

VENTURA PORT DISTRICT

BOARD OF PORT COMMISSIONERS MINUTES OF OCTOBER 7, 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 5:30PM 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: None.

CONVENED TO CLOSED SESSION AT 5:31PM.

ADJOURNMENT: Closed Session was adjourned at 6:30PM.

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 7:00PM at the Ventura Port District Administration Office, 1603 Anchors Way Drive, Ventura, CA 93001 and via Zoom Meeting.

PLEDGE OF ALLEGIANCE: By General Manager, Brian D. Pendleton.

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
John Higgins, Harbormaster via teleconference
Dave Werneburg, Marina Manager via teleconference
Joe Gonzalez, Capital Improvements Manager via teleconference
Sergio Gonzalez, Maintenance Supervisor via teleconference
Jennifer Talt-Lundin, Marketing Manager via teleconference
Gloria Adkins, Accounting Manager via teleconference

Legal Counsel:

Andy Turner via teleconference
Elsa Sham via teleconference

ADOPTION OF AGENDA

ACTION: Commissioner Blumenberg moved, seconded by Commissioner Brennan, and carried by a vote of 5-0 to adopt the October 7, 2020 agenda.

APPROVAL OF MINUTES

The Minutes of the September 16, 2020 Regular Meeting were considered as follows:

ACTION: Commissioner Brennan moved, seconded by Commissioner Ashworth, and carried by a vote of 5-0 to approve the September 16, 2020 Regular Meeting.

PUBLIC COMMUNICATIONS: Mike Lebecki provided written comment suggesting the Commission allow the parade of lights and fireworks this year.

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: Commissioner Gardina commended Harbor Patrol staff during for their hard work during these extremely busy times. Commissioner Brennan announced that at the next meeting there will be an informational report on water quality and styrofoam.

STAFF AND GENERAL MANAGER REPORTS: None.

LEGAL COUNSEL REPORT: None.

1) Consideration of Adoption of Ordinance No. 53 Authorizing Execution of the Assignment of the Existing Parcel 20 Master Lease and an Option Agreement Between the Ventura Port District and Derecktor Marine Holdings for a New 50-Year Master Lease

Recommended Action: Roll Call Vote.

That the Board of Port Commissioners:

1. Conduct a public hearing for the purpose of receiving input on proposed Ordinance No. 53;
2. Waive reading and direct Clerk to place Ordinance No. 53 in the record of this meeting; and
3. Adopt Ordinance No. 53, which authorizes execution of the Assignment of the Existing Parcel 20 Master Lease and Option Agreement between Ventura Port District and Derecktor Marine Holdings for a New 50-Year Master Lease.

Report by Brian D. Pendleton, General Manager

ACTION: Chairman Stephens opened the public hearing at 7:07PM for the purpose of receiving input on proposed Ordinance No. 53. The reading of the Proposed Ordinance No. 53 was waived. There was one public comment. The public hearing was closed by Chairman Stephens at 7:11PM.

Public Comment: Sam Sadove, owner of Ventura Harbor Marina Associates, LLC appreciates all the work that has been done. He questioned the commencement date of October 8th since his closing date with Derecktor Marine Holdings is not until October 19th.

ACTION: Commissioner Brennan moved, seconded by Commissioner Blumenberg and carried by a vote of 5-0 to adopt Ordinance No. 53 as follows:

ORDINANCE NO. 53

**AN ORDINANCE OF THE BOARD OF PORT COMMISSIONERS
OF VENTURA PORT DISTRICT APPROVING
(1) ASSIGNMENT OF THE EXISTING PARCEL 20 MASTER LEASE, AND (2) AN OPTION
AGREEMENT BETWEEN THE DISTRICT AND
DERECKTOR MARINE HOLDINGS FOR A NEW 50-YEAR MASTER LEASE
(California Harbors and Navigation Code section 6270)**

The Board of Port Commissioners of the Ventura Port District hereby ordains as follows:

The General Manager of the Ventura Port District is authorized and directed to execute the Option Agreement between Ventura Port District, and Derecktor Marine Holdings, with a commencement date of October ~~8~~19, 2020.”

PASSED, APPROVED AND ADOPTED at a Regular Meeting of the Board of Port Commissioners of Ventura Port District held on October 7, 2020. This Ordinance was adopted by the following vote:

AYES: Commissioners Stephens, Brennan, Gardina, Ashworth, Blumenberg

2) Consideration of Preliminary Operations Plan and Draft Economic and Fiscal Impacts of the Proposed Ventura Shellfish Enterprise Project

Recommended Action: Informational.

That the Board of Port Commissioners receive and consider public comment on the Preliminary Operations Plan and Draft Economic and Fiscal Impacts of the Proposed Ventura Shellfish Enterprise Project.

Report by Brian D. Pendleton, General Manager; Laurie Monarres, Dudek; Andrea Dransfield, Dudek; Michael Wright, Illuminas Consulting.

Public Comment: Sam Sadove, owner of Ventura Harbor Marina Associates, LLC commented on marine mammal issues, financial projections, and the 5th Circuit Court decision. Michael Wagner, owner of Andria's Seafood commented on marine mammal issues, financial projections and moving the project more inland towards Carpinteria. Kai Luoma, Executive Officer for LAFCo submitted written comment (Attachment 1). Cassidy Teufel, Senior Environmental Scientist for the California Coastal Commission submitted written comment (Attachment 2). Written comments were also received and included with the staff report by Bernard Friedman, Santa Barbara Mariculture Co.; Mary Luna; and a joint letter from Linda Krop, Environmental Defense Center, Susan Jordan, California Coastal Protection Network, Hallie Templeton, Friends of the Earth, Mati Waiya, Wishtoyo Chumash Foundation, Michael Stocker, Ocean Conservation Research, Morgan Patton, Environmental Action Committee of West Marin, Ben Pitterle, Santa Barbara Channelkeeper, Julie Teel Simmonds, Center for Biological Diversity, Rosanna Marie Neil, Northwest Atlantic Marine Alliance, and Courtney Vail, Oceanic Preservation Society.

ACTION: The Board of Port Commissioners received and considered public comment on the Preliminary Operations Plan and Draft Economic and Fiscal Impacts of the Proposed Ventura Shellfish Enterprise Project.

3) Approval of Financial Statements and Checks for April through June 2020

Recommended Action: Roll Call Vote.

That the Board of Port Commissioners adopts Resolution No. 3399 to:

- a) Accept the following draft financial statements for the Quarter ended June 30, 2020, pending audit adjustments, and accounting for year-end GASB 68 and GASB 75 journal entries; and,
- b) Review the payroll and regular checks for April through June 2020.

Report by Gloria Adkins, Accounting Manager.

Public Comment: None.

ACTION: Commissioner Brennan moved, seconded by Commissioner Blumenberg and carried by a vote of 5-0 to adopt Resolution No. 3399 to accept the following draft financial statements for the Quarter ended June 30, 2020, pending audit adjustments, and accounting for year-end GASB 68 and GASB 75 journal entries; and review the payroll and regular checks for April through June 2020.

4) Acceptance of Coastal Conservancy Grant for Fishing Facilities Enhancement Project

Recommended Action: Roll Call Vote.

That the Board of Port Commissioners adopt Resolution No. 3400 authorizing the General Manager to execute an agreement with the State of California Coastal Conservancy to grant a sum of \$318,600 to the Ventura Port District towards the performance of the Ventura Harbor Commercial Fishing Facilities Enhancement Project.

Report by Todd Mitchell, Business Operations Manager.

Public Comment: Sam Sadove, owner of Ventura Harbor Marina Associates, LLC offered to help move storage containers with the boatyards forklift. Michael Wagner, owner of Andria's Seafood, thanked the Commission for putting this through.

ACTION: Commissioner Brennan moved, seconded by Commissioner Gardina and carried by a vote of 5-0 to adopt Resolution No. 3400 authorizing the General Manager to execute an agreement with the State of California Coastal Conservancy to grant a sum of \$318,600 to the Ventura Port District towards the performance of the Ventura Harbor Commercial Fishing Facilities Enhancement Project.

5) Ventura Port District Operations Update as it Relates to COVID-19

Recommended Action: Informational. (Verbal Report)

That the Board of Port Commissioners receive an update on:

- a) The COVID-19 Ventura Harbor Rental Abatement and Deferment Program; and
- b) Status of Ventura Port District operations.

Report by Brian D. Pendleton, General Manager.

Public Comment: Michael Wagner, owner of Andria's Seafood, emphasized the District should still enforce masks and 6 feet distancing or we will go backwards. Sam Sadove, owner of Ventura Harbor Marina Associates, LLC commented that the County of Ventura came and conduct inspection at boatyard. He does not want to go backwards. He has also noticed an increase in homeless activity in the Harbor and town and they are becoming more dangerous.

ACTION: The Board of Port Commissioners received an update on COVID-19 related items.

ADJOURNMENT: The meeting was adjourned at 8:26PM.

The next meeting is Wednesday, October 21, 2020.


Jackie Gardina, Secretary



ATTACHMENT 1

VENTURA LOCAL AGENCY FORMATION COMMISSION

801 S. VICTORIA AVENUE, SUITE 301 • VENTURA, CA 93003

TEL (805) 654-2576 • FAX (805) 477-7101

WWW.VENTURA.LAFCO.CA.GOV

October 6, 2020

Board of Port Commissioners
c/o Brian Pendleton
General Manager
Ventura Port District

SENT VIA ELECTRONIC MAIL

Subject: Agenda Item 2 – Board of Port Commissioners meeting of October 7, 2020

Dear Board of Port Commissioners:

LAFCo staff has received multiple inquiries recently regarding LAFCo's potential role in the Port District's proposed Ventura Shellfish Enterprise (VSE) project to accommodate a mussel farm. These inquiries stem from misleading language included in the Port District's staff report prepared for Item 2 on the agenda for the Board's October 7 meeting (Consideration of Preliminary Operations Plan and Draft Economic and Fiscal Impacts of the Proposed Ventura Shellfish Enterprise Project). Due to this apparent confusion, I wish to clarify LAFCo's position.

According to the staff report, the United States Army Corps of Engineers withdrew the Port District's application for a permit for the VSE project due, in part, to the fact that the Port District had not resolved "a jurisdictional issue raised in the LAFCo letter" to the Army Corps. The staff report continues, "The Port District is working cooperatively with the Ventura LAFCo to resolve their differences..." (pages 18-19 of the staff report).

At its October 16, 2019 meeting, the Ventura LAFCo reviewed the sphere of influence¹ (or sphere) for the Port District to determine if the sphere could be expanded to include the VSE site. The site is located in federal waters outside state boundaries and outside the Port District's jurisdictional boundaries. The inclusion of the territory within the sphere is necessary to allow for LAFCo to authorize the Port District to exercise the functions necessary to develop the mussel farm. However, the Commission determined that it was unable to expand the sphere to include the territory because:

- As a state agency, LAFCo can neither expand a sphere of influence to include territory located outside state jurisdiction nor authorize a special district to exercise functions and services outside state jurisdiction, and
- The principal act for port districts, located in the Harbors and Navigation Code, does not grant port districts the power to exercise the functions/services that are necessary to develop and operate a mussel farm outside state jurisdiction.

¹ A sphere of influence is defined as "a plan for the probable physical boundaries and service area of a local agency, as determined by the [local agency formation] commission." (Govt. Code § 56076.)

ATTACHMENT 1

Ventura Port District Board of Port Commissioners

October 6, 2020

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At the direction of the LAFCo Commission, staff worked with Port District staff to identify options to resolve these matters, including special legislation. It became clear almost immediately that special legislation was the only option and, having fulfilled the Commission's direction, LAFCo staff considers its involvement in the matter complete. Though we understand that the District may disagree, LAFCo's position that 1) the Port District must obtain LAFCo approval to develop/operate the VSE and 2) the Port District does not have the authority to develop/operate the VSE in federal waters has not changed, and it is unlikely to change absent special legislation.

Thank you for your consideration.

Sincerely,

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

Kai Luoma
Executive Officer

CALIFORNIA COASTAL COMMISSION

455 MARKET STREET, SUITE 300
SAN FRANCISCO, CA 94105-2219
VOICE AND TDD (415) 904-5200
FAX (415) 904-5400



October 7, 2020

Ventura Port District
Board of Port Commissioners
1603 Anchors Way Drive
Ventura, CA 93001
submitted via email to: jrauch@venturaharbor.com

Re: Preliminary Operations Plan and Draft Economic and Fiscal Impacts of the Proposed Ventura Shellfish Enterprise Project

Dear Board of Port Commissioners:

Thank you for considering the following input from the California Coastal Commission (Commission) staff on the Ventura Shellfish Enterprise project. I am not able to attend the informational briefing but would like to provide these comments for the Ventura Port District (District) to consider.

We are writing today to clarify the current status of the project and its review by the Commission. As you are aware, on February 18, 2020, the U.S. Army Corps of Engineers notified the District that its permit application had been withdrawn. Upon withdrawal of the permit application by the U.S. Army Corps of Engineers, the District's consistency certification with the Commission was also withdrawn (as noted in the March 20, 2020 letter to the District from Commission staff). Thus, Commission staff is not currently reviewing any aspect of the District's proposed project.

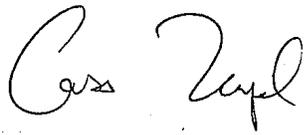
Furthermore, we strongly recommend that if the District proceeds with a shellfish project, that it move this project proposal into State waters. This recommendation is based on two factors. First, there is no path forward for the project in federal waters without significant legislation to overturn existing state law and that legislation appears unlikely. The Commission expressed significant concerns last year over AB 2370, and would not be supportive of a similar attempt next year. Second, Commission staff strongly believes that siting the project within State waters would result in a safer, more environmentally sustainable and responsible project that would better serve Californians. Currently, there is not a robust federal regulatory structure in place to review, approve and provide oversight of aquaculture projects in federal waters. Siting the project within State waters would provide an opportunity for a more thorough, transparent and stakeholder-engaged environmental review process that would include compliance with critical state laws such as the California Environmental Quality Act, the Coastal Act, the California Fish and Game Commission's aquaculture leasing requirements, and California Department of Public Health water quality and food safety regulations. Although the regulatory burden may be higher

in State waters, there is also more certainty that a project will be implemented and operated in a manner that is protective of coastal and marine resources while providing the desired public and economic benefits.

We look forward to continuing engagement with the District on these issues, and renew our commitment to working with the District to provide siting information and feedback that can lead to a successful project in State waters.

Thank you for your consideration of these comments. If you have any questions, please feel free to contact me at Cassidy.Teufel@coastal.ca.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Cassidy Teufel". The signature is written in a cursive style with a large initial "C" and "T".

CASSIDY TEUFEL
Senior Environmental Scientist
Energy, Ocean Resources and Federal Consistency Division