

COACHELLA VALLEY MOUNTAINS CONSERVANCY
REGULAR MEETING
73-710 Fred Waring Drive, Suite 115
Palm Desert, California
March 12, 2007 - 3:00 p.m.

DRAFT M I N U T E S

(The March 2007 Minutes have been abbreviated for ease of distribution to the Board for approval. If any Board Member would like to view the entire document, please contact the Conservancy Staff)

MEMBERS PRESENT:

Paul Deprey (for Curt Sauer), National Park Service
Kathy Dice, California State Parks
John Donnelly, Wildlife Conservation Board (on telephone)
Jim Ferguson, City of Palm Desert
Jim Foote, U.S. Forest Service (non-voting)
Hank Hohenstein, City of Desert Hot Springs
John Kalish, Bureau of Land Management
Tom Kirk, City of La Quinta
Eddy Konno, California Department of Fish and Game
Paul Marchand, City of Cathedral City – *Chairman*
Richard Milanovich, Agua Caliente Band of Cahuilla Indians
Chris Mills, City of Palm Springs – *Vice Chairman*
Gordon Moller, City of Rancho Mirage
Al Muth, University of California
Robert Schladale (for Anne Sheehan), Department of Finance (on telephone)
Larry Spicer, City of Indian Wells
Joan Taylor, Governor's Appointee
Ellen Lloyd Trover, Senate Rules Committee Appointee

MEMBERS ABSENT:

Patrick Kemp, California Resources Agency
Roy Wilson, Riverside County Supervisor, District IV

OTHERS PRESENT:

Staff

Bill Havert, Executive Director
Kerrie Marshall, Executive Secretary

Other

Katie Barrows, CVAG Energy and Environment Director
Pat Cooper, Senator Ducheny's Office
Mona Daniels, Bureau of Land Management
Mary Justice, Private Citizen

VACANT POSITIONS:

Assembly Appointee

1.0 Call to Order/Introduction of Guests

This meeting of the Coachella Valley Mountains Conservancy (Conservancy) was called to order by Chairman Marchand at 3:05 p.m. Joan Taylor, Governor's Appointee, arrived at 3:14 p.m. and was not present to vote on the minutes for the November 2006 meeting. J. Ferguson, T. Kirk, G. Moller, and L. Spicer left the meeting early and were not present to vote on Item 6.2.

Robert Schladale (for Anne Sheehan) from Department of Finance and John Donnelly from the Wildlife Conservation Board were present on the telephone.

1.1 New Governing Board Members

Chairman Marchand introduced Paul Deprey; new designee for the National Park Service, John Kalish; new designee for the Bureau of Land Management; Tom Kirk, new designee for the City of La Quinta; Larry Spicer, new designee for the City of Indian Wells; and Ellen Lloyd Trover, new appointee for the Senate Rules Committee.

2.0 Approval of Minutes of November 13, 2006

Chairman Marchand asked if there were any additions or changes to the minutes. A motion was made and seconded (Mills/Muth) to approve the minutes with the following members voting yes: K. Dice, J. Ferguson, H. Hohenstein, J. Kalish, E. Konno, C. Mills, G. Moller, A. Muth, P. Deprey, R. Schladale, L. Spicer, E. Trover, and P. Marchand. The following members abstained: J. Donnelly, T. Kirk, and R. Milanovich.

3.0 Public Comments on Items Not on the Agenda

No public comments were made.

4.0 Public Hearing Items

4.1 Resolution 2007-01 expressing the Conservancy's appreciation of Katie Barrows' service to the Conservancy.

A motion was made and seconded to table the item because Katie Barrows was not available at the beginning of the meeting to accept the resolution of appreciation from the board (Hohenstein/Muth). The following members voted yes: K. Dice, J. Ferguson, H. Hohenstein, J. Kalish, E. Konno, C. Mills, G. Moller, A. Muth, P. Deprey, R. Schladale, L. Spicer, E. Trover, and P. Marchand. The following members abstained: J. Donnelly, T. Kirk, and R. Milanovich.

At 3:55 Paul Marchand asked for a motion to take the resolution up from the table because Katie Barrows was now present at the meeting. A motion was made and seconded (Muth/Mills) to take the resolution up from the table with the following members voting yes: K. Dice, J. Donnelly, H. Hohenstein, T. Kirk, E. Konno, C. Mills, R. Milanovich, G. Moller, A. Muth, P. Deprey, R. Schladale, L. Spicer, E. Trover, and P. Marchand. The following members abstained: J. Kalish.

Staff and the Conservancy Board presented Katie with an appreciation photo of the Chino Canyon for her hard work and many years of dedication from the

Conservancy's inception. Several Board Members spoke about their fond memories of working with Katie. Chairman Marchand asked for unanimous consent on this item. A motion was made and seconded (Hohenstein/Milanovich). The motion was adopted by all members saying "Aye" in a unanimous vote.

4.2 Resolution 2007-02 approving a contract with the Center for Natural Lands Management (CNLM) for acquisition-related services to be provided by the Conservancy.

Bill Havert described the need for the Conservancy to generate additional revenue in the operating budget for FY 07-08. He noted that since the Conservancy has the requisite experience and skills to provide this service, it would behoove the Conservancy to enter into this contract with CNLM. He explained that this contract would provide acquisition-related services for expenditure of the Fringe-toed Lizard mitigation fee money. The Conservancy would also be responsible for coordinating with the Coachella Valley Conservation Commission for oversight of these expenditures. Bill explained that when the Fringe-toed Lizard Fee MOU was revised to increase the fees, it also included the CVCC's responsibility to account for the expenditure of these fees. He gave further details about the proposal with CNLM. Bill referred the Board to the example of the draft contract provided in the agenda packet. He pointed out the proposed changes that the Conservancy and the Supervising Deputy Attorney General (DAG) recommend to CNLM identifying some differences that needed to be addressed because the Conservancy is a State Agency and not a private contractor. Bill recommended that the Board approve this contract subject to modifications that would be approved by the Conservancy's Executive Director, DAG, and Chairman Marchand so the contract could be implemented without having to wait for approval at the May meeting. After some discussion about the contract, Chairman Marchand recommended that in order to reflect the adoption of the resolution for a contract with CNLM, there should be a language change in paragraph 6 of the resolution to read as follows:

"NOW, THEREFORE, be it resolved in regular session of the Governing Board of the Coachella Valley Mountains Conservancy that the Board approves the contract with CNLM shown in attached Exhibit A for the provision of acquisition-related services; subject to modifications as approved by the Attorney General and Executive Director;"

A motion was made and seconded (Hohenstein/Kirk) to approve Resolution 2007-02 with the changes in language in Paragraph 6 of the resolution. The motion was passed and Resolution 2007-02 was adopted with the following members voting yes: P. Deprey, K. Dice, J. Donnelly, J. Ferguson, H. Hohenstein, T. Kirk, E. Konno, C. Mills, G. Moller, A. Muth, L. Spicer, J. Taylor, E. Trover, and P. Marchand. The following members abstained or requested not to vote on this item: J. Kalish, R. Milanovich, and R. Schladale.

Robert Schladale asked whether CNLM is ever a recipient of funding from the Conservancy because he was concerned that there may be a conflict of interest with if the Conservancy contracts with CNLM; for example, if the Conservancy were ever to give money to CNLM. Bill answered that the potential is there for the Conservancy to consider an acquisition grant to CNLM using Proposition 84 funds. Paul Marchand noted that this has not been the case as of yet. Bill noted that the Conservancy has given local assistance grants to CNLM before however; not recently, and the grants

were strictly capital outlay. Robert answered that he did not know if this was unacceptable but, thought it may be important to ask the advice of the Attorney General on this subject. Bill noted that he would do so.

4.3 Resolution 2007-03 approving a contract with the Coachella Valley Association of Governments (CVAG) for acquisition-related services to be provided by the Conservancy.

Bill noted that the reasons for this acquisition-related contract are similar to the CNLM acquisition-related contract. He explained that this contract would be provided through CVAG transportation funds to complete the mitigation of five freeway interchange projects and associated arterials. Bill explained that in the past the Conservancy has assisted CVAG by identifying lands to acquire for this mitigation project. CVAG has acquired 1592 acres so far and this contract would allow the Conservancy to assist with the acquisition of the additional 202 acres required for the project. The Conservancy does not provide funds to CVAG, so the potential for a conflict of interest situation is non-existent.

Chairman Marchand asked Bill if the board would need to change this resolution to have the same language as the CNLM contract. Bill answered that it would not be necessary because John Wohlmuth has already approved this agreement and no language changes will be needed. Chairman Marchand asked if there was any additional discussion on this action item.

A motion was made and seconded (Moller/Kirk) to approve Resolution 2007-03. The motion was passed and Resolution 2007-03 was adopted with the following members voting yes: P. Deprey, K. Dice, J. Ferguson, H. Hohenstein, T. Kirk, E. Konno, C. Mills, G. Moller, A. Muth, L. Spicer, J. Taylor, E. Trover, and P. Marchand. The following members abstained or requested not to vote on this item: J. Donnelly, J. Kalish, R. Milanovich, and R. Schladale.

At this time, the Board took a 5 minute recess to allow additional copies of the Acquisition Staff Report to be prepared.

4.4 Approval of the Conservancy's Strategic Plan.

Bill Havert noted that each Board Member should have received a copy of the Conservancy's revised Strategic Plan in the mail. He briefly explained the reasons behind the additions/revisions to the Plan. The brief overview included information on the Conservancy's mission, budget, additional funding sources, capital outlay program, acquisition/grant program, goals and objectives.

Larry Spicer noted on page 13 that goal #1 is to secure new non-state funding to ensure full funding for the Conservancy's support budget. He also noted that on the same page under the objectives that the board has already discussed 1 and 2 and his question is on objective 4. He noted that given the Conservancy's limited staffing there is a tradeoff with the amount of work the Conservancy can accomplish. It is understood that the Conservancy still requires funding dollars and he suggested that the Conservancy think about putting a dollar amount in the plan so that everyone understands how much money the Conservancy needs. Bill informed the Board that the number historically has been between \$100-125K. Chairman Marchand asked if there was any additional discussion on this action item.

A motion was made and seconded (Ferguson/Spicer) to approve the Conservancy's Strategic Plan. The motion was passed and the revised Strategic Plan was approved with all the members present voting yes: P. Deprey, J. Donnelly, K. Dice, J. Ferguson, H. Hohenstein, J. Kalish, T. Kirk, E. Konno, R. Milanovich, C. Mills, G. Moller, A. Muth, R. Schladale, L. Spicer, J. Taylor, E. Trover, and P. Marchand.

4.5 Approval of acquisition priorities for Proposition 84 funds.

Bill Havert provided information about the Conservancy's acquisition priorities by presenting the need for acquisition priorities, the Conservancy's Mission, and the acquisition process in a Power Point Presentation. Bill explained that the recommended priorities reflect biological, cultural, scenic, and recreational resources. Bill asked if anyone had any discussion or questions about the presentation and added that he would like to see the acquisition priorities approved today so that he could begin exploring potential acquisitions in readiness for the funds' becoming available in July.

Chris Mills asked if the Conservancy had rated the order of the acquisition priorities and if the mission of the Coachella Valley Conservation Commission (CVCC) includes acquisition of scenic land and if not, if it would be better for the Conservancy to focus its efforts on acquisition of scenic lands. Bill answered that Chris was correct about the mission of the CVCC; its focus is to implement the MSHCP, which is biology driven. Bill answered he believes that it would be logical for the CVCC to prioritize its acquisitions to maintain compliance with the Rough Step requirements of the MSHCP. If the development pressures are largely on the valley floor then we could assume the CVCC will focus heavily in those areas to keep the plan in tact. As a result, the CVCC's priority may not be to focus initially on such things as the wildlife movement corridors. These connections are an area of concern and certainly part of the Conservancy's mission and we might want to look at including such areas in our priorities because of their biological importance as well as their scenic and recreational importance. We would also look at our priorities and determine if another organization is going to accomplish this priority before we spend the money.

Tom Kirk asked if Bill considered the scenic Hwy's 86 and 111 entries into the valley. Bill answered that he considered the Highway 111 in the Dos Palmas Conservation area and Highway 86 in the southern Santa Rosa Mountains alluvial fans area.

Chairman Marchand asked if there was any additional discussion on this action item and requested that the board consider an omnibus motion to approve the recommended acquisition priorities as published and also give direction to staff to place this on the May agenda for further discussion as a public hearing item.

A motion was made and seconded (Taylor/Muth) to approve the published acquisition priorities and place it on the May agenda for further discussion as a public hearing item. The motion was passed and the acquisition priorities were adopted with the following members voting yes: P. Deprey, J. Donnelly, K. Dice, H. Hohenstein, J. Kalish, T. Kirk, E. Konno, R. Milanovich, C. Mills, G. Moller, A. Muth, R. Schladale, J. Taylor, E. Trover, and P. Marchand. The following members abstained or requested not to vote on this item: L. Spicer.

5.0 Closed Session

No closed session items were scheduled.

6.0 Information Items

6.1 Form 700 Statement of Economic Interest forms are due by April 2, 2007.

Kerrie requested that the Board deliver their forms to her no later than March 16, 2007 so she can send them to the FPPC by their deadline.

6.2 Potential use of Conservancy lands in the Indio Hills for commercial tours [Oral report from staff]

Bill gave details to the board about a proposal from Jeff Gardner, a tour operator who runs a desert jeep tour using hummers. Jeff would like to cross state land in the wash of the Indio Hills/Thousand Palms area as part of a commercial tour venture on adjacent BLM land as well. The tour may also cross over some privately owned parcels and the tour operator would have to get access permission from those private land owners. This item is for information purposes at this point but, it may appear on a future agenda as an action item after the Conservancy has reviewed whether this proposal is even a possibility. He noted that the company would need a permit/agreement from the Conservancy Board, CEQA compliance, and the agreement may also require Department of General Services' approval. Since the tour operator would be using State land, it would be necessary to have an agreement to provide revenue to the State for use of the property. Bill added that the tour operator has offered to take anyone who is interested on a trip to view the site. Kerrie Marshall and Katie Barrows went on the tour at the end of January. At this point, Mona Daniels from BLM explained the trail/tour location in greater detail.

There were several questions from Board Members about habitat, exact location of the tour, land ownership, permits, the agreement, CEQA, vehicular traffic, potential revenue, and liability insurance. Al Muth suggested that Staff bring this back to the Board as an action item before they spend an enormous amount of time on the proposal. In his opinion, the tone of the questions by the Board may give an indication about whether the Board really wants to consider such uses as a matter of policy.

Chairman Marchand noted that he would entertain a motion along the lines that Mr. Muth was discussing. Chairman Marchand recommended the Board agendaize the item as a policy discussion with a written staff report and to present it to the Board at a future meeting. He also noted that Mr. Moller raised the issue during the discussion of item 6.2 that there may be some potential liability issues and the Board may want to consider addressing that part of the discussion in closed session.

A motion was made and seconded (Hohenstein/Moller) to agendaize the item as a policy discussion with a written staff report and to present it to the Board at a future meeting. The motion was adopted with the following members voting yes: P. Deprey, K. Dice, H. Hohenstein, J. Kalish, R. Milanovich, C. Mills, A. Muth, J. Taylor, E. Trover, and P. Marchand. The following members abstained or requested not to vote on this item: J. Donnelly, E. Konno, R. Schladale.

7.0 Written Reports

7.1 Fiscal and Administration [See Attachment 7.]

7.2 Acquisitions and Funding [See Attachment 7.]

7.3 Update on actions by CVAG or other entities regarding Off Highway Vehicle issues. [See Attachment 7.]

7.4 Attorney General's Report [See Attachment 7.]

Chairman Marchand called for an omnibus motion to receive and file all four of the written reports. A motion was made and seconded (Muth/Mills) to receive and file all four of the written reports. The motion was adopted by all members saying "Aye" in a unanimous vote.

8.0 Board Member comments and reports from Conservancy member agencies.

Chairman Marchand requested that Bill ask the AG about providing some guidance on the issue of abstention from voting because some Board members are subject to the political reform act and duty to vote provisions and some Board members may not be. He also noted that he would like to get some clear guidance for when abstention is warranted. He added that he is in the position as a city councilman as are other board members and are not allowed to abstain unless there is a reason that demands the abstention.

9.0 Adjourn to May 14, 2007 meeting.

Chairman Marchand adjourned the meeting without objection at 4:42 p.m.