



VENTURA
PORT DISTRICT

Established 1952

**BOARD OF PORT COMMISSIONERS
OCTOBER 2, 2024**

Ventura Harbor

GATEWAY TO THE CHANNEL ISLANDS NATIONAL PARK

- Call to Order
- Pledge of Allegiance
- Roll Call

ADMIN AGENDA

ADMIN AGENDA

Adoption of the October 2, 2024 Agenda

Approval of Minutes
September 18, 2024
Regular Meeting

**PUBLIC COMMUNICATION
ADMIN AGENDA
ITEMS NOT ON THE AGENDA**

00 : 03 : 00

- Closed Session Report
- Board Communications
- Staff and General Manager Reports

ADMIN AGENDA

CONSENT AGENDA ITEMS

- A) Approval of Out-of-Town Travel Request for Maintenance Supervisor Wayne Hatch

PUBLIC COMMUNICATION CONSENT AGENDA

00 : 03 : 00

**ADOPTION OF RESOLUTION NO. 3511 APPROVING THE
FINANCIAL STATEMENTS AND CHECKS FOR APRIL
THROUGH JUNE 2024**

RECOMMENDATION:

That the Board of Port Commissioners adopts Resolution No. 3511 to:

- a) Accept the draft financial statements for the Quarter ending June 30, 2024, pending final year-end reconciliation adjustments and audit review.
- b) Review the payroll and regular checks for April through June 2024.

**STANDARD
AGENDA
ITEM
1**

**Report by:
Gloria Adkins, Accounting Manager**

PUBLIC COMMUNICATION STANDARD ITEM 1

00 : 03 : 00

**ADOPTION OF RESOLUTION NO. 3511 APPROVING THE
FINANCIAL STATEMENTS AND CHECKS FOR APRIL
THROUGH JUNE 2024**

RECOMMENDATION:

That the Board of Port Commissioners adopts Resolution No. 3511 to:

- a) Accept the draft financial statements for the Quarter ending June 30, 2024, pending final year-end reconciliation adjustments and audit review.
- b) Review the payroll and regular checks for April through June 2024.

**STANDARD
AGENDA
ITEM
1**

**Report by:
Gloria Adkins, Accounting Manager**

APPOINTMENT OF CALIFORNIA JPIA BOARD DIRECTOR

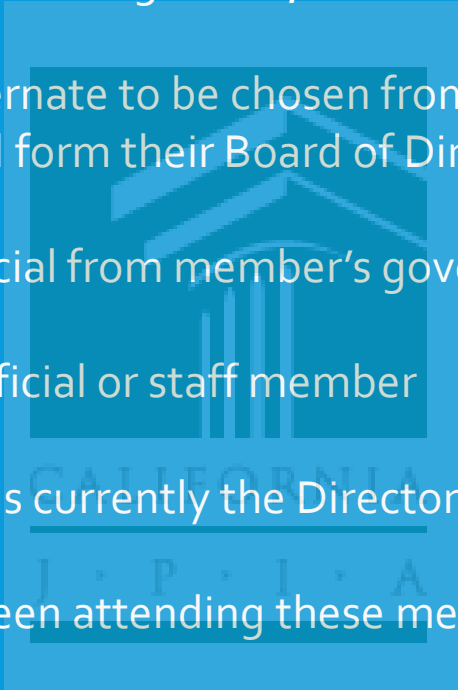
RECOMMENDATION:

That the Board of Port Commissioners appoint one Commissioner to serve as Director for the Joint Powers Insurance Authority (JPIA) Board of Directors.

STANDARD AGENDA ITEM 2

Report by:
Jessica Rauch, Clerk of the Board

- California Joint Powers Insurance Authority (CA JPIA) provides the District with insurance services, trainings, risk management, etc.
- JPIA requires a Director and Alternate to be chosen from each member agency to represent their organization and form their Board of Directors
- Director must be an elected official from member's governing body
- Alternates may be an elected official or staff member
- Former Commissioner Brennan is currently the Director
- Harbormaster is alternate has been attending these meetings due to conflict with our Commission meetings
- Meetings usually third Wednesday of July in La Palma



PUBLIC COMMUNICATION STANDARD ITEM 2

00 : 03 : 00

APPOINTMENT OF CALIFORNIA JPIA BOARD DIRECTOR

RECOMMENDATION:

That the Board of Port Commissioners appoint one Commissioner to serve as Director for the Joint Powers Insurance Authority (JPIA) Board of Directors.

STANDARD AGENDA ITEM 2

Report by:
Jessica Rauch, Clerk of the Board

**CONSIDERATION OF NOMINATION OF A PORT
COMMISSIONER TO BE A LAFCO SPECIAL DISTRICT
REGULAR MEMBER**

RECOMMENDATION:

That the Board of Port Commissioners:

- a) Consider the nomination of a Port Commissioner to fill the Regular Special District Member term on the Ventura Local Agency Formation Commission.
- b) If a Commissioner is nominated, adopt a Resolution nominating that Port Commissioner to fill the Regular Special District Member term on the Ventura Local Agency Formation Commission from January 1, 2025 through December 31, 2028.

**STANDARD
AGENDA
ITEM
3**

Report by:

**Brian Pendleton, General Manager
Jessica Rauch, Clerk of the Board**

- LAFCo was formed and operates under the provisions of state law, specifically the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000
- State law provides for LAFCOs to be formed as independent agencies in each county of CA
- Implement state law requirements and state and local policies relating to boundary changes for cities/most special districts, including:
 - Spheres of influence
 - Incorporations
 - Annexations
 - Reorganizations
 - Other changes to organization



- LAFCo is composed of seven voting members, with four alternate members
 - Two members and one alternate are from the Ventura County Board of Supervisors
 - Two members and one alternate are from City Councils of the cities in Ventura County
 - One member and one alternate are from the public at large who are not elected officials
 - Two members and one alternate are from Board of Independent Special Districts in Ventura County
- A Special District regular member's term will be expiring December 31, 2024
- A call for nominations has been made to appoint a new member for a subsequent 4-year term
- LAFCo generally meets monthly on the third Wednesday (August/December dark) starting at 9:00AM at the Ventura County Government Center



- All Special Districts have the same opportunity to submit a candidate
- Deadline for nominations is Friday October 11, 2024
- The Board has one of two options:
 1. Nominate a Commissioner to be a candidate by Resolution
 2. Refrain from this opportunity



PUBLIC COMMUNICATION STANDARD ITEM 3

00 : 03 : 00

**CONSIDERATION OF NOMINATION OF A PORT
COMMISSIONER TO BE A LAFCO SPECIAL DISTRICT
REGULAR MEMBER**

RECOMMENDATION:

That the Board of Port Commissioners:

- a) Consider the nomination of a Port Commissioner to fill the Regular Special District Member term on the Ventura Local Agency Formation Commission.
- b) If a Commissioner is nominated, adopt a Resolution nominating that Port Commissioner to fill the Regular Special District Member term on the Ventura Local Agency Formation Commission from January 1, 2025 through December 31, 2028.

**STANDARD
AGENDA
ITEM
3**

Report by:

**Brian Pendleton, General Manager
Jessica Rauch, Clerk of the Board**

APPROVAL OF VENTURA HARBOR FEE SCHEDULES

RECOMMENDATION:

That the Board of Port Commissioners approve the fee schedules effective January 1, 2025 for:

- a) Harbor Village Common Area Maintenance.
- b) Harbor Village Events.
- c) Harbor Village Commercial Marina Slips.
- d) Dry Boat Storage.
- e) Commercial Vendor Identification Cards.

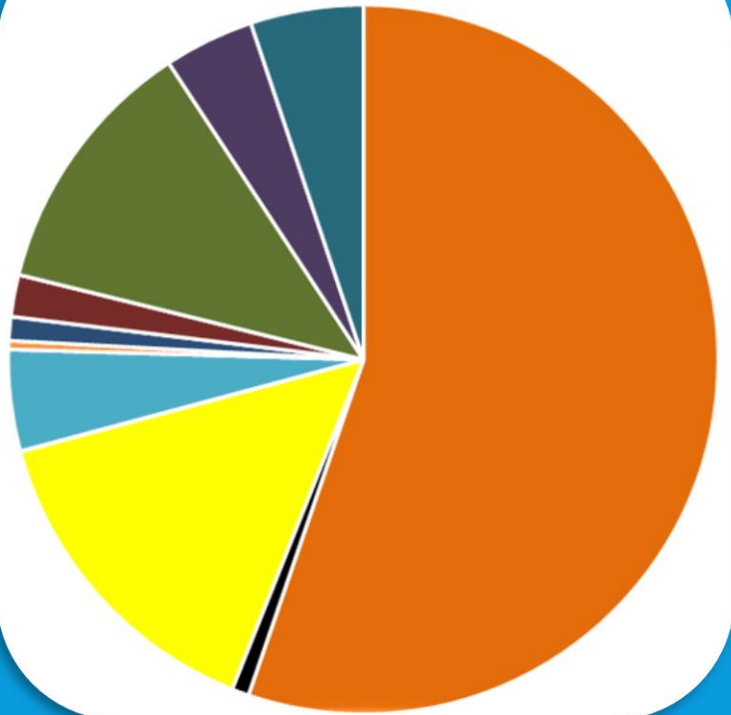
STANDARD AGENDA ITEM 4

Report by:

Brian Pendleton, General Manager
Gloria Adkins, Accounting Manager
Calli Brazero, Marketing & Events Coord.
Dave Werneburg, Marina Manager

VHV TENANT COMMON AREA MAINTENANCE FEES (CAM)

2023 CAM Expenses



- Labor Expenses
- Oil & Fuel Expenses
- Janitorial Supplies
- Other Equipment Maint
- Utilities-Electric & Water
- Trash Disposal
- General Insurance
- Operating Supplies
- Building Maintenance
- Grounds Maintenance
- Outside Services

SUMMARY OF 2025 PROPOSED ADDITIONS & CHANGES FOR EVENT, WEDDING & FILM FEES

EVENT LOCATION FEES	FEE	ADD/CHANGES
Fisherman's Memorial Lot (Morning Use Only Until 11am - half lot use)	\$250	NEW
School Beach Days/Per Individual Class *must hire lifeguard	\$25	NEW
19-A Parking Lot (50 spaces for shuttles & overflow)	\$250	\$50 REDUCTION
Harbor Cove Beach Parking Lot (event permit only)	\$10/space	NOW PAY PER SPACE
Late/Urgent Filing Application Fee (less than 30 day notice)	\$175	NEW
Surfers Knoll Beach Parking Lot (36 spaces) - Full Day Use (with film permit)	\$360	\$10 INCREASE
WEDDING FEES	FEE	ADD/CHANGES
19-A Parking Lot (50 spaces for shuttles & overflow)	\$250	\$50 REDUCTION
Late/Urgent Filing Application Fee (less than 30 day notice)	\$175	NEW
FILM FEES - COMPETITIVE INDUSTRY RATES	FEE	ADD/CHANGES
Ventura Harbor Village Balcony (6 hour use)	\$325	\$125 INCREASE + 1 HOUR
Village Parking Lot (Limited Availability)	\$10/space	\$2 INCREASE
Harbor Cove Beach Parking Lot (with film permit only)	\$10/space	NOW PAY PER SPACE
Surfers Knoll Beach Parking Lot (36 spaces) - Full Day Use (with film permit)	\$360	\$10 INCREASE

VHV COMMERCIAL MARINA SLIP FEES

Slip Length (ft)	Proposed Rate	Current Rate	% Change
30	\$ 415.00	\$ 400.00	3.8%
35	\$ 475.00	\$ 475.00	0.0%
48	\$ 680.00	\$ 675.00	0.7%
50	\$ 710.00	\$ 680.00	4.4%
55	\$ 800.00	\$ 840.00	-4.8%
60	\$ 885.00	\$ 875.00	1.1%
65	\$ 975.00	\$ 950.00	2.6%
70	\$ 1,070.00	\$ 1,025.00	4.4%
80	\$ 1,245.00	\$ 1,175.00	6.0%
90	\$ 1,405.00	\$ 1,325.00	6.0%
100	\$ 1,670.00	\$ 1,575.00	6.0%
160	\$ 3,260.00	\$ 3,257.00	0.1%

Transient Vessel Rates

Weekly rate: \$4.45 per linear foot + metered electricity (~3% increase)

Daily rate: \$1.65 per linear foot + metered electricity (~3% increase)

Seasonal Transient Vessel Rates

Regularly Monthly rate +15% premium (no change)

VENTURA HARBOR BOAT DRY STORAGE FEES

Stall Length	Proposed 19A Rate	Old Dry Storage Rate*	% Change	Regional Minimum**	Regional Average**
18	\$ 115	\$ 76	51%	\$ 115	\$ 148
21	\$ 130	\$ 95	37%	\$ 120	\$ 155
25	\$ 150	\$ 135	11%	\$ 120	\$ 160
30	\$ 165	\$ 135	22%	\$ 145	\$ 178
35	\$ 190	\$ 185	3%	\$ 165	\$ 195
39	\$ 210	\$ 185	14%	\$ 175	\$ 207
Kayak	\$ 15	\$ 15	0%		

PUBLIC COMMUNICATION STANDARD ITEM 4

00 : 03 : 00

APPROVAL OF VENTURA HARBOR FEE SCHEDULES

RECOMMENDATION:

That the Board of Port Commissioners approve the fee schedules effective January 1, 2025 for:

- a) Harbor Village Common Area Maintenance.
- b) Harbor Village Events.
- c) Harbor Village Commercial Marina Slips.
- d) Dry Boat Storage.
- e) Commercial Vendor Identification Cards.

STANDARD AGENDA ITEM 4

Report by:

Brian Pendleton, General Manager
Gloria Adkins, Accounting Manager
Dave Werneburg, Marina Manager
Jennifer Talt-Lundin, Marketing Manager

BROWN ACT PRESENTATION

RECOMMENDATION:

That the Board of Port Commissioners receive a presentation from Lagerlof, LLP on the Ralph M. Brown Act.

STANDARD AGENDA ITEM 5

Report by:
Reid Miller, Legal Counsel, Lagerlof



Ventura Port District

The Brown Act



Conduct Public Business Openly

“All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency, except as otherwise provided in this chapter.”



AB 2647: New Method for Sharing Public Meetings Materials

- Revises the Brown Act to clarify that the public disclosure requirement for writings distributed to the legislative body within **72 hours** of the meeting is satisfied by:
 - Posting the documents online at the time the documents are distributed; **AND**
 - Making physical copies available for public inspection at the beginning of the next regular business day at the designated public office.



LEGISLATIVE
BODIES

MEETINGS

EXCEPTIONS



Application of the Brown Act



L

What is a Legislative body?

- Governing body of the agency
- Advisory committees created by the governing body
- Standing committees comprised of less than a quorum
- But not temporary (ad hoc) committees comprised of less than a quorum



Hypos

- H1: A member of the legislative body of a local agency informally establishes an advisory committee of five residents to advise her on issues as they arise. Does the Brown Act apply to this committee?
- H2: During a meeting of the District's Board of Commissioners, the Board directs the General Manager to form an advisory committee to develop recommendations for a new ordinance. The General Manager forms the committee and appoints its members; the committee is instructed to direct its recommendations to the General Manager. Does the Brown Act apply to this committee?

Answers

- A1: No, because the committee has not been established by formal action of the legislative body.
- A2: Possibly, because the direction from the Board of Commissioners might be regarded as a formal action of the body, notwithstanding that the General Manager controls the committee.

What is a Meeting?

- In person gatherings
- Communication through intermediary
- Emails, Facebook, Twitter [AB 992]
- Serial meetings – prohibited!
- When is a gathering not a Brown Act “meeting”?



Hypos

- H1: Various social media platforms and websites include forums where District employees and officials can discuss issues of local agency business. Members of the Board of Commissioners participate regularly. Does this scenario present a potential for violation of the Brown Act?
- H2: A member of the Board of Commissioners contacts two other Board members (on its five-member Board) regarding scheduling a special meeting. Is this an illegal serial meeting?

Answers

- A1: Yes, because it is a technological device that may serve to allow for a majority of the Board members to discuss, deliberate, or take action on matters of agency business.
- A2: No, the Brown Act expressly allows a majority of a body to call a special meeting; however, the Board members should avoid discussing the merits of what is to be taken up at the meeting.

AB 992 – Social Media

- First specific amendment to the Brown Act to address social media issues
- Authorizes a board member to communicate via social media to provide information to the public
- Social media communications are permissible as long as *less than a majority* of board members use the social media platform to “discuss among themselves” the district’s official business
 - “Discuss among themselves” is defined to include making posts, commenting and even using emojis to express reactions
- Expands Brown Act to prohibit a board member from:
 - Responding “directly to any communication on an Internet-based social media platform regarding a matter that is within the subject matter jurisdiction of the legislative body that is made, posted or shared by *any other member* of the legislative body.”





E-Mail

- Refrain from replying
 - DO NOT REPLY TO ALL!
- Do not take a position or make a commitment
- E-mail Board for info only
- Take caution
- Ensure compliance with law
- Applies to other social media as well – AB 992
- Public vs. private devices – San Jose case



Meetings

REGULAR MEETING

Board sets time and place for its regular meetings. Agenda posted 72 hours ahead

SPECIAL MEETING

May be called by president or majority any time. Agenda posted 24 hours ahead

ADJOURNED MEETING

Regular or special meeting may be adjourned to a future date and time. No new agenda required if less than 5 days

EMERGENCY MEETING

May be called without notice if public health or safety may be impaired



Meeting Agenda

- Brief description of each item of business to be transacted or discussed at the meeting
- Must provide opportunity for public to speak
 - Prior to deliberation on an agenda item
 - Reasonable limitations allowed
- General rule: No action/discussion if not on agenda
- Exceptions:
 - Emergency
 - Matter arose since agenda posted [2/3 vote]
 - Item on agenda of adjourned meeting <5 days prior



Hypos

- H1: The agenda for a regular meeting contains the following items of business:
 - “Consideration of a report regarding traffic on Eighth Street.”
 - “Consideration of a contract with ABC Consulting.”

Are these descriptions adequate?

- H2: The agenda includes an item entitled “General Manager’s Report,” during which time, the District’s General Manager provides a brief report on notable topics of interest, none of which are listed on the agenda.

Is this permissible?

Answers

- A1: If the first is, it is barely adequate. A better description would provide the reader with some idea of what the report is about and what is being recommended. The second is not adequate. A better description might read, “Consideration of a contract with ABC Consulting in the amount of \$50,000 for traffic engineering services regarding traffic on Eighth Street.”
- A2: Yes, as long as it does not result in extended discussion or action by the Board of Commissioners.

AB 2647: New Method for Sharing Public Meetings Materials

- Revises the Brown Act to clarify that the public disclosure requirement for writings distributed to the legislative body within **72 hours** of the meeting is satisfied by:
 - Posting the documents online at the time the documents are distributed; **AND**
 - Making physical copies available for public inspection at the beginning of the next regular business day at the designated public office.



AB 2449: New Remote Public Meeting Options

- AB 2449 amends certain portions of the Brown Act relating to teleconference participation
- Allows local agencies to hold remote public meetings without identifying each teleconference location and without making each location accessible to the public
- This alternative option can only be used under limited circumstances of an “**emergency**” and “**just cause**” and expires on Jan. 1, 2026



AB 2449's "Limited Circumstances" for Remote Attendance

"Just cause"

- Caregiving for child, parent, grandparent, grandchild, sibling, spouse, or domestic partner
- Contagious illness that prevents a member from attending in person
- A need related to a physical or mental disability not otherwise accommodated
- Travel while on official business of the legislative body or another state or local agency

"Emergency circumstances"

- A physical or family medical emergency that prevents a member from attending in person



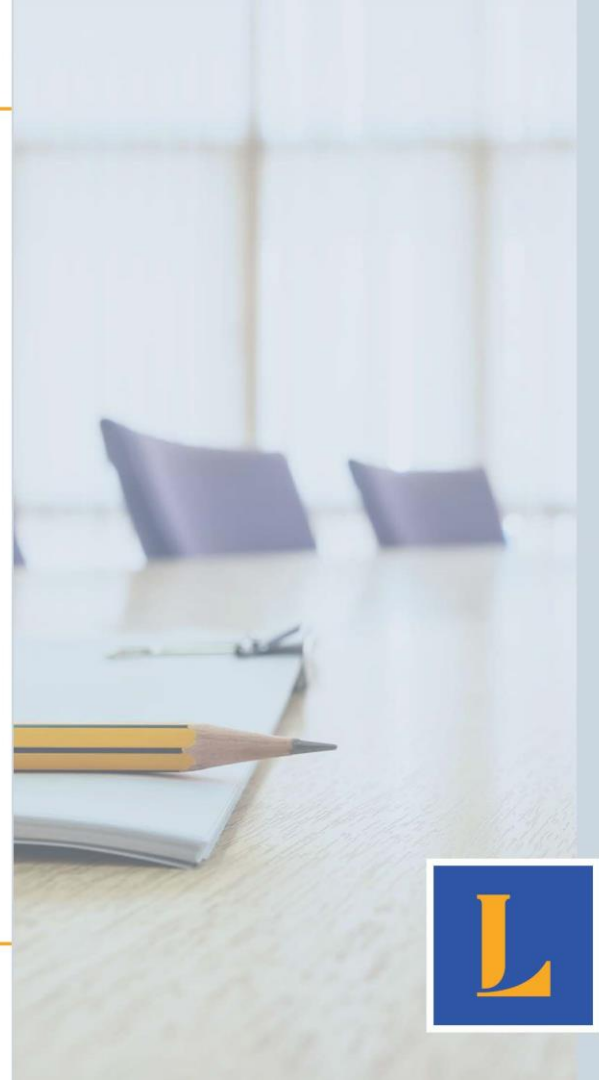
SB 1100: Power to Remove Disruptive Meeting Attendees

- Newly enacted SB 1100 authorizes a legislative body to order the room cleared and continue in session if a group willfully interrupts the orderly conduct of the meeting
- Provides the presiding member of that body the ability to have an individual removed for disrupting a meeting
- Before removal, the person must be warned that their behavior is disruptive, and that continued disruption may result in their removal
- Behavior is “disruptive” if it disrupts or impedes the orderly conduct of the meeting



Closed Session

- Must be expressly authorized
- Must be on the agenda [safe harbor description]
- Must be verbally announced
- Any action, or no action, must be reported
- Common closed sessions: personnel, labor & real property negotiations, pending/anticipated litigation
- Closed sessions confidential; disclosure prohibited



The Real Estate Negotiation Exception

Exception only permits a legislative body to meet in closed session to:

(1) advise its negotiator concerning the “**price**” and “**terms of payment**,” in connection with

(2) the **purchase, sale, lease, or exchange** of **property**. (Leases include lease amendments and renewals.)



California Attorney General's Opinion

The California Attorney General has opined that “**price**” and “**terms of payment**” include

- (1) the **amount of consideration** the District is willing to **pay or accept** in exchange for the lease/property rights to be acquired or transferred as part of a contemplated real estate transaction;
- (2) the **form, manner, and timing** of how that **consideration will be paid** (for example, an all-cash transaction, either up-front or in installments, a seller-financed mortgage, an exchange of property or property rights, or the like); and
- (3) **items** that are **essential to arriving at the authorized price and payment terms**, such that their *public disclosure* would be *tantamount to revealing the information* that the Exception permits to be *kept confidential*.



Hypos Regarding Closed Session Discussion



The Brown Act - Ramifications

- Violations may be prevented by court order
- Action not in compliance may be invalidated
- Court costs & attorney's fees are recoverable
- Individuals may be guilty of a misdemeanor
- Disclosure of confidential closed session information is prohibited

Questions?



PUBLIC COMMUNICATION STANDARD ITEM 5

00 : 03 : 00

Change Clock Type

Digital

Duration: 00 03 00

TimeUp Reminder (Optional): --

--

Choose Sound Effect None

Choose TimeUp Sound None

BROWN ACT PRESENTATION

RECOMMENDATION:

That the Board of Port Commissioners receive a presentation from Lagerlof, LLP on the Ralph M. Brown Act.

STANDARD AGENDA ITEM 5

Report by:
Reid Miller, Legal Counsel, Lagerlof



VENTURA
PORT DISTRICT

Established 1952

ADJOURNMENT
NEXT MEETING OCTOBER 16, 2024

Ventura Harbor

GATEWAY TO THE CHANNEL ISLANDS NATIONAL PARK