

**AGENDA OF THE REGULAR MEETING OF THE
LOS ANGELES BOARD OF HARBOR COMMISSIONERS
THURSDAY, JANUARY 20, 2011 AT 8:30 A.M.
PORT OF LOS ANGELES ADMINISTRATION BUILDING
425 S. PALOS VERDES STREET
SAN PEDRO, CA 90731**

BOARD OF HARBOR COMMISSIONERS

**President Cindy Miscikowski
Vice President David Arian
Commissioner Kaylynn L. Kim
Commissioner Robin M. Kramer
Commissioner Douglas P. Krause**

**A. OPENING STATEMENT – AN OPPORTUNITY FOR MEMBERS OF
THE PUBLIC TO ADDRESS THIS BOARD**

**PERSONS IN THE AUDIENCE MAY ADDRESS THIS BOARD IN
CONNECTION WITH ANY AGENDA ITEM OR DURING THE PUBLIC
COMMENT PERIOD.**

**AS PROVIDED BY THE BROWN ACT, THE BOARD HAS LIMITED EACH
INDIVIDUAL'S SPEAKING TIME TO THREE MINUTES. ANYONE
DESIRING TO SPEAK DURING THE PUBLIC COMMENT PERIOD IS
REQUESTED TO COMPLETE A SPEAKER CARD AND SUBMIT IT TO THE
COMMISSION SECRETARY, VIA THE SERGEANT AT ARMS, PRIOR TO
THE START OF THE MEETING.**

Commission actions, except actions which are subject to appeal or review by the Council pursuant to other provisions of the Charter, ordinance or other applicable law, are not final until the expiration of the next five meeting days of the City Council during which the Council has convened in regular session. If the Council asserts jurisdiction during this five meeting day period the Council has 21 calendar days thereafter in which to act on the matter.

Please note that this agenda is subject to revision in accordance with the Brown Act. In the event the agenda is revised prior to the meeting, Port staff will endeavor to post the revised agenda on the Port's web site (<http://www.portoflosangeles.org>). Updated agendas also will be available in hard copy at the meeting. ~~Live Board meetings can also be heard at: (213) 621-City (Metro), (818) 904-9450 (Valley), (310) 471-City (Westside) and (310) 547-City (Harbor).~~ Note: Board meetings cannot be heard via phone until further notice.

As a covered entity under Title II of the Americans with Disabilities Act, the City of Los Angeles does not discriminate on the basis of disability and, upon request, will provide reasonable accommodation to ensure equal access to its programs, services, and activities.

Sign language interpreters, assistive listening devices, and translation services may be provided. To ensure availability, 72-hour advance notice is required. Contact the Commission office at (310) 732-3444.

Interpretes de señas, sistemas auditivos y servicios de traducciones están disponibles. Para asegurar disponibilidad, se requiere solicitarlos con 72 horas de anticipación. Para hacer la solicitud, llame a la oficina de la Comisión al (310) 732-3444.

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B. COMMENTS FROM THE PUBLIC ON NON-AGENDA ITEMS

C. EXECUTIVE DIRECTOR REMARKS

D. REPORTS OF THE COMMISSIONERS

E. BOARD COMMITTEE REPORTS

F. PRESENTATIONS

Resolution for George & Carmela Cunningham, the Cunningham Report.
Five Year Resets, Deputy Executive Director, Kathryn McDermott.
Project Labor Agreement, Deputy Executive Director Mike Christensen.

G. BOARD REPORTS OF THE EXECUTIVE DIRECTOR

CONSENT ITEMS (1 - 4)

Commission Office

1. Re: RESOLUTION NO. _____ - APPOINTING COMMISSIONER DAVID ARIAN AS AN ALTERNATE TO THE ALAMEDA CORRIDOR TRANSPORTATION AUTHORITY

SUMMARY: The Board is being asked to adopt the subject Resolution appointing Commissioner David Arian as an alternate on the Governing Board of the Alameda Corridor Transportation Authority.

Recommendation: Adoption of the subject Resolution.

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Real Estate

2. Re: RESOLUTION NO. _____ PROPOSED FOURTH
AMENDMENT TO PERMIT NO. 827 WITH APM TERMINALS
PACIFIC, LTD

SUMMARY: *On June 17 2010, the Board of Harbor Commissioners (Board) approved an amendment to Tariff No. 4 exempting terminal operators from Items 520 and 550-033 of the Port of Los Angeles (POLA) Tariff No. 4 (Tariff), Section Five, "Transferred Merchandise – Wharfage" for the one-year period extending from July 1, 2010 through June 30, 2011 (Board Order No. 10-7055). Permit No. 827 with APM Terminals Pacific, Ltd. (APMT) does not allow POLA Tariff amendments to affect the terms of the permit regarding certain container fees. Therefore, in order for the amended Tariff provisions to apply to APMT, an amendment to Permit No. 827 is required. The proposed Fourth Amendment to Permit No. 827 would apply the recently amended Tariff, Section Five, "Transferred Merchandise – Wharfage" provisions to APMT.*

Recommendation: Board resolve to (1) approve the Fourth Amendment to Permit No. 827 with APMT, which implements the provisions of Tariff, Section Five, "Transferred Merchandise – Wharfage" as amended by the Board on June 17, 2010 and City Council on July 27, 2010; (2) direct the Board Secretary to transmit the Fourth Amendment to the City Council for approval pursuant to Section 606 of the City Charter; (3) authorize the Executive Director to execute and the Board Secretary to attest to the Fourth Amendment upon approval by City Council; and (4) adopt Resolution No. _____.

3. Re: ORDER NO. _____ - PROPOSED COMPENSATION
RESETTING UNDER PERMIT NO. 581 WITH ROBERT W. NIZICH
AND NINO J. ROSINI, A CO-PARTNERSHIP

SUMMARY: *Permit No. 581 grants Robert W. Nizich and Nino J. Rosini, a co-partnership (Nizich and Rosini), use of City of Los Angeles Harbor Department (Harbor Department) property at Berth 79, for the operation of Café International, a fast-food establishment that is also permitted to serve alcoholic beverages. Permit No. 581 has a 28-year term, effective March 6, 1986 to December 31, 2014.*

The proposed Order resetting compensation covers the final compensation reset period of March 6, 2011 through December 31, 2014. Commencing March 6, 2011, the fixed minimum rent is proposed to be \$16,440 per year, and starting July 1, 2011, and every year thereafter, the fixed minimum rent shall be adjusted, but in no event downward, by the Consumer Price Index (CPI).

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3. (Continued)

Recommendation: Board resolve to (1) approve the Order resetting compensation under Permit No. 581 with Nizich and Rosini for the period of March 6, 2011 through December 31, 2014; (2) authorize the Board Secretary to attest to the Order setting compensation pursuant to Permit No. 581; and (3) adopt Order No. _____.

4. Re: ORDER NO. _____ AND _____ ORDINANCE
PROPOSED GRANT AND EASEMENT DEEDS BETWEEN THE CITY
OF LOS ANGELES HARBOR DEPARTMENT AND THE CITY OF
LONG BEACH HARBOR DEPARTMENT – LAHD NO. 70014

SUMMARY: It is the intent of the City of Los Angeles Harbor Department (Harbor Department) and the City of Long Beach Harbor Department (POLB) that all of the property upon which the Alameda Corridor and its related facilities are located be jointly owned and under the jurisdiction and control of each department's respective Board of Harbor Commissioners. To further that objective, the exchange of property rights between the Harbor Department and the POLB for the section of the Alameda Corridor tracks parallel to Henry Ford Avenue between Pier A Way and the Cerritos Channel (Harbor Department Parcels) and the adjacent property related to the relocation of Henry Ford Avenue (POLB Parcels) necessary to construct the Alameda Corridor is proposed.

The proposed Grant Deed provides 50 percent of the property rights in the Harbor Department Parcels totaling 185,398 square feet (s.f.) to the POLB; provides the POLB the ability to purchase, in the future, subsurface easement rights necessary for the POLB to access its adjacent properties; and preserves all other underground rights for the Harbor Department. The proposed Easement Deed provides rights to the Harbor Department for use of POLB Parcels totaling approximately 145,810 s.f. for the construction and maintenance of Henry Ford Avenue. The aggregate value and utility of the property rights being exchanged is generally equivalent, therefore, no monetary consideration is to be given in connection with the proposed exchange, except for the subsurface rights necessary for the POLB to access its adjacent properties.

Recommendation: Board resolve to (1) find that it is in the best interest of the City of Los Angeles (City) and the public for the Harbor Department to exchange property rights related to railroad and road rights-of-way with the POLB since the property being exchanged is of equal value and utility, the property rights being obtained by the Harbor Department are essential to the long-term operation of that portion of Henry Ford Avenue that accesses the Wilmington Marinas, and the exchange includes sharing of property

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4. (Continued)

maintenance costs of all properties included in the exchange; (2) find it is in the best interest of the City and the public, as an essential component of the property exchange referenced above, that the City agree to convey in exchange for consideration subsurface easement rights located between Pier A Way and the Cerritos Channel, necessary for the POLB to access its adjacent properties to the POLB providing the POLB access to its adjacent properties; (3) approve the proposed Grant Deed conveying 50 percent property rights in two Harbor Department parcels (Parcels HF-1584-1 and HF-1584-2) to the POLB and approve the proposed Easement Deed conveying easement rights in five POLB parcels (Parcels HF-1583-1, HF-1583-2, HF-430, HF-428, and HF-426) to the Harbor Department; (4) request City Council to authorize [s1]the Board of Harbor Commissioners to establish the market value for the subsurface easement based upon the procedures established in the Grant Deed and to execute all documents necessary for the future private sale of subsurface easement rights to the POLB for construction and operation of a tunnel under the Alameda Corridor and Henry Ford Avenue; (5) direct the Board Secretary to transmit the Grant Deed and Ordinance to the City Council for its approval in accordance with the provisions of Section 385 of the City Charter and Section and 7.27 of the Los Angeles Administrative Code; (6) authorize the Executive Director to execute and the Board Secretary to attest to the proposed Grant Deed upon approval by City Council and conditioned on the POLB granting the proposed Easement Deed; (7) authorize the Executive Director to execute and the Board Secretary to attest to the proposed Easement Deed upon POLB granting of the proposed Easement Deed and conditioned on City Council approval of the proposed Grant Deed; and (8) adopt Order Nos. _____.

REGULAR ITEMS (5 & 6)

Real Estate

- 5. Re: RESOLUTION NOS. _____ - PROPOSED FOURTH AMENDMENT TO PERMIT NO. 999 AND PROPOSED THIRD AMENDMENT TO PERMIT NO. 787 BETWEEN CITY OF LOS ANGELES HARBOR DEPARTMENT AND CHINA SHIPPING (NORTH AMERICA) HOLDING COMPANY, LTD. AND YANG MING MARINE TRANSPORT CORPORATION, LTD., RESPECTIVELY**

SUMMARY: Permit No. 999, between the City of Los Angeles Harbor Department (Harbor Department) and China Shipping (North America) Holding Company, Ltd. (China Shipping Holding) grants nonexclusive use of 72.48

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5. (Continued)

acres at Berths 100-102 for container terminal operations. Permit No. 787 between the Harbor Department and Yang Ming Marine Transport Corporation (YM) grants nonexclusive use of approximately 186 acres at Berths 121-131 for container terminal operations. These adjacent terminals have entered into a cooperative arrangement that allows both terminals to be operated jointly as one terminal. However, the TEU efficiency scale that provides discounts on compensations for higher TEU throughput applicable to each individual permit does not reflect such combined and cooperative terminal operations.

The proposed Fourth Amendment to Permit No. 999 and Third Amendment to Permit No. 787 provide for the aggregate number of TEUs processed on the combined Permit Nos. 999 and 787 premises to be utilized for calculation of the applicable TEU charge based on the TEU efficiency scale in each permit. Both amendments are proposed to be effective retroactively on May 1, 2009. The Fourth Amendment to Permit No. 999 also consents to a tenant name change. All other terms and conditions of both permits remain unchanged.

Recommendation: Board resolve to (1) approve the Fourth Amendment to Permit No. 999 with China Shipping Holding; (2) approve the Third Amendment to Permit No. 787 with YM; (3) direct the Board Secretary to transmit the Fourth Amendment to Permit No. 999 and the Third Amendment to Permit No. 787 to the Los Angeles City Council for approval pursuant to Section 606 of the City Charter; (4) authorize the Executive Director to execute and the Board Secretary to attest to the amendments upon approval by Los Angeles City Council; and (5) adopt Resolution Nos. _____.

Business & Trade Development

6. Re: RESOLUTION NO. _____ - CALIFORNIA UNITED TERMINALS, INC. MOVING EXPENSE FROM THE PORT OF LONG BEACH TO THE PORT OF LOS ANGELES

SUMMARY: *On August 5, 2010 the City of Los Angeles Harbor Department (Harbor Department) affirmed a sublease of a portion of the premises at Berths 401-406 to California United Terminals, Inc (CUT) under the conditions set forth in Permit No. 827 between the Harbor Department and APM Terminals Pacific, LTD (APMT). The Harbor Department is proposing to reimburse CUT for certain expenses associated with moving from the Port of Long Beach to the Port of Los Angeles. The total expense to the Harbor Department will not exceed \$1.25 million. Staff is recommending the Board of Harbor Commissioners (Board) approve the Resolution.*

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6. (Continued)

Recommendation: Board resolve to (1) authorize the transfer of \$1.25 million from the Unappropriated Balance to Account 59964 (Customer Operations Subsidies & Incentives), Center 0900 (Harbor Operating) for FY 2010/2011 to fund California United Terminals, Inc. moving expense from the Port of Long Beach to the Port of Los Angeles; (2) adopt Resolution No. _____ authorizing the transfer of \$1.25 million from the Unappropriated Balance to Account 59964 (Customer Operations Subsidies & Incentives), Center 0900 (Harbor Operating) for FY 2010/2011; and (3) direct the Board Secretary to transmit the Resolution to the Mayor for approval pursuant to Section 343(b) of the City Charter.

H. **CLOSED SESSION**

1. **CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION**
(Subdivision (b) of Government Code Section 54956.9)

Significant exposure to litigation pursuant to subdivision (b) of Section 54956.9 regarding subject matter of mediation with Gambol Industries, Inc.

2. **CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION**
(Subdivision (a) of Government Code Section 54956.9)

American Trucking Associations, Inc. v. City of Los Angeles, et al.,
United States District Court Case No. 08-04920-CAS, and United States Court of Appeals for the Ninth Circuit Case No. 08-56503

3. **CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION**
(Subdivision (b) of Government Code Section 54956.9)

Significant exposure to litigation pursuant to subdivision (b) of Section 54956.9: one case.