

COACHELLA VALLEY CONSERVATION COMMISSION
Meeting Minutes
September 10, 2009

1. CALL TO ORDER

The meeting of the Coachella Valley Conservation Commission (“CVCC”) was called to order by Chair Richard W. Kite at 11:04 a.m. on September 10, 2009.

2. PLEDGE OF ALLEGIANCE

Chair Richard W. Kite led in the Pledge of Allegiance.

Chair Kite commented that Roy Wilson contributed so much to CVAG, CVCC and to the Coachella Valley. CVCC Members were asked to pause for a moment of silence in honor of Supervisor Roy Wilson.

3. ROLL CALL

Chair Kite welcomed and introduced Larry Ward, Riverside County Assessor – Clerk Recorder, CVCC alternate for Riverside County 4th District.

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

Carolyn Syms Luna
Bill Havert
John McFadden
Joe Lim
Jeff Cherry
Dee Bradshaw
Anne Leach
Ken Waxlax

County of Riverside, 4th District
Coachella Valley Mountains Conservancy
Coachella Valley Water District
City of Indio
City of Rancho Mirage
IID
Sun City Palm Desert
Peter Murray & Associates

CVAG Staff

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

4. FINALIZATION OF AGENDA & ADDITIONS AND REVISIONS

**IT WAS MOVED AND SECONDED TO ACCEPT FINALIZATION OF THE AGENDA.
THE MOTION CARRIED.**

5. PUBLIC COMMENTS

None.

6. CVCC MEMBER/EXECUTIVE DIRECTOR COMMENTS

None.

7. CORRESPONDENCE

None.

**8. CONSIDER ACCEPTANCE OF ENDOWMENT FUNDS FROM CALIFORNIA
DEPARTMENT OF FISH AND GAME**

Jim Sullivan reported on the Like Exchange done for Coachella Valley Aggregates (CVA) where some areas were removed from the Conservation Areas and they bought areas outside of the Conservation Area to be added to the Conservation Area. CVCC previously approved the like exchange and accepted the parcels for the Conservation Area. Jim Sullivan indicated that the Streambed Alteration Agreement for the CVA mine expansion with the California Department of Fish & Game (CDFG) required an endowment of \$45,000. CDFG is now offering the endowment to the CVCC.

**IT WAS MOVED BY BOARD MEMBER LARSON AND SECONDED BY MAYOR PRO
TEM HENDERSON THAT THE CVCC AUTHORIZE THE CHAIR TO SIGN THE
AGREEMENT WITH THE CALIFORNIA DEPARTMENT OF FISH AND GAME
ACCEPTING \$45,000 IN ENDOWMENT FUNDS FOR MANAGEMENT OF LANDS
PREVIOUSLY ACCEPTED FROM COACHELLA VALLEY AGGREGATES.**

THE MOTION CARRIED.

**9. RESOLUTION 09-023: ACQUISITION OF PARCEL FROM THE FOLLOWING
LANDOWNERS: GARY KADING**

Bill Havert, Acquisitions Manager, discussed the acquisition of the Kading parcel. This parcel is a great addition in terms of protecting sand transport processes. The request is for CVCC to authorize the Executive Director to determine the final funding sources that are used for this parcel. Staff is working to find ways to stretch the CVAG Measure A funding as far as possible and looking to use other acquisition funding sources that are available. Further discussion ensued.

IT WAS MOVED BY MAYOR PRO TEM HENDERSON AND SECONDED BY COUNCILMEMBER GODFREY THAT THE CVCC APPROVE RESOLUTION 09-023 AUTHORIZING ACQUISITION OF APN 660-060-032 FOR A TOTAL COST NOT TO EXCEED \$589,200 AND AUTHORIZE THE EXECUTIVE DIRECTOR TO DETERMINE THE FUNDING SOURCES FOR THE ACQUISITION.

THE MOTION CARRIED.

10. CONSIDER AUTHORIZATION OF REQUEST FOR PROPOSALS FOR PREPARATION OF RESERVE UNIT MANAGEMENT PLANS AND OTHER MANAGEMENT ACTIONS

Jim Sullivan indicated that the CVCC has previously gone through the RFP process for the Land Manager Contract and selected the Center for Natural Lands Management (CNLM) as the Land Manager. There have been some difficulties in completing that contract in that there are some issues with the transfer of the endowment for the original Fringe-toed Lizard HCP. CNLM has been doing some due diligence on their responsibility to the original donors to the endowment. Resolution on this matter may be forthcoming in the next couple of months. There are Reserve Management Unit Plans that need to be done three years from the date of Permit issuance which is now two years from this coming October 1. The staff request is to go out to an RFP so that this process can be started. Chair Kite asked if the RFP was to hire someone to replace CNLM. Jim Sullivan stated that was not the case, but indicated that there are a number of tasks that the Land Manager does. One of the things is to develop the Reserve Management Unit Plans (RMUPs) and that has a specific deadline on it and staff recommended getting started on that.

IT WAS MOVED BY BOARD MEMBER LARSON AND SECONDED BY COUNCILMEMBER SNIFF THAT THE CVCC AUTHORIZE A REQUEST FOR PROPOSALS FOR THE PREPARATION OF RESERVE UNIT MANAGEMENT PLANS AND COORDINATION OF MANAGEMENT ACTIONS; AUTHORIZE FORMATION OF A SELECTION COMMITTEE AND APPOINT A CVCC MEMBER TO THE SELECTION COMMITTEE.

THE MOTION CARRIED.

11. CONSIDER AMENDED POLICY FOR INITIAL IMPLEMENTATION OF THE LOCAL DEVELOPMENT MITIGATION FEE

Tom Kirk reported that initially the CVCC adopted an exemption to the fee and that exemption is being implemented by the Permittees and local agencies. Legal advice is being provided on this subject. Due to the particular legal aspects that are still being worked on and those stakeholders who could not be present today, the CVCC is being asked to continue this item until October.

IT WAS MOVED BY COUNCILMEMBER SNIFF AND SECONDED BY MAYOR PRO TEM HENDERSON THAT THE CVCC CONTINUE THIS ITEM UNTIL OCTOBER 8, 2009.

THE MOTION CARRIED.

12. **CONSIDERATION OF AN AGREEMENT WITH THE CITY OF DESERT HOT SPRINGS FOR REIMBURSEMENT OF COSTS ASSOCIATED WITH A MAJOR AMENDMENT TO THE CVMSHCP AND THE 2007 CVMSHCP RECIRCULATION**

Tom Kirk discussed the past concerns expressed by members of the CVCC about the cost associated with the Major Amendment to get Desert Hot Springs into the Plan. Tom Kirk indicated that a solution will be proposed today, hopefully one that both the CVCC and the City of Desert Hot Springs will find acceptable. Tom Kirk described a payback provision if the City of Desert Hot Springs does not go forward with the Major Amendment for the \$1.2 million of incurred costs to date, plus the expected cost of \$100,000 to \$150,000 of staff time to process this amendment. If the City of Desert Hot Springs processes and approves the amendment, those costs would be forgiven.

Board Member Larson expressed concern indicating that a considerable amount of money has been lost as a result of Desert Hot Springs decision not to participate in the Plan. Mrs. Larson suggested that consideration be given to some type of a payment plan.

Mayor Pro Tem Mills asked what mechanism is being proposed for enforcing payment. Tom Kirk indicated it would be a contract. Katie Barrows added that this is intended to be a legally binding contract that would require the City of Desert Hot Springs to pay back those funds.

Mayor Pro Tem Henderson also expressed concern and indicated that this is a lot of money to forgive. There was some discussion about possible negotiations on some decrease in the amount. There was concern expressed regarding a complete waiver of paying back the money.

Councilmember Sniff addressed the element of extreme practicality adding that the proposed solution seemed to be a realistic solution.

Katie Barrows stated there have been discussions with the City of Desert Hot Springs regarding repayment of those funds. Staff explained there have been discussions with the City Manager about whether the City could collect an interim fee that could be used as a source of funds for repayment. There were some challenges with that related to the nexus study. This has not yet gone to the next step of having a nexus consultant verify that they could actually collect a fee for this purpose.

Mayor Pro Tem Finerty indicated that she was in agreement with Board Member Larson in that \$1.2 million should be reimbursed back to CVAG for putting everything on hold. Mayor Pro Tem Finerty stated it was unfair to have CVAG pay the entire debt and she was not in favor of reducing the amount; however, whether the staff time had to be reimbursed was questionable. Mayor Pro Tem Finerty suggested negotiating a payment plan over an extended period of time (10 to 20 years), and urged the CVCC to make it their fiscal responsibility to make sure the money is paid back. Councilmember Godfrey concurred that a payment plan should be negotiated and stated that to relieve the debt would be a precedent that the CVCC would not want to set. Councilmember Godfrey stated that a possible 10-year plan might be fair and suggested offering it at zero interest.

Mayor Pro Tem Hernandez leaned toward Councilmember Sniff's position in terms of practicality. Mr. Hernandez outlined the benefits to the CVCC whether it was land being

developed or land being acquired allowing us to meet our conservation goals for the future. Mr. Hernandez posed the question of whether the CVCC was capable at this point to support essentially dismissing those fees. Katie Barrows described how the Major Amendment process works. The City of Desert Hot Springs has contracted with Dudek to complete the environmental documents associated with the Major Amendment. Dudek is working with the City of Desert Hot Springs and the CVCC. The cost is approximately \$300,000 and the City is responsible for that cost. Staff was authorized by the CVCC to work with the City of Desert Hot Springs on the Major Amendment. The estimate for that is approximately \$115,000 including staff time and legal costs associated with consultation needed. Ms. Barrows indicated that the cost for printing the documents is also included in the \$115,000.

Councilmember Powers indicated that he supported staff's recommendation adding that this doesn't seem like the kind of debt that will serve anybody's purpose and he thought it should be waived. Mayor De Rosa stated she would like to hear from the City of Desert Hot Springs. Mayor Pro Tem Henderson cautioned about making a decision based strictly upon what the economy is today. Board Member Larson indicated that while she understood some of the Commission's position with the compassion and practicality of this issue, she felt strongly that the \$1.2 million should be paid back with a 10 year payment plan.

Mayor Garcia suggested that perhaps the starting point for negotiations should be to first determine what the City of Desert Hot Springs can pay back and determine the length of time for the money to be paid back.

Tom Kirk stated that a wide range of comments have been expressed. Given that the City of Desert Hot Springs is not present and there is significant concern about waiving the \$1.2 million, if the Commission so directs the Executive Director to do so, he would meet with the City of Desert Hot Springs to negotiate the terms of this agreement and figure out a creative way to address the \$1.2 million and return to the CVCC with an update of those negotiations for their review and approval.

IT WAS MOVED BY COUNCILMEMBER SNIFF AND SECONDED BY COUNCILMEMBER POWERS THAT THE CVCC DIRECT THE EXECUTIVE DIRECTOR TO MEET WITH THE CITY OF DESERT HOT SPRINGS AND WORK OUT A SETTLEMENT ON THE \$1.2 MILLION AND REPORT BACK TO THE COMMISSION IN OCTOBER WITH A RECOMMENDATION FOR FURTHER REVIEW.

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

13. REQUEST FOR LETTER OF SUPPORT FOR THE SAND TO SNOW NATIONAL MONUMENT PROPOSED BY SENATOR FEINSTEIN

Katie Barrows reported that Senator Feinstein plans on shortly introducing legislation to create the Sand to Snow National Monument. Katie Barrows provided a map showing the location of the boundaries of the National Monument and discussed the boundaries. Staff requested that the CVCC authorize the Chair to sign a letter of support for Senator's Feinstein proposal to create the Sand to Snow National Monument. A draft letter of support was distributed to members of the CVCC. Senator Feinstein's staff has also requested help from CVAG and CVCC in getting letters of support from the member jurisdictions as well.

Discussion ensued addressing the issue of allowing access to utilities through the proposed National Monument. Mayor De Rosa recommended that the letter include language that supported allowing the utilities access to existing rights of way to upgrade, maintain and operate utilities through the monument. There was also discussion about the water agencies also needing access for their projects. Katie Barrows stated that the legislation does identify existing rights of way that would be respected and not be affected. Mr. Havert responded to a question regarding whether the legislation had language pertaining to funding. Mr. Havert indicated that the answer was no. Mr. Havert explained the process for Congress to authorize funding, adding that funding was not typically addressed in the legislation establishing a national monument.

IT WAS MOVED BY MAYOR PRO TEM HENDERSON AND SECONDED BY COUNCILMEMBER SNIFF THAT THE CVCC AMEND THE RECOMMENDED MOTION TO AUTHORIZE THE CHAIR TO SIGN A LETTER TO SENATOR DIANE FEINSTEIN SUPPORTING HER PROPOSAL TO CREATE THE SAND TO SNOW NATIONAL MONUMENT; AND, INCLUDE LANGUAGE IN THE LETTER TO ALLOW UTILITIES TO ACCESS, UPGRADE, MAINTAIN AND OPERATE THROUGH THE NATIONAL MONUMENT FOR EXISTING AND FUTURE GROWTH.

THE MOTION CARRIED.

14. AUTHORIZATION FOR CONTINUED ENGAGEMENT OF BEST, BEST AND KRIEGER FOR WORK ON THE COACHELLA VALLEY MULTIPLE SPECIES HABITAT CONSERVATION PLAN (CVMSHCP) FOR AN AMOUNT NOT TO EXCEED \$35,000

Katie Barrows stated that this is the ongoing authorization for our work with Best, Best and Krieger (BB&K). Ms. Barrows identified the current workload and issues that CVCC staff is dealing with at the present time including the Desert Hot Springs Amendment, the Fee Exemption issue and other issues for which BB&K is most suited to provide legal advice. Staff is looking at a budget to take us through the end of the fiscal year of \$35,000. The present budget amount adopted by the CVCC was for \$40,000.

IT WAS MOVED BY COUNCILMEMBER SNIFF AND SECONDED BY MAYOR DE ROSA THAT THE CVCC AUTHORIZE CONTINUED ENGAGEMENT WITH BEST, BEST AND KRIEGER TO PROVIDE LEGAL SERVICES FOR MSHCP IMPLEMENTATION FOR AN AMOUNT NOT TO EXCEED \$35,000.

THE MOTION CARRIED.

15. CONSENT CALENDAR

Approval

15A Approve Minutes of the May 14, 2009, June 11, 2009 and July 9, 2009 Coachella Valley Conservation Commission.

IT WAS MOVED BY COUNCILMEMBER SNIFF AND SECONDED BY MAYOR DE ROSA THAT THE CVCC APPROVE THE MINUTES OF MAY 14, JUNE 11, AND JULY 9, 2009.

THE MOTION CARRIED.

Receive and File

- 15B Report on Contracts Under \$25,000
- 15C Quarterly Unaudited Financial Statements as at June 30, 2009
- 15D CVCC's Investment Report as at June 30, 2009

IT WAS MOVED BY COUNCILMEMBER SNIFF AND SECONDED BY MAYOR DE ROSA THAT THE CVCC RECEIVE AND FILE ITEMS 15B THROUGH 15D.

THE MOTION CARRIED.

Information

- 15E CVCC 2009 Attendance Roster

THIS ITEM WAS RECEIVED BY THE CVCC AS AN INFORMATION ITEM.

16. CLOSED SESSION

The CVCC recessed into Closed Session at 11:40 a.m.

- 16A CONFERENCE WITH REAL PROPERTY NEGOTIATORS (Government Code § 54956.8)

Property: Assessors Parcel Number 660290013
Agency negotiator: Bill Havert
Negotiating parties: Jack Alex
Under negotiation: Instruction to negotiator regarding price and terms

Property: Assessors Parcel Number 660290001, 660290002
Agency negotiator: Bill Havert
Negotiating parties: Nancy Arrache
Under negotiation: Instruction to negotiator regarding price and terms

Property: Assessors Parcel Number 660300002, 660300003, 660300004, and 660300006
Agency negotiator: Bill Havert
Negotiating parties: L. Brown
Under negotiation: Instruction to negotiator regarding price and terms

Property: Assessors Parcel Number 669120007, 669150003, and 669250003
Agency negotiator: Bill Havert
Negotiating parties: Desert Land Ventures III
Under negotiation: Instruction to negotiator regarding price and terms

Property: Assessors Parcel Number 660290012, 660300001, 660300005, 669460001, 669470007, and 669490002
Agency negotiator: Bill Havert
Negotiating parties: Steven Dweck
Under negotiation: Instruction to negotiator regarding price and terms

Property: Assessors Parcel Number 516110013
Agency negotiator: Bill Havert
Negotiating parties: Fishermans Wharf
Under negotiation: Instruction to negotiator regarding price and terms

Property: Assessors Parcel Number 660290015 and 660300008
Agency negotiator: Bill Havert
Negotiating parties: Foonberg Family Trust
Under negotiation: Instruction to negotiator regarding price and terms

Property: Assessors Parcel Number 522070006, 522070007, and 522070015
Agency negotiator: Bill Havert
Negotiating parties: Robin Harris
Under negotiation: Instruction to negotiator regarding price and terms

Property: Assessors Parcel Number 669460003 and 669460004
Agency negotiator: Bill Havert
Negotiating parties: LDK Real Estate
Under negotiation: Instruction to negotiator regarding price and terms

Property: Assessors Parcel Number 669060001, 669093002, and 669093003
Agency negotiator: Bill Havert
Negotiating parties: Robert Miner
Under negotiation: Instruction to negotiator regarding price and terms

Property: Assessors Parcel Number 501190002
Agency negotiator: Bill Havert
Negotiating parties: Palm Springs Country Club Inv.
Under negotiation: Instruction to negotiator regarding price and terms

Property: Assessors Parcel Number 669093005, 669093006, 669093007, 669093008,
669100002, 669100003, and 669100004
Agency negotiator: Bill Havert
Negotiating parties: William Price
Under negotiation: Instruction to negotiator regarding price and terms

Property: Assessors Parcel Number 522070019 and 522070020
Agency negotiator: Bill Havert
Negotiating parties: Clayton Suitt
Under negotiation: Instruction to negotiator regarding price and terms

Property: Assessors Parcel Number 660290007, 660290008, 660290009, 660290010,
660290011, and 660300009
Agency negotiator: Bill Havert
Negotiating parties: Timothy Taylor
Under negotiation: Instruction to negotiator regarding price and terms

Property: Assessors Parcel Number 660300007
Agency negotiator: Bill Havert
Negotiating parties: W&L Properties
Under negotiation: Instruction to negotiator regarding price and terms

Property: Assessors Parcel Number 522070027
Agency negotiator: Bill Havert
Negotiating parties: Marian Gabrych
Under negotiation: Instruction to negotiator regarding price and terms

The CVCC reconvened and there was no reportable action taken.

17. ANNOUNCEMENTS

- The next meeting of the **Coachella Valley Conservation Commission** is scheduled for October 8, 2009, 11:00 a.m. at CVAG, conference room 119.

18. ADJOURNMENT

The meeting adjourned at 11:55 a.m.

Respectfully submitted,

Linda Rogers
Program Assistant II