



SPECIAL MEETING

MINUTES

APPROVED 6/16/2009

Date: Thursday, June 4, 2009 at 11:30 a.m., Port of Tillamook Bay office, 4000 Blimp Boulevard, Tillamook, Oregon.

1. Call to Order by Board President

The Meeting was called to order by Board President Jerry Dove at 11:32 a.m.

2. Recognition of Persons Present; Public Comment

Commissioners: Jerry Dove – President; Arthur Riedel – Vice President; Ken Bell – Secretary; Joe Meyer – Treasurer; and John Ficher – Commissioner.

Port Staff: Michele Bradley – General Manager; Aaron Palter – Project Coordinator.

Port Counsel: Mr. Jeff Bennett (Jordan Schrader)

Public: Jim Young – Commissioner Elect; Butch Parker – Director, Tillamook County Department of Community Development; Dick Carr, Dan Patsula, Monty Sennet, Ken Margala – The Bunkers Group; Sean Keatts – Underwriter; Pat Ray – Kutak Rock; Richard Krivava – Senator Betsy Johnson's Office; Marshall Doak – Executive Director, Tillamook Economic Development Council; Josh Balmer; Lee Ann Neal – Headlight Herald.

There was no public comment.

3. Finance discussion with Bunkers Group regarding 63-20 Bonding

Mr. Carr said he thinks this discussion qualifies for executive session. Mr. Bennett responded an executive session is provided for a governing body to discuss among themselves and staff specific issues. If the entire proceeding is held within executive session, it could be deemed in violation of the statute. Bell commented on real property tax and public investments and his belief this would qualify for an executive session. Mr. Bennett responded the executive session statute is for Port discussions not public presentations. They are opportunities

for the Port to discuss information presented to them in a public forum where the public would then be excluded from those discussions.

Mr. Patsula handed out a printout of a slide presentation to those present. Mr. Carr asked to keep this information confidential. Mr. Bennett responded that a discussion of this material in a public meeting requires it to be public. If Bunkers would have submitted this information as confidential prior to this meeting, then it would have been considered at that time.

Mr. Carr re-introduced his team. Ken Margala gave a slide presentation on the Resort Project. The financial figures being used are from 2005. Projections indicate an upturn in Leisure and Hospitality Entertainment in the 2nd Quarter of 2010. He discussed the economic impact of the project with the Board. The expected property value of the \$110 million project following development is \$150 million. This project would be an attraction for a lot of people. Numbers for hotels are driven by occupancy. A comparative resort study was shown to the Board. Revenue per available room (Rev. PAR) was discussed using the figures presented. Gross revenues are expected to be about \$28 million per year.

The annual debt service percentage is based on 6.5% based on a 25-year amortization schedule, and this figure could change, with a conservative net cash flow estimate of \$4.9 million. Even at a 29% annual occupancy rate, the project breaks even. Intercontinental Hotels Group is interested in getting this project done. Start to open date is two (2) years. The Port is not going to have to spend a dime and is going to get the project.

Meyer said that he is not sure about the numbers. Dove asked if the Port would receive the net operating revenue plus the annual operating fees. Ficher asked about the eight million figure. Dove asked if the Port could use the eight million to pay off the Port's other debts. The answer was yes, the Port could use the eight million however it wanted.

Butch Parker asked how the \$20 million in FEMA funds would be spent. Dick Carr and Dan Patsula responded these monies would be used for infrastructure as an alternative project and that the Port would pay some negotiated utility fee. Bunkers would provide the \$5 million match funding for the \$20 million. Mr. Parker questioned the availability of use of the FEMA funds. This is a question which will need to be resolved if the project is to move forward. Mr. Carr said that he has made certain of the things we are looking for to do. We have a NEPA review from the Corps; but that doesn't mean that FEMA will approve it.

Meyer asked about the constraints of the timeline and its effect on the project. The response was that if everything is not in place, the project will not be funded. Additionally, if FEMA funding is not available, the project is over. If financing is in place and there is a lag in the process, what happens? We do not know. We cannot do the Build America Bonds program after December 2010. Meyer asked

if there would be fees due from the Port in the event of a delay. The answer was no.

Richard Krikava asked if the Corps NEPA review resulted in an Environmental Assessment (EA) or an Environmental Impact Study (EIS). The answer was an EA.

Jim Young asked what would happen if FEMA did not fund the project. Bunkers responded they are looking for FEMA money to provide the construction equity for the project. Without it, the project is probably not viable. If FEMA money is not included the projections do not pan out. We need the Port to decide on the FEMA projects.

Pat Ray briefly recapped the financial structure for the project. A non-profit corporation would be set up. This new corporation would own the project, with the Port being the beneficial owner of the project. He introduced Sean Keatts to discuss the underwriting for the project. Mr. Keatts said the numbers look good, and he is here to answer any questions regarding underwriting. The project is highly dependent on the ultimate package created. We are looking at single digit percentages, 6- 7%, with a needed pledge from the Port.

A discussion was held about the Port's pledge. There will need to be a pledge from the Port to make up any deficiencies. Dove said that at the last meeting, Mr. Ray said the eight million could go to the bonds. Today we are being told the Port could use the money any way it wants to. The response was that some sort of pledge needs to come from the Port in order to sell the debt. There was a discussion of the amount needed, which could be some other source other than cash or land, such as a general fund obligation. Any scenario would need to be worked out and written.

Riedel asked what would happen if the Port would not guarantee. Dove added if a default occurs, what would happen. The answer was that a trustee would foreclose on the property and sell the project. Any excess amounts would potentially go to the Port.

Monty Sennett gave a brief history of the project. Bunkers was invited to the Port many years ago to discuss the creation of a golf course, hotel and convention center. Competition seems to be aging. The benefits of the project should be taken into account with the downside. The Port should not be unduly concerned about pledging. Meyer responded that the ability of the Port to generate that revenue must also be considered. The small amount of revenue generated by the Port needs to be weighed against the potential deficiency of bonds and the ability to pay them.

A discussion was held about the pledges to the project. Revenues of the project would be pledged. There would also be a pledge from the Port for any

deficiency. There would be a mortgage pledge of all rents, leases, assignments and cash pending construction purchases. The cash would be left in the trust estate; and there would be a debt service reserve fund. The question was asked if any other property would be needed in addition to the 700 acres. The response was this could be a potential use of additional collateral.

Mr. Carr said the worst case scenario is that the Port would be left with a convention center and tourists coming to town. Meyer responded this is not the worst case scenario. The Port paying money and losing its property is the worst case scenario. He added that occupancy rates are down now and the 2005 figures being used are outdated.

Dove stated that some members of the Board are staunch on there being a convention center, and there has been no mention of its capacity. Mr. Carr responded the convention center would accommodate 600 to 750 people. Dove discussed the recent sale of Alderbrook Golf Course and its proposed upgrades. We should keep in contact with them.

Riedel stated that he has been for this project all along, but the Port should not have to put up anything else than it already has.

Jim Young asked about the viability of the project for the Build America Bonds program beyond the FEMA alternative project contribution and the eight million for the land. The answer is a function of the credit market. There are risks and upsides.

Mr. Bennett asked about the other \$80 million project costs. Bunkers responded that if FEMA money is not available, there is no project. Regarding the bonds, the \$5 million cash flow can be pledged to debt service. At the end of the bond issue, the Port gets all of the revenue. The underwriter would want to keep the money locked in. The quicker the bonds are paid, the quicker the Port gets the unencumbered asset. Meyer asked Keatts what would be sellable. Keatts responded the farther the Port is away from a pledge, the more security would be required. A discussion was held about the debt service fund. There are legal limits to the debt reserve fund, about 120% of the debt service and 10% of the bond. Excess project revenues have more flexibility. The ability of the Port to limit its pledge is dependent on investor feedback.

There was a discussion of bond payments and matching funds for FEMA monies. Build America Bond (BAB) payments are not bond proceeds. We will have those the day we close. There is no codification yet of where the BAB rebate needs to go. All BAB projects so far have been project specific. This is a federal government bond program not a full faith and credit bond.

Marshall Doak inquired as to the bond rating issuance. Keatts responded that the Port has not yet been rated. We would like to see the investment rating

based on the Port's pledge. There was a brief discussion of the Port's revenue and taxing abilities as it relates to its ability to pledge the bond. The percentage is a combination of the rating and security pledge. A low investment grade DDD or A bond issuance was discussed. It would take about three months to put together the bond issuance. The bottleneck will be the FEMA issue.

Dove said there are many things to consider: Will FEMA allow it; EIS timing. He asked Parker about the conditional use permit. Parker responded there needs to be action from the Port to keep the permit going. He has been willing to work with the Port and has worked very hard to keep the permit going. The county needs to see there is a viable project. This is different from giving blanket extensions. There is no answer right now. Meyer said that the county has been very flexible. Parker asked if the project could be done in phases with Bunkers using private funding. Carr responded that we tried to do it as a separate project. FEMA will be difficult; we should go to FEMA.

Dove said that Mr. Carr has upset a lot of people by going direct and around the normal process and said that Bunkers is not affiliated with FEMA. He continued that Mr. Carr needs to work with Port staff directly rather than going around staff to these agencies. Bell noted difficulties with staff and Bunkers. Riedel agreed.

A discussion was held about the non-profit corporation. Bennett said he talked with Andy Jordan yesterday. The Port is advised to obtain bond counsel if the Board decides to move forward with this. Previously, the Port has used Ann Sherman as bond counsel. He discussed some of the requirements of the 63-20 bond process. The control of the 63-20 corporation has to have a beneficial interest to the Port. It must have exclusive use and possession of 90% or more of the facility managed by the bonds. The non-profit has to have 95% or more of the same, and the Port must have control of the non-profit corporation. Dove said that Mr. Carr should refrain from going around town asking people to serve on the non-profit corporation. Bennett continued that the Port should have the option to buy the facility if in default. 63-20 bonds are a less than common method of bonding. We need to get a more direct understanding on these types of bonds. The Port also needs to decide what level of risk it is willing to take. A discussion was held about the makeup of the board of the non-profit corporation. The Port can have as much or as little involvement in this as desired. There was a discussion of the liability of the Port in case of a default.

Meyer asked what it would take on the Port's behalf to sell the bonds. Keatts responded that it would take a "contingent pledge to pick up any deficiency." Riedel said we could set a limit and they could react to it. Meyer suggested going into executive session to discuss the Port's proposition. Bennett said the purpose of the executive session would be to discuss the existing impact of the proposal on the existing sales agreement.

A brief discussion was held on the status of the leased agreement between the Port and the Bunkers Group. Dove and Meyer indicated questions about the lease, and suggested to recess the meeting to have counsel review the documents.

(There was a brief recess taken between 1:30 and 1:40 p.m.)

There was a brief discussion about the Purchase and Sales Agreement between the Bunkers Group and the Port. The original document has not been located. There is an amendment to the agreement within the file.

It was discussed and decided to recess into Executive Session to discuss the real estate transaction between the Port and the Bunkers Group.

4. If necessary, Executive Session per ORS 192.660 2(e) Regarding Real Property Transactions.

(Meeting recessed into Executive Session per ORS 192.660 2(e) to conduct deliberations with persons designated by the governing body to negotiate real property transactions between the hour of 1:44 p.m. and 2:25 p.m.)

The public meeting reconvened at 2:25 p.m.

Meyer made a motion to enter into a written amendment to the lease between the Port and Bunkers Group to reflect the lease payments previously deferred by the Board to be due and payable at the earlier of 12/31/09 or the sale of the property through the Purchase and Sales Agreement with Bunkers Group. Riedel seconded the motion. Discussion: This is regarding the lease with the Port. The Port has deferred payments on this lease in the past. This provides a drop-dead date at which the Bunkers Group must decide to purchase the property or the deferred lease payments become due. Commissioners voting aye: Dove, Riedel, Meyer and Ficher. Commissioner voting nay: Bell. The motion carried.

Dove asked Bunkers for what are they looking for today. Carr responded they are looking to have this project placed on the FEMA alternative projects list and to proceed with a plan of finance. He would like a Port Commissioner, staff or both to accompany him to FEMA to find out what it will take for the FEMA permits to go forward or not as an alternative project. Patsula said Bunkers feels they are in a position to file this project as an alternative project request. Dove said he thinks the Board's feeling is if FEMA money can be put into this project, that it is definitely for infrastructure that the Port will own if the project is developed or not.

Riedel made a motion to proceed with this plan for finance; the Port gets \$8 million for the property to use as it desires and will limit its liability to a \$2

million contingency pledge. Ficher seconded the motion. Discussion: Bell asked if this would sell. Keatts asked if the \$2 million pledge would be renewable. The answer was no; the \$2 million is the maximum liability amount to the Port. Keatts said he would take it to the investors. Sennett asked if the Port would consider other requirements/additions to the process. Dove indicated we need to push our senators on this. Commissioners voting aye: Dove, Riedel, Bell, Ficher. Commissioner voting nay: Meyer. The motion carried.

Dove asked Parker if this action helps in his decision. Parker responded that his decision would be based on the FEMA process. Carr asked the Board to direct a member of staff and the commission to work with FEMA. Riedel responded that the Port wants to work with whoever we can.

The Bunkers group exited the meeting. Mr. Carr remained.

5. Review and Consideration of Port Hunting Policy

Ms. Bradley informed the Board of a meeting between herself, Commissioner Dove, Aaron Palter and the Grand Ronde Tribe last week regarding cultural hunts on Port property. It was agreed at this meeting to administratively authorize the tribe to perform these hunts on Port property. The Board is now being asked to amend its hunting policy to adopt cultural hunts. Jim Young asked if this could be reviewed and reconsidered yearly. Dove said that there was a hunt performed last weekend and there were two (2) animals taken out by 8:30 in the morning. Mr. Carr said that he did not understand the motion, but that as a lessee of the Port, he supports the request. Fall hunting permit rates will be discussed at a later time.

Mr. Carr left the meeting.

Meyer made a motion to amend the Port's Hunting Policy to provide for the addition of Cultural Hunts in accordance with their adopted rules and procedures. Ficher seconded the motion. Commissioners voting aye: Dove, Riedel, Bell, Ficher, and Meyer. The motion carried.

6. Management Role in FEMA Alternate Projects

Dove said he hoped he made his point to Mr. Carr. He said that Mr. Carr has upset people at FEMA; he has upset our state senator. This is the Port's project; and Mr. Carr needs to work through the Port Manager. Dove indicated his concerns over individual commissioners attending coffee meetings and/or lunch meetings with Mr. Carr and that from what he has heard this is on shaky ground. Ms. Bradley read a response from the Port's attorney recently received on this matter. The concern is that the more Mr. Carr talks amongst the board, the more the project becomes unmanageable. Ms. Bradley said that even today Mr. Carr

is asking to take this project up to FEMA where it needs to go through OEM. Mr. Krikava stated that any third party who would arrive at FEMA would be told to go back to OEM. There is a certain process to be followed with FEMA. Young said that if this project is to move forward, Dick Carr and Bunkers could be used to expedite the process, but he should be working through the manager. There was a brief discussion held about Mr. Carr and his interactions with the office staff.

7. Commissioner Comments

Bell said he believes things have gotten a little out of hand last week and should be mended. Riedel stated that Bunkers feels Port staff is against the project and is against the project. We need to clear the air and have everybody think that we are open minded. Bradley responded she is not against the project; but she is against using FEMA funds for the project. Riedel responded the Board has agreed to use the FEMA money. Dove stated the Board has made a motion today and that Bradley does work at the pleasure of the Board and the Board will expect her to push this project as hard as she can. Ms. Bradley responded that she and staff feel that they are constantly being attacked for attempting to manage the project, and referenced a letter sent out regarding missing permits and her attempt to get this matter resolved. When she and staff work on this project, they are perceived as the bad guys. There was a discussion held about the recent letter sent out by staff about missing permits. Riedel and Bell indicated they did not feel this was handled properly. Dove stated that he read the letter differently.

8. Adjournment

The meeting was adjourned at the hour of 2:50 p.m.

Respectfully submitted by Aaron Palter, Project Coordinator.