

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

DATE: July 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 6:06 pm.

2. Public comment (3 minutes per speaker)

Mr. Mike Luckey addressed the CAC and stated that while he is generally opposed to the Plan, he has been encouraged by the backup materials provided for this meeting that suggest that the Plan's take authorization will be limited to Bexar County. Mr. Luckey asked that the Plan documents clearly state that other counties are not included. He also expressed concerns about the use of conservation easements and suggested that the Plan clearly state that the restrictions imposed by an easement only apply to the easement property and not to adjacent properties. Mr. Luckey suggested that the Plan include documentation that helps landowners fully understand what conservation easements mean.

3. Review and approval of draft minutes from the May 9, 2011 meeting – Jonathan Letz or Kirby Brown (CAC Co-chairs)

Ann Dietert (CAC member) asked that the draft minutes be revised to reflect statements by Gene Dawson that a 3:1 mitigation ratio can be economically feasible. Susan Wright (CAC member) added that Mr. Dawson's presentation assumed that certain circumstances were met.

Myfe Moore (CAC alternate) asked that the draft minutes include mention of who invited Mr. Dawson to speak to the CAC and how much he was paid for his time. Michael Moore (CAC member) explained that Mr. Dawson was invited to speak by BAT member Valerie Collins.

MOTION (Michael Moore): Approve the draft minutes from the May 9, 2011 CAC meeting, as amended.
SECOND (Eric Lautzenheiser). VOTE: Voice vote passed without opposition.

Jennifer Nottingham (CAC member) asked that the consultant team send the revised version of the draft minutes to the CAC for review.

4. Discuss committee recommendations to Bexar County and take appropriate action – Jonathan Letz or Kirby Brown (CAC Co-chairs)

Sonia Jimenez (Ximenes & Associates) gave a summary of the June 15 CAC workshop process and results. Ms. Jimenez explained that the workshop participants achieved consensus on limiting take authorization to Bexar County unless other counties expressly opted to join the Plan and that the amount of take authorization should be capped for Bexar County at 7,500 acres for the GCW and 2,400 for the

BCV, with additional take authorization available for other counties if they opt to join the Plan. She summarized other consensus opinions by the workshop participants, including mitigation ratios of 2:1 for direct take and 0.5:1 for indirect take (applied to the GCW and BCV), mitigation credit fees set at \$4,000 per credit, and a commitment to acquire at least 5,000 acres of new GCW preserves in Bexar County. Ms. Jimenez noted that some workshop participants were concerned that a plan based on these recommendations would be too expensive for the public. She said that other participants were concerned that a plan would not adequately preserve the species in Bexar County.

Ms. Jimenez explained that the workshop was kept to a single long day since it became clear that most participants could not make the second day.

Several CAC members strongly felt the workshop consensus was invalid since it was achieved outside of the posted meeting time and after some participants had left for the day thinking that discussions would be continued on Day 2. Commissioner Letz reminded the CAC that no binding votes were taken during the workshop and that the exercise was a straw poll designed to help move the process forward. Commissioner Letz added that the purpose of this meeting was to formally vote on a recommendation for the Plan, which could include different measures than the workshop results.

Amanda Aurora (Loomis Partners) explained how the estimated budget for a plan based on the workshop consensus differed from the funding plan for the First Draft. She explained that higher BCV mitigation ratios and lower credit fees had the effect of increasing the total estimated cost of the plan and shifting a higher percentage of the cost to the public sector.

Commissioner Letz asked the CAC if they wanted to take a vote on the First Draft. Susan Wright noted that the CAC already passed a vote to not recommend proceeding with the First Draft.

CAC members commented on the workshop process and discussed their ideas for a recommended plan.

Several CAC members strongly desired a minimum GCW mitigation ratio of 3:1 with a commitment for approximately 10,000 acres of new Bexar County preserves. These CAC members were concerned that 5,000 acres of new Bexar County preserves would not be enough to protect GCW habitat in the county, particularly in the northwest part of the county. Many of these CAC members were concerned that too much emphasis was being placed on economic factors and that following the BAT's recommendations and adequately conserving endangered species in Bexar County should be the primary concerns.

Several other CAC members strongly felt that if the plan is too expensive, either for participants or for the public, then the plan might not be approved by Bexar County or (if approved) might not get much voluntary participation. These CAC members were concerned that nothing may be accomplished by this effort if the plan is not economically viable. Many of these CAC members were concerned that the estimated cost of the alternatives being considered (i.e., several hundred million dollars) may be difficult to finance in these tough economic conditions.

Some CAC members cautioned about being too idealistic about either conservation needs or economic viability. Other CAC members noted the measures proposed in the workshop consensus are consistent with other conservation plans that were deemed reasonable by biologists and developers and are considered to contribute to the recovery of endangered species.

Other CAC member comments included concerns about undercutting private conservation banks in the region with low credit fees, subsidizing development over the Edwards Aquifer, and relying on local ordinances to limit impacts to endangered species. Another CAC member questioned whether or not an expensive conservation plan was needed, since the GCW may not be as threatened as previously thought.

The CAC took the following votes with 18 voting members present (per CAC rules of order, a supermajority of present members (12 votes) was needed to pass a motion):

- MOTION (Myfe Moore): Recommend plan with 10,000 acres of GCW preserves in Bexar County, 3:1 GCW mitigation ratio, and exclude any credit for lands protected under Proposition 1 for Edwards Aquifer protection. SECOND (Delmar Cain). VOTE: 10 yes/7 no – motion does not pass.

Discussion during this motion included note that a plan of this scale might cost approximately \$800 million over 30 years.

- MOTION (Annalisa Peace): Recommend plan with 7,500 acres of GCW preserves in Bexar County, use mitigation ratios of 2:1 direct and 0.5:1 indirect, set credit fees to \$5,000 per credit, and exclude any credit for lands protected under Proposition 1 for Edwards Aquifer protection.. SECOND (Ann Dietert). VOTE: 4 yes/11 no – motion does not pass.

Discussion during this motion included note that a plan of this scale might cost approximately \$650 million over 30 years.

- MOTION (Susan Wright): Recommend plan with measures as agreed to at end of June 15 workshop, but excluding any credit for lands protected under Proposition 1 for Edwards Aquifer protection. SECOND (Ian Cude). VOTE: 6 yes/10 no – motion does not pass.
- MOTION (Jennifer Nottingham): Recommend plan exclude any credit for lands protected under proposition 1 for Edwards Aquifer protection. SECOND (Ann Dietert). VOTE: 15 yes/1 no – motion passes.
- MOTION (Susan Wright): Recommend plan with 7,500 acres of GCW preserve in Bexar County, 2:1 GCW mitigation ratio, and set mitigation fee at \$4,000 per credit. SECOND (Michael Moore). VOTE: 8 yes/10 no – motion does not pass.

CAC members discussed how tax increment diversion funding works. The consultant team clarified that the First Draft proposed to estimate the size of the diversion based on a percentage of new tax revenue from development occurring in the northwestern half of Bexar County (i.e., areas generally containing habitat for one or more of the covered species). The consultant team also clarified that no new taxes were being proposed to fund implementation of the plan.

- MOTION (Delmar Cain): Recommend plan with 3:1 GCW mitigation ratio, 10,000 acres of GCW preserves in Bexar County, and set mitigation fee at \$3,000 per credit. SECOND (Bebe Fenstermaker). VOTE: 10 yes/8 no – motion does not pass.

Discussion during this motion included comments that reducing the credit fee increases the portion of the cost that must be publically funded and that a plan of this scale might cost approximately \$800 million over 30 years. CAC members also clarified that proposals recommending a commitment for new Bexar County preserves are intended to be within the limits of Bexar County only.

Annalisa Peace (CAC member) stated that she felt that public funding should only come from a tax increment diversion and not from any other public source. She also desired that only the people who are benefitting from the plan should pay for it. Other CAC members noted that this might restrict the plan from accepting grants or other types of donations from government agencies and that even under a tax increment diversion approach, other county/city general fund programs may be financially pinched.

- MOTION (Susan Wright): Acknowledge that the CAC cannot reach agreement on a plan. Recommend presenting each of the CAC votes (with voting tallies) to the Bexar County Commissioners to review and let the Commissioners Court decide how to proceed. SECOND (Michael Moore). VOTE: 10 yes/8 no – motion does not pass.

- MOTION (Gary Schott): Recommend plan with 2.5:1 GCW mitigation ratio, 8,500 acres of GCW preserve in Bexar County, and set mitigation fees at \$4,000 per credit. SECOND (Jennifer Nottingham). VOTE: 10 yes/8 no – motion does not pass
- MOTION (Ann Dietert): Recommend plan with 2:1 GCW mitigation ratio, 10,000 acres of GCW preserves in Bexar County, and set mitigation fees at \$4,000 per credit. SECOND (Mary Fenstermaker). VOTE: 9 yes/9 no – motion does not pass.
- MOTION (Jenna Anguiano): Recommend plan with 3:1 GCW mitigation ratio, 7,500 acres of GCW preserves in Bexar County, set mitigation fees at \$3,500 per credit, and do not assess a mitigation ratio for indirect impacts. SECOND (Annalisa Peace). VOTE: 10 yes/7 no – motion does not pass.

The consultant team clarified that the plan will need to account for indirect impacts in some fashion, either with an explicit mitigation ratio or by building additional mitigation into the rates for direct impacts. The estimated cost of a plan of this scale was approximately \$700 million over 30 years.

The CAC acknowledged that passing a motion to approve a recommended plan alternative was not possible at this meeting.

5. Project schedule and future role of CAC – Jonathan Letz or Kirby Brown (CAC Co-chairs)

Sonia Jimenez reminded the CAC that the EIS scoping comment period was open through July 26, 2011 and people may send comments to the Service through that date.

Clifton Ladd (Loomis Partners) explained that the current project schedule envisions that the Second Draft SEP-HCP will be available for review in early September and that the Bexar County Commissioners Court may take up approval of the draft plan as the basis for an application to the Service in November. Mr. Ladd added that even after the draft plan is submitted to the Service, the public will have additional opportunities to review and comment on the plan.

Commissioner Letz requested that the consultant team prepare a summary of CAC actions to describe the committee process and explain that the CAC was not able to come to agreement on a recommendation.

Andy Winter (Bexar County) reported that the Service is currently considering how to approach the conservation of the listed karst invertebrates.

Gary Schott (CAC member) asked if landowners would be required to manage habitat placed under conservation easements in perpetuity. Amanda Aurora explained that typically the Plan would have the responsibility to fund and carry out management and monitoring actions on protected habitats, not the individual landowners, and that an endowment would be established to provide the needed funds in perpetuity.

The CAC decided to not schedule any future meetings until the next draft of the Plan was released for review.

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

Commissioner Letz adjourned the meeting at 8:15 pm.