



APPROVED 12-15-2009

**MINUTES
OF THE
BOARD OF COMMISSIONERS
SPECIAL MEETING**

HELD ON

**Friday, November 20, 2009
1:30 p.m.**

AT

**Port of Tillamook Bay
4000 Blimp Boulevard
Tillamook, Oregon**

1. Call to Order

Board President Jerry Dove called the meeting to order at 1:30 p.m.

2. Recognition of Persons Present

Commissioners: Jerry Dove (President); Ken Bell (Vice President); John Ficher (Secretary); and Jim Young (Commissioner). Commissioner Riedel (Treasurer) appeared by telephone at the meeting.

Staff: Michele Bradley (General Manager); and Aaron Palter (Project Coordinator).

Port Counsel: Jeff Bennett, Esq., of Jordan Schrader Ramis, PC.

Guests: Al Benkendorf and Allan Rumbaugh, The Benkendorf Associates Corp.; and Paul Levesque, President, Tillamook Lightwave.

Public: Gus Meyer; Lee Ann Neal (Headlight Herald).

3. Public Comment

There was no public comment.

4. Discussion of Strategic Business Plan – The Benkendorf Associates Corp.

5. Discussion of Tillamook Lightwave Proposal – Paul Levesque

6. Executive Session per ORS 192.660 (2) (e) to discuss real property transactions, (2)(f) to discuss records exempt from public disclosure and (2)(h) to communicate with legal counsel

7. Other Business

Commissioner Dove asked Mr. Bennett to provide his opinion on how the Board should proceed given the discussion in Executive Session.

Mr. Bennett said the Board has several things to consider. He said the Purchase and Sales Agreement had remained open after the Board's September 15 decision to offer negotiations to ISI of an amendment to the Development Agreement. ISI chose not to enter into or conclude negotiations by the Board's November 1 deadline. He recommends the Board close out the Purchase and Sales Agreement as the Bunkers Group has said they no longer want to purchase the property as a part of a plan of finance.

Commissioner Dove said he would entertain a Motion to close out the Purchase and Sales Agreement. Commissioner Young advanced the Motion. Commissioner Ficher seconded the Motion. There was no discussion. Commissioners voting aye were: Dove, Ficher and Young. Commissioners voting nay were: Bell and Riedel. The Motion was carried by a vote of 3-2.

Mr. Bennett discussed the status of The Bunkers Group's lease and said they have agreed to come current on deferred lease rents by December 31, 2009. However, the lease may be in default on other items. He is recommending no action be taken on the lease at this time.

Mr. Bennett then discussed the Development Agreement and said there is a dispute of the Board's obligations to negotiate and come to agreement on a plan of finance. He discussed the history of the Board's September 15 decision to offer ISI a 45-day time period to conclude negotiations of an amendment to the agreement. ISI did not do this. In a new request, ISI is requesting that in lieu of four-day negotiations, the Port enter into mediation. Mr. Bennett discussed the Port's options: Accept mediation on the issue of the four-day negotiations; or terminate the agreement and bring all issues to mediation at once. His recommendation is the Board does not enter into serial mediation. Commissioner Dove said he is pretty sure the Board will listen to its attorney.

Commissioner Riedel made a Motion to try to mediate first. Commissioner Bell seconded the Motion. Commissioner Dove said there is a Motion to try mediation first, which is not what the attorney recommended. Commissioners voting aye were: Bell and Riedel. Commissioners voting nay were: Dove, Ficher and Young. The Motion failed to pass by a vote of 3-2.

Commissioner Young made a Motion to terminate the Development Agreement based on ISI's failure to provide the Port with an acceptable Plan of Finance. Commissioner Ficher seconded the Motion. There was no discussion. Commissioners voting aye were: Dove, Ficher and Young. Commissioners voting nay were: Bell and Riedel. The Motion was carried by a vote of 3-2.

Commissioner Dove said this is now in the hands of the Port's attorney to proceed and said that no one should be discussing the matter with anyone. Mr. Bennett said he will proceed to send a letter to the Bunkers/ISI attorney.

Ms. Bradley asked the Board if they would like to issue a press release. Commissioner Dove said it is important the public understand the Port has voted against the Plan of Finance including any FEMA funds, taxing authority or any other obligation of the Port contrary to what The Bunkers Group has been saying in public. The form of a public statement was discussed.

Commissioner Bell asked about the status of the Port's property sale.

(Whereupon the meeting was recessed into Executive Session per 192.660(2)(e) to discuss real property transactions between the hours of 5:30 p.m. and 5:36 p.m.)

8. Commissioner Comments

There were no comments.

9. Adjournment

The meeting was adjourned at the hour of 5:36 p.m.

These Minutes were taken and reduced to typewritten form by Aaron Palter, Project Coordinator.