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6 **FA Board of Directors Meeting**  
7 **Tuesday, August 19, 2008**

8 **Board Members present:** Chris Bentley, Liz Kelly, Fred Heil, Camille Freitag, Bettina Schempf, Larry Plotkin,  
9 Rebecka Weinsteiniger  
10 **Board Members absent:** Toni Hoyman, Greg Alpert  
11 **Staff present:** Michele Adams, Donna Kaiser, Jacqueline Smith  
12 **Board Advisor:** Marcia Shaw, Judy Forgey  
13 **Owners present:**  
14 **Guest presenters:** Ray Cihak, Attorney; Stephan and Eric Smith, Progressive Design Builders  
15 **Scribe:** Claire Pate  
16 **Handouts:** Summary of Ray Cihak's presentation

17 Board Advisor, Marcia Shaw, opened the Board meeting at 6:30pm.

18 **I Owner Comment:** none

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20 **II Presentation by Ray Cihak, Attorney at Law: Fiduciary Responsibility**

21 Ray Cihak gave a short presentation to the board about their powers and responsibilities. Some of the points he  
22 highlighted included:

- 23 • Boards are given the power to direct management of the business and affairs of the Co-op, and are expected to  
24 perform this duty with due care as an “ordinarily prudent person in a like position would exercise under similar  
25 circumstances....” The level of diligence is situational, i.e. if there is a known risk (such as a known  
26 embezzlement) then the board would be expected to be more diligent. Decisions do not have to be perfect, but  
27 have to be reasonable. Decisions are protected by the Business Judgment Rule. Outside consultants and  
28 experts, senior management reports can be relied on for input into decisions.
- 29 • Adopting good internal controls and policies is important.
- 30 • Personnel policies – what is exposure for the Board in weighing in on personnel issues? If it is a good faith  
31 effort and you are following board policies then your actions will be appropriate in examining a personnel issue.  
32 The biggest danger is for a board member to get caught up in an issue that might be more efficiently handled in  
33 another way, as through a grievance procedure. Appropriateness of board involvement in personnel issues is a  
34 hotly debated subject and opinions vary. Level of involvement is situational. If there are wide-scale employee  
35 problems, involvement is appropriate.
- 36 • Boards need a clear policy on how to handle conflicts of interest. This is mostly a concern where there are  
37 employees, or professionals potentially providing services to the Co-op, serving on the Board.
- 38 • Email retention – think of it as overall document retention and should be a part of a comprehensive document  
39 retention policy. There is a balance between retaining too little and too much. What about e-mails which lead  
40 to a discussion and a decision? The public entity “open meeting” laws do not apply, unless we adopt a policy  
41 that might state a requirement for them to apply.
- 42 • “Nonprofit Corporations in Oregon” is a book that does not necessarily apply to co-ops, but has good  
43 information on director liability. It is likely in the library and could be a good reference.
- 44 • If the Board is concerned about information leaving with a board member leaving, they could adopt a policy  
45 about what information needs to be turned in.
- 46 • If disclosure is not forthcoming and a decision is made, then the director will have a problem only if the  
47 transaction was unfair to the Co-op. The burden is on the director to disclose a conflict of interest, not on the  
48 other board members to ferret it out.

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50 **III Approval of Consent Agenda:**

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52 **Motion 8-2008 (#1) approval of July Board meeting minutes, August Board agenda, committee meeting reports,**  
53 **calendar and timeline, Board, Status of Owner Comment Responses, Approval of Response to Max Jones, Ends**  
54 **Statement Report by GM, GM Report on L5, and GM report for August. Chris/ Fred 7-0-0 Motion passes.**

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56 **IV Announcements and Affirmations:**

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58 • Marcia will be going to Sacramento. Rebecka is considering going.

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- Chris – Ends policy sheet protectors were passed out.
  - Camille – spoke about the GM Compensation process article that was handed out with the packets. The discussion should be to come to a consensus to use the process, not necessarily to do the activities at this time. Chris said that the previous Board had approved the process, but new board members should advise if they have a concern with using it.
  - Marcia is on another Board that uses policy governance, and she has some booklets that she thinks the Co-op should purchase. The first three are on linkage, monitoring reports, and board self-evaluation.

66 **Motion 8-2008 (#2) to authorize purchase of the Policy Governance booklets. Chris/Rebecka 7-0-0 motion passes**

69 **VII North Store Lease & Expansion Project**

71 Donna K. gave a brief photo presentation on Market of Choice in Eugene.

74 **VIII Request to Authorize use of Owner Loans**

76 Michele asked for authorization to use specific owner loans for the expansion project. An SEC filing takes six months, but this does not have to be done as long as a potential loaner/owner has a net worth of \$1 million or an income of at least \$300,000/ couple, or \$200,000 per individual. They have to sign an affidavit to this effect. The interest rate would be more than what would be paid on a CD, but not as much as what we would have to pay for a bank loan. Six percent was what was decided on for one prospective owner loaner. 7.2 – 8% are what normal construction loan rates are right now. The term of the “interest-only” loans with annual interest payments would be ten years with a balloon payment due at the end.

84 **Motion 8-2008 (#3) to authorize the GM to use owner loans for the north store expansion project, not to exceed \$200,000 in loan amount for any one owner. Fred/Liz 7-0-0 Motion passes.**

88 **IX Virtual Tour: North store expansion:**

90 Stephan Smith and Eric Smith, Progressive Design Builders, gave a virtual tour of the proposed north store expansion plans.

93 **IX Request from ORC: Proposal to have a trial run for sending owner packets by email (Rebecka)**

95 Rebecka explained that the ORC had discussed the desire to save on the amount of money spent to send out owner packets. This would be a trial run. Owners would still be given the option to have it sent through the post office instead.

98 Points were made that dividend checks as well as ballots could not be e-mailed. Rebecka agreed that information that could be emailed would be extracted from that which cannot. Owners would be encouraged to read the information on line and not to print it, thereby saving paper.

102 **Motion 8-2008 (#4) to approve an educational campaign and pilot project to accomplish a reduction in amount of money spent to send out owner packets. Rebecka/Chris. 7-0-0 motion passes.**

105 **X Status of project and pro-formas for North store –**

107 Jacqueline explained the pro-formas she sent out relating to various scenarios that could play out with expansion of the north store. The first scenario (the most likely) includes having an expanded north store opening in January 2009 (though it is likely that the opening will not happen as soon as this). The pro-formas are based on Market of Choice opening in January 2010. The next three scenarios show a “worse” case (with Market of Choice having a greater impact on sales); a “best” case (with expansion but Market of Choice deciding not to open a new store); and a “worst” case (no expansion and Market of Choice opens a new store).

115 There is an assumption that the south store will suffer some with the first three scenarios. We will lose up to \$4 million in 2011 with the “worst” case scenario, though the debt-to-equity ratio is better. Each scenario has a two-page backup financial analyses backup.

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119 Larry spoke on behalf of Finance committee and said that their conclusion was that somewhere between \$650,000 to  
120 \$750,000 is a more appropriate level of financing for the project, rather than the \$500,000 originally approved by the  
121 Board. Since last month, a more detailed list of costs for the expansion shows that the \$500,000 would be quickly  
122 exceeded and that the amount needed in reality is greater than that amount. Michele said that she will do it for whatever  
123 amount the Board approves. If it is less than \$750,000 she would then expect to be asking for more in subsequent years,  
124 with the result of having to disrupt store operations for improvements along the way, something over which many  
125 customers have expressed concern.

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127 Bettina said that the comparisons of sales per square foot were helpful to her, and gave her a comfort level.

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129 Chris referred to the items listed under “pie in the sky” ideas, and suggested that hiring an architect to design the store is  
130 not pie in the sky. Working with an architect can save more money especially with a project this complex. One can end  
131 up with a better product.

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133 Larry said he would feel uncomfortable about anything that might be “top flight.” He does not think the owners would  
134 want the co-op to be like the Market of Choice flagship stores. He also said that Finance committee had some issues  
135 with how things were scaled with the margin. Jacqueline said she had forced some of the numbers, i.e. as sales dropped  
136 each pro forma has a forced percentage for other operating expenses as a percent of sales.

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138 **Motion 8-2008 (#5) to approve a budget of \$650,000 for the North store expansion project. Fred/ Larry**

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140 Liz would prefer to have a larger amount, more in the area of \$750,000.

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142 Marcia asked the Board if they felt it was their business to specify hiring an architect. Chris and Liz were supportive of  
143 this being the board’s business. Larry said another option would be to have another motion approving the \$750,000  
144 amount, contingent on review by an architect. Bettina said she was comfortable with the \$200/square foot amount and  
145 did not believe an architect was necessary. She was comfortable with \$650,000. Camille said a lot of work has gone  
146 into this, and she does not support \$650,000 because it undoubtedly will cost more. We would likely be faced with  
147 another request, which will be necessary for a functional store. Rebecka said she wants Michele to have enough to be  
148 able to do a good job. Jacqueline explained that the \$750,000 does not include the costs of increased inventory.  
149 Inventory growth is shown as more substantial in 2009.

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151 Chris suggested that they might need to consider the other agenda item for purchase of property in tandem with this one.  
152 Consensus was to consider them as separate issues.

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154 **Vote on Motion 8-2008(#5): 1-4-2. Motion fails.**

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156 **Motion 8-2008 (#6) to approve a budget of \$750,000 for expansion, and ask the GM to perform a request for**  
157 **proposals for architectural services. Bettina/Chris. 6-1-0 Motion passes.**

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159 **XI Executive Session – Property Purchase Consideration/Update**

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161 (See separate document/page for Executive Session minutes)

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163 **Meeting Adjourned: 9:30pm**

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