



## MINUTES

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Thursday, May 9, 2019

Board Room – 2nd Floor

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### ROLL CALL

President Butner called the Regular Meeting of May 9, 2019 to order at the hour of 1:11 p.m. and the following Commissioners were in attendance:

Commissioner Leslie arrived at the meeting at 2:21 p.m.

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

### 1. CLOSED SESSION

President Butner convened the Board in Closed Session at 1:13 p.m. to hear the following Items:

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

**Property:** 1195 Middle Harbor Road, Oakland, CA

**Negotiating Parties:** CyberTran International, Inc. and Port of Oakland

**Agency Negotiator:** John Driscoll, Director of Maritime

**Under Negotiation:** Price and Terms of Tenancy

**Property:** 1599 Maritime Street (Berths 20, 21, & 22) - Oakland, CA

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

**Agency Negotiator:** John Driscoll, Director of Aviation

**Under Negotiation:** Price and Terms of Tenancy

**Property:** One Market Street, Oakland, CA (Howard Terminal)

**Negotiating Parties:** Oakland Athletics and Port of Oakland

**Agency Negotiator:** Pamela Kershaw, Director of Commercial Real Estate

**Under Negotiation:** Price and Terms of Tenancy

**File ID:** [119-19]

Second Vice-President Colbruno recused himself from Item 1.1 (1599 Maritime Street (Berths 20, 21, & 22) - Oakland, CA Negotiating Parties: Eagle Rock Aggregates, Inc. and Port of Oakland) due to a potential financial conflict and was not in the room and took no part in the discussion or

deliberation of the item.

**1.2 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 Matters 2-1**

**File ID:** [120-19]

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

**Title:** Executive Director

**File ID:** [121-19]

**OPEN SESSION/ROLL CALL**

President Butner called the Regular Meeting of May 9, 2019 to order in Open Session at the hour of 3:45 p.m.

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

**CLOSED SESSION REPORT**

Port Attorney, Danny Wan, reported that the Board had taken the following action in Closed Session:

**A motion made by Second Vice- President Colbruno, seconded by First Vice-President Cluver, to approve Resolution 19-28. The motion carried by the following vote:**

**Resolution 19-28:** Resolution Approving and Authorizing Execution of a Settlement Agreement and Partial Release with Respect to the Berth 10 Storm Drain Box Culvert Site with Zurich American Insurance Company in the Amount of \$50,000.

**6 Ayes** - Commissioner Lee, Commissioner Martinez, Commissioner Story, Second Vice-President Colbruno, First Vice-President Cluver and President Butner.

**1 Excused** - Commissioner Leslie

Port Attorney, Danny Wan, reported that the Board had taken the following actions in Closed Session at the previous meetings of March 28, 2019 and April 25, 2019:

**A motion made by Second Vice- President Colbruno, seconded by Commissioner Martinez, to approve Resolution 19-15 on March 28, 2019. The motion carried by the following vote:**

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

**Resolution 19-15:** Resolution Approving and Authorizing Settlement of the Port of Oakland's Claim Against Piedmont Hawthorne Aviation, LLC DBA Signature Flight Support for Unpaid Unreimbursed Rent Credits and Associated Delinquency Fees.

**A motion made by Commissioner Leslie, seconded by First Vice-President Cluver, to approve Resolution 19-19 on April 25, 2019. The motion carried by the following vote:**

**4 Ayes:** Commissioner Leslie, Commissioner Story, First Vice-President Cluver and President Butner

**2 Excused:** Commissioner Lee and Commissioner Martinez

**1 Noes:** Second Vice-President Colbruno

**Resolution 19-19:** Resolution Approving and Authorizing Settlement in the Worker's Compensation Appeals Board Matter Case NO. ADJ7521359, Port Employee NO.400569 v. Port of Oakland, for a Total Estimated Maximum Settlement Amount of \$409, 524.01.

Jack Heyman, Bill Don, Clarence Thomas, Sung Lee, Keith Shanklin, Christopher Christensen, Steve Zelten, Farless Daily addressed the Board on the Closed Session Report.

## 2. CONSENT ITEMS

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

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

**Abstain:** 1 - Commissioner Lee

- 2.1 Ordinance 4517,** 2nd Reading Of An Ordinance Approving A Second Amendment To Space Use Permit For Non-Exclusive Rental Car Concession With Avis Budget Car Rental, LLC; Enterprise Rent A Car Company Of San Francisco; Fox Rent A Car, Inc.; And The Hertz Corporation To (I) Amend The Minimum Annual Guarantee For Year 1, (Ii) Waive The Year 1 Annual Report Deadline, (Iii) Issue A Rent Credit For Expansion Space For The Months Of November And December Of 2017, And (Iv) Extend The Due Date For All Reimbursement Requests From Customer Facility Charges.

**File ID:** [\[125-19\]](#)

**This Ordinance was approved.**

- 2.2 Ordinance 4518,** 2nd Reading Of An Ordinance (I) Approving Amendment No. 4 To Space/Use Permit For Non-Exclusive In-Terminal Advertising Concession With Clear Channel Outdoor Db

Clear Channel Airports To Extend The Term Until June 30, 2020 With Guaranteed Monthly Rent Of \$10,000, (li) 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, (lii) Consenting To The Corporate Restructuring Of Clear Channel, And (lv) Authorizing The Executive Director To Enter Into Amendment No. 4 And Any Other Necessary Agreements With Clear Channel.

File ID: [\[124-19\]](#)

**This Ordinance was approved.**

- 2.3 Report:** Awards of Public Works and Professional Services Contracts by the Executive Director for the Period from January 2019 through March 2019. **(Engineering)**

File ID: [\[091-19\]](#)

**This Report was received and filed.**

### **3. MAJOR PROJECTS**

There were no "Major Projects" on the Agenda.

### **4. BUDGET & FINANCE**

- 4.1 Report:** FY 2020 Operating and Capital Budget Update #2. **(Finance & Admin)**

File ID: [\[097-19\]](#)

Chief Financial Officer, Sara Lee, presented Item 4.1.

**This Report was received and filed.**

### **5. STRATEGY & POLICY**

There were no Strategy & Policy Items to approve.

### **6. REMAINING ACTION ITEMS**

- 6.1 Resolution 19-29:** Approve and authorize the Executive Director to execute a Third Supplemental Agreement with Oakland Fire Services Administration to extend the existing Memorandum of Understanding (MOU) for Aircraft Rescue and Fire Fighting one (1) year through June 30, 2020. **(Aviation)**

File ID: [\[101-19\]](#)

Aviation Director, Bryant Francis, introduced Item 6.1.

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

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

- 6.2 Ordinance 4519:** Approval of Various Amendments to Tariff No. 2-A, Effective July 1, 2019, to (a) Increase Certain Dockage Rates, Reduce Other Certain Dockage Rates, and Increase Certain Non-Containerized Cargo Wharfage Rates, Resulting in No Incremental Revenue at this Time; (b) Increase Space Assignment Rates, Resulting in Estimated Incremental Revenue of About \$600,000 Annually; (c) Establish Fees for the Comprehensive Truck Management Plan Port Registry, Resulting in Incremental Annual Revenue of About \$595,000 in FY 2019-20 and \$420,000 thereafter; (d) Establish Rates for Port-Owned Truck Parking/Container Depot Facilities, Resulting in Estimated Incremental Revenue of \$700,000 Annually; (e) Update Electric Utility Service Provisions, Including Formal Establishment of a Common Area Electric Utility Assessment, Which Already Generates About \$339,500 Annually; (f) Establish Rules and Fees for the Middle Harbor Shoreline Park Resulting in No Incremental Revenue at this Time; (g) Establish New Security-Related Aircraft Restrictions; (h) Update Fresh Water Utility Service Provisions; (i) Remove the 2009 IPI Incentive Program; and (j) Make Various Administrative Updates **(Maritime)**

**File ID:** [\[113-19\]](#)

Maritime Director, John Driscoll, introduced Item 6.2.

Delphine Prevost, Admin/Finance Services Manager, presented Item 6.2.

**A motion was made by Commissioner Story, seconded by Commissioner Martinez, that the Ordinance be approved.. The motion carried by the following vote:**

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

- 6.3 Resolution 19-30:** Authorize the Executive Director to Execute an Exclusive Negotiating Agreement with Eagle Rock Aggregates, Inc., for the Development and Lease of a Bulk Sand and Aggregate Marine Terminal at Berths 20-22, With a Non-Refundable Fee Up to \$500,000 **(Maritime)**

**File ID:** [\[122-19\]](#)

Maritime Director, John Driscoll, introduced Item 6.3.

Second Vice-President Colbruno recused himself from Item 6.2 due to a potential financial conflict and was not in the room and took no part in the discussion or deliberation of the item.

Laurence Thibeaux.Christopher Christensen and Keith Shanklin addressed the Board on Item 6.2.

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

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

**Recused:**       **1** - Second Vice-President Colbruno

- 6.4 Ordinance 4520:** Approve and Authorize the Executive Director to Execute an Amendment to an Existing License and Concession Agreement with Herc Rentals Inc. for the Premises Located at 7727 Oakport Street, Oakland to Extend the Term for Five (5) Years with One Additional Option to Extend for an Additional Five (5) Years with a Proposed Starting Monthly Rent of \$32,055.00. (CRE)

**File ID:** [\[108-19\]](#)

Commercial Real Estate Director, Pam Kershaw, introduced Item 6.4.

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

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

- 6.5 Resolution 19-31:** Approve and Authorize the Executive Director to Amend the Agreement with Elation Systems, Inc. to Provide System Enhancements to the Living Wage Module, Add an Additional One Year Option Term, and Increase the Not to Exceed Amount by \$63,000 for the Web-Based Labor Compliance/Workforce Tracking System and Living Wage Compliance System (SRD)

**File ID:** [\[092-19\]](#)

Social Responsibility Director, Amy Tharpe, introduced Item 6.5.

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

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

## **7. UPDATES/ANNOUNCEMENTS**

Communications Director, Mike Zampa, announced the Port of Oakland hosted the Journal of Commerce.

President Butner announced that he was appointing Commissioners Colbruno, Martinez & Story

to serve on the Audit Committee. Commissioner Story will serve as the Chair of the Audit Committee in accordance with Article V. Section 2. of the By-Laws & Administrative Rules of the Board of Port Commissioners.

President Butner also announced that he was appointing Commissioners Cluver, Leslie and himself to serve on the City/Port Liaison Committee. President Butner will serve as Co-Chair of the City/Port Liaison Committee in accordance with Article V. Section 2. of the By-Laws & Administrative Rules of the Board of Port Commissioners.

## **8. SCHEDULING**

President Butner Announced A Special Meeting of the Board will be held on Monday, May 13, 2019 here in the Board Room.

## **OPEN FORUM**

There were no Public Speakers in Open Forum.

## **ADJOURNMENT**

There being no additional business, the Meeting was adjourned at the hour of 5:18 p.m.

Approved:

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Daria Edgerly  
Secretary of the Board