



**Sawmill Cove Industrial Park
Board of Directors Meeting
October 01, 2009 – 9:00 AM
SEDA Conference Room
329 Harbor Drive – Suite 212**

A. CALL TO ORDER

The Chair called the meeting to order at 9:02 am.

B. ROLL CALL

Board Members Present:	Grant Miller	Lowell Frank	Charles Horan
Board Members Absent:	Chris Fondell	Trevor Harang	
City Representatives:	Jim Dinley	Theresa Hillhouse	
Others Present:	Garry White	Jack Ozment	
Ashely Kircher (Sitka Historical Society)		Nancy Yaw Davis	

C. REVIEW OF MINUTES – September 21, 2009

MOTION: M/S Frank/Horan moved to approve the minutes of the September 21, 2009 meeting.

ACTION: Motion PASSED 3/0 on a voice vote.

D. CORRESPONDENCE AND OTHER INFORMATION (NONE)

E. CHANGES/ADDITIONS/DELETIONS TO THE AGENDA

Mr. Miller moved the Sitka Historical Society lease request (item I.2.) forward on the agenda.

I. NEW BUSINESS (Taken out of order)

1. Sitka Historic Society Lease Request

Mr. White stated that the Sitka Historic Society has two large display cases that will not fit within their current lease area and SHS is therefore requesting space for short-term storage of these items. Mr. White suggested storage in the "old shower" area of the Administration Building. The only items currently stored in this area are CBS lawn equipment. The alternative area is in F1, which is a highly marketable area, and should be kept open for a paying leasehold renter. SHS is requesting lease free storage of these items for a few months. SHS current lease is \$0.00 per month.

MOTION: M/S Horan/Frank moved to grant the Sitka Historical Society's request for temporary storage per the September 29, 2009 letter.

Ms. Hillhouse advised that this will be amendment number one to the lease, allowing for a larger square footage of lease area for a certain time period.

ACTION: Motion PASSED 3/0 on a voice vote.

F. REPORTS (NONE)

G. PERSONS TO BE HEARD (delayed to end of the meeting)

H. UNFINISHED BUSINESS

1. Cove Partners/Starwest Alaska Water Purchase Contract

Mr. Miller referred to the draft water contract noting the inclusion of minimums.

Ms. Hillhouse confirmed that the water purchase contract will take effect when the reverter issue is settled upon deposit of \$170k into a CBS controlled escrow account. Ms. Hillhouse stated that this agreement uses the portions of the TAB purchase agreement that relates to water rights. Standard agreement provisions are also included: how you sign, how you make changes, default, disclaimer etc... The main part of this agreement is under number one and number two. This draft incorporates points discussed at the last SCIP Board of Directors meeting. This is the first draft of the agreement coming back to the SCIP Board.

Disclaimers covering interrupted water availability are included in the agreement. Cove wants access to four million gallons. The draft agreement includes an initial ten-year term with four options to renew at ten years each. The agreement now includes a provision that, starting in 2012, Cove must pay CBS or take \$7,200 worth of water annually, and that increases to \$9,000 annually starting in 2015, and again four years later they have to purchase a minimum of \$18,000.

Ms. Hillhouse stated that, historically, the special water rate and guaranteed rate were negotiated based on the fact that the companies were leasing space from CBS. They had to keep current on the lease and keep operating so there was some guarantee, and with TAB there were the reverters. With Cove, they don't have to operate for up to three years and CBS still has to reserve the water allocation for them. This is an issue the Board should look at seriously and be prepared to explain to the Assembly why we are giving Cove three years of non-operation with no real money coming to the City until 2012.

Mr. White stated the four million gallons is just 4.2% of the City's exportable water.

Mr. White stated he has met with the CBS Electric Department and has been told there should be no problem with sediment with the Blue Lake Dam Expansion Project. Mr. White asked if the City would be covered under 1(d) "circumstances beyond our reasonable control" if there were to be sediment issues.

Ms. Hillhouse advised that it would be a good idea to add that. Right now there is a disclaimer that CBS is not responsible or liable for the water and its availability based on our hydro-electric allocation and future allocation. It would be good to add any event we know could occur, so Cove is aware of that issue and know they are taking that liability on.

Mr. White stated that a copy of the draft agreement was sent to Mr. Greg Miller, with the understanding that this is a working draft and that an SCIP Board amended version will be forwarded.

Mr. Miller asked for clarification that the BOD should add language that addresses quality of water as well as the availability.

Ms. Hillhouse suggested adding language to clarify the possible effects of the hydro-expansion project at Blue Lake. This amendment can be made with the Board's approval via a motion.

Mr. White stated that he met with Chris Brewton and others at the Electric Department and their model suggests that due to the length of the lake sediments should fall out before reaching the outflow. However, what if their model is wrong?

Ms. Hillhouse suggested the following edit to item 1(d) of the agreement (addition in **bold**):

1(d). "SELLER shall not be responsible nor liable for SELLER'S inability to provide water **or regarding the quality of water** to PURCHASER due to circumstances that are beyond the reasonable control of

the SELLER, or if the availability of Blue Lake water for sale to PURCHASER is superceded by the present... or federal government **or by the expansion of the Blue Lake hydroelectric project.**”

Mr. White stated that the annual allocations Cove must purchase from CBS were based on two different time frames. According to this time frame the \$9,000 should be changed to \$9,900 and the \$18,000 to \$22,500. By July 1, 2012 Cove/Starwest should be selling 25,000 cases per month. As of July 2015 they should be paying 1.1 cent per gallon, not one cent as shown, making \$9,900. By July 1, 2015 they should be selling 50,000 cases per month and the price at that point would be 1.125 cents per gallon for a total of \$22,500 annually.

Ms. Hillhouse questioned the timing of the price increases.

Mr. White stated that the timing allows Cove/Starwest three years to reach sales of 25,000 cases. The other water rates are based on a five-year ramp up schedule.

Ms. Hillhouse noted the provision for a rate increase from the initial price \$0.005 per gallon once Cove exceeds 100 million gallons per year and that this may create a complication if this happens prior to 2014. The wording may need to be adjusted to account for this.

Mr. Horan stated that he would like to synchronize the minimums with the rate changes. Mr. Horan suggested changing “2(d)” to July 1, 2014 and leave the amount at \$9,000. July 1, 2019 would be \$22,500, not \$18,000.

Mr. Horan suggested an addition related to future renewals, adding item 2(f) – **This minimum amount will be adjusted if options to extend are exercised, based on section 1(e)iii.** This should tie the extensions to the CPI.

Mr. Horan expressed concern that this water is not tied to any real estate and suggested a wording change to the first paragraph of item 1

“... regarding the access and purchase of water for operation of the water bottling ~~company~~ plant...”
Change the word “company” to “plant.” And then add the address or legal description.

Ms. Hillhouse advised that the agreement is not tied to property; however it is tied to a water rights certificate in accordance with ADL. Ms. Hillhouse stated that water bottling “operation” is fine at this point.

Mr. Horan expressed concern that Cove/Starwest might do something different with the plant than they do with the water right and that it would not be transferable. Mr. Horan stated that his intent as a Board member is to sell them water for bottling purposes at SCIP. We want to sell water for bottling at the plant at SCIP, not for a bottling company.

Ms. Hillhouse agreed to change the wording to “water bottling operation,” striking the word “company.” We can edit the agreement to make it clear to Cove/Starwest that the agreement applies only to a water bottling operation at SCIP.

Ms. Hillhouse clarified that, under the assignment, Cove cannot assign any rights they have, specific to Cove Partners, except to Starwest. If they go out of operation or change their name, they have to come back to the City to get this assignment. This is a special water rights contract, otherwise they are limited to whatever water is available at Sawmill Cove, with no guarantee.

Ms. Hillhouse provided edited language, under Water Purchase item 1: “PURCHASER and SELLER agree as follows regarding access to and purchase of water for ~~operation of a water bottling company~~ **operations at the water bottling plant only.**” The final wording may be edited in clean-up.

Ms. Hillhouse clarified that this agreement does not go into effect until the \$170k is deposited into the escrow account. The deadline is January 8, 2010.

Mr. Horan noted a correction to be made under Section five on page 5 of 8, subsection (d), changing the date January 1, 2009 to **January 1, 2010.**

Additional edits were discussed to clean up the language and correct errors.

Ms. Hillhouse suggested an additional edit under item 6, Default Provisions, adding subsection (c) to cross-reference on default to the other provisions, which says if they don't operate for three years or meet the minimum purchase of water, CBS sends the 45 day cure letter, then CBS can default.

The Board reviewed all edits, discussed, and confirmed their support for the changes.

Mr. Dinley requested that the Board not reduce the rate or annual payment and stay firm on this deal.

Mr. Horan stated that his purpose in this agreement is to give Cove something to market. Thirty-six months is very generous. If they succeed they can do this for fifty years. If they cannot market the water under this agreement, and pay the \$10k to \$20k per year, then they are not serious enough to be in this multi-million dollar business. We are giving them the real estate back and I think we have been very fair with them on the reverters.

Mr. Miller stated that his goal is to do as much as we can to help this business succeed while protecting the City's interests.

Mr. Ozment asked if the new bottling equipment has been installed.

Mr. White clarified that three new pieces of blow molding equipment to make the bottles have been received. This is the new equipment referred to in previous meetings, not three new lines. The bottleneck in the system was the need for more bottles to keep up with line production. The lines should be able to run faster with more bottles. We do not know if the equipment is installed and running.

Ms. Hillhouse advised that the agreement must go to Cove Partners first before going to the Assembly. If Cove has any substantial changes, then the agreement will have to come back to the SCIP Board before going to the Assembly.

MOTION: M/S Frank/Horan moved to forward this water purchase agreement to Cove Partners, LLC as amended.

Mr. Horan suggested adding language to the motion that the Board forward it to them with the recommendation that it go on to the Assembly.

Ms. Hillhouse suggested the following addition to the motion: "That unless substantially changed by Cove, the agreement will be forwarded to the Assembly based on Board recommendations."

AMMENDED MOTION: M/S Frank/Horan moved to forward this water purchase agreement to Cove Partners, LLC with the friendly amendment proposed by Ms. Hillhouse.

ACTION: Motion PASSED as Amended 3/0 on a roll call vote
Grant Miller – Yes Lowell Frank - Yes Charles Horan - Yes
Trevor Harang – Absent Chris Fondell – Absent

I. NEW BUSINESS (Moved forward on agenda)

G. PERSONS TO BE HEARD (delayed to end of the meeting)

Ms. Davis expressed her appreciation for being welcomed to the meeting.

J. ADJOURNMENT

MOTION: M/S Horan / Frank Moved to adjourn the meeting.

ACTION: **Motion PASSED** 3/0 on voice vote.

The meeting adjourned at 9:50 am.