

**From:** [tony.higgins](#)  
**To:** [Eduardo Sarmiento](#)  
**Cc:** [City Council](#); [Michael Jenkins](#)  
**Subject:** Covid Criminal Prosecution  
**Date:** Tuesday, July 13, 2021 5:29:35 PM

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Please include the attached email as a written communication to the city council and planning commission.

## WRITTEN COMMUNICATION TO CITY COUNCIL & PLANNING COMMISSION

July 12, 2021

To: HB Police Chief Paul LeBaron  
City Council

From: Anthony Higgins

Subj: Covid Crime Prosecution

I would like to report what I believe was a crime and have it investigated. If these allegations are found to be true and carry a criminal liability I would like this forwarded to the district attorney for prosecution.

Since one of the people allegedly committing these crimes is the police chief's direct supervisor, City Manager Suja Lowenthal, I will leave it to the HBPD to provide assurances that this matter will be investigated thoroughly and without any conflict of interest.

I will declare under the penalty of perjury that the following statements are true and correct to the best of my knowledge if necessary to facilitate an investigation.

Thank You,

Anthony Higgins

START

L.A. County's outdoor dining ban went into effect November 25th 2020.

The evidence seems to say the Hermosa Beach City Manager and City Councilmen acted in a criminally negligent and reckless manner by intentionally evading and circumventing the November 25th 2020 LA County Covid health order banning outdoor dining during the peak of the pandemic.

City officials did so by continuing to provide public space for restaurant owners to place their dining tables immediately adjacent to their restaurants, thereby allowing outdoor dining to continue unabated, against the advice of the city's BCHD medical experts and in direct violation of the health order.

**In so doing, the evidence is the City of Hermosa Beach officials recklessly increased the danger of death and great bodily harm to seniors and other at-risk populations in Hermosa Beach and surrounding communities.**

The law surrounding LA County health orders was clear:

**The Hermosa Beach City Manager and City Council could only strengthen the health orders based on unique risks in our city; they could not allow city actions that weakened the LA county health orders.**

This was discussed openly in city council meetings and is contained in the health orders themselves.

In addition to the alleged subversion and evasion of the outdoor dining ban, the actions by the city manager and city council sent the message that residents should ignore medical experts during the pandemic peak.

This too seemed reckless and irresponsible because it sent the message that if any city officials or residents disagreed with the reasoning and precautions being ordered by LA county medical experts, it was ok to ignore and evade those orders.

**Purposely facilitating and/or allowing the transmission of any potentially life-threatening communicable disease (such as HIV, Hepatitis C, or Covid) would seem to meet the legal standard for aggravated assault.**

**Aggravated assault** is defined as “assault causing serious bodily injury” and is a felony in most cases.

If convicted of felony aggravated assault prison sentences typically run for at least a few years. A lawyer convicted of felony aggravated assault may be disbarred.

There are (5) **aggravating factors** that I believe police investigators and the district attorney must take into consideration when deciding on the charges and whether to prosecute.

1. Did the actions taken by the HB city manager and city council subvert the county’s Covid health orders **during the peak of the pandemic**, when people were dying at record rates in our local hospitals and ICU’s were overwhelmed with grievously injured, and desperately sick patients? At that time there was no spare ICU capacity and any increase in the number of sick was likely to impact the quality of care being provided.
2. Did the city actions evade and subvert the county health order at a time when medical staff all across LA county were pleading for help and support from our local community and city officials, and when LA County was the nation’s epicenter for Covid transmission?
3. On December 29, 2020 after receiving several warnings from the LA County Health Department, the Manhattan Beach city council shut down the practice of providing public space to circumvent the dining ban. Did Hermosa Beach city officials ignore those well publicized warnings and continue to provide public space for restaurant owned tables well into January?
4. Were the city council and city manager **fully aware** that Hermosa Beach restaurants were violating the November 25, 2020 health order but still refuse to take effective action to shut down any illegal and/or criminal evasion of the health order?
5. Most seriously, did the Hermosa Beach city manager and city council allow restaurant owners to continue placing their tables on public city owned space adjacent to their restaurants to evade the outdoor dining ban and was this done **against the advice of their own BCHD health experts?**

I believe the public record will show the answer to all these questions is “YES” and if so, the

actions of the Hermosa Beach City Manager and City Council demand prosecution to deter future subversion and evasion of health orders.

The county is now facing a great deal of uncertainty going forward with Covid Delta variant and a clear & unambiguous message must be sent to city officials across LA county that subverting or evading LA County health orders will not be tolerated.

400,000 + American lost their lives unnecessarily in the first 3 waves of the pandemic according to a recent Brookings Institute study, in part because cities across the nation did not take health orders seriously, and the number deaths and grievous injuries is still growing.

I believe that aggravated assault or reckless endangerment of vulnerable populations (e.g. seniors) can be proven.

A straightforward statistical analysis analysis can likely prove that outdoor dining led to infections in Hb beyond any reasonable doubt. A statistical probability can be used for this.

Add to that that the City's BCHD medical experts advised against multihousehold outdoor dining during the peak of the pandemic when infections in LA County were spiraling out of control and I believe you have guilt beyond a reasonable doubt.

We are now facing a 4th wave with the delta variant.

**City Officials may disagree with the actions required by a health order but that did not give them the right to evade the health order and that message must be sent loud & clear by the prosecution of these allegations.**

Thank You  
Anthony Higgins

Note: I have many date/timestamped pictures of outdoor dining during the ban that I can provide upon request.

Also, attached is one of many emails I sent city officials during the peak of the 3rd wave pandemic. It proves beyond any reasonable doubt the city was aware of the illegal banned activities were happening at multiple locations throughout the business district.

END

Begin forwarded message:

**From:** tony higgins <tony.higgins123@gmail.com>  
**Date:** December 11, 2020 at 3:08:14 PM PST  
**To:** Suja Lowenthal <suja@hermosabeach.gov>  
**Cc:** City Council <citycouncil@hermosabeach.gov>, Planning Commission <DG\_PlanningCommission@hermosabch.org>, Michael Jenkins <Michael.Jenkins@bbklaw.com>, Ken Robertson <krobertson@hermosabeach.gov>  
**Subject:** Subverting the county no outdoor dining order by allowing restaurants

**to set up tables on city provided s public space**

This outrageous behavior continues to be allowed by our city leadership.

Allowing these restaurants to set up tables for takeout diners on city provided public space when the county has a no outdoor dining order leaves one to ask what is the point of the no outdoor dining order.

Allowing this in Hermosa Beach is just clear subversion of county order and the strict stay at home order issued by the state.

There is a raging pandemic going on [and] this constitutes reckless endangerment and gross negligence.

In that case the city can probably be sued, right Mr Jenkins and individual directors and the city manager called to account.

Anthony Higgins











