



**EAST CONTRA COSTA COUNTY  
HABITAT CONSERVANCY  
GOVERNING BOARD**

**REGULAR MEETING**

Date: Wednesday, May 9, 2007

Time: 5:30 p.m.

Location: City of Pittsburg City Hall  
Council Chambers, 3<sup>rd</sup> Floor  
65 Civic Drive, Pittsburg

**Agenda**

- 1) Introductions.
- 2) Elect Chair and Vice Chair.
- 3) Public comment on items that are not on the agenda (public comment on items on the agenda will taken with each agenda item).
- 4) Accept update from staff on approval process for the East Contra Costa County Habitat Conservation / Natural Community Conservation Plan (HCP/NCCP) and on financial status of the East Contra Costa County Habitat Conservancy (Conservancy). Direct staff to provide a recommended Conservancy Budget for the next meeting.
- 5) Consider authorize the following initial expenditures to continue work on wetlands permitting and to initiate transition from planning phase to implementation phase:
  - a) Consider authorizing staff to execute a contract with Jones and Stokes in an amount not to exceed \$40,000 to continue work on wetlands permitting and to initiate transition from planning phase to implementation phase.
  - b) Consider authorizing staff to execute a contract with Resources Law Group in an amount not to exceed \$30,000 to continue work on wetlands permitting and to initiate transition from planning phase to implementation phase.
  - c) Consider authorizing the County to expend not more than \$70,000 to provide initial staff support to the Conservancy, to continue work on wetlands permitting, and to initiate transition from planning phase to implementation phase.
  - d) Consider authorizing staff to help arrange a permit issuance ceremony for the HCP/NCCP and authorize expenditure of up to \$400 as the Conservancy's contribution toward this event. Consider guidance to staff on helping to plan this event.
- 6) Consider the following actions on the Final East Contra Costa County Habitat Conservation Plan/Natural Community Conservation Plan (HCP/NCCP) released on October 10, 2006:

- a) ADOPT Findings (Exhibit A) and a Mitigation Monitoring and Reporting Plan (Exhibit B) pursuant to the requirements of the California Environmental Quality Act (CEQA) and related to the Final Environmental Impact Report (EIR) for the HCP/NCCP;
  - b) APPROVE the HCP/NCCP, as revised in the document entitled “Corrections and Updates to the HCP/NCCP, December 19, 2006” (Exhibit C);
  - c) AUTHORIZE the Contra Costa County Community Development Director as Secretary to the Conservancy to execute the “Implementing Agreement for the East Contra Costa County Habitat Conservation Plan/Natural Community Conservation Plan” (Exhibit D);
  - d) DIRECT the Contra Costa County Community Development Director as Secretary to the Conservancy, or his designee, to file a Notice of Determination with the County Clerk.
- 7) Accept preview from staff of early implementation actions and decision-making.
  - 8) Schedule next meeting.
  - 9) Adjourn.

*If you have questions about this agenda or desire additional meeting materials, you may contact John Kopchik of the Contra Costa County Community Development Department at 925-335-1227.*

*The Conservancy will provide reasonable accommodation for persons with disabilities planning to participate in this meeting who contact staff at least 72 hours before the meeting.*

**EAST CONTRA COSTA COUNTY  
HABITAT CONSERVANCY**

**DATE:** May 9, 2007  
**TO:** Governing Board  
**FROM:** John Kopchik, Conservancy Staff  
**SUBJECT:** Election of Chair and Vice Chair (agenda item #2)

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**RECOMMENDATION**

ELECT Chair and Vice Chair.

**DISCUSSION**

The joint exercise of powers agreement creating the Conservancy provides as follows related to election of a Chair and Vice Chair:

- (1) The Board shall select from its members a Chair who shall serve as Chair of the Agency and a Vice Chair who shall serve as Vice Chair of the Agency. The Chair and the Vice Chair shall have the duties assigned by the Board or set forth in by-laws adopted by the Board.

The Governing Board may consider adopting specific Bylaws at an upcoming meeting. In the meantime, staff recommend that a Chair and Vice Chair be elected to preside over Governing Board meetings (the Vice Chair would preside in the Chair's absence).

A roster of Governing Board members is attached.

Governing Board  
East Contra Costa County Habitat Conservancy  
May 9, 2007

<b>Representative</b>	<b>Agency/Organization</b>
Council Member Brandon Richey	City of Brentwood
Council Member Eric Stonebarger*	City of Brentwood
Vice Mayor Greg Manning	City of Clayton
Council Member David Shuey*	City of Clayton
Vice Mayor Bruce Connelley	City of Oakley
Vice Mayor Will Casey	City of Pittsburg
Mayor Ben Johnson*	City of Pittsburg
Supervisor Mary Piepho	CCC Board of Supervisors
Supervisor Federal Glover*	CCC Board of Supervisors

\* Alternate

**EAST CONTRA COSTA COUNTY  
HABITAT CONSERVANCY**

**DATE:** May 9, 2007  
**TO:** Governing Board  
**FROM:** John Kopchik, Conservancy Staff  
**SUBJECT:** Update on Approval Process and Finances (agenda item #4)

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**RECOMMENDATION**

- 1) ACCEPT update from staff on the status of the HCP/NCCP approval process and on Conservancy Finances.
- 2) DIRECT staff to provide a recommended Conservancy Budget for the next meeting.

**DISCUSSION**

**Approval process:** Action by the Conservancy Governing Board to approve the HCP/NCCP and Implementing Agreement is the last local action needed to approve the HCP. If the Conservancy takes these actions, the remaining steps are for the California Department of Fish and Game (CDFG) and the United State Fish and Wildlife Service (USFWS) to approve the Implementing Agreement and issue permits to local agencies. Each agency also nee to issue a series of decision documents including regulatory findings (CDFG and USFWS), CEQA findings (CDFG), Biological Opinion (USFWS) and Recod of decision (USFWS). USFWS will consider approving the HCP and permit pursuant to the requirements of NEPA and issued a Federal Register Notice announcing the availability of the EIS in March. The final NEPA comment period expired April 9, 2007, so there are no longer any time constraints under NEPA for FWS action. CDFG and USFWS have indicated that they expect to able to complete the decision documents and be ready to issue permits by late May or early June.

Once CDFG and USFWS issue the permits, the Cities and the County will have 90 days to adopt Implementing Ordinances to establish the fees and permitting process, if the regional permits from CDFG and USFWS are to remain valid (a model Implementing Ordinance is in Appendix F of the HCP/NCCP).

**Finances:** The Conservancy currently has \$2,415,610.12 in the account that has been set up for it by the Treasurer. These funds came from interim mitigation fees paid by the State Route 4 Bypass Authority at the request of CDFG and USFWS. In addition, the California Wildlife Foundation account set up by CDFG to hold interim fee revenue for the HCP has a current balance of \$1,903,895.27. The Implementing Agreement provides that all of these funds will be transferred to the Conservancy upon the Conservancy's request, so the Conservancy could request and receive these funds once the Implementing Agreement is fully executed. Finally, the HCPA will be transferring it remaining balance of \$12,597.20 to the Conservancy shortly.

**EAST CONTRA COSTA COUNTY  
HABITAT CONSERVANCY**

**DATE:** May 9, 2007  
**TO:** Governing Board  
**FROM:** John Kopchik, Conservancy Staff  
**SUBJECT:** Initial expenditures (agenda item #5)

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**RECOMMENDATION**

Consider authorize the following initial expenditures to continue work on wetlands permitting and to initiate transition from planning phase to implementation phase:

- a) Consider authorizing staff to execute a contract with Jones and Stokes in an amount not to exceed \$40,000 to continue work on wetlands permitting and to initiate transition from planning phase to implementation phase.
- b) Consider authorizing staff to execute a contract with Resources Law Group in an amount not to exceed \$30,000 to continue work on wetlands permitting and to initiate transition from planning phase to implementation phase.
- c) Consider authorizing the County to expend not more than \$70,000 to provide initial staff support to the Conservancy, to continue work on wetlands permitting, and to initiate transition from planning phase to implementation phase.
- d) Consider authorizing staff to help arrange a permit issuance ceremony for the HCP/NCCP and authorize expenditure of up to \$400 as the Conservancy's contribution toward this event. Consider guidance to staff on helping to plan this event.

**DISCUSSION**

**Items a-c:** To help ensure a smooth transition from planning to implementation, staff recommends that the Governing Board authorize three initial expenditures as described in items a, b and c. As discussed in item 4, the Conservancy has approximately \$2.4 million in its account already and approximately \$2 million more will be available once the permits are issued. Initial transition tasks that are needed are listed below. The recommended funds would be spent for these purposes. The party or parties that would be working on each task are also indicated.

- Continue to pursue wetlands permits from the Army Corps, Regional Water Quality Control Board, State Water Resources Control Board, USEPA and the California Department of Fish and Game. Continue work on a wetlands permitting implementation agreement. (County, Jones and Stokes and resources Law Group)
- Assist the cities and the County with developing their specific implementing ordinances (County and resources Law Group).
- Training for local agency staff and permit seekers on how the HCP permitting program will work (County and Jones and Stokes).

- Development of permit checklists and planning survey templates for use in the permitting process under the HCP (County and Jones and Stokes).
- Development of template agreements needed to implement the HCP such as conservation easements, deed restrictions, agreements for Participating Special Entities such as CALTRANS, etc. (County and resources Law Group)
- Initial work to identify wetland restoration opportunities, expected to be one of the most time-critical tasks during early implementation (County and Jones and Stokes);
- Initial work to identify initial land acquisition opportunities, including opportunities for the HCP to receive credit for land recently conserved by others (County, Resources Law Group and Jones and Stokes).
- Administrative work for the Conservancy such as development of a proposed budget, development of a work plan, development of a website, support to the Governing Board and other critical tasks necessary to get the Conservancy up and running and to begin to make progress on the many duties assigned to the Conservancy in the HCP and Implementing Agreement.

Initial consulting contracts are proposed with those firms that assisted with development of the HCP/NCCP because these firms are best suited to quickly and efficiently provide transition services. Staff expects that additional consulting services may be necessary in the future to assist with implementation. If and when this occurs, staff will recommend that a thorough proposal solicitation and selection process be conducted.

**Item d:** CDFG and USFWS have expressed an interest in convening with the Conservancy a ceremony to commemorate approval of the HCP and issuance of the permits. Based on initial discussions, an outdoor ceremony during the daytime in late May or early June at a scenic locale in the HCP area is envisioned. Staff would appreciate feedback from the Governing Board on this proposal any ideas or suggestions for how it is conducted. Staff is also requesting authorization to expend up to \$400 to assist with purchasing supplies for this event.

**EAST CONTRA COSTA COUNTY  
HABITAT CONSERVANCY**

**DATE:** May 9, 2007  
**TO:** Governing Board  
**FROM:** John Kopchik, Conservancy Staff  
**SUBJECT:** Actions related to approval of the HCP (agenda item #6)

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**RECOMMENDATION**

Consider the following actions on the Final East Contra Costa County Habitat Conservation Plan/Natural Community Conservation Plan (HCP/NCCP) released on October 10, 2006:

- a) ADOPT Findings (Exhibit A) and a Mitigation Monitoring and Reporting Plan (Exhibit B) pursuant to the requirements of the California Environmental Quality Act (CEQA) and related to the Final Environmental Impact Report (EIR) for the HCP/NCCP;
- b) APPROVE the HCP/NCCP, as revised in the document entitled “Corrections and Updates to the HCP/NCCP, December 19, 2006” (Exhibit C);
- c) AUTHORIZE the Contra Costa County Community Development Director as Secretary to the Conservancy to execute the “Implementing Agreement for the East Contra Costa County Habitat Conservation Plan/Natural Community Conservation Plan” (Exhibit D);
- d) DIRECT the Contra Costa County Community Development Director as Secretary to the Conservancy, or his designee, to file a Notice of Determination with the County Clerk.

**DISCUSSION**

The Conservancy is a proposed signatory to the Implementing Agreement and permittee under the HCP, so it must take steps to approve the HCP and Implementing Agreement similar to those taken by all the other local agencies that are party to the HCP. The Conservancy is also the party identified in the EIR as the party responsible for implementing necessary mitigation measures, so the Conservancy must adopt the Mitigation Monitoring and Reporting Plan in addition to adopting findings pursuant to CEQA. For each agency that signs the Implementing Agreement, there is a space for the city manager or lead staff person to sign (in the case of the Conservancy, the Secretary will sign) and place for legal counsel to approve as to form. Chris Beale at Resources Law Group assisted with development of the Implementing Agreement for the HCPA and will be asked to sign the Implementing Agreement as approved as to form for the Conservancy.

**EAST CONTRA COSTA COUNTY  
HABITAT CONSERVANCY**

**DATE:** May 9, 2007  
**TO:** Governing Board  
**FROM:** John Kopchik, Conservancy Staff  
**SUBJECT:** Overview of the duties of the Conservancy (agenda item #7)

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**RECOMMENDATION**

Accept preview from staff of early implementation actions and decision-making.

**DISCUSSION**

Staff will provide a verbal presentation previewing the primary duties of the Conservancy and will respond to questions from the Governing Board. The intent of this item is to provide a preview of the types of issues that will be coming up at future meetings. Attached is an excerpt from Chapter 8 of the HCP that summarizes the main duties of the Conservancy, which is referred to throughout the HCP as the Implementing Entity.

- The committee shall attempt to operate by consensus. When consensus is not possible, the conflicting positions should be communicated to the Governing Board.
- The committee shall strive in their recommendations to be objective, balanced, and constructive to help the Plan succeed biologically, financially, and within the social context of East Contra Costa County.

## Annual Public Workshop

At least once annually, the HCP/NCCP Governing Board will report on the progress of implementation directly to the public in a workshop. The Board will summarize habitat losses and gains, habitat restoration and creation, and management and monitoring accomplishments for the previous year. The meeting will provide a forum for the public to ask questions and provide comments directly to the Board on the overall progress of HCP/NCCP implementation. Periodic formal review of Plan progress in a public forum may also be appropriate and could perhaps coincide with the 5-year conservation audits by the Independent Conservation Assessment Team (see below for a description of this group and its function).

## 8.3 Responsibilities of the Implementing Entity

The Implementing Entity is tasked with the actual implementation of HCP/NCCP measures as described in the Plan. These wide-ranging responsibilities include but are not limited to those listed below.

- Developing and maintaining annual budgets and work plans.
- Obtaining grants.
- Receiving, managing, tracking, reporting, and expending funds or endowments, including fee revenues collected or paid by other Permittees.
- Researching land acquisition opportunities (fee title or conservation easement).
- Negotiating land acquisition or conservation easements with private landowners.
- Negotiating land acquisition or conservation easements in partnership with other organizations.
- Training staff in local jurisdictions to review applications for take authorization in compliance with the Plan. Assisting local jurisdictions to ensure that project proponents comply with the provisions of the Plan, including performance of required avoidance, minimization, and mitigation measures.

- Promoting coordination among Permittees to ensure that the Plan is implemented consistently and effectively.
- Approving offers of land in lieu of the development fee that may be made by project proponents (see Section 8.6.7) and making determinations on other implementation matters that require approval of the Implementing Entity, as specified in this Plan or the Implementing Agreement (see summary in Section 8.7).
- Reviewing applications for take authorization submitted by Participating Special Entities (see Section 8.4 below) and documenting permit usage by each Permittee.
- Monitoring landowner compliance with conservation easement terms.
- Developing system-wide and site-specific management plans for the Preserve System and individual preserves.
- Designing and implementing habitat enhancement, restoration, and creation and managing the affected areas in an adaptive management framework (see additional detail below).
- Administering the Neighboring Landowner Assurances Program described in Chapter 10.
- Obtaining additional permits for site-specific projects in the Preserve System (e.g., wetlands permits, cultural resources compliance).
- Implementing species-specific conservation measures within the Preserve System.
- Periodic mapping of the inventory area to update the land cover calculations.
- Coordinating and communicating with local land management agencies.
- Creating and maintaining databases.
- Designing a scientifically-valid monitoring program and monitoring habitat and species on HCP/NCCP preserves (see additional detail below and in Chapter 7).
- Overseeing land management activities in an adaptive management framework (see additional detail below), either independently or in partnership with other organizations.
- Assuring that mitigation and conservation measures are being implemented roughly proportional in time and extent to the impact on habitat or covered species authorized under the Plan (e.g., see Conservation Measures 1.1, 2.3, and 2.10 and Section 8.6.1) and notifying the other Permittees of the requirement to make the land in lieu of fee provision compulsory when the Plan is out of compliance or in jeopardy of being out of compliance with the Stay Ahead provision, as well as notifying them when this requirement may be lifted (see Section 8.6.1).
- Calculating the amounts of automatic annual fee increases and distributing these calculations to the cities and the County, in accordance with Chapter 9 of the HCP/NCCP.

- Performing the periodic fee audits described in Chapter 9.
- Preparing the Annual Report (see Section 8.10 below).
- Assuring involvement in the implementation of the Plan by the public, science advisors, interested agencies, and others.

The Implementing Entity will utilize specialists to ensure proper implementation of these varied tasks. In consideration of these tasks and responsibilities, a potential organizational structure of the Implementing Entity is shown in Figure 8-2. However, the actual structure used may differ depending on staff qualifications and arrangements with local agency partners to fill all or some of these roles.

Key roles are briefly described below. Each role could be performed by one or more staff residing in different agencies, could be contracted to private specialists, could be filled at different stages of Plan implementation, or could be combined. Several roles could be performed by the same person.

### **8.3.1 Executive Director**

The Executive Director reports to the Governing Board and directs the activities of the Implementing Entity and the implementation of the Plan under the authority granted by the Governing Board. The Executive Director's responsibilities include staff and consultant management, acquisition of outside funding, coordination with external advisors and agencies, compilation of annual reports to CDFG and USFWS, periodic reporting to the Governing Board, and implementation of all adaptive management and monitoring efforts described in the Plan. The Executive Director and his/her staff is also responsible for training staff persons of local jurisdictions to review and process applications for coverage under the HCP/NCCP. The Executive Director will oversee periodic audits of local jurisdictions to ensure compliance with the terms of the Plan. Audits will occur at the end of Plan years 1, 3, 6, 10, 15, 20, and 25 (i.e., more frequently in early years of implementation than in later years). The Executive Director will serve as the primary link between Implementing Entity staff, local jurisdictions, regulatory agencies, other decision makers, and the general public.

### **8.3.2 Scientific Oversight**

Scientific oversight is needed from a senior biologist to direct all technical aspects of HCP/NCCP implementation, including the monitoring and adaptive management program. S/he will collect and analyze data as required by the Plan, keep abreast of current scientific methods and concepts, and provide continuous oversight of the monitoring and adaptive management program (e.g., monitoring methods, study designs) to ensure that the Preserve System incorporates the most appropriate strategies. The Implementing Entity will be responsible for communication with external scientists, including agency scientists, the Science