

APPROVED November 13, 2008
CITIZEN'S ADVISORY COMMITTEE ("CAC")
to the
Hays County
Regional Habitat Conservation Plan ("RHCP")

MINUTES
(also available at <http://www.hayscountyhcp.com>)

A meeting of the Citizen's Advisory Committee (CAC) to the Hays County RHCP was held as follows:

WHEN: **October 9, 2008**
TIME: **6:00 p.m.**
WHERE: **Wimberley Community Center, Senior Lounge**
 14068 Ranch Road 12, Wimberley, Texas 78676

In attendance

CAC Members

- Melinda Mallia
- Todd Votteler
- Glenn Longley
- Melanie Pavlas-Snyder
- Melanie Howard
- Henry Brooks
- Kathy Boydston
- Catherine Livingston
- David Baker
- Dianne Wassenich

Hays County

- Jeff Hauff (Grants Administrator)

RHCP Consultants

- Alan Glen, Melinda Taylor, Rebecca Hays (Smith|Robertson)
- Clif Ladd (Loomis Partners)
- Joseph Lessard

Others

- Allison Arnold (U.S. Fish and Wildlife Service)
- Craig Farquhar (BAT chair; Texas Parks and Wildlife Department)
- Tom Hayes (SOS Alliance)

1. Call to Order. Melinda Mallia called the meeting to order.
2. Approve Minutes from September 11, 2008 CAC Meeting. Minutes, with revisions, approved unanimously.

3. Citizens' Comments. There were no citizen comments.
4. Report from BAT chair on BAT's Consideration of Water Issues Related to Ashe Juniper in Hays County. Craig Farquhar noted that the BAT was collecting various reports and publications relevant to this issue with assistance from Loomis and was reviewing RHCP Section 6.4 with this issue in mind.
5. Receive Comments, Discuss, and Take Appropriate Action on Draft RHCP and Draft Funding Plan. Melinda Taylor summarized the current draft RHCP, noted that the funding plan showed an approximately \$11.5 million shortfall when the funding model assumed that the County would acquire 3,000 acres within the first three years using a 25-75% conservation easement to fee simple acquisition ratio. Ms. Taylor then described the consultant's new proposal to use a 50-50% conservation easement to fee simple acquisition ratio and a \$5,500 participation fee to acquire 11,000 acres over the 30-year life of the plan. Ms. Taylor noted that this funding plan would require the County to buy acreage upfront, estimated to cost about \$5 million within the first couple of years of the plan. Todd Votteler noted that the price per acre assumed in the current funding plan (\$11,500/acre) might be too high given recent shifts in the real estate and financial markets. David Baker asked how the consultants determined the estimated take/mitigate number. Clif Ladd explained the habitat model that was used to come up with these estimates. Catherine Livingston asked whether a developer could be authorized to impact high quality habitat and the County could mitigate for those impacts with lesser quality habitat. Mr. Ladd explained that the RHCP assumed a 1:1 mitigation ratio countywide, regardless of habitat quality.

Henry Brooks asked what kind of County entity would manage the RHCP. Ms. Taylor stated that Joe Lessard's funding plan assumed that three staff positions would be created to manage the RHCP and that the details of management were still being worked out. CAC members asked how the County would prioritize purchasing preserves. Mr. Ladd noted that the RHCP does not set out a formula for acquiring preserves but that there was language describing important watersheds where there is also warbler and vireo habitat. Ms. Taylor stated that the purpose of not setting out requirements for preserve design and location was not only to comply with state law, but also to ensure that the County was not confined to only certain properties. Moreover, she stated, the lack of prescriptive requirements for the siting of preserves would allow the County to initiate the process of acquiring preserves quickly and easily. The consultant team also noted that the U.S. Fish and Wildlife Service would have to approve any preserve for the establishment of conservation credits. Dianne Wassenich noted her disappointment with how the County's Parks and Open Space Bond money has been allocated to date. Kathy Boydston stated her disappointment with the current draft RHCP not requiring a County commitment to purchase a large preserve within the first five years. Ms. Wassenich noted that there was nothing keeping the County from embarking on an aggressive habitat acquisition effort. Ms. Taylor explained that the size and timeline of preserve acquisition also depended upon the County being creative in its acquisitions, perhaps by entering into joint ventures with landowners where there was some sort of cost share agreement on mitigation credit sales. Several CAC members expressed their concern that the County would not buy any species preserves without more stringent requirements placed upon the County by the RHCP. A discussion ensued about the incentives for habitat

protection and implementation of the RHCP. Ms. Taylor asked Allison Arnold to weigh in on the U.S. Fish and Wildlife Service's ability to enforce the Endangered Species Act. Ms. Arnold stated that the Service has recently come to settlement agreements with approximately three violators and that civil and criminal penalties were possible under the ESA. Craig Farquhar noted that citizens should stay in touch with their state and federal representatives regarding lack of compliance with the ESA.

Mr. Brooks asked whether the County could acquire RHCP preserves prior to the final permit being issued. The consultant team stated that the County could acquire preserve land and establish credits on the land prior to final approval of the RHCP, provided it coordinated closely with the Service. Mr. Ladd described the anticipated schedule for permit application submittal. Mr. Ladd noted that the original schedule anticipated that a third draft of the RHCP and a preliminary draft Environmental Impact Statement would be completed by early November but that the funding plan was delayed, so the schedule may be slightly delayed. Catherine Livingston requested that the comment period on the current draft RHCP could be extended one week to Thursday, October 20th. Ms. Livingston also requested that the consultant team distribute any comments as those comments are received. Ms. Boydston suggested that the County draft development guidelines regarding ESA compliance. She noted that chapter 83 of the Texas Parks and Wildlife Code does not prohibit voluntary guidelines. Ms. Livingston stated that she would like to see water quality measures as a part of the voluntary guidelines. Mr. Baker asked whether the County had a plan to mitigate for impacts to additional or evaluation species. Ms. Taylor said that the RHCP provided \$25,000 per year for the study of one or more evaluation species. Mr. Ladd noted that the County submitted a traditional ESA section 6 grant application to study the listed aquatic species found in the County. Mr. Baker then pointed to an appendix in the RHCP that set forth conservation recommendations for the evaluation species that included impervious cover limitations, land management, best management practices, etc., and asked whether these measures would be required under the RHCP. Ms. Taylor said that these measures would not be required under the RHCP because the aquatics were not covered species under the plan. Mr. Baker then stated that one original goal the CAC set out for the RHCP involved protections for water quality and asked why the RHCP did not address water quality in its current form. Ms. Taylor said that the main reason the RHCP did not include measures specifically aimed at water quality enhancement was that the Service would need more information to cover the listed aquatics and that the County did not have the money to fund those studies at this time. Mr. Baker then suggested that the County could use water quality and quantity considerations as part of a ranking system when the County was considering purchasing a potential preserve. Ms. Taylor said the two major issues in covering listed aquatics for take under the RHCP were: (1) lack of information on these species; and (2) lack of County authority to regulate impacts to aquatics. Ms. Arnold asked that the next draft of the RHCP include a discussion of current regulatory mechanisms that address water quality and quantity issues. Mr. Baker indicated that he would like to see a timeline and work plan for RHCP implementation. The consultants stated that they would send out an email to the CAC indicating where new language regarding the County's discretion to turn down a potential participation would go. Ms. Taylor indicated that the discretion language would likely go in the RHCP section on implementation. Mr. Brooks wanted the consultants to take a look at Naismith Engineering website which has a list of items a developer should consult

with to determine whether their proposed development was compliant with applicable laws and local regulations. Mr. Brooks wanted the RHCP added to that list.

At 7:40 p.m., the CAC took a short break when Mr. Lessard arrived. After the break, Ms. Taylor stated that the consultants had learned that Mr. Lessard had revised his spreadsheet within the last 24 hours and the new numbers indicated that the County lacked sufficient resources to acquire approximately 11,000 acres during the permit period. Instead, the new numbers seemed to show that only approximately 7,400 acres could be acquired over the 30-year life of the plan using the assumptions Ms. Taylor had explained earlier. Ms. Wassenich stated that the CAC needed a recommendation from the consultants on how to cover the gap. Ms. Wassenich then asked whether it was possible to increase the mix of conservation easements to fee simple, so that the County would acquire 75% of its preserve land through conservation easement rather than 50% as was previously modeled. Ms. Arnold stated that the Service did not have a preference on how much land the County acquired via conservation easement so long as the County made a commitment to do so. The CAC discussed the issue of inflation and deflation and the correlating cost of participation certificates. The discussion then turned to the cost of operation and management of the preserve (O&M). Mr. Lessard stated that the cost of managing tracts acquired via conservation easement versus tracts acquired via fee simple did not make a significant difference in the funding plan. Mr. Lessard then described how he arrived at the land cost assumed in the funding plan (\$11,500/acre). He noted that he assumed that waterfront property was double the cost of non-waterfront property. He then stated that the two things that affected his projections about the County's ability to fund the plan were the relatively small tax base and a slow growth rate in comparison to neighboring counties like Travis and Williamson. Mr. Lessard stated that those two factors mean that land values do not increase as quickly in Hays County and therefore the tax increment allocation does not create enough up-front profit for use by the RHCP. He also stated that the participation fee created more of a difference than he originally thought and that he would increase the participation fee from \$5,500/credit to \$7,500/credit. Alan Glen asked how Mr. Lessard modeled the tax increment (TIA) allocation in the draft funding plan. Mr. Lessard said that assumed a Countywide TIA 10% of the value added on the land and structures. Mr. Lessard indicated that he preferred a 10% TIA because that relates to developers' growth. Mr. Lessard then stated that he took into account properties that were platted and undeveloped.

Mr. Baker asked how the County would track properties. Mr. Lessard stated that all increases in value were included so that there was no tracking of individual parcels. Mr. Lessard then noted that the so-called "proximate principle" was built into the model. Ms. Wassenich made a motion, seconded by Glen Longley, that the CAC "ask the County Commissioners Court to not spend or commit the remaining \$8.7 million in Parks and Open Space Bond funds for 60 days on projects other than habitat protection for the golden-cheeked warbler and/or black-capped vireo." This motion passed unanimously. Mr. Lessard then asked the CAC how he should model the funding plan. Mr. Glen asked the CAC whether the CAC would like for Mr. Lessard to model his plan to include an 11,000-acre preserve. The CAC said yes. Ms. Taylor stated that the purpose of Mr. Lessard's model was to show whether a funding plan that gets the County 11,000 acres is credible. Mr. Lessard stated that the next iteration of his funding plan would assume an \$8.7 million infusion from the bond funds, a \$7,500 participation fee, a 10% Countywide TIA, and a 75-25% conservation easement to fee simple mix. CAC members noted other potential sources of funding such as LCRA waterline taps.

6. Discuss and Take Appropriate Action Regarding Additional CAC Meeting. The next CAC meeting will be held on Thursday, November 13th at 6pm. Rebecca Hays was asked to send an email to the CAC regarding the meeting date and noting the difficulty of meeting quorum for the last two meetings.
7. Adjourn. Meeting adjourned at 8:50pm.