

HABITAT CONSERVATION ADVISORY COMMITTEE

for the Washington County Habitat Conservation Plan (HCP)

A **regular meeting** of the Habitat Conservation Advisory Committee (HCAC) was held at the Washington City Council Chambers on **NOVEMBER 22, 2011**.

Committee members present were:

Larry Crist	U.S. Fish & Wildlife Service (USFWS)
Chris Hart	Local Development
Bob Sandberg	HCP Administrator
Marc Mortensen	Citizen-at-Large
Reed Harris	Utah Dept. of Natural Resources (UDNR)
Chris Blake, Vice Chairman	Environmental Organization

Absent and Excused:

Karl Wilson, Chairman	Mayors Association
Jimmy Tyree	Bureau of Land Management (BLM)

Also present were:

Amber Stocks	HCP
Cameron Rognan	HCP
Alan Gardner	County Commissioner
Ann McLuckie	UDWR
Marreen Casper	Senator Orrin Hatch's Office
Ellen Schunk	Senator Mike Lee's Office

1. CALL TO ORDER

Vice Chairman Chris Blake noted that a quorum existed and called the meeting to order at 1:00 P.M.

2. CONSENT AGENDA

The Consent Agenda is a means of expediting routine matters which come before the committee for approval. The consent portion of the agenda is approved by one (1) non-debatable motion. If any member wishes to remove an item from the consent portion of the agenda, then that item becomes the first order of business on the regular agenda.

- a. Approval of the agenda**
- b. Review and approve minutes**
 1. October 25, 2011
- c. Declaration of conflicts of interest**

MOTION by Chris Hart to approve the consent agenda.

Seconded by Marc Mortensen

Discussion: None.

Vote was taken: All voted aye.

Motion passed.

3. PRESENTATIONS

None

4. UTILITY AND DEVELOPMENT PROJECTS

Marc Mortensen reported that construction is moving forward in earnest on the Red Hills Parkway widening project. JP Excavating is now under heavy construction with two blasts per week on Tuesdays and Thursdays to remove the rock outcroppings. The road is closed during the bastings, debris is cleared and the road is opened up again. This will continue to occur for the next several weeks and construction is on schedule.

Bob Sandberg stated there has been concern from the HCP and USFWS due to some fence work not being completed on schedule. A temporary fence has been constructed in some areas and the contractors are also completing permanent fence in another area. Clearances have been done in all the areas which have had construction so far.

Ann McLuckie added she has cleared four polygons with Cameron Rognan and Jill Hankins of Alpine Environmental. The cleared areas in the Reserve will have permanent habitat loss. Fencing is complete on the new Reserve boundary on polygons one, three, and four. Ann removed three tortoises during the clearance surveys. One returned and was re-encountered during a second clearance. It is now being temporarily held until the fence is completed in that polygon. Most healthy tortoises have selected their winter burrows; by putting the held tortoise back it could be exposed to cold temperatures if it doesn't find a winter burrow quickly enough. Ann and Cameron have destroyed all of the empty burrows found in Polygon one.

Cameron stated the permanent fence is a quality job. The contractors have done some work on tortoise culverts on each side of the parkway. The first one is nearly complete, open on only one side. There is an issue with the design and the way that it comes out into the Reserve, however, it won't be a big issue to fix. The second culvert is currently being worked on.

5. GENERAL BUSINESS

a. Consider Cancellation of December 27th Meeting

MOTION by Reed Harris to cancel the December 27th meeting.
Seconded by Larry Crist.
Discussion: None.
Vote was taken: All voted aye.
Motion passed.

b. Consider Approval of 3rd Quarter Report

During the previous HCAC meeting, the 3rd Quarter Report was distributed among members. Bob asked for comments or questions. Larry asked about some concerns Renee Chi (USFWS) had with law enforcement. Renee felt the contacts, stops, and citations were unclear. Bob mentioned the sheriff's office will be contacted to make their reporting more understandable. Bob explained that the HCP document tasks the Division of Wildlife Resources (DWR) and BLM to provide law enforcement with the County paying for the bill until the land becomes a NCA, which has happened. Since the NCA designation the BLM has hired another law enforcement officer. Bob suggested the HCAC should have a discussion on whether the county HCP should continue to pay for law enforcement with the Sheriff's office and whether there should be more or less law enforcement through the county.

MOTION by Larry Crist to approve the 3rd Quarter 2011 report.
Seconded by Chris Hart.
Discussion: None.
Vote was taken: All voted aye.
Motion passed.

On a side note Reed Harris mentioned he talked with Ron Thompson who alluded to building permits being up 38%. Bob agreed impacts fees are up slightly from last year as it shows in the HCP revenue. Chris Hart stated Ivins City is up about 15%.

c. Ken Anderson Property Appraisal

Chairman Blake gave a brief background on the Ken Anderson property. Ken owned some property in the vicinity of the Reserve which is possible habitat for desert tortoise and other species. The HCP bought a piece from him several years ago to put into Confluence Park. Ken has offered other property to the HCP and the HCP has been interested in pursuing the property.

Bob reminded the committee of a discussion from the last HCAC meeting where Bob was requested to check on an updated appraisal. The HCP has been working with the Virgin River Land Trust as a facilitator to purchase this property with the intent that it would be included in Confluence Park. The HCAC approved spending money from the "other species" fund to have the property appraised in 2009. Following that appraisal the property went into bankruptcy where it sits today. There has been talk that the bankruptcy will be completed or it may become possible to get the property out of bankruptcy and back to the bank (the creditor). Free and Associates did the original

appraisal for \$3,150 and want \$2,450 to update it. Since last month's HCAC meeting, Sun First Bank (the creditor) has been taken over by the FDIC and is held by Cache Valley Bank. At this point the disposition of the property is unclear.

An updated appraisal would be held to federal standards and would need to have a review. It was agreed to wait on any appraisal updates until the current issue clears up and the HCAC can make a better decision as to whether or not it would be a good purchase.

The committee conversed about watching for opportunities to match grants from the federal government, either an HCP grant or something else to optimize available funding. The alternative is to keep track of the status of the property. This is a parcel originally identified when Confluence Park was conceived and when the acquisition process was initiated. The Ken Anderson property would complete the acquisitions identified in the Confluence Park Master Plan.

<p><u>MOTION</u> by Chris Hart to postpone the Ken Anderson property appraisal. <u>Seconded</u> by Marc Mortensen. <u>Discussion</u>: None. <u>Vote was taken</u>: All voted aye. <u>Motion passed</u>.</p>
--

d. Land Acquisition Efforts

Bob stated the BLM is continuing to pursue the Land and Water Conservation funding and their planning effort.

e. Planning Update

Bob stated that Michael Patrick with the Trust for Public Lands is working with private land owners (Alan Carter & Bob Brennan) to purchase their property. Mr. Patrick is acting as a facilitator and has indicated he feels that Brennan and Carter are willing to pursue some sort of a purchase agreement if there is funding. Carter and Brennan may be willing to sell parcels of their total acreage if the HCP is unable to come up with the full price all at one time.

f. Status of HCP Review (L. Crist)

Larry spoke to agenda items 5-f and 5-g at the same time. The status of the HCP review is being worked on. He originally targeted an earlier completion date, however, due to lack of staffing and high profile issues, the completed draft should be submitted to the committee for comment in January.

Larry stated a good first step in initiating the process of renewing the HCP is to understand where we are in terms of commitments under the original document and

how well those have been fulfilled. The USFWS is having initial conversations with regional HCP experts to determine if the HCP document can be amended or if it would have to be a new document. The Washington County HCP is one of the early HCP's and since it was written, HCP's and governing policies have changed substantially. Larry would prefer amending the existing document because it would be a simpler process. Larry suggested that after initial feedback from other sources is given in terms of whether the HCP can be amended, and after the HCP review is completed, it would be good to have regularly scheduled meetings or agenda items to discuss the renewal process. It would be good to start the process during the spring of 2012 to discuss what stake holders and other parties would like to see happen.

Bob stated the current 20 year HCP permit was completed in December of 1995 and signing completed in February of 1996. The HCP will expire in February of 2016.

g. Process for Renewing the HCP (L. Crist)

See agenda item 5-f.

h. Technical Committee Report (C. Rognan)

Cameron Rognan addressed the HCAC regarding the last TC meeting. The TC members discussed the proposed elevated Toe trail in exchange for the Ivins detention dam property. One of the crucial parts is the biological impacts and what ratio of *take* will need to be offset from the development of the trail. In May the TC gave an original recommendation to the HCAC. The TC has now created an addition to that recommendation to clarify their position on how much the *take* needs to be compensated.

Cameron read Exhibit 5-h-1 to the HCAC. Afterwards, Reed expressed that the HCAC is looking at the difference in habitat loss associated with the existing trail and a new paved trail. Ann stated the existing trail has not been calculated, the amounts shown are from actual surface impacts. Exhibit 5-h-1 is the total impact of a paved or elevated trail without subtracting the impact of the dirt trail from the hardened surface trail.

Ann added the improved trail will increase the speed of users and the type of use, such as bicycle use. The increased speed will raise the potential for tortoise mortality. The existing trail is not considered permanent take of habitat because it has changed its location numerous times over the years due to shifting sand dunes and erosion. It has very little impact, because it shifts locations. Another reason the TC doesn't see the dirt trail as *take* is because it is very narrow at certain locations. She added the trail has some minimal impact and has been identified in the Public Use Plan.

The HCAC needs to consider impacts and potential mitigation to allow Ivins City to get their paved trail. Reed is hopeful that the Detention Dam habitat can come out of private ownership.

Chris Hart disclosed a conflict of interest being the mayor of Ivins. He stated that he felt an elevated trail with some kind of boardwalk above grade has essentially no impact on the area because the tortoises are free to move under. Cameron clarified the way the TC analyzed the project. An elevated trail would have impacts but was determined to have lesser impact because tortoises will still move back and forth underneath. It will affect their ability to forage underneath because there will be less vegetation growing underneath. An elevated trail is better but it still impacts habitat. Larry reiterated that a raised trail would reduce mortality when compared to a paved trail.

Ann reminded the HCAC the definition of *take* of habitat is reducing breeding, feeding, and sheltering of a listed species. She explained how having a boardwalk will drastically decrease plants from growing underneath, thus reducing feeding. The tortoises won't breed under the trail and may not use the area underneath as burrows or shelter. The boardwalk does reduce the potential of *take* of animals since less tortoises will get hit on the trail. It also allows tortoises to reach habitat on both sides of the trail.

The committee discussed the height of an elevated trail approximately eight to ten inches. Ann stated if the trail is too close to the ground in the sandy areas then substrate can fill up underneath, allowing tortoises to climb onto the trail. In those areas the trail may need to be raised higher.

The TC prefers a boardwalk trail since it has less impact to tortoises. Ann explained that if the trail is on the edge of the Reserve boundary then it doesn't matter if the trail is a paved or boardwalk trail because tortoises can have access to the habitat they need without interference from the trail. Cameron stated if that happened the trail would still need to be fenced out to prevent tortoises from entering on the trail.

Reed felt a hardened trail is a good thing because people know that they need to stay on the trail. If it is a dirt trail then people may wonder what is trail and what is not. He stated the HCAC needs to look at the costs and figure out what can be done. Cameron added the cost for a boardwalk trail is much higher than an asphalt trail. SCSP and Ivins will need to work it out and decide what is the most cost effective way to go about the project. The TC's responsibility is to figure out just the biological impacts and mitigation, not the funding issues.

i. Administrator's Report (B. Sandberg)

1. HCP revenues and expenditures report

Bob showed Exhibit 5-i-1, showing revenues and expenditures as of October 31, 2011. The HCP has brought in \$283,000, and expended \$384,000. By the January meeting the HCP will be able to give a better revenue and expenditures figure for all of 2011.

2. Preliminary budget approval by County Commission

Bob reported that the budget the HCAC recommended was presented by the county
Approved HCAC Meeting Minutes - November 22, 2011

clerk to the commission at the last commission meeting. The commissioners preliminarily approved the budget and will finalize it at their December meeting. The budget has a contingency line item for an education center. That money has been put there in 2011 and 2012 for upfront costs associated with exploring a potential education center. Right now there is not any design or planning work being done on the center. The budget was set up with an agreement signed by the county commission (MOU between the county, the water conservancy District and St George City) for work being done in the Desert Garden. Work in phase one of the Desert Garden is currently moving forward. Phase two of the Desert Garden could potentially include an education center.

Marc Mortensen felt there is a benefit to coordinating up front work while phase one of the Desert Garden is moving forward. There is infrastructure which some of those services are bringing to the property which could help with an education center. Marc advocated that the HCAC take a look into building a new education center during phase 2 of the Desert Garden project. Bob stated from seeing the plans and discussions that the utilities will be set up in a way that they can be tapped into once phase two goes forward.

St. George City has contributed a full-time architect to this project. When finished, the facilities will be second to none. It will be a great educational tool and will be one of the more popular parks given that it's already a popular area. With an education center there it will become hugely popular and will be a good opportunity to educate visitors and residents on the Reserve and its purposes.

Reed stated there has been quite a lot spent on the current location of the HCP visitor center and wondered if it would be worth it financially to move to the Desert Gardens. Larry commented that once the HCP review and discussions are finished, the HCAC will be able to better address those concerns. The HCP has many more things to accomplish along with deciding how education fits in.

3. Commission appointment of Jeff Norton to TC

Bob reported that the HCAC recommended Jeff Norton to be appointed to the TC as the local biologist. At the last county commission meeting the commissioners approved the appointment of Jeff to the TC.

6. PUBLIC COMMENT & REQUEST FOR FUTURE AGENDA ITEMS

This item is reserved for items not listed on this agenda. No action may be taken on a matter raised under this agenda item. (Three minutes per person.)

Chairman Blake invited the public to comment or request future agenda items. No one came forward and the Chairman moved the agenda.

7. OTHER BUSINESS

a. Next Meeting Date

The HCAC reviewed the preliminary notice for meetings in 2012 (Exhibit 7-a-1). The committee decided the next meeting date will be January 24, 2012.

Larry mentioned there are limited funds for travel with the USFWS. The committee discussed looking into teleconference meetings. Bob mentioned the HCP says the HCAC will continue to meet monthly, but teleconference meetings could still be arranged.

MOTION by Reed Harris to hold the next HCAC meeting on January 24, 2012.
Seconded by Marc Mortensen.
Discussion: None.
Vote was taken: All voted aye.
Motion passed.

Marc informed the HCAC of St. George's desire to remove all facilities on top of the hill above the current Desert Garden project. He would like to initiate moving forward with the removal of those facilities during the inactive tortoise season. Marc expressed a need to initiate conversation with the TC to begin the process of removing structures such as buildings, antennas, guide wires, power poles, and any other infrastructure just above the desert garden area.

Reed stated contingent upon the TC's approval, if there aren't any significant problems, then St. George would be able to remove all facilities without waiting for the HCAC to meet in January to approve of it as well.

The HCAC inquired what the utility protocol approval process is that the HCAC needs to go through. Bob stated that if the TC and the proponent are not able to agree on the terms then it may come back to the HCAC for approval. Otherwise, administratively those details can be worked out through the TC.

8. ADJOURN

MOTION by Larry Crist to adjourn the meeting.
Seconded by Marc Mortensen.
Discussion: None.
Vote was taken: All voted aye.
Motion passed.

The meeting was adjourned at 1:56 P.M.
Minutes prepared by Amber Stocks.