

**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 1:11 p.m., Tuesday, October 7, 2008, in the Board Room at 3165 Pacific Highway, San Diego, California.

PLEDGE OF ALLEGIANCE

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

ROLL CALL

Agenda Item 2.

Present: COMMISSIONERS Bixler, Black, Cushman, Najera, Rios, Spane, and Valderrama;
OFFICERS Bennett, Hollingsworth, Liner, Kirkpatrick, and McEntee

Absent: No Commissioners absent.

Excused: No Commissioners excused.

Chairman Bixler announced that the Board convened in closed session to discuss the following: *Closed session agenda item 3, a CONFERENCE WITH LABOR NEGOTIATOR Government Code Section 54957.6 District Negotiator: Executive Director, Employee Organization: Harbor Police Officers Association; and item 4, a CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION Significant exposure to litigation pursuant to Subdivision (b)(1) of Government Code Section 54956.9: Two Cases.* Chairman Bixler stated that the Board would reconvene in closed session following the regular meeting.

APPROVAL OF MINUTES

Agenda Item 3. On motion of Commissioner Black, seconded by Commissioner Rios, the Board approved, in a single vote, the minutes submitted for the special meetings of August 19, 2008 and September 2, 2008, by the following vote: Yeas-Bixler, Black, Cushman, Najera, Rios, Spane, Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

PUBLIC COMMENTS

Agenda Item 4. Thomas Scott, Vice President for Research and Graduate Dean, San Diego State University and Tony Haymet, Director, Scripps Institute of Oceanography addressed the Board in support of *Agenda item 32, a Resolution approving Environmental Projects as recommended by the Environmental Committee for an amount not to exceed \$1,444,750.*

CONSENT AGENDA

Chairman Bixler stated that the following consent agenda items would be pulled from the October 7, 2008 regular meeting and continued to a future meeting: *Consent agenda item 15a, a Resolution approving revised concept for Island Partners, LLC dba Island Legacy, relocating proposed building to center of Shelter Island Marine Sales and Service Site; Consent agenda item 15b, an Ordinance Granting Amendment No. 1 to Option to Lease agreement with Island Partners, LLC amending the project description; and Consent agenda item 25, a Resolution Selecting and Authorizing an Agreement with Visionary Integration Professionals, LLC (VIP) for consulting services to provide support services for SAP administration for an amount not to exceed \$300,000.* Chairman Bixler stated that *Consent agenda items 14a, Fifth Avenue Landing, Ordinance rescinding the following actions from the May 6, 2008 Board Meeting for the Fifth Avenue Landing, LLC Lease and Option Agreements: 1) Rescission of Ordinance 2497 Authorizing Amended, Restated and Combined Lease Agreement with Spinnaker Waterfront Hotel, LLC for the property located bayward of Convention Way and Marina Park Way; and 2) Rescission of Ordinance 2498 Authorizing Amendment No. 3 to Spinnaker Option Agreement to update terms and extend the term for one year with Spinnaker Waterfront Hotel, LLC., and consent agenda item 14b, Resolution Rescinding the following actions from the May 6, 2008 Board Meeting for the Fifth Avenue Landing, LLC Lease and Option Agreements: 1) Rescission of Resolution 2008-84 Consenting To Assignment and Assumption of Fifth Avenue Landing, LLC Lease Agreement to Spinnaker Waterfront Hotel, LLC; 2) Rescission of Resolution 2008-85 Consenting to Assignment and Assumption of Fifth Avenue Landing, LLC Option Agreement for development of the Spinnaker Hotel to Spinnaker Waterfront Hotel, LLC; and 3) Rescission of Resolution 2008-86 Consenting to Sublease from Spinnaker Waterfront Hotel, LLC to Fifth Avenue Landing, LLC for the Water Transportation Center,* would be pulled for comment. Chairman Bixler also stated that, due to the location of his personal residence, he would not participate in the discussion regarding *Action agenda item 34ab, City of Imperial Beach's Oceanfront Sand Replenishment Program.*

On motion of Commissioner Rios, seconded by Commissioner Spane, the Board, with a single vote, adopted Consent agenda items 5, 6, 7a, 7b, 7c, 8, 9, 10, 11, 12, 13a, 13b, 16, 17, 18, 19, 20a, 20b, 21, 22, 23 and 24 (**Resolutions 2008-189** through and including **2008-198**; **Ordinance 2523**; **Resolution 2008-199**; **Resolutions 2008-201** through and including **2008-204**; **Ordinances 2525** through and including **2526**; and **Resolution 2008-205** through and including **2008-207 and Ordinance 2527**) by the following vote: Yeas-Bixler, Black, Cushman, Najera, Rios, Spane, Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

Agenda Item 5. **Resolution 2008-189**, Approving Internal Audit Plan for Fiscal Year 2009, was adopted as part of the consent agenda.

Agenda Item 6. **Resolution 2008-190**, Granting Indemnity to Neighborhood National Bank in a Custodial Agreement, was adopted as part of the consent agenda.

Agenda Item 7a. **Resolution 2008-191**, Board of Port Commissioners (BPC) Policy No. 030 - Powers and Function of Executive Director (President/CEO), was adopted as part of the consent agenda.

Agenda Item 7b. **Resolution 2008-192**, BPC Policy No. 111- Surplus Materials and Equipment, was adopted as part of the consent agenda.

Agenda Item 7c. **Resolution 2008-193**, BPC Policy No. 115-A – Local Depository Inactive Deposit Program, was adopted as part of the consent agenda.

Agenda Item 8. **Resolution 2008-194**, Authorizing the Display on the South Embarcadero Promenade of a Temporary Environmental Sculptural Art Exhibit Titled “Cool Globes: Hot Ideas for a Cooler Planet” for approximately four months commencing in December 2008 with no fees to be paid by the Port, was adopted as part of the consent agenda.

Agenda Item 9. **Resolution 2008-195**, Appointing Susan Marie Ronan to the Port's Public Art Committee for a three-year term as the representative for the City of Coronado, was adopted as part of the consent agenda.

Agenda Item 10. **Resolution 2008-196**, Authorizing Third Amendment to the Agreement with Merkel & Associates to provide Mitigation and Monitoring Services for the National City Marine Terminal Expansion Project extending the term of the Agreement to October 8, 2012, and increasing the not-to-exceed amount from \$197,450 to \$319,450, was adopted as part of the consent agenda.

Agenda Item 11. **Resolution 2008-197**, Authorizing staff to submit a grant application to the National Marine Fisheries Service, National Oceanic and Atmospheric Administration (NOAA), for debris removal in the A-8 Anchorage and to accept any and all funds that may be awarded, was adopted as part of the consent agenda.

Agenda Item 12. **Resolution 2008-198**, Consenting to Transfer of Ownership Interests in SBF&G Partners, LLC dba South Bay Fish & Grill, was adopted as part of the consent agenda.

Agenda Item 13a. **Ordinance 2523**, Granting Amendment No. 2 to lease with City of Coronado covering the Coronado Golf Course, was adopted as part of the consent agenda.

Agenda Item 13b. **Resolution 2008-199**, Consenting to 20-Year License Agreement between the City of Coronado and Omnipoint Communications, Inc., a subsidiary of T-Mobile USA, Inc. (T-Mobile), was adopted as part of the consent agenda.

Agenda Item 15a. **Item Continued**, Resolution Approving revised concept for Island Partners, LLC dba Island Legacy, relocating proposed building to center of Shelter Island Marine Sales and Service Site.

Agenda Item 15b. **Item Continued**, Ordinance Granting Amendment No. 1 to Option to Lease agreement with Island Partners, LLC amending the project description.

Agenda Item 16. **Resolution 2008-201**, Consenting to Assignment of Sublease from Torrey Point, Inc. dba Thai Café to Spatabaker Inc. dba Lil' Piggy's Bar-B-Q, was adopted as part of the consent agenda.

Agenda Item 17. **Resolution 2008-202**, Consenting to Encumbrance of Silvergate Yacht Club's Leasehold Estate by \$6,750,000 in favor of First Centennial Bank with conditions, was adopted as part of the consent agenda.

Agenda Item 18. **Resolution 2008-203**, Granting Preliminary Project Approval for the installation of steel pier reinforcements at Northrop Grumman Shipyard in San Diego, was adopted as part of the consent agenda.

Agenda Item 19. **Resolution 2008-204**, Granting Preliminary Project Approval for National Steel and Shipbuilding Company's proposed restroom, locker facilities, and office area construction in Building 44 at its Belt Street Leasehold, was adopted as part of the consent agenda.

Agenda Item 20a. **Ordinance 2525**, Granting a 66-year new lease to the State of California Department of Transportation for approximately 14,780 square feet of submerged area at the San Diego Bay, was adopted as part of the consent agenda.

Agenda Item 20b. **Ordinance 2526**, Accepting a 66-year new lease from and granting indemnity to the State of California Department of Transportation to the District for approximately 14,780 square feet of jetty area in National City adjacent to the Pier 32 Marina, was adopted as part of the consent agenda.

Agenda Item 21. **Resolution 2008-205**, Authorizing Amendment No. 1 to Agreement with Richman Management Corporation dba Heritage Security Services and Incorporate WhereNet and eModal and South Bay Industrial Technologies as approved sub-contractors, was adopted as part of the consent agenda.

Agenda Item 22. **Resolution 2008-206**, Authorizing Change Order No. 3 to Contract No. 2007-18 with Robert L. Fox, Sole Owner dba Fox Construction for \$15,000.00 and 120 calendar day extension through January 15, 2009, was adopted as part of the consent agenda.

Agenda Item 23. **Resolution 2008-207**, Authorizing Memorandum of Understanding between the San Diego Unified Port District and the San Diego Harbor Police Officers Association, was adopted as part of the consent agenda.

Agenda Item 24. **Ordinance 2527**, Amending Salary Ordinance No. 2519 Establishing a Schedule of Compensation for all Officers and Employees of the San Diego Unified Port District, was adopted as part of the consent agenda.

Agenda Item 25. **Item Continued**, Resolution Selecting and Authorizing an Agreement with Visionary Integration Professionals, LLC (VIP) for consulting services to provide support services for SAP administration for an amount not to exceed \$300,000.

FIFTH AVENUE LANDING

Agenda Item 14ab. Bruce Hollingsworth, Executive Director, addressed the Board and stated that staff was notified that escrow failed to close and the project agreement had expired on its own terms; thus, staff was presenting the item to the Board to adjust the administrative record and to rescind the previously approved resolutions and ordinances regarding the project. Mr. Hollingsworth stated that staff had received a letter dated October 6, 2008 from Todd Sabin, Managing Member, Spinnaker Waterfront Hotel team, and that Mr. Sabin requested the item be continued.

Mr. Hollingsworth stated staff has discussed the matter with Mr. Sabin and staff continued to recommend that the Board consider the item.

The following member of the public addressed the Board regarding the item: George Palermo, Fifth Avenue Landing, stated, on behalf of Mr. Carpenter and Mr. Engel, that they supported the staff recommendation and requested that the Board move forward.

Commissioner discussion ensued. Commissioner Cushman stated he was in support of the staff recommendation to move forward with the process.

Commissioner Black expressed her concerns regarding the matter. She requested that the District take the lead and actively participate in the process regarding any developments that would impact future economic opportunities for the property under consideration.

Commissioner Valderrama requested and received clarification from Karen Weymann, Assistant Director, Real Estate, regarding the refund of the \$100,000 option consideration. Ms. Weymann explained that staff determined to refund the \$100,000 option consideration because escrow did not close within the agreed upon time frame. Mr. Hollingsworth also explained that the option agreement was with the new tenant, and not an extension of the original option agreement. Chairman Bixler confirmed Mr. Hollingsworth's statement that staff would provide the Board with a memo clarifying the terms of the \$100,000 option consideration and the staff recommendation to refund the sum.

On a motion by Commissioner Cushman, seconded by Commissioner Black, the Board with a single vote adopted **Ordinance 2524**, Rescinding the following actions from the May 6, 2008 Board Meeting for the Fifth Avenue Landing, LLC Lease and Option Agreements: 1) Rescission of Ordinance 2497 Authorizing Amended, Restated and Combined Lease Agreement with Spinnaker Waterfront Hotel, LLC for the property located bayward of Convention Way and Marina Park Way; and 2) Rescission of Ordinance 2498 Authorizing Amendment No. 3 to Spinnaker Option Agreement to update terms and extend the term for one year with Spinnaker Waterfront Hotel, LLC.; and **Resolution 2008-200**, Rescinding the following actions from the May 6, 2008 Board Meeting for the Fifth Avenue Landing, LLC Lease and Option Agreements: 1) Rescission of Resolution 2008-84 Consenting To Assignment and Assumption of Fifth Avenue Landing, LLC Lease Agreement to Spinnaker Waterfront Hotel, LLC; 2) Rescission of Resolution 2008-85 Consenting to Assignment and Assumption of Fifth Avenue Landing, LLC Option Agreement for development of the Spinnaker Hotel to

Spinnaker Waterfront Hotel, LLC; and 3) Rescission of Resolution 2008-86 Consenting to Sublease from Spinnaker Waterfront Hotel, LLC to Fifth Avenue Landing, LLC for the Water Transportation Center by the following vote: Yeas-Bixler, Black, Cushman, Najera, Rios, Spane, Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

PRESENTATION/ACTION AGENDA

PRESENTATION OF EMPLOYEE SERVICE AWARDS TO EMPLOYEES WITH 15 OR MORE YEARS OF SERVICE

Agenda Item 26. Chairman Bixler and Bruce Hollingsworth, Executive Director, recognized the following employees for 20 years of service: Earl Bailey, Traffic Enforcement Supervisor; Dominick Boccia, Harbor Police Sergeant; John Forsythe, Harbor Police Lieutenant; and Jeffrey McEntee, Chief Financial Officer/Treasurer. Chairman Bixler and Mr. Hollingsworth recognized the following employees for 15 years of service: Mahmoud Akhavain, Manager, Engineering and Construction; Janice Erickson, Director of Financial Services; Lawrence McCauley, Assistant Environmental Specialist; Ernest Meshack, Locksmith; and Rita Smith-Pomatto, Marine Terminal Supervisor. Chairman Bixler thanked the staff members for their long-term efforts on behalf of the District.

UPDATE PRESENTATION ON SHELTER ISLAND AREA REDEVELOPMENT PROJECTS

Agenda Item 27. Annette Dahl, Area Real Estate Manager, Real Estate, addressed the Board with a presentation regarding the redevelopment projects in the Shelter Island area. (A copy of the staff report and presentation are on file in the Office of the District Clerk.)

Commissioner discussion ensued. Commissioner Spane requested that staff make a similar presentation in six months and report on the status of each proposal. Commissioner Spane received clarification from Ms. Dahl that a conservative total of dollars to be expended by tenants for the San Diego redevelopment projects cited in the presentation would exceed \$150 million.

Commissioner Rios requested clarification regarding the policy for the leases that are pending expiration. To begin their redevelopment concept discussions and to negotiate a lease extension, Paul Fanfera, Senior Director, Real Estate, explained that staff encourages tenants to come to staff prior to the expiration of the last 20% of their

lease term. Mr. Fanfera explained that the tenants who approach the District after the remaining 20% of their lease term begins may negotiate with staff for an extension, or staff may begin the Request for Proposals (RFP) process and the existing tenant may have to buy back their interest in the property. Mr. Fanfera concluded his comments by stating that on some occasions tenants may be put on a hold-over lease status and their rent would increase significantly, as they would be leasing both the land and the improvements.

Commissioner Valderrama requested that staff prepare an updated report regarding the tenants that are within their final 20% of their lease term. Chairman Bixler requested that the 20% rule and the policy referenced in the discussion be provided in a written format for clarification.

Commissioner Rios requested that staff provide written communication to tenants with leaseholds that are pending expiration and that staff take steps, in a timely fashion, to move forward with the RFP process on the expiring leaseholds to avoid losing development opportunities.

Commissioner Najera requested and received confirmation from Ms. Dahl that the area has been master planned and staff regularly works with the community at public outreach meetings. Commissioner Najera also requested an update on the status of the projects in six months.

Commissioner Black recommended that staff take the presentation to the City of San Diego Land Use Committee prior to approaching the San Diego City Council. During such challenging economic times, Commissioner Black also commended Richard Bartell for his investment in the quality of life for the residents in the tideland communities.

Commissioner Cushman commented that the Shelter Island redevelopment was made possible with the assistance of members of the San Diego City Council, community outreach, and stakeholder involvement. Commissioner Cushman also acknowledged the tenants for their commitment to redevelopment in the Shelter Island area.

PUBLIC HEARING/ACTION AGENDA

POINT LOMA MARINA

Agenda Item 28abc. Kelly Falk, Asset Manager, Real Estate, addressed the Board with the staff presentation regarding concept approval for the Point Loma Marina projects. Tom Driscoll, Partner, Point Loma Marina addressed the Board regarding the

RFP process and plans for the development. (A copy of the staff report and presentation are on file in the Office of the District Clerk.)

Commissioner Najera left the dais at 2:10 p.m. and returned at 2:16 p.m.

Commissioner discussion ensued. Commissioner Spane requested and received clarification from Mr. Falk regarding the status of funding for the parking garage. Mr. Falk stated that the parking structure cost was approximately \$7.6 million and Point Loma Marina had secured funding for the project.

Chairman Bixler requested and received confirmation from Mr. Falk that with appropriate notice, the District can terminate the parking management agreement with Ace Parking. Chairman Bixler requested and received clarification from Paul Fanfera, Senior Director, Real Estate, regarding any changes to future District revenues if the parking structure project moved forward. Mr. Fanfera explained that the District currently receives a small amount of revenue from the existing parking. Staff has recommended that initially the developer would receive a larger proportion of the parking revenues to subsidize their construction costs. As professional, centralized management is implemented, more of the construction costs are recovered, and additional parking becomes available, the District's revenues would increase. Dan Wilkens, Executive Vice President, requested and received confirmation from Chairman Bixler that the Board was directing staff to move forward with the recommendations as presented. Chairman Bixler requested that in addition to the new traffic light signal, staff investigate the installation of additional crosswalk lighting and also consider an elevated grade in the pedestrian crosswalk section of Scott Street.

Commissioner Najera recommended the parking structure's overall aesthetics be taken into consideration when entering the design phase of the project.

Commissioner Rios left the dais at 2:40 p.m. and returned at 2:46 p.m.

Chairman Bixler opened the public hearing. The following members of the public addressed the Board with varying view points regarding the item: Tom Delahanty, Cynthia Conger, Business Organizations in Village; George Folgner, The Wharf - Point Loma Marina, LLC; William Ladd; and Sharon Cloward, San Diego Port Tenants Association.

In response to Mr. Ladd's inquiries regarding the benefits of the project, Chairman Bixler explained that the plan had been years in the making, that it involved considerable public outreach to gather a vision for the area, and that the Board was

committed to public safety, maximizing the fair market value for the tideland properties, and interest in bringing public benefit to all the impacted stakeholders.

On motion of Commissioner Cushman, seconded by Commissioner Valderrama, the Board voted to close the public hearing, by the following vote: Yeas-Bixler, Black, Cushman, Najera, Rios, Spane, Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

On motion of Commissioner Valderrama, seconded by Commissioner Cushman, the Board approved **Resolution 2008-208**, Granting Concept Approval for Point Loma Marina, LLC for Proposed Parking Facility Development, by the following vote: Yeas-Bixler, Black, Cushman, Najera, Rios, Spane, Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

On motion of Commissioner Black, seconded by Commissioner Valderrama, the Board approved **Resolution 2008-209**, Authorizing the Issuance of an Appealable Coastal Development Permit for Point Loma Marina, LLC Building C and Parking Facility, by the following vote: Yeas-Bixler, Black, Cushman, Najera, Rios, Spane, Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

On motion of Commissioner Valderrama, seconded by Commissioner Rios, the Board approved **Ordinance 2528**, Granting Amendment No. 1 to the Lease with Point Loma Marina, LLC amending the timeline for Building C and Parking Facility Development, by the following vote: Yeas-Bixler, Black, Cushman, Najera, Rios, Spane, Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

Commissioner Valderrama requested and received clarification regarding staff's recommendation to decrease the Option consideration fee. Annette Dahl, Area Real Estate Manager, Real Estate, explained that in light of higher construction costs, and the withdrawal of financial investment by the sportfishing landings, staff recommended that the lease be amended so that the Option consideration was adjusted to reflect a more appropriate fee of \$500 per month for the extension periods. Commissioner Valderrama stated that he supported Mr. Driscoll and anticipated to the project moving forward.

Chairman Bixler requested and received additional information from Ms. Dahl regarding the public outreach that had taken place regarding the project under consideration. Ms. Dahl stated that the America's Cup Harbor Master Plan was developed with the public during a six or seven year time period. Public meetings regarding the Comprehensive Parking Management Plan were noticed for local

stakeholders, vetted through the Peninsula Planning Group, and discussed at several open meetings held at the Port Administration building.

On motion of Commissioner Spane, seconded by Commissioner Rios, the Board directed staff to develop a Comprehensive Parking Management Plan for the America's Cup Harbor Area, by the following vote: Yeas-Bixler, Black, Cushman, Najera, Rios, Spane, Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

Commissioner Cushman thanked the developers for maintaining their commitment to the project and stated that he was confident the residents of Point Loma would benefit from the Harbor Drive realignment.

CONDUCT A PUBLIC HEARING AND CONSIDER A RESOLUTION AUTHORIZING ISSUANCE OF AN APPEALABLE COASTAL DEVELOPMENT PERMIT FOR THE NORTH HARBOR DRIVE IMPROVEMENTS

Agenda Item 29. Bill Briggs, Senior Redevelopment Planner, Land Use Planning, addressed the Board with a presentation and staff report regarding the North Harbor Drive realignment. (A copy of the staff report and presentation are on file in the Office of the District Clerk.)

Chairman Bixler opened the public hearing. The following members of the public addressed the Board with varying view points regarding the item: Tom Delahanty, Cynthia Conger, Business Organizations in Village; and William Ladd.

Chairman Bixler requested that District staff confer with the City of San Diego traffic engineering staff to explore the coordination and operation of the synchronized smart traffic signal to accurately regulate efficient traffic flow.

On motion of Commissioner Valderrama, seconded by Commissioner Black, the Board voted to close the public hearing, by the following vote: Yeas-Bixler, Black, Cushman, Najera, Rios, Spane, Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

On motion of Commissioner Valderrama, seconded by Commissioner Black, the Board approved **Resolution 2008-210**, Authorizing Issuance of an Appealable Coastal Development Permit for the North Harbor Drive Improvements, by the following vote: Yeas-Bixler, Black, Cushman, Najera, Rios, Spane, Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

Commissioner Black acknowledged that the District has worked with the City of San Diego on the project for more than 10 years, and she was encouraged that over 150 residents attended a community meeting to discuss the infrastructure projects.

Chairman Bixler announced that the Board would take a 10 minute recess. Chairman Bixler reconvened the meeting at 3:30 p.m.

LANE FIELD NORTH AND SOUTH HOTEL DEVELOPMENT PROJECT: CONDUCT PUBLIC HEARING AND ADOPT RESOLUTION AUTHORIZING ISSUANCE OF AN AMENDMENT TO COASTAL DEVELOPMENT PERMIT # CDP-2008-01

Agenda Item 30. John Helmer, Director, Land Use Planning; Stacey Lankford Pennington, Lane Field San Diego Developers, LLC; and Shaun Sumner, Asset Manager, Real Estate, addressed the Board with a presentation and staff report regarding the Lane Field North and South Hotel Development Project and proposed amendment to the Coastal Development permit, the proposed bayside shuttle transportation plan, and the public access plan, respectively. (A copy of the staff report and presentation are on file in the Office of the District Clerk.)

Chairman Bixler opened the public hearing.

Commissioner discussion ensued. Commissioner Spane requested and received clarification regarding the Embarcadero Shuttle. Mr. Helmer explained that language included in the Coastal Development Permit required participation in a program if a shuttle was developed, and the shuttle riders would pay a small fee to utilize the service. Commissioner Spane suggested that as the proposed shuttle route is developed, consideration may also be given to add a stop at the airport.

Regarding the shuttle's seasonal operation, Commissioner Valderrama requested and received confirmation from Ms. Lankford Pennington that, as per the Coastal Commission's appeal, the shuttle along the Embarcadero would operate primarily during the peak visitor season of the summer months, and with other partners the shuttle service may lead to a comprehensive transit effort in the area.

Regarding the expansion of the service to the airport or beyond, Commissioner Black requested clarification as to whether a shuttle expansion might qualify for federal reauthorization monies. Dan Wilkens, Executive Vice President, stated that staff is investigating Federal funding opportunities via the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) reauthorization. Mr. Wilkens explained that an airport shuttle service project requires complex

coordination, and that the District would be seeking alignment with the other transportation agencies that will also be seeking SAFETEA-LU reauthorization funds.

Commissioner Rios stated that the Vintage Trolley service may also provide an additional option for visitors seeking transportation in the downtown area.

Commissioner Najera requested and received confirmation from Ms. Lankford Pennington that the shuttle vehicles being considered would be clean alternative-fuel vehicles.

For the record, Chairman Bixler requested and received confirmation from Bruce Hollingsworth, Executive Director, that the amendment to the Coastal Development Permit under consideration by the Board was consistent with the Port Master Plan and the amendment was immaterial.

The following members of the public addressed the Board with varying viewpoints regarding the development project: Jerry Trammer, Project Executive, Lane Field Developers; Rebecca Reid, President of the Board of Directors, Hostelling International; and Graham Forbes, UNITE HERE Local 30. Mr. Forbes submitted to the Clerk written documentation titled *UNITE HERE Local 30 Comments on the Lane Field Development Project CDP Amendment and Addendum Volume I*.

On motion of Commissioner Cushman, seconded by Commissioner Black, the Board voted to close the public hearing, by the following vote: Yeas-Bixler, Black, Cushman, Najera, Rios, Spane, Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

On motion of Commissioner Cushman, seconded by Commissioner Valderrama, the Board approved **Resolution 2008-211**, Authorizing Issuance of an Amendment to Coastal Development Permit # CDP-2008-01, by the following vote: Yeas-Bixler, Black, Cushman, Najera, Rios, Spane, Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

ACTION AGENDA

SHORE POWER INFRASTRUCTURE FOR B STREET AND BROADWAY PIERS

Agenda Item 34abcd. Michelle White, Senior Environmental Specialist, Environmental Services, addressed the Board with a staff report and reviewed the Carl Moyer Program Grant Fund award and discussed potential sources of additional funding for the project. (A copy of the staff report and presentation are on file in the Office of the District Clerk.)

The following member of the public addressed the Board regarding the item: Laura Hunter, Environmental Health Coalition.

Thomas Dow, Vice President, Carnival Corporation, addressed the Board in support of Cochran Electric to work with the District and provide a consistent and compatible shore power system for the cruise industry operators with port calls along the west coast.

Commissioner discussion ensued. Reporting on his discussions with Mr. Dow and Michael Watts of Cochran Electric, Chairman Bixler stated that the electrical shore power system equipment being considered could be placed in a modular fashion and, as technology moves forward, the equipment may be downsized to create a smaller footprint and be less of a visual impact on the pier head.

Commissioner Cushman expressed his concern regarding waiving BPC Policy No. 110 and negotiating a sole source agreement for the procurement of the electrical shore power system. Commissioner Cushman requested assurance from Mr. Watts that the District would be paying a fair price for Cochran Electric's proprietary technology. Mr. Watts stated that during the negotiating process his company would provide more education regarding the equipment and the benefits of the system as a means to assist in alleviating the Commissioner's concerns regarding the expenditure. Commissioner Cushman requested that Mr. Watts estimate the cost savings to the District if additional ports installed Cochran Electric's shore power equipment prior to the San Diego installation. Mr. Watts stated that, if more systems were installed and if additional improvements in the technology were made, the equipment may decrease in price.

Steve Austin, Senior Engineer, Engineering and Construction, explained that before factoring the expenditures for the necessary consultants, the project's estimated budget was as follows: \$1.9 million for San Diego Gas & Electric (SDG&E) to bring the power to the pier; \$1.7 million for public works infrastructure to support the equipment

and to enable the equipment work to interface with the ships; and an estimated \$2.4 million for the electrical shore power system equipment, a sum that was still under negotiation.

Commissioner Cushman stated his understanding was that the basic equipment was competitively priced and could be manufactured by other suppliers. He continued to express his concern that Cochran Electric's proprietary hardware, would limit the opportunity for other firms to bid competitively. Mr. Watts stated that the proprietary equipment would increase the system's automation and assist in the implementing the necessary safety functions for the operator. Mr. Dow confirmed for Commissioner Cushman that the shore power equipment in Seattle, San Francisco and Vancouver is supplied by Cochran Electric.

Commissioner Najera stated that the burden for sole source projects falls on staff to monitor unit rates and unit costs and that the expenses are detailed by line item.

Mr. Hollingsworth recommended that the Board authorize staff to enter into the sole source agreement under the consideration that the concerns raised would be addressed by staff, and that the contract would be returned to the Board with additional clarification regarding the proprietary equipment and technology.

Commissioner Spane stated that as the shore power program grows there may be opportunities for additional systems and technology.

On motion of Commissioner Cushman, seconded by Commissioner Rios, the Board, with a single vote adopted **Resolution 2008-215**, Authorizing the acceptance of Carl Moyer Program Grant Funds and Grant Indemnity to San Diego Air Pollution Control District; Selected location for Shore Power Equipment for the B Street and Broadway Piers per staff's recommendation; and **2008-216**, Waiving BPC Policy No. 110 and authorize staff to negotiate a Sole Source Agreement for procurement of the Electrical Shore Power System, by the following vote: Yeas-Bixler, Black, Cushman, Najera, Rios, Spane, Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

PUBLIC HEARING/ACTION AGENDA

CONDUCT A PUBLIC HEARING AND ADOPT AN ORDINANCE AMENDING THE PORT OF SAN DIEGO TARIFF 1-G, RATES AND CHARGES

Agenda Item 31. Chairman Bixler opened the Public Hearing. Chairman Bixler requested and received confirmation from the District Clerk that no public speaker slips had been submitted for the item, nor did any member of the audience request to speak.

On motion of Commissioner Spane, seconded by Commissioner Valderrama, the Board voted to close the public hearing, by the following vote: Yeas-Bixler, Black, Cushman, Najera, Rios, Spane, Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

On motion of Commissioner Cushman, seconded by Commissioner Black, the Board approved **Ordinance 2529**, Amending the Port of San Diego Tariff 1-G, Rates and Charges, by the following vote: Yeas-Bixler, Black, Cushman, Najera, Rios, Spane, Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

Chairman Bixler stated that significant public outreach had taken place regarding the item prior to staff bringing the matter before the Board.

ACTION AGENDA

RESOLUTION APPROVING ENVIRONMENTAL PROJECTS AS RECOMMENDED BY THE ENVIRONMENTAL COMMITTEE FOR AN AMOUNT NOT TO EXCEED \$1,444,750

Agenda Item 32. Laura Hunter, Environmental Health Coalition, addressed the Board and spoke in favor of staff's recommendation.

Commissioner Black stated that the environmental projects under consideration are making a positive impact in people's lives.

Commissioner Spane made a motion to accept staff's recommendation regarding the Groundwork San Diego, Chollas Creek Family Stream Team project that is off tideland property, because the project will protect the Port's trust resources.

On motion of Commissioner Spane, seconded by Commissioner Najera, the Board approved **Resolution 2008-212**, Approving Environmental Projects as recommended by the Environmental Committee for an amount not to exceed \$1,444,750, by the following vote: Yeas-Bixler, Black, Cushman, Najera, Rios, Spane, Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

Commissioner Black stated that she was working on an editorial regarding the Board's actions during the past 10 months that support sustainability and the green port initiatives, and she looked forward to publication soon.

Commissioner Spane reported that a lobby display may be created to visually represent and/or display the completed environmental projects. He stated that one example may be to display all of the fish line retrieved during the bay clean up efforts.

Chairman Bixler acknowledged the opportunities to utilize matching funds for the projects, and that the funding was well leveraged to positively impact the stakeholders.

CITY OF IMPERIAL BEACH'S OCEANFRONT SAND REPLENISHMENT PROGRAM

Agenda Item 34ab. Prior to initiation of consideration of the item, Chairman Bixler declared a potential conflict of interest as a beachfront resident of Imperial Beach, whereupon he requested that Vice-Chair Cushman lead the Commissioners in their consideration of the item. Chairman Bixler then left the dais at 3:26 p.m.

Anna Buzaitis, Assistant Redevelopment Planner, Land Use Planning, addressed the Board regarding the program and stated that staff was available to answer any additional questions. (A copy of the staff report is on file in the Office of the District Clerk.)

Commissioner Cushman requested and received confirmation from the District Clerk that no public speaker slips had been submitted for the item, nor did any member of the audience come forward and request to speak.

On motion of Commissioner Valderrama, seconded by Commissioner Najera, the Board approved **Resolution 2008-213**, Adopting the Findings of the Mitigated Negative Declaration prepared by the City of Imperial Beach and Authorize Staff to file the Notice of Determination, **and 2008-214**, Authorizing the Issuance of a Non-Appealable Coastal Development Permit, by the following vote: Yeas-Black, Cushman, Najera, Rios, Spane, Valderrama; Nays-None; Excused-None; Absent-None; Abstained-Bixler.

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

Agenda Item 35. Irene McCormack, Director of Communications and Governmental Affairs, and Jonathan Clay, Carpi and Clay, addressed the Board regarding State legislation of interest to the District. (A copy of the staff report is on file in the Office of the District Clerk.)

Commissioner discussion ensued. Commissioner Valderrama requested and received confirmation that Senate Bill 974 sponsored by Senator Lowenthal, that would have imposed a fee on all container cargo going in and out of the ports of Los Angeles, Long Beach and Oakland, was vetoed. Commissioner Valderrama requested and received confirmation from Ms. McCormack that staff would follow the matter. Chairman Bixler returned to the dais at 4:35 p.m.

REVIEW AND CONSIDERATION OF PROPOSED BOARD AGENDA FOR MEETING OF NOVEMBER 4, 2008

Agenda Item 36. Duane Bennett, Port Attorney, stated that as requested, staff would add an item to the November 4, 2008 closed session agenda regarding the status of the Spinnaker - San Diego Convention Center issue.

On motion of Commissioner Valderrama, seconded by Commissioner Black, the Board approved the placement of the proposed agenda of November 4, 2008, by the following vote: Yeas-Bixler, Black, Cushman, Najera, Rios, Spane, Valderrama; Nays-None; Excused-None; Absent-None; Abstained-None.

RESOLUTION ELECTING CHAIR, VICE-CHAIR, AND SECRETARY OF THE BOARD OF PORT COMMISSIONERS TO SERVE FOR CALENDAR YEAR 2009

Agenda Item 37. Chairman Bixler nominated Stephen P. Cushman for Chair of the Board of Port Commissioners; the nomination was seconded by Commissioner Rios. Commissioner Spane nominated Robert "Dukie" Valderrama for Vice-Chair; the nomination was seconded by Commissioner Najera. Commissioner Black nominated Michael Najera for Secretary; the nomination was seconded by Commissioner Spane.

The Board adopted, with a single vote, **RESOLUTION 2007-217** electing Stephen P. Cushman as Chair of the Board of Port Commissioners, Robert "Dukie" Valderrama as Vice Chair of the Board of Port Commissioners, and Michael Najera as Secretary of the Board of Port Commissioners for the upcoming year 2009, by the

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

OFFICER'S REPORT

Agenda Item 38. In accordance with BPC Policy 110, the following change orders, executed by the Executive Director, were reported:

- a) Change Order No. 1 for \$0.00 and 60 Calendar Days to Contract No. 2005-23 with Rock Electric, Inc. Port Wide Access Control System San Diego and National City, California.
- b) Change Order No. 2 for \$10,067.86 and 0 Calendar Days to Contract No. 2005-34R with Rock Electric, Inc. Restricted Area Surveillance System National City Marine Terminal, National City, California
- c) Change Order No. 1 for \$6,713.47 and 5 Calendar Days to Contract No. 2008-01 with Kaveh Engineering and Construction, Inc. TAMT "Dole" Stacker Pads Repair, San Diego, California

PRESIDENT'S REPORT

Agenda Item 39. None.

BOARD COMMITTEE REPORTS

Agenda Item 40. None.

COMMISSIONER COMMENTS

Agenda Item 41. None.

Chairman Bixler noted that there were no additional items on the open session agenda for discussion; whereupon, he announced the Board would reconvene to closed session to discuss remaining closed session items.

CLOSED SESSION

Agenda Item 3.

CONFERENCE WITH LABOR NEGOTIATOR
Government Code Section 54957.6

District Negotiator: Executive Director

Employee Organization:
Harbor Police Officers Association

Agenda Item 4.

CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION
Significant exposure to litigation pursuant to Subdivision (b)(1) of Government
Code Section 54956.9:
Two Cases

Agenda Item 5.

CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION
Pursuant to Subdivision (a) of Government Code Section 54956.9:

SDUPD vs. Deborah Seiler; Mary Ann Liner, et al.
San Diego Superior Court No. 37-2008-00089123-CU-WM-CTL

Agenda Item 6.

CONFERENCE WITH REAL PROPERTY NEGOTIATOR
Government Code Section 54956.8

Property: Approximately 30 Acres West of Marina Parkway
and South of G Street, Chula Vista

Negotiating Parties: Bennett Westbrook, Gaylord Entertainment
Randa Coniglio, SDUPD

Under Negotiation: Price and Terms

Agenda Item 7.

CONFERENCE WITH REAL PROPERTY NEGOTIATOR
Government Code Section 54956.8

Property: Fifth Avenue Landing, LLC
located bayward of Convention Way
and Marina Park Way, San Diego

Negotiating Parties: Raymond Carpenter and Arthur Engel
Karen Weymann, SDUPD

Under Negotiation: Price and Terms

Agenda Item 8.

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

Government Code Section 54957.6

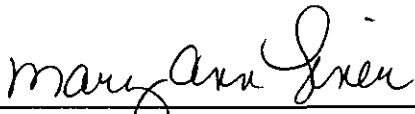
There was no closed session discussion to Item 5.

There was no formal or reportable action, pursuant to Government Code Section 54950 et seq to report from the closed session; whereupon, Chairman Bixler adjourned the meeting.



Secretary, Board of Port Commissioners
San Diego Unified Port District

ATTEST:



Clerk of the San Diego Unified Port District