

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

DATE: July 12, 2010
LOCATION: Helotes 4-H Activity Center
12132 Leslie Road, Helotes, Texas 78023

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

Kirby Brown called the meeting to order at 6:07 pm.

2. Introduction of project legal team – Jerry Webberman (Jackson Walker)

Jerry Webberman (attorney with Jackson Walker LLP) introduced himself and Meghan Bluntzer (Jackson Walker) as the independent legal counsel hired by Bexar County to advise on the SEP-HCP project. He described that their job was to make sure that the plan meets the applicable legal criteria.

3. Public comment (3 minutes per speaker)

Kirby Brown called for public comments. None were received.

4. Review and approve minutes, with any appropriate changes, from the June 7, 2010 meeting - Kirby Brown or Jonathan Letz (CAC Co-chairs)

Kirby Brown asked CAC members for comments on the revised draft minutes from the June 7, 2010 meeting.

MOTION (Michael Moore): Approve the draft minutes as revised. SECOND (Randy Johnson) VOTE: Voice vote carried with no opposition.

5. Update on CAC sub-group discussions - Kirby Brown or Jonathan Letz (CAC Co-chairs)

Kirby Brown stated that the CAC chairs had met with all four subgroups of the CAC and recommended that they hold another round of CAC subgroup meetings starting in September 2010 to focus on mitigation and funding issues. Jonathan Letz also commented that the subgroup meetings were helpful for the CAC co-chairs and got good feedback from the first round of subgroup meetings.

6. Report on project budget – Andy Winter (Bexar County)

Andy Winter (Bexar County) presented a series of slides that summarized the total budget for the project, billings from the County's consultants to date, and a comparison of actual billings to the average expected rate of budget use. He stated that the current billings were consistent with expectations.

Michael Moore (CAC member) requested that Mr. Winter make some revisions to the presentation of the budget slides for clarification. CAC members generally agreed that the budget presentation should be a regular agenda item.

7. Report from consultant team – Clif Ladd or Amanda Aurora (Loomis Partners)

Clifton Ladd (Loomis Partners) commented that the consultant team was thankful to have the legal review team available to provide input on the plan. Mr. Ladd informed the CAC that a set of draft resource assessments were available for review on the SEP-HCP website. He stated that the purpose of these assessments was to collect the background information to be used in the plan and the accompanying Environmental Impact Statement. He explained that the BAT was currently completing a detailed review of the resource assessments and that the consultant team would be revising the documents, as appropriate. Mr. Ladd reviewed the timeline for CAC discussion topics and noted that Loomis revised the timeline to introduce some topics earlier, based on prior input from the CAC co-chairs. He noted that the CAC would be beginning discussion on conservation strategies at the current meeting, but that management, monitoring, and public access issues would be postponed until the BAT had an opportunity to consider these topics.

8. Discussion and possible action on permit duration – Kirby Brown or Jonathan Letz (CAC Co-chairs)

Kirby Brown opened discussion on permit duration and reminded the CAC that all other current or proposed plans in central Texas have a duration of 30 years. Richard Heilbrun (BAT chairperson) informed the CAC that the BAT passed a motion acknowledging that the issue of permit duration is not a biological consideration, but that the BAT did not object to a 30-year permit term for the SEP-HCP.

Jonathan Letz asked about the possible benefits of a shorter or longer permit term. Clifton Ladd responded that the permit term balances the amount of effort needed to prepare and begin effective implementation of the conservation program with the accuracy of long-term projections for population growth, land use, and biological trends.

CAC members discussed intermediate review periods and the ability for the plan to adapt to new information or changed conditions. Clifton Ladd stated that he expects that the plan will have intermediate reviews, as well as annual monitoring and reporting requirements. He also suggested that the plan might continue to seek input and advice from a stakeholders and biological experts as it is implemented. Amanda Aurora (Loomis Partners) also noted that adaptive management and provisions for changed circumstances are required components for a Habitat Conservation Plan, so that the plan can change as needed to new information.

CAC members discussed possible implications of having several regional plans expiring at the same time. Clifton Ladd noted that the proposed plans in Hays and Comal counties would expire in approximately 2040 and the Balcones Canyonlands Conservation Plan would expire in 2026. Bebe Fenstermaker (CAC member) suggested that multiple concurrent expirations could have an adverse effect on the environment, while Kirby Brown suggested that the effects of expiration are not known, but could be positive if new, updated plans were put in place. Delmar Cain (CAC member) suggested that learning how the other plans deal with expiration could be helpful for planning the SEP-HCP.

MOTION (Michael Moore): Recommend a 30-year duration for the SEP-HCP and associated incidental take permit. **SECOND (Frosty Forster).** **VOTE:** Voice vote carried with no opposition.

Kirby Brown opened discussion on the issue of the permit applicant and suggested that it is likely that Bexar County and the City of San Antonio would be involved as permit applicants to some extent, but that there may also be other entities involved. Mr. Brown recommended that the legal and consultant teams work to identify ways to involve other local governments in the plan, either upfront or as the plan is being implemented. He stated that there have been some indications that other counties may be dissatisfied or not sufficiently involved with the current SEP-HCP process.

CAC members discussed ideas for addressing concerns from other counties, such as meeting with Commissioners's Courts and/or state legislators to keep them informed about the direction of the SEP-HCP planning process and the plan's objectives. Other ideas discussed included developing ways to create formal partnerships with other local governments, removing counties from the Plan Area that declined to engage in formal interlocal cooperation with the plan, tailoring the conservation plan to avoid taking land off local governmental tax rolls (such as using conservation easements for preserve

acquisitions outside of Bexar County), or compensating other counties for lost tax revenue from fee simple preserve acquisitions. Some CAC members noted that the formal participation or cooperation of another local government might not be necessary for the plan to be implemented in that jurisdiction, since participation by individual landowners would be voluntary (both for those landowners seeking take authorization and for those seeking to cooperate on mitigation). Other CAC members noted that it may be biologically important to include other counties to achieve mitigation on an appropriate scale for long-term conservation. Jonathan Letz stated that the CAC co-chairs were seeking meetings with various state legislators and other County Commissioners' Courts to address perceived concerns about the SEP-HCP and would report back to the CAC.

Amanda Aurora (Loomis Partners) explained that a recommendation on the permit applicants was an important component of the funding plan, since the applicant is ultimately responsible for assuring that the plan will be implemented and that different funding tools are available for different types of entities. She stated that a decision on the permit applicant was needed by the end of 2010. CAC members also discussed the possibility of delegating some of the permit administration work to a separate entity or foundation.

9. Discussion and possible action on general conservation strategy and goals & objectives – Kirby Brown or Jonathan Letz (CAC Co-chairs)

Kirby Brown opened discussion on general conservation strategy and overall goals and objectives for the plan. Clifton Ladd referred the CAC to the guidance materials distributed for the meeting and commented that the purpose of the plan is two-fold: to facilitate compliance with the Endangered Species Act and to conserve the covered species. Richard Heilbrun explained that the BAT has been considering this topic and described the process that the BAT has been using to refine their preferences for various aspects of the conservation program. He indicated that the BAT would generally prefer for the plan to do more than the minimum level of conservation needed to obtain the permit by contributing to some extent to the recovery of the species. Mr. Heilbrun stated that the BAT would be refining their recommendations for biological goals and objectives for CAC consideration.

CAC members discussed what is meant by species recovery and how the plan might achieve recovery, when one of the purposes of the plan is to facilitate incidental take authorization. Richard Heilbrun noted that recovery means the delisting of a species, which might not be within the reach of the SEP-HCP for some species. Mr. Heilbrun and Kirby Brown explained that the BAT would be giving the CAC recommendations for goals and objectives from a biological perspective, with some consideration for practicality, but that the CAC would be free to consider other issues when preparing their recommendations for the conservation program. Mr. Heilbrun also stated that the BAT would work to create the most biologically sound plan from the goals that the CAC ultimately chooses.

CAC members discussed some of the biological parameters for golden-cheeked warbler conservation, primarily the minimum recommended size for warbler habitat preserves. Charlotte Kucera (USFWS) stated that the USFWS currently considers 500 acres to be the minimum typically required for long-term warbler conservation, but that this number is subject to change based on new information on the needs of the species. She also stated that the USFWS would consider smaller preserves on a case-by-case basis, such as if the parcel was adjacent to another conserved property, occupancy, and risk of further fragmentation. CAC members asked whether mitigation was required for impacts to warbler habitat that affected less than 500 acres. Ms. Kucera and Kirby Brown replied that take is defined by the Endangered Species Act and can apply to patches of habitat much smaller than the minimum required for long-term conservation purposes, but in these cases the mitigation requirement would also be smaller. Richard Heilbrun noted that one of the benefits of a regional HCP is that small individual mitigation requirements can be pooled into a larger and more biologically significant conservation action with long-term benefits. CAC members also asked if only high quality habitat counted towards the minimum preserve size. Ms. Kucera responded that impacts to habitat today needed to be mitigated with habitat that is used by the species today, but that the plan could establish a preserve with the intention of growing new habitat. However, the plan would not be able to get credit for the action until it was demonstrated as functional habitat. Amanda Aurora also responded that the plan will include a management program to improve the quality of habitat over time, so that the entire preserve did not need to be high quality habitat at the start.

10. Discussion and possible action on funding sources – Kirby Brown or Jonathan Letz (CAC Co-chairs)

Clifton Ladd introduced Christopher Allison (M.E. Allison & Co.) of the consultant team, who is assisting with the preparation of the funding plan and the financial analysis. Mr. Allison referred to a table summarizing the major components of the funding plans for the Balcones Canyonlands Conservation Plan, the Lost Pines HCP, the Williamson County RHCP, the draft Hays County RHCP, and the draft Comal County RHCP. He noted that the funding projections are one of components of the plan that are most likely to change over time as the plan is implemented. He noted that regional HCPs are generally an expensive process, with the range of total costs presented in the 5 plans varying from approximately \$2 million to \$182 million over 30 years. He explained that most plans rely partially on contributions of public funds (typically a contribution of property tax revenue) in addition to fees collected from participants. He described that the proportion of public dollars used to fund these plans was as high as approximately 65% for the Balcones Canyonlands Conservation Plan. He noted that that high levels of participation were a key factor for many of these funding plans, which could be influenced by the fee rate and the time needed for processing individual applications for participation.

CAC members asked how a plan for using allocated tax revenue might work in a multi-county situation. Mr. Allison responded that Bexar County might be the primary source of tax revenue allocations to the plan, but that other counties could have interlocal agreements with Bexar County to contribute funds to the plan. He also suggested that only a portion of the property tax revenue from parcels enrolled in the plan might be used, instead of a county-wide allocation. Delmar Cain asked if the consultant team could prepare some examples of the difference in cost for a developer to comply with the Endangered Species Act with and without a regional plan in place. Tom Hornseth (CAC member) noted that the permit holder is ultimately responsible for the financial assurances in the plan.

11. Next meeting and requested agenda items – Kirby Brown or Jonathan Letz (CAC Co-chairs)

Kirby Brown stated that the next CAC meeting would be August 2, 2010. He identified possible agenda topics as conservation strategies and funding sources.

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

Kirby Brown adjourned the meeting at 8:03pm.

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)	<i>Mary Bradshaw</i>		
2	Brown, Kirby (Texas Wildlife Association)	<i>Kirby Brown</i>		
3	Cain, Delmar (Kendall County landowner)	<i>Delmar R. Cain</i>	CHUCK JANZON	<i>C. Janzon</i>
4	Cude, Ian (Cude Engineering)	<i>Ian Cude</i>		
5	Dietert, Ann (Kerr County landowner)	<i>Ann Dietert</i>		
6	Fenstermaker, Bebe (Bexar County landowner)	<i>Bebe Fenstermaker</i>		
7	Fenstermaker, Mary (Hill Country Planning Association)	<i>Mary Fenstermaker</i>	Susan Bearvin	<i>Susan Bearvin</i>
8	Fitzgerald, Bob (Medina County landowner)	<i>Dr. Bob Fitzgerald</i>	LESTER LANDRUM	<i>Lester Landrum</i>
9	Forster, Charles ("Frosty") (Pape-Dawson Engineers)	<i>Charles Forster</i>		
10	Hisler, Deirdre (Texas Parks and Wildlife Department)			
11	Hornseth, Tom (Comal County)	<i>Tom Hornseth</i>		
12	Jenkins, Sandy (City of San Antonio)			
13	Johnson, Randy (Bexar County landowner)	<i>Randy Johnson</i>		
14	Letz, Jonathan (Kerr County)	<i>Jonathan Letz</i>		
15	McFarlen, Gerald (Cibolo Nature Center)			
16	Moore, Michael (Ironstone Development)	<i>Michael D. Moore</i>		
17	Nottingham, Jennifer (City of Grey Forest)	<i>Jennifer Nottingham</i>		
18	Peace, Annalisa (Greater Edwards Aquifer Alliance)	<i>Annalisa Peace</i>		

19	Schott, Gary (Bexar County landowner)	<i>Gary Schott</i>	<i>Madelyn Schott</i>	
20	Terrez, Jenna (CPS Energy)	<i>Jenna Terrez</i>		
21	Wright, Susan (Susan Wright & Associates)		<i>Bob Liegman</i>	<i>Susan Wright</i>

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 Partners	aaurora@loomis-partners.com	512-327-1180	
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Charlotte Kucera	USFWS	charlotte_kucera@fws.gov	512-490-0057	
Christopher Allison	M.F. Allison & Co	callison@mcallison.com	210-930-4000	
Mike Burr	SAWS	—	—	
Scott Halty	SAWS	on file	—	
JERRY WEBBERMAN	JACKSON WALKER, LLP	jwebberman@jw.com	512-236-2270	
Kathleen O'Connor	ZARA ENV.	m file	m 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
FRANK Sherman	COSA OMA	—	—	
R. Nelson	TPWD			
Valerie Collins	Pape-Dawson	on file	" "	
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