

# 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 26, 2013**.

Committee members present were:

Chris Blake, Vice Chairman	Environmental Organization
Henry Maddux	Utah Dept. of Natural Resources (UDNR)
Chris Hart	Local Development
Marc Mortensen	Citizen-at-Large
Bob Sandberg	HCP Administrator

Absent and Excused:

Karl Wilson, Chairman	Mayors Association
Larry Crist	U.S. Fish & Wildlife Service (USFWS)
Jimmy Tyree	Bureau of Land Management (BLM)

Also present were:

Amber Stocks	Washington County HCP – Recorder
Cameron Rognan	Washington County HCP – Biologist
Alan Gardner	Washington County Commissioner
Jodi Borgeson	Washington County Attorney's Office
Ann McLuckie	Technical Committee Chairman (DWR)
Tim Croissant	Technical Committee (BLM)
Gary Webster	Congressman Stewart's Office
William Swadley	Senator Orrin Hatch's Office
Eric Holt	JBR
Lisa Rutherford	Citizen
Paul VanDam	Citizen

**1. CALL TO ORDER**

Vice Chairman Chris Blake called the meeting to order at 1:10 p.m. noting that a quorum was present.

**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 Agenda**
- b. **Review and Approve Regular Meeting Minutes**
  1. **September 24, 2013**
- c. **Next Meeting Date**
  1. **January 28, 2013**
- d. **Declaration of Conflicts of Interest**

Vice Chairman Blake noted his conflict of interest with agenda item 5-c due to his involvement with Confluence Park through the Virgin River Land Preservation Association.

**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**

a. None

4. **UTILITY AND DEVELOPMENT PROJECTS**

a. None

5. **GENERAL BUSINESS**

a. **Consideration of request to transfer funds up to \$4,000 to DWR for care of sick tortoises in the adoption program**

Henry Maddux stated that the Scope Of Work (exhibit 5-a-1) covers all the questions and concerns he had earlier. Bob Sandberg added that the Scope Of Work discusses how the money will be used. The DWR will monitor to make sure all criteria are met.

The healthy tortoises who test positive for upper respiratory tract disease (URTD) and that are at the temporary care facility (TCF) will be eligible for adoption in addition to captive animals already being adopted. When the URTD positive tortoises are adopted, the veterinarian bills will already be paid for the first year as an incentive to adopt. This will reduce the costs for the county to care for these long lived animals and will decrease the chances of tortoises being taken out of the TCF and released into the wild.

**MOTION** by Henry Maddux to accept the Scope Of Work and recommend to the county commission the approval of funding the scope of work up to \$4,000.  
Seconded by Chris Hart.  
Discussion: None.  
Vote was taken: All voted aye.  
Motion passed.

b. **Update on Red Hills Desert Garden project (Marc Mortensen)**

Marc Mortensen reported that St. George City's landscape architect who is assisting the Washington County Water Conservancy District has reported the Red Hills Desert Garden project is moving forward. Walls are going up, pathways are being created and

all the work is supposed to be finished next spring. The plantings will be the last things installed once the scare of a freeze is over, about April or May.

Mayor McArthur feels the need to completely repave the Pioneer Park loop road. Last year the road was chip sealed with a fog seal on top but now the asphalt is chipping and cracking. The city will bring the project to the HCAC for approval in the next couple of months and will work during the dormant tortoise season.

**c. Consideration of proposal to use Other Species account funds to purchase water rights for Confluence Park**

Bob Sandberg explained that neither the county nor the state own water rights to irrigate the historic farmland at Confluence Park. When the Park was purchased there were water rights attached to the property which are owned by the Virgin River Land Preservation Association (VRLPA). The VRLPA is desirous to have the water rights used in the Park but want to be reimbursed for costs incurred to secure the rights. Roughly 30 shares of water rights cost about \$60,000. Bob would like to find a grant or match to help with the purchase but needs at least a \$30,000 match before he can secure a grant. He would also like to know if the HCAC feels it is a good use of the "Other Species" account in the HCP budget.

Steve Meisner, with the Virgin River Program, as well as the DWR feels that irrigating the farmland would be a benefit to the fish in the river and other species. Creating a willow farm or place to propagate species would help reclamation along the Virgin River and its tributaries. The cooling effect of irrigating and the sub-surface flow of water back into the river would help cool the mean temperature of LaVerkin Creek and the Virgin River. The CP general plan talks about putting the fields back into agricultural production with anything that can be sustained. Bob added that nobody wants to give money for a water pipeline until there is an ability to put water in the pipeline. Once the county has the water rights then we can get the pipeline and be able to irrigate and farm.

The committee felt it warrants further discussion and would like the Technical Committee (TC) to look at it and decide who would benefit and how. Vice Chairman Blake explained the benefit for other species is the cooling effect of the water from irrigating. Bob added that the cooling effect is the main benefit and another is the ability to maintain the cottonwood galleries. Without the water rights there is still some vegetation along the creek and some old stands that are becoming decadent from a lack of water they once had. The trees provide some shade and the overstory and understory provide good habitat. A willow farm would benefit the southwest willow flycatcher which is listed as an endangered species.

The county would be responsible to operate and harvest the crops. The thought is to enter into a contract to lease or share crop the 50 acres to recover some of the cost.

There is an old water system in the field but we won't know if it's still usable until we can get some water in there.

Vice Chairman Blake explained that the VRLPA pays a yearly fee for the water rights but does not use the shares. There is also a water right to a seven acre foot spring on the property. Bob added that when the county purchased the property there was a portion of water rights that went to the state of Utah as an in-stream flow for fish.

When the TC and HCAC assess the benefit, the DWR and the Virgin River Program personnel could come explain how it would benefit fish and the flycatcher. Henry stated that water has a lot of value to wildlife. Marc added this is something the TC can bring back to the HCAC in January and in the meantime a search for grants can go on. Vice Chairman Blake explained that grants do exist for these types of projects and can be matched by something like the LeRay McAllister fund by 50%. The VRLPA would donate the shares but it was bought with another project's money and sooner or later that project will need to proceed. Bob has had conversations with John Bennett who works with the LeRay McAllister fund and a grant would depend on how much money is available, what applications are submitted and what their priorities are.

**d. Technical Committee Report (Ann McLuckie)**

Ann McLuckie reported that the TC discussed cheat grass removal in the Reserve and the BLM reported their status to control non-native vegetation, specifically for cheat grass within the Cottonwood road ROW. Some applications include air craft and ground application. Tim Croissant is working on the ground work and NEPA.

The TC talked about tumbleweed removal along Cottonwood Road. The tumbleweed is accumulating along the fence line, creating a potential fire hazard. The county will use prison crews to consolidate tumbleweed piles along the road and the BLM fire crew will burn the piles sometime in January.

The TC discussed the preliminary dike maintenance west of Tuacahn Road in Ivins. The estimated time for the dike maintenance is in 2017. They most likely need to remove deep rooted vegetation. Individuals in the TC will continue to follow this project.

The TC wanted to reroute the fence east of Tuacahn to include more accessible habitat for tortoises. The fence work is about complete with an estimated cost of \$8,000 and may be reduced based on the how much fence is actually used. Snow Canyon State Park and the HCP will cost share 50/50.

The TC discussed the Indian Hills road widening project which is in an incidental take area. Clearances were completed by JBR and HCP staff. No tortoises were found although there is a known population near the old airport which is east of this project. The normal process will occur; the county will complete release forms so that

development can continue.

**e. Recognition of Mayor Wilson's service**

Vice Chairman Blake noted that Mayor Wilson was unable to attend the meeting. Bob Sandberg explained that a plaque has been made for Mayor Wilson who has served on the HCAC and has also served as a mayor for eight years. He did not run for re-election and since he is the representative from the Mayor's Association, he won't be on the HCAC board in January. A new representative will need to be appointed in his stead. The award will be presented to Mayor Wilson in the near future at an HCAC or county commission meeting.

**f. Discussion of member terms and need for new chairperson**

Exhibit 5-f-1 shows the HCAC's member terms. The BLM, FWS and DNR provide a representative and are not appointed by the county commissioners. Those members with appointed terms used to be staggered but now will all expire in February 2014. The Mayor's Association, the environmentalist community, citizens at large (recommended by the largest city in the county) and the local development (Home Builders Association, Southern Utah Homebuilders, Board of Realtors, etc.) all need to send recommendations for someone to serve from their entity to the county commissioners. Bob will contact the entities for their recommendations and will stagger the terms so that they don't all expire at the same time again.

Until February when the official appointments are made, there needs to be a temporary chairman to fill Mayor Wilson's position.

**MOTION** by Chris Hart to nominate Chris Blake to be the chairman.  
**Seconded** by Marc Mortensen.  
**Discussion:** None.  
**Vote was taken:** All voted aye.  
**Motion passed.**

**MOTION** by Marc Mortensen to nominate Chris Hart to be the vice chairman.  
**Seconded** by Henry Maddux.  
**Discussion:** None.  
**Vote was taken:** All voted aye.  
**Motion passed.**

**g. Consideration of tentative meeting dates for 2014**

Exhibit 5-g-1 shows the tentative meeting schedule for 2014.

**MOTION** by Henry Maddux to accept the proposed meetings for 2014.  
Seconded by Chris Hart.  
Discussion: None.  
Vote was taken: All voted aye.  
Motion passed.

**h. HCP Administrator's report (Bob Sandberg)**  
**1. Update on Brennan land exchange proposal delivered to the HCAC on September 24, 2013**

Bob Sandberg updated the HCAC on the proposal given by Bob Brennan on September 24, 2013. There have been discussions between Mr. Brennan, the county and the BLM. Things are moving, there is activity happening but nothing definite to report on. As a recommending committee, the HCAC will be involved but there are some things that need to be worked out beforehand by the commissioners.

Chris Hart stated the HCAC is anxious to see this resolved. Bob agreed and added that the BLM, the county and all various partners and entities involved in the HCP would like to see obligations honored and have the private properties come into public ownership.

**2. Update on Jim Doyle law suit against Washington County**

Bob reported that Jim Doyle has filed a law suit against Washington County and against the BLM for breach of contract/agreement. The county hired private council through the UCIP program and are responding to the suit. Jodi Borgeson with county attorney's office added that Mr. Doyle has filed his complaint and now the county has to decide how to respond. It was filed in federal district court and will be administered in Utah.

**3. Update on HCP draft review**

Bob reported that the county and the FWS are proceeding to work on the HCP draft. The FWS doesn't have staff to work on the review so it's not moving quickly on their end, however, the review does look positive. The county is trying to facilitate moving it forward and will give progress reviews. The county is looking for an extension of the permit with an amendment afterward. Henry Maddux doesn't see the FWS staff situation improving in the near future. He suggested consideration of contracting to a third party or doing the work internally to relieve some pressure from the FWS. He would like to see it keep moving and is worried that it might stall.

Chris Hart asked if the county attorney's office could help with the extension of the HCP. Bob stated the county attorney's office has been involved with the review and an extension or amendment would help alleviate pressure from the FWS. The county is very committed to doing whatever is necessary to keep it moving forward. Chris Hart

stated that this HCP is already in place and there won't need to be many changes. He asked how complicated it would be to follow the federal procedures and file the extension. Vice Chairman Blake explained that there are environmental firms who deal with environmental impact statements and fill out the necessary documents for the attorneys to review. The county contracted to an environmental firm when the HCP was first drafted. Chris Hart asked if the HCAC could request authorization for an RFP (request for purchase order) from the commissioners. Vice Chairman Blake answered yes but suggested the HCAC should first talk to Larry Crist to see if hiring a third party to get it done would help any. Bob added the HCAC should consider all options and make sure that it doesn't stall.

#### **4. Update on Tuacahn fence project**

Covered under the Technical Committee report, agenda item 5-d.

#### **5. HCP revenues and expenditures report review**

The HCP has taken in more revenues than what has been expended. Revenues are ahead of last year and at this point we're under budget.

#### **6. Submission of 3<sup>rd</sup> quarter report for review**

Bob submitted the 2013, 3<sup>rd</sup> quarter report for the HCAC to review (exhibit 5-h-6).

##### **i. Consideration of recommending necessary funds be spent for appraisals of BLM land, to facilitate a potential land exchange with Bob Brennan**

Bob Sandberg stated that the BLM doesn't have the funding necessary to get their lands to a point where they can be considered for exchange. Appraisals and other processes need to be done and the BLM would like approval from the HCAC to expend funds in the HCP budget to help facilitate these land exchanges. There is a line item in the HCP budget of \$50,000 for such facilitation costs.

The Trust for Public Lands recently conducted an appraisal for the BLM so that the BLM could complete their LWCF purchases for inholdings in the Reserve. The appraisal was for one parcel of property but not for all possible exchange parcels. The BLM is tasked to complete value for value exchanges and needs help to know if they're even in the ball park for an exchange with Mr. Brennan.

Commissioner Alan Gardner added that the BLM is the point where they need to know the values before they can go further. Vice Chairman Blake asked Commissioner Gardner if the HCP should pay someone at the BLM to do the appraisal or contract out to a third party. Commissioner Gardner responded this would be for a third party

contract, held to federal standards. The cost of the appraisal would be in the neighborhood of \$20,000. The BLM is looking to contract out the environmental and NEPA work. The commissioners are okay with the HCP spending what is in the current and the proposed 2014 budget and want to move things forward as fast as possible.

**MOTION** by Chris Hart to recommend the County to expend funds for land exchanges as in the proposed budget.

Seconded by Marc Mortensen.

Discussion: Chris Hart felt the budget amount of \$50,000 should be referenced. Henry Maddux would like to see a timeline of where the BLM is with their work and what the future steps will be.

Vote was taken: All voted aye.

Motion passed.

**6. PUBLIC COMMENT**

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 questioned the tortoise adoptions and asked how is it ensured that the adopted tortoises do not end up being released. Ann McLuckie explained that he DWR only allows adoptions outside of Washington, Iron and Kane counties to ensure that if the tortoises get loose that they don't end up in the wild population of Washington County.

**7. MEMBER REPORTS & REQUEST FOR FUTURE AGENDA ITEMS**

**8. ADJOURN**

**MOTION** by Henry Maddux to adjourn the meeting.

Seconded by Marc Mortensen

Discussion: None.

Vote was taken: All voted aye.

Motion passed.

The meeting was adjourned at 2:10 p.m.  
Minutes prepared by Amber Stocks.