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**MINUTES
of
NATURAL AREAS PROGRAM ADVISORY COMMITTEE
(NAPAC)
of
THE ARIZONA STATE PARKS BOARD**

The Natural Areas Program Advisory Committee (NAPAC) held a meeting open to the public on **Tuesday, June 2, 2015 beginning at 10:00am at Arizona State Parks, in the Board Room located in the basement of 1300 West Washington, Phoenix, Arizona 85007.**

AGENDA

(The Chair reserves the right to set the order of the agenda.)

A. CALL TO ORDER AND ROLL CALL - 10:08

Members present:

Rebecca Davidson, Dave Weedman, Larry Laing, Tom Skinner, Santiago Garcia.

Staff:

Kent Ennis, Sue Black, Eddie Slade, Bob Casavant, Dawn Collins, Heidi Lauchstedt, Kelly Moffitt, Brianne Fisher, Colt Alford, Sam Taylor, Bob Sejkora, and Dave Pawlik.

B. CALL TO THE PUBLIC

Lee Rogers – Friends of Sonoita Creek, Sally Lockwood – Friends of Sonoita Creek, Rita Bradley– Friends of Sonoita Creek.

No comments were made.

Executive Director Sue Black greets NAPAC members and gives a brief introduction of herself. Chair Davidson explains how NAPAC has had to reinvent itself as an advisory committee focused on land acquisitions to more of a recommendations committee on issues surrounding natural resources on the natural areas.

C. ACTION ITEMS

1. NAPAC Will Consider Recommendations for San Rafael State Natural Area (SRSNA)

Collins gives an update on the current situation at SRSNA. She explains that the previous Executive Director had a vision for the Natural Area and from that, NAPAC created the Management Plan and decision tool framework. Since the recent change in Executive Directors, NAPAC members are unaware of the current direction for SRSNA.

Collins explains the use of subcommittees as a tool to tackle issues at each of the SNA's. The creation of the SRSNA subcommittee will inform and discuss the necessary information needed for Executive Director Black to determine a vision for the Natural Area. In the past, ASP has been unable to utilize subcommittees in this way but now we have the support and capacity to keep up with open meeting law (OML) requirements.

There is discussion between the Chair, Assistant Attorney General Slade, and Collins about the creation of subcommittees, working groups, quorums, and OML requirements.

Weedman reiterates the conclusion of the discussion by stating that if a working group of 3 members come together they would not be responsible for establishing a quorum or creating and posting an agenda however, if the working group becomes any larger, and a quorum is present, a public meeting notice would have to be given.

Collins proposes Skinner to be the lead for the SRSNA working group since he has been instrumental in the discussions regarding grazing.

Chair motions that Skinner acts as the point person and may lead a small working group for continuing to move NAPAC recommendations forward for SRSNA. With every quorum that may exist, he will abide by OML and give public meeting notice. Laing seconds the motion, unanimous approval.

2. NAPAC Will Consider Recommendations for Verde River Greenway State Natural Area (VRGSNA)

Collins explains that the subcommittee created for this SNA will help update, develop, and assess some baseline data about VRGSNA. This data is necessary to determine where VRGSNA should go from here and aid in informed decision making especially with the recent influx of development proposals. Park Manager, George Christianson, has communicated that help in this area is needed and welcomed.

Chair Davidson expresses her interest in VRGSNA. Skinner motions that Rebecca Davidson acts as the point person and may lead a small working group for continuing to move NAPAC recommendations forward for VRGSNA. With every quorum that may exist, she will abide by OML and give public meeting notice. Laing seconds the motion, unanimous approval.

3. NAPAC Will Receive a Briefing on Fencing Laws and Consider Recommendations for Sonoita Creek State Natural Area (SCSNA)

Weedman expresses interest in becoming point person for this SNA.

Chair Davidson motions that Weedman acts as the point person and may lead a small working group for continuing to move NAPAC recommendations forward for SCSNA. With any quorum that may exist, he will abide by OML and give public meeting notice. Skinner seconds the motion, unanimous approval.

AG Slade begins the discussion on SCSNA fencing laws. General fencing law in Arizona is a “fencing out” rule meaning, if there is rangeland around you, you are required to fence out with two exceptions 1) you are a special “no-fencing out district” which requires a statutory protocol 2) You are very close to a municipality with a high population. SCSNA has neither exception that applies. In conclusion, it is the burden of the individual who wants cattle out of their area to fence them out. However, there are some requirements in the State Land Use Permit (SLUP).

Slade continues to discuss the two land use designations on the land owned by the AZ State Land Department. There is a State Land Use Permit (SLUP) given to a rancher with the name on the permit as Oro Blanco Ranch (Alford indicates that this is Robert Noone). The SLUP has specific requirements that Noone is to uphold. Accordingly, in 4.2 it states “all state land to which the SLUP is applicable with other owned and controlled properties will be fenced into grazing units with the livestock ranged upon these lands with some other means”. Slade interprets this as asking State Land Department to require a fence around the perimeter of the land owned by the department. Oddly enough, the fence would be to fence cattle IN to the land area. Slade will work with colleague David Jacobs on this which addresses the issue of extra cattle coming onto Patagonia area that do not have SLUP.

Chair Davidson reiterates her understanding of the land ownership. It is State Trust Land property with two leases on it. One is a SLUP with Noone’s name on it. State Parks also leases this land as part of Patagonia State Park. In all, there is a grazing lease on top of State Park’s lease for this parcel. All the surrounding area North, South, East and West is private.

Collins says she spoke with Steve Haas, former Unit Manager at SCSNA, who said there is fencing (to his knowledge) on North, East, and West sides leaving the South mostly unfenced. This fencing is regarding JUST the natural area parcel. However, ASP does not currently have a good inventory of the fencing condition.

The group discusses how they think cattle have been entering SCSNA land parcel through South side, anywhere the fence might be degraded, and through the privately owned ranches running cattle to the creek. ASP’s limited resources to address fencing degradation and monitoring was discussed. It is determined that an inventory survey of the fence status must be conducted.

Skinner asks several questions regarding the fences. Alford states that ASP built the N, E, and W fences but is not sure who built the fence between the SCSNA parcel

and State Trust Land parcel. **Rebecca asks if Coalmine Springs is fenced. Collins reports that we do not know.**

Bob Sejkora (ASP) says when ASP built the N, E, and W fences that they built them slightly inside property line so that no easements were needed for the owners on the other side. If ASP wanted to fence cattle out of the South side they would have to build it 20 feet outside of the Riparian Area and then the agency would have to provide private ranchette owners an alternative source of drinking water. Slade comments that permission is probably required to fence South side since adjacent landowners own to the middle of the creek.

Chair Davidson asks if the majority of the issues are from the trespassing cattle coming from the State Trust Land's grazing lease with Noone? Alford responds that Noone is actually fairly good about his cattle and the real issue is with two other ranchers.

Alford continues to explain the issues with the other two ranchers. Bergier Ranch is just North of the State Trust Land parcel. The other, Milo Dewitt, is the one causing the most difficulty. According to Andrew Jackson's foreman, Billy Padilla, Dewitt is all over the place. Padilla rode the SCSNA fence to make sure it was ok when Jackson first bought the land. He had put up some fence on the South side of the creek from Rio Rico up to the natural area. In Dewitt's area, there were over 300 head of cows of Milo Dewitt.

At one point Jackson and Padilla, were "down there" building/repairing fence up to the natural area. Padilla had told Alford in 2014 that he rode along the fenced area and said he was taking care of it for ASP. At this time they contacted Dewitt because he had trespassing cattle. According to Padilla, he thinks Dewitt drove his cattle into the natural area. There is possibly hundreds of trespassing cows in the SNA.

Alford says that there are a lot of canyons and probably degraded fences so it is not just a matter of walking the parameters; it is also the issue of getting the materials down into these areas and the whole plan of attack. The terrain is pretty rugged. It is either hiking or horseback.

Chair Davidson says from a legal perspective there may be an opportunity to work with the State Trust Land to fence the overlay parcel where there is the grazing lease and State Parks lease but some of the main issues are coming more from the West side.

Alford states that if you take a walk up the creek you would see 3 different owners cows - Robert Noones, Milo Dewitts, and Bergier. Bergier had contracted with Milo Dewitt to manage his cows. According to Bergier, Dewitt was in the process of getting his and Bergier's cows OUT of the State Trust Land but getting them out and keeping them out is two different components.

Weedman makes the assumption that Noone is probably not happy feeding all of Dewitt's and Bergier's cows considering he is the holder of the State Trust grazing lease. Weedman says that the State Trust department does not have the resources to go out and monitor their lands so they just renew a lot of their leases. **Skinner asks if State Trust Land supports ASP to do any of the monitoring or could they?**

Slade talks to Weedman's point about State Trust Land monitoring. He says the SLUP is for a specific animal unit capacity with regard to forage available, but if exceeding the animal unit that the SLUP is for then the leaseholder is in violation of their permit and State Trust would be interested in that. They would manage for the given resources they have whether it is requiring fencing or requiring to get people in there to get the cattle out.

Collins notes that we do have a letter from State Land to Bergier from 2011 stating that he was in violation but to our knowledge there was no follow up. Skinner suggests calling Steve Williams, Director, and Natural Resources Division, who wrote the letter. **Slade says he has retired and the new point person. Slade will provide new point persons name and contact information.** This will help us understand any follow up that came of this letter.

Chair Davidson says that the letter looks like it was from a staff level State Land employee. She asks Slade, what is the next step legally to get State Trust Land involved. Slade says a discussion with David Jacobs first but it could be as drastic as cancelling the Noone grazing lease. Weedman states that they are liable for the trespass cattle. Slade says potentially, it depends on how you read the lease because it does not explicitly state that they have to fence cattle out but it does say they need to protect and only use their animal unit grazing. They are in violation of that. Alford expresses concern in blaming all of this on Noone since he has been the one working with us on this.

The group continues to discuss the letter and concludes that it might be incorrectly addressed. The last paragraph references the ARS "a lessee of state land shall maintain all improvements that are pertinent to the lease in a serviceable condition for the term of the lease..." but Bergier does not have a State Trust lease and Noone does.

Weedman says ASP could have legal recourse on State Trust Land on the grazing impacts on their overlay lease or Mr. Noone would and it would be incumbent upon State Land to correct the issue or unfortunately Mr. Noone to correct the issue.

Slade suggests that ASP, himself, State Trust Land and Attorney Jacobs get together to discuss these issues. Dave Weedman and Colt Alford to assist. This meeting

would happen prior to meeting with the ranchers and then we could move forward from there.

Collins says that from an agency perspective it would be a 3rd priority to convene a stakeholders meeting including all of the ranchers, agencies, organizations working in the same room to discover what to do. Colt mentions at this inclusive meeting you would have to include Circle Z stakeholders as well.

Chair Davidson summarizes that Dawn is to help set up meeting with Slade, Weedman, and few others to have initial discussion about legalities and how to move forward. SCSNA Chair will report to NAPAC and explain strategy on how to move this to a more broad discussion with additional stakeholders.

Dawn reports that at the same time as untangling fencing issues, there is interest in updating SCSNA management plan. It would be beneficial to ASP staff for NAPAC to also play a role in considering what kind of information/data should be collected and what kind of monitoring system implemented in the future.

Chair Davidson suggests a very inclusive map to show details, cattle numbers, stakeholders, and necessary data with SNA would be helpful. Discussion followed about what agency might have the best maps to use. **Slade says he will check with State Trust Land for maps and bring to SCSNA working group meeting.**

Skinner asks about follow up of the letter. Alford explains that the letter came out of a meeting he had with Jay Ream, the author of the letter, and a member from an Audubon group that wanted to generate funds for fencing. **Slade suggests that asking State Land to bring the whole file.**

The group discusses SCSNA's current and past monitoring procedures. Alford says currently it is non-existent. The area has not been fully staffed (3 full-times and 2 part-times) since 2008. Steve Haas was the last person maintaining a presence and responsibility for fences. The group concludes that illegal cow grazing has been going on prior to 2008. The SCSNA friends group has helped monitor, run visitor center, and maintain presence.

Rita Bradley, Friends group member mentions the concerns over the endangered fish monitoring. NAPAC members discuss Game & Fish Department role in monitoring Coalmine Springs. **Weedman states he will find out monitoring procedure.** Collins mentions intergovernmental agreement between ASP and G&FD over Coalmine Springs that states both agencies will work together to determine fencing responsibility. Chair Davidson mentions the funding opportunities through Fish and Wildlife, Farm Bill, etc. to address endangered animals issues.

Rita mentions Jackson fencing access issues. Alford confirms there is access through the fence with public access signs but there are still some issues with parking lot and access.

Rita and Casavant comment on the partnership availability throughout the whole SCSNA watershed area.

Skinner asks about agenda item C1 and the update staff will receive about the direction of San Rafael. Collins informs members that she was unable to visit with Director Black prior to the meeting and therefore has no report to give. Therefore, it will be the subcommittees' first priority to hold a meeting with Director Black. **It was suggested that the group visit Appleton-Whittle Ranch for another model to inform her decision-making.**

The group further discusses the role of NAPAC and how they are aiding ASP. Chair Davidson says that she understands the data collection, inventory, creating a baseline, monitoring need at the individual natural areas but that they also need to be thinking about the regional aspects. She asks what role does ASP want to play at the macro level? Collins explains that the emphasis is more micro since the need is so dire. From there, resources management can flourish with partnerships of NGO's and other conservation organizations.

Skinner re-visits SRSNA and the meeting with Fish & Wildlife. Collins reports that F&W's HCP statement is in writing and that she knows that no grazing leases have been signed. At the meeting with Director Black, Paul Katz will be invited to explain the advice given to previous Director Bryan Martyn. Skinner reports on the progress of the HCP process from Doug Duncan, USF&WS. "We have agreed on most of the language in the HCP I am currently working on incidental take statements for Ross's review." This statement was taken on the 26th. Committee decides they are closer to the end of the HCP process than they are to the beginning but Weedman reminds group that they can take up to 5 years to complete.

E. REPORTS – Committee and Staff Reports May be Verbal.

1. Member Recruitment

Chair Davidson moves to reports about member recruitment. Stitzer and Pape have completed their first term and Collins invites them to re-apply for 2016. Chair Davidson is nearing the end of her 2nd term. Slade reminds everyone that the bylaws can always be changed with park board approval. Potentially 4 vacancies – Davidson, Laing, Stitzer and Pape.

F. MEMBER'S SUMMARY OF CURRENT EVENTS

Weedman asks Slade where the Verde Navigable Streams Adjudication Commission (NSAC) case is? Slade explains that the case is determining the Navigable Adjudications right to the Verde, Gila, and Salt River beds. The Gila has one concluding argument on June 23rd. Verde has been argued, briefing currently

happening, and final oral argument scheduled for December. Weedman states that this is relevant as we discuss VRG and the potential threat to the string of pearls concept. Public may not have access if a landowner chooses to not let people access their private land that the river flows across. They have the legal authority to do so. Slade states that either way the Commission rules it will get amended. If the Commission finds the river non-navigable that would mean that every private landowner adjacent to river would own to middle of river and could fence off. A city or county could condemn the area of land beneath the river and would have to pay the private landowner but has the right to condemn for that use.

Casavant announces that he is part of Arizona Urban and Community Forestry Council. Could benefit from any of their programs.

Collins reports that she participated with Audobon and AZG&F at the Wildlife Constituency Forum on May 2nd. Michael Rave presenter, was interested in partnerships and building a coalition to enable this group to let people know they exist and to do citizen science research. This is a standing group that met and to continue to met going forward. Clear that if public helps collect data then they would want access to data.

Collins also announces that ASCOT is putting on Wilderness First Responder, Sawyer, and Buffelgrass Mitigation trainings for agencies to take advantageous of.

Each group will get together prior to July. Will send out Doodle for late July. Will also send out when working group meetings are occurring to see if any other members would like to join.

G. PROPOSE MEETING DATES

NAPAC Meeting – Late July

Each group will get together prior to July. Will send out Doodle for full NAPAC in late July. Will also send out when working group meetings are occurring to see if any other members would like to join.

H. ADJOURNMENT

12:02 pm