

City of Brisbane

Agenda Report

TO: Honorable Mayor and City Council

FROM: Community Development Director via City Manager

SUBJECT: Baylands Environmental Impact Report (EIR) Process Considerations

DATE: Meeting of February 21, 2012

City Council Goals:

To provide for effective and efficient delivery of City services (Goal #1)
To encourage community involvement and participation. (Goal #15)

Purpose:

To provide direction on the processing of the Baylands Draft EIR when published.

Recommendation:

That the City Council consider the procedural issues identified in this report and provide direction as it deems appropriate.

Background/Discussion:

Work is progressing on the Baylands Draft EIR and publication of the document is projected for late Spring 2012. Release of the Draft EIR will initiate a long awaited and intense public review process.

The City has a great deal of flexibility in how to organize and manage the Draft EIR public review process. It will be important for a clear and logical process to be established that provides ample opportunity for public comment within reasonable time limits. In developing such a schedule there are a number of procedural/policy questions for the City Council to consider as discussed below.

How long should the public comment period be for the DEIR?

State law (CEQA Guidelines section Section 15105(a)) specifies a comment period of no less than 30 days and no more than 60 days "except under unusual circumstances." It is recognized that the scope and complexity of the project and EIR could be argued to constitute "an unusual circumstance" warranting additional time. It will be up to City

Council to determine what length of time it considers reasonable. In discussions with the Brisbane Baylands Citizens Advisory Group (BBCAG) time periods in the order of 90-120 days were mentioned as being “reasonable.” It should be noted that the City Council also retains the ability to establish a comment period and extend it if needed.

Which city body(s) should hold public meetings on the Draft EIR?

The typical EIR process includes public meetings as necessary before the Planning Commission on the Draft EIR. These meetings typically provide City staff and the EIR consultant the opportunity to make an in-depth presentation on the Draft EIR, and allow for the commission and public to ask questions and make comments on the Draft EIR.

In the case of the Baylands Draft EIR, the City Council has already directed that it be referred to the Open Space and Ecology Committee and Parks and Recreation Commission for review within their respective realms of expertise.

There are several options for review by multiple advisory bodies. One approach would be for each advisory body to hold independent meetings on the draft EIR. Another option is for the advisory bodies to hold joint meetings as needed. Each of these approaches has potential advantages and drawbacks, but both are feasible. From staff’s perspective the most important consideration is to ensure that the review process is made clear to the public and the advisory bodies well in advance of EIR publication.

What role does the City Council wish to play in the Draft EIR review process?

In the typical City process for a project involving an EIR, the City Council does not hold hearings or participate directly in the review of the Draft EIR. Rather, the City Council as the final decisionmaking body has the responsibility to take action on the Final EIR and the project that that was the subject of the EIR. The City Council uses the Final EIR (Draft EIR, comments on the Draft EIR and Responses to EIR) and input from advisory bodies and the public review process as the basis for decisionmaking.

If the City Council wishes to take a more active role in the Draft EIR review process than typically occurs, care will need to be taken to ensure that due process is followed and the Council’s participation in reviewing the Draft is not construed as predetermining the City Council’s action on the Final EIR or project as a whole, especially since all the information (formal EIR comments, and responses to comments) will not be available during the draft EIR comment period.

Potential use of outside consultants to facilitate EIR review?

It has come to staff’s attention there may be a desire on the part of the Council to explore this option. There needs to be clarity as to the scope of the services and duties to be performed in the event this option is pursued.

Fiscal Impact:

An expanded EIR review process may result in EIR consultant costs not presently included within the budgeted scope of work. Any increases to the EIR consultant budget

required to accommodate the City's review process would be the obligation of the applicant (UPC).

Measures of Success:


To implement an EIR review process which is thorough, timely, and efficient.

Attachments:

None



John Swiecki, Community Development Director



Clay Holstine, City Manager