, Mr. Hogan presented the mitigation monitoring and reporting program potentially significant unmitigable impacts, and reviewed the alternative conclusions. He stated that staff found the alternatives were infeasible when considering preservation of one or more of the buildings. Mr. Hogan explained further that should the Commissioners find the alternatives outlined in the Environmental Impact Report (EIR) were not feasible, for any one or more of the reasons outlined in the presentation, CEQA required that the Board adopt a statement of overriding considerations.

Ms. Manaois requested that the Board conduct two public hearings. The first public hearing would be regarding the 2701 North Harbor Drive Demolition, and she requested that the Board adopt a resolution certifying the Final Environmental Impact Report for the project; adopt findings of fact and the statement of overriding considerations; adopt a mitigation monitoring and reporting program; and, direct staff to file the notice of determination.

Chairman Cushman opened the public hearing and members of the public addressed the Board.

San Diego County Regional Airport Authority Chair Bob Watkins addressed the Board in support of the staff recommendation and urged the Board to move forward with the project.

Bruce Coons, Save Our Heritage Organisation (SOHO), addressed the Board with concerns regarding the staff recommendation, requested that the final EIR be re-circulated for public review, and urged the Board to delay the buildings' demolition to

allow for the necessary time to research funding alternatives and to facilitate the preservation of the buildings.

San Diego Air & Space Museum President/CEO Jim Kidrick addressed the Board in favor of the staff recommendation of demolition, and in support of the Lindbergh Field redevelopment and expansion initiative. Mr. Kidrick also stated that his organization was in support of working with the Airport and the District to assess the viability of relocating some portion of the structures to an alternative site.

Chairman Cushman requested, and Mr. Kidrick provided, additional information regarding a possible redevelopment at Brown Field to include an expansion to the San Diego Air & Space Museum, and stated that he looked forward to discussing the opportunity of relocating some portion of the structures to that location.

Welton Jones addressed the Board with concerns regarding the proposed project and urged the Board to reconsider moving forward with their action.

Daniel Soderberg addressed the Board in opposition to the staff recommendation to demolish the buildings at the site, and he recommended that, as the Commissioners consider their decision, they also take the importance of Ryan Aeronautical Company's significant impact to the region into account.

As there were no additional speakers, Chairman Cushman closed the public hearing regarding agenda item 32A.

Commissioner discussion ensued. Commissioner Spane requested and received clarification as to the urgency of the time line for proceeding with the project. Mr. Hogan stated that staff was proposing demolition begin as quickly as possible; it was shown throughout the EIR that the project site and the buildings were highly contaminated with a variety of hazardous materials and hazardous waste. He stated that the buildings shed their content, continue to deteriorate, and are a source of potential contamination to the soil, ground water, the San Diego Bay, and the Convair Lagoon. Mr. Hogan further stated that the US Fish and Wildlife Service expressed concerns regarding the site's impact on the least tern sites. To try to terminate contaminations that exist today, he explained that there was also a remediation or clean up of the soil and groundwater being conducted by the San Diego Regional Water Quality Control Board that was being pursued independently of the District's project.

Regarding Commissioner Spane's question, Duane Bennett, Port Attorney, stated that Mr. Hogan's assessment was correct. He stated further that there was a significant

problem with re-contamination of the Convair Lagoon's cap, and that contamination was very difficult to track. He explained that while staff had not determined all the sources of that contamination, they did know that it was coming from that site and those buildings. Mr. Bennett stated that the demolition needed to proceed in a timely manner to alleviate any more contamination to the Convair Lagoon cap and the Bay.

Commissioner Spane requested clarification as to whether there were any legal requirements set forth that define a project start date and completion deadline. Mr. Bennett stated that there was continuing jurisdiction by the United States District Court (District Court) over this site and the District Court expressed concern that this project had proceeded as slowly as it had. He stated that the District Court Judge notified the parties involved with the project, including the District, the San Diego County Regional Airport Authority, and Teledyne Ryan of her concerns as to the slow nature of the project in light of the court's continuing jurisdiction over the TDY settlement agreement.

Commissioner Peters clarified that in response to Commissioner Spane's question, and while there was no specific deadline, the District was on notice regarding the issue and every day that goes by, when this contamination is occurring and potentially moves off-site, exposes the District. Commissioner Peters stated that he was hopeful a constructive way to meet some of the preservation issues addressed by the speakers could be addressed; however, he was not in support of waiting due to the harm that was being done to the environment by the conditions on the site.

Regarding the EIR and feasible mitigation efforts, Commissioner Peters stated that the information staff presented on costs and feasibility was very persuasive, and he did not hear the findings contradicted by any of the speakers. He stated that he was persuaded it would be possible to adopt the findings and adopt a statement of overriding considerations.

He acknowledged the findings in Mr. Edwards' presentation regarding the historical significance of the buildings and stated that those findings had not been refuted. Commissioner Peters made a motion in support of the staff recommendation. He stated that he was hopeful that a timely solution could be developed, with the Air & Space Museum, to assist in the preservation effort of some of the buildings. He further stated that with respect to the EIR, there was plenty of evidence in the record to support the motion and staff's recommendation.

Chairman Cushman accepted the motion and Commissioner Valderrama seconded. Commissioner discussion continued.

Commissioner Peters left the dais at 1:23 p.m. and returned at 1:27 p.m.

Regarding Mr. Coons' request that the new EIR should be re-circulated, Commissioner Burdick requested clarification as to whether there were any substantial changes in the information as a result of public comment. Mr. Hogan responded that there are very specific standards under the law when determining when an EIR must be re-circulated, and they are listed in the CEQA guidelines. He stated that upon his review of the guidelines related to whether the final EIR included information about any significant new impact or other materials, he did not see that any of those standards had been met. He stated that there was a substantial amount of new information in the responses to comments, which CEQA anticipates. He stated that there were no significant impacts that were not previously discussed in the draft EIR and he did not think that recirculation was warranted. Commissioner Burdick stated that she was very grateful to the public who chose to participate through their letters, email and the very thoughtful comments offered during the public hearing. She stated that while she most often agrees with the historical preservationists, and is supportive of the work done by the Air & Space Museum, she has observed Teledyne Ryan had watched with great interest the efforts to preserve it and the extraordinarily in-depth analysis that had gone into whether the District could, in good conscience, preserve the TDY resources. She stated that, unfortunately, these were not typical historical resources and that it was a manufacturing facility that operated during a time period in which there was very little significant regulation of the environment. She stated that it is undeniable that not only are the buildings contaminated, the platforms are contaminated, the ground is contaminated and it's running off onto adjacent properties and it's not making our harbor any safer. She stated that she found the conclusions staff had drawn were particularly compelling and expressed concern regarding public safety if the buildings were rehabilitated for alternative uses. Commissioner Burdick stated that it was her belief that the job of a government agency is to protect the public's safety.

Chairman Cushman stated that he would be supporting the motion, he concurred with Commissioner Peters, and that he was very encouraged by the discussions with the Air & Space Museum. He requested that staff continue to work with Mr. Coons and all of the parties.

On motion of Commissioner Peters, seconded by Commissioner Valderrama, the Board, adopted **Resolution 2009-158**, Certifying Final Environmental Impact Report for the "2701 North Harbor Drive Demolition Project"; Adopted Findings of Fact and Statement of Overriding Considerations; Adopted Mitigation Monitoring and Reporting Program; and, Directed the filing of Notice of Determination, by the following vote: Yeas-Bixler, Burdick, Cushman, Hall, Peters, Spane, Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

Ms. Manaois presented the staff report regarding item 32B, and she requested that the Board consider authorizing the issuance of a non-appealable Coastal Development Permit (CDP). (A copy of the staff report and presentation is on file in the Office of the District Clerk.)

Chairman Cushman opened the public hearing. Bruce Coons, Save Our Heritage Organisation (SOHO), addressed the Board and stated that for the record his organization was objecting to the issuance of a non-appealable CDP. As there were no other speakers, the Chair closed the public hearing.

Commissioner discussion ensued. Following the issuance of the non-appealable CDP, Commissioner Peters requested clarification as to the permit's effective date. Mr. Bennett stated that once the Board takes action by resolution the permit takes effect.

Commissioner Peters stated that he was hopeful that maybe some parts of the buildings might be able to be preserved in some way that would help demonstrate our heritage and preserve this history. Given the urgency regarding the environmental conditions at this site, he expressed his concern regarding the likelihood of raising the substantial sum of money required to move the buildings, however he supported a discussion with the Air & Space Museum. He stated he believed that the appropriate action was to adopt the resolution authorizing the issuance of the non-appealable CDP with an effective date of September 2, 2009.

Mr. Bennett requested that staff review the timeline to begin the project and in light of the timeline to begin the demolition process, requested that the Board adopt the recommendation as proposed by staff.

Charlene Dennis, Capital Project Manager, Engineering and Construction Department, explained that if staff were to advertise the project now the item would likely be brought before the Board at the end of the year for consideration to authorize awarding of the demolition contract.

Commissioner Peters made a motion to adopt the staff recommendation. The motion was seconded by Commissioner Valderrama. Given the complexity of the matter, Commissioner Valderrama commended staff for their efforts to break down the information and clearly present the materials.

Commissioner Burdick requested clarification regarding the action under consideration. She stated that her understanding of the CDP, as it was stated in the staff report, was to approve complete demolition of the property. However, in consideration of Commissioner Peters' suggestion regarding the exploration of funding sources for relocating the buildings, she recommended that the Board consider not issuing approval and to defer consideration of the CDP until the parties had time to talk.

Mr. Bennett requested that the Board consider the staff recommendation as presented. He stated that if circumstances were to change and some feasible plan could be contrived to save these buildings, that matter could come back and any action regarding the CDP may be amended.

Commissioner Burdick expressed concern that a scope of work would be set when the request for bid documents was advertised, and if the circumstances regarding one or more of the buildings were to change, it would follow that the scope of work would also change. Ms. Dennis stated that the scope of work would be based upon the design for Phase 1, which was the removal of all the buildings. Ms. Dennis further stated that the current plans and specs assume the demolition of all 50 structures on the site and that plan would be reworked if one of the buildings were to be saved.

Chairman Cushman requested and received clarification from Ms. Dennis regarding the time line for submittal of the newspaper listing and if it were possible for staff to hold that advertisement for thirty days. Ms. Dennis confirmed the thirty-day time frame was possible.

Director of Land Use Planning John Helmer explained that when the Board issues a CDP and in the event that there was a change to that permit, staff would determine whether that was a material change or an immaterial change. The decision may require reconsideration of the matter. That process would include re-noticing an additional public hearing.

On motion of Commissioner Peters, seconded by Commissioner Valderrama, the Board, adopted **Resolution 2009-159**, Authorizing issuance of a non-appealable Coastal Development Permit, and the Board has determined that the advertisement of bids for said Project shall not take place until September 2, 2009, by the following vote: Yeas-Bixler, Burdick, Cushman, Hall, Peters, Spane, Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

2701 NORTH HARBOR DRIVE DEMOLITION PROJECT (FORMER TELEDYNE RYAN FACILITY)

Agenda Item 32C. Charlene Dennis, Capital Project Manager, Engineering and Construction Department, addressed the Board with a staff report and requested the Board select and authorize an agreement for construction and project management for Phases I and II of the TDY site Demolition project. (A copy of the staff report and the presentation are on file in the Office of the District Clerk.)

Commissioner discussion ensued. Chairman Cushman requested and received confirmation from Ms. Dennis that the total value of the agreement was fixed and would not be amended in the future with a change order request. Ms. Dennis explained that the funds would be expended as the costs were incurred and the work was done. While acknowledging the selection of Jacobs Project Management Company, Chairman Cushman expressed his concern that a San Diego based company was not selected for the project, and stated that during these recessionary times he urged staff to seek local companies to fulfill the District's needs in the future.

Commissioner Valderrama requested and received clarification from Ms. Dennis regarding her statement that the funds would be expended as the costs were incurred and the work was done. He requested clarification as to whether there were any contracts that fronted the fee prior to the services being rendered. Ms. Dennis replied that time and materials contracts are billed for the work that had actually occurred.

On motion of Commissioner Hall, seconded by Commissioner Peters, the Board, adopted **Resolution 2009-160**, Selecting and Authorizing Agreement with Jacobs Project Management Company for Construction and Project Management Services for the TDY Site Demolition Project, San Diego, California in an amount not to exceed \$946,300: Yeas-Bixler, Burdick, Cushman, Hall, Peters, Spane, Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

ACTION AGENDA

TENTH AVENUE MARINE TERMINAL WAREHOUSE SITE

Agenda Item 33AB. Paul Brown, Maritime Program Manager addressed the Board with a project review for the Tenth Avenue Marine Terminal (TAMT) warehouse site demolition and paving, office relocation and new truck scale. He sought Board direction to proceed with the environmental review. (A copy of the staff report and presentation are on file in the Office of the District Clerk.)

Commissioner discussion ensued. Commissioner Spane requested clarification regarding the funding sources for the project review and analysis; and the completion of the project. Mr. Brown confirmed that staff was considering grant funding and/or an allocation from the Capital Development Program to fund the completed project.

In regard to demolition of either the north or south end of Warehouse-C, Commissioner Hall requested and received confirmation from Mr. Brown that staff had alternatives and flexibility based on the exclusive negotiating agreement with Cembra.

Commissioner Bixler urged staff to consider working with all of the potential users of the site, both commercial and military, to fund and thus recover some of the initial investment to renovate the terminal. In light of the commitment to military operations, Ron Popham, Assistant Vice President, International Trade and Industry Development, stated that while it may be challenging to commit specific locations to a specific tenant staff, would take the Commissioner's recommendation into consideration. Commissioner Bixler urged staff to work with the military to encourage increased usage of the terminal. Mr. Popham explained that as a strategic port, staff is working with the federal government, MARAD, and the military to secure funds for the demolition. Commissioner Bixler again urged staff to aggressively work with the representatives from Carpi and Clay in Washington DC to stay tuned to the needs and seek out support.

Chairman Cushman stated that staff was preparing an in-depth report regarding all of the federal funding opportunities the District is pursuing.

Commissioner Valderrama concurred with Commissioner Bixler that as negotiations progress with any new potential customer, staff will request assistance with the facility renovation. He stated that the Maritime committee was in support of the project and he made a motion to direct staff to proceed with the recommendation as indicated in the staff report.

On motion of Commissioner Valderrama, seconded by Commissioner Hall, the Board directed staff to proceed with the environmental review for the Tenth Avenue Marine Terminal warehouse site demolition and paving, office relocation and new truck scale, by the following vote: Yeas-Burdick, Bixler, Hall, Peters; Nays-Cushman, Spane and Valderrama; 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, IF ANY

Agenda Item 34. Item continued.

REVIEW AND CONSIDERATION OF PROPOSED BOARD AGENDA FOR MEETING OF SEPTEMBER 1, 2009

Agenda Item 35. On motion of Commissioner Valderrama, seconded by Commissioner Hall, the Board approved the proposed Board Agenda for the Meeting of September 1, 2009 by the following vote: Yeas-Bixler, Burdick, Cushman, Hall, Peters, Spane, Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

NOTIFICATION OF SETTLEMENT

Agenda Item 36. Duane Bennett, Port Attorney, announced the notification of settlement with Landmark Insurance Company (AIG) regarding the Coronado home matter.

OFFICER'S REPORT

Agenda Item 37. In accordance with BPC Policy 110, the following change orders, executed by the Executive Director, were reported:

- A) Change Order No. 10 for (\$22,027.19) with 0 Calendar Days to Contract No. 2007-31 with Reyes Construction, Inc. for Palm Avenue Street End Improvements.
- B) Change Order No. 3 for \$68.00 with 0 Calendar Days to Contract No. 2008-30 with George A. Dominguez for B Street Pier CST Modular Restroom Installation, San Diego, California.
- C) Change Order No. 2 for (\$19,088.00) with 0 Calendar Days to Contract No. 2008-09 with Bergelectric Corporation for Landside Closed Circuit Television (CCTV) System with Lighting and Fixed Arrays (CCTV) System San Diego and National City, California.

- D) Change Order No. 5 for \$12,795.00 with 9 Calendar Days to Contract No. 2007-30 with 3-D Enterprises, Inc. for North Gate Improvements Tenth Avenue Marine Terminal San Diego, California.
- E) Change Order No. 1 for \$1,232.28 with 12 Calendar Days to Contract No. 2008-03 with Davis & Adams Construction, Inc. for Administration Building Annex Restrooms Improvements, San Diego, California.
- F) Change Order No. 1 for \$1,346.55 with 8 Calendar Days to Contract No. 2008-23 with Davis & Adams Construction, Inc. for TAMT Transit Shed 1 and 2 Restroom Upgrade Project 10th Avenue Marine Terminal San Diego, California.

PRESIDENT'S REPORT

Agenda Item 38. Executive Director Charlie Wurster requested that Ron Popham, Assistant Vice President, International Trade and Industry Development, present a report on the recent trade mission to South America. Prior to the report, Chairman Cushman stated that he recently traveled on a trade mission with Mr. Popham and Miguel Reyes, Senior Maritime Trade Account Manager, to South America; he also requested that Mr. Popham provide the Board with a briefing highlighting the trip and industry trends. Mr. Popham explained that meetings were held with more than 15 different companies and they met with more than 50 people during the trade mission to Brazil, Chile and Ecuador. He reviewed several opportunities that were discussed with potential clients designed to increase maritime business opportunities and support growth at the District's marine terminal. He concluded his statement that a formal staff report regarding the trade mission would be forthcoming.

Commissioner discussion ensued. In light of the Maritime Trade Division work to increase cargo, Commissioner Bixler requested staff open discussions with San Diego Arizona Eastern Railroad to explore their ability to handle increased cargo.

BOARD COMMITTEE REPORTS

Agenda Item 39. None.

COMMISSIONER COMMENTS

Agenda Item 40. None.

CLOSED SESSION

Chairman Cushman stated that the Board would reconvene in closed session to discuss the remaining closed session items.

Agenda Item 3.

PUBLIC EMPLOYEE DISCIPLINE/DISMISSAL/RELEASE
Government Code Section 54957

Regarding item 3 of the Closed Session agenda, by a 7-0 vote, the Board of Port Commissioners affirmed the June 19, 2009, decision of the Personnel Advisory Board in its entirety, thereby supporting the termination decision as to a Real Estate Department employee.

Mr. Bennett announced that no closed session was recommended for agenda item 4.

Agenda Item 4.

CONFERENCE WITH LABOR NEGOTIATOR
Government Code Section 54957.6

District Negotiator: Executive Director, Ellen Corey Born, Wayne Darbeau,
Karen Porteous, Michelle Corbin

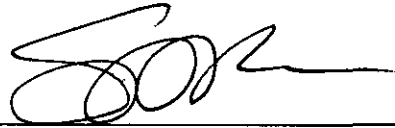
Employee Organization: Harbor Police Officers Association and Unrepresented
Employees

Agenda Item 5.

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

Government Code Section 54957.6

As to item 5, there was no formal or reportable action, pursuant to Government Code Section 54950 et seq to report from the closed session; whereupon, Chairman Cushman adjourned the meeting.



Secretary, Board of Port Commissioners
San Diego Unified Port District

ATTEST:



Clerk of the San Diego Unified Port District