

PORT COMMISSION MINUTES
MAY 12, 2016

Be it remembered that a Special Meeting of the Port Commission of the City of Long Beach, Mississippi, was begun and held at the Long Beach City Hall Meeting Room, 201 Jeff Davis Avenue, in said City at 2:00 o'clock p.m. on Thursday, May 12, 2016, and the same being the time, date, and place fixed by order of the Port Commission President in accordance with the Laws of Mississippi in relation to the holding of a special meeting.

There were present and in attendance on said Commission and at the meeting the following named persons: Commission President Phil Kies, Secretary Don Deschenes, Commissioners Vernon Ehlers, John Casey, Roger Ladner, Stan Snodgrass, Port Attorney James C. Simpson, Jr., Harbormaster Bill Angley, and Deputy City Clerk Stacey Dahl.

Absent the meeting were Vice President Susan Nicolais, Commissioners Joseph Yott and Barney Hill.

There being a quorum sufficient to transact the business of the Port Commission, the following proceedings were had and done.

Commissioner Ladner made motion seconded by Commissioner Ehlers and unanimously carried to spread the Notice of Special meeting upon the minutes of this meeting in words and figures, as follows:

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City of Long Beach

BOARD OF ALDERMEN
Leonard G. Carrubba, Sr. - At-Large
Gary J. Ponthieux - Ward 1
Bernie Parker - Ward 2
Kelly Griffin - Ward 3
Ronnie Hammons, Jr. - Ward 4
Mark E. Lishen - Ward 5
Alan Young - Ward 6



WILLIAM SKELLIE, JR.
MAYOR

CITY CLERK
TAX COLLECTOR
Rebecca E. Schruff

CITY ATTORNEY
James C. Simpson, Jr.

STATE OF MISSISSIPPI
COUNTY OF HARRISON
CITY OF LONG BEACH

TO THE CHIEF OF POLICE OR ANY LAWFUL OFFICER OF THE CITY OF
LONG BEACH, MISSISSIPPI:

GREETINGS:

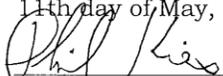
THIS IS TO COMMAND YOU TO NOTIFY Port Commission Members Vernon Ehlers, Don Deschenes, Joseph Yott, Sr., Susan Nicolais, John Casey, Roger Ladner, Barney Hill, Stan Snodgrass, Port Attorney James C. Simpson, Jr., Harbormaster Bill Anglely, and Minutes Clerk Stacey Dahl, all of the City of Long Beach, Mississippi, that a Special Meeting of the Long Beach Port Commission has been called and ordered on Thursday, May 12, 2016, at 2:00 o'clock PM, at the City Hall, 201 Jeff Davis Avenue, in said City for the purpose of transacting important business of the Port Commission as follows:

To consider and take action on the following:

1. CONSIDERATION OF SUBLEASE, BRACKISH, LLC

And you are to have this Notice of Special Meeting then and there with the endorsement of its service on the above named officers and persons who could be found personally at least three (3) hours before the time and date fixed for the special meeting aforesaid.

WITNESS MY SIGNATURE, this
11th day of May, 2016


Phil Kies, President

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STATE OF MISSISSIPPI
COUNTY OF HARRISON
CITY OF LONG BEACH

I, the undersigned Chief of Police of the City of Long Beach, Mississippi, hereby certify that I have served the within notice of Special Meeting of the Long Beach Port Commission of the City of Long Beach, Mississippi, by delivering a true and correct copy thereof personally to the following named persons at least three (3) hours prior to the time fixed for said special meeting, viz:

NAME OF PERSON SERVED	DATE	TIME
<i>Stan Dill</i>	5/11/16	10:45 AM
<i>[Signature]</i>	5/11/16	9:24 AM
<i>Robert Casarez</i>	5/11/16	11:01 AM
<i>[Signature]</i>	5/11/16	11:09 AM
<i>[Signature]</i>	5/11/16	4:14 PM
<i>Stan Amador</i>	5/11/16	9:42 PM
<i>Don Deschenes</i>	5/12/16	6:44 AM
<i>Vernon Ehlers</i>	5/12/16	9:50 AM


Wayne McDowell, Police Chief

BY: _____
Patrolman

There came on for discussion the Consent Agreement by and between **LONG BEACH PORT COMMISSION (Landlord), BLUE RIDGE PROPERTIES, LLC (Tenant), ORC, LLC (Subtenant) AND BRACKISH, LLC (Sub-Subtenant).**

After considerable discussion, Commissioner Ehlers made motion seconded by Commissioner Deschenes and unanimously carried to approve said **Consent Agreement**, as follows:

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Consent Agreement

This Consent Agreement ("*Agreement*") is made and entered into as of _____, 2016 (the "*Effective Date*") by and between **LONG BEACH PORT COMMISSION** ("*Landlord*"), **BLUE RIDGE PROPERTIES, LLC**, a Mississippi limited liability company ("*Tenant*"), **ORC, LLC**, a Mississippi limited liability company ("*Subtenant*") and **BRACKISH, LLC** ("*Sub-Subtenant*") (Landlord, Tenant, Subtenant and Sub-Subtenant being individually a "*Party*" or collectively the "*Parties*").

WHEREAS, Landlord and Tenant entered into that certain Amended and Restated Lease Agreement dated as of February 11, 2010, as the same has been, and may be from time to time, amended, modified, revised, restated and extended (collectively, the "*Lease Agreement*") pursuant to which the Tenant leases certain real property described therein (the "*Premises*"); and

WHEREAS, Tenant, as sublessor, and Subtenant, as sublessee, entered into that certain Building Lease Agreement dated February, 2015 as the same may be amended, modified, revised, restated and extended from time to time (collectively, the "*Building Lease*") pursuant to which the Subtenant leases a certain restaurant building containing 6,000 square feet of space (the "*Demised Premises*") located on the Premises and in which the Subtenant operates its restaurant business; and

WHEREAS, Subtenant, as sub-sublessor and in connection with the lease of certain assets of Subtenant's restaurant business operated on the Demised Premises, desires to enter into that certain Building Sublease Agreement (the "*Building Sublease*") with Sub-Subtenant pursuant to which Sub-Subtenant will sublease the Demised Premises from Subtenant for the operation of a restaurant; and

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements set forth herein and in the above referenced leases and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. **Building Sublease.** Subtenant and Sub-Subtenant each hereby certify that as of the Effective Date hereof: (a) a true, correct and complete copy of the Building Sublease, to be executed by the Subtenant and Sub-Subtenant at the closing of the lease of certain assets of Subtenant to Sub-Subtenant (the "*Equipment Lease*"), is attached hereto as Exhibit "A" and incorporated herein by reference; and (b) that within ten (10) days of the closing of the Equipment Lease and the execution of the Building Sublease, Subtenant shall furnish Landlord and Tenant with a fully-executed copy of the Building Sublease.

2. **Consent to Building Sublease.** Landlord and Tenant each do hereby consent to the Building Sublease between Subtenant and Sub-Subtenant for the sublease of the Demised Premises by Subtenant to Sub-Subtenant pursuant to the Building Sublease, with such changes and additions as Subtenant and Sub-Subtenant shall agree to, and to the transactions contemplated thereby. The execution and delivery of the Equipment Lease by the Sub-Subtenant and Subtenant is a condition precedent to the execution of the Building Sublease them.

3. **Notice of Default under Lease Agreement or Building Lease.** After the occurrence of a default under the Lease Agreement and/or after the occurrence of a default under the Building Lease, Landlord and Tenant agree each will provide Subtenant and Sub-Subtenant with written notice of such default contemporaneously with the giving of any default notice required

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under the Lease Agreement and/or the Building Lease and agree Subtenant and Sub-Subtenant shall each have the right, but not the obligation, to cure any such default in the manner and within the same time periods as allowed to Tenant under the Lease Agreement or as allowed to Subtenant under the Building Lease, as the case may be, and the Landlord and Tenant each agree to accept and receive, directly from Subtenant and/or Sub-Subtenant, all Rent owing and to be owed under the Lease Agreement or Building Sublease, as applicable.

4. **Lease Agreement.** Landlord and Tenant each hereby certify that, as of the Effective Date hereof: (a) a true, correct and complete copy of the Lease Agreement is attached hereto as Exhibit "B" and incorporated herein by reference; (b) the Lease Agreement is valid and in full force and effect; (c) all payments of rent and other amounts due to Landlord under the Lease Agreement as of the Effective Date hereof have been paid; (d) no payments of rent or other amounts due under the Lease Agreement are delinquent; and (e) to the knowledge of each of Landlord and Tenant, no default or event of default (however denominated) or event, which with the passage of time or the giving of notice, or both, would constitute a default or event of default under the Lease Agreement, has occurred and is continuing.

5. **Building Lease.** Tenant and Subtenant each hereby certify that, as of the Effective Date hereof: (a) a true, correct and complete copy of the Building Lease is attached hereto as Exhibit "C" and incorporated herein by reference; (b) the Building Lease is valid and in full force and effect; (c) all payments of rent and other amounts due to Tenant under the Building Lease as of the Effective Date hereof have been paid; (d) no payments of rent or other amounts due under the Building Lease are delinquent; and (e) to the knowledge of each of Tenant and Subtenant, no default or event of default (however denominated) or event, which with the passage of time or the giving of notice, or both, would constitute a default or event of default under the Building Lease, has occurred and is continuing.

6. **Notices.** All notices and other communications given to or made upon any Party in connection with this Agreement, shall be in writing and sent by certified U.S. Mail return receipt requested, by a nationally recognized overnight courier service (such as Federal Express) or by personal delivery to the addresses of the other Parties as set forth in the Lease Agreement, the Building Lease and the Building Sublease, as applicable.

7. **Further Actions.** Each Party (at no material cost to such Party) agrees to take any further actions, and execute any additional documents, which may be reasonably necessary or appropriate to consummate, confirm, complete or memorialize the transactions contemplated by this Agreement.

8. **Interpretation and Amendment.** In interpreting the language of this Agreement, the Parties will be treated as having drafted this Agreement after meaningful negotiations. The language in this Agreement will be construed as to its fair meaning and not strictly for or against any Party. The Parties may modify or amend this Agreement only in writing signed by all of the Parties hereto.

9. **Binding Effect; Counterpart; Governing Law.** This Agreement will be binding on and inure to the benefit of the Parties hereto and their respective heirs, executors, administrators, representatives, successors in interest and assigns. This Agreement may be signed in one or more counterparts and together all such counterparts so executed shall constitute one agreement, binding on all Parties hereto. This Agreement shall be governed by and construed in accordance with the laws of the State of Mississippi without regard to conflict of law principles.

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IN WITNESS WHEREOF, this Agreement is entered into as of the Effective Date first set forth above.

LANDLORD: **LONG BEACH PORT COMMISSION**
Witness or Attest: _____
By: _____
Name: _____
Its: _____
Name: _____
Title: _____

TENANT: **BLUE RIDGE PROPERTIES, LLC**
By: _____
Name: _____
Its: _____

SUBTENANT: **ORC, LLC**
By: _____
Name: _____
Its: _____

SUB-SUBTENANT: **BRACKISH, LLC**
By: _____
Name: _____
Its: _____

AND NOW COMES WILLIAM SKELLIE, JR., Mayor of the City of Long Beach, Mississippi, who signs herein below acknowledging the approval of this Consent Agreement by the City of Long Beach, Mississippi Board of Aldermen.

Date of Execution: _____
Witness or Attest: **CITY OF LONG BEACH, MISSISSIPPI**
By: _____
Name: _____
Title: _____
By: _____
William Skellie, Jr., Mayor

** **

[NOTE: Amended/ Restated Lease Agreement, dated February 11, 2010, and Building Lease Agreement dated, February, 2015, on file in the Office of the City Clerk.]

There being no further business considered at this special meeting, Commissioner Ladner made motion seconded by Commissioner Deschenes and unanimously carried to adjourn until the next regular meeting in due course.

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APPROVED:

PHIL KIES, PRESIDENT

DATE

ATTEST:

STACEY DAHL, DEPUTY CITY CLERK