

FINAL MINUTES  
**WETLANDS REVIEW BOARD**

June 15, 2017, 5:15 p.m. Valley Library Large Conference Room

**I. Roll Call**

Board Members Present: Irene Gallion, Amy Sumner, Lisa Hoferkamp, Brenda Wright, Hal Geiger, Andrew Campbell

Board Members Absent: Nina Horne, Percy Frisby, Dan Miller

A quorum was present.

Staff Members Present: Teri Camery, Senior Planner;

Public Present: Scott Rinkenberger, Airport Maintenance Supervisor; Patty Wahto, Airport Manager; John Mikesell, Airport Wildlife Specialist

Meeting called to order at 5:20 p.m.

**II. Approval of Minutes**

Minutes approved for the April 26, 2017 Regular Meeting

**III. Agenda approved**

**IV. Public Participation on Non-Agenda Items.**

None.

**V. Board Comments.**

Ms. Gallion asked about bank stabilization at 4401 Riverside Drive, and whether this development complied with setback requirements. Ms. Camery explained that bank stabilization is exempt from the setback under the current ordinance; however Planner Eric Feldt and John Hudson at the U.S. Fish and Wildlife Service had worked with the developer to address revegetation for the area.

Ms. Gallion also asked about clearing along the river at 4787 River Road. Ms. Camery said she would check into this.

Dr. Hoferkamp asked about clearing along Auke Creek. Ms. Camery said that she had received many calls on this area, because the Alaska Department of Transportation had cut trees right to the edge of the creek. However ADOT is building a retaining wall in this section, so the cutting is required, and this activity is exempt from the current ordinance. She said that she talked with

John Barnett at DOT and he sent her the revegetation plans for the area, which will be implemented after the retaining wall is in place.

## **VI. Agenda Items**

### **1) AME2017 0001 Anadromous Waterbody Ordinance Revision**

Ms. Camery provided the background on development of the current draft ordinance, including meetings with the resource agency representatives in the ad-hoc Stream Ordinance Working Group and the April 26 Wetlands Review Board meeting. She gave an overview of the changes that CDD had made to the ordinance in response to the last WRB meeting, and other changes made from internal review and more comments from the Alaska Department of Fish and Game and U.S. Fish and Wildlife Service.

Ms. Camery said that the Planning Commission Committee of the Whole was scheduled to address the ordinance at the June 13 meeting but was delayed by other issues at the meeting. She said that the draft ordinance has been sent to the CBJ Law Department for review, and Law may make significant changes. She also said that many changes still need to be made, particularly on the bank stabilization section. Therefore she is not asking for formal Board approval of the draft ordinance this evening; the ordinance will come back to the Board for a final review and approval at a later date. At this time CDD is requesting more discussion and comments from the Board as part of continuing refinement of the ordinance.

Ms. Camery explained the major components of the ordinance, and explained that the airport's public safety concern along Jordan Creek has been specifically addressed.

Dr. Hoferkamp asked about the CBJ Comprehensive Policies regarding streams, and whether these policies are enforced. Ms. Camery explained that the Comprehensive Plan provides guidance, and this guidance must be carefully considered in all developments. The stream ordinance must substantially comply with these policies. However the Comprehensive Plan does not have the force of regulation; only the CBJ Title 49 Land Use Code does. Ms. Camery cited the Comprehensive Plan policy calling for development of new variance criteria for habitat variances. She said this policy must be noted; however CBJ has changed its position regarding variances since this policy was developed. Legally, variances must be utilized only for extreme situations. The intent is to provide flexibility and habitat mitigation in code, not through the variance process.

Ms. Camery reviewed the new application process section, which Ms. Steadman had developed. Ms. Gallion and Ms. Sumner suggested edits, which they had provided through email. Ms. Sumner suggested a narrative explanation with an aerial photo.

Mr. Campbell suggested a graduated fee structure, and changes in the required documentation, so small developments will not have the same costs and requirements as large developments.

He said that the process should not be so tedious that the public will not comply with this. Ms. Camery said that she would look into options to address this.

She also reminded the Board that currently, all of the listed activities in the draft ordinance are prohibited. And in the recent past, the only option would be to allow the activity through the Variance process with the Planning Commission. She agreed with the goal of promoting compliance.

Ms. Sumner commented on the layout of the ordinance and suggested that the application process should go after the requirements. Ms. Camery agreed that the ordinance needed renumbering and reorganizing and said that CBJ Law would likely dictate the order at a later time.

Dr. Geiger requested more background on the public safety issue in the ordinance. Ms. Camery described the airport's need to limb within the Jordan Creek no-disturbance zone due to criminal activity in the area. Ms. Wahto and Mr. Rinkenberger provided more explanation.

Mr. Campbell suggested adding security lighting to go along with the surveillance equipment in the list of allowed uses, to further address public safety issues.

In Section 49.70.320, Director's Review, Ms. Sumner suggested requiring Wetlands Review Board review for applications. Ms. Camery said that she would prefer that the Board's review be discretionary, rather than mandatory, according to the complexity of the development. Ms. Gallion suggested that the Board could be provided with a list of developments under review as a courtesy.

In Section 49.70.320(d), Ms. Gallion and Dr. Hoferkamp suggested that staff should inspect the site "throughout development of the project" or "during development."

In Section 49.70.320(b), Ms. Sumner said that "transmitting recommendations to the applicant" sounds too informal and vague, as if the applicant can accept, reject, or appeal conditions. Ms. Camery said she would revise this section.

Ms. Wright and Ms. Gallion discussed the need to use the latest Anadromous Waters Catalog. Ms. Camery said this would be another issue for Law to figure out, because Law often prefers an established written reference rather than references to latest versions. A system could be developed to update the code yearly with the latest reference, however Ms. Camery said that any code revision, even the smallest one, requires both Planning Commission and Assembly approval.

Ms. Sumner said that that allowed activities in the 0-25 buffer need to include recreational support such as ramps. Ms. Camery said these types of developments would fall under the category of public infrastructure.

Under item 8, the public safety section, Dr. Hoferkamp suggested deleting “illegal activities.” Ms. Gallion commented that this section could address Mendenhall River erosion too, as a public safety issue. Board members suggested adding language to say “this option may only be used after other options have been exhausted,” or something similar.

Ms. Wahto asked if removal of beaver dams would be allowed under this revision. Ms. Sumner and Ms. Camery felt that this activity would be below the Ordinary High Water Mark line and not within CBJ jurisdiction, only the Alaska Department of Fish and Game.

Ms. Gallion directed Ms. Camery to her emailed edits, suggesting that the letter from a public safety official should not be limited to a CBJ official.

Ms. Gallion said that the arborist requirement should be for a certified arborist, not licensed, because licenses are not available. Ms. Sumner suggested clarification of what documentation is needed for this section.

Regarding Nine, Back Stabilization, Ms. Gallion said that the current solution proposed for the Mendenhall River erosion would not meet the revegetation standards in this draft ordinance. Ms. Sumner said that an Engineer’s plan review could potentially waive the vegetation requirements.

Ms. Gallion said that Tom Mattice would have the USDA contact for the Mendenhall project and suggested that staff contact him.

Ms. Sumner, a member of the ad hoc Stream Working Group, said that the group’s intent with this section was to promote bioengineering before resorting to rip-rap. The ordinance could require some level of documentation that bioengineering isn’t an option before rip-rap, or rip-rap without vegetation, could be approved. Ms. Camery said there would be significant changes to this section of the ordinance.

Regarding the Prohibited Uses section, Ms. Camery explained that parking was taken out. She said that parking could not legitimately be prohibited since the code has parking requirements. However parking is not listed as an allowed use, and would only be allowed through the variance process under extraordinary situations when there are no other locations available for parking.

Under the Best Management Practices Section number 7, Ms. Sumner suggested adding new development and redevelopment to the city’s stormwater manual listing.

Regarding vegetation standards, Ms. Wahto mentioned FAA requirements along Duck Creek for vegetation that doesn’t attract wildlife. Ms. Camery said she would contact Ms. Wahto again to develop language that allows for this.

Ms. Wahto referred to a Corps permit requirement for an interpretive trail along Jordan Creek, with interpretive signs. Ms. Camery questioned whether the trail needed to be within the stream buffer, and said she would work with Ms. Wahto on this issue. The current draft of the ordinance allows for trail development but only if there are no options outside of the buffer.

#### **VII. Updates**

Ms. Camery explained that CDD will be presenting an ordinance to the Planning Commission to delete the ordinance that prohibits development near eagle nests, because CDD does not have the ability to track eagle nest locations. She said that the U.S. Fish and Wildlife Service used to fill this role, but does not anymore. She said that some people have suggested that the Wetlands Review Board could address eagles, but she said this is outside of the Board's role as established in the Juneau Wetlands Management Plan.

She said that the habitat impacts of the upcoming Phase III and Phase IV Statter Harbor Developments were minor; therefore this project was not taken to the Board for review.

#### **VIII. Planning Commission Liaison Update.**

No Commissioners were in attendance.

#### **IX. Next meeting:**

Regular Meeting, Thursday July 20, 5:15 pm Valley Library Conference Room.

**The meeting was adjourned at approximately 6:50 p.m.**