

**Coachella Valley Conservation Commission  
Meeting Minutes  
June 12, 2008**

**1. CALL TO ORDER**

The meeting of the Coachella Valley Conservation Commission (“CVCC”) was called to order by Chair Richard W. Kite at 11:04 a.m.

**2. PLEDGE OF ALLEGIANCE**

Chair Kite led in the Pledge of Allegiance.

**3. ROLL CALL**

Roll call was taken and it was determined that a quorum was present.

**Members Present**

Mayor Kathy De Rosa  
Mayor Pro Tem Larry Spicer  
Councilmember Ben Godfrey  
Mayor Pro Tem Stanley Sniff  
Councilmember Richard W. Kite  
Councilmember Cindy Finerty  
Councilmember Chris Mills  
Councilmember Terry Henderson  
(alternative for Supervisor Tavaglione)  
Supervisor Roy Wilson  
Supervisor Marion Ashley  
Board Member Corky Larson

**Agency**

City of Cathedral City  
City of Indian Wells  
City of Indio  
City of La Quinta  
City of Rancho Mirage  
City of Palm Desert  
City of Palm Springs  
County of Riverside – 2<sup>nd</sup> District  
  
Riverside County – 4<sup>th</sup> District  
Riverside County – 5<sup>th</sup> District  
Coachella Valley Water District

**Members Absent**

Mayor Eduardo Garcia  
Board Member Anthony Sanchez

**Agency**

City of Coachella  
Imperial Irrigation District

**Others Present**

Councilmember Steven Hernandez  
Bill Havert  
Geary Hund  
Kerrie Marshall  
Monica Swartz  
Chuck Nisbet  
Mary Justice  
Marie Obbagy  
William Obbagy

Riverside County (5<sup>th</sup> District alternate)  
Coachella Valley Mountains Conservancy  
Coachella Valley Mountains Conservancy  
Coachella Valley Mountains Conservancy  
CVWD  
Coachella Valley Hiking Club  
Landowner  
Landowner  
Landowner

**CVAG Staff Present**

John Wohlmuth  
Gary Leong  
Katie Barrows  
Jim Sullivan  
Linda Rogers

Executive Director  
Director of Administrative Services  
Director of Environmental Resources  
GIS Program Director  
Program Assistant II

4. **FINALIZATION OF AGENDA & ADDITIONS AND REVISIONS**

John Wohlmuth indicated that there were no revisions or additions to the agenda. There is additional backup material, however, for item no. 14. Katie Barrows indicated that the supplemental information was distributed to CVCC members and additional copies are available.

**IT WAS MOVED BY MAYOR PRO TEM SNIFF AND SECONDED BY COUNCILMEMBER FINERTY TO ACCEPT FINALIZATION OF THE AGENDA.**

**THE MOTION CARRIED.**

5. **PUBLIC COMMENTS**

John Wohlmuth, CVCC Executive Director, indicated that in reviewing the public comment cards, some of the public comments are about the Plan and some may be related to item no. 14, the Desert Hot Springs Planning Agreement. It was recommended that any public comment related to item no. 14, be heard under that item in the agenda. After some inquiry about the public comments, the CVCC Chair determined that the comments were general comments about the Plan and therefore would be heard under item no. 5.

Teresa Obrev – Ms. Obrev first wished to congratulate Mayor Kathy De Rosa on her birthday. Ms. Obrev expressed her concerns alleging that Riverside County and the cities are illegally taking away property from private landowners. Ms. Obrev also addressed her concern about a valley city taking police officers off the beat. Ms. Obrev asked the CVCC for help in addressing her concerns.

Alvaro Sandoval – Mr. Sandoval addressed the CVCC indicating that with all due respect he is interested in seeing that “liberty and justice for all” is carried out for all especially as it relates to property owners. Mr. Sandoval expressed concern related to CVAG’s request for the MSHCP Permit alleging that CVAG is favoring builders/developers. Mr. Sandoval conveyed that he works very hard and wants to keep his property. Mr. Sandoval gave a brief description of where his property was located in Desert Hot Springs and indicated that he has invested his money in the property.

Phil Kerr – Mr. Kerr indicated that he is opposed to the habitat plan because he believes it to be unfair to the landowners. Mr. Kerr owns three properties totaling 24 acres in the conservation area, bordered by the City of Desert Hot Springs on the North side and on the west side. Mr. Kerr stated that the burden of the habitat plan should not fall on just the property owners but on the whole valley stating that the private land is what makes it possible for economic development. Mr. Kerr indicated that his opposition to the Plan is not based on greed but rather on fairness.

Mary Justice – Ms. Justice indicated that she has filed another lawsuit against development fees for the CVMSHCP citing that without money, individuals cannot be hired and the necessary studies will not be performed as required by the US Fish & Wildlife Service. Ms. Justice went on to say that the Plan is not scientific, unjust and it is unconstitutional. Ms. Justice further expressed her concern about the market value of her land. Ms. Justice stated that the land is her retirement and that of her co-owner; and they will continue to keep fighting.

6. **CVCC MEMBER/EXECUTIVE DIRECTOR COMMENTS**

None.

7. **CORRESPONDENCE**

7A Letter from Desert Trails Coalition

Katie Barrows indicated that the letter from the Desert Trails Coalition was received on June 2, 2008. The Desert Trails Coalition expressed interest in having participation in the process when we begin the research program for the CVMSHCP. The Desert Trails Coalition (DTC) is requesting a trails representative be included in that process. The DTC has recommended Dr. Charles Nisbet as the representative.

Staff indicated that both the new Trails Map for the Santa Rosa, San Jacinto Mountains National Monument as well as the new National Monument brochure have been distributed to members of the CVCC. The maps were provided by the Friends of the Desert Mountains and the Wilderness Society. Today at 10:00 a.m. there was a dedication of the new Trails Map at the Santa Rosa and San Jacinto Mountains National Monument Visitor Center.

8. **ELECTION OF CHAIR AND VICE CHAIR FOR FY 2008/09**

John Wohlmuth asked for nominees for CVCC Chair and Vice Chair.

**It was moved by Supervisor Wilson and seconded by Councilmember Sniff that the CVCC keep its current slate of officers for FY 2008/09: Richard W. Kite, Chair and Kathy De Rosa, Vice Chair.**

**The motion was unanimously carried.**

9. **CONSIDER ESTABLISHING ACQUISITION PROCEDURES POLICY NO. CVCC-08-002**

Jim Sullivan prefaced this report with some background information on the Acquisition and Funding Coordinating Committee. As outlined in the Plan, this committee is established by the CVCC. At the June 8, 2006 meeting, all the CVCC members elected to be members of the Acquisition and Funding Coordinating Committee. Staff indicated that the Wildlife Agencies are ex officio members of the Acquisition and Funding Coordinating Committee. The committee's purpose is to advise CVCC on land acquisition and funding priorities. The committee also provides a forum for discussion on land acquisition for the CVMSHCP among agencies such as Fish and Game, US Fish and Wildlife Service, Forest Service, National Park Service, State Parks and the Coachella Valley Mountains Conservancy. Jim Sullivan referenced the staff recommended motion making it clear that today the CVCC is being asked to adopt this policy for the Acquisition and Funding Coordinating Committee. Staff also requested modifying the policy to include a reference to Plan Sections 6.1.1 Responsibilities of CVCC; and 6.1.2 Responsibilities of the Acquisition and Funding Coordinating Committee. Staff reiterated for the purpose of clarification that although the CVCC is currently acting as a committee of the whole, the Acquisition and Funding Coordinating

Committee is still a separate committee with the Wildlife Agencies as ex officio members. Board Member Larson asked for a clarification on the ex officio members. Staff indicated that ex officio members are included in discussions, but they are without a vote.

Bill Havert discussed the intent of recommending an Acquisitions & Procedures Policy for adoption by the CVCC so that the Acquisitions Program can be implemented quickly as soon as the Permits for the Plan are issued. The Policy provided in the agenda packet is intended for the CVCC's involvement at critical points in the acquisition process so that the staff and Acquisitions Manager have adequate direction from the CVCC to ensure adequate communication between staff and the decision making body and so that staff and the Acquisitions Manager can respond to and work with landowners and work to accomplish the MSHCP objectives in a timely manner. Bill referred to the proposed Policy included in the agenda packet. Bill Havert offered to answer any questions from the CVCC.

**It was moved by Supervisor Ashley and seconded by Councilmember Sniff that the CVCC adopt Acquisition Procedures Policy No. CVCC-08-002 as a policy of the Acquisition and Funding Coordinating Committee, with the inclusion of references to Plan Sections 6.1.1 Responsibilities of CVCC and 6.1.2 Responsibilities of the Acquisition and Funding Coordinating Committee.**

The motion carried.

**10. CONSIDER APPLICATION FOR CDFG LOCAL ASSISTANCE GRANT (BIOLOGICAL MONITORING PROJECT)**

Jim Sullivan stated that the Local Assistance Grant has been very helpful over the years, and we would like to apply for it again this year. As we move into the Implementation phase of the MSHCP, our focus will be on the tasks that we are required to do. Jim Sullivan added that this year we are in the process of working with UC Riverside and the Coachella Valley Water District on the proposal that would include requirements in the Plan for monitoring the Burrowing Owl. We are required to do surveys of the flood control dikes and berms and to develop an educational manual for the maintenance staff of CVWD, IID, and the County Flood Control District. We would like to apply for a grant that would include these items. The grant process has just begun so an actual amount is not yet available. Jim Sullivan recommended that the CVCC pass Resolution 08-003 allowing the Executive Director to determine the amount for the application. The grant amount is anticipated to be in the range of \$100,000 to \$150,000.

**It was moved by Councilmember Henderson and seconded by Mayor De Rosa that the CVCC adopt Resolution 08-003 authorizing an application for a California Department of Fish and Game Local Assistance Grant in an amount to be determined by the Executive Director.**

The motion carried.

**11. CONSIDERATION OF RESOLUTION 08-002 ESTABLISHING A FEE COLLECTION AND REMITTANCE POLICY**

Jim Sullivan stated that the proposed policy has been developed with input from the Implementation Manual Subcommittee and in discussions with the Western Riverside

Regional Conservation Authority on the fee procedures. Staff is suggesting that the collection of the MSHCP fee follow as much as possible the process used to collect the Transportation Uniform Mitigation Fee (TUMF), as this has been the process that the cities are accustomed to. A monthly payment of the fee collected would be required by the 20<sup>th</sup> day of the month just like TUMF. The jurisdictions would be allowed to keep 1% of the fee to cover administrative costs, and the fee credits will be reported to the CVCC. Jim Sullivan indicated that there would also be an annual audit of the fees collected. The idea is to do everything simultaneously with TUMF. Mayor De Rosa asked for clarification on what the additional burden to a city would be by requiring both the TUMF and MSHCP fee due on the same day rather than requiring it a week before or a week after. Staff indicated that the fee could be collected a week before, however, the end date is the same as the TUMF due date. Mayor De Rosa indicated that cities should also have enough time to do this. Jim Sullivan indicated that the Nexus Study sets the maximum amount that the fee can be. The fee is not being raised but the policy will allow the jurisdiction to keep 1% to cover their administrative costs.

**It was moved by Councilmember Sniff and seconded by Mayor Pro Tem Spicer that the CVCC adopt Resolution 08-002 establishing a Fee Collection and Remittance Policy.**

**The motion carried.**

**12. CONSIDER FORMING A SELECTION COMMITTEE TO REVIEW RESPONSES TO MONITORING PROGRAM ADMINISTRATOR REQUEST FOR PROPOSALS (RFP)**

Jim Sullivan indicated that an RFP will be soon be released for the Monitoring Program Administrator. This will be a very complicated contract. The Monitoring Program Administrator has all responsibilities for completing the biological monitoring program plus our Plan calls for a lot of interaction between the Land Manager and the Monitoring Program Administrator. Jim Sullivan anticipates that RFP's will be returned by the end of July or beginning of August and then interviews will follow. Staff is suggesting that a member of the CVCC, a staff member from BLM, and a private or academic biologist with local knowledge make up the selection committee to review responses.

The consensus of the CVCC was to designate Richard W. Kite, CVCC Chair, to serve on the Selection Committee.

**It was moved by Supervisor Wilson and seconded by Board Member Larson that the CVCC form a Selection Committee to review responses to the Monitoring Program Administrator Request for Proposal and designate Richard W. Kite as the CVCC representative.**

**The motion carried.**

**13. CONSIDERATION OF AN AGREEMENT BETWEEN THE CVCC AND KINDER MORGAN ENERGY PARTNERS, L.P. FOR CVCC TO RECEIVE \$34,800 TO BE USED FOR ACQUISITION OF 0.87 ACRES OF COACHELLA VALLEY FRINGE-TOED LIZARD HABITAT OR SAND TRANSPORT FOR COACHELLA VALLEY FRINGE-TOED LIZARD HABITAT**

Katie Barrows stated that Kinder Morgan Energy Partners, L.P. ("Kinder Morgan") is a

company that is developing an underground facility and they have been working with the Department of Fish and Game to mitigate the impacts of that project. Through discussions, it was determined that it may be more of a streamlined process for Kinder Morgan to work with the CVCC to acquire mitigation land. As a result of this project, Kinder Morgan is impacting some of the Fringe-Toed Lizard Habitat. Through discussions with the Department of Fish and Game it was determined that in order to compensate for that impact, Kinder Morgan would need to acquire 0.87 acres of Fringe-Toed Lizard Habitat or land that functions as sand transport. Further discussion ensued regarding the land acquisition and acquisition costs.

Staff has been in discussions with the Department of Fish and Game and Kinder Morgan to develop the agreement. If the CVCC accepts the proposed agreement, the CVCC would accept \$34,800 for 0.87 acres based on an estimate of land values and consultation with the Land Acquisitions Manager, Bill Havert, of the Coachella Valley Mountains Conservancy. Staff has determined by looking at recent appraisals that \$40,000 per acre was a reasonable amount for acquisition of suitable land. Kinder Morgan was informed that the CVCC would be able to accept those funds and complete the mitigation. The Department of Fish and Game will be receiving endowment funds that could be used for management and they have agreed to work with us on the management of this area.

**It was moved by Councilmember Sniff and seconded by Mayor De Rosa that the CVCC:**

- 1) Approve the agreement between the CVCC and Kinder Morgan Energy Partners, L.P. for CVCC to receive \$34,800 to be used for acquisition of 0.87 acres of Coachella Valley Fringe-toed Lizard Habitat or Sand Transport for Coachella Valley Fringe-toed Lizard Habitat, and**
- 2) Authorize the Chair or the Executive Director to sign all necessary documents, pending final review and approval by Counsel.**

**The motion carried.**

**14. CONSIDERATION OF A DRAFT PLANNING AGREEMENT WITH THE CITY OF DESERT HOT SPRINGS REGARDING FUTURE PARTICIPATION IN THE COACHELLA VALLEY MULTIPLE SPECIES HABITAT CONSERVATION PLAN (CVMSHCP)**

Katie Barrows indicated that CVAG has been working with the City of Desert Hot Springs to look at the process for them to ultimately join the MSHCP. On March 18, 2008 the City of Desert Hot Springs passed a resolution indicating their interest in joining the Plan, and implementing an interim process to assure consistency with the Plan for projects within their city limits. As a part of that resolution, the City of Desert Springs requested that projects within and adjacent to the conservation areas be included in the joint project review process to determine consistency with the Multiple Species Plan. A number of meetings have occurred with city staff to discuss the potential opportunities. Staff proposed to the City of Desert Hot Springs that a draft planning agreement be prepared and approved by the Desert Hot Springs City Council before the City would be included in the interim project review process. Katie Barrows further discussed the Planning Agreement. Katie Barrows indicated that the document is a template document from the Wildlife Agencies with a "fill in the blank format". Katie provided a redline copy of the

Planning Agreement with recommended changes by CVAG staff. The changes related to the addition of the City of Desert Hot Springs as a potential Permittee in the Plan and as much as possible referenced the existing Plan Documents.

A map was provided to the CVCC identifying what has been discussed with the City of Desert Hot Springs regarding the MSHCP boundaries; we would use the February 2006 Plan which included the City of Desert Hot Springs. Discussion ensued about some private parcels within the city limits that were removed in 2007; those parcels would be put back into the Conservation Area as shown on the map. Also in 2007, provisions were made for a Morongo Wash Flood Control Project. We would incorporate the corridor that was identified for that flood control project. The map essentially showed the Conservation Areas as proposed to the City of Desert Hot Springs in order for them to participate in the Plan. Discussion ensued on the process of the Planning Agreement which would include Desert Hot Springs completing a major amendment. The major amendment would require an environmental document, specifically an EIR. The City of Desert Hot Springs is now working with consultants to identify the cost of preparing an EIR. Katie identified the agencies that would need to approve the Planning Agreement. Ultimately the document would go to the Department of Fish and Game for their legal approval and then be signed by the CVCC, the City of Desert Springs, Department of Fish and Game and the US Fish & Wildlife Service. Katie asked for the CVCC's feedback and direction. The information provided to the City of Desert Hot Springs is that they would be responsible for providing funding for developing the EIR and all consultant related costs. Katie Barrows provided a rough estimate of the costs to CVAG and the CVCC in terms of staff time to complete the interim project review process for projects within Desert Hot Springs. An estimate of the additional staff time needed to work on finalizing the Planning Agreement was provided; an estimate of the costs related to completing the entire major amendment process has not been completed.

Further discussion ensued regarding the intent of the City of Desert Hot Springs to approve the Planning Agreement. Some of the comments and concerns expressed by were identified as follows:

- 1) Are discussions open with property owners so that they clearly understand what is going on, where there property is and how it will or will not be impacted.
- 2) Establish position of CVWD to address non-specific costs that are not included in the Plan Agreement and who absorbs those costs. Discussion of recouping \$1,000,000 already expended to remove the City of Desert Hot Springs from the Plan after they opted out.
- 3) City of Desert Hot Springs putting together a budget committee to address costs and move forward earnestly given the past decision.
- 4) City of Desert Hot Springs is acting as though they are in the Plan in that applicants must comply with the guidelines of the Plan.
- 5) Issues of costs have been brought up to the City of Desert Hot Springs, and they are aware that there may be additional questions in the future.

Staff was urged to provide an analysis of the cost completing a major amendment to include Desert Hot Springs for an open discussion. Katie Barrows explained the intent of the Planning Agreement was to provide an official step to include the City of Desert Hot Springs in the Joint Project Review Process. Staff concurred to come back with some recommendations on the cost issues that have been brought forward by Supervisor Wilson and Board Member Larson. CVCC will be putting together a budget over the next

few months and will include the potential costs for completing the major amendment process. John Wohlmuth added that there are Permittees within the City of Desert Hot Springs, including Riverside County Flood Control District and CVAG for regional roads. Some joint project reviews will need to be done anyway for roads and flood control within Desert Hot Springs.

Councilman Russell Betts from the City of Desert Hot Springs addressed the Commission. He indicated the City is anxious to join the Plan. He requested that the CVCC approve the draft Planning Agreement and noted that it would be considered by the Desert Hot Springs City Council at their next meeting.

Supervisor Wilson added that he was ready to move approval with the direction to staff to keep a very close eye on staff costs; and that to separate out what they would have to do anyway for the CVMSHCP (Morongo Wash and the roads, etc.), because we are doing what we already did once and we have to do it over again so to keep track of extra costs which would be directed to the City of Desert Hot Springs to cover.

**It was moved by Supervisor Wilson and seconded by Councilmember Godfrey that:**

- 1) The CVCC approve the Draft Planning Agreement with the City of Desert Hot Springs and authorize the Chair or the Executive Director to sign all necessary documents, pending final review and approval by Counsel.**
- 2) Direct staff to closely keep track of all staff costs, separate out what they would normally have to do for the CVMSHCP Permittees, and keep track of extra costs; and, that those costs be directed to the City of Desert Hot Springs to cover.**

**The motion carried.**

**15. APPOINTMENT OF CVCC EXECUTIVE DIRECTOR**

**It was moved by Supervisor Wilson and seconded by Councilmember Sniff that the CVCC appoint John Wohlmuth to act as CVCC Executive Director.**

**The motion carried.**

**16. PROPOSED CHANGES TO COACHELLA VALLEY CONSERVATION COMMISSION'S PER DIEM RATE AND POLICY NO. CVCC-08-01**

**It was moved by Councilmember Sniff and seconded by Supervisor Ashley that the CVCC approve:**

- 1) Increasing CVCC's per diem payments to \$75.00 per member per meeting; and**
- 2) CVCC's Amended Per Diem Policy No. CVCC-08-01.**

**The motion carried.**

**17. CONSENT CALENDAR**

**Approval**

17A Approve Minutes of the May 8, 2008 Coachella Valley Conservation Commission.

**It was moved by and seconded to approve the Minutes of the May 8, 2008 Coachella Valley Conservation Commission.**

**The motion carried.**

**Information**

17B CVCC 2008 Attendance Roster

The Attendance Roster was received by the CVCC as an information item.

**18. ANNOUNCEMENTS**

- The next meeting of the **Coachella Valley Conservation Commission** is scheduled for **July 10, 2008** at 11:00 a.m.
- The CVAG Executive Committee meeting is scheduled for **June 30, 2008** at 4:00 p.m. at the Agua Caliente Resort & Casino in Rancho Mirage.
- The CVAG General Assembly is scheduled for **June 30, 2008** at 6 p.m. at the Agua Caliente Resort & Casino in Rancho Mirage.

**19. ADJOURNMENT**

There being no further business, the meeting of the CVCC adjourned at 12:04 p.m.

Respectfully submitted,

Linda Rogers  
Program Assistant II