## SAN FRANCISCO AIRPORT COMMISSION



July 7, 2015

9:00 A.M.

Room 400 - City Hall #1 Dr. Carlton B. Goodlett Place (400 Van Ness Avenue) City and County of San Francisco

EDWIN M. LEE, MAYOR

COMMISSIONERS LARRY MAZZOLA President LINDA S. CRAYTON Vice President ELEANOR JOHNS RICHARD J. GUGGENHIME PETER A. STERN

> JOHN L. MARTIN Airport Director

SAN FRANCISCO INTERNATIONAL AIRPORT SAN FRANCISCO, CALIFORNIA 94128

# Minutes of the Airport Commission Meeting of July 7, 2015

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#### AIRPORT COMMISSION MEETING MINUTES July 7, 2015

#### A. CALL TO ORDER:

The regular meeting of the Airport Commission was called to order at 9:00 AM in Room 400, City Hall, San Francisco, CA.

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B. ROLL CALL:

Present:

Hon. Larry Mazzola, President Hon. Linda S. Crayton, Vice President Hon. Eleanor Johns Hon. Richard J. Guggenhime Hon. Peter A. Stern

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C. ADOPTION OF MINUTES: The minutes of the regular meeting of June 16, 2015 were adopted unanimously.

No. 15-0140

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D. SPECIAL ITEM:

Item No. 1 was moved by Commissioner Crayton and seconded by Commissioner Guggenhime. The vote to approve was unanimous.

1. Retirement Resolution - Sandra Crumpler

No. 15-0141

Resolution commending Sandra Crumpler for 36 years of service with the City and County of San Francisco, with over 33 years with the Airport Commission. The resolution thanks her for her tireless efforts on behalf of both the City's Chapter 14B local, small, disadvantaged and minority business outreach program, and the FAA's Airport Concessions Disadvantaged Business Enterprise program.

Mr. John Martin, Airport Director asked Sandra to come forward. Sandra is a greatly respected and beloved member of the Airport staff. Now officially retired, Sandra worked for 36 years, beginning her career as an Aide to Supervisor Terry Francois. She came to the Airport in 1989 ... we started almost exactly at the same time. Sandra has been a member of the Airport Management Staff the entire time. She has been a tireless advocate and promoter of LBE SBE opportunities and received countless accolades ... from the FAA, Small Business Commission, the City's HRC, the Mayor's Office. She is well respected within the industry and San Francisco for

the outstanding job she's done. Sandra has consistently helped us to achieve 30% LBE participation on contract dollars, and 50% LBE/DBE participation on concession leases. We led the way nationwide. Sandra's approach has always been to work as a team member. She has tremendous respect from the staff and we will miss her outstanding leadership and her commitment to excellence at SFO.

Commissioner Mazzola congratulated Ms. Crumpler.

Ms. Crumpler thanked the Director and the Commission. It has been really exciting working at the Arport. Every five years, it was always something new, right Jean? We were always doing major projects, always doing something that kept up the excitement. You feel alive when you walk around in an airport so I've enjoyed it. I look forward to doing other interesting things. Travel and continuing to work with small businesses, so you'll see me around. Thank you very much for your support. I couldn't have done it without the support of the Commission and the support of our Senior staff and other Management staff. Thank you very much.

Commissioner Crayton said I want to say that you've certainly been an asset to the Airport and you have been a shining star here. I have not only heard this from staff, but what's more important to me, I know what you've done in the community for the Airport. Every time I've taken a complaint to you, you've jumped right on it and learned it was unfounded. You know how to clear it up and explain what we're doing. We've dealt with some devious people in terms of trying to say things that were not true. The San Francisco Black Chamber of Commerce, the NAACP, and other organizations have lauded you for the work that you've done. You've done some groundbreaking things at the Airport. I know that they didn't have labor laws when you started because you started as a child right out of school. We thank you for your long tenure. One of the things that is so important to me is that you have always been very business like and very business friendly, no matter how someone approached you, which has been good for the Airport. Even though someone may approach you in an unprofessional manner, you were always professional and represented the Airport in a manner that made me so proud. I thank you, not only for the knowledge that you gave me, but the knowledge that you've been part of too, not only the staff but to other outside organizations. Even though you're retiring from the Airport, I know that you're going to be there as a resource to help others. Thank you. There's just not enough that we can say for the historic things that vou've done. And I thank John for giving you the opportunity and the ability to work in those areas and bring us to this level. It takes a keen leader and a keen leadership team to move the Airport. Thank you for being a part of that.

Ms. Crumpler ... John was really supportive of that.

Commissioner Crayton ... yes he was.

Ms. Crumpler said I could go to John with an idea and he would trust me and say okay. I really appreciated that.

Commissioner Mazzola said one of the professions that I've hated all my life is a Consultant, but a couple of years ago I became one. I'm sure John will call you as

a Consultant now and then because we need your knowledge. We wish you a lot of luck in your retirement.

Ms. Crumpler said I would to just have my husband stand up ... Dewey.

Commissioner Crayton said thank you so much. He's an artist?

Ms. Crumpler replied that he teaches at the San Francisco Art Institute. So, thank you very much. I really appreciate it.

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#### E. ITEMS INITIATED BY COMMISSIONERS:

Commissioner Mazzola heard that San Jose Airport made some kind of deal with Uber ... do we know what it? I have some people telling me it's better than our deal.

Mr. Martin said what I've heard is that Uber and Lyft are unlikely to sign the agreement because I believe it requires registration of the car and the drivers and Uber has not agreed to that.

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- F. ITEMS RELATING TO ADMINISTRATION, OPERATIONS & MAINTENANCE: Item No. 2 was moved by Commissioner Johns and seconded by Commissioner Mazzola. The vote to approve was unanimous.
  - Modification No. 5 to Professional Services Contract No. 9185.9 Program Support Services for Terminal 1/Boarding Area B Redevelopment Program - T1 Partners, a J.V. of Parsons, The Allen Group, LLC and EPC Consultants, Inc. - \$7,500,000

No. 15-0142 Resolution approving Modification No. 5 to Professional Services Contract No. 9185.9 Program Support Services for the Terminal 1/Boarding Area B Redevelopment Program with T1 Partners, a J.V. of Parsons, The Allen Group, LLC and EPC Consultants, Inc. in an amount not to exceed \$7,500,000, for a new contract amount not to exceed \$19,760,757 for services thru July 7, 2016.

Mr. Geoff Neumayr, Deputy, Design & Construction said that this item approves Modification No. 5 to Contract 9185.9 for the Terminal 1, Boarding Area B Redevelopment Program Management Services with T1 Partners. T1 Partners is a joint venture made up of Parsons, The Allen Group, and EPC. This modification increases the not-to-exceed amount by \$7.5 million and revises the total not-toexceed amount for this contract to \$19.8 million. The Terminal 1 Boarding Area B Redevelopment Program consists of a number of projects, including renovation of the Terminal 1 Center Project, the new 24-gate Boarding Area B project, a new consolidated common use baggage handling system, as well as various enabling projects. This proposed modification is for the third year of services and provides for continued program management support services that include Terminal program planning, program level cost and schedule reporting, continued implementation of docking control systems, program management systems, and building information management systems for the Terminal 1 program and overall program construction management services. With this proposed modification, staff still forecasts a \$150 million soft cost performance, which is within the overall goal of 15% of the \$2.1 billion cost of this program. CMD has approved 22% goal for this contract and T1 Partners is committed to meeting it.

Item No. 3 was moved by Commissioner Johns and seconded by Commissioner Guggenhime. The vote to approve was unanimous.

3. <u>Modification No. 2 to the Federal Legislative Advocacy Contract - Smith, Dawson &</u> <u>Andrews - \$528,000</u>

No. 15-0143 Resolution approving Modification No. 2 to the Federal Legislative Advocacy Contract with Smith, Dawson & Andrews, exercising a two-year option to extend the contract through June 30, 2017 and increasing the contract amount by \$528,000, for a new total contract amount not to exceed \$1,828,000.

Ms. Cathy Widener, Airport Government Affairs said the item before you seeks your approval for Modification No. 2 to the Airport's Federal Legislative Advocacy Contract with Smith, Dawson & Andrews (SDA). This contract was originally approved by the Commission in 2010 for a five-year term. Modification No. 2 also exercises the first of two 2-year options to extend the contract through July 2017 as well as add \$528,000 to the current contract amount. SDA has been an invaluable partner with SFO in dealing with our large projects, many of which have a Federal reimbursement component such as our Runway Safety Area project, the Tower project, as well as the project to upgrade the baggage system throughout the Terminals. They also serve as the Airport's liaison in Washington at Congressional hearings and industry conferences. The contract allows for payment to subcontractors on an as-needed basis. There are currently two sub-contracts associated with this contract, both of which are related to having an expertise in FAA policies surrounding Congressional re-authorization actions that are currently taking place in Washington. This contract has allowed SFO to guickly respond to Federal safety and security mandates as well as to better navigate the various Federal agencies and their cost sharing abilities on projects at the Airport as well as TSA staffing issues that have come up.

Commissioner Johns said I see three subcontractors listed, not two. What is the "PM" after the amount of money?

Ms. Widener replied that's what they receive per month. We've listed all of the subs that have ever been associated with this contract. Currently, Command Consulting is not a sub to SDA. We used them in dealing with some TSA and Homeland Security issues surrounding our private screening contract with Covenant.

Commissioner Johns ... "per month" is when it's needed? It's not a retainer?

Ms. Widener said yes. Both Kadish & Associates and Woodward & Associates receive those amounts on a monthly basis because we are currently using them on various projects. We don't have a specific time contract with them. When those projects are over or when we feel like we need to focus on a different area, we simply send a letter saying that their sub-consulting services are no longer needed.

Mr. Matin said we're using them today. An issue may come up suddenly and we're using Mark Kadish a lot. Then there may be a period of time when we don't talk to him at all. The firms in Washington D.C. are typically paid on a retainer basis.

Commissioner Johns ... what if they feel they've done more than a per monthly basis?

Mr. Martin ... I think at least one firms would say they were severely under paid.

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- G. CONSENT CALENDAR OF ROUTINE ADMINISTRATIVE MATTERS: The Consent Calendar, Item Nos. 4 through 6, was moved by Commissioner Crayton and seconded by Commissioner Guggenhime.
  - 4. <u>Modification No. 6 to Professional Services Contract No. 9048.9 Construction</u> <u>Management Services for the Terminal 3 Improvement Projects - T3 East, a Joint</u> <u>Venture of Cooper Pugeda Management, Inc. and Environmental and Construction</u> <u>Solutions - \$1,800,000</u>
    - No. 15-0144

Resolution approving Modification No. 6 to Professional Services Contract 9048.9, Construction Management Services for the Terminal 3 Improvement Projects with T3 East, a J.V. of Cooper Pugeda Management, Inc. and Environmental and Construction Solutions, in an amount not to exceed \$1,800,000 for a new contract amount not to exceed \$11,794,000 and a new contract duration thru November 11, 2016.

- 5. <u>Award Five-Year Professional Services Contract 50028 Provide Commercial</u> <u>Paper Issuing and Paying Agent Services - U.S. Bank National Association -</u> <u>\$100,000</u>
  - No. 15-0145 Resolution awarding five-year Professional Services Contract 50028 to U.S. Bank National Association to provide Commercial Paper Issuing and Paying Agent Services in an amount not to exceed \$100,000.
- 6. <u>Renew Memorandum of Understanding with the San Francisco Aeronautical</u> <u>Society</u>

No. 15-0146

Resolution renewing the MOU with the San Francisco Aeronautical Society, designating it as the affiliated support group for the San Francisco Airport Commission Aviation Library and the Louis A. Turpen Aviation Museum.

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#### D. SPECIAL ITEM (continued):

7. Biennial Training for Commission Members

Biennial training for Commission members regarding disclosure obligations and compliance with applicable Federal Securities Laws, as required by the Commission's Disclosure Policies and Procedures, adopted Sept. 9, 2014.

Mr. Dave Stevens, Airport Legal Team, said the City Attorneys Office said as you know, the Airport is a frequent issuer of municipal bonds to finance it's capital projects and along with the issuance of municipal bonds comes the requirement that the Airport abide by Federal Securities laws including with regard to disclosure, which means providing bond holders and potential bond holders with all of the information that they may need to make a good investment decision. And so the Securities and Exchange Commission is one of the bodies that regulates this area and they have been undertaking a number of enforcement actions of late. So last year the Airport Commission adopted Disclosure Policies and Procedures to formalize the Airport's practices in this area and make sure that we were all in compliance. One of the items that is required in our Policies and Procedures, and also by the Securities and Exchange Commission is that there will be regular training. So, we will be doing training every other year for Commission members and also staff that is involved in any aspect of bond related disclosure. So, todav is our first training. We will have two sessions today, this session for Commission members and a session later this afternoon that will be longer for Sr. Staff, Management Staff, and other staff involved in actually doing the disclosure work.

I would like to introduce Dan Deaton, the Airport's Disclosure Council from the law firm of Nixon Peabody, and he will conduct the training for you this morning. He's promised to keep it to about 15 minutes. So, without further ado, I would like to introduce Dan Deaton.

Mr. Dan Deaton said I'm a partner with Nixon Peabody in Los Angeles and I've served as the Airport's Disclosure Council for the last five years and it's my pleasure to address you all ths morning. I'm going to talk about four things this morning. The first is, what are we even talking about? The second is what in the world is going on? The third is what are people doing about it? And the fourth is what should you as Commissioners do about it?

And so, whenever the Airport sells bonds, there is an Official Statement by, which is prepared in connection with the sale of bonds, or whenever the Airports speaks to investors, which can happen in a number of different ways. It can happen through

a formal document like this, it can happen through an annual report that is done every single year that updates the financial and operating information for people who continue to trade the bonds of the Airport in the marketplace, or in a variety of other formal and informal way. It's whenever the Airport speaks to investors it triggers the application of something called the Federal Anti Fraud laws. And we've handed out these points to takes us through. And on Page 3, we have a real basic view of the Federal and iFraud laws. And the bottom line is, is that they say that issuers may not speak to an investor in a way that materially mistakes facts or a omits material facts in a way that would make it misleading. Now the thing to keep in mind here is that when we talk about Federal Anti-Fraud laws, there's a lot of misconstructions that can occur because it sounds to us like ... well what the rule says is you're not allowed to lie. But, the Federal Anti-Fraud Laws are different than saying you can't lie in two very important respects. First of all, when we talk about lying, what we really mean is that something you said was wrong. And the Federal Anti-Fraud law test things in a way that's more wholelistic than that, which is to say the Federal Anti-Fraud laws require for the statements not to be misleading ... taken as a whole they are not allowed to be misleading. So if you state certain things but leave other things out, that can still violate the Federal and Anti-Fraud laws. And the Second and most important thing is that it doesn't require intentionality to violate the Federal Anti-Fraud laws. It can just be as low as negligence, just not exercising reasonable care. And that's what a lot of this story and the importance of this presentation this day comes down to is issuers needing to apply reasonable care to what they are doing.

So that's what we're talking about this morning. So what I wanted to do is just take a couple of seconds here, and we'll shoot down to Slide 5 and talk about what's going on. Usually when you talk about a training about legal things, you would expect me to stand up and talk about a new wonderful array of rules and regulations that you would want to learn about what those rules and regulations are. That actually isn't what we're talking about today at all. In fact, what's much more akin to is more of a narrative that has unfolded in the municipal security's market in the last ten years. Starting about 10 years ago I would say, that the sentiment in the marketplace was that, well I'm so glad that we work with municipal issuers because it's not like those corporate guys where there's all these greedy guys trying to steal money from people. We don't have to deal with those issues. And the narrative that has really unfolded in the municipal security's market is that we had our problems to. And we've learned a lot of problems through the SEC's enforcement activity in the last 10 years and they fall under three really basic categories. First is what we can call the silo affect. That there's been a number of instances, and I'm going to give you three stories that we're going to walk through real quickly, where this is occurred, where different instances arose. But the first is the silo affect where issuers were so divided into silos that the information and the perspectives that were necessary for the issuer to speak in its totality were so divided into silos that the information never really wound its way to the investors. Sort of this up divided these bureaucratic silos.

The second problem is a general lack of training that the SEC has encountered in a lot of the issuers that they have gone into and done enforcement actions with. And the third that they found is that political considerations have actually had, in some notable instances, a significant influence on the ultimate result of the disclosure

such that the investors never, in some instances, despite real reasonable care and despite without intentionality, it's really funny how it just can insidiously work its way through, the investors never really got a fair shot at the full story because of the impact of the political considerations.

Let me tell you three stories real quickly here, and the first is the City of San Diego. This is one that really launched it off into the market and this is one that really told the SEC, that yes, this can happen too in the municipal securities market. And it was a very well known instance where the City of San Diego had a major under funding of their pension system, and their pension costs from their general fund to their pension systems were projected to spike an extreme rate and some estimates said that it was going from 5% of general fund expenditures to a 1/3 of their general fund expenditures. So this is really important consideration for anybody who's buying bonds backed by their general fund. And they went through an entire sequence of long term issuances in which they, everything that they stated for the most part was correct that they put in their disclosure but they never told investors oh, by the way, the one thing we're not telling you is that our pension costs are spiraling out of control and it's severely destabilizing our general fund. The SEC came in and they threw the hammer down and they said this is a clear violation of the Federal Anti-Fraud laws. Yes, maybe what you said was correct technically correct, but you omitted a fact that the investors needed to understand in order to understand the total system of the credit that they were purchasing. And the SEC imposed severe remediation measures on the City of San Diego and grinded them to a halt. And for those who don't know, many, many people lost their jobs and it was a very traumatic event within the City of San Diego. And even to this day, the legacy of those remediation measures remain. And this mattered a lot to the municipal securities market because it really started the world that we are in. So that's the first story.

The second story is the State of New Jersey, a very different picture of what happened there. In the State of New Jersey, and we serve as Disclosure Council to the State of New Jersey as well, we were the ones who assisted the State in remediating their pension disclosure, etc. I know the people there very well. They tried their hardest. They didn't know of anything that they were failing to tell investors. In fact, the problem from their perspective is, they were taking a whole bunch of information and just dumping it into the Official Statement and sending it out to investors. If you read the disclosure, it was so all over the place that you could never realize from reading that Official Statement that they sort of had the same problem as the City of San Diego ... that their costs from their general fund to their pension system was spiking and the investors didn't have a fair chance of really getting that out of the Official Statement. What the SEC concluded there was very different than in the case of the City of San Diego. There, what the SEC said was you didn't intend to deceive anybody. They didn't allege that. What the SEC came in and said was that this was done by such an ad hoc and sloppy and unreasonable process that the State, stepping back could not access that it had reasonably taken the kind of care that would take care of an investor. And the SEC talked about things like a lack of disclosure process, a lack of training, noted facts of employees of the State of New Jersey were just churning the data. They weren't sitting down and asking what do investors need to know. So the SEC in this situation talked about the importance of implementing disclosure policies and procedures, the importance of training people. The trauma of that still continues to this very day.

Finally, the last story is the City of Harrisburg. In the instance of the City of Harrisburg, the City of Harrisburg knew that it was going to go insolvent and as a result it cut off all communications to their investors and their political stakeholders as well. As a result of that, what the SEC actually did, because there was a silence of information from the City, what the SEC did is they went to the website of City and looked at two important statements ... the speech the Mayor had made and another statement and tested those with the full scrutiny of the Federal Anti-Fraud laws. And the lesson out of Harrisburg is let's keep in mind that people's bonds are continuing to trade for years after they're issued and people who buy bonds years after they're issued can lose money just as much as somebody who buys a bond at the time that it's issued.

Okay, so those are three stories. So, it comes to what are people doing about this in the marketplace, generally speaking. And I want to talk about this because this is very important because this is part of what is important for us to communicate, is what we on the disclosure side of things are doing to take care of these issues. The first is to maintain and comply with disclosure policies and procedures. Issuers across the United States, and we are almost about to finish a paper for the National Association of Bond Attorneys in which we are going to be actually talking about the kind of disclosure policies and the importance of it. The Airport last year adopted formal disclosure policies and procedures. And I'm happy to say that the great thing about this is that what these policies and procedures amounted to was not a whole lot more than just looking over at the existing disclosure practices of the Airport and just putting them in writing and making sure that they were systematically followed. There were a few enhancements, but not a lot. Most of the processes that the Airport has followed for many, many years have been very careful processes. What we really did was just put them in writing and systematize what was being done ... offering in and offering out and continuing disclosure filing and so on. So, the point of this process is to make sure that there is a documented policy that says who's responsible for what, making sure that the right people are involved and making sure that everybody is trained through the process.

The second thing that people are doing and that we are trying to make sure is telling the whole credit story, and I like putting that. Basically every offering or every disclosure is a story of sorts and telling investors who are buying bonds that this is our story. And making sure that investors get the full picture of what is actually going on with respect to the Airport. Obviously this is the heart of the requirements of the Federal Anti-Fraud laws. In terms of what happens on the Airport disclosure practices side of things, every single time we go through an offering this is done multiple times, but most particularly there is usually an all day process of walking through a series of due diligence sessions and a series of other aspects and at this point the do we have the whole story is reiterated time and time again. And then the final is, stay focused on secondary market disclosure. That is to say, remain sensitive to the fact that people who are trading bonds years after they are issued can lose money as much as anybody else. And there's a lot of focus and attention that's given to this by the Airport in terms of every time that something is communicated out, and, in addition, if there's major changes that occur within the Airport, there's a lot of conversation about should we update those bond holders in terms what that information is and making sure that we tell that story in a complete way.

So, this comes down to what is it that you as SFO Commissioners should be doing as a result of all of this? And one thing is today, this is a very important point that people continue to raise is making sure that we're having this conversation and that I'm here and doing this. But there are two major things that the SEC has focused on for Commissioners, board members, or people that sit in comparable positions. The two are elephant in the room analysis and reasonable delegations. In the Orange County action, back in 1994, one of the big ones that happened way before San Diego ... one of the big complaints that the SEC had is that the Board of Supervisors were just merely taking an offering an document and approve it without even thinking about it. After that, a lot of people said, well are Commissioners supposed to read the whole document, are they supposed to implement the whole process? And if you read that 21A Report, which I've got here in the back, and I'm going to talk about in one second, that's not what it says. That's really what not what it says. And the SEC has an unusual administrative process called a 21A Report, and when they do a 21A Report it's basically a signal saying we're so angry that we're going to stop for a second and talk about something we really care about. And there's only been two of them in the municipal securities market ... one of them was Orange County and the other was Harrisburg. The one in Orange County was specifically directed to Board members and Commissioner members, and people that sit in your comparable situation. And in that, all they ever said is, in essence, my read of it and a lot of other people's read of it is if you come to approve something that impacts investors, if you come to approve disclosures that are going to go to investors you should run an elephant in the room analysis, as one of the Director's of Enforcement Division called it. Which is to say, if you are aware of a major pressing financial or operating problem that exist within the Airport, you should stop to say wait a minute, we have this big issue that is sitting here. How have you handled that in the disclosure? So, that's the first thing the SEC has in its interpretations expected Commissioner members to do. And the second one is reasonable delegation. This comes out of the State of New Jersey and it involves the State Treasurer, not necessarily a Commissioner member but somebody that sits in a comparable position. And the State Treasurer signed certificates that said that the disclosures were all correct. And it sounded, by all measures, a very painful deposition that he had with the SEC because what the SEC did is they lined up all of these certificates that he signed all of the different years and said did you sign these? And he said, yes I did sign those. Do you understand what these mean? He said yeah, the disclosures are all correct. Did you ever read the disclosure? No. Do you know who prepared the disclosures? Not really. Do you know what their background was? No. Do you know what processes they followed? No. Do you know anything about the disclosures? No. Then why did you sign the certificates? It was a tough discussion that was had with the State of New Jersey. And out of that comes the concept not that the State Treasurer should have been reading all of the documents, not that the State Treasurer should have been doing all of those steps, but instead, the lesson that comes out of that is one of reasonable delegation. And what we have tried to do for you all is to put you in a position where what we are doing is pursuant to a reasonable delegation which is, we've adopted disclosure policies and procedures, we've explained to you the practices that we are following so that you all know the processes that we follow.

I actually was suppose to set a timer and I didn't know what time I started and but I think I'm right around 15 minutes.

Commissioner Guggenhime ... on the second, as you call the secondary markets, later on, the bonds are out, the standard is the same as to disclosure as it would be for the initial offering. In other words, if something happens during the year, there would be a disclosure and it would be published to the bond holders, correct? And I don't know, would that come before the Commission at that point, or not?

Mr. Deaton ... the secondary market disclosures tend not to go before the Commission. There is not as much for you guys to know about that. The way that it operates is really weird in our market. It's not like the corporate market. In the corporate market there is actually an affirmative obligation to provide updates to the market. In the municipal securities market, that duty is there is a contract that is entered into in connection with the bonds in which those updates occur in a very specific and limited way if there is something that occurs in the middle of the year. There is an affirmative obligation to provide one once a year. But it becomes complicated if there's a major change. So, in some instances we may provide an update to the marketplace that is not technically required by affirmative obligation but for a variety of other legal uncertainties we want to do it to just make it so that nobody can establish an argument that we have not acted in a reasonable way.

Commissioner Guggenhime ... thank you. That was brilliantly done.

Commissioner Mazzola ... What are the liabilities on behalf of the Commission?

Commissioner Johns ... what's our TNO?

Commissioner Mazzola ...what's our liability if, in fact, we don't ask those questions?

Mr. Deaton ... obviously there could be personal liability. I don't know exactly the threshold. The SEC has the authority to bring actions pursuant to a couple of different sections in the securities laws. For a long time people would talk about this as a theoretical discussion. There was very recently, an action that the SEC brought against the city called Allen Park in Michigan in which the Mayor and the Chief Executive Officer of the city were each assessed fines of I think \$10,000 and \$15,000 and subsequently being barred from being involved in the disclosure process. So there can be personal liability coming from the SEC. And until Allen Park, Michigan, that was really considered a theoretical bit. The SEC has stated over the last six months that they want the Enforcement Division to now shift from issuer-based liability to the personal liability of the officials involved. So, it's very serious. They would not have let me up here if it wasn't serious.

Commissioner Mazzola ... do we have an errors and omissions policy with the City.

Mr. Martin ... do we, Leo? Yes.

Commissioner Johns ... it's not just self-insured, we have a separate errors and omissions policy? What is the limit of the liability?

Mr. Leo Fermin, Chief, Business & Finance Officer ... I don't know the limit off the top of head. I can get back to you, but we do have a policy.

Mr. Martin ... We'll send a memo to the City Attorney's Office on that coverage.

Commissioner Mazzola ... Not that we ever have errors. We never have errors.

Commissioner Guggenhime ... when the bond offerings come for our approval ...

Mr. Martin ... if I can take a second just to explain the kind of the checks and balances. Some entities will just hire an underwriter to issue the bonds. We also have a financial advisor with two different firms that make up the Financial Advisory team. We also have Bond Council through the City Attorney's Office. So the Airport hires the financial advisor and selects the underwriter. The City Attorney picks up Bond Council and a Disclosure Council. So we have two law firms involved, separate reporting structure. Then we have a Financial Advisory Panel, people who are experts in the finance industry who are reviewing everything we do as just a further check on our financial operation. So, we have an unusually strong protection of checks and balances within our system.

Commissioner Mazzola ... so with all that in place, Commissioners are comfortable about not reading the entire document, is that correct?

Mr. Martin ... yes.

Mr. Deaton ... I will say that the SEC has never stated an expectation that Board members and Commissioner members read the entire document. Even in the egregious situation of Orange County, the complaint coming from the SEC wasn't that they didn't read the document, it was that they had known pressing problems that they didn't even ask how those pressing problems were done. You are allowed, and the SEC has been by my read of it very clear, to rely on a reasonable delegation of people. And that's why we're here today. If anything does come, you guys have the ability to say, wait a minute, we have policies and procedures, we have all of these different deals and so that delegation ... you are able to lay down the basis on which you relied on that delegation, which I hope would be reasonable.

Commissioner Johns ... I'm just wondering how the Airport is separate from the City in terms of when you were talking earlier about San Diego where they had the retirement problems. I'm not clear, myself, as to how the Airport is a separate entity from the City's potential liabilities.

Mr. Deaton ... So in this instance we're dealing not with those kinds of liabilities, but instead Federal security's liabilities that attach to, in essence, the truthfulness and completeness of statements that are made to investors. And here, investors aren't buying bonds that are backed by the general fund of the City and County of San Francisco. They are backed by the revenues of the Airport. And so, in this instance what matters to these investors is the credit story that matters for their bonds, which is the credit story of the Airport, not the story of the City and County of San Francisco. For example, retirement is a great example, because it's a really polemic issue and a headline issue that arises in a number of different places. But as it relates to the Airport, it represents a small portion of the operating budget of the Airport. Let me assure you that in the City of San Diego, in that instance, the City Council members and the senior staff weren't wondering whether or not the pension

system was a major issue for investors. When you have an issue where the expenditures were going to go from 5% of the general fund to a 1/3 of the general fund, you're running for the hills in terms of the significance of the issue that's there. This is a simple thing that the SEC is expecting, let me just say that much. This is not complicated. This is about making sure that people are sensitive, not just to the immediate situation that is in front of them, but understanding that there are investors who are potentially putting life savings into bonds, and care as much about the goings on from a financial perspective as anyone else, and that's all that it is.

Commissioner Guggenhime ... as a lawyer I will tell you, I think that we have as safe a system and as fully disclosed system, maybe more so than any other City. You have disclosure council, you've got the City Attorney's Office, you've got the bond council hired by the City. You have multiple meetings with multiple people, multiple time expended drafting the documents, and the disclosures are clear. Do you agree with that?

Mr. Deaton ... I agree. I completely agree with that. It's a very careful process and realize that part of that careful process is coming and having this conversation. This conversation wasn't intended to alert you as to any concerns, but instead having this actual conversation and alerting you to these issues is an outgrowth of the reasonable process that we're following.

Commissioner Crayton ... you're coming here, the people within the Airport that do the bond work with the bond people, all the processes that you've stated to us as of today, are they already in place here? And a question that I have many years back ith the Lehman Brothers fiasco, were there some takeaways in cities, etc.? I don't see any of that indicated here that should of been followed that were not followed. They went out of business and other people had bonds with them, or issued bonds, etc, etc.

Mr. Deaton ... from a Federal Securities law perspective, I'm not aware of any enforcement action by the SEC that was connected to a municipal issue or in connection with Lehman Brothers. The one thing that seems to be a popular topic with the SEC Enforcement division is pension. Of the 15 actions that have happened in the last 10 years, four of those are pension. But, if you talk to the Enforcement Division they are remiss about the fact that there's so many about pension. From their perspective, the one theme is just people not stepping back and looking at it from an investor's perspective and asking what are the obvious things that sit around us that investors really should know and understand.

Commissioner Johns ... John, you indicated all of the various cross checks that we have, the underwriters, the financial advisors, the bond council, and the advisory panel. I'm just concerned because we are such a small, close knit City entity, are we certain that there are no underlying conflicts of interest within these various bodies. Financial advisors who do business with this one ... I just think that it's important that it's an open book and that it's clear and that these are in fact, entities that will find the elephant in the room and disclose that to us before we do anything. I think that it's very important. I think it's great that we have this process, and that you're bring this to our attention. I know that as these consultants come, contracts come up, we approve them, but we only know as much as our staff and as our

financial consultants tell us. If, in fact, we have these four or five different categories who each and of themselves are excellent, but, if they are not, in fact, checking and balancing out the other entity, we will never know there's an elephant that's suppose to be in the room. So that is my concern, or that is my question.

Mr. Martin ... the fact that they're all in the room together so much and that they all have such strong disclosure requirements themselves, that risks the credibility and the future of their business. When we have disclosure sessions that typically go a day or two days long, disclosure council are calling different staff, bond councils are there, the underwriters are there, the financial advisors are there, everybody is hearing and seeing what's being said. It's a very transparent process, but it doesn't mean that we don't always have to be watchful ... does this underwriter have a conflict that's not being processed.

Mr. Deaton ... I would answer the same way which is that to the extent that are conflicts of interest, and I don't know anymore, whatever, but those interest would be aligned. I think that's what your point is, and I agree with that. Everybody's interest is aligned here. The one advantage that the entire group of people have is that their interests are aligned towards the same direction.

Commissioner Johns ... You mean their interests are aligned to disclose so that they individually don't get into a fraud.

Mr. Deaton ... Right. I mean, what you have is the one arm's length transaction that you have going on is the underwriter with the issuer. Right? So that's an arm's length transaction which would be the only relationship that could effectively give rise to a conflict of interest. But in that instance, on these questions, both parties are equally aligned ... their interests are equally aligned to do all of these things. And I think that underwriters have a very high perspective of SFO because a lot of times those relationships with the underwriters can be very acrimonious with issuers who don't really want to follow a careful process and don't want to tell the whole picture. But with SFO, the all day due diligence session and the process is an extremely transparent process, and the underwriters have a very high opinion of that. So, to the extent that there are conflicts of interest, I think those interests are aligned.

Commissioner Johns ... aligned for the good of us, not aligned to ... One final question, as a Commissioner, are there some questions that you think Commissioners in general should ask just as good policy and good procedure when a bond issue comes before us that we have to approve?

Mr. Deaton ... when a bond document is going before you, I think the two questions that I would ask if I were in your position are, is what are the things that make you worried about the state of the Airport's condition, financial and operating, and I would ask how those things are being disclosed. And the second question I would ask is did you follow the policies and procedures in connection with this offering? Those would be the two questions I would ask.

Commissioner Crayton .. I assume you're representing us, and also the City, or do you consider that one entity?

Mr. Deaton ... I think legally there's one entity and so technically I think the client is the City and County of San Francisco. I'm pretty sure that's right.

Commissioner Mazzola ... thank you for the report.

Mr. Deaton ... thank you.

Commissioner Guggenhime ... great job. If you get charged by the word, you'll be in good shape.

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#### H. NEW BUSINESS:

Discussion only. This is the "Public Comment" section of the calendar. Individuals may address the Commission on any topic within the jurisdiction of the Airport Commission for a period of up to two (2) minutes. Please fill out a "Request to Speak" form located on the table next to the speaker's microphone and submit it to the Commission Secretary.

There were no requests from the public to speak.

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### I. CORRESPONDENCE:

There was no discussion by the Commission.

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#### J. CLOSED SESSION:

There are no planned agenda items for a Closed Session for the current meeting.

In the event of any urgent matter requiring immediate action which has come to the attention of the Airport Commission after the agenda was issued and which is an item appropriately addressed in Closed Session, the Airport Commission may discuss and vote whether to conduct a Closed Session under Brown Act (California Government Code Sections 54954.2(b)(2) and 54954.5) and Sunshine Ordinance (San Francisco Administrative Code Section 67.11).

If the Airport Commission enters Closed Session under such circumstances, the Airport Commission will discuss and vote whether to disclose action taken or discussions held in Closed Session under the Brown Act (California Government Code Section 54957.1 and Sunshine Ordinance (San Francisco Administrative Code Section 67.12).

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#### K. ADJOURNMENT:

There being no further calendared business before the Commission the meeting adjourned at 9:46 AM.

*(Original signed by: Jean Caramatti)* Jean Caramatti Commission Secretary

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