

ALASKA STATE LEGISLATURE
HOUSE COMMUNITY AND REGIONAL AFFAIRS STANDING COMMITTEE

February 2, 2010

8:05 a.m.

MEMBERS PRESENT

Representative Bob Herron, Co-Chair
Representative Cathy Engstrom Munoz, Co-Chair
Representative Wes Keller
Representative Charisse Millett
Representative Sharon Cissna
Representative Berta Gardner

MEMBERS ABSENT

Representative John Harris

COMMITTEE CALENDAR

HOUSE BILL NO. 281

"An Act relating to the duties of the commissioner of fish and game and to the interest of the Board of Game in public safety as it relates to game."

-HEARD & HELD

HOUSE BILL NO. 276

"An Act amending the description of parcels within the Fort Rousseau Causeway State Historical Park; and providing for an effective date."

-MOVED CSHB 276(CRA) OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: HB 281

SHORT TITLE: BOARD OF GAME/FISH & GAME COMMISSIONER

SPONSOR(S): REPRESENTATIVE(S) MILLETT

01/15/10	(H)	PREFILE RELEASED 1/15/10
01/19/10	(H)	READ THE FIRST TIME - REFERRALS
01/19/10	(H)	CRA, RES
02/02/10	(H)	CRA AT 8:00 AM BARNES 124

BILL: HB 276

SHORT TITLE: FORT ROUSSEAU CAUSEWAY HIST PARK

SPONSOR(s): REPRESENTATIVE(s) P.WILSON

01/15/10 (H) PREFILE RELEASED 1/15/10
01/19/10 (H) READ THE FIRST TIME - REFERRALS
01/19/10 (H) CRA
02/02/10 (H) CRA AT 8:00 AM BARNES 124

WITNESS REGISTER

REPRESENTATIVE MILLETT
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Spoke as the prime sponsor of HB 281.

JENNIFER YUHAS, Legislative Liaison
Alaska Department of Fish & Game
Juneau, Alaska

POSITION STATEMENT: Expressed concerns with HB 281.

KEVIN SAXBY, Senior Assistant Attorney General
Natural Resources Section
Department of Law
Anchorage, Alaska

POSITION STATEMENT: During hearing of HB 281, answered questions.

LARRY KANIUT
Anchorage, Alaska

POSITION STATEMENT: Testified on HB 281.

BRAD HERZOG
Anchorage, Alaska

POSITION STATEMENT: Characterized HB 281 as common sense legislation that he supports.

DEREK HSIEH, Sergeant
Anchorage Police Department
Municipality of Anchorage
Anchorage, Alaska

POSITION STATEMENT: During hearing of HB 281, answered questions.

STACY SHUBERT, Intergovernmental Affairs Director
Municipality of Anchorage
Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 281.

RONALD JORDAN
Taku/Campbell Community Council
Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 281.

REED HARRIS, Staff
Representative Peggy Wilson
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Testified on behalf of the sponsor of HB 276, Representative Wilson.

MARY SIROKY, Legislative Liaison
Office of the Commissioner
Department of Transportation & Public Facilities
Juneau, Alaska

POSITION STATEMENT: During hearing of HB 276, answered questions.

DEBRA LYONS, Executive Director
Sitka Trail Works
Sitka, Alaska

POSITION STATEMENT: Expressed concerns with HB 276.

VERNE SKAGERBERG, Transportation Planner
Aviation Planner
Southeast Region
Department of Transportation & Public Facilities
Juneau, Alaska

POSITION STATEMENT: During hearing of HB 276, answered questions.

ACTION NARRATIVE

[8:05:26 AM](#)

CO-CHAIR BOB HERRON called the House Community and Regional Affairs Standing Committee meeting to order at 8:05 a.m. Representatives Herron, Munoz, Millett, Keller, Cissna, and Gardner were present at the call to order.

HB 281-BOARD OF GAME/FISH & GAME COMMISSIONER

[8:06:06 AM](#)

CO-CHAIR HERRON announced that the first order of business would be HOUSE BILL NO. 281, "An Act relating to the duties of the commissioner of fish and game and to the interest of the Board of Game in public safety as it relates to game."

8:06:22 AM

REPRESENTATIVE MILLETT, Alaska State Legislature, speaking as the prime sponsor, explained that HB 281 would change the focus of the Alaska Department of Fish & Game's (ADF&G) management style in urban Alaska to focus first on public safety versus abundance. She related that one of the main issues she hears about from constituents is the abundance of bears and the human contact with them. She related her own experiences with bears in the community and specified that the bears about which she speaks are urbanized bears, that is bears that are third and fourth generation bears in the city. These urbanized bears act differently than they would in the wild and aren't afraid of humans. The aforementioned creates a dangerous situation. With the proposed change in the legislation, the Anchorage Police Department (APD) would be allowed to take action if a bear is deemed a threat. Although the aforementioned is already the case, there is a Memorandum of Understanding (MOU) between ADF&G and APD that ADF&G would like for APD to call ADF&G and apprise it of the situation. Representative Millet, however, didn't believe there is too much to discuss when the situation is one in which the bear is socialized and hanging out in a neighborhood. Although she acknowledged that residents have a responsibility to take better care [with their garbage and bird feeders], she opined that the bears are conditioned to a point that the bear and human interactions will continue.

8:10:47 AM

REPRESENTATIVE GARDNER related her understanding that HB 281 effectively only applies to Anchorage. She questioned why it wouldn't apply statewide if it's good policy.

REPRESENTATIVE MILLETT, as a legislator from Anchorage, said that she is open to other communities joining this charge, but wasn't familiar enough with other communities to include them.

8:11:42 AM

REPRESENTATIVE MILLETT, in response to Co-Chair Munoz, informed the committee that currently there are two ADF&G officers who work in the Municipality of Anchorage (MOA). She recalled when

she couldn't get in her truck because bears were circling it. When she called APD, APD told her they don't respond to bears unless they are aggressive or it's an emergency situation. The APD then offered to notify ADF&G. Therefore, changing the MOU between ADF&G and APD in statute such that APD can respond will result in a much different response, she opined.

[8:13:32 AM](#)

CO-CHAIR MUNOZ asked if the communities in the Anchorage area have addressed the issue of containing personal garbage.

REPRESENTATIVE MILLETT answered that although the municipality hasn't addressed the aforementioned, some working groups have worked with Waste Management on bear containers for various areas in MOA. However, the only municipal ordinance related to garbage collection is that garbage can't be out until 6:00 a.m., the morning of the collection day. She characterized Juneau as a great example as it very aggressively made adjustments in the municipal code to [address the bear situation]. However, in a town of 360,000 it's a different dynamic when trying to address something through the municipality. While Representative Millet agreed that MOA should be more aggressive [with regard to addressing the matter in municipal code], she opined that the matter should be addressed now before anyone else is mauled.

[8:15:07 AM](#)

CO-CHAIR MUNOZ recalled that she sat on the Juneau Assembly when Juneau formulated its ordinance and she characterized it as a difficult process that required much community buy-in. However, she characterized the ordinance as an important first step in addressing the problem and opined that in order to achieve effective change, there has to be a change in behavior in the community. Therefore, she expressed her desire to engage with the Anchorage Assembly on this issue.

[8:15:39 AM](#)

REPRESENTATIVE CISSNA directed attention to the following language on page 2, lines 2-4: **"the board shall authorize the police department of the municipality to take game when the taking serves to protect human life from immediate harm from the game."** She then recalled riding along with police who are having difficulty finding enough staff to address domestic violence. She opined that if the seeing of bears is considered immediate harm, then a lot of police would be involved. This

legislation seems to continue the current practice and doesn't seem to be anything new.

REPRESENTATIVE MILLETT clarified that this legislation isn't addressing one bear account in the summer; rather it's addressing a situation in which a sow and three cubs are living in a residential backyard. Furthermore, she opined that a sow and cubs can't coexist with her lifestyle in urban Alaska. The "immediate danger" is when the bears are born and raised in urban settings and aren't afraid of humans.

[8:19:48 AM](#)

CO-CHAIR HERRON inquired as to Representative Millett's understanding of the current priority related to public safety.

REPRESENTATIVE MILLETT explained that the two ADF&G officers in Anchorage are tasked with being responders to wildlife human interaction. In a large area such as the MOA, those two ADF&G officers have a tough job. This legislation merely removes the restriction, included in the MOU, requiring that APD call ADF&G prior to any action with wildlife. Therefore, this legislation allows APD to use its discretion with cases involving wildlife.

[8:21:10 AM](#)

REPRESENTATIVE GARDNER opined that she wasn't sure the passage of HB 281 would've changed the outcomes of the situations that Representative Millett described earlier.

REPRESENTATIVE MILLETT clarified that she was merely one of many phone calls made to ADF&G this past summer when parks were closed and folks had to adjust their lives to be safe [because bears were in the neighborhood]. While awareness is appropriate, when children and families are afraid to be in their backyard and neighborhood, the balance has shifted. Representative Millett emphasized that she is seeking a sensible solution and isn't advocating having an open hunt in Anchorage, although the bears are being managed for abundance, as if there is an open hunt. She reiterated the need for a sensible solution and a way in which to have a public conversation regarding what is public safety; what is an aggressive bear; what are the appropriate actions. As it stands now, the bear population is growing in urban Alaska and this legislation offers a proactive approach by changing the management focus.

[8:24:11 AM](#)

REPRESENTATIVE GARDNER opined that she wasn't sure the proposed language would've allowed APD to have responded differently to the circumstances described by the sponsor. The situations described by the sponsor don't pose "immediate harm".

REPRESENTATIVE MILLETT said that she would entertain any suggestions to improve the legislation.

[8:25:05 AM](#)

REPRESENTATIVE KELLER inquired as to what actions the sponsor would envision the municipality using to develop policy regulations and memorandums per HB 281.

REPRESENTATIVE MILLETT explained that HB 281 would eliminate the need for a MOU and allow APD to use its discretion without calling ADF&G.

[8:26:15 AM](#)

CO-CHAIR HERRON asked if ADF&G has population ratios of bears in [the MOA].

REPRESENTATIVE MILLETT said she didn't recall any specific numbers from ADF&G. However, she recalled conversations in which Rick Sinnott, Wildlife Biologist, ADF&G, relayed that the encounters are up and bear numbers are relatively the same. Therefore, she surmised that the bears are becoming more urbanized and familiar with her neighborhood.

[8:27:20 AM](#)

REPRESENTATIVE CISSNA related her belief that garbage is the problem, adding that there's a similar problem with moose in her neighborhood. She questioned whether [the subject] of this legislation would be more appropriate for the municipality to address through its ordinances.

REPRESENTATIVE MILLETT opined that this legislation and municipal ordinances could go hand-in-hand. However, first changing ADF&G's management for abundance in urban Alaska to manage for public safety would provide comfort that [the department] isn't encouraging this species to grow in MOA. Representative Millett related that managing wildlife for public safety means to her that there will be less bears and more proactive responses such that bears that have settled into the

community are removed. She did, however, agree that this is a state issue regarding management of wildlife in urban settings and is a personal responsibility as well. She restated her agreement that the municipality should be more proactive on this matter. Still, management for abundance assumes management for hunting or subsistence, but wildlife isn't taken in Anchorage for the aforementioned purposes.

8:29:53 AM

REPRESENTATIVE CISSNA asked if the sponsor has evidence that APD is thinking in terms of abundance.

REPRESENTATIVE MILLETT clarified that ADF&G manages for abundance, per statute.

8:30:39 AM

JENNIFER YUHAS, Legislative Liaison, Alaska Department of Fish & Game, began by providing the committee with documentation regarding the number of bear maulings in Anchorage and a breakdown of the department's concerns with this legislation. Ms. Yuhas informed the committee that ADF&G agrees that public safety is a primary concern in managing wildlife. However, the language in the proposed legislation is either unnecessary, as the authority already exists, or poses unintended consequences. With regard to abundance, there have been several misconceptions at public meetings regarding the meaning of managing for abundance. The state is divided into 26 game management units, each of which is managed for its individual eco-system. Still, ADF&G doesn't manage for an abundance of bears in urban populations. At a meeting the sponsor held in Anchorage, ADF&G provided testimony that the bear numbers were relatively the same or a little bit lower in the Anchorage area.

MS. YUHAS then identified the major concern with the legislation as the possibility of a significant increase in litigation. Although the sponsor statement proposes to address bears, the legislation actually addresses game. However, there are many more moose encounters and there are several other wildlife issues. Therefore, the department questions at what point it will be litigated for not adhering to public safety issues were this change in statute to occur. Furthermore, this legislation would elevate public safety over subsistence as a use that applies statewide for the department's management practices. Ms. Yuhas explained that each game management unit is managed through public testimony, the advisory committees, and the Board

of Game process. The department believes there are ways in which to address this issue other than this legislation. Therefore, she expressed the department's desire to work with the sponsor in developing tangible solutions for the Anchorage area. Ms. Yuhas then expressed concern that the legislation has a constitutional conflict with the department's sustained yield principle management. She pointed out that the sustained yield principle doesn't necessarily translate to abundance. Sustained yield, she explained, is similar to a bank account in that there's the desire for interest to be produced from which one is able to draw. Therefore, under the sustained yield principle there's the desire to have interest of a species that can be used. In rural areas where species are used as a food source, the interest rate is high, which is considered abundance. The department is not managing for an abundance of bears in an urban area. She then pointed out that HB 281 would apply to the Municipality of Anchorage as well as the Fairbanks North Star Borough and likely the Mat-Su Borough. This legislation, she opined, will likely open debate on rural/urban issues and whether residents in Barrow who have polar bears walking through their community deserve the same public safety as those in Anchorage. Still, the department believes that the authority given already provides the same degree of public safety to all residents of the state. The department expects to be able to work through its staff to address those situations in which sows are camping out in a neighborhood, especially since this legislation wouldn't fix that.

[8:35:46 AM](#)

CO-CHAIR MUNOZ inquired as to any tangible solutions Ms. Yuhas may have.

MS. YUHAS noted that ADF&G has an ongoing dialogue with MOA regarding possible revisions to the MOU. In fact, last year there was a proposal to increase the number of staff to address urban bears. However, that proposal didn't make it through one of the [Finance Subcommittees]. The department has had some focus groups in Anchorage to discuss some of the sensible solutions and what people would characterize as an aggressive bear.

[8:37:35 AM](#)

CO-CHAIR HERRON asked if the Anchorage Advisory Committee is basically the boundaries of the municipality. He then recalled that Ms. Yuhas had commented that "game" includes many animals,

and inquired as to the proper definition for bears, wolves, and coyotes if it replaced the term game in the legislation.

MS. YUHAS confirmed that the Anchorage Advisory Committee represents basically the boundaries of MOA. In further response to Co-Chair Herron, she related that ADF&G refers to predators, large predators, and fur bearers. She said that she would have to research her definition on "coyote" in order to determine whether wolves, coyotes, and bears would be lumped together in one of the aforementioned categories.

CO-CHAIR HERRON asked if the department has thought about [what's proposed in HB 281] prior to this legislation.

MS. YUHAS replied no, adding that when a predator population is decreased an undulate population is increased. She pointed out that moose in Anchorage cause more traffic accidents and attack more humans [than bears]. In fact, there is a group that would like to transport moose outside of Anchorage.

CO-CHAIR HERRON surmised then that moose are urbanized, and yet they're something that residents like to have in their community. However, he questioned whether predators are different than moose.

MS. YUHAS noted her agreement that predators are a totally different class of animals that pose a different set of problems. The original question, she recalled, was regarding whether ADF&G had reviewed managing for public safety as a mandate rather than the existing practice that takes public safety into consideration. She reiterated concern over the unintended consequences that managing for public safety could cause in the form of litigation.

[8:40:53 AM](#)

CO-CHAIR HERRON inquired as to the department's priority as related to public safety.

MS. YUHAS clarified that public safety is a response not a management [practice].

[8:41:41 AM](#)

REPRESENTATIVE GARDNER asked if ADF&G would've been more responsive to some of the situations that the sponsor described had the past effort to add more staff occurred.

MS. YUHAS specified that although she's not advocating for a program, increasing responders increases response. In further response to Representative Gardner, Ms. Yuhas said she would be speculating regarding whether a larger staff could've had a greater response rate.

[8:42:55 AM](#)

REPRESENTATIVE CISSNA expressed interest in knowing what kinds of incidents have been reported to ADF&G. She then highlighted that Anchorage is trying to return its streams to fish streams, which attract bears. Therefore, there needs to be a discussion regarding the impacts of different management schemes. To that end, the legislature should consider legislation that increases ADF&G personnel in Anchorage for educational and discussion purposes.

[8:45:02 AM](#)

CO-CHAIR HERRON announced the intent of the co-chairs to hold HB 281. He then requested that Ms. Yuhas work with the sponsor to narrow the term "game" to refer to predators and further explore public safety as a response protocol.

MS. YUHAS stated that the legislation definitely refers to a public safety response. With regard to whether public safety is a management tool, Ms. Yuhas explained that public safety is incorporated into the discussions. However, to change ADF&G's statute to prioritize public safety in terms of management doesn't meet the constitutional needs of the rest of the system.

CO-CHAIR HERRON opined that the management of this type of animal and the population levels on the Alaska Peninsula is very different than those same animals between Lake Otis and Service High School.

[8:47:16 AM](#)

REPRESENTATIVE GARDNER asked if Ms. Yuhas believes HB 281, as currently written, is unconstitutional.

MS. YUHAS replied yes.

[8:47:33 AM](#)

REPRESENTATIVE KELLER returned to the scenario presented by the sponsor, and inquired as to ADF&G's response if the bear had shown aggression and was shot by the individual in the situation.

MS. YUHAS deferred to Mr. Saxby, but added that the main concern is that managing for all public safety would pose litigation for any animal in Anchorage that caused a problem.

[8:48:49 AM](#)

REPRESENTATIVE GARDNER asked if HB 281, as proposed, is unconstitutional.

[8:48:54 AM](#)

KEVIN SAXBY, Senior Assistant Attorney General, Natural Resources Section, Department of Law, clarified that he wouldn't say that the legislation is unconstitutional, but said that it raises significant constitutional issues, specifically related to Article VII, Section 4, which in general mandates that all wildlife be managed for sustained yield. However, there is an allowance subject to preferences among beneficial uses. In fact, there is a case before the Alaska Supreme Court, the decision from which will specify the extent to which the "subject to" clause allows the state to reduce predator populations. The aforementioned will obviously have bearing on what's being discussed today. Although the state has held the position that it's constitutional to develop plans to reduce predator populations, the language in HB 281 is not crafted in a manner that's as protective of constitutional concerns. The case before the Alaska Supreme Court is captioned under Defenders of Wildlife et.al. v. State.

[8:50:32 AM](#)

REPRESENTATIVE KELLER inquired as to the scenario when an Alaskan shoots game to protect him/herself.

MR. SAXBY informed the committee that many years ago the Board of Game adopted a regulation authorizing shooting any game in defense of life and property. However, if the game was taken out of season and the citizen was not licensed, there would be an investigation by ADF&G troopers. If the investigation illustrated a genuine threat to life or property, there would be no further consequences.

8:51:26 AM

CO-CHAIR MUNOZ asked if HB 281 covers bears.

MR. SAXBY answered that it seems to cover all game.

8:52:05 AM

REPRESENTATIVE CISSNA referred to documentation in the committee packet regarding bear maulings in Anchorage. She asked if there is data or reporting on the human and bear incidents in Anchorage over the last five years in order to determine the immediacy of the problem.

MR. SAXBY said that based on the testimony he has heard in his capacity as attorney for the Board of Game, he is confident that ADF&G can produce data on the bear/human encounters.

8:55:08 AM

LARRY KANIUT commended the sponsor and opined that it's appropriate to enact local or statewide legislation on this issue. He then recalled that in the 1970s bear viewings were scant, but from 2000-2008 there were three to five bears every summer in his yard in the De'Armond area. Having spent decades researching bears, bear attacks, and relationships between bears and humans, Mr. Kaniut appreciated Representative Millett's reference to urbanized bears. He then related that problems with urbanized bears exist elsewhere as well. For example, about a year ago in Indian Bird 12 bears were killed in defense of life and the locals related that they had killed at least 20 bears. Therefore, there's a problem with vigilantism. With regard to the language "immediate harm", he opined that any time there's a bear there is immediate harm because the animal is unpredictable. This urbanized bear is a new bear that hasn't been seen before. He related that although residents of MOA are being told to store their garbage and bird feeders, the main attractants for bears in Anchorage is moose cows and the now stocked fish streams, both of which aren't being addressed by the department. Mr. Kaniut expressed hope for the introduction of legislation enabling the Alaska Moose Federation to remove some of the moose from Anchorage to other areas, which will address bears to some degree.

9:02:32 AM

BRAD HERZOG characterized HB 281 as common sense legislation because human life is sacred and thus human safety concerns should be the priority over predatory animal safety concerns. He reminded the committee that when bears are aggressive toward humans when unprovoked, it's highly unnatural bear behavior that should be remedied prior to the loss of human life or quality human life. He related that he has interviewed individuals who have lived in Anchorage since the 1950s, and those individuals report that bear attitudes have changed over the years such that bears in the area have become progressively more aggressive toward humans in some areas. He opined that although there may have been a smaller population in Anchorage in the aforementioned timeframe, there was likely a similar bear population. However, bears likely acted more natural when encountering humans. Mr. Herzog opined that the animals referred to in HB 281 are a renewable resource and not endangered. This legislation, he surmised, is largely about managing unnatural predator behavior of an abundant predator urban bear population. He encouraged trying this proposal for awhile in MOA and if the results are unsatisfactory, legislation could be introduced to change it back. Mr. Herzog specified that he is a proponent of HB 281.

MR. HERZOG then addressed some of the earlier comments in the meeting. Concerning the phone calls that would be received by dispatch at the police station, he supposed that it would be correct to say that the number of phone calls would be higher right after the legislation is passed. However, one must remember it's left to the discretion of the dispatcher to make the decision whether or not to dispatch an officer. Mr. Herzog opined that although there may initially be an increase in calls, it would eventually subside.

[9:05:45 AM](#)

REPRESENTATIVE GARDNER asked if Mr. Herzog agreed with the earlier comments regarding the attractants of bears being moose and fish. If so, she asked whether those attractants should be addressed in responding to problem bears.

MR. HERZOG suggested that problem bears could be tagged and their behavior observed. He suggested addressing those bears that are being taught unnatural behavior first. He said that in deciding whether or not to address reintroducing fish into Anchorage streams, there should be review of the numbers of fish in the streams in the past and whether or not there were more bear encounters and problems then than now.

9:08:49 AM

REPRESENTATIVE CISSNA inquired as to APD's policy, specifically regarding whether game is more important than human safety. She asked if APD has records regarding the [bear] encounters for which it has received calls and taken action.

9:09:17 AM

DEREK HSIEH, Sergeant, Anchorage Police Department, Municipality of Anchorage, responded that Representative Cissna's question is difficult to answer because generally speaking APD deals with large animal problems, which would include predators, moose, and some categories of domesticated animals. All those problems are categorized as animal problems. In 2009 APD responded to 624 animal problems involving all types of animals; additionally, APD responded to a number of traffic incidents that involved animals that aren't coded as animal problems. Mr. Hsieh estimated that annually APD receives 800-1,000 calls involving an animal issue.

9:10:35 AM

MR. HSIEH, in further response to Representative Cissna, explained that APD's current policy/practice is to attempt to notify ADF&G or their troopers regarding their availability to help manage the problem. If ADF&G or its troopers are available, then they will have the primary authority and response in the problem. However, if not, APD will most likely dispatch an officer if the problem is acute and remedy the situation based on APD's good judgment and training.

9:11:15 AM

REPRESENTATIVE CISSNA inquired as to whether the call or safety is considered first.

MR. HSIEH answered that public safety comes first no matter what the situation. In regard to HB 281, APD is most interested in the last half of the change in which the board authorizes the municipal police department to take action without contacting ADF&G, thereby allowing APD to have some degree of primary response. He recalled earlier testimony regarding increasing ADF&G staff, which he characterized as great. However, ultimately it would be better for police officers in the field to know that they have the authority and clarity to resolve

problems, regardless of the animal. He clarified that resolving problems with animals doesn't necessarily mean destroying the animal because in many causes the problem can be addressed by other means. In further response to Representative Cissna, Mr. Hsieh confirmed that APD officers do receive some training on wildlife issues, although he characterized wildlife training as hit or miss. He then told the committee that APD doesn't view animal problems as distinct from other problems it's called to address. In fact, officers are encouraged to resolve problems in a way in which the solution addresses the highest degree of safety. He offered that APD could mine its data, but would need to know in what question the committee is interested. For instance, APD could determine how many animals, of all species, it has destroyed in a year. The APD could also break down the animal problems geographically, but determining how many reports were related to a specific animal would require reviewing every police report.

[9:15:10 AM](#)

CO-CHAIR HERRON related that the focus on the animal issues would be on those that are predators.

MR. HSIEH agreed to inquire whether APD can easily provide such data.

[9:15:46 AM](#)

REPRESENTATIVE CISSNA recommended that the committee develop the question in order to obtain real data.

[9:16:42 AM](#)

CO-CHAIR HERRON mentioned the desire to tighten the language of HB 281, and then announced that the legislation will be held over for further consideration.

REPRESENTATIVE GARDNER surmised that the vast majority of the 800-1,000 animal issues involve dogs.

MR. HSIEH related his assumption that dogs would be involved in the vast majority of animal issues with moose following close behind.

[9:17:24 AM](#)

REPRESENTATIVE GARDNER related her understanding that currently APD would notify ADF&G when dispatch receives a call regarding an animal. If available, APD would respond, sometimes even when ADF&G is available. Furthermore, currently responding APD police officers can remedy the problem, while keeping public safety first, based on their training. She highlighted that the February 1, 2010, letter from Mr. Hsieh says that HB 281 "gives the APD the authority to take a bear if it is a known human threat." However, the legislation says that the police department would be authorized "to take game when the taking serves to protect human life from immediate harm from the game", which is different than a "known human threat." Therefore, she questioned in what way HB 281 would change existing policy, save APD not having to notify ADF&G first.

MR. HSIEH answered that it wouldn't [change existing policy]; the legislation merely clarifies and streamlines process.

[9:19:09 AM](#)

CO-CHAIR MUNOZ asked if the current law lacks clarity and authority for APD to act when public safety is in jeopardy.

MR. HSIEH replied no, adding that he hasn't heard of a problem with officers addressing animal problems. The legislation, he reiterated, provides for a quicker process by eliminating a response step or two that may be time consuming and delay response.

[9:20:57 AM](#)

REPRESENTATIVE GARDNER surmised then that passage of HB 281 would allow a quicker process. Therefore, she questioned whether it would be easier to change departmental policy to accomplish the goal of HB 281. She questioned why statute that applies to large cities is necessary.

MR. HSIEH related his understanding that APD is obligated by statute to contact ADF&G as APD doesn't have the primary authority to address these animal problems, which APD has addressed through MOUs and practicality.

REPRESENTATIVE GARDNER said that she would like to hear from the sponsor regarding whether the aforementioned obligation to contact ADF&G is in statute or an MOU.

[9:22:44 AM](#)

STACY SHUBERT, Intergovernmental Affairs Director, Municipality of Anchorage, read the following statement in support of HB 281:

The Municipality of Anchorage recognizes the threat of aggressive animals within the municipality and appreciates the work of the bill sponsors, particularly Representative Millett. When a resident's safety is put in jeopardy, the Anchorage Police Department does have the authority to take game. However, we view this legislation as a proactive step by the [Alaska] Department of Fish & Game to manage for safety; eliminating the threat before it is immediate, therefore prioritizing safety over management for abundance. Furthermore, we appreciate the language that requires the [Alaska] Department of Fish & Game to be responsible for removing and disposing of the carcass in the event that the APD does, in fact, take the animal. Therefore, again, we are in support of this bill and I thank you for the opportunity to testify.

[9:24:21 AM](#)

CO-CHAIR MUNOZ asked if MOA has undertaken an effort to address the issue of containment of garbage to address bear problems.

MS. SHUBERT said that although she has only been on staff with MOA for the last six months, she is aware that there are some efforts. However, she said she would have to review the specifics of those efforts and provide that information to the committee.

[9:25:12 AM](#)

RONALD JORDAN, Taku/Campbell Community Council, testified in support of HB 281, which he characterized as necessary legislation. This legislation, he opined, will allow better safety around schools. Mr. Jordan related his belief that HB 281 should be extended to apply to any locale with bear problems.

[9:26:34 AM](#)

REPRESENTATIVE MILLETT stated that she is open to changing HB 281, which she characterized as a proactive step. She emphasized that the extra steps sometimes can seem foolish when

reporting an animal issue, and therefore allowing APD to respond without contacting ADF&G is necessary. In conclusion, Representative Millett welcomed the committee's help in making this legislation better.

[9:27:53 AM](#)

REPRESENTATIVE GARDNER restated her earlier question regarding whether the process of calling ADF&G prior to APD responding is in statute or part of APD's policy or MOU.

REPRESENTATIVE MILLETT related her belief that ADF&G manages wildlife, and therefore would be the first responder, and that the MOU came about because the statute is unclear. She offered to research the matter further and provide information to committee.

REPRESENTATIVE GARDNER expressed puzzlement because it seems that APD can currently respond if it desires to do so, particularly if the situation is deemed an immediate threat.

[HB 281 was held over.]

HB 276-FORT ROUSSEAU CAUSEWAY HIST PARK

[9:29:09 AM](#)

CO-CHAIR HERRON announced that the final order of business would be HOUSE BILL NO. 276, "An Act amending the description of parcels within the Fort Rousseau Causeway State Historical Park; and providing for an effective date."

[9:29:52 AM](#)

CO-CHAIR MUNOZ moved to adopt CSHB 276, Version LS0826\E, Bullock, 2/1/10, as the working document.

REPRESENTATIVE KELLER objected for discussion purposes.

[9:30:09 AM](#)

REED HARRIS, Staff, Representative Peggy Wilson, Alaska State Legislature, speaking on behalf of the sponsor, Representative Wilson, related that HB 276 will correct the boundary between the Sitka Rocky Gutierrez Airport and the Fort Rousseau Park. The legislation, he explained, forming the park boundary in 2000 mistakenly included uplands, tide lands, and water adjacent to

the airport. He pointed out that a color map in the committee packet illustrates that the aforementioned lands are within 1,100 feet of the runway center line, which is the designated safety zone for the Federal Aviation Administration (FAA). This mistake wasn't discovered until the legislation forming the park was already in the Senate Resources Standing Committee, at which time the Department of Transportation & Public Facilities (DOT&PF) made an agreement with the Department of Natural Resources (DNR) to continue to support the legislation with the understanding that the park boundary would have to be changed at a later date. The lands in question, as designated in yellow on the color map, are ones over which DOT&PF has traditionally exercised control. Moreover, the property in question contains navigational equipment for the airport, such as wind and directional monitors. He pointed out that the property in question is already separated by a security fence.

MR. HARRIS related that DNR doesn't believe DOT&PF controlling this land would have any impact on future access. The traditional access to the park, people scampering over the runway, hasn't occurred since the 1980s. Therefore, this park isn't accessed through or across the airport runway. At the time of the park's creation there was no discussion regarding land access; the intention was for there to be only water access to the park. He highlighted that the committee packet includes the minutes for House Bill 176, which was the 2000 legislation that created Fort Rouseau Causeway State Historical Park. According to DOT&PF, land access to the park would be extremely expensive and require either a tunnel under the runway or an extension of the perimeter around the airport, which would require a retaining wall that would fall below the tide level at high tide. Mr. Harris pointed out that the main issue with the airport is that the area in question needs to remain within airport boundaries in order to maintain airport safety and security responsibilities, as specified by the FAA. Furthermore, the FAA requires that the state demonstrate adequate property interest in any airport for which it accepts Airport Improvement Program (AIP) grant funds. The AIP grant funds makeup about 95 percent of [the state's airport funding]. For example, the Sitka Airport has received over \$32 million in AIP funds since 1982. He stated that failure to comply with the AIP grant assurances can result in FAA withholding additional grants, additional grants which DOT&PF estimates will total \$30 million over the next two years for the Sitka Rocky Gutierrez Airport. Therefore, the sponsor requests passage of HB 276 in order to address airport security and continued funding for the Sitka Rocky Gutierrez Airport, he related.

9:34:02 AM

REPRESENTATIVE KELLER inquired as to the difference between HB 276 and Version E.

9:34:33 AM

MARY SIROKY, Legislative Liaison, Office of the Commissioner, Department of Transportation & Public Facilities, related that DOT&PF's attorneys felt it would be clearer to use the 1,100 feet description of the property the airport needs as opposed to including a sub clause that referred to the runway safety area. Although the 1,100 feet is technically somewhat larger than the runway safety areas, runway safety areas aren't well defined, she remarked.

9:35:11 AM

REPRESENTATIVE KELLER removed his objection.

CO-CHAIR HERRON stated his objection.

9:35:45 AM

DEBRA LYONS, Executive Director, Sitka Trail Works, began by informing the committee that Sitka Trail Works is a nonprofit organization in Sitka that has been very involved with the park prior to it being a park. Ms. Lyons related that the community of Sitka and members of Sitka Trail Works care very deeply about the causeway as a recreation area and as an important cultural component of the community. She noted the incredible effort to create the park itself and the 8,000 foot causeway road, which represented the 1945 version of security. Today, the [community] is wrestling with how to make the airport secure because the efforts to make the airport secure has cumulatively denied the public access to this historic landmark. Sitka Trail Works has tried to have the causeway established as a historic property to be renovated and appreciated. About \$200,000 in grant funds has been obtained, much of which has been transferred to the state in order that the state could perform a survey of the historic artifacts. In fact, the state is currently being paid to perform an interpretation and management plan. Sitka Trail Works is committed to this area, she emphasized. However, it seems that the interest of the public is being left out as the agencies try to serve their own mission. Ms. Lyons said that it wasn't a mistake that the land

in question was included in the definition of the park. When the park boundary was defined, it was the historic definition [boundary] of Fort Rousseau. She acknowledged that the aforementioned is causing DOT&PF difficulties as it would like to have control of the property. To that end, she questioned why DOT&PF didn't do a management agreement with the state. She then suggested that perhaps lot 86A belongs to the Bureau of Land Management not the state because it's over submerged lands. She further suggested that it would be appropriate to attach a fiscal note to this legislation in order to fund providing a dock or other water access to the park in compensation for the cumulative impact of providing security for the airport and disallowing the public access to the park via land. Sitka Trails Work had hoped to work with the contractor of the runway expansion in order to rebuild portions of the causeway, although that will certainly not be an option when the airport has total control of the parcel. Therefore, any construction at the park would require the use of barges.

[9:41:29 AM](#)

MS. LYONS, in response to Co-Chair Herron, explained that the yellow designation on the color map is a road that was built by the U.S. Army to access the islands. The islands are attached by a road built over submerged lands. All of the lots with an "A" designation are fill over submerged lands and actually owned by the Bureau of Land Management (BLM). When the legislature created the park, all the state lands and uplands without an "A" designation were included in the definition of the park as well as the lands owned by BLM. The thinking was to work with BLM on a recreation and public purpose lease. During the preliminary discussions, the BLM felt that a state park fit recreation and public purposes. Ms. Lyons then informed the committee that portions of the causeway have eroded and are in need of repair. Therefore, part of the plan was to improve the old road bed in order to provide walking access to the islands. The hope was to devise something between the airport and the park such that the airport would allow at least the park manager to drive out to the park as maintenance. "We were just trying to develop the park for use and enjoyment by the public to the most people possible in the least costly manner possible," she stated. At the same time, Sitka Trail Works isn't opposed to working with the department in order to meet its security needs. Still, she opined that there should be acknowledgement that some sort of enhancement to water access to the park should be considered as mitigation for diminishing access to the park.

[9:44:32 AM](#)

MS. LYONS, in response to Representative Cissna, clarified that if the road becomes part of the airport, the airport will prohibit any and all access because of security needs. Therefore, access to the park is exclusively via water and there's no ability to repair the road via access from the airport, and thus repair would have to be done via barge. Because there will be no ability to use lot 86A to access the park, she questioned whether DOT&PF would consider a fiscal note to construct an ADA accessible dock. If all land access is being taken away, she implored the committee to help provide access to the park via the water.

[9:48:51 AM](#)

REPRESENTATIVE GARDNER, referring to the April 4, 2007, minutes from the House Resources Standing Committee, pointed out that Mr. Stone related that Sitka Trail Works provides a skiff for the public to use [to access the park], which is heavily used in the summer months by local residents who skiff to the causeway to picnic and visit the site. Therefore, Representative Gardner surmised that the park has regularly been accessed via the water. Representative Gardner further surmised that Ms. Lyons recognizes that these measures with the park are going to and have to happen, but that she is trying to minimize the impact in terms of maintenance access.

MS. LYONS agreed with that assessment. Sitka Trail Works is trying to address future maintenance of the park by improving marine access. Furthermore, Sitka Trail Works is trying to improve the accessibility to the park because one has to be fit to land a skiff/kayak on the beach and climb up the embankment onto the park lands. In order to make the park accessible and capture tourism dollars, there needs to be a dock of some sort.

[9:50:45 AM](#)

REPRESENTATIVE GARDNER inquired as to the distance the park is from the mainland via water.

MS. LYONS responded that it's only 15-20 minutes. She then asked if skiff traffic would be allowed in that airport security designated area on the water.

[9:51:47 AM](#)

CO-CHAIR HERRON asked if DOT&PF would be amenable to an agreement that would allow a contractor to haul material to the state park.

MS. SIROKY specified that such isn't allowed under the agreements with the FAA. In regard to boat traffic through the airport security area, DOT&PF doesn't anticipate monitoring of it. The FAA requirements are very strict. In fact, the FAA has concerns regarding the float plane haul out that is located on the causeway area. Ms. Siroky then told the committee that when the park was created there was no discussion of state funding to upgrade the park.

[9:53:51 AM](#)

CO-CHAIR HERRON remarked that maintaining the state park proper is not of primary concern. However, he expressed concern with Ms. Siroky's testimony that contractors can't be allowed access via lot 86A. If there is any expansion or improvements made to the runway, contractors will need to access the runway. Therefore, he questioned the difference between contractors accessing the park via the runway and contractors accessing the airport via the runway.

[9:54:40 AM](#)

VERNE SKAGERBERG, Transportation Planner, Aviation Planner, Southeast Region, Department of Transportation & Public Facilities, informed the committee that one of the FAA's highest priorities is to eliminate events known as runway incursions. Runway incursions are events on the runway that don't have anything to do with an airport operation. The FAA has spent a lot of resources to address runway incursions, which are reported, investigated, and become part of the FAA's database. Mr. Skagerberg then informed the committee that following the completion of an environmental impact statement (EIS), for which the record of decision was issued in September, there was the decision to relocate the seaplane haul out because it poses potential runway incursions. Allowing access across the runway for purposes other than the direct needs of the airport would create potential runway incursions. He informed the committee that at the Sitka Airport there are in excess of 70,000 passenger enplanements annually and 1,800-2,000 air carrier operations and 6,000-7,000 other aircraft operations. The runway is also an alternate runway between Interior Alaska and the Lower 48, and thus must be available for emergency situations.

[9:57:51 AM](#)

CO-CHAIR HERRON surmised then that the hope is that lot 86A will dissolve into the sea.

MR. SKAGERBERG said that he didn't know that to be the case. However, lot 86A is important to the airport because the area adjacent to the runway supports a number of navigational aids, which are typically susceptible to interference, such as from truck traffic in the vicinity. Therefore, when construction projects are being considered, the department must ascertain whether the traffic moving around the navigational aids would impede their operation. Currently, the area [holding the navigational aids] is fenced for that reason as well as other safety and security reasons.

[9:59:28 AM](#)

CO-CHAIR HERRON surmised then that DOT&PF is fine with contractors working on the runway to be present, but isn't interested in allowing contractors on the runway for improvements to the causeway or state park.

MR. SKAGERBERG agreed that DOT&PF has to have construction equipment on the airport. However, prior to such activity, DOT&PF's engineering staff and the FAA's Airports Division provide a thorough scrutiny to ensure that all the safety requirements are met. The safety plan for airport construction involving a runway is a detailed document.

[10:01:39 AM](#)

CO-CHAIR HERRON asked if it's DOT&PF's position that lot 86A would never be used again.

MS. SIROKY replied yes, other than for airport activities.

[10:02:07 AM](#)

MR. SKAGERBERG, in response to Co-Chair Munoz, confirmed that accessing lot 86A does require crossing the runway at the Sitka Airport.

CO-CHAIR MUNOZ then related her understanding that the FAA requires a 1,100 foot center line boundary, which is part of the

park, without which the airport would not comply with security or funding requirements.

MR. SKAGERBERG replied yes. When DOT&PF negotiated with the FAA to relinquish the causeway park and island land from the airport, it was determined that the boundary necessary was 1,100 feet. In further response to Co-Chair Munoz, the center line boundary varies from airport to airport for various reasons.

[10:04:11 AM](#)

REPRESENTATIVE CISSNA related her understanding that the yellow portion of the color map belongs to the park.

MS. SIROKY specified that by the boundaries established in the state park, the yellow area [86A] is included in the park's boundaries. However, DOT&PF has never relinquished control of that land to the park. In further response to Representative Cissna, Ms. Siroky related that lot 86A was inadvertently included in the legislation creating the park. She acknowledged that DOT&PF didn't clearly review the boundaries of the park until late in the process, at which point DOT&PF came to an agreement with DNR to address it with separate legislation to create the park.

[10:05:39 AM](#)

REPRESENTATIVE CISSNA indicated the need to include language in this legislation that would allow for an agreement that would allow the park to use the runway for narrow construction windows in order to ensure that it's a usable park.

MS. SIROKY related her understanding that the FAA is very, very strict in terms of its security regulations. She then reminded the committee that when the park was created it was clear that it was boat access only. There was no discussion of needing funding for a dock. In fact, there was testimony from Sitka Trail Works regarding needing to obtain funding for a dock in the future. Ms. Siroky clarified that prior to the creation of the park there was no access across the causeway; the causeway has been in DOT&PF's control the entire time.

[10:08:40 AM](#)

CO-CHAIR HERRON related the intent of the co-chairs to forward this legislation. However, he maintained his concern that DOT&PF is taking an unreasonable stance by not allowing

accommodations, for construction purposes only, access to the state park for improving the state roads.

[10:09:15 AM](#)

CO-CHAIR MUNOZ moved to report CSHB 276, Version 26-LS0826\E, Bullock, 2/1/10, out of committee with individual recommendations and the accompanying fiscal notes.

CO-CHAIR HERRON removed his objection to adoption of Version E.

REPRESENTATIVE CISSNA stated her objection.

[10:09:35 AM](#)

A roll call vote was taken. Representatives Gardner, Keller, Herron, and Munoz voted in favor of reporting CSHB 276, Version 26-LS0826\E, Bullock, 2/1/10, from committee. Representative Cissna voted against it. Therefore, CSHB 276(CRA) was reported out of the House Community and Regional Affairs Standing Committee by a vote of 4-1.

[10:10:16 AM](#)

REPRESENTATIVE CISSNA remarked that she would be in favor of moving this legislation when the [access to the park for construction purposes] is addressed. She opined that this committee should address the issue and that it's a mistake to forward the legislation.

[10:10:47 AM](#)

ADJOURNMENT

There being no further business before the committee, the House Community and Regional Affairs Standing Committee meeting was adjourned at 10:10 a.m.