

TO: James L. App, City Manager
FROM: Ron Whisenand
SUBJECT: Authorization to Partner on Preparing a Habitat Conservation Plan
DATE: September 2, 2008

Needs: For the City Council to authorize partnering with the County of San Luis Obispo to prepare a North County Habitat Conservation Plan (HCP) for the San Joaquin Kit Fox and other species.

- Facts:
1. In August 2007, the Council authorized City participation with the County on applying for a grant from the U.S. Fish and Wildlife Service (FWS) to prepare a regional HCP for biological species, including the San Joaquin Kit Fox.
 2. In simplest terms, an HCP is a plan that incorporates natural resource information and implementation measures to avoid and/or reduce potential impacts to federally protected endangered species. The objective of an HCP is to not only protect species, but to allow for the possibility of an “incidental take” of a protected species an not be in violation of the Endangered Species Act.
 3. Last Spring the FWS approved the grant for this HCP. If the City is interested in partnering on this project formal authorization is required.
 4. There is policy basis for this activity in the City’s General Plan to protect unique or endangered natural resources in the Paso Robles Planning Area, as well as in the 2006 Economic Strategy which also includes community principles that support environmental responsibility.
 5. Implementing an HCP is a common method to comply with the Endangered Species Act (ESA) to address development impacts to endangered species, and is the preferred method of Responsible Agencies.
 6. The County is moving forward with preparing this HCP, which will include protection of multiple species, most notably the San Joaquin Kit Fox (SJKF). Property within, adjacent to and near the City’s boundary may be affected by implementation of this Plan when it is completed. It would be prudent to provide input into the document and process to ensure the City’s best interests are represented.
 7. There are several benefits that could be gained through participating in an HCP for property owners, the City and County, and the affected agencies. Benefits and costs are discussed in detail below.

8. The grant provides up to \$500,000 to use towards preparing this HCP. In-kind City resources would be required should the City decide to participate in preparing the Plan. This would be comprised of staff time to meet with the other agencies, review documents and conduct the public review process for the Plan. The Plan will likely take a few years to complete.

Analysis
and
Conclusion:

Typical overall goals of an HCP include:

- 1) identification of large, interconnected and biologically viable blocks of habitat to purchase, restore and permanently protect. In addition an HCP helps ensure that conservation acquisitions are guided by sound science, development avoids the best resources in the area, habitat connectivity is maintained and ecosystem functions are protected;
- 2) redirecting money toward the protection of resources, rather than spending limited funds to incrementally assess, negotiate, and argue mitigation requirements. Applicants' funds can be put to more constructive uses such as acquiring land and restoring habitat;
- 3) improving regulatory certainty and permitting efficiency for regulators and applicants which gives the development community certainty about what will be required by the agencies and make the process more efficient; and
- 4) providing for fair compensation to willing landowners for permanent protection of resources on their land through fee title purchases and conservation easements, which expands the market for rural landowners with more economic options.

The following questions and answers are provided for the Council to consider in determining if the City should partner on this HCP.

▪ **What is a Habitat Conservation Plan?**

A Habitat Conservation Plan is a Plan developed to ensure there are adequate measures in place to minimize and mitigate the effects of an incidental take of a federally, threatened or endangered species within the Plan area. It is prepared to satisfy the federal Endangered Species Act, and to receive a permit from the US Fish and Wildlife Service authorizing impacts (take) of threatened and endangered species. It includes identification of protected resources within the Plan area, and implementation methods to protect endangered species.

▪ **What is the current problem that needs to be addressed?**

The current process of obtaining development permits and implementing habitat mitigation is inefficient and mostly ineffective. For projects over 40 acres, a case-by-case analysis must be conducted to determine habitat quality, species presence, potential impacts and appropriate mitigation requirements. This process requires

input from several agencies, which can result in delays, uncertainty and significant costs. Additionally, project-by-project compliance with species regulations is not always best for the resources, emphasizing species surveys while lacking a means to effectively coordinate species preservation. Often off-site mitigation is selected and addressed through in-lieu fees to preserve habitat in remote locations of the County, thus, local preservation of habitat does not occur.

- **Why is this being prepared?**

There are several large projects proposed within and near Paso Robles and within the North County. These projects are likely to need incidental take permits from FWS and/or the California Department of Fish and Game (DFG) for impacts to federally endangered species such as the San Joaquin Kit Fox. One of the objectives of an HCP is authorization of a blanket “take permit” for threatened and endangered species. Additionally for development projects, an HCP would provide site design regulations that if followed, would exempt an applicant from any further mitigation requirements. And lastly, State and Federal agencies view an HCP as a means to more effectively protect species and habitat.

- **What effect will this Plan have on development, and how will this change from current methods of protecting SJKF?**

Currently, projects under 40 acres that are within the SJKF mapped habitat and migration areas, are required to prepare a simple biological study, pay the applicable mitigation fee per acre, and implement basic pre-construction/construction measures. However, this often results in less than effective mitigation because these smaller sites are typically not well connected to larger, more viable properties where species can thrive, and it appears to applicants that the minimal onsite protection measures and fees are a huge waste of money. Additionally, a cohesive plan has not been developed for smaller properties identifying key locations for migration connections and suitable land that would be good candidates to protect.

For projects of 40 acres or more, more in-depth, time consuming and expensive biological assessments, evaluations, surveys, and mitigation are required. Payment of mitigation fees are based on the results of the individual biological analyses and input from different agencies.

An HCP would provide a pre-determined set of design regulations for new development. Typical regulations may include specific criteria for land that should be preserved, and site planning techniques that would reduce disturbance of habitat and the possibility of incidental take of species. In most cases project specific studies would no longer be required, however, surveys would be required for properties identified for permanent preservation. If an applicant did not want to comply with the HCP, he could “opt-out” and follow the previous biological assessment practice. However, if under that circumstance, a “take” occurs, the project would need to halt until such time that an individual HCP is approved. As noted above, an HCP takes at least a few years to be prepared.

- **Why should the City be a partner in this Plan?**

The HCP will be prepared whether or not the City participates in it. Since it will result in regulations that may affect development within and near the City, it may be beneficial to help shape the outcome of the Plan.

- **What will it cost and how will it be funded?**

The “upfront” costs (\$500,000) for preparing the Plan have been provided by FWS. Additional grants will likely be needed to complete all aspects of this Plan. Implementation of the Plan will be paid through additional grants and development mitigation fees. Estimated City in-kind staff resources would require approximately 420 hours over the next three years, or 12 hours a month. The City would not be required to hire outside consultants to assist with in-kind staff assistance.

Policy

Reference: 2003 General Plan Update, 2006 Economic Strategy

Fiscal Impact: None.

- Options:
- a) For the City Council to adopt the attached Resolution authorizing the City to partner with the County of San Luis Obispo to develop a North County Habitat Conservation Plan.
 - b) Amend, modify, or reject the forgoing options.

Staff Report Prepared by: Susan DeCarli

Attachments:

1. Resolution

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PASO ROBLES
AUTHORIZING PARTNERING WITH SAN LUIS OBISPO COUNTY
TO PREPARE A NORTH COUNTY HABITAT CONSERVATION PLAN

WHEREAS, the General Plan includes policies related to the need to provide special protection for unique or endangered natural resources in the Paso Robles Planning Area including protection of wildlife, habitat areas, and vegetation; and

WHEREAS, the General Plan provides policy direction to take actions to retain open space/conservation areas around the City, and to develop strategies for pursuing federal, state and private funding for these resources; and

WHEREAS, the Economic Strategy provides several community principles including support for environmental responsibility; and

WHEREAS, the City Council understand the benefits of participating with San Luis Obispo County in partnering to development of a Habitat Conservation Plan (HCP) with the County; and

WHEREAS, the City Council recognizes the potential benefits that could result from the preparation of an HCP to protect natural resources in compliance with the Endangered Species Act, including species recovery and permit streamlining; and

THEREFORE BE IT HEREBY RESOLVED by the City Council of the City of El Paso de Robles, to authorize participation of the City of Paso Robles with San Luis Obispo County to prepare a North County Habitat Conservation Plan.

THEREFORE BE IT FURTHER RESOLVED, to authorize city staff resources to work on preparation of the North County Habitat Conservation Plan.

ADOPTED by the City Council of the City of El Paso de Robles at a regular meeting of said Council held on the 2nd day of September, 2008 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

Frank R. Mecham, Mayor

ATTEST:

Deborah Robinson, Deputy City Clerk