**COACHELLA VALLEY MOUNTAINS CONSERVANCY**
**REGULAR MEETING**
**73-710 Fred Waring Drive, Suite 115**
**Palm Desert, California**
**November 03, 2008 - 3:00 p.m.**

**M I N U T E S**

**MEMBERS PRESENT:**

Karl Baker, City of Desert Hot Springs
Buford Crites, State Assembly Appointee
Kathy Dice, California State Parks
John Donnelly, Wildlife Conservation Board
Jim Ferguson, City of Palm Desert– *Chairman*
Jim Foote, U.S. Forest Service (non-voting)
Rick Hutcheson, City of Palm Springs
John Kalish, Bureau of Land Management
Patrick Kemp, Resources Agency
Eddy Konno, California Department of Fish and Game
Paul Marchand, City of Cathedral City
Gordon Moller, City of Rancho Mirage
Al Muth, University of California
Curt Sauer, National Park Service
Tom Sheehy, Department of Finance
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:**

Tom Kirk, City of La Quinta
Richard Milanovich, Agua Caliente Band of Cahuilla Indians

**STAFF PRESENT:**

Bill Havert, Executive Director
Geary Hund, Associate Director
Kerrie Marshall, Staff Services Analyst

**OTHERS PRESENT:**

Chris Rodriguez, Joshua Tree National Park
Mary Justice, Private Citizen

**VACANT POSITIONS:**

None

**1.0 <u>Call to Order & Introductions</u>**

This meeting of the Coachella Valley Mountains Conservancy (Conservancy) was called to order by Chairman Ferguson at 3:02 p.m. and a quorum was present. Karl Baker and Kathy Dice arrived at 3:10 and were not present to approve the Minutes.

**2.0 <u>Approval of Minutes of September 08, 2008 meeting</u>**

Chairman Ferguson asked if there were any additions or changes to the September 08, 2008 Minutes. Larry Spicer requested that the clerk revise the Minutes to say that Patrick Mullany was the representative from the City of Indian Wells at the last meeting. A motion was made

and seconded (Spicer/Moller) to approve the Minutes as amended. The motion passed by unanimous vote with the exception of Larry Spicer and Rick Hutcheson, who abstained because neither member had attended the last meeting.

**3.0 Public Comments on Items Not on the Agenda**

Mary Justice, a member of the public, spoke about her public records request for a copy of the CVMSHCP permit from the Coachella Valley Mountains Conservancy and the Coachella Valley Conservation Commission. She noted that she has not been provided the full permit as requested in her public request. She picked up the permit and attachments on October 27, 2008 and was referred to the Fish and Wildlife Service by Linda Rogers of CVAG and Kerrie Marshall of the Conservancy for the Biological Opinion.

**4.0 Information Items 4.1 to 4.4**

Chairman Ferguson called for an omnibus motion to receive and file written reports items 4.1 thru 4.4. A motion was made and seconded (Marchand/Crites) to receive and file written reports 4.1 thru 4.4. The motion was adopted by all members saying "Aye" in a unanimous vote. Bill noted that the new Conservancy brochure is available and Board Members are welcome to take some back to their respective jurisdictions.

**5.0 Closed Session – No matter is scheduled**

None

**6.0 Consent Calendar for Items 6.1 to 6.4**

Chairman Ferguson noted that Staff would like to consider Items 6.2 and 6.4 separately. He asked the Board if they would like to have any of the other items considered separately.

John Donnelly had a general question in reference to the appraised value of the Conservancy grants. He noted that only one project identified in the staff reports had an appraised value. He asked if the other properties were going to be appraised. Bill Havert answered that all the properties had been appraised and all the purchase prices are either at or possibly below the appraised value in one or two instances; none exceed appraised value. John asked if the appraisals go through a review process. Bill answered yes; by Staff. Patrick Kemp asked if the Conservancy uses an outside entity such as DGS to review the appraisals. Bill answered no, and explained that the non-profit entity gets the appraisal done and submits them to the Conservancy for review and then Staff reviews the appraisal internally. Chairman Ferguson asked for any other comments on the appraisal process and reminded the Board that at the September 2008 meeting there was quite a bit of discussion about the appraisal process. Patrick noted that in September the Board discussed appraised value versus the purchase price, in this case, we are discussing the review of appraisals and Resources Agency prefers to have a third party, such as DGS, review appraisals unless you have an in-house shop that consists of professional appraisers. He added that the only agency that he knows that does this is the Coastal Conservancy. Patrick recommends that the Board review this policy to determine if we should have a third party reviewing appraisals and if so, DGS is the obvious choice because they are recognized as a neutral party. Tom Sheehy noted that since the Conservancy is using State Bond Funds to make these acquisitions that it would be very helpful to have a third party such as DGS review the appraisal in order to avoid the appearance of any conflict. He explained that he can not emphasis this enough and he thinks the Conservancy should consider moving forward with this policy. Bill noted that this item is not on this agenda and suggested that we table the discussion until the January meeting since this is essentially a policy discussion. Tom agreed.

6.1-6.3 Buford Crites mentioned to the Chairman that when it is appropriate he moves to approve items 6.1 and 6.3 on the consent calendar and it was seconded by Paul Marchand. Chairman Ferguson asked for any further discussion. Chairman Ferguson

opened the item for public comment. Since there was none, he asked for a roll call vote. The motion passed with the following members voting yes: K. Baker, B. Crites, K. Dice, J. Ferguson, R. Hutcheson, J. Kalish, E. Konno, P. Marchand, G. Moller, A. Muth, C. Sauer, L. Spicer, J. Taylor, E. Trover and R. Wilson. The following members voting no: J. Donnelly, P. Kemp, and T. Sheehy. The following members abstained: None.

6.2 Resolution 2008-21 approving a Local Assistance Grant to the Friends of the Desert Mountains to assist with the acquisition of 35 acres in the area between the Indio Hills and Joshua Tree National Park.

Bill noted that since the agenda was sent out an additional land owner has agreed to sell their property and this would change the number of acres to be acquired from 35 to 40 and increase the purchase price to $197,000 with closing costs of $7000 and therefore the total grant amount would increase to $204,000. Staff has prepared and distributed a substitute resolution with the new information. He explained that the reason for the late change is that the Friends sent out a letter to all the landowners in that area and they tend to respond over a period of time and this one arrived after the agenda was mailed to the Board.

Chairman Ferguson opened the item for public comment. No public comments were made. He then asked for any additional discussion on the item and there was none. He asked for a motion to approve Resolution 2008-21. A motion was made and seconded (Marchand/Baker) to adopt the resolution. The motion passed with the following members voting yes: K. Baker, B. Crites, K. Dice, J. Ferguson, R. Hutcheson, J. Kalish, E. Konno, P. Marchand, G. Moller, A. Muth, C. Sauer, L. Spicer, J. Taylor, E. Trover and R. Wilson. The following members voting no: J. Donnelly, P. Kemp, and T. Sheehy. The following members abstained: None.

6.4 Resolution 2008-23 approving a Local Assistance Grant to the Friends of the Desert Mountains to assist with the acquisition of 25 acres in the Stubbe Canyon wash area between the San Jacinto Mountains and the San Bernardino Mountains.

Bill noted that new information had come to our attention since the agenda packet was sent out. He further explained that Geary Hund performed the initial site inspections on these 5 properties and found old structures on 2 of them. Bill noted that this is an interesting area in that the 5 acre parcels were originally BLM land and under the Small Tract Act several decades ago these were patented to several individuals. These individuals usually put some minimal type of structure on the property. Thus far, the Conservancy has been fortunate that all of the acquired parcels in this area to date have no structures on them and of the parcels that are involved in this current grant, only 2 of them have structures. Based on the site nspection, there is some potential that there may be lead based paint or asbestos materials involved.

The proposed changes for consideration by the Board would be along two optional lines.
1) Amend the Resolution to require the Friends to retain a certified contractor to inspect the 2 structures and find out whether there is led based paint or asbestos involved. If there is, then they would ensure the proper demolition/disposal of the materials. If the Friends were to do this, they would need additional funds from the Conservancy. Prop 84 provides for the use of bond funds for that purpose as well as for acquisitions. The Friends do not know exactly what this would cost, so option one would be for the Board to approve an amount not to exceed amount of $100,000 in addition to the current grant amount to provide for the inspection, demolition and appropriate removal of the

materials from the property. This would entail changing the completion date of the project from January 31, 2009 to March 31, 2009 to ensure that there is adequate time for this to occur. The most expeditious way would be to amend the Resolution today to add language requiring the Friends to obtain the inspection and the appropriate clean-up based on the results of the inspection. The grant would provide a maximum amount of $100,000 to complete this and, of course, if the amount were less, the Conservancy would disburse less.

2) Remove these 2 parcels from the agenda today and defer consideration until January at which time more information may be available as to the cost of the project. This still may not be final information because until the inspections are done the Friends are not going to know the extent of the issues and the Friends are seeking Grant funds to complete the inspection as well as the acquisition.

Paul Marchand asked if there is a time criticality in which the Friends need to act before they have some negative consequences. Bill answered that the issue is the agreement with the seller is contingent and if the Board does not approve the Grant Funds today then the seller is no longer obligated to sell. Bill added that his suspicion is that they will still want to sell. The other issue is that even if the Board defers consideration until January the Board would still not have an exact number for the cost because the final number is going to be based on the outcome of the inspection. The Friends are seeking Grant Funds for the inspection as part of the acquisition. The most expeditious way to proceed would be to amend the Resolution to add language that would require the Friends to obtain the inspection and the appropriate clean up based on the results of the inspection and provide a maximum amount of $100,000 to accomplish this. Obviously, if it costs less then the Conservancy would disburse less money; this would allow the current purchase agreement to proceed.

Karl Baker moved to approve 2008-23 with the following amended language “that any structures or potential environmental hazards on the property be reviewed and mitigated with a cost not to exceed $100,000.” Bill added that we would need to extend the completion date to from January 31, 2008 to March 31, 2009. Karl Baker agreed to the added language and Paul Marchand seconded the motion.

Chairman Ferguson asked if the Board is talking about completing a Phase 1 Environmental Assessment Report. Bill answered, in this instance, since we have already done an initial inspection and it did not reveal anything other than the existence of the structures, we can have an inspector go out to the property and inspect the structures for lead based paint and asbestos.

Karl Baker added that he believes $100,000 is more than ample to cover the cost of the inspection. Bill reminded him that there may be some demolition and removal of hazardous material costs involved.

Larry Spicer noted that he is concerned about setting a number of $100,000 because it could be a target for some bidders out there. He asked for clarification on how the Friends will handle the bidding/proposals. Is it handled in a way that this number will not come into play? Bill answered that the Friends will not give out this information. They will contact several firms and ask them to prepare bids.

Patrick Kemp noted that the information will be open to the public because the minutes for this meeting are a public document. Chairman Ferguson concurred.

John Donnelly suggested that the Friends come back to the Board with their bids and that we reconsider this at the January meeting. Bill answered that it could be done this way but, the problem here is a sequential issue; until the Friends actually get this inspection, the nature of the work required and extent of demolition will not be known.

Bill Havert noted that a certain amount has to be approved today to cover at least the cost of the inspection. The results of the inspection will dictate the remaining cost of demolition and removal of hazardous materials, if any are found.

Gordon Moller suggested that we find out what we are dealing with before the Board approves the cost of the demolition and removal of materials. Bill answered that this is an option to defer this decision until the January meeting but, he suggests the Board approve some funding for completion of the site inspection of the structures to determine if there is hazardous materials.

Karl Baker noted that he would be happy to change his motion to approve a lower amount because after further consideration he believes that $100,000 is not a realistic number.

Joan Taylor asked how much it would cost to cover the site inspection. Bill answered; the inspection would not cost more than $5,000.

Karl Baker asked for clarification; would this amount just include the site inspection and not provide for any mitigation or remediation. Bill answered, yes. Karl Baker asked if this would prolong the acquisition process. Bill answered; it would have some delay in the process but, he believes it would not be significant in today's market.

Al Muth asked if all 5 parcels were owned by the same person. Bill answered that they have 2 different owners. Al asked if there is a chance of losing 3 of the 5 parcels. Bill clarified that he is suggesting the Board revise the Resolution today to approve the purchase of the 3 vacant parcels and inspection of the other 2 parcels with structures.

Buford Crites suggested that Karl Baker revise his motion downward to $5,000 to provide for the site inspections and have Staff bring the results back to the Board in January.

Bill clarified that the Board is contemplating approval to purchase the 3 parcels at a total cost of $170,000 plus closing costs not to exceed $3,500. They would also approve an additional $5,000 to pay for the site inspections on the other 2 parcels with structures in order to find out if they contain hazardous materials and determine what the clean up costs would be on the property. This new amount would be presented to the Board in January.

John Donnelly asked if the structures had any value in the appraisal. Bill answered, no, because they are essentially abandoned structures.

Joan Taylor asked if the amended March 31, 2009 date would still be accurate. Bill answered no, for the purposes of this Resolution the properties we will be closing before the January 31, 2009 and the date should not need to be adjusted. The Board will be presented with a new Resolution to approve the acquisition of the other 2 parcels in January.

Kathy Dice asked if there would be a problem if any of these 2 structures are found to have asbestos on whether the Friends would acquire the property or it is just a question

of the cost involved. Bill answered that it is a question of how much it will cost to remove the structures. The purpose of acquiring the properties is to secure a wildlife movement corridor and these 2 parcels are located at a very critical point along that corridor. Kathy added that there is no question that we would acquire the property then. Bill answered, that the parcels are highly desirable.

Pat Kemp asked if the appraisal took into consideration that it may reduce the value if the structures had asbestos or lead based paint. If the inspector finds these materials does this not reduce the value of the property because it will cost more to clean it up. Should it then be the responsibility of the owners to remove the hazardous materials? Bill answered that he would have to discuss this with the appraiser but, his inclination is that if there is asbestos on the properties, the cost to clean it up could exceed the value of the property.

Buford Crites noted that the Board wants to purchase these properties. If we tell the property owner that they have to clean up the property and the costs to do that exceed the value of the property, he suspects that the owners will not sell the property.

Kathy Dice noted that if this were the case, it might behoove the Friends to go back and renegotiate with the owners.

Karl Baker noted that the goal is to purchase the parcels as expeditiously as possible with minimal cost. He added that we should let the Friends inspect the property and then we will have more information to base our decision on in January.

Kathy Dice noted that she agrees we need to inspect the structures but, pending the results, we may need to renegotiate with the owners.

John Kalish noted that BLM typically spends $10-15,000 to demolish similar abandoned structures. Bill noted that this is good information to have and agrees that $100,000 is much more than it should cost. He added that he suggests the Board approve the $5,000 to inspect the properties and then use the results of the inspection to determine the additional demolition and removal costs.

Karl Baker moved to approve Resolution 2008-23 with the following amended language "that the Governing Board of the Conservancy approves a local assistance grant not to exceed $173, 500 to the Friends to assist with the acquisition of 3 parcels and the inspection of 2 parcels to determine that any structures or potential environmental hazards on the property be reviewed and mitigated with a cost not to exceed $5, 000." The motion was seconded by Paul Marchand. Chairman Ferguson asked if there was any further discussion and there was none. He asked if any member of the public would like to speak on this item. Since there was none he asked for a roll call vote. The motion passed with the following members voting yes: K. Baker, B. Crites, K. Dice, J. Ferguson, R. Hutcheson, J. Kalish, E. Konno, P. Marchand, G. Moller, A. Muth, C. Sauer, L. Spicer, J. Taylor, E. Trover and R. Wilson. The following members voting no: J. Donnelly, P. Kemp, and T. Sheehy. The following members abstained: None.

**7.0 <u>Adoption of Meeting schedule for 2009</u>**

Paul Marchand noted that we will have the same problem with the schedule next year for the November meeting date because of the Veterans Day holiday. He recommended that we change the meeting date to either the Monday before or after.

The Chairman asked for any further discussion.

Patrick Kemp requested that the Board change the meeting time from 3 pm to either 1 pm or 4 pm to accommodate the Sacramento members and allow them to coordinate better with flight schedules to/from Palm Springs/Ontario airports.

Chairman Ferguson asked for comments.

Karl Baker asked for clarification that this would be for the Sacramento members to attend the meetings in person. Patrick Kemp answered, yes, because due to the flight schedule having the meeting at 3 pm takes up the entire day for travel. He added that this is something we can discuss with Staff at a later time or discuss and finalize at the following meeting.

Buford Crites suggested that the Board take a voice vote now.

John Donnelly noted that he would like to take a look at the flight schedule and coordinate a better time for the meeting with Staff.

Bill added that the Board can approve the dates for the new meeting schedule today taking into consideration Paul Marchand's comments about the holiday and before the next meeting Staff can look at the flight schedule and consider a new time for the meeting.

Karl Baker added that Veterans Day is always on 11/11 and next year it falls on a Wednesday so it would not conflict with our regularly scheduled meeting on Monday. Bill agreed.

Chairman Ferguson concluded that the Board will agree to the schedule that has been proposed in item 7.0 today and discuss the time of the meeting at our January meeting.

**8.0 <u>Reports</u>**

**8.1 Written reports from staff.**

Bill directed the Board to the written reports that were attached to the agenda.

**8.2 Board Member comments and reports from Conservancy member agencies.**

Karl Baker advised the Board about potential acquisitions in the Desert Hots Springs area (Palmwood and Tuscan Hills).

Larry Spicer noted the beauty of the photography in the new Conservancy brochure.

John Donnelly noted that WCB will be considering the Whitewater River Ranch acquisition at their next Board meeting.

**9.0 <u>Adjourn to the January 12, 2009 meeting.</u>** A motion was made and seconded (Marchand/Moller) to adjourn. The meeting was adjourned without objection at 3:50 p.m.