



## MINUTES

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Thursday, September 30, 2021

Board Room – 2nd Floor

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### ROLL CALL

President Cluver called the Regular Meeting of September 30, 2021 to order at the hour of 1:06 p.m. and the following Commissioners participated remotely:

Commissioner Butner joined the meeting at 1:08 p.m.

Commissioner Martinez joined the meeting at 1:37 p.m.

### 1. CLOSED SESSION

President Cluver convened the Board in Closed Session at 1:09 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): 5 (additional information provided on the Closed Session Agenda Report, "Potential Litigation Under California Government Code Section 54956.9 [one (1) Matter],"** attached hereto)

File ID: [\[292-21\]](#)

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

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

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

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

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

**Property:** 2 Broadway (Scott's) and 510 Embarcadero West (Yoshi's)

**Negotiating Parties:** Scott's Jack London Seafood, Inc., Yoshi's Japanese Restaurant, Inc., and the Port of Oakland

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

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

File ID: [\[293-21\]](#)

- 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: [\[294-21\]](#)

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

Title: Port Attorney

File ID: [\[295-21\]](#)

#### **OPEN SESSION/ROLL CALL**

President Cluver called the Regular Meeting of September 30, 2021 to order in Open Session at the hour of 4:15 p.m.

**Present:** 8 - Commissioner Ces Butner, Commissioner Michael Colbruno, Commissioner Arabella Martinez, Commissioner Joan Story, Second Vice-President Yui Hay Lee, First Vice-President Barbara Leslie, First Vice-President Barbara Leslie and President Andreas Cluver

#### **CLOSED SESSION REPORT**

Port Attorney, Michele Heffes, reported that the Board had taken the following action in Closed Session:

**A motion was made by Commissioner Butner, seconded by Second Vice-President Lee, to approve Resolution 21-59. The motion carried by the following vote:**

**7 Ayes:** 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.

**Resolution 21-59:** Resolution Approving And Authorizing Execution Of A Settlement Agreement And Partial Release With Zurich American Insurance Company In The Amount Of \$198,750 And A Settlement Agreement And Release With Steadfast Insurance Company In The Amount Of \$162,500 (In Addition To The \$1,306,276.18 Already Paid) All Concerning The Trapac Incremental Cost Claim.

Second Vice-President Yui Hay Lee recused himself from Item 1.1 due to a potential financial conflict and was not on the call and took no part in the discussion or deliberation of the item.

**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): 5 (additional information provided on the Closed Session Agenda Report, "Potential Litigation Under California Government Code Section 54956.9 [one (1) Matter]," attached hereto)**

President Andreas Cluver recused himself from Item 1.2 due to a potential financial conflict and was not on the call and took no part in the discussion or deliberation of the item.

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

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

**Negotiating Parties:** The Oakland Athletics 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 Story, seconded by Commissioner Martinez, 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 Resolution Ordinance 4615:** Authorize the Executive Director to Execute a No-Cost Access Agreement with the City of Oakland for the Port to Access, Operate, and Maintain Port Utility Infrastructure on City of Oakland Property. **(Maritime)**

**File ID:** [\[269-21\]](#)

**This Ordinance was approved.**

- 2.2 Ordinance 4616:** Approve and Authorize the Executive Director to Execute an Amendment Rider to an Existing Right of Way Contract with the State of California Department of Transportation and the East Bay Municipal Utility District for the Premises Located at Embarcadero near 5th Avenue in Oakland, to Extend the Term for Eighteen (18) Months commencing on July 14, 2022 for a Fee of \$9,900 **(CRE)**

**File ID:** [\[257-21\]](#)

**This Ordinance was approved.**

- 2.3 Resolution 21-60:** Authorization of Certain Actions Pursuant to the Tax Equity & Fiscal Responsibility Act of 1982, in Connection with the Financing and Refinancing of Various Port Capital Improvements. **(Fin & Admin)**

File ID: [\[246-21\]](#)

**This Resolution was approved.**

- 2.4 Ordinance 4611**, 2nd Reading Of An Ordinance Approving And Authorizing The Executive Director To Execute A Fifth Supplemental Agreement To A Lease With DASL, LLC For Premises Located At The Cost Plus Parking Lot Located At 101 Clay Street To Extend The Term Through October 31, 2022, At A Monthly Rental Rate Of \$9,880.

File ID: [\[287-21\]](#)

**This Ordinance was approved.**

- 2.5 Ordinance 4612**, 2nd Reading Of An Ordinance (I) Approving Amendment No. 6 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 For One Year Through June 30, 2022, At Existing Rent Of 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. 6 And Any Other Necessary Agreements With Clear Channel To Effect The Transaction.

File ID: [\[288-21\]](#)

**This Ordinance was approved.**

- 2.6 Ordinance 4613**, 2nd Reading Of An Ordinance Approving And Authorizing The Executive Director To Execute A Space/Use Permit For Food And Beverage Concession With NFF Grewal, Inc. ("Grewal") For Space At Oakland International Airport Under The Same Terms And Conditions As The Amended And Restated Space/Use Permit For Food And Beverage Concession Authorized With Four Other Food And Beverage Concessionaires, For A Term Expiring At The Latest On March 31, 2035.

File ID: [\[289-21\]](#)

**This Ordinance was approved.**

- 2.7 Ordinance 4614**, 2nd Reading Of An Ordinance Approving And Authorizing The Executive Director To Enter Into A Third Amendment To Temporary Rental Agreement With City Health, A Medical Corporation, To Extend The Term To August 31, 2022, With Anticipated Annual Revenues Of \$42,000, Operating At Oakland International Airport.

File ID: [\[290-21\]](#)

**This Ordinance was approved.**

### **3. MAJOR PROJECTS**

There were no "Major Projects" on the Agenda.

#### 4. BUDGET & FINANCE

There were no Budget & Finance Items to approve.

#### 5. STRATEGY & POLICY

##### 5.1 **Report:** Seaport Air Quality 2020 and Beyond Plan: Annual Progress Report (Year 2) **(Maritime)**

**File ID:** [\[201-21\]](#)

The Board President called Items 5.1 and 5.2 together.

Chief Operating Officer, Kristi McKenney, introduced Item 5.1.

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

**This Report was received and filed.**

##### 5.2 **Resolution 21-61:** Seaport Air Quality 2020 and Beyond Plan Year Two (2021)

Recommendations: Add West Oakland Environmental Indicators Project "Prescott Greening/Living Buffer" project to the 2020 and Beyond Plan as a "Related Project" Add Two New Implementing Actions to the Near Term Action Plan: 1) Require Cleaner Dredging and 2) Support Hydrogen Fuel Cell Demonstration Project; Authorize \$10,000 in FY 2022 to support the existing National Oceanic and Atmospheric Administration Vessel Speed Reduction Program **(Maritime)**

**File ID:** [\[215-21\]](#)

Maritime Director, Bryan Brandes, and Executive Director, Danny Wan, addressed the Board on Items 5.1 and 5.2.

Michael Murphy, Sam Wilson, Brian Bevrige, and Sasan Sadat addressed the Board on Items 5.1 and 5.2.

**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

##### 5.3 **Report:** Proposed Revisions to Port of Oakland Environmental Ordinance No. 4345. **(Port Attorney)**

**File ID:** [\[173-21\]](#)

Port Attorney, Michele Heffes, presented Item 5.3.

The following members of the public addressed the Board on Item 5.3:

Marie Logan, Mike Jacob and Brian Bevrige

**This Report was received and filed.**

## 6. REMAINING ACTION ITEMS

- 6.1 Resolution 21-62:** Approve and Authorize Executive Director to Enter into Contract with Arthur D. Little Inc. for Air Service Development Consulting Services for five years in the amount to not exceed \$600,000; and Approve and Authorize the Executive Director to enter into contract with The Route Hunters for Air Service Development Consulting Services for five years in the amount not to exceed \$150,000. **(Aviation)**

File ID: [\[262-21\]](#)

Assistant Aviation Director, Craig Simon, introduced Item 6.1.

John Albrecht, Aviation Marketing Manager, presented Item 6.1.

**A motion was made by Commissioner Colbruno, 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

- 6.2 Resolution 21-63:** Approve and Authorize the Executive Director to Execute an Agreement with Chen Design Associates, Inc., for Creative Advertising and Design Services for the Oakland International Airport for a Term of Three Years with Two, One-Year Options to Extend, in a Total Amount Not to Exceed \$2,250,000. **(Aviation)**

File ID: [\[263-21\]](#)

Assistant Aviation Director, Craig Simon, introduced Item 6.2.

John Albrecht, Aviation Marketing Manager, presented Item 6.2.

**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

- 6.3 Ordinance 4617:** First Reading of an Ordinance Approving an Amendment to Airline Operating Agreement with Nineteen Passenger and Cargo Airlines, and an Amendment to Space/Use Permit with Nine of Those Passenger Airlines Serving Oakland International Airport, for a Term of Five Years and Generating Anticipated Revenues of \$128± Million in FY2021-22. **(Aviation)**

File ID: [\[260-21\]](#)

Assistant Aviation Director, Craig Simon, introduced Item 6.3.

Brandon Mark, Aviation Properties Manager, presented Item 6.3.

**A motion was made by Commissioner Colbruno, seconded by Second Vice-President Lee, that the Ordinance 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 21-64:** Approve and Authorize the Executive Director to Amend an Existing Contract with Turner Construction Company, Inc. to add Prime Contractor Services to Rehabilitate the Terminal 2 Roof Drainage System for a Guaranteed Maximum Price Not-to-Exceed \$1,433,000. **(Engineering/Aviation)**

File ID: [\[251-21\]](#)

Chief Operating Officer, Kristi McKenney, presented Item 6.4.

**A motion was made by Second Vice-President Lee, 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

- 6.5 Ordinance 4618:** Approval of the 9th Supplemental Agreement with BNSF Railway Company at the Joint Intermodal Terminal to Extend the Lease to December 31, 2024; Modify Compensation Resulting in \$3.8 Million of Additional Fixed Revenue; and Modify Certain Deferred Maintenance Obligations **(Maritime)**

File ID: [\[245-21\]](#)

Maritime Director, Bryan Brandes, introduced Item 6.5.

Delphine Prevost, Manager of Admin/Finance, presented Item 6.5.

**A motion was made by First Vice-President Leslie, seconded by Second Vice-President Lee, that the Ordinance 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

- 6.6 Ordinance 4619:** Approve and Authorize the Executive Director to Enter into a Lease with Unicold Corporation for Approximately 3.6 Acres of Combined Warehouse, Office and Yard

Space for a Term Expiring on June 30, 2039, Resulting in Average Annual Rent of Approximately \$1.1 Million, with One 5-Year Option to Extend **(Maritime)**

**File ID:** [\[252-21\]](#)

Maritime Director, Bryan Brandes, introduced Item 6.6.

Delphine Prevost, Manager of Admin/Finance, presented Item 6.6.

**A motion was made by Commissioner Story, seconded by Commissioner Butner, that the Ordinance 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

- 6.7 Resolution 21-65:** Supporting The Raising Of The United Nations Flag On The United Nations Flagpole At Jack London Square And Commending The United Nations Association - USA Chapter. **(Board)**

**File ID:** [\[286-21\]](#)

Director of Communications, Robert Bernardo, introduced Item 6.7.

**A motion was made by Commissioner Butner, seconded by Commissioner Story, 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

## **7. UPDATES/ANNOUNCEMENTS**

There were no Updates or Announcements on the Agenda.

## **8. SCHEDULING**

- 8.1 Resolution 21-66:** Resolution Determining That Conducting In-Person Meetings Of The Board Of Port Commissioners Would Present Imminent Risks To Attendees' Health, And Electing To Continue Conducting Meetings Using Teleconferencing In Accordance With California Government Code Section 54953(E), A Provision Of Ab-361. **(Board)**

**File ID:** [\[302-21\]](#)

Secretary of the Board, Daria Edgerly, introduced Item 8.1.

**A motion was made by Commissioner Colbruno, seconded by Commissioner Martinez, 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



## **OPEN FORUM**

There were no Public Speakers in Open Forum.

## **ADJOURNMENT**

There being no additional business, the Meeting was adjourned at the hour of 6:03 p.m.

Approved: November 18, 2021

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Daria Edgerly  
Secretary of the Board