

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 **MARCH 27, 2012.**

Committee members present were:

Karl Wilson, Chairman	Mayors Association
Chris Blake, Vice Chairman	Environmental Organization
Chris Hart	Local Development
Bob Sandberg	HCP Administrator
Marc Mortensen	Citizen-at-Large
Reed Harris	Utah Dept. of Natural Resources (UDNR)

Absent and Excused:

Larry Crist	U.S. Fish & Wildlife Service (USFWS)
Jimmy Tyree	Bureau of Land Management (BLM)

Also present were:

Amber Stocks	HCP - Recorder
Cameron Rognan	HCP - Biologist
Alan Gardner	County Commissioner
Tim Croissant	Technical Committee Chairman
Ann McLuckie	Utah Division of Wildlife Resources (UDWR)
Mike Empey	Congressman Matheson's Office
Ellen Schunk	Senator Mike Lee's Office
Eric Clarke	Deputy County Attorney
Kristy Bianiz	Citizens for Dixie's Future
Mike Small	Citizens for Dixie's Future
Kurt Hutchings	Five County Association of Governments
Myron Lee	MPO
Lisa Rutherford	Citizen
Paul Van Dam	Citizen

1. CALL TO ORDER

Chairman Karl Wilson noted that a quorum existed and called the meeting to order at 1:03 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. February 28, 2012

Approved HCAC Meeting Minutes – March 27, 2012

- c. **Next Meeting Date**
 - 1. April 24, 2012
- d. **Declaration of conflicts of interest**

MOTION by Chris Blake to approve the consent agenda; the HCAC approves the work meeting minutes and the regular meeting minutes.

Seconded by Chris Hart.

Discussion: None.

Vote was taken: All voted aye.

Motion passed.

3. PRESENTATIONS

4. UTILITY AND DEVELOPMENT PROJECTS

5. GENERAL BUSINESS

- a. **Discussion and Possible Action on James Doyle's proposal from 1/25/12**

Bob Sandberg explained that James Doyle made a presentation during the HCAC meeting on January 25, 2012. As a result of that presentation the HCAC held a work meeting on February 28, 2012 to better understand the history and background of the commitments made when the HCP was created. There was a concerted effort made to understand the HCAC's responsibility and what recommendation they should attempt to make, relative to Mr. Doyle's request.

Reed Harris stated that even though he has a long history with this HCP, it was difficult to understand Mr. Doyle's presentation. Reed explained that Mr. Doyle has a significant amount of property in the Reserve and he has waited a long time to have it purchased. The HCAC has a responsibility to help facilitate the inholdings purchases; however, Reed does not see Mr. Doyle receiving preferential treatment over other land owners. Reed expressed his desire to understand the HCAC's responsibility, besides giving advice to help with this matter. The HCAC received another letter from Mr. Doyle yesterday afternoon. Reed expressed that it is hard to understand what Mr. Doyle wants and what he is trying to tell the HCAC.

Chris Hart stated the work meeting was very useful. As complicated as the issue is, it seems to boil down to a couple of critical facts. One, during the creation of the HCP there were certain obligations taken on by various entities. The acquisition of the property was a federal function through the BLM and FWS. This obligation has not been met due to a lack in funding. Two, the County's obligation to manage the HCP has been done very effectively. The funding source for this has been wisely used. Mr. Hart assumed that Mr. Doyle and possibly other property owners want relief from the County because they have not received it through federal agencies.

Reed expressed his belief that attempts were made early on to satisfy Mr. Doyle's purchase. For some reason, the appraisals that were done didn't come to fruition.

There were attempts to do land exchanges and for various reasons those weren't completed. With the remaining inholdings in the Reserve, there are not many other options available other than a big land exchange. If the FWS and the BLM were to purchase those lands it would take a massive effort to come up with enough money.

Chairman Wilson stated that at the pace the County HCP is going with revenue and expenses, at an extreme, the HCP could be out of money by 2016. More than likely it will be stretched further. From a community standpoint, the citizens of Washington County bought into this plan so that other areas could be developed. The HCP funding sources count on new development for administration purposes; it was not intended to be used for purchasing inholdings. The purchase responsibility has been placed on the federal government and ample efforts have been made to resolve this. The HCAC is made up of different stake holders including the USFWS, BLM, and the local community. The HCAC is an advisory committee that gives advice to the County Commissioners who administer the HCP. Chairman Wilson added that he doesn't support advising the County Commission to use HCP money to purchase properties. He added his support to use a small amount of money if needed, to participate in facilitating a process (such as appraisals) that everyone knows would work.

Reed stated it would be nice to get the FWS and the BLM's take on what their responsibilities are and what the HCAC is supposed to do. Within four to five years the HCP permit will need to be revised. Reed expressed concern with opening up responsibilities within the HCP as to land inside the Reserve. Reed would like to have the County receive another *take* permit and continue to collect impact fees to fund the HCP. Reed also expressed his desire to have the County explain what the HCAC's responsibilities are and how the HCAC can do a better job. Reed was involved when the FWS denied funding for HCP lands. Perhaps at that time the HCAC should have fought harder for those people who hold properties inside the Reserve. The federal government needs to put a higher priority on this.

Bob explained the HCP and the Implementation Plan. The HCAC is made up of representatives from the majority of stakeholders involved in the HCP. The purpose of the HCAC is to be an advisory committee, to advise and help the County through administering the HCP. The HCAC ensures that all the commitments made in the HCP are fulfilled. The HCAC helps to maintain the *take* permit from the USFWS, to allow for development in the County outside of the Reserve. It also helps to ensure that the County is in a position to renew the permit at the end of the 20 year permit life. It was identified in the HCP Implementation Plan that the County would fund the HCP. The chosen funding mechanism was to implement impact fees placed on property developers in the County. The County is supposed to use that money to administer the HCP and to further facilitate acquisition of private property and state lands that are held inside the Reserve, based on the willingness of the owner to sell or trade those properties. There was no indication that those monies were to be used to purchase property; however, it could be used for surveys, appraisals or anything that would further the acquisition of those properties. The acquisition burden was placed upon BLM and FWS to pay for the properties.

Reed stated he has always felt concern when certain priorities for property purchases were selected and how it affected the other property holders. Those property owners in the Reserve have been aware of purchases the HCAC has tried to get done. The big purchases have been attempted through major land exchanges rather than coming up with millions of dollars. The HCP did not anticipate the escalation in property values from the time of 1995 to the next few years when land values soared. ELT went from \$20 million to \$180 million. It has been hard to get the right match of lands, to have it approved, make an exchange, and deal with people who fight the land exchanges. Whenever a potential land exchange would come, people did not like the idea of the federal government exchanging lands. Ultimately that's where this has got to go, especially with the SITLA properties. Biologically, that land in Zone 3 represented by SITLA and ELT/Doyle are the core of the Reserve with some of the best habitat in the Reserve. If those properties are removed and developed, the biological value of the Reserve is lost.

Chris Hart mentioned it is pointless to spend money on appraisals and other means until there is a funding source or until there is exchange property which has been cleared to take place. Bob agreed that before any money is spent there needs to be a willing seller, willing buyer agreement. When the HCP was initiated, the idea and commitment was that everybody would work together to purchase the inholdings. Great efforts were made and unfortunately SITLA still has over 5,000 acres to be acquired. SITLA may be the quiet elephant in the room. It was reiterated that the revenue generated by impact fees can help facilitate this process but it doesn't come close enough to make a dent in purchasing the properties.

Reed expressed his disappointment that the Land Bill has not been able to take care of these purchases. Reed explained that when hunting ducks you don't shoot at the whole flock. You pick one out and shoot it. The problem here is that there are three or four alternatives to go with. Somehow the HCAC needs to pick the one that will get the job done and push it hard. These land owners are holding their property and paying the taxes.

A member asked if there were any suggestions on how to move forward. Reed responded he would like to ask Jimmy Tyree and Larry Crist if the HCAC can go through the BLM to facilitate a land exchange big enough to take care of everything. A land exchange is probably the best way to get it done.

Marc Mortensen stated that aside from writing letters of support, there won't be much headway made without the BLM and FWS. Reed remarked that in the past there have been some successful land trades. There are people who view land trades as an acceptable alternative. It also comes with an arduous process, one that needs support from delegation and from the State of Utah.

Bob recollected that in the life of the HCP over 9,000 acres have been purchased or traded out. It has happened before and it just needs to happen again. Reed stated that

in the interim the HCAC could establish a pathway, even if a small amount of property is purchased, like with the Land and Water Conservation Fund (LWCF). The BLM needs to understand that these lands will be there every year to get LWCF money and it will be ongoing until a land exchange comes along that will take care of the whole thing.

President Obama has identified \$450 million in his budget for the Department of the Interior for LWCF. \$4 million of that has been identified for the Red Cliffs National Conservation Area to purchase some of these inholdings. Yesterday the County submitted testimony to the Appropriations Subcommittee in both the House and the Senate in support of that money coming to the Red Cliffs NCA.

MOTION by Chris Blake to continue this discussion on the next HCAC agenda.

Seconded by Marc Mortensen.

Discussion: None.

Vote was taken: All voted aye.

Motion passed.

b. Pioneer Park Structure Removal (M. Mortensen)

Marc Mortensen reported the structures above the Water Conservancy District have been removed and cleaned up except for the Century Link panel. The panel is still in use but is old technology and St. George City has expressed a desire to Century Link to have the panel removed. Bob Sandberg and Cameron Rognan worked with the contractor to identify any tortoise burrows on the cleanup site. Those burrows and any tortoises inside were fenced in during construction to keep them safe.

c. Planning Update (J. Tyree)

Chairman Wilson noted Jimmy's Tyree's absence and moved the agenda.

d. Technical Committee Report (T. Croissant)

Tim Croissant reported that the Technical Committee (TC) went on a fieldtrip to view the Johnson Canyon trail. Kristen Comella, the Snow Canyon State Park (SCSP) manager has been asked to reassess the Johnson Canyon seasonal closure dates. The TC discussed their role on this issue and felt that Kristen should come up with alternatives that the TC can look at and determine if they are in line with the HCP.

The TC discussed a utility access road on Red Hills Parkway to access some powerlines. The road does not have a gate and the TC discussed how adding a gate will insure that crews will stick to the pre-existing, disturbed area. This will prevent damage to the fence if access is needed to the area. Once a gate is available, more access may be seen than what is currently there. The TC voted to approve the gate, making sure that all maps are updated to include the route.

The TC discussed mitigation for the Red Hills Parkway expansion. The preferred alternative is the old dump site off Cottonwood Road which has been used in the past

for mitigation. There is question as to whether mitigation can be done in the same place twice. The Biological Opinion requires that the mitigated area be maintained for three to five years to ensure success. Renee Chi with the FWS will check if the site can be used again. The second alternative would be the DWR property off Turkey Farm road. There are some other alternatives with the least preferred being the old roads and trails around Pioneer Hills trailhead.

SCSP would like to change the restroom at Upper Galoot from a vault toilet to a flush toilet. This would have a larger footprint and would require water, power and a leach field. The restroom has not been funded yet and the TC is going on site to look at it.

The TC discussed fire season preparation. The County is interested in using goats again like last year. The BLM NCA manager will need to approve of the goats. The TC is working with UDOT to get the highway shoulders mowed between late May and early June to reduce the potential fire spread from the highways into the Reserve. The TC discussed the single engine air tanker (SEAT). The SEAT based in Mesquite began operating after the St. George airport was relocated. St. George overlaps with the Mesquite and Cedar City base. There are tentative plans to expand the Mesquite base to handle a larger number of aircraft.

The TC briefly talked about the Red Mountain trail in Snow Canyon that had been previously fenced off accidentally. Access has been restored with a step-over.

The BLM is requiring Mr. Eagar, who has mining claims in the Babylon area, to present a detailed plan of operations. A validity assessment can then be done to see what potential there is for a successful mining operation. Mr. Eagar is attempting to recover some previously drilled cores from a miner who took them to California. If he can access those cores and if they are properly cataloged, they could give a lot of detail needed for the validity assessment. If Mr. Eagar cannot access the cores he will have to do the full assessment at \$30,000-\$40,000 per claim. He has about a dozen claims.

Chairman Wilson asked if there has been any report of fire season expectations from fire experts. Tim responded that he received a general long term forecast from a national level forecast. It stated there should be less cheat grass than last year and fewer high wind events.

Reed asked if all mining claims are in Zone four. Tim stated that a few claims on the maps look like they overlap portions of the NCA in the Winchester and White Cliffs area but these are most likely mapping errors. The only real claims are the Eagar claims. The validity assessment has him drill down and get core samples to determine how much valuable ore there is. Once Mr. Eagar has the validity assessment done, he can develop a plan of operations which will go through National Environmental Policy Act (NEPA) and the endangered species act (ESA) compliance.

- e. Administrator's Report (B. Sandberg)**
 - 1. HCP revenues and expenditures report**

Bob Sandberg showed exhibit 5-e-1 and reported that the HCP has spent about 5% of the budget. Based on what occurred in 2011, the HCP should increase revenue in 2012 through impact fees. Bob expressed his doubt that the HCP will bring in enough revenue to cover the current budget. Depending on what happens during the year and what is spent for fire, rehabilitation, facilitating land exchanges, etc., the HCP could increase costs significantly over what was spent last year.

Bob explained the budget projection was established in November and approved in December. The actual figures are finally available in March. Marc complimented Bob and the HCP staff for being fiscally conservative with the budget.

2. Technical Committee appointment

Bob Sandberg reported that the HCAC recommended to the County Commission to appoint Gary McKell to the Technical Committee which the Commission has done.

3. RIT webinar and make up

The first meeting of the Recovery Implementation Team (RIT) took place on March 26th as a webinar. Bob Sandberg, Cameron Rognan and Gary McKell attended the webinar together. The rest of the TC members will participate on March 28th. The FWS gave a background of what they expect to see accomplished and what specific threats they would like to have identified. They want to see a five year action plan which will deal with those threats in order to help aid and recover the tortoise. In 2012 there will be three RIT meetings. There will be another webinar in June and an in-person meeting in October at which point the information will be pulled together to come up with the action plans. In Washington County there are two RIT's. One for the Upper Virgin River Recovery Unit (Red Cliffs Desert Reserve) and another for the Utah Arizona Workgroup, part of the Northeast Mojave RIT (which includes the Beaver Dam Slope). The County Commission sent a letter to the FWS requesting that they add members to those RITs. Neither RIT had representation from users and other interested stakeholders. The RITs are mostly made up of agency personnel.

There was an article in The Spectrum on March 27th talking about gunfire concerns from hikers and bikers. The caption under the picture said, "Red Cliffs Desert Reserve" (RCDR) and some of the article talked about the Reserve. The area discussed was in Bloomington, which is not a part of the Reserve. Bob contacted and educated The Spectrum, encouraging them to clarify the article. They responded that they will try to correct it. There is some confusion with BLM signs on fences that say "Desert Reserve". The signs are the same shape and color as RCDR signs. This particular fenced area is BLM poppy habitat between Bloomington and Bloomington Hills, behind the Desert Hills Intermediate School. There are other areas signed by the airport and Warner Valley which is pincushion cactus habitat. Bob has discussed this confusion with Jimmy Tyree.

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.)

Lisa Rutherford mentioned she noticed a family with a firearm on Cottonwood Road. Bob explained that hunting on the Reserve, east of Cottonwood Road can be done with a valid hunting permit in the specified season.

Lisa explained that during the transportation expo meeting last month, Myron Lee with MPO explained that UDOT is doing a biological survey to see how the tortoise population relates to the Northern Corridor. When Lisa asked how the road would benefit tortoises, Myron explained it would provide shade and water. Lisa asked the HCAC to further explain this.

Lisa added the Doyle property is constantly mentioned as critical to the Reserve. When looking at maps of the proposed Northern Corridor, it seems within close proximity to the Doyle property. Lisa asked for explanation on how the County and the City can support building the Northern Corridor and on the other hand want to buy this property that is so important as critical tortoise habitat in the Reserve.

Chris Hart explained that the Northern Corridor route has not been established. Any speculative maps are not necessarily representative for where the corridor will be projected to go. When Myron talked to Chris earlier, he explained that the road will provide a fire break. Most tortoise losses have been from fires. Professionals and biologists will look at the environmental assessment. Chairman Wilson added there are no corridor topics coming soon for the HCAC to address.

Bob explained that Myron and MPO are responding to the BLM's planning effort, to provide input on the corridor. The corridor will have to go through the full planning process with NEPA and all things will be analyzed with advantages and disadvantages. Regardless if the shade turns out to be a plus or minus, it will be evaluated in the NEPA document.

7. OTHER BUSINESS

8. ADJOURN

MOTION by Reed Harris to adjourn the meeting.

Seconded by Chris Hart.

Discussion: None.

Vote was taken: All voted aye.

Motion passed.

The meeting was adjourned at 2:08 p.m.
Minutes prepared by Amber Stocks.