HERITAGE LAND BANK ADVISORY COMMISSION
Meeting
March 8, 2018, 11:30 a.m.
Permit & Development Center conference room 170
4700 Elmore Road, Anchorage, Alaska

Meeting Minutes

I. Call to Order

Commission Chair Tim Trawver called the meeting to order at 11:34 a.m.

Commissioners Present:
Tim Trawver, Chair
Jim Fredrick, Commissioner
Peggy Looney, Commissioner
Brad Quade, Commissioner
Ron Tenny, Commissioner
Wende Wilber, Commissioner

Staff Present:
Robin E. Ward, Executive Director
Nico Jones-Vogel, Land Management Officer
Kristy Despars, Land Management Officer
Tawny Klebesadel, Office Manager

Commissioners Absent:
Kati Capozzi, Vice-Chair (Unexcused)

II. Approval of the March 8, 2018 Agenda

Commissioner Wende Wilber moved to approve the agenda as presented. The motion was seconded and approval of the agenda passed unanimously. Chair Trawver noted there were no minutes.

III. Director’s Report

Ms. Robin Ward reported the Alaska Health and Social Services Epidemiology Report was received for the Old Native Hospital parcel (and passed out copies). Ms. Ward stated there are some issues regarding the Girdwood Nordic Ski Club’s 5K Loop off of Arlberg Avenue and in case you hear about it, we are well aware and are addressing these issues.

IV. Proposed Action Items and Public Hearings:


Chair Trawver inquired if staff had incorporated the additional comments and responses into Appendix F. Ms. Nicole Jones-Vogel confirmed.

Commissioner Ron Tenny inquired if the “Village” project in Girdwood was alive or dead. Ms. Ward stated the concept was still talked about, but that there has been no action. Mr. Tenny suggested adding it to
the 5-year plan. Commissioner Brad Quade stated there’s been activity, but how much he was not sure. Ms. Ward stated that beyond the required GBOS presentation, there has been no activity and requests for an update had not been received. Ms. Nicole Jones-Vogel stated it is in the 1-year Plan under potential projects and that it stated staff would continue to work with the Girdwood Family Village team on their development proposal. Ms. Wilber inquired what it was. Ms. Ward stated this is a concept for community facilities and housing to be built on an HLB parcel. We have been talking about it for a couple of years now. Ms. Wilber stated she understood, but didn’t know what it was called. Mr. Tenny stated he understood why it should be in the 1-year Plan, but if there’s no movement on it this year, then it should be moved to the 5-year Plan – or take it out of the Plan entirely. Commissioner Peggy Looney stated at any point, if something happens or doesn’t happen, we can always amend it, correct. Ms. Ward stated if there was any action on Girdwood Family Village, part of that action would be to amend the Plan at that time. Chair Tarwater asked the Commissioners if they were any more questions or comments before voting on the Work Plan. Seeing none, Mr. Tenny then moved to approve the Draft Plan with Appendix F, as amended. The item was seconded and passed unanimously.

This motion: Passed 6-0

b. HLBAC Resolution 2018-03: A Resolution recommending Assembly approval of the disposal by telecommunication & electrical easement to Chugach Electric Association, Inc. of a portion within HLB Parcel 3-064, legally described as N2 NE4 SEC 4 T12N R3W, and amending the 2016 HLB Annual Work Program and 2017-2021 Five-Year Management Plan.

Kristy Despars provided summary report and stated this is in support of the approved Verizon cell tower site. Ms. Wilber asked if the road and access gate issues were addressed for the concerned adjacent property owners. Ms. Ward confirmed they had. Chair Tarwater opened the public hearing for testimony.

Gilbert Roetman thanked staff for taking care of municipal lands and stated this needs further review. This is not just a cell tower, this is going to incorporate 5G into the whole town. Some people say 5G frequency in the Anchorage Bowl will basically take all organic life and crash it and there’s proof of that through the scientific community. This was Nobel reviewed science. The Abbott Loop Community Council (ALCC) voted down by 17-2. Verizon, along with all the other telecom people, in the FCC is certainly in the process of blanketing the world in 5G and ramming this down everybody’s throats. What is 5G? 4G technology can look at everything in this room and they can record everything and read everything. In 5G they can do it in 1080p color. The frequency is going to be perpetrated on all life. It is a mirror for the whole Anchorage Bowl. Mr. Roetman requested we seek council with Nick Begich, Jr. He was concerned with sub-tenants; will it indeed have military grade technology? This has to do with the heritage of all living beings in the Anchorage Bowl. Just ask the Iraqi’s, when they got out of their tanks and they felt like their skin was on fire. Chair Tarwater stated the commission had passed a resolution for the cell tower construction last year and the Assembly had approved the lease. These things were brought up by the community and concerns were asked by and responded to by the provider. We are only considering access to power - the easement. Mr. Roetman stated so, there’s no recourse for the neighbors. Chair Tarwater indicated that he could provide testimony at the Assembly.
Donna Schuckner stated: so, this has already been rubber-stamped a year ago, and the meetings at the ALCC where we’re having a vote, means that we can’t do anything about it. So, this has just been a waste of time for all the residents. Because that’s what it sounds like. They did not have the vote. Ms. Wilber added that there was public notice and we had quite a few residents come forward to provide testimony. This action is for an easement to access power. Ms. Schuckner stated so, let’s not give them power. There was no impact study; not here in Alaska or cold weather or for the wildlife here. The impact study that they did provide did talk about cancers. What you guys are calling an easement, we consider it a tower. Ms. Schuckner expressed concerns that it is less than 200’ from older persons’ property; tower would wreck that. Last ALCC resolution had 2 in favor and 17 opposed. The community thought we’re doing one thing and you guys are doing another. And so, the system needs to start over. So all the people are on the same page. You’re right, Verizon did start more than a year ago. They have lots of money and they want that spot. But the fact of the matter is, the residents say no. They don’t want that spot. There are places in Anchorage where they could put the cell tower that is not directly related to ...64th has been coming up in value, but in new people, and children, and babies. That tower, according to their impact study that they gave and that I read; animals get cancer. That is too much for the older persons to get—the people that live right in front of them. Ms. Schuckner stated the impact study should be done for our life, our wildlife, and our cold. Chair Trawver stated the tower lease and access easement has been given and this action is a formality to provide power. Ms. Schuckner stated that everybody’s response is that this has been in the works for a long time and residents don’t want it. Think about having a tower 200’ from your front door. I live down the street, but these are my neighbors that I drive by and make sure that they’re alive and healthy. Mr. Gilbert added 5G does alter mitochondrial DNA, which means your children will not be the same.

Ms. Jones-Vogel stated Verizon went to ALCC for a Conditional Use Permit and the process might be confused.

Cathy Gleason stated when Verizon was putting in a cell tower there were major issues with Turnagain residents over several issues right smack in the middle of a residential area. There were concerns about health issues. It probably wasn’t a 5G, it was probably a 3 or 4G back then. This happened over a year ago. She asked if there was access to that study at that time and were there any concerns by the commission about the health aspects, in terms of wildlife or human. I think that is a major issue for us as there are more cell towers going up that are more powerful and have higher energy. You have to be very careful where you put those in the community. It sounds like they didn’t have that information a year ago, since this is something they’re talking about now. Yes, this sounds like more of a formality, but it is an important one. If they’re moving forward but don’t have access to it. Then you do have the power to do something about it. Perhaps modify things through the process. It’s probably the chicken-and-the-egg thing as far as the process goes. But if they don’t even have access to the land that they’re going to develop on, then it’s in your hands to provide input to the Assembly. Any information that you didn’t have a year ago, but that is now available, it would behoove you to do that, on behalf of the community in that area and of course public lands. Ms. Ward clarified that this for an easement to CEA, that is for power. Verizon has access to the land. Ms. Gleason added that when she walks away, she hoped that the commission will review that. Seeing no other persons present to provide testimony, Chair Trawver closed the public hearing.
Chair Trawver stated there was a tremendous amount of information provided. HLBAC commissioners are not experts in telecommunication, but we thought the information provided by Verizon was sufficient. The FCC has approved to move forward.

Ms. Wilber stated we were making a judgement on the lease of the land. The Conditional Use Permit is a very different process and that may be confusing to citizens. Our task was not whether a cell tower should go in, but whether this was the highest and best use of the land, of community benefit, and complies with Plans. The Conditional Use Permit would go in front the Planning & Zoning Commission and the public has the opportunity to provide comments with their public hearing. All we’re saying is that if that process goes through the Planning & Zoning Commission, then this easement to provide power is recommended for Assembly approval, and we will lease the land. Ms. Schuckner asked how we could lease the land then. Chair Trawver replied that approval was given over a year ago. Ms. Schuckner asked how this could go forward. Ms. Wilber replied that there is a public hearing here with the Heritage Land Bank and another public hearing with the Planning & Zoning Commission.

Chair Trawver asked if there were any other questions from the commissioners and clarified that this is not for access to the property, but an easement for power.

Mr. Fredrick made a motion to approve. The motion was seconded. Mr. Tenny stated he wasn’t here a year ago and chose to abstain. The motion passed unanimously, with one abstention.

This motion: Passed 5-0 (with 1 abstention)

V. Persons or Items not on the Agenda

Brendan Yukoubian supports investigating the Girdwood Nordic Ski Club’s violation of the terms of their agreement. There are many places along the trail where they exceeded the easement. They have done only some revegetation in a small number of areas, and they have stated publicly they will not be doing any more restorative work along the easement. Additionally, the overdevelopment has degraded the quality of the Winner Creek trail – the viewsed. It appears that they did not report this violation to the HLB, because as I understand it from the last HLB meeting, because HLB wasn’t aware of it. Mr. Yukoubian requested that HLB fully investigate this issue and taken any necessary actions, including sanctioning the Club, and also including any restorative work where they comply with the easement and guidelines for full restoration of the forest viewsed along the 5K and the Winner Creek Trail, where they exceeded the width of easement. Mr. Yukoubian supports the last request from Julie Raymond-Yukoubian to link the issues of the 5K with the Nordic Club’s new trail on HLB Parcel 6-011. It doesn’t make sense to allow new projects on HLB lands where they’ve previously violated HLB lease requirements and damaged HLB lands and didn’t report those apparently, until they remedy the past situation. Mr. Yukoubian requests a stop – where they cannot work on any new proposed trails until this old project, the 5K, is fully remedied. Mr. Yukoubian further requested, if the Club’s new trail proposal goes through, there should be extremely clear and strict guidelines, which I did not see currently in the HLB easement, as presented to the GBOS, a 14’ total clearing and no more than 10’ of trail bed, and monitoring and reporting of violations to HLB immediately; immediate and complete remediation of non-permanent damage; adherence to any and all
HLB requirements for permitting, laws, rules, and regulations; not sourcing gravel from HLB lands during the construction; and long-term adherence to the trail design for the life of the lease.

Julie Raymond-Yukoubian provided written comments and oral testimony regarding her expressed concerns at the February meeting. She thanked HLB for initiating a formal investigation for the problems with that trail and the lease agreement. I believe you’re planning a site visit to the trail. Thank you for doing that, and requested that staff do that in the summer. Ms. Raymond-Yukoubian requests a formal surveyor provide an as-built and a full assessment of the existing trail to find the full extent of the damage, and strongly encourage the HLB to hold the Girdwood Nordic Ski Club accountable for their actions and require them to repair any damage. Ms. Raymond-Yukoubian requests repair to the forest; re-planting large trees that are commercially available, berry bushes, willows, and whatever is necessary to repair the viewshed of the Winner Creek Trail; fill in gravel excavated on Winner Creek Trail; and continue to postpone any discussion or action until staff investigation is complete. I personally think that they should not be given an easement or management status at this point, because they did not follow the letter or spirit of the letter of the existing use agreement. Prior to considering any additional easements or other things granted to them, the damaged areas need to be repaired. Ms. Raymond-Yukoubian wanted to clarify her comments made at the last HLBAC meeting, where she asked what the pathways were to hold them accountable or responsible for any damages they caused, and staff directed me to the existing public use easement document. There was some stuff in there about non-compliance, other than that, I didn’t see anything. She requested clarification from staff. Thank you.

Greg Schmitt provided a complaint to the Commission about concerns regarding Darryl Waters (lessee of Porcupine Building) and stated he had made his concerns known to Robin Ward and Nicole Jones-Vogel. I am one of the many known residents who have successfully won a lawsuit against Mr. Darryl Waters. Mr. Schmitt they have done a lot of damage to a lot of people around Anchorage and presented copies of Courtview research. Mr. Waters is using 3001 Porcupine Drive as his home base under the banner of Alaska WorkSource as a 501(c)3 non-profit. Mr. Schmitt that Waters has a number of active investigations through the Alaska Department of Labor, I believe of the 8 liens from the State of Alaska against him right now; here is a sample that is tied to those investigations. There are liens from the IRS. This particular one is available on the Alaska DNR website. The activities of Mr. Waters is all documented in the Alaska Dispatch News articles where it talks about how the city was rushed into providing him a grant to help the homeless and for transporting clients to and from his facility. Mr. Waters has been operating under a parade of different companies and his outside bonding company was successfully sued and the bond companies were stuck paying for the damage that he’s left behind. He’s got more business out there than his bonds can cover. Mr. Schmitt alleged his wife’s for-profit company is operating for a while out there at the non-profit facility – but I know it no longer is. She’s involved with treating people with chemical issues. Mr. Schmitt formally requests 1) HLB look at the facts given; 2) formally request his I-990; and 3) ask if this is a benefit to present and future citizens. Mr. Schmitt Mr. Waters is engaged in a tremendous amount of harm to citizens and he and his wife are engaging in harming the most vulnerable of residents of Anchorage.

Mr. Quade asked if this is the Porcupine Building and Ms. Ward confirmed.

Shirley Durtsche opposed Girdwood Nordic Ski Club’s proposed Forest Trail. Ms. Durtsche stated the 5K trails were built too close to the Winner Creek Trail and are too wide, it’s more than 100’ wide in places.
It’s more like a road and not a trail. She opposed them building any further and doing the same thing. It’s a rainforest and there’s kettle ponds and moss growing. Ms. Durtsche did not want that to happen again – expressing she’s really concerned about that. Pay close attention to their presentations because they’re not honest.

Seeing no others persons present to provide testimony, Chair Trawver went on to commissioner comments.

VI. Commissioner Comments

Ms. Looney asked to refresh her memory - if the trail easement had been granted yet. Ms. Jones-Vogel stated the Commission at the October meeting passed a resolution with conditions to allow for the trail easement. Ms. Looney sought clarification that they had strict conditions they had to follow. Ms. Jones-Vogel confirmed and added they had to have 100% of their funding and included they had to provide a survey for their final trail alignment, including a cross-section, and there were a couple of other conditions. There were some advisory conditions that were in alignment with the Girdwood Mountain Bike Alliance that was passed in that same timeframe. The item has not gone before the Assembly yet. There is no final trail alignment. Staff are tackling these new trail easements differently than we’ve done before. Now we will grant an early entry authorization and then after the construction is completed, we will have them go in and do the survey work and that will become the basis for the recorded document. That’s our process. We’re waiting on the Girdwood Nordic Ski Club to provide documents before going to the Assembly for approval. The Girdwood Mountain Bike Alliance is scheduled for Assembly public hearing on March 20th. If approved, they still have some things that they’ll need to provide before we issue early entry authorization.

Mr. Fredrick asked how we’re dealing with the allegations, of their exceeding what was authorized. Ms. Jones-Vogel stated that Ms. Despars met with Girdwood Nordic Ski Club this week and toured the 5K Loop. We’re reviewing the file. It sounds like there may have been some miscommunication during construction. The difference from when you’re on the ground and on paper. It sounds like there may have been some alterations made on the trail. This is one of those occasions where the easement was recorded based on the conceptual trail alignment – not the final trail alignment. We’re working to rectify that. Our plan is to draft up an issue response. We’re asking to have a look at it in the summer as well. There may be a 2-part response.

Mr. Quade inquired if they had a sincerity or indicated that there’s something to fix. He expressed in his opinion that was not verified regarding concerns regarding using land resources – like land or gravel without permission – that’s theft. That would not go over with any landowner. Mr. Quade asked if they got approval. Ms. Jones-Vogel stated that the impression she got from the Girdwood Nordic Ski Club was the constructed trail is wide and it’s being groomed. We’re going to measure and see what the actual width of the trail is itself. Every time I contact the Nordic Ski Club, they’re quick to get back with us. They keep their insurance certificate up to date that’s on file. They come to this Commission every time that they are asked. The Commission has gotten several presentations before they came to them for the actual easement. They are waiting for the alignment of the trail to be approved by the Girdwood community – for the Forest Loop Trail. They’ve been working with staff and are as responsive as one would expect an entity like that. Ms. Ward added that’s why we’re doing an investigation. We need to clarify and verify
what exactly happened, and we don’t want to do anything until we can verify that. We understand the allegations, the issues have been raised, and we are investigating.

Ms. Wilber stated that given we have already approved this, she then asked if we can postpone until this investigation is complete and concerns are addressed. Ms. Ward said we can certainly do that.

Mr. Tenny stated he understood using these materials for the trail bed and it’s certainly the cheapest way to do this. His concern is that if you put a straight road in to connect on the church side and come in with heavy equipment, it’s essentially doing the same thing. As a Commissioner, I am concerned. I’m all for trails, but I want trails to be built right. I think it’s important to give this consideration.

Mr. Quade added that in terms of lease conditions, I think that’s something to bolster in addition to these discussions. Moving forward, Mr. Quade was concerned with bonding and inquired if this was a bond for the constructed trail or a bond that goes with the lease to use the trail. There’s a lot of different kinds of bonds that goes on. So, is this just a bond going through construction and not the lease, that will be released – or do they have to hold that bond through a certain point. Those are the sorts of things I would be interested in looking at, so that HLB is protected going forward through this whole use, not just insurance.

Mr. Tenny stated his concern was the impact of the equipment. The Trails Committee is going to put a group together and I think that’s a positive step going forward to get the Trails Committee to actually function. The Ski Club has been telling the Trails Committee what to do and I think there’s a disconnection. Chair Trawver stated we expect a report on what has happened. The trail is huge and I’m glad it’s come in front of the Commissioners.

Ms. Wilber inquired what are the next steps and if HLB or the Commission can take action. Ms. Ward stated we’ll come back to you with our report of our investigation. Ms. Jones-Vogel stated that they have many conditions they need to work on before anything would happen. Ms. Wilber added, so we have time. Ms. Ward added you’ll have the report at the next meeting. Then we can decide what’s next.

Chair Trawver stated that if there’s a problem, they should correct it. If they don’t correct it, then no way, we can’t let them do this again. We’ll wait for the report from staff based on comments that were made to the Commission about the let’s just say “the highway”. Ms. Wilber stated she didn’t know what the process would be if the Commission already approved it to go the Assembly – on how to pull it back. Ms. Ward stated you can request it to come back – to reconsider it. We don’t want to charge anyone who is not guilty of anything until we have all of the information.

Ms. Wilber inquired about the Porcupine situation, doesn’t know if it’s an HLB issue, stated she’s sure that staff are working on it, and that you’ll let us know what is going on. Ms. Ward stated she’s reviewed the lease and they are not in default of the actual lease he has under his business name, not his personal name, it’s under his non-profit name. Today, he is current with rent and his COI is up to date. Right now I would have no reason or issue basis to order a default. I understand his personal issue; however, the lease is active, current, and not in default.
Mr. Fredrick stated on the other hand there is logic to watch him. Ms. Ward stated she is watching him very carefully. He does come in often and I go out there often, too. I spend a lot of time making inspections. We have Maintenance & Operations go out there. Everything he does requires approval. We make him get permits, every contractor he hires, we make sure they’re licensed, bonded, and insured – plumbers, electricians, that sort of thing. Ms. Wilber stated there’s personal and there’s business. That’s the bottom line. The lease is a separate issue. Chair Trawwer added that it appears he is pursuing some other legal means.

Seeing no commissioners wishing to provide comments, Chair Trawwer moved on to the next meeting.

VII. Next Meeting

The next regularly scheduled commission meeting date will be at 11:30 a.m. Thursday, April 12, 2018 in the Permit & Development Center conference room 170, at 4700 Elmore Road, Anchorage, Alaska.

VIII. Adjournment

Following the completion of business, Mr. Fredrick moved to adjourn. The motion was seconded and approved unanimously. The meeting was adjourned at 12:36 p.m.

PASSED and APPROVED on this, the 14th day of June, 2018.

Tim Trawwer, Chair
Heritage Land Bank Advisory Commission

Respectfully submitted for the Heritage Land Bank Advisory Commission by:
Tawny Klebesadel, RED Office Manager

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