I. CALLED TO ORDER

Vice Chair Zimmerman called the regular meeting of the City and Borough of Juneau (CBJ) Wetlands Review Board (WRB), held in Conference Room #224 of the Municipal Building, to order at 5:13 p.m.

Board Members present: Frank Rue, Lisa Hoferkamp, Lori Sowa, Andrew Campbell, Andy McGregor, Steve Zimmerman, Marshal Kendziorek

Board Members absent: David D’Amore, K. V. Koski

A quorum was present.

Staff Present: Teri Camery, CDD Planner; Peter Freer, Planning Supervisor

Public Present: Mike Krieber, CDH Port Engineer; Greg Fisk, CBJ Harbor Board Member; Per Rasmussen, PND Engineering

II. APPROVAL OF MINUTES

May 25, 2006 – Regular Meeting
June 1, 2006 – Special Meeting

The above minutes were not available, and will be approved at the next WRB meeting.

III. APPROVAL OF AGENDA

Mr. Zimmerman asked staff to provide a report on the CSP-Juneau Access Road Project concerning the motion made by the WRB at the June 1, 2006 meeting regarding the recent action taken by the City, and the Planning Commission (PC). Ms. Camery agreed to do so under the Pending Permits and Updates portion of the Agenda.

MOTION: - by Mr. Kendziorek, to approve the agenda, as amended. Seconded by Mr. McGregor.

There being no objection, it was so ordered.
IV. PUBLIC PARTICIPATION ON NON-AGENDA ITEMS - None

V. BOARD COMMENTS - None

VI. AGENDA ITEMS

**MAP2006-00002**

CBJ Auke Nu Loading Facility – (second review, with revised plans.)

Location: Auke Nu Cove

Applicant: Mike Krieber, CBJ Docks and Harbors

**Staff presentation**

Ms. Camery said the WRB initially reviewed the CBJ Commercial Loading Facility (CCLF) project on March 16, 2006. She said the Board requested additional information, and the applicant would provide that information to the WRB. She explained that the WRB reviewed the project in their advisory role capacity. The recommendations made by the WRB would be consolidated in a staff report on the rezone, which was provided to the PC to make the ultimate decision. She reviewed the CBJ policies that applied to the proposal, and asked for the Board’s comments for conformance to those policies. She stated that filling intertidal areas below mean high tide was prohibited unless it met the criteria listed because the project was not located in a Special Waterfront Area.

**Applicant presentation**

Mr. Krieber provided an overview of the March 16, 2006 WRB meeting. He said following that meeting, the City Dock and Harbors (CDH) met with the concerned participants, as well as the Corps, to address their concerns. He said with the CDH computer model, they presumed (and subsequently proved) that was an extreme worst-case scenario. They took the largest possible propeller and RPM, with the landing craft tied up backwards to the fisheries float. He said that was an impracticable situation because they would never tie up to the fisheries float, but that was the worst-case scenario propeller wash situation, and they all agreed it was the best method to present the impact of a worst-case scenario of propeller wash. The National Marine Fisheries Service (NMFS) was provided that information, which they extrapolated throughout the cove on an arc, and determined there could potentially be 4,000 square meters of impact. He said they again met with NMFS to discuss what the CBJ model input parameters were, and the specific type of information they wanted to obtain. He said they determined the key issue was the size of soil particles, so they both agreed on the locations to obtain field samples, which PND did. He said they ran the agreed upon tests, and together they reviewed the soil sample results to determine which soil samples were included in the model.

Mr. Krieber said they also met with NMFS to determine the worst-case scenario type of fishing vessel. He said they collected the data, provided that information to NMFS, and discussed tide depths for the model. NMFS then provided that information to their computer modeling firm. He referred to the current Topographic Survey, Concept No. 9, and pursuant to the May 9, 2006 modeling report, the survey now depicted that the propeller wash associated with a nine-foot radius turn of the landing craft was at the furthest location on the float, and it was not located near eelgrass.
He said the NMFS requested a six-foot block wall with signage to prevent people from taking their boats near the sensitive eelgrass area. The revised Battelle study showed no scour effect from propeller wash from fishing vessels and minimal effects from the landing craft (due to the ramp replacement, not propeller wash). They installed guide piles by the landing craft area to ensure they maintained a straight approach and would not encroach on the eelgrass area. He said the changes were costly, although they have greatly reduced the impact to eelgrass. He noted that the impacted eelgrass area was 1,880 square feet. In terms of mitigation, he said they pulled the footprint back from the eelgrass area, and in doing so they gave up .6 acres of uplands. Mr. Rue asked if it was still a workable facility. Mr. Krieber said yes. He stated that as mitigation, they offered to remove the eelgrass from the impacted areas and replant it in the same cove, resulting in a minimal loss of eelgrass. The proposed float should provide additional protection to the eelgrass bed (servings as a breakwater for storm surges), possibly allowing it to expand seaward. They also offered $5,000 per year, over a three-year period, to NMFS to monitor the area. Mr. Zimmerman asked what happened if NMFS later found problems in that area because replanting eelgrass was not considered a highly successful venture. Mr. Krieber said there was no contingency in place at this time.

Mr. Krieber said the two primary users were the commercial fisherman and the staging for landing craft vessels. He said they also eliminated the causeway, and moved the landing craft dock from the original plans to eliminate the impact to the eelgrass. Mr. Zimmerman asked about the congestion in the landing craft area with regards to backing out into the area where the Alaska Marine Highway System (AMHS) ferries were docked. Mr. Krieber said the AMHS did not have a problem with the proposed facility, or its location. Mr. Freer asked if the United States Coast Guard reviewed the current plans and approved the facility in the new location. Mr. Krieber said yes, and that also included the impact of pilings in anadromous waters. He said they replaced the fill for the causeway with a pile-supported deck, and it would contain open grating to allow for light penetration. They would have a three- to four-foot wide walkway along side the deck. He said they installed a retaining wall to support the uplands at the head of the approach dock, and the landing craft area would also have a small retaining wall to avoid filling over eelgrass.

Mr. Krieber said they have ample parking, and the actual layout of the staging areas near the roadway might fluctuate when the final design was completed.

Mr. Krieber provided a list of supporters in favor of the project. Mr. Kendziorek noted that §49.70.905(4) addressed the policy in terms of public need.

Mr. Krieber said to address flushing, and they used the rates of other harbor studies as an indicator with similar characteristics of Auke Nu Cove. He said the flushing efficiency at Auke Nu Cove was most likely to be high because Auke Nu Cove had a relatively shallow average depth that included a large tidal range, which was expected to be a favorable value of tidal prism ratio, due to the tidal prism being a large portion of the total harbor volume. It was flat and shallow, and the prism of water changed out quite fast because of the tidal action. The study stated that a shallow waterbody such as Auke Nu Cove was usually well mixed with wind, waves, and turbulence associated by rising and falling tides. Unlike many marinas that had
restricted entrances protected by rock seawalls, the entrance to Auke Nu Cove between Auke head and the mainland was unrestricted and allowed for a free exchange of water between coves. He said flushing efficiencies for the harbors varied from 63% to 123% that indicated all the water in the harbor was fully exchanged during one tidal cycle, or relatively few cycles. He said the concern the WRB had was if the sediment that was suspended by propeller wash would be adequately flushed out during the tidal cycles. Mr. Krieber said the tidal action itself flushed the harbor out, and what the propeller model reflected was that there was very little disturbance of sediment.

Mr. Krieber said they believe the proposed project revisions achieved the goals of avoidance, minimization, and mitigation. He felt the project would not adversely impact water quality in the cove.

Mr. Kendziorek asked if there were any plans for fueling or maintenance at the proposed CCLF. Mr. Krieber said with respect to maintenance, they were looking to see if they might incorporate a welding truck maneuvering down on the dock, and they would not allow heavy-duty maintenance. Mr. Kendziorek said he was concerned that additional hydrocarbons might be added to Auke Nu Cove. Mr. Krieber said no. He said the two uses were to load and unload fish, and to provision the commercial boats with food and gear. Mr. Kendziorek said the Auke Bay Lab had an extensive hydrocarbon testing facility, and asked if they had performed sampling in Auke Nu Cove. Mr. Krieber was not aware that any sampling tests were performed. Mr. Rue asked if the vessels would refuel at Statter Harbor. Mr. Krieber said yes, and that the Statter Harbor Master Plan included a new fueling facility. Mr. Zimmerman asked what would happen if someone later decided they to sell fuel in the Auke Nu Cove area. Mr. Freer said selling fuel was not part of the applicant’s Conditional Use Permit (CUP), and if they later chose to sell fuel that they would have to apply for a separate CUP. Mr. Krieber said that additionally there was no petroleum requested in their application with ADNR for the tidelands conveyance.

Mr. Campbell asked if the facility was open to the general public, or if it was solely for commercial use. Mr. Krieber said that it was only for commercial use.

Ms. Hoferkamp asked if they planned to ensure that users did not dump bilge water in Auke Nu Cove. Mr. Krieber said that was an illegal activity. Mr. Fisk said that some of the commercial fishing vessels used refrigerated systems for chilling their fish that circulated seawater through bilge pumps and was pumped out the side of their vessels. Ms. Hoferkamp asked if that might spread parasites using that type of refrigerated seawater system by pumping seawater collected elsewhere into Auke Nu Cove. Mr. Fisk said he has not heard any concern expressed, although it was common practice throughout the State.

Mr. Rue appreciated the mitigation the applicant provided, and commended them on a job well done. Mr. Krieber said they implemented $1 million worth of mitigation to the project. Mr. Rue said the mitigation was good for the long term. Mr. Krieber agreed.

Public testimony – None
Board/staff discussion
Mr. Campbell asked Mr. Krieber to comment on the additive alternate for a concrete ramp and its expected life span. Mr. Krieber said the concrete ramp would be one of the primary additive alternates. He said the bid documents might state there could be two ramps installed at one time, or they could set it up for one to be installed first, and then a second later on. He said each launch ramp lane was estimated to cost $300,000, and they were recently approved to receive a $1 million grant from the Denali Commission. He said the Docks & Harbors Board (DHB) was discussing a revenue bond. The CDH revenue stream consisted primarily from harbor users through moorage fees, revenues from tideland leases, and fish taxes. The DHB already made a policy that they would use the fish tax revenue for other fisheries projects, which included a portion of the revenue bond. They were looking at a potential $10 million revenue bond, with $3 to $4 million dollars for commercial fisheries. It was still up to the DHB to determine how much they wanted to spend on the CCLF, versus other projects; therefore, it was the DHB’s decision on how much they decided to spend on the concrete ramps. Mr. Rue asked if that would include other harbor improvements. Mr. Krieber said they were looking at completing the development between Aurora and Harris Harbors on the University of Alaska Southeast land to enhance commercial fisheries in that area, which would also depend on how much money the DHB wanted to split between those two projects, but they were on hold because the other portion of the revenue bond was associated with the harbors and they were successful in getting legislation passed for a matching grant program, and that funding would not be available for another year. Mr. Rue asked if the concrete ramp was primarily for the users. Mr. Krieber said yes.

Mr. Campbell asked if an oil/water separator was included in the design. Mr. Krieber said that would probably be a requirement, and they would be reviewing the Best Management Practices, although typically any parking lot that discharged into the water, an oil/water separator was a basic requirement. Mr. Rue said it looked as though the parking lot sloped toward the highway. Mr. Krieber said yes. Mr. Freer said an oil/water separator requirement would not be applied at the time of the rezone.

Mr. Rue asked if paving was a build out option. Mr. Krieber said they would pave a portion of the parking area, and they were considering planting grass in the storage area for crab pots and gear because it was more aesthetic and less expensive.

Mr. Zimmerman asked how height influenced the projections. Mr. Krieber said very little, and regarding the propeller wash that the worst-case scenario and was 1/3 above bottom, which was further away from the eelgrass versus higher up, and it was in a slightly larger area that also had pilings spaced 100’ apart. He said the modeling still assumed the vessel was tied up and fixed, and it was not a moving boat. Mr. Rue stated that if the vessels were stationary, they would not dissipate energy. Mr. Krieber agreed.

Mr. Rue asked how far the rezone went out in the harbor, or if it was just the area of the lease. Mr. Freer said it was essentially contiguous with the lease area, although it did not go as far as Indian Point.

**MOTION**: by Mr. Rue, to recommend approval of the rezone that coincides with the boundaries of the lease area. Seconded by Mr. Campbell.
Ms. Hoferkamp said that in supporting the rezone, she asked if that inherently supported the project. Mr. Kendziorek said not necessarily. Ms. Camery said the motion was in support of the rezone. Mr. Rue stated that after approving the rezone that it would be harder to deny recommending approval of the project, otherwise they would need to determine there were specific problems with the project.

It was so ordered, with Ms. Hoferkamp objecting.

BREAK 6:05 p.m. to 6:10 p.m.

VII. PENDING PERMITS AND UPDATES

Mr. Camery provided an update on the Juneau Access Road Project. She said normally when they had an Alaska Coastal Management Program (ACMP) review, and a City State Project (CSP) review by the Planning Commission (PC), the State stopped the ACMP review clock to wait for the PC’s review to provide their comments to the State, which they did not do with the CSP-Juneau Access Road Project, and the ACMP had a June 8, 2006 deadline. The letter sent to the State by CBJ requesting a time extension was denied. She said there was a special PC meeting scheduled for July 6, 2006; however, the City Manager decided that the CBJ should participate in the ACMP review. The City Manager selected most of the WRB’s recommendations and sent those comments (via a letter that was written by the CDD Director, Dale Pernula) as the CBJ’s comments to the State on the ACMP. She said the WRB’s recommendation was denial because they felt there was a feasible and prudent alternative, which was the ferry system. The second part of the WRB’s recommendation was the five conditions forwarded to the PC for their approval. She said the City Manager chose to submit the WRB’s comments without the denial recommendation, but that decision was to allow the CBJ to participate in the ACMP review.

Mr. Kendziorek said his objection was on the CBJ letter that was sent to the State, which he voiced at the last PC meeting. It was not because they participated in the ACMP, and not because they forwarded the conditions that they submitted; instead it was the method in which the letter was written that provided a brief explanation of what the WRB had recommended, and then the letter stated that the City recommended those conditions. He said the letter was carefully worded that unless they read it carefully, they would end up with the conclusion that the WRB supported the project with those conditions. He referred to the letter as not dishonest, but very disingenuous. Mr. Rue said he stated at the last PC meeting that he had attended both of the WRB meetings, and the letter that was sent to the State on the ACMP review did not particularly bother him. Mr. Kendziorek stated that Mr. Rue also mentioned that a portion of the staff report provided at the June 13, 2006 PC meeting was written by City Attorney, Peggy Boggs, stating that they could only review the CSP-Juneau Access Road Project under AS 35.30, for consistency with the Municipal Land Use Code and the Comprehensive Plan, which was for the Preferred Alternative, Alternative 2B.

Mr. Zimmerman asked that a formal request be made by the WRB to the City Attorney, Peggy Boggs, requesting why she made that decision, and to explain what legal basis she had to inform the WRB that they could not consider the other Lynn Canal transportation alternatives, versus only Alternative 2B. Mr. Kendziorek said the PC asked that very question at the last PC meeting, and Ms. Boggs affirmed that was the CBJ Law Department’s interpretation. Mr.
Rue said the PC requested that a written explanation from the CLD be provided to the PC. He felt the PC and WRB members should know what their purview was in reviewing projects, with regards to exactly which rules and guidelines applied. Mr. Kendziorek said they could not review an alternative that did not already exist in the Final Environmental Impact Statement (FEIS). Ms. Camery said the difference was that they were reviewing it under AS 35.30, which required compliance with the local zoning to the Juneau Coastal Management Program (JCMP) that stated whether the project was a feasible and prudent alternative. Mr. Rue said they were not in the ACMP and FEIS arena; instead they were in the AS 35.30 and City CBJ §49.70 arena. Ms. Camery said the City review incorporated the JCMP, but it did not include the ACMP. Mr. Rue said if they were not in the State ACMP review, and they were in AS 35.30 and CBJ §49.70 that they were not allowed to review all of the alternatives. He said the WRB’s review was with the ACMP, but that ran out after June 8, 2006. The difference was that the State ACMP laws were no longer in play; it was now just the AS 35.30 and the Land Use Code, and how they interact. Mr. McGregor asked for the CDD Director’s letter to the State.

Mr. Kendziorek stated that if the PC did not find the CSP was consistent with the City Code, it was then provided to the Assembly because only they were allowed to forward a negative recommendation to the State, whereby the Governor had the option of waiving local concurrence. Mr. McGregor asked if the State was required to abide by the stipulations provided on a CSP by the City. Ms. Camery said they have provided stipulations in the past, although she did not know if the State was abiding by them. Mr. Kendziorek felt that Alaska Department of Transportation (ADOT) was not concerned about the conditions recently provided through the WRB by the City, which was why ADOT’s presentation to the PC lasted only four minutes. He said Mr. Menzie’s response was that everyone had 25 years to review the CSP-Juneau Access Road Project. Mr. Rue said the PC was not provided technical information or diagrams of the bridges, therefore, ADOT was asked to provide another presentation on July 6, 2006 at the special PC meeting. He also informed the WRB that the Eagles’ Nest Trees Variance was postponed prior to the last PC meeting.

**MOTION:** – by Mr. Kendziorek, that the Wetland Review Board formally requests the CBJ Law Department to provide an explanation of the legal rationale regarding whether this Board is allowed to analyze alternatives contained in an Environmental Impact Statement (EIS) or an Environmental Analysis (EA) for a project in applying the Alaska Coastal Management Program standards, Juneau Coastal Management Program standards, the Juneau Wetland Management Plan standards, provisions of the Comprehensive Plan, and/or City Code standards. The Board requests under which circumstances, sets of Codes, plans and standards might they review alternatives presented in an EIS and EA. Seconded by Mr. Rue.

There being no objection, it was so ordered.

**VIII. SCHEDULE FOR NEXT BOARD MEETING**

The next regular meeting was scheduled for July 20, 2006 at 5:15 p.m.

**IX. ADJOURNMENT**

**MOTION:** – by Mr. Rue, to adjourn the meeting. Seconded by Mr. Campbell.

There being no objection, it was so ordered, and the meeting adjourned at 6:38 p.m.