

VENTURA PORT DISTRICT

BOARD OF PORT COMMISSIONERS MINUTES OF JULY 1, 2020



CLOSED SESSION

CALL TO ORDER:

The Ventura Board of Port Commissioners Regular Closed Session Meeting was called to order by Chairman Chris Stephens at 5:33PM at the Ventura Port District Administration Office, 1603 Anchors Way Drive, Ventura, CA 93001 and via Zoom meeting.

ROLL CALL:

Commissioners Present:

Chris Stephens, Chairman
Brian Brennan, Vice Chairman
Jackie Gardina, Secretary via Teleconference
Everard Ashworth via Teleconference
Michael Blumenberg via Teleconference

Commissioners Absent:

None.

Port District Staff:

Brian Pendleton, General Manager
Todd Mitchell, Business Operations Manager
Jessica Rauch, Clerk of the Board

Legal Counsel:

Andy Turner via Teleconference
Elsa Sham via Teleconference

PUBLIC COMMUNICATIONS: Sam Sadove, owner of Ventura Harbor Marine Associates, LLC., thanked staff for the subject clarity on the closed session agenda. Leonora Valvo and Tom Derektor, Derektor Marine Holdings, LLC, introduced themselves, explained their backgrounds and explained why they want to take on Parcel 20 as a new adventure.

CONVENED TO CLOSED SESSION AT 5:45PM.

ADJOURNMENT: Closed Session was adjourned at 6:54PM.

OPEN SESSION

ADMINISTRATIVE AGENDA:

CALL TO ORDER:

The Ventura Board of Port Commissioners Regular Open Session Meeting was called to order by Chairman Chris Stephens at 7:01PM at the Ventura Port District Administration Office, 1603 Anchors Way Drive, Ventura, CA 93001 and via Zoom Meeting.

PLEDGE OF ALLEGIANCE: By Chairman Stephens.

ROLL CALL:

Commissioners Present:

Chris Stephens, Chairman
Brian Brennan, Vice Chairman
Jackie Gardina, Secretary via teleconference
Everard Ashworth via teleconference
Michael Blumenberg via teleconference

Commissioners Absent:

None.

Port District Staff:

Brian Pendleton, General Manager
Todd Mitchell, Business Operations Manager
Jessica Rauch, Clerk of the Board
Gloria Adkins, Accounting Manager
Robin Baer, Property Manager via teleconference
John Higgins, Harbormaster via teleconference
Joe Gonzalez, Facilities Manager via teleconference
Dave Werneburg, Marina Manager via teleconference

Legal Counsel:

Andy Turner via teleconference
Elsa Sham via teleconference

ADOPTION OF AGENDA

ACTION: Commissioner Brennan moved, seconded by Commissioner Gardina, and carried by a vote of 5-0 to adopt the July 1, 2020 agenda, removing Consent Item e from the agenda.

APPROVAL OF MINUTES

The Minutes of the June 17, 2020 Regular Meeting were considered as follows:

ACTION: Commissioner Ashworth moved, seconded by Commissioner Brennan, and carried by a vote of 5-0 to approve the June 17, 2020 Regular Meeting Minutes.

PUBLIC COMMUNICATIONS:

Sam Sadove, owner of Ventura Harbor Marine Associates, LLC., gave a status update on the significant damage that was done by a boater to his haul-out dock.

Jean Getchell commented on Brown Act violations regarding the noticing of the VSE project on the Closed Session agenda and that the District is in violation of the Harbor and Navigations code and Commission Protocols Manual in regards to the role of the Chair and Vice Chair. She asked her comments be included with the minutes (attachment 1).

CLOSED SESSION REPORT: Mr. Turner stated that the Board met in closed session; discussed and reviewed all items on the closed session agenda. The Board gave direction to staff as how to proceed. No action was taken that is reportable under The Brown Act.

BOARD COMMUNICATIONS: None.

STAFF AND GENERAL MANAGER REPORTS: Mr. Pendleton reported that the County of Ventura is still taking business grant applications for COVID funding till July 8th. He also reported that beaches will be closed from 5:00AM Friday till 5:00AM Monday for the July 4th weekend. Also, Governor Newsom halted indoor operations in 19 counties, one being Ventura County for a minimum of three weeks.

LEGAL COUNSEL REPORT: Mr. Turner reported that the City Attorney informed the District that there was a comment at the City Council meeting that Commissioner Brennan would be in violation of Harbors and Navigations Code Section 6245 if he participated in the July 1st meeting, as his four year term expired June 30th. However, Government Code Section 1302 states “Every officer whose term has expired shall continue to discharge he duties of his office until his successor has qualified.” Until the City Council acts on Commissioner Brennan’s seat, he can still serve on the Commission. Secondly, regarding Ms. Getchell’s comments regarding the Chair and Vice Chair presiding, she has recognized that Chair Stephens is in place tonight and the potential problem is apparently solved. However, given the COVID environment and the fact that the Chair was appearing remotely and that the Zoom meeting requires some level of management by those in the Board room with the Vice Chair, Legal Counsel believes it was in the Chair’s authority, given the unique circumstances, to delegate the task of presiding over the meetings to Vice Chair Brennan. Thirdly, Ms. Getchell has raised some Brown Act issues. Legal Counsel is currently working on those and will have a report for the Board and constituency at our next meeting.

PROCLAMATION HONORING RICHARD PARSONS

CONSENT AGENDA:

a) Approval of a Professional Services Agreement with Carpi & Clay, Inc.

Recommended Action: Roll Call Vote.

That the Board of Port Commissioners approve a Professional Services Agreement with Carpi & Clay, Inc. in the amount of \$60,000 to provide the District with Federal Advocacy Services from July 1, 2020 to June 30, 2021.

ACTION: Commissioner Brennan moved, seconded by Commissioner Gardina and carried by a vote of 5-0 to approve a Professional Services Agreement with Carpi & Clay, Inc. in the amount of \$60,000 to provide the District with Federal Advocacy Services from July 1, 2020 to June 30, 2021.

b) Approval of a Professional Services Agreement with Swift Chip, Inc.

Recommended Action: Roll Call Vote.

That the Board of Port Commissioners approve a Professional Services Agreement with Swift Chip, Inc. not to exceed \$115,000 to provide Information Technology services from July 1, 2020 to June 30, 2021.

ACTION: Commissioner Brennan moved, seconded by Commissioner Gardina and carried by a vote of 5-0 to approve a Professional Services Agreement with Swift Chip, Inc. not to exceed \$115,000 to provide Information Technology services from July 1, 2020 to June 30, 2021.

c) Termination of Current Lease Agreement and Approval of New Office Lease Agreement for Ken Caparoni dba State Farm Agent

Recommended Action: Roll Call Vote.

That the Board of Port Commissioners:

- a) Approve the termination of a Lease Agreement, dated July 1, 2019, for the premises located at 1583 Spinnaker Drive #210, consisting of 637 square feet; and
- b) Approve a new Office Lease Agreement for the premises located at 1583 Spinnaker Drive #210, consisting of 787 square feet between the Ventura Port District dba Ventura Harbor Village and Ken Caparoni dba State Farm Agent for a three-year term with a three-year option with tenant improvements.

ACTION: Commissioner Brennan moved, seconded by Commissioner Gardina and carried by a vote of 5-0 to approve the termination of a Lease Agreement, dated July 1, 2019, for the premises located at 1583 Spinnaker Drive #210, consisting of 637 square feet; and approve a new Office Lease Agreement for the premises located at 1583 Spinnaker Drive #210, consisting of 787 square feet between the Ventura Port District dba Ventura Harbor Village and Ken Caparoni dba State Farm Agent for a three-year term with a three-year option with tenant improvements.

d) Approval of New Office Lease Agreement for Gabriella Navarro Busch

Recommended Action: Roll Call Vote.

That the Board of Port Commissioners approve a new Office Lease Agreement between the Ventura Port District dba Ventura Harbor Village and Gabriella Navarro Busch for the premises located at 1575 Spinnaker Drive #204A&B consisting of a total of 1,686 square feet for a five (5) year term with a four (4) year option.

ACTION: Commissioner Brennan moved, seconded by Commissioner Gardina and carried by a vote of 5-0 to approve a new Office Lease Agreement between the Ventura Port District dba Ventura Harbor Village and Gabriella Navarro Busch for the premises located at 1575 Spinnaker Drive #204A&B consisting of a total of 1,686 square feet for a five (5) year term with a four (4) year option.

e) Approval of Notice of Completion for the Ventura Harbor Village Commercial Dock Replacement Project

Recommended Action: Roll Call Vote.

That the Board of Port Commissioners adopt Resolution No.3393:

- a) Accepting the work of Bellingham Marine Industries (BMI) for the Ventura Harbor Village Commercial Dock Replacement Project.
- b) Authorizing the filing of a Notice of Completion with the Ventura County Recorder.

ACTION: This item was removed from the agenda.

STANDARD AGENDA:

1) Draft Navigation Risk Assessment for the Proposed Ventura Shellfish Enterprise Project

Recommended Action: Informational.

That the Board of Port Commissioners receive an informational report on the draft Navigation Risk Assessment for the proposed aquaculture project referred to as the Ventura Shellfish Enterprise.

Report by Brian D. Pendleton, General Manager, Chris Thomas, COWI, and Maria Grønnegaard, COWI.

Public Comment:

David Bacon, who represents recreational anglers, has no issue with an aquaculture site. However, his constituency wants there to be no exclusionary zones to restrict recreational fishing around the aquaculture gear.

Mary Luna is a professional focused on sustainable development and aquaculture and a resident of Ventura County. She is concerned about the current setup of the enterprise and would prefer to see a smaller project that can be evaluated and monitored more effectively to ensure environmental and socio-economic sustainability. She supports the use of technology such as smart buoys and sensors to monitor key factors and constant auditing to ensure efficient use of funds.

Alan DeRossett supports the Ventura Shellfish Enterprise in Federal waters and also wants the language to require real-time monitoring to support the new E-Navigation and Electronic Chart systems standards for autonomous vessels with the ability to receive beacons and alerts with local situational awareness. This will prevent what happened to Catalina Sea Ranch from ever happening again. The Port District and Coast Guard or nearby vessels would be able to always monitor with real-time data.

Sam Sadove, owner of Ventura Harbor Marine Associates, LLC., is concerned that the discarded gear or lines that sink are not being considered an issue but believes that they are a very significant issue for marine mammals. Although he does not think the risk is to the extent that the project would not move forward, he would beg to differ that that gear would not be an issue.

Mike Conroy, West Coast Fisheries Consultants and Executive Director of the Pacific Coast Federation of Fishermen's Associations, called into question the reliance on AIS data since it is not representative of vessel traffic in the area as a vast majority of commercial fishing vessels which utilize the area are less than 65' and AIS is only required on vessels greater than 65'. Table 4.5 shows how AIS understates this because it shows five commercial vessels of having transited traffic lanes, but I can assure you there are 1,000s of trips made by vessels less than 65'. The data from 2013 to 2015, also note that was before current regulations went into effect that requires AIS for those vessels, so he is not too sure how helpful that data will be moving forward. With regards to the accident stats and using history, he does not know how relevant those historical accidents will come into effect. Section 4.3.7: he states that the majority of passenger vessel transits from Port Hueneme; he notes that Port Hueneme does not have any passenger vessels nor landings to pick up passengers, so he does not know where that information came from. Section 4.3.9: he thinks the underlying assumptions are incorrect as a majority of commercial fishing vessels based out of Ventura and other local ports do not have or use AIS and many travel far from shore in many different directions. Section 4.3.10: he would highly recommend going back further in time to 2005 to get a better picture. Figure 4.23: he is curious about catches greater than 240 short tons as those seem to be not counted. Figure 4.24: it is his understanding that public dissemination of VMS data is not allowed under NMFS's policy directive 06-101. Under the conclusion, he thinks the data is incomplete and insufficient to conclude that a navigation risk associated with this project is low. Section 6.1: he thinks a lost/damaged fishing gear compensation plan should be adopted. Section 6.2: he would also like VSE to ensure all vessels leasing facilities have adequate insurance to cover all foreseeable incidents and VSE should be required to post a bond in an amount sufficient to ensure foreseeable damages are available.

Jean Getchell commented on the mischaracterization of LAFCo's position vis-à-vis siting the shellfish project in Federal waters. She asked her comments be included with the minutes (attachment 2).

ACTION: **The Board of Port Commissioners received an informational report on the draft Navigation Risk Assessment for the proposed aquaculture project referred to as the Ventura Shellfish Enterprise.**

2) Adoption of Resolution No. 3394 Extending the COVID-19 Ventura Harbor Rental Abatement and Deferment Program

Recommended Action: Roll Call Vote.

That the Board of Port Commissioners adopt Resolution No. 3394 extending the COVID-19 Ventura Harbor Rental Abatement and Deferment Program, which will allow for the abatement or deferment of all rental payments for those Harbor Master Tenants and Harbor Village Tenants who have been directly impacted by the COVID-19 Pandemic on a monthly basis for repayment of deferred rents within six months after all applicable government emergency orders are rescinded, no sooner than March 2021.

Report by Brian D. Pendleton, General Manager.

Public Comment:

Tristan Thames, owner of the Village Arcade and Carousel hopes the Commission considers extending the rent abatement for his business since they are still mandated by the County to be closed.

Sam Sadove, owner of Ventura Harbor Marine Associates, LLC., thanked Brian for his efforts on this and for meeting with him. He is also extending this program to his tenants.

ACTION: Commissioner Ashworth moved, seconded by Commissioner Brennan and carried by a vote of 5-0 to adopt Resolution No. 3394 extending the COVID-19 Ventura Harbor Rental Abatement and Deferment Program, which will allow for the abatement or deferment of all rental payments for those Harbor Master Tenants and Harbor Village Tenants who have been directly impacted by the COVID-19 Pandemic on a monthly basis for repayment of deferred rents within six months after all applicable government emergency orders are rescinded, no sooner than March 2021.

3) Approval of Portside Partners Loan Extension

Recommended Action: Roll Call Vote.

That the Board of Port Commissioners:

- a) Approve a loan extension for the Portside Partners project; and
- b) Authorize the General Manager to execute such documents as may be necessary after review and approval by General Counsel.

Report by Andy Turner, Legal Counsel.

Public Comment: None.

ACTION: Commissioner Brennan moved, seconded by Commissioner Blumenberg and carried by a vote of 5-0 to approve a loan extension for the Portside Partners project; and authorize the General Manager to execute such documents as may be necessary after review and approval by General Counsel.

4) Approval of the FY2020-2021 Final Budget and Five-Year Capital Improvement Plan

Recommended Action: Roll Call Vote.

That the Board of Port Commissioners:

- a) Adopt Resolution No. 3395, approving the Fiscal Year 2020-2021 Ventura Port District Budget and Five-Year Capital Improvement Plan;
- b) Adopt Resolution No. 3396, establishing the Salary Schedule for Non-represented Employees for the Fiscal Year 2020-2021.

- c) Implement a salary freeze and hiring freeze for FY20-21. The MOU with SEIU for Full-Time Harbor Patrol Officers will not be affected by the salary freeze.

Report by Brian D. Pendleton, General Manager, Gloria Adkins, Accounting Manager, and Todd Mitchell, Business Operations Manager.

Public Comment:

Gary King stated that he is opposed to paid parking at Harbor Village and the beaches.

Sam Sadove, owner of Ventura Harbor Marine Associates, LLC., stated that we need to be careful over the next six to nine months because unfortunately he does not think it is going to be as rosy as we would like. He also commented that instead of spending money on paid parking at this time, he requested reinstating the signage for the Harbor in the Capital Improvement Plan.

ACTION: Commissioner Brennan moved, seconded by Commissioner Blumenberg and carried by a vote of 5-0 to adopt Resolution No. 3395, approving the Fiscal Year 2020-2021 Ventura Port District Budget and Five-Year Capital Improvement Plan; adopt Resolution No. 3396, establishing the Salary Schedule for Non-represented Employees for the Fiscal Year 2020-2021; and implement a salary freeze and hiring freeze for FY20-21. The MOU with SEIU for Full-Time Harbor Patrol Officers will not be affected by the salary freeze.

ADJOURNMENT: The meeting was adjourned at 9:10PM.

The next meeting is Wednesday, July 15, 2020.



Jackie Gardina, Secretary

ATTACHMENT 1

Jean A. Getchell
1743 Santa Ynez Street
Ventura, CA 93001
(831) 392-6596

July 1, 2020

Board of Port Commissioners
Ventura Port District
1601 Anchors Way Drive
Ventura, CA 93001

Sent Electronically
to All Recipients.

SUBJECT: DOCUMENTATION THAT CLOSED SESSION MEETINGS TO PROVIDE
DIRECTION TO DISTRICT STAFF IN REAL PROPERTY NEGOTIATIONS
WITH U.S. ARMY CORPS OF ENGINEERS FOR USE OF FEDERAL SEA
BOTTOM WERE A VIOLATION OF THE BROWN ACT

Chairman Stephens and Commissioners:

As my June 16 letter to you explained, Government Code §54956.8 serves an important purpose by keeping negotiations regarding the purchase, sale, exchange or lease of real property confidential and undiscoverable by others, notably the other party to the transaction or a competing bidder. My letter also explained that it was highly unlikely that the District had been negotiating price or terms of payment with the U.S. Army Corps of Engineers (USACE), the only discussion that would authorize meeting in Closed Session. To verify my conclusion, I asked Dr. Allen to confirm whether the USACE had negotiated or planned to negotiate real property interests with the District. Because the USACE has no authority under Section 10 of the Rivers and Harbors Act to negotiate such commercial interests, his answer was a conclusive "No". I have copied my question and his response into this document.

-----Original Message-----

From: Jean Getchell [mailto:jeanagetchell@gmail.com]

Sent: Friday, June 19, 2020 11:00 AM

To: Allen, Aaron O CIV USARMY CESPL (USA) <Aaron.O.Allen@usace.army.mil>

Subject: [Non-DoD Source] Question Regarding Ventura Port District's Shellfish Project

Dr. Allen:

First, I would like to thank you and other staff members for the USACE's prompt response to my prior request concerning the status of the permit with the District.

My question today is two-fold:

- * Has the USACE ever negotiated the price or terms of payment for any sale, exchange or lease of real property with the District (the Federal Sea Bottom) for its proposed 2,000 acre shellfish farm?
- * Does the USACE have plans to do so before it issues a permit to the District?

ATTACHMENT 1

To: Jean Getchell

The short answer to both questions is "No". The Corps only has authority to regulate the proposed project under Section 10 of the Rivers and Harbors Act (e.g. work and structures in navigable waters). The Corps does not have any authority to grant leases or negotiate terms for economic use of the sea bottom.

Thanks,
Aaron O. Allen, Ph.D.
Chief, North Coast Branch
Regulatory Division
Los Angeles District
O:(805) 585-2148 C:(805) 665-8660

During the Coronavirus Health Emergency, Regulatory Program staff are teleworking. Please do not mail hard copy documents to any Regulatory staff or office. For further details on corresponding with us, please view our COVID-19 special public notice at:
https://www.spl.usace.army.mil/Portals/17/docs/publicnotices/COVID19%20Regulatory_SPN.pdf?ver=2020-03-19-134532-833

In the interest of serving the people of Ventura and the businesses that have invested in Ventura Harbor, I hope that all future discussion of regulatory issues concerning the shellfish project will be done in Open Session.

I appreciate the opportunity to bring this to the attention of the Commission.

Sincerely,

A handwritten signature in black ink, appearing to be 'A. Allen', with a large, stylized loop at the end.

cc: Dr. Aaron Allen, Ph.D.
U.S. Army Corps of Engineers

ATTACHMENT 1

Jean A. Getchell
1743 Santa Ynez Street
Ventura, CA 93001
(831) 392-6596

July 1, 2020

Board of Port Commissioners
Ventura Port District
1601 Anchors Way Drive
Ventura, CA 93001

Sent Electronically
to All Recipients.

SUBJECT: VIOLATION OF HARBORS AND NAVIGATION CODE SECTIONS 6246
AND 6248, AND BOARD OF PORT COMMISSIONERS PROTOCOLS AND
POLICIES MANUAL SECTIONS 2.5 AND 2.6

Chairman Stephens and Commissioners:

Beginning May 6, 2020 and continuing for the following three meetings, Chair Stephens and Vice Chair Brennan violated Sections 6246 and 6248 of the Harbors and Navigation Code by not presiding and presiding, respectively, at meetings when the Chair was present. They also violated Policies 2.5 and 2.6 of the *Board of Port Commissioners Protocols and Policies Manual*, which require the Chair to lead meetings and the Vice Chair to preside in “the absence of the chair or his inability to act...”

April 15: Chair Stephens presided at the Closed and Open Sessions via teleconference.

May 6: Chair Stephens presided at the Closed Session via teleconference; Vice Chair Brennan presided at the Open Session. Chair Stephens was not absent and there is no documentation that his ability to act as Chair became compromised after the Closed Session.

May 20: Vice Chair Brennan presided at the Closed and Open Sessions. Chair Stephens participated via teleconference, so he was not absent and there is no documentation of his inability to act as Chair.

June 3: Vice Chair Brennan presided at the Closed and Open Sessions. Chair Stephens participated via teleconference, so he was not absent and there is no documentation of his inability to act as Chair.

June 17: Vice Chair Brennan presided at the Closed and Open Sessions. Chair Stephens participated via teleconference, so he was not absent and there is no documentation of his inability to act as Chair.

HARBORS AND NAVIGATION CODE - HNC

DIVISION 8. HARBOR AND PORT DISTRICTS [5800 - 7340]

(Division 8 enacted by Stats. 1937, Ch. 368.)

PART 4. PORT DISTRICTS [6200 - 6372]

(Part 4 enacted by Stats. 1937, Ch. 368.)

CHAPTER 2. Board of Port Commissioners [6240 - 6276]

(Chapter 2 enacted by Stats. 1937, Ch. 368.)

ARTICLE 1. Administrative Provisions [6240 - 6255]

(Article 1 enacted by Stats. 1937, Ch. 368.)

Section 6246.

The chairman is the presiding officer of the board and he shall vote on propositions passed upon by the board.

(Enacted by Stats. 1937, Ch. 368.)

Section 6248.

The board shall select one of its members vice chairman, who shall preside in the absence of the chairman.

The board shall provide for and select such officers, except the auditor, as it deems necessary to conduct the affairs of the district.

(Enacted by Stats. 1937, Ch. 368.)

Section 2.5 of the Board of Port Commissioners Protocols and Policies Manual

The Chair of the Board is to be elected by the Board of Port Commissioners for a term of two years. (H&N Code Section 6241.1) The Chair shall have the authority to preserve order at all Board meetings, to remove any person from any meeting for disorderly conduct, to enforce the rules of the Board and to determine the order of business.

The Chair shall have the authority to prevent the misuse of motions, or the abuse of any privilege, or obstruction of the business of the Board by ruling any such matter out of order. In so ruling, the Chair shall be courteous and fair and should presume that the moving party is acting in good faith.

The Chair shall attend an agenda review meeting with the General Manager before each Board Meeting either in person or by phone.

Section 2.6 of the Board of Port Commissioners Protocols and Policies Manual

In the absence of the Chair or his inability to act, the Vice Chair shall preside at all meetings. The Vice Chair shall attend an agenda review meeting with the General Manager and Chair before each Board Meeting either in person or by phone.

ATTACHMENT 1

Inasmuch as Commissioner Stephens continues to be listed as Chairman on all Commission meeting agendas and he has not resigned the position of Chair, why is he not presiding at meetings? He has not been absent and there is nothing to suggest that he has been unable to act. I respectfully suggest that this violation of State law and the Commission's Protocols and Policies end immediately. If Chair Stephens no longer presides at Commission meetings, he should resign the position of Chair and the Commission should elect another Commissioner to serve.

I appreciate the opportunity to bring this to the attention of the Commission.

Sincerely,



ATTACHMENT 1

Jean A. Getchell
1743 Santa Ynez Street
Ventura, CA 93001
(831) 392-6596

DATE: July 1, 2020

TO: Board of Port Commissioners
Ventura Port District
1601 Anchors Way Drive
Ventura, CA 93001

Sent Electronically
to All Recipients.

FROM: Jean A. Getchell

SUBJECT: ADDENDUM TO PRIOR COMMUNICATION REGARDING
DOCUMENTATION THAT CLOSED SESSION MEETINGS TO PROVIDE
DIRECTION TO DISTRICT STAFF IN REAL PROPERTY NEGOTIATIONS
WITH U.S. ARMY CORPS OF ENGINEERS FOR USE OF FEDERAL SEA
BOTTOM WERE A VIOLATION OF THE BROWN ACT

ATTACHMENT 1

**ATTACHMENT TO PORT COMMISSION AGENDA
CLOSED SESSION CONFERENCE WITH LEGAL COUNSEL
WEDNESDAY, SEPTEMBER 12, 2018**

1. Conference with Real Property Negotiators - Per Government Code Section 54956.8(A):
 - a) Property: **Federal Authorized Sea Bottom**
Negotiating Parties: Oscar Pena, Brian Pendleton, Roland Trinh
Under Negotiation: Leasing **or Permits** for VSE Aquaculture Purposes

**ATTACHMENT TO PORT COMMISSION AGENDA
CLOSED SESSION CONFERENCE WITH LEGAL COUNSEL
WEDNESDAY, SEPTEMBER 26, 2018**

1. Conference with Real Property Negotiators - Per Government Code Section 54956.8:
 - a) Property: **Federal Authorized Sea Bottom**
Negotiating Parties: Oscar Pena, Brian Pendleton, Roland Trinh
Army Corps of Engineers
Under Negotiation: Leasing **or Permits** for VSE Aquaculture Purposes
(**Verbal Report**)

**ATTACHMENT TO PORT COMMISSION AGENDA
CLOSED SESSION CONFERENCE WITH LEGAL COUNSEL
WEDNESDAY, DECEMBER 12, 2018**

1. Conference with Real Property Negotiators - Per Government Code Section 54956.8:
 - e) Property: **Federal Authorized Sea Bottom**
Negotiating Parties: Oscar Pena, Brian Pendleton, Timothy Gosney
Army Corps of Engineers
Under Negotiation: Leasing **or Permits** for VSE Aquaculture Purposes
(**Verbal Report**)

(A) Government Code §54956.8 provides an exception to the Brown Act to allow a Closed Session meeting between the legislative body (here, the Port Commission) with its negotiator prior to the purchase, sale, exchange, or lease of real property by or for the local agency to grant authority to its negotiator regarding the price and terms of payment for the purchase, sale, exchange, or lease.

However,

- None of these meetings involved a real property transaction of any kind;
- None of these meetings involved negotiation of price or terms of payment;
- None of these meetings involved the required second party, notably, the U.S. Army Corps of Engineers; and
- Most importantly, none of these meetings involved granting authority to the District's negotiators; instead, the meetings were used for staff to provide secret information to the Commissioners that was not provided to the public.

**ATTACHMENT TO PORT COMMISSION AGENDA
CLOSED SESSION CONFERENCE WITH LEGAL COUNSEL
WEDNESDAY, JANUARY 16, 2019**

1. Conference with Real Property Negotiators - Per Government Code Section 54956.8:

h) Property:	Federal Authorized Sea Bottom
Negotiating Parties:	Oscar Pena, Brian Pendleton, Timothy Gosney
Proposed Lessee(B):	Army Corps of Engineers
Under Negotiation:	Sea Bottom Aquaculture Permit(C) (Verbal Report)

(B) How can the District be the lessor? What property does it own in Federal Waters?

(C) Permits are not specified in Government Code Section 54956.8.

Following Meetings with the Same Closed Session Subject:

2019

February 6
February 20
March 20
April 3
May 1
May 15
June 19
July 3
July 17
September 4
October 2
October 16
November 20
December 18

2020

January 22
February 5
February 19
March 4
April 1
April 15
May 6
May 20
June 3

27 Closed Session Meetings: (3) in 2018; (15) in 2019; and (9) in 2020.

**If the Port Commissioners were not actually negotiating
real property price and terms of payment
with the U.S. Army Corps of Engineers,
what were they discussing?**

ATTACHMENT 2

Jean A. Getchell
1743 Santa Ynez Street
Ventura, CA 93001
(831) 392-6596

July 1, 2020

Board of Port Commissioners
Ventura Port District
1601 Anchors Way Drive
Ventura, CA 93001

Sent Electronically
to All Recipients.

SUBJECT: COMMENT REGARDING STAFF REPORT FOR STANDARD AGENDA
ITEM NO. 1, NAVIGATION RISK ASSESSMENT

Chairman Stephens and Commissioners:

In my June 16 letter, I reminded the Port Commission that the issue raised by Ventura County LAFCO about the District's shellfish project was not under negotiation with that organization. At its October 16, 2019 hearing on the District's shellfish project, the Commission directed LAFCO staff to work with the Port District to develop a solution. LAFCO staff did. To exempt the District's shellfish project from existing Government Code prohibitions against a special district conducting activities outside of California, LAFCO staff recommended the enactment of special legislation. Nothing has changed, and LAFCO confirmed my understanding in a recent communication with me (*It would be more accurate to state that LAFCO's position is that the shellfish project requires enactment of special legislation to exempt it from existing requirements of the Government Code.*)

Notwithstanding that, the staff reports submitted by your General Manager continue to state:

The Port District is working cooperatively with the Ventura LAFCo to resolve their differences and an update on this issue will be discussed in a separate project status report to the Board.

Please do whatever is needed to ensure that the public and your Commissioners receive accurate and timely information, and that everyone understands that without enactment of the special legislation, the District's project cannot be developed.

Thank you for the opportunity to provide this information.

Sincerely,

A handwritten signature in black ink, appearing to read 'Ja Getchell', written in a cursive style.

cc: Kai Luoma, Executive Officer, LAFCO