HERITAGE LAND BANK ADVISORY COMMISSION
Meeting

July 13, 2017, 11:30 a.m.
Permit & Development Center conference room 170
4700 Elmore Road, Anchorage, Alaska

Meeting Minutes

I. Call to Order

Commission Vice-Chair Capozzi called the meeting to order at 11:34 a.m.

Commissioners Present:
Tim Trawver, Chair
Kati Capozzi, Vice-Chair
Jim Fredrick, Commissioner
Peggy Looney, Commissioner
Ryan Mae Lucas, Commissioner
Diana Stone Livingston, Commissioner
Wende Wilber, Commissioner

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

Commissioners Absent:

II. Approval of the July 13, 2017 Agenda and June 8, 2017 Meeting Minutes

Commissioner Jim Fredrick moved to approve the agenda as presented. The motion was seconded and approval of the agenda passed unanimously. Mr. Fredrick moved to approve the minutes of June 8, 2017, the motion was seconded and the item passed unanimously.

III. Director’s Report

Director Robin E. Ward presented the options for the HLBAC Girdwood retreat dates of Monday, October 9, 2017 at the Girdwood Community Center or Thursday, October 12, 2017 at the Alyeska Resort. Ms. Ward shared there will be MOA vehicles available if any commissioners need transportation. The Commissioners opted for noon to 4pm on Tuesday, October 10, 2017 at the community center, and the regular HLBAC meeting at 4pm. Ms. Ward reported that revisions have been requested for the Verizon lease on HLB Parcel 3-064. The HLBAC Resolution that was passed was broad in scope, but the requested changes would require Assembly action to update the length of the lease. The proposed substantial change is from five (5) years, with four (4) 5-year renewal options to a fifteen (15) year term. Ms. Ward requested an HLBAC Commissioner sit on the Brownfields Advisory Committee, with a commitment of two (2) meetings per year. Mr. Fredrick and Commissioner Wende Wilber expressed their interest in volunteering. Ms. Ward reported the Girdwood Industrial Park Subdivision bid came in low and provided an update on the fill and stockpiling activities; Lot 5 is filled and three (3) lots in Phase II are currently being filled. The two-fold process for the road drainage construction is filling the lots by utilizing the classified fill from the airport and transporting it to the GWIP project area. Director Ward shared the contract should be signed soon. Ms. Ward reported that Ms. Wilber would be presenting the HLB Parcel 2-144C rezoning application to the Rabbit Creek Community Council later that day.

IV. Proposed Action Items and Public Hearings
a. HLBAC Resolution 2017-05: A Resolution recommending Assembly approval of the disposal by a relocatable public use easement to Girdwood Mountain Bike Alliance of portions within HLB Parcel 6-251 and 6-296, legally described as portions within SEC 3, 5, 10, 33, 34 T10N R2E and portions within SEC 2, 3, 4, 9, 10 T11N R2E, in Girdwood, for twenty (20) years at no cost.

Ms. Jones-Vogel provided a presentation regarding the Girdwood Mountain Bike Alliance (GMBBA) proposal, sharing that commissioners may recall the presentation that was made a couple of months ago, and since then they have worked up a formal bike park proposal. HLB staff have reviewed it and we have collaborated back and forth about the proposal. We also spent a lot of time with Parks and Recreation (P&R) staff, specifically Maeve Nevins who manages the bike trails in the Anchorage bowl, and who has assisted in bike trails outside the bowl, as well. We do want to acknowledge her contributions with this; she took us out to sites and met with us with the Legal and Risk Management Departments. We walked some of the newer trails and described some of the things we need to consider while we’re reviewing this. I’ve tried to capture most of this in the staff report provided. Ms. Nevins was a very critical part in reviewing the proposal and making recommendations. As you know, we do not currently manage bike parks, so we would definitely need to get fully trained for inspecting this type of use and be ready to take on that additional responsibility if we move forward with this. The conceptual bike plan is for three (3) segments, further describing the color coded mapping of the two-way, flow and multi-use trails. Flow trails use the topography for momentum and require minimum pedaling and braking; including features for jumping. With the available training programs, graduating approximately 300 kids per year, the sport has become more recognized. Ms. Jones-Vogel shared pictures of trail features that have been constructed out of the natural environment, existing topography and bedrock. There are other man-made features, such as bridges and using tires for jumps. Girdwood lies outside of the Building Safety service area and does not require the strict structural height limits (30”), which raised concerns over the potential for increased liability. In the bike proposal at this time, they are not proposing to build any structures to be built in excess of 30”. If we do end up getting requests that exceed 30”, we do have to resolve some internal issues with permitting, such as building codes. Ms. Jones-Vogel went on to state that aggressive management of the trails is critical even with designed drainage due to rutting and puddling of trail use and rainy weather. Regular inspections of the trails to identify and repair areas right away is necessary, which will also decrease liability. We are also requesting, in addition to trail way-finding and intersection signage, is signage for trail difficulty ratings.

One of the proposed conditions we recommend is that a professional trail designer design the trail to International Mountain Bike Association standards. Also, original construction is done by a licensed, bonded and insured (LBI) contractor. Maintenance can be done by the group, volunteers, and engaged members of their board. We recommend, consistent with P&R procedures, semi-annual inspections where HLB and Legal staff walk and bike the trails to cover the liability aspect. If approved, HLB will work closely with P&R to ensure we are in line with their policies and procedures. We did receive one (1) comment during the agency review period from Planning, indicating that the proposer should reach out to Alaska Department of Fish and Game (ADF&G) to determine wildlife potential conflict or impacts and what may be done to mitigate. We did forward the agency review to ADF&G, however we are not in receipt of a comment, to date. GMBBA has presented to the GBOS and Land Use Committee (LUC) and GBOS Trails Committee and has received letters of support from the Nordic Ski Club and Chugach Powder Guides. There are several conditions for this request, including obtaining 501(c)(3) non-profit organization status. We’re looking at a twenty (20) year easement and require conditions showing the sustainability to financially commit to that; we’ve asked for a detailed budget and that they have that budget in hand and an additional 5% for the next year’s maintenance and insurance. In addition, as was already mentioned, a professional trail designer, original construction by LBI contractor, and insurance. HLB would like to know exactly where the trail is; another condition is accurate maps, so first responders can find very quickly where somebody might be and we want to have an accurate easement. The condition is written that an actual surveyor perform the survey. There is some comments that the intent may be met by doing some GPS mapping instead of doing a full survey. Ms. Jones-Vogel suggested that the determination could be left to the commission. If approved, we could do an early
occupancy land use permit for the construction, and once that was done, do GPS mapping to determine where the trail is. Then we could do the easement for a specific number of feet on either side of the trail centerline. The LUC commented that the trail construction might spark review by the Urban Design Commission (UDC). There is an exception in there that if there’s more than a ½ mile of trail that parallels a stream, there may be a requirement for UDC approval. GMBA are aware of this condition and the potential to submit documentation to Planning for UDC review. And lastly, to coordinate with ADF&G to address any conflicts with cyclists and wildlife. HLB staff recommend approval, subject to those named conditions.

Mr. Fredrick inquired about the term relocatable and how it applies to this proposal. Ms. Jones-Vogel responded that with a natural occurrence or improvement/development, there may be a need to relocate bridges, trails, etc. Ms. Ward added that most of the trails in Girdwood were relocatable in the event an improvement or development parallels the trail and it may need to move or make way for that development. Mr. Fredrick noted the mention of streams in the area and inquired if there were wetlands in the area. Ms. Jones-Vogel responded the majority of the proposed trails would be uplands, but will be crossing at least one (1) stream and paralleling another, other than that there shouldn’t be any wetland issues. The proposed trails are within the footprint of the Nordic Ski trails and you would use those to get to the top of the proposed bike trails. Ms. Wilber inquired about the twenty (20) year period in the event in five (5) years they were not sustaining; what happens? Ms. Jones-Vogel indicated HLB would model the easement after the Nordic Ski Club, and if they default, we would terminate. Ms. Ward added that it is standard we add termination language in all contracts. If we forget, the Legal Department will add it in.

Vice-Chair Capozzi requested to hear from Mr. Nick Georgelos. Mr. Georgelos stated he didn’t have anything specific to present, but was available for any questions. Mr. Fredrick inquired if it would be free for everyone. Mr. Georgelos responded in the affirmative. Mr. Fredrick commented that GMBA wouldn’t have any control over who was using the trails and suggested GMBA take that into consideration. Mr. Georgelos agreed and commented that would be the case of any bike trails. Ms. Wilber inquired if the trails would be closed to winter riding. Mr. Georgelos responded the trails won’t be designed for winter use. We won’t encourage it, but we won’t actively enforce no winter riding. We do not plan to close, except during the early season (break-up). Commissioner Peggy Looney inquired about liability, would GMBA be responsible first, before MOA? Mr. Georgelos indicated in the affirmative and expanded that all involved are insured. Director Ward responded about municipal requirements of certificates of insurance and legal liability language embedded in all municipal contracts. Mr. Fredrick asked if there would be a waiver to sign. Mr. Georgelos indicated that if they charged, they could have a waiver to sign, but with all state or municipal trails, there is liability. Ms. Jones-Vogel added that liability is what spurred the first condition to require a professional trail designer to reduce liability. Ms. Ward added that the whole list of conditions were added to reduce liability. Chair Trawer inquired if Mr. Georgelos had considered charging fees, such as for parking, and suggested voluntary contributions. Mr. Georgelos indicated the trails would be for the community and remain free. Chair Trawer suggested that if in the future there might be a shortage of funds, it might be re-considered. Mr. Georgelos agreed and shared that a fundraiser was scheduled for July 30th and all are invited. Commissioner Diana Stone Livingston shared that people can send checks to Girdwood, Inc. at PO Box 1002. Vice-Chair Capozzi inquired if they had applied for 501(c)3 status yet. Mr. Nick Georgelos indicated they had not and were unsure of how to proceed. Ms. Stone Livingston indicated he should call her. Ms. Wilber thanked him for today, his previous presentation and Nicole’s comprehensive presentation. Ms. Wilber stated that clearly a lot of thought has gone into this. Vice-Chair Capozzi asked if there were any other commissioner questions, seeing none, opened up and closed the public hearing after seeing no others persons present to provide testimony. Ms. Stone Livingston moved to approve, the motion was seconded.

This motion: Passed 7-0
V. HLBAC Work Session


Director Ward reported that the Work Plan went forward to the Assembly and public testimony was heard during that public hearing and then it was closed. The item was postponed so that staff had an opportunity to review and comment on those concerns. The Assembly had drafted amendments to the Draft 2017 Heritage Land Bank Annual Work Program and 2018-2022 Five-Year Management Plan, as provided in the HLBAC packets. Given the number of amendments and the substantial tone of the amendments, they’re fairly substantial changes to the Work Plan, one of the commissioners requested that those come back to you as a commission to review because it is substantially different than what was originally approved by the commission to go forward to the Assembly. It is going back to you, and as a reminder, you, as a commission, are advisory to the Assembly. We set this up as a work session so you could decide how you want to proceed. You have choices, you can review these and provide comments; you can do a new Resolution and forward it on to the Assembly; and you can – not do anything. The item was postponed to July 25th, or you can ask, if you want, to have the item postponed indefinitely. This is a 2017 Work Plan and it’s already more than half way through the year. Whichever you choose, we will be turning right around and starting the 2018 Work Plan during our retreat in October. And you could address these in your 2018 Work Plan discussions. We’d like to open this up for discussion on what you would like to do. Vice-Chair Capozzi asked for clarification that the item would be back in front of the Assembly. Ms. Ward indicated it would automatically come up again on July 25th after being postponed; the public hearing is closed, but no action was taken, unless you propose further postponement. Ms. Wilber asked if this precluded going forward on other things. Ms. Ward indicated that if an item was not in the approved plan, we would have to ask to amend the plan in that AO, as we do now. Ms. Wilber asked if there was anything in the next six (6) months that may need action before another plan could be adopted, such as the GMBAA action. Ms. Jones-Vogel indicated it was in the Plan and added that the potential sale of HLB Parcel 6-040 was in the 5-year plan and would need to be moved to the 1-yr annual program, we are waiting on an appraisal to bring it to the commission. It is something that we can postpone until next year, when the new Plan would be adopted. Ms. Wilber asked how long it would take to adopt a new Plan. Ms. Klebesadel responded that it takes forty-five (45) days for public review and then we would have our public hearing, so it takes a minimum of two (2) months. Ms. Wilber stated there is a possibility of having this done by January. Ms. Ward stated that it is our goal to have an adopted plan by the end of the year or in January, so that we have a Plan to work off of for the year. It was our goal to turn right around and begin working on the 2018 Plan anyway. This was quite unusual and did not remember ever having seen this many amendments to our Plan in the past. Mr. Fredrick clarified that amendment 2A was the only one that had passed and that has to do with the old native hospital. Ms. Ward affirmed that before the item was postponed, that amendment did pass. Mr. Fredrick inquired if staff had any heartburn about that one and Ms. Ward indicated we really don’t. Ms. Ward stated that she and Ms. Jones-Vogel had met with Assemblyman Constant, had a site visit with the group, and that they really did not have a plan going forward – it’s really in the conceptual and research stage. Our biggest concern on this site is contamination and creating food products there. It does make us a little nervous. This is really high levels of contamination from another site – an old cleaners. It’s in the water table now and it’s surfacing on the lower portion of the parcel, and it’s coming up in vapors. Anyone on the site could be subject to that and we’re very sensitive to that. We’ve made Mr. Constant aware of it and we adjusted the language to make us comfortable with it. Mr. Fredrick asked if there was any work being done on the contamination. Ms. Ward stated that ADEC has been testing. Ms. Wilber inquired if there were other concerns for this parcel. Ms. Ward stated that there are no reversionary clauses and that it had been saved for KABATA. In their (State) plans, this is where it lands on our side. So, we’ve set it aside and not allowed any structures or anything permanent to be there. However, the likelihood of that happening now is getting less and less, given funding sources. However, ADOT&PF will not tell you that. Also, the ten (10) acres to the east are a seismic rating of 5; it did slide downhill during the 1964 earthquake. The west side is a seismic 4, which is a developable rating. Two (2) of the acres on the top side have legal access and
can withhold a structure, but we have only allowed temporary usage. If there were greenhouses, or temporary type structures in that area like raised beds, there may not be a seismic issue or issues with contamination.

Ms. Looney asked about further reviewing the amendments and working on the new plan; asking how the commissioners would go about that. Ms. Ward indicated there was no Resolution prepared because it was a work session, but that something would need to be voted on to present to the Assembly. And again, they would decide, and they can overrule you, but I think they would at least take it under consideration. Ms. Wilber added that real discussion needs to be had such as transferring lands over to Parks & Recreation (P&R) that are outside their management area. Ms. Ward stated that P&R has weighed in on that and they really have absolutely no staff or funding to manage these properties. They’re resistant to take management of those. I’m not saying they wouldn’t, but they’re resistant. Also, we are expecting significant (budget) cuts next year, which could be up to 10%. We are already anticipating there will be some very, very painful (budget) cuts in P&R especially. We have now already cut non-essential services, so all the fat is now gone. HLB does have some funds and staff to manage these properties. That is one of the reasons we feel HLB should keep the management authority of these properties until such a time that P&R can take better care of them than HLB. And HLB manages open spaces regularly. Ms. Wilber added that it appeared that a lot of the amendments were regarding that and the concern is that the properties are saved for parks. HLB substantially manages open spaces according to the comprehensive and district plans already. Ms. Wilber added that any kind of action on those properties requires the full public process. So, the Work Plan is simply a plan to identify parcels and make plans of action for the year, but would still require the full public process. I’ve struggled with this all along, that this is not a comprehensive plan, but simply a work program. And that Title 21 and platting, even HLB’s own regulations require public notice and public process before any action can happen on HLB lands. It seems like people are trying to make this a Land Management tool instead of a work program. I struggle with these amendments, and think it’s overreaching the boundaries of a work program. Ms. Wilber inquired if staff felt comfortable with postponing indefinitely. Ms. Ward affirmed and indicated that if something came up and someone wanted to purchase a parcel that we could go forward through the public process and amend the adopted plan in the AO where we would be requesting that action. Whether it be a lease or whatever type of disposal. We have had that happen at least once per year, it is quite common.

Ms. Wilber moved to request an indefinite postponement for the 2017 HLB Work Plan to allow the commissioners to develop a 2018 Work Plan that is a compromise between the amendments and a Work Program for HLB. The motion was seconded.

This motion: Passed 7-0

Ms. Ward indicated that she would transmit that to the Assembly.

VI. Persons or Items not on the Agenda

Vice-Chair Capozzi asked if there were persons or items not on the agenda to come forward. Nancy Pease provided testimony that a work plan wasn’t anything until it is implemented. The Work Plan is an implementation tool and it is not overreach to move ahead and realize the public value in some of these parcels. I think the work plan should, and not just keep a status, but actually move ahead on some of these parcels the public is so interested in. I think it’s a great sign that there’s public idea and energy behind these parcels. The public is telling you, the HLBAC directly that they’re interested in these parcels and there’s public value in these lands. The voice of Rabbit Creek Community Council will continue on for Potter Marsh watershed and Chugach State Park access. Those desires and needs are not going away, they’re getting stronger. We will continue to work with the HLBAC and staff. We are disappointed that the responses haven’t been on point or responding to our issues. With regard to the HLB parcels that are above Potter Marsh, the response continues to say retaining these parcels in the HLB inventory without reference in the 5-year plan will accomplish the essence of this request. No, that’s not true. Because the HLB is
not considered a conservation organization. As long as they’re in the general inventory with no conservation easement, they’re just general inventory lands. The Great Land Trust has told us they’re not really a good connection to the watershed up the hill from Potter Marsh to private lands unless they’re in some kind of conservation status. So this does not accomplish the essence of what we’re requesting, which is to provide some connection with Potter Marsh and those tributaries that cross these parcels on private properties. This is not accurate. And there’s also a condition that before the watershed conservation parcels can be transferred, the staff wants to see P&R request this to be a park’s parcel. And that’s not part of that continuity. There’s no nexus; there’s no rationale for that. Why would a developable park need to be transferred before these watershed lands be transferred; there’s just no reason. It makes no sense. In fact, it makes less sense if P&R is in a constrained situation. Because a developable park will take funding and rather these watershed conservation lands receive no maintenance and would not require funding. If anything, these conservation parcels should be transferred first before the park. Again, this is an implementation step, it’s great that the public is interested and look forward to working with you on this.

Dianne Holmes inquired when the Assembly public hearing was (for the Plan). Ms. Ward responded it was on May 23rd. Ms. Holmes concurred with Ms. Pease’s testimony. She inquired if the Plan was delayed until next year, would Christopher Constant’s amendments from the Assembly would not be acted on. Ms. Ward responded that if it’s postponed indefinitely than that is correct. It’s too bad, because I would assume he would like to get moving on that. Ms. Ward stated that doesn’t preclude him from moving on that; we’re already moving on that.

Cathy Gleason, Acting President, Turnagain Community Council (TCC), first, there was some discussion that concerned me a little bit that to postpone any kind of discussion until you have a retreat work session in October in Girdwood. Would that retreat be open to the public? All your other discussions about these amendments have been open to the public so far. Would the public have to drive down to a retreat in October to hear you discuss these amendments further and that puts a burden on those of us that live in the bowl area. That’s just a comment you might consider. I’m very concerned about missing out on your discussions and not choosing to discuss today. Secondly, I agree so much with Ms. Pease, in the terms of generality, your work plan is a plan. And it’s under an umbrella of a plan. So, when you say an implementation and that some of these recommendations overstep the boundaries of the HLB Work Plan and management plan, I disagree. This is the first step on HLB parcels, public HLB parcels, to look at these parcels, and put in a Plan that might actually be taken in the future. Look at all the other pages of your Plan and that’s what they contain. It proposes action and it summarizes actions. This is the first step, to put it in the Plan and start moving forward, as what Nancy has said. The biggest amendment for TCC is to have the HLB parcels along the coast, around the airport, those are parcels that our amendment, and we have alternate versions of our amendment, and I think (Assemblyman) John Weddleton kind of nailed it best – it’s just in your plan that you would initiate discussion about the possibility of a transfer to P&R, not put in your Plan transfer to P&R. That’s a legitimate thing to have in your Plan, if not this year’s, then next year’s. It’s just initiating a conversation. With regard to cost, and probably no one, including me, and I’d like to make a formal request now, if I may, Robin, I’d like to see a breakdown, I think the Assembly and the commission could benefit from this, a breakdown of just how much money you have spent, let’s say in the last five (5) years, on managing the HLB parcels within the TCC boundaries. If we could talk about that, I would appreciate it. Costs to manage that land, so we know finances, are very legitimate concerns. I would like to know, because P&R actually manages the coastal trail that runs through there. Because I’m not sure about the systems of trails, like the Sisson trail, you’ll have to help me on that. As far as the open space, how much money per year over the last five (5) years has actually been spent on management of that natural open space? That would be helpful to all of us to know the financial transfer that would happen if the land was transferred to P&R for management. I think that would be very helpful, that way we can get a wrap around. I have told you, I have told Assembly members, I have told John Rodda that I will personally donate the costs of transfer, the administrative costs, and I don’t know if it’s $2.00, $2,000 or $20,000, I don’t know. I don’t care. I don’t want that factor putting up a roadblock. And I want you all to be aware of that. I don’t want to hear in the future that even just the administrative costs of a transfer puts a burden on our budget. I don’t want that to
be a factor and I don’t want that cost to be a dissuasion. And I’d like to know just how much per year you are spending on management of that open space property. We can get outside sources to cover that cost. Ms. Wilber added that hits the nail on the head - that this Work Plan shouldn’t say thou shalt, this Work Plan should initiate the conversation. We should look at this parcel and determine which Department should have management authority and make a recommendation as a commission. Some of these seem just a little too “thou shalt” for a Work Program and we need to initiate those conversations. And say is it really in the best interest of the Municipality for management to change or to write in some additional verbiage to have HLB keep the parcels in the HLB inventory. Some of your amendments, in re-reading them, I felt a little more comfortable with them – to add that language. Thank you for articulating that well, Cathy.

Vice-Chair Capozzi inquired if Assemblyman John Weddleton would like to provide testimony. Ms. Ward summarized the proceedings that occurred prior to his arrival, sharing that a letter to request indefinite postponement from the HLBAC to the Assembly will be forthcoming. Mr. Weddleton responded that the Assembly really counts on the commission to really work on a compromise and that all of the controversy should be addressed prior to the Assembly reviewing a plan.

Vice-Chair Capozzi seeing there were no other persons present to provide comments, indicated moving on to commissioner comments.

VII. Commissioner Comments

Ms. Wilber expressed thanks for all of those coming and providing testimony and asking us to provide a better job. There were some good comments and I think we can go back and find some better language to find a compromise. Thank you for your dedication. Chair Trawver added thank you Vice-Chair Kati for a nice job chairing the meeting. Well done and in the future, you’ll have more. Vice-Chair Capozzi seeing no other commissioners wishing to provide comments, moved on to the next meeting.

VIII. Next Meeting

The next regular scheduled commission meeting date will be at 11:30 a.m. Thursday, August 10, 2017.

IX. Adjournment

Following the completion of business, Chair Trawver moved to adjourn. The motion was seconded and approved unanimously. The meeting was adjourned at 12:42 p.m.

PASSED and APPROVED on this, the 14th day of September, 2017.

Tim Trawver, 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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