

09.27.01

1 EXXON VALDEZ OIL SPILL TRUSTEE COUNCIL

2 February 21, 2013

3 9:30 a.m.

4 4230 University Drive

5 Anchorage, Alaska

6 TRUSTEE COUNCIL MEMBERS PRESENT:

7 U.S. FOREST SERVICE: Ms. Terri Marceron

8 AK DEPARTMENT OF FISH & GAME: Mr. Tom Brookover

9 AK DEPARTMENT OF LAW: Ms. Jennifer Schorr

10 AK DEPART OF ENVIRON CONSERVATION: Mr. Larry Hartig

11 U.S. DEPARTMENT OF THE INTERIOR: Mr. Pat Pourchot

12 U.S. DEPARTMENT OF COMMERCE, NOAA: Mr. Peter Hagen

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16 Dr., Suite 2, Anchorage, AK 99501 - 243-0668

- 1 ALSO PRESENT:
- 2 Elise Hsieh, EVOSTC Executive Director
- 3 Linda Kilbourne, EVOSTC
- 4 Carrie Holba, EVOS/ARLIS
- 5 Cherri Womac, EVOSTC
- 6 Eric Rosswell,
- 7 Mitch Ellis, U.S.Fish and Wildlife Service
- 8 Carole Jorgensen, U.S. Forest Service
- 9 Joe Darnell, U.S. Dept of Interior, Solicitor's Office
- 10 Phil Shepard, Great Land Trust
- 11 William Anderson, Jr., Koniag, Inc.
- 12 Charlie Powers, Koniag, Inc.
- 13 Tom Panamaroff, Koniag, Inc.
- 14 John Bitney, City of Cordova

- 1 ATTENDING BY TELECONFERENCE
- 2 Catherine Boerner, EVOSTC Science Coordinator
- 3 Rachel Lord, Cook Inlet Keeper and Alaska Clean Harbors
- 4 Kristin Carpenter, Copper River Watershed
- 5 Ivy Patton, Native Village of Eyak
- 6 Dorothy Cuin, City of Port Lions
- 7 Dawn Collinsworth, U.S. Dept of Agriculture, Gen Counsel
- 8 Jim Kallander, Mayor City of Cordova
- 9 Cathy Sherman, City of Cordova
- 10 Laurel Jennings, National Oceanic & Atmospheric Admin
- 11 Tom Barry, National Oceanic & Atmospheric Admin
- 12 Gina Belt, U.S. Department of Justic
- 13 Erika Zimmerman, Department of Justice
- 14 Dede Bohn, U.S. Geological Survey

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1

P R O C E E D I N G S

2

(Anchorage, Alaska - 2/21/2013)

3

(On record)

4

CHAIRMAN POURCHOT: Well, why don't we
5 get started. This is a meeting of the Exxon Valdez Oil
6 Spill Trustee Council. And I'm Pat Pourchot with --
7 representing the Secretary of Interior. I'm replacing
8 Kim Elton who retired a couple of months ago and so
9 I'll be taking his place on the -- on the Council.

10

Maybe we can just go around the room
11 and introduce ourselves for those on teleconference.

12

MR. HARTIG: Yeah, Larry Hartig,
13 Commissioner, Alaska Department of Environmental
14 Conservation.

15

MS. MARCERON: Terri Marceron
16 representing USDA Secretary Tom Vilsack. And I'm the
17 Forest Supervisor on the Chugach National Forest.

18

MR. HAGEN: I'm Pete Hagen, I'm -- for
19 purposes of this meeting I'm the alternate for Jim
20 Balsiger who's the Administrator for the National
21 Marine Fishery Service and is serving as NOAA's
22 Administrator Representative to the Trustee Council.

23

MS. SCHORR: I'm Jenn Schorr, I'm an
24 Assistant Attorney General with the Department of Law
25 and I am the alternate for Mike Geraghty the Attorney

1 General.

2 CHAIRMAN POURCHOT: And on
3 teleconference, Tom.

4 MR. BROOKOVER: Yes, I'm Tom Brookover,
5 I'm the alternate for Commissioner Campbell with
6 Department of Fish and Game. I'm the Deputy Director
7 with Sportfish Division.

8 CHAIRMAN POURCHOT: Great. So I think
9 we have a full complement, a quorum to conduct
10 business. And did anybody want to have any opening
11 remarks before we dive into the agenda?

12 (No comments)

13 CHAIRMAN POURCHOT: Well, if not I
14 think the agenda at least that I'm working with is
15 dated 2/20/13. We've had several in the last few days.
16 Does anybody not have the 2/20 agenda?

17 MS. MARCERON: I have the 2/19 agenda.

18 CHAIRMAN POURCHOT: I think there were
19 typos corrected on that. Here's one.

20 MS. MARCERON: Thank you.

21 CHAIRMAN POURCHOT: Okay. And, Tom,
22 you have the 2/20 agenda?

23 MR. BROOKOVER: I do. Thanks, Pat.

24 CHAIRMAN POURCHOT: So why don't we
25 just start with -- hopefully people have looked through

1 the agenda items. Is there -- are there any
2 corrections or additions to the agenda?

3 MR. HARTIG: Move to approve the agenda
4 as proposed.

5 CHAIRMAN POURCHOT: Is there a second.

6 MS. MARCERON: I second.

7 CHAIRMAN POURCHOT: Is there any
8 objection to the approval of the agenda?

9 (No comments)

10 CHAIRMAN POURCHOT: If not, the
11 agenda's approved. We had attached in the packets
12 meeting minutes, called notes here, I guess. Has
13 anybody -- everybody had a chance to look through the
14 minutes of the last meeting, are there any additions or
15 corrections to the minutes?

16 MR. HARTIG: I'll move to approve the
17 minutes.

18 CHAIRMAN POURCHOT: Is there a second
19 on the approval?

20 MS. MARCERON: I'll second.

21 CHAIRMAN POURCHOT: It's been moved and
22 seconded. Is there any objection to the approval of
23 the minutes?

24 (No comments)

25 CHAIRMAN POURCHOT: If not, the minutes

1 stand approved.

2 Moves us to public comment. Are there
3 members of the public that would like to briefly
4 comment at this time on any and all agenda items, I
5 guess?

6 (No comments)

7 CHAIRMAN POURCHOT: On the
8 teleconference, any public wanting to comment on
9 today's agenda?

10 MS. LORD: This is Rachel Lord with
11 Cook Inlet Keeper and Alaska Clean Harbors in Homer.
12 And I would just say that I'm here on the call
13 primarily for agenda item 6, for the NOAA project
14 reviews. And if the Council has any questions I'm
15 happy to answer any or provide any feedback.

16 CHAIRMAN POURCHOT: Thank you very
17 much.

18 MS. CARPENTER: This is Kristin
19 Carpenter from the Copper River Watershed project in
20 Cordova and I could just echo Rachel's comments. I'm
21 here for the request for funding that we have under
22 item 6 from the NOAA Funding Program.

23 CHAIRMAN POURCHOT: Thank you very much
24 for being here. Any others on line or in the room?

25 MS. PATTON: This is Ivy Patton from

1 the Native Village of Eyak in Cordova, Alaska. And I
2 am also here for agenda item 6.

3 CHAIRMAN POURCHOT: Very good. Thank
4 you. Any others on line?

5 MS. CUIN: Yes, my name is Dorothy Cuin
6 and I'm here from the City Council for the City of Port
7 Lions, also agenda item 6.

8 CHAIRMAN POURCHOT: Very good. Any
9 others on line.

10 MS. COLLINSWORTH: This is Dawn
11 Collinsworth with USDA, General Counsel in Juneau. I'm
12 just listening in.

13 CHAIRMAN POURCHOT: Very good. Others
14 on line.

15 MR. KALLANDER: This is Jim Kallander,
16 Mayor of Cordova and with Cathy Sherman. And we're on
17 the agenda so I think we should wait until our agenda
18 item is up.

19 CHAIRMAN POURCHOT: Very good. That
20 would be appropriate. But thank you for.....

21 MS. JENNINGS: Hi. Also on the line is
22 Laurel Jennings and Tom Barry from the NOAA Restoration
23 Center. Eric Rosswell I believe is present in your
24 room today, also from NOAA.

25 CHAIRMAN POURCHOT: Very good. Others

1 on line that just want to identify themselves?

2 MS. ZIMMERMAN: This is Erika Zimmerman
3 at the Department of Justice on the line.

4 MS. BELT: This is Gina Belt from the
5 Department of Justice also on line.

6 MS. BOHN: Dede Bohn from USGS.

7 MS. BOERNER: Catherine Boerner, EVOS
8 Science Coordinator.

9 CHAIRMAN POURCHOT: Well, thank you
10 all. Hearing no further public comment or
11 identification let's move to the Executive Director's
12 report. Elise.

13 MS. HSIEH: Thank you, Pat. Good
14 morning. The first item on my report this morning, I
15 don't have anything general -- generalized information,
16 is the Revised Reporting Policy. The current draft is
17 dated February 20th. This policy has been extensively
18 reformatted, moving away from an older narrative
19 template and adopting citations allowing for reference,
20 reduced forms and more complete project numbering
21 conventions. In regard to substantive change the
22 proposed revisions clarify the requirements for the
23 long-term programs reporting.

24 Now we do expect continuing changes to
25 these policies as well as others in our program as our

1 long-term and restoration programs develop. It's
2 largely a matter of housekeeping.....

3 CHAIRMAN POURCHOT: And are you asking
4 for.....

5 MS. HSIEH: I am requesting approval of
6 the Draft Reporting Policy dated February 20th, 2013.
7 There is a draft motion sheet with all motions written
8 in the positive that you can use to assist you to
9 a.....

10 CHAIRMAN POURCHOT: Okay. Any comments
11 or questions of Council -- by Council members on the
12 potential motion to approve?

13 (No comments)

14 CHAIRMAN POURCHOT: Tom, on line?

15 MR. BROOKOVER: No, Mr. Chair, nothing
16 from me. Thanks.

17 CHAIRMAN POURCHOT: What's the pleasure
18 of the Council?

19 MS. MARCERON: I move we approve the
20 Revised Reporting Policies dated February 20th, 2013.

21 MR. HARTIG: I'll second.

22 CHAIRMAN POURCHOT: It's been moved and
23 seconded to approve the Reporting Policies dated
24 February 20th. Any discussion?

25 (No comments)

1 CHAIRMAN POURCHOT: Is there any
2 objection to the motion?
3 (No comments)
4 CHAIRMAN POURCHOT: Without objection
5 then the Reporting Policies are approved.
6 MS. HSIEH: Since Tom's on the phone
7 can you specifically ask him if there's an objection
8 just to make.....
9 CHAIRMAN POURCHOT: Okay.
10 MS. HSIEH:sure we get his
11 objection or affirmation.
12 CHAIRMAN POURCHOT: Tom, let me back up
13 a little bit. Are you -- do you have objections to the
14 motion?
15 MR. BROOKOVER: No, no objection.
16 CHAIRMAN POURCHOT: I apologize. We'll
17 try to -- we'll try to check with you to make sure you
18 have an opportunity to say yea or nay.
19 MR. BROOKOVER: Sure. And, you know,
20 I'm -- I'll speak up if I do.
21 CHAIRMAN POURCHOT: Okay. Very good.
22 Anything else?
23 (No comments)
24 CHAIRMAN POURCHOT: Okay.
25 MS. HSIEH: The next item is the EVOS

1 Document Digitizing Proposal. As noted in earlier
2 meetings the EVOS office has been exploring the
3 feasibility of digitizing select EVOS files for ease of
4 retrieval, to facilitate web access where appropriate,
5 save future storage and office space expense and ensure
6 long-term preservation of information. The Alaska
7 Resources Library and Information Services, ARLIS,
8 which serves as an EVOS repository for EVOS related
9 materials has considerable experience conducting
10 digitizing projects for its founding agencies and other
11 state and federal organizations.

12 To address EVOS records ARLIS
13 recommends initially digitizing the EVOS collections
14 which are public, complete and previously organized.
15 Thus they recommend a phase one project to digitize the
16 administrative records of the restoration and planning
17 workgroup and the restoration plan final environmental
18 impact statement. The final deliverable for phase one
19 would be a searchable index collection, a full-text
20 document accessible at the EVOS website completed in
21 late 2013 or early FY 2014.

22 The ARLIS proposal for this phase one
23 work has a budget of \$13,200 which doesn't include the
24 9 percent GA. We anticipate the project would begin
25 after July 1st of the state fiscal year and be

1 completed by January 13th, 2014.

2 Looking ahead and pending Council
3 approval of a future proposal, phase two would begin in
4 2014 with ARLIS digitizing the EVOS official record.
5 The final deliverable for phase two would be a
6 searchable index fully -- full-text official record
7 accessible at the EVOS website.

8 Ongoing maintenance of the official
9 record would be handled in a separate agreement.

10 I recommend funding this proposal. And
11 we have Carrie Holba here from ARLIS as part of our
12 staff to answer any questions.

13 CHAIRMAN POURCHOT: Are there any
14 questions or comments by Council members?

15 MS. MARCERON: I'll just clarify.

16 CHAIRMAN POURCHOT: Terri.

17 MS. MARCERON: So you're just looking
18 today for the phase one and you.....

19 MS. HSIEH: Correct.

20 MS. MARCERON:clarified what the
21 next step would be, but you're not seeking anything at
22 this point in time?

23 MS. HSIEH: Correct. Just wanted to
24 give you an idea.

25 MS. MARCERON: Okay.

1 CHAIRMAN POURCHOT: Tom, any questions
2 or comments?

3 MR. BROOKOVER: I did have a question
4 for Elise. Elise, you broke up just a hair and I
5 didn't catch the budget for phase one, could you repeat
6 that, please?

7 MS. HSIEH: The phase one budget is
8 \$13,200. And that amount sounds -- if it sounds low to
9 you it is because we have Carrie working in our office
10 as well and we've already paid for her time so we've
11 leveraged some of that as well. The full funding
12 approval would be \$14,388 and that includes the 9
13 percent GA which is standard on all of our projects.
14 And you'll see that in your draft motion, that figure.

15 MR. BROOKOVER: Okay. And that's for
16 phase one, correct?

17 MS. HSIEH: That's correct.

18 MR. BROOKOVER: And do we have an
19 estimate for the -- for the complete project?

20 MS. HSIEH: No. For phase two, no, no,
21 we don't. And, in fact.....

22 MR. BROOKOVER: Okay.

23 MS. HSIEH:that would -- that's
24 going to take some time because it would be all of our
25 scientific projects, it would be a much more

1 complicated phase.

2 MR. BROOKOVER: Okay. Thank you.

3 MS. SCHORR: So.....

4 CHAIRMAN POURCHOT: Lawyer.

5 MS. SCHORR: Oh, I'm sorry. Is there
6 any rough timeline for when phase two might be started?

7 MS. HSIEH: We're looking ahead around
8 FY 2014 to have a proposal in. Also just as an aside
9 ARLIS is getting -- it's becoming known that they're
10 quite good at this digitizing so the agencies are
11 lining up. So we're actually getting in a queue by
12 approving funding. So I wouldn't be surprised if there
13 is some flex time in this -- by approving funding we
14 get in line so I'm appreciative of the opportunity and
15 appreciate Carrie's work on that. So.....

16 CHAIRMAN POURCHOT: Other questions or
17 comments by Council members?

18 (No comments)

19 CHAIRMAN POURCHOT: Is there a motion
20 to approve the funding?

21 MR. HARTIG: Okay. Well, I'll move we
22 approve funding for fiscal year 20 -- or let's see,
23 yeah, we approve funding of 14,388 which includes 9
24 percent GA for fiscal year 2013 to the Alaska Resources
25 Library and Information Service for phase one of the

1 EVOSTC Document Digitizing Project. The budget does
2 not include indirect costs as the ARLIS management team
3 would receive funds through ADF&G.

4 CHAIRMAN POURCHOT: Is there a second
5 to the motion?

6 MS. MARCERON: I second.

7 CHAIRMAN POURCHOT: It's been moved and
8 seconded to approve funding for the Digitizing Project.
9 Is there further discussion by the Council?

10 (No comments)

11 CHAIRMAN POURCHOT: Tom, any further
12 comments?

13 MR. BROOKOVER: Just a note, Mr. Chair,
14 I think this is a good project. I have -- you know,
15 I'm confident and staff's doing the work, I used to
16 supervise the ADF&G library and -- at ARLIS and I have
17 a feel for the capabilities and think that the job will
18 be done well. So I think it's a good project.

19 CHAIRMAN POURCHOT: Thanks so much for
20 those comments. Any further comments or questions?

21 (No comments)

22 CHAIRMAN POURCHOT: Is there any
23 objection to the motion to approve funding in the -- to
24 the amount of \$14,388 for the Digitizing Project?

25 (No comments)

1 CHAIRMAN POURCHOT: Tom, any objection?

2 MR. BROOKOVER: No.

3 CHAIRMAN POURCHOT: Without objection

4 then the Digitizing Project funding has been approved.

5 Next item on the agenda is the Habitat

6 Program. Elise, did you want to.....

7 MS. HSIEH: Uh-huh. I'll.....

8 CHAIRMAN POURCHOT:do some

9 introductory remarks on that?

10 MS. HSIEH: Sure. We have Bill

11 Shephard here today from Great Land Trust as well as

12 David Wigglesworth if they wanted to come up to the

13 table to further speak on it after -- I'll do a brief

14 introduction.

15 What we have before you today is a

16 proposal aimed at increasing the capacity of our

17 existing Habitat Program through a collaboration with

18 the Great Land Trust. As noted in prior Council

19 meetings and public advisory committee meetings we've

20 been looking at opportunities to increase the capacity

21 of the Council's Habitat Program. As part of this

22 effort we consulted with prior Trustees and staff who

23 spearheaded numerous Council habitat acquisitions over

24 the last two decades. They noted in the past the

25 Council had contracted with third parties specializing

1 in land protection to facilitate implementation of the
2 Council's Parcel Acquisition Program. Their
3 recommendations as well as those from Trustees familiar
4 with habitat efforts by third parties led us to consult
5 with Great Land Trust. Great Land Trust has built an
6 outstanding reputation as the creative land trust that
7 collaborates with state and federal agencies, native
8 and local communities, business and the public to
9 facilitate protection of lands in Alaska. While known
10 largely for their partnerships and work in Southcentral
11 Alaska Great Land Trust has extended their service area
12 to the Exxon Valdez oil spill area.

13 As a result of our conversations with
14 Great Land Trust they produced a proposal and a Kodiak
15 lands prioritization. The proposal appends a detailed
16 prioritization showing the criteria and data used to
17 identify land prioritized for conservation value. This
18 prioritization builds on recent work commissioned by
19 the U.S. Fish and Wildlife Service and is also tailored
20 to address the Council's particular habitat priority
21 such as species and services entered by this bill. The
22 proposal engages Great Land Trust for an initial two
23 years of work with willing landowners in the Kodiak,
24 Afognak and surrounding islands and other affected
25 areas.

1 As with all multi-year Council
2 proposals you're reviewing funding for FY 2013 today.
3 FY 2014 funding would be reviewed by the Council next
4 fall. Due to interest expressed by individual Trustees
5 during our briefing process Great Land Trust plans to
6 include a spill area lands prioritization in its
7 proposals for FY 2014 funding.

8 I recommend approval of this proposal.

9 CHAIRMAN POURCHOT: Before getting into
10 questions and answers or questions and comments on this
11 action item, I just wanted to state for the record that
12 up to about four years ago I did serve on the Board of
13 Directors for Great Land Trust and actually was part of
14 the hiring program for hiring Mr. Shephard here. I
15 consulted our Solicitor's Office at the Department and
16 got a review and a written statement saying that
17 because of the long period of time since serving on the
18 Board and no intervening direct action or activities
19 with Great Land Trust that there shouldn't -- they did
20 not think there was a conflict of interest for me. The
21 normal cooling off -- so called cooling off period for
22 officials relating to their prior engagements is
23 typically one year. In the case of political
24 appointees to the Department of Interior we have a two
25 year so called cooling off period. The four years

1 significantly exceeds that so unless there's specific
2 objections or further questions by Council members or
3 perhaps attorneys on line or in the audience I would --
4 having made that declaration I would be participating
5 in the further decision making on this.

6 Is there any questions or comments on
7 that?

8 (No comments)

9 CHAIRMAN POURCHOT: If not, maybe did
10 you all want to.....

11 MS. HSIEH: You can do it either way.
12 The Trustees have had briefing on this proposals and
13 we've had email and -- but if there are any additional
14 questions or comments about the proposal they're here
15 to answer those questions. It might be the most time
16 efficient way to handle it unless there's substantial
17 issues.

18 CHAIRMAN POURCHOT: So why don't we
19 just ask the Council members if you have specific
20 comments or questions of either the Great Land Trust or
21 Fish and Wildlife representatives here and certainly
22 Tom on line.

23 MR. HARTIG: Yeah, Mr. Chairman, I
24 would just -- a couple comments. I think this is a
25 great idea and I have great confidence in Great Land

1 Trust being able to help push this forward and I think
2 one of the big benefits is that they may be able to
3 actually leverage, you know, some of our projects with
4 other people's projects or money and we can achieve
5 more. And, you know, in my discussions with Bill I'm
6 sure that, you know, this will be of great benefit to
7 the trust and our objectives so I plan to support it.

8 MR. HAGEN: Maybe a question for Elise.
9 I was wondering did this proposal get submitted to the
10 PAC for review, the public advisory committee, did they
11 have any comments on it?

12 MS. HSIEH: It was. We don't have a
13 PAC meeting before every Trustee Council meeting, we
14 have an annual PAC meeting. So that falls before our
15 meeting in the fall which is our evidence
16 (indiscernible) cycle so I have forwarded all of these
17 materials to the PAC for their individual comment which
18 we do receive by email and we haven't -- I think we
19 actually received one positive from the regional. We
20 might -- I don't think we received any individual
21 comment except that they were happy to receive
22 materials and thanked us for keeping them informed. So
23 they were receiving them.

24 MR. HAGEN: Yeah, I seem to recall in
25 previous meetings some of the PAC members from Kodiak

1 were very much interested in habitat.....

2 MS. HSIEH: We did have.....

3 MR. HAGEN:issues.

4 MS. HSIEH:we did bring it up at
5 the PAC meeting last time regarding our outreach to
6 Great Land Trust and looking at options and they were
7 very positive about it at that time.

8 MR. HAGEN: Thank you.

9 CHAIRMAN POURCHOT: Other comments or
10 questions?

11 (No comments)

12 CHAIRMAN POURCHOT: Tom, any comments
13 or questions on the proposal?

14 MR. BROOKOVER: No, I reviewed the
15 proposal and thought it -- you know, a general comment
16 was that, you know, I thought it provided a good
17 approach to looking at and prioritizing habitat
18 research projects. In -- you know, in the recent past
19 we -- the Council has received proposals for habitat
20 acquisitions and easements and so forth and in my
21 experience we have been lacking an approach like the
22 one Great Land has presented although I think DNR has
23 utilized a similar approach, maybe not as systematic or
24 not as explicit as the one Great Land Trust proposed so
25 I thought pretty favorably of it when I reviewed it

1 myself.

2 CHAIRMAN POURCHOT: Thank you. I would
3 just say even though I already announced some prejudice
4 perhaps on this that I do know the work of Great Land
5 Trust and I too have great confidence in their work and
6 their ability to do this. And wearing my Interior hat
7 maybe I'd ask Mr. Wigglesworth to comment because I
8 know that Fish and Wildlife has put in grant money into
9 projects that have been managed or run by Great Land
10 Trust and maybe get your opinion on kind of their work
11 and their ability to do things based on your agency
12 grant experience.

13 MR. WIGGLESWORTH: Yeah. Thank you,
14 Pat. Just briefly, again my name's David Wigglesworth,
15 I'm the Habitat Restoration and the Conservation
16 Partnerships Coordinator for Fish and Wildlife Service
17 within the Fisheries and Ecological Services Division.
18

19 And through some of our Habitat
20 Programs, particularly the Coastal Program, we have
21 worked with Great Land Trust in Southcentral Alaska in
22 our service area with great success. Our work -- our
23 funding doesn't support the actual acquisition of
24 property, but it supports activities leading to that,
25 landowner outreach, appraisal, prioritizations like the

1 one that you've seen already in Kodiak. And that was
2 one of our interests with Kodiak and working with other
3 Fish and Wildlife Service interests there, the Refuge
4 as well as the local communities, to really prioritize
5 habitats for conservation so that we're focused on the
6 highest and best parcels to meet the needs of people
7 supporting the acquisitions ultimately or obviously the
8 fish and wildlife values. And Great Land Trust has
9 been excellent, they're uniquely qualified, they have
10 an excellent staff and as you know many of the board
11 members are quite familiar with EVOS as well as the
12 situation in Alaska. And so I think it's a great
13 opportunity to pursue some important objectives the
14 Council has.

15 Thank you.

16 CHAIRMAN POURCHOT: Any other
17 questions? Yes, Jen.

18 MS. SCHORR: I'm just wondering, the
19 budget, the category for legal contracted services, is
20 that -- well, I guess two questions. First is that
21 outside counsel and second is that to review the
22 transaction documents and conveyance documents?

23 MR. SHEPHARD: Our thoughts there were
24 just we wanted to have a line item for -- I'm Bill
25 Shephard with Great Land Trust. And in response to

1 your question it would be if we needed counsel for
2 review of, you know, a purchase agreement or a
3 conservation easement we wanted to have a line item
4 there. It could be that we actually won't and we will
5 be able to use your services or others. So it's not --
6 yeah. So.....

7 MS. SCHORR: Okay. Thanks.

8 MR. HAGEN: Yeah, just another question
9 on the budget as well. So this is set up as a cost
10 reimbursable, I guess, the proposal and year one fiscal
11 year -- I guess we're following the new Trustee Council
12 fiscal year will end January 31st, 2014. I guess do
13 you anticipate -- maybe a question for Elise, would
14 this money if it's not all spent then be carried over
15 automatically or would we be asked to next year approve
16 an additional budget or.....

17 MS. HSIEH: Even if there were left
18 over funds.....

19 MR. HAGEN: Uh-huh.

20 MS. HSIEH:that we could
21 carryover, there will likely if the program's active
22 and successful there will likely be additional funds
23 for the second year anyway. So you'll be seeing
24 another budget and, in fact, this budget for the second
25 year, you know, we've sort of -- it's projected out

1 here, but it's quite elastic depending on the size.....

2 MR. HAGEN: Okay.

3 MS. HSIEH:and number of parcels
4 which really come into play. So.....

5 MR. HAGEN: Okay. Thanks.

6 MR. SHEPHARD: Yeah, I mean, you can
7 see that a large piece of the budget is the appraisals
8 or due diligence and it'll just depend on landowners
9 and landowner interest and how many of those we
10 actually do.

11 MR. HAGEN: Okay.

12 CHAIRMAN POURCHOT: Other comments or
13 questions?

14 (No comments)

15 CHAIRMAN POURCHOT: Tom, any comments
16 or questions?

17 MR. BROOKOVER: No, nothing further
18 from me.

19 CHAIRMAN POURCHOT: If there's nothing
20 further from the Council is there a motion?

21 MR. HARTIG: Yeah, I'll move we approve
22 funding for fiscal year 2013 of \$284,866 which includes
23 9 percent GA for the Great Land Trust proposal to work
24 with willing landowners in the Kodiak, Afognak and
25 surrounding islands and other EVOS affected areas to

1 facilitate the Council's Habitat Program.

2 CHAIRMAN POURCHOT: Is there a second
3 to the motion?

4

5 MS. SCHORR: I'll second.

6 CHAIRMAN POURCHOT: Thank you. It's
7 been moved and seconded to approve funding to -- for
8 the Great Land Trust proposal for \$284,866 for fiscal
9 year 2013. Is there any objection to the motion?

10 MS. MARCERON: I don't have an
11 objection, I would just add.....

12 CHAIRMAN POURCHOT: Yes.

13 MS. MARCERON:the clarification
14 that Pete made that again fiscal year '13 in my mind
15 still goes through September so maybe just putting the
16 dates of -- through January 31st, 2014, just to clarify
17 that for the record I think would be helpful.

18 CHAIRMAN POURCHOT: Through.....

19 MS. MARCERON: I don't know whether
20 Elise would recommend March, but I would at least do
21 the ending date as it ties in with the EVOS.

22 MS. HSIEH: And also any time you say
23 in a motion fiscal year it will through our general
24 operating procedures it will automatically tie into our
25 new fiscal year cycle unless otherwise authorized by

1 the Trustee Council.

2 MR. HARTIG: And that was my
3 understanding making the motion.

4 MS. HSIEH: Yes. Thank you.

5 CHAIRMAN POURCHOT: So rather than
6 amending the motion why don't we just clarify for the
7 record that that does relate -- the fiscal year 2013
8 relates to the EVOS fiscal year.

9 MS. MARCERON: That's all I'm asking.

10 CHAIRMAN POURCHOT: Yeah.

11 MS. MARCERON: Yeah.

12 CHAIRMAN POURCHOT: With that
13 clarification are there objections to the motion?

14 (No comments)

15 CHAIRMAN POURCHOT: Tom, any objection
16 to the motion?

17 MR. BROOKOVER: No objection from me.

18 CHAIRMAN POURCHOT: Without objection
19 then the motion passes unanimously.

20 Taking us to -- thank you very much, to
21 the Torsen Small Parcel. Elise did you want to
22 introduce that or do you want to have.....

23 MS. HSIEH: Samantha Carroll from DNR
24 and I believe Ivars Stolcers.

25 MR. STOLCERS: Ivars.

1 MS. HSIEH: Ivars, excuse me, and
2 Specialized Service are here to present the Torsen.

3 CHAIRMAN POURCHOT: You want to just
4 introduce yourselves again just to make sure that the
5 mic picked it up.

6 MR. STOLCERS: I'm Ivars Stolcers, a
7 Realty Specialist with the U.S. Fish and Wildlife
8 Service.

9 MS. CARROLL: And I'm Samantha Carroll
10 with the Department of Natural Resources.

11 MR. STOLCERS: And I'm just going to
12 give a brief background of the project.

13 The Ernest Torsen parcel is located on
14 Shasta Creek which is a tributary of the Karluk River.
15 It's 87.99 acres and the parcel was previously put
16 forth to the Council in July, 2011. It was deferred at
17 that time because the parcel was surrounded by BLM
18 lands that we were working on getting transferred to
19 the Fish and Wildlife Service. And now we've gotten
20 approval from BLM to go ahead and get those lands
21 transferred to the Refuge. And so that makes the
22 parcel part of the Refuge. And we're asking for
23 preliminary approval to go forward with the appraisal
24 as well as some due diligence work and we're also
25 asking for additional authorization of the purchase of

1 the parcel with a range value between 60 and \$100,000.

2 And I think that everybody has the benefits report.

3 MS. HSIEH: I'm going to add a note

4 regarding interagency and third party coordination.

5 The Service and Great Land Trust have already been

6 working on habitat protection prioritizations on Kodiak

7 Island and due to these recent efforts, Samantha

8 Carroll, Department of Natural Resources, Jen Schorr of

9 the Department of Law, Great Land Trust and the Service

10 met to discuss their mutual habitat protection efforts.

11 The groups agree that many of their efforts were

12 aligned, that continued coordination is mutually

13 beneficial and could build on our individual agency and

14 group efforts. In addition all parties agree that

15 Torsen's a valuable parcel pursuant to its habitat

16 value.

17 I just wanted to let the Trustees know

18 that the groups are talking and there's been a fair

19 amount of mutual interest and goals.

20 CHAIRMAN POURCHOT: I just had a

21 follow-up question on the BLM approval of -- it's a

22 boundary adjustment to make it -- so the parcel's

23 internal to the Refuge boundaries?

24 MR. STOLCERS: Correct. Yes, the

25 forest sections of BLM lands were directly adjacent to

1 the Refuge boundary and so once those become Refuge
2 Ernest Torsen's parcels will be embedded within the BLM
3 lands so they will -- the one -- the BLM part will be
4 considered boundary adjustment.

5 CHAIRMAN POURCHOT: So knowing how some
6 of these things take much longer and I assume that
7 there's a Federal Register notice involved or some sort
8 of official action because what's the time frame for
9 doing that?

10 MR. STOLCERS: That's essentially done,
11 we just have to do the Federal Register notice. We put
12 the request to BLM and they wrote a memo in the state's
13 records approving the adjustment.

14 CHAIRMAN POURCHOT: So it's in the
15 queue somewhere for.....

16 MR. STOLCERS: It's in the queue, yeah.
17 I don't -- I anticipate it being a couple months at the
18 most to get that analyzed.

19 CHAIRMAN POURCHOT: And, Sam, did you
20 have further comments?

21 MS. CARROLL: Just if there's any
22 questions.

23 MR. STOLCERS: I did have just one
24 other comment. I just wanted to thank a couple people
25 who helped us get this BLM transfer finally done, we've

1 been trying to get it done for several years. And Mark
2 Boemer at BLM and Tim Richardson as well were
3 especially helpful to keep moving this project forward.

4 CHAIRMAN POURCHOT: Questions, comments
5 from the Council?

6 MR. HAGEN: Well, just a -- because you
7 two are both here as the agency folks involved with
8 habitat acquisition and I presume you're very
9 comfortable with the Great Land Trust involvement that
10 was just approved by the Council. I guess is there
11 going to be any change into the -- I guess there's a
12 habitat acquisition process that was adopted, a policy,
13 maybe Elise is.....

14 MS. HSIEH: Yeah, maybe I can speak to
15 that. And this relates to the Great Land Trust and our
16 current Habitat Program. The -- our draft resolution
17 is for you to look at and sign today actually has been
18 reviewed by Samantha and Jen who spearhead our Habitat
19 Program. And it incorporates several provisions just
20 reemphasizing some of our basic guidelines for Council
21 habitat acquisitions, willing sellers, the different
22 types of interests that are pursued and also the
23 coordination spells it out a little more between Great
24 Land Trust working with DNR and Department of Law in
25 the identification, appraisal, commitments, approvals

1 of any parcel before they move ahead. So the
2 resolution actually has -- spells out in more
3 particular some of the coordination amongst the two
4 agencies.....

5 MR. HAGEN: Yeah.

6 MS. HSIEH:and Great Land Trust
7 based upon how the existing Habitat Program currently
8 operates.

9 MR. HAGEN: Thank you.

10 MS. HSIEH: Thank you.

11 MS. CARROLL: And just to follow-up on
12 your question about Great Land Trust, yes, I work with
13 them on a variety of projects and have a lot of trust
14 in the way they execute their projects.

15 CHAIRMAN POURCHOT: Other questions or
16 comments by Council members?

17 (No comments)

18 CHAIRMAN POURCHOT: Tom, any comments
19 or questions?

20 MR. BROOKOVER: Well, this is Tom.
21 Yeah, and I just had one question. I like this idea of
22 a conditional authorization for purchase just from an
23 efficiency standpoint. I -- but I guess just a
24 question, I mean, this is a new approach that we --
25 that we're taking for this parcel, is it not? I guess

1 maybe that's.....

2 MS. HSIEH: Yes.

3 MR. BROOKOVER:a question for
4 Samantha or Elise.

5 MS. HSIEH: Yes. Tom, yes, it is and I
6 echo -- I'm very interested in how this will play out
7 because I -- the Trustee Council has had -- you know,
8 it's difficult with the sporadic meetings one or two
9 times a year and with habitat parcels and willing
10 sellers and projects stalling out and the willing
11 sellers who we want to encourage becoming discouraged
12 because of the timeline. So I'm excited about this
13 opportunity to present a conditional approval to the
14 Trustee Council and it might be a new way of
15 functioning in the future as well.

16 MS. CARROLL: And maybe to add a little
17 bit, this is Samantha. The efficiency of this type of
18 approach is great. We have a problem with reports
19 expiring and we need valid reports at the time of
20 conveyance. So this will help us facilitate that as
21 well.

22 MR. BROOKOVER: Yeah. I think -- I
23 agree. I -- and I'm just thinking in the past, I don't
24 think we, you know, had many parcels or any actually
25 that I'm aware of where we've gone ahead and approved

1 the -- you know, the due diligence and then come to a
2 point where we actually didn't approve the
3 authorization for purchase. We may have, but in this
4 case I don't -- I don't think it.....

5 MS. HSIEH: In most cases.....

6 MR. BROOKOVER:it's not a concern
7 from my standpoint anyway and I like the approach.

8 CHAIRMAN POURCHOT: Thank you, Tom.
9 Other comments or questions?

10 (No comments)

11 CHAIRMAN POURCHOT: What's the desire
12 of the Council?

13 MS. MARCERON: I move we approve
14 funding of up to \$107,600 to U.S. Fish and Wildlife
15 Service for due diligence costs associated with the
16 Torsen parcel, KAP 3000, and to fund the purchase of
17 this parcel conditioned upon if the fair market value
18 established by an appraisal falls within the range of
19 60 to 100,000, that would be condition number 1. Due
20 diligence reports are acceptable to DN -- Alaska DNR
21 and Alaska DOL, that would be condition number 2. And
22 lastly provided that the EVOSTC Executive Director,
23 Alaska DNR, Alaska DOL, find it -- find that it is in
24 the best interests of the Council to move forward with
25 acquisition of the parcel, that would be the last

1 condition. Authorization for funding the purchase of
2 this parcel shall terminate if a purchase agreement is
3 not executed by February 21st, 2015.

4 MR. HARTIG: Yeah, I'll second.

5 CHAIRMAN POURCHOT: It's been moved and
6 seconded. I have one clarifying, what is ADOL?

7 MS. HSIEH: Alaska Department of Law.

8 CHAIRMAN POURCHOT: It's been moved and
9 seconded to -- for approval of funding for the Torsen
10 small parcel. Any further discussion or questions on
11 the motion?

12 (No comments)

13 CHAIRMAN POURCHOT: Tom, further
14 questions?

15 MR. BROOKOVER: No.

16 CHAIRMAN POURCHOT: Is there objection
17 to the motion?

18 (No comments)

19 CHAIRMAN POURCHOT: Tom, any objection
20 to the motion?

21 MR. BROOKOVER: No objection.

22 CHAIRMAN POURCHOT: Without objection
23 then the motion to approve the small parcel funding is
24 approved unanimously.

25 That brings us to agenda item 6 which I

1 know there's people on line for, the NOAA Clean Harbor
2 Projects. And.....

3 MS. HSIEH: Would you like me to give a
4 brief introduction?

5 CHAIRMAN POURCHOT: Please. We have
6 Catherine Boerner on the phone, our Science
7 Coordinator.

8 Catherine, would you like me to give a
9 brief introduction or.....

10 MS. BOERNER: I was planning on it, but
11 you're certainly welcome if you.....

12 MS. HSIEH: Oh, no. Go ahead.

13 MS. BOERNER: You have the floor.

14 CHAIRMAN POURCHOT: If you could
15 introduce yourself -- please introduce yourself for the
16 record.

17 MS. BOERNER: Of course. This is
18 Catherine Boerner and I'm the Trustee Council Office's
19 Science Coordinator.

20 CHAIRMAN POURCHOT: Thank you. Go
21 ahead.

22 MS. BOERNER: Okay. I'm going to give
23 you just a super brief background for those of you who
24 are not familiar with these projects. In 2011 the
25 Trustee Council voted to fund phase one of the NOAA

1 Restoration Office's Harbor Protection Program. The
2 goal of the program was to help spill affected
3 communities prevent toxic releases originating from
4 harbors and marinas which will provide a healthier
5 habitat for injured resources in the spill affected
6 area.

7 Phase one consisted mostly of travel to
8 the communities to help them build their proposals and
9 the issue of a request for proposals or an RFO, a
10 federal funding opportunity. The five proposals that
11 are before you today represent the proposals that were
12 received in response to that RFP. The proposals did
13 complete a technical review while at NOAA and I was
14 part of that team and have been reviewed by our Science
15 Panel, the Executive Director and me.

16 Is there anything you wanted to add to
17 that, Elise?

18 MS. HSIEH: No.

19 MS. BOERNER: Again Laurel Jennings
20 with the NOAA Restoration Office, she is on the line
21 and she is the -- I guess I'll call her the primary
22 investigator for this program. She is here to answer
23 questions about all of the projects and there are
24 representatives for four of the five of these proposals
25 on the phone to answer specific questions.

1 But I will begin -- we'll just take
2 them alphabetically as they fall into the work plan
3 addendum. So I'll begin with Project 13120112-A which
4 is the Cordova Clean Harbor Program which was submitted
5 by the Native Village of Eyak. This is a quick
6 summary.

7 The Native Village of Eyak and other
8 local citizens formed the Cordova Clean Harbor Project
9 in 2010. They've completed some of the planning stages
10 for their projects and are now requesting funds to
11 implement the projects. There are four specifics for
12 what they're requesting and that would be addressing
13 waste and antifreeze disposal, improving the ability to
14 respond to small spills and waste in the harbor, an
15 outreach and education program which would be done
16 using signage and outreach materials and a
17 comprehensive monitoring program that would partner
18 with Mussel Watch and the long-term monitoring program
19 for PWSRCAC.

20 The Science Panel members, myself
21 included, we definitely had some questions regarding
22 the implementations of the project. And I will say we
23 were looking at this really from a scientific
24 perspective and the scientific validity of the work.
25 So there was definitely a lot of support and

1 recognition of the incredible amount of coordination
2 and planning that has already occurred within the
3 program, but there were many concerns including
4 administrative cost of the project, the designing of
5 the monitoring program and the ability of the Council
6 to fund a small spill response workshop. The proposers
7 have submitted some responses to our concerns which you
8 have, but I will say their concerns are ongoing. If
9 the Council has interest in this project at this time I
10 would recommend modifying or requesting a modified
11 proposal from the Cordova Clean Harbor Program that
12 would address some of the legal, Science Panel and the
13 offices' -- office staff concerns. They're requesting
14 \$486,127 over three fiscal years and \$281,560 in fiscal
15 year '13 and that does include our 9 percent GA which
16 we're required to add.

17 And again Laurel and a representative
18 from the Clean Harbor Program are on line to answer any
19 questions you have.

20 CHAIRMAN POURCHOT: Thank you very
21 much. Just in terms of process, are we -- what's the
22 desire of the Council, to proceed to all of the five
23 separate proposals or would you like to stop and --
24 okay, I'm seeing some head nodding. Why don't we stop
25 at that point then and entertain questions that the

1 Council might have or additional views. I know there
2 was some legal issues that were raised and I know we've
3 got a number of legal people in the room and on line
4 that might be helpful also.

5 Commissioner Hartig.

6 MR. HARTIG: Yeah, thanks, Pat. In
7 general I definitely favor these Clean Harbor Projects
8 because I see results from them and we're trying to get
9 to results here obviously, but I do take the concerns
10 from the Science Panel and the concerns that I guess
11 some of the legal reviewers have quite seriously and
12 would want to hear either, Elise, from you or from the
13 legal people on how they view this. And not just if
14 they see problems, but what -- how we might cure this,
15 you know, to get a proposal that we could entertain.

16 MS. HSIEH: I think -- I think we have
17 Gina Belt on the line and also we have Jen Schorr. I
18 don't know if Gina Belt can speak to -- regarding any
19 legal issues and how we could -- the Trustee Council
20 could find solutions for those legal issues. And if
21 something is constructed from that conversation we
22 could move back to Catherine for her to suggest how
23 some of the scientific and administrative issues could
24 be handled if we cross the legal threshold.

25 CHAIRMAN POURCHOT: Ms. Belt, are you

1 on line?

2 MS. BELT: Yes, I am. I will say at
3 the outset that the.....

4 CHAIRMAN POURCHOT: Excuse me. Could
5 you speak up or get a little closer to the mic.

6 MS. BELT: I'll do what I can, I've
7 been sick.

8 CHAIRMAN POURCHOT: Oh, okay. I'm
9 sorry.

10 MS. BELT: So I'd like to preface my
11 comments with the fact that the Department of Justice
12 does not render advice to the three federal agencies in
13 public, we have provided questions and concerns to the
14 members of the Trustee Council and if they wanted to
15 ask a question to try to elicit more information from
16 the proponents that would help create a modified
17 proposal that would be fine, but we won't be
18 identifying legal concerns on the record.

19 MS. HSIEH: Can I ask her a question?

20 CHAIRMAN POURCHOT: Sure.

21 MS. HSIEH: There's a couple options.
22 The Trustees could go into Executive Session to have
23 discussion with our legal counsel if that's
24 recommended. Also, Gina, if the small spill response
25 and educational sections were removed from this

1 proposal would that -- would that cure it enough to
2 pass legal review or is this a conversation you'd like
3 to have in Executive Session?

4 MS. BELT: Yes.

5 MS. HSIEH: Okay. Why don't we go
6 ahead and do that if the Council would like to do that.

7 CHAIRMAN POURCHOT: I -- I'm not quite
8 ready for that yet.....

9 MS. HSIEH: Oh, okay.

10 CHAIRMAN POURCHOT:but, Ms.
11 Schorr, did you have further comments?

12 MS. SCHORR: No. And I agree that if
13 we're going to go into Executive Session which I think
14 is a good idea it's probably best to have a preliminary
15 discussion of all of the projects first and then go
16 into Executive Session. So.....

17 CHAIRMAN POURCHOT: Why don't we do
18 that then if -- unless people have further specific
19 questions on this first proposal or the first project.

20

21 (No comments)

22 CHAIRMAN POURCHOT: So why don't we --
23 why don't we turn to the second project then for an
24 overview.

25 MS. BOERNER: Okay. So we'll move to

1 project 13120112-B which is Clean Boating Activities
2 and Improved Waste Management Using Smartphones and
3 Outreach. And that's been submitted by the Cook Inlet
4 Keeper.

5 The main goal of the project is to
6 reduce chronic pollution from oil and other hazardous
7 wastes generated on vessels in working harbors
8 throughout the spill affected area. There are three
9 main objectives, to engage commercial fishermen in the
10 process of improving vessel waste management awareness;
11 to develop a smartphone application that would provide
12 immediate access to waste management solutions; and to
13 widely publicize project activities to spread positive
14 impacts.

15 There were several concerns again
16 raised by the Science Panel and myself, including the
17 potential real usage of such an app and its long-term
18 maintenance. The proposer has submitted some responses
19 to our concerns, but I do think we continue to have
20 doubts regarding the app's widespread adoption and the
21 long-term sustainability of the app.

22 And at this time I do not recommend
23 funding for this proposal. They are requesting \$66,311
24 over three fiscal years and \$30,537 in fiscal year '13.

25 CHAIRMAN POURCHOT: Any specific

1 comments or questions on this project?

2 (No comments)

3 CHAIRMAN POURCHOT: Tom, anything from
4 on line?

5 MR. BROOKOVER: Just a question on the
6 paperwork. I'm looking under the tab NOAA Clean Harbor
7 Projects and I'm seeing proposal number 112-B with your
8 reviewer -- you know, a table and reviewer comments and
9 then behind that are broader descriptions of the
10 project. Is that what I should be looking at? One of
11 the reasons I'm asking is, Catherine, your -- I'm not
12 finding your recommendation in the paperwork. I heard
13 you -- your recommendation there, but should I be
14 looking somewhere else, am I missing something?

15 MS. BOERNER: I guess Elise and Cherri
16 can.....

17 MS. HSIEH: Tom is on the phone in
18 Juneau. What -- I think a good helpful document to
19 start with when you review a project is the workplan
20 pages which summarize the Science Panel, Science
21 Coordinator and Executive Director comments and funding
22 recommendations. That page is -- you'll see at the
23 bottom of the page it'll say EVOS draft workplan
24 addendum dated February.....

25 MR. BROOKOVER: Got it.

1 MS. HSIEH:12th, 2013.

2 MR. BROOKOVER: Good.

3 CHAIRMAN POURCHOT: I -- and, Tom, I'm

4 guessing here, but I think one of the differences that

5 you pointed are that -- my understanding was

6 Catherine's giving her particular recommendation, the

7 recommendation you find I think is no consensus so that

8 the reviewers didn't necessarily all share the same

9 recommendation.

10 MS. HSIEH: That's the Science Panel

11 recommendations.....

12 CHAIRMAN POURCHOT: Right.

13 MS. HSIEH:and here the Science

14 Coordinator comments is Catherine.

15 MS. SCHORR: And, Tom, this is Jen.

16 That's on pages 8 and 9 of the work plan addendum.

17 MR. BROOKOVER: Okay. Very good. I've

18 got it.

19 CHAIRMAN POURCHOT: Okay. I guess I

20 have it now too. Thank you.

21 Other comments or questions on this

22 particular project, the Clean Boating Activities and

23 Improved Waste Management?

24 (No comments)

25 CHAIRMAN POURCHOT: If not let's -- why

1 don't we turn then to the Cordova Snow Management
2 Analysis, project number ending in 112-C.

3 MS. BOERNER: And that's again
4 mitigating Cordova stormwater runoff through snow
5 management analysis and that was submitted by the
6 Copper River Watershed Project. They're specifically
7 looking at the snow that's removed and dumped in areas
8 around Orca Inlet, Eyak Lake and Odiak Pond. The
9 Copper River Watershed is proposing a comprehensive
10 snow removal plan that would help select alternative
11 sites for snow disposal, recommend new equipment or
12 practices and establish monitoring protocols for local
13 water bodies. As a matter of practice Cordova -- a
14 city of Cordova's size is not required to have a snow
15 management plan in place.

16 Again the reviewers acknowledge the
17 potential benefits of this type of project, but were
18 concerned about the reality of implementing the plan
19 and the tenuous link to our injured resources.

20 Again, you know, the output of this is
21 just -- is a plan, it would require Cordova -- the City
22 of Cordova to actually implement the plan. I would say
23 even based on responses that we received from the
24 proposer I would not recommend the proposal for funding
25 at this time. They're requesting \$74,428 in fiscal

1 year '13.

2 CHAIRMAN POURCHOT: Thank you. Any
3 comments or questions on the Cordova Snow Management
4 Analysis Project by Council members?

5 Pete.

6 MR. HAGEN: Yeah, Catherine, you
7 indicated that the -- I guess it would produce a report
8 that would need financial support of the city to be
9 implemented. Was there any supporting documentation
10 from the city that would indicate that they would be
11 willing to do that or.....

12 MS. BOERNER: There was. And actually,
13 Laurel, if you want to talk about the letters that were
14 received.

15 MS. JENNINGS: Hold on one second, I
16 can pull them all up for us.

17 MS. BOERNER: Yeah, letters of support
18 were received from the City of Cordova, but they were
19 submitted to NOAA's Restoration Office and I'm sure
20 she'll have a better summary of them than I would.

21 CHAIRMAN POURCHOT: Laurel, could you
22 introduce yourself for the record?

23 MS. JENNINGS: Yes. Yes. Hi, Laurel
24 Jennings. I sit in the NOAA Restoration Center Office
25 in Seattle, Washington. And letters were received in

1 association with this application, they support
2 efforts. The first one is from State of Alaska,
3 Department of Fish and Game affirming that the project
4 is necessary and should go forward. If you're
5 interested I can tell you who signed it. I'll just go
6 through the other ones though. The next one is from
7 State of Alaska, Department of Transportation and
8 Public Facilities. And then another one from the
9 Native Village of Eyak again showing support and
10 affirming that the work is necessary.

11 CHAIRMAN POURCHOT: Do you have
12 any.....

13 MS. BOERNER: Was there a letter
14 received from the City of Cordova?

15 MS. JENNINGS: I believe there was one,
16 but perhaps it came late.

17 MS. CARPENTER: Is that this project?
18 It -- this is Kristin from the Copper River Watershed
19 Project. It should be with the proposal.

20 MS. BOERNER: Thank you.

21 MS. CARPENTER: And I guess I just
22 wanted to clarify, we requested from the Trustee
23 Council \$68,283. And with our match included the total
24 project cost would be \$80,983.

25 MS. BOERNER: Yeah, the cost you see

1 there that we've put in is adding our 9 percent.

2 CHAIRMAN POURCHOT: Pete, did you have
3 any follow-up?

4 MR. HAGEN: Just curious too. There
5 was a statement, Catherine, I think you made that I
6 guess for cities the size of Cordova they're not
7 required to have a snow management plan, I guess that
8 would be a state regulation, right, or issue?

9 MS. BOERNER: I believe so. That's
10 what I was advised.

11 MR. HAGEN: Okay.

12 MR. HARTIG: Excuse me. This is Larry
13 Hartig. It would be a federal requirement implemented
14 by the state.

15 MR. HAGEN: The state. I see.

16 MR. HARTIG: Uh-huh.

17 CHAIRMAN POURCHOT: Any further
18 comments or questions on the Cordova Snow Management
19 analysis?

20 (No comments)

21 CHAIRMAN POURCHOT: Tom, any further
22 comment on this project?

23 MR. BROOKOVER: No, nothing from me.

24 Thanks.

25 CHAIRMAN POURCHOT: Why don't we turn

1 then to the next project, 112-D, Landfill Restoration
2 Project.

3 MS. BOERNER: Okay. And that's the
4 Port Lions Landfill Restoration Project. It was
5 submitted by the City of Port Lions.

6 The city is proposing to enhance their
7 current six acre landfill to protect marine species in
8 Settlers Cove which lies directly below the structure.
9 The proposed improvements would reduce contamination of
10 groundwater and prevent leachate from moving into the
11 cove. They're requesting funding to create a
12 monitoring plan, cleanup the landfill, develop an
13 operations plan and begin a community outreach and
14 education program. Again current regulations do not
15 require any lining for a landfill on a town of this
16 size. There were several concerns raised during the
17 review process including the need for greater
18 participation by technical experts to provide guidance
19 to render the water quality sampling meaningful and to
20 ensure that the right modifications of the landfill are
21 selected and implemented. However the proposal is well
22 thought out and provides a reasonable time frame for
23 completion.

24 I am concerned that the monitoring
25 program which would measure the success of the project

1 is not comprehensive or detailed enough to demonstrate
2 enhanced water quality of habitat for injured resources
3 and I do not recommend funding the proposal at this
4 time. They're requesting \$57,553 in fiscal year '13.

5 CHAIRMAN POURCHOT: Questions by the
6 Council on the Landfill Restoration Project?

7 (No comments)

8 CHAIRMAN POURCHOT: Tom on line, any
9 questions or comments?

10 MR. BROOKOVER: No, not from me.

11 CHAIRMAN POURCHOT: Hearing no comments
12 or questions, let's move then to the final project,
13 that would be 112-E, Oil Water Separation by
14 Superhydrophillic and Superhydrophobic Surfaces.

15 MS. BOERNER: And this proposal is
16 submitted by researchers at the University of Rochester
17 in New York.

18 The goal of this program is to develop
19 a uniquely structured surface that can rapidly separate
20 oil from water on its own. The technique would be
21 using a thin film to remove oil from the water's
22 surface and it is unique to this lab. A thin film is
23 rolled out over the contaminated surface and rolled
24 back in when saturated and then fed through an
25 oil/water separator machine.

1 The proposal definitely represents a
2 proof of concept for a new oil spill remediation
3 technique which I and the Science Panel have several
4 concerns regarding the feasibility of the concept. The
5 proposer's obvious lack of knowledge of the spill area
6 and the current state of EVOS in the environment and
7 the cost of implementing new technology if this pilot
8 project was successful.

9 While I do personally appreciate the
10 new technology represented by the project it is not
11 particularly responsive to the request for proposals
12 and may not be appropriate for the Harbor Protection
13 Program. I do not recommend funding for this proposal
14 at this time. They're requesting \$392,560 in fiscal
15 year '13.

16 CHAIRMAN POURCHOT: Questions or
17 comments on the Oil Water Separation Project by the
18 Council members?

19 (No comments)

20 CHAIRMAN POURCHOT: Tom on line, any
21 comments or questions?

22 MR. BROOKOVER: No, nothing from me.

23 CHAIRMAN POURCHOT: I hear no specific
24 comments or questions on this. I would ask the Council
25 in general -- I mean, in terms of action today if

1 people feel there is a possibility of moving positively
2 on a motion or action on one or more of these projects
3 maybe it would be worthwhile to go to Executive Session
4 to hear from attorneys, but let me just say if there
5 isn't that possibility or there isn't the possibility
6 of retooling or redescribing or amending some of these
7 to the satisfaction of Council members then I would ask
8 whether or not we need to take further time with this
9 -- on this at this time.

10 Comments or suggestions by the Council?
11 Commissioner Hartig.

12 MR. HARTIG: Yeah, thanks, Mr. Chair.
13 It's Larry Hartig. I mean, I appreciate the difficult
14 position the legal advisors are in here because the
15 only way I think we can work through these would be a
16 bit of back and forth where they would tell us what
17 their concerns are and then we would try to address
18 that here and then there would be a bit of back and
19 forth, but that would be hard going in and out of
20 Executive Session and accomplishing much efficiently.
21 On the other hand I don't like the idea of just leaving
22 these to see what happens, you know, without making
23 sure that somehow they're moved forward. I think
24 there's some good projects, I don't know that all these
25 would go forward, some may not be ripe yet and some may

1 not be appropriate for EVOS, like the last one I don't
2 think would be. But it would be hard to ask the
3 proposers to go back and fix them when we don't know
4 what it takes to fix them ourselves, you know, without
5 more guidance from Law, the legal people.

6 So I don't know, maybe, Elise, I -- if
7 you have thoughts I'd be interested in that too, but I
8 tend to think that maybe we -- and I don't -- we don't
9 meet often enough to have special meetings on something
10 like this so I'm kind of left with our only chance is
11 right here today to have an Executive Session and see
12 what we get out of it and come back and try to either
13 ask some questions on particular projects and get them
14 going today or at least provide some direction so next
15 time around people know what they need to do. So I
16 guess I'm leaning toward Executive Session as our only
17 shot.

18 MS. HSIEH: Yes, I think that's -- I
19 think that's a good way to go. And I don't know, you
20 can ask whomever you like into Executive Session, if
21 you'd like to have Catherine come, for example, and/or
22 before you go into Executive Session if you'd like to
23 identify are there any projects in particular.
24 Catherine and I have presented some funding
25 recommendations which we do not fund on all the

1 projects except a potential funds modify on the Cordova
2 Harbor. So I don't know if you'd like to hear more
3 from Catherine on what she'd like to see scientifically
4 modified or have that conversation after.

5 CHAIRMAN POURCHOT: Well, that -- that
6 is exactly I think what.....

7 MS. HSIEH: Right. Yeah.

8 CHAIRMAN POURCHOT:Commissioner
9 Hartig was referring to that.....

10 MS. HSIEH: Okay.

11 CHAIRMAN POURCHOT:the question
12 is whether or not something actually could be resolved
13 in terms of a modification at this particular point in
14 time.

15 But other Council members?

16 MS. MARCERON: I'm comfortable going
17 into an Executive Session just to address that and I
18 would request that Catherine attend. I do just want to
19 hear the clarification on the fact that I know some of
20 the projects were asked for some additional feedback
21 and I want to hear sort of the DOJ's -- you know, our
22 legal input as to what additional information came
23 through and what -- again like was mentioned earlier,
24 what was the gap there or did it not address it at all
25 in the original -- you know, the follow-up question.

1 So I just want to get that clarification and
2 particularly for the Cordova -- Cordova Harbor.

3 CHAIRMAN POURCHOT: The question that
4 occurs to me on that, of course, is going into
5 Executive Session we heard from our attorney that, you
6 know, as far as her legal advise that would be an
7 Executive Session. If you're asking for Catherine's
8 further explanation of her scientific concerns I
9 believe that's another topic that doesn't necessarily
10 lend itself to Executive Session.

11 MS. MARCERON: It was tied with how --
12 what DOJ interpreted as a result of that additional
13 information.....

14 CHAIRMAN POURCHOT: Okay.

15 MS. MARCERON:whether that
16 addressed the concern. It sounds like it did not, but
17 I just want to get that clarification through DOJ.

18 CHAIRMAN POURCHOT: Okay. So the focus
19 would be -- of the Executive Session would be the legal
20 position and hearing from the DOJ attorneys?

21 MS. MARCERON: Yes.

22 MR. HAGEN: I think it would be useful
23 just to let the public know that, you know, there's a
24 lot of effort went into the initial idea of soliciting
25 for projects of this type, the NOAA Restoration Center

1 was volunteered, I guess, to go ahead and, you know,
2 solicit these and I think the proposals that came back
3 were in line to a large part with what we had asked
4 for. And I think the -- it's just a -- it's a
5 difficult situation because the use of these
6 restoration funds are restricted in a number of key
7 categories through Trustee policy and also with a
8 consent decree. So it makes it difficult to walk
9 through this. And unfortunately we as Trustees or
10 acting Trustees, we don't always know where the fine
11 line is. And so to the extent there's any apology, I
12 think we need to let the proponents know that it's not
13 necessarily their fault we're in this little bind, but
14 we'll see what we can do to work through it. So.....

15 CHAIRMAN POURCHOT: Any further
16 comments or questions?

17 (No comments)

18 CHAIRMAN POURCHOT: Why don't we
19 entertain a motion to go into Executive Session.

20 MS. CARPENTER: Excuse me. This is
21 Kristin Carpenter from the Copper River Watershed
22 Project.

23 CHAIRMAN POURCHOT: Yes.

24 MS. CARPENTER: If I'm -- I'm sorry, I
25 would raise my hand if I could, but I'm on the phone

1 obviously. But might we just have a minute each to
2 respond, I mean, we were advised to sit in on the call
3 and I understand you're talking about sort of legal
4 constraints that we're not familiar with in depth,
5 but.....

6 CHAIRMAN POURCHOT: I'm not sure we are
7 either. I think what we'd prefer at this point is to
8 go in to Executive Session to hear from the Department
9 of Justice attorneys on particular legal issues and
10 then come back and I think Commissioner Hartig's
11 suggestion was a good one, it -- I mean, if possible to
12 provide some kind of further guidance if that is
13 possible and desirable. And if there are further
14 questions we would certainly entertain comments from
15 the project proponents. Commissioner Hartig.

16 MR. HARTIG: Yeah, this is Larry Hartig
17 again. I move pursuant to whatever the appropriate
18 federal and state statutes are, I don't have them here
19 in front of me, that the Council go into Executive
20 Session for discussion with our attorneys regarding
21 potential legal concerns around the proposed NOAA
22 Harbor Projects and solely for the purpose of getting
23 their legal advice on their concerns on the projects
24 and how we might address those. And I'd also ask that
25 our Science Director, Catherine, also participate with

1 us in that.

2 CHAIRMAN POURCHOT: Is there a second
3 to that motion?

4 MS. SCHORR: Second.

5 CHAIRMAN POURCHOT: It's been moved and
6 seconded to go into Executive Session for the purposes
7 of hearing from our DOJ attorneys on the projects
8 before us and the inclusion of our Science Coordinator.
9 Any objections to that motion?

10 (No comments)

11 CHAIRMAN POURCHOT: Tom on line, any
12 objections?

13 MR. BROOKOVER: No, no objections from
14 me.

15 CHAIRMAN POURCHOT: So.....

16 MS. HSIEH: How long do you anticipate
17 the Executive Session, it's currently 10:40?

18 CHAIRMAN POURCHOT: Twenty minutes.

19 MS. MARCERON: I was thinking 20
20 minutes.

21 CHAIRMAN POURCHOT: Yeah. Why don't we
22 do our best to wrap up in 20 minutes.

23 (Off record)

24 (Executive Session)

25 (On record)

1 CHAIRMAN POURCHOT: Okay. Why don't we
2 come back into session now. We're in regular session.

3 I want to make sure, Tom, are you back on line?

4 MR. BROOKOVER: I'm back. Thanks.

5 CHAIRMAN POURCHOT: Great. And I
6 assume our -- Catherine, are you back on line?

7 MS. BOERNER: I am.

8 CHAIRMAN POURCHOT: And DOJ folks?

9 MS. BELT: Yes.

10 CHAIRMAN POURCHOT: Great. Thanks so
11 much. Well, let's see, so where we left off was we
12 were on agenda item 6, the NOAA Clean Harbor Projects
13 and we did get a briefing from our DOJ attorneys on the
14 -- some of the legal aspects of these projects. Maybe
15 we can take up -- what's the desire of the Council at
16 this stage. Larry.

17 MR. HARTIG: Yeah, Mr. Chairman, I just
18 suggest we go through them starting with 112-A and just
19 kind of work through them. I did appreciate the
20 discussions we had with our attorneys and, of course,
21 we didn't take any action during Executive Session, but
22 it did help I think frame our discussion as we take up
23 the projects now.

24 CHAIRMAN POURCHOT: So if I can get
25 back to where I started here. If that sounds like a

1 good idea to the rest of the Council why don't we --
2 and then kind of take these one at a time and decide
3 what the Council would like -- how they would like to
4 pursue any further action.

5 So the first project in order then is
6 Prince William Sound Harbor Cleanup Program, Project
7 Number 13120112.

8 MS. HSIEH: And that's the
9 administrative NOAA project which assists the
10 individual project.

11 MR. HAGEN: Yeah, deal with that last
12 maybe.

13 CHAIRMAN POURCHOT: Okay. We'll put
14 that back a bit. How about the Cordova Clean Harbor
15 Program ending in 112-A?

16 MR. HARTIG: Yes, Mr. Chairman, Larry
17 Hartig here. Again I like the Clean Harbor Projects, I
18 -- there's a lot in this one that I like although I
19 think it does need more work to satisfy some of the
20 legal concerns and also to address maybe some of the
21 other comments that we got from the Science Panel, from
22 Catherine. But I don't think that we have the ability
23 here to do that today and to get into a back and forth
24 with legal counsel and the proposer. But I would like
25 to see more work done on this one and have it come

1 back, if the people are willing, for consideration at
2 our September meeting, our next meeting currently
3 scheduled for September, I guess.

4 MS. HSIEH: The proposal would be due
5 September 1st, the meeting would take place in late
6 October, early November.

7 MR. HARTIG: Okay. Thanks for the
8 correction. Again I'd like to see more work on it, but
9 I caution that doesn't mean necessarily it'll get
10 approved by the Council, you know, there wouldn't be a
11 guarantee here. But the -- on the legal concerns I
12 think based on our discussions there's -- the biggest
13 one, maybe the nexus to our restoration objectives and
14 whether that could be put -- if that could be -- those
15 could be advanced through a project like this. The
16 other question that came up is whether we'd be putting
17 money towards something that -- where there's already a
18 legal obligation. And there was -- I can understand
19 those concerns too. But both of these I think that we
20 can flesh out and I -- from our agency, DEC's
21 perspective and I'll ask Pete to address this from his
22 agency perspective, I think that there would be an
23 opportunity initially for NOAA and DEC and perhaps
24 others to get together and say on projects like this,
25 on clean harbor projects like this, in other instances

1 what kind of benefits, environmental benefits have been
2 achieved, how do we think those might relate to this
3 proposal, how does those -- if those benefits are
4 realized how does that beneficially impact restoration
5 objectives and then use that as a framework for further
6 discussions with the proposer if they're willing. And
7 I think with that then we'd be able to get something
8 back that maybe would be closer to the mark and not
9 have the same legal concerns that we have right now.
10 We didn't obviously get into voting on these or into
11 much detail during the short period that we were in
12 Executive Session, I realize that there's other
13 concerns that were raised here by the Science Panel and
14 others perhaps and we didn't get to those so if, you
15 know, during -- if there is further question I suggest
16 they look at those too and see if those can be resolved
17 because we have to take those up and consider those in
18 any kind of final action.

19 So I wouldn't say tabling this, but put
20 it back for more work would be my recommendation. I --
21 if we can do that.

22 Pete, did you want to.....

23 MR. HAGEN: Yeah, I'll just -- Laurel
24 Jennings, I think you're on the phone as well. I think
25 what we had considered was just as Larry indicated a

1 way to kind of help fix the projects or at least
2 provide a construct in which the Trustee Council funds
3 could be used to kind of further, I guess, the goals of
4 improving water quality in Cordova Harbor. I think --
5 I was really impressed with the letters of support that
6 came in for the project under the broad sweep of which
7 they were taking things, I think there were --
8 definitely technical issues were raised concerning
9 monitoring and how's that constructed and what could be
10 done there.

11 But, Laurel, I guess since this would
12 be a commitment for your Division, I guess, within the
13 agency to work with DEC and the Trustee Council and the
14 proponent, is that something you're willing to do?

15 MS. JENNINGS: Yes, it is. We are
16 willing to do that.

17 MR. HAGEN: Okay. And this -- of
18 course, this would also be through the agencies as
19 well, kind of working with them to make sure the legal
20 issues are addressed adequately.

21 And so I guess with that response I say
22 I'd be supportive of the motion for this project to go
23 forward. And I think -- are we -- anyone else want to
24 speak to it or.....

25 CHAIRMAN POURCHOT: Why don't we just

1 go -- see if anybody else before entertaining a motion.

2 Other comments or questions?

3 (No comments)

4 CHAIRMAN POURCHOT: Tom, any comments

5 or questions?

6 MR. BROOKOVER: No, none from me.

7 CHAIRMAN POURCHOT: Larry.

8 MR. HARTIG: Well, one other legal

9 concern that came up specific on this project was on

10 funding any kind of activities related to oil spill

11 prevention and response, in the past I think we've made

12 it pretty clear that we can't fund those because of the

13 restrictions we have on the types of projects that we

14 can fund. And so I'm guessing that that would probably

15 have to come out.

16 But other than that I don't know if you

17 need a motion -- do we need a motion, Elise, or do we

18 just leave this -- defer it to the next meeting with

19 that kind of guidance?

20 MS. HSIEH: I think you can just defer

21 it or.....

22 MR. HAGEN: Well, I'm thinking it might

23 be useful just to -- for the -- to be able to identify

24 this project as one we'll be willing to enter into

25 negotiations with the proponents to produce a project

1 so it would be like a.....

2 MR. HARTIG: Well, I don't know if

3 would use the term negotiation because.....

4 MS. HSIEH: No.

5 MR. HARTIG:I don't -- I think

6 that kind of implies that we're -- have made a decision

7 to.....

8 MR. HAGEN: Oh, okay.

9 MR. HARTIG:enter into an

10 agreement and that I think we haven't.

11 MS. HSIEH: I think use defer.....

12 MR. HAGEN: Defer would be the term.

13 MS. HSIEH:just to clarify --

14 defer motion. So move to defer funding of this project

15 until.....

16 MR. HARTIG: Table it and take it up at

17 the.....

18 MS. HSIEH:the next regularly

19 scheduled meeting.

20 MR. HARTIG: Do we need a motion for

21 that?

22 MS. HSIEH: I don't think you have.....

23 CHAIRMAN POURCHOT: I don't think so.

24 MS. HSIEH:I don't think so.

25 MR. HARTIG: Okay.

1 CHAIRMAN POURCHOT: Why don't we --
2 we'll considered it tabled until.....
3 MR. HAGEN: Okay.
4 CHAIRMAN POURCHOT:and pending
5 resubmission or reexamination at our September or the
6 meeting.....
7 MS. HSIEH: Fall.
8 CHAIRMAN POURCHOT:fall meeting.
9 MR. HARTIG: Yeah, but obviously we
10 have interest in it or the agencies wouldn't be wanting
11 to.....
12 CHAIRMAN POURCHOT: Yeah.
13 MR. HARTIG:to try to define the
14 process better and the goalpost better. Okay.
15 CHAIRMAN POURCHOT: Thank you for that
16 summation. The next project then before is the.....
17 MS. HSIEH: You should all -- and this
18 is also, of course, contingent on the proposers also
19 being willing.....
20 MR. HARTIG: Right.
21 MS. HSIEH:to submit.
22 CHAIRMAN POURCHOT: The next project
23 ending in 112-B, Clean Boating Activities and Improved
24 Waste Management Using Smartphones and Outreach.
25 Discussion by the Council on this project?

1 MS. SCHORR: I -- my concern is -- you
2 know, echoes those of the Science Coordinator and some
3 of the Science Panel. And in addition I just don't see
4 a sufficient nexus between restoration and the funds
5 spent on this project. And have some concerns about
6 the -- you know, some of the logistical and
7 technological issues raised by the comments from the
8 Science Panel and the Science Coordinator.

9 CHAIRMAN POURCHOT: Commissioner
10 Hartig.

11 MR. HARTIG: Yeah, this is Larry Hartig
12 again. I agree on that and I -- to me it's just kind
13 of a question of the proof of the concept, you know,
14 would this really work, would it be sustainable and
15 would we invest in something that would last. I'd like
16 to see -- if we're going to see proposals like this
17 more of a track record.

18 CHAIRMAN POURCHOT: Other comments,
19 questions?

20 (No comments)

21 CHAIRMAN POURCHOT: Tom on line?

22 MR. BROOKOVER: No. No, I concur with
23 what Jen said.

24 MR. HAGEN: Yeah. This is Pete. I
25 think it's -- I think it's a really innovative idea.

1 I'm just sort of imagine the people that actually use
2 the apps once created are ones that would be probably
3 doing the best management practices regardless on their
4 own and I'm just wondering if that's really the
5 audience that would -- that it would really be --
6 should be geared toward would be the more casual and
7 not conscientious users of the harbors would be the
8 ones we'd actually want to target and I don't know if
9 they'd be looking at their smartphones regularly to
10 update where to put their wastes. I think it's a neat
11 idea, but I just find there are some issues and I would
12 agree with the Science Coordinator's comments.

13 CHAIRMAN POURCHOT: What's the desire
14 of the Council on this project?

15 MS. MARCERON: Is this one for a motion
16 -- ready for a motion?

17 CHAIRMAN POURCHOT: I think so.

18 MS. MARCERON: All right. I would make
19 the motion that we do not fund Project, I'll just end
20 it with the 112-B.

21 CHAIRMAN POURCHOT: Uh-huh. Second to
22 the motion?

23 MR. HARTIG: I'll second.

24 CHAIRMAN POURCHOT: It's been moved and
25 seconded to not approve the 112-B. Discussion on the

1 motion?

2 (No comments)

3 CHAIRMAN POURCHOT: Tom, any discussion
4 on the motion?

5 MR. BROOKOVER: No.

6 CHAIRMAN POURCHOT: Is there an
7 objection to the motion?

8 (No comments)

9 CHAIRMAN POURCHOT: Tom, objection?

10 MR. BROOKOVER: Not from me, no.

11 CHAIRMAN POURCHOT: Then without
12 objection the motion passes to not approve funding for
13 the 112-B.

14 MS. HSIEH: (Indiscernible - away from
15 microphone).....

16 CHAIRMAN POURCHOT: Why don't we just
17 on that -- on the first consideration I'm taking that
18 as we are deferring -- we are deferring taking action
19 or deferring approving that Cordova Project; is that
20 right?

21 MR. HARTIG: Defer taking action on
22 dash one, that's the way I understand it.

23 CHAIRMAN POURCHOT: Yes. Okay. That's
24 my understanding too.

25 So the next one you come to is 11 --

1 ending in 112-C, Cordova Snow Management Analysis.

2 Comments, further questions by the Council?

3 (No comments)

4 CHAIRMAN POURCHOT: Tom, any comments?

5 MR. BROOKOVER: No, Mr. Chair.

6 CHAIRMAN POURCHOT: Commissioner

7 Hartig.

8 MR. HARTIG: Yeah, Mr. Chairman, I look

9 at this one sort of like the Clean Harbor one where

10 there's some promise in it. I don't know if I feel

11 quite as strongly that there's as much promise in this

12 one as the other one, but it's hard to say at this

13 point. It's -- and I understand that the first step on

14 a project like this is the planning and I do appreciate

15 the letter of support from the city. And so I would --

16 I'd put this -- I do put this in the same category as

17 dash A, 112-A. I'd like to see if Cordova, the

18 proponents, are willing to have more discussion with --

19 just along the lines that I've talked about on the dash

20 one -- A. And so what I'd like to do would be, if the

21 others are willing to defer action on this until

22 September meeting -- October meeting, excuse me, and

23 proceed as we already discussed on the dash A project.

24 CHAIRMAN POURCHOT: Other comments or

25 questions by the Council?

1 MS. SCHORR: I agree with that
2 suggestion.

3 CHAIRMAN POURCHOT: Pete.

4 MR. HAGEN: Yeah, I think that would be
5 a good suggestion as well. It -- I think there was
6 some concerns raised about -- that came up in the
7 technical reviews that should also be addressed as well
8 in further discussion. But I'd like to see -- at least
9 give them the opportunity to see if it can be made to
10 work.

11 CHAIRMAN POURCHOT: So we're getting
12 little emails from our attorneys on suggestions for
13 clarifying our actions. I think they would prefer that
14 we actually make a motion or move to defer.....

15 MR. HARTIG: Okay.

16 CHAIRMAN POURCHOT:action. So if
17 no harm to that, Larry, maybe I could get you to maybe
18 make.....

19 MR. HARTIG: Sure.

20 CHAIRMAN POURCHOT:a double
21 motion for the first one and this snow management
22 project.

23 MR. HARTIG: Yeah. Thank you, Mr.
24 Chairman. I move that the Council defer consideration
25 -- further consideration and action on Project

1 13120112-A, Cordova Clean Harbor Program and Project
2 Number 13120112-C, Cordova Snow Management Analysis,
3 until our next scheduled meeting and to provide an
4 opportunity for additional effort by the agencies to
5 attempt to better clarify a process for us to evaluate
6 these projects in light of some of the legal concerns
7 that were raised and also provide an opportunity for
8 some further dialogue with the proponents if they're --
9 if they are willing on how these projects may -- each
10 of these projects could be tailored to help resolve
11 some of those concerns and also some of the concerns
12 that were raised in comments from the Science Panel and
13 the advisor and the Science Advisor Coordinator -- I
14 mean, Science Coordinator. So that's my motion.

15 CHAIRMAN POURCHOT: Second to the
16 motion?

17 MS. MARCERON: I second.

18 CHAIRMAN POURCHOT: It's been moved and
19 seconded. Further discussion?

20 (No comments)

21 CHAIRMAN POURCHOT: I would just ask
22 for the record does Council understand the motion and
23 the rationale for the motion.

24 (No comments)

25 CHAIRMAN POURCHOT: Tom.

1 MR. BROOKOVER: Yes, I understand it
2 and I concur with it.

3 CHAIRMAN POURCHOT: Is there any
4 objection to the motion to defer the two projects
5 pending additional work to overcome some of the stated
6 objections to the project until the fall meeting?

7 (No comments)

8 CHAIRMAN POURCHOT: Tom.

9 MR. BROOKOVER: No objection here.

10 CHAIRMAN POURCHOT: Thank you.

11 MR. BROOKOVER: No objection here.

12 CHAIRMAN POURCHOT: Without objection
13 then the two projects will be deferred to the fall
14 meeting.

15 MS. HSIEH: I think Gina wanted a yea
16 on the motion from each member of the Council.

17 CHAIRMAN POURCHOT: We're not going to
18 give her that.

19 MS. HSIEH: Okay.

20 CHAIRMAN POURCHOT: That means --
21 without objection means.....

22 MR. HARTIG: The motion passed.

23 CHAIRMAN POURCHOT:the motion
24 passed unanimously.

25 So let's turn to 112-D, the Landfill

1 Restoration Project. Further comments or questions by
2 the Council?

3 (No comments)

4 CHAIRMAN POURCHOT: What's the desire
5 of the Council on the Landfill Restoration Project?

6 MS. MARCERON: I would make the motion
7 not to fund Project Number 13120112-D, Landfill
8 Restoration Project based on the technical and science
9 feedback that we received.

10 CHAIRMAN POURCHOT: Is there a second
11 to the motion?

12 MR. HARTIG: I'll send.

13 CHAIRMAN POURCHOT: It's been moved and
14 seconded to not fund the Landfill Restoration Project.
15 Is there discussion or further questions by Council
16 members?

17 (No comments)

18 CHAIRMAN POURCHOT: Tom.

19 MR. BROOKOVER: No, no further
20 discussion from me.

21 CHAIRMAN POURCHOT: Without further
22 discussion is there any objection to the motion to not
23 fund the Landfill Restoration Project 112-D?

24 MR. BROOKOVER: No objection here.

25 CHAIRMAN POURCHOT: Without objection

1 then the motion passes unanimously.

2 Moving then to 13120112-E, Oil Water
3 Separation by Superhydrophillic and Superhydrophobic
4 Surfaces. Further questions or comments on this
5 project by Council members?

6 (No comments)

7 CHAIRMAN POURCHOT: Mr. Hartig.

8 MR. HARTIG: Thank you, Mr. Chairman.

9 I move that we not approve Project Number 13120112-E.
10 I concur in the comments by the Science Panel and
11 Coordinator and the Executive Director. Although it
12 may have some interest as a proof and concept type
13 project it doesn't fit well with the projects that we
14 can legally fund and I don't -- so I don't think that
15 we should be funding this one.

16 CHAIRMAN POURCHOT: Is there a second
17 to that motion?

18 MS. SCHORR: Second.

19 CHAIRMAN POURCHOT: It's been moved and
20 seconded to not fund the Oil Water Separation Project.
21 Any -- is there objection to the motion?

22 (No comments)

23 CHAIRMAN POURCHOT: Tom.

24 MR. BROOKOVER: No, no objection.

25 CHAIRMAN POURCHOT: Then without

1 objection the motion to not fund passes unanimously.

2 Should -- then do -- should we go back
3 to the first project then?

4 MS. HSIEH: Yes.

5 CHAIRMAN POURCHOT: So let's return
6 then to the first one by the way it was in the book --
7 in our book which would be the Prince William Sound
8 Harbor Cleanup Program.

9 MS. HSIEH: Catherine, can she.....

10 MS. BOERNER: I'm here.

11 MS. HSIEH:offer some
12 guidance.....

13 CHAIRMAN POURCHOT: Yeah.

14 MS. HSIEH:with regard to the
15 funding that you as Science Coordinator would foresee
16 would be necessary to facilitate potentially the two
17 projects which have been deferred.

18 MS. JENNINGS: Yes, hi. We are ready
19 to move forward with the different groups and we'll
20 work on these.

21 CHAIRMAN POURCHOT: The question is
22 really on the funding.

23 MS. JENNINGS: I'm sorry, can you
24 repeat those funding questions.

25 MS. BOERNER: What funding would you --

1 would you need or do you have funding currently that
2 would help you do this?

3 MS. JENNINGS: Yes, we could continue
4 in the capacity we're doing to work with the applicants
5 to revise the proposals, to continue communication with
6 the different Trustees and legal, of course. And yes,
7 we can do that with the agency funds that, you know, we
8 already have. We did submit a revised proposal for the
9 project management and I think -- it sounds like that
10 could kick in if funding is awarded. But since that
11 won't be decided for several months we'll be able to
12 just continue as we are.

13 CHAIRMAN POURCHOT: Okay. Comments by
14 the Council members on that. Jen.

15 MS. SCHORR: So just so I understand
16 the proposal would be modified to move forward with the
17 two projects that have been deferred. And -- but NOAA
18 does not require any funding at this time to undertake
19 that process.

20 CHAIRMAN POURCHOT: That's what I
21 understood from what she said.

22 MS. SCHORR: Is that correct, Laurel?

23 MS. JENNINGS: Yes.

24 MS. SCHORR: Excellent.

25 MS. JENNINGS: Thank you. That's a

1 good summary.

2 MS. SCHORR: Okay. Thank you.

3 MS. MARCERON: And you would also --
4 this is Terri, you would also submit another proposal
5 in September like here if those two are submitted in
6 order to support that program, I mean.....

7 MS. JENNINGS: Yes, correct. A revised
8 project management budget based on two rather than
9 five.

10 MS. SCHORR: Correct. Thank you.

11 CHAIRMAN POURCHOT: With that
12 understanding, desires of the Council on action on this
13 particular project number?

14 MR. HAGEN: Well, I think this would be
15 one to put forward a motion, I guess, to defer this
16 project until September or until the other -- depending
17 on the fate of the other projects coming forward.
18 So.....

19 CHAIRMAN POURCHOT: Why don't we -- if
20 you don't mind we'll take that as a motion to.....

21 MR. HARTIG: And I'll second it.

22 CHAIRMAN POURCHOT:defer. It's
23 been moved and seconded to defer funding of 13120112,
24 the Prince William Sound Harbor Cleanup Program pending
25 resubmission or reconsideration if any at the fall

1 meeting.

2 MR. HARTIG: Yeah, Mr. Chair. I think
3 he meant deferred consideration.....

4 CHAIRMAN POURCHOT: Deferred.....

5 MR. HARTIG:not deferred funding.

6 CHAIRMAN POURCHOT: Yes, deferred
7 consideration. It's been moved and seconded and
8 clarified on the motion, is there -- are there
9 objections -- any objection to the motion?

10 (No comments)

11 CHAIRMAN POURCHOT: Tom.

12 MR. BROOKOVER: No objection.

13 CHAIRMAN POURCHOT: Then without
14 objection the motion to defer is approved unanimously
15 for the Prince William Sound Harbor Cleanup Program.

16 CHAIRMAN POURCHOT: Any further action
17 or comments or -- by Council members before leaving
18 this agenda item?

19 (No comments)

20 CHAIRMAN POURCHOT: Okay. That brings
21 us to the Marine Debris Project.

22 We've had a request for a short break
23 so this is a good time. Before getting into the next
24 agenda item why don't we take a five minute break and
25 be right back.

1 (Off record)

2 (On record)

3 CHAIRMAN POURCHOT: Let's come back to
4 order again. And, Tom, are you back with us on line?

5 MR. BROOKOVER: I am.

6 CHAIRMAN POURCHOT: Great. Let's see.
7 Let's go to the Marine Debris Project Amendment. And,
8 Catherine, were you going to introduce us to this?

9 MS. BOERNER: Yes, I will. This is
10 Project 13120116-AM 2.21.13. It's an amendment to the
11 Marine Debris Removal Program submitted by the Gulf of
12 Alaska Keeper.

13 Just as a general background this is an
14 amendment to their original proposal which was funded
15 in fiscal year '12 and any work that was originally
16 proposed for fiscal year '13 and '14 under that project
17 will be pushed back a year in order to allow this
18 project to continue. And the basic premise of the
19 project is when we did fund this work and they began
20 going out into the field that summer they started
21 noticing debris, tsunami debris from the Japanese
22 earthquake starting to arrive in Gulf of Alaska
23 beaches. And unfortunately it is now moved into Prince
24 William Sound and the spill affected area. And
25 specifically moving into and around the Naked Island

1 group which is very critical habitat for both herring
2 and seabirds. They're asking to be able to go out and
3 work with NOAA and DEC to continue to cleanup this
4 debris which again is -- has a high potential for
5 damage to seabirds and fish that do eat the small
6 styrofoam pieces. It was unanimously considered -- it
7 was unanimously recommended for funding between myself,
8 Elise and the Science Panel. And I will say the
9 Science Panel was very supportive of the urgency to
10 getting this debris removed from the essential habitat.
11 The few concerns that we did have were addressed by the
12 proposer which included a map of the beaches that would
13 be cleaned and their plan for coordinating with DEC and
14 NOAA. And they're requesting \$483,088 for fiscal year
15 '13.

16 Chris, are you on the line?

17 (No comments)

18 MS. BOERNER: No. I was hoping Chris
19 Pallister, the Project Manager would be on the line,
20 but I don't believe he was able to.

21 CHAIRMAN POURCHOT: Thank you very
22 much, Catherine. Questions or comments by Council
23 members?

24 (No comments)

25 MR. HARTIG: Mr. Chairman.

1 CHAIRMAN POURCHOT: Larry.

2 MR. HARTIG: Larry Hartig. I'll go
3 ahead and make a motion so we can get it on the table
4 for discussion. I move we approve funding, \$483,088
5 which includes 9 percent GA for Project 13120116-AM
6 2.21.13, Marine Debris Removal Program for fiscal year
7 2013.

8 CHAIRMAN POURCHOT: Is there a second
9 to the motion?

10 MS. MARCERON: I second.

11 CHAIRMAN POURCHOT: It's been moved and
12 seconded to approve funding for the Marine Debris
13 Removal Program. Discussion or further comment or
14 question by the Council? Jen.

15 MS. SCHORR: Yeah. Catherine, hi, it's
16 Jen. So I just had a question. It looks like there
17 has been some funding set aside to deal with tsunami
18 debris, but it's not yet known where that funding will
19 be spent for marine debris removal; is that correct?

20 MS. BOERNER: It hasn't -- in most
21 cases it hasn't even been set aside. The funding that
22 has come has been quite small and it's been distributed
23 among five different states along the Pacific border.
24 And I do know that the amount of funds, which I'll be
25 honest I'm not entirely sure what that amount was, have

1 already been spent cleaning up whatever debris was
2 available, but of course they didn't move into the
3 spill affected or into Prince William Sound which is
4 what this project is hoping to do. As for other
5 funding that's supposed to come from both the
6 government and from the Japanese government, there is
7 no time table for when that funding will be available
8 and how much will be available.

9 MS. SCHORR: Okay. So I guess what I
10 was -- my -- where I was going with my question is
11 there's -- it doesn't sound like there's much chance
12 that there will be an overlap of debris removal areas,
13 you know, with different funding sources?

14 MS. BOERNER: I think that would be
15 extremely unlikely.

16 MS. SCHORR: Okay. And what about has
17 NOAA received funding. I see in the supplemental
18 information that DEC received an initial allocation,
19 but I'm just curious whether you know that -- whether
20 NOAA has also received funding and if so how much that
21 funding is?

22 MS. BOERNER: That I am not familiar
23 with. I don't know if anyone is familiar with that, if
24 Pete -- I'm not familiar with what funds have been
25 available and how much.

1 MS. SCHORR: Okay.

2 MR. HAGEN: This is Pete.

3 Unfortunately I should know the answer, but I don't.

4 But if there was any money it's not very much. It's

5 money that's shared across, the program I guess gets --

6 is a nationwide program and they share it with all

7 coasts, I guess. And specific money for the tsunami I

8 don't believe has come directly from congressional

9 appropriations yet. So we're still waiting action on

10 that. And maybe Larry might know a little more, he's

11 involved with.....

12 MR. HARTIG: Yeah, thank you, Mr.

13 Chair. Larry Hartig. Yeah, Governor Parnell had

14 signed an executive order, puts DEC as the lead agency,

15 the coordinating agency for the state and the point of

16 contact for the federal agencies and, of course, NOAA

17 has their National Marine Debris Program as Pete

18 mentioned, but there is no special marine debris --

19 tsunami marine debris funding that congress has

20 approved that I'm aware of. We did get 50,000 last

21 fall, the state did, DEC did, and a grant from NOAA

22 which was passed through that was used for work in

23 Prince William Sound, cleanup work last fall. And the

24 Japanese marine or the Japanese gift, the 5 million,

25 that'll be split somehow among the western states, it

1 isn't necessarily sure how that will be apportioned
2 yet. We anticipate getting the first bit of that
3 money, I think it's 250,000 through NOAA that could be
4 used early part of this summer and we turn around and
5 apply for additional funds. But regardless we know
6 that there won't be near enough.

7 The scope of the problem has been
8 fairly well defined to date. We did a conference of
9 aerial survey with the contractor, Tim Veenstra, I
10 think we presented it at the last meeting -- Trustee's
11 meeting. And since then we've seen -- and it basically
12 showed debris all the way down from Alaska peninsula
13 all the way down to Southeast and particularly the
14 outer beaches in Prince William Sound, Naked Island
15 that we talked about a minute ago and was hit really
16 particularly hard. And we seen that in the field an
17 estimate of about 30 percent additional debris just
18 from what we saw last fall has come in over the winter.
19 So the problem is big and it is by and large styrofoam
20 type material that's showing up now, oyster-breeze (ph)
21 used for mariculture and construction material and that
22 -- we seen that styrofoam breakdown in the surf and
23 that's the big issue is what happens with it especially
24 when it gets broken down in pieces the size that
25 animals and fish and birds can ingest and we are seeing

1 evidence that that's happening. And we know what the
2 consequence of ingestion of plastics is and that -- and
3 the ill effects of that on wildlife. Research is still
4 being done on styrofoam, but there's probably some
5 similarities there. So we think there would be impacts
6 and that there's a need to move pretty quick because
7 the stuff's breaking down. And any funding -- other
8 funding sources that may be out there, they're not
9 going to be very immediate and there's nothing for
10 sure. And what looks probable the amounts aren't near
11 enough to cover what we know is already there. So I
12 don't worry about any overlap.

13 MS. SCHORR: Thank you.

14 CHAIRMAN POURCHOT: Other comments or
15 questions?

16 MR. HAGEN: I guess just a
17 question.....

18 CHAIRMAN POURCHOT: Pete.

19 MR. HAGEN:on the funding. So we
20 approved one -- it was -- initially the proposal was a
21 three year project, we approved the first year of it
22 and I guess that money has been spent. And.....

23 MS. BOERNER: Yes.

24 MR. HAGEN:this proposal is a
25 modification of what was initially so it's part of

1 that, I guess is it new money, I guess it's -- I guess
2 the proposal they've submitted is sort of the second
3 year of that commitment to do three years, is it, are
4 we now.....

5 MS. BOERNER: No.

6 MR. HAGEN:committing to a four
7 year.....

8 MS. BOERNER: No, this is an amendment,
9 this is addition to the original funding. They're
10 actually going to push back the work that they had
11 originally scheduled for fiscal year '13 and '14 in
12 order to insert this.

13 MR. HAGEN: I see.

14 MS. BOERNER: Because this was an
15 unexpected project, you know, this wasn't something
16 they had planned on doing.

17 MR. HAGEN: Okay.

18 MS. HSIEH: However the funding is
19 reviewed by you every year so as.....

20 MS. BOERNER: Right.

21 MS. HSIEH:this is a shifting
22 target here so as -- every year you can kind of -- this
23 proposal can adjust and the Trustee Council can also
24 adjust its expectations regarding its investment in
25 this area depending on how things develop.

1 MR. HAGEN: Okay. So but essentially
2 this is new monies in a way. I'm -- well, I guess it's
3 -- their suggestion is now to have a four year program.
4 MS. HSIEH: That's their.....
5 MR. HAGEN: Yeah.
6 MS. HSIEH:projection.
7 MR. HAGEN: Okay.
8 MS. MARCERON: But my understanding is
9 we're only approving the fiscal year '13 one year.....
10 MR. HAGEN: Okay.
11 MS. MARCERON:and they added some
12 maps that would show based on recent tsunami
13 information a modification of where they would focus
14 their work. That's my understanding of this amendment.
15 MS. SCHORR: And so this amendment then
16 -- Terri, just following up on what you were just
17 saying, is for the total of \$443,200 in EVOS funds?
18 MS. HSIEH: It is.
19 MS. SCHORR: For fiscal year 2013.
20 MS. HSIEH: FY 2013. Although I'd like
21 Catherine and Linda to confirm -- oh, I think it's
22 okay. to confirm management funds are all right.
23 MS. BOERNER: Uh-huh.
24 MS. SCHORR: Does that include GA?
25 MS. HSIEH: Yes.

1 MS. BOERNER: The funding that you have
2 before you includes the 9 percent GA.
3 MS. SCHORR: Okay. Thank you.
4 CHAIRMAN POURCHOT: Any other comments
5 or question?
6 (No comments)
7 CHAIRMAN POURCHOT: Tom on line.
8 MR. BROOKOVER: No. No, I don't have
9 any other questions or comments.
10 CHAIRMAN POURCHOT: Any further
11 comments or questions? And I'm -- I apologize, you did
12 make the motion?
13 MR. HARTIG: Yeah.
14 CHAIRMAN POURCHOT: Okay. And it was
15 seconded. Okay. If there's no further comments or
16 questions then the motion before us is to approve
17 funding for 13120116 as amended, I guess, on the Marine
18 Debris Removal Program. Is there any objection to the
19 funding of that project?
20 (No comments)
21 CHAIRMAN POURCHOT: Tom.
22 MR. BROOKOVER: No, no objection.
23 CHAIRMAN POURCHOT: Then without
24 objection the motion to approve passes unanimously.
25 And we'll move on to the next one.

1 Kodiak Amendment. And do we have some folks here from
2 Fish and Wildlife Service or Koniag folks? Come on
3 forward. I would ask that kind of -- Mitch, did you
4 want to come up or someone from the Fish and Wildlife
5 Service to.....

6 MR. ELLIS: We thought that we'd give
7 Will a chance to talk and.....

8 CHAIRMAN POURCHOT: Okay.

9 MR. ELLIS:then Mark Fink and I
10 would come up and answer any questions.

11 CHAIRMAN POURCHOT: Very good. Okay.
12 I would -- we do have materials, we have been briefed
13 and so I would just ask the -- for a very brief
14 explanation.

15 MR. ANDERSON: I can be very brief.
16 And.....

17 CHAIRMAN POURCHOT: Very good.

18 MR. ANDERSON:first of all I'd
19 like to thank you for providing us the time to work on
20 some of the issues that were outstanding with respect
21 to the easement agreement. I think that we used that
22 time very productively and there was a lot of hard work
23 and cooperation amongst all the parties to try to
24 resolve those issues. And for the most part I think
25 we're there, I think we still have some wording changes

1 to the proposed amendments based upon comments that we
2 received from both the state and Fish and Wildlife
3 Service.

4 But the one area that has not been
5 addressed is how these various initiatives will be
6 funded. From Koniag's perspective while we do receive
7 an annual payment each year from the easement to --
8 that compensates us for the -- you know, the granting
9 of a public access, an important part of the
10 consideration was, in fact, you know, the protection of
11 the land, enforcement of the permitting system, the
12 protection of the archeological resources and absent
13 funding for those initiatives we don't feel like we are
14 receiving all the consideration that easement agreement
15 calls for. And so we've put forth a proposal that I
16 believe addresses the funding shortfall and we look to
17 the Council to approve creation of that special
18 stewardship account and I believe that -- should that
19 occur that, you know, Koniag is prepared to continue
20 with the easement agreement as amended.

21 And I think that was fairly brief.

22 CHAIRMAN POURCHOT: Thank you very
23 much. For the record, Mr. Anderson, will you just.....

24 MR. ANDERSON: Oh, yeah. My name is
25 William Anderson, Jr., I'm President and CEO of Koniag,

1 Incorporated.

2 CHAIRMAN POURCHOT: Questions for Mr.
3 Anderson?

4 (No comments)

5 CHAIRMAN POURCHOT: Tom, any questions?

6 MR. BROOKOVER: No, not at this time.

7 MR. HARTIG: I'll have some questions
8 in a minute, but I want to hear from the others first.

9 CHAIRMAN POURCHOT: Okay. Great.

10 Thank you very much. Mitch. Maybe you can introduce
11 yourselves for the record here.

12 MR. ELLIS: Sure. My name's Mitch
13 Ellis, I work for the U.S. Fish and Wildlife Service.
14 I'm the Chief of the National Wildlife Refuge System in
15 Alaska.

16 MR. FINK: And I'm Mark Fink for the
17 Department of Fish and Game, Habitat Biologist and I
18 work on land issues for the Department statewide.

19 CHAIRMAN POURCHOT: And did you have
20 some opening comments?

21 MR. ELLIS: I think I was going to say
22 a lot more, but I'll keep it very brief. I also would
23 like to thank the Council for allowing us the time, I
24 know there was an extension granted at the last
25 meeting. I also think that we used the time very

1 productively and for the most part came to agreement on
2 many of the items that were at issue.

3 With regard to a couple of the specific
4 items, just for the record I would state that the Fish
5 and Wildlife Service, we support the concept of a
6 stewardship fund insofar as it is tied directly to the
7 grantee's responsibilities under Sections 5A and 5B of
8 the Conservation Easement Agreement and Section 10 of
9 the Master Agreement. So in other words as long as the
10 funding is directly tied to the very specific items
11 that are mentioned in the agreements that are above and
12 beyond the normal activities of the agency, we would
13 support that.

14 The -- I think the only other thing
15 I'll say at this time is that -- maybe that we regret
16 not having a more final and detailed proposal for the
17 group. We appreciate the Council giving us the time to
18 work on this and we do regret not having that available
19 for you today.

20 So I'll turn it over to Mark at this
21 point.

22 MR. FINK: Yeah, Mark Fink again with
23 Department of Fish and Game. I like Mitch and Will
24 actually do appreciate the time you gave us to work out
25 some tweaks, trying to make the conservation easement

1 and management implementation of it about as best as it
2 could be. I too think we're very close, a few issues
3 that we -- Fish and Game at least still has some
4 concern with that we haven't quite addressed. One
5 particularly is expansion of permitting and the
6 unguided users beyond the half mile corridor. We still
7 have concerns or whether that's needed. And we've
8 closed with Koniag trying to do our work out there on
9 the conservation easement, particularly the Karluk
10 River and we appreciate your efforts trying to assist
11 us in getting some permit structure there to do some of
12 our salmon work out there and I -- they've got a
13 proposal there for doing that.

14 I guess we'd just ask you to consider
15 that and we -- that's about all I have to say. And
16 we're here for questions.

17 CHAIRMAN POURCHOT: I would just say it
18 is -- presents to the Council kind of a difficult
19 situation as we speak here today because about a week
20 or two ago we did receive a, I guess, unilateral sort
21 of agreement from Koniag and then we had -- we had no
22 way to evaluate a lot of the terms of that and
23 obviously there wasn't time to get a response from
24 either the state Fish and Game or Fish and Wildlife
25 Service. So we don't quite how to reconcile all those

1 pieces and I think it does present a very difficult
2 problem today for the Council.

3 Other comments or questions? Larry.

4 MR. HARTIG: Yeah. Thank you, Mr.

5 Chairman. Larry Hartig here. I do appreciate all the
6 work that went into it and I'm very sympathetic to
7 Koniag's concerns about kind of the history and kind of
8 the future of management of activities out there and
9 whether it's fulfilling everybody's intent from the
10 original agreements. But it did strike me as there's a
11 lot in here that isn't EVOS, you know, and so that
12 makes another difficult task for us to kind of sort
13 through this, you know, they're all legitimate concerns
14 and stuff that are being addressed, but it's like well,
15 if this is a make it or break it deal here that we have
16 to have this fund and it has to look like this to have
17 the conservation easement, Koniag approved that, the
18 continuation of that, there's a lot in here that isn't
19 us, you know, in terms of -- and that goes into what
20 the Chairman said is that it's hard for us to weigh in
21 on those because one, we don't have complete
22 understanding of those issues and we don't have that
23 kind of authority to deal with those particular issues.
24 And so it's kind of a toss -- it's a bit tossed back to
25 the agency, particularly U.S. Fish and Wildlife

1 Service, to a degree Fish and Game is is this the kind
2 of agreement that you'd be willing to live with, you
3 know, perhaps in perpetuity because it does strike me
4 as it would take a lot of management and, you know,
5 managing the fund and the uses of the fund and how it's
6 invested and the reporting on it and who's out there
7 when and who's reporting those activities to who and on
8 and on. It's -- and it -- when I got it I thought
9 well, if we just boil it down to what the Trustees are
10 interested in and then tell the agencies well, the rest
11 of it's for you to go work on, it's not us, but somehow
12 they got -- they're linked here which makes it hard for
13 us to to proceed until kind of you have your
14 negotiations which really don't totally involve us. So
15 I don't know how to -- I guess Fish and Wildlife
16 Service and, I mean, I don't want to put you on the
17 spot, but is this the kind of thing that you would
18 agree to or would you rather just spend more time and
19 work on it more with them?

20 MR. ELLIS: Well, thank you for the
21 comment and the question. I think the conservation
22 property's very important and the Master Agreement
23 points to the values of and the relationship of those
24 values to the -- to the spill. And we do value it, we
25 like the partnership with Koniag and the state and we

1 feel it's -- it is worth a lot of effort. Again
2 getting back to my original comments, the -- really our
3 support of the -- any stewardship fund is tied to
4 really our obligations in addition to what we would
5 already be doing on Kodiak National Wildlife Refuge.
6 So the permit requirements, managing that process on
7 the conversation property, any kind of public use
8 management or law enforcement obligations that are
9 additive as it relates to the conservation property and
10 minimizing damage by any access that is gained by the
11 conservation easement. So opening those areas to
12 agency use and public use has responsibilities. So to
13 make sure the cultural resources and sites aren't
14 damaged. I think the group came to agreement on how we
15 would make that happen.....

16 MR. BROOKOVER: Folks, this is Tom.
17 I'm afraid I'm not hearing that conversation. I think
18 it's Mitch speaking and, Mitch, if you could move the
19 mic closer I'd appreciate it.

20 MR. ELLIS: Okay. My apologies. Yeah,
21 this is Mitch. I was going over I guess the conditions
22 on which we support a conservation easement stewardship
23 fund. And that would be very limited, it would be
24 limited to those things that are tied to Sections 5A
25 and 5B of the agreement. Our hope and initially, you

1 know, the first 10 years of the conservation easement I
2 think the parties have worked together generally well,
3 I think it's been a success, I think there's been a lot
4 of progress made. A lot of the things that Koniag
5 would like to see are improvements upon what our
6 successes have been to this point and we support that.
7 Ideally from the agency standpoint we would like to see
8 an agreement in perpetuity or even be title acquisition
9 of some areas of the conservation property. That's our
10 ultimate goal. Koniag has not expressed support for
11 that at this time, but, you know, our hope is to work
12 towards that goal.

13 I'm not sure if that answers your
14 question, but.....

15 MR. HARTIG: Well, maybe just a follow-
16 up if I may. The concerns -- I guess what I read into
17 it is there's -- the concern is that the stewardship
18 fund includes funding of obligations that would go
19 beyond those specific sections that you mentioned of
20 the agreement -- current agreement. And so is that a
21 -- does that create a legal concern, a management
22 concern or both, you know.....

23 MR. ELLIS: The way the obligations are
24 characterized in the agreements now it gives our agency
25 more discretion, it says if funds are available we will

1 do these things. And I think the amendments you'll see
2 harden that, they put more obligation on the agencies.
3 So in a limited fashion we're willing to deal with
4 that. The exact wording of how that will be amended,
5 you're correct, it hasn't been worked out, but we're
6 close.

7 CHAIRMAN POURCHOT: Terri.

8 MS. MARCERON: Again being fairly new
9 to the Council I -- I'm going to ask if it's a lease or
10 a legal question in relationship to how the stewardship
11 fund is packaged here because I know there are other
12 EVOS acquired lands that other agencies manage
13 including my agency and I know that we have the
14 obligation without having ever been able to ask for
15 funds in order to administer the commitment made when
16 we acquired those. And I wanted to understand is this
17 a different situation and how -- is this precedent
18 setting in terms of establishing a fund like this which
19 then would open the door for others to potentially come
20 to the Council to meet the agency's obligation under an
21 easement. So I'm just trying to understand that
22 portion being new to the Council.

23 MS. HSIEH: My understanding is Gina,
24 Jen and Sam and Ericka can speak to it or aspects of
25 it. And Joe. Well, with regard to Trustee Council is

1 that the Trustee Council has funded approximately 131
2 fee title with conservation easements and four
3 conservation easements were the real property is not
4 purchased, this being one of them. It is my
5 understanding the Trustee Council has not funded
6 maintenance or agency activities, whether under their
7 typical scope or not of any kind on these properties,
8 the Trustee Council has only produced -- authorized the
9 funds for one of state governments to actually purchase
10 the property and there's been no other financial
11 obligation, voluntary or not by the Trustee Council.
12 That's my understanding. And I don't know if -- Jen,
13 if you or one of the other legal team would like to
14 speak to that.

15 MS. SCHORR: That's my understanding as
16 well. And I think your question about, you know,
17 potentially opening the door is a very good question
18 especially as agency budgets on the federal and state
19 side get reduced I think that that is going to become
20 more and more of an issue and a concern and I do fear
21 that this type of precedent would open the door.
22 Because -- and I'd be interested in hearing from you,
23 Mitch, how you would address the question of whether or
24 not these are normal agency activities. I just -- I
25 find Koniag's logic in regards to that question

1 somewhat circular and I don't -- I can't get myself
2 past that threshold question of how these activities
3 aren't -- don't fall under the umbrella of most of
4 them, at least normal agency activities.

5 MR. ELLIS: Well, the type of -- this
6 is Mitch talking again. The type of activities we're
7 talking about are normal agency activities insofar as
8 we conduct them on the Refuge property. We do law
9 enforcement, we do a permit system, we do all of those
10 things on the Refuge. Having the conservation property
11 expands that role and the first 10 years of the
12 agreement we have expended agency funds to do law
13 enforcement on the conservation properties and to work
14 on conservation measures and do surveys and wildlife
15 research and those sorts of things on the conservation
16 property as the state has as well because it is an
17 important area. Again I think we have had success the
18 first 10 years, I believe the issues that Koniag is
19 raising regarding additional protections for cultural
20 resources, a better permit managing system, those are
21 improvements to make the conservation of the property
22 more effective. But the Service is certainly willing
23 to go another 10 years at the current level of
24 commitment that we've made as far as expanding our
25 activities on the conservation property. But I can't

1 argue with Koniag's logic that having additional funds
2 available to manage it in a more effective way would
3 certain be a benefit. The permit system that the
4 Service manages now, for example, is people call and we
5 send them a paper copy. Koniag would like it to be an
6 online 24/7 available system, certainly those are
7 improvements. But again, you know, the added public
8 use, the agency activities on the properties are things
9 that we're doing that we may not be doing if we didn't
10 have a conservation easement.

11 Does that answer your question?

12 MS. SCHORR: It helps, yes. Thank you.
13 And this is a more specific question, Mark, either for
14 you or maybe for you, Tom.

15 Tom, can you hear me okay?

16 MR. BROOKOVER: I can.

17 MS. SCHORR: Okay. I'm -- in looking
18 at the budget I notice that there's the agency --
19 agency projects and requests and that includes 150,000
20 for the smolt cabin and 150,000 for trail establishment
21 and maintenance for smolt cabin access. I was not
22 previously under the impression that the -- that Fish
23 and Game had planned to ask the Trustee Council for
24 funds to construct the smolt cabin. And so, you know,
25 I guess I'm just wondering whether that was the plan

1 and/or how the idea of having the Trustee Council fund
2 the smolt cabin came up during negotiations.

3 MR. FINK: Yeah. This is Mark Fink
4 again, Fish and Game. No, we did not plan to approach
5 the Trustee Council for funds to construct the cabin.
6 We have a new -- fairly new project going on in the
7 upper river, smolt project and the current conservation
8 easement does not allow new permanent structures to go.

9 MS. SCHORR: Right.

10 MR. FINK: So we through a permit from
11 Koniag were able to use one of their cabins last summer
12 and we conducted our work last summer temporarily
13 through using their cabin and we had some tent
14 platforms. We would like -- we would like the option
15 to have something permanent to work this project which
16 is going to be going for a long time. We approached
17 Koniag about would they be willing to change the
18 conservation easement to allow Fish and Game to go in
19 and construct the permanent structures upon agreement
20 by Fish and Wildlife Service and Koniag. And they
21 opted to -- they would prefer to construct and maintain
22 those structures and then allow us to use them and we
23 haven't been able to work that out. So.....

24 MS. SCHORR: Including leasing or
25 renting the cabin to Fish and Game?

1 MR. FINK: Correct.

2 MS. SCHORR: Okay.

3 MR. FINK: And we had reached agreement
4 on that, we talked -- that was one possibility. We
5 also suggested that the cabin be a -- or if that cabin
6 is constructed by Koniag that it may be an
7 administrative cabin that can be used by Fish and Game
8 for our work, for Fish and Wildlife Service, for
9 Koniag, for other parties on the conservation easement
10 in which case we suggested probably there wouldn't need
11 to be a fee or a charge at least for the use of the
12 cabin.

13 MS. SCHORR: Okay.

14 MR. FINK: So the numbers you see here,
15 we didn't offer them any information on it.

16 MS. SCHORR: Okay. That's helpful.
17 Thank you. And again, I guess, that would be a concern
18 for me that that's \$300,000 that Fish and Game hadn't
19 planned on having the Trustee Council fund and that
20 would fall again within the normal agency activity
21 scope. And so instead it's been added to the budget
22 and then with I assume Koniag maintaining ownership if
23 they build a cabin as of course it's on their land that
24 would be proper, but then potentially becomes a revenue
25 source for Koniag during times that it is not being

1 used by Fish and Game or when it is no longer being
2 used.

3 MS. HSIEH: I think they removed the
4 rental provision.

5 MR. ANDERSON: Yeah, that's correct.
6 That we initially proposed \$750,000 a year and through
7 discussion with U.S. Fish and Wildlife Service they
8 felt that that was too large of a number and so we
9 elected to reduce the request and that's the items that
10 we dropped from our request. We really were just
11 trying to demonstrate where that \$750,000 number came
12 from. But now that it's been dropped it could
13 potentially still be accomplished with some of the
14 contingency dollars that would be left over from the
15 projects that we're obligated ahead of time, but it
16 really depended upon if there were excess funds
17 available at the end of each year.

18 MS. SCHORR: Okay. Thank you. And
19 then on a related note the -- it's my understanding
20 that it's -- there's a longstanding bar on using
21 Trustee Council funds for education. And so that, you
22 know, also raises some questions regarding some of the
23 budget line items that deal directly with public, you
24 know, educational outreach and that type of thing.

25 CHAIRMAN POURCHOT: Further comments or

1 questions?

2 MR. BROOKOVER: This is Tom. I've got
3 I think two questions. And this may be for either Will
4 Anderson, Jr. or Mitch. When I read the draft language
5 in the proposal it strikes me that there's an intent
6 anyway to -- I don't know what the term is, I guess it
7 may be delegate authorities, that the Fish and Wildlife
8 Service holds in terms of at least enforcement if not
9 other authorities to Koniag. And I'm wondering if that
10 is the case and if there are other authorities what
11 they might be. And if that is the case I guess I'm
12 wondering from a Fish and Wildlife Service standpoint
13 what the ramifications of that are because that seems
14 likely problematic just from my agency experience.

15 MR. ANDERSON: Well, if I could maybe
16 address that first. What we had contemplated in that
17 provision was to contract through the Kodiak Area
18 Native Association to use their Village Public Safety
19 Officer Program that would -- wouldn't necessarily have
20 an enforcement capability, but would be more of a
21 inspection, a monitoring function. And that, you know,
22 typically if someone were to be found in violation of
23 the permitting requirements that you could address that
24 out in the field and there'd be a certain amount of
25 cooperation with the trespasser so to speak. But in

1 those cases where, you know, we couldn't resolve that
2 issue in the field with a VPSO officer, then that would
3 be when we would contact U.S. Fish and Wildlife Service
4 for them to be able to conduct their enforcement, you
5 know, rights and obligations and that wouldn't
6 necessarily fall on Koniag or its contractor to fulfill
7 that role.

8 MR. ELLIS: Right. This is Mitch. I
9 -- we wouldn't be delegating any of our law enforcement
10 responsibilities or commissioning any officers, it
11 would be a community policing, a monitoring program
12 just as Will described.

13 MR. BROOKOVER: Okay.

14 CHAIRMAN POURCHOT: Further questions,
15 Tom?

16 MR. BROOKOVER: Yeah, I'm thinking
17 about that. I'll let that sit for a minute. The other
18 one was related to Terri's question originally in terms
19 of the stewardship fund and the use for management
20 related activities on a conservation easement like
21 this. I think I heard Elise say they are four other
22 conservation easements that have been funded by EVOS
23 funds without a fee purchase and I'm wondering what the
24 status of those is with respect to funding management
25 activities. Are -- do -- how are the management

1 activities performed and by whom on those easements. I
2 don't know if Samantha or somebody's available to
3 answer that question, but I guess I'm wondering what
4 the status quo is for other easements of this type to
5 the extent that they are of this type. And I guess the
6 other question I had along the same lines are any of
7 those easements term easements or are they all in
8 perpetuity?

9 MS. HSIEH: Tom, this is Elise. I
10 don't know, hopefully you can hear me. And I don't
11 think you heard -- what I was saying is the Trustee
12 Council has funded approximately 131 conservation
13 easements and obtained fee title to underlying lands
14 and has funded four conservation easement without
15 obtaining fee title, Koniag being one of them. So you
16 have about 135 conservation easements and for the most
17 part lands which the Trustee Council has funded during
18 the last plus 20 years. It is my understanding that
19 the Trustee Council has never funded any management of
20 the lands, it has only authorized funding for the
21 purchase, the acquisition of the lands or in the case
22 of those four conservation easements. So this would be
23 a step in a different direction for the Council and one
24 for which I would encourage the Council to have an
25 Executive Session with its legal advisors to see if

1 this sort of action is appropriate for these joint
2 trust funds.

3 CHAIRMAN POURCHOT: I think one of
4 Tom's specific questions though is on those four who
5 holds responsibility for doing -- for managing those
6 easements?

7 MS. HSIEH: And I don't -- Sam or Jen,
8 do you know?

9 MS. SCHORR: The agency that holds the
10 conservation easement. So, you know, if, for example,
11 the State holds fee then a federal agency will hold the
12 conservation easement and then and/or a federal agency
13 or the federal government holds the fee and a state
14 agency hold the conservation easement. So those
15 management activities are absorbed by the agency that
16 holds the conservation easement.

17 And, Tom, to answer your question about
18 term conservation easements, to my knowledge this is
19 the only conservation easement that was set up in this
20 manner. All the others were in perpetuity. Samantha,
21 is that.....

22 MS. CARROLL: I'd have to double check
23 that, but I believe that there's one that has termed.

24 MS. SCHORR: Okay. Okay. So.....

25 MS. CARROLL: But I'd have to double

1 check.

2 MS. SCHORR:but regardless it's
3 the vast majority if not all of the conservation
4 easements that have been purchased have been in
5 perpetuity?

6 MS. HSIEH: Well, and or fee. And also
7 with the fee ones, the 131 approximately fee plus
8 conservation easement funded by the Trustee Council,
9 again the same pattern follows where one government
10 takes title, the other government takes conservation
11 easement and absorbs the management costs. And those
12 arrangements are made before funds are authorized. So
13 the governments are part of that decision, the Trustee
14 Council doesn't force lands upon the government.

15 MR. BROOKOVER: So just a follow-up if
16 I could, Mr. Chair.

17 CHAIRMAN POURCHOT: Yeah, go ahead,
18 Tom.

19 MR. BROOKOVER: Elise, on those
20 remaining three then when -- if one government takes
21 management and the other takes fee, is it typically DNR
22 on our side that would be the -- one of those entities
23 and who would it be -- does it vary among federal
24 agencies on the federal side?

25 MS. CARROLL: On the state side, yes.

1 This is Samantha. The title resides with the Division
2 of Lands within our Department of Natural Resources.

3 MS. HSIEH: You're talking about the
4 three where the governments have not obtained title?

5 MR. BROOKOVER: Yes.

6 MS. CARROLL: Those I believe are
7 federal conservation easements.

8 MR. BROOKOVER: Okay. And in that case
9 a federal agency would have management authority and
10 responsibility?

11 MS. CARROLL: Yes.

12 MS. SCHORR: And we can check on that
13 for you, Tom, we just -- we don't recall offhand which
14 agencies hold those conservation easements.

15 MR. BROOKOVER: Okay.

16 MS. CARROLL: I think that primarily
17 they're Fish and Wildlife Service.

18 MS. SCHORR: Okay.

19 CHAIRMAN POURCHOT: I don't know if you
20 heard that or not, Samantha was saying primarily Fish
21 and Wildlife Service on the part of the fed she thinks.

22 MR. BROOKOVER: I did. I mean, and
23 just to be certain that is the case here, correct?

24 MS. SCHORR: Yes.

25 MR. ELLIS: Yes, it is.

1 MR. BROOKOVER: Okay. Thanks.

2 CHAIRMAN POURCHOT: Mr. Anderson, did
3 you have another comment?

4 MR. ANDERSON: Well, sure. I think
5 though that there is a very important distinction with
6 this particular easement agreement in that I don't
7 believe others have a special investment account the
8 way that this is structured. I don't know that there
9 is a funding pool available to deal with the very
10 specific and special requirements called for under the
11 easement. So I do think there's a -- that's a very
12 important distinction in this agreement.

13 MS. SCHORR: Although also to follow-up
14 on that distinction when the conservation easement was
15 set up that funding was set aside to be dedicated
16 towards the purchase of the property and towards the
17 annual payments if Koniag decided to sell the property
18 at anytime. And it wasn't set up 10 years ago with the
19 intention to pay for management costs.

20 CHAIRMAN POURCHOT: Further questions
21 or comments?

22 MR. HAGEN: I guess I just maybe hear
23 from Mr. Anderson on the -- what problem is it trying
24 to fix with this stewardship fund. There's a -- I see
25 some reference in your letter which received yesterday

1 on employees actively seeing of witnesses -- witnessing
2 a violation of the standards of offending parties.

3 What's that refer to?

4 MR. ANDERSON: Well, what's of primary
5 importance to us is, you know, the fact that it's a
6 very important cultural resource for us and that
7 unpermitted use could result in very significant
8 damage. You know, we -- we've conducted our own
9 surveys, we believe that there are hundreds of
10 homesites there and a non-permitted user, you know, may
11 not be aware of, you know, restrictions on where they
12 can camp. And we need to have, you know, real time
13 knowledge of who is supposed to be on the river, you
14 know, what to expect as far as use of camping
15 facilities and that would make monitoring and
16 enforcement much more efficient. But the real issue
17 for us is that, you know, as a -- our ancestors, you
18 know, would set up their homesites on those areas of
19 the river that are most convenient for fishing and a
20 modern day fisherman has the same motivations and so
21 they're likely to set up their camp in the exact same
22 locations and they might build a latrine or some other,
23 you know, means of damaging the land that could, you
24 know, forever prevent us from really learning from that
25 archeological resource.

1 So I don't know if that addresses your
2 question.

3 MR. HAGEN: Yeah, I just did that -- I
4 guess that example of the type of things you're
5 concerned about. Has that happened to any extent
6 already or is that.....

7 MR. ANDERSON: It is happening.

8 MR. HAGEN:in the last 10 years?

9 MR. ANDERSON: Yes. And, you know, it
10 was of a -- of a huge concern even prior to this
11 easement agreement that, you know, the land was being
12 very heavily utilized and, you know, really very, you
13 know, readily observed damage to the banks and to the
14 areas along the river.

15 MR. HAGEN: So this was a problem even
16 before this agreement came in?

17 MR. ANDERSON: It was a motivation for
18 us to enter into this agreement because we felt like,
19 you know, it's a very expensive proposition to have
20 adequate enforcement on those lands. And I think it's
21 evidenced by the fact that, you know, there are limits
22 to even what the Fish and Wildlife Service can do for
23 getting resources out there on the river. And it was
24 really one of the most important provisions and
25 justifications for us to enter into the agreement. And

1 the fact that it hasn't been performed to the extent
2 that we believed it would be is what's brought us to
3 this point of trying to find a solution so that we can
4 keep the agreement in place. And I think we're all
5 motivated in the same way, we want to see those lands,
6 you know, protected and preserved.

7 CHAIRMAN POURCHOT: Further comments
8 and questions?

9 MR. HARTIG: Mr. Chair.

10 CHAIRMAN POURCHOT: Yeah.

11 MR. HARTIG: It's Larry Hartig again.
12 Question, I'm not sure who can answer this, but I know
13 that Koniag has to make their decision on whether to
14 continue the conservation easement. What's the
15 deadline for making that? I know that we extend -- we
16 modified the agreement, but I can't remember what the
17 drop dead date is now.

18 MR. ANDERSON: Well, the extension that
19 you provided said that 30 days after this meeting we
20 can elect to pull out of the easement agreement. It's
21 a special election that wasn't otherwise called for
22 under that agreement. I don't believe there's anything
23 that would prevent a further extension and I do believe
24 that, you know, we are very close, you know, to ironing
25 out all of the specifics and we'd be able to, I think,

1 present a much more, you know, complete proposal if we
2 were able to, you know, work on it a bit longer. So
3 that is one alternative, you know, it doesn't have to
4 be, you know, all or nothing here at this meeting. So
5 that's one alternative you can consider, I suppose.

6 MR. HARTIG: I guess the question or
7 the key question may be -- I see an inevitable
8 Executive Session coming here, is that why even
9 entertain that, I mean, to me there's a couple of
10 options. One is give the parties more time to
11 negotiate towards the agreement if we think that that
12 would resolve things and get everybody where they want
13 to be and comfortable for the next 10 years at least.
14 Then the other thing would be is say that at this point
15 it's not legal for us to spend money on funding a
16 stewardship fund arrangement like this and that would
17 be the purpose of the Executive Session, to have a
18 discussion like that, but what are the barriers here if
19 any. The other would be to say that, this again kind
20 of goes back to my opening comment, is really something
21 between Fish and Wildlife Service and Koniag and, you
22 know, we're here to fund a conservation easement, we're
23 not here to address all of the legitimate management
24 concerns that you each have. And we're not really the
25 venue for that and we can't help you with that, we can

1 only say if there's any desire to go forward with the
2 conservation easement then, you know, we're happy to
3 continue funding that. But I don't -- I don't know
4 which one -- which is -- that path forward may not be
5 something acceptable to Koniag and I appreciate that
6 given your experience, but it just really sounds to me
7 like Fish and Wildlife Service is very committed
8 towards the same objectives that Koniag has with is
9 great. But I think we -- maybe we need an Executive
10 Session.

11 CHAIRMAN POURCHOT: I had follow-up
12 questions maybe for Mr. Darnel or someone on line. The
13 -- to continue negotiations, I mean, with the consent
14 of both parties under the agreement, you can always
15 negotiate terms, correct, I mean, you don't need
16 another 30 days or another 45 days to.....

17 MR. ANDERSON: No, that's not.....

18 CHAIRMAN POURCHOT:continue to
19 negotiate?

20 MR. ANDERSON: No, that's not the case.
21 If we allow the 30 days to lapse we are obligated to
22 remain under the terms of the agreement for the
23 remainder of the 10 years. And my board has already
24 made a decision that we're not willing to do that under
25 the current terms of the agreement, that there are too

1 many issues that are left unanswered and there's no
2 obligation on the part of the other parties to reach
3 some sort of an accommodation. And so basically we're
4 stuck. So I already have authority to give notice of
5 our withdrawal should we not be able to reach agreement
6 and that is our intended action.

7 CHAIRMAN POURCHOT: I don't know, Joe,
8 did you have a -- any opinion on that?

9 MR. DARNELL: No. Joe Darnell here. I
10 think legally obviously you could come back in, but
11 obviously if this works out that there's policy reason
12 that they may not wish to be put into a position
13 because they would then be at a negotiating
14 disadvantage. So I understand. Legally you could
15 amend the agreement if everybody came to agreement on
16 it, but that's.....

17 MR. BROOKOVER: I'm sorry, I'm not
18 hearing very well here.

19 MR. DARNELL: Sorry. All I was saying
20 was that legally you could change it at a later date,
21 but obviously the negotiating position of folks is
22 different because if you don't come to agreement then
23 they are stuck with it. So.....

24 MS. SCHORR: The other alternative that
25 Joe mentioned, Tom, is that you could extend that term

1 that was provided to Koniag that provides for the
2 unilateral termination option that was not originally
3 provided for in the original documents. That would
4 involve amending the Master Agreement and Conservation
5 Easement again, but it is an alternative.

6 MR. BROOKOVER: Okay. Thanks.

7 MR. HARTIG: But again only worth
8 pursuing if it's a legal option -- legally valid option
9 which I think this.....

10 MS. SCHORR: Agreed.

11 MR. HARTIG: And it seems like we need
12 to have that Executive Session.

13 CHAIRMAN POURCHOT: Any further
14 comments before entertaining another motion?

15 MR. HAGEN: I guess just a -- maybe a
16 question on the cost in this last on a document we
17 received on this -- how the expenses of the stewardship
18 fund would be put forth. Now this -- this came from
19 yourself.....

20 MR. ANDERSON: That's correct.

21 MR. HAGEN:Mr. Anderson, right?

22 MR. ANDERSON: Yes, that's correct.

23 MR. HAGEN: So would there be -- I
24 guess if Fish and Wildlife put together their costs, if
25 they were -- if it was their own property would it

1 still be \$500,000 a year, I mean, is that -- this would
2 be a -- I'm just wondering what's the minimum necessary
3 to -- you know, how -- you know, just it seems quite
4 expensive, I guess.

5 MR. ANDERSON: Well, we've been
6 conducting operations out there for quite some time and
7 I feel like we have a very good understanding of, you
8 know, what the logistical challenges are to get
9 equipment out there and to get people out there. That
10 -- it's very remote, it takes -- you know, a lot of
11 time you can't get out there due to weather and there
12 are costs associated with that. That's part of why we
13 have some contingencies there. And it's really based
14 upon our firsthand experience of working on those lands
15 that we based our budget.

16 MR. HAGEN: Okay.

17 CHAIRMAN POURCHOT: Further comments or
18 questions?

19 MR. BROOKOVER: This is Tom, I did have
20 -- I did have one more for Mr. Anderson.

21 CHAIRMAN POURCHOT: Yeah.

22 MR. BROOKOVER: Regarding the
23 stewardship fund, my sense was reading through the
24 proposal that that fund would be managed by the
25 management team identified in the proposal for uses at

1 their -- at their decision. And it -- and as I
2 understood that that was a -- that stewardship fund
3 would be held by the Fish and Wildlife Service, but it
4 would be subject to decisions made by the management
5 group. My understanding was that that -- they -- a
6 consensus process, in other words when that group
7 didn't -- wasn't able to come to consensus -- I guess I
8 have a question in terms of what would happen in that
9 scenario. But then in reading the response that Koniag
10 provided yesterday the budget items were lined out and
11 most of them seemed fairly certain. And I'm just
12 wondering if you can help me reconcile the two -- the
13 two scenarios there. Am I misreading something?

14 MR. ANDERSON: Well, I -- I'm not sure,
15 but I answer that by saying that you're correct in that
16 that management group would have the decision making
17 power upon which project would be funded and that there
18 would be -- it would need to be in keeping with, you
19 know, the purposes of the Council. So it wouldn't be a
20 situation where we could spend the money on anything,
21 there would need to be some policy drafted to make sure
22 that it does not go beyond the legal limitations and
23 bounds that our -- the funds are subject to. But then
24 on the other side of that if we were unable to reach
25 consensus and there were funds remaining that rather

1 than having those dollars simply accumulate that there
2 be some default use of those funds. And what we're
3 proposing is that it would go to the Alutiiq Museum and
4 Archeological Repository to study, care for and, you
5 know, preserve those artifacts that would be discovered
6 through the other funding -- funded projects. That,
7 you know, they do the field work, they -- they find
8 various objects and that those remaining dollars would
9 be -- help cover the cost of preserving those objects.

10 MR. BROOKOVER: Okay. Now with respect
11 to the line items that were provided in yesterday's
12 response though, do they present a conflict with the
13 use of the money as it's described under the proposal?

14 MR. ANDERSON: I don't believe so. I'm
15 not sure, maybe I'm not following your concern that it
16 would be a conflict that, you know, the -- you know,
17 the primary use of the funds would be dictated by that
18 group and if they weren't able to reach unanimous
19 decision on how to -- that those funds are in keeping
20 with the requirements of the Council, that they would
21 go to that default project.

22 MR. ELLIS: This is Mitch. I'd like to
23 make a comment regarding the carryover funds. So I
24 think our vision of a stewardship fund if it were to
25 happen would be that there would be a very conservative

1 approach to approving projects. And we don't object to
2 consensus based decision making process by the
3 management group because what that would result in if
4 we failed to reach agreement there would be carryover
5 funds. But our position is that carryover funds would
6 either be returned directly to the special account or
7 the carryover could accumulate and at the end of the 10
8 years it would all go back, whatever carryover was left
9 would go back to the special account.

10 MR. BROOKOVER: Okay. Thanks. This is
11 Tom. I'm just looking at the response to the Executive
12 Director's list of questions that was sent late last
13 week and number 2 is provide a detailed budget for use
14 of the \$725,000 per year stewardship fund and there's
15 an attachment A provided which states that the proposed
16 budget has been revised to be 500,00 and then it lines
17 out items for that \$500,000. And those seem like --
18 some of those at least seem like fairly certain items.
19 And I'm -- you know, I'm trying to wrestle with the
20 concept described in the proposal which is stewardship
21 fund with stated objectives versus attachment A which
22 has specific line items.

23 MS. HSIEH: I think the Trustee Council
24 could benefit from Executive Session because this
25 approach with consensus and left over funds is

1 antithetical to my understanding of the legal bounds of
2 the joint trust funds. And I would -- I think the
3 Trustee Council might benefit from clarification
4 regarding your supervisory Trustee duties which -- of
5 the funds. For example, the Trustee Council does not
6 set up endowments, the Trustee Council has structured
7 its long-term monitoring scientific programs based on
8 legal counsel and the restrictions of the funds to have
9 annual discrete budgets which the Trustee Council
10 approves the way the funds are spent. So I think it
11 would help to have at least where those lines are
12 before getting too deep into, you know, can there be a
13 stewardship fund and if so, you know, what are the
14 legal boundaries.

15 CHAIRMAN POURCHOT: Tom, are -- did you
16 get your questions fully answered or to your
17 satisfaction?

18 MR. BROOKOVER: Well, I'm still
19 uncertain.

20 CHAIRMAN POURCHOT: I could tell. Mr.
21 Anderson.

22 MR. ANDERSON: And if I could just
23 follow-up. That having the unspent funds go back into
24 the special investment account isn't acceptable to
25 Koniag because all it would take would be one member of

1 the group to perpetually veto any proposal and then
2 nothing came from this. And so I think we need to have
3 specific amount available and that it all be spent each
4 year is Koniag's concept of how those funds would be
5 used. So it isn't so much an accumulating fund, but
6 it's -- you know, so it's a slight distinction to
7 quote, an endowment, that they would be required to be
8 spent each year.

9 MS. HSIEH: I guess my point was is the
10 Trustee Council in the past it's been my understanding
11 was not legally able to actually transfer a bulk of
12 funds to a third party and that third party then decide
13 how those funds are spent. So it's not that this
14 couldn't be restructured, but I think it would help the
15 Trustee Council to know what their limitations are with
16 regard to structuring an account, if the account itself
17 is legally viable.

18 CHAIRMAN POURCHOT: Further comments or
19 questions before, I guess, entertaining a motion? Mr.
20 Hartig.

21 MR. HARTIG: Yeah. Thank you. I'll
22 make a motion that again following the applicable
23 federal and state requirements that we go into
24 Executive Session to confer with our legal counsel
25 regarding the stewardship agreement that's been

1 proposed here. And I don't know the time frame on
2 that, but I'll just go ahead and make the motion before
3 we talk about the time frame.

4 CHAIRMAN POURCHOT: All right. Is
5 there a second to that?

6 MS. MARCERON: Second.

7 CHAIRMAN POURCHOT: It's been moved and
8 seconded to move into Executive Session for purposes of
9 conferring with our attorneys on legal issues raised in
10 the proposed Koniag stewardship fund proposal. Is
11 there discussion?

12 (No comments)

13 CHAIRMAN POURCHOT: Is there any
14 objection to moving into Executive Session?

15 (No comments)

16 CHAIRMAN POURCHOT: Tom on line?

17 MR. BROOKOVER: No objection.

18 CHAIRMAN POURCHOT: Without objection
19 then the motion passes unanimously to go into Executive
20 Session. And I guess once again we'll give Tom and our
21 attorneys a little bit of -- a few minutes here to get
22 back on line again and everybody else would be signed
23 off.

24 (Off record)

25 (Executive Session)

1 (On record)

2 CHAIRMAN POURCHOT: Tom, are you back

3 on?

4 MR. BROOKOVER: I am.

5 CHAIRMAN POURCHOT: Very good. So why

6 don't we come back into regular session. We are still

7 on the Koniag easement issue. And why don't we put --

8 further comments or questions by the Council?

9 (No comments)

10 CHAIRMAN POURCHOT: Tom, anything

11 further?

12 MR. BROOKOVER: Mr. Chair, no. I don't

13 think I have any further questions at this point.

14 CHAIRMAN POURCHOT: Okay. What's the

15 desire of the Council on this issue?

16 MR. HARTIG: I'll go ahead and start.

17 CHAIRMAN POURCHOT: Larry.

18 MR. HARTIG: Well, we -- obviously we

19 were conferring with legal counsel during Executive

20 Session on the issue about legal concerns around the

21 proposed stewardship agreement. And I guess I got

22 pretty convinced that there's not a path forward

23 through the legal concerns. It's not just a precedent

24 setting for the Trustees, but it would be funding

25 activities that would really be hard to segregate from

1 normal management activities such as enforcement and
2 inspections and those kind of things. But also my own
3 view of it is is that I don't think the parties are
4 done negotiating or yeah, I think there's still room
5 maybe for discussions. I heard Fish and Wildlife say
6 that they're not opposed to something like a
7 stewardship agreement with the right elements to it and
8 I understand Koniag's legitimate concerns about
9 protection of their lands. I think that's very
10 important to them and understandably so. So what I
11 propose is -- would be -- well, I'll make a motion, I
12 guess that's the way I should do it. I make a motion
13 that under the same terms of which we extended the date
14 for Koniag to make a decision whether to continue the
15 easement that we made at our last meeting, that same
16 motion, that I make the same motion, but change it so
17 that they would have 30 days after the date of our next
18 regularly scheduled meeting which is currently October
19 to exercise their option not to continue the easement.
20 That -- I don't know if that would be beneficial to the
21 parties or not, it may be they decide now it's -- this
22 is -- it's this or nothing, but I would -- the purpose
23 of the motion would be to give you time to see if
24 there's a way of accomplishing either a stewardship
25 agreement or something like it that's acceptable to

1 Koniag and Fish and Wildlife Service in a means other
2 than through something that would have to be funded
3 through EVOS which I don't think we legally can do. I
4 think we're just up against a wall on that. But I
5 think that would give people time and time to consult
6 the boards and everything else you need to do, but I
7 just don't see at path forward.

8 But that -- that's my motion.

9 CHAIRMAN POURCHOT: Thank you. Is
10 there a second to that motion?

11 MS. MARCERON: Second.

12 CHAIRMAN POURCHOT: It's been moved and
13 seconded. If I could ask a question just for
14 clarification. Could you -- as part of that motion
15 could you kind of hit the time sequencing of if the
16 parties were interested in negotiating and if they were
17 to come up with something.....

18 MR. HARTIG: Oh, okay.

19 CHAIRMAN POURCHOT:what would be
20 the submission date, what would be a rough Council date
21 and what would be the so called drop dead date.

22 MR. HARTIG: Okay. Well, I'll amend my
23 motion, restate or whatever to put a little more detail
24 in that, I think it -- that would be helpful. I think
25 that just so that we can have time to look at it and

1 get any legal question, I think we'd need it by
2 September 1.

3 MS. HSIEH: That's when we get it
4 typically, get our material.

5 MR. HARTIG: Yeah. So that would be
6 with -- we could get another proposal. So the idea
7 would be -- the motion would be is that we extend the
8 date for Koniag to make its decision whether to
9 continue the easement from -- right now I think it's 30
10 days after this meeting so it would now be 30 days
11 after our next regularly scheduled meeting which is
12 currently October. And that if the parties have a
13 proposed agreement they want the Trustees to consider
14 at our October meeting to have that to us -- the
15 Executive Director no later than the 1st of September.

16 MS. HSIEH: And I believe last fall the
17 motion or the resolution had 30 days after the
18 regularly scheduled meeting and then after that notice
19 that were to terminate usually is a 30 day period in
20 which to do that.

21 MR. HARTIG: Right. It would be under
22 the same terms as the last.....

23 MS. HSIEH: Correct.

24 MR. HARTIG:we extended, all the
25 same terms except for 30 days being from the October

1 meeting, the next regularly scheduled meeting versus
2 this meeting. Everything else would be the same.

3 CHAIRMAN POURCHOT: And is that okay
4 with the second.....

5 MS. MARCERON: Yes.

6 CHAIRMAN POURCHOT:too, that
7 clarification? It's been moved and seconded to provide
8 an opportunity for the additional discussions or
9 negotiations between the parties. Perhaps culminating
10 with the next Council meeting, but bringing forward any
11 proposal by September 1 prior to that Council meeting.
12 Is there any questions or discussions or clarifications
13 Council members want on that motion?

14 (No comments)

15 CHAIRMAN POURCHOT: Tom?

16 MR. BROOKOVER: Well, I -- just
17 thinking about this, I go back to our last meeting when
18 we had the discussion about extending the first time
19 and asked Koniag with the parties to sit down and see
20 what they could come up with. And I just want to -- I
21 think there's a lot to be said for the effort Koniag
22 put forth and I just want to thank Mr. Anderson and
23 Charlie Powers for their efforts. I -- I mean, I look
24 at this and what they -- and what happened and think
25 they did buckle down and put a lot of hard work into

1 this. I don't know, you know, what the druthers are on
2 the part of Koniag here to go forward here, but I like
3 this approach, I think it's a good one. And, you know,
4 we'll certainly lend our -- all our support regardless
5 of what happens in terms of renegotiating this or
6 moving forward, you know, with -- without an easement
7 or what have you. We'll be there at the table and
8 continue to do so. So I think though that this is a
9 good approach at least from where I'm sitting.

10 CHAIRMAN POURCHOT: Thank you, Tom.
11 Other comments or questions, clarifications on the part
12 of the Council members?

13 MS. SCHORR: I guess I would just like
14 to clarify that as we're returning to the approach that
15 we discussed at the last meeting and the idea of
16 potentially extending the period in which Koniag can
17 unilaterally terminate the agreement, so we're also
18 returning because as discussed by Larry due to the
19 legal constraints around the stewardship fund issue
20 that we are returning to the approach of no dollar
21 amount being attached to amendments as was discussed at
22 the September meeting.

23 CHAIRMAN POURCHOT: That's also my
24 understanding from Larry's.....

25 MS. SCHORR: Okay.

1 CHAIRMAN POURCHOT: description
2 also.

3 MR. HARTIG: Right. That's correct. I
4 -- we just go back to where we were at that time and
5 try again.

6 MS. SCHORR: Okay. Thank you.

7 MR. HARTIG: But I think we're -- I'm
8 where I was back then and I think there's a lot of good
9 information, good work that came out of that. I agree
10 with Tom and that may help frame up the discussions
11 between Fish and Wildlife Service and Fish and Game and
12 Koniag, but a lot of these are management issues that
13 we really can't solve with Trustee funds. That's what
14 it comes down to.

15 MS. SCHORR: Exactly.

16 MR. HARTIG: And but I don't want to
17 cut them short when they seem so close, you know, on
18 something that's so important to everybody.

19 MS. SCHORR: And I absolutely would
20 like to, you know, add my thanks to Tom's and to yours
21 that -- to Koniag and to Fish and Wildlife Service and
22 Fish and Game for what I know is a lot of hard work.

23 CHAIRMAN POURCHOT: Other comments or
24 questions?

25 (No comments)

1 CHAIRMAN POURCHOT: If not there is a
2 motion that's before us to -- I'm not going to repeat
3 all of it, but granting an extension of the existing
4 easement agreement until possibly something to consider
5 for our next fall meeting with any potential agreement
6 being submitted to the Council by September 1.

7 Further comments or questions?

8 (No comments)

9 CHAIRMAN POURCHOT: If not, is there
10 objection to the motion?

11 (No comments)

12 CHAIRMAN POURCHOT: Tom?

13 MR. BROOKOVER: No objection.

14 CHAIRMAN POURCHOT: Hearing no
15 objections the motion passes unanimously.

16 Cordova Center. Let's see.....

17 MS. HSIEH: We have -- I believe we
18 have the Mayor of Cordova on the line, Jim Kallander
19 and also Cathy Sherman is also on the phone. And we
20 have Linda Kilbourne from our office who has worked
21 with Cathy and also DCED which manages the construction
22 project.

23 And, Cathy and/or Jim, if you could
24 just very, very briefly, if you'd like to give a brief
25 introduction regarding your request. We did receive

1 some materials yesterday or maybe I should just see if
2 I can summarize this and see if it's correct.

3 I think the total reimbursements by
4 EVOS as of the end of December are about \$3.5 million.
5 I think there's what, \$3.4 million left, just under
6 \$200,000 of interest payments which also can be
7 allotted towards the Cordova construction. Phase two
8 of the construction is projected by Cordova to be about
9 \$12 and a half million. The Trustee Council is legally
10 -- its parameters are it can fund up to one-third of
11 the construction, that was in the original resolution,
12 that kind of blueprint, footprint for funding. The
13 City of Cordova has submitted additional information,
14 its vision for additional support would be 1.3 for
15 EVOS, 5.5 for the State of Alaska, 1.2 for foundations
16 and they have lots of grant applications in. The
17 history of this is that the Trustee Council did fund --
18 vote in May of 2008 to fund up to one-third of the
19 construction, at that time about \$7 million. And there
20 was almost a year and a half, two year delay before
21 those funds were -- went through -- all the processes
22 were approved and released. During that time I believe
23 the budget did rise. We reviewed the billings and I
24 think the construction project has gone apace and gone
25 well, but the cost from 2008 where there was a

1 recession to now that the costs have increased.

2 So I think that it in a nutshell.

3 Cathy or Jim, is there anything you could add to that,
4 any sort of factoid or correction?

5 MS. SHERMAN: I was just going to say I
6 think everything you just stated, Elise, was correct
7 and Jim wanted to just take a -- just do a brief intro
8 as well.

9 MS. HSIEH: Okay. We have a trustee
10 who has to leave at 2:00 o'clock for a flight. So and
11 I know that they like to address these issues.

12 MR. KALLANDER: This is Jim and I'd
13 forego the -- forego my statement in the effort of
14 trying to move the meeting along. And, Elise, you
15 summarized everything that I was going to say very
16 well.

17 MS. HSIEH: Thank you.

18 CHAIRMAN POURCHOT: Questions or
19 comments by the Council?

20 (No comments)

21 CHAIRMAN POURCHOT: Tom on line, any
22 comments or questions?

23 MR. BROOKOVER: Not at this time.

24 MS. HSIEH: Can I ask a question?

25 CHAIRMAN POURCHOT: Sure.

1 MS. HSIEH: This is Elise. And I'm not
2 sure what the construction schedule for the phase two,
3 was it -- was it envisioned to be completed over the
4 next six months, Cathy or Jim?

5 MS. SHERMAN: No, actually phase two is
6 estimated right now to begin next month in March and it
7 will be completed by April of 2014.

8 MS. HSIEH: Okay. So you have some
9 time. I guess I, as a straw dog recommendation, there
10 are still some EVOS funds, 3.5, almost \$3.7 million
11 which have not been expended, but which are reimbursed
12 at a one-third rate which does pressurize somewhat the
13 City of Cordova to go out and get the other two-thirds,
14 but that is a legal restriction and so, I guess,
15 although, you know, I think that rising above the one-
16 third reimbursement and we may end up with issues where
17 the Council ends up funding more than the one-third, we
18 end up with that legal issue. So there was that
19 request. The other request was for an additional \$1.3
20 million. I think if we could get more concrete
21 information submitted by September 1st the Trustee
22 Council is expected to have a meeting in late October,
23 early November, where they could address funding
24 shortfalls at that time. And the third request was
25 reimbursing items back to 2002. I think we can -- I

1 think that would be very difficult for a couple
2 reasons. One is that there's also a legal restriction
3 on only funding one-third of construction costs. And
4 so I think if they really felt they had construction
5 costs before that they could submit that at September
6 1st too to be evaluated in more detail.

7 So I guess that's my recommendations at
8 this time.

9 CHAIRMAN POURCHOT: Larry.

10 MR. HARTIG: Yeah, thank you. This is
11 Larry Hartig. I still think that we should be trying
12 to get this project finished.....

13 MS. HSIEH: Yes.

14 MR. HARTIG:and that -- but I
15 also think that we went through a lot to get it
16 approved last time and to revisit the one-third
17 contribution I think would be very difficult, I don't
18 know that we'd be successful there. I doubt it. So it
19 would be easier, I think, for us to look at if -- if
20 the costs have gone up and particularly as related to
21 some delays that are beyond the control and the project
22 was managed well and I assume it was and I have no
23 reason to believe not. So I'd be amenable to
24 considering that, but if it doesn't have to be at this
25 meeting then it does make sense to do it -- take it up

1 in September where we can all the figures in front of
2 us and have a good schedule in front of us. And then
3 just have a proposal to on a go forward basis for
4 funding our third, if you will, of what the newest
5 projected costs are going to be.

6 MR. KALLANDER: Mr. Chair, if I may.
7 This is Jim Kallander.

8 CHAIRMAN POURCHOT: Yeah, Mr. Mayor.

9 MR. KALLANDER: I listened to Elise's
10 comments there and I guess we provided documentation
11 demonstrating the increased cost and we don't expect
12 the Council to go beyond one-third of the total cost of
13 the facility. But postponing, you know, additional
14 funding for us is going to affect other fund raising
15 for us. We're currently working very hard in Juneau
16 and in Washington to try to facilitate this and
17 everyone knows that you folks are our strongest partner
18 in this project and frankly people have said
19 specifically that they want to know immediately what
20 you folks are going to do in terms of helping us
21 complete this project. And the cost overruns from this
22 project have come from like Elise said, you know, the
23 starting estimates were during a recession in the
24 country and because the project has taken so long to
25 come to fruition and because of some geotechnical

1 issues with the foundation that ran costs up a little
2 bit, the total project cost has gone up considerably.
3 Right now we're at \$7.5 million short of completion
4 with a total project cost of \$25.5 million. And we
5 could really use a little help. And I understand the
6 legal issues on the one-third and we've had to develop
7 a line of credit with our own permanent fund to bridge
8 funding issues with reimbursement through DCED and
9 we've been able to manage that okay, but I'd ask you to
10 reconsider increasing funding at this time.

11 CHAIRMAN POURCHOT: Other comments,
12 questions?

13 MR. HARTIG: Mr. Chair.

14 CHAIRMAN POURCHOT: Larry.

15 MR. HARTIG: If I understand right
16 would the request be to provide the additional funding,
17 I guess about 1.2 million would be our third?

18 MS. HSIEH: 1.3 is an estimate. The
19 Council could conditionally authorize up to a
20 particular amount in the interim period before their
21 next meeting. However conditioned upon, for example,
22 verification by the Department of Law, who else verify
23 -- and Department of Justice regarding other funding
24 sources. So the issue is not are we -- you know, are
25 you looking at one-third, the costs have gone up, is

1 this one-third, most likely, but do you have the other
2 two-thirds is really what we -- is how it was
3 orchestrated last time. So potentially the Trustee
4 Council could authorize up to a certain amount of money
5 conditioned on USDOJ and Department of Law reviewing
6 other funding that's obtained and continuing a one-
7 third reimbursement rate as well parallel to that. And
8 not rising above the current allocation unless the fund
9 -- the other two-thirds funds is shown. So that way
10 they have the conditioned funding in hand to go try and
11 drum up additional funding.

12 MR. HARTIG: Which we did last time?

13 MS. HSIEH: Yes, we did this last time
14 too where we had a delay or we asked them for more
15 information to show us the -- confirm the other sources
16 of funding.

17 MR. HARTIG: And the one.....

18 MR. KALLANDER: Mr. Chair, if I may.

19 CHAIRMAN POURCHOT: Mr. -- yeah, Mr.
20 Mayor.

21 MR. KALLANDER: Mr. Chair, on August
22 3rd of 2011 the City Council passed a resolution and
23 I'm not going to read the whole thing, but does hereby
24 pledge a firm monetary commitment sufficient to
25 complete construction of the Cordova Center Project

1 equal to any funding deficit. We have permanent fund
2 monies, but obviously we want to preserve those for a
3 safety net for the community and we need -- we need
4 your contribution at this point as a catalyst to
5 complete our funding plan which includes the
6 legislature and, of course, other foundations such as
7 Rasmussen and so forth. It's critical and I hope
8 you'll consider that.

9 MS. SCHORR: This is Jen Schorr, Mr.
10 Mayor. Would approval of conditional funding as Elise
11 suggested upon showing that you have firm commitments
12 for the other two-thirds be sufficient to help you
13 raise that funding? Because it is a demonstrated
14 commitment from the Trustee Council.

15 MS. HSIEH: And I'm not sure the
16 Trustee Council has another choice.

17 MR. KALLANDER: Well, obviously that's
18 a much better situation than we're currently in and
19 that would be viewed with some optimism with
20 legislators that we're working with. I wouldn't say no
21 to that, but I don't know, I think we're already into
22 this, the community and EVOS and other funders and I'm
23 just concerned about Department of Justice and
24 Department of Law getting down to the end and then
25 having other issues with our situation, but we'll

1 gladly accept that offer and do the best we can.

2 MS. SCHORR: Because it was an original
3 requirement of the resolution that.....

4 MS. HSIEH: Correct.

5 MS. SCHORR:Cordova require or
6 demonstrate that it had firm commitments for the
7 remainder of the funding. So I think that continue --
8 this would continue that requirement.

9 MR. KALLANDER: Mr. Chair.

10 CHAIRMAN POURCHOT: Mr. Mayor.

11 MR. KALLANDER: You know, it seems to
12 me like in the original grant agreement under paragraph
13 4 that cites the one-third reimbursement that the
14 Trustee Council has adequate protection for 100 percent
15 funding. If -- I'm not a lawyer, but to me that
16 protects you to make sure that you're never -- you
17 know, you're never into this for more than one-third of
18 the total cost.

19 MR. HARTIG: Well, we don't have that
20 in front of us. So but.....

21 MS. HSIEH: Well, I do have the
22 resolution, but I have reviewed with our legal counsel,
23 I proposed, you know, or floated by them the idea of
24 raising the reimbursement rate, but that does get the
25 Trustee Council into a position where monies have gone

1 out which are above -- potentially above what has been
2 legally determined. So.....

3 MR. HARTIG: I mean, to refresh
4 people's memories here, the -- and my own, if I could
5 confirm it, I guess, is that we've looked at how the
6 space would be used in the building and the idea was a
7 third of it would be used for EVOS related purposes.

8 MS. HSIEH: That's correct.

9 MR. HARTIG: And we had to convince the
10 attorneys involved that those uses fit in with
11 allowable uses of the money and that's how we got --
12 got it through.

13 MS. HSIEH: Yes.

14 MR. HARTIG: And so if we're shifting
15 the level of funding without going back through that
16 same process, confirming that whatever the new
17 percentage.....

18 MS. HSIEH: Well, I think what he's
19 suggesting is not shifting the level of funding.....

20 MR. HARTIG: No, I understand.

21 MS. HSIEH:shifting the level of
22 reimbursement.

23 MR. HARTIG: That's right. I'm saying
24 if we shifted -- if we just still did a third of the
25 project even with the higher cost and still a third of

1 the space is being used as proposed before I think
2 we're okay. But if we're now funding 40 percent of the
3 project then we're -- and still have a third of the
4 space for EVOS work then we've got a problem.

5 MS. HSIEH: Right. I think what he's
6 suggesting is the total would end up being one-
7 third.....

8 MR. HARTIG: Right.

9 MS. HSIEH:but that the cash flow
10 would be increased to our quarterly reimbursements to
11 higher than one-third. Currently we only.....

12 MR. HARTIG: Well, that -- that was
13 going to be my question. I heard two contingencies
14 being discussed. One is that -- the first contingency,
15 I guess, would be that it wouldn't exceed 1.3 million.
16 The second contingency would be that our total
17 contribution to the cost of construction wouldn't
18 exceed overall one-third. And lastly that the funds
19 wouldn't -- the new money, the 1.3, wouldn't be
20 expended until confirmation by our attorneys that he
21 had firm commitments for the other two-thirds of the
22 funding from other sources. And.....

23 MR. KALLANDER: Mr. Chair, if I may.

24 MR. HARTIG:second.....

25 CHAIRMAN POURCHOT: Just a minute.

1 MR. HARTIG: that we would use --
2 we would, I guess, follow the language in the previous
3 resolution that would have to be drafted up. But I
4 didn't think that we were changing any of the terms of
5 reimbursement in terms of submitting -- how they would
6 submit bills and how those would be paid. It's still
7 -- I guess we'd pay one-third of whatever bill.
8 MS. HSIEH: You could actually just use
9 the same resolution and just change the amount.
10 MR. HARTIG: Right. That's what I was
11 conditioning.
12 MS. HSIEH: They had suggested a higher
13 rate of periodic reimbursement and that's.....
14 MR. HARTIG: Until the other money
15 comes in?
16 MS. HSIEH: Yeah.
17 MR. HARTIG: Yeah, but I didn't hear
18 that yet.
19 MS. HSIEH: Oh, that was suggested in
20 the letter or proposal.
21 MR. HARTIG: Oh, yeah. I didn't hear
22 it today.
23 MS. HSIEH: Not today, yes.
24 MR. HARTIG: Okay. Sorry, Mr. Mayor,
25 didn't mean to cut you off there.

1 MR. KALLANDER: Mr. -- Commissioner
2 Hartig has it correct. What I'm proposing is we --
3 we've had to develop a work around on the one-third
4 reimbursement. And so that will not hold up fund
5 raising for us or continuing to finish this project.
6 However he is right that the total amount that we're
7 asking for would increase, however the one-third
8 reimbursement would assure that you -- that Council
9 never got into this building for more than one-third.
10 And also this -- the original agreement cites, for
11 example, in the museum 61 percent goes to the EVOS
12 related projects and in the museum is the same 61
13 percent. So there's no suggestion from us that the
14 square footage dedicated to EVOS related projects and
15 displays and so forth is changing. So the original
16 concept of one-third reimbursement is -- we're not
17 proposing to change that, only that the total amount of
18 the building has gone up and we're asking for
19 assistance on that.

20 CHAIRMAN POURCHOT: Other comments or
21 questions on the part of the Council?

22 (No comments)

23 CHAIRMAN POURCHOT: What's the desire
24 on the part of the Council?

25 MR. HARTIG: I guess one last question

1 for Elise. Is 1.3 million the right figure?

2 MS. HSIEH: I think that the Council
3 should allow that there may be some adjustments that
4 they -- we should request any other information at the
5 September 1st time as well. I feel like the folks in
6 Cordova have -- due to some circumstances haven't had
7 enough time to come up with firm numbers and also -- so
8 I think giving them some elasticity and acknowledging
9 that this might not be the firm number which sometimes
10 we might require I think would be appropriate in this
11 circumstance.

12 Sorry, is that the answer.....

13 CHAIRMAN POURCHOT: No. No.

14 MR. HARTIG: Glad to see what
15 contingencies we need. No, I.....

16 MS. HSIEH: Is it a firm number?

17 MR. HARTIG: No. No, I -- no, it's not
18 a firm number I just think they need some number to go
19 around and shop around.

20 MS. HSIEH: Yes, that's right. I think
21 that would be the number you would use.

22 MR. HARTIG: Okay.

23 MS. HSIEH: I thought you were asking
24 will they ever come back and ask for.....

25 MR. HARTIG: No, I just think it would

1 be a contingent number.

2 MS. HSIEH: Yes.

3 MR. HARTIG: So let me try to make a
4 motion, I'll probably need some help here. Okay. I
5 move that the Trustees authorize funding of 1.3 million
6 additional funds for the Cordova Center on the terms of
7 our original authorization of funding with the
8 following contingencies. One, that our overall funding
9 of the project doesn't exceed more than one-third of
10 the construction costs. These may not be the exact
11 terms, that we would go back to the original resolution
12 to get the right terms. That there would not have been
13 a change in the allocation of space such that there
14 would be less space to be used for EVOS purposes than
15 in the original funding resolution. And that none of
16 the additional funds being authorized in this motion be
17 disbursed unless and until Department of Law and
18 Department of Justice have confirmed to their
19 satisfaction that the City of Cordova has firm
20 commitments for the remaining two-thirds of funding
21 needed to complete the project beyond our one-third.

22 I think those are all the
23 contingencies.

24 CHAIRMAN POURCHOT: Is there a second
25 to that?

1 MS. SCHORR: I'd like to suggest adding
2 a condition and that is that the city agree not to
3 approach the Trustee Council for additional funding.
4 And I think.....

5 MR. HARTIG: Well.....

6 MS. SCHORR:that it is really
7 important to finish this project and -- but I do worry
8 about.....

9 MR. HARTIG:my only concern about
10 that is a -- an amendment would be the 1.3 might not be
11 exact, it may be 1.4 or 1.5 or 1.2, I'm not sure. So
12 there may be room to adjust, but we're not expecting
13 any more requests.

14 MS. SCHORR: Okay. I'm comfortable
15 with that. I understand there might be some adjustment
16 in the number, but I would like to avoid a -- you know,
17 a future additional.....

18 MR. HARTIG: Yeah. And we couldn't tie
19 another board anyway.

20 MR. HAGEN: Because this is a sensitive
21 topic what was the conditions under which Department of
22 Justice and Department of Law, what were their -- what
23 were they going to be looking at to their satisfaction,
24 just.....

25 MS. HSIEH: I think Larry's calling

1 into play the same terms as Resolution 11-02 which --
2 for the original \$7,008,392 of funding which discussed
3 the square footage, the portion of the facility to be
4 used and I thought also had.....

5 MR. HARTIG: We just did.....

6 MS. HSIEH: Oh, and Cordova will
7 provide for any expenditure from the EVOS Restoration
8 Fund and, of course, this would be any expenditure of
9 the 1.3 additional, documentation demonstrating to the
10 satisfaction of DOL and this says NOAA, I guess we had
11 people involved, now this would be USDOJ, that the city
12 has firm commitments for the funding of all anticipated
13 costs of construction.

14 MR. HARTIG: We just didn't want our
15 money being spent until we knew there was going to be a
16 project.....

17 MR. HAGEN: Right.

18 MR. HARTIG:and the project's
19 going to be completed.

20 MR. HAGEN: I'm just wondering if the
21 whole package itself needs to be contingent upon
22 approval of Department of Law and Department of
23 Justice. Do you think we could at this point?

24 MS. HSIEH: Just the additional funds.

25 MR. HAGEN: Just the additional funds.

1 So.....

2 MR. HARTIG: It's all under the same
3 original terms.

4 MR. HAGEN: Okay.

5 MR. HARTIG: It's.....

6 CHAIRMAN POURCHOT: I think those
7 fights were all fought out.

8 MR. HAGEN: Okay.

9 CHAIRMAN POURCHOT: Maybe not to
10 everyone's satisfaction.

11 MS. HSIEH: Jen, the original was
12 Department of Law and then a NOAA Trustee because
13 things were -- who would you suggest the current
14 sitting Council and Department of Justice to approve
15 the funding commitments?

16 MS. SCHORR: I suggest asking
17 Department of Justice.

18 MS. HSIEH: I agree.

19 MS. SCHORR: So that would be the one
20 change in the original resolution would be.....

21 MS. SCHORR: Potentially.

22 MS. HSIEH: Potentially. Would be
23 Department of Law and Department of Justice.

24 MR. HARTIG: Okay. But that's the way
25 we want it today, with Justice? Okay. That's fine

1 with me.

2 MS. SCHORR: Gina, are you still on?

3 MS. BELT: Yes.

4 MS. SCHORR: Okay. Well, I'll call you
5 when we're done here, we can.....

6 CHAIRMAN POURCHOT: So are you
7 satisfied with the motion as clarified?

8 MS. SCHORR: Yes.

9 CHAIRMAN POURCHOT: And we still lack a
10 second for Larry's motion. Is there a second?

11 MS. MARCERON: I second.

12 CHAIRMAN POURCHOT: Okay. Second.

13 Discussion on the motion? The motion would be, I'm not
14 going to repeat it all, but providing an amendment to
15 the original resolution increasing the total amount of
16 1.3 million, but at the same time conditioned to not
17 exceed the one-third total contribution, not to have
18 that money alter the allocation of space assigned to
19 the Trustee Council and having a total commitment of
20 the full amount approved by appropriate counsel.

21 MR. HARTIG: And the last condition was
22 that none of the additional funds, the 1.3, would be
23 spent until confirmation from Law and Justice that the
24 City of Cordova has firm commitments for the other two-
25 thirds needed to complete the project.

1 CHAIRMAN POURCHOT: Further comment or
2 discussion on the motion?

3 (No comments)

4 CHAIRMAN POURCHOT: Tom, any questions?

5 MR. BROOKOVER: Well, I -- no, I think
6 it's a good approach. I -- you know, we want to avoid
7 the worst case scenario of having an inadequate amount
8 of funding and jeopardizing the project as a whole and
9 I think this does that with some minimal additional
10 funding and I'm comfortable with the motion.

11 CHAIRMAN POURCHOT: Is there any
12 objection to the motion?

13 (No comments)

14 CHAIRMAN POURCHOT: Hearing none, the
15 motion passes unanimously.

16 What else do we have left?

17 MS. HSIEH: Oh, you have an Executive
18 Session.

19 MS. SCHORR: Well, I think given that
20 Terri's got to hit the road that we should defer that.

21 CHAIRMAN POURCHOT: Okay. Anything
22 else to come before the Council before adjournment?

23 (No comments)

24 CHAIRMAN POURCHOT: I -- if I might I'd
25 just say one thing and this is kind of to you, Elise,

1 and to others that may be coming back. It was -- as we
2 started out saying it was somewhat confusing and this
3 time we had last minute responses to questions that you
4 and your staff raised and questions that came up on
5 things that were on the agenda literally days and
6 sometimes hours before the meeting. And we could have
7 a cut off date, you know, sometime like we've talked
8 about for one of our items, a month or three weeks
9 before the meeting where, you know, if something's
10 going to be on the agenda it's all in, it's all done.
11 If people aren't ready it's going to slip to another
12 day because it -- we don't do justice to some of these
13 things when people are submitting comments. And I know
14 you've wrestled with this a lot.

15 MS. HSIEH: General operating
16 procedures, I believe it's 15 days and then it's the
17 Executive Director discretion. When I came into this
18 position there was a fair amount of liberal allowance.
19 I am happy to facilitate whatever this sitting Council
20 would like to set as a guideline. That's my role.
21 So.....

22 MR. HARTIG: I think we just had really
23 complicated things on the agenda this time around.....

24 MS. HSIEH: Yeah.

25 MR. HARTIG:that made it.....

1 MS. HSIEH: This is unusual.

2 MR. HARTIG:made it tougher on

3 all of us, but.....

4 MS. HSIEH: Yeah.

5 MR. HARTIG:I think we got

6 through it okay. But I agree with you, generally the

7 more time to prepare the better job we can do

8 especially with all the other duties we have.

9 MS. HSIEH: This agenda was unusual

10 for.....

11 MR. HARTIG: Yeah.

12 CHAIRMAN POURCHOT: I would say your 15

13 days would be minimum, but that seems like a good

14 working rule.

15 MS. HSIEH: I will try and reassert

16 that.

17 CHAIRMAN POURCHOT: Anything else to

18 come before the Council?

19 (No comments)

20 CHAIRMAN POURCHOT: If not, we stand

21 adjourned until the fall.

22 (Off record)

23 (END OF PROCEEDINGS)

1 C E R T I F I C A T E

2 UNITED STATES OF AMERICA)

3 STATE OF ALASKA)

4 I, Salena A. Hile, Notary Public in and for the
5 state of Alaska and reporter for Computer Matrix Court
6 Reporters, LLC, do hereby certify:

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17 Anchorage, Alaska

18 DATED at Anchorage, Alaska this 1st day of
19 March 2013.

20 SIGNED AND CERTIFIED TO BY:

21

22 Salena A. Hile

23 Notary Public, State of Alaska

24 My Commission Expires: 09/16/14

