HERITAGE LAND BANK ADVISORY COMMISSION
Meeting
April 11, 2019, 11:30 a.m.
Permit & Development Center conference room 170
4700 Elmore Road, Anchorage, Alaska
Meeting Minutes

I. Call to Order

HLBAC Chair Wilber called the meeting to order at 11:30 a.m.

II. Roll Call & Disclosures

No disclosures or conflicts were noted.

Commissioners Present:
Wende Wilber, Chair
Jim Fredrick, Vice-Chair
Brad Quade, Commissioner
Vicki Gerken, Commissioner
Peggy Looney, Commissioner
Ron Tenny, Commissioner

Staff Present:
Nicole Jones-Vogel, Land Management Officer
Tawny Klebesadel, Office Manager

Commissioners Absent:
Kati Capozzi, Commissioner (Excused)

III. Approval of the April 11, 2019 Agenda and the March 14, 2019 Minutes

Vice-Chair Jim Fredrick moved to approve the agenda. The motion was seconded and approval of the agenda passed unanimously. Vice-Chair Fredrick moved to approve the minutes. The motion was seconded and approval of the minutes pass unanimously.

IV. Director’s Report

In Director Robin Ward’s absence, Land Management Officer Nicole Jones-Vogel provided the Director’s Report. The Former Alaska Native Services Hospital Site (FNHS) Final Master Plan has been polished and provided a copy to HLBAC. We’ll now work on implementing recommendations. Assemblyman Christopher Constant requested an Assembly Work Session for the HLB Plan, tentatively scheduled for April 19, 2019, Commissioners were welcome and encouraged to attend, and we would keep them posted on the date and time. Ms. Nicole Jones-Vogel shared the staff letter of support for undergrounding all utilities at the FNHS, stated that ACS & GCI were planning on coordinating the colocation of undergrounding facilities during the planned construction. Ms. Jones-Vogel shared the Chugach Eagle River Advisory Board Resolution regarding a commitment to work with HLB and Parks & Recreation staff to locate a potential land source for a site for a cemetery. We did send them a copy of our inventory, however HLB does not have a lot of land available in Eagle River. She also shared this would be her last HLBAC meeting as she would be moving out of state and added the Commissioners were phenomenal, thoughtful, thorough, and engaged. Commissioners shared their appreciation of her contributions as well.

Chair Wilber moved on to the single Proposed Action Items and Public Hearings and requested Commissioners to please note that there are two Resolutions provided and that staff were requesting Commissioners to choose one. Please be aware of that when we get ready to vote and make recommendations.
V. Proposed Action Items and Public Hearings:

a. HLBAC Resolution 2019-04: A Resolution recommending approval of the disposal by competitive bid of HLB Parcel 1-074A, legally described as Tract 1 Carol Creek Subdivision (Plat 2018-82), and amend the 2019 Heritage Land Bank Annual Work Program.

Ms. Jones-Vogel reported that HLB received an application for the competitive sale of land of the recently platted Carol Creek property we have in Eagle River. This is a process we have available to the community when they want to work with us on something outside of our adopted Work Plan. The request is for Tract 1, which is approximately 30 acres. This process includes an agency review which allows staff to make informed recommendations, but does not give the applicant any preferential treatment. It is a competitive bid. The questions about what their plan is and how it complies with the Comprehensive Plan is important information about what could happen, but it’s not necessarily what would happen at the end of the day. We would take the highest bidder. Most of the Commission was here when we did the amendment to the Chugiak Eagle River Comprehensive Plan. We have the 92-acre parcel behind Fred Meyer in Eagle River. We initially started talking about this when we were trying to get a tract for an AWWU water reservoir. Ms. Jones-Vogel indicated the AWWU tract, the residential areas, the open space, and corresponding recommended zoning on the overhead. The tract we’re looking at is supposed to be rezoned to R-2M-SL. The Special Limitations being a maximum of 115 dwelling units. We completed a platting action for this in the fall. The only difference from the plan is that we combined the medium and low density areas into one tract. This is identified in our 5-Year Plan as a potential disposal, and includes other activities, such as locating funding to upgrade the Harry McDonald Road into a collector. We did apply (through AMATS), however the project was not successful in getting on the list. It is something we do keep on our radar. Since this isn’t in our 2019 Work Program, that is why we would need to amend the HLB Plan to move it from the 5-Year to the 1-Year, if that is the recommendation from the Commission. During the agency review, we received comments from APD, AWWU, Planning, and the Port. Most of them said no objection. AWWU did identify that this project may trigger fully fronting the property with a water main, because it would be potentially happening ahead of the water reservoir. Planning supported the use of the property for residential. We did send the agency review to Chugiak, Birchwood, Eagle River, and Eagle River Valley Community Councils. We received zero comments regarding this application, but did get one phone call today from an individual who was very involved in the update to the Chugiak Eagle River Site Specific Land Use Plan Update (2018) (CERSSLUP). She asked questions about the process and just wanted to remain aware of what’s happening with this if we move forward with the disposal and be able to watch closely with any development that may happen in the area. As the Chair mentioned, if have two Resolutions. One of the things that we’re considering is that we, as staff, go ahead and get an appraisal, but we’re concerned that we sell the property and that it gets land banked. Maybe there’s not a need for it right now or maybe the water line extension cost is prohibitive, or maybe there’s issues with traffic, upgrading the road, lighting, and all the things that we identified in the CERSSLUP. We have two different potential solutions to address that concern of the property going into the private sector and then sitting vacant for a long time. The first is having a reversionary clause that if development doesn’t occur within 10 years, then HLB would buy back the property at its original price. Vice-Chair Fredrick inquired for the purpose of this, what is development. Ms. Jones-Vogel responded exactly, that’s why we came up with a second potential reversionary clause. If we identified it as a development, we would to do thresholds, and define what would meet the development requirements. Would it trigger an RFP process instead of a competitive bid? The second idea is that the purchaser of the property would have to rezone from PLI to R-2M-SL within a 2-year time period. We could be assured that something allowable under R-2M, which is mostly housing, would be more likely to occur. Vice-Chair Fredrick stated that still doesn’t guarantee development would happen. Chair Wilber stated that if you go with a 10-year reversionary clause, a) will HLB have the funds to buy back the property; 10 years is a long time, and b) are they buying it back at fair market value? Or are they buying it back at the original cost? Those are things that developers would look at closely and may determine the risk is too high. It is in the 5-year plan to dispose, they can do whatever they want, and by requiring the rezone, that
implements the Comprehensive Plan appropriately. Commissioner Brad Quade stated that it’s secured the property would be in the private sector, but at least it’s handed off in the direction of consistent with what we’ve tried to achieve with the Plan. Eventually, it’s going to be that. When the community need is there, it will become that. Chair Wilber stated she liked the intent on the first option, but didn’t think 10 years was realistic and had concerns how that would be implemented. At a minimum, it would have to be rewritten for what qualifies as development. Ms. Jones-Vogel stated that our internal talks that we’ve had since the staff report went out until this morning, we are in favor of the rezone reversionary clause, but we did want to have the conversation. We have previously had performance bonds with thresholds of criteria being met. It is something that we’re familiar with, but the rezoning may be something we might be better able to manage and the timeframe is much shorter. Mr. Quade suggested there should be a penalty for the buyer if they don’t rezone, such as the buy-back would be at 90% of original purchase price. Staff resources cost something. If a buyer gets a deal and then determines that it’s too hard for them, and it reverts back. There should be a penalty for it reverting back where it’s fair for everybody. Staff should be able to recover that time and energy. Chair Wilber stated the property is currently zoned PLI and without that rezone, you couldn’t implement the Carol Creek Plan (CERSS/LUP). Chair Wilber asked if there were any more questions for staff, seeing none, opened up the public hearing.

Troy Davis, Troy Davis Homes provided testimony that one of his companies is the petitioner for this request. Mr. Davis stated that he had recently disposed of a 235-unit retirement community he’d built in Westminster, CO and was looking to design another senior housing community in the Eagle River area. Anchorage now has the Baxter House, but seniors do not have a selection of housing to choose from. We’ve been looking to do this for about five years and this site makes a great location for a senior housing community. We’re planning on a core structure with a number of units plus activities for them there, like an ice cream parlor, and things that the seniors would want. We would have attached individual houses, and detached like duplexes, for seniors who want more independence. Even though they’re going into a community, seniors like to feel as independent as they can. We’re looking at 70-75 units in the main complex and 30-40 units surrounding and tied to it. All this is contingent on the price of the land and what happens here, if we were the successful bidders and achieved it. Mr. Davis said that’s their plan for the project, but wanted to add to the previous Commissioners’ comments, regarding the two reversionary clause options, the 10-year time frame is fine. The 2-year time frame may be a little tough. We wouldn’t start designing this until we’re sure this parcel would work. We wouldn’t get the platting done until we’re sure of the costs. When we do these projects, we’re probably 1-1/2 – 2 years just in the planning stage and our design of it. We get marketing people to completely assess the market. They tell us exactly the amenities that are in demand and needed by these people and the community. We would need a little bit longer lead time. I would suggest that you push it out to 3 years. It would be better for us, if we’re going to be doing it for us, it’s 1-1/2 – 2 years where we’re spending money doing research to make sure we’ve got what we need to get to the cost analysis, before we start to do the platting action. Regarding the gentleman’s comment about the buy-back being less, really once we start getting into this, we start spending a ton of money. As we do the engineering and the platting, you know is not cheap these days. We’re increasing the value of that property. We’re spending quite a bit. If we give it back, at what we purchased it for, we would already be penalized. By doing the rezoning, we’d already be spending a ton of money. Those are my comments on the clauses if we’re the successful bidder. Chair Wilber commented the clause is for a rezone, not a re-plat. A rezone is a 6-8 month process. You don’t need any designs or plans. The rezoning process is much simpler than the platting process and you don’t need to do them both at the same time. With knowing that, does that make you more comfortable? Mr. Davis stated that could possibly get us back within the two years, because we do a lot of market analysis on the front end. That takes a lot of time and once we do that, we can make our decision to move forward, then we can get our architects and engineers in there to do a tentative building plan to do a cost analysis. We have a lot of up front time and cost involved. Two years, is it doable? Yes, but it’s a little tight. If we could push that to 3 years, it gives us a little leeway, in case we slip. Chair Wilber asked if there were any more Commissioner questions, Mr. Fredrick asked how long the rezoning process takes. Chair Wilber responded typically 6-8 months, and with Assembly approval could take up to a year. Mr. Quade commented that he thought the applicant had already sited the potential site and done quite a bit of
research already. Mr. Davis responded that they’d done a tentative one—a quick analysis of the Anchorage market about 3 years ago. You start spending thousands of dollars on this, but until we had a piece of land, we haven’t done a full analysis yet. There is a big demand in this area for good quality senior housing development. Chair Wilber stated you’re just one developer, another bidder wouldn’t have done so much work on it yet. Remember this a competitive bid.

Chair Wilber called the next person present to provide testimony, John Rodda, Parks & Recreation Director and staffer for the Parks & Recreation Advisory Commission, who stated, the McDonald Center sits at the top of the hill and below the hill is Fire Lake Elementary School and off to the right is the 92 acres next to Fred Meyers. Over the course of many years, probably 35 years, with the development of the McDonald Center and Fire Lake Elementary, and on behalf of HLB, we’ve kind of been the stewards of the 92-acre property, and dealt with the abandoned vehicles, fires, homeless camps, etc. As I’ve watched this whole Carol Creek process unfold, from the first phase to when people were not supportive and then there was a compromise for the density in the final plan. Specific to Parks and Recreation, the school district may not weigh in, but I’m sure they’re going to be very interested, because their driveway spurs off the McDonald Center driveway. Note that is a driveway, not a road. In the recommendations in the plan it speaks to AMATS. One of the questions that has repeatedly come up, and it came up at our Park Board Monday night, in the event that it becomes nominated for AMATS funding and it isn’t successful, and the project moves forward, what are our responsibilities to upgrade the road? So, the driveway which would become a road, which would serve this development. The driveway could not sustain any heavier burden than the existing traffic. It brings up the question of signalization at the intersection of the Old Glenn Hwy and Harry McDonald Rd. People are always going to be worried about drainage and traffic impacts. Then, specifically within the plan, Tract 1 had a requirement for access to Tract 4. There had to be park parking on the development side. The McDonald Center could not be used for the intended park parking purpose, because the parking at the McDonald Center is already maxed out. How that falls into the development plan, or if you have jurisdiction over that, but those are things to consider that have impact to users already. Another piece is to work with the developer for security for the facilities. Currently, they are secured by a locked gate, so we have control over access. If it becomes a road, it will then open it up all the way to the other end, potentially to service AWWWU facilities as well. Little things that don’t seem to be a big deal when you’re talking about the deal, but for us, we have to consider many other potential long term impacts for the operation of the McDonald Center and our maintenance shop at the top of the hill. We just wanted to advise you of some of the things that were brought up, we’re not here to derail the project, that’s not the purpose at all. As you consider what your final determinations are when you put this out, if there are conditions or notes to be made, we would appreciate it. Chair Wilber clarified that this isn’t a project. This is a land disposal, which is part of an adopted plan. And, as you know, the devil’s in the details, and that would be part of the platting process. Mr. Rodda stated that his Board had asked that he come and at least be put on the record.

Chair Wilber seeing no other persons present to provide testimony, closed the public hearing. Chair Wilber then opened it up for Commissioner discussion. Mr. Fredrick stated he did not have a problem with changing the period of time from 2 years to 3 years. It’s not a lot of time in the scheme of things. As you said, if someone comes in and hasn’t done any preliminary work on this, they may need some of that extra time. Chair Wilber asked if there was anyone wishing to move the Resolution. Vice-Chair Fredrick moved to approve HLBAC Resolution 2019-04, the motion was seconded, and he proposed an Amendment to say that the successful bidder would be subject to a reversionary clause to rezone the property from PLI to CE-R-2M-SL within a 3-year period. If the rezoning does not occur within that period, the property will revert back to the HLB inventory and HLB will reimburse the successful bidder the original cost of the purchase. The Amendment was seconded. Chair Wilber asked for discussion on the Amendment. Mr. Tenny stated that it’s funny that someone would buy the land without researching all of the parameters, but guessed that would be the prerogative of the buyer. A concern is that we’re having a land sale, but some of the concerns that Parks & Recreation are having to come after the fact. If somebody buys that land, and doesn’t follow the community, there’s all these steps, the rezoning and those types of things, I guess it’s pretty
straight forward. Mr. Quade stated he’s okay with 3 years, you never know who’s coming out of the woodwork with these things. A lot of times, people see a deal, they throw a number at it and hope they get it. Then all of the sudden, they’re running with it and then drop the ball. Sometimes, people don’t have a plan and they come at it. Mr. Quade stated he wanted to double down on the need for HLB to be sure there’s an incentive for them to not just let the time expire. They will do that. They get into it and then realize they jumped the gun and just decide to let it revert back. That’s so common and now you’ve wasted 3 years. Undeveloped land without utilities can sit for many years and the valuation doesn’t change much. It might go up a little bit. If something big happens, it could change a lot. Generally speaking, undeveloped land without utilities to it is usually flat. I would not count on it. In 3 years, you have to have something to cover your costs. Chair Wilber said it sounds like you want to propose another Amendment. Mr. Quade stated yes, that’s got some sort of penalty involved. Chair Wilber responded before we do that, let’s vote on the amendment that’s on the table. The Amendment on the table is to require a reversionary clause of 3 years instead of 2 years. A vote was taken and passed unanimously.

This Amendment: Passed 6-0

Chair Wilber asked if there were any other motions for amendments to the Resolution. Mr. Quade stated he did have another amendment request, but didn’t know what it should look like. It seems like there should be disincentive in allowing the time lapse; or penalties for doing so. Chair Wilber posed the legality of that to staff. Ms. Jones-Vogel stated we’ve done things like performance bonds. Say they put up a $1M performance bond and then they have to meet certain thresholds. We’ve only done that under an RFP process, where we’re getting a specific development with specific criteria. In this case, we don’t know what the development would be. Mr. Quade asked if we could say that reimbursement would be 10% less than original purchase price. Chair Wilber stated she felt that discussing a number is arbitrary. An option at this point would be to not make a decisions and have staff go back and provide information regarding the legal ramifications for doing this, so that it’s a valid number. Mr. Quade stated it’s a bigger question than this. Maybe we have staff look at this for future disposals, so we have an incentive to not just come in and buy land and hold it. Then they decide it’s not worth it, and meanwhile they’ve tied up the land. Maybe it’s a bigger question than what can be dealt with here. Chair Wilber asked if there were any other thoughts on this or recommendations from Commissioners. Ms. Looney inquired if the developer decided it wouldn’t work, would they be able to sell the property. Ms. Klebesadel responded yes. Chair Wilber stated with full disclosure that she works with a lot of developers on this very kind of issue. There is value in the rezone. If they don’t complete the rezone, it reverts back to HLB. They’ve lost money guaranteed. Can they resell the land, given everything that Mr. Rodda brought up. It’s a risk; developers take risks. There’s a lot of risk in the planning process. It is market driven. Mr. Tenny commented the buyer takes a lot of risk in a cash sale. Chair Wilber added we don’t know what property values will be in 3 years or what staff resources will be. Mr. Tenny commented that we’re looking at the land and with the zoning, and rezoning is up to different organizations. I would stick to the 3 years. Chair Wilber added the developer won’t be able to do anything with this land without a rezone and asked if Mr. Quade wanted to propose a friendly amendment or just table it. Mr. Quade stated just table it. It sounds like it’s more complex than for this particular purpose. Ms. Jones-Vogel stated we have this in our 5-year Plan, with the expectation that we wouldn’t do anything with this property until we coordinated with AWWJ on the water reservoir and the road extension. We thought there would be single family homes and duplexes, not a facility. That facility needs a water line. Residential development wouldn’t be financially feasible with putting that water line in. Our position was to wait that 7-10 years and possibly get federal funding for the road extension. Even if we get that property back in 3 years, we would still have that lead time that we were expecting – say another 4 years. Mr. Quade stated that speaks directly to his concern. You’re telling me that this won’t impact one of the current plans for this property even if we had a buy back. Chair Wilber asked if the Commissioners were ready to vote on the Resolution, As Amended. Ms. Looney sought clarification that we are not voting on the development requirement, just the rezone. Vice-Chair Fredrick affirmed we are not voting on a 10-year development requirement. Chair Wilber stated there was no motion to approve that Resolution. Vice-Chair Fredrick stated we voted to make an amendment to a 3-year rezoning requirement, and now we’re voting on
the disposal. Mr. Tenny asked what happens if the bids come out 10% below what the appraisal is. Ms. Jones-Vogel responded that the minimum bid is the appraised value - fair market value. Chair Wilber asked if there were any more Commissioner comments, questions, or discussion. Seeing none, Mr. Tenny moved to approve HLBAC Resolution 2019-04, As Amended recommending approval of the disposal by competitive bid of HLB Parcel 1-074A. The motion was seconded and passed unanimously.

This motion: Passed 6-0

VI. Appearance Request(s)

Seeing no Appearance Requests, Chair Wilber moved on to Persons or Items not on the Agenda.

VII. Persons or Items not on the Agenda

Chair Wilber seeing no other persons wishing to provide testimony or comments, moved on to Commissioner Comments.

VIII. Commissioner Comments

Chair Wilber asked if there were any Commissioner comments, Vice-Chair Fredrick commented that it’s nice to see some progress on this. Chair Wilber agreed and commented it is exciting. Vice-Chair Fredrick stated if it does indeed turn into senior housing, he thinks that’s a big plus. Chair Wilber went on to the next scheduled meeting.

IX. Next Meeting

Chair Wilber stated the next regularly scheduled commission meeting date will be at 11:30am, Thursday, May 9, 2019 in the Permit & Development Center conference room 170, at 4700 Elmore Road.

X. Adjournment

Following the completion of business, Vice-Chair Fredrick moved to adjourn. The motion was seconded and approved unanimously. The meeting was adjourned at 12:15 p.m.

PASSED and APPROVED on this, the 13th day of June, 2019.

Wende Wilber, 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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