

Pima County Conservation Acquisition Commission

Manning House
450 West Paseo Redondo
Monday, June 7, 2004
5:00p.m.

SUMMARY OF MEETING

The following is a summary of the June 7, 2004 meeting. Audio tapes of the meeting are available upon request.

1. Roll Call

The meeting was called to order at 5:10 p.m. with a quorum.

Commissioners Present

Tom Sheridan

Wanda Shattuck

Rob Marshall

Chuck Pettis

Les Corey

Helen Wilson

Trevor Hare

Bill Arnold

Tim Prouty (Appointment to be ratified by BOS June 15, 2004)

Commissioners Absent

Bill Roe

Jan Johnson

County Administrator, Chuck Huckelberry, provided a brief overview of the agenda. Members introduced themselves. Mr. Huckelberry stated that organizational issues such as election of Chair and Co-Chair could be placed on the agenda for the next meeting.

2. Execution of Loyalty Oaths

Canceled – all commissioners submitted loyalty oaths prior to the meeting.

3. Open Meeting Law and Conflict of Interest Briefing

Deputy County Attorney, Paula Wilk, briefed the Commission on applicable sections of the Open Meeting Law and on conflict of interest issues. Six members constitute of quorum for this Commission. Discussions and decisions of this Commission should occur during meetings open to the public, and for which the public has had at least 24 hours notice. Anything presented or written by the Commission becomes public record. Discussion should not occur over email, as the public is not able to hear such discussions. If the use of email is necessary, commissioners should send emails through the Coordinator, Nicole Fyffe, and in turn, Ms. Fyffe will distribute the email to other commissioners and keep a copy for public record. At the meeting, commissioners are only permitted to discuss items on the agenda. During the call to the public, Commissioners can only respond to criticism, ask staff to review the issue, and/or place on the next agenda. This Commission is an advisory commission to the Board of Supervisors, and therefore minutes are not required. However, the meetings will be

taped and these tapes are available, as part of the public record, and a summary of the meetings will also be provided. The Commission cannot meet in executive session to select a parcel to purchase. For violations of open meeting law, actions of the Commission can be void, investigations by Attorney General's Office could occur, sanctions up to \$500 per violation could be occur, and a commissioner could be removed from the Commission.

Conflict of interest: Ms. Wilk listed 3 questions that commissioners should ask themselves if they feel they may have a conflict of interest with a decision to be made by the Commission. First question to ask, does the decision have a positive or negative impact on an interest of yours or of your relatives? Second, does it involve money or property? Third, do you have an interest as a class, but your interest in no larger than 10 other people? If you do feel you have a conflict of interest, tell the Coordinator and she will give you a form to fill out. You may also choose to announce it at the public meeting. You may not take any part in the discussion or action on that agenda item. An attorney from the County Attorney's office will be assigned to this Commission and can answer questions regarding conflict of interest if commissioners are unsure.

Les Corey stated that he is a member of the board for the Arizona Open Land Trust and this organization brought the County one of the acquisitions on the agenda. Mr. Corey asked if this was a conflict of interest since this situation may apply to additional commissioners throughout this process. Ms. Wilk said she would provide a written opinion on this, and on whether those individuals could be counted in the quorum for a vote. Tom Sheridan asked whether it is a conflict of interest if your property value increases due to a Commission decision. Ms. Wilk stated that this would not be a conflict of interest if 10 or more property owners also benefited from the decision. Wanda Shattuck stated that she is a non voting member of an advisory committee to the Arizona Open Land Trust, and asked whether she too would have a conflict of interest. Mr. Huckelberry confirmed that the County Attorney's office would provide the Commission with a written opinion on this issue. Rob Marshall asked whether the conflict of interest laws would apply to private interests as well as non-profits. It was confirmed that these would apply.

4. Charge of the Commission

Mr. Huckelberry stated that the May 18, 2004 Election Bond Implementation Plan Ordinance and County Code lays out the charge of this Commission. It was suggested that the Commissioners read over the sections applying to this Commission in the County Code and the section of the Bond Ordinance on Question 1 – open space acquisitions. Charges include making recommendations on open space bond acquisitions and the acquisition process. Question 1 amounts to \$174.3 million for open space. The Ordinance governs four categories of open space. Mr. Huckelberry suggested agenda items for the next meeting: overview of the property acquisition process, prioritization of Community Open Space category, update on jurisdictional projects and Davis-Monthan Open Space, and direction on Habitat Protection Priority acquisitions staff has been working on. The County also purchases land for other purposes. For example, the Bond Implementation Plan Ordinance included bond funds for the purchase of floodprone lands and these may also be brought before the Commission. Many of the proposals vary widely in price. For example, the County has the opportunity to purchase some high priority private parcels in the Brawley wash for

\$500. Whereas some parcels have much higher values because they are in the path of urban development, such as the Sweetwater Preserve acquisition on the agenda today.

Helen Wilson asked it was appropriate for commissioners to ask staff to begin research on certain properties, such as high priority state parcels in the Tortolitas. The answer was yes. However, if such properties were not included in the Bond Ordinance, then the acquisition would require an amendment to the ordinance, which needs to be approved by the County Bond Advisory Committee and the Board of Supervisors.

Mr. Huckelberry closed this agenda item by stating that the full 150-page bond implementation ordinance is available upon request.

5. Acquisition agreements for the Commission's approval

The Commission opened this agenda item up to members of the audience that submitted speaker cards.

Barbara Fraps, Pam Ericson, Thomas Wiewant, and Sue Foree, spoke in support of the Sweetwater Preserve acquisition. Gayle Hartman spoke in support of both the Sweetwater Preserve acquisition and the Jacobs Trust acquisition. Susan Boettcher submitted written comments in support of the Sweetwater Preserve acquisition.

A) Sweetwater Preserve

Mr. Huckelberry introduced Michael Patrick, with the Trust for Public Land. The Trust for Public Land is the organization that has the option to purchase this property and the County has a contingent agreement with the Trust for Public Land to purchase the property from them after they exercise that option.

Mr. Huckelberry provided some background information on the property. The property is listed on pg. 27 of the Bond Ordinance as the first acquisition under the category of Community Open Space, for a price not to exceed \$13 million. It meets the criteria of willing seller. The County's Real Property Services provided a review of the most recent appraisal and an appraisal a year earlier, and confirmed the appraised value of \$11,730,000. Mr. Huckelberry stated that the discussion regarding whether this property should receive Section 10 credit or not, is part of an ongoing discussion between the County and the US Fish and Wildlife Service, and was not relevant to the action the Commission was asked to take that day. The Sweetwater acquisition is a Community Open Space project, and therefore would not reduce the bond funds allocated for Habitat Protection Priorities.

Rob Marshall stated that it is unfortunate that the Commission has to make a decision tonight without the benefit of a discussion regarding priorities. Mr. Marshall presented a table he prepared, which shows previous open space acquisitions made by the County within the subareas included in the Bond Ordinance. Acreage and dollars spent are included in the table. One of the goals of the SDCP Steering Committee and of the Conservation Bond Advisory Committee was to see that acquisitions occur proportionally across the County. Mr. Marshall proposed that this Commission evaluate the desire to achieve parity in the manner that the Commission approves funding across the County.

Helen Wilson stated that the Commission and the County is under a time crunch regarding Sweetwater. She also stated that some of the highest support for the open space bonds came from voters residing in this Tucson Mountains area.

Bill Arnold made a motion to close the public hearing, seconded by Helen Wilson. Motion carried. Mr. Arnold then made a motion to recommend the approval of the acquisition of the Sweetwater Preserve. Ms. Wilson seconded the motion. Mr. Arnold then reiterated the need to place how the Commission will proceed on acquisitions on the agenda for next meeting. Mr. Arnold had several questions regarding the acquisition. Was there a Phase I environmental assessment conducted? The answer was yes. How is the Trust for Public Land benefiting from this? In the acquisition agreement for the Jacobs Trust property, Arizona Open Land Trust stated their fee. The answer was the Trust for Public Land anticipates a donation from the landowner, but the terms are confidential at the request of the landowner. Regarding the extension of the Tortolita Road across the Sweetwater Property, is the County permitted under the Bond Ordinance to sell the portion of land east of the road? The answer was that the easement for the road would be recorded upon closing. Are there any wells on the property? The answer was no. Has an affidavit of disclosure contract been submitted? The answer was no, but one will be. If the County receives Section 10 credit for Sweetwater, can funds from the Habitat Protection Priorities category be used to pay for the acquisition? The answer was no. Michael Patrick answered some of these questions and described the history of this acquisition and details of the most recent option to purchase. Mr. Huckelberry answered the question regarding Section 10 credit. Mr. Huckelberry noted that all aspect of the closing will be disclosed to the Commission after closing, and that the County does not anticipate bring similar deals to the Commission in the future.

Tom Sheridan stated that those commissioners, who have been involved with the SDCP prior to this Commission, feel the need to continue to uphold the integrity of that process. The Habitat Protection Priorities were based on work of the Science Technical Advisory Team and the biological consulting team, RECON, and the Arizona Open Land Trust and the Nature Conservancy. These equal about 500,000 acres that are the most important to preserve for biological resources, and include more parcels than the County can afford to purchase. Mr. Sheridan expressed his support for Mr. Huckelberry statement that monies could not be moved between categories of open space.

Wanda Shattuck stated that she hopes that the County will not bring another proposal to this Commission with such a deadline. Ms. Shattuck also expressed concern that the Trust for Public Land cannot disclose how much of tax payers money will go to the Trust for Public Land and that this Commission should be aware of all costs when approving an acquisition.

Rob Marshall asked Michael Patrick if it was possible to at least disclose to the Commission a percentage of the sales price that the Trust for Public Land will receive for this acquisition. Mr. Patrick responded by stating that the Trust for Public Land will make less than the standard broker fee in a real estate transaction.

The question was called. Three Commissioners voted for the motion to recommend the acquisition of the Sweetwater Preserve. Five Commissioners abstained from voting.

| <u>Commissioners</u> | <u>Yes</u> | <u>No</u> | <u>Abstained</u> |
|----------------------|------------|-----------|------------------|
| Bill Arnold | X | | |
| Les Corey | | | X |
| Trevor Hare | X | | |
| Rob Marshall | | | X |
| Chuck Pettis | | | X |
| Wanda Shattuck | | | X |
| Tom Sheridan | | | X |
| Helen Wilson | X | | |

Bill Arnold asked if the Commission operates under Roberts Rules of Order, because under these rules, abstentions accrue to the winning vote. The Deputy County Attorney verified that the same interpretation could be made under state statutes and under the rules by which the Board of Supervisors operates. The motion passed.

B) Jacobs Trust

Mr. Huckelberry provided some background information on the property. The property is listed on pg. 37 of the Bond Ordinance as an acquisition under the category of Urban Open Space Requested by Jurisdictions, within the 36th Street Corridor project. The property totals 80 acres, has a cost of about \$7,500 an acre, and is part of a corridor that will link Tucson Mountain Park to the Santa Cruz River. An expanded environmental assessment was conducted due to past mining activities on the property. Linda Closs clarified that the mining rights were transferred in the transaction. Mr. Huckelberry clarified that the project was included in the Bond Ordinance under Jurisdictional Requests and therefore did not require an amendment. Rob Marshall asked whether this property, if adjacent properties were not purchased, could serve as a trailhead for the Tucson Mountain Park. Mr. Huckelberry responded by stating that it could if the County routed the trail west along 36th Street to the Tucson Mountains, but that this would not be the first choice for a trailhead/parking lot. He also stated that there is \$5 million allocated to this corridor, and this property uses up only \$600,000 of that. Pima County's Natural Resources Parks and Recreation will manage the property. Trevor Hare asked about the status of the adjacent properties and whether they would be acquired in the near future. Diana Freshwater with Arizona Open Land Trust stated that during discussions with the owners of the Belvedere Estates, the price offered by owners was \$13,000 an acre, and that the Tucson West and Frick parcels were also high. Helen Wilson asked whether Jacobs Trust parcel would still be part of Tucson Mountain Park if adjacent parcels were not purchased. The answer was yes. Trevor Hare asked how the parcel could link to Tucson Mountain Park if it was still more than a mile from the border. Steve Anderson stated that the County would link to Tucson Mountain Park through the 36th Street right-of way. Mr. Huckelberry noted that condemnation is prohibited for these open space bond acquisitions, but it is not prohibited for trail acquisition.

Helen Wilson moved to recommend the approval of the acquisition of Jacobs Trust. Rob Marshall seconded the motion. The motion passed 9-0.

6. Set future meeting date and agenda items

Mr. Huckelberry stated that a list of future agenda items have been provided to the Commission, and Commissioner's could send additional agenda items to Nicole Fyffe.

Staff was directed to work with the Ron Marshall to update the table Mr. Marshall submitted and include future purchases with 2004 bond funds.

The Commission opened this agenda item up to the public. Joe Heater asked that the Commission make the Tucson Mountain Park - South Tucson Corridor project #1.14 a priority and direct staff to begin due diligence. Mike Berard also spoke in support of prioritizing this South Tucson Corridor project and placing it on next meetings agenda. He also submitted a letter stating that certain landowners are willing to donate conservation easements across their properties for trails, and submitted letters from 2 owners who may be willing to negotiate the sale of their properties to the County. He stated that there is a limited window of opportunity since landowners are also in the development process.

Helen Wilson asked if staff could add a column to Rob Marshall's table to show development threat. Nicole Fyffe stated that Development Service currently notifies the County Administrator's Office as soon as a development project comes into their office that is on or adjacent to one of the open space acquisition projects listed in the Bond Ordinance, and this information will be forwarded to the Commission.

Tom Sheridan stated that the Commission needs to discuss process before approving more acquisitions. The first agenda item needs to involve setting priorities. Les Corey agreed and stated that 28 percent of the Community Open Space bond funds were just spent on one project. Tim Prouty stated that appraisals in this business seem to follow values and that the County just made an excellent purchase. Helen Wilson asked for clarification of definitions of open space at the next meeting. Mr. Huckelberry stated that the Commission should take its time and get comfortable with this information and with the process that is developed for considering acquisitions. Wandy Shattuck asked how much of the closing costs for Sweetwater will be paid by County taxpayers. Mr. Huckelberry stated that all of those costs will have to be approved by the County and will be limited to the customary costs.

The next meeting will be held on either July 14, 15, or 16 at 5p.m.

Mr. Huckelberry suggested that the Commission consider holding a longer meeting in August to cover everything that has gone on before this Commission, so that those who haven't been involved in the Sonoran Desert Conservation Plan process or the bond election process can get caught up.

7. Adjournment

The meeting was adjourned at 7:25 p.m.