

AGENDA DESCRIPTION:

Consideration and possible action to receive a status update on the City's Natural Communities Conservation Plan and Habitat Conservation Plan.

RECOMMENDED COUNCIL ACTION:

Receive and file a status update on the City's Natural Communities Conservation Plan (NCCP) and Habitat Conservation Plan (HCP).

FISCAL IMPACT: None

Amount Budgeted: N/A
Additional Appropriation: N/A
Account Number(s): N/A

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REVIEWED BY: Same

APPROVED BY: Doug Willmore, City Manager

ATTACHED SUPPORTING DOCUMENTS:

A. NCCP/HCP FAQs (page A-1)

BACKGROUND AND DISCUSSION:

The State's Natural Communities Conservation Planning Act of 1991 provides for the preparation and implementation of large-scale natural conservation plans. The purpose of these plans is to identify and provide for the area-wide protection of natural wildlife diversity, while allowing for compatible and appropriate development and growth. A Natural Communities Conservation Plan (NCCP) is intended to provide comprehensive management and conservation of multiple species, including, but not limited to, species listed under the California Endangered Species Act (CESA) or Federal Endangered Species Act (ESA) of 1973. The NCCP Act is intended to promote cooperation and coordination among public agencies, landowners, and other interested organizations or individuals. The Federal Section 10 Habitat Conservation Planning (HCP) process of the ESA also provides an opportunity for species protection and habitat conservation within the context of non-Federal development and land use activities. The targeted primary imperiled species to be protected are the coastal California gnatcatcher and the cactus wren.

Because of the relatively high concentration of federally protected coastal sage scrub habitat in the City, and the growing intensity of development pressures on these areas combined with the ability to streamline the entitlement process for City projects (i.e. storm drain, road repairs, and landflow remediation projects), in 1996, the City of Rancho Palos Verdes (City or RPV) entered into a Planning Agreement to develop an NCCP/HCP proposal that would

encompass the entire City with the California Department of Fish and Wildlife (CDFW) and the U.S. Fish and Wildlife Service (USFWS), hereafter collectively referred to as the “Wildlife Agencies.” An important objective of the NCCP/HCP is for the City of Rancho Palos Verdes to obtain State and Federal Permits from the Wildlife Agencies for Covered Activities which include City and private projects.

Although the NCCP subregion includes the entire Palos Verdes Peninsula (Peninsula), the City of Rancho Palos Verdes was the only jurisdiction in the subregion to enter into a NCCP planning agreement with the Wildlife Agencies. The remaining Peninsula cities were encouraged to formally participate in the Peninsula NCCP process but chose not to participate. Thus the subregion, or Plan Area, is now functionally synonymous with the City boundaries.

The Plan Area, although relatively small in area as compared to other NCCP subareas in Southern California, is unique in that it contains healthy concentrations of coastal sage scrub habitat (approximately 1,000 acres) and a number of coastal sage scrub species which are not found in other Southern California coastal sage scrub communities.

From 1996 through 1999, the City hosted monthly meetings of an NCCP planning group, made up of major landowner, local government, state and federal agency, and environmental organization representatives, to help guide the subarea NCCP. With guidance and input from the Working Group, the City completed Phase I of the Palos Verdes Peninsula NCCP in 1999. The primary focus of the Phase I effort was to map existing vegetation communities, along with sensitive species distributions and their potential habitat. The City then began Phase II of the NCCP, which involved using the Phase I information to develop preliminary alternative preserve designs.

Three preserve design alternatives were presented to the City Council on December 5, 2000, and March 6, 2001. At that time, the Council authorized Staff to proceed with a biological and economic analysis of the three draft alternatives in order to identify the City’s preferred alternative preserve design. However, as a result of the City’s efforts to purchase almost 800 acres of privately held open space in the Portuguese Bend portion of the City, the City’s preferred preserve alternative (Alternative C) was amended to reflect the proposed land open space acquisition deal, as well as the City Council decision to not include the City’s Upper Pt. Vicente property as part of the Terranea project (previously referred to as the Long Point Resort project). The revised Alternative C map was accepted by the City Council on June 12, 2002, and was the Alternative used to complete the draft NCCP Plan.

On August 30, 2004, the City Council adopted the Draft NCCP, certified the related Environmental Impact Report (EIR), which pursuant to the California Environmental Quality Act (CEQA) analyzes the environmental impacts of implementing the Subarea Plan; and approved the draft Implementing Agreement, which sets the legal responsibilities of all the involved parties (City, PVPLC, State and Federal government) for implementing the Subarea Plan.

Since 2004, the City has been working with the Wildlife Agencies and the PVPLC to finalize the NCCP/HCP for final consideration by the City Council. One of the primary reasons for the delay in finalizing the NCCP/HCP is because the configuration of the Preserve has changed on more than one occasion by adding newly acquired property (Malaga Canyon) and removing/realigning property (archery range and the Active Recreation Area formerly known as Gateway Park) from the Preserve. During this time, the City has been operating assuming the completion of the NCCP/HCP, and has spent a considerable amount of time completing various components required by the NCCP/HCP, as described below (these documents were provided to the Council on September 19th and are available on the City's website at: <http://www.rpvca.gov/490/Palos-Verdes-Nature-Preserve-NCCP-PUMP-H>).

Natural Communities Conservation Plan

The NCCP provides the following:

- A description of the purpose and need for the Plan
 - For the City to obtain State and Federal permits from the Wildlife Agencies for Covered Activities, which include City and private projects
 - To maximize benefits to wildlife and vegetated lands while accommodating appropriate economic development
 - An overview of the regulatory framework existing with the State and Federal government (regardless of Plan adoption)
- The proposed Preserve design
 - Describes the City's preferred Preserve design
- A description of the covered projects and activities
 - Describes the 17 covered City projects and activities and five private projects
 - Describes the habitat avoidance and minimization measures for the covered projects and activities
- The local plan review and approval process
 - Describes the City implementation of the Plan
 - Describes process for amendments
 - Discusses changed and unforeseen circumstances
- Biological objectives and methodology
 - The overall objective of the NCCP/HCP is to ensure that the biological values of natural resources where land is preserve are maintained over time. This section explains the wildlife species survey methodologies, plant species monitoring methodologies, habitat restoration objectives and invasive plant removal programs.
- Funding and financing of NCCP/HCP
 - Discusses the anticipated costs and the funding commitments that have been made
- Preserve Management and Reporting
 - Describes the various reports required and their associated schedules

The following is a summary of some of the documents required by the NCCP/HCP that are also Appendices to the document.

Management Agreement

This is a document that describes the working relationship for roles and responsibilities between the City and the PVPLC as related to the habitat management required by the NCCP/HCP. The PVPLC is responsible with completing specific habitat management and monitoring tasks within the entire Preserve to the satisfaction of the City, as well as State and Federal wildlife agencies. The Agreement also describes the responsibilities held by the City. The Management Agreement was approved by the City Council in November 2011. There was also an update provided to the City Council on April 14, 2014. The major responsibilities for each entity is summarized below:

PVPLC Areas of Responsibility

- Habitat restoration (5 acres every year), habitat enhancement (invasive plant removal) and habitat monitoring (annual reports)
- Maintenance of unimproved trails and trail signage on an as needed basis
- Fuel modification for fire prevention purposes on PVPLC-owned lands

City of RPV Areas of Responsibility

- Waste management on as-needed basis
- Public safety (Ranger patrols) and City signage maintenance
- Maintenance of any roads (Burma Road)
- Fuel Modification for fire prevention purposes on City-owned lands

Conservation Easements

The Wildlife Agencies require a conservation easement to be recorded for the properties that are to be placed within the NCCP Preserve. In addition, the California Coastal Conservancy and State Wildlife Conservation Board, who provided funding for the Preserve properties, require that conservation easements be recorded on all open space properties purchased for conservation.

The basic purpose of a conservation easement is to permanently limit certain uses of the land in order to protect its conservation value for which the land was purchased. The conservation easements reference the NCCP and allow for covered projects and activities to take place during the permit term (50 years) in the NCCP Preserve. A conservation easement obligates the grantee of the easement to monitor the property to ensure that it is being used in accordance with the terms of the conservation easement. The grantee of the easement is also obligated to enforce the terms of the conservation easement.

The NCCP/HCP requires that the PVPLC be the owner of all conservation easements recorded for Preserve properties owned by the City and that the City be the owner of the conservation easement recorded on the sole Preserve property owned by the PVPLC. This

is because the PVPLC is managing the City-owned properties within the Preserve on behalf of the City, has been contributing to the cost of acquiring some of the properties that have been placed in the Preserve, and has been assisting the City and the Wildlife Agencies with the development of the NCCP.

Once the NCCP is finalized and approved, the Wildlife Agencies want the same form of conservation easement in favor of the PVPLC recorded against all of the City's properties that will be enrolled into the NCCP Preserve. Although, management of the Preserve properties by the City and PVPLC has been ongoing, the Wildlife Agencies will not consider the properties as formally enrolled in the Preserve until the standard conservation easement has been recorded on each property.

On November 15, 2011, the City Council authorized the form and directed the Mayor to sign the Conservation Agreement for recordation. The Conservation Easement will be recorded against all of the City-owned properties within the Preserve and will replace conservation easements that were recorded previously against some of the properties, such as the Switchback property and Shoreline Park. A reciprocal Conservation Easement will also be recorded on the sole Preserve property owned by the PVPLC (Lunada Canyon).

Public Use Master Plan (PUMP)

In order to balance the public's passive recreational needs with the protection of natural resources within the Preserve, the NCCP required the development of a Public Use Master Plan (PUMP). This document was developed and was approved by the City Council in March 2013. The PUMP document represents the culmination of an extensive public input process which included the involvement of a Council appointed 15-member PUMP Committee (plus one Ex-Officio member) and public input received at numerous public meetings, including seven City Council meetings. Between July 12, 2006 and January 30, 2008, the PUMP Committee held 32 public meetings with the bulk of the Committee's work focused on recommended trail routes and trail uses for the greater Preserve. The Committee also made recommendations to the City Council on the activities permitted to occur in the Preserve.

Next Steps

City Council Review of Final NCCP/HCP

Aside from some final wordsmith edits and clarifications, the NCCP/HCP is close to being finalized and released for the Council's consideration. Staff anticipates this occurring in Fall of this year.

Joint CEQA and NEPA Documents

As the completion of the Final NCCP/HCP approaches, the City, with the assistance of an environmental consultant (DUDEK), is determining what level of additional environmental review is needed to adopt the Final NCCP/HCP and to prepare the necessary environmental document pursuant to CEQA. The City's environmental consultant will determine whether an

Addendum or a Supplemental to the Certified EIR is needed based on the differences in estimated impacts and mitigation measures between the 2004 Draft NCCP and the Final NCCP. Based on this determination, the environmental consultant will prepare the required environmental document for circulation along with the NEPA document that has been prepared by the Department of Fish and Wildlife.

Public Review Process

Depending on the CEQA determination for the Final NCCP/HCP, Staff anticipates on circulating for public review the Final NCCP/HCP document and the related environmental documents for a period of no less than 60-days. Public comments will be received and responded to prior to the Council's consideration of the Final NCCP/HCP at a duly noticed public hearing, which Staff anticipates occurring in Fall of this year.

ADDITIONAL INFORMATION:

Frequently Asked Questions (FAQs)

The City and the PVPLC jointly prepared the attached FAQs on the NCCP/HCP for the Council's and public's benefit.

Portuguese Bend Landflow Remediation

Over the past year, the City Council subcommittee has been exploring methods to remediate the landflow at Portuguese Bend. As it relates to the NCCP/HCP, Section 5 identifies covered activities that are permitted to occur in the City, particularly landflow remediation projects that occur in Portuguese Bend, as part of the City's "take" permit for any potential loss of habitat. Such covered activities include, but are not limited to, the installation and maintenance of groundwater monitoring wells and GPS stations for the purpose of monitoring landslide movement, the filling of fissures, the re-contouring of slide debris, the creation and maintenance of emergency access roads, and geologic investigations involving trenching or boring performed mechanically or by hand. Where practicable, areas of temporary CSS disturbance will be promptly re-vegetated with CSS habitat after completion of abatement activities. The Plan provides details for the provision of a maximum of 17.5 acres of CSS habitat and 32.5 acres of non-native grassland for activities and projects such as dewatering well, landslide abatement measures, and drainage repair in landslide areas (Preserve and non-Preserve properties).

NCCP FAQ

1. What is an NCCP?

In California, a Natural Community Conservation Plan (NCCP or Plan) facilitates the area-wide protection and management of natural wildlife diversity, while also permitting compatible and appropriate development and growth. The NCCP is intended to provide comprehensive management and conservation of multiple species, including but not limited to species listed under the California Endangered Species Act (CESA) or Federal Endangered Species Act (ESA). The NCCP Act is intended to support cooperation and coordination among public agencies, landowners, and other interested organizations or individuals.

The NCCP plan area is the City of Rancho Palos Verdes. This includes the Palos Verdes Nature Preserve as well as City properties and private properties that offer habitat value for covered species and which may have projects or operations that would require a permit from state and federal wildlife agencies.

2. What resources does the NCCP conserve? What are “Covered Species”?

The Plan identifies specific, at-risk species—and their associated habitats—for protection. In our area, these species include the coastal California gnatcatcher (federally threatened), cactus wren (federally threatened), Palos Verdes blue butterfly (endangered), El Segundo blue butterfly (endangered), and six rare plant species. The California gnatcatcher and cactus wrens rely on coastal sage scrub, cactus scrub, and grassland vegetation communities, which are protected under the Plan.

3. Why is native habitat like coastal sage scrub and cactus important?

If a species is lost, it's lost forever—and the same is essentially true for habitats. Healthy living communities like coastal sage scrub provide natural benefits from filtering and purifying air and water, to building soils, stabilizing landscapes, absorbing carbon dioxide, buffering against floods and high winds, and in various other ways contributing to human well-being. Coastal sage and cactus habitats are also necessary for the survival of the covered species.

4. What is “take”?

"Take," as defined by the Endangered Species Act (ESA), means "to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect" a protected species, "or to attempt to engage in any such conduct." Harm is defined as "any act that kills or injures the species, including significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding, or sheltering" (50 CFR 17.3).

At the state level, take is defined under the California Fish and Game Code (more narrowly than under ESA) as any action or attempt to "hunt, pursue, catch, capture, or kill" a protected species.

“Take” also applies to direct and indirect impacts to endangered species or their habitat, which has the potential to reduce their ability to breed, nest, or forage.

5. Who participates in the NCCP agreement? Summary of roles and responsibilities.

The City of Rancho Palos Verdes has developed an NCCP/HCP Plan that will encompass the entire City, in coordination with the California Department of Fish and Wildlife (CDFW, formerly California Department of Fish and Game), and the U.S. Fish and Wildlife Service (USFWS), hereafter collectively referred to as the “Wildlife Agencies.” The Palos Verdes Peninsula Land Conservancy is the designated Habitat Manager, who will assist the City with executing projects in accordance with conservation goals of the NCCP and to monitor and report on the progress of the Plan’s implementation.

The City is the permit holder, designated by the Wildlife Agencies to conduct specific projects and activities in threatened and endangered wildlife habitat. The City and PVPLC work together to implement projects under conservation guidelines. PVPLC helps the City streamline their project process to ensure that impacts to covered species and native habitat are minimized. PVPLC also helps the City fulfill its obligations to receive the take permit, including mitigation, invasive plant removal, and monitoring.

6. What is the benefit to the City of having this NCCP in place?

The execution of the NCCP agreement triggers state and federal take authorizations for Covered Species that permit the City and private landowners to execute approved projects and compatible uses of the land. The NCCP offers a streamlined permitting process for planned development, infrastructure, and maintenance activities. Applications for endangered species “take” permits can occur in tandem with other building permits because the Plan allows the City to grant endangered species take permits to projects and activities under their jurisdiction. This eliminates the need for the City or its agents to acquire special permits, conduct separate Environmental Impact Reviews (EIRs) for each project, and execute individual mitigation projects to offset each project, effectively eliminating the need to structure separate HCPs for each desired project. This provides a great cost savings for the City to implement their projects and activities in the Preserve occupied by federally protected species.

Importantly, the Plan benefits the environment by protecting, enhancing, and restoring natural resources of the peninsula and contributing to the recovery of threatened and endangered species. Instead of evaluating and permitting projects and activities individually, which can result in piecemeal and disjointed conservation efforts, the Plan enables evaluation of natural resource impacts and mitigation requirements comprehensively. This holistic, multi-species approach is more efficient and effective for at-risk species and their habitats. At full plan implementation, the Preserve will protect about 1400 acres for the benefit of covered species, natural communities, biological diversity, and ecosystem function.

Without this NCCP in place, the City would be required to seek special permits for each project they want to conduct. This would require significant staff time, biological monitoring and

oversight for each individual project. There is a significantly higher estimated annual cost for mitigating project impacts and management activities without the NCCP.

7. What would be required for the City to implement projects in the Preserve if there wasn't an NCCP permit in place?

The presence of biological resources on proposed project sites has the potential to lengthen project development timelines and increase project development and mitigation costs. Conventional project-by-project permitting involving federal or state listed species would require consultation with the USFWS under ESA Section 7 or development of a project-specific HCP under ESA Section 10 and/or CESA Section 2080.1 or Section 2081 permitting processes for state listed species. Project permitting under a regional multi-species HCP/NCCP (ESA Section 10 and CESA Section 2835) provides a means to streamline these permitting processes by allowing local jurisdictions to extend their incidental take authority to individual development projects and research has shown that comprehensive approaches to habitat conservation planning through HCPs has provided economic benefits to projects through reduced uncertainty, time delays and compliance costs (Economic and Planning Systems, Inc. 2014).

The conventional project-by-project permitting process is typically characterized by:

- Numerous review cycles with multiple agencies
- Potentially lengthy and uncertain approval process
- Higher costs for project proponents
- Project proponent required to identify and provide necessary mitigation; Results in piecemeal, often ineffective mitigation
- For projects involving impacts to federally listed species, Section 7 would require federal nexus; without a federal nexus, a project-specific Section 10 HCP would need to be developed
- Project proponent responsible for maintenance and monitoring of mitigation lands

8. What types of projects and activities are permitted?

Projects are well-defined actions that occur once in a discrete location (e.g., Altamira Canyon drainage improvements). By contrast, activities are actions that occur repeatedly in one or more locations (e.g., vegetation management of brush clearance zones and trail maintenance). Together, these activities and projects are the covered activities for which endangered species permits from the Wildlife Agencies will be obtained. Covered activities under the Plan include all types of private development and public projects so long as certain criteria are met.

All covered activities must comply with the relevant conditions on covered activities described in the Plan to avoid or minimize impacts on covered species and natural communities.

9. What if the City has additional project needs beyond those conceptualized in this 50-year plan?

The NCCP provides guidance to accommodate Minor and Major Amendments to the permit should they arise in the remaining 40 years of this 50-year plan. Minor Amendments include Preserve boundary adjustments that offer equivalent exchange of biological land value, correction of maps or exhibits, and minor changes to survey, monitoring or reporting protocols.

A new project not defined in the Plan that results in additional coverage needed under the permit would require a major amendment. Major Amendments include, but are not limited to, changes to the Plan that result in a higher level of take, greater or different impacts to the Covered Species and their habitats or to the environment generally, than were analyzed in the NEPA and CEQA documents prepared for the Plan as approved and by the Wildlife Agencies. Examples of potential Major Amendments include an increase in habitat impacts from any Covered Activity described in the plan, major changes to the Preserve design or reconfiguration that results in decrease of acreage or habitat quality.

10. How are projects managed to reduce impacts? Avoidance and minimization measures will be enforceable conditions in all permits, operations, and authorizations to proceed with the Covered Projects and Activities. The nineteen measures include considerations and actions such as biological surveys, monitoring, erosion control plans, noise and light abatement, provisions for topsoil stockpile placement locations, dust control, etc.
11. How are trails managed under the NCCP? Will the plan change anything?
The Preserve trail network was designed by community members in the form of a Public Use Master Plan, subsequently approved by the City and the Wildlife Agencies. Trails are managed by the City and the PVPLC. The Plan provides guidelines for trail use considerations and long term management.
12. Will landslide abatement measures be accommodated under the plan?
The Wildlife Agencies have approved in the Plan with the inclusion of landslide abatement projects, as a component of the City's permitted "take." When and where required, landslide abatement activities within the Preserve and throughout the City are sometimes necessary by the City or other public agencies to safeguard existing roads, trails and drainage systems. Such activities include, but are not limited to, the installation and maintenance of groundwater monitoring wells and GPS stations for the purpose of monitoring landslide movement, the filling of fissures, the re-contouring of slide debris, the creation and maintenance of emergency access roads, and geologic investigations involving trenching or boring performed mechanically or by hand. Where practicable, areas of temporary CSS disturbance will be promptly re-vegetated with CSS habitat after completion of abatement activities. The Plan provides details for the provision of a maximum of 17.5 acres of CSS habitat and 32.5 acres of non-native grassland for activities and projects such as dewatering well, landslide abatement measures, and drainage repair in landslide areas.
13. What happens after the permit term is over?
The Plan permit term is 50 years, although lands conserved under the Plan will be permanently protected through the conservation easements. The Palos Verdes Nature Preserve will protect an estimated 1400 acres for the benefit of covered species, natural communities, biological diversity, and ecosystem function in perpetuity through regular (at least annual) monitoring of the properties to ensure properties remain in compliance with the terms of the conservation easements.

In addition, the Plan will create a non-wasting endowment during the permit term to fund basic conservation activities after the permit term.

14. What is a Conservation Easement? How does it support the NCCP?

A conservation easement is a voluntary legal agreement between a landowner and a land trust or government agency that permanently limits uses of the land in order to protect its conservation values. The City of RPV owns most of the Preserve properties for which the Land Conservancy hold the easements, while PVPLC owns Lunada Canyon for which the City of RPV holds the easement. Landowners retain many of their rights, including the right to own and use the land, sell it and pass it on to their heir.

15. Does the Plan limit homeowner's choices of plants on private property?

The Plan does stipulate that vacant property directly adjacent to Preserve should not plant certain specified invasive species that can escape and colonize in open spaces. Plant species are identified by the California Invasive Plant Council as invasive are listed in Appendix D of the Plan. Private property and homes within the City of Rancho Palos Verdes that are not situated adjacent to the Preserve do not have restrictions over what vegetation can be planted.