

HABITAT CONSERVATION TECHNICAL COMMITTEE
for the Washington County Habitat Conservation Plan (HCP)

A regular meeting of the Habitat Conservation Technical Committee (TC) was held in the conference room of the Washington County Administration Building, **January 22, 2014.**

Members present were:

Ann McLuckie, Chairman	Utah Division of Wildlife Resources (UDWR)
Tim Croissant	Bureau of Land Management (BLM)
Cameron Rognan	Wash Co. Habitat Conservation Plan (HCP)
Kristen Comella	Snow Canyon State Park (SCSP)
Gary McKell	Local Biologist

Absent and excused:

Nathan Brown, Vice Chairman	U.S. Fish and Wildlife Service (USFWS)
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Also present were:

Bob Sandberg	Washington County HCP Administrator
Amber Stocks	Washington County HCP Recorder.
Jodi Borgeson	Washington County Attorney's Office

1. CALL TO ORDER

Chair Ann McLuckie noted a quorum existed and called the meeting to order at 9:35 AM.

2. APPROVAL OF MINUTES

a. December 12, 2013 – Regular Meeting

Page 6, paragraph 5, sentence 2: changed,

From: “We are taking the tamarisk and Russian olive out...”

To: “The County and the UDNR are taking the tamarisk and Russian olive out...”

Page 7, paragraph 1, sentence 2: changed,

From: “Gary added historically ~~there was alfalfa but the majority was fruit trees.~~”

To: “Gary added historically Terry West had pasture and Gordon Wood had some fruit trees.”

Page 7, paragraph 4, sentence 2: changed,

From: “Chair McLuckie felt the TC needs to understand how the use of water will specifically benefit other ~~listed or threatened species.~~”

To: “Chair McLuckie felt the TC needs to understand how the use of water will specifically benefit other sensitive species or federally listed species.”

Page 7, paragraph 5, sentence 1: deleted,

From: “Gary felt different, when the pond was full of water there were many water fowl there as well as peregrine falcons ~~and the listed southwest willow flycatcher.~~”

To: “Gary felt different, when the pond was full of water there were many water fowl there as well as peregrine falcons.”

MOTION by Gary McKell to approve the minutes as amended.

Seconded by Tim Croissant.

Discussion: None.

Vote was taken: All voted aye.

Motion passed.

3. GENERAL BUSINESS

a. Open and Public Meetings Act training (Jodi Borgeson)

Jodi Borgeson, a deputy county attorney, gave an Open and Public Meetings Act (OPMA) training shown on exhibit 3-a-1 with information from the state legislature. She explained that a public body should have an opportunity to receive yearly training. The general standard is that a meeting is open to the public unless closed. A meeting is the “convening of a public body with a quorum present (a quorum is the simple majority of the total members of the body. The TC has six members, so the TC quorum is four people), for the purpose of discussing, receiving comments from the public about, or acting upon a matter (it’s not only when a vote is taken, it’s also when matters are discussed or when public comment is given) over which the public body has jurisdiction or advisory power.”

“Convening is the calling of a meeting of a public body by a person authorized to do so for the express purpose of discussing or acting upon a subject over which that public body has jurisdiction or advisory power.” A public body is “any administrative, advisory (the TC is an advisory committee), executive, or legislative body of the state or its political subdivisions (town, county, special service district and anything connected to the County), created by the Utah Constitution, statute, rule, ordinance, or resolution.” The TC was created when the County passed a resolution adopting the Habitat Conservation Plan. A public body “consists of two or more persons, expends, disburses, or is supported in whole or in part by tax revenue; and is vested with the authority to make decisions regarding the public’s business.”

“A meeting is open to the public unless closed”. There are only a few reasons a meeting can be closed such as discussing, “an individual’s character, professional competence, physical/mental health, collective bargaining strategy, pending or

reasonably imminent litigation, or real property transactions under certain circumstances.” If the information would harm the public body’s negotiating power in getting a good deal then it’s a good idea to close the meeting. Closing the meeting has to specifically deal with a real property purchase, exchange, lease, or sale when a public discussion would disclose the appraisal or estimated value and would prevent the public body from completing the transaction on the best possible terms. If an instance came up that the TC was prioritizing habitat to be acquired and an open meeting could affect the TC’s ability to get the best deal, then that portion of the meeting should be closed. Meetings can also be closed when discussing “security personnel, devices, systems deployment, and investigative proceedings regarding allegations of criminal misconduct.”

To close a meeting, you have to start in an open meeting which has been properly noticed. There needs to be a quorum present and 2/3 members are needed to vote the meeting closed. During the open meeting the committee publicly announces and enters the closure and puts it in the minutes. If something comes up in which the meeting needs to be closed, it can be done as long as it is announced. A recording and detailed minutes of the closed meeting should be kept. Detailed minutes are not required when discussing someone’s character or mental health.

Electronic meetings are allowed but only if a resolution, rule or ordinance governing the use of electronic meetings is first adopted and properly noticed (page 9, exhibit 3-a-1).

It is important to follow OPMA because a citizen can sue any time they feel OPMA is being violated. The lawsuits are expressly permitted to make committees have open meetings, to stop closed meetings, to stop from noticing them incorrectly or whatever the case may be. If the plaintiff is successful then any action taken in the meeting can be voidable. Actions taken in a closed meeting that should have been made in an open meeting can also be voidable and the recording and minutes of the closed meeting would then need to be disclosed. It is a class B misdemeanor for knowing or intentionally violating, abetting, or advising of closed meetings when it shouldn’t be closed.

The TC meets to conduct their business and is not required but can allow public comment. When discussing budgets, a public comment period is required but different statutes govern it. If someone is unruly, they can be removed from the meeting.

A meeting needs to be noticed at least 24 hours in advance with the agenda, date, time and place. The meeting has to be noticed on the Utah Public Meeting Notice website, sent to the local newspaper and put in the office where the public body will conduct their meeting. Jodi reminded the TC that action shouldn’t be taken on any items not on the agenda. This most often comes up in cases where the public brings up an issue not on the agenda. It can be discussed but action cannot be taken until it has been properly noticed 24 hours in advance.

b. Consideration of Green Springs trail reconfiguration proposal. (Jim Raines)

Jim Raines, an engineer for Bush and Gudgeon is currently working for a developer on the north end of Green Springs. Jim was not present so Cameron Rogan explained that houses are being built in the north end of Green Springs, next to the Reserve. The Cottontail trail may lose its public access point once homes are built as it may become someone's back yard. The County talked to Jim and asked if he intends to have public trail access in the development. It appears that they do and are looking at three different options for access into the Reserve. The first is to work something out for access to the Cottontail trail. The second is to move the access to a wash northeast of the Cottontail trail. They don't want to put homes in the wash so that could potentially be an access point into the Reserve. The third option would be to use an old road (which people currently use illegally) giving access to the Ice House or Mustang Pass trails. The developer has planned some open space by the hillside and it may be the best place for access. This access connector would be shorter than the Cottontail connector. We need to look at possibilities to either keep the Cottontail open or replace the trail so that access remains open to the general public and does not become private for just local homeowners.

Bob Sandberg added there isn't legal access to those areas so it would be good to see if they could design something in their development with public access. Cameron indicated that Jim has a map showing the lots that will be built. The TC felt it is important to have public access with public parking that will accommodate multiple uses such as equestrians. Jim needs to know that people cannot have individual access from their back yards.

Cameron explained that the Cottontail trail is sandy and will probably rehabilitate easily. The old road has a harder surface, has been burned and will be more difficult to rehabilitate. He reiterated it also gives direct access to the Ice House and Mustang Pass trails. The Cottontail trail is currently used for access to St. George City water lines when needing repair. From a tortoise standpoint it would be better to use that road or the old Ice House road because it is a shorter distance for city or emergency vehicles to drive into the Reserve. Otherwise they have to enter from Mill Creek or T-Bone and drive along the Middleton Powerline trail.

Kristen Comella stated she would like to have Jim provide parking configuration and the possibility of a gate to allow access. Cameron said there is potential for that, they already have designated open space in an area that is a rocky slope. The TC felt open to the idea of trading the Cottontail for a different trail. The TC will have a fieldtrip on site before prioritizing access points and will invite Jim on the fieldtrip.

c. Consideration of HCP Administrator's assignment to make a recommendation to the HCAC about spending Other Species money to purchase water rights in Confluence Park from the Virgin River Land Preservation Association.

Chair McLuckie talked with Steve Meismer who sits on the Virgin River Program Technical Committee (VRPTC) and met to discuss this topic. Steve was assigned the task of drafting a letter with the VRPTC's views. They feel the use of water could be beneficial to other species with consideration of how it is used and contingent upon the water rights. The VRPTC has pros and cons that will be outlined in the upcoming letter. The TC wants to see the VRPTC's plan before they give any recommendation.

Bob Sandberg attended the VRPTC meeting and reported they were cautiously supportive as they talked about their questions and concerns. Their discussions included how the southwest willow flycatcher would be benefited and developing wetland areas, willows and so forth. The TC tabled their recommendation until the following meeting.

d. Update on tumbleweeds along Cottonwood Road. (Cameron Rognan)

Cameron Rognan stated that the BLM doesn't have the ability to burn tumbleweeds this year and the majority of tumbleweeds have now blown away. The BLM has sprayed the cheat grass along Cottonwood Road for the upcoming season. Tim added the BLM sprayed 2-4D along the Black Ridge. Once Tim looks at the Black Ridge this spring he will have a better idea if 2-4D will be an option for the Reserve as well. If the 2-4D killed woody species then it further limits what can be used in the Reserve. Bob added that the tumbleweeds will germinate in the spring and summer if they get the right moisture. Right now the tumbleweeds have dissipated and the Reserve wouldn't benefit too much from removing the leftover tumbleweeds.

e. Review TC chair and vice chair positions which expire February 2014.

The TC reviewed exhibit 3-e-1, a history of TC chair and vice chair positions. The TC will decide at their next meeting who will be the chair and vice-chair.

4. OTHER REPORTS FROM TC MEMBERS AND REQUESTS FOR FUTURE AGENDA ITEMS

Tim Croissant reported the BLM recently received a request for a film permit. The requestor would like to land a helicopter near Sand Cove in the Babylon area. The BLM will decide if they can have a permit and if so they will need to follow HCP rules and will need an onsite monitor as there are a lot of tortoises in that area.

Cameron Rognan reported a gentleman with the Sons of Utah Pioneers would like to establish an educational monument for the Tabernacle Quarry. Together, he, the HCP and St. George City have discussed options of where to place the monument. Cameron will walk with him on the Owen's Loop trail and see if there's a spot to place the monument on that trail overlooking the quarry. If placed on Owen's Loop, all material will be carried in. Bob added that initially the gentleman wanted the monument placed

on the golf course with access that would come through the Reserve. The TC would like to know the general plan with size and material that will be used.

The 2014 Desert Tortoise Council will be held in Ontario, California on Feb 21-23rd. Chair McLuckie will be giving a talk at the Council.

5. NEXT MEETING DATES

- a. February 13, 2014

6. ADJOURN

MOTION by Cameron Rognan to adjourn the meeting.

Seconded by Gary McKell.

Discussion: None.

Vote was taken: All voted aye.

Motion passed.

The meeting was adjourned at 10:30 AM.
Minutes prepared by Amber Stocks