

**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 1:02 p.m., Tuesday, June 10, 2008, in the Board Room at 3165 Pacific Highway, San Diego, California.

**ROLL CALL**

Agenda Item 2.

Present: COMMISSIONERS Bixler, Black, Najera, Rios, Spane, and Valderrama;  
OFFICERS Bennett, Liner, McEntee and Redmon.

Absent: None.

Excused: Cushman for non-District related business.

**PLEDGE OF ALLEGIANCE**

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

**APPROVAL OF MINUTES**

Agenda Item 3. On motion of Commissioner Rios, seconded by Commissioner Najera, the Board approved, in a single vote, the minutes submitted for the special meetings of: April 28, 2008, April 29, 2008, and May 6, 2008; and the regular meeting of May 6, 2008 by the following vote: Yeas-Bixler, Black, Najera, Rios, Spane, Valderrama; Nays-None; Excused-Cushman; Absent-None; Abstained-None.

**PUBLIC COMMENTS**

Agenda Item 4. The following members of the public addressed the Board: David Leo addressed the Board and supported Resolution 2008-80, the Board of Port Commissioners of the San Diego Unified Port District opposes the Initiative known as "The Port of San Diego Marine Freight Preservation and Bayfront Redevelopment Initiative"; Robert Kard, San Diego County Air Pollution Control District, addressed the Board regarding the District's Clean Air Program; and Sharon Cloward, San Diego Port Tenants Association, addressed the Board regarding Operation Clean Sweep.

Rita Vandergaw, Director, Marketing, addressed the Board regarding consent agenda item 7, authorizing Amendment No. 2 to the Agreement with MJE Marketing Services, Inc. to Authorize funding for period three, FY08/09, for an amount not to exceed \$600,000 for Marketing and Advertising Services, Media Purchase and Placement, and Tenant Support Program Development. Ms. Vandergaw stated, for the record, the total expense of \$1.4 million cited in the agenda sheet was incorrect, and the corrected total under consideration was actually \$1.6 million.

### **CONSENT AGENDA**

Chairman Bixler stated that consent agenda item 28 no longer required Board action. Chairman Bixler stated that staff requested that consent agenda items 11, 25, 26, and 27 be continued to a future Board meeting. Chairman Bixler stated that staff requested that action agenda item 38 be continued to a future Board meeting. Chairman Bixler stated that staff requested that presentation agenda item 31 and public hearing/action agenda item 32 be continued to a future Board meeting.

### **ACTION AGENDA**

#### **RESOLUTION ADOPTING BPC POLICY NO. 725 – TRANSITION ZONE POLICY**

Agenda Item 41. Dirk Mathiasen, Vice President, addressed the Board with a staff report and presentation regarding the Transition Zone Policy. (Copies of the staff report and presentation are on file in the Office of the District Clerk.)

Commissioner discussion ensued. Commissioner Rios requested and received clarification regarding the coordination of the District's transition zone planning process with the plans that are under development by the Barrio Logan Community Plan (BLCP) Stakeholders Committee. Dan Wilkens, Executive Vice President, stated that he and Mr. Mathiasen attended the two formal planning meetings of the BLCP. Mr. Wilkens stated that the BLCP is in the beginning phases of planning and their representatives have met with District staff regarding the transition zone plan under development. Mr. Wilkens stated that the BLCP Stakeholders Committee, the planners at the City of San Diego, and San Diego City Councilmember Ben Hueso's staff are aware of the District's planning efforts to develop a transition zone.

Mayor Ron Morrison, City of National City, addressed the Board and requested that the Commissioners consider the following points: that the language under development by the Working Waterfront Group and the City of National City be included in the Policy; that concepts and descriptions for the transition zone and distribution

zone be included in the Policy; that the six points originally developed with the City of National City, the District, and the Working Waterfront Group also be included; and that the District seek concurrence from the affected communities when the District seeks to acquire parcels included within and outside of the transition zone.

Commissioner Spane left the dais and left the Boardroom at 1:28 p.m.

Commissioner discussion ensued. The Chairman requested, in the spirit of cooperation and for the Board's review, that the Mayor and his staff also provide a written copy of his points of advocacy to more clearly detail the specific concerns of his constituents.

Commissioner Valderrama requested and received confirmation from Mayor Morrison that the City Council from the City of National City had approved the Transition Zone Concept. Commissioner Valderrama requested and received confirmation from Mayor Morrison that the City Council from the City of National City had approved attachment number two to the staff report labeled "Working Waterfront Group Concept for Transition Zone and Distribution Zone Policy." Commissioner Valderrama requested and received confirmation from Mayor Morrison that the City Council from the City of National City was in favor of BPC Policy 725 if attachments numbered three and four were included. (Copies of the staff report and the attachments are on file in the Office of the District Clerk.) Mayor Morrison reiterated his concerns, and he requested a concurrence among the member cities if the District was to consider the acquisition of properties outside of the tidelands.

Chairman Bixler stated that the Board acknowledged Mayor Morrison's comments and was committed to working together. Mayor Morrison acknowledged the efforts of Commissioner Emeritus Bill Hall.

Joy Williams, Environmental Health Coalition, addressed the Board in support of the Policy and requested that the District make a binding commitment by including language that honors the land uses in areas that were to be included in the transition zone policy.

Sharon Cloward, San Diego Port Tenants Association, introduced Commissioner Emeritus Bill Hall who thanked the numerous members of the community for their efforts to bring forth the transition zone policy. Commissioner Emeritus Hall requested the Board support the item.

Commissioner Valderrama requested and received clarification from Commissioner Emeritus Hall that the maps included in the staff report were essential to the overall concept.

Commissioner Rios thanked Commissioner Emeritus Hall for his work on the recommendation. Commissioner Rios stated that she fully supported the recommendation.

Chairman Bixler requested that District staff return to the Board with a confidential memo that addresses the concerns raised during the public comments regarding the issues of confidential negotiations in the event that the District considers the acquisition of property within or slightly outside of the proposed transition zone. Chairman Bixler expressed his concern and cautioned the Board regarding the adoption of any policy that may limit the use of property for operations that the District may deem appropriate. Chairman Bixler stated that the Board and the District operates under a credo of team, trust and transparency. Chairman Bixler recommended that the Board take slow and careful steps as the transition zone policy moves forward.

Commissioner Black expressed her concerns regarding her ability to support the transition zone policy as proposed without the inclusion of specific information from the BLCP. Commissioner Black requested and received clarification regarding Councilmember Hueso and the City of San Diego's support of the policy. Commissioner Black stated for the record that she had met with Councilmember Hueso and with representatives from the San Diego Mayor's office. Commissioner Black stated, for the record, that neither party supported the policy.

Chairman Bixler requested that Commissioner Black contact Councilmember Hueso and request clarification regarding his specific concerns related to the transition zone policy under discussion. Chairman Bixler stated that the Board was committed to understanding the concerns and vision of other stakeholders; however consideration of adopting the policy would continue to move forward.

Commissioner Valderrama stated that it was his understanding that Councilmember Hueso was writing a letter in support of the transition zone policy. Ms. Cloward, San Diego Port Tenants Association, stated that the team had met with Councilmember Hueso and Mayor Sanders several times. Ms. Cloward continued her remarks and stated that Councilmember Hueso initially expressed his concerns regarding employment opportunities and the BLCP update process. Ms. Cloward stated that she had spoken with a member of Councilmember Hueso staff on June 9, 2008, and had expected a letter of support to be forthcoming.

Commissioner Black stated that she had met with Mr. Hueso earlier in May and discussed the policy. Commissioner Black commended Ms. Cloward and the Working Waterfront Group for their efforts to bring together a diverse group of stakeholders to address the policy.

Chairman Bixler requested clarification, for the record, from Ms. Cloward regarding the method(s) of the communication utilized with Councilmember Hueso's staff. Ms. Cloward explained that the conversation was via telephone, and it was followed up by an e-mail that included the staff report language and the maps that had been shown during Mr. Mathiasen's presentation. Chairman Bixler stated that based upon the information presented, it appeared that Ms. Cloward's information was more current than Commissioner Black's. Chairman Bixler reiterated his request of Commissioner Black to contact Councilmember Hueso regarding the matter. Chairman Bixler requested that Commissioner Emeritus Hall address the Board with any final remarks. Commissioner Emeritus Hall stated that he had also heard Councilmember Hueso's statement of support of the policy, and he acknowledged that the Councilmember had made an offer to write a letter of support. Commissioner Emeritus Hall requested and received confirmation that Irene McCormack, Director, Communications, was also present at the meeting when Councilmember Hueso stated his support for the policy. Commissioner Emeritus Hall stated that it was rare to reach a consensus among such a diverse group of stakeholders. Commissioner Emeritus Hall concluded his remarks and requested that the Board approve BPC Policy No. 725.

Commissioner Najera stated that he shared similar concerns as Commissioner Black regarding the impact of the policy to the Barrio Logan community. Commissioner Najera concluded his remarks and stated that, in the future, it was important to include all of the community members and their respective city governments in planning. Commissioner Najera stated that, based upon the speaker's reports of Councilmember Hueso's endorsement, he also supported the policy.

Commissioner Valderrama made a motion to approve the staff recommendation to adopt Board Policy No. 725 – Transition Zone Policy with attachments one, two, three, and four.

Commissioner Black reported that a staff member from Councilmember Hueso's office stated that he was in support of the transition zone. Commissioner Black also reported that the staff member had stated that Councilmember Hueso did have some concerns regarding some of the specific wording of the document. Chairman Bixler requested that staff meet with the Councilmember to review his specific concerns and work through those concerns by employing team, trust and transparency.

On motion of Commissioner Valderrama, seconded by Commissioner Rios, the Board approved **Resolution 2008-112**, adopting BPC Policy No. 725 – Transition Zone Policy with attachments, by the following vote: Yeas-Bixler, Black, Najera, Rios, Valderrama; Nays-None; Excused-Cushman and Spane; Absent-None; Abstained-None.

Chairman Bixler announced that action agenda item 38, Ordinance Amending San Diego Unified Port District Code Article 8, Section 8.02(b)3 Authorizing the Executive Director to permit the operation of electric powered model aircraft at Coronado Tidelands Park, would be continued to a future meeting.

## **CONSENT AGENDA**

On motion of Commissioner Valderrama, seconded by Commissioner Najera, the Board, with a single vote, adopted consent agenda items 5, 6, 7, 8, 9, 10, 12, 13, 14a, 14b, 14c, 15, 16, 17, 18, 19, 20, 21, 22, 23a, 23b, 23c, 23d, 23e, and 24 (**Resolutions 2008-88** through and including **2008-95**; **Ordinances 2499** through and including **2500**; **Resolution 2008-96**; **Ordinances 2501** through and including **2503**; **Resolutions 2008-97** through and including **2008-107**); by the following vote: Yeas-Bixler, Black, Najera, Rios, Valderrama; Nays-None; Excused-Cushman and Spane; Absent-None; Abstained-None.

Agenda Item 5. **Resolution 2008-88**, Authorizing the Purchase of three Urban Trees Artworks from the "Urban Trees 4" exhibit titled "Orange Tree" by Guy Mayenobe, "Helicoid III" by Robert Pietruszewski, and "San Diego Synergy" by Kent Kraber for a total amount not to exceed \$40,000, was adopted as part of the consent agenda.

Agenda Item 6. **Resolution 2008-89**, Amending Board of Port Commissioners (BPC) Policy No. 609 to provide for an annual set aside of \$1.2 million, expansion of Public Art Committee Membership to include three Board Members, have a Board Member serve as Committee Chairman and have Chairman appoint at-large members, was adopted as part of the consent agenda.

Agenda Item 7. **Resolution 2008-90**, Authorizing Amendment No. 2 to Agreement with MJE Marketing Services, Inc. to Authorize funding for period three, FY08/09, for an amount not to exceed \$600,000 for Marketing and Advertising Services, Media Purchase and Placement and Tenant Support Program Development, was adopted as part of the consent agenda.

Agenda Item 8. **Resolution 2008-91**, Selecting and Authorizing an Agreement with AMEC Earth and Environmental, Inc. to provide professional services for the long-term monitoring of the sediment cap of the former Campbell Shipyard over a period of three years for an amount not to exceed \$970,026, was adopted as part of the consent agenda.

Agenda Item 9. **Resolution 2008-92**, Approving Environmental Projects as recommended by the Environmental Committee for an amount not to exceed \$213,277, was adopted as part of the consent agenda.

Agenda Item 10. **Resolution 2008-93**, 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 \$100,000, was adopted as part of the consent agenda.

Agenda Item 11. **Item Continued**, Resolution Waiving BPC Policy No. 360 and Authorizing Exclusive Negotiating Agreement with San Diego International Terminals, Inc.

Agenda Item 12. **Resolution 2008-94**, Authorizing Amendment No. 2 to Agreement with Richman Management Corporation dba Heritage Security Services increasing total compensation amount by \$150,000 and deleting the year by year maximum compensation limitation of the agreement, was adopted as part of the consent agenda.

Agenda Item 13. **Resolution 2008-95**, Adopting Plans and Specifications and Awarding Contract No. 2008-01 to Kaveh Engineering & Construction Inc. for Tenth Avenue Marine Terminal "Dole" Stacker Pads Repair, San Diego, California in the amount of \$144,799.00, was adopted as part of the consent agenda.

Agenda Item 14a. **Ordinance 2499**, Authorizing Amendment No. 1 to 30-Year Lease from the City of Coronado to the District covering the Coronado Linear Park to extend the completion of construction to June 30, 2010, was adopted as part of the consent agenda.

Agenda Item 14b. **Ordinance 2500**, Authorizing Amendment No. 1 to 30-Year Sublease to the City of Coronado covering the Coronado Linear Park to extend the completion of construction to June 30, 2010, was adopted as part of the consent agenda.

Agenda Item 14c. **Resolution 2008-96**, Authorizing Amendment No. 2 to Memorandum of Understanding with the City of Coronado for the Yacht Club Promenade to extend the completion of construction to June 30, 2010, was adopted as part of the consent agenda.

Agenda Item 15. **Ordinance 2501**, Granting Lease Amendment No. 3 to Ferry Landing Associates, LLC extending construction completion date for Arthur's Prime Steak House and the existing Signage Rent Credit to December 31, 2010, was adopted as part of the consent agenda.

Agenda Item 16. **Ordinance 2502**, Granting Amendment No. 1 to Option Agreement with Lane Field San Diego Developers, LLC for Development of Lane Field South, was adopted as part of the consent agenda.

Agenda Item 17. **Ordinance 2503**, Granting Amendment Option Agreement to Island Partners, LLC for a 40-Year Lease, was adopted as part of the consent agenda.

Agenda Item 18. **Resolution 2008-97**, Establishing Rent for Shelter Island, Inc. dba Bali Hai for the period September 1, 2005 to August 31, 2010, was adopted as part of the consent agenda.

Agenda Item 19. **Resolution 2008-98**, Consenting to Encumbrance of Sun Harbor Marina's Leasehold Estate by \$7.3 million in favor of San Diego National Bank, was adopted as part of the consent agenda.

Agenda Item 20. **Resolution 2008-99**, Authorizing Amendment No. 3 to the Agreement for External Auditing Services with Mayer Hoffman McCann P.C. (MHM), increasing the agreement amount by \$3,000 per year for an amount not to exceed \$93,932 for fiscal year 2009 and \$96,205 for 2010, for a total agreement not to exceed amount of \$449,697, was adopted as part of the consent agenda.

Agenda Item 21. **Resolution 2008-100**, Selecting and Awarding a Purchase Agreement with Thunderworks Mobile Engineering, a Division of Decatur Electronics, Inc., for emergency equipment acquisition and installation (new and unused goods) in an Incident Command Vehicle in an amount not to exceed \$388,075.21 including California sales tax and freight, was adopted as part of the consent agenda.

Agenda Item 22. **Resolution 2008-101**, Authorizing Annual Agreement(s) for armored carrier services and acceptance of limitation of liability language with AT Systems West, Inc. for an amount not to exceed \$12,000 annually, was adopted as part of the consent agenda.

Agenda Item 23a. **Resolution 2008-102**, Adopting Revisions to Board of Port Commissioners (BPC) Policy No. 001 – Election of Chair, Vice-Chair and Secretary of the Board of Port Commissioners of the San Diego Unified Port District, was adopted as part of the consent agenda.

Agenda Item 23b. **Resolution 2008-103**, Adopting Revisions to BPC Policy No. 019 – Ad Hoc Committees, was adopted as part of the consent agenda.

Agenda Item 23c. **Resolution 2008-104**, Adopting Revisions to BPC Policy No. 023 – Public Hearings, was adopted as part of the consent agenda.

Agenda Item 23d. **Resolution 2008-105**, Adopting Revisions to BPC Policy No. 040 – Establishment of Commissioner Emeritus Status, was adopted as part of the consent agenda.

Agenda Item 23e. **Resolution 2008-106**, Adopting Revisions to BPC Policy No. 060 – Public Participation in Board of Port Commissioners Meetings, was adopted as part of the consent agenda.

Agenda Item 24. **Resolution 2008-107**, Authorizing Consent to the Transfer of 10% of the District's ownership of the World Trade Center License to the San Diego County Regional Airport Authority, was adopted as part of the consent agenda.

Agenda Item 25. **Item Continued**, Ordinance Granting a 32-Year and 7-Month New Lease with National Steel and Shipbuilding Company for approximately 31,815 Square Feet of Tideland Area on Belt Street and Sicard Street in San Diego.

Agenda Item 26. **Item Continued**, Resolution Consenting to \$9.5 million Encumbrance of Oak Park Apartments, LLC dba Best Western Yacht Harbor Hotel (formerly known as Best Western Posada at the Yacht Harbor) in favor of U.S. Bank.

Agenda Item 27. **Item Continued**, Resolution Selecting and Authorizing Agreement with \_\_\_\_\_ to provide Public Affairs and Communications Services for a one-year period beginning in Fiscal Year 2008-09 and two one-year options and Approving funding for the first year for an amount not to exceed \$300,000.

Agenda Item 28. **Board Action No Longer Required**, Resolution Adopting Plans and Specifications and Awarding Contract No. 2008-10 to \_\_\_\_\_ for Tidelands Accessibility Improvements Project (Phase I), San Diego, California in the amount of \$\_\_\_\_\_.

Commissioner Najera left the dais at 2:04 p.m. Commissioner Najera returned to the dais at 2:07 p.m.

## **PRESENTATION AGENDA**

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

Agenda Item 29. Chairman Bixler and Dan Wilkens, Executive Vice President, presented Meritorious Services Awards to two employees for their longevity in service to the District. Elizabeth Lekas, Executive Assistant I, and Martin McDaniel, Gardener I, General Services, were recognized for 15 years of service.

Commissioner Rios left the dais at 2:08 p.m. Commissioner Rios returned to the dais at 2:14 p.m.

### **UPDATE ON THE CLEAN AIR PROGRAM AND STATUS REPORT ON FOUR EMISSION REDUCTION CONTROL MEASURES**

Agenda Item 30. Michelle White, Senior Environmental Specialist, Environmental Services, addressed the Board with an update regarding the Clean Air Program and provided a status report on four Emission Reduction Control Measures. (A copy of the staff report and presentation are on file in the Office of the District Clerk.)

Commissioner discussion ensued. Chairman Bixler requested clarification regarding the truck retrofit and replacement program, and whether opportunities to seek fleet pricing were being made at the manufacturer, local, and or state level. Ms. White stated that staff, in conjunction with the Air Pollution Control District (APCD), had engaged in a complex outreach effort to make the truck owners and the vendors aware of the program. Ms. White stated that while she was unaware of any fleet pricing that may have been established with vendors; District staff would consult with representatives from the APCD to review potential fleet pricing. Chairman Bixler expressed his concern regarding the "like for like" component of the truck replacement program, and requested that staff inform the Board at a future time regarding any latitude that the owners may have to upgrade their fleet. Chairman Bixler requested clarification as to whether the ship tracking information data was being shared with the Coast Guard safety center. Chairman Bixler requested clarification regarding the outreach opportunities and or the development of financial incentives to encourage shipping companies to utilize shore power services at the District's marine terminals. Ms. White explained that the initial regulations that will be imposed upon cruise ships

and refrigerated cargo ships will go into effect in January 2014. Ms. White stated that staff has been discussing the cold ironing opportunities with business partners in those two focused areas. Ms. White stated that the first focus was on the cruise industry. Ms. White stated that District staff recently received a letter of commitment from Carnival Corporation stating that Carnival and Holland America ships will be committing to shore power. Ms. White stated that in regard to the cargo operations the District staff has begun discussions of shore power opportunities with Dole. Ms. White stated that regulations are under consideration that would impact the bulk cargo ship and the automobile shipping vessels; however, those regulations had not been passed. Chairman Bixler requested and received confirmation from Ms. White that staff was working to ensure that the shore power infrastructure that was being considered will meet the future needs of the cruise ship and the cargo shipping industries. Chairman Bixler requested and received clarification from Ms. White that the Carl Moyer grant application provides for the shore power infrastructure at the two berths at the B Street Pier and the one berth at Broadway Pier. Ms. White explained further that the infrastructure will initially allow for providing shore power to only one vessel at a time and staff has future plans to increase the power load.

Commissioner Valderrama expressed his concern regarding the source of the matching funds needed to secure the matching grant funding required to implement the various programs under discussion. Dan Wilkens, Executive Vice President, stated that regarding the specific areas under consideration, staff has determined that the funding requirements could be managed within the operating budget. Mr. Wilkens stated that staff had been tasked to prepare a comprehensive strategy to address future projects requiring significant funding and expenditures.

## **PRESENTATION OF THE DISTRICT'S EMPLOYEE OF THE 1ST QUARTER, 2008**

Agenda Item 31. Item continued to a future meeting.

## **PUBLIC HEARING/ACTION AGENDA**

### **FY 08/09 FINAL BUDGET**

Agenda Item 32abc. Item continued to a future meeting.

## **ACTION AGENDA**

### **SUNROAD HARBOR ISLAND, INC.**

Agenda Item 33ab. Annette Dahl, Area Real Estate Manager, Real Estate, addressed the Board and presented the staff recommendation regarding the Sunroad Harbor Island proposed development. Ms. Dahl introduced Uri Feldman, Sunroad Harbor Island, Inc., who addressed the Board regarding the project. Mr. Feldman introduced Graham Downes, Graham Downes Architecture, who addressed the Board regarding the proposed restaurant design. Mr. Downes introduced David Cohn, President, Cohn Restaurant Group, who addressed the Board regarding the restaurant's operations management. Mr. Cohn introduced Chef Deborah Scott. Tony Gordon, Real Asset Manager, Real Estate, addressed the Board regarding the option agreement. (Copies of the staff report and presentation are on file in the Office of the District Clerk.)

Commissioner discussion ensued. Commissioner Rios requested and received clarification regarding the restaurant's impact on a potential hotel development on the land mass. Mr. Feldman stated that due to an earthquake fault at the proposed original hotel location, the restaurant was being placed east of the earthquake fault, and if a hotel development was to be considered, it would be placed west of the earthquake fault. Mr. Feldman stated that the restaurant would not interfere in the development of a hotel in the future.

Commissioner Valderrama commended the staff for their presentation, and acknowledged the development team for their innovative use of the property to design a restaurant with a unique and beautiful concept that incorporates the benefits of the waterfront.

Commissioner Najera thanked the staff and the Sunroad Harbor Island, Inc. development team for working collaboratively to design a great facility.

Chairman Bixler requested, for the record, clarification of the design layout and the availability for the public access to the pedestrian promenade. Ms. Dahl stated that staff had worked with Sunroad to explore the opportunity to place a promenade between the restaurant and the waters edge, and that operational constraints existed because of the restaurant layout and the shared liquor license. Ms. Dahl stated that the developers did propose to include three public viewing platforms connected by the new promenade in their conceptual design. Chairman Bixler stated that the matter of public access must be addressed as a matter of significance and not addressed as an after

thought in the design. Mr. Feldman responded that a public promenade is not currently available on the property, and the development plan includes three enhanced viewpoints that were designed without obstruction to the sight lines. Mr. Feldman stated that the viewpoints were designed to encourage members of the public to visit the bay front.

Chairman Bixler requested that staff explore the possibility of ensuring continuation of the current dock and dine program with the adjacent Sunroad Marina in the event either leasehold changed ownership. In response to the Chairman's comments, Ms. Dahl stated that staff was currently working on a dock and dine policy that would apply to all restaurant parcels. Additionally, because the two leaseholds were adjacent and had common ownership, they enjoyed the benefit of a dock and dine program, but if the leaseholds were separated, there would not be any water area available for dock and dine. Mr. Wilkens suggested that Chairman Bixler include as part of the motion his request that staff explore the suggestion that dock and dine become a permanent part of the leasehold. Mr. Feldman stated that, in light of the parking lot facilities, and the dock and dine provisions during the negotiation process, the Sunroad team requested that staff consider the two parcels be joined as one leasehold. Mr. Feldman further reported that the District staff stated that they did not feel that parking and dock and dine were a sufficient nexus for the leases to be joined and the properties were required to operate as two independent leases. Mr. Feldman expressed his concern that if in the future, changes to the ownership of the leasehold were to occur, then Sunroad did not wish to encumber the marina or the restaurants with the responsibility of dock and dine. Mr. Wilkens suggested that staff would explore the request from the Chairman and discuss the concerns of the tenant and following those negotiations staff would request further direction from Board if it was required.

Commissioner Valderrama stated that he did not feel that incorporating dock and dine into the restaurant lease negotiations would be appropriate at the present time.

Commissioner Valderrama made a motion to accept the staff recommendation to approve the concept approval for the proposed restaurant renovation as presented. Duane Bennett, Port Attorney, requested and received confirmation from Commissioner Valderrama that his motion included items 33a and 33b.

On motion of Commissioner Valderrama, seconded by Commissioner Najera, the Board, in a single vote, approved **Ordinance 2504**, Granting an Option Agreement with Sunroad Harbor Island, Inc. for a new 40-Year Lease, and **Resolution 2008-108**, Granting Approval to Sunroad Harbor Island, Inc. for proposed Restaurant Renovation

by the following vote: Yeas-Bixler, Black, Najera, Rios, Valderrama; Nays-None; Excused-Cushman and Spane; Absent-None; Abstained-None.

Chairman Bixler announced that the Board would take a ten-minute break before the next agenda item.

Chairman Bixler called the meeting back to order at 3:13 p.m.

**ORDINANCE GRANTING LEASE AMENDMENT NO. 8 TO THE SAN DIEGO MOORING COMPANY, LLC LEASE AUTHORIZING THE ADDITION OF 25 DUAL-POINT MOORINGS AT THE LAUREL STREET ROADSTEAD (A-3 ANCHORAGE) IN SAN DIEGO**

Agenda Item 34. Wendy Fan, Asset Manager, Maritime Operations and Properties, addressed the Board and presented the staff recommendation regarding the Ordinance Granting Lease Amendment No. 8 to the San Diego Mooring Company, LLC Lease Authorizing the addition of 25 Dual-Point Moorings at the Laurel Street Roadstead (A-3 Anchorage) in San Diego. (Copies of the staff report and presentation are on file in the Office of the District Clerk.)

Commissioner discussion ensued. Chairman Bixler requested, for the record, and received confirmation from Ms. Fan that the A-8 permit holders and A-9 (disabled) permit holders that are on the waiting list would be offered one of the moorings in the A-3 Anchorage and following the installation of the moorings, those permit holders would have 30 days to relocate to their assigned location within the A-3 Anchorage. Ms. Fan stated that following the 30 day relocation opportunity, San Diego Mooring Company has the right to rent any of the non-committed moorings to public. Chairman Bixler confirmed with Ms. Fan that there was no specific or guaranteed mooring location assignment among the available moorings for the A-8 permit holders or A-9 (disabled) permit holders. Ms. Fan stated that the San Diego Mooring Company would be responsible for assigning the location of the mooring to the A-8 permit holders or A-9 (disabled) permit holders, and it was her presumption that the assignments would be made based on a first come first served basis. Chairman Bixler requested and received confirmation from Dan Wilkens, Executive Vice President, that the matter was accurately stated and that among the available moorings there was no specific or guaranteed mooring location assignment for the A-8 permit holders or A-9 (disabled) permit holders who were on the waiting list and San Diego Mooring Company would manage the mooring locations assignments.

Commissioner Valderrama requested and received clarification regarding the opportunity for A-8 permit holders and A-9 (disabled) permit holders to relocate to the A-3 anchorage. Mr. Wilkens confirmed that the A-8 permit holders and A-9 (disabled) permit holders would receive the first opportunity to relocate to one of the available moorings within the A-3 Anchorage. Mr. Wilkens reiterated that the San Diego Mooring Company would be responsible for the management of assigning a mooring location to a permit holder. Commissioner Valderrama requested clarification regarding staff's efforts to contact the permit holders regarding the matters under discussion. Ms. Fan confirmed that the permit holders had been contacted and had been made aware of their opportunity to place their names on the waiting list for an opportunity to relocate to one of the A-3 moorings. Ms. Fan further stated that staff had kept the boaters updated in several ways including the delivery of letters to the vessels. The letter explained that 30 days following the completion of the A-3 moorings the District's intent was to eliminate free long-term anchoring in the A-8 Anchorage. Chairman Bixler requested that staff place a public announcement in The Log newspaper that clearly explains the opportunity for the A-8 permit holders and A-9 (disabled) permit holders, whose names are on the A-3 Anchorage waiting list, to relocate to the A-3 Anchorage prior to the elimination of free long-term anchoring in the A-8 Anchorage.

On motion of Commissioner Black, seconded by Commissioner Valderrama, the Board, approved **Ordinance 2505**, Granting Lease Amendment No. 8 to the San Diego Mooring Company, LLC Lease Authorizing the addition of 25 Dual-Point Moorings at the Laurel Street Roadstead (A-3 Anchorage) in San Diego, by the following vote: Yeas-Bixler, Black, Najera, Rios, Valderrama; Nays-None; Excused-Cushman and Spane; Absent-None; Abstained-None.

**RESOLUTION AUTHORIZING A MEMORANDUM OF UNDERSTANDING WITH THE SAN DIEGO AIR POLLUTION CONTROL DISTRICT, TO IMPLEMENT THE DISTRICT'S TRUCK RETROFIT AND REPLACEMENT PROGRAM IN AN AMOUNT NOT TO EXCEED \$1,150,000**

Agenda Item 35. Paul Brown, Program Manager, Maritime Division, addressed the Board and presented the staff recommendation regarding Resolution Authorizing a Memorandum of Understanding with the San Diego Air Pollution Control District, to implement the District's Truck Retrofit and Replacement Program in an amount not to exceed \$1,150,000. (Copies of the staff report and presentation are on file in the Office of the District Clerk.)

Commissioner discussion ensued.

Commissioner Black stated that she supported the item and acknowledged that at this Board meeting it was evident that a variety of the departments within the District were working together and integrating the sustainability policy. Commissioner Black recommended that public awareness efforts are made to educate the community regarding the District's efforts on behalf of protecting the environment and encouraging sustainability within developments.

Commissioner Valderrama stated that he echoed Commissioner Black's comments. Commissioner Valderrama requested clarification regarding the guidelines set forth in the program to prevent purchasing a vehicle under the program and immediately re-selling the vehicle for a profit. Chuck Spagnola, San Diego County Air Pollution Control District (APCD), addressed the Board and explained that equipment owners were required to sign a contract when they became a participant in the Truck Retrofit and Replacement Program, and one of the requirements to receive the funding was an 8 year operational commitment.

Commissioner Najera requested clarification regarding the size of the business that owns and operates the vehicles that may qualify for replacement under the program. Mr. Brown explained that the vehicles were owned by smaller companies and larger corporations alike. Commissioner Najera expressed concern regarding the additional financial burden that may be placed upon a business owner that participates in the program and suggested that the operator may be able to sell their older vehicle to recuperate some of their increased burden. Mr. Brown explained that, under the program, the vehicles to be replaced would be scrapped and any remuneration would have to be negotiated with the scrapper. Commissioner Najera requested clarification regarding the number of trucking firms that have responded to the letter of intent solicitation. Mr. Brown stated that, to date, 40 are interested in the replacement program and the District has received two inquiries for the diesel particulate filter program. Commissioner Najera requested and received an acknowledgement from Mr. Spagnola that the replacement vehicles would be more fuel efficient. Commissioner Najera requested that staff report back regarding the interest from vehicle owners as the program outreach efforts continue.

Commissioner Valderrama requested that staff provide the Board with a memo outlining the guidelines of the program.

Chairman Bixler suggested that in the event that concerns arose regarding the ownership of the vehicle, there may be opportunities for the APCD to work in conjunction with the Department of Motor Vehicles to verify ownership. Chairman Bixler also stated that consideration may be given to affixing a special sticker to the license

plate to identify the vehicle as one restricted to operate only in California. Mr. Spagnola stated that a lot of discussion had taken place regarding enforcement of the requirement to operate the vehicle in California and the specific method for enforcement remains undetermined. Mr. Spagnola reported that some truck owners feel the 100% California operation requirement is onerous. Mr. Spagnola stated that a recommendation has been proposed to adopt guidelines similar to the Carl Moyer Grant program and there may be some modifications to the guidelines discussed in the future. Mr. Spagnola also stated that one of the provisions in the contract is that the truck may be required to carry a Global Positioning System (GPS) device to monitor the vehicle location.

On motion of Commissioner Black, seconded by Commissioner Najera, the Board approved **Resolution 2008-109**, Resolution Authorizing a Memorandum of Understanding with the San Diego Air Pollution Control District, to implement the District's Truck Retrofit and Replacement Program in an amount not to exceed \$1,150,000, by the following vote: Yeas-Bixler, Black, Najera, Rios, Valderrama; Nays-None; Excused-Cushman and Spane; Absent-None; Abstained-None.

**RESOLUTION SELECTING AND AUTHORIZING AGREEMENT WITH RICHMAN MANAGEMENT CORPORATION DBA HERITAGE SECURITY SERVICES FOR SECURITY SERVICES FOR MARINE TERMINAL ENTRANCES AND FACILITIES FOR A TERM OF THREE YEARS FOR AN AMOUNT NOT TO EXCEED \$8,691,000**

Agenda Item 36. On motion of Commissioner Valderrama, seconded by Commissioner Najera, the Board, approved **Resolution 2008-110**, Selecting and Authorizing Agreement with Richman Management Corporation dba Heritage Security Services for Security Services for Marine Terminal Entrances and Facilities for a term of three years for an amount not to exceed \$8,691,000, by the following vote: Yeas-Bixler, Black, Najera, Rios, Valderrama; Nays-None; Excused-Cushman and Spane; Absent-None; Abstained-None.

**RESOLUTION AUTHORIZING THE ACCEPTANCE OF PROPOSITION 1B GOODS MOVEMENT EMISSION REDUCTION PROGRAM GRANT FUNDING**

Agenda Item 37. Michelle White, Senior Environmental Specialist, Environmental Services stated the staff requested the Board consider Authorizing the Acceptance of Proposition 1B Goods Movement Emission Reduction Program Grant Funding. Ms. White reviewed several of the requirements for the program and stated that one of the provisions of the grant agreement was a requirement to indemnify the State of California. Ms. White reported that the Port Attorney's office was reviewing the

agreement and, based upon the review, District staff did not feel the indemnification provision was a cause for concern. (Copies of the staff report and presentation are on file in the Office of the District Clerk.)

On motion of Commissioner Valderrama, seconded by Commissioner Najera, the Board, approved **Resolution 2008-111**, Authorizing the Acceptance of Proposition 1B Goods Movement Emission Reduction Program Grant Funding, by the following vote: Yeas-Bixler, Black, Najera, Rios, Valderrama; Nays-None; Excused-Cushman and Spane; Absent-None; Abstained-None.

**ORDINANCE AMENDING SAN DIEGO UNIFIED PORT DISTRICT CODE ARTICLE 8, SECTION 8.02(B)3 AUTHORIZING THE EXECUTIVE DIRECTOR TO PERMIT THE OPERATION OF ELECTRIC POWERED MODEL AIRCRAFT AT CORONADO TIDELANDS PARK**

Agenda Item 38. Chairman Bixler announced the item would be continued to a future Board meeting.

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

Agenda Item 39. Irene McCormack, Director of Communications and Government Affairs, addressed the Board with an update on the State legislation of interest to the District. (A copy of the staff report is on file in the Office of the District Clerk.)

Regarding Assembly Bill 1832, (AB 1832), Tidelands and submerged lands: City of San Diego, Ms. McCormack cited the letter from Rear Admiral L.R. Herring, in which he stated that contingent upon the adoption of the authors' proposed amendments, the United States Navy was withdrawing their opposition to AB 1832; she also informed the Board that the bill would not be retroactive and would not affect the Navy Broadway Complex Development in any way. Ms. McCormack requested that the Board consider supporting AB 1832.

Commissioner discussion ensued. Commissioner Valderrama requested and received confirmation from Ms. McCormack that the proposed amendments referenced in Rear Admiral Herring's letter were completed.

On a motion by Commissioner Rios, seconded by Commissioner Valderrama, the Board authorized their support of Assembly Bill 1832, Tidelands and submerged lands:

City of San Diego, by the following vote: Yeas-Bixler, Black, Najera, Rios, Valderrama; Nays-None; Excused-Cushman and Spane; Absent-None; Abstained-None.

## **REVIEW AND CONSIDERATION OF PROPOSED BOARD AGENDA FOR MEETING OF JULY 1, 2008**

Agenda Item 40. Dan Wilkens, Executive Vice President, recommended that the Board accept the proposed Board agenda for the July 1, 2008 meeting.

Commissioner discussion ensued. Regarding item 19, a Resolution Authorizing Agreement with Terracosta Consulting Group, Inc. for B Street Pier Cruise Ship Terminal Seismic Study for an amount not to exceed \$61,495.00, Chairman Bixler requested clarification as to whether a seismic study had previously been conducted at the on Broadway Pier. Mr. Wilkens stated that a seismic study had been conducted for Broadway Pier. Rita Vandergaw, Director, Marketing stated the study was requested by the City of San Diego and included Broadway Pier and B Street Pier. In consideration of utilizing resources as effectively as possible, Chairman Bixler requested and received confirmation from Mr. Wilkens that staff would explore any additional need for seismic studies at the other piers along the embarcadero. Commissioner Rios stated that the District should be prepared to address any findings uncovered during the seismic study.

On motion of Commissioner Rios, seconded by Commissioner Black, the Board approved the placement of the proposed agenda of July 1, 2008, by the following vote: Yeas-Bixler, Black, Najera, Rios, Valderrama; Nays-None; Excused-Cushman and Spane; Absent-None; Abstained-None.

## **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. 4 for \$0.00 and 39 Calendar Days to Contract No. 2007-07 with Falcon Construction Company for Repair Roll-Up Doors at Warehouse C and Transit Shed No. 1, Tenth Avenue Marine Terminal, San Diego, California.
- b) Change Order No. 5 for \$787.50 and 0 Calendar Days to Contract No. 2006-20 with Hazard Construction Company for Shelter Island Drive Pavement Repairs, San Diego, California
- c) Change Order No. 3 for \$651.62 and 0 Calendar Days to Contract No. 2007-15R with Romero General Construction Corporation for Administration Building Annex Office Improvements, San Diego, California.

- d) Change Order No. 5 for \$1,500.00 and 0 Calendar Days to Contract No. 2007-07 with Falcon Construction Company for Repair Roll-Up Doors at Warehouse C and Transit Shed No. 1, Tenth Avenue Marine Terminal, San Diego, California.
- e) Change Order No. 1 for \$5,765.00 and 0 Calendar Days to Contract No. 2007-28 with Becerra's HVAC for Harbor Police Administration Building HVAC System Rehabilitation/Upgrade, San Diego, California.
- f) Change Order No. 1 for \$0.00 and 41 Calendar Days to Contract No. 2007-13R with Bonsall Construction Services, Inc. for Embarcadero Marina Park North Viewing Platform and People Blocks Repair, San Diego, California.
- g) Change Order No. 1 for \$15,400.00 and 0 Calendar Days to Contract No. 2007-12 with Triad Construction for Cesar Chavez Park Playground Improvements, 10<sup>th</sup> Avenue Marine Terminal, San Diego, California.
- h) Change Order No. 6 for (\$8,000.00) and 0 Calendar Days to Contract No. 2006-20 with Hazard Construction Company for Shelter Island Drive Pavement Repairs, San Diego, California.

## **PRESIDENT'S REPORT**

Agenda Item 43. Dan Wilkens, Executive Vice President introduced Catherine Sass, Director, Public Art. Ms. Sass introduced Kaneko Bishop, President, San Diego-Yokohama Sister City Society, who addressed the Board. On behalf of the District, Chairman Bixler accepted from Mrs. Bishop a porcelain plate that commemorated the 50th Anniversary of the San Diego-Yokohama Friendship Committee and a photograph of a statue titled "The Girl with Red Shoes." Mrs. Bishop stated that the statue will be replicated and presented as a gift to the City of San Diego.

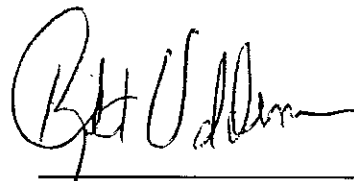
## **BOARD COMMITTEE REPORTS**

Agenda Item 44. None.

## **COMMISSIONER COMMENTS**

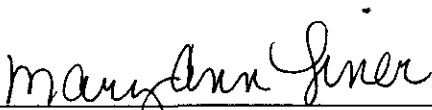
Agenda Item 45. None.

Chairman Bixler announced the Board would reconvene in closed session. There was no further action to report; whereupon, Chairman Bixler adjourned the meeting.



Secretary, Board of Port Commissioners  
San Diego Unified Port District

ATTEST:

  
Clerk of the San Diego Unified Port District