



## **AGENDA**

### **JENSEN-OLSON ARBORETUM ADVISORY BOARD**

Mendenhall Valley Library, Conference Room

Wednesday, January 8, 2020 at 5:15 P.M.

- I. Call to Order**
- II. Approval of Agenda**
- III. Public Participation on Non-Agenda Items**
- IV. Approval of Minutes**
  - A. Wednesday, November 6, 2019
- V. New Business**
  - A. Subcommittee Meeting with Finance Director Update
- VI. Unfinished Business**
  - A. Arboretum Commercial Use Comments
- VII. Committee, Liaison, and/or Staff Reports**
  - A. Chair Report – N. McConahey
  - B. Manager Report – M. Jensen
  - C. Friends of JOA Report – P. Harris
  - D. Other Business
- VIII. Adjournment**

**Next JOAB Meeting:** Wednesday, May 13 at 5:15 Mendenhall Library

## JENSEN-OLSON ARBORETUM ENDOWMENT SUBCOMMITTEE

City Hall, Conference Room 224 | Tuesday, December 3, 2019 2:00 P.M.

**Present:** Rose Evans, Kim Garnero, Nell McConahey, Ed Buyarski (t)

**Staff Present:** Jeff Rogers, Finance Director; George Schaaf, Director; Michele Elfers, Deputy Director; Merrill Jensen, Arboretum Manager; Lauren Verrelli, Staff Liaison; Lindsey Foster, Admin. Officer II

- Finance wants a clear formula of what JOAAB wants to draw from the endowment each year. It has been changing over the years.
  - Per a previous motion from the JOAAB, they want no more than 4% draw per year (Oct 2011)
- Investment strategy is set for the portfolio through the Assembly. They worked on it last summer and it is conservative.
- The board wishes to grow the endowment
  - Could look into investing the funds outside of the endowment principle more aggressively, leaving the endowment in a conservative investment. How much risk is the committee willing to take?
  - Current strategy:

	Lower	Target	Upper	
<b>US Equity</b>	26%	30%	34%	+/- 4%
<b>International Equity</b>	16%	19%	22%	+/- 3%
<b>Fixed Income</b>	44%	51%	50%	+/- 7%

this strategy is 'self invested and managed' by CBJ-not an existing 'fund'.

If there are funds outside of VanGuard currently, how do they get added to the endowment investment? Does JOAAB need to request (to who?) the movement of funds annually?

### **Jeff will be looking into and get back to the JOAAB Endowment Subcommittee with:**

1. Will look into a max 4% yearly draw from the endowment and if we can stick with that in the future.
2. Where the \$2 million is at and how much is currently outside of Van Guard.

Board members informed the staff that the board has passed a motion to withhold 25% of the revenues collected during the year (mainly manager's rent) from depositing with the endowment (7.14.19minutes). This would give 'easy' access to some funds for small or quickly needed items.

## Lauren Verrelli

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**From:** Lauren Verrelli  
**Sent:** Thursday, November 14, 2019 12:17 PM  
**To:** 'Catherine Evans'; 'Deborah Rudis'; 'Ed Buyarski'; 'Kim Garnero'; 'Kristin Bartlett'; 'Nell McConahey'; 'Patricia Harris'; 'Peter Froehlich'  
**Cc:** George Schaaf; Michele Elfers; Merrill Jensen  
**Subject:** Arboretum Commercial Use  
**Attachments:** Admin Supplement No. 2 MEE comments 11-11-19.docx; CLEAN DRAFT 2019\_11\_07 Chapter\_01  
\_\_\_COMMERCIAL\_USE\_OF\_PARKS\_AND\_RECREATION\_FACILITIES\_AND\_TRAILS.doc

Hi JOAAB,

Please see Michele's email below with her comments on the Arboretum Admin. Supplemental No. 2, along with the Departments drafted commercial use regulations. Please send any comments directly to Michele, George, Merrill and myself so we don't violate the Open Meeting Act policy.

Thanks,

### Lauren Verrelli

Recreation & Public Services Manager  
Parks & Recreation  
Ph: 586-0423 | Fax: 586-4589



Good Afternoon JOAB Board,

Thanks so much for discussing the Administrative Supplement 2 draft with me last week. I know my comments were probably confusing so I will do my best to lay them out logically in this email. I have attached the department's proposed commercial use regulation for background as I refer to it often as well as the Supplement 2 with my comments embedded. I recommend reading through the proposed Supplement 2 first so you understand the department's approach to commercial use.

As I explained in the meeting, we are seeing an increased volume in commercial use of our parks, we had a 38% increase in numbers of permitted commercial users (individuals) this summer. We are also seeing a new and wide variety of requests for use. I think our main area of growth right now is in the vehicle based tours of all types. For example, we had a request for e-bike tours on CBJ trails and bike rentals on the waterfront. With this in mind, it is important that we craft a commercial use supplement and policy for the Arboretum that can capture and manage changing and growing requests and uses. I also think it is important that it aligns with the Department's management of commercial use.

The following is a list of topics to consider:

1. Distinction of Commercial Users: the administrative supplement is dividing users by for-profit and non-profit status. I recommend thinking about use based on Arboretum intent. Commercial activity can occur by for-profit and non-profit entities and can meet the intent of educational/scientific endeavors by either group. For

example, Gastineau Guiding has done ecological tours where they clean up beaches or research invasive crabs. Non-profit sports groups often use our parks for color runs. Read the commercial use definition in the attached regulation, it basically assigns commercial use to any transactional activity. So if a group sells a service or product that is delivered at the Arboretum, that is commercial. A better approach might be to allow commercial activity that meets the educational, scientific and ecological intent of the Arboretum and is “small-scale”. Small scale can be defined in number of people and impacts to the property.

2. Impact to Property: Impact to the property should be considered in allowable commercial use of the property. Impact is discussed in the CBJ proposed regulation and is used to limit the types of permitted activities. Impacts to property is also a justification to assign fees. The impacts result in costs, for example, emptying trash cans, cleaning and providing bathrooms, staff attention, maintenance of paths, grass, parking lots, etc.
3. Categorizing Types of Commercial Use: The draft supplement 2 describes types of commercial use under “General Approval”. Read through the 5 types of commercial use in the department’s proposed regulation: Guided Tours, Vehicle-Based Tours, Filming and Still Photography, Vending and Special Use. All of these except vending, are identified in the supplement and I think could refer to the department’s proposed regulation and allow or deny based on the Arboretum’s intent.
4. Vehicle-Based Tours: This is already occurring with taxi drivers dropping off customers. They impact the property, use the bathroom, take staff time, and they do not contribute to the cost of the Arboretum. The department has recognized this issue in our other parks. Consider allowing this use but limiting it based on number of people to prohibit “large-scale tourism”. The Arboretum can capture revenue for this use.

It would be great to hear some feedback on these thoughts as well as general feedback on the department’s proposed regulation. If there is general agreement in these concepts I can offer to re draft supplement 2 based on the feedback I get from you all. Please let me know how you would like to proceed

Thanks!

Michele

*Michele Elfers*

*Deputy Director*

*Parks and Recreation Department*

*City and Borough of Juneau*

*907-364-2390*

Jensen-Olson Arboretum  
Administrative Supplement No. 2  
to Deed of Conservation Easement (December 28, 1998)  
Concerning Commercial Uses

This Administrative Supplement No. 2 to the Deed of Conservation Easement granted by Caroline Jensen to the Southeast Alaska Land Trust (SEAL Trust) for the Jensen-Olson Arboretum, dated December 28, 1998, (Conservation Easement), is established between the City and Borough of Juneau (CBJ) and the SEAL Trust. SEAL Trust reserves the right to modify these interpretive policies and general approvals.

The Terms and Conditions of the Conservation Easement for the Jensen-Olson Arboretum property (the Property) states in Section 1. PURPOSES., that “the CBJ Agreement should be interpreted in a way that is consistent with the terms of the Easement, and the CBJ and the Trust are expected to work together in establishing specific policies for Arboretum administration.”

This Administrative Supplement No. 2 facilitates the on-going Arboretum operations by providing a general approval for certain commercial activities on, or affecting, the Property deemed by SEAL Trust to be consistent with the Conservation Easement. Applicable sections from the Conservation Easement and from the Administrative Agreement between Caroline Jensen and the CBJ, dated September 30, 1993, (CBJ Agreement), are attached as Appendix A to this Administrative Supplement No. 2.

**1. Commercial Activity**

The CBJ Agreement (Section 4.2) specifically allows for commercial activity on the Property, including tourism, but only as the purpose “relates to the operation of the Arboretum” and “all net proceeds from such activities shall be placed into the Support Fund and used to support or expand the Arboretum.”

The Conservation Easement (Section 6.N.), meanwhile, specifically prohibits “use of the Property by any for-profit tour group, including any professional guides or tour groups for which the CBJ requires a commercial license<sup>1</sup>. This prohibition is intended to prevent the Arboretum from becoming a large-scale tourist attraction, while permitting access by individuals and small, non-commercial and non-profit groups such as university or school groups.”

**Commented [ME1]:** I would suggest clarifying this section as the proposed CBJ Commercial Use regulation definition for commercial use does not align with the language in the Conservation Easement. Non-profit groups can be permitted under commercial use activities. I think the intent of the provision can be met that better reflects current tourism issues and pressures.

<sup>1</sup> The Conservation Easement references a “commercial license”, which is not a term currently used by the CBJ. Instead, the CBJ issues “commercial use permits”, which is the term that will be used throughout this document.

**Clarification:**

Given the outright prohibition in the Conservation Easement for certain commercial activities, two distinctions are critically important to the establishment of a general approval related to commercial activities on the Property:

- (1) The CBJ shall not lease or contract out use of the Property to a for-profit entity, including entities for which a commercial use permit would be required. For example, a for-profit entity shall not be allowed to use the Property to run guided tours.
- (2) Subject to 1 above, the CBJ may conduct or allow for other commercial activities on the Property that relate to the operation of the Arboretum and occur in a manner and intensity that does not adversely impact the conservation values protected under the Conservation Easement. All net proceeds from such activities shall be placed into the Support Fund and used to support or expand the Arboretum.

**Commented [ME2]:** See commercial use definition in proposed regulation, this includes non-profit entities.

**Commented [ME3]:** The proposed regulation outlines 5 types of commercial use: Vehicle Based Tours, Guided Tours, Vending, Commercial Filming and Photography, and Special Use. The Arboretum currently has Vehicle Based Tours (taxi's bringing customers to the Arboretum to walk around) and Commercial Filming and Photography. I suggest considering each type of use and under what parameters it should be allowed. For example, it will be very hard to prohibit taxis from dropping off customers, and this type of commercial use may meet the intent of the conservation easement as it is small scale.

**General Approval:**

Governed by these principles, SEAL Trust provides a General Approval to the following activities:

- (1) The Arboretum Manager and Parks & Recreation Director may, at their discretion, approve group events at the Property and may charge a group access or user fee. Such events are to be governed by the "Jensen-Olson Arboretum Events and Commercial Use Policy and Contract" supplied by the Arboretum Manager and on file at the SEAL Trust.
- (2) Local or traveling groups, such as Master Gardeners, Garden Clubs, or similar groups seeking educational tours, must work directly with Arboretum staff to arrange for access to the Property. Such groups may be charged an access or user fee.
- (3) Arboretum sponsored educational classes and seminars may be offered and fees may be charged.
- (4) Fundraising activities on the Property may include, but are not limited to, CBJ Arboretum Advisory Board fundraising events and other fundraising events hosted by non-profit entities. Non-profit entities may contract for event support from for-profit entities so long as the use of the Property is authorized to the non-profit entity under the "Jensen-Olson Arboretum Events and Commercial Use Policy and Contract", and not to a supporting for-profit entity.

**Commented [ME4]:** I don't think this exists. I have been looking for a copy of it.

**Commented [ME5]:** Consider not distinguishing groups by for-profit/non-profit.

**Commented [ME6]:** See above, I do not think this document exists.

Non-profit entities using the Property for educational and/or fundraising related activities, are not intended to be subject to the CBJ commercial use permit. However, even if the CBJ determines that a non-profit entity is required to obtain a commercial use permit for educational and/or fundraising related activities on the Property, the Arboretum Manager and Parks & Recreation Director may, at their discretion, approve such activities on the Property.

**Commented [ME7]:** I don't understand the intent of this paragraph.

(5) The Arboretum Manager and Parks & Recreation Director may, at their discretion, approve for-profit photographers and photography at the Property, provided that such use does not require a commercial use permit, and may charge an access or user fee. Such use is to be governed by the “Jensen-Olson Arboretum Events and Commercial Use Policy and Contract” supplied by the Arboretum Manager and on file at the SEAL Trust.

(6) The CBJ may negotiate commercial use permits with for-profit entities for provision of transportation to the Property, so long as such permit does not provide the for-profit entity any use rights on the Property, and may charge an access or user fee. Such use is to be governed by the “Jensen-Olson Arboretum Events and Commercial Use Policy and Contract” supplied by the Arboretum Manager and on file at the SEAL Trust.

Such permits shall require commercial transporters to drop their clients at the Arboretum parking area in a manner that does not prevent other visitors from also accessing the Arboretum. From the parking area, travelers will independently enter the Property. No for-profit tour groups, including any professional guides, are allowed commercial use of the Property.

Commented [ME8]: I think this section is describing the “Vehicle Based Tour” that is in the CBJ proposed regulation.

Commented [ME9]: This type of activity is “Guided Tours” under the CBJ proposed regulation.

\_\_\_\_\_  
Allison Gillum  
Executive Director  
Southeast Alaska Land Trust

\_\_\_\_\_  
Date

\_\_\_\_\_  
Rorie Watt  
City Manager  
City and Borough of Juneau

\_\_\_\_\_  
Date

Content Approved By:

\_\_\_\_\_  
Parks & Recreation

Form Approved By:

\_\_\_\_\_  
Law Department

Risk Management Review:

\_\_\_\_\_  
Risk Manager

Appendix A  
References to Commercial Uses of the Jensen-Olson Arboretum

**Administrative Agreement Concerning Jensen-Olson Arboretum (September 30, 1993)**

4. OPERATION OF THE ARBORETUM

4.1 Active Use.

Preferably, the Arboretum shall be operated in a manner that allows for active use of the Arboretum Property. If this is not reasonably feasible, the Arboretum Property shall be maintained as a natural preserve. Active uses envisioned include recreation and public enjoyment (e.g. hiking trails, nature walks and other compatible recreational uses); academic and scientific activities (especially those associated with the University of Alaska Southeast ("UAS")) such as teaching, studying, research; and public education activities and programs including operation of a visitor center, courses, speakers, special exhibits, etc.

4.2 Commercial Activity.

Commercial activity shall be permitted on the Arboretum Property but only as such purpose relates to the operation of the Arboretum (tourism, gift shops, plant sales, sale of scientific proceedings/papers, etc.). All net proceeds from such activities shall be placed into the Support Fund and used to support or expand the Arboretum.

**Deed of Conservation Easement (December 28, 1998)**

1. PURPOSES.

...In achieving these purposes, it is the intent of the Easement to permit the continuation of such uses of the Property as may be conducted consistent with the conservation values protected herein. It is further the intent of the Easement to permit and enhance the establishment of an arboretum on the Property. The terms of the Easement are intended to assist in the administration of the arboretum and to define the scope of activities that may take place within the arboretum. The CBJ Agreement should be interpreted in a way that is consistent with the terms of the Easement and the CBJ and the Trust are expected to work together in establishing specific policies for Arboretum administration. The Arboretum is to be maintained for light impact public access by individuals and small educational non-commercial groups of visitors. It is not intended to be a destination for large-scale tourism.

5. CONSISTENT USES OF THE PROPERTY.

C. Establishment of Arboretum. Such uses as are consistent with and appropriate to the establishment of an arboretum and horticultural garden on the Property for public educational and non-motorized, light impact recreational use (such as walking, bird watching, and cross-country skiing, provided that such activities are conducted in a manner and intensity that does not adversely impact the conservation values or the Property), subject to the conditions listed in Section 5(A)(3)(c) above.

(Note: Section 5(A)(3)(c) Prior Approval for Arboretum Improvements.)

6. INCONSISTENT USES OF THE PROPERTY.

N. Use of the Property by any for-profit tour group, including any professional guides or tour groups for which the CBJ requires a commercial license. This prohibition is intended to prevent the Arboretum from becoming a large scale tourist attraction, while permitting access by individuals and small non-commercial and non-profit groups such as university or school groups.

## Jensen-Olson Arboretum

### Manager's Report to the Advisory Board

January 8, 2020

- Leaf mulch applied to beds due to lack of snow. Wrapped certain trees due to sun and cold temperatures to prevent bark splits.
- Donor has funded a memorial bench plaque for existing bench, but with full donation (which will be used toward trees) and funded a SEALTrust plaque for visitor panel – both plaques in production and to be installed in very early Spring.
- Follow-up Rasmuson discussion for loo funding proposal; proposal has been awarded (at a reduced amount due to number of requests they've received) and funds to arrive for FJOA in first quarter of 2020.
- New Position Description draft – quite a bit of revision from 13 years ago when first drafted; also includes title change from manager to director. Discussions with P & R leadership next step, then on to HR for implementation.
- Succession planning/retirement anticipation: 1. electronic filing - consolidation of years of files onto shared drive instead of on local desktop; 2. continued work on draft of annual work plan – extensive document.
- Shed remodel ongoing – completion date was slated for mid-November. Hope to have final inspection in the next week.
- Generating plant label list. Funds for acquiring 40 new labels from Adult Education Photography Workshop. Identifying plants which regularly receive visitor questions.
- Endowment meeting with the new Finance Director.
- Assisted with the annual Juneau Garden Club wreath workshop.
- Completed required on-line cyber security training.
- Identified close to 100 plants for inclusion in an Arboretum field guide. Writing text for plant descriptions and starting work to identify a graphic designer to develop field guide. Guide will include trees, shrubs, perennials, a collection of “oddities”, and a separate section for primrose and poppies.
- Non-contractor interior shed work...to save construction funds and speed process up, myself and 2 volunteers did the work (149 person hours): wall pre-painting prep, 2 coats of primer, 2 coats of paint, stove re-painting, drawer pull installation, shelf construction, tool rack reinstallation, docent cabinet and molding installation, bulletin board installation, quarter round installation at base of wall, install attic access panel handle. Later this week, with another CBJ employee, we will complete work bench construction.
- Potted 650 tulips on New Year's Day. Warm December weather pushed planting date to latest ever.
- As a result of warmer than normal December weather, spring bulbs and *Primula* actively growing the earliest date (December 25<sup>th</sup>) since keeping phenology records.
- FY21/22 budget work beginning...
- Wedding bookings – one for this summer (no date set yet) and one for May of '21