

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

DATE: April 11, 2011
LOCATION: Scenic Loop Playground Club
18249 Sherwood Trail
Grey Forest, TX 78023

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

Jonathan Letz called the meeting to order at 6:05pm.

2. Public comment (3 minutes per speaker)

Michael Luckey, a Kendall County landowner, commented that when the Kendall County Commissioners' Court discussed the SEP-HCP the courtroom was packed with people that did not want to participate in the Plan. He asked if Bexar County was ready to justify how the CAC was assembled, and stated that the CAC membership did not represent the rural communities. Mr. Luckey stated that he felt that the people are being lied to since the CAC voted on mitigation fees for six other counties, which he believes makes the Plan not voluntary. He also stated that the CAC was being used by Bexar County to get a desired outcome similar to the other regional plans already in place. Mr. Luckey warned that if the Plan gets approved tonight, there will be people filing lawsuits against it and people will take the fight to the Bexar County Commissioners' Court. He also stated that the names of each CAC member who votes for the draft Plan will have their names published. Mr. Luckey stated that Bexar County needs to leave the other counties out of the SEP-HCP.

Deirdre Hisler (CAC member) commented that the April 6, 2011 letter from Andy Winter to the CAC and BAT stated that a final plan may not be ready until 2012. Ms. Hisler stated that she hopes Bexar County will be willing to accept and incorporate comments and recommendations from the CAC and get a final plan completed sooner than 2012.

3. Review and approval of draft minutes from the March 7, 2011 meeting – Jonathan Letz or Kirby Brown (CAC Co-chairs)

Clifton Ladd (Loomis Partners) stated that Bexar County's legal counsel suggested some changes to the draft minutes regarding the ability of private landowners from counties that have passed resolutions "opting out" to use the Plan. Delmar Cain (CAC member) affirmed his statements in the passage in question.

Michael Moore (CAC member) suggested changes to his statements regarding the total mitigation fee proposed during the small group discussions.

MOTION (Michael Moore): Approve the draft minutes from the March 7, 2011 CAC meeting, as amended. **SECOND (Delmar Cain).** **VOTE:** Voice vote carried with no opposition.

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4. Review CAC charge and process, and committee review of draft SEP-HCP – Andy Winter (Bexar County)

Jonathan Letz stated that this April meeting was called to address discontent among some CAC members over the process for release and review of the First Draft SEP-HCP. He stated that the AOG felt that it was important to get the draft to the CAC for review as soon as possible.

Andy Winter (Bexar County) thanked the CAC for their past efforts and future work on the SEP-HCP and stated that they would hear a presentation of the major components of the First Draft SEP-HCP. He stated that the First Draft was not finished and represented a starting point for more focused discussions on the details of the Plan. He noted that the CAC had not yet arrived at a single recommendation on the details of the conservation program, and that the First Draft considers the range of input and guidance received from the CAC. He further noted that the First Draft had not been reviewed by the County.

With respect to starting the NEPA process, the U.S. Fish and Wildlife Service (represented at the meeting by Allison Arnold and Charlotte Kucera) stated that they had not yet seen the First Draft SEP-HCP and did not know if it would be sufficient, in their opinion, to use in NEPA scoping. The Service added that if the draft was not deemed sufficient, the Service would not begin the NEPA process.

Mr. Winter asked the CAC to review the First Draft and discuss their comments at their next meeting. He suggested that the CAC prepare a single set of comments as a group, but stated that Bexar County would also accept comments from individual members. Mr. Winter stated that the BAT would also be asked to review and comment on the First Draft. Mr. Winter stated that Bexar County will collect written comments until June 1, and then would integrate all the comments received and prepare another draft of the Plan for committee review.

Jonathan Letz asked when the draft Plan would be presented to the Bexar County Commissioners. Amanda Aurora (Loomis Partners) replied that the current project schedule anticipates action by Bexar County to submit an application to the U.S. Fish and Wildlife Service in September 2011.

Mr. Winter stated that the CAC is an advisory committee convened by Bexar County, but that all final decisions on the Plan would be made by Bexar County. He added that Bexar County is looking for recommendations and advice from the CAC on the content of the Plan. Mr. Winter stated that a complete copy of the First Draft SEP-HCP and all appendices would be posted on the SEP-HCP website on Tuesday, April 12, 2011. He offered to print hard copies of the First Draft for those who ask for them. Deirdre Hisler also offered that the Texas Parks and Wildlife Department would provide copies of the draft for people who want them.

Mr. Winter stated that Bexar County understands the CAC would like more time to work on a recommendation, but that they need to keep the project on schedule.

Mr. Winter stated that Bexar County would also accept comments from the public on the First Draft SEP-HCP. He added that the committees will have another opportunity to review and comment on the draft Plan before it goes to the Bexar County Commissioners for action.

Annalisa Peace (CAC member) commented that she is disappointed with the process for developing the SEP-HCP. She felt that there had been no effort by the consultant team to identify points of difference among CAC members and work for consensus. She also stated that the CAC was told that they would review the Plan before it was released to the public and that many other planning projects only ask for public comment after a final draft is completed, but now the public will be able to review the draft at the same time. Ms. Peace suggested that this process may be a violation of Chapter 83 of the Texas Parks and Wildlife Code pertaining to regional HCPs.

Deirdre Hisler asked to see a summary of the alternatives considered. Clifton Ladd replied that such an analysis was included in the text of the First Draft SEP-HCP.

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5. Presentation of major components of the April 1, 2011 First Draft SEP-HCP – Amanda Aurora (Loomis Partners)

Amanda Aurora gave a presentation of the major components of the First Draft SEP-HCP, including plan administration, the covered species, the covered activities and participation process, the incidental take request, proposed conservation measures, the adaptive management and monitoring process, and the funding plan. She also summarized the history of committee involvement in the project and the next steps in the process. Ms. Aurora asked the committee members, agencies, and the public to review the First Draft SEP-HCP and submit any written comments and suggestions on the document to info@sephcp.com by June 1, 2011.

During the presentation, CAC members and public guests asked questions regarding some aspects of the draft Plan. Many of the questions asked for clarification on details of the Plan and for clarification about which details differed from the input previously received from the CAC.

6. Accept or Reject the proposed "draft" model of the SEP-HCP – Jonathan Letz or Kirby Brown (CAC Co-chairs) [ITEM ADDED 0910, 4/8/2011 - ACW] *

Deirdre Hisler stated that many CAC members are frustrated by the SEP-HCP process and that she personally feels Bexar County has not addressed the CAC's concerns. Ms. Hisler stated that she wants to send a message to Bexar County that the CAC wants their voice to be heard.

MOTION (Deirdre Hisler): Reject the proposed draft model of the summary of the SEP-HCP with the understanding that the CAC will review and provide comments to Bexar County by June 1. SECOND (Annalisa Peace).

The CAC discussed this motion. Jonathan Letz noted that the agenda item is not to accept or reject the Plan, but just this first draft proposal. Commissioner Letz stated that the CAC had not yet seen the actual draft, but just heard a summary of its content.

Randy Johnson (CAC member) stated that the CAC had not yet discussed all of the components of the Plan, such as the karst program, and noted that many of the details for the proposed GCW and BCV conservation measures were not consistent with the majority opinion from the "dot census" voting from the prior CAC meeting. He stated that he felt as though this process had been a waste of time.

Bob Liesman (CAC member alternate) suggested that the CAC should have more time to review the First Draft before they take a vote.

Annalisa Peace and Bebe Fenstermaker (CAC member) stated that the First Draft does not reflect the measures that the CAC wanted.

Delmar Cain noted that most of the discontent seems to be over the process, rather than the details of the Plan. He stated that there were some topics that the CAC did not have a chance to discuss and acknowledged that there were some aspects of the First Draft that they did not agree with. He suggested that the CAC focus on the parts of the First Draft that they disagree with and work to find a solution.

Anne Dietert asked if the CAC's comments would be accepted in the next draft. Jonathan Letz responded that Bexar County would collect the comments and that some would likely be accepted, but others may be rejected. Amanda Aurora added that Bexar County will distribute a copy of all comments received and will address all of the comments when preparing the next draft. Andy Winter stated that the SEP-HCP will be a compromise plan that balances a variety of interests, and noted that Bexar County is not happy with the current costs proposed in the First Draft.

Susan Wright asked if there would be a May CAC meeting and noted that the CAC had not been able to get through this process in a timely fashion since the committee is so polarized with different interests.

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She stated that the consultant team seemed to have drafted a compromise plan based on a wide range of CAC opinions, given that the CAC has not been able to come to consensus.

Annalisa Peace complained that Bexar County did not seem to be hearing the CAC's frustration with this process. She noted that she has been involved in other large planning projects, but feels that there has been no attempt to build consensus on this plan. Ms. Peace stated that she objects to the First Draft since it does not reflect the things that she feels a majority of CAC members agreed upon.

Sonia Jimenez (consultant team member from Ximenes and Associates) reminded the CAC that they voted at their first meeting to not use a facilitated consensus-based process, but Roberts Rules of Order.

Deirdre Hisler proposed amending her motion to read: Approve a motion of "no confidence" in the way that input has been received by Bexar County from the CAC and integrated into the draft. The amended motion was seconded by Annalisa Peace.

The CAC discussed the amended motion. Deirdre Hisler stated that she feels the CAC has not been heard and that Bexar County should make sure that the consultants incorporate what the CAC asks for.

Megan Bluntzer (legal counsel with Jackson Walker, LLP) cautioned that the amended motion is not consistent with the posted agenda item and recommended that the CAC not take action on it. Ms. Hisler retracted the amended motion and reiterated her first motion.

VOTE: 14 yes; 5 no. Motion carried.

7. Discuss member suggestion for USFWS and TPWD presentations to other counties – Jonathan Letz or Kirby Brown (CAC Co-chairs)

Annalisa Peace stated that she agrees with some of the public commenters that other counties are not well represented on the CAC. She suggested that representatives of the U.S. Fish and Wildlife Service and Texas Parks and Wildlife Department (specifically Allison Arnold and Richard Heilbrun, respectively) present the basics of regional habitat conservation plans and the Endangered Species Act to other counties.

Jonathan Letz noted that the Service would be making similar presentations through the NEPA process. The Service (represented at the meeting by Allison Arnold and Charlotte Kucera) stated* that this is not really what the NEPA process is for and added that the Service has not been asked by Bexar County to go out and give presentations.

Randy Johnson asked why these presentations haven't been done already.

Kirby Brown (CAC co-chair) stated that sending the agencies into a public forum in other counties would be a big mistake, and suggested that any such outreach be limited to presentations to county judges and commissioners. Delmar Cain suggested that in future efforts, such outreach should be done early in the process.

Charles Hepler, a Kendall County landowner, commented that a Kendall County commissioner did come to some CAC meetings and stated that he felt that the Kendall County commissioners did understand what they were voting on when they passed their resolution.

MOTION (Annalisa Peace): Request that agency representatives meet with county judges and commissioners (i.e., not hold public meetings) explaining what a regional HCP is. SECOND (Deirdre Hisler). VOTE: 11 yes; 6 no. Motion does not carry (13 votes needed for a super-majority).

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

Jonathan Letz stated that the next CAC meeting is scheduled for May 9, 2011 and the primary agenda topic will be to discuss member's comments on the First Draft SEP-HCP and try to achieve consensus on a committee response.

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

Jonathan Letz adjourned the meeting at 8:19pm