

CITIZENS ADVISORY COMMITTEE OF THE SOUTHERN EDWARDS PLATEAU HABITAT CONSERVATION PLAN MINUTES

DATE: December 6, 2010
LOCATION: Casa Helotes Senior Citizens Center
12070 Leslie Road Helotes, Texas 78023

1. Call to order – Kirby Brown or Jonathan Letz (CAC Co-chairs)

Jonathan Letz called the meeting to order at 6:10 pm.

2. Public comment (3 minutes per speaker)

Jonathan Letz called for public comments. None were received. Commissioner Letz extended an invitation to members of the public to ask questions throughout the meeting.

3. Review and possible approval of draft minutes from the October 4 and November 15 meetings -- Kirby Brown or Jonathan Letz (CAC Co-chairs)

Jonathan Letz noted that there were two sets of draft minutes to approve. Commissioner Letz opened discussion on the October 4, 2010 draft minutes, but no comments or edits were given. MOTION (Bebe Fenstermaker): Approve the October 4, 2010 minutes as drafted. SECOND (Bob Fitzgerald). VOTE: Voice vote carried without opposition. Commissioner Letz opened discussion on the November 15, 2010 draft minutes, but no comments or edits were given. MOTION (Jennifer Nottingham): Approve the November 15, 2010 minutes as drafted. SECOND (Ann Dietert). VOTE: Voice vote carried without opposition.

4. Discuss the designated seven county plan area and options to modify this area based on input from rural area residents and governmental entities -- Kirby Brown or Jonathan Letz (CAC Co-chairs)

Jonathan Letz reported that he had received many comments from landowners in Kerr County, and also Bandera County, wishing for these counties to be removed from the SEP-HCP Plan Area. He expressed concern about pushing for a plan that is not wanted by some of the local community. Commissioner Letz suggested that the CAC begin thinking about what to do if a county wishes to be removed from the Plan Area. He added that his impression is that rural landowners seem to be more concerned with the coverage of take in rural areas, rather than the ability to locate conservation lands there. Commissioner Letz stated that he was not recommending that the CAC take action now to change the limits of the Plan Area, rather to keep in mind that adjustments may need to be made as the plan is drafted.

Jonathan Letz suggested that the plan be structured to require other jurisdictions to formally “opt in” to the take coverage aspect of the plan, instead of automatically including them and risk “opting out.” Kirby Brown agreed with this suggestion, and added that the plan should be built for Bexar County and that other counties could get some financial assistance with endangered species issues by opting to join the plan. However, Mr. Brown noted that the decision to opt in should rest with the other jurisdictions.

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Dierdre Hisler (CAC member) asked whether a change in the Plan Area boundaries might affect the project schedule and, if participation in the plan is voluntary, why does the CAC need to be concerned about the other county governments?

Andy Winter (Bexar County) noted that the decision to define the Plan Area boundaries on the basis of county boundaries was made to ease administration of the plan and that Bexar County originally intended for the plan to cover the entire region. Mr. Winter read a letter to the County written by Kerr County landowners in the Whiskey Ridge Ranch subdivision that expressed concern about the loss of property rights if the plan facilitated Endangered Species Act compliance for condemning authorities.

Andy Winter added that if the plan covers take in other counties, county governments would be able to use the plan to achieve Endangered Species Act compliance for their public projects, otherwise these jurisdictions would need to obtain their own permits for incidental take. Mr. Winter added that the permitting process could add two or three years to a project schedule.

The U.S. Fish and Wildlife Service (represented at the meeting by Allison Arnold and Charlotte Kucera) added* that it would be difficult for these other county governments to get their own Habitat Conservation Plan. The Service also stated* that due to the NOI requirements, if a change was made to the Plan Area, that change could add two to three month delay to the Service's NEPA process.

Several CAC members stated that the CAC and the County need to be proactive related to outreach to ensure that other counties and the public understood how an RHCP works, that participation really and truly is voluntary, and how the inclusion or exclusion of an area impacts local governments and their constituents. CAC members suggested that the AOG should work on this issue, including the possibility for additional press releases and outreach. Kirby Brown summarized that much of the public feedback may be rooted in a mistrust of government in general, a mistrust of Bexar County, and a mistrust of the Endangered Species Act and eminent domain powers. Mr. Brown noted that the CAC should be prepared to deal with these issues when the draft plan is prepared.

5. Presentation and discussion of BAT recommendations for black-capped vireo – (TBD)

Richard Heilbrun (BAT chairperson) described the BAT's recommendations for the BCV conservation measures. He summarized that the BAT felt there might not be a large need for BCV mitigation through the plan and that there may be many opportunities to acquire BCV habitat in conjunction with preserves acquired for the GCW. Mr. Heilbrun stated that the BAT recommendation was to authorize destruction of no more than 6,000 acres of BCV habitat within the Plan Area, which, if issued, would result in 12,000 acres of mitigation, with a requirement that such habitat occur in patches of at least 100 acres. He reported that the BAT felt that only 1 focal area preserve was needed for the BCV, with the rest of the mitigation scattered across the Plan Area. Mr. Heilbrun reported that the BAT recommended that BCV preserves build upon existing protected lands and that no more than 10% of the BCV preserve should be composed of existing protected lands. Richard Heilbrun emphasized that active management of BCV habitat is important and that the BAT recommends that the managing entities have the authority to use all appropriate management tools.

Gary Schott (CAC member) asked who would pay for management, particularly on conservation easements. Richard Heilbrun responded that these details still need to be worked out, but that the management will need to be ensured. Amanda Aurora (Loomis Partners) added that many conservation easements come with perpetual endowments for easement monitoring and/or management.

CAC members discussed approving the BAT recommendations for the BCV. Michael Moore (CAC member) noted that many of the CAC's concerns regarding the mitigation ratios and preserve recommendations for the GCW also apply to the BCV. CAC members discussed how they might accept the BAT's recommendations, but reserve the right to refine their own committee's recommendations to the County later.

MOTION (Bebe Fenstermaker): Accept the BAT's recommendations for the BCV conservation measures, but acknowledge that the CAC may issue different recommendations for the BCV based on further discussions. **SECOND** (Jennifer Nottingham). **VOTE**: Voice vote carried, with opposition from Michael Moore.

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6. Presentation and discussion of preliminary draft cost estimates for BAT recommended conservation measures – Christopher Allison (ME Allison)

Christopher Allison (ME Allison) presented preliminary cost scenarios associated with the BAT recommendations for the GCW, BCV, and karst conservation measures, under assumed 10%, 30%, and 50% participation rates. His presentation included a summary of available habitat, projected land development, estimated habitat loss, % participation, covered take and associated mitigation, and land acquisition and management costs.

Jonathan Letz asked for input from the Service on why the SEP-HCP was being asked to do more mitigation than other regional HCPs in central Texas. The Service responded* that the BAT did a good job of determining what the mitigation ratios should be for the covered species and recommended that the SEP-HCP use those ratios. Michael Moore noted that the CAC had discussed earlier using a 2:1 mitigation ratio for the GCW and asked the Service why GCW habitat in Bexar County is worth more than habitat elsewhere in the Plan Area. The Service responded* that the BAT needs to answer that question.

Michael Moore stated that he would like to have a better explanation from the BAT as to why GCW habitat in the urban or suburban parts of Bexar County is more valuable than GCW habitat in rural areas with less development pressure. Richard Heilbrun responded that it has to do with the degree of threat to these habitats, which was one of the primary reasons that the GCW became listed as endangered. Mr. Heilbrun added that the BAT considered where GCW habitat is distributed and allowed some mitigation for Bexar County take to be located outside of the county.

Jonathan Letz suggested that CAC members should submit written questions for the BAT to consider.

Christopher Allison summarized the potential costs associated with the karst conservation measures. Amanda Aurora clarified that the recommended karst conservation program was based on upfront conservation designed to achieve recovery standards, and that participation ratios and tracking take was not as critical as for the “pay-as-you-go” conservation banking approaches proposed for the GCW and BCV. Mr. Allison stated that the preliminary cost scenarios assume relatively high per-acre costs for acquiring the necessary karst mitigation, since karst preserves would be located in relatively urbanized areas.

Michael Moore and Jonathan Letz suggested that the estimated per-acre costs for preserve land were too low and Mr. Allison confirmed that these were conservative estimates. Kirby Brown and Michael Moore stated that it is possible that the plan could create a commodity for conservation lands that could drive acquisition costs up. Although, Mr. Brown indicated that this did not seem to have occurred in other counties with regional plans.

Tom Hornseth (CAC member) asked if the scenarios included potential sources of income. Christopher Allison responded that they did not, but that in prior presentations to the CAC he estimated that participation fees could generate approximately 25% of the income for the plan and the remaining would come from other (likely public) funding sources.

Jonathan Letz asked when a more complete funding plan would be available. Amanda Aurora and Clifton Ladd (Loomis Parnters) responded that a complete funding plan would be part of the first draft of the plan, due in April 2011. Commissioner Letz asked whether it was worth the cost to cover take in other counties, and Tom Hornseth stated that the mitigation ratios used are also a substantial driver of the costs. Michael Moore noted that other county plans proposed participation fees of approximately \$5,500 per acre and still estimated only 10% to 30% participation. Mr. Moore questioned how much participation the SEP-HCP could expect if the plan charges substantially higher participation fees.

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7. Consider BAT recommendations for golden-cheeked warbler -- Kirby Brown or Jonathan Letz (CAC Co-chairs)

Andy Winter stated that the County had gotten some questions about the GCW recommendations and were preparing to send them in writing to the BAT for consideration. Amanda Aurora stated that the consultant team was looking for input from the CAC on an appropriate conservation strategy.

Michael Moore asked how much GCW habitat is available within the 5-mile buffer of Bexar County and Julie Groce (BAT member) responded that she thought the amount was about comparable to what was available within Bexar County. Jayne Neal (BAT member) noted that the BAT already provided the CAC the biological rationale associated with each of its recommendations.

Kirby Brown asked how habitat in Bexar County was different than habitat in other counties. Richard Heilbrun responded that the threat of habitat loss was greater in Bexar County than in other counties. Michael Moore asked how the conservation value of a hypothetical 5,000 acres of occupied habitat in Medina County compared to 500 acres in Bexar County that might have fewer birds on it. Jayne Neal responded that the BAT believes that habitat loss in Bexar County is worse than habitat loss in other areas and that more mitigation is needed to address the severe loss of habitat in Bexar County. Ms. Neal added that the BAT was told that mitigation must be located close to where the take occurs, otherwise it is not appropriate.

Michael Moore stated that if the plan creates an economic environment that pushes development out of Bexar County, then a bigger problem may be created by encouraging urban sprawl. Mary Fenstermaker (CAC member) responded that poor city planning is the cause of urban sprawl, not endangered species issues.

Michael Moore stated that many of his concerns would be addressed with consistent mitigation ratios across the Plan Area and Jonathan Letz also questioned why administrative boundaries should affect biological issues. Amanda Aurora reminded the CAC that the plan supports a permit to incidentally take the covered species, and that the plan does not need to ensure that the taken birds move to other habitats.

The Service described* the mitigation ratios used in the Camp Bullis Biological Opinion and stated that they vary from 3:1 to 1:1 based on habitat occupancy. The Service added* that the Camp Bullis mitigation ratios were based on threats to the species and are consistent with what the BAT proposed for the SEP-HCP. The Service also stated* that the Camp Bullis Biological Opinion was based on a Section 7 consultation that has different and higher standards than a HCP. The Service stated* that the SEP-HCP does not have to meet recovery standards, but that it does have to contribute to recovery of the species in order for the Service to endorse the plan.

Comm. Letz and Kirby Brown suggested that the CAC task the consulting team with preparing the first draft of the plan, and be ready to make changes based on CAC comments. The Service asked* when the funding plan would be ready for review, because that is such a major part of the plan. Clifton Ladd stated that the consultant team anticipates working with Bexar County to synthesize the recommendations and other input from both committees and pull together a draft of the plan that is workable by April. Kirby Brown directed CAC members to submit any questions or concerns about the BAT recommendations to Andy Winter by the end of the week. Andy Winter offered to compile all the questions into a written format to send to the BAT for consideration.

MOTION (Mary Fenstermaker): Accept the BAT's biological recommendations for the GCW, subject to later modification by the CAC. SECOND (Bob Fitzgerald). VOTE: 11 votes for and 5 votes against. Motion did not pass (with 18 CAC members present, a motion needs 12 votes to pass).

8. Consider Biological Advisory Team recommendations for karst species -- Kirby Brown or Jonathan Letz (CAC Co-chairs)

Jonathan Letz opened discussion on the karst recommendations. Bebe Fenstermaker stated that the BAT worked hard on these recommendations and that they were deliberate. Michael Moore stated

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concern with the low estimated costs presented in the funding scenarios. Kirby Brown noted that the CAC can vote to accept all the biological recommendations, but still adjust any part based on the CAC's specific charge and considerations.

MOTION (Bebe Fenstermaker): Accept the BAT recommendations for karst conservation measures, subject to later modification by the CAC. SECOND (Bob Fitzgerald). VOTE: Voice vote carried without opposition.

9. Report on project schedule – Clifton Ladd or Amanda Aurora (Loomis Partners)

Clifton Ladd presented a summary of the project schedule and major milestones. Mr. Ladd stated that the Project Foundations and Conceptual Development phases are nearly complete and that the consultant team is preparing to assemble a complete draft of the plan. Mr. Ladd stated that the committees have discussed most of the major components and made some formal recommendations on certain parts of the plan. Mr. Ladd stated that the consultant team will use the recommendations and other input from the committees to prepare a comprehensive draft, with additional guidance from Bexar County and the committees as available. He stated that a draft of the plan should be completed in early April 2011 to stay on schedule. Mr. Ladd also reported that work on the Environmental Impact Statement is in progress.

10. Next meeting, future meeting schedule and requested agenda items – Kirby Brown or Jonathan Letz (CAC Co-chairs)

The CAC discussed whether or not to continue meeting while the plan was being drafted, and Jonathan Letz suggested that the CAC chairs meet with the individual stakeholder groups again in January. Richard Heilbrun noted that the BAT was planning to take up public access, management, and research topics in February and March. Dierdre Hisler suggested that the AOG determine if a January CAC meeting was necessary are report back to the committee. Jonathan Letz suggested that January 10, 2011 be reserved for a potential CAC meeting.

Clifton Ladd noted that Wendell Davis was available to meet with CAC members to discuss the land development projections, and that Michael Moore was scheduled to discuss his concerns with Mr. Davis the next morning.

11. Adjourn - Kirby Brown or Jonathan Letz (CAC Co-chairs)

Jonathan Letz adjourned the meeting at 8:24pm.

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CAC MEMBER SIGN-IN SHEET

CAC MEMBERS			CAC ALTERNATE (FOR VOTING PURPOSES)	
	NAME	SIGNATURE (IF PRESENT)	ALTERNATE NAME (PRINTED)	ALTERNATE SIGNATURE
1	Bradshaw, Mary (Bexar County landowner)			Lottie E. Millsaps
2	Brown, Kirby (Texas Wildlife Association)	Kuff B		
3	Cain, Delmar (Kendall County landowner)	Delmar L Cain		
4	Cude, Ian (Cude Engineering)	I Cude		
5	Dietert, Ann (Kerr County landowner)	Ann Dietert		
6	Fenstermaker, Bebe (Bexar County landowner)	Bebe Fenstermaker	Chris Tierrell	[Signature]
7	Fenstermaker, Mary (Hill Country Planning Association)	Mary Fenstermaker	Susan Beavin	Susan Beavin
8	Fitzgerald, Bob (Medina County landowner)	Dr Bob Fitzgerald	LESTER R. LANDRUM	[Signature]
9	Forster, Charles ("Frosty") (Pape-Dawson Engineers)			
10	Hisler, Deirdre (Texas Parks and Wildlife Department)	Deirdre Hisler		
11	Hornseth, Tom (Comal County)	[Signature]		
12	Jenkins, Sandy (City of San Antonio)			
13	Johnson, Randy (Bexar County landowner)	[Signature]		
14	Letz, Jonathan (Kerr County)	[Signature]		
15	McFarlen, Gerald (Cibolo Nature Center)	Gerald McFarlen		
16	Moore, Michael (Ironstone Development)	Michael D. Moore		
17	Nottingham, Jennifer (City of Grey Forest)	Jennifer Nottingham		
18	Peace, Annalisa (Greater Edwards Aquifer Alliance)		Paul Barwick	see public sign-in

19	Schott, Gary (Bexar County landowner)	<i>Ray Schott</i>	<i>Madelon Schott</i>	
20	Terrez, Jenna (CPS Energy)		<i>Kim Stoker</i>	<i>Kim Stoker</i>
21	Wright, Susan (Susan Wright & Associates)			

GENERAL SIGN-IN SHEET

NAME	AFFILIATION	EMAIL ADDRESS	PHONE NUMBER	PLEASE NOTE IF YOU WOULD LIKE TO SPEAK DURING THE PUBLIC COMMENT PORTION OF THE AGENDA
Amanda Aurora	Loomis	aaurora@loomis-partners.com	512-672-8977	
Clifton Ladd	Loomis	cladd@loomis-partners.com	512-672-8967	
Jayne Neal	SAPAR	jayne.neal@sanantonio.gov	210.372.9124	
SANDRA SCARFEDER	LAND OWNER	dsandra@scarf.net	210-244-1622	
Sonia Jimenez	Kimers + Assoc	sjimenez@subell.net	on file	
Christopher Allison	M.E. Allison + Co	Callison@mcallison.com	210-930-4000	
Andy Winter	Bexar Cty	on file	on file	
Allison Arnold	USFWS	—		
Charlotte Kucera	USFWS			
Kyle Cunningham	SAMHD	On file	On file	

GENERAL SIGN-IN SHEET

NAME	AFFILIATION	EMAIL ADDRESS	PHONE NUMBER	PLEASE NOTE IF YOU WOULD LIKE TO SPEAK DURING THE PUBLIC COMMENT PORTION OF THE AGENDA
Valerie Collins	on file			
Scott R. Halty	on file			
Rachel Barlow	ZARA	on file	on file	
ALT → Paul Banerick	city of Boerne			
JULIE GROBE	on file			
Frank Sherman	on file			
Brian Overline	KAMN			
Ron Fieseler	Blanco County Groundwater	manager on file	on file	
MILKIE BAW	SAWS	_____	_____	
R. Hillborn	TPWD	on file		

