

**City of Tucson  
Habitat Conservation Plan  
Stakeholder Advisory Committee  
March 15, 2005 3:00 – 5:00 pm  
Arizona Game and Fish Department conference room**

**Meeting Summary**

Attendees: Sherry Barrett, Greg Hess, Nancy Zierenberg, Lori Lustig, Brooks Keenan, Catherine Balzano, Marit Alanen (alternate for Arizona Game and Fish Department), Cathy Blasch (alternate for Arizona Game and Fish Department), Emily Brott (new SAC member for Sonoran Institute), Susan Shobe (alternate for Coalition for Sonoran Desert Protection), Ken Kingsley (SWCA), Leslie Liberti (SWCA), Michael Wyneken (City of Tucson, Planning), Andrea Marafino (City of Tucson, Planning)

**1. Update on TAC**

Michael explained the new agenda format. There had been issues of wording of items on previous agendas, so this would be the new format for all future agendas.

Leslie gave a brief update on past TAC meetings. The TAC had made recommendations regarding the development of habitat models for all 8 HCP target species. All but 2 of these models were complete. The final 2 models would be done shortly and, at that time, the maps would be available on the HCP website. The City is also working to better refine the set and description of covered activities to use in the impact analysis and, with this information completed, the TAC would begin draft conservation strategies soon.

**2. Old Business**

Michael asked if anyone had comments on the past 4 sets of meeting minutes. Leslie pointed out that the date on the October minutes was incorrect in the document title but the footer had the correct date. The date in the title should be October 16, 2004 rather than August 24, 2004.

Sherry had a few edits that she provided to the City in hardcopy form. No one else made any comments. Michael asked if the SAC was comfortable with the City making the changes Sherry suggested and then posting the finalized minutes on the website. The group agreed.

Michael asked if there were comments on the revised SAC charter. Michael noted that there had been some changes to the SAC members table in the charter. Emily said that she would be taking over as the primary SAC member for Sonoran Institute and Nina would not be attending in the future. Catherine noted that her email address was misspelled. Michael said that he was not sure who the representative for Environmental Services would be now that Karen was leaving. Leslie added that Dennis Rule is actually the primary SAC member for Tucson Water and Karen is the alternate.

Marit asked if we could do a round of introductions. Cathy Blasch is new to the group, but will be assisting AGFD in providing support to the HCP planning processes. Michael

introduced Andrea Marafino who will be assisting the City on the HCP; she is an intern and a student at University of Arizona.

Susan asked about the procedures for changing an alternate SAC member to being the primary member. She wanted to know if a formal letter needed to be written to the City. Leslie suggested that the organization or agency just send a notice out on the listserv so that everyone was aware of the change. Michael agreed with this approach.

Michael asked if there were any final comments on the charter. Sherry said that she liked the new wording regarding alternates on the SAC. Michael said that the primary and alternate members were considered interchangeable and that any organization or agency would send whichever of the two without having to notify the City or the SAC in advance. Michael asked if everyone was agreeable to this approach. The SAC agreed.

Michael handed out an excerpt from the General Plan that he had mentioned at the last SAC meeting. The handout discusses the relationship between different types of plans. He noted that a discussion of Tucson planning was intended for the next SAC meeting and City staff would be there to talk about the City's environmental ordinances.

### **3. New Business – Presentation by Catherine Balzano**

For the remainder of the meeting, Catherine led a discussion of the Arizona State Land Department (ASLD) and the Department's conceptual planning process for the Southlands area.

Catherine began by referencing the material Michael had just handed out. The first section of the handout discussed the Growing Smarter Act. Catherine noted that, in addition to requiring jurisdictions to consider different elements in their general plans, it also requires ASLD to develop conceptual plans for state trust land.

She read portions of Title 37 331.03 of the Arizona Revised Statutes, which states:

- A. *The commissioner shall create conceptual land use plans for all urban state trust land in this state and other state trust lands the commissioner considers to be appropriate. The commissioner shall:*
  - 1. *Prioritize the creation of conceptual plans to the extent possible to:*
    - (a) *Correlate with the rate of population growth in the urban areas in this state.*
    - (b) *Coincide with the production of municipal general plans under title 9, chapter 4, article 6 and county plans under title 11, chapter 6, article 2.*
  - 2. *Revise and update each plan at least every ten years.*
  - 3. *Consult with the city, town or county in which the land is located and with any regional planning organization regarding integrating the conceptual plan into the general land use plan of the city, town or county.*
  - 4. *Submit each plan, and revision of the plan, to the urban land planning oversight committee for review.*
- B. *On approval of the conceptual land use plan by the commissioner under this section, the conceptual plan is considered to be a state general plan for purposes of this article.*
- C. *The commissioner may create the conceptual land use plans under subsection A of this section by any of the following methods:*
  - 1. *Using department staff or private consultants.*
  - 2. *Entering into participation contracts pursuant to section 37-239.*
  - 3. *Issuing planning permits for urban lands pursuant to section 37-338.*

4. *Entering into planning contracts for urban lands or other state trust lands the commissioner considers to be appropriate, including compensation as provided by section 37-338, subsection D.*
- D. *The commissioner shall create five year disposition plans for all state trust land in this state, based at a minimum on market demand, anticipated transportation and infrastructure availability. The commissioner shall:*
1. *Review and update each plan each year as may be necessary.*
  2. *Consult with the city, town or county in which the land is located and with any regional planning organization.*
  3. *Submit each plan and revision to the urban land planning oversight committee to ensure conformity with the conceptual plan under subsection A.*
- E. *For the purposes of this section:*
1. *"Conceptual land use plan" means a plan that is developed for urban state trust land and other state trust lands the commissioner considers to be appropriate and that identifies:*
    - (a) *Appropriate land uses, including commercial, industrial, residential and open space uses.*
    - (b) *Transportation corridors and infrastructure requirements.*
    - (c) *All natural and artificial constraints and opportunities associated with the land.*
  2. *"Five year disposition plan" means a plan that identifies the land projected to be sold, leased, reclassified for conservation purposes, master planned or zoned during the next five years.*

Catherine said that, in a perfect world, ASLD's conceptual plans would dovetail into municipal planning processes. In reality, the timing is not right for this to happen and the conceptual plans are integrated into General Plans as a general plan amendment. She explained that the ASLD planning process occurs outside of public processes. Public evaluation of the conceptual plans occurs only when they are integrated into a municipal planning process. This is because there are no statutes directing ASLD to conduct public planning processes.

Title 37-331.03 requires that conceptual plans be revised every 10 years and that the ASLD should consult with local jurisdictions in preparing the plans. Conceptual plans are reviewed by the Urban Lands Planning Oversight Committee and, once approved by the State Lands Commissioner, are part of the State General Plan.

Pre-1970, there was not much urban pressure in state trust lands. In the 1970s, with the development pressure mounting, the Department metamorphosed from being staffed entirely by resource scientists to having more staff with real estate backgrounds.

There are three avenues by which the Commissioner can create conceptual plans. Plans can be developed by ASLD staff, the Department can hire consultants, or ASLD can contract with others – such as other municipalities – to develop conceptual plans.

Another aspect of change under Growing Smarter was a shift from proactive disposition of state trust lands rather than reactive sales. The ASLD has switched from being application driven to now creating 5-year disposition plans that guide state trust land sales. By using disposition plans to determine which lands should be sold, the Department is attempting to promote orderly urban development by discouraging leapfrog development and encourage it in areas where there is sufficient existing infrastructure.

Catherine showed a map of land ownership in the Southlands. She said that this area, which comprises approximately 25 sections, was annexed by the City around 2000 or 2001. She felt that, given the lack of immediate development pressures, the annexation was a bit premature.

In the first few years under Growing Smarter, the focus of state trust land conceptual planning was in metro Phoenix and metro Tucson. This was in response to the statute, which directs planning in areas where the population is growing most rapidly. The Southlands conceptual plan was finished around 2003.

The conceptual land planning process involves a number of steps. The first step is to identify the geographic area to be covered in the conceptual plan. Currently, the ASLD only considers annexation of state trust lands by a municipality if there is a conceptual plan for them. The second step is to conduct a GIS-based suitability analysis of the lands. In this analysis numerous data layers are created and overlaid to identify areas that are and are not suitable for development. This suitability analysis considers factors such as floodplain, slope, archeology, environmentally sensitive species, noise contours, and existing development. In the Southlands, slope typically was not a constraining factor, but drainage features were. The result of this analysis is a composite map showing development suitability, ranging from low to high, across the planning area. The final step is to use the results of the suitability analysis and patterns of project growth (from absorption studies or transportation plans) to identify development opportunities. The purpose of the conceptual plan is to identify the types and proportions of land uses that are appropriate in an area. Potential land uses include industrial areas, employment centers, residential development (high, medium, and low density), and open space.

Catherine noted that the State often retains subsurface rights even if the surface is developed and, in some cases, will retain surface rights but transfer the subsurface rights to the Federal government.

Another observation was that the Desert Village Model concept that Michael had said was used for the HAMP was not considered in the Southlands plan.

Catherine showed a map of the conceptual plan for the Southlands. She explained that this was one consultant's vision of what land use could look like in the area. She pointed out that there were no washes called out on the conceptual plan map; these would be dealt with at the site planning stage. Also, employment areas were focused along I-10, around the airports, and near the prison.

She concluded by saying that the Southlands conceptual plan, which was never adopted, is not going anywhere right now. For a conceptual plan to be adopted it has to work for the local jurisdiction. She felt that, after coordination with the City, a plan for the Southlands would be adopted. The HAMP was an opportunity to test and refine the Desert Village concept and this model might also be appropriate in the Southlands.

With respect to the bigger picture, Catherine explained that the ASLD is not looking to dispose of a lot of land in the Tucson area right now. The Department is also working with Marana on a conceptual plan for state trust lands in that jurisdiction.

Catherine suggested that the potential connection between the HCP planning process and the conceptual plan for the Southlands was to identify an approach to addressing some of the shortcomings in the previous draft plan.

She cautioned that state trust lands are often viewed as permanent open space resources by nearby residents. The trust lands are often the last in an urban area to be developed and, by then, are surrounded by development and residents that view the trust land as their local park. She explained that every parcel of state trust land is assigned a beneficiary and, as there are only 9.3 million acres of trust land, sale of these lands is important to maintaining the trust for all beneficiaries.

Catherine said that the reason ASLD was opening a southeast Arizona office in Tucson was that the Department felt that it was critical to be more proactive in the Tucson area. The Department recognized that this area is on the verge of exponential growth.

Catherine then opened up the discussion to questions from the SAC.

Marit asked if it was conceivable that all state trust land would be disposed of eventually. Catherine replied that it would not happen. She noted that some states have sold off all of their trust land, many because they did not want to deal with the management of those lands. ASLD on the other hand tries to be savvy about how they manage and dispose of the Arizona trust lands. She said that the Department's focus is to encourage infill first and there are many lands that are isolated or have no water sources to tap for development, and thus will almost certainly remain undeveloped. In terms of actual dispositions, the record amount of land sold in one year is only about 1,000 acres. In the future, Catherine sees more cooperation with the private sector so that trust land is planned in conjunction with private development so that there is regional consistency. Catherine said that there are also many circumstances where land would be leased for the long-term, such as for mining. In these cases, the land needs to be restored at the end of the lease. ASLD typically sells land for residential development, but leases land for commercial or industrial use. These two land uses can change over time, so the long-term return to the Department is greater if the lands are leased for these purposes rather than sold. Ultimately, she said that it is impossible to forecast what will be occurring in 40 or 50 years.

ASLD has identified three areas around Tucson as a priority for disposal. The first auction, which will take place in late summer or early fall, will be the Windgate development, which is an infill parcel that was first planned for development in 1991 or 1992. The second disposition priority will be a parcel at Tangerine and Thornydale, however this piece is not yet on the 5-year disposition plan. The third priority for trust land disposition is the northern portion of the HAMP. Catherine noted that the ASLD will never sell huge amounts of land at any time, because there is no cost to the Department to hold these lands.

Greg asked about the benefits to ASLD of a statewide HCP. Catherine replied that this type of planning is not ASLD's expertise. Sherry responded that she had met with Mike Anable about the possibility of an HCP. The problem is that there needs to be an impact to one or more listed species for someone to be able to do an HCP. Selling of trust lands does not impact species, so it is not something that can be covered. Development of state trust land, once it has been sold, creates the impact. Sherry said that they asked

the various State departments about any foreseeable impacts that they might wish to address through an HCP. ADOT had the most projects, but they were not interested, primarily because they tend to have federal partners on any projects that they undertake. Catherine added that the Department does not have the resources to address over 9 million acres in an HCP. She said that the best recourse in this case is to work with local jurisdictions to deal with endangered species issues.

Greg inquired about whether an HCP on state trust land would be a good selling point because it provided a benefit to potential buyers. He suggested an HCP for development around Phoenix and Tucson in exchange for permanently setting aside other trust land. Catherine said that the Department is looking at using density transfers more in the future. In this process, certain areas would remain undeveloped without the burden of land acquisition costs falling on the local community.

Susan stated that density transfers meant conservation would be contingent on development and that, in some areas, all of the remaining undeveloped land should be set aside. For example, the Tortolita Fan for pygmy-owls. She expressed concern that ASLD had not been a strong partner in past conservation planning efforts. Catherine responded that the Department is understaffed and this prevents them from participating to the extent that they would like.

Sherry asked how transfer of density rights (TDR) regions are defined. Catherine said that this has not been clearly determined. The statutes allow for TDRs, but no one has used this tool because no one knows for sure how it will work. She added that there is current legislation pending that will allow counties to permit TDRs with the permission of landowners. Sherry asked if a TDR covering an area from the Tortolita Fan to the Southlands would be possible. Catherine said that she did not think it was out of the realm of possibility. Sherry wanted to know if the guidelines for using TDRs needed to be defined legislatively. Catherine replied that it was not a legislative issue, but a policy issue. Michael noted that a TDR of the size that Sherry was referring to would be a local planning issue because it would require a transfer of densities between jurisdictions. Susan pointed out that it would also be an issue with respect to the assigned beneficiaries of the state trust lands in question. Catherine said that ASLD is trying to work all of this out, but the TDR is an important tool because it is not possible to buy land for conservation purposes.

Ken asked Catherine to talk about the recreational use of state lands, in particular the impacts and future opportunities for such use. Catherine said that the ASLD's recreation permits were a spin-off from AGFD's off-highway vehicle program. These permits make state trust land available, with restrictions. The money generated by these permits, however, goes into the State's general fund and does not benefit the trust.

Catherine explained that there are a number of uses, short of development, that the ASLD allows on trust lands, including leasing for mining and grazing, establishing right-of-ways, and special land use permits. She said that the Department cannot currently address recreation on a larger scale without a single overall permit. Ken pointed out the conflict between recreational use and development at Fantasy Island. Catherine said that there might have been a verbal agreement made by someone in the ASLD and users of the site, but any improvements, such as trails, that were made without a special use permit are not legal.

Brooks asked about lands that are identified as not being suitable for development in a suitability analysis and what impact this had on land values. Catherine pointed out that the suitability analysis information does not show up in the conceptual plans other than as a percent developable rating for the land, which is also reflected in the appraised value. This information (percent of land developable and appraised value), as well as any relevant local ordinance affecting use of the land, is provided by the ASLD to any potential buyers.

Sherry asked if ASLD retains control over trust lands once they are sold. Catherine replied that the Department appraises the value of the land, but has no further control over land use once it is sold. Once someone has bought the property, the landowner can then do what they want, subject to local land use regulations, including dedicating the land to a local jurisdiction. She emphasized that buyers know before an auction what all of the existing constraints and requirements are associated with a piece of land. Emily asked if the disposition process involves ASLD creating a conceptual plan for an area, then auctioning that land, after which the buyer develops it according to the conceptual plan. Catherine responded that this is not the case. The conceptual plans are ideally consistent with the local General Plan, but anyone can buy the land and do as they wish with it, subject to all local or other regulations. It is possible for buyers to work with the local jurisdiction to rezone the property.

Greg asked, if there was a conflict between the ASLD conceptual plan for an area and the local General Plan, which plan won out. Catherine noted that this was why the Southlands conceptual plan was never approved. She added that the statutory minimum value that can be placed on trust land is one residence per acre (RAC). She said that the intent for the Southlands plan was to be conscious of conservation issues, but to allow for long-term urban development. She noted that the HAMP shows the potential for there to be fairly large areas of open space included in a plan for state trust land.

Greg asked if the one RAC could be averaged across an area. Allowing, for example 50 RAC on one acre and no development on the other 49 acres. Catherine said that this could be a reasonable approach. Sherry wanted to know about the purpose behind setting a one RAC minimum. Catherine explained that it was for establishing a minimum value for trust land. This is the only mechanism that the Department has to consider preservation of open space. Susan asked about API (Arizona Preserve Initiative) lands and whether lands classified as such would be given away. Catherine responded that API lands were still valued at one RAC.

Nancy wanted to know more about the concept of trust beneficiaries. Catherine said that the federal government doled out land to the states in groups. First, the sections 2, 16, 32, and 36 of each township were given to the states for the purposes of funding the public school system. Then the states were given the opportunity to select other lands. The intent of these transfers was to provide a funding source for programs that support wards of the state, including public schools, universities, miner's widows, prisons, institutions; in all, 14 categories.

Ken asked about the current Commissioner's attitudes and vision. Catherine explained that it is a political appointment made by the governor. The current Commissioner is an attorney and has worked in real estate and land development. He is very savvy and has

a unique perspective due to his background. Previous Commissioners came from the natural resources fields. Michael added that the Commissioner had much more awareness of urban growth issues.

Sherry asked if the HCP process was one that lent itself to being incorporated into state trust land planning. Catherine replied that the ASLD has a unique relationship with the City, but she would need to better understand the situation before she could really answer that question.

### **3. Call to the Public**

No members of the public were present.

### **4. Next Meetings**

The next SAC meeting will be held March 31, 2005 at the USFWS offices at 201 N. Bonita, Suite 141.

The City will present information on environmental ordinances at this meeting.