

**Sawmill Cove Industrial Park
Board of Directors Meeting
July 20, 2009 – 3:30 PM
SCIP Conference Room – Administration Building
4600 Sawmill Creek Road**

A. CALL TO ORDER

The Chair called the meeting to order at 3:34 pm.

B. ROLL CALL

Board Members Present:	Grant Miller	Trevor Harang	Chris Fondell	Lowell Frank
Board Members Absent:	Charles Horan			
City Representatives:	Jim Dinley	Theresa Hillhouse	Scott Brylinsky	Brent England
	Jack Ozment			
Others Present:	Garry White	Linda Wilson	John Sherrod	
	Dave Benneth (Cove Partners/Star West)	John Benneth (Cove Partners/Star West)		
	Mike Ginn (Eagle Crest Ministries)	Pete Derensis (STA Tannery)		
	Craig Giamonna (Sitka Sentinel)			

C. REVIEW OF MINUTES – June 8, 2009

The Chair noted that page three of the minutes was missing from some packets and copies of the missing page were provided for review.

MOTION: M/S Harang/Fondell moved to approve the minutes of June 8, 2009.

ACTION: Motion PASSED unanimously 4/0 on a voice vote.

D. CORRESPONDENCE AND OTHER INFORMATION

Mr. White stated that the Assembly agreed to reschedule consideration of the SCIP Strategic Plan to the September 22, 2009 meeting.

Mr. White referred to a draft letter to SCIP tenants regarding EPA NPDES permit requirements. Mr. White stated that it is the responsibility of the operator to file a storm water prevention plan or to file for a waiver. Responsibility for permits is covered in the SCIP lease and is explicit in EPA regulations. The letter to the tenants is intended to make them aware of these requirements and provide summary and contact information to assist them in complying with these Federal regulations. Mr. White emphasized the City is not imposing this on the tenants, it is a Federal requirement.

Ms. Hillhouse stated that the City is responsible only for City operated activities. For example, Seward operates a marine lift and is responsible for getting the NPDES permit.

Mr. Brylinsky stated that the City recycling center has filed for and acquired a NPDES permit for its operation at SCIP.

E. CHANGES/ADDITIONS/DELETIONS TO THE AGENDA

Mr. Miller moved Item H.2. down to H.3. and item H.3. down to H.4. taking item I.1. under New Business first.

I. NEW BUSINESS (moved forward in agenda)

1. Eagle Crest Ministries

Mr. Ginn stated that Eagle Crest Ministries (formerly Lighthouse Fellowship) did receive notice that their lease of storage space at SCIP was being terminated, however they have not been able to find an alternate location to store the 4th of July booths and asked for the SCIP Board's assistance in this matter.

Mr. White stated that the blue utility building near Fortress of the Bear has been determined to be available for storage use.

Mr. Brylinsky stated that there is no power to that building and lighting would be required to meet fire code prior to any use of the building. Battery powered lights would be okay.

Mr. Fondell suggested that the booths could be stored outside and covered with tarps.

Mr. Ginn agreed that outside storage space would be acceptable.

MOTION: M/S Harang/Frank moved to approve a portion of Lot 19 for use by Eagle Crest Ministries to store their 4th of July booths on a month-to-month \$0.00 lease.

ACTION: Motion PASSED unanimously 4/0 on a voice vote.

F. REPORTS

1. SCIP Management Report

Mr. White reported the following, in addition to the information provided in the printed report provided in the packet:

- A second round of Marine RFP letters was sent out to 42 shipyards. So far two responses have been received – one “not interested” and one asking for more information.

G. PERSONS TO BE HEARD (Moved to the last item on the agenda, after Unfinished Business)

H. UNFINISHED BUSINESS

1. Cove Partners/Starwest Holdings

Mr. Dave Benneth addressed the Board, providing the following comments:

- One liter and ½ liter bottles are now in production.
- Production of the PLA compostable bottles is planned to start in August with supplies due to arrive next week.
- Four sales efforts are in progress in Salem, Portland, Seattle, and B.C.
- This is a difficult time to sell water due to the depressed economy and recent public perception of bottled water as an environmental concern. This could be a positive marketing point for use of the PLA bottle.
- \$250k has been invested in equipment and plant improvements including the purchase of three new production lines.
- With set-up of the new production lines and various other work at the plant a number of health and safety inspectors have been through the facility.
- The new equipment is in place and hooked up.

Mr. Benneth stated that at the time of purchase of the building from TAB, in September 2006, Cove Partners and the First American Title Company were unaware of the reverters on the property. Mr. Benneth said that the reversions were drafted to fit the previous owner's situation, not Cove/Starwest. For example the

requirement that the Max Langenburg equipment be installed does not fit with Starwest's plans and they have no use for such equipment.

Mr. Benneth stated that attorneys that have been consulted believe that the reverters would be overturned if the issue goes to court. If this has to go to court, no one wins.

Mr. Benneth stated that the First American Title Company has agreed to put up \$150k to cover court costs, and there is the potential to strike an agreement with the First American Title Company to place that \$150k into an escrow account instead, if that will make the reverters go away. The money in escrow would be used to repair and upgrade the plant instead of paying attorneys. Money in the escrow account could be earmarked for capital improvements to the building.

Mr. Benneth stated that the estimated cost to fix the roof is about \$150k. Cove/Starwest sees no sense in fixing the roof if the City will take back the building in the future. The roof needs to be fixed now to prevent further deterioration of the building.

Ms. Hillhouse stated that it is understood that some of the reverters are not applicable to the new owners. However, several months ago the SCIP Board requested to see a detailed business proposal or plan for consideration. No such plan has been provided. The SCIP Board's job is to decide what is needed from Cove/Starwest in order to recommend to the Assembly that the reverters be dropped.

Ms. Hillhouse advised Cove/Starwest to prepare something in writing for presentation to the Assembly and to include information on investments already made in repairs and upgrades to the building.

Mr. Benneth stated that of the list of items to be cured as stipulated in the reverter clause, upgrades of bottling equipment to increase capacity have been done. The sprinkler system has been put in to meet fire code allowing the building to reopen. No other cure items have been completed. The electrical system is being assessed now and may or may not need to be upgraded to meet their needs. Rebuilding the east wall and construction of a container van storage dock are not priorities for use of funds as there is a low margin of profit in a water bottling business. Health and safety issues are the first to be addressed but profitability needs to be there too. From a business standpoint, unless the east well is a safety or security issue, it is not a priority until there is a better profit margin and cash flow. Many inspectors have been through the facility and they should have identified any safety issues.

Mr. Brylinsky stated that a major issue is that there has never been a fully functional hookup to the sanitary sewer system. Such a system needs to be installed to meet City requirements.

Mr. Benneth stated that Cove Partners originally purchased the building with plans to lease it back to TAB. TAB's unexpected closure left Cove with the building. It would take an estimated 20-25 employees to run the plant at full capacity, but Cove/Starwest cannot make any promises about when or if the company will achieve that.

Mr. Benneth stated that Cove/Starwest has reviewed TAB's business history and understands that they cannot compete in the commodity water business. Unlike TAB, Cove/Starwest's business model is to go after the specialty – value added water market.

Mr. White stated that the roof, electrical system, and sewer hookup were three main issues of concern to the City and that if these three were fixed, perhaps that would satisfy as a capital investment and the reverters could be dropped. The cost to fix the roof, electric system, and sewer should be established and that amount could be put into the escrow account.

Mr. Benneth stated that he would like to get something done today and that the title company indicated they consider funding litigation up to \$150k. That may or may not be adequate to complete work on the roof, electric and sewer systems. Mr. Benneth stated that if a higher amount were required, the title company would likely just go ahead with the litigation. A roofing contractor provided the estimate of \$150k to fix the roof. Cove/Starwest would be willing to put an additional \$20k into the escrow account to cover the cost of a sanitary sewer hookup. However, the electrical system may not need an upgrade at all.

Mr. Miller stated that he was encouraged by the good faith effort by Cove/Starwest regarding investments made so far.

Mr. Frank asked what portion of the roof needed to be fixed and if there was any relationship to the east wall as there is damage to the siding on that wall.

Mr. Benneth stated that the middle portion of the roof is the area of concern and that he does not see any connection to the east wall.

Mr. Benneth suggested that the \$150k and \$20k be held in an escrow account controlled by the City and that as repairs are done they get billed against that account.

Ms. Hillhouse stated that the City would need something in writing from First American Title confirming that they agree to the escrow account option. The Assembly would also need to see a written description of Cove/Starwest's operations and investments to date.

Mr. White stated that if Cove/Starwest provided the requested documents, he would prepare the packet submission for the Assembly.

Mr. Benneth agreed to work on getting the documents to Mr. White before noon on Wednesday.

MOTION: M/S Harang/Fondell moved to recommend to the Assembly that the City and Borough of Sitka remove the reverters, if the following is completed by January 1, 2010:

1. An escrow account is established under the control of the City and Borough of Sitka; and
2. That \$150,000 be placed in the escrow account for roof repairs or other capital improvements; and
3. That \$20,000 be placed in the escrow account for sewer upgrade or other capital improvements; and
4. That any interest from the escrow account goes to the City and Borough of Sitka.

ACTION: Motion PASSED 4/0 on a roll call vote

Grant Miller – Yes Chris Fondell – Yes Trevor Harang – Yes Lowell Frank – Yes
Charles Horan - Absent

4. STA Tribal Tannery Location (taken out of agenda order)

Mr. Derensis reported that preliminary work on the metes and bounds for Lot 17 found that there are unidentified lines underground and conflicting information on the location of underground structures. Engineering review of Lot 17 shows that the site is cost prohibitive due to EDA funding restrictions and the estimated \$27k for power hook-up and \$30k for moving the water line. As per the Assembly's motion approving an STA Tannery lease for a portion of either Lot 17 or Lot 15, the STA is requesting permission to look at Lot 15.

Mr. Harang asked if the requested lease area of 10k square feet included parking.

Mr. Derensis responded that, yes, the 10k square feet includes parking and that the current footprint of the building calls for approximately 3,500 square feet.

Ms. Hillhouse stated that as per the Assembly motion, either Lot 17 or Lot 15 may be selected, however if another Lot is selected it will have to go back to the Assembly for approval.

Mr. Harang stated that knowing the deficiencies of Lot 17, he supports the request for STA to move forward with Lot 15.

Mr. Miller stated that, unfortunately, the same problems may show up in other lots, including Lot 15.

Mr. Derensis stated that beyond construction of the building, the two major costs are the water line and utilities, and since Lot 15 is closer to a hook-up for these, the cost should be less. STA would like to break ground on this project before winter. In order to do this, EDA requires a lease be in place.

Mr. White pointed out that when the site selection for the STA Tannery began the SCIP plat had not yet been recorded and the SCIP Board was unaware of the location of the fire line on Lot 17 at that time. Lot 15 is almost two acres and a 10k square foot portion of the Southwest corner would leave the bulk of the lot available for other development. The only reason for not going with Lot 15 was the Board's desire to reserve this site for marine industry development.

Scott Brylinsky stated that from his discussions with STA engineers and others, he can confirm that the difficulties with Lot 17 are real and that going to Lot 15 is reasonable under the circumstances.

Mr. White stated that there are several conflicting as-builts out there. What the City shows is not necessarily what is actually underground. The only way to confirm what is underground is to dig.

Mr. England stated that a metal detector was tested as a method for locating underground structures, but there is too much metal trash on the property.

Mr. Brylinsky stated that the estimated cost to make a proper identification of underground structures, on Lot 17 only, would be about \$10k.

MOTION: M/S Harang/Fondell moved that a 10,000 square foot portion of the Southwest corner of Lot 15 of the Sawmill Cove Industrial Park be designated for the STA Tribal Tannery.

ACTION: Motion PASSED 4/0 on a roll call vote
Grant Miller – Yes Chris Fondell – Yes Trevor Harang – Yes Lowell Frank – Yes
Charles Horan - Absent

2. Theobroma Lease (taken out of agenda order)

Mr. White reported that Mr. Iwamoto has not been returning calls and is currently out of town. The City Finance Director made a verbal arrangement with Mr. Iwamoto, allowing Theobroma to make double lease payments during the summer months, however this agreement is not being fulfilled and Theobroma is behind in payments.

Mr. White read his recommendation (included in the packet) to the Board.

Ms. Hillhouse requested a correction to item 2.d. of the recommendation to conform to State of Alaska legal requirements regarding evictions, specifically changing the "cure default" period from 15 days to 30 days.

MOTION: M/S Frank/Fondell moved to accept the recommendation of the Director, with the single amendment to item 2.d., the recommendation will read as follows:

1. Theobroma is required to bring all past due lease and note receivable payments current by August 31, 2009.
2. Once all payments are brought current, a month-to-month lease may be established with the following requirements:
 - a. Lease rental amounts of \$1,713.71 per month for manufacturing space and \$990.11 per month for retail space are established; and
 - b. Rental amounts are subject to CPI adjustments based on language in Section 2.2 of the past lease; and
 - c. The lease payment schedule as proposed by Mr. Iwamoto within the letter received June 25, 2009 shall be established; and
 - d. Theobroma is required to cure default within 30 days.
3. In the event Theobroma does not fulfill requirements 1 and 2 by August 31, 2009, the City and Borough of Sitka shall start the eviction process.

ACTION: Motion PASSED 4/0 on a roll call vote
Grant Miller – Yes Chris Fondell – Yes Trevor Harang – Yes Lowell Frank – Yes
Charles Horan – Absent

3. Stores Building (Lot 22) Purchase Agreement (taken out of agenda order)

Mr. White provided copies of the purchase and sale agreement to the SCIP Board. This document was not available for inclusion in the packet. Rich Riggs (Silver Bay Seafoods primary contact in this matter) was also provided with a copy of the document via e-mail.

Ms. Hillhouse stated that Silver Bay Seafoods response to the RFP was accepted by the Assembly; however the sale of City property requires an Assembly resolution. The purchase and sale agreement from the previous sale to SBS was used as the model source document. The SCIP Board needs to make a motion requesting the Assembly make a resolution to approve the purchase and sale agreement.

MOTION: M/S Fondell/Harang moved to recommend to the Assembly to approve a resolution for the purchase of the Stores Building (Lot 22) property by Silver Bay Seafoods as set out substantially in the format of the attached purchase agreement.

ACTION: Motion PASSED 4/0 on a roll call vote
Grant Miller – Yes Chris Fondell – Yes Trevor Harang – Yes Lowell Frank – Yes
Charles Horan - Absent

G. Persons To Be Heard (taken out of agenda order)

Mr. Ozment stated that five Federal Administration Department Secretaries will be making a rural community tour that includes Bethel, Alaska. Action should be taken to see if the Secretary of Energy, Dr. Steven Chu, could be brought to Sitka for a tour and discussion regarding Blue Lake dam.

The Board agreed that a call should be made to both Senator Murkowski and Senator Begich with a request to bring Dr. Chu to Sitka as a side trip from his Bethel tour.

Mr. Ozment expressed concern about the condition of the bear habitat and facilities of Fortress of the Bear and asked what responsibility the City has in this matter.

Ms. Hillhouse responded that unless there is a breach of the lease agreement, the City has no responsibility and that there is a standard set of non-interference by government in private business.

J. ADJOURN

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

ACTION: Motion PASSED unanimously 4/0 on a voice vote.

The meeting adjourned at 5:42 pm.