

**Open Space and Habitat Commission Minutes**  
**Monday, May 12, 2020**  
**Remote Audio and Video Meeting Participation, 6:30 p.m.**

Commissioners Present: Garrett Allen, Patrick Huber (Vice Chair), Roberta Millstein (Chair), Marc Vayssieres

Vacant Positions: Two (Regular and Alternate)

Commissioners Absent: Joy Klineberg, Carrie Shaw

Assigned Staff: Tracie Reynolds, Manager, Open Space Program (Present)

Council Liaison: Brett Lee (Regular) (Present), Lucas Frerichs (Alternate)

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**1. Call to Order & Roll Call**

Commissioner Millstein opened the meeting after a quorum was achieved and called roll call. She noted that the Commission's regularly scheduled meeting for the month of May had to be cancelled (due to a citywide internet outage on May 4) and rescheduled to this evening.

**2. Approval of Agenda**

On a motion by Commissioner Allen, seconded by Commissioner Huber, the Commission voted 4-0-2-0 to approve the May 2020 regular meeting agenda (Ayes – Allen, Huber, Millstein, Vayssieres; Noes – None; Absent – Klineberg, Shaw; Abstentions – None).

**3. Brief Announcements from Staff, Commissioners, and City Council Liaisons**

There were no brief announcements.

**4. Public Comment**

Catherine Portman, president of the Burrowing Owls Preservation Society, said she wrote an email to City staff asking to install an artificial burrow on the City's Mace 25 property and received a response stating that the City Council had not provided staff with direction about enhancing the habitat on this land. She said that statement went against the City's Strategic Plan for the Open Space Program and the Yolo Habitat Conservation Plan/Natural Communities Conservation Plan. She said the City should place a habitat conservation easement on this property, one that doesn't allow homes or orchards, to make the land better habitat for burrowing owls. A woman who identified herself as Kerry said the City's Mace 25 property was a great place to educate people about burrowing owls. She said that it was important to encourage burrowing owl habitat on the land the City owns since habitat generally is dwindling throughout the region.

**5. Consent Calendar**

There were two items on the consent calendar: approval of the April 6, 2020 regular meeting minutes and approval of the April 23 special meeting minutes. On a motion by Commissioner Huber, seconded by Commissioner Allen, the Commission voted 4-0-2-0 to approve the two consent calendar items (Ayes – Allen, Huber, Millstein, Vayssieres; Noes – None; Absent – Klineberg, Shaw; Abstentions – None).

**6. Regular Items**

**Discussion Item – Receive a presentation on and discuss the draft land management plan for the City's Wildhorse Agricultural Buffer, located north and east of the Wildhorse golf course**

The Commission received a presentation from Chris Gardner, the City's Open Space Lands Manager, about the draft management plan for the City's Wildhorse Agricultural Buffer. He said the purpose of this management plan is to identify the natural resources present on the Wildhorse Agricultural Buffer and set goals for their long-term maintenance. The plan outlines those goals, as well as several specific objectives intended to define the City's management activities going forward, he said. It also outlines how to manage public access to the ag buffer in a way that doesn't degrade the habitat areas. The ag buffer has several natural habitat areas, he said, including but not limited to, an oak savannah area, a remnant walnut orchard, a hedgerow strip, a stormwater conveyance channel, and a burrowing owl habitat area. Given the Commission's interest in this subject, he focused his presentation on the burrowing owl habitat area. He said the

primary management tool in this area was keeping grasses and forbs at a maximum mean “effective height” of between four and six inches. The “effective height” measures both the height of the grasses and their density. He discussed how City staff planned to monitor and maintain the forbs and grasses at a maximum mean effective height of between four and six inches between January and May in this area of the ag buffer.

Commissioner Millstein then took public comment on this item. Catherine Portman, president of the Burrowing Owl Preservation Society, asked staff about previous management plans for the site and also whether the burrowing owl habitat area could be any bigger. She also asked if staff could establish species performance targets. Greg Rowe asked if a proposed condominium project on the Wildhorse golf course property would impact the burrowing owl habitat area. Colin Walsh said he appreciated that the City was setting aside an area for the burrowing owls but that this was not enough. He said burrowing owls are present in a wider geographic area and that he favored preserving more space for them. He encouraged the Commission to also favor preserving more space for the burrowing owls.

Commissioner Millstein then closed public comment and the Commission discussed this item. Issues discussed included how the maximum mean effective height could be maintained during the rainy season, the cost of the City’s land management activities, and whether it was possible to establish species performance targets. Mr. Gardner agreed to bring the final land management plan back to the Commission in June for its recommended approval.

**Discussion Item – Receive a presentation on and discuss the City’s land management recommendation regarding burrowing owls at the City’s “Mace 25” property, which is 25 acres located just east of the Mace Boulevard curve**

The Commission received a presentation from John McNerney, the City’s Wildlife Biologist, about his land management recommendation regarding burrowing owls at the City’s Mace 25 property. He said the narrow edge of the Mace 25 site is a hazardous location and is poor habitat for the owls. The narrow edge of the Mace 25 site is too close to County Road 30B and any chicks born there would have a high likelihood of being run over by cars or trucks, he said. Also, Yolo County has a public safety mandate to maintain the road right-of-way, and that maintenance activity causes disturbance to nesting owls and may directly impact occupied burrows or owls, he said. If a burrowing owl preserve was ever formally established on the site, he would recommend that it be located further into the center of the site away from the roadside hazards they are currently exposed to, he said.

He also said that future development of the site may require the owls to be forced off the site, increasing the risk of them dying. Currently, the Mace 25 site is not a protected open space area or habitat area because it is not protected with a conservation easement or deed restriction. He said there is a current proposal to build a mixed-use project next to this site, and that proposal includes using a portion of the Mace 25 site for the project’s agricultural buffer. That buffer will include a drainage channel, walking/biking paths and other improvements. He said if there is any chance of future development of the Mace 25 site, then there is a chance that owls will need to be relocated in the future. Displaced owls are at greater risk of mortality than those allowed to move on their own, he said. It is much better for the owls to be naturally displaced from the site (i.e., by allowing tall dense vegetation to grow along the western edge) than it is for them to be passively relocated/evicted prior to any disturbance, he said. Until the Mace 25 site becomes a protected open space area (i.e., it is protected with a habitat conservation easement or similar deed restriction), the City should not be encouraging owls to locate there, he said.

Finally, he said the Mace 25 site is not managed by the City’s Open Space Program. The Mace 25 site is managed by the tenant farmer who leases the land from the City. He said open space staff weeded around the burrows once or twice in the past at the request of Catherine Portman but that was before they asked him about it. After consulting with him and hearing his concerns, open space staff stopped doing any land management activities on the site, he said.

Commissioner Millstein then took public comment.

- Greg Rowe said that he notified staff that the Mace 25 site was identified in the City’s background report on Measure O as “protected open space” and that Ms. Reynolds addressed his point in a response email. She said the site should be identified as “publicly owned open space” and not “protected open space” because it does not have a conservation easement on it. He encouraged the City to put a conservation easement on the site. He also said if

the City sold or developed the Mace 25 site it would violate Measure O and be a breach of the public trust. He again added later in the discussion that the City should put a habitat conservation easement on this site.

- Alan Pryor said City staff made the unilateral decision to drive off the species and that he didn't believe staff has that power. He said the City has been mismanaging lands designated for burrowing owls for 20 years. He said the City has pushed the owls onto a sliver of land and now say that sliver of land is bad for the owls. He said this issue should be brought to the City Council for a decision.
- Catherine Portman said she agreed with Mr. McNerney that the edge of the Mace 25 site was dangerous but she also agreed with Mr. Pryor. She said as long as the Mace 25 site is farmed, the only place the owls have left is the western edge. She said the City should sell a habitat conservation easement on the entire property to the Yolo Habitat Conservancy, which needs mitigation acres. She again asked the City if she could put an artificial burrow on the Mace 25 site, away from the road.
- Colin Walsh asked the City to let Ms. Portman put an artificial burrow on the Mace 25 site. He said the City is changing its policy to drive the owls away and he recommended this issue be brought to the City Council for a decision. He questioned what was going on, after a bear was hit by a car and the owls are being driven away. (During his public comment period, two girls also spoke about helping the burrowing owls.)
- Kirsten Elise said the owls are precious and important and it is sad that the City is driving them away. She said it doesn't require much to support them in the areas they have chosen. She said supporting the owls should be a priority and that this issue should be brought to the City Council for a decision. She said the City should do all it can to ensure the owls are happy and healthy and thriving.

Commissioner Millstein then closed public comment and the Commission discussed this item. Commissioner Millstein said she was frustrated that staff changed its land management practices on the Mace 25 site and the Commission was not consulted about it. Issues discussed included the history of burrowing owls on the Mace 25 site, where the owls are present on the Mace 25 site and in the surrounding area, and staff's land management recommendation itself. Mayor Brett Lee said the City Council has not given clear direction to staff about this site, and that it was proposed to be developed as part of a previous development proposal on the adjacent property.

Commissioner Millstein asked Commissioners if they supported putting a habitat conservation easement on the site. Commissioner Huber said he was against the idea. He said the Commission has already weighed in on this subject. He said the Mace 25 land is a terrible site to manage and is not connected to any other habitat areas. He said he would prefer trading it for another site and not manage it for habitat. Commissioner Allen said he supported the idea of putting a habitat conservation easement on the Mace 25 site. He said other public agencies need mitigation sites and this site could be used to satisfy mitigation requirements. Commissioner Vayssieres said he also supported the idea but was concerned about the cost and practicality of managing the site as a burrowing owl preserve. Commissioner Allen said the Yolo Habitat Conservancy should manage it and the public should not be allowed on the site.

Commissioner Huber said the monetary value of the site was higher than the ecological value. He said trading the site for a superior habitat area would provide the maximum benefit to the City's Open Space Program. He said he would not support a motion to place a habitat conservation easement on the property. Commissioner Millstein said the Commission has already recommended that the City not use Measure O funds as a piggy bank to acquire other things. Commissioner Huber said trading the Mace 25 site for superior habitat land was not using Measure O funds as a piggy bank. He said it was using the Mace 25 site as leverage, or a bargaining chip, to get something better for the City's Open Space Program. Commissioner Millstein said she thought trading the land for other open space land was a breach of trust since taxpayers purchased the Mace 25 land to be used as open space. Commissioner Allen noted the public commenters and, even though it was a small sample size, he said it indicated public support for a habitat conservation easement on the site. But he also noted that the Commission's recommendations carried more weight with the City Council if they agreed with staff's recommendations.

After this discussion, the Commission discussed the language of a possible motion. Commissioner Millstein made a motion which was subsequently amended by Commissioner Allen to read: *“With respect to the Commission’s earlier January 2019 recommendations about the Mace 25 site, the Commission now recommends that pursuing a mixed-habitat conservation easement with the Yolo Habitat Conservancy on the Mace 25 site is a top priority. But if such a mixed-habitat conservation easement can’t be achieved, then the Commission recommends that the entire Mace 25 site be used for one of the other previously recommended open space uses (e.g., a community farm, or wildlife habitat (i.e., for burrowing owls and Swainson’s hawks), or open space public access/recreation, or a combination of these uses).”*

Commissioner Huber said he was disappointed in the Commission’s small vision. On a motion by Commissioner Millstein, seconded by Commissioner Allen, the Commission voted 3-1-2-0 to approve the above motion (Ayes – Allen, Millstein, Vayssieres; Noes – Huber; Absent – Klineberg, Shaw; Abstentions – None).

Commissioner Millstein then asked Commissioners if one of them would be willing to offer a second motion to recommend that the City maintain a burrowing owl habitat area on the edge of the Mace 25 site as an interim measure. Commissioners Allen, Huber, and Vayssieres said they would not be willing to offer or support such a motion.

**Discussion Item – Discuss the renewal of Measure J (Citizens’ Right to Vote on Future Use of Open Space and Agricultural Lands Ordinance) which expires on December 31, 2020**

The Commission did not get to this item on the agenda until well after 9:30 p.m. Pursuant to the rules listed on the agenda, no new items shall begin after 9:30 p.m. unless unanimous consent of the Commission exists to continue. Commissioner Millstein said she was feeling less urgent about this item given the City Council’s comments on May 5. Commissioner Vayssieres said tabling this item to June will give the Commission the benefit of knowing what the Planning Commission said about this item on May 27. Commissioner Allen then made a motion to table this item until the June agenda. Therefore, on a motion by Commissioner Allen, seconded by Commissioner Vayssieres, the Commission voted 4-0-2-0 to table this item until the June agenda (Ayes – Allen, Huber, Millstein, Vayssieres; Noes – None; Absent – Klineberg, Shaw; Abstentions – None).

**7. Commission and Staff Communications**

**Commission Work Plan**

The Commission work plan was not discussed.

**Upcoming Meeting Date, Time, Items**

The next regularly scheduled Commission meeting is June 1. Possible agenda items discussed include (1) the renewal of Measure J, (2) the Open Space Program budget, (3) the tentative map and proposed agricultural buffer design for the Bretton Woods project, and (4) the agricultural land mitigation proposal associated with the Bretton Woods project.

**Upcoming Events**

Ms. Reynolds mentioned that the Planning Commission will discuss the renewal of Measure J on May 27. She also mentioned that staff took down the temporary fence and opened the North Davis Upland Habitat Area this month.

**Working Groups**

1. *Acquisitions*. No updates were reported.
2. *Habitat Restoration and Enhancement*. No updates were reported.
3. *Land and Resource Management*. No updates were reported.
4. *Public Access and Recreation*. No updates were reported.
5. *Financial and Program Accountability*. No updates were reported.
6. *Public Engagement and Partnerships*. No updates were reported.

**8. Adjourn**

The meeting was adjourned at approximately 10:05 p.m.