

**COACHELLA VALLEY MOUNTAINS CONSERVANCY
REGULAR MEETING
73-710 Fred Waring Drive, Suite 115
Palm Desert, California
September 10, 2007- 3:00 p.m.
M I N U T E S**

MEMBERS PRESENT:

Kathy Dice, California State Parks
Jim Ferguson, City of Palm Desert
Jim Foote, for John Kalish, Bureau of Land Management
Patrick Kemp, California Resources Agency (on telephone)
Tom Kirk, City of La Quinta
Fred Klass, for Anne Sheehan, Department of Finance (on telephone)
Eddy Konno, California Department of Fish and Game
Paul Marchand, City of Cathedral City – *Chairman*
Chris Mills, City of Palm Springs – *Vice Chairman*
Gordon Moller, City of Rancho Mirage
Al Muth, University of California
Curt Sauer, National Park Service
Larry Spicer, City of Indian Wells
Joan Taylor, Governor’s Appointee
Ellen Lloyd Trover, Senate Rules Committee Appointee
Roy Wilson, Riverside County Supervisor, District IV

MEMBERS ABSENT:

John Donnelly, Wildlife Conservation Board
Hank Hohenstein, City of Desert Hot Springs
Richard Milanovich, Agua Caliente Band of Cahuilla Indians

OTHERS PRESENT:

Staff

Bill Havert, Executive Director
Geary Hund, Associate Director
Kerrie Marshall, Staff Services Analyst
Laurie Pearlman, Attorney General’s Office

Other

Paul Coleman, Thousand Palms Resident
Doug Herrema, Bureau of Land Management
Annette Kesson, Five Star Adventures, Inc.
Karen Messaros, National Park Service
Cassandra Nunez, Deep Canyon Desert Reserve Center
Bladamiro & Sofia Valdez, Coachella Valley Residents

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. Tom Kirk, Joan Taylor, and Roy Wilson arrived late and were not present to vote on the minutes for the July 2007 meeting. Fred Klass, from the Department of Finance and Patrick Kemp from the Resources Agency were present on the telephone.

2.0 Approval of Minutes of July 09, 2007

Chairman Marchand asked if there were any additions or changes to the minutes. There were no changes to the minutes and Chairman Marchand asked for unanimous consent on this item. A motion was made and seconded (Moller/Muth) and the motion was adopted by all members saying "Aye" in a unanimous vote.

3.0 Public Comments on Items Not of the Agenda

No public comments were made.

4.0 Public Hearing Items

4.1 Resolution 2007-08 approving a grant to the Friends of the Desert Mountains to assist with the acquisition of approximately 80 acres in the Santa Rosa Mountains.

Bill presented information to the Board through a PowerPoint presentation including maps of the project site. The information is summarized as follows:

Martinez Canyon is the largest drainage in the southern Santa Rosa Mountains and is the focal point of the healthiest and largest group of Peninsular bighorn sheep in our mountains. The canyon provides water, escape terrain, lambing areas, and high quality forage. The Cactus Springs trail, which starts in Pinyon, south of Palm Desert, terminates in Martinez Canyon. Because of this trail, the Santa Rosa Wilderness contains a "cherry stem" access road from Avenue 66 to Martinez Canyon. That access road alignment ends on the 80 acre parcel. Conservation efforts in the southern Santa Rosa Mountains have been in progress for decades, including acquisitions by the Wildlife Conservation Board, BLM, CVMC, and the Friends. There are a fair number of small private parcels scattered in the area north of Martinez Canyon, but almost no parcels south of Martinez. This 80 acre parcel is one of the very few, and it is the only one accessible by road and the only flat parcel.

Bill explained that the Friends requests a \$125,000 grant from the Conservancy to assist with the acquisition of this parcel and staff recommends approval of this resolution. Bill asked if there were any questions. Chairman Marchand asked if there were any public comments on this item. There were no public comments. Larry Spicer asked if all the land owners have agreed to the sale. Bill confirmed that all the land owners have agreed to the sale and have signed a purchase agreement with the Friends of the Desert Mountains. Kathy Dice asked if the illustrated access road on the map is marked for public access. Bill answered that it is not marked and a person would have to know where it is located. He also explained that steps are being taken, including the acquisition of private parcels the road crosses, to ensure that the access is protected so there will be a legal route. In addition, research has determined that part of the road follows a public easement. The County Board of Supervisors adopted a resolution many years ago making all the section lines public access routes in this area. A motion was made and seconded (Muth/Spicer) to approve Resolution 2007-08. The motion was passed and Resolution 2007-08 was adopted with the following members voting yes: K. Dice, J. Ferguson, J. Foote, P. Kemp, T. Kirk, E. Konno, C. Mills, G. Moller, A. Muth, C. Sauer, F. Klass, L. Spicer, J. Taylor, E. Trover, R. Wilson, and P. Marchand. The following members were not present: J. Donnelly, H. Hohenstein, and R. Milanovich.

4.2 Resolution 2007-09 approving a sale by the Friends of the Desert Mountains to the University of California of property purchased in part with a local assistance grant.

Bill explained that the Friends of the Desert Mountains acquired the approximately 640 acre Asbestos Mountain (a.k.a. Valeur) property in the Pinyon area approximately 2 years ago. Funding for the purchase included a grant from the Conservancy, a grant from the Resources Legacy Fund Foundation (RLFF), and other funds provided by the Friends, including funds it borrowed. He noted that the University of California (UC) is interested in purchasing the property to add it to the holdings of its Natural Reserve System (NRS). UC currently owns approximately three-fourths of the adjacent section to the south of the Valeur property. UC NRS would use the property for research, teaching, and related purposes and they would also manage the property for the conservation of its biological resource values. The acquisition by UC would be conditioned upon approval of a grant request for Proposition 84 bond funds administered by the Wildlife Conservation Board (WCB). These funds are available to the NRS on a 1:1 matching basis and the funds can be used for land acquisition and/or facilities development.

This proposed transaction involves a bargain sale (partial sale, partial donation) for which UC will seek Proposition 84 matching funds to the extent of the donation. Under this scenario, UC pays \$1,100,000 for the property. The Friends paid \$3,024,000 for the property; thus, the value of the property greater than the price UC would pay would be a donation to UC. Thus, the donated value is \$1,924,000, which constitutes the match required by Prop 84. Of this amount, \$1,100,000 would be used to purchase the property, and the remaining \$824,000 (\$1,924,000 - \$1,100,000) would be available to UC for facilities development at Boyd. Bill explained that Al Muth is available to answer any questions about how the money would be used to benefit the facility. Bill noted that before the Friends can enter into a bargain sale transaction with UC, the Conservancy needs to approve the transaction pursuant to the terms of the grant agreement whereby the Conservancy provided a local assistance grant to help the Friends purchase the property. The total grant funds provided by the Conservancy were \$1,242,000. Under the terms of the bargain sale, no grant funds would be returned to the Conservancy because the Friends would receive only enough from the sale to pay off the loan it took to augment the Conservancy and RLFF grants so it could purchase the property. Similarly, the Friends needs to get approval from RLFF to do the bargain sale. In this instance, because WCB would make the grant to UC, a conservation easement would not be needed. Rather, the recording of a "Notice of Unrecorded Grant Agreement," incorporating by reference the WCB Grant Agreement, which WCB will require of UC in accordance with WCB regulations regarding bond accountability, would suffice to ensure the permanent conservation of the property.

Paul Marchand asked Laurie Pearlman if the fact that the Conservancy is conveying less than fair market value raises any issues. Laurie responded that it should not. Joan Taylor asked Bill to explain how the grant agreement will ensure perpetual conservation. Bill explained that there would be a notice recorded when UC takes possession of the property referring back to the grant agreement and it will stipulate that UC must hold the land in perpetuity for conservation. UC could dispose of the land only with written approval from WCB. Larry Spicer asked if the Friends original loan was \$1.1 million. Bill confirmed that the loan was \$1 million plus interest that has accrued and the \$1.1 million would enable them to entirely pay back the loan and pay for the closing costs. Larry asked since the Friends are a non-profit organization if they are eligible under Prop 84 to make a donation that counts as matching funds. Laurie answered that this should not be a problem. Al Muth added that UC's legal consultants have not identified any red flags. Patrick Kemp stated that he was unclear about this situation and asked for confirmation that the property was originally purchased using a grant from the Conservancy. Bill answered yes. Pat asked the amount of the grant.

Bill answered that it was slightly over \$1 million. Pat asked if it was proposition 40 or 50 funds. Bill answered it was Proposition 40. Pat asked for the other funding sources and for clarification that the Conservancy is asking WCB to use Proposition 84 funds to give a grant to UC so that UC can give the Friends money to pay off their loans. Fred Klass added that he is confused who should be eligible for the matching funds. Bill explained that Proposition 84 contained a pot of money to be used by UC NRS. UC – not the Conservancy - will apply for the funds from WCB since it is the administrator of the funds. Bill compared this transaction to the Whitewater Trout Farm resale transaction that was approved by the Board last year.

Fred Klass asked if we are essentially using public funds to pay for the same property twice, changing the ownership and subsidizing the UC's project in the process. Bill explained that there were state funds involved in both transactions, but far less than the amount of the value of the property. The Conservancy funds and the Prop 84 funds that UC would seek from WCB would, combined, be less than the value of the property so it is not being paid for twice with public funds. Pat Kemp asked if there are any guidelines developed by UC for this grant program. Al Muth responded that there were not yet but that the proposed transaction has been discussed at length with the WCB through the UC main office in Oakland and they have not raised any objections to this proposal. Pat Kemp stated that the grant program in question requires a match and asked if anyone has identified what the match amount is supposed to be. In his opinion, we are accountable to the governor and he feels that this is a loose process for giving out a million dollars. Al Muth answered that before the money is granted, there will have to be an agreement, one which has not yet been formalized. Bill added that an agreement between the WCB and the University would have to be a condition of approval. The Conservancy is simply approving the conveyance of the property to the University with the provision that there is a mechanism in place to assure permanent conservation and we don't require any return of grant funds to the Conservancy.

Al Muth noted that we may be losing sight of what the agenda item actually states. He noted that the Board is not approving the sale; it is asking to forgo the repayment of the grant funds. Chairman Marchand noted that the published resolution states that the Board would be approving the sale. Fred Klass added that this transaction would only benefit the Conservancy if we get money back so we can purchase and protect other land. He also asked how we got the \$1 million dollar figure. Al Muth noted the UC's objective is to secure the land to protect the habitat and also build a research building that would be beneficial to all parties involved. Bill noted that part of the Conservancy's mission is to provide for the public's enhanced understanding of the resources that area acquired and protected, and that the UC NRS research and education components of their mission would contribute to that as well as to improved management of all lands in the area, which thereby benefits the resources which it is our mission to protect. As a result, the Conservancy does derive benefit from the proposed transaction.

Tom Kirk stated that he is still a little confused. If he puts everything in perspective, would the Conservancy actually be giving a grant to UC to build a facility and is this an appropriate use of Conservancy funds. Bill noted that the Conservancy can only use our funds for acquisition. He noted that the original grant decision was based on the fact that this property was important to conserve and the Board felt it was an efficient use of the grant funds. Once the Conservancy grants the money we no longer have involvement in the land other than to monitor the grant agreement and ensure that the conditions are complied with over time. On some occasions the Conservancy receives the money back but not normally. Bill noted that today is a different set of circumstances for the Board to consider.

Roy Wilson noted that the Board is not making the final decision so if we adopt this resolution today everything is not final. He recommends amending page two, paragraph two,

sentence two, of the resolution to read 'Coachella Valley Mountains Conservancy that the Board approves "of" the sale of the property.' Chris Mills seconded the motion to amend the resolution. Chairman Marchand asked Laurie if this change would have the affect that Roy Wilson intended it to have. Laurie answered that she believed it would and it would not change the intent of the resolution. Joan Taylor asked if she could speak on the subject or if she may have a conflict because she is a Friends' Board member. Laurie answered that she would not be able to speak on the subject and Chairman Marchand thought it would be best if Joan stepped out of the room for the rest of the discussion and the vote. Joan agreed to his request and left the room. He asked Laurie to provide the Board some guidance on conflicts during the next meeting. Ellen Trover asked if we removed the words "bargain sale" and replaced it with "gift", would this Board be comfortable giving a gift to UC. Our role is to decide if this is a sale or a gift. Bill mentioned that it is important for the Board to note the resolution also is contingent on if funds can be obtained from the other sources. Chairman Marchand also recommended, in addition to the proposed amendment by Roy Wilson, that the Board amend the last paragraph second sentence to read "to carry into effect the intent of this resolution; and".

A motion was made and seconded (Wilson/Mills) to adopt Resolution 2007-09 as amended by Wilson and Marchand. The motion passed with the following members voting yes: K. Dice, J. Ferguson, J. Foote, T. Kirk, E. Konno, C. Mills, G. Moller, C. Sauer, L. Spicer, E. Trover, R. Wilson, and P. Marchand. The following members voting no: P. Kemp and F. Klass. The following members were not present: J. Donnelly, H. Hohenstein, R. Milanovich. The following members abstained: A. Muth and J. Taylor. A motion was made and seconded (Kirk/Trover) to approve Resolution 2007-09. The motion passed with the following members voting yes: K. Dice, J. Ferguson, J. Foote, T. Kirk, E. Konno, C. Mills, G. Moller, C. Sauer, L. Spicer, E. Trover, R. Wilson, and P. Marchand. The following members voting no: P. Kemp and F. Klass. The following members were not present: J. Donnelly, H. Hohenstein, R. Milanovich. The following members abstained: A. Muth and J. Taylor.

5.0 Closed Session Items

No closed session items were scheduled.

6.0 Discussion/Information item

None

7.0 Written Reports

7.1 Fiscal and Administration

7.2 Acquisitions and Funding

7.3 Update on actions by CVAG or other entities regarding Off Highway Vehicle issues.

7.4 Attorney General's Report

Chairman Marchand called for an omnibus motion to receive and file written reports items 7.1-7.3. A motion was made and seconded (Ferguson/Mills) to receive and file written reports 7.1-7.3. The motion was adopted by all members saying "Aye" in a unanimous vote.

The Attorney General had nothing to report.

8.0 Adjourn to Regular Meeting on November 5, 2007.

Chairman Marchand adjourned the meeting without objection at 4:25 p.m.