



PORT OF OAKLAND

*530 Water Street
Oakland, California 94607
510.627.1337*

Minutes

Thursday, July 23, 2020

4:00 PM

Board Room – 2nd Floor

ROLL CALL

President Cluver called the Regular Meeting of July 23, 2020 to order at the hour of 1:03 and the following Commissioners participated remotely:

Commissioner Butner joined the meeting at 1:31 p.m.

Present: 7 - Commissioner Ces Butner, Commissioner Michael Colbruno, Commissioner Arabella Martinez, Commissioner Joan Story, Second Vice-President Yui Hay Lee, First Vice-President Barbara Leslie and President Andreas Cluver

1. CLOSED SESSION

President Cluver convened the Board in Closed Session at 1:06 p.m. to hear the following Items:

- 1.1 CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION** - (Significant Exposure to Litigation Pursuant to Paragraph (2) of Subdivision (d) of California Government Code Section 54956.9): **Number of Matter(s): 1 (additional information provided on the Closed Session Agenda Report, "Potential Litigation Under California Government Code Section 54956.9 [One (1) Matters]," attached hereto)**

File ID: [\[253-20\]](#)

- 1.2 CONFERENCE WITH REAL PROPERTY NEGOTIATOR** - (Pursuant to California Government Code Section 54956.8)

Property: Outer Harbor Terminal Berths 20-22, Oakland, CA

Negotiating Parties: Eagle Rock Aggregates, Inc. and Port of Oakland

Agency Negotiator: Bryan Brandes, Director of Maritime; Eric Napralla, Chief Wharfinger

Under Negotiation: Price and Terms of Payment

Property: Oak to Ninth District Properties (Brooklyn Basin), Oakland, CA

Negotiating Parties: City of Oakland and Zarsion-OHP LLC and the Port of Oakland

Agency Negotiator: Pamela Kershaw, Director of Commercial Real Estate

Under Negotiation: Price and Terms of Payment

Property: 1 Market Street, Oakland, CA (Howard Terminal)

Negotiating Parties: The Oakland Athletics and Port of Oakland

Agency Negotiator: Pamela Kershaw, Director of Commercial Real Estate

Under Negotiation: Price and Terms of Payment

File ID: [\[254-20\]](#)

- 1.3 CONFERENCE WITH LABOR NEGOTIATORS** (Pursuant to California Government Code Section 54957.6):

Employee Organizations: International Federation of Professional and Technical Engineers, Local 21; Service Employees International Union, Local 1021; Western Council of Engineers; International Brotherhood of Electrical Workers, Local 1245 And Unrepresented Employees: Port Employee Units H/M

File ID: [\[255-20\]](#)

1.4 PUBLIC EMPLOYEE PERFORMANCE EVALUATION - (Pursuant to California Government Code Section 54957)

Title: Port Attorney

File ID: [\[256-20\]](#)

OPEN SESSION/ROLL CALL

President Cluver called the Regular Meeting of July 23, 2020 to order in Open Session at the hour of 4:10 p.m.

Present: 7 - Commissioner Ces Butner, Commissioner Michael Colbruno, Commissioner Arabella Martinez, Commissioner Joan Story, Second Vice-President Yui Hay Lee, First Vice-President Barbara Leslie and President Andreas Cluver

CLOSED SESSION REPORT

Port Attorney, Michele Heffes, reported that the Board had taken no final action in Closed Session.

Port Attorney, Michele Heffes, announced that Commissioner Michael Colbruno recused himself from the following Item due to a potential conflict of interest and was not in the room and took no part in the discussion or deliberation of the item:

CONFERENCE WITH REAL PROPERTY NEGOTIATOR - (Pursuant to California Government Code Section 54956.8)

Property: Outer Harbor Terminal Berths 20-22, Oakland, CA

Negotiating Parties: Eagle Rock Aggregates, Inc. and Port of Oakland

Agency Negotiator: Bryan Brandes, Director of Maritime; Eric Napralla, Chief Wharfinger

Under Negotiation: Price and Terms of Payment

Port Attorney, Michele Heffes, announced that Commissioner Yui Hay Lee recused himself from the following Item due to a potential conflict of interest and was not in the room and took no part in the discussion or deliberation of the item:

CONFERENCE WITH REAL PROPERTY NEGOTIATOR - (Pursuant to California Government Code Section 54956.8)

Property: Oak to Ninth District Properties (Brooklyn Basin), Oakland, CA

Negotiating Parties: City of Oakland and Zarsion-OHP LLC and the Port of Oakland

Agency Negotiator: Pamela Kershaw, Director of Commercial Real Estate

Under Negotiation: Price and Terms of Payment

2. CONSENT ITEMS

Secretary of the Board, Daria Edgerly, introduced the Consent Items.

A motion was made by Commissioner Colbruno, seconded by Commissioner Story, to approve the Consent Agenda. The motion carried by the following vote:

Ayes: 7 - Commissioner Butner, Commissioner Colbruno, Commissioner Martinez, Commissioner Story, Second Vice-President Lee, First Vice-President Leslie and President Cluver

2.1 **Building Permit:** for High Flying Foods for Tenant Improvements, Subway, 1 Airport Drive, OAK

File ID: [\[248-20\]](#)

This Resolution was approved.

2.2 **Building Permit:** for United Parcel Service for Tenant Improvements, AIA, 1 Airport Drive, OAK

File ID: [\[249-20\]](#)

This Resolution was approved.

2.3 **Ordinance 4569**, 2nd Reading Of An Ordinance (I) Approving Amendment No. 5 To Space/Use Permit For Non-Exclusive In-Terminal Advertising Concession With Clear Channel Outdoor DBA Clear Channel Airports ("Clear Channel") To Extend The Term Through June 30, 2021, At 30% Gross Receipts, (II) Waiving The Restriction In Resolution No. 16-144 - Resolution Approving A Restatement, Affirmation And Update To The Board's Policy For Awarding Concession And Customer Service Privileges At The Terminal Complex At Oakland International Airport, And (III) Authorizing The Executive Director To Enter Into Amendment No. 5 And Any Other Necessary Agreements With Clear Channel.

File ID: [\[257-20\]](#)

This Ordinance was approved.

2.4 **Ordinance 4570**, 2nd Reading Of An Ordinance Approving An Amendment To Space/Use Permit With Each Of The Four Food And Beverage Concessionaires - HFF Oak Venture, LLC; Rylo Management, LLC; Soaring Food Group, LLC; And SSP America Oak, LLC ("SSP") - To: (I) Waive Monthly Payment Of Minimum Annual Guarantee Retroactively From January 1, 2020, Through December 31, 2020 (Extension Of The Rent Commencement Dates To January 1, 2021); (II) Waive Required Payments Into The Marketing And Mid-Term Refurbishment Funds; (III) Defer Payment Of Percentage Rentals With Deferred Amounts Due By December 31, 2020; (IV)

Add 1,636 Square Feet To SSP's Assigned Space At An Initial Monthly Rent Of \$9,253; And, (V) Formally Incorporate Two Units Into The Definition Of Assigned Space For HFF Oak Venture, LLC And SSP At Oakland International Airport.

File ID: [\[258-20\]](#)

This Ordinance was approved.

- 2.5 Ordinance 4571**, 2nd Reading Of An Ordinance Approving And Authorizing The Executive Director To Execute Amendments To Provide Short Term Rent Deferral And Abatement Consistent With The Commercial Real Estate Rent Relief Program For The Following Lessees Directly Impacted By The Alameda County Shelter In Place Order: Yoshi's Japanese Restaurant, Inc.; I Scream Scoops, LLC; Backyard Oakland, LLC; Brotzeit-Lokal LLC; United Food Solutions; And Scott's Jack London Seafood, Inc.

File ID: [\[259-20\]](#)

This Ordinance was approved.

- 2.6 Report:** Actions Taken by the Executive Director under Authority Granted by the Board of Port Commissioners per Resolution 20-30 **(Executive Office)**

File ID: [\[251-20\]](#)

This Report was received and filed.

- 2.7 Report:** Report of Appointments, Separations and Leaves of Absence for FY 2019-20, 4th Quarter (April 1, 2020 - June 30, 2020). **(Finance & Admin)**

File ID: [\[051-20\]](#)

This Report was received and filed.

- 2.8 Minutes:** Approval of the Minutes of the Regular Meeting of May 28, 2020. **(Board)**

File ID: [\[260-20\]](#)

The Minutes were approved.

3. MAJOR PROJECTS

There were no "Major Projects" on the Agenda.

4. BUDGET & FINANCE

- 4.1 Report:** Unaudited Financials for 11 months ended May 31, 2020. **(Finance & Admin)**

File ID: [\[052-20\]](#)

Chief Financial Officer, Julie Lam, introduced Item 4.1.

Aviation Director, Bryant Francis, Maritime Director, Bryan Brandes, and Commercial Real Estate Director, Pam Kershaw, addressed the Board on Item 4.1

This Report was received and filed.

5. STRATEGY & POLICY

- 5.1 Resolution:** Seaport Air Quality 2020 and Beyond Plan Year One (2020) Annual Progress Report; Recommendation to approve updates to the Near-Term Action Plan (Years 2019-2023) to include two West Oakland Community Action Plan ("WOCAP") strategies to establish dedicated truck parking area and facilitate tug retrofits using Bay Area Air Quality Management District ("BAAQMD") financial incentives; Recommendation to direct Port staff to prepare a plan to implement proposed new Intermediate-Term Equipment Goals for all new rubber-tired gantry cranes to be hybrid or zero-emissions and all new off-dock yard tractors to be zero-emissions and to accelerate the goal for zero-emissions drayage trucks. **(Environmental)**

File ID: [\[232-20\]](#)

Environmental Programs and Planning Director, Richard Sinkoff, introduced Item 5.1.

Maritime Director, Bryan Brandes, presented Item 5.1.

David Wooley and Brian Beveridge addressed the Board on Item 5.1.

Chief Operating Officer, Kristi McKenney, addressed the Board's questions on Item 5.1.

A motion was made by Commissioner Colbruno, seconded by Commissioner Butner, that the Resolution be approved. The motion carried by the following vote:

Ayes: 7 - Commissioner Butner, Commissioner Colbruno, Commissioner Martinez, Commissioner Story, Second Vice-President Lee, First Vice-President Leslie and President Cluver

6. REMAINING ACTION ITEMS

- 6.1 Resolution:** Approval and Authorization for the Airport Perimeter Dike Improvements (Phase 1B) Project: Approve Additional Project Budget and Delegated Authority to Execute Contract Change Orders of \$2,000,000 with O.C. Jones & Sons, Inc. for the Import of Fill Material from Off-Site Locations **(Aviation)**

File ID: [\[250-20\]](#)

Aviation Director, Bryant Francis, introduced Item 6.1.

Chief Operating Officer, Kristi McKenney, presented Item 6.1

A motion was made by Commissioner Story, seconded by First Vice-President Leslie, that the Resolution be approved. The motion carried by the following vote:

Ayes: 7 - Commissioner Butner, Commissioner Colbruno, Commissioner Martinez, Commissioner Story, Second Vice-President Lee, First Vice-President Leslie and President Cluver

- 6.2 Resolution:** Resolution to Approve a Three-Year Professional Services Agreement with The Alliance, Inc. which will do business in California as Alliance to: (i) Provide Design Review and Program Implementation Assistance for the Food & Beverage and Retail & Duty-Free Concessions Programs; (ii) Waive Formal Competitive Procurement as Provided Under Section 7(B) of Ordinance No. 4321; and (iii) Authorize the Executive Director to Execute the Professional Services Agreement with Alliance. (1 Airport Drive). **(Aviation)**

File ID: [\[211-20\]](#)

Aviation Director, Bryant Francis, introduced Item 6.2.

A motion was made by Second Vice-President Lee, seconded by Commissioner Butner, that the Resolution be approved. The motion carried by the following vote:

Ayes: 7 - Commissioner Butner, Commissioner Colbruno, Commissioner Martinez, Commissioner Story, Second Vice-President Lee, First Vice-President Leslie and President Cluver

- 6.3 Resolution:** Authorize the Executive Director to Enter into a Contract with DeSilva Gates Construction LP in an Amount Not to Exceed \$11,121,221 for the Taxiway Victor and Taxiway Bravo (Phase 1) Pavement Rehabilitation Project; Authorize the Executive Director to Execute Contract Change Orders to the Extent Necessary in an Amount Not to Exceed \$1,112,000; and Authorize the Executive Director to Execute a Supplemental Agreement with Orion Engineers and Associates in an Amount Not to Exceed \$200,000 for Design Support Services During Construction. **(Engineering/Aviation)**

File ID: [\[215-20\]](#)

Chief Operating Officer, Kristi McKenney, introduced Item 6.3.

A motion was made by Commissioner Martinez, seconded by Second Vice-President Lee, that the Resolution be approved. The motion carried by the following vote:

Ayes: 7 - Commissioner Butner, Commissioner Colbruno, Commissioner Martinez, Commissioner Story, Second Vice-President Lee, First Vice-President Leslie and President Cluver

- 6.4 Resolution:** For the Outer Harbor Intermodal Terminal Phase 2 Interim Use Yard Paving Project (i) Approve a Total Project Budget in an Amount Not-To-Exceed \$11,579,644; (ii) Authorize the Executive Director to Enter Into a Contract with O.C. Jones & Sons in an Amount Not-To-Exceed \$8,478,870; and (iii) Authorize the Executive Director to Execute Contract Change Orders to the

Extent Necessary in an Amount Not-to-Exceed \$1,845,774. **(Engineering/Maritime)**

File ID: [\[231-20\]](#)

Maritime Director, Bryan Brandes, Introduced Item 6.4.

A motion was made by Commissioner Story, seconded by Commissioner Butner, that the Resolution be approved.. The motion carried by the following vote:

Ayes: 7 - Commissioner Butner, Commissioner Colbruno, Commissioner Martinez, Commissioner Story, Second Vice-President Lee, First Vice-President Leslie and President Cluver

- 6.5 Resolution:** Approve and Authorize the Relinquishment of Control of a Portion of the Port Area to the City Council to Facilitate the Transfer of Ownership of Open Space Properties Developed as Part of the Oak to Ninth District Project from the Port of Oakland to the City of Oakland **(CRE)**

File ID: [\[241-20\]](#)

Commercial Real Estate Director, Pam Kershaw, introduced Item 6.5.

Commissioner Yui Hay Lee recused himself from Item 6.5 due to a potential conflict of interest and was not in the room and took no part in the discussion or deliberation of the item.

A motion was made by Commissioner Butner, seconded by Commissioner Colbruno, that the Resolution be approved. The motion carried by the following vote:

Ayes: 6 - Commissioner Butner, Commissioner Colbruno, Commissioner Martinez, Commissioner Story, First Vice-President Leslie and President Cluver

Recused: 1 - Second Vice-President Lee

7. UPDATES/ANNOUNCEMENTS

Executive Director, Danny Wan, introduced the Port's newly hired Director of Maritime, Bryan Brandes.

President Cluver announced the formation of three new Ad Hoc Committees: The COVID-19 Recovery Committee, Labor Relations Committee, and Administrative Committee and appointed as Chairs, Commissioners Colbruno, Butner, and Cluver respectively.

8. SCHEDULING

President Cluver announced that the Board of Port Commissioners will be on recess for the month of August.

OPEN FORUM

The following members of the Public addressed the Board in Open Forum:

Tom Camp

ADJOURNMENT

There being no additional business, the Meeting was adjourned at the hour of 5:41 p.m.

Approved:

Daria Edgerly
Secretary of the Board

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