

# VENTURA PORT DISTRICT

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## BOARD OF PORT COMMISSIONERS MINUTES OF APRIL 1, 2020

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### **CLOSED SESSION**

#### **CALL TO ORDER:**

The Ventura Board of Port Commissioners Regular Closed Session Meeting was called to order by Chairman Chris Stephens at 5:31PM 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:** Lynn Mikelatos, applicant for Jack Axe and Ale, submitted a public comment letter (see attachment 1).

**CONVENED TO CLOSED SESSION AT 5:35PM.**

**ADJOURNMENT:** Closed Session was adjourned at 6:58PM.

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### **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 7:04PM at the Ventura Port District Administration Office, 1603 Anchors Way Drive, Ventura, CA 93001 and via Zoom Meeting.

**PLEDGE OF ALLEGIANCE:** By Business Operations Manager, Todd Mitchell.

## **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  
John Higgins, Harbormaster via teleconference  
Gloria Adkins, Accounting Manager via teleconference  
Joe Gonzalez, Facilities Manager via teleconference  
Dave Werneburg, Marina Manager via teleconference  
Robin Baer, Property Manager via teleconference  
Richard Parsons, Project Manager via teleconference  
Jessica Rauch, Clerk of the Board

### **Legal Counsel:**

Andy Turner via teleconference  
Elsa Sham via teleconference

## **ADOPTION OF AGENDA**

**ACTON:** Commissioner Ashworth moved, seconded by Commissioner Gardina and carried by a vote of 5-0 to adopt the April 1, 2020 agenda.

## **APPROVAL OF MINUTES**

The Minutes of the March 4, 2020 Regular Meeting and March 25, 2020 Special Meeting were considered as follows:

**ACTION:** Commissioner Brennan moved, seconded by Commissioner Gardina and carried by a vote of 5-0 to approve the March 4, 2020 Regular Meeting and March 25, 2020 Special Meeting Minutes.

**PUBLIC COMMUNICATIONS:** None.

**CLOSED SESSION REPORT:** Mr. Turner stated that the Board met in closed session; discussed and reviewed all items on the closed session agenda. Staff was given instructions on how to proceed as appropriate on these matters and there was no action taken that is reportable under The Brown Act.

**BOARD COMMUNICATIONS:** Commissioner Gardina has been coming to the beach in the early mornings and is wondering what the latest closures are with the State and City and if they will affect our beaches. She also found several grebes covered in tar on the beach and was able to contact the Santa Barbara Wildlife Care Network, who came out and rescued them.

**STAFF AND GENERAL MANGER REPORTS:** None.



**LEGAL COUNSEL REPORT:** None.

**STANDARD AGENDA:**

**1) Adoption of Resolution No. 3387 Approving COVID-19 Ventura Harbor Rental Abatement and Deferment Program**

Recommended Action: Roll Call Vote.

That the Board of Port Commissioners adopt Resolution No. 3387 approving the COVID-19 Ventura Harbor Rental Abatement and Deferment Program, which will abate or defer 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 a period up to three months with repayment of deferred rents prior to December 31, 2020.

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

Public Comment:

Lynn Mikelatos, owner of the Greek and Margarita Villa, asked if there would be a possibility of April's rent being waived at some point. She was able to listen to Senator Jackson's townhall meeting and now has a better understanding of the information she has been receiving. Also, staff has been talking about watching expenditures and she feels the Ventura Shellfish Project, including the attorney should be put on hold. She also knows that staff has been looking into federal grants that could help the District help the tenants and hopes that if the District receives grants funds that some waiver on April rent could occur.

Sam Sadove, owner of the Ventura Harbor Marina and Yacht Yard, stated himself and the tenant working group appreciate the work that went into this program. In terms of seeking a statement associated with business interruption insurance, he discovered that 98% of all insurance companies worldwide have pandemic and epidemic exclusions in all business interruption insurance policies. If you file, it may lead to an increase in your insurance, even if you are denied. Mr. Sadove suggested that a statement from the insurance that says it is an exclusion on the policy should be accepted for the program. In addition, he stated that SBA money takes months to receive so its not inconceivable that you could get a grant, but not receive funds for six to nine months, which would put the entity into the December 31<sup>st</sup> date. Secondly, all beaches in the City of Ventura have been closed. The Port needs to be careful how it is promoting visiting the Harbor on the website.

Victor Dollar, Senior Vice President of Sales for Brighton Management, LLC informed the Commission that they are not covered under insurance for this type of event and appreciates the Board and staff's recognition as to where they are at financially.

Michael Wagner, owner of Andria's Seafood, would like to see what the common area maintenance budget was and how it was spent for this year.

Jean Getchell stated that the insurance issue will go all the way to the US Supreme court where it will be defeated, so we should not count on getting relief from business interruption insurance because the pandemic occurred after the insurance was issued. It is a legal issue, so she suggested discussing with Counsel. She does not think there will be any relief.



**ACTION:** Commissioner Brennan moved, seconded by Commissioner Gardina and carried by a vote of 5-0 to adopt Resolution No. 3387 approving the COVID-19 Ventura Harbor Rental Abatement and Deferment Program, which will abate or defer 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 a period up to three months with repayment of deferred rents prior to December 31, 2020, with the following revisions:

**RESOLUTION NO. 3387**

**RESOLUTION OF THE BOARD OF PORT COMMISSIONERS  
OF THE VENTURA PORT DISTRICT APPROVING COVID-19  
VENTURA HARBOR RENTAL ABATEMENT AND DEFERMENT PROGRAM**

**WHEREAS**, on March 4, 2020, Governor Gavin Newsom proclaimed a State of Emergency to exist in California as a result of the threat of COVID-19;

**WHEREAS**, on March 12, 2020, the County of Ventura declared a State of Emergency to exist in Ventura County as a result of the threat of COVID-19.

**WHEREAS**, on March 17, 2020, the County of Ventura Health Officer issued an Order for the control of COVID-19 directing vulnerable individuals to shelter at their place of residence and issued restrictions of certain businesses.

**WHEREAS**, on March 19, 2020, Governor Gavin Newsom issued Executive Order N-33-20 for the preservation of public health and safety throughout the entire State of California to head the State public health directives from the Department of Public Health that, in order to protect public health, all individuals living in California must stay in their home or place of residence unless needed to maintain continuity of operations of critical infrastructure sectors.

**WHEREAS**, Executive Order N-33-20 identified 16 critical infrastructure sectors whose assets, systems, and networks, whether physical or virtual, are considered to be essential. All other businesses were directed to close.

**WHEREAS**, on March 20, 2020, the County of Ventura Health Officer issued an Order directing persons living in Ventura County to stay in their place of residence and restricting non-essential activities in response to COVID-19. Essential activities include only activities and tasks essential to health and safety of themselves, family, or household members, to obtain services or supplies, outdoor activities, to perform work for an essential business, or to care for a family member or pet in another household.

**NOW, THEREFORE, BE IT RESOLVED** that the Board of Port Commissioners, by adoption of this Resolution No. 3387 hereby authorizes the approval of the COVID-19 Ventura Harbor Rental Abatement and Deferment Program, as follows:

The Ventura Port District hereby implements the COVID-19 Ventura Harbor Rental Deferment Program ("Program") that will defer all rental payments for those Harbor Master Tenants and Harbor Village Business Tenants who have been directly impacted by the COVID-19 Pandemic on a monthly basis for a period up to three months (April through June 2020);

The COVID-19 Ventura Harbor Rental Abatement and Deferment Program qualifications are:

- Businesses must be a Master Tenant, or Harbor Village Tenant (i.e. direct commercial tenant of the Ventura Port District), or a Village Marina Recreational Charter Business;
- And:
  - Business is closed by Government Order; or
  - Business has lost 50% or more of typical monthly revenue in the month prior to rent due

The conditions of the COVID-19 Ventura Harbor Rental Deferment Program are:

- Master Tenants who qualify must provide the same monthly deferment to all sub-tenants.
- Harbor Village Tenants who qualify and who also pay the District a promotional fee for marketing, shall have the promotional fee waived for each month rent is deferred.
- Harbor Village Tenants who qualify, and who also pay the District a common area maintenance (CAM) fee, shall have one-half the CAM fee waived for each month rent is deferred.
- Master Tenants and Village Tenants who report sales, will continue to report sales as currently required, even if these sales are \$0.
- Master Tenants and Village Tenants will seek COVID-19 federal business assistance and pursue business interruption insurance. Deferments from May 2020 onward will require demonstration of pursuit of both.
- Repayment of the deferred rent shall occur by December 31, 2020. No interest or late fees will apply to the deferred rent during this time period but shall be applicable as per the lease terms if not paid in full by this date.
- All other terms, obligations, and requirements in both Master Tenant and Village Tenant lease agreements remain in full force and effect.

**BE IT FURTHER RESOLVED** that the Board of Port Commissioners, by adoption of this Resolution hereby authorizes General Manager, Brian D. Pendleton, to have the authority to implement the program, receive applications and approve documentation of the qualifications and conditions to ensure timely processing and approval of monthly rental abatements and deferments.

**PASSED, APPROVED AND ADOPTED** by the Board of Port Commissioners, this 1st day of April 2020.

## **2) Ventura Port District Operations Update**

Recommended Action: Informational.

That the Board of Port Commissioners receive an informational report on COVID-19 regarding:

- a) Status of Ventura Port District operations; and
- b) Provide direction to staff on next steps.

Report by General Manager, Brian D. Pendleton and Harbormaster, John Higgins.

Public Comment: Sam Sadove, owner of the Ventura Harbor Marina and Yacht Yard, has a large number of masks and gloves and offered them to the Harbor Patrol if they are needed.

**ACTION: The Board of Port Commissioners received an informational report on COVID-19 regarding the status of Ventura Port District operations.**

**ADJOURNMENT:** The meeting was adjourned at 8:20PM.

The next meeting is Wednesday, April 15, 2020.

  
Jackie Gardina, Secretary



**Jessica Rauch**

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**From:** Lynn Mikelatos <greeklynn@gmail.com>  
**Sent:** Wednesday, April 1, 2020 4:03 PM  
**To:** Jessica Rauch; Christopher Stephens  
**Subject:** Closed session remarks for tonights meeting

To chairman Stephens and all the Commissioners,

Let us begin by saying there has been a lot of water under the bridge since we submitted our RFP on March 2, 2020. We had a clear focus, consensus of mission and a very strong desire to make this a phenomenal success not only for us as owners, but for the Harbor as a whole. Unfortunately, all of us have had to shut down our businesses as they were previously operated. We are doing To Go orders at The Greek but it is not even breaking even. We now have to regroup and see where we all stand.

Much time, resources and planning has been invested by the Port District to bring the project to fruition. One major issue with the building is the deterioration and leaking of the back roof area and within the Margarita Villa space itself. Thousands of dollars have been paid by the Mikelatos family to The Carousel for damaged equipment from these leaks. It is time for the Port District to address these issues now before construction of the downstairs space begins. Margarita Villa is currently closed due to the Corona Virus. Take Out was not successful there. It is a perfect time to replace and seal the kitchen floors and check for any plumbing leaks. As you know, Margarita Villa has spent well over \$100,000 these past few months to replace the dining room flooring, replaced all dining room, rear and front patio furniture, replaced major pieces of kitchen equipment and most recently to repair and refurbish the back patio that was leaking. The Port District needs to take responsibility as we noted in our RFP, to provide a tenant space free of leaks from rain or otherwise from upstairs tenant.

Thank you and we look forward to getting back on track with the planning.

Annette Cortez and Marilyn Ryemon  
Gerasimos (Makis), Aris, Darius and Lynn Mikelatos  
Tristan Thames