



**Sawmill Cove Industrial Park
Board of Directors Meeting
September 25, 2008 – 3:00 PM
SEDA Office
329 Harbor Drive, Suite 212**

Amended October 30, 2008

A. CALL TO ORDER

The Chair called the meeting to order at 3:05 pm.

B. ROLL CALL

Board Members Present: Grant Miller Trevor Harang Charles Horan Chris Fondell Lowell Frank (arrived 3:12)

Board Members Absent: NONE

City Staff: Jim Dinley Theresa Hillhouse Scott Brylinsky

Others Present: Garry White John Sherrod Dorrie Farrell Dick Kearns Brent England
Joan Travostino (City Executive Council via phone for Executive Session)
Kent Sullivan (Attorney representing Cove Partners LLC via phone after Executive Session)

C. REVIEW OF MINUTES – August 26th, 2008

MOTION: M/S Harang / Fondell moved to approve the minutes of the August 26, 2008 SCIP Board meeting.

ACTION: Motion PASSED unanimously 4/0.

D. CORRESPONDENCE AND OTHER INFORMATION

Ms. Hillhouse advised that the open meetings act applies to any board, commission, and to the Assembly. The Assembly and SCIP Board both fall into the “non-advisory” category and require that a meeting of four or more members or a majority (whichever is lesser) must be open to the public and advertised. Therefore while two SCIP Board members can talk on any subject, three or more establishes a quorum and would require public notice and access. This applies to phone and e-mail communication and no “serial” communications involving more than two members is allowed on subjects related to SCIP business. Any number of Board members may communicate on ancillary matters (such as setting the date for a meeting), not on substance related to SCIP business.

E. CHANGES/ADDITIONS/DELETIONS TO THE AGENDA

Mr. Horan requested an update on bulk water sales from Dick Kearns

Ms. Hillhouse advised that this is not specifically noted as an agenda item – must be conservative in discussions unless properly advertised in agenda as “TAB – Bulk Water.” Information acquired during a meeting that is not covered under a properly advertised agenda item, and then used to make decisions at a later meeting, leaves those decisions could be subject to repeal or void.

Ms. Hillhouse also advised that Agenda Item “I. Other Business” needs to be removed from future agendas as it could lead to conflicts with the open meetings act.

F. REPORTS

Mr. White reported that the City Electric Department would like to use a portion of SCIP during the Blue Lake Expansion project, including possible construction of a building for housing contract workers. The building would be turned over to SCIP when the project is completed.

Mr. Miller asked for clarification of how the "Reports" agenda item is affected by the open meetings act.

Ms. Hillhouse stated that Mr. White can report on such items, but that if there is going to be any discussion of the subject, it needs to come back at a future meeting and be advertised on the agenda. The difference is that Mr. White is the SCIP Director and Mr. Kearns is not a member of the Board. Generally reports are for the Executive Director only, other types of reports would need to be an official agenda item.

Mr. White advised that all SCIP leases have been reviewed and details confirmed to be up to date. He added that Tongass Biofuels is in the process of setting up their equipment.

G. UNFINISHED BUSINESS

1. TAB Property – Cove Partners LLC

Ms. Hillhouse advised that the SCIP Board should go into Executive session for discussion of this agenda item. Ms. Hillhouse stated for the record that she received correspondence from the attorney for Cove Partners LLC and forwarded this to the City's outside council for her comment. She is prepared to come on to give legal advice to the Board regarding Cove Partners legal challenge to TAB's the reversionary provisions in the TAB lease. Because this deals with legal issues that can impact the finances of the City and legal advice will be given, she asked that a motion be made to go into Executive Session with the Administrator, City Attorney, the SCIP Director – Garry White, and the City's outside council – Joan Travostino (via phone). During the Executive Session, there will be no voting. The purpose of the Executive Session is to give advice/make recommendations, when we come back the Board will be asked to vote on the recommendations made. Once voted on this issue may go back to the Assembly.

Mr. Miller asked for any comments from the public related to this agenda item prior to moving into Executive Session.

MOTION: M/S Harang/Frank moved for the SCIP Board to go into Executive Session with the Municipal Attorney, outside council Joan Travostino, Sawmill Cove Industrial Park Director, and the Municipal Administrator to discuss the matters related to TAB and Cove Partners LLC property at Sawmill Cove Industrial Park for matters which the immediate knowledge of which would adversely affect the finances of the Municipality; and which concern communications with the Municipal Attorney and other legal advisers concerning legal matters affecting the Municipality or legal consequences of past, present or future Municipal Actions.

ACTION: Motion PASSED unanimously 5/0.

EXECUTIVE SESSION (3:26pm to 4:28pm)

MOTION: M/S Fondell/Harang moved for the SCIP Board to come out of Executive Session.

ACTION: Motion PASSED unanimously 5/0.

Ms. Hillhouse requested that the SCIP Board move to accept the recommendation from council at the Executive Session for us (the City of Sitka via the Municipal Attorney?) to contact Cove Partners council and make an alternative proposal; and instead of their proposed mediation, to have a meeting with this Board, preserving what legal issues they may have in this case; and at that meeting with this Board to be prepared to put forth whatever proposals they have regarding the reversionary provisions – if they want them cancelled,

modified, extended; and that they be willing to discuss what would be their business plan and why we should make changes to those reversionary provisions. If Cove Partners LLC is not willing to go that route and set up a meeting with this Board, then the proposal would be to take this matter to the Assembly.

** Kent Sullivan, Attorney representing Cove Partners LLC was brought into the meeting via phone.

Ms. Hillhouse informed Mr. Sullivan that the Board is preparing a motion in response to the letter sent by council for Cove Partners LLC.

Ms. Hillhouse provided the wording for the following motion.

MOTION: M/S Horan/Fondell moved to accept the recommendation made by City Attorney, Theresa Hillhouse, and outside council, Joan Travostino during our Executive Session:

1. For us to contact Mr. Sullivan in response to the letters we received so we can summarily respond to some of their legal arguments, while having them preserve those legal arguments and;
2. Move forward with a meeting with this Board, because of the nature of this public Board in that we have legal constraints for mediation;
3. Have a meeting with this Board and any representatives from Cove Partners LLC to discuss proposals regarding the reversionary provisions, for instance, which ones they may find acceptable which ones they think need modifications, extensions, etc....
4. We ask that at that meeting Cove Partners be prepared to explain to the Board what may be their business plan for the operation of that property as this may have a strong bearing for the Board's decisions on why they may give up certain reversionary provisions and;
5. To have that meeting scheduled within the next couple of weeks.
6. If Cove Partners is not willing to go forward with such a meeting, which is required in our public process, our recommendation is to have this matter go forward to the Assembly to take this issue up.

DISCUSSION:

Mr. Horan stated that he made and endorses the motion and that he expects that we get a sense from Cove Partners what they want regarding the reverters and what incentive the Board would have to make any changes to the reverters. Mr. Horan expressed his concerns that the mission of the Board to create jobs and promote economic development with that property has not been fulfilled and wanted to know what Cove Partners might offer to support that mission.

Mr. Miller emphasized that it be clear in this motion that the option of mediation, as proposed by Cove Partners LLC, is not possible as the Board is a public entity. And that if Cove Partners LLC refuses to meet with the Board and the issue moves to the Assembly, constitutes our pressing the reversions.

Mr. Fondell stated that there is a need to clarify the parties involved in negotiations and what their interests are – specifically Cove Partners LLC and TAB. Is the Board dealing only with Cove Partners LLC in these negotiations or with TAB as well.

ACTION: Motion PASSED unanimously 5/0.

Discussion about the agenda resulted in a recommendation by Ms. Hillhouse that this agenda and future agendas include "Persons to be Heard" which will allow non-board members to speak on issues that are not directly related to the advertised agenda items.

MOTION: M/S Horan/Fondell moved to amend the agenda and make Persons to Be Heard our next agenda item.

ACTION: Motion PASSED unanimously 5/0.

K. PERSONS TO BE HEARD (added and moved forward as per previous motion)

Mr. Kearns stated that as of tomorrow, September 26, at 5:00 he is officially shutting down the TAB water bottling plant. The facility will probably not make bottled water again in this community. Mr. Kearns stated that he thinks the Board believes that he had done everything possible to meet any and all obligations, and admits that he has never paid the City on time, with the exception of TABs closing. All financial obligations have eventually been paid with total monies in excess of two to three million dollars.

Mr. Kearns stated that TAB is close to finishing three, possibly four bulk water contracts. However, the issue of how to deliver the water to a boat is still a problem and a plan must be developed. The bulk water vessels carry more than 40 million gallons per shipment, with the first two ships having a capacity of 70 million gallons and a length of 800 feet. The no mixing zone is therefore a concern that needs to be addressed. TAB has two companies working on the engineering challenges. The long-term solution, requires Corp of Engineer permits and some additional time to develop and is designed to take the bulk water line out to deep water, outside the inner cove. One of the vessels that may come next year is about 1,400 feet in length. Once we submit the plan for the temporary loading system and it is accepted and signed off on, one company is prepared to send bulk water vessels within 30 days or so.

Mr. Kearns stated that TAB's water bottling plant is a completely separate issue. From TAB's point of view, if the City prevails and the land is allocated back to the City, the land then becomes an obligation on TAB's part to pay a lease payment to the City for 25 years. It automatically converts to a 25 year lease with retention of the building staying with TAB as long as the lease payments are made. Assuming all this happens, the reverters, upon being exercised, would then go away and no longer relate to this property. After this, TAB would have the right, regarding the other purchase and sale agreement, to do any legal authorized business that is allowed by law at SCIP. After the water bottling plant is shut down and equipment removed, we would be looking at doing something with that property that would be legally allowed within our leasehold position. TAB may not be operating a manufacturing plant there, but there is some interest in town for using the property for marine storage. TAB will likely be looking to simply work out a plan to recover costs and meet financial obligations.

G.2 SCIP Re-Plat

Mr. White reported that the plat needs to be recorded in order to complete the sale to Siler Bay Seafoods. The issue is that we wanted to add some notes to this plat related to Lot 5, the TAB property (behind on taxes), and subdivide Lot 15, the likely site of the STA Tannery.

Ms. Hillhouse clarified that due to Silver Bay Seafoods option to purchase title insurance and the title company's requirement that the current plat be recorded. State law prevents certification of any plat as long as property taxes are owed. TAB still owed property taxes on Lot 5. The replat will remove the need for a sign off by TAB or Cove Partners.

MOTION: M/S Horan/Harang move to accept the changes presented here and that the plat be recorded.

ACTION: Motion PASSED unanimously 5/0.

G.3 Strategic Plan – Approve Map

Mr. White presented the new land use map and requested direction for setting up a work session with the Assembly to discuss the SCIP strategic plan.

MOTION: M/S Fondell/Harang moved to approve the land use map for the Sawmill Cove Industrial Park in full color.

ACTION: Motion PASSED unanimously 5/0.

Mr. White advised that Jim Corak is working on assessed values for the parcels identified on the land use map. Work is also being done to identify the location of all utilities in a format that can be presented to any party interested in the property.

H. NEW BUSINESS

1. Stores Building Capital Request

Mr. Brylinsky reported that the loading dock must be sprinkled or torn down. This has driven up the original cost estimate from \$30k to \$43k. This project is difficult to put out for bid due to the current sprinklers being a wet system, not a dry system as is now required to meet code.

Mr. Horan wanted confirmation that the sprinkler upgrades are the top priority for marketability and preservation of the building.

Mr. Brylinsky stated that the building cannot be fully rented without the sprinkler upgrade to bring it into code compliance. Currently, the building is limited to 12,000 in rentable area.

Mr. Harang pointed out that even with the sprinkler upgrade, additional repairs to the roof, walls, etc... will need to be done.

Mr. Miller noted that the City is still sitting on economic development funds and that upgrades to the Stores Building should qualify for these funds.

Mr. Horan asked if we can recoup the \$45k expense. Currently we are getting only 25 cents per square foot for the 7,000 being rented. Maybe we need to fix the roof first. Stop the leaks, close it in and increase the rent. Then if we have additional renters and approach the 12,000 maximum, we go to the Assembly for the 45k for the sprinklers. Fixing the sprinklers first does not seem wise strategically.

Mr. Fondell suggested having an engineer go through the building to identify any liability issues that affect the buildings value.

Mr. White stated that 41 cents per square foot is required to cover operational expenses including reserves for maintenance and repair.

Mr. Horan suggested completing an assessment of the building, identifying improvements to be made and cost estimates. Do what is necessary to bring the rents closer to market rate, which will likely reduce the square footage rented below the current 7,000. Get the rent closer to market rate and as the space rents out and approaches the 12,000 square foot limit, then address the sprinkler issue.

Mr. Brylinsky advised that for planning needs, the assessment work could be done in-house with some additional work from outside sources. The City has a small budget line item for such services. Mr. Brylinsky stated that he could likely have this done before the sprinkler-bidding deadline and bring this information back to the next SCIP Board meeting. Mr. Brylinsky advised that three months would be required to get the sprinklers taken care of if this project is put off to a future date.

MOTION: M/S Horan/Frank moved to request the City Administrator to direct staff to prepare a condition assessment and estimated cost to cure life, safety and property preservation issues in the Stores Building.

ACTION: Motion PASSED unanimously 5/0.

2. Stores Building Lease Rates

Mr. White reported that current tenants Silver by Seafoods and Tongass Biofuels are both paying 25 center per square foot per month with a total rented area at the rate of 7,600 square feet. Annual operating costs for the building are approximately \$47,000. Dividing annual operating costs by the useable square footage, adding reserves for maintenance, repairs, and upgrades, and including the land value results cost recovery monthly rental rate of between 65 cents to \$1.00 per square foot which is consistent with market rates.

Mr. Horan emphasized the need to be cautious with lease rates so as not to undercut local business.

Mr. White noted that the goal is to determine a base lease rate that can be adjusted based on other factors such as jobs created, any building improvements that might be made by the tenant, etc...

It was decided to table discussion of this issue until an condition assessment of the building is completed and then bring it back as an agenda item at a future SCIP Board meeting.

2. SBS Stores Building Lease Adjustment

Mr. White reported that Silver Bay has been using an additional 498 square feet of space in the Stores Building for storage. The adjustment to the lease needs Board approval to go forward so that this can be billed for.

Mr. Horan recommended that SBS be informed that rental rates are under review and may be adjusted.

MOTION: M/S Harang/Fondell moved to approve the adjustment as presented.

ACTION: Motion PASSED unanimously 5/0.

3. Lighthouse Fellowship Lease

Mr. White reported that the Lighthouse Fellowship was awarded the 4th of July Booths and have taken ownership of the equipment. They requested that the \$0.00 lease for storage space previously extended to the Chamber of Commerce for storage of this equipment be continued. The Chamber lease was for 1,200 square feet, however they are not using that much space.

Discussion brought consensus to direct Mr. White to extend a lease to the Lighthouse Fellowship for storage space at a \$0.00 rate on a month-to-month basis until the July 1st, 2009. This allows Lighthouse Fellowship to find another location for storage or thereafter begin paying rent at a rate to be determined by the SCIP Board. There shall be a formal, signed agreement acknowledging that this is a month-to-month, short term lease, defining the minimum amount of space needed and making it clear that the City is not liable for any damage or loss of property being stored.

I. OTHER BUSINESS

1. Schedule Assembly Work Session

J. ADJOURNMENT

MOTION: M/S Horan/Fondell moved to adjourn the meeting.

ACTION: Motion PASSED unanimously 5/0

The meeting adjourned at 7:05pm