



Staff Report

TO: Board of Harbor Commissioners

FROM: Julie van Hoff, Director of Administrative Services

THRU: James B. Pruet, General Manager

DATE: May 20, 2020

SUBJECT: Charges for Services & Rent - COVID-19 Related Delinquencies

Issue/Topic:

The COVID-19 pandemic and the resulting State of Emergency/Shelter in Place Orders have had a significant effect on people's ability to work and earn an income, making it challenging for many to cover rent and lease payments.

Recommendation/Motion:

Recommendation: Receive a report on the effect of COVID-19 pandemic on District lessees and users of District facilities (e.g, annual launch ramp permits) and discuss options with respect to payments owed to the District for rents and charges for services.

Motion:

- 1) Approve General Manager's action to waive penalties and late fees for rents and charges for services that became delinquent during the period of April 1-June 30, 2020. Waive penalties and late fees on these delinquencies through June 30, 2021.
- 2) For non-essential businesses and essential businesses that remained closed:
 - waive requirement to find leases and commercial activity permits in default due to delinquency of payments which occurred from the period of April 1-June 30, 2020 and allow for repayment of rents over a twelve-month period or by June 30, 2021.
 - In the Alternative: waive requirement to find leases and commercial activity permits in default due to delinquency of payments which occurred from the period of April 1-June 30, 2020 and forgive (25%, 50%, 75%, 100%) for the same time period. This is approximately \$39,000 for 100% forgiveness of three months of rent.

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3) For berthers (slip holders & mooring patrons),

- waive requirement to lien vessels due to delinquent payments which occurred from the period of April 1-June 30, 2020 and allow for repayment of rents over a twelve-month period or by June 30, 2021.
- In the Alternative: waive requirement to lien vessels due to delinquent payments which occurred from the period of April 1-June 30, 2020 and forgive (25%, 50%, 75%, 100%) for the same time period. This is approximately \$816,000 for 100% forgiveness of three months rent.

4) For essential business that remained open:

- waive requirement to terminate leases and commercial activity permits due to delinquent payments which occurred from the period of April 1-June 30, 2020 and allow for repayment of rents over a twelve-month period or by June 30, 2021.
- In the Alternative: waive requirement to terminate leases and commercial activity permits due to delinquent payments which occurred from the period of April 1-June 30, 2020 and forgive (25%, 50%, 75%, 100%) for the same time period. This is approximately \$36,000 for 100% forgiveness of three months rent.

5) Approve the Rates and Fees Schedules as currently published and forgo the 3.3% inflation increase calculated for 2019. Add the 3.3% inflation increase to the 2020 calendar year increase to determine the two-year inflationary increase to be implemented on July 1, 2021. This calculation shall not reduce rates.

6) Defer lease terms associated with requirement to increase rents by the consumer price index (CPI) for one year and add to the 2020 CPI to determine the two-year inflationary increase. This calculation shall not reduce base rents.

7) Extend annual launch ramp permits by the number of months that the launch ramp is closed.

Policy Implications:

- Would temporarily amend District's policy and procedures with respect to accounts receivable and collections limited to payments waived, forgiven or deferred.
- Would temporarily allow for rates and fees to stay as they are and not be increased by the consumer price index of 3.3% as required by Resolution 17-02.
- Would temporarily waive certain lease and commercial event permit requirements.

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Fiscal Implications/Budget Status

Below is the average monthly rent by department and revenue category.

Description	Fiscal Year Average	Mar-20	Comment			
PPH - Slipholders	167,748.72	161,902.90	This is Berth, LAB, and recurring Transient rent			
PPH - Lessees & CAPs	22,502.56	22,502.56	Base Rent only			
OPM - Slipholders	104,339.50	103,133.02	This is Berth, LAB, and recurring Transient rent			
OPM - Lessees & CAPs	3,935.00	3,935.00	Base Rent only			
Total HD Est. Rent Forgiveness - 1 month	298,525.78	291,473.48				
Rounded	299,000.00	291,000.00				

LAB-Live Aboard; CAP-Commercial Activity Permit

For last quarter of Fiscal Year 2018/19 the District received \$42,300 in percentage rents from Pillar Point Harbor and \$2,500 from Oyster Point Marina. Staff's assumption is that businesses would not return to normal until the start of the 2020/21 fiscal year and expects the total rent revenues to be lower than last fiscal year by quarterly percentage rents.

Approval of recommended motions above will temporarily decrease inflow of cash in the near term and move collections to Fiscal Year 2020/21. Approval of Alternative Motions would decrease the amount of funding available for future capital projects. The District has sufficient working capital to pay for District costs until the receivables are collected.

The District would forgo approximately \$10,000 per month in revenues by waiving the CPI increase of 3.3%.

Assuming all berthers did not pay April-June 2020 the District would forgo approximately \$16,500 per month in penalties and fees. Assuming all lessees and CAPs did not pay April-June 2020 the District would forgo approximately \$2,600 per month in penalties and fees.

Background

The COVID-19 State of Emergency has resulted in people being laid off from jobs and the closure of businesses. This has placed significant financial burdens on multiple individuals and businesses at Pillar Point Harbor and Oyster Point Marina.

The District is receiving requests from lessees and berthers to forgive or reduce payments. Approximately 20-25 people have contacted staff for special consideration. Five nonessential businesses have asked for rent forgiveness. Staff has asked other agencies and found one Harbor District that is forgiving 50% of lease payments for three months. Most other governmental entities are forgiving late fees and penalties and are allowing for repayment of past due amounts for up to a twelve- month period.

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The General Manager held a meeting with the non-essential businesses at Pillar Point Harbor on April 21, 2020. The attendees requested that consideration be given to rent forgiveness while the PPH parking lot was closed to the general public. In addition, the private ferry service at Oyster Point marina has asked for rent forgiveness.

Options that are available to the District include not enforcing certain sections of Leases, Commercial Activity Permits, Berthing Agreements, and approve an amendment to the previously adopted Board Resolution 17-12 requiring an increase in rates and fees by the annually published CPI. These options are presented in the above recommended motion.

In the Alternative motions the Harbor Commission may approve a partial or full rent reduction. In the event that the Harbor Commissioners wish to proceed, staff recommends that all individuals and businesses be treated in a similar manner as their counterparts in the categories identified. This is to eliminate one or more businesses or individuals benefiting from gift of public funds without benefit to all. In addition, the Harbor Commission should be aware that some berthers pay on an annual basis and some have paid on time and any forgiveness of rent may result in credits to accounts or processing of rebate checks.

To assist in the short term, the General Manager has authorized staff to suspend rent payments for those who have asked to delay rent payments due to COVID-19 and authorized waiving late fees and/or penalties for delinquent rents. In addition, he suspended lien processes or other collection activities associated with past due amounts that have occurred due to the pandemic.

The District charges for services and rents in the following categories/sub-categories and for each listed categories/sub-categories there is a recommended treatment. The items listed below provide additional detail of the categories as listed in the above motion:

- 1) Liveboards- Unless necessary to protect public health and safety, an eviction case (residential or commercial) can't proceed either during California's state of emergency or 90 days after the emergency ends-it doesn't matter if the eviction is COVID-19 related.
- 2) Berthers & Transient Charges for visiting boats- May allow berther to defer rents and waive penalties and late fees.
- 3) Annual charges for launch ramps- access was blocked and permit holders did not get a full year of use. Allow for launch ramp permits to be valid for three months longer than expiration date.
- 4) Commercial Activity Permits (CAP)- Two CAPs require monthly payment. These two CAPs may be treated the same as item 5 or 6 below. All other CAPs are based on Passenger Service Fees and holders of the permits will not be required to submit payments when no services are performed.

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- 5) Rent per Lease Agreement, nonessential businesses and essential businesses that have remained closed- Allow April-June 2020 rents to be paid July 2020-June 2021 without penalties or fees.
- 6) Rent per Lease Agreement- essential businesses- Request submission of proof of loss of revenue of at least 25% as compared to the same period last year. If proof is submitted, then the April-June 2020 rents may be paid during the period of July 2020-June 2021 without penalties or fees.
- 7) Pass through charges for water and sewer- Due and payable upon receipt of billing and subject to penalties and fees for late payment.

Forgiving rents for nonessential business and essential business that have remained closed will help offset the catastrophic economic impact of the COVID-19 pandemic. Many of our tenants have lost significant income because of being closed, the impact of State and County orders to shelter at home and social distancing, and loss of employment. Forgiving rent will benefit the District by assisting this group of tenants in their economic recovery, which allows them to continue to rent/lease property/facilities from the District and contribute to the general welfare of the harbors that they occupy.

References

The three Fish Buyer Leases state "Adjustment to Minimum Base Rent. The Minimum Base Rent established in Paragraph 5. 1 of this Lease shall be adjusted annually on each anniversary of the Commencement Date for the term of this Lease by the greater of three percent (3%) or the increase since the prior year in the San Francisco-Oakland-San Jose Cost of Living Indexes: All Item Index (All Urban Consumers Index)."

The Harbor Commission passed Resolution 17-12 (Attachment 1) stating "that the Rates and Fees Schedule for Pillar Point Harbor and Oyster Point Marina/Park attached to this Resolution be adopted, which Rates and Fees Schedule provides that certain charges are to be increased by an amount equivalent to Consumer Price Index (CPI) for 2016 for Fiscal Year 2017-2018, effective August 1, 2017 and by said CPI effective July 1 each subsequent year."

Summary/Recommendation:

Staff recommends that the Harbor Commission approve the motions as presented above.

Attachments:

- 1) [Resolution 17-12 -Rates and Fees Schedule Resolution](#)
- 2) [Proposed Payment Plan Form](#)