

From: Gdanahobart@aol.com
Subject: Fwd: CV Link
Date: May 1, 2015 at 1:41 PM
To: greg@gregpettis.com, stephenpougnnet@gmail.com, sahernan33@gmail.com, asanchez@cityofdhs.org, tpeabody@indianwells.com, doug@hansonco.com, linda.evans@tenethealth.com, JHarnik@dc.rr.com

Dear All:

Please do not respond to this email because of Brown Act considerations. I just wanted to inform you of my meeting with Mr. Kirk and what transpired.

Best Regards,

Dana

From: Gdanahobart@aol.com
To: tkirk@cvag.org
CC: randyb@RanchoMirageCA.gov, steveq@qalawyers.com, isaiahh@RanchoMirageCA.gov, tjweill@yahoo.com
Sent: 5/1/2015 11:32:26 A.M. Pacific Daylight Time
Subj: CV Link

Tom:

Our 1.5 hour discussion in Palm Desert a few days ago is apparently not moving forward with the speed Rancho Mirage hoped and expected.

To recap: I thought we had agreed that the three most pressing questions that needed resolution ASAP before we (CVAG) commit to moving the project forward in high gear were:

1. Securing a Legal Opinion from a major Los Angeles law firm to advise CVAG and its representative members as to the legality of using Measure A funds to pay for O&M expenses related to the CV Link as currently conceived with NEVs and golf carts.
2. Each city council would schedule a meeting after the legal opinion is received to answer the following question: Should [our city] support or oppose partially paying CV Link O&M expenses from Measure A funds? [Should we use Measure A funds for this purpose?]
3. Is the \$1.6 Million current CVAG O&M projection reasonably accurate? [To answer that question I suggested the question be examined by an outside organization, uninfluenced by CVAG, except to provide necessary information.]

I also suggested that we curtail accepting further Grants until we have answered the foregoing questions. As we know, grants often come with a reimbursement clause if the project is not completed, and sometimes with an obligation to pay interest on the use of those grant funds. And some come with a discretionary right not to request reimbursement.

I also likened the CV Link project to a snow ball rolling downhill: it is consuming more and more money

as it gets larger and larger. We are wasting considerable sums if the cities individually or collectively vote not to go forward with the CV Link concept or not to pay for the O&M.

I believe that our only disagreement concerning what I have just written is that you suggested that the first priority not be the legal opinion, but rather, that we determine what a more accurate projection of the O&M figure for the first year of full operation. I responded that we do not need a precise figure because the legal opinion would stand on its own, regardless if the correct figure is \$100, \$100,000, or \$10,000,000. If Measure A funds are going to be considered to bear some of the O&M responsibility, we must not move this ball forward without a sound legal opinion to guide us. You said you would consider that matter further.

Several days have passed and we are doing nothing to slow down the expenses being incurred. Just today we learned that CVAG is hiring Erica Felci who I presume will be engaged in community persuasion, public relations work re the CV Link, etc. Does she replace Burke Rix Communications? Will any part of her salary/contract be paid from the CV Link account? Why are we still running our CV Link television commercials, such as one that ran this morning?

Some may wonder if CVAG is trying to build public support for the project to put pressure on the cities to support the O&M burden regardless.

You were going to get back to me regarding the precise language of the CalTrans \$11M grant with respect to our repayment obligations in the event the CV Link was finished without having the very expensive component of electric vehicles and golf carts. In other words, what are the odds they would forgive the loan?

The bottom line to my position was that Rancho Mirage needed to know NOW whether the valley cities DO OR DO NOT accept the responsibility for paying, for generations to come, the O&M expenses of the CV Link before we advance any further toward a designed and partially implemented 30' wide (in areas) CV Link project.

I am confident you do not want the CV Link project to progress to far down the line so as to place cities in the squeeze position of thinking they have no real final choice but to approve the debt obligation that O&M would entail.

Finally, what are you doing toward putting together a meeting where each city is present with 5 or 6 persons including council members, city managers, finance directors and/or public works directors? It is critically important that each city hear the thoughts and views of each other city. We need to hear answers to questions that we mutually raise. Is this project more achievable if NEVs and golf carts are eliminated? And so forth...

Best personal regards,

Dana

From: Gdanahobart@aol.com
Subject: Re CVAG Minutes Exec. Comm. Mtg. April 27, 2015
Date: April 29, 2015 at 4:58 PM
To: tkirk@cvag.org
Cc: randyb@RanchoMirageCA.gov, steveq@qalawyers.com, tjweill@yahoo.com

Dear Mr. Kirk:

On behalf of the City of Rancho Mirage, I am officially requesting that my 12-pages of written remarks (relating to Agenda Item 4b) dated April 27, 2015, which were distributed to the members of the Executive Committee on that date, be attached and incorporated into the official CVAG Executive Committee Minutes and thereby become a formal part of the Minutes of that meeting.

As I mentioned, Robert's Rules of Order directs that the minutes of a meeting where said minutes are to be "published" (i.e., written and available to the public) "they should contain, in addition to the information described above, a list of the speakers on each side of every question, with an abstract or the text of each address..."

This request is also made pursuant to Government Code section 54957.5 (a) of the Brown Act.

I am sure you agree that as we embark on resolving certain issues related to the CV Link that our official record be accurate and complete.

Thank you for your continued courtesies.

Dana Hobart
Mayor
City of Rancho Mirage

NOTES FROM CVAG TRAN. COMM. MAY 4, 2015

Meeting was a set-up by Tim Kirk to push the C.V. Link O&M agenda. The CVAG Exec. Comm., at its meeting of April 27th, has indicated that much more analysis and discussion is needed. The Exec. Comm. asked staff to return in May with alternative means to further (and fully) discuss the O&M and funding sources. The Exec. Comm. is looking for ways to more fully involve all councils, city managers and finance directors in the process as well as to ensure that full information is given to each City Council before moving forward.

c: Doug Hanson, Ty Peabody, Wade McKinney

From: Gdanahobart@aol.com
Subject: Re: CVLink
Date: May 7, 2015 at 5:31 PM
To: jjbenoit@rcbos.org, greg@gregpettis.com, stephenpougnnet@gmail.com, sahernan33@gmail.com, asanchez@cityofdhs.org, tpeabody@indianwells.com, doug@hansonco.com, linda.evans@tenethealth.com, JHarnik@dc.rr.com, levans@la-quinta.org

TO AVOID BROWN ACT COMPLICATIONS PLEASE DO NOT REPLY TO ALL

Dear Mayors:

I appreciate Supervisor Benoit's willingness to engage in public discussion of the important, unresolved issues related to the CV Link, whether in person or via email. A broad discussion is exactly what is needed. I greatly admire and respect our Supervisor and abhor being critical of any part of a project he supports. As I explained recently when he and I briefly met, I feel I have a responsibility to the residents of Rancho Mirage to act in what I perceive as their best interests regardless of other factors. At present I believe the future O&M obligations advanced by the CV Link leadership to become the economic burden of the cities are excessive, unreasonable and unacceptable

My recent efforts regarding this matter have been directed to fully understanding the financial obligation to be imposed on Rancho Mirage under the recommended 8% TOT formula relating to O&M expenses generated by the proposed CV Link. If the impact is excessive or unreasonable in some respects, I would consider opposing the project, after considering the wishes of our other valley cities, assuming an acceptable route through Rancho Mirage existed.

In his email to you (below), Supervisor Benoit attached a copy of my 5/1/15 email to Tom Kirk which is also connected (below) to this email chain. My email to Mr. Kirk followed a lengthy meeting he and I had a few days earlier. In my email to Mr. Kirk I restated the substance of our conversation which included the following points important to Rancho Mirage.

1. Are CVAG member cities willing to accept the 8% TOT formula being recommended and commit those TOT funds to paying the future O&M expenses for the proposed project? This must be resolved ASAP.
2. Secure a legal opinion concerning the legality of CVAG's proposal to use Measure A funds for O&M expenses.
3. If they are determined to be legally used, I suggested that we urge each city to meet and separately decide if they felt Measure A's sales tax-generated monies should be diverted from needed road repair and used for CV Link O&M expenses.
4. I suggested that before we vote or lock ourselves into final decisions (as were being recommended by CVAG at the time) all cities, their council members, city managers, finance directors *et al* meet together in a location where we can all listen to and learn each city's concerns regarding the burden of O&M expenses.
5. I suggested we retain an independent, outside firm, to assess the accuracy of the projected O&M expense of \$1.6 million. Hand-picking such a person (as they are currently doing) to make this assessment is yet another version of loaded dice.
6. I suggested that CVAG consider "slowing down" the advancement of the CV Link project and the expenditure of funds until the foregoing objectives and issues have been clarified and settled. It makes no business sense for development to continue at full speed when the most important financial issue remains unresolved: Who pays for the O&M costs and how much? Mr. Kirk responds by asserting that he does not have the discretionary authority to slow down development.

My response to Supervisor Benoit's specific email comments appear below in red ink. You will observe that he did not address four of the six issues raised above, and only perfunctorily mentioned # 5 and #6.

Dana Hobart, Mayor, City of Rancho Mirage

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Mr. Benoit's Email Comments Begin:

Dear Mayors:

Let me start by affirming that I believe CVLink holds great promise as a wonderful new tourist attraction, an alternate means

of non-polluting transportation, and a healthy place for all our valley residents and visitors to exercise and recreate. I also believe that some of the recent dialogue regarding this project has been uninformed and inflammatory, and I want to share some facts so you have an accurate and complete picture.

As you may know, Mayor Hobart has been criticizing CVLink since shortly after the publication of a proposed TOT-based O&M funding formula in the April 3 CVAG Transportation agenda. **Correct.** After reading the agenda, Mr. Hobart called for a closed session of the Rancho Mirage City Council, which then voted unanimously to oppose the CVLink project. **Incorrect: we opposed the proposed O&M formula . We have never voiced opposition to the concept.** Mayor Hobart immediately took notice of that closed-session vote to the Desert Sun and others in an apparent effort to build support for the city's position. **On the advice of our city attorney who foresaw the possibility of legal action being involved, we discussed the matter in closed session. Could CVAG actually force cities to accept the 8% TOT formula? Prior to March 30th when Mr. Kirk came to city hall no council member had heard so much as one word about this concept or formula for paying the long term O&M expenses. We were shocked when Mr. Kirk first explained the formula. Yes, we did contact the newspaper because we knew that nobody else had learned of this formula idea and we wanted it publicly exposed quickly. This was kept secret from us until it was being identified in the Transportation Committee Staff Report for April 6, 2015, as follows: "Recommendation: Approve an Agreement to Establish and Fund CV Link Operations and Maintenance Fund." It was not labeled a "discussion" item; it was up for final approval before this committee just 6 days later after we first learned of it. Contrary to Supervisor Benoit's statement that I had "been criticizing CVLink since shortly after the publication of a proposed TOT-based O&M funding formula..." I had never criticized the CV Link. My criticism has only been directed to the secrecy and the preposterous formula being advanced. I have also been critical of proposed routes through Rancho Mirage.**

I met privately April 22 with Mr. Hobart to seek a better understanding of his concerns. He reiterated the points in a May 1 email (copied below) and added a concern that he felt the CVLink Operations and Maintenance (O&M) budget had been grossly understated. **That comment grossly misstates what I said.** He referenced the \$6 million+ annual O&M cost for the American River Parkway in Sacramento, which he described as a "26-mile running, bike path." Mr. Hobart said he was not sure if it was exactly an apples-to-apples comparison, but he was nevertheless very concerned about the CVLink O&M estimates. A short while later, I asked Mr. Kirk to investigate this comparison. **Yes, the accuracy of the \$1.6 formula was an issue I thought deserved an outside analysis. I still do. In my 12-page report given to each Executive Committee member I raised the question of the American River Parkway's O&M numbers, but I said that I "Urge Caution in accepting these numbers as being relevant to us" and I suggested it may not be an "apples-to-apples" comparison. I have never said the projection was "grossly understated." But I wanted to know if it was. if Rancho Mirage or any city failed to test the assumptions behind the 8% TOT formula idea, we would rightly be perceived as derelict in meeting our responsibilities.**

Subsequently, at the CVAG Executive Committee, the Rancho Mirage City Council, the Desert Sun and elsewhere, Mr. Hobart reiterated the TOT objection while adding the threat of potential catastrophic and massive future O&M debt. He repeatedly made a direct comparison between CVLink and the American River Parkway's "over \$6 million O&M budget" for an "eight-foot-wide, 26-mile running, bike path."

In the May 1 email to Mr. Kirk Mayor Hobart stated his desire to halt all CVLink work until Mr. Kirk met his demands. **False statement.** I understand that Mr. Kirk has let Mayor Hobart know in writing that he must take his direction from the Executive Committee and cannot stop or slow work on a specific project at the whim of one member. **Whim? I represent a city being asked to assume a large financial obligation. Is it a whim to establish a clear picture of the future O&M costs and who pays them before we spend millions in the construction? (We have already budgeted over \$5 million through June 30, 2015. I prefer sound business principle especially when the risk is to the taxpayers we are supposed to represent.** I also understand that Mr. Kirk sent you a brief follow up e-mail indicating that he did not share Mayor Hobart's opinions. Mr. Kirk agreed that all of Mr. Hobart's concerns should be addressed, openly and publicly, beginning with a scheduled review of the O&M costs. **I have not suggested to Mr. Kirk or Supervisor Benoit that CVAG should "halt all CVLink work" until Mr. Kirk met my "demands". I have made no demands whatsoever to anyone. Supervisor Benoit offered no quote of mine to support this baseless charge. In my email (below) I suggested we "slow down" the expenses being incurred until we get the primary issues resolved. I did and do question the wisdom of continuing with expenses for TV commercials, hiring new personnel, etc. until we know that there is a way to finance the long**

term O&M expenses. I continue to think it is unwise to plod forward with design and other expenses until we know that an acceptable payment plan has received approval from those who will pay those expenses. To CVAG this apparently seems a novel experiment. It is imprudent business practice to do otherwise and only serves to put pressure on cities to go along with the project despite unresolved issues of such magnitude as to disrupt city budgets for decades to come. Rancho Mirage will not be maneuvered into such a corner.

By the way, there have been countless public and open meetings concerning CVLink, and I look forward to many more. There have been no closed sessions at CVAG regarding CVLink. **Not a word about this 8% formula can be found in the minutes of the Executive Committee, the TAC Committee or the Transportation Committee prior to April 1, 2015. The 8% formula was never disclosed in any open meeting, but we have established that there were months of secret meetings where this subject was discussed.**

At Monday's CVAG Transportation Committee meeting, we learned a great deal about the American River Parkway during a healthy, two-hour discussion about O&M costs for CV Link, including comparisons to other similar projects and to one very dissimilar project.

We learned the American River Parkway is actually a complete park system spread **over 4,900 acres** and bears very little resemblance to CVLink. It includes a river with multiple public access points, large landscaped recreational facilities, multiple restrooms facilities and other public areas which host major local events.

CVLink's first phase is a narrow 48-mile multi-use roadway which sits on fewer than **100 total acres**, with little to no landscaping. Clearly it was grossly inaccurate to repeatedly compare CVLink's O&M cost to such a massive park system. **Another misleading comment. It was never compared without my repeated admonition that the two projects many not be similar enough for comparison. I assume my Executive Committee comments are borne out in the recorded ExecComm session.**

The Transportation meeting included a review of how the CVLink O&M proposed budget was developed. A representative from the national firm developing the plan outlined the hundreds of pathways with which they have had years of experience and how they developed their O&M estimate.

We heard from a La Quinta representative about the approximately \$10,000 per mile they spend annually (exclusive of landscape maintenance) to maintain their 2.5-mile Bear Creek biking path, which is a concrete path, narrower than but similar to CVLink. The representative said the city and the La Quinta Resort cherish this amenity which is one of the most popular, well-used amenities in the city. They advised it that DOES NOT REQUIRE special security, extra public employees, etc. to "operate."

The Riverside County Parks Director gave a presentation about the Santa Ana River Trail, which is essentially a bike and pedestrian roadway without much landscaping. He indicated that the Santa Ana River trail is being maintained for far less than the proposed CVLink O&M budget provides, and the minimal expenses are covered by the park system's general maintenance budget.

After hearing all of the above, I believe CVLink's 14-foot-wide cement roadway, and adjoining jogging walking path, will actually cost closer to the \$10,000 spent per mile annually on La Quinta's similar project. Consequently, I agree with each of the presenters, that the estimated \$36,000 per mile cost provided for in the proposed CVLink O&M budget is more than adequate and perhaps too high.

There was further discussion regarding the use of volunteers and "adopt-a-highway" type initiatives to further lower the estimated O&M costs. I believe the Coachella Valley's potential for recruiting volunteers to help in this endeavor is enormous and could easily result in the elimination of more than \$500,000 of the \$1.6 million estimated CVLink O&M budget.

Building roadways is expensive, maintaining them is far less expensive. But doing so periodically is critical so you don't have to fix major problems later. We need a reasonable budget and plan to maintain CVLink.

We should keep in mind that with CVLink we are bringing tens of millions of dollars, and many construction jobs, into our economy to create a wonderful new amenity. I don't support stopping work on the project. I support continuing with an open, public process to resolve any differences. I sincerely hope that we can have a civil, informed and rational public discussion regarding all of this at future CVAG meetings.

This is intended as one-way communication to each of you. I wanted to share my observations but understand that due to Brown Act requirements, a majority of us should not engage in a back-and-forth discussion. I look forward to working with you publicly to achieve our common objectives.

John J Benoit

Riverside County Supervisor, 4th District

73710 Fred Waring Drive, Palm Desert, CA 92260-2574

[760-863-8211](tel:760-863-8211) JJBenoit@rcbos.org www.RivCo4.org

REFERENCED EMAIL FROM MAYOR HOBART AS FORWARDED TO ALL C.V. MAYORS

From: Gdanahobart@aol.com

To: tkirk@cvag.org

CC: randyb@RanchoMirageCA.gov, steveq@qalawyers.com, isaiahh@RanchoMirageCA.gov, tjweill@yahoo.com

Sent: 5/1/2015 11:32:26 A.M. Pacific Daylight Time

Subj: CV Link

Tom:

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the event the CV Link was finished without having the very expensive component of electric vehicles and golf carts. In other words, what are the odds they would forgive the loan?

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Best personal regards,

Dana

From: **Gdanahobart@aol.com**
Subject: Correcting a Flagrant Desert Sun Misrepresentation
Date: May 16, 2015 at 6:03 PM
To: shenry@cathedralcity.gov, greg@gregpettis.com, jaguilar@cathedralcity.gov, skaplan@cathedralcity.gov, mcarnevale@cathedralcity.gov, shernandez@coachella.org, emartinez@coachella.org, mperez@coachella.org, bsanchez@coachella.org, mzepeda@coachella.org, asanchez@cityofdhs.org, rbetts@cityofdhs.org, smatas@cityofdhs.org, jmckee@cityofdhs.org, jpye@cityofdhs.org, tpeabody@indianwells.com, dreed@indianwells.com, rbalocco@indianwells.com, dhanson@indianwells.com, temertens@indianwells.com, lramoswatson@indio.org, gmiller@indio.org, eholmesinindio@gmail.com, mwilson@indio.org, tstrange@indio.org, levans@la-quinta.org, kristyforlaquinta@gmail.com, losborne@la-quinta.org, jpena@la-quinta.org, rradi@la-quinta.org, smwebe@cityofpalmdesert.org, rspiegel@cityofpalmdesert.org, jstanley@cityofpalmdesert.org, sjonathan@cityofpalmdesert.org, vtanner@cityofpalmdesert.org, steve.pougnnet@palmspringsca.gov, ginny.foat@palmspringsca.gov, chris.mills@palmspringsca.gov, paul.lewin@palmspringsca.gov, rick.hutcheson@palmspringsca.gov
Cc: tjweill@yahoo.com, ladyirism@gmail.com, richardk@RanchoMirageCa.gov, TCharlie57@aol.com, randyb@RanchoMirageCA.gov, isaiahh@RanchoMirageCA.gov, grburton@palmspri.gannett.com, mwinkler@gannett.com

Dear Council Colleagues:

In the Desert Sun article concerning the CV Link dated May 17, 2015, but online the early evening of May 16, 2015, the reporter states that I told him to destroy a document with no further explanation of the context. I was telling him that a request I had sent to Tom Kirk for some Motions to be placed on the June 1, 2015 Executive Committee agenda was no longer current; that changes had been made. If I used the word "destroy" (as I do not recall using it, but may have) it was in the context of the earlier outline of the Motions to expect having been subsequently modified. It was no longer current. I gave him a draft copy of the Motions that were going to be filed and will be filed Monday.

The email in question is stated in its entirety below. As any fool can see, it is copied to many people, including the CVAG attorney, Toni Eggebraaten, not to mention the Executive Director, Tom Kirk. Therefore, if I had any interest in "destroying" the document, I had a lot of others to persuade, including Tom Kirk and his attorney, and our attorney, finance director and city manager.

Sometimes reporters cannot resist taking cheap shots with no substance to support them. This is one such example. This is what the article states:

The Desert Sun obtained Hobart's email request through California's public records law. However, thinking that he might have accidentally given the document to a reporter, Hobart said, "Please destroy it." He would go on to say that he no longer intended to reopen the matching air quality mitigation funds at the June 1 meeting.

I wanted you all to see the context of this deceptive and misleading journalistic exhibition. As most elected officials learn over time, context is everything and when it is breached, it creates a false but intended perception.

Here is a complete copy of the email in question.

Dana Hobart

From: Gdanahobart@aol.com
To: tkirk@cvag.org
CC: randyb@RanchoMirageCA.gov, steveq@qalawyers.com, isaiahh@RanchoMirageCA.gov, tjweill@yahoo.com, Toni@EggebraatenLaw.com
BCC: GDanaHobart@aol.com
Sent: 5/3/2015 3:13:28 P.M. Pacific Daylight Time
Subj: Re: Request for Items on June Exec. Comm. Agenda

Sent a second time within one minute because first attempt did not properly identify Tom Kirk's email address. Corrected with this email. Sorry for the error. Relevant message follows:

Hi Tom:

The City of Rancho Mirage formally requests the following Action Items be placed on the Agenda for our June 2015 meeting. Please inform me of the latest date to provide you with the equivalent of a staff report (which we can entitle City's Report or whatever you suggest).

The request to have these matters placed on the June Agenda is pursuant to the CONDUCT OF CVAG MEETINGS manual, Section VII C (page 11).

1. **Motion to Retain a Major Los Angeles Law Firm** to provide the Executive Committee and interested others with a Legal Opinion concerning whether Measure A funds may legally be expended to assist in the payment of future **Operations and Maintenance** expenses related to the CV Link.
2. **Motion to Appoint a Committee of Three Executive Committee members**, including the member from Rancho Mirage, to select the law firm to be retained and to provide such law firm with such relevant data that may be needed to form such an opinion.
3. **Motion to Forthwith Commence the Process of Convening an all-day Joint Meeting in June or July** of all CVAG cities for the purpose of having an open discussion of all issues relevant to the issue of CV Link's Operations and Maintenance expenses, projected expenses in the future, and how such expenses are to be paid and by whom. Invited to such meeting from each city will be at least two council members, the City Manager, the Finance Director, and the Public Works Director.

In addition to the foregoing issues and motions, the City of Rancho Mirage asks to be on the June Agenda regarding the following:

Motion to Reconsider the Decision at the February 27, 2012, Executive Meeting at which permission was given for CVAG to use "CVAG Transportation Funds to be used as a potential match as long as such funding does not delay construction of any currently obligated project or delay any other pending high priority project." Rancho Mirage will provide the equivalent of a staff report concerning the reasons and justification for this motion. (This motion is made pursuant to the CONDUCT OF CVAG MEETINGS manual, section XI, p. 16.)

Please advise me of the last day to submit the equivalent of a staff report, other data and/or any exhibits.

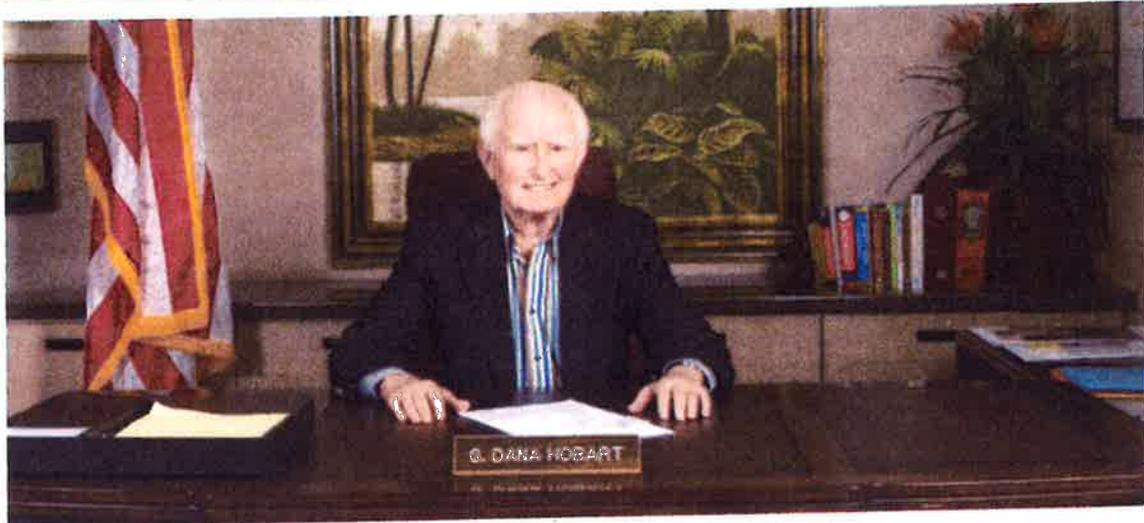
Thank you for your cooperation in achieving the foregoing.

Sincerely,

Dana Hobart
Mayor
City of Rancho Mirage

From: **Gdanahobart@aol.com**
Subject: Mayor's Message: CV LINK UPDATE
Date: May 26, 2015 at 9:49 PM

To: shenry@cathedralcity.gov, greg@gregpettis.com, jaguilar@cathedralcity.gov, skaplan@cathedralcity.gov, mcarnevale@cathedralcity.gov, shernandez@coachella.org, emartinez@coachella.org, mperez@coachella.org, bsanchez@coachella.org, mzepeda@coachella.org, asanchez@cityofdhs.org, rbetts@cityofdhs.org, smatas@cityofdhs.org, jmckee@cityofdhs.org, jpye@cityofdhs.org, tpeabody@indianwells.com, dreed@indianwells.com, rbalocco@indianwells.com, dhanson@indianwells.com, temertens@indianwells.com, lramoswatson@indio.org, gmiller@indio.org, eholmesinindio@gmail.com, mwilson@indio.org, tstrange@indio.org, levans@la-quinta.org, kristyforlaquinta@gmail.com, losborne@la-quinta.org, jpena@la-quinta.org, rradi@la-quinta.org, smwebe@cityofpalmdesert.org, rspiegel@cityofpalmdesert.org, jstanley@cityofpalmdesert.org, sjonathan@cityofpalmdesert.org, vtanner@cityofpalmdesert.org, steve.pougnnet@palmspringsca.gov, ginny.foat@palmspringsca.gov, chris.mills@palmspringsca.gov, paul.lewin@palmspringsca.gov, rick.hutcheson@palmspringsca.gov



MAYOR'S MESSAGE

CV LINK UPDATE

Why the Emphasis on This Issue?

There are two ways the proposed 48.2 mile bicycle/pedestrian/jogger/golf cart/low speed electric vehicles/ADA approved pathway may negatively impact our city: (1) **By the route through the city** and (2) **By our city becoming saddled with financial responsibility for unsustainable long-term operations and maintenance costs** of the pathway.

The Status Regarding Any Possible CV Link Path Within Rancho Mirage

Rancho Mirage has rejected several proposed routes in the city. We expect to consider nothing further until there is an agreed upon long-term operations and maintenance (O&M) plan in place. When and if that occurs, the city council will only consider a non-disruptive route acceptable to our residents.

Indian Wells Aligns With Rancho Mirage

Our effort to shed light on the subtle and somewhat arcane details of the financial problems brewing for the CV Link has gained steam. At their May 21, 2015 meeting, the Indian Wells City Council essentially aligned themselves with the positions advanced by Rancho Mirage. They join us in insisting on detailed information concerning the long term burden of financing the O&M costs. Mayor Ty Peabody stated that he would second the four motions Rancho Mirage placed on the June 1, 2015 Executive Committee Agenda. (See below.)

What Is the Currently Proposed Formula To Meet the CV Link's Long Term O&M Costs?

For the past three years, the CV Link leadership represented to the cities that "OPERATIONS AND MAINTENANCE WILL NOT REQUIRE LOCAL FUNDING." (Source: Draft Master Plan: Executive Summary - June 2014.) CV Link authorized their public relations company to make the following statement to The Desert Sun (6/30/14): "This is a first-class facility that's going to require a first-class maintenance plan." He continued: "It won't mean pulling money away from city budgets." In the CV Link Master Plan (March 2015) it states: "OPERATIONS AND MAINTENANCE WILL NOT REQUIRE LOCAL FUNDING."

Largely because of the assurances of "no local funding required", the cities had given the CVAG leadership a free hand in moving the CV Link idea forward. That ended, however, on March 30, 2015, when Rancho Mirage was first informed that the cities would be

required to cover the O&M expenses, after all. Our council immediately rejected the proposed formula by a 5-0 vote.

We have received no explanation concerning how or why the O&M costs went from the cities having no obligation to the cities carrying most of the burden. What were the assumptions that fell apart? A mistake of this magnitude shreds public confidence.

The proposed CV Link Contract with the cities recites the formula being advocated. "Each Participating Jurisdiction agrees to provide funding for the O&M Fund that is equal to 8% of that portion of its annual TOT revenue that is in excess of the Base Amount ('O&M Contribution'). The Base Amount is the sum of ... the total TOT revenue collected in the Participating Jurisdiction during calendar year 2016..." (For ease of understanding the formula, I omitted two paragraphs that could increase that figure under certain circumstances.)

Under CVAG's proposed TOT 8% formula, our Finance Director states that we begin paying our annual share in 2017 @ \$28,000. It increases dramatically in every following year. Each year after 2017, we would pay 8% of all TOT income received each year that is in excess of the TOT we received in 2016. By year nine, using their projections, our payment would be \$313,000. Our total paid over these 9-years projects to be \$1,461,000.00. CVAG officials say they probably would not keep it all. We replied, perhaps; but regardless, we are exposed to the full amount being taken. Few government agencies fail to spend every dime within their grasp (and then some). (The amount to be paid has nothing to do with the number of Link miles in the city.)

What Are the Annual Projected Operations and Maintenance Costs?

In the March 2015 (Final) Master Plan (p.15), CV Link projects the first year's O&M expenses will total \$1,616,900.00. Somewhat disingenuously, proponents have recently begun claiming the \$1.6M figure can be reduced by \$550,000 because "we will eliminate the 10 Rangers" the budget calls for. They would allegedly be replaced by "volunteers" to do the work trained Rangers would have been assigned. This reduced figure sounds more guileful than serious, especially considering the responsibilities the Rangers are to be assigned.

CVAG has one additional approach to reducing the amount cities would pay. The proponents suggest the possibility of reducing the cities' annual burden by one-third or more through the use (some say the misuse) of Measure "A" funds. (More re Measure "A" below.)

Sticking with the \$1.6 million figure provided in both the Final and Draft Master Plans, the total cost to the Coachella Valley cities will reach a staggering **\$200,000,000.00** by the

63rd year of operation, assuming 2% annual increases. Is CV Link the highest and best use of that money?

The Questionable Wisdom of Using Voter Approved Measure "A" Funds For the CV Link O&M

Rancho Mirage is placing a Motion before the Executive Committee June 1, 2015, to obtain a legal opinion from a major independent law firm regarding the legality of the CVAG proposal to use regional Measure "A" funds for the CV Link's O&M costs. CVAG staff proposes that 30%-40% of the projected \$1.6 million in O&M costs could be funded from the Coachella Valley's allotment of regional Measure "A" funds. To accomplish this requires a majority of the CVAG Executive Committee to formally vote to proclaim the CV Link pathway as being a "regional arterial transportation route." Which it clearly is not. Nonetheless, that's the plan.

Decision of County Voters

In 2002, Riverside County voters approved Measure "A" and thereby extended an earlier vote to add ½ cent to our county sales tax through year 2039. Voters were told that this tax was expressly directed to "widen or improve" certain identified routes and interchanges; maintain community streets; expand transit for seniors and persons with disabilities; expand Metrolink commuter rail; conduct audits; authorize bonds up to \$500 million. The Coachella Valley gets a percentage of those funds in the expectation they will be spent for those purposes.

Consistent with Measure "A"s direction, over the past several years CVAG's member cities have identified and prioritized 247 Coachella Valley road and bridge projects needing repair, realignment, etc., and have approved them for regional Measure "A" funding at a total estimated cost exceeding \$3 billion — a sum far beyond the total Measure "A" pool of money available. We clearly have greater road repair needs than available Measure "A" funds, yet some seek to transfer millions of dollars from this fund to the CV Link pathway.

Applicable Measure "A" Law

Measure "A"s enabling Ordinance No. 02-001 respecting what is a proper use of regional Measure "A" funds, in part states: "Measure "A" funds may **only** be used for transportation purposes including ... **maintenance, and operation of streets, roads, highways, including state highways and public transit systems and for related purposes.**"

The 2009 Measure "A" Transportation Improvement Program (TIP) specified that Coachella Valley's share of Measure "A" funds is to be spent on highways and regional arterials (50%), local streets (35%) and public transit (15%). To arguably qualify for these

funds the CV Link pathway would have be designated as a "regional arterial transportation route." That seems quite a stretch.

Our motion seeks a legal opinion on whether using regional Measure "A" funds for O&M of this bike/pedestrian/golf carts/wheelchairs path is legal. John Standiford, Deputy Executive Director for the Riverside County Transportation Commission (which oversees all regional Measure "A" funds) is quoted in The Desert Sun as stating that it is "unclear" as to the legality of using those funds for CV Link O&M expenses. I agree, and why should we gamble that some future lawsuit wouldn't halt that use and transfer that additional cost back to the cities?

Even If Legal, Should We Tap Into the Measure "A" Fund?

The legality issue is one thing, but another important component of this issue asks: even if it is legal to use Measure "A" funds for maintenance of this pathway, the ethical question remains: Should we diminish our critically needed roadway funds for this project? Does this project have a priority higher than dangerous and unsafe roadways?

An article in the May 26, 2015 Wall Street Journal illustrates the problem of taking money earmarked from one source to be used on another. [Mac Zimmerman: Taxing for Highways, Paying for Bike Lanes](#)

Furthermore, 2039 is just 24-years hence. If Measure "A" funding did occur, but the sales tax increase was not extended by the voters in 2039, how would that impact the liability of the cities who accept responsibility for paying the O&M expenses? Who would bind their city to participate in funding CV Link without knowing the answer to this question?

Let's Slow Down the Current and Ongoing Expenses of Design, Development and Publicity Until Questions are Resolved

Our fourth motion seeks a directive from the Executive Committee to CVAG staff to slow down the ongoing expense of design and construction planning. We have budgeted somewhere between \$2 - \$5 million dollars thus far, without knowing if we have an O&M plan or a realistic hope for one.

As the Executive Committee Chair recently wrote, "...no CVAG committee has reviewed, considered nor taken any action on an operations and maintenance funding plan." Three years into spending on the design and development side and we have yet to even consider how we will meet the O&M obligations?

We should delay no further. Who is going to be responsible for the annual \$1.6 million (increasing year after year) costs for the operation and maintenance of the CV Link over the coming decades? The time has come to address and answer this beguiling question.

Your Questions and Suggestions

The gravamen of the uncertainties we face requires serious thought. Council members have the unabridged obligation of protecting current and future residents from careless economic decisions. How do we meet that challenge on this issue?

1. If measure "A" funds are used to cover about 35% percent of the O&M costs, which cities will make up for the loss of those funds if in 2039 Riverside County voters do not extend the ½ cent sales tax?
2. If the cities all agree to some form of TOT or other formula for paying the O&M expenses over the coming decades, which cities absorb the loss if one of the cities obtains bankruptcy relief from the contract obligation?
3. Who makes up for the deficit if a member city simply announces they can no longer afford to make the payments to the CV Link, and simply stops? (This is not much of a hypothetical question considering this did happen with respect to Roy's Desert Shelter.)

As one city council member was quoted in the newspaper in connection with Roy's Desert Shelter, "Just because a City Council made a commitment to an organization for funding doesn't mean it's guaranteed." Chew on that one for awhile!

We would like your input.

- Should we use Measure "A" funds for this project if it is legal?
- Should we agree to the 8% TOT plan, which has 5-cities (RM included) essentially bearing the complete cost of all future O&M costs.
- Are we being unreasonably cautious in demanding that our future obligations be identified with near certainty before Rancho Mirage supports the CV Link?
- What formula or other means of payment for Rancho Mirage's share of O&M costs seems reasonable to you?
- If the CV Link fails, should we consider an alternative? Such as a bicycle and jogging path connecting the valley cities?

Conclusion

In private business, virtually nobody would start design and construction of a project without having a detailed O&M plan in place. Tom Kirk, Executive Director of CVAG and head of the CV Link team, has a background in private business and seven years of experience as Executive Director of the Salton Sea Authority. We ask him to call on that

experience.

Please email me at MayorHobart@RanchoMirageCA.gov to share your views. I will keep you periodically updated. (If you read all of this down to this point, I applaud you!)

Best Regards,



Mayor Dana Hobart

###

www.RelaxRanchoMirage.com www.RanchoMirageCA.gov www.RanchoMirageLibrary.org

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[Privacy Policy](#).



City of Rancho Mirage 69825 Highway 111 Rancho Mirage CA 92270

From: **Desert Political Opinion Blog** editor@DesertObserver.com
Subject: The CV Link Roadway
Date: May 29, 2015 at 4:59 PM
To: tpeabody@indianwells.com

[View this email in your browser](#)



Desert Political Opinion

A Palm Springs and Coachella Valley Opinion and Politics Blog

The CV Link Roadway

May 29, 2015

Summary.

The planned CV Link route is one intended for use by slower motorized forms of transportation, such as a Neighborhood Electric Vehicle (NEV), that operate at speeds ranging from 20 to 25 mph. The \$100 million dollar cost of the 52 mile route benefiting less than 700 known electric vehicle owners should not be a cause for general celebration. Despite the elation over the roadway's secondary use as a new bicycle path, it may still carry the stigma of a shameful public funding boondoggle.

The CV Link Roadway

CV Link will be a paved roadway linking valley cities from Palm Springs to Coachella. Most of the route will be constructed on one of the Whitewater River embankments. Its intended use is for slower motorized forms of transportation, such as a Neighborhood Electric Vehicle (NEV), that operate at speeds ranging from 20 to 25 mph. The roadway will also include an adjacent path suitable for pedestrians and slow-moving bicycles. The route's design will accommodate faster bicycles able to share the roadway's concrete pavement surface with motorized vehicles.

The following descriptions are from a recent draft copy of the CVAG Neighborhood Electric Vehicle (NEV) plan.

- "A Neighborhood Electric Vehicle (NEV) is a type of Low Speed Vehicle (LSV) that can travel up to 25 mph. NEVs can travel on any public street in the general traffic lane as long as the speed limit is 35mph or less. NEVs can travel on a public street with a speed limit of 40mph or greater if there is a separate lane or path provided. Although this plan focuses on NEVs, dedicated lanes and paths may also benefit golf car operators.
- "According to California State Vehicle Code Section 385.5, NEVs are defined as "low-speed vehicles" and:
 - a) Having four wheels,
 - b) Attaining a maximum speed of 20-25 mph on a paved level surface, and
 - c) Having a maximum gross vehicle weight of 3,000 pounds."
 - "NEV drivers must be licensed as motor vehicle drivers and abide by the California State Vehicle Code when operating on street. AB-61 authorizes the County of Riverside or any of its jurisdictions to develop an NEV Transportation plan for a designated plan area. The California Streets and Highway Code sections 1962-1962.8 were established to implement the bill."

NEVs are included in the ZEV (Zero-Emissions Vehicles) broad range of electric plug-in vehicles (PEVs) that include Battery Electric Vehicles (BEV), Plug-in Hybrid Vehicles (PHEV) and hydrogen fuel cell vehicles. CVAG estimates there are currently about 148 PHEVs, 76 BEVs and 440 NEVs in the Coachella Valley and the number is expected to reach 13,000 PEVs by the year 2025. It's assumed their use will replace short passenger vehicle trips and encompass a "wide range of trip purposes, including commute trips, school, shopping, errands and recreation."

The decision to build a new roadway for electric vehicle use was made when it was learned that substantial federal, state and local grant monies would be available for that purpose. The CV Link roadway design will require at least \$100 million dollars and a substantial portion of that sum is reportedly available. Public interest in creating and using a NEV roadway network in Coachella Valley has never been independently assessed. There's been no demonstrable community support for NEV ownership and it's believed the less than 700 vehicles currently in use are owned by those with wealth sufficient to allow their purchase as an addition to a stable of personal recreation vehicles.

The original CV Link plan was for a bicycle and pedestrian path - that would

NOT require local funding - to be constructed along the Whitewater River embankment. It was touted as a desirably healthy exercise alternative and one expected to produce tourism-related benefits. Claims have been made that it will serve as "a tourist magnet", "recreational marvel", benefit "impoverished neighborhoods" and generate tourist dollars. One aspect of these claims that remains unclear is which ones are related to bicycle and pedestrian use and whether any are claimed as benefits from use of NEVs. Some of the benefit claims being made appear farfetched and their credibility cry out for substantiation.

The latest controversy surrounding CV Link resulted from recently released information about its design and costs. The roadway is planned as a thirty foot wide avenue of pavement and buffer strips necessary to accommodate four-wheel vehicle use together with a separate pedestrian path. Portions of the river embankment have been found not available for CV Link use and the roadway will need to detour onto city streets and communities. Much of the roadway through the City of Rancho Mirage is planned for city streets where it is expected to significantly impact the community areas through which it will go. Another recently released information concern is the revelation that the "*will not require local funding*" claim is no longer the case. Significant annual funding to be paid by the local communities will be needed in order to cover CV Link operations and maintenance costs. After learning the full extent of the CV Link roadway plans and need for annual funding, the City of Rancho Mirage has taken the lead by insisting the entire project be "slowed down" and that a comprehensive review is made of its design, funding and ways to improve the project's transparency in order to avoid future surprises of significance.

There are many who would prefer to see the CV Link electric vehicle roadway plan abandoned in favor of a return to the original bicycle and pedestrian path that has community support. It's clearly a waste, and perhaps abuse, of public funds to throw \$100 million into a roadway that's unneeded, mostly unwanted and one that has little chance of receiving substantial use from the 700+ battery-operated vehicles currently in the community. It's a black mark on our entire public financial system that so much in the way of taxpayer funds are available for arcane projects like the CV Link roadway and yet other infrastructure and human existence needs are allowed to remain untended. The completion of the CV Link electric vehicle roadway should not be a cause for general celebration. Despite the elation over a new bicycle path, it will still carry the stigma of a shameful public funding boondoggle.

From: Gdanahobart@aol.com
Subject: Fwd: Moving Forward with Mayor Henry's motion.
Date: June 20, 2015 at 1:56 PM

To: shenry@cathedralcity.gov, greg@gregpettis.com, jaguilar@cathedralcity.gov, skaplan@cathedralcity.gov, mcarnevale@cathedralcity.gov, shernandez@coachella.org, emartinez@coachella.org, mperez@coachella.org, bsanchez@coachella.org, mzepeda@coachella.org, asanchez@cityofdhs.org, rbetts@cityofdhs.org, smatas@cityofdhs.org, jmckee@cityofdhs.org, jpye@cityofdhs.org, tpeabody@indianwells.com, dreed@indianwells.com, rbalocco@indianwells.com, dhanson@indianwells.com, temertens@indianwells.com, lramoswatson@indio.org, gmiller@indio.org, eholmesinindio@gmail.com, mwilson@indio.org, tstrange@indio.org, levans@la-quinta.org, kristyforlaquinta@gmail.com, losborne@la-quinta.org, jpenna@la-quinta.org, rradi@la-quinta.org, smwebe@cityofpalmdesert.org, rspiegel@cityofpalmdesert.org, jstanley@cityofpalmdesert.org, sjonathan@cityofpalmdesert.org, vtanner@cityofpalmdesert.org, steve.pougnnet@palmspringsca.gov, ginny.foat@palmspringsca.gov, chris.mills@palmspringsca.gov, paul.lewin@palmspringsca.gov, rick.hutcheson@palmspringsca.gov, JHarnik@dc.rr.com

PLEASE DO NOT RESPOND TO "ALL" NOR TO ME INDIVIDUALLY

Dear All:

The Rancho Mirage City Manager sent the following email (with attachment) to Tom Kirk, Executive Director of CVAG. The email and the attachment speak for themselves, but generally speaking I think we all want to get relevant information concerning future costs of the Operations and Maintenance when the project is completed.

The March 2015 CV Link Master Plan (at p.15) and the August 2014 Draft Master Plan both outline how the projected total comes to \$1,616,900 in the first full year of operation. Rancho Mirage believes there is a good chance actual numbers may exceed the \$1.6 million figure that the CV Link experts project, but it will take further analysis before that can be determined.

I am sure we all agree that before we can authorize CVAG spending \$100 million to design and construct this project we have to be absolutely certain that the future O&M expenses are something we can collectively handle. Cathedral City's motion moves us closer to that objective.

Best personal regards.

Dana Hobart
Mayor, City of Rancho Mirage

From: randalb@RanchoMirageCA.gov
To: tkirk@cvag.org
CC: gdanahobart@aol.com
Sent: 6/20/2015 10:54:02 A.M. Pacific Daylight Time
Subj: Moving Forward with Mayor Henry's motion.

Dear Tom,

Rancho Mirage would like to move forward with the motion made by Mayor Stan Henry of Cathedral City to distribute data pertinent to the subject of future operations and maintenance and to thereafter convene a general meeting with all cities invited to attend to discuss CV Link O&M costs.

Attached is a list of documents we are specifically asking CVAG to provide to each city to ensure that a meaningful discussion can be held. This information should be distributed well in advance of the meeting to allow each jurisdiction sufficient time for their city managers, department heads and elected officials to become familiar with it. We suggest that about one month between sending the documents and convening the meeting is realistic.

A meeting room to accommodate the group is necessary. If you need help with that aspect, we will be pleased to assist. Something central valley seems appropriate.

Please let me know next week how you intend to proceed.

Respectfully,

Randy Bynder

Randal Bynder, AICP

City Manager

Phone: 760-324-4511 ext. 111

E-mail: randalb@RanchoMirageCA.gov

69825 Highway 111, Rancho Mirage, CA 92270

www.RanchoMirageCa.gov

CVLinkdocsgeneral
meetingJune20,20...

From: **Gdanahobart@aol.com**
Subject: Re: CV Link O&M Information Request
Date: June 26, 2015 at 6:41 PM
To: tkirk@cvag.org, agann@rceo.org, cmccleendon@cathedralcity.gov, danmartinez@indio.org, dgarcia@coachella.org, David.Ready@palmssprings-ca.gov, fluckino@cityofblythe.ca.gov, fspevacek@la-quinta.org, jorr@rceo.org, jwohlmuth@ci.palm-desert.ca.us, mmagana@cityofdhs.org, pslama@cabazonindians-nsn.gov, randyb@ranchomirageca.gov, tdavis@aguacaliente.net, wmckinney@indianwells.com
Cc: asanchez@cityofdhs.org, Chris.Mills@palmssprings-ca.gov, c.washington@rcbos.org, randyjarnik@dc.rr.com, jharnik@cityofpalmdesert.org, jgrubbe@aguacaliente.net, jbenoit@rcbos.org, jdeconinck@cityofblythe.ca.gov, LINDA.EVANS@tenethealth.com, gramoswatson@indio.org, mashley@rcbos.org, shenry@cathedralcity.gov, stephenpoungnet@gmail.com, shernandez@coachella.org, tpeabody@indianwells.com

Dear All:

Mr. Kirk just moments ago sent you a misleading email about the motion to establish a meeting of all cities to discuss the CV Link's O&M projections.

For those of you who do not have the time to listen to the Motion described below by Mr. Kirk, here it is:

Cathedral City's Motion

On June 1, 2015, the CVAG Executive Committee voted unanimously in support Mayor Henry's motion on behalf of Cathedral City "...to have staff distribute the information on the budget currently prepared to every individual city so that they can have their finance directors, law enforcement and public works review that and come back with any estimates at a joint meeting of all of those working people to come up with what could be, hopefully, a high and a low of budget for all of CV Link. Then, at that time, bring that forward to a meeting of all that want to participate." (Mayor Hobart seconded) We were on Agenda Item 7b. You can listen to the discussion and the motion at this link:

http://www.cvag.org/audio_files/admin/exec/EXEC_06_01_15.MP3 (The motion starts at timeline 2:51.)

You will observe that the motion states nothing about YOU sending YOUR budgetary analysis of things going on in your city. That is clearly not part of the motion. It is irrelevant to our collective analysis of the CV Link O&M projections.

Next: Mr. Kirk erroneously states: "Starting on June 20, I have received emails with **explicit direction** from City of Rancho Mirage representatives on how the City believes CVAG staff should implement the motion."

Response:

Mr. Kirk attempts to tarnish Rancho Mirage with his exaggeration of what Rancho Mirage suggested. (We do not give "explicit direction" to anyone and did not to Mr. Kirk - indeed, we invite him to send you the correspondence he is referring to and you decide - but he didn't). So, we will:

From: "Randal K. Bynder" <randalb@RanchoMirageCA.gov>
Date: June 20, 2015 at 10:53:08 AM PDT
To: "Tom Kirk (tkirk@cvag.org)" <tkirk@cvag.org>
Cc: "Dana Hobart (Home)" <gdanahobart@aol.com>
Subject: **Moving Forward with Mayor Henry's motion.**

Dear Tom,

Rancho Mirage would like to move forward with the motion made by Mayor Stan Henry of Cathedral City to distribute data pertinent to the subject of future operations and maintenance and to thereafter convene a general meeting with all cities invited to attend to discuss CV Link O&M costs.

Attached is a list of documents we are specifically asking CVAG to provide to each city to ensure that a meaningful discussion can be held. This information should be distributed well in advance of the meeting to allow each jurisdiction sufficient time for their city managers, department heads and elected officials to become familiar with it. We suggest that about one month between sending the documents and convening the meeting is realistic.

A meeting room to accommodate the group is necessary. If you need help with that aspect, we will be pleased to assist. Something central valley seems appropriate.

Please let me know next week how you intend to proceed.

Respectfully,
Randy Bynder

In that correspondence we suggested the following list of documents as being of value in our assessments of the CV Link's Operations and Maintenance projections made by the Alta experts:

1. June 2014 Executive Summary.
2. August 2014 Draft Master Plan and Appendices.
3. March 2015 Master Plan and Appendices.
4. CV Link's consultants' Excel files containing cost estimates and useful life projections.
5. CV Link Budgets for FY 2011 through 2016.
6. Any other correspondence over the past three years by CV Link personnel and CV Link consultants with others, that speaks to the subject of Rangers and Management personnel.

(End of Email)

We still believe these documents are vital to properly assessing the CV Link's projected O&M costs. Without them you will be unable to properly assess those future projected costs. Thus far Mr. Kirk has refused to send these documents to you.

We respectfully request that Mr. Kirk rescind his request for city documents from us so we can move more quickly to the real issue: Is or was the O&M \$1.6 million projection for the first full year of operation accurate?

Respectfully,
Dana Hobart

In a message dated 6/26/2015 5:12:16 P.M. Pacific Daylight Time, tkirk@cvag.org writes:

To: CVAG TAC/City Managers
Cc: CVAG Executive Committee Members
From: Tom Kirk
Re: CV Link O&M Information Request

On June 17, CVAG staff sent a letter to you in response to a motion unanimously passed by the Executive Committee on June 1 to "direct CVAG staff to distribute the information on the CV Link operations and maintenance budget currently prepared to every individual city so that they can have their finance directors, law enforcement and public works staff review the information and come back with any estimates at a joint meeting of all those working people to come up with what could be a high and a low budget for all of CV Link. And then bring that information forward to a meeting of all that want to participate."

As you know, like you do, we take our direction from majority at committee meetings and implement approved motions and policies. Starting on June 20, I have received emails with explicit direction from City of Rancho Mirage representatives on how the City believes CVAG staff should implement the motion. I understand some of the city's correspondence to

me has now been shared with elected officials across the Coachella Valley. I believe the direction was clear in the meeting and I'm confident our staff is addressing all of the requests outlined in Mayor Henry's motion. But –at the risk of making you relive part of one of CVAG's longest meetings yet – I welcome you to review Mayor Henry's motion and discussion at the 2:47:20 minute mark of the June 1 Executive Committee meeting, which you can find here: <http://www.cvag.org/audio.htm> .

Additionally, it has come to my attention that there was a typo in my June 17 letter, which references the May 4 Transportation Committee meeting. It should have stated that “it was suggested [by] the committee members that the ranger positions could be filled by volunteers rather than paid (contracted) staff.” You can refer to the same link above and find the discussion of the rangers during the May 4 Transportation Committee meeting, starting at the 52:45 minute mark. This change reduced the estimated O&M costs to under \$1 million, a figure that CVAG staff has pointed out in discussions since May 4.

We want this outreach to be successful and foster a greater understanding and refinement of the O&M budget. We've asked cities to respond by July 1. Once we receive the requested feedback from each of you and your staff, we'll set a date for the initial O&M meeting that was outlined in the motion.

Please contact me or our staff if we can be helpful in anyway in responding to our request.

Thanks, Tom

From: Gdanahobart@aol.com
Subject: Fwd: Board Member Records Request
Date: June 27, 2015 at 5:00 PM
To: tpeabody@indianwells.com

Ty: Want to keep you fully informed. If you have Qs, just call or email.
Dana

From: Gdanahobart@aol.com
To: tkirk@cvag.org
CC: randyb@RanchoMirageCA.gov
Sent: 6/27/2015 4:59:09 P.M. Pacific Daylight Time
Subj: Board Member Records Request

Mr. Kirk:

I would appreciate receiving the following requested documents as a member of the CVAG Executive Committee:

1. Sufficient writings and related data to identify all regional Measure A funds received by CVAG from RCTC (or any other source) for each fiscal year from 1995 through 2014; and FY 2014-2015 if available partially or completely.
2. Sufficient data to identify all regional Measure A expenditures related to CV Link in any manner, which were made through CVAG for the same years as identified in #1 above.
3. As for those CVAG expenditures going to TPPS-identified projects* during the past ten (10) fiscal years, please identify the specific project and the amount each such project received.
* "Projects" is meant to include sufficient data to fully identify each roadway work undertaken as well as the identify of the city receiving the funds related to each such project.
4. Records, ledgers and all other writings sufficient to establish the total amount of money paid for CVAG staff time that was charged or billed to the CV Link project (by whatever name it was called), in each of the following years (Fiscal Years or otherwise): 2010, 2011, 2012, 2013, 2014, 2015.
5. A complete copy of each and every grant contract or agreement approved to date by a grantor, including all terms and conditions of each such grant, which has been approved to date by CVAG and/or CV Link.
6. A complete copy of each grant request or application for grant funds which was made by CVAG on behalf of the CV Link project at any time between January 1, 2009 and June 30, 2015, regardless of whether the grant was processed or rejected. (Such request is intended to include all cover letters and all other writings, graphs, diagrams, maps, statistical data between CVAG and the organization to whom the application was intended.)
7. A true and complete copy of all audits of CVAG funds which have been conducted at any time in the past 6-years.

If any of the data requested herein is subject to any claim of privilege, please fully identify the privilege and the documents referenced. I am seeking these documents in my official capacity as a member of the CVAG Executive Committee. This way I am entitled to receive the documents even if a privilege applies. I do not want to divulge privileged information to not governmental personnel.

Respectfully,
Dana Hobart
Mayor, City of Rancho Mirage

From: **Gdanahobart@aol.com**
Subject: Re: Question re Transportation Committee
Date: June 28, 2015 at 11:07 AM
To: tjweill@yahoo.com, 4tmjm@verizon.net
Cc: tpeabody@indianwells.com, GDanaHobart@aol.com

Dear Both Teds:

Since writing the portion below, Ted Weill has tried to check the Audio Link that Mr. Kirk refers to below. Ted reports that it is not working. After telling Mr. Kirk I was trying to find the audio link, and him confirming (below) that one does exist, but we cannot work it, seems odd.

The issue is this: Who came up with the idea of eliminating the Rangers from the budget. Mr. Kirk makes it clear in two places that he claims the Transportation Committee came up with the idea.

In this June 26, 2015 email/letter he wrote to CVAG TAC and Executive Committee Members he writes: "Additionally, it has come to my attention that there was a typo in my June 17 letter, which references the May 4 Transportation Committee meeting. It should have stated that "it was suggested [by] the committee members that the ranger positions could be filled by volunteers rather than paid (contracted) staff."

Before I knew it was discussed by him in that June 26th email, I had asked him what the missing word was. I asked was it "by" or was it "to" and he responded that the correct word was "by". I did not believe him, so I asked Ted Weill. He confirmed my disbelief.

You two have nth stated that is incorrect. (Most everyone knows that Kirk and his people started down that "no rangers" road as a quickie solution to reduce the \$1.6 million O&M number.) Now he claims the cities came up with the idea.

I cannot listen to the audio of the May 4 meeting; nor do I find the minutes to that meeting. Was the audio intentionally disconnected after I asked him if there was an audio for the meeting, and he replied there was? I still have not found the audio link; Ted W. says he did but it is not working.

At any rate, I have dug deeper and found clear proof that CVAG personnel (Kirk/Valez) initiated the "eliminate the rangers" ploy. At your May 4th Trans Comm meeting they had prepared a Power Point of about 36 pages. It is entitled on the front page:

**CV LINK O&M COST ESTIMATE
Transportation Committee
May 4, 2015**

At page 35 the following appears:

**Levels of Service Options
Too high, too low, just right?
Volunteers
Security
Less hours of operation
Less landscaping
Less hardscaping
No rangers**

That pretty much tells us that CVAG, not the committee members, came up with the idea of eliminating rangers.

Dana

In a message dated 6/27/2015 5:55:28 P.M. Pacific Daylight Time, tjweill@yahoo.com writes:

Indeed, it was not suggested by the committee.

Ted

Sent from my iPad

On Jun 27, 2015, at 5:44 PM, 4tmjm@verizon.net wrote:

Dana -

I was present at the Trans. Comm. meeting on May 4th and my recollection is that staff simply INFORMED the Comm. that a substantial reduction in the maintenance costs was achieved by eliminating the Rangers. It was suggested, by staff, that the duties could be assumed by volunteers. I was somewhat amazed that staff unilaterally decided that the elimination of the Ranger positions was a good thing.

Ted Mertens

On 06/27/15, Gdanahobart@aol.com wrote:

Dear Both Teds:

In a letter he apparently wrote only to City Managers dated June 17, 2015, Mr. Kirk makes the statement that follows:

"At the May 4th Transportation Committee Meeting it was suggested the committee members that the ranger positions could be filled by volunteers rather than paid (contracted) staff."

Between the words "suggested" and "the" a word is omitted. That word is probably "by".

I doubt seriously that this elimination of the Rangers was the Committee's idea; it was probably originated by Tom Kirk. My question: Can you shed light on WHO came up with this idea?

The staff report written by Mr. Velez states nothing concerning eliminating the Rangers. I have not listened to the audio tape (if there even is one).

Dana

=

From: Gdanahobart@aol.com

Subject: CV Link Issues

Date: July 12, 2015 at 9:24 PM

To: shenry@cathedralcity.gov, greg@gregpettis.com, jaguilar@cathedralcity.gov, skaplan@cathedralcity.gov, mcarnevale@cathedralcity.gov, shernandez@coachella.org, emartinez@coachella.org, vmperez@coachella.org, bsanchez@coachella.org, mzepeda@coachella.org, asanchez@cityofdhs.org, rbetts@cityofdhs.org, smatas@cityofdhs.org, joemckeedhs@yahoo.com, jpye@cityofdhs.org, tpeabody@indianwells.com, dreed@indianwells.com, rbalocco@indianwells.com, dhanson@indianwells.com, temertens@indianwells.com, lramoswatson@indio.org, gmiller@indio.org, eholmesinindio@gmail.com, tstrange@indio.org, levans@la-quinta.org, kristyforlaquinta@gmail.com, losborne@la-quinta.org, jpena@la-quinta.org, rradi@la-quinta.org, smweber@cityofpalmdesert.org, rspiegel@cityofpalmdesert.org, JHarnik@dc.rr.com, sjonathan@cityofpalmdesert.org, vtanner@cityofpalmdesert.org, steve.pougnnet@palmspringsca.gov, ginny.foat@palmspringsca.gov, chris.mills@palmspringsca.gov, paul.lewin@palmspringsca.gov, rick.hutcheson@palmspringsca.gov, ladyirism@gmail.com, tjweill@yahoo.com, TCharlie57@aol.com, richardk@RanchoMirageCa.gov

Cc: jibenoit@rcbos.org, cmcclendon@cathedralcity.gov, danmartinez@indio.org, dgarcia@coachella.org, david.ready@palmspringsca.gov, fspevacek@la-quinta.org, jwohlmuth@cityofpalmdesert.org, CityManager@cityofdhs.org, wmckinney@indianwells.com, randalb@ranchomirageca.gov, steveq@qalawyers.com

PLEASE DO NOT RESPOND TO "ALL" OR TO ME INDIVIDUALLY

July 12, 2015

Dear Colleagues:

On July 6th the local newspaper printed an article^[1] concerning Supervisor Benoit's June 28th email to me and most of you, asserting essentially that I had violated the "clear intent of the Brown Act to insure that the public's business is conducted in full view of the public." The supervisor was referring to the emails I had sent to council members of the nine valley cities. You may also have received a copy of the more critical message from Councilman Wilson. As much as I respect Supervisor Benoit, I also respectfully reserve the right to disagree with him when it conflicts with the interests of my residents.

Both the supervisor and the councilman have long been committed to the CV Link project and probably see my remarks as antithetical to their views. Until April 2, 2015, when the Rancho Mirage council voted down Mr. Kirk's 8% TOT idea, most of us had heard virtually nothing about CV Link's controversial issues — issues that some would prefer to remain suppressed.

The Desert Sun article echoed the supervisor's mantra about "the intent of the Brown Act is to insure that the public's business is conducted in full view of the public." The incorrect implication of his letter and the article was that I was avoiding such a "full view" approach, when in fact I was doing all in my power to encourage and motivate a broad public discussion about the CV Link. These issues had remained off the radar long enough; it was time to start examining what had developed over the prior three years.

Note that neither the supervisor nor the newspaper accuses me of actually violating the Brown Act. They admit I have not — which, of course, I have known from the beginning. I would suggest to them that the spirit of the law is to obey the letter of the law. If a speed limit is 50 MPH, it is not illegal to travel at that speed. But, at 51MPH you are breaking the law.

When contacted by the reporter my brief response was in writing.^[2] In his presentation of the story, he severely truncated my response while advancing the supervisor's theme, repeatedly referring to the Brown Act, about which he knew little.

My objective since first being told of the 8% TOT idea by Mr. Kirk on March 30, 2015, has been to learn as much as I could about the CV Link and share this information with those who are also interested. If you review my emails to you it is clear that most of the issues I identified were not being publicly discussed or debated by the CVAG Executive Committee or by CVAG staff in the public meetings held around the valley. Some are repeated below.

On April 27, 2015, I attended my first Executive Committee meeting in about three years. I filed a document I had prepared which identified numerous issues that were not being addressed by CVAG or the Executive Committee. Contrary to CVAG's rules of procedure they literally interrupted me and refused to allow me to complete my presentation.

The supervisor's June 26th email stated, "To that end we have collectively spent many hours, in many public meetings

discussing all aspects of the CV Link project." The fact is, however, the lengthy list of subjects identified below have not been discussed in public meetings prior to April 27th, and many remain undiscussed and unresolved to this day. It took me many hours of research to identify them; as I did, I passed them on to you. How you feel about these issues is your business. Because this project has the potential for a significant financial impact on each city I assumed most of you would be interested in what I learned.

CV Link, we are told, will cost \$100 million to build. CVAG's hired experts project future O&M costs at \$1.6 million per year (increasing at 2% annually) to operate and maintain it, according to the March 2015 Master Plan. However, in an effort to undermine my criticism of the \$1.6 million price tag, more than \$600,000 magically disappeared by staff simply asserting that they might replace the ten rangers with volunteers and to eliminate the two administrators from the budget. If this was a realistic reduction on the exorbitant price tag, why wasn't it proposed before? In my view it is nothing more than a ploy for the numbers to appear more reasonable.

Rancho Mirage's Efforts to Have A Serious Discussion of CV Link Issues

Rancho Mirage placed on the June 1, 2015, Executive Committee Agenda a Motion to arrange a half-day discussion by the Executive Committee to learn about Mr. Kirk's 8% TOT plan to pay for O&M as well as "other funding sources" under consideration. The CVAG staff report opposed this idea, arguing that "it may not be necessary to elevate the discussion to require attendance of the entire Executive Committee ... at this early date." They rebuffed the idea of examining the O&M money issue now because: "... any operations and maintenance costs will not begin to accrue until sometime after [2017]..." More delay. More uncertainty. More risk.

At the June 1st meeting I eventually withdrew the motion after our earlier Motion to "substantially reduce the speed and rate of advancement of the CV Link project" was defeated. (Another Rancho Mirage motion was briefly discussed at the June 29, 2015, meeting. We sought authorization to hire an independent, out-of-the-valley law firm to provide us with an objective legal opinion concerning CVAG's intended use of Measure A funds to pay for "over 40% of the overall CV Link operations and maintenance budget." Our motion lost 10-2.)

The supervisor states that CVAG has devoted "many hours, in many public meetings discussing all aspects of the CV Link project." He is definitely not talking about the bulleted points below as they are subjects that had never been discussed by the Executive Committee and have never been discussed with the public at large.

I have read the agendas and minutes of each Executive Committee meeting for the past 3½ years. I have read the agendas and minutes of each Transportation Committee meeting for the past 3 years; and the agendas and minutes of the Technical Advisory Committee going back to January 2012. There has been absolutely no discussion of any of the subjects identified below in even one set of minutes.

My emails were and continue to be intended to motivate the nine city councils to raise these issues with the public and with their CVAG delegates concerning the issues that for the most part had never seen the light of day. I am not aware of any city council that has been given an opportunity to vote on the subject of the CV Link (except Rancho Mirage on the 8% TOT plan).

Some of the Suppressed CV Link Discussion Issues Rancho Mirage Has Exposed

- Cities are being asked to support the CV Link design and pre-construction details before having any idea concerning what annual amount of Operations and Maintenance expenses each city will be committed to pay over the coming decades. Three years into the project and we have no idea what our cities' annual costs will be.
- Once CV Link's 50-miles of construction is finished, the remaining 160 miles of proposed spur/connector routes will be the complete financial responsibility of the individual cities – or they will never materialize. In reality, the likelihood of any Valley city actually building any of the spur and connector lines/routes, at their expense, is dubious, which will undermine the alleged purposes of CV Link to reduce traffic on Highway 111 and other roads, reduce air pollution, provide alternate routes to business zones, etc.

- Many believe that CVAG has the power of eminent domain. Ranch Mirage examined their authority and concluded they do have the power of condemnation, but they lose it if the affected city council majority votes to oppose such condemnation efforts.

- CVAG unequivocally assured all cities for the past three years that the operations and maintenance expenses would not be funded by the cities. One example is in the March 2015 Master Plan (p.15): **"OPERATIONS AND MAINTENANCE WILL NOT REQUIRE LOCAL FUNDING."** Now public funds are the only identified source for such payments: the Cities and Measure A funds.

- Without previously discussing it publicly, on March 30, 2015, Mr. Kirk told Rancho Mirage of his plan to pay for the \$1.6 million of O&M expenses. He proposed CVAG to receive 8% of each city's annual increase in Transient Occupancy Tax receipts over their 2016 base year's TOT receipts. The Desert Sun's front page story concerning the Rancho Mirage city council's 5-0 vote to reject this plan on April 2, 2015, was the first public disclosure of CVAG's O&M plan. That vote began the previously nonexistent public discussion. There is still no explanation as to what happened to CVAG's promise that local monies would not be required. Who takes responsibility for errors at CVAG?

- Prior to April 2015, the Executive Committee never once discussed how the projected \$1.6 million in annual O&M costs were to be paid. Three years of Executive Committee minutes reveal this fact despite there being a so-called "CV Link Update" report at virtually every Executive Committee meeting for nearly three years. Not one "CV Link Update" discussed the issue of O&M, much less Who will Pay and How Much.

- The Executive Committee Minutes of April 28, 2014, reflect a motion was passed that "Directed Staff to return to the Executive Committee with an Operation and Maintenance plan as well as an overall presentation on the design of the CV Link." The minutes reflect Mr. Kirk stating "that staff would give a presentation on the operations and maintenance plan at a future Executive Committee meeting within the next six months." We continue to wait.

- The Contract Mr. Kirk recommended the cities sign contained a provision allowing CVAG to use our TOT (bed taxes) to pay for "operations, maintenance" OR "any other purpose related to CV Link" OR any other purpose

"directly approved by the CVAG Executive Committee." (That is sec. 5 of his 8% TOT proposal within the proposed "Agreement to Establish and Fund CV Link Operations and Maintenance Fund.")

- The CV Link 2015 Master Plan states that "over 40%" of the O&M costs would be paid with Measure A funds. (In 2002 Riverside County voters approved a ½ cent sales tax increase to be used for the "Maintenance and repairs of existing roadways and improvements to relieve congestion...") The legality of using Measure A funds to pay for CV Link's O&M expenses has been raised by Rancho Mirage and others. Best Best and Krieger, attorneys for Palm Desert and the Riverside County Transportation Commission wrote an opinion supporting the legality of using Measure A funds for some of the maintenance costs. The Law Offices of Quintanilla & Associates, the Rancho Mirage City Attorney, has also prepared a legal memorandum which concludes that the use of such funds is probably illegal. Rancho Mirage offered a motion to the Executive Committee requesting that we obtain an outside, completely independent major law firm to provide us an opinion. At the Executive Committee meeting of June 29, 2015, our motion was defeated 10-2 with only Indian Wells and Rancho Mirage in favor. (Without knowing if CVAG can legally use Measure A funds for O&M, no city is capable of firmly establishing what their financial responsibility will be as it could bounce considerably higher if using Measure A funds were legally prohibited.)

- Measure A funding expires in 2039 — 24 years hence. If Measure A funds are used for O&M who becomes responsible for making up the loss when that funding source ends in 2039? Each city should have a clear understanding of how this issue could possibly increase their financial liability.

- If a city that has accepted financial responsibility for some portion of O&M costs decides to stop their payments, which remaining cities will find their financial burden increased? And by how much? How will this situation be addressed should it occur? No discussion on this subject has come from CVAG or anyone else.

- CVAG takes the position that since there won't be a CV Link section "complete and ready to be 'operated' or 'maintained'..." for another two and a-half years, there is no need to address the O&M issues now. The closer the project comes to completion the more difficult it will be for a city to reject the O&M plan when one is eventually created. If the CV Link is finished before a plan is agreed upon, how will a city be able to say "No deal" or otherwise protect its financial integrity?

These are some of the issues that should have been publically addressed in meetings around the Valley The supervisor claims "all aspects of the CV Link project" have been discussed but in fact many controversial aspects have been suppressed. Hopefully, we have pushed open CVAGs closed doors and by doing so we fulfill the spirit of the Brown Act.

Closing

We have tried to introduce relevant issues to the public debate and provide new information to those who should have it. This effort has obviously ruffled some feathers. It is somewhat ironic to resort to the Brown Act to stifle free speech and the dissemination of ideas. We believe in the letter of the law because the "spirit" of the law is subject to considerable debate and disagreement. As lawyers say, it is a vague and ambiguous term.

Respectfully,

Dana Hobart
Mayor, Ranch Mirage

[1] My response is delayed because we were out of state for several days.

[2] "If someone claims I have violated the Brown Act they should report it to the proper authorities, not [to] you. My city attorney has guided every step of my conduct and confirms that I have never violated the Brown Act, which confirms my own assessment of the matter. If there is such a charge it is nothing more than a hatchet job, attempting to assassinate my character. Ask them to identify the code section I am alleged to have violated. Until they identify the section, and the facts that support their position, they are just using you to attchk [sic] me."

From: Gdanahobart@aol.com
Subject: Fwd: TUMF Funds
Date: July 29, 2015 at 4:51 PM
To: tpeabody@indianwells.com

From: Gdanahobart@aol.com
To: tpeabody@indianwells.coD
CC: 4tmjm@verizon.net

Sent: 7/29/2015 4:49:11 P.M. Pacific Daylight Time
Subj: TUMF Funds

Hi Ty: Following up on our conversation:

Every city in the CV has signed on to the TUMF program. A county ordinance set up the process after Measure A was passed by voters. TUMF was covered in the Measure A ordinance.

The TUMF plan was developed to cover "the shortfall in funds needed to enlarge the capacity of the Regional System of Highways and Arterials within CVAG's jurisdiction." It is an assessment on builders as part of getting their building plans approved. They, of course, pass those fees onto the home or office or commercial builders as part of their getting the plans approved for construction in each city.

The assessments are quite elaborate and they try to determine the full impact on existing highways and roadways the new development will have on those routes.

The cities collect the money; they pass it over to CVAG; who passes it on to the County; who passes it back to CVAG where it is placed in banks and earns interests, etc. TUMF funds are "used to help pay for trhe engineering, construction, and acquisition of the Regional Syhstem improvements identified therein (i.e., in the Fee Studies).

An interesting paragraph in this Ordinance created by the County is (h) "The TUMF program revenues to be generated by new development will not exceed the total fair share of these costs." Which suggests that if CV Link got some of those funds, there would not be enough left to meet the cost obligations of projects around the CV.

Anyway, CVAG is working on a way for the CV Link to qualify for TUMF monies. Just as they are re Measure A monies.

A quick overview.

Dana

The member cities are authorized

G. Dana Hobart

Proposed

Valley Voice

- Not printed as of July 30, 2015.

CV Link's managing agency is the Coachella Valley Association of Governments (CVAG). The Executive Director Tom Kirk answers to the Executive Committee, consisting of 10-city representatives and five members of Riverside County's Board of Supervisors. (Yes, five.)

The currently projected cost to design and build the 30' wide fifty-mile CV Link is \$100 million. Of that sum CVAG claims to have raised \$75,000,000. That figure, however, includes \$20 million of Measure A funds — which are not grant monies, but rather, public funds. Thus, CVAG has raised \$55 million; about half the projected cost. Additionally, the CV Link Master Plan (p.155), projects using Measure A funds to pay “over 40% of the overall CV Link operations and maintenance budget.”

Depending on whose numbers are accurate, this will amount to between \$400,000 and \$600,000 each year, increasing at 2%. \$400,000 if O&M does not exceed \$1 million in the first year, or \$600,000 if the Master Plan's \$1.6 million projection is correct..

In 1988 Riverside County Voters approved a half-cent sales tax increase to address our unsafe roads, bridges and intersections. When that tax expired Proposition A was reintroduced in 2002, seeking an extension of the half-cent tax. Voters approved and the tax was extended until 2039, when it expires. The recent I-10 bridge collapse illustrates why voters were concerned.

Measure A itself identified how the money would be used: “*The transportation system in Riverside County is rapidly*

deteriorating... Maintenance and repairs of existing roadways and improvements to relieve congestion cannot be accomplished with available funds. Without additional funds, the system will bog down and pavement will crumble into permanent disrepair.”

The essential public policy question is whether a brand new project like CV Link should take funding priority over defective\dangerous roadways in the Coachella Valley. The public has been shut out of this discussion leaving the Executive Committee with sole authority to decide for every valley city.

Leaving aside for this discussion the legality of using Measure A funds, “should” we spend Measure A funds for the CV Link? To answer the “should” question an understanding of how Measure A funds are spent is essential.

CVAG receives money originated by the Measure A sales tax increase. In FY 2013-2014 the amount was \$18.2 million. In FY 2014-2015 the amount was \$19.6 million. Those funds are spent on local roadway projects that have been assessed (ranked) in terms of danger to the public, road hazards, etc. The greater the road/bridge/highway is in disrepair, the higher on the TPPS (priority) list it is placed. At the present time and assumedly ever since Measure A was first passed in 1988, CVAG and the city’s public works representatives have ranked roads in greatest need of repair. Never have these funds been spent on a TPPS project that is not in serious disrepair and/or which poses substantial danger to our safety. There are currently 274 projects on the TPPS list, with a total estimated cost of over \$3 billion! The need is great, but available funds are woefully short. Money transferred to the CV Link is money that will be lost forever to the valley’s defective roadways.

For CV Link to receive Measure A funds it must appear on the TPPS list at a position higher than the vast majority of projects already on the list. A new project could never qualify under the current rules — unless CVAG changes the rules to let a brand

new project leap frog over most of the 274 deteriorating projects-in-waiting.

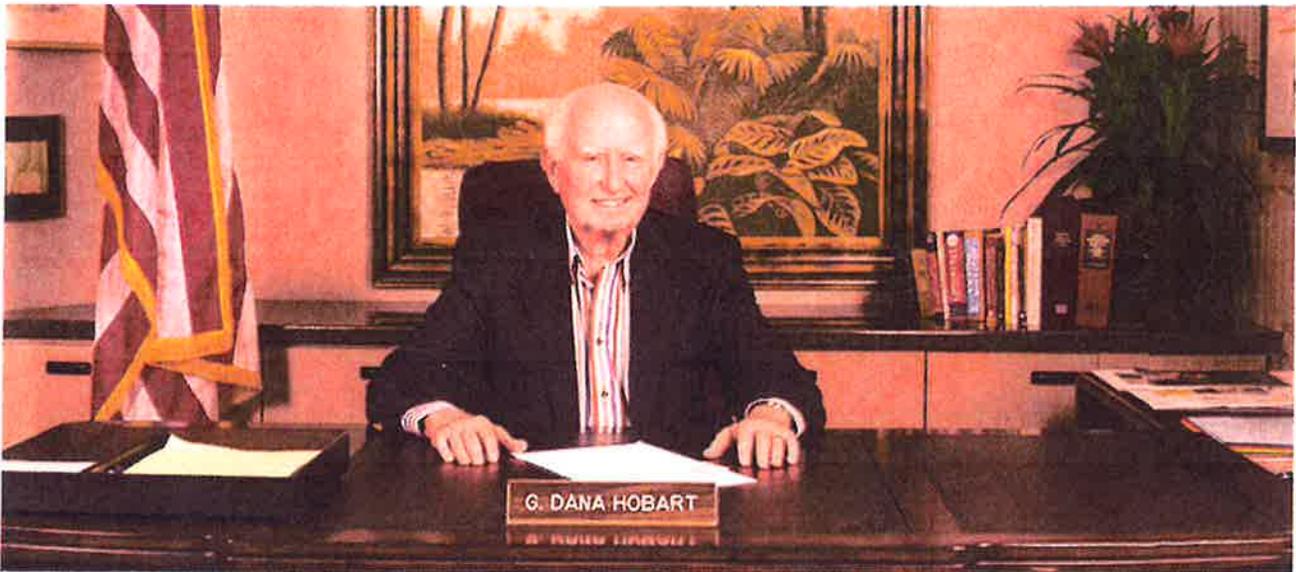
That is exactly what CVAG is planning. CVAG staff has recently proposed criteria that designates pedestrian, bicycle and low speed electric vehicles projects as regionally significant and appropriate for funding from Measure A funds. "The intent is to create a priority funding list similar to the TPPS for regional ... non-motorized projects." He continued, "This will make the TPPS a more comprehensive ... document that will cover all modes of transportation."

Changing the rules midstream without valley-wide debate is questionable conduct. Such a result is clearly not what the voters had in mind in 2008 or 1988.

From: Gdanahobart@aol.com
Subject: CVLINK Resorts to Intimidation Tactics
Date: August 3, 2015 at 4:08 PM
To: GDanaHobart@aol.com

PLEASE DO NOT RESPOND TO "ALL" OR TO ME

From: gdanahobart@danahobart.com
Reply-to: gdanahobart@aol.com
To: gdanahobart@aol.com
Sent: 8/3/2015 3:00:42 P.M. Pacific Daylight Time
Subj: CVLINK Resorts to Intimidation Tactics



CV Link Resorts to Intimidation Tactics

Since early April 2015, I have tried to learn as much as possible about the financial aspects of the CV Link. Initially, what the Coachella Valley Association of Governments (CVAG) intends to suggest as Rancho Mirage's portion of the CV Link's annual operations and maintenance costs, now and annually for many decades into the future. How council members vote now will affect our residents for the next hundred years or so. We owe them

sober, unedited factual analysis.

To understand the financial nuances of CV Link requires in depth review of numerous documents only found in CVAG files. California's **Public Records Act** (PRA) requires that CVAG provide any requesting party the specific documents or categories of documents that he/she designates. Using the PRA I have obtained and read a wide variety of documents.

Apparently the information I have been making public has been rattling some cages - enough to cause Tom Kirk, Executive Director of CVAG to send me this admonitory notice:

"CVAG staff [will] track the hours staff spends responding to public record requests and include such information in future Executive Committee agenda packets. Consequently you will see a new "information" item as a part of the agenda packets."

In other words, CVAG will henceforth highlight their concern that Mr. Hobart's records requests are unduly interfering with staff time and negatively impacting their budget. (Coming from a public agency about to spend **\$100,000,000.00** on a project the vast majority of valley residents oppose is more than a little chutzpah!)

My research starts by identifying documents I want to examine followed by a request that CVAG provide them to me as required by the Public Records Act. Without this law huge volumes of public documents would otherwise remain secret if government bureaucrats had their way. (Because I am an Executive Committee member I am entitled to obtain documents I need, but the PRA has many valuable rules, so I often make the request in both capacities.) The PRA mandates that:

"Public records are open to inspection at all times during the office hours of the state or local agency and every person has a right to inspect any public record...[and] each state or local agency, upon a request for a copy of records that reasonably describes an identifiable record or records, shall make the records promptly available ..."

The California Attorney General makes it clear that "Any person may file a civil action ... to enforce his or her right to inspect or receive a copy of any public record under the Act." It is also illegal to attempt to intimidate a person from exercising this right.

(d) Nothing in this chapter shall be construed to permit an agency to delay or obstruct the inspection or copying of public records.

I interpret their message as an attempt to dissuade me from inspecting CVAG's records and publishing my findings. It speaks volumes about the reasons behind such an act of intimidation.

Examples of Information Learned by Independent Research

Because CVAG is required to comply with my requests, you and I have learned a lot about CV Link over the past four months. Here are some examples:

- Cities are being asked to support CV Link before having been provided any idea concerning what yearly amount of Operations and Maintenance expenses each city will be obligated to pay over the coming decades. How much is each of the nine cities expected to pay of the projected \$1.6 million? Three years into the project and we have no clue.

- It is obvious that many valley cities could not meet their share of the \$1.6 million O&M figure - which exceeds \$33,000 per mile. When I began publicizing their \$1.6 million projection which was determined by their experts, CVAG's response was to immediately reduce the \$1.6 million figure by jettisoning the 10 Rangers, budgeted at \$553,000 and replacing them with volunteers. With a wave of a wand such wizardry reduces O&M to \$1 million. This is pure gimmickry, producing a wholly dubious and superficial O&M figure that no businessman or investor would ever rely upon. In truth, CV Link admits they need those Rangers:

"Volunteers organized by the Friends of CV Link could hold cleanup days ... However, this approach is more appropriate to poorly funded trails ... CV Link is more like a roadway in terms of maintenance. It will require employed or contracted labor using mechanized sweepers, landscape crews and Rangers operating utility LSEVs to conduct regular inspections and meet the desired standard of care. Volunteers are best tasked with social, cultural, learning, and sporting events rather than litter removal." (3/2015 Master Plan p. 150)

- Spearheaded by Mr. Kirk, CV Link is currently rewriting the rules to allow CV Link to receive untold millions of dollars from the **Measure A fund that was created in 1988** and extended by Riverside County voters in 2002. Measure A, a ½ cent increase in our county sales taxes, was presented to the voters **as a measure that would be used solely to repair the dilapidated condition of public roads, bridges and**

RAIDING OUR ROADWAY FUNDS MAKES NO SENSE CONSIDERING THE POOR CONDITION OF OUR ROADS...

RIVERSIDE COUNTY ROADS RANKED 14TH WORST IN NATION

About 46 percent of roads in the county are considered to be in poor condition, according to a study released Thursday [July 24, 2015].

Nearly half of the roads in the Riverside-San Bernardino area are in poor condition, costing the average motorist more than \$800 in annual vehicle expenses, according to a study released Thursday.

The Riverside-San Bernardino area was ranked 14th-worst in the nation in terms of bad roads, with 46 percent considered to be in poor condition, according to the study by TRIP, a Washington, D.C.-based transportation research group. The area placed 12th for additional costs to motorists due to bad roads, at an annual average of \$812.

SOURCE: BIG CITY NEWS SERVICE, ALEXANDER NGUYEN, JULY 24, 2015

- highways in the County.** The fund is woefully unable to meet the current challenges of our crumbling roadway infrastructure. Yet, CVAG is looking for a way to invade that fund to financially benefit CV Link. As we speak, CVAG committees are being asked to develop new rules that will allow CV Link to leap frog over the 225 identified priority roadway projects on CVAG's Transportation Project Prioritization Study (TPPS) list. They get on the TPPS because they are in a state of serious disrepair. Voters never intended that a brand new project like CV Link could gain priority over roads languishing for years on the TPPS priority list.
- Measure A funding expires in 2039 - 24 years hence. If Measure A funds are used for any part of the O&M expenses, who becomes responsible for continued funding when this funding source ends? Will it cause the cities to pay more? How much more?
- Newly secured documents from CVAG disclose that Measure A rules are in the process of being changed to allow CV Link to drain away money from the TPPS priority list of dilapidated roadways. On the TPPS list they are ranked according to need.
- CVAG is responsible for the distribution of Measure A funds in the Coachella Valley, but also for Transportation Uniform Mitigation Fees ("TUMF"). When new homes or other buildings are planned,

developers are required to pay fees based on an assessment of the impact the new residents or commercial users will have on valley roadways. These TUMF fees are used to build new roads and to repair others on the TPPS priority list. Currently, TUMF fees (like Measure A tax funds) all go to assist with the building and improvement of regional highways, roadways, etc. Newly reviewed CVAG documents disclose that the TUMF spending rules are also in the process of being changed to allow CV Link to dip into TUMF funds. Consider this quote from a CVAG committee document:

"LeGrand Velez presented the proposed criteria to be used to score pedestrian, bicycle and NEV projects in order to determine they are regionally significant and appropriate for funding from TUMF and/or Measure A funds. The intent is to create a priority funding list similar to the TPPS for regional ATP qualified non-motorized projects."

What this implies is that if the Executive Committee "finds" the CV Link is "regionally significant," it will qualify for Measure A and TUMF funds. This is outrageous considering the reason these funds exist is for damaged roadway relief. Measure A voters may not like this.

- The CVAG executive Committee is comprised of one representative from each of the nine Valley cities; the city of Blythe; and all five members of the County Board of Supervisors. How we got into a situation where the county supervisors can virtually control city matters is bewildering.
- Once CV Link's 50-miles of construction is finished, the remaining 160 miles of proposed connector lines/routes will be the complete financial responsibility of the cities - or they will never materialize. Especially at a cost of about \$2 million per mile. In reality, the likelihood of any Valley city actually building any of the spur and connector lines/routes, at their expense, is highly doubtful, which will undermine the alleged purpose of CV Link to reduce traffic on Highway 111 and other roads, reduce air pollution, provide alternate routes to business zones, etc. (Which it wouldn't anyway.)
- CVAG unequivocally assured all cities for the past three years that the operations and maintenance expenses would not be funded with public funds. One example is in the March 2015 Master Plan (p.15): **"OPERATIONS AND MAINTENANCE WILL NOT REQUIRE LOCAL FUNDING."** Now public funds are the only identified source for such payments: the cities, Measure A funds and TUMF fees. This alone should cause us to reconsider.
- Without previously discussing it with the Executive Committee, on April 6, 2015, Mr. Kirk formally introduced his plan to pay for the \$1.6 million of annual O&M expenses. He proposed that CVAG receive 8% of each city's annual increase in Transient Occupancy Tax receipts over their 2016 base year's TOT receipts. This idea had 5 cities paying about 90% of the annual O&M costs of CV Link. When the local newspaper disclosed that the Rancho Mirage city council voted 5-0 to reject this plan on April 2, 2015, it became the first public disclosure of CVAG's previously secret O&M plan.
- The Contract Mr. Kirk recommended the cities sign contains a provision allowing CVAG to use our TOT (bed taxes) for virtually any purpose, including to pay for "operations, maintenance" **OR** "any other purpose related to CV Link" **OR** any other purpose "directly approved by the CVAG Executive Committee." (Sec. 5 of the proposed "Agreement to Establish and Fund CV Link Operations and Maintenance Fund.")
- If a city that has accepted financial responsibility for some portion of O&M costs decides to stop their payments, which remaining cities will be obligated to cover that loss of income? And by what formula? No comment from CVAG or anyone else.
- CVAG takes the position that since there won't be a CV Link section "complete and ready to be 'operated' or 'maintained'..." for another two and a-half years, we can delay addressing O&M issues now. This seems a risky strategy - that is, risky for the cities.

- Mr. Kirk routinely claims they have raised \$75 million of the projected \$100 million cost to build the CV Link. Actually, after three years they may have "raised" \$55 million in grants. They are *hoping* they will be permitted to use \$20 million in Measure A funds for construction purposes. What happens if they cannot raise the balance? Or what happens if they cannot use those Measure A funds? What happens if construction costs increase? How are the cities protected from such situational hazards?

Let me know if you have specific questions or suggestions. Forwarding this message to your email friends, in or out of Rancho Mirage, will be helpful.

Respectfully,

Dana Hobart
Mayor, Rancho Mirage

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