

Kenai Peninsula Borough

Anadromous Fish Habitat Protection Task Force

September 13, 2012 Meeting Summary

7:15 p.m.

Borough Building, Assembly Chambers

Task Force Members: Fred Braun, Jim Isham, Ginny Litchfield, Stacy Oliva, Paul Ostrander, Bill Smith, Ray Tauriainen, Ken Tarbox, and Dave Wartinbee

Facilitator: Paul Ostrander

Staff Support: John Czarnezki, Holly Montague and Johni Blankenship

CALL TO ORDER

A Regular Meeting of the Anadromous Fish Habitat Protection (AFHP) Task Force was held on September 13, 2012, in the Borough Assembly Chambers, Soldotna, Alaska. Facilitator Ostrander called the meeting to order at 7:18 p.m.

There were present:

Paul Ostrander, Facilitator	Fred Braun
Jim Isham	Bill Smith
Stacy Oliva	Ken Tarbox
Dave Wartinbee (arrived at 7:25 p.m.)	

comprising a quorum of the task force.

Absent:

Ray Tauriainen (excused)
Ginny Litchfield (excused)

Also in attendance were:

Holly Montague, Deputy Borough Attorney
Johni Blankenship, Borough Clerk
John Czarnezki, River Center

APPROVAL OF MINUTES

August 9, 2012 AFHP task force meeting summary

MOTION: Braun moved to approve the August 9, 2012 Anadromous Fish Habitat Protection task force meeting minutes.

SECOND: Smith

VOTE ON MOTION: Without objection

NEW BUSINESS

Presentations

Gary Fandrei, Executive Director, Cook Inlet Aquaculture Association

Mr. Fandrei gave a brief autobiography and indicated he would be discussing limnology and further gave a background on his expertise in limnology. He gave a PowerPoint presentation which gave an overview of limnology.

Tarbox asked if from his experience, was the 50-foot buffer adequate and if not what would he recommend as an adequate buffer. Fandrei indicated that some lakes may require a different buffer zone than others and one size probably did not fit all, it may depend on the type of lake. He did indicate 50-foot would be a minimum buffer recommendation on any lake.

Wartinbee referenced the slide in Mr. Fandrei's presentation that pictured the home and asked about the impact of homes and landscaping on lakes and what impact not having natural vegetation may have on the lake. Fandrei indicated that fertilizer on manicured lawns could have a damaging impact on the lake because of the increase in the phosphorus levels in the lake. Buffer zones act as a filter to stop the leaching of the fertilizer into the lake. Riprap was not a good shoreline for the lake as it did not allow for the vegetation that was critical to the habitat for the immature fish that may be rearing near the shoreline.

Smith asked what the effect of septic systems may be on the lake. Fandrei indicated that septic systems could be a problem to the lake if they were not properly installed or maintained. They

could add a significant level of nutrients to the lake which could damage the ecosystem of the lake and affect the immature fish.

Smith asked about the salmon species which spent time in lakes. Fandrei stated Sockeye spent more time in the lake and could be in the lake for up to 2 years. He further indicated all salmon types spent some time in lakes and Cohoe salmon spent more time throughout the entire lake not just on the shoreline.

Braun asked if the current regulations were sufficient or if they should be increased or changed in some way. Fandrei indicated that may be a better question for a hydrologist. He made reference to a past experience in Minnesota and stated it would depend on the soil systems.

Tarbox asked about spawning Sockeye and how they would be affected by a landscaped yard and riprap in the shoreline. He indicated the spawning salmon needed to be in a more natural system to thrive.

Ostrander asked if streams were more important than lakes in the life cycle of salmon. Fandrei indicated that each water body was unique and important in the lifecycle of the fish and that they worked together as a whole resource for the fish.

Wartinbee asked about the lack of vegetation and asked about the role of shade to the life cycle of young salmon. Fandrei indicated that lack of shade and removal of vegetation could increase the temperature of the water and could be damaging or potentially lethal to the young fish.

Isham asked if the anadromous definition could be applied to the depth of a particular lake. Fandrei indicated that depth of the lake was not an indicator of whether a lake was anadromous or not.

Efficacy of Legal Notice regarding Ordinance 2011-12, Holly Montague, KPB Deputy Attorney

Deputy Borough Attorney Holly Montague gave a brief review of the memo which addressed the efficacy of legal notification on Ordinance 2011-12. She indicated that the notification was sufficient from a legal perspective.

Braun referenced page 9 of the packet and indicated City of Kenai did make additional notification.

History of the amendment to KPB 21.18, Bill Smith

Smith addressed the history of KPB 21.18 and its subsequent amendments. He indicated that he was on the Homer Planning Commission for 7-years and that was where his experience with water quality and human impact to water quality began. He stated former Assembly Member Drew Scalzi introduced legislation to increase the number of water bodies impacted by KPB 21.18 by approximately 24-25 additional water bodies. There was a study performed on the effect of the KPB 21.18 and how it had impacted the resource and the home owners. He further indicated KPB 21.18 did not have any jurisdiction on the water only the 50-foot buffer zone. He read the findings of the Assembly regarding KPB 21.18. Smith referenced a map of Kenai Peninsula ownership and anadromous streams and indicated the map had been posted on the web. He stated he had asked the River Center if the additional water bodies would have a large fiscal impact to regulate the additional water bodies and for permitting of those water bodies. The River Center did not think it would be an unmanageable task. After he learned the River Center could manage the new task, he brought forward the ordinance and explained the ordinance to the Planning Commission and asked them to make recommendations and consider the ordinance. He indicated the additional percentage of property owners that were going to be impacted by the additional water bodies was low and manageable. He addressed the Seldovia issue and explained the uniqueness of the Seldovia tidal basin and the regulation issues in the Seldovia area. He addressed the Seward / Bear Creek Flood Service Area and explained why that area was excluded from the regulations in KPB 21.18. He reviewed the small lot variance and explained the necessity of the variance.

Discussion regarding proposed Resolution

Braun summarized the Resolution that had been proposed by Ms. Olivia and himself.

Smith asked Mr. Ostrander to address the Spruce Bark Beetle Mitigation task force. Mr. Ostrander gave a brief history of that task force and indicated the success of that task force.

Ostrander addressed each of the sections within the proposed resolution and indicated the concerns addressed in the resolution were in line with what the task force was currently addressing.

Tarbox stated the resolution was disconcerting to him and that the Mayor had given the task force a scope of work and that it wasn't the job of the task force to make recommendations regarding a resolution. He felt that sections of the resolution were not factual. He felt it was embarrassing to the Administration to tell them that the Assembly should pass a resolution to form the task force. Tarbox spoke in opposition to the proposed resolution.

Smith indicated that some of the whereas clauses within the resolution were not factual. He spoke in opposition to the proposed resolution.

Wartinbee stated he was confounded when the resolution was brought forward and was concerned that some of the statements within the resolution were nothing more than fear mongering. He felt the proposed resolution was not necessary. He indicated the issue of the resolution and or the necessity of the resolution was beyond the scope of the task force.

Isham indicated there were good questions within the resolution and they should be considered especially the question regarding notification to the public.

Ostrander requested a motion to either propose a new resolution or ask the Assembly to consider the proposed resolution. No motion was offered.

Discussion to determine a list of questions to be forwarded to J. Johnson, Alaska Department of Fish and Game, regarding the submission process for the *“Atlas and Catalogue of Waters Important for Spawning, Rearing, or Migration of Anadromous Fish”*

The following list of questions were compiled by the task force to be forwarded to J. Johnson:

1. What was the process for a nomination once it reached the Department of Fish and Game?
2. Was there a public comment period afforded during the nomination process?
3. What was the process for changing water bodies within the catalogue?
4. How are systems removed from the catalog and what is the timeline for the Department of Fish and Game for setting their review process, budget, personnel, etc.?
5. What was the percentage of streams on the peninsula that were in the catalogue and what percentage should be included in the catalogue?
6. With what frequency does the Department of Fish and Game review the water bodies and was there a cycle of review?
7. What is the definition of anadromous fish and what species and life stages are covered?

PUBLIC COMMENT

Facilitator Ostrander called for public comment.

The following members of the public addressed the task force:

Wayne Ogle, Nikiski, spoke in support of the proposed resolution and stated some questions he may have had for Mr. Fandrei regarding enforcement. He addressed the notice issue and summarized a discussion with representatives from the City of Kenai.

Wenda Kennedy, Nikiski, addressed the notification requirements and asked the task force to consider whether the notification was adequate. She indicated the ordinance should have been very specific to the water bodies that were to be added.

Bill Yant, Funny River, addressed the notification issue and indicated that when issues directly affect property rights and property values that more specific notice be given. He asked for information regarding the regulations and additionally asked if there were any scientists on the task force.

John Galley, Funny River, spoke in opposition to Ordinance 2011-12 and further addressed the notification issue. He indicated that he received notices from the Planning Department and the Planning Commission in order to offer public comment; however, no notification was given on Ordinance 2011-12. He indicated he had reported two violations of the 50-foot habitat protection zone and indicated there had been no enforcement or response to the violations.

Joe Demaree, Kenai, spoke in opposition to Ordinance 2011-12 and indicated the ordinance had negatively impacted the mining community and that it had discouraged people from coming to the Kenai Peninsula to mine because of the regulations within Ordinance 2011-12. He offered an article which indicated that dredging positively impacted the habitat of the salmon.

Michelle Hartline, Nikiski, addressed the task force regarding the following issues:

- Assembly members' awareness of the inclusion of lakes in the ordinance prior to its passage.
- Composition of the task force and the need for an Assembly approved resolution to form the task force instead of Mayoral appointment of the members.
- Respectfulness of the task force members.
- Opposition to Ordinance 2011-12, which she believed was extremely poorly written.
- Notification to the affected property owners.

There being no one else who wished to comment, the public comment period was closed.

OTHER

Isham addressed the notification issue and asked that the task force have discussion and make recommendations regarding notification.

Tarbox asked to bring in experts to address the buffer size, types and options.

Smith addressed the overlapping issue regarding other authority jurisdictions and asked to hear from the River Center regarding vegetation and actual regulations regarding landscaping. Additionally, he wanted to address tax credits and tax holidays within the habitat protection buffer and improvements to those areas.

Smith asked Deputy Borough Attorney Holly Montague to address the question regarding dredging in streams. Montague indicated the borough did not have jurisdiction below mean high water and that dredging would be within the States jurisdiction.

Wartinbee thanked the public for speaking and attending the meeting. He apologized if he was disrespectful. He thanked the public for their questions and concerns.

Braun stated he loved the fish and indicated his concern was with the notification process of Ordinance 2011-12. He stated that the planning department gave notice on their issues and additional notification should be considered for this issue and future similar issues. He indicated the ordinance should be repealed and the process should start over.

Oliva stated she agreed with Mr. Braun and thanked Mr. Smith for the history lesson on KPB 21.18. She asked for some of the statistical information and historical information regarding Ordinance 2011-12.

Ostrander stated Ms. Litchfield would not be able to participate as a voting member of the task force due to her capacity at the State of Alaska Department of Fish and Game. He further addressed Ms. Hartline's comments regarding the makeup of the task force. He stated Mayor Navarre had no agenda on the issue and had inherited the administration of Ordinance 2011-12 from the previous administration and the Mayor had created the task force to directly address the concerns that had been raised by the public. He stated his belief that there was not enough support at the Assembly level to repeal Ordinance 2011-12 and the task force needed to focus on making Ordinance 2011-12 a workable ordinance and making recommendations to the administration and to the Assembly to effectively proceed with implementation of the ordinance in a way that would address all of the concerns voiced by the members of the task force and the public.

Braun thanked the members of the public for attending the meeting.

ANNOUNCEMENT OF FUTURE MEETING DATES AND TIME

The October 22, 2012 meeting was cancelled and it was announced that the next meeting would more than likely be rescheduled to October 18, 2012 pending task force members' approval.

October 22, 2012	6:00 p.m.	Gilman River Center Conference Room
October 18, 2012	6:00 p.m.	Borough Administration Bldg. Assembly Chambers
November 5, 2012	6:00 p.m.	Borough Administration Bldg. Assembly Chambers
December 3, 2012	6:00 p.m.	Gilman River Center Conference Room

There being no further business before the task force the meeting was adjourned at 9:57 p.m.