

COACHELLA VALLEY CONSERVATION COMMISSION
Meeting Minutes
October 8, 2009

1. CALL TO ORDER

The meeting of the Coachella Valley Conservation Commission (“CVCC”) was called to order by Chair Richard W. Kite at 11:03 a.m. on October 8, 2009.

2. PLEDGE OF ALLEGIANCE

Chair Richard W. 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, Vice-Chair
Mayor Eduardo Garcia
Councilmember Bill Powers
Councilmember Ben Godfrey
Councilmember Stanley Sniff
Mayor Pro Tem Cindy Finerty
Mayor Pro Tem Chris Mills
Councilmember Richard W. Kite, Chair
Councilmember Terry Henderson
Larry Ward, Assessor-County Clerk-Recorder (Alternate Member)
Mayor Pro Tem Steven Hernandez
(alternate for Supervisor Marion Ashley)
Board Member Corky Larson
Board Member Anthony Sanchez

Agency

City of Cathedral City
City of Coachella
City of Indian Wells
City of Indio
City of La Quinta
City of Palm Desert
City of Palm Springs
City of Rancho Mirage
County of Riverside, 2nd District
County of Riverside, 4th District

County of Riverside, 5th District
Coachella Valley Water District
Imperial Irrigation District

Others Present

George Johnson
Carolyn Syms Luna
Bill Havert
Councilmember Russell Betts
Rick Daniels
Dee Bradshaw
Ken Waxlax

County of Riverside
County of Riverside
Coachella Valley Mountains Conservancy
City of Desert Hot Springs
City of Desert Hot Springs
IID
Peter Murray and Associates

CVAG Staff

Tom Kirk, Executive Director
Katie Barrows, Director of Environmental Resources
Gary Leong, Director of Administrative Services
Jim Sullivan, GIS Program Director
Linda Rogers, Program Assistant II

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

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

5. **PUBLIC COMMENTS**

None.

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

None.

7. **CORRESPONDENCE**

Katie Barrows stated that Mission Springs Water District Board (MSWD) passed a Resolution of Intent to participate in the MSHCP as a Permittee. MSWD is currently working with the City of Desert Hot Springs and CVCC staff to identify the cost associated with their participation in the Major Amendment. Dudek is the consultant contracted by the City of Desert Hot Springs to work on the Major Amendment and they will be looking at how MSWD can join this effort.

8. **UPDATE ON AMENDED POLICY FOR INITIAL IMPLEMENTATION OF THE LOCAL DEVELOPMENT MITIGATION FEE**

Tom Kirk reported that there are some ambiguities and challenges in administering the mitigation fee, both the fee itself as well as the exemption. Staff has been working with the Building Industry Association (BIA) and others to fine tune the administration of the fee so that it is equitable across all of the jurisdictions and equitable within projects. Mr. Kirk discussed the problems associated with the fee and the exemption policy. Tom Kirk added that he was not yet ready to make a recommendation and explained that he has met with various members of the subcommittee that were assigned to work on this: Mayor Pro Tem Mills, Board Member Larson, Councilmember Kite. Among the challenges are administration of the fee and the current exemption policy. Mr. Kirk reported that he has compiled an outline summarizing this information, and hopes to be able to provide the information at the next meeting. The BIA has pledged to work with the CVCC on tightening the definition for things like improvements: i.e., what is a pipeline project and what is not. Mr. Kirk commented that he hoped to have a recommendation in November on how to address these issues.

9. **CONSIDER SELECTION COMMITTEE FOR RESERVE MANAGEMENT UNIT PLANS CONTRACTOR**

Staff reported that a request for proposals for the Reserve Management Plans went out and proposals are due on October 13, 2009. Jim Sullivan commented that he hopes to bring a contract back at the next meeting in November. An interview time has been scheduled with a selection committee including BLM and the U.S. Fish and Wildlife Service on the afternoon of Tuesday, October 27. Staff inquired if anyone on the CVCC wished to participate on the selection committee. Staff will choose the top three or four proposals and then those contractors will be interviewed on October 27. Board Member Larson asked the CVCC to consider the Chair and Vice Chair for the selection chair.

Chair Kite indicated he would be happy to participate on the selection committee and Vice Chair De Rosa agreed to participate as well. Mayor Pro Tem Mills indicated that he would like to see two members of the CVCC serving on the selection committee. Jim Sullivan added that the selection committee was scheduled to meet on October 27, at 1:00 p.m. for the interviews. Chair Kite and Vice Chair De Rosa both concurred that their schedules were clear to meet on October 27.

IT WAS MOVED BY MAYOR PRO TEM HENDERSON AND SECONDED BY MAYOR PRO TEM FINERTY THAT THE CVCC AUTHORIZE FORMATION OF A SELECTION COMMITTEE TO CHOOSE A CONTRACTOR FOR RESERVE UNIT MANAGEMENT PLANS AND APPOINT CHAIR KITE AND VICE CHAIR DE ROSA TO PARTICIPATE ON THE SELECTION COMMITTEE.

THE MOTION CARRIED.

10. CONSIDER ACQUISITION OF PARCELS FROM JOHN CHARLES BALLINGER, ET AL

Acquisitions Manager Bill Havert discussed a map showing the parcels that are described and outlined in the staff report. These acquisitions together go a long ways in accomplishing some of the conservation objectives in that area. Mr. Havert stated that there is one change to what was in the agenda packet. Since we are expecting to use Federal Section 6 Grant Funds as well as State EEM Grant Funds for this acquisition, we have discovered that there is slightly different set of rules on the transactions such that for state or federally funded transactions, the buyer is required to pay all of the escrow fees instead of the normal 50/50 split between buyer and seller. The buyer is also required to pay for the policy of title insurance. The affect of that is that it will increase the cost of this transaction by about \$2500. Bill Havert also stated that by using state and federal funds, only a marginal amount of this will actually end up coming out of the CVCC's pocket. The Resolution included in the packet will require a slight amendment in order to reflect the additional costs. Bill Havert provided a few suggestions to the CVCC in connection with amending the language relative to paragraph 7 of the Resolution as it related to handling the costs. There was a suggestion made that the Executive Director check with the CVCC Chair on the final costs.

IT WAS MOVED BY COUNCILMEMBER SNIFF AND SECONDED BY MAYOR PRO TEM FINERTY THAT THE CVCC APPROVE RESOLUTION 09-024 AUTHORIZING ACQUISITION OF APNS 660-030-002, 660-030-003 AND 660-030-004 FOR A TOTAL COST NOT TO EXCEED \$648,000.00 PLUS THE CVCC'S SHARE OF THE COST AND AUTHORIZE THE EXECUTIVE DIRECTOR TO DETERMINE THE FUNDING SOURCES FOR THE ACQUISITION UPON CONFERRING WITH THE CVCC CHAIR.

THE MOTION CARRIED.

11. CONSIDER ACCEPTANCE OF PARCELS FROM FRIENDS OF THE DESERT MOUNTAINS

Bill Havert discussed parcels in the Thousand Palms Conservation Area and described the parcel locations. The property to be transferred was purchased with a combination of funds including an Environmental Enhancement Mitigation (EEM) grant that had gone to the Friends of the Desert Mountains (FODM). The majority of the funds actually came

from the CVCC, originally a loan from CVAG to CVCC. The FODM would like to transfer this property to the CVCC for management as outlined in the staff report.

IT WAS MOVED BY COUNCILMEMBER SNIFF AND SECONDED BY MAYOR PRO TEM FINERTY THAT THE CVCC APPROVE RESOLUTION 09-025 ACCEPTING TWO PARCELS TOTALING APPROXIMATELY 100 ACRES, APNs 651-030-001 AND 651-230-009 IN THE THOUSAND PALMS CONSERVATION AREA FROM THE FRIENDS OF THE DESERT MOUNTAINS SUBJECT TO THE CONDITIONS DESCRIBED BELOW; AND AUTHORIZE THE EXECUTIVE DIRECTOR TO EXECUTE AN ASSIGNMENT AND ASSUMPTION AGREEMENT WITH THE FRIENDS AND CALTRANS AGREEING TO MANAGE THE PROPERTY IN PERPETUITY FOR CONSERVATION IN ACCORDANCE WITH THE AGREEMENT DECLARING RESTRICTIVE COVENANTS ON THE PROPERTY.

THE MOTION CARRIED.

12. CONSIDER SUBGRANT AGREEMENTS WITH WILDLIFE CONSERVATION BOARD

Bill Havert indicated that this item goes back to the earlier approval of the Ballinger property acquisition and the one last month for the Kading property acquisition. The intent is to fund those acquisitions with a combination of an EEM grant that the Commission received this year and the federal Section 6 dollars that are earmarked for implementation of the MSHCP. Those funds actually go to the state Wildlife Conservation Board which can then subgrant them to this agency so that this agency will actually do transactions and take title to the land and manage them. The subgrant is what is required by the Wildlife Conservation Board to complete the transfer of funds.

Chair Kite suggested that it would be helpful as we go through these acquisitions to bring the CVCC up to date on those properties that have been acquired. Chair Kite stated that the list should include the overall view of the parcels, size of the parcel, and the dollar amount so that we can keep track of where we are. At the same time the CVCC would also like to have a list of those parcels that we are still looking at. Mr. Havert added that at the next meeting, the CVCC will be provided with a map of everything that has been acquired to date along with a simple spreadsheet or table to show how many acres have been acquired.

IT WAS MOVED BY COUNCILMEMBER SNIFF AND SECONDED BY MAYOR PRO TEM FINERTY THAT THE CVCC APPROVE RESOLUTION 09-026 APPROVING SUBGRANT AGREEMENTS WITH THE WILDLIFE CONSERVATION BOARD (WCB) FOR RECEIPT BY CVCC OF FEDERAL SECTION 6 COOPERATIVE ENDANGERED SPECIES CONSERVATION FUND MONEY TO BE USED IN THE ACQUISITION OF APNS 660-030-002, 660-030-003 AND 660-030-004 (ONE SUBGRANT) AND THE ACQUISITION OF APN 660-060-032 (SECOND SUBGRANT).

THE MOTION CARRIED.

13. UPDATE ON AN AGREEMENT WITH THE CITY OF DESERT HOT SPRINGS FOR REIMBURSEMENT OF COSTS ASSOCIATED WITH A MAJOR AMENDMENT

Tom Kirk stated that at September's meeting there was a draft recommendation on the agenda for a contract between the CVCC and the City of Desert Hot Springs (City) that would involve the City paying back the CVCC \$1.2 Million related to the cost associated

with the recirculation of the Plan; and, that the \$1.2 Million would be forgiven if Desert Hot Springs successfully was amended into the Plan. A number of questions and concerns were brought forward by the Commissioners. The Executive Director was directed by the CVCC to go back to the City to discuss creative ways to provide for reimbursement. It was also requested by the Commission that the City of Desert Hot Springs be present to discuss this item.

Tom Kirk indicated that staff does not have a recommendation at this stage, however, discussions are still underway with the City of Desert Hot Springs. Councilmember Russell Betts and Rick Daniels, City Manager, with the City of Desert Hot Springs were present and addressed the Commission.

Mr. Daniels indicated that since the new City Council took over in November 2007, they have been repeatedly supportive of the Multiple Species Plan. Chair Kite was thanked for helping the new key elected officials understand the need to change direction. The electorate replaced the council and the council has unanimously endorsed their commitment to join the Plan and directed staff to do whatever is necessary to do so. The City has allocated \$300,000 to conduct the environmental studies and nexus studies to pay the third party costs for doing the project. The City is waiting for agreements from the environmental agencies on the process that will be used to include the City in the Plan through a Major Amendment. The City has been working closely with CVAG staff and has engaged the same consultant that wrote the 2007 Plan for CVAG. Mr. Daniels described the efforts and practices that the City has taken to come into compliance with the Plan. The City has adopted the fees that are required and adopted the preservation of the conservation area for the new annexation areas. The City is also involved in implementing the MSHCP. A process has been established that anyone proposing to develop in or near a conservation area has to go through a Project Review with CVAG staff before their application is considered complete. Mr. Daniels further went on to explain the financial situation of his City and acknowledged that a mistake in public policy was made and the costs associated therein. Rick Daniels stated he has been working with CVAG's Executive Director, Tom Kirk, to come up with a creative and firm proposal that will be brought back for the Commission's consideration.

Responses from Commissioners:

- Mayor Pro Tem Finerty - Appreciates the efforts by the City, however, there are no guarantees what position the electorate will take in the future. CVCC and CVAG have a fiduciary responsibility to do what is fair and equitable to the other cities. To forgive money creates unnecessary hardship and is not in balance with our duties in representing the entire valley. Commissioner Finerty proposed repayment by the City to the CVCC at \$50,000 a year over the period of 24 years without interest.
- Board Member Larson – Every single jurisdiction has to sign off on the plan. If you negotiate something that seems unfair to their constituency, then lots of time has been wasted. Reflected CVWD's position along the lines of what Cindy Finerty has proposed. It is unfair to CVWD ratepayers, and CVWD has to make that decision.
- Mayor Pro Tem Henderson – Ms. Henderson indicated she needs to have more information before making a determination. She asked about the value of the land the city might offer. She indicated flexibility in terms of using land as part of the financial consideration but thought there should be some kind of financial compensation. Bill Powers – Commented that he didn't agree with charging DHS

- \$1.2 Million and was in support of the proposal submitted by Rick Daniels as far as the 65 acres that may be of equivalent value in the City of Desert Hot Springs.
- Steve Hernandez asked if an evaluation had been done to determine what monetary amount the city would be bringing to the CVCC.
 - Eduardo Garcia noted that at no given time have we discussed the position of the CVCC financially to be able to take on the recommendation of the City of Desert Hot Springs. Is the CVCC in a position to grant the waiver to the City of Desert Springs. Do we have that information.
 - Kathy DeRosa would like clarification from staff. (1) The City needs to provide the value of that land they have offered to CVCC; and (2) Mayor DeRosa would like a breakdown of the \$1.2 Million. Tom Kirk stated that the \$1.2 Million is the past cost of recirculation of the MSHCP. The \$300,000 is the new cost associated with the environmental documents for the Major Amendment.

Tom Kirk suggested that we come up with some creative ideas as far as in lieu contributions whether it is land, actions that the city has taken, etc. and that we provide a detailed financial assessment of that to address the legitimate concerns of the Commission. There was also some discussion about the potential of Mission Springs Water District joining the Plan and what they will be bringing as well.

Rick Daniels indicated the City will be putting together data in terms of the land value. Mr. Daniels stated that they are looking at the large chunks of vacant land not designated as conservation land in the valley. The funding that will come to fund the acquisition of properties that need to be conserved will come out of those large tracts of vacant land. By adding the lands that we have, it is going to be a significant funding source. A number is not yet available, but is being put together at the request of Tom Kirk.

Staff and the City will be having meetings in trying to iron out the issues brought forward today.

Mayor Pro Tem Henderson inquired about the county's associated costs for recirculation of the Plan. Katie Barrows indicated that we have a loan agreement with the county for \$800,000. The loan agreement is actually with CVAG, and we are in the process of transferring that to the CVCC. Further, CVAG/CVCC does have a responsibility to pay back the \$800,000 to the County by 2010.

Tom Kirk added he will continue to work with Rick Daniels and the City and, hopefully, have a proposal to bring back at the next meeting.

IT WAS MOVED BY COUNCILMEMBER SNIFF AND SECONDED BY MAYOR GARCIA THAT THE CVCC CONTINUE THIS ITEM TO NOVEMBER AND DIRECT STAFF TO CONTINUE WORKING WITH THE CITY OF DESERT HOT SPRINGS TO RESOLVE THE ISSUE AND COME BACK WITH A PROPOSAL AT THE NOVEMBER 12TH MEETING.

THE MOTION CARRIED WITH ONE ABSTENTION FROM THE CITY OF PALM SPRINGS.

14. REPORT FROM TRAILS MANAGEMENT SUBCOMMITTEE

Katie Barrows requested that this item be continued and brought back at November's meeting.

15. CONSENT CALENDAR

Approval

15A Approve Minutes of the September 10, 2009 Coachella Valley Conservation Commission.

IT WAS MOVED BY COUNCILMEMBER SNIFF AND SECONDED BY MAYOR PRO TEM FINERTY THAT THE CVCC APPROVE THE MINUTES OF THE SEPTEMBER 10, 2009 MEETING. THE MOTION CARRIED.

Receive and File

15B Report on Contracts Under \$25,000

IT WAS MOVED BY COUNCILMEMBER SNIFF AND SECONDED BY MAYOR PRO TEM FINERTY TO RECEIVE AND FILE ITEM 15B. THE MOTION CARRIED.

Information

15C CVCC 2009 Attendance Roster

This item was received by the CVCC as an information item.

16. ANNOUNCEMENTS

- The next meeting of the **Reserve Management Oversight Committee (RMOC)** is scheduled for October 28, 2009, 2:00 p.m. at CVAG, Conference Room 115.
- The next meeting of the **Coachella Valley Conservation Commission** is scheduled for November 12, 2009, 11:00 a.m. at CVAG, conference room 119.

17. ADJOURNMENT

The meeting adjourned at 11:55 a.m.

Respectfully submitted,

Linda Rogers
Program Assistant II