

ITEM 2A

**ADMINISTRATIVE/PERSONNEL
COMMITTEE
ROSTER**



Jurisdiction	Seat on Committee	Members
City of Indio	CVAG Chair	Glenn Miller Councilmember
City of Palm Springs	CVAG Vice Chair	Christy Holstege Mayor
City of Coachella	Chair Appointee	Steven Hernandez Mayor
City of Desert Hot Springs	Chair Appointee	Scott Matas Mayor
Agua Caliente Band of Cahuilla Indians	CVAG Past Chair	Jeff Grubbe Tribal Chairman
City of La Quinta	CVCC Chair	Linda Evans Mayor

ITEM 5A

**ADMINISTRATIVE/ PERSONNEL COMMITTEE
MINUTES OF MEETING
MARCH 30, 2021**



1. CALL TO ORDER

The March 30, 2021 Administrative/Personnel Committee meeting was called to order at 10:02 a.m. by Chair Glenn Miller, City of Indio, via Zoom, which was pursuant to Gov. Newsom's executive order governing how meetings are held during the COVID-19 pandemic.

2. ROLL CALL

MEMBERS PRESENT

Councilmember Glenn Miller, Chair
Mayor Christy Holstege, Vice Chair
Mayor Scott Matas
Tribal Chair Jeff Grubbe, Past Chair
Mayor Linda Evans, CVCC Chair

AGENCY

City of Indio
City of Palm Springs
City of Desert Hot Springs
Agua Caliente Band of Cahuilla Indians
City of La Quinta

MEMBERS ABSENT

Mayor Steven Hernandez

AGENCY

City of Coachella

STAFF PRESENT

Tom Kirk
Claude T. Kilgore
Joanna Stueckle

3. PUBLIC COMMENTS

None.

4. CHAIR / EXECUTIVE DIRECTOR ANNOUNCEMENTS

Executive Director Tom Kirk indicated that staff schedules a meeting to discuss salaries and benefits each year in preparation for the coming fiscal year budget. Mr. Kirk also announced that staff would be scheduling another meeting of the Administrative/Personnel Committee to conduct the Executive Director's performance evaluation.

5. CONSENT CALENDAR

Mayor Evans corrected the date of the minutes being approved.

IT WAS MOVED BY MAYOR EVANS AND SECONDED BY MAYOR MATAS TO APPROVE THE REVISED APRIL 13, 2020 ADMINISTRATIVE/PERSONNEL COMMITTEE MEETING MINUTES.

THE MOTION CARRIED WITH 5 AYES AND 1 MEMBER ABSENT.

COUNCILMEMBER MILLER	AYE
MAYOR HOLSTEGE	AYE
MAYOR HERNANDEZ	ABSENT
MAYOR MATAS	AYE
TRIBAL CHAIRMAN GRUBBE	AYE
MAYOR EVANS	AYE

6. DISCUSSION

6A. FY2021/2022 Budgetary Items – Claude T. Kilgore

Claude Kilgore presented the staff report, discussing the unfunded CalPERS liability payment, indicating there was a 10-year payment plan in place. Mr. Kilgore also discussed possible Cost of Living Adjustment (COLA) scenarios in relation to staff salary increases and explained that the percentage of COLA increase is also used to recommend the increase to membership dues. This year's COLA increase would be 2.2%.

Member and staff discussed a variety of options to pay down the unfunded liability. Mr. Kilgore indicated that he was researching options including an IRS 115 trust as another tool in paying down the liability. Mr. Kirk reported that both membership dues and staff salary increases were held static in the last budget year. Mr. Kirk indicated that staff would be exploring a personnel comparative study in the coming year.

Members discussed the COLA increase and options for paying down the unfunded liability with the next payment.

IT WAS MOVED BY MAYOR MATAS AND SECONDED BY MAYOR EVANS TO SUPPORT A 2.2% INCREASE TO MEMBERSHIP DUES AND STAFF SALARIES; AND TO CONTINUE WITH THE NEXT PAYMENT OF APPROXIMATELY \$203,843 TOWARD THE CALPERS UNFUNDED LIABILITY.

THE MOTION CARRIED WITH 5 AYES AND 1 MEMBER ABSENT.

COUNCILMEMBER MILLER	AYE
MAYOR HOLSTEGE	AYE
MAYOR HERNANDEZ	ABSENT
MAYOR MATAS	AYE
TRIBAL CHAIRMAN GRUBBE	AYE
MAYOR EVANS	AYE

7. PUBLIC COMMENTS ON NON-AGENDA ITEMS

None.

8. **ANNOUNCEMENTS**

Executive Committee – Monday, April 26, 2021 4:30 p.m. via Zoom videoconference

There being no further business, Chair Miller adjourned the meeting at 10:36 a.m.

Respectfully submitted,

Joanna Stueckle

Joanna Stueckle
Executive Assistant/Clerk

ITEM 6A

Coachella Valley Association of Governments
Administrative/ Personnel Committee
April 19, 2021



Staff Report

Subject: CVAG Membership for Twenty-Nine Palms Band of Mission Indians

Contact: Tom Kirk, Executive Director (tkirk@cvag.org)

Recommendation: Approve Addendum No. 2 to the Third Amendment and Restatement of the CVAG Joint Powers Agreement, which establishes the Twenty-Nine Palms Band of Mission Indians as a formal member and direct the Executive Director to distribute to member jurisdictions for approval

Background: CVAG was formed in November 1973 with the approval of the first Joint Powers Agreement (JPA). In 1989 – after voters passed Measure A – CVAG amended and restated the JPA to specify its role as the regional transportation authority. In 1998, the JPA was amended again to include the City of Blythe as a member. CVAG’s members have since authorized separate JPA agreements for the Coachella Valley Conservation Commission and for Desert Community Energy.

In April 2018, the Executive Committee approved the Third Amendment to the Joint Powers Authority, which better reflected CVAG’s mission and organizational structure and included the Agua Caliente Band of Cahuilla Indians and the Cabazon Band of Mission Indians. Most recently, in December 2019, the Torres Martinez Desert Cahuilla Indians re-joined CVAG through an addendum approved by each CVAG jurisdiction.

As mentioned at the February 23, 2021 Executive Committee meeting, CVAG staff was approached by the Chairman of the Twenty-Nine Palms Band of Mission Indians, and the tribe is requesting to join CVAG. The letter is attached for member information. CVAG Legal Counsel has reviewed Addendum No. 2 to the JPA to add this membership. Once approved by the Executive Committee, CVAG staff will re-circulate the JPA Addendum No. 2 to all its member jurisdictions for their approval and signature.

Given the addition of two member jurisdictions, CVAG’s By-Laws will need to be updated to include both the Torres Martinez Desert Cahuilla Indians and the Twenty-Nine Palms Band of Mission Indians in the officer rotation, which has a specified rotation order. CVAG staff will present the updated By-Laws at a future Executive Committee agenda for approval.

Fiscal Analysis: There is no fiscal impact to the JPA addendum. The costs involved in recirculating the JPA will be covered under existing staff time. Upon membership, representatives of the Twenty-Nine Palms Tribe will receive per diems/stipend for attending meetings.

The Twenty-Nine Palms Band of Mission Indians will also be required to pay dues. These assessments are based on the lowest dues paid by jurisdictions. In fiscal year 2020/21, the assessment was \$8,698 for CVAG’s tribal members.

Attachments:

Letter from Twenty-Nine Palms Band of Mission Indians

Draft Addendum No. 2 to the CVAG JPA

**ADDENDUM NO. 2 TO THIRD AMENDMENT AND RESTATEMENT OF THE JOINT
POWERS AGREEMENT OF THE COACHELLA VALLEY ASSOCIATION OF
GOVERNMENTS ADMITTING THE TWENTY-NINE PALMS BAND OF MISSION
INDIANS AS A MEMBER OF THE COACHELLA VALLEY ASSOCIATION OF
GOVERNMENTS**

This Addendum to the Third Amendment and Restatement of the Joint Powers Agreement of the Coachella Valley Association of Governments (“Addendum”) is entered into as of the date of the last signature appended to this Addendum, by and between the Twenty-Nine Palms Band of Mission Indians (“Admittee”), on the one hand, and the County of Riverside, City of Coachella, City of Indio, City of La Quinta, City of Indian Wells, City of Palm Desert, City of Rancho Mirage, City of Cathedral City, City of Palm Springs, City of Desert Hot Springs, City of Blythe, Agua Caliente Band of Cahuilla Indians, Cabazon Band of Mission Indians, and the Torres Martinez Desert Cahuilla Indians (“Current Parties”), on the other hand.

RECITALS

- A. Current Parties constitute the total membership of the Coachella Valley Association of Governments (“CVAG”) and are parties to the Third Amendment and Restatement of the Joint Powers Agreement of the Coachella Valley Association of Governments (“Third Restatement”).
- B. Admittee is a federally recognized tribe and public agency, as that term is defined in Government Code section 6500, and formerly a member of CVAG.
- C. Admittee desires to join CVAG as a member and Current Parties are willing to admit Admittee as a member under the terms and conditions set forth in this Addendum.
- D. Section 6.1 of the Third Restatement allows for the admission of additional public agencies to membership in CVAG subject to consent of two-thirds of the Current Parties and execution of an addendum to the Third Restatement signed by all Current Parties and Admittee.

NOW, THEREFORE, in consideration of the foregoing and of the mutual promises and covenants herein contained, Current Parties and Admittee agree as follows:

Admission of Admittee

Admittee is hereby admitted as a member of CVAG, subject to all of the rights, obligations and responsibilities set forth in the Third Restatement. Execution of this

Addendum by Admittee shall be the legal equivalent of Admittee's execution of the Third Restatement as a party thereto.

The parties to this Addendum have caused it to be executed on their behalf as of the date specified below, respectively, as follows:

City of Blythe

By: _____

Date: _____

City of Cathedral City

By: _____

Date: _____

City of Coachella

By: _____

Date: _____

City of Desert Hot Springs

By: _____

Date: _____

City of Indian Wells

By: _____

Date: _____

City of Indio

By: _____

Date: _____

City of La Quinta

By: _____

Date: _____

City of Palm Desert

By: _____

Date: _____

City of Palm Springs

By: _____

Date: _____

City of Rancho Mirage

By: _____

Date: _____

County of Riverside

By: _____

Date: _____

Agua Caliente Band of Cahuilla Indians

By: _____

Date: _____

Cabazon Band of Mission Indians

By: _____

Date: _____

Torres Martinez Desert Cahuilla Indians

By: _____

Date: _____

Twenty-Nine Palms Band of Mission Indians

By: _____

Date: _____



TWENTY-NINE PALMS BAND OF MISSION INDIANS

46-200 Harrison Place . Coachella, California . 92236 . Ph. 760.863.2444 . Fax: 760.863.2449



February 10, 2021

Coachella Valley Association of Governments
Attn: Glenn Miller, Chairman of the Executive Committee
73710 Fred Waring Drive, Suite 200
Palm Desert, CA 92260

Re: Formal Request to Join the Coachella Valley Association of Governments – Twenty-Nine Palms Band of Mission Indians

Dear Chairman Miller:

The Twenty-Nine Palms Band of Mission Indians (“Tribe”) is formally requesting to become a member of the Coachella Valley Association of Governments Joint Powers Agency. The Tribe would like to become a full participant in evaluating regional/sub regional single/multi-modal transportation projects that improve access and commerce across the Coachella Valley. We look forward to working with our neighboring municipalities and tribal governments in improving transportation infrastructure for all communities, including the East Valley. Please contact Mr. George Nicholas, Jr., Tribal Chief Administrative Officer at gnicholas@29palmsbomi-nsn.gov if you have any questions or concerns in regards to our request.

Sincerely,

Darrell Mike, Tribal Chairman
Twenty-Nine Palms Band of Mission Indians

cc: Tom Kirk, CVAG Executive Director
George Nicholas, Jr., Tribal Chief Administrative Officer
Anthony Madrigal, Jr., Tribal Administrator

ITEM 6B

Coachella Valley Association of Governments
Administrative/ Personnel Committee
April 19, 2021



Staff Report

Subject: CVAG Officer Rotation for FY 2021/2022

Contact: Joanna Stueckle, Executive Assistant/ Clerk (istueckle@cvag.org)

Recommendation: Nominate the representative from the City of Palm Springs to serve as FY 2021/2022 Chair and the representative from the City of Coachella to serve as FY 2021/2022 Vice Chair

Background: The CVAG Executive Committee annually provides a nomination for the CVAG officers to the General Assembly, which meets each June. In 2019, the CVAG Executive Committee discussed the need for a more formal process of choosing the incoming officers. This led to an update to the CVAG By-Laws, which established a rotation that would elect a member jurisdiction's representative rather than a specific individual. The By-Laws also state that *"Based on a recommendation of the Administrative/Personnel Committee, the Executive Committee may in making its nominations deviate from the strict rotation set forth above if determined to be in CVAG's best interests."*

CVAG's officers are now based on jurisdiction and not individual elected officials. CVAG's current officers are the representative from the City of Indio serving as CVAG Chair and the representative from the City of Palm Springs serving as Vice Chair.

As outlined in a separate agenda item, CVAG staff is recommending an update to the By-Laws to reflect CVAG's new tribal members. If approved as recommended, the officer rotation in the By-Laws change will be as follows: *Agua Caliente Band of Cahuilla Indians, Indio, Cabazon Band of Mission Indians, Torres Martinez Desert Cahuilla Indians, Twenty-Nine Palms Band of Mission Indians, Palm Springs, Coachella, Desert Hot Springs, Rancho Mirage, Riverside County's Fourth Supervisorial District, Blythe, La Quinta, Palm Desert, Cathedral City, Indian Wells, Riverside County's Fifth Supervisorial District.*

This proposed By-Laws change does not impact the officer rotation for this coming year. Based on the rotation, the representative from the City of Palm Springs would serve as FY 2021/2022 Chair and the representative from the City of Coachella would serve as the FY 2021/2022 Vice Chair. Based on the Administrative/ Personnel Committee's feedback, CVAG staff will present the nomination to the Executive Committee and then to the General Assembly in June 2021.

Fiscal analysis: There is no additional fiscal impact as CVAG officers receive the same per diem as other members.

ITEM 6C

Coachella Valley Association of Governments
Administrative/ Personnel Committee
April 19, 2021



Staff Report

Subject: Update to CVAG's By-Laws

Contact: Joanna Stueckle, Executive Assistant/ Clerk (jstueckle@cvag.org) and Erica Felci, Assistant to the Executive Director (efelci@cvag.org)

Recommendation: Approve amendments to the CVAG's By-Laws to update the rotation of the CVAG chairmanship and reflect current membership

Background: In 2019, the CVAG Executive Committee discussed the need for a more formal process of choosing the incoming officers. This led to an update to the CVAG By-Laws, which established a rotation that would elect a member jurisdiction's representative rather than a specific individual. The original rotation established by the 2019 By-Laws is as follows: *Agua Caliente Band of Cahuilla Indians, Indio, Cabazon Band of Mission Indians, Palm Springs, Coachella, Desert Hot Springs, Rancho Mirage, Riverside County's Fourth Supervisorial District, Blythe, La Quinta, Palm Desert, Cathedral City, Indian Wells, and Riverside County's Fifth Supervisorial District.*

The By-Laws outlined that new members would be added last in order to the rotation once their Joint Powers Authority addendums are finalized. In December 2019, the CVAG Executive Committee approved the addendum to the Third Amendment and Restatement of the CVAG Joint Powers Agreement, which establishes the Torres Martinez Desert Cahuilla Indians as formal members, and direct the Executive Director to distribute to member jurisdictions for approval. The necessary approvals have been secured by CVAG's member jurisdictions, and the Torres Martinez are now formal members. CVAG staff has also received a request by the Twenty-Nine Palms Band of Mission Indians, which is also on the April 19 Administrative/ Personnel Committee agenda and will be considered by the Executive Committee in April.

The officer rotation that is outlined in the By-Laws also provided a stipulation that "commencing in fiscal year 2020/2021, the jurisdiction next in order to serve as an officer will be passed over and moved to the end of the rotation if its representative or alternative have not attended seventy-five percent or more of the Executive Committee meetings in the previous year." In June 2020, when selecting this year's officers, the Executive Committee and General Assembly passed over the Cabazon Band of Mission Indians, who representative had only attended one meeting in fiscal year 2019/2020. That led to the City of Palm Springs being elected as the CVAG Vice Chair this year.

Based on these actions, CVAG staff is recommending a minor adjustment to the By-Laws in order to clarify the officer rotation.

SECTION 2 - OFFICERS

A. The officers of the General Assembly, elected by a majority vote thereof, shall be a Chairman and Vice-Chairman, who shall be elected annually before July of each year. To be eligible for nomination and election, said officer shall be a member of the Executive Committee, having been so designated in accordance with Article III. Section 1 - B. of these By-Laws.

B. The Executive Committee, as defined in Article III, shall recommend nominees for Chairman and Vice-Chairman. Ordinarily, the Vice-Chairman will succeed the Chairman at the conclusion of his or her term of office. Except as provided below, the nominees shall be rotated among the member agencies in the following order: Agua Caliente Band of Cahuilla Indians, Indio, Cabazon Band of Mission Indians, ~~Torres Martinez Desert Cahuilla Indians, Twenty-Nine Palms Band of Mission Indians,~~ Palm Springs, Coachella, Desert Hot Springs, Rancho Mirage, Riverside County's Fourth Supervisorial District, Blythe, La Quinta, Palm Desert, Cathedral City, Indian Wells, and Riverside County's Fifth Supervisorial District. New members will be added last in order to the rotation. ~~Commencing in fiscal year 2020/2021,~~ The jurisdiction next in order to serve as an officer will be passed over and moved to the end of the rotation if its representative or alternative have not attended seventy-five percent or more of the Executive Committee meetings in the previous year. Based on a recommendation of the Administrative/Personnel Committee, the Executive Committee may in making its nominations deviate from the strict rotation set forth above if determined to be in CVAG's best interests.

C. The Chairman and Vice-Chairman shall not be representatives of the same member governments.

D. Should an officer be unable to serve for any reason, he or she may be replaced by governing body of the member jurisdiction which he or she represented on the Executive Committee. The replacement, who shall be the officially designated representative of the member agency, shall serve out the remainder of the officer's term.

E. The Chairman of the General Assembly shall preside at all meetings of the General Assembly and Executive Committee. In the absence of the Chairman, the Vice-Chairman shall perform all the duties of the Chairman. In the absence of both the Chairman and Vice-Chairman, the General Assembly or Executive Committee shall choose one of its voting members to chair the meeting for that day only.

With approval, this language will be presented to the Executive Committee for approval, and then to the 2021 General Assembly for ratification.

Fiscal analysis: There is no fiscal impact as the CVAG Chairman and Vice Chairman receive the same per-diem as other Executive Committee members.

ITEM 6D

**Coachella Valley Association of Governments
Administrative/Personnel Committee**

April 19, 2021



Staff Report

Subject: Meeting Reimbursements for Elected Committee Members

Contact: Claude T. Kilgore, Director of Finance/Administration (ckilgore@cvag.org) and Joanna Stueckle, Executive Assistant/ Clerk (jstueckle@cvag.org)

Recommendation: Rename CVAG's Per Diem Policy to be a Stipend Policy (No.21-03), and set the stipend amount for meeting attendance at \$125 for Executive Committee members and at \$100 for all other committees' elected representatives.

Background: The CVAG Per Diem Policy was established in June 1998, reimbursing elected officials with \$50 for attendance to any CVAG elected committee meetings. The policy was updated in 2008, increasing the payments to \$100 for Executive Committee members and \$75 for all other elected committee members to attend the standing committee meetings.

Upon establishment of the Per Diem Policy, each elected committee met 10 times a year. In 2012, the number of meetings was reduced by three meetings a year, with each elected committee being scheduled seven meetings per year. On occasion, there has been a need to call additional special meetings due to timing issues, and the per diem was paid for member attendance.

For comparative purposes, the Riverside County Transportation Commission (RCTC) and Western Riverside Council of Governments (WRCOG) policies were reviewed. The RCTC per diem is set at \$100 with no tax withholdings, while the WRCOG stipend is set at \$150 and is subject to tax withholdings. CVAG staff is proposing the policy be renamed to the Stipend Policy, consistent with the name used by WRCOG given the payments are also subject to tax withholdings. Staff is also recommending a \$25 increase in stipend payments made to elected officials who attend committee meetings, putting it at \$125 for the Executive Committee and \$100 for all other elected committees.

CVAG committee members may notice they receive payment via form W-2 from CVAG. The staff would like to give background on why CVAG pays via W2 instead of 1099. Beginning January 2012, the Internal Revenue Service (IRS) performed an examination over CVAG's federal tax withholdings related to payments made to Committee Members. The examination asserted that CVAG's paid Committee Members are subject to withholding for (i) federal income tax, (ii) FICA, (iii) FUTA. At the time, CVAG engaged General Counsel to act on its behalf and begin the appeals correspondence process with the IRS. The appeal was active during a two-year period, wherein, CVAG asserted its payments to Committee Members reflected that of independent contractors and that these Committee Members did not meet the definition of employees subject to such federal withholdings and payments. Ultimately, in May 2013, the IRS Appeals Office determined that for federal employment taxes, the paid Committee Members "are to be legally classified as

employees...”, effectively requiring CVAG to move such payment to Committee Members from a Form 1099 to a Form W-2 and withhold applicable taxes.

Fiscal Analysis: Staff is recommending a \$25 increase in stipend payments made to elected officials who attend committee meetings, putting it at \$125 for the Executive Committee and \$100 for all other elected committees. This would result in an increased expenditure of approximately \$11,394 (including CVAG’s portion of federal income tax, FICA, and FUTA).

If approved, CVAG staff will incorporate this impact into the Fiscal Year 2021/2022 budget.

COACHELLA VALLEY ASSOCIATION OF GOVERNMENTS

PER-DIEMSTIPEND POLICY

POLICY NUMBER: ~~0821-0403~~

~~At the June 27, 1988 meeting of CVAG's General Assembly, the Committee voted to establish a per diem payment of \$50.00 per committee member per committee meeting with policies and procedures governing these payments to be established and maintained by the Executive Committee.~~

~~At the~~ The following revised policies and procedures were adopted by the Executive Committee during its June 2, 2008 Executive Committee meeting and effective on July 1, 2008, the Committee ~~to~~ consolidated and ~~,~~ clarified their Per Diem Policy originally adopted in June 1988.y

The following will ~~and~~ replace all previously established policies and procedures to the Per Diem Policy by the adoption of the Stipend Policy by the Executive Committee on June 7, 2021 and effective July 1, 2021.

- 1. That the following committees will receive per diem stipends under the conditions of this policy:

- Executive Committee**
- Transportation Committee**
- ~~**Human and Community Resources Committee**~~
- Homelessness Committee**
- Energy and Environmental Resources Committee**
- Public Safety Committee**

- 2. That elected officials (of CVAG's member jurisdictions) who are members of the foregoing committees be eligible to receive the per diem stipend payments.
- 3. That the amount of per diem stipend be ~~\$125100.00~~ per Executive Committee member per committee meeting and ~~\$75100.00~~ per committee member of all other standing elected committees.
- 4. That the Executive Committee may appoint members of the public as committee members and if the person appointed receives no other compensation to attend meetings that member is eligible for the per diem stipend.
- 5. That a typical yearly meeting cycle consists of ~~ten~~ seven meetings per fiscal year per eligible member for purposes of the per diem stipend payments.

6. That receipt of ~~per diem~~stipend payment does not constitute employment by CVAG for any purpose.
7. That ~~per diem~~stipend payment is not paid in lieu of expenses but for attendance at the meeting.
8. That CVAG staff be instructed to maintain adequate attendance records for the purpose of administering those payments and that appropriate claim forms be developed and used by staff in such administration.
9. That the Executive Committee determine on a ~~case-by-case~~case-by-case basis whether or not specifically created committees will receive the ~~per diem~~stipend payments and, if so, for how many meetings.
10. That the Executive Committee retains the authority to terminate the payment of ~~per diem~~stipend for any or all committees or recipients at any time.

* * * * *

(Per Diem policy established 6-27-88\adopted 7-25-88)

Revisions Adopted: 10-30-95
 11-28-95
 02-26-96
 04-29-96
06-02-08

Revisions Proposed: 06-07-0821