

**CITIZENS ADVISORY COMMITTEE (“CAC”)
to the
Comal County
Regional Habitat Conservation Plan (“RHCP”)**

NOTICE OF OPEN MEETING

A meeting of the CAC to the Comal County RHCP was held as follows:

WHEN: August 25, 2008
TIME: 10:00 a.m.
WHERE: Comal County Courthouse, Commissioners Court Board Room
199 Main Plaza, New Braunfels, Texas 78130

In Attendance

CAC Members

- Travis Wuest
- Alan Stahlman
- Jensie Madden
- Judy Myers
- Roy Linnartz
- Linda Laack
- Cathy Talcott
- Curtis Bremer
- Jack Ohlrich
- Terry Turney
- Mike Norris
- Ben Appleby

Consultants

- Alan Glen, Rebecca Hays, Brooke Marcus (Smith|Robertson)
- Steve Carothers, Gary Galbraith (SWCA)
- Travis James (Texas Perspectives)

County Personnel

- Commissioner Millikin

Citizens

- Star Carey

1. Call to Order. CAC Chair Travis Wuest called the meeting to order.
2. Approve Minutes from August 4, 2008 CAC Meeting. The minutes were unanimously approved.
3. Citizens' Comments. There were no citizens' comments.

4. Discuss and Take Appropriate Action Regarding Draft RHCP. Rebecca Hays distributed comments received via-email to the participants in the meeting. Steve Carothers addressed comments related to the potential funding sources and explained that the consultants, per instruction from the CAC, did not include funding from bonds in the draft RHCP. Alan Stahlman expressed his reservations about funding through bonds as a landowner. He prefers a plan that allows outright purchasing or partnership with landowner. Dr. Carothers, Mr. Stahlman, and Mr. Wuest discussed whether excluding the bond funding option from the initial RHCP will preclude it as a later option. CAC members asked what kind of funding flexibility must be built into the initial RHCP. Dr. Carothers answered that funding language does not have to be very specific and that the main focus is to show the U.S. Fish and Wildlife Service that the promised amount of funding will be achieved. CAC members agreed that language regarding funding should be flexible. Dr. Carothers explained that any “take” that occurs must be mitigated for perpetuity and that the County is responsible for that to which it has committed. Mike Norris called for the bonds to remain an option. Commissioner Millikin expressed that the Commissioners Court will follow the RHCP to the best of their abilities and that he did not want to deny an option to the voters. Cathy Talcott requested that the word “approach” be changed to “option.” The discussion turned to Table 7-1. Mr. Wuest expressed that he did not arrive at the same numbers given in the chart. All agree that the numbers will be corrected. Dr. Carothers explained that including the chart is for the benefit of the County’s demonstration to the USFWS. Mr. Glen reiterated that federal and state law requires that a financial showing be made and that a preserve must be provided before any “take” is authorized under the ESA. The CAC then discussed the 250 acre minimum preserve size requirement set forth in the RHCP. Some CAC members wanted the minimum preserve size to be smaller. In particular, Terry Turney wanted verbiage to ensure that smaller parcels adjacent to a preserve receive credit. Dr. Carothers noted that total potential golden-cheeked warbler habitat estimates would be modified upwards to account for woodlands with as low as 30% canopy cover, but that modification would not affect the anticipated amount of “take.” The CAC then turned to the issue of whether to increase the total amount of authorized take under the RHCP and several CAC members indicated their desire to increase the authorized take to 10,000 acres. Dr. Carothers stated that the consultants would run that number by the BAT at the BAT’s next meeting. Roy Linnartz asked if the Morton Preserve can be used for mitigation credits. Dr. Carothers indicated that because the Morton Preserve was purchased with ESA section 6 funds that it could not be used to generate mitigation credits. CAC members continued to discuss their concern that the RHCP was not authorizing sufficient levels of take, particularly with respect to the Outer Loop. Travis James expressed a willingness to redo estimates to avoid underestimating “take” needs. Curtis Bremer asked whether the Guadalupe River area could qualify for mitigation credit; Dr. Carothers responded no. Ms. Hays pointed out this could change depending on the level of management on that land. The discussion turned to why the draft RHCP is written to authorize only approximately half of the anticipated “take” within Comal County. Dr. Carothers explained that that it is likely that there will only be a 20-50% participation rate.

The CAC members asked if there was any disadvantage to drafting the RHCP to include authorization for 100% of the anticipated take, even if that number is unrealistic and Mr. Glen answered no. The CAC members expressed a desire to go ahead and start with 10,000 acres rather than be forced to amend the RHCP should the anticipated take under the RHCP be exceeded. CAC members asked that the draft RHCP be changed to authorize up to the full level of anticipated “take.” Mr. Wuest suggested that the CAC’s discussion of the RHCP continue page by page. Beginning with the executive summary, Linda Laack requested clarification that the RHCP will reduce rather than eliminate negative impacts. Commissioner Millikan requested definition of “take” and “incidental take” be included and that the emphasis on “protect and preserve” be strengthened so as not to suggest this is solely for expediting development. CAC members agree that the ordering of purposes on p. vii will be changed to put “protect and preserve” over “development.” Commissioner Millikan indicated his desire that the RHCP weave in an early discussion that the RHCP focus was to protect and preserve land rather than to expedite development. This language should be emphasized throughout the Executive Summary. Mr. Stahlman opposed the language addressing land-clearing in the fourth paragraph on Page 7. Mr. Glen opined that the statement can be removed without affecting anything. Dr. Carothers explained that footnote 1 recognizes that ratios may increase depending on particular habitat quality and that USFWS prefers that this clause be included in RHCP. CAC members discussed the RHCP language regarding the County’s right to deny participation. Dr. Carothers explained that the County wants to retain the power to deny participation when the County needs to reserve mitigation for County infrastructure projects and other needs. Ms. Hays suggested adding an explanatory sentence to clarify this right-to-deny. On Page 10, CAC members identified typos and other phrases that needed to change in conformity with changes agreed upon during this meeting. In Section 1, CAC members agreed that the statement “reasonable compliance with ESA may be necessary” can be deleted. In Section 2, page 2-6 will be revised to quantify large, medium, and small. On page 2-7 Ms. Laack requested that a source be added for the third sentence and identified typos on 2-15 and 2-18. Mr. Wuest pointed out that the map on 2-13 needs to be consistent with the website. In Section 3, Mr. Stahlman requested that language on 3-1 to be changed to the language suggested in his email. Mr. Wuest requested that this section be expanded as well. Ms Laack asked why there are different percentages for the Black-capped Vireo and Golden-cheeked Warbler. Dr. Carothers will add an explanatory statement. In Section 4, CAC members identified typos. Mr. Turner pointed out that “creating Black-capped Vireo habitat” is a point that needs emphasis, CAC members agreed. Ms. Laack clarified that Black-capped Vireo habitat acquisition needs to be included as an option. In Section 5, Ms. Laack asked whether an indirect impact area belongs to landowner for recreational purposes such as hiking trails. Dr. Carothers answered that landowners could still use that portion of their land but that, eventually, those areas could be considered directly impacted. CAC members asked why there was a discrepancy of 250 feet and 300 feet on page 5-5. Mr. Glen explained it was USFWS protocol and Dr. Carothers offered to draft the RHCP so that indirect-effects acreage and [whatever else] are consistent and see if USFWS would approve. No comments were made

on Section 6. Section 7 will be drastically redone for the next meeting. Jensie Madden asked why the selling price of mitigation land is different than the buying price. Mr. Glen explained that the price of mitigation credits is sometimes set lower than the actual cost of purchasing mitigation land in the hopes that developers would be encouraged to comply with the ESA. Mr. Stahlman asked whether he could put 200 acres into conservation easement, take the tax credit, and use it as mitigation credit. Mr. Glen cautioned about dedicating and retaining credits, and noted that in order to retain the mitigation value of a conservation easement, there needs to be an understanding between the easement donor and the USFWS from the beginning that credits would be retained. Mr. Norris requested that there be language in the RHCP addressing this, and Mr. Stahlman requested that this language be in the Executive Summary. In Section 8, Mr. Glen explained USFWS use of the term “unforeseen circumstances.” Mr. Turney suggested that language in 8-2 should address the use of land as a revenue generator (e.g. hunting). CAC members agreed. Consultants noted that recreation on preserve land could be possible where County was the fee owner, but was unlikely on preserves where County merely held an easement. Mr. Appleby returned to the Executive Summary and suggested that this section include a summary of the benefits to each type of the different parties involved (e.g. taxpayer, landowner, County).

5. Discuss and Take Appropriate Action on Agenda Items for Next Meeting. CAC will meet on October 13th to review the changes made to the draft RHCP.
6. Adjourn.