



Travis County Commissioners Court Agenda Request

Meeting Date: August 28, 2012

Prepared By: Rose Farmer **Phone #:** 854-7214

Division Director/Manager: Jon White

A handwritten signature in black ink, appearing to read "Steven M. Manilla".

Department Head: Steven M. Manilla, P.E., County Executive-TNR

Sponsoring Court Member: Commissioner Huber, Precinct Three

AGENDA LANGUAGE: Consider and take appropriate action to approve the Balcones Canyonlands Conservation Plan (BCCP) Public Participation Fee structure for FY 2013.

BACKGROUND/SUMMARY OF REQUEST:

Under the BCCP Public Participation Process, mitigation fees are collected from participants in exchange for endangered species mitigation within the BCCP Permit area. This process was set up as a stream-lined approach for private land owners within the BCCP Permit area to comply with the Endangered Species Act. Once these fees have been paid, a Participation Certificate (PC) is issued to each participant as proof of mitigation. Participants post the PC at the job site during clearing, development, and construction activities. Once these fees are collected, they are used in conjunction with funds from Tax Benefit Financing to acquire and maintain Balcones Canyonlands Preserve (BCP) lands. The fee structure for the BCCP Public Participation Process was set in 1996, but has been reviewed and changed annually as needed. For a complete history of these changes, please refer to agenda attachments.

Each year these fees are reviewed and voted on by the BCCP Coordinating Committee, which is comprised of two voting members and one non-voting member from the US Fish and Wildlife Service (USFWS). Currently, the voting members include City of Austin Mayor Lee Leffingwell and County Commissioner Karen Huber (Precinct Three). After the Coordinating Committee votes to change/renew the fee structure, both Travis County Commissioners Court and Austin City Council will review any fee changes and vote to approve the fees. In order for the new fee structure to take effect, both Travis County Commissioners Court and Austin City Council must approve the fee structure before October 1, 2012. If approval is not given before this deadline, then the fee structure will revert to the fees defined in 1996.

On May 22, 2012, Travis County Natural Resources staff and City of Austin Wildland Conservation Division staff presented data regarding the sale of BCCP Participation

Certificate sales to the BCCP Citizen's Advisory Committee (CAC) for discussion. Three indicators were used to describe the process which include the following: # of BCCP Applications, # of PCs Issued, and Amount of PC Revenue. These data revealed decreasing trends in all three indicators. In the past, these indicators have followed the economic climate of Travis County. After discussion, the CAC recommended to maintain the existing fee structure.

On May 31, 2012, the BCCP Coordinating Committee voted 2:0 to accept the following fee structure recommended by the CAC:

Standard Participation Fees:

- Golden-Cheeked Warbler Zone 1 Habitat: \$5,500/acre
- Golden-Cheeked Warbler Zone 2 Habitat: \$2,750/acre
- Black-capped Vireo Habitat: \$5,500/acre
- Karst Zones 1&2 Habitat: \$1,000/acre

Special Categories:

- Single Family Lot Provision: \$2,000/lot
- Agricultural Construction: \$1,500/acre

Alternative Determination: \$10,000/acre

STAFF RECOMMENDATIONS:

Staff recommends approving the proposed BCCP Public Participation fee structure for FY 2013 in accordance with approval from the BCCP Coordinating Committee and support from the BCCP Citizen's Advisory Committee.

ISSUES AND OPPORTUNITIES:

FISCAL IMPACT AND SOURCE OF FUNDING:

ATTACHMENTS/EXHIBITS:

- 1) BCCP Public Participation Program Overview
- 2) CAC Memorandum to BCCP Coordinating Committee, May 24, 2012

REQUIRED AUTHORIZATIONS:

Cynthia McDonald	Financial Manager	TNR	854-4239
Steve Manilla	County Executive	TNR	854-9429
Jon White	NREQ Division Dir	TNR	854-7212

CC:

William Conrad	BCCP Secretary	COA --Wildland	512-972-1660
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		Conservation Division	William.Conrad@austintexas.gov

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The Balcones Canyonlands Conservation Plan Public Participation Program Overview



Program Overview:

The City of Austin operates the Balcones Canyonlands Conservation Plan (BCCP) Capital Improvement/Infrastructure Development Mitigation Process, and Travis County administers the BCCP Public Participation Process that addresses the mitigation needs of landowners for residential, commercial and agricultural uses under the terms of the Permit. The BCCP provides a voluntary, streamlined alternative for agencies and landowners seeking to comply with the Endangered Species Act (ESA). Those participating through the BCCP may proceed with development under the terms of Participation Agreements. Those choosing not to participate may comply with the ESA by obtaining an individual 10(a) permit from the U. S. Fish and Wildlife Service.

Travis County's Natural Resources Program administers the BCCP Public Participation Process on behalf of the BCCP Coordinating Committee and issues Participation Certificates (PCs) for cooperating landowners within the Permit area. Descriptions of participation categories are defined in the Interlocal Cooperation Agreement between Travis County and the City of Austin Implementing the BCCP Shared Vision (City of Austin and Travis County, 1995). As required by the terms of the regional Permit, copies of documents associated with this process are provided to the BCCP Coordinating Committee Secretary and the USFWS Austin Ecological Services office. These documents include correspondence letters, habitat determination maps, and PCs.

Each year the Citizen's Advisory Committee (CAC) discusses the mitigation fee structure associated with the BCCP Public Participation Process and provides a recommendation for the next fiscal year's fee structure. The BCCP Coordinating Committee takes the CAC's recommendation into consideration and votes on the mitigation fee structure for the next fiscal year. Additionally, any BCCP Coordinating Committee action to change the fees must be approved by Austin City Council and the Travis County Commissioner's Court. If Austin City Council and the Travis County Commissioner's Court do not accept the fee structure approved by the Coordinating Committee before October 1st of each year, the fees will revert to the mitigation fees originally set in 1996.

Background:

Initially, it was anticipated that the sale of Participation Certificates (PCs) would fund completion and maintenance of the Balcones Canyonlands Preserve. The Shared Vision financing plan (dated July 18, 1995) was based on a balance of PC funds and Travis County Tax

Benefit Financing Plan revenues. The Shared Vision document established initial fees in 1996 (Table 1). Unfortunately, after the first few years of issuing PCs, it was apparent that PC sells would not provide sufficient funds to cover land acquisition and management. Most land acquisition and management have been paid for with public bonds, individual agency budgets, and Tax Benefit Financing revenue.

As mentioned previously, early participation certificate sales lagged behind original *pro forma* projections. Two public workshops were held to receive public comments and recommendations. Workshop participants suggested that a reduction of participation fees would increase participation and thus increase needed revenues. After receiving recommendations from the BCCP Citizen's Advisory Committee, the Coordinating Committee adopted a temporary one-year fee schedule for direct participation in the BCCP in 1998.

Effects on participation seem to be closely related to the health and vigor of the local economy and the real estate market as evident in the graphs below. Submission of applications and participation in the program increases when our local economy is doing well. From the time the BCCP was initiated in 1996 to 2001, the graphs show an annual increase in applications, PCs issued, and revenue. After 2001, the graphs reflect significant drops in these three participation indicators. During 2001, the local economy experienced the High Tech market bust and the financial aftermath of the Sept. 11, 2001 attacks. In the years to follow there was an increasing trend as the local and national economy rebounded.

From FY06 through FY08 the BCCP collected more revenue through the Public Participation Program than any year since the permit's issuance. Additionally, there were increases in the number of applications and PCs issued despite increases in mitigation fees. As seen in Table 1, these fees were gradually increased from 2006 to 2011. In 2006, the Citizen's Advisory Committee recommended increasing participation rates due to increasing land costs in western Travis County and a robust development market. Although this was the first fee change in eight years, the revised habitat fees did not impact applicants' willingness to participate in the BCCP in 2006, 2007 and 2008. With the economic downturn from 2008 through 2011, the BCCP experienced a significant decline in the submission of applications and the issuance of PCs in accordance with a decrease in development. In 2011, the mitigation fee rates associated with the Alternative Determination option were increased from \$6,500 to \$10,000 with no apparent effect on application submission.

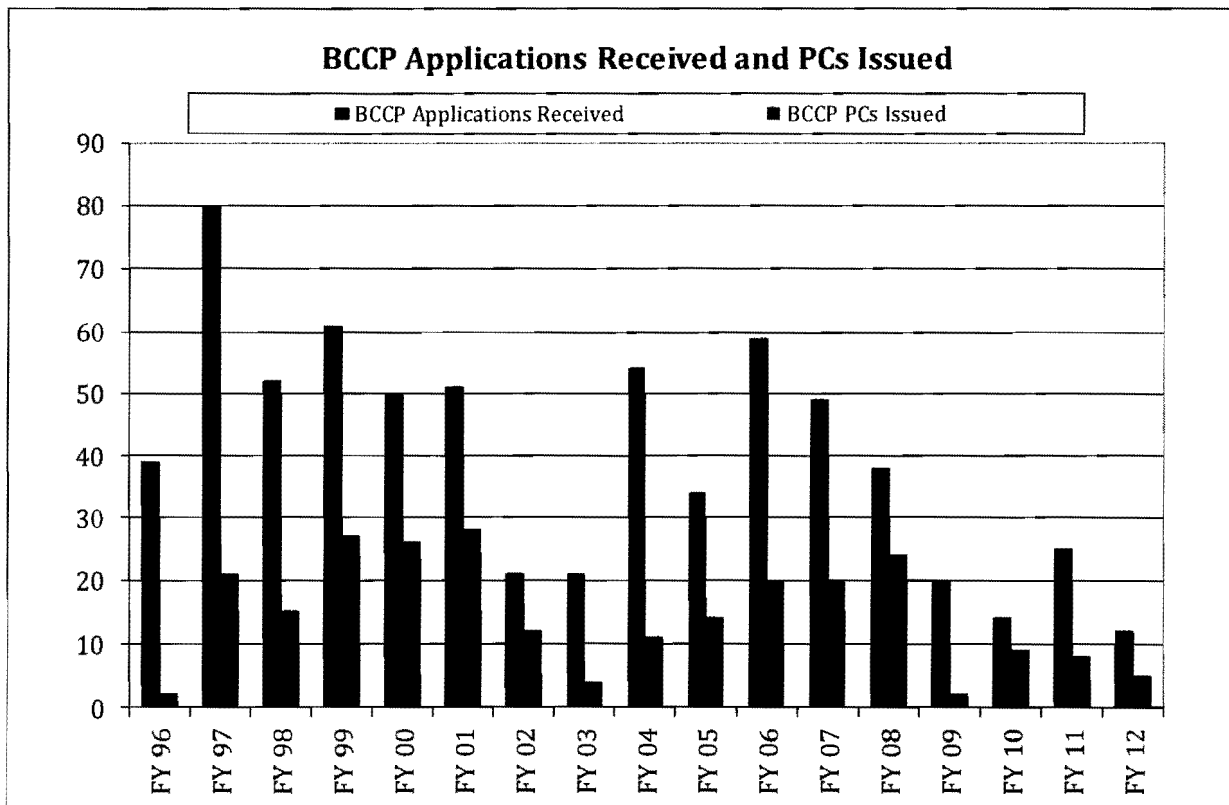
USFWS enforcement of the Endangered Species Act (ESA) also influences participation in the program. The BCCP is a voluntary program through which land owners can participate to comply with the ESA. Notification of the BCCP Public Participation Program has been incorporated into permitting processes within the City of Austin and Travis County, and both agencies maintain education and outreach programs to introduce the BCCP to the community. When enforcement agencies fail to regulate ESA compliance of local development, the public

may perceive no consequences for failing to comply with the ESA. If this perception persists without consistent enforcement, then participation in the BCCP may decline accordingly.

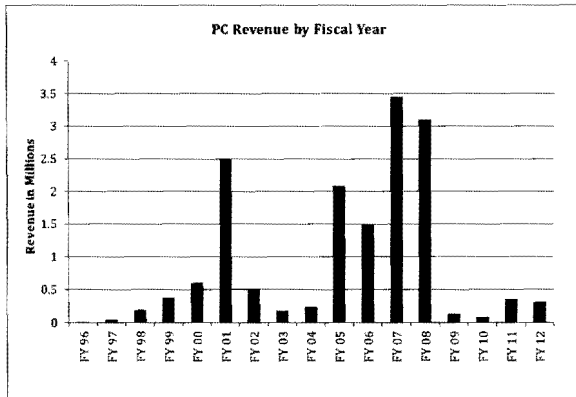
Table 1: BCCP Fee Summary, Costs by Habitat Zone and Year.

Year - Habitat Zone Fee	1996 – 1998 (original)	1998 - 2006	2006 - 2007	2007 - 2008	2008 - 2011	2012
Zone 1-GCWA	\$5,500.00	\$3,000.00	\$3,500.00	\$4,000.00	\$5,500.00	\$5,500.00
Zone 2-GCWA	\$2,750.00	\$1,500.00	\$1,750.00	\$2,000.00	\$2,750.00	\$2,750.00
Zone 1-BCVI	\$5,500.00	\$3,000.00	\$3,500.00	\$4,000.00	\$5,500.00	\$5,500.00
Zones 1 & 2 -Karst	\$55.00	\$55.00	\$750.00	\$750.00	\$1,000.00	\$1,000.00
Single Family Lot Provision	\$1,500.00	\$1,500.00	\$1,500.00	\$2,000.00	\$2,000.00	\$2,000.00
Agriculture Provision	\$1,500.00	\$1,500.00	\$1,500.00	\$1,500.00	\$1,500.00	\$1,500.00
USFWS Alternate Determination	\$5,500.00	\$4,000.00	\$4,000.00	\$5,000.00	\$6,500.00	\$10,000.00

BCCP Applications Received & Participation Certificates (PC) Issued by Fiscal Year



BCCP Participation Certificate (PC) Revenue by Fiscal Year



Staff Recommendations:

Both City of Austin and Travis County staff recommend maintaining the same FY12 mitigation fee rates in FY 2013 to encourage participation in the BCCP Public Participation Program



MEMORANDUM

TO: BCCP Coordinating Committee
Mayor Lee Leffingwell, Chair
Precinct 3 Commissioner Karen Huber, Member
Mr. Adam Zerrenner, Member (ex Officio)

FROM: William A. Conrad, Secretary

DATE: May 24, 2012

SUBJECT: Citizens Advisory Committee Recommendations for BCCP Participation Fees

On May 22 the BCCP Citizens Advisory Committee considered recommendations for BCCP participation fees for fiscal year 2012-2013. They recommended that the fees remain the same as current fees. They also recommended that these fees remain in effect until further notice. The recommended fees are as follows:

Zone 1 GCWA	\$5500.00
Zone 2 GCWA	\$2750.00
Zone 1 BCVI	\$5500.00
Zone 1 & 2 Karst	\$1000.00
Single Family Lot Provision	\$2000.00
Agriculture Provision	\$1500.00
USFWS Alternative Determination	\$10,000.00

As Coordinating Committee secretary I recommend implementation of the Citizens Advisory Committee recommendations.

William A. Conrad