

**Santa Rosa Plain Conservation Strategy
Implementation Committee**

Agenda for Meeting of May 21, 2008, 9:00 a.m.

Sonoma County Permit & Resource Management Department Hearing Room
2550 Ventura Avenue, Santa Rosa, CA 95403

The Santa Rosa Plain Conservation Strategy Implementation Committee may discuss and/or take action on any or all of the items listed on this agenda.

- Item 1:** Call to Order, Roll Call, and Approval of Minutes (attached)
- Item 2:** Review and discussion of process and funding to complete the Implementation Plan (Continued from March 19 meeting)
- Item 3:** Status of possible Safe Harbor Agreement for agricultural activities (Bob Anderson)
- Item 4:** Stakeholder Participation in Plant Mitigation Requirements in the Biological Opinion (Carolyn Wasem)
- Item 5:** Public Comment on Issues Not on the Agenda
Note: Please limit comments to 3 minutes each.

Agenda Packets: Copies of the full packets of support materials provided to the Committee are available for review at the County of Sonoma Permit and Resource Management Department office. Copies of the agenda and agenda packet materials will be mailed to any person filing a written request upon payment of a fee to recover the cost of providing the service. Requests should be mailed to Melinda McCutcheon, PRMD Executive Secretary, at 2550 Ventura Avenue, Santa Rosa, CA 95403.

Accommodations for Persons with Disabilities: If you have a disability which requires an accommodation, an alternative format, or requires another person to assist you while attending this meeting, please contact Melinda McCutcheon, PRMD Executive Secretary at (707) 565-1925, as soon as possible, to ensure arrangements for accommodation.

Public Comment: Any member of the audience desiring to address the Committee on a matter on the agenda: Please stand and after receiving recognition from the Chair, give your name and address, and your comments or questions. In order that all interested parties have an opportunity to speak, please be brief and limit your comments to the subject under discussion. Time limitations shall be at the discretion of the Chair or Committee.

Santa Rosa Plain Conservation Strategy Implementation Committee

Minutes for Meeting of March 19, 2008, 9:00 a.m.

Item 1: **Call to Order, Roll Call, and Approval of Minutes**

Roll Call: Joan Vilms, Margaret Pennington, Marc Kelley, Doug Beretta, John Sawyer, Mike Reilly, Dan Schurman, Jake Mackenzie, Janet Orchard, John Guardino, Susan Gorin, Warin Parker

Staff Members: Pete Parkinson, PRMD; Steve Shupe, Sonoma County Counsel; Cay Goude and Susan Moore, Fish & Wildlife Service (FWS)

Approval of February 20, 2008 Minutes: Consensus; approved as submitted

Chair, Jake Mackenzie asks the Committee's permission to move the *Public Comment* period up to this item. A party wishes to address the Committee on a matter that is not on the agenda. Please understand that the matter you are bringing in front of us has not been agendized and we're not going to be in a position to take action on this but I think it will be of interest to the Committee and it's something that we can possibly address at some future date.

From the Audience: Rosemary Paulin and Alison Dowdy

Rosemary Paulin is the owner of property at 271 Cresto Court, next to railroad tracks. Alison Dowdy is her realtor and helper.

Ms. Dowdy: Basically the reason we are here today is that Rosemary came to me a few months ago and told me she needed to sell this property or refinance it. I started to investigate and said I think you may have salamander issues and she said she had already checked with the County. I personally checked with the County and the County gave me a letter saying this property does not have salamander issues. I proceeded to work with Rosemary on this to discover shortly thereafter that it does have salamander issues. The pictures show it is surrounded with impediments, it has curbs and gutters and it's got railroad tracks on one side.

She had the property in contract to sell and the property since has fallen out of escrow and cannot be sold cannot be refinanced, nothing can be done to it. We have an appraisal on the property and because of the salamander issue, the property has gone down in value over 60%. She owes a whole lot more than what she can even consider refinancing it for. She can't refinance it.

The reason why I've gotten personally involved in helping her is that I feel terrible that an elderly person today is not capable of refinancing her own home even though she is doing everything correctly. She made the mistake of putting her personal residence with this parcel. And, because she did that, now she can lose her personal residence along with the parcel. The person who has the mortgage can't refinance it for her, gave her a temporary extension at 12% interest rate (from 8%), charged her \$12,000 to refinance it for a very short period of time just to give her a chance to refinance it. There is absolutely no way I can help her refinance this property. She

can't sell it, she can't refinance it and she can't pay it off and she can't have the mitigation department buy the land either. We're here to appeal to you to give us some answers. What do we do? If the land supposedly has salamanders, I have no idea where they come from-they must be flying from above-there is asphalt all over, is just a block from the freeway and there is a man-made creek on one side that runs quickly and is cleaned on a regular basis and there is a railroad track on the other side. This land is set for future development; that is what the County told us. We have that in writing and we have two different biologists that have looked at the property and we have a couple of local people that work with the Fish & Wildlife that went and walked the property. They all agree on the determination that there are too many impediments to make it possible for a salamander to come in or out of the land.

Ms. Paulin: We were very hopeful for future development and Fish & Game told us, 'No, you have to mitigate.' So, we had a telephone conversation with Fish & Game. They told us that under no circumstances will they waive this mitigation and I just said, 'That means you're putting me out on the street?' They said, very heartless, 'Yes.' Then we had a buyer recently and he went to the County (he doesn't want to put a building on it). If I sold it to him, I'd lose a lot of money but at least I could get out from under. He went to the County to see if he can put a motorcycle track on it and the County said to him 'No way.' (That was only two days ago.) 'You shouldn't be buying this land, you're spending too much money on it, you should not be buying this and you can't get away from the mitigation. You will never get it approved – you can't do anything to that land.' So he called me and was very upset. I don't know where to go anymore. Time is running out, I'm losing my house, everything I've worked for. I just need help, I need to do something.

Jake: I appreciate the matter that you've brought in front of us today. This Committee is not in a position to deal with individual parcels of land. I would like to ask my Vice Chair if he has any advice – this Committee's not in position to deal with individual parcels of land.

Mike Reilly: This is something we can look into and at least get the background on. If you will give your information to Mr. Parkinson, we'll follow up on it and find out what's happening.

Ms. Paulin: We'd really appreciate it if you guys could look at this parcel a little more closely. If you guys want to go take a look at the parcel, some of you are here today from the Fish & Wildlife. The parcel's not very far – I would love to have you just look at it and walk it.

Jake: Nobody on this Committee is in a position to make determinations on presence of or absence or any biological situations like that. But, as Supervisor Reilly said, this is something that Mr. Parkinson and his staff can follow-up on. I think that when Supervisor Reilly has been asked this question, you can be assured that Mr. Parkinson will get back to you. Hopefully with some advice as to how you might be able to proceed. But, we absolutely cannot offer you relief or action from this Committee.

Ms. Paulin: I understand. Any suggestions would be very helpful. If there is a possibility it can't be developed and mitigation wants to buy it, that's fantastic too. Except now they're telling us it's too small, so if it's too small for mitigation, they won't buy it and it possibly has salamanders, but I don't know how they can get in there, we're trapped. Please give us some answer or direction, that's all we're asking.

Marc Kelley: Susan, is it possible for you guys to go out and look at the property?

Susan Moore: Call us and we will have one of our biologists come out and look at the site.

From the Audience: Duane DeWitt, from Roseland. I cannot stay for end of meeting so I thank you for having public appearances at the beginning of the meeting. I have been studying issues of environmental planning and how we might be able to save some natural habitat areas within the Roseland community where I am from. I know that sometimes we don't see animals but often animals or wildlife might exist in areas where humans also are. I think this might be the case in the Roseland creek riparian corridor area. I've come before you before to ask you to look at the possibilities of having habitat within urban growth boundaries and I know that this body has been in discussions with various jurisdictional agencies to decide how you might be able to serve, protect, and restore habitat for the California Tiger Salamander. I believe the Roseland creek riparian corridor, somewhere along its reaches, might fit some of this bill. I would ask that during your deliberations as you come up with a Memorandum of Agreement that you ask and hopefully receive some support from state and federal agencies to widen the investigation of possible habitat area within the Roseland area. Animals don't recognize a line on the ground as a jurisdictional boundary and I believe that some animals exist in that area and I know that animals existed there, endangered species perhaps, while agricultural activities were being undertaken while I was young. I walked the fields of orchards, I worked on dairies, I saw critters that were then living in, I guess you'd say, a shared environment with human activities. I believe that could still happen. I don't think we should make a zoo and just set off a little area to the side and say, "that's where we protected our critters." I'd like to see them in other areas, hopefully within Roseland, within the urban growth boundary.

I can't stay to hear the rest of your deliberations; I thank you for all your hard work especially the members of ag because I know that it feels at times you might be under pressure and that your livelihood might be at stake. But I think if you come up with a really good agreement that recognizes the needs of species, you're going to help us all and that it's going to be a better world for your final decision. With that in mind, thank you once again for your courtesy.

Jake: Any others want to speak?

No response.

**Item 2: Review and discussion of process and funding to complete the
Implementation Plan (Continued from February 20 meeting)**

Jake: The City of Santa Rosa has been deliberating this matter and has provided us with a position – which was just distributed and I have not had an opportunity to read, but I think it would be appropriate at this time to give Vice Mayor Sawyer the opportunity to discuss and any of your fellow Santa Rosans can also chime in as appropriate.

John Sawyer: Before you is a document that was prepared and approved by the Council last night. We apologize that you were unable to get this prior to this morning's meeting, but it did have to go before the Council. In brief the situation and concerns of the City of Santa Rosa are that there is some language contained in the MOA that gives us pause and concern about funding the environmental documents. These issues, three of which are outlined at the bottom third of the page, have some ambiguity contained in some of the language. However, I did learn this morning that there has been some progress in the last couple of days which moves toward addressing some of the concerns regarding that language. The City of Santa Rosa and some members of the Ag Subcommittee have embarked in looking into the possibility of developing a Safe Harbor Agreement and it's a bit heartening that we may actually be able to move in a direction of satisfying some of the problems we have with the language contained in the MOA.

Perhaps some members of the Ag Subcommittee that know a little bit more about this meeting would like to chime in, but it's looking a little more optimistic that I was able to present to the Council last night. But we do have to have these issues resolved before we can commit resources to the preparation of the environmental document. The Council remains committed to this process. We have, as others have, given a great deal of resources to the completion of this particular project and we remain committed to it until we see that there is no other way to deal with it. To that end, we are optimistic, although guardedly so, that we'll be able to come to resolution.

Joan Vilms: I would like to say, for the record, the Ag Subcommittee as established by this body has not met for at least two months. The work on the Safe Harbor action has not been done in the full light of the Ag Subcommittee.

Jake: When we get to that item on the agenda, which is the report from the Agricultural Activities Subcommittee, I would like at that time to hear about these informal discussions because I'm anxious that if in fact there's going to be direction to this Committee that it come formally from the Agricultural Activities Subcommittee. Mr. Anderson is not with us today, but we do have other representatives of the Subcommittee with us. With that being said, any other questions?

Mike Reilly: John, was there discussion about the level of support on this? We're estimating somewhere around half a million dollars for the process. Was that discussed by Council last night?

John Sawyer: The amount was discussed but without being able to satisfy some of these questions, they did not say, on the record, "If these questions are answered, we'll commit \$500,000." That conversation did not take place. It was a statement of support for the process. The question before them was a willingness to participate once these questions were answered. I did not say, "If we answer these questions, can I have \$400,000 or \$500,000." The conversation did not go that far.

Susan Gorin: And I would just add that although there wasn't a discussion about that, you can image the eyebrows that were raised about the \$500,000 given the fact that we are slashing 5 to 10 million dollars from our budget. Part of that will come from utilities and rate payers, but the other comes from the general fund and that's a huge amount when we're dealing with the same issues that you are in the County and all the other cities here.

Jake: Understood. I'm interested when we get to the Agricultural Activities Subcommittee report to talk about Safe Harbor. I will just observe that it would seem that if in fact we resolved these issues, then the Santa Rosa City Council is ready to talk specifically about monies. The ground has been prepared for discussion. Would that be a reasonable assumption?

Susan Gorin: Yes

Jake: We in the City of Rohnert Park are ready to do that and that brings me to the City of Cotati. We, the Committee, ask the City of Cotati if they could report to us on their position on the MOU as it is at the moment.

John Guardino: Not to sound like a broken record, but again I want to add a little bit more information to what I've said to this Committee in the past. In the past, there have been some noises coming out of Cotati, perhaps due to our unique challenges that we may be interested in perhaps trying to opt out in one way or another from this process and I can assure you that this is not the case. I want to make it crystal clear and understood that we are committed to working within the Strategy as best we can. These are unique challenges and should we come up to what we feel is an insurmountable obstacle we will bring it back to this Committee for a recommendation. As it stands right now, we are moving forward and dealing with our issues and the challenges that we have that we see as opportunities which will hopefully protect some of the best habitat on the plain. We don't have any projects on the table that are requiring us to take immediate action or address these issues directly at this time, but when we do we're going to work within the Strategy.

Jake: Have you had discussions about commitment to partial funding of the environmental assessment?

John Guardino: We haven't discussed this since the new estimates came out but we can do that and report back.

Janet Orchard: I just want to say for the benefit of the group and the public that I'm completely in agreement with Vice Mayor Guardino's comments and our support of the Strategy. Just wanted to make everybody aware that I fully support those comments.

Jake: We appreciate that. That's straight-forward and clear. I might ask Council Member Parker, has there been discussion with the Town of Windsor and if you can address these same issues it would be helpful.

Warin Parker: The Town of Windsor remains committed to the process. As you know, we don't have a salamander presence in the Town of Windsor. There has been no discussion in this fiscal year about a financial contribution. There was in the past and we'll have to re-address it again. Our biggest concern happens to be with the Biological Opinion, but now's not the time to discuss this.

Mike Reilly: At the last meeting we indicated that we wanted to take a status report to our Board and in discussions after the meeting the feeling was that if it was going to be a discussion of substance, we needed to have some indication of the City of Santa Rosa's position so we've held off on doing that. Now we have at least an indication of the concerns that are there; we don't have an indication yet if we've got resources between the members here to be able to move forward with the budget we've laid out.

Jake: Rohnert Park agrees with the direction of implementation of the Strategy and we're willing to contribute our share commensurate with the development potential involved. It would seem in the Town of Windsor that while you've not discussed it this fiscal year, this is something you would be willing to discuss. What I'm anxious to do is establish the fact that as I see it, the critical issue is to resolve the agricultural matters. Once these agricultural matters are resolved, then this Committee will be able to move forward with the task of implementation. We still have a draft document which was authored by Steve Shupe. I would suggest to the Committee at this time that our efforts as a Committee should be devoted to solving the agricultural issues. And I'd like to come back to this when we talk about Item 3.

Is there anything else that Committee members would like to bring up under Item 2?

Mike Reilly: One question for the Service. Now that you're on notice for 60 days of being sued for not designating critical habitat, does that change the game in some way in terms of what we've been doing throughout this time period?

Susan Moore: I believe you all have a copy of the notice of intent to sue and if you look at the item 3 listed on page 5, it was specifically that finally excluded all the remaining areas on the grounds that they would be protected by a Conservation

Strategy which does not exist and even if it did, would only reinforce the importance and necessity of critical habitat designation. They're clearly saying that they plan to go ahead and notice us in 60 days and one of the reasons will be because we haven't moved forward with a completed Implementation Plan for the Conservation Strategy. From the Service's perspective, we talked about this with the Director of Fish & Wildlife and the Assistant Secretary, Mr. Laverty, last Monday, a week this past Monday, and they all asked me to come here today and bring the message of encouragement to finalize this Implementation Plan and move forward.

Reilly: As you presented and I understand the notice of intent, my reading was they were going to pursue it with or without a Conservation Strategy. That they are saying the Conservation Strategy really didn't make a difference in terms of the critical habitat issue.

Susan Moore: That's what they indicate. I think that if we should go to court and if the department chooses to defend, (I mean we can always do a settlement, I'm not party to those talks currently because we haven't been sued), the suggestion was it would be easier to defend if there was an Implementation Plan in place. The department would feel much more comfortable defending that position, if there was something in place that they could point to and say "Yes, it's conserving the species."

Reilly: Given the time that we know that it's going to take to do the environmental work, what kind of a time frame are we looking at in terms of the Service?

Susan Moore: In 60 days they can file or not, they can file anytime after that also. Then, it depends, a year maybe, I'm not sure. Sometimes the courts move slowly, but I would say within a year or a year and a half, if they choose to file. They could choose to either settle, which would start immediately or they could choose to defend, that decision has not been made.

Jake: The determination at the moment by the director of your department is that they feel this is something worth defending?

Susan Moore: At this point we're strongly encouraged to continue to finalize the Implementation Plan. They think that this is a good process and I think they would feel much more comfortable defending the exclusion of critical habitat if there was something that had been finalized.

Jake: Your message is clear and we'll acknowledge that it has been delivered.

Item 3: **Report from Agricultural Activities Subcommittee**

Jake: Mr. Anderson is not here today and Ms. Vilms has notified us that the Subcommittee has not met for the past two months. But, there have been discussions going on in the matter that was raised earlier and I think this would be a good juncture if people have been having these discussions informally, which I believe involved the City of Santa Rosa staff, I'm not sure who else. This is not an

inquisition or anything like that. If this issue is a critical issue to the City of Santa Rosa, then we need to hear about this, we need to make a determination as to whether the Agricultural Subcommittee can report back to us in a timely manner otherwise my inclination is that it will be a matter that the full Committee will discuss and bring to resolution.

Doug Beretta: I believe at the last Ag Subcommittee we were left with three options from Fish & Wildlife. One was to continue the path that we are doing with (in my eyes) some major changes to our document that we had worked on for a couple of years. It was going to be Best Management Practices for ongoing and existing, for conversions there would be Best Management Practices, possibly mitigation and possibly conservation easements and the third one was; ag walked away from this whole thing. After that meeting, some of us from the ag sector met and we really looked at walking away from the whole thing and decided that at this point in time it was agriculture's choice to do what we needed to do. We got in touch with Fish & Wildlife on the Safe Harbor issue. We went to Sacramento on Monday, met with Fish & Wildlife staff talking about a Safe Harbor issue for agriculture and it has been very informal but it is something I think when we left the meeting on Monday, from the ag side of it, I think it was very encouraging. Now we can do it in a couple different ways. We can do it landowner by landowner or we can do it as a programmatic where it would encompass the whole County and cities and landowners could join in. Those are the talks that we have had. My personal feeling is after the meeting on Monday, it's a lot better situation then we were getting ourselves into with the document because of the concerns that we had with the environmental between Fish & Wildlife and ag itself.

Jake: Just to be sure everybody is clear on Safe Harbor issue; could I ask our technical advisors to talk about the concept of Safe Harbor and the endangered species?

Susan Moore: In a nutshell, my Safe Harbor Specialist, Rick Kuyper, and Senior Biologist for Endangered Species Program, Vince Griego, who know the plains, were there. I haven't had an update on what the meeting consisted of but basically a Safe Harbor Agreement (we passed out the information to the Committee, a handout I think, maybe a year) is an agreement where the landowner agrees to do something that has a net conservation benefit to the species and in return gets some assurances. They can also have a neighboring landowner agreement that neighboring landowners can sign that says if the species should then migrate over to their properties, they would also receive some assurances. That's kind of it in a nutshell.

The two keys that people usually look for in a Safe Harbor Agreement are net conservation benefit with some assurances and then they also look for those neighboring landowner assurances because many people do not wish to encourage endangered species onto their property and in affect they alienate their neighbors who don't want the species on their property. So it does provide some assurances to those neighbors. If you want to dive into more detail, the net conservation benefit is based

on, you go onto a piece of property, you look at what's there and it has to be something better than what is currently there; your net conservation benefit.

Jake: We have people here who were at the meeting. Is there any further clarification? Was the City of Santa Rosa represented?

John Sawyer: Dr. Smith has everything that you feel important and articulated this morning. Do you feel a need to add anything to your take on the meeting?

Jake: To me this would be a good time, since you did bring up these issues in your position paper, if once we've talked about the Safe Harbor meeting then I'd be interested in coming back to the City of Santa Rosa's position to see if we can start to make these connections.

Dr. Dave Smith: What has been said about Safe Harbor in general and about the meeting that I attended on Monday with Doug, my impressions are all consistent with what you've heard from the others. I don't have anything to add to the description of Safe Harbor or about the meeting that was described to this group.

Jake: That being the case then let me ask you, if you could just go through these concerns and then give us this connection as to how City of Santa Rosa's concerns might be assuaged and lead you to move ahead in this process.

Dr. Dave Smith: Again, I don't think I have anything to add to what Doug said. The City of Santa Rosa has, as a practitioner of agriculture, 1,700 acres in the Santa Rosa Plain and shares the concerns of the ag property owner representative of the Ag Subcommittee. Like Doug indicated, my impression of the meeting with Fish & Wildlife Service staff on Monday was that the issues that are articulated in the Council's statement are ones that could be resolved, potentially through the Safe Harbor process. We didn't get into the level of detail or discussions about particular terms of a Safe Harbor Agreement, so I'm not really able to say at this point exactly how those would be resolved, but the process exists by which to address these issues. I think that's why we are encouraged at this point.

Jake: And the process, as I understand it, would be landowner by landowner as one possibility. So you would then, as the City of Santa Rosa, be considered the landowner with your 1,700 acres?

Dr. Dave Smith: I think our initial impression is that that wouldn't be the preferred approach. The alternative is a more programmatic level document that landowners can opt in or not opt in so that there is consistent language and protection across the plain. Which is what this group seeks. There may need to be more than one programmatic agreement to handle different kinds of agriculture but again it's very early in the process and we're investigating the options.

Steve Shupe: Is this something you envision (I know it's early in the discussions) being incorporated into the Strategy or would this be something that would be carved out of the Strategy so it wouldn't really be addressed?

Doug: I really don't know, I kind of went to the three options. Our option was that if ag walked away, this would be a way that ag could still be covered through a Safe Harbor even if critical habitat was announced – we would still have a chance to be covered in some way and that was my reason for approaching this meeting. We didn't really talk about incorporating it and that's something we should have discussions about.

Dr. Dave Smith: We didn't talk about it, you're right. At least that's consistent with my recollection. It seems from my perspective that the purpose of the MOA is to provide a comprehensive solution to protection of the species and so an MOA that doesn't address agriculture is not as powerful a document. Safe Harbor Agreements and the MOA, in my view, are not necessarily inconsistent and the MOA could simply refer to one or more Safe Harbor Agreements as the solution to protection on ag land and a CEQA document could consider the full package. That's one option as well.

Jake: Since you brought this topic up, in the draft document under 6.4 on mitigation, the Agricultural Projects and Activities section would that be the proper place where this would be addressed either in its entirety or else as a reference to programmatic activities?

Steve: I assume so, I'll take a look at it, but I assume that it would.

Pete: Question for the folks who've been involved in these discussions is what happens next with this? How does it move forward?

Dr. Dave Smith: Those of us who attended the meeting came away with the impression that this was something we wanted to look at further and that we want to move ahead on it with all possible haste. From the City's perspective, at the staff, consultant, advisor level, that's our intent at this point. I can't speak for others at the meeting, but I think generally the impression was that this is something we want to look at further and soon.

Jake: My hope is that this next step would include a formal involvement of the Agricultural Activities Subcommittee because I think Joan Vilms was right. I think in terms of our process here this is a proper activity for that Subcommittee to discuss and then for them to report back to this Committee. My feeling at this time is that we cannot move forward as a Committee until this issue is resolved. I now want to hear from Committee members in terms of process. You clearly, as participants in the Monday meeting want to move forward as you just said with some degree of haste and I want to hear from the full Committee how you would want us to proceed.

Joan: A first step would be to identify who was present at that meeting Monday.

Doug: Myself, Dave Smith Marc Kelley, Carolyn Wasem and Bob Anderson. Nick Frey was going to be there but his father had become ill and he was not able to. As I said before it was mainly the ag owners and Marc and Carolyn.

Jake: And the people you met with were US Fish & Wildlife Service employees.

Doug: As Susan said, it was Rick Kuyper, and Vince Griego. We met at Fish & Wildlife offices in Sacramento.

Joan: Clearly the next step is going be, if this is to be embraced by the full group, for Bob Anderson to schedule another meeting of the Ag Subcommittee and to go into greater discussions about how the two processes would mesh.

Mike Reilly: We're quickly approaching the chicken and egg point in our process. It seems like its going to take some resources to actually move through negotiations of how one or more Safe Harbor Agreements would be framed and I personally think that rather than trying to do that with the Committee, if the City is interested in pursuing this with the Service and willing to commit the resources to do that it would be helpful in moving it along if they could go through that process and bring the product to the Subcommittee to consider and how that meshes with the other ag provisions in the strategy. I don't think the Ag Subcommittee can do this in a vacuum, there is going to need to be some discussions (obviously with the Service) on that. I think it needs to come to the Ag Subcommittee first before it comes here for consideration. The other concern that both the City and County would have, and maybe some of the other cities, in moving forward is the potential of committing substantial resources to completing the Strategy and implementing it and not knowing somewhere along the way if the hierarchy in the Service would decide to settle as opposed to fight a potential lawsuit. It kind of leaves us in a quandary about committing resources and not knowing exactly what the determination is going to be on part of the Service. I know my Board would certainly want to consider that in terms of any action. I'm assuming that the City of Santa Rosa Council would as well. At this point, it's imponderable if we can get any inclination from the Service on high, and I know it's not you, but some indication about how you're leaning or something like that. We've heard "get our stuff done" and that's going to strengthen your case but it doesn't mean that some decision might be made half way through the process to just sit down with folks and designate critical habitat which would kind of be disruptive to our entire process.

We're also at a point, and I think that staff like Pete has let you know, that we are in a very limited capacity to staff and continue the staffing for this particular body until resources are committed and that's the chicken and egg part about it. At some point we need to make that determination if we're going to move forward and provide the necessary resources to do that. If the City wants to pursue discussions and try to bring something whole that represents a Safe Harbor Agreement to the Ag

Subcommittee, I think that's the only thing that will move us off the space where we are right now. And, Dave, you might want to comment on that. Was that your intent that you are going to try and actually work out some language and what it looks like?

Dr. Dave Smith: I don't think the land owner contingent has come to grips with that question yet. It would seem like one option would be for the land owners who want to pursue a Safe Harbor Agreement to do so and to keep the Ag Subcommittee members who aren't land owners informed. I think it's important for everybody to understand that the Safe Harbor Agreement is an Agreement between the Fish & Wildlife Service and the owners. First and foremost, owners have to be present and be part of that discussion about what the terms of the agreement are. I don't think, speaking from the City's perspective or my perspective as an adviser to the City, but that we would have a problem with working with the Ag Subcommittee to receive their input and keep them informed as to how it's going. I don't think we've worked out exactly how the Ag Subcommittee would participate, if at all, in the process of a Safe Harbor Agreement.

Mike Reilly: The other part of the question is whether or not Safe Harbor Agreements are integrated into the Strategy or simply referred to as an option. From your perspective or counsel's perspective, how would that then satisfy the concerns that the City has represented relative to the MOA?

Dr. Dave Smith: We're seeing the potential to resolve the City's issues or concerns through a Safe Harbor Agreement. Haven't done that yet, just recognized Safe Harbor Agreements as a vehicle to do that. Our efforts to resolve those issues have lead us in this direction and so how we're at the point of having to decide whether to pursue Safe Harbor Agreements (I think we're moving in that direction) and indication from our discussion on Monday is that the City's concerns could be resolved through this process.

Mike Reilly: That could take place parallel to, but outside this Committee's jurisdiction. But at whatever point those concerns need to be satisfied, then we get down to the, where do we find the money.

Margaret Pennington: I'm still a little confused with the process here. Doug identified what he thought were three options that came out of the last official Ag Subcommittee meeting a couple of months ago. He said number three was 'walk away' and that's what sort of prompted these non-Ag Subcommittee conversations having to do with pursuing the idea of Safe Harbor. Does that mean that you are saying that that is the walk away? And so this would not be part of the Strategy. Is that correct?

Doug: I'm hoping that it's something that we can pursue and resolve as a land owner. When I was notified that we had this opportunity to meet, I went as a land owner because my personal feeling is that I'm totally surrounded by mitigation banks so what are my options if something doesn't work here. The way I see it is that my

options are cover myself and also I felt it was something that the Committee could buy into because there is net conservation increases within a Safe Harbor. It's not like we can just go in and destroy habitat, there's a baseline and to get a Safe Harbor you have to have some increase in net conservation. That's why I approached this meeting.

Margaret: Still trying to get over what I'm confused about. You are still pursuing this as something that would then eventually come back into the Strategy? Is that the idea here?

Doug: I think it would be more positive for this Committee if we had the whole County or majority of land owners within the County buy into this. I've been the lead on this salamander issue for the Farm Bureau, so I went. It's going to go before our Executive Committee on Thursday and we will discuss it at our Board meeting the second week in April. So it's something that I think after the meeting, and talking with our Executive Director, is very positive for agriculture.

Margaret: Just to say, if there could be some transparency about this, if other people on the Ag Subcommittee could at least have been notified that these sorts of things were going on, I think it would be helpful. Some of it's educational, so the more educated we all are...

Doug: As Dr. Smith said, Safe Harbor is dealt with the land owners. We approached it that way and that may be how it ends up. I would like to get something done, I'm been sitting here for three years and I'm tired of it. If I can get in done in six months, I'm done. I have a lot of other things to do than come to meetings once a month. As I drove down Highway 101, I'm thinking, Highway 101 will be finished before this Committee is done.

Margaret: I have a comment on something that Mike (I think it was Mike) said about critical habitat designation and how that would be disruptive to this process or something like that? Did you say it, did Jake say it?

Mike. I said it because I thought that the function and purpose of the Strategy was an alternative to designation of critical habitat. I don't know how you'd do both.

Margaret: I think the Center for Biological Diversity is coming from a different place. On page 5 of this memo, they are pointing out in the second paragraph from bottom...(paragraph was read). I think that has been the Center's position and I think shared by many in the environmental community that recovery is important and therefore, designation of critical habitat is something that makes sense regardless of whether we have the Strategy or not.

Marc: A couple of comments. The first is relating to this Safe Harbor. Carolyn and I have some experience in this. We've been through a very interesting Safe Harbor process in a different part of the state for a client and they are really a magnificent

tool. The Fish & Wildlife Service has perfected them. In 1999 it was created and it was for both the National Marine Fisheries Service (NMFS) as well as Fish & Wildlife and NMFS has never really done much with it. The Fish & Wildlife Service has tens of thousands of acres in Safe Harbor Agreements all over the United States. Not one has ever been litigated. Not one. Whether that's with individual land owners or in a programmatic approach. I think the Service, in most of the regional offices, has people who are experts at Safe Harbors and that's all they do. That is what Rick is in Sacramento. They have actually taken it so far as to have people who focus on that issue and that issue alone. Just as a matter of general information for the Committee, they are a very magnificent tool, particularly with agricultural lands and there is a lot of experience with them. On the other point that was made, Mr. Chairman, I would just offer that we have set aside 1,400 – 1,500 acres so far leading to a total of 4,000 in the end and they are meant to be contiguous within conservation zones as opposed to fragmented habitat we have a lot of now. I believe that's being done specifically for the purpose of not just the existence of the species or causing it to be extinct, but it is for recovery. I can't imagine who would want to take that process and completely disrupt it and from the standpoint of critical habitat it does absolutely nothing for this magnificent Conservation Strategy which has the community ultimately spending over \$400 million to set these lands aside

Jake: City of Santa Rosa, just in terms of one question that came up. Is this Safe Harbor approach something that you would be encouraging staff and advisers to work on in a rapid manner?

John Sawyer: Given the apparent road blocks in front of progress in the Ag Subcommittee, it sounds to me as though this is a good option to pursue. It's offering some hope in satisfying problems we have with some of the language in the document. This is new information. We will be bringing it back to the Council probably as a report item (I'm not sure what kind of noticing has to be done). We did not discuss this last night – it is new information. Last night, things were looking a bit up in the air and this new direction of being able to move forward is going to be received by the council positively, I think.

There may be some discussion around what kind of resources will be used to complete or go forward with this plan. But this looks like one of the only options, given how much time has been spent on the Ag Subcommittee and the roadblocks they may have hit. I am heartened and could probably speak for Council Woman Gorin that this is at least a reasonable option to pursue and the first time that we've heard of the possibility of coming to resolution. Personally, I'm optimistic.

Susan Gorin: Agrees. If and when we have a report to the Council, I would be looking for information from Dr. Smith and Mr. Regalia on some proposed process to get us to where we need to go. Also, an estimation of the time required for that process so that we can give the Committee some assurance of where we are and where we see that happening and how soon it would be happening. I hear what you

all are struggling with and if Santa Rosa needs to be the key player to move this process forward then we should work on that.

Jake: That's my sense of the moment in terms of how we move forward. What I am trying to figure out and would appreciate advice from staff, is timing of this issue. Dan, your Implementation group can't really do work until this issue is resolved. The funding issue is not going to get resolved until we come to some conclusion on this Agricultural Activities. Our next meeting is scheduled to be April 16. Can sufficient work be done by then to warrant us meeting as a Committee in April or should we cancel the April meeting and be working toward some full discussion of this issue at a May meeting? I'm open to comments.

Mike Reilly: My suggestion would be, leave the April meeting on for now and make a determination perhaps a week before that meeting whether we have enough substance to meet around these issues and if not, we can get the word out to folks.

Doug: I agree with Supervisor Reilly. I think from the comments that were made at Monday's meeting the Service is willing to work with us as quickly as they can. It's all depending on their time. I think there are some questions, but from what we heard, a very simple one could take six to seven months - something that's a little bit tougher to do could be done within a year but the process is to get it going as soon as we get some direction. With the plant issue, which is within the Strategy, there may be some more length to this because we do have to have Fish & Game involved because of the way that plant is listed as federal and state but they have worked in other Safe Harbors with each other and have been very helpful. There is a big one going on, the California Range Land Conservation and that's I believe four or five counties, that is something we've looked at. I believe our Supervisor's Board signed on to that coalition last year. It's something that's out there and I think there are tools out there that could move this in the right direction quickly.

Susan Moore: Sounds fine.

Jake: I think the Vice Chair's suggestion is a good one. This needs to be coordinated with staff.

Pete: I would ask either Chuck or somebody who is involved with this to get in touch with me no later than April 7 to let us know whether there going to be something substantive for a meeting on April 16.

Jake: Doug Beretta is absolutely right; this has been an unconscionably long time to get to this point. Let's see if we can come back here on April 16 and start working toward resolution of this issue. I appreciate the City of Cotati's comment that they are engaged and anxious to implement the Strategy. We still have this MOU draft in front of us, we have an Adaptive Management Subcommittee that's anxious to complete Section 11, so we should be thinking of a process that by the middle of this

summer we are making decisions on the environmental review and the movement of this document.

Warin: Perhaps at our next meeting in April we could have a review of the Biological Opinion and the issues that trouble Windsor, which relate to required mitigation and absence of species. That will impact, not just Windsor but anywhere where the plant is deemed. I'd like to see that addressed because I think there are some legal issues related to that.

Susan Moore: I can bring our solicitors. We had a conversation yesterday with Steven Quarels; I believe he has been working on behalf of some of the members for the community here. We're planning to meet with him again to resolve some issues. Also, I will not be here on April 16. Cay is welcome to represent us but there are some ongoing discussions and I think many of them have already been resolved, within the department at least

Jake: It would be useful for us to agendize that depending on whether or not it's felt that an April 16 meeting would be valuable. That decision needs to be made by April 7, as Mr. Parkinson has indicated. Otherwise, we would have this discussion at our May meeting.

Susan Moore: We would certainly then be able to report on what progress or discussions have occurred within the department and where the position of the Fish & Wildlife Service is.

Jake: Anything else that Committee members wish to bring up at this time under Item 3?

Response: None

Item 4: Public Comment on Issues Not on the Agenda

None.

Meeting adjourned.