

TAHOE REGIONAL PLANNING AGENCY
GOVERNING BOARD

GoToWebinar

August 25, 2021

Meeting Minutes

I. CALL TO ORDER AND DETERMINATION OF QUORUM

Chair Mr. Bruce called the meeting to order at 12:21 p.m.

Members present: Ms. Aldean, Mr. Bruce, Mrs. Cegavske, Ms. Faustinos, Mr. Friedrich, Ms. Gustafson, Mr. Hicks, Ms. Hill, Mr. Lawrence, Ms. Novasel, Mr. Rice, Ms. Williamson, Mr. Yeates

II. PLEDGE OF ALLEGIANCE

Ms. Hangeland led the pledge.

III. APPROVAL OF AGENDA

Ms. Marchetta said Agenda Item VII.A Briefing on emergency response and evacuation planning will be taken ahead of Agenda Item VI.A Resolution for Casey Beyer.

Mr. Marshall said Agenda Item VIII.B Appeal of Single Parcel Pier Expansion Application has been withdrawn. The appellant is in agreement that staff will bring the issue of whether or not we should have another exemption for non-conforming structures for expansions, conversions of buoys to boat lifts to the Shoreline Steering Committee. Consultant, Jan Brisco has agreed on behalf of her client.

IV. APPROVAL OF MINUTES

Ms. Aldean moved approval of the July 29, 2021 minutes as presented.
Motion carried.

V. TRPA CONSENT CALENDAR

1. July Financials
2. Release of Douglas County Air Quality Mitigation Funds (\$35,666) towards planning and design of a new Douglas County Tahoe Transportation District Administration and Maintenance Facility
3. Resolution of Enforcement Action: Edgewood Companies; Unauthorized Vegetation Removal and Grading Outside the Grading Season, 180 Lake Parkway, Douglas County, NV, Assessor's Parcel Number 1318-27-001-015
4. AJC California Holdings LLC, 20-Unit Deed Restricted Achievable Multi-Family Housing Project, 941 Silver Dollar Avenue, City of South Lake Tahoe, California, TRPA File Number ERSP2020-1763, Assessor's Parcel Number (APN) 031-290-012

Ms. Aldean said the Operations and Governances Committee recommended approval of items one and two.

Mr. Marshall said the Legal Committee recommended approval of item three. There will be a \$55,000 payment to TRPA and \$50,000 contribution for control and containment of Aquatic Invasive Species along Edgewood Creek and ponds within the Edgewood Tahoe Golf Course.

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Public Comments & Questions

None.

Mr. Friedrich moved approval of the consent calendar.

Ayes: Ms. Aldean, Mr. Bruce, Mrs. Cegavske, Ms. Faustinos, Mr. Friedrich, Ms. Gustafson, Ms. Hill, Mr. Lawrence, Ms. Novasel, Mr. Rice, Ms. Williamson, Mr. Yeates

Motion carried.

VI. ADMINISTRATIVE MATTERS

A. Resolution recognizing former Governing Board member, Casey Beyer, Governor of California Appointee

Mr. Bruce read the resolution into the record.

Board Comments & Questions

Mr. Yeates said he always had a lot of fun balancing Casey and Clem as the three public members from California. It's well stated in the resolution, Casey did have a bi-state perspective. He was always very concerned about how the board could work together and the collegiality of the board; he was one of the real leaders. That allowed them to work together and accomplish many of the things that are set forth in the latter part of his resolution. He enjoyed and appreciated Casey's concerns about things that happened to him personally and wished him the very best in Santa Cruz.

Ms. Aldean said when she heard that Casey was thinking of stepping down, she was obviously a little distraught. She reminded him that he had made kind of an informal commitment to make this a lifelong appointment! In his email response he produced a long litany of all the initiatives he participated in. Not only does he have a phenomenally good memory but that's an illustration of how deeply involved he was and how seriously he took his role as a member of the TRPA Governing Board. One of the things that she's always admired about Casey, is that not only does he have an agreeable personality, but he also has a refreshing outlook on issues and he illustrated what we can all accomplish working for a common cause. Casey was her Vice Chair choice when she was Chair. It was an easy choice for her to make, based on the fact that he is also affable and so committed, and it has a very ingratiating way about him. Casey, you will be missed.

Mrs. Cegavske said she's thrilled that she was on the board with Casey. It was fun to have him on the board and she learned a lot from him. She appreciated his bipartisanship of both states. Sometimes it was hard to tell what state members were from because everybody thought of the lake as one. Casey knew Tahoe and what the issues were.

Mr. Hicks thanked Casey for all he's done. He was so welcoming to him when he started on the board and was always there to answer questions, give him insights, and always there to come up with a funny line. He appreciated what he did for him personally and echoed all comments on what he did for TRPA and the two states.

Mr. Lawrence said just to add on to all the kind words that have already been spoken. Casey selected him as his Vice Chair when he was Chair. There's been comments regarding his bi-state perspective but even more he had a Tahoe first perspective. It was a difficult time for him to be chair. We were a couple of years into the Regional Plan Update being adopted and there were some kinks to be worked out. His sense of humor, steady hand, served the Agency in a

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tremendous capacity in addition to all of the initiatives that he worked on. He's disappointed that he's not on the board anymore, because he enjoyed working with him.

Ms. Novasel echoed what Mr. Lawrence said as a Monterey person, She enjoyed all of the conversations they had about what was going on in Santa Cruz and how they could apply that in Tahoe. Thanks for all the work that you've done and we'll miss you.

Mr. Bruce thanked Casey for his families contributions. Secondly, he and Casey were fortunate to have some things in common and relationships outside the board including Reno High School. Casey introduced him to a number of people for other projects whether they were science, social, or other philanthropic projects. It's incredible how many people he introduced to him that were involved in the Silicon Valley leadership group and for that, he will always be extremely thankful. Casey has been very valuable to this board and has made an impact to this majestic place that we call Lake Tahoe.

Ms. Marchetta thanked Casey for his collegiality, dedication, and tenacity hanging in for 12 years. We know this board post is not for the faint of heart. Thank you for your kindness and advice to staff and appreciated all the bipartisanship and the bi state perspective. You've never been insular and you've always been willing to compromise. Recalling one circumstance in particular, when he made an unbelievable personal sacrifice at a time of family crisis, where he showed up for a 14 hour hearing so that the quorum and vote would be complete.

Ms. Regan thanked Casey for his support of staff over the years. With his passion for cycling he brought a group of cyclists up here and we were all making peanut butter sandwiches in the lunchroom for this group. Our team got hands-on involved with a lot of his personal causes and passion that aligned perfectly with the direction of the Agency to make Tahoe more bikeable and walkable in the Regional Plan. Staff has truly valued his leadership, guidance, and friendship.

Mr. Beyer thanked everyone; he's humbled. Twelve years seems like a long time but when you do it for the lake, it's not. There's an old saying in Nevada that you can't take the Lake out of the Nevadan. Even in California, he's still a native Nevadan and Lake Tahoe is home. There's a lot of things that we did for the 12 years that he was on the board. He looks at what the board does as a team. Each member played a respective relationship in terms of developing policies, programs, and projects that were instrumental to the to the Agency. There may have been different perspectives but at the end of the day, they were pretty close in alignment. Then Secretary Laird under Governor Brown told him he needed to be on the team. And what team are you referring to? The Governor's team. Mr. Beyer responded that he was on a different team and the Governor's part of it and that's called the Lake Tahoe team. There was only one time in the 12 years that he and Mr. Shute former California Governor Appointee board member disagreed. They came to the issues in their own perspective way, and he always thought of what's best for the lake? Not what's best for Nevada or California. It was highlighted by the 12.12.12. Regional Plan Update. That was a significant lift of a collaborative working group led by Ms. Marchetta and her team that pushed it over the finish line, and the Lake is better for it. One of his first trips as a board member was to the area of the Angora Fire about 1.5 years after the fire. He learned more in that tour about South Lake Tahoe that he had in his entire life living around the lake. It's a significant ability to put our differences behind us and focus on what's common good. When we do that, we succeed. When people, stand tall and work together, you can overcome almost any obstacle.

Public Comments & Questions

None.

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Board Comments & Questions

Ms. Aldean made a motion to adopt the Resolution as presented honoring Casey Beyer as a former member of the Governing Board.

Ayes: Ms. Aldean, Mr. Bruce, Mrs. Cegavske, Ms. Faustinos, Mr. Friedrich, Ms. Gustafson, Ms. Hill, Mr. Lawrence, Ms. Novasel, Mr. Rice, Ms. Williamson, Mr. Yeates

Motion carried.

VII. PLANNING MATTERS

A. Briefing by Chief Clive Savacool, City of South Lake Tahoe Fire Rescue on Emergency Response/Evacuation Planning

Mr. Cowen said the board expressed interest in this topic earlier this year. TRPA staff reached out to law enforcement and fire protection representatives, who are the lead agencies on evacuation and emergency response preparation in the Tahoe region. The board also passed a resolution in May, in support of the 2021 Tahoe Wildfire Awareness Campaign and also in support of the responsibility of every resident and visitor to the Tahoe basin to be prepared for a wildfire and to have their own evacuation plans and go bags at the ready. This topic has become extra poignant this year as climate change and prolonged drought are changing forest ecosystems right before our eyes. The question of if, but when is being answered right now, for us as wildfire and evacuation warnings approach, the very rim at the Tahoe basin. With the Caldor Fire now less than 12 miles to the south-west of us, we are incredibly fortunate and grateful that local law enforcement and fire protection personnel have agreed to join us today and to provide the board and staff with an overview of evacuation planning.

The lead presenter is Lieutenant Travis Cabral, the City of South Lake Tahoe Police Department presented on behalf of Chief Savacool of South Lake Tahoe Fire Rescue who was called away this afternoon for a meeting on the Caldor Fire. Also joining was Division Chief Fire Marshal, Eric Guevin with the Tahoe Douglas Fire Protection District who is also the fire representative on TRPA's Advisory Planning Commission. That seat was added to the APC at the request of the Governing Board, following the devastating 2007 and Angora wildfire.

Lieutenant Cabral said this has been a topic of every conversation in the past few days, as we prepare for what could possibly be something coming into to Tahoe.

(Slide 2) The evacuation map was a coordinated effort with the area law enforcement, fire personnel and all of the partners and stakeholders that would be involved in evacuations in the basin. The model is color coded and named with the neighborhoods. It's a way for them to locate neighborhoods in an evacuation and evacuate each neighborhood individually. A disaster could be one neighborhood or the entire city. This is helpful for the public and also outside law enforcement that come into our area on how we're going to evacuate.

(Slides 3-8) Is the hazards community evacuation plan. This is a preparation plan for the community and for visitors into Tahoe. The best way to prepare is to prepare yourself. This plan gives an overview of what you can do as citizens to prepare yourself for any type of disaster. They're very basic principles, of preparing your family, identifying hazards in your community, knowing your entrances and outlets into and out of the basin. This was put together in cooperation with multiple agencies around us and is a plan that the El Dorado County Sheriff's office had already prepared for county wide. This is shared, both online, with the city, as well as through our tourism core where they are working to get them out to hotels This would have a QR Code to scan when people come into town, to sign up for the Code Red Emergency Notification Systems. It gives them more access to provide people with information while they're here in Tahoe. This is more of the preparedness side because all disasters are different.

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There's many times when disasters strike suddenly and a plan to say where someone's evacuation center is may not be the same for one incident versus another.

(Slide 2) This map does not include Douglas County which has their own system. In case of disaster they would tie in with them. They have an updated map that will be distributed to the public that has all the street names and neighborhoods that they can provide to area law enforcement and sister agencies that come in and help evacuate. A lot of times in evacuation, for example, they may evacuate the Christmas Valley area first by sending law enforcement out to provide information both through the alert systems and personal communication. They go door to door, letting people know what's going on and clear each neighborhood individually.

Division Chief Fire Marshal Guevin said they have a trap line set up through the Fire District as well as in South Lake working with the Forest Service. They are a two faced board that has maps and the QR codes on it that push out the fire information on those boards. Those boards are available throughout the district. They also felt the need to set up an information booth at the Safeway in Round Hill that had information about evacuation preparedness. It was live staffed from 1:00 to 5:00 p.m. initially over the weekend. They worked with K-Tahoe to broadcast those times to the public. One of the bigger issues for them was that they knew this fire was away from the basin and some say it's knocking on Tahoe's door. It's very unlikely that it will make a run into the basin, but it can happen. More importantly, they want people to be aware that we're fire prone either way. Fires are going to happen and we really want people to be situationally aware of what's going on. That's somewhat difficult place to be in for us to get that information out because we have a lot of transient occupancy, vacation homes, second homes, etc.

If they can get information to our residents and making those touch points by having the boards available for the community to get the information. They want the local residents to sign up for the reverse 911 system. Early notification is key in having a successful evacuation. They geofence the areas around Kingsbury, down Highway 50 out into Glenbrook. They can't flush everything at once. They need to have some organization, priorities need to be made, and they try to give as much notice as possible so they can have a buffer zone. So, you're evacuating one area and warning another area and that tier system kind of continues on. They can geofence those areas, send an alert out, get warnings out, and then can send the notifications for evacuation. It's important that those people are prepared to leave at those times. That's why those touchpoints and being face to face with individuals, they can calm them and equip them with the information that they need to respond in an emergency.

There is very limited egress out of the basin, so it's important that we can do that in an organized fashion. They did that really well with moving traffic in the Angora Fire. Luckily no one was killed or injured in that. They could also have cases where they move the traffic in one direction on the highway and split that egress out. The casinos are pretty hardened against fire and wildfire so they make a good place to make a stand and have a shelter in place. There are other areas where we can shelter people in temporary areas of refuge. This would be done through those notification systems on the phones, social media, and mainly through the radio system. K-Tahoe is tied in and has emergency power available. They can change information quickly and make sure they're getting the right information out. Another source is KOH 780 that is broadcast out of Reno that can reach the entire basin.

It's important for people to have their go kits, sign up for the early notification, know their routes out, and dress appropriately

We look at a lot of what happened with the Campfire in Paradise and the notifications there and they had very difficult access. A lot of people compare that fire to what could happen in the basin but we've done a lot of field work here as well. There's much more work to be done we can use this time to get that information out to the public and just be aware there's things they can do and those action points will help calm them.

Presentation can be found at:

[Agenda-Item-No.-VII.B-Lt.-Cabral-Emergency-Response-Evacuation-Planning.pdf](#)

Board Comments & Questions

Ms. Novasel, Christmas Valley resident said there's an amazing amount of help already from law enforcement coming from all over. It's nice just knowing that we have that kind of support. Unfortunately, we are nationally renowned for this fire but the good news is there's a lot of support. She went with the CHP into fire area on Sunday and didn't see any flames all the way down to Fresh Pond. There's been a lot of misinformation with social media and would recommend everybody do exactly what we're being told to do with staying informed. If you have neighbors and properties around you that are vacation rentals please go knock on the doors and let them know what's going on because they'll probably be the least informed. A shout out to all the firefighters who are doing an excellent job. The California Highway Patrol are working 16 hour days, seven days a week.

Mr. Hicks expressed his thanks to all of the fire personnel. We all new these days were coming and they'll come again. All of this underscores the importance of us approaching this and doing what we can do to help the fire personnel and people in the basin by coming up with better fuels treatment programs.

We have great ones now and is not complaining about them, but we need to pay attention to that. For example, the West Shore fuels project that is on the drawing boards and moving along but we need to do everything we can to make those things actually happen and happen quickly. When this burning season is past, he would welcome anything that the Tahoe Fire and Fuels Team members have for us that we in our regulations can do to address our procedures and requirements, but also whatever we can do to encourage our fellow authorities to do to help expedite these fuels treatment programs is absolutely critical.

We all hear the news about climate change. Something is happening here. We all know what needs to be done. The forests need to be cleaned up, we all know it's going to take millions, if not billions of dollars, to do that but we really need to move on this.

Ms. Gustafson thanked all of the first responders, law enforcement, and firefighters for the tremendous efforts they put forth on all of these fires with resources that are very, very tight. Similarly, Placer County has a voluntary sign-up alert that is there to inform people to receive text messaging. But when she was recently in Reno, she was getting alerts from WEA for the Dixie Fire for evacuations. She's not signed up for anything in Reno but was down there as that day visitor, like many might be in reverse.

Lt. Cabral said it's a similar system to their site and believes Douglas County also has the same system. There's a couple systems out there. First, there's a sign-up based system, which is like Placer's and that is more of a Code Red system which is what we call it here and that's area specific. A person signs up using their address and phone number and then get alerts based on that region. What Ms. Gustafson was referring to is considered a reverse 911, or what they call I Pause which is a geographic system. It sends an alert to all those people and that's great for tourists whereas maybe they won't get a Code Red alert because they're not signed up. The inherit problem with a geographic system, especially in our area, is that there's bleed over. As people in the Christmas Valley area can attest to with the Caldor Fire as they were receiving evacuation notifications even though it wasn't in their area and that's because of the bleed over. They're great systems the law enforcement and fire personnel have to think about how they utilize those systems to make sure that the right people are getting the information at the right time.

Ms. Gustafson said even though it was a bleed over, it may be re-assuring to many who question how will the visitors be notified? There is that technology and ability in an absolute disaster to

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push that messaging out to those who wouldn't have signed up. That's important for our locals to know as well, that we will have the ability in those circumstances where we do need to reach our visitors. Visitors may not know the radio stations, the neighborhood they're in, but at least they're getting an alert .

Ms. Aldean echoed all the comments about the steadfastness and the dedication of the law enforcement folks and firefighting community. Because of the close proximity of the Caldor Fire, most of the focus right now is along the south end of the lake. There's been coordination between South Lake and Douglas County but are there similar plans in Placer and Washoe Counties? If so, will we be receiving information on those evacuation plans at some point in the future? People in Incline Village, in particular, we're interested in viewing those plans. It's important that everybody be cognizant of what the plans are and reassured by both firefighters and law enforcement personnel that their concerns have been taken seriously.

Mr. Cowen said the Tahoe Fire and Fuels Team is region-wide, North and South Shore. While we were trying to organize the presentation for the board today, it was a lot to ask for different law enforcement agencies to all try and get together for this presentation. As long as we know that those organizations in those areas have evacuation plans and that they are making those available to the people who need to see them. In the future, they'll do their best to see if they can get more of a region-wide snapshot of this.

Ms. Aldean said she didn't remember signing up for the Amber Alert system and yet she gets alerts on her phone about abductions. Is there a way we can piggyback on that system.

Division Chief Fire Marshal Guevin said absolutely. That system is part of that Wireless Emergency Alert System (WEA). It's done by geofencing. If you're on the Lake and call 911 it could actually go down to Sacramento and it could be dispatched from there because it's going to grab the nearest tower or strongest signal. Those emergency alerts are our broadcast wide and far. You have to allow your phone to receive those emergency alerts. It's a default when your phone is activated so if you don't change anything, it's automatic. You can opt out of that on your phone. The emergency alert systems on the Douglas County side and believes it's the same with the City of South Lake Tahoe they go through a gateway which in Douglas County it's through the emergency managers. Washoe County would be the same. They've got a real similar way that they would handle these evacuations. They would follow the Incident Command System, (ICS). It's very similar throughout, not just our region, but all over, it's international. The Fire Pit, Public Information Team are putting together a frequently asked questions. He believes the Tahoe Fund is going to put that up and probably share it. It'll allow you to go in and find your early notification system and register. No matter where you're at on the lake, someone can go to this frequently asked questions on what to do to prepare for wildfire. For the Code Red system a person needs to sign up with their address where they want the notifications.

Mr. Friedrich thanked Lt. Cabral and everyone at the Emergency Operations Center. Every day at 5:00 p.m. Cal Fire Amador-El Dorado Unit hosts a briefing on Facebook. The City of South Lake Tahoe has resources in English and Spanish linked at the top of the website and on City's Facebook page they've also interpreted into Tagalog. He encouraged everyone to share those resources to make sure all folks in our community get the information. Either tomorrow or Friday, the City will be handing out N95 masks at the Recreation Center.

Mrs. Cegavske thanked the first responders, fire fighters, police, and everyone involved. She hasn't done the extent of what some of her other colleagues have done but witnessed what the smoke in the different areas and the health issues that it causes.

Mr. Cowen said the Tahoe Fire and Fuels Public Information Team is working on that overarching "Welcome to Tahoe" and here's what you need to know. That will be available on the Take Care website.

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Lt. Cabral said we're all locals here and we all have questions. Looking at maps and information on how to be prepared really doesn't solve that need to want that information. What are we doing and how are we notifying people are great questions. Today, Ms. Novasel saw three officers just today in her neighborhood. They have 30 to 40 plus law enforcement on our area just today alone. They're going around to our neighborhoods and getting a lay of the land. They pair one of their officers up with them who knows our geographical area and can prepare them so if they do go into that next phase that everyone knows exactly what to do. They're getting counts on people that are leaving and they'll know how much they're going to need at the time of an evacuation when they have this time to prepare. This way they can get everything done as quickly as possible. It's that personal connection. The people in the city are not seeing that as much yet, but if that does turn into a warning stage, they'll get that same information.

Public Comments & Questions

None.

VIII. APPEALS

- A. Appeal of Hearings Officer Approval of Stock/Johannessen New Single-Parcel Pier, 5568 North Lake Blvd., Placer County, California, Assessor's Parcel Number (APN) 116-220-049, TRPA File Number ERSP2020-0074, Appeal File No. ADMIN2021-0014

Mr. Bruce asked if any of the board members had ex parte communications with any party in the appeal.

Ms. Gustafson said she's known the appellants for many years. She's visited their property and have had discussions with their counsel. They briefed her on the content of their appeal.

Ms. Aldean said received an email Gregg Lien representing the appellant.

Mr. Bruce said he thinks that most, if not all of them might have received that email because he did too.

Mr. Marshall said this is an appeal from the issuance of a permit by the Hearings Officer after a public hearing for a new pier in Placer County on the California side. Because it's an appeal of a permit issuance, it is similar to a revocation hearing. That's why the vote comes forward to the board with the requirement that if the board is going to overturn the appeal, it will take five California votes and nine votes overall.

There are three key issues in this appeal and they condense down to two. The first one has to do with the navigation and compatibility finding which rests on whether or not that the new pier constitutes a navigational issue compared to or causing a navigational issue to the existing pier to the South. Then whether or not there is the necessary finding for additional length was appropriately made to extend the pier another 12 feet out to the pier headline. There were presentations by Mr. Marshall, Counsel for the Stock/Johannessen permittee and their consultants as well. As a result of those presentations, the Legal Committee had some questions and then voted unanimously to deny the appeal. The motion needs to be in the affirmative to grant the appeal but their recommendation is to vote no and deny the appeal.

(Slide 4) The location is where it's indicated with the box on the right hand side. The pier would be located between the two existing piers. (Slide 5) is the site plan of the new pier, which is in the middle, the Harrosh pier is off to the left (south) side of the diagram. The Harrosh pier is an older pier and was developed prior to TRPA permitting. It sticks into the setback but yet, the minimum dimensions that are required by the Code of Ordinances are more than met with the setback from an existing structure on both sides. It splits the difference here between the two different piers.

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The key finding that we're going to be talking about is this navigation and safety finding. TRPA must find that the project will not adversely impact navigation or create a threat to public safety pursuant to the determination of agencies with jurisdictions over the navigable waters in the basin. The way that this finding was made in this particular case, was that we brought this matter to the Shorezone Review Committee at which point neither the Coast Guard nor the Army Corps of Engineers objected. Then they also got specific input as shown in the staff report that preliminarily, they did not see any major issues.

The Hearings Officer issued the permit based on a condition that would require before any project is put in, to receive all required permits which would be an Army Corp of Engineers permit. The Corp permit would be the determination of that agency as to whether or not there is any inappropriate impacts to navigation or to public safety. This is a debate about the timing of that determination and not whether or not TRPA can make the finding TRPA can make the finding based on a conditional permit, but at what point does the determination need to be made? Does it need to be made prior to TRPA action, as the appellant's will argue, or has TRPA consistently applied this provision that it can be conditional based on the receipt prior to construction of the determination of Army Corps.

The compatibility finding condenses into the navigation finding because the objections on this site have to do with compatibility, not with the appearance, but rather the function of the pier between the two other piers.

The extra length finding is that it can to up to 15 feet of additional length if you show that the additional length is necessary for the functionality of the pier. Whether or not it adds function and then whether or not the average grade of the bottom is greater than 3 percent. There is no dispute here as to whether or not there's a grade greater than 3 percent.

The focus is on if the interpretation of the additional length is necessary for the functionality of the pier. It doesn't say, for the function of the pier, so, it's not an absolute standard. It's whether or not the additional length will add the necessary functionality of the pier. The board will hear from both sides talk about whether or not, given the substrate and the low water conditions, that extra length is necessary.

The Hearing Officer found that because of the depth at low water, the additional length is necessary for the functionality of the pier and made the finding.

Mr. Lien, Counsel for the applicant. He finds himself in agreement with TRPA counsel as to the issues. In this particular case, the applicant who's going for the maximum length, width, and a boat to lift. The crux of this both in terms of the adverse impact on navigation, public safety, compatibility, and as to additional length. What the applicants are doing is to put this extremely large structure for a single use pier in the minimum possible size area as shown in the staff report.

TRPA has to find, and that's the present tense, must find that the project will not adversely impact navigation or create a threat to public safety. Pursuant to this determination, a determination is defined, not the Code of Ordinances but by the dictionary "Is the act of deciding definitively and firmly." With that, they've got the information in the record, those in the Legal committee heard that, basically, it was just an offhand comment. The key thing here is that the applicants chose not to make application to the only Agency that has expertise in public safety and navigation, and that's the Army Corps of Engineers, they chose not to apply. TRPA has to find in the present pursuant to a determination. Again, that's in the present tense of agencies with jurisdiction. That can only mean the Army Corps, it means not a determination. It only means Army Corps. This is not a determination by staff, a Hearings Officer, or legal counsel. It can only mean a present tense decision by the Army Corps.

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Mr. Roukey was a 34 year veteran of the Army Corps of Engineers. He managed staff for Tahoe and is well known and respected in the area.

Mr. Roukey, Army Corps of Engineers said one of the issues that came up was the coordination effort. He knows there's been changes since he retired in 2009 but the coordination that was set up during the TRPA Compact has resulted in the Shorezone Review Committee. It's always been pretty standard that they didn't move forward with any agency until that process of approving a project was done. Even if the final permit was not done by either agency, they would either hold them in abeyance until everybody got it done because they didn't want to issue permits that were going to have to be redone to another standard.

The two things that really kind of hit him was that they talk about going out to the pier headline. The pier headline was not aligned, that was just determined. It was discussed in depth for years until they finally came up with 6,219 as a safe elevation of the lake bottom that would be above the Lake Level of 6,223 which was for four feet of draft underneath a normal boat that was going to be up against a pier. If a pier went out to 6,219, that was justified as enough draft for that boat. To just arbitrarily put it out to the pier headline, the pier headline in many of these areas was not drawn to the 6,219 because existing piers were already around the lake. Rather than have this swaying line in and out on the lake at 6,219, if there was an area where you had one pier out and another one kind of lined up to it, the line was drawn straight. So, the pier headline really wasn't the safe navigation beyond that point but inside that point, also, has to be considered. When you put a pier in between two existing piers, just the mere presence of the new pier impacts navigation of the two owners; up and down shore for their safe navigation.

Also, every pier at Lake Tahoe can be used for safe harbor by anyone in the public. Any person who has boating experience at Lake Tahoe knows that you can get caught in a storm very quickly and easily. When there's another pier in between two, that for the last half century, have had 200 feet of access in there, it causes an impact. How adverse that is, they don't know. That's what the Corps analyzes. The Army Corps in their process looks at not only the dimensions of the pier but they pay particular attention to the location, general design, and if the obstructions can result from both the existence of the structure, particularly in conjunction with similar facilities, in the immediate area. The district engineer will inform applicants of the hazards involved and encourage safety, location design, and operation. As a result of the construction of these discussions, the district engineers evaluation precedes. He contacted the Army Corps of Engineers office and her recollection was that she was in the meeting and she said that yes, from what she had reviewed, which was not a formal application to the Corps, but just the TRPA drawings and that she had no concern at that time. But she reminded the staff that agencies, the one who makes the determination and suggested that the applicant submit an application to the Corps as soon as possible. That was a year ago. They have not received anything since.

Coast Guard is for search and rescue and maintenance of navigation structures that have been put in place as determined by the Army Corps of Engineers. When they make a site visit, they're looking at, can they get in there to do a search and rescue. When he asked the Coast Guard staff, if there were a novice mariner on the 30 foot boat in Tahoe, would that new pier between two large structures have the same impact? They responded back by sending it to their Safe Water Safety Office in San Francisco. He received an email back stating that it would be a navigational hazard. He asked if it could be mitigated from the staff of the Army Corps? They said, yes, and it may need to be shortened. He can't make that call now, but that call could be there. So you may be issuing a permit. He thinks that staff was a bit presumptuous in issuing the TRPA permit without at first calling the Army Corps and asking if they had any idea if it was going to be shortened or not. You may see this permit come back at you possibly. He feels it's going to be under pretty good scrutiny. His opinion, if he was still the staff officer at the Army Corps, it would be because we are looking at, again, the addition of additional structures that can cause that impact.

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In his opinion, he would have done more due diligence as staff, instead of just responding to what a one-time statement was, especially from the lead federal agency, the Army Corps of Engineers, that makes the call for navigation, safety, and for the length of a pier. They are the ones that are going to say, yes, that's proper, or it's not. They are the ones to make that call and they'll have to have that discussion with the applicant.

Mr. Lien said the video in the power point today graphically points out again their problem with the project is about the length. They don't need it for functionality. This is a video of the bottom substrate in the area. You'll see that this is exactly the same kind of substrate that's typical at Lake Tahoe around most of the near shore. They also have expert testimony from Brian Johnson, a 40 year marine engineer at Lake Tahoe. Very well-known expert in navigational safety. In his opinion to this does create a threat to safety because of the way boats have to go into the Harrosh boathouse. It's incompatible, that's the other thing they haven't had time to go into but is in the written materials. It's the stern of the boat that is crucial for navigation. The stern comes in at the end and there's plenty of room for that boat to be safely moored at 6,219 in that location.

Mr. Roukey said yes, it seems that we have at 6,219 with a lake elevation of 6,223 you would still have that four feet of draft. That's more than enough for the prop of a boat coming in. The Lake has not gone down below 6,223 but a handful of years. If it happens, it happens to everybody.

Mr. Lien said from their point of view, when you look at the words of Subsection G finding, there needed to be substantial evidence in the record. Again, there wasn't determination in any dictionary sense of the word at present time. You can't defer it on condition of approval. If you were in that chair, he would be pushing for shorter pier as well because it disrupts the navigational pattern that's been common for 50 years through that area because you're plugging up that hole with the largest pier that could possibly be approved. This is going to force needless litigation because while we're waiting for the Army Corps, they have to meet TRPA's 60 day statute of limitations and we don't want to have to go there. He feels the only logical thing to do is to continue this and bring it back in its own forum. They could even agree if the Army Corps shortens it, they'll withdraw their appeal. This is the reason that the applicants failure to apply, really should come back they created their own hardship here and made it a difficult situation for his clients.

He asked if Ms. Faustinos was able to see their video presentation or if she just entirely on the phone. If she isn't able to view this, since we need to have five Californians, he has a procedural objection that she's not able to review the whole record.

Mr. Gatto on behalf of Johannessen's. Mr. Marshall and staff did an excellent job of summarizing why the Hearings Officer approval should be upheld, and the Legal Committee unanimously concurred with staff. The appellant's submitted new arguments that were not included in their statement of appeal just one day prior to the hearing. Pursuant to Section 11.4 of the Rules of procedure, they object to this new argument and materials and contend the appellants have waived the right to raise these new arguments, image sharing, and any subsequent litigation.

Mr. Ogilvy on behalf of the Johannessen's. In light of the comments for by appellant and the summary by Mr. Marshall, he'll focus on three primary items; the process timing of the approval process, navigational safety, and the proposed pier length as it relates to its functionality.

In terms of the process, their office has represented four other pier modification expansion projects within this segment of the lake at Flick Point within last 10 years. In all of their pier projects that their office has pursued regulatory approvals across the multi-jurisdictional framework throughout the basin. They always initiate the TRPA review process first. They've done that through different periods of shoreline plans through time. There was the Original

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1987 code, the 2008 plan adopted and was legally challenged, vacated by the Court, and then an interim policy and procedure up until the adoption of the current Shoreline Plan that is the one that they work under today.

The premise of that is, in their experience with numerous pier projects and the complexity of the relation of the other considerations are the TRPA code, scenic provisions, and that changing regulatory framework through iterations of different plans is most often that they see changes need to occur through the course of TRPA review. In the interest of the efficiency for their client and the process, they have decided to get substantively, if not all the way through to approval in the TRPA process prior to making those other regulatory applications. Compounding that is that the Army Corps process changed meaningfully last year. They previously made a de-minimis finding for pile driving in Lake Tahoe, that there were no impacts and they started requiring archeological and cultural resource studies which they had not embarked on until very recently this August.

If applications are made to those other agencies and they have to make a modification in design, in order to attain TRPA's approval, they're making those modifications across five regulatory applications

The shoreline review committee process was enveloped to try to bring any threshold issues that would lead to repetitive changes across those regulatory entities back and forth to negate that. As the appellant said there were no stark issues raised and they will pursue an approval with the Army Corps of Engineers.

(Slide 16) Is a picture taken from offshore with the Harrosh property to the left of frame. In the center frame, you can barely see the Stock/Johannessen residence, and the residence to the right that is visible is appurtenant to the other boathouse.

(Slide 20) The Harrosh pier does encroach into the projection line setback. It's a non-conforming structure. The Army Corps is a public agency that in his experience is primarily concerned with the navigation of public waters of the United States not the navigational convenience of a private party. At the direction of the applicant, they designed the pier to hug the northerly setback to the greatest extent possible to provide the greatest distance for the navigational benefit to Harrosh. The design standards adopted by the board require a 40 foot separation and by that placement of the pier, they're providing for nearly twice that standard to the extent of approximately 80 feet.

The shoreline analysis under the Environmental Impact Statement determined that new piers primarily result in navigational hazards in areas where there currently are no piers tying to that public navigational concern. Existing private piers and structures drive navigational patterns and therefore clustering private piers reduces navigational impacts. That was within the draft EIS that was adopted by this board.

They solicited comments and feedback prior to the Hearings Officer. It's important to note that through the review of the Shoreline, EIS and adoption of the corresponding design standards by the board, there were no comments provided regarding the design standards that we've adhered to under the proposed pier project.

The rocky caricature of Flick Point and the bathymetry or lake bottom at this project site illustrates the premise under which this provision was adopted, in terms of additional links.

The project applicant demonstrates the additional length is necessary for the functionality of the pier, and the average grade of the Lake bottom beneath the pier is a minimum of 3 percent. They clearly exceed the 3 percent, that's not a point of discussion.

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The additional length is absolutely necessary at the location of the proposed pier. The Hearings Officer approved the 12 feet of additional length commensurate with the adjoining pier, boathouse structures out to the pier headline.

(Slide 26) Shows the lake bottom and in slide 27 shows Mr. Johannessen standing in the Lake. If they reduced the length inward by 12 feet and you picture the 30 foot length of a conforming standard pier head. If you brought the pier head in an additional 12 feet, the bow of the boat or the end of that pier head would be where this picture was taken just in recent weeks at current lake levels.

(Slide 20) Because of the rocky caricature of Flick Point, if they didn't have this additional length to be commensurate with the adjoining structures, the pier head would be at a shallower depth to wear in periods of low water they would be limited. Today, at a period of low water they'll have three feet of draft at the bow of the boat at the terminus of the pier head and would reduce down to within a depth of just slightly greater than one foot. For the appropriate functionality and safety of navigation in and out of this pier, the additional length is absolutely necessary.

Mr. Gatto said the appellant's argument regarding navigation and public safety amounts to nothing more than speculation regarding how a third party public agency may act on a future permit. Quite simply, the pier cannot be built unless the Johannessen's receive approval from the Army Corps. On that basis alone, the finding made by the Hearings Officer is correct. The appellants have submitted zero evidence of how the proposed pier with almost twice the step back required by code results, and navigation or safety impacts. On those basis that they've submitted, they would respectfully request that the board adopt the unanimous recommendation of the legal committee to deny the appeal.

Mr. Marshall emphasized the recommendation of the Legal Committee and to make certain that all Board members heard that the committee unanimously recommended that the Governing Board deny the appeal.

Presentation can be found at:

[Agenda Item No./VIII.-A.-Appeal-of-Stock-Johannassen-Piercomp.pdf](#)

Board Comments & Questions

Ms. Aldean asked if it was uncommon for TRPA to take a lead agency role in processing pier permit applications.

Mr. Marshall said he wouldn't say it's a lead agency role. TRPA basically calls all the jurisdictions together in the Shorezone Review Committee to try to help facilitate everyone's processing, and to minimize any overlap that the applicant might have. It's fair to characterize that most of the changes to piers go through a TRPA process, rather than any of the other process. To some degree, it makes sense for us particularly in these Covid times to move ahead first. Therefore, TRPA takes the lead role in that sense.

Ms. Aldean said she feels that everybody has acknowledged, including the appellant and TRPA that we are not experts when it comes to navigational issues. But as a facilitator of this process, TRPA did reach out to the Army Corps and ask for input during the process. Since we are not experts in the area of navigation, we rely on the other permitting processes to address any concerns that there might be in connection with the accessibility of the pier being proposed or to adjoining structures.

Mr. Marshall said that's correct.

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Ms. Aldean said the other assertion was that we failed by not requiring a simulation. Are simulations typically required of pier projects if there are no extraordinary scenic implications?

Mr. Marshall said no.

Ms. Aldean said if TRPA's pier permit is issued it's conditioned upon the receipt of all other permits from agencies with jurisdiction. Can TRPA ask the Army Corps for an expedited review within 60 days of an approval?

Mr. Marshall said we could ask but they are their own independent federal agency and whether or not they accede to that is entirely within their discretion.

Ms. Aldean said they've already seen some preliminary documents related to this application, so we could request an expedited review.

Mr. Marshall said we could make that request as soon as an application is filed.

Ms. Aldean asked a hypothetical question of Mr. Lien. If you are reasonably confident that the Army Corps will support your position, what is the rationale for challenging the issuance of a conditional TRPA permit when it will likely be more expensive for your client to initiate litigation than to simply let the process play out.

Mr. Lien said they've discussed that but feel that there's a lot that can happen out there and they want to preserve their legal remedies. That's my clients call and we've discussed extensively. He appreciated her idea of an expedited review. It may solve the need for litigation if they can get that feedback quickly.

Ms. Gustafson said Ms. Aldean addressed one of the critical points that she was going to ask. She wanted to make it clear to the rest of the Board members that she's very familiar with this property. She's attended social events and known the family for a long time. She met with them to discuss a number of concerns, some of which weren't expressed today, including safety of their swimming area and the children's access in and out of the water. They have received public comments on that from others that use this area. The adjacent parcel is commonly owned with another family. Because she's newer to the board and wasn't part of the Shorezone ordinance, do we look at the consistency of spacing of piers in the surrounding area? This was one of the issues raised early on. From the satellite view, most of the piers are more distant than this one will be around that front edge of that point.

Mr. Marshall said TRPA decides if it meets the general setbacks and then they leave it to the Army Corps to decide whether or not there's a reason given the minimum setbacks, there is a safety concern. That's how TRPA would generally treat the spacing. They don't compare it around the lake. That was considered as part of the Shorezone Plan and was rejected in favor of the setback requirement and the minimum findings for navigability. They didn't bring that density standard forward that would look at the average density in a particular area that could not be exceeded.

Ms. Gustafson said she was also interested in the length of the pier question of primarily any findings TRPA made necessitating this longer pier.

Mr. Marshall said fundamentally what they're looking at is the bottom slope and the type of bottom there is as to whether or not the additional length is warranted. In this case, it is a rocky bottom and as this bottom slopes away, there's an increased drop off right past the point of 6,219. When you look at the 6,219 and looking at where the average boat is going to lay. It is within their discretion to justify the additional length, given the substrate and the fact that at low water, there will be navigability concerns for the boat. Therefore, in this case, there will be an increase in functionality, significant as a result of the additional length because of the drop off.

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Note that the 3 percent rule is in there in order to avoid a situation where the additional length does not drive additional navigability. That's what they find here that there's a 16 percent drop off and so there is a significant gain in navigability or functionality, as a result of the additional line to the pier headline.

Mr. Yeates said they did hear this extensively at Legal Committee and the only question he had was if TRPA issues the permit does that in any way prejudice the Army Corps of Engineers permit.

Mr. Marshall said no, it does not. The Army Corps will act independently and that finding will be complied with because they will only issue a permit for a pier that does not adversely affect navigation and safety. A pier cannot be built under this permit that's been issued that will adversely affect or be contrary to the determination of the Army Corps.

Mr. Friedrich had a question relating to the issue of navigability and the spacing between the piers. It was stated that the current Harrosh pier is non-conforming, is that because of the placement of the boathouse and boatlift on the pier?

Mr. Marshall said it's non-conforming for a number of reasons. It's a rock crib pier. It has superstructure, the boathouse. It has a viewing deck on top and is within the setback. There's a number of reasons why it's non-conforming, the pier head is too big, but that really doesn't matter for the navigability finding. They take the situation as it lies. It is non-conforming; it doesn't preclude the determination by the Army Corps that the spacing would be inadequate if it in fact proves to be inadequate.

Mr. Friedrich asked if it didn't have the non-conforming structure narrowing the distance between the piers would that lessen the concern about navigability.

Mr. Marshall said yes, that would lessen the concerns of navigability.

Ms. Gustafson said on the issue of non-conformity, and if in the Harroshes felt they needed to modify a non-conforming structure in the future. What happens in the case of a non-conforming structure seeking modifications to adapt to this?

Mr. Marshall said in general, modifications are allowed if they can make a finding that it brings a structure into greater conformance, and there's an environmental gain. A non-conforming structure cannot be expanded. If they wanted to re-arrange the structure that have, they can generally make that work within a modification.

Ms. Gustafson said she hopes that any decisions we're making or other agencies are making are going to force that, but if it were to happen, she wanted to make sure she understood that they could make modifications in the future.

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Chip Johannessen, 5568 North Lake Boulevard, which is subject property. Counsel, Gregg Lien implies that they're trying to build the biggest pier possible, but that's not true. As is required by regulations, that the additional pier length is necessary for the functionality of the pier. To qualify for the extra length, the regulations require that there be a minimum of a 3 percent grade at the lake bottom. They have a 16.6 percent grade there. In that extra 12 feet if they go out to the pier headline, they get two additional feet of water depth. Functionality is not just a question of the depth at the lake end of the pier head. It also depends on the depth of water along the pier as it moves toward shore as boats are attempting to use the pier where those boats would be. This is where the trouble lies because that same steep slope that gets them so much additional water depth on the lake side as you extend the pier it means as you move back toward the shore, the water gets shallow pretty quickly. Without the additional 12 feet of

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length, the shoreward side of the pier quickly becomes unusable except under high water conditions.

In the PowerPoint there was a photo of himself standing in the water last Friday. He was standing at the shore end of what would be a hypothetically shortened pier head and already the water level was below his knees. That's where the bow of a boat attempting to use the shortened pier would be today. A shortened pier would already be borderline unusable, even with today's water conditions. According to the USGS, today's conditions are more than 2.5 feet higher than the low point in the last drought. In drought conditions the pier head would be high and dry rocks and unusable. No pier on Flick Point has been built like that where it's unusable except in the highest water conditions and is why the pier headline is where it is. TRPA regulations recognize that and the likelihood of low water in our future. That's why the 12 feet of additional length was already approved in this particular case, where the lake bed is rocky and relatively steep. They're asking for a denial of the Harrosh pier and keep that TRPA approval in place.

Virginia Stock said they received notification from the lottery that they had the right to apply for a private pier in July 2019. They immediately tried to find a consultant who had experience and understood this complex ordinance. What TRPA has achieved at Lake Tahoe is incredibly important and is with pleasure they are complying with this ordinance. It's remarkable that during this time when the population of California has doubled, TRPA has managed to make the water a lot clearer than the oil slicks she remembers playing in as a kid. Consultant Wyatt Ogilvy told them that they would need to sign off from a number of different government agencies and that the process almost started with TRPA for clear reasons.

t's the most rigorous scrutiny and going to the other agencies for approval first and then receiving changes from TRPA would probably result in unnecessary time and money. This was not some kind of subterfuge, nor was it an unusual process as Gregg Lien claims. They were informed by their consultant that it is almost always the usual process. To the best of their knowledge, they have not subverted the TRPA process by coming to TRPA before the other governmental agencies. This process is a fantastic template for how to preserve a very public asset that is surrounded by private property. They urged the board to reject this appeal which undermines the goals and the specifics of the ordinance.

Kevin Roukey said the Army Corps process has changed and there is no longer a regional general permit 16 at Lake Tahoe. They have a new general permit for docking structures. If it doesn't meet those conditions, then it has to go through a letter of permission process, which is a modified standard permit. They have to do all of the coordination with the other federal agencies and 60 days would be pushing it even with full staff. Right now, they have one staff person and they are working from home. With regards to simulations, what they were talking about was not for scenic but for the approach that the new pier provides or causes for access to and from the up and down shore piers. Those approaches are what can cause that. Hazards to navigation, especially during a storm if they have to come in closer to that new pier. Some of the wave wash could wash an unskilled mariner into the pier instead of into the safe harbor. Those are the kinds of things that from the Army Corps staff standpoint they are looking at. Does the structure change the approach of the current structures for them to have access to their piers. It's not just for the landowner's but for the general public who may have to in an emergency situation, use that pier safe harbor.

Gregg Lien provided comments due to technical difficulties of Michael Harrosh. He would imagine that he was going to talk about the extra length and the manner in which they access their boathouse which will dramatically impacted by this structure. Essentially, their entrance to the boathouse is going to be blocked as a practical matter in late afternoons when there is the anticipated 4 to 6 foot wave heights that their engineers calculated. It's quite a task to maneuver in there now and with a new pier you can't come in safely.

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Michael Harrosh said this pier is going to make it very difficult and, in some conditions, unable to come in to their pier. Their pier is used as a safe harbor and has been many times over the years and as recently as a month ago. In the current video with the second diver in the water was himself and is where the bow of the boat would have been. The stern of the boat is where the diver was showing you the size of the rocks. There would be enough room for a boat to have a shorter pier. All of this could be solved with a continuance to allow the Army Corps to explore the navigation and safety aspects of this and find the common ground that would allow their pier to be usable and for the Stock/Johannessen to have a pier. Instead of approving this pier, which is going to create a hazard for them, the Stock/Johannessen's coming in, swimmers, and anyone seeking safe harbor. By doing a continuance and allowing the Army Corps of Engineers to weigh in on this.

Why does it take five votes, a supermajority to overturn this when it's supposed to be a supermajority to approve it? Not even a majority of the board members has a say as to as to what goes on in this lake and can overturn staff. How does that work and how does that help the board continue to protect the lake? How many times has that voting rule been used for an approval of a dock and here this is the first dock being approved. He asked the board to consider a continuance and allow the Army Corps of Engineers to weigh in on the navigation and safety issues.

Board Comments & Questions

Ms. Gustafson asked if TRPA's approval today in any way prejudice the Army Corps determination on Navigability.

Mr. Marshall said no, it doesn't. It will be their own determination as to whether or not the structure as proposed will constitute a navigational issue.

Ms. Aldean asked if the applicant is aware of the indemnification provision in the permit and that any litigation that TRPA has to defend will be at the expense of the applicant.

Mr. Marshall said Mr. Lien in other contexts is aware of that condition, but it is directly on the permit. Mr. Ogilvy has dealt with a lot of permits.

Mr. Gatto said yes, they aware of that requirement.

Mr. Hicks said he's always sympathetic to people who are trying to build or improve their piers. He understands both parties, concerns, and issues. First, to the additional length of the pier being applied for. He's a boat owner too and wouldn't want to take his boat into even three feet of water, much less one foot of water. The bow is different than the stern, the stern is what counts. He doesn't believe there is any merit to that argument.

As he understands the argument for the continuation is to require the applicant to go to the Army Corps of Engineers first and get their ruling. But the applicant would get full TRPA approval here but for the condition that's put on it, where they have to go to the Army Corps. He recognizes Mr. Lien's argument that under the Code there is a limited period of time in which to file an appeal of the TRPA decision. To file that appeal is a pretty simple task for lawyers, all they have to do is file notice of the appeal and if necessary, file a complaint in court. He's not aware of any court California, Nevada, or even the federal courts, that acts on the day you file the appeal. These actions take months, if not years to process. Yes, there's a lot of cost and expense but if given a reason the courts they will give the parties time to get something done and that could be getting a resolution of the Army Corps of Engineers. Everything doesn't end just because they have to file an appeal.

He understands the Harroshes concern but if the Stock/Johannessen pier is approved and constructed and apparently it meets all of the new code standards, the Harroshes still have a

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further avenue to preserve their right to modify their pier in a way that would bring it closer into conformance. Whether that would be a restructuring of their access into the boatlift, or perhaps the replacement of the boathouse with a boatlift. It sounds like they have alternatives available to them.

He's sympathetic to both parties but feels both parties can be successful, in the long run, here. The fact that someone has a non-conforming use, it doesn't override the new TRPA Shorezone Code. It appears that the Stocks and Johannessen's have met that code and therefore, if he could vote on this, he would vote as recommended by the Legal Committee.

Mr. Marshall said it would be an affirmative motion to grant the appeal. If you want to uphold the Hearings Officer, vote no to deny the appeal. If you want to grant the appeal, vote yes. In order to revoke this permit or modify it, you'll need to have five California votes to vote yes and nine overall on the motion to grant the appeal.

Mr. Yeates made a motion to grant the appeal, which motion should fail to affirm the Hearing Officers determination.

Nays: Ms. Aldean, Mr. Bruce, Mrs. Cegavske, Ms. Faustinos, Mr. Friedrich, Ms. Hill, Mr. Lawrence, Ms. Novasel, Mr. Rice, Ms. Williamson, Mr. Yeates

Abstained: Ms. Gustafson

Motion failed.

- B. Appeal of Denial of Single Parcel Pier Expansion Application, 570 Gonowabie Rd., Washoe County, Nevada, Assessors' Parcel Number (APN) 123-101-07, TRPA File Number ERSP2020-1453, Appeal File No. ADMIN2021-0011

Withdrawn.

IX. REPORTS

- A. Executive Director Status Report

- 1) Performance Review, Incentive compensation and base pay adjustment for Executive Director Joanne Marchetta

Mr. Bruce said the purpose of this item is to review the performance and pay for Ms. Marchetta and Mr. Marshall.

Ms. Marchetta's current pay is \$193,000. TRPA's study of similarly situated Executive Directors shows that's a 25 percentile salary is at \$209,000 and the midpoint is that \$238,000. It's his understanding is that that came from a study in 2017 that has been updated. Joanne's salary as of now is significantly under the 25 percentile mark. For comparisons of past years; in 2018 and 2019 Joanne received a \$10,0000 bonus. But because of Covid, she didn't receive a bonus last year. He assumes all board members received and reviewed Joanne's self-evaluation and list of accomplishments over the past year. Some of the more significant accomplishments were the 2020 Regional Transportation Plan, the adoption of the first Transportation, Sustainable Communities, Threshold Standard, the on launching of new affordable housing initiatives, and identifying Climate Action as the overarching Environmental Improvement Program framework. That is far more significant and covers many areas because of all of the impacts that we're seeing relating to climate change. The approval of the Tahoe South Event Center project, the approval of the Washoe County Area Plan, and delivering the first fully online threshold evaluation. Those are just some of the accomplishments and in his view, that's incredible.

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This was all in the face of a pandemic, all on the face of not knowing what was coming. Not knowing where we were going to be, having to act remotely, both through staff interaction and Governing Board.

The considerations relating to public meetings and public meeting law, the last year and a half has been incredibly challenging. He doesn't know anybody more committed to her job than Joanne. She responds to his calls and texts late at night, and on weekends and she initiates them late at night and on weekends.

She not only responds, but she also follows through always above and beyond my request. He's been most impressed this year watching her work on relationships that are most important for the success of TRPA. One of those is the relationship that we have with Lahontan on one of the most significant threats to Lake Tahoe and that is the Aquatic Invasive Species and the Tahoe Keys.

She's our leader, and he's very thankful for that and in his view, she should be significantly rewarded. The staff report is recommending \$7,000 bonus, and a 3 percent pay increase. His suggestion is that we approve a \$10,000 bonus, and at least a 3 percent pay increase.

Board Comments & Questions

Mr. Yeates said you find out how really excellent, Joanne is, Mr. Chair. That was certainly his experience the last couple of years, especially during that very difficult time for him personally during the second part of his term. We also changed over to virtual process and in the midst of the Event Center project approval with many deadlines to meet. He recalls the days driving to the Lake with Mr. Shute and asking what about this? What about that? Mr. Shute replied that that doesn't apply to us, we're sui generis, meaning there's nothing like us. That is true, to be an executive director of a bi-state organization with all of the agencies that Joanne stays on top of yet being very available. Also, working closely in building a staff. The confidence that he had at all times, that the staff work was first rate and that the staff was well prepared for the Governing Board meetings, and all the meetings that occurred prior to the board meetings. She's an excellent leader and motivator. He agreed with Mr. Bruce that the motion should be to pay an incentive of \$10,000, and to increase the base pay to \$204,000.

The fact that we couldn't do anything last year makes it all the more important to take care of this issue now. She deserves more than what was being proposed but has been told from staff that this is within the budget.

Ms. Aldean echoed everything that's been said. She admires the way Joanne pivots so effectively when faced with a challenge. Her level of dedication exceeds anything that she's witnessed having worked with other executive directors of other agencies and private organizations. She's witnessed over almost the past 18 years since Joanne was hired how the culture at the Agency has changed. We've gone from an organization that was once disliked to an organization that is well respected. That is a phenomenal accomplishment and it speaks to the depth of her commitment. She is someone who can empathize, be stern when she needs to be, demanding when required, but at the end of the day, she values what every member of staff and the Governing Board has to offer to the organization. All of those talents and abilities add to the overall image of the Agency. She agreed with the proposed bonus incentive and pay increase.

Ms. Marchetta said thank you to her staff because she couldn't accomplish any of it without them.

Public Comments & Questions

None.

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Board Comments & Questions

Mr. Yeates made a motion to award Ms. Marchetta incentive pay of \$10,000 and an increase in base pay to \$204,082.

Ayes: Ms. Aldean, Mr. Bruce, Mrs. Cegavske, Ms. Faustinos, Mr. Friedrich, Ms. Gustafson, Ms. Hill, Mr. Lawrence, Ms. Novasel, Ms. Williamson, Mr. Yeates

Absent: Mr. Rice

Motion carried.

B. General Counsel Status Report

Mr. Marshall said yesterday, the Third District Court of Appeal in California issued two opinions in the Squaw Valley masterplan case. In effect, they sided with Sierra Watch and invalidated Placer County's approval of the development. In large part based on the Environmental Impacts Report dealing with impacts in the basin, both Vehicle Miles Traveled and air quality. It shows that projects close to our borders in California, at least need to take into account impacts within the basin and do so in a way that's consistent with how we analyze our impacts. It provides some good direction for those nearby basin projects for local California jurisdictions that are doing those projects and we stand ready to help with the processing of that application if they're bringing the EIS back through.

- 1) Performance Review, Incentive compensation and base pay adjustment for General Counsel John Marshall

Mr. Bruce said Mr. Marshall's current pay is \$177,000. TRPA study of similar situated general counsels showed that the 25 percent percentile salary was at \$182,000 and the midpoint was at \$206,000. That was in 2017 study and has been updated. John's salary as of now, remains slightly below the 25 percent percentile. For comparisons of past years; John received a \$10,000 bonus in 2018 and 2019 but because of Covid he didn't receive a bonus last year. He assumes that all the Governing Board members have reviewed John's self-evaluation and list of joint accomplishments for John and Joanne which he went through during Ms. Marchetta's performance review. Mr. Bruce served as 1 of 12 civil attorneys for the City of Reno. He understands how difficult the job is. He understands that in many cases, John is the face and the most significant, at times, especially on legal issues, the responding party to an entire body of the public. Mr. Bruce served as counsel for two different cities and one county and sitting at the podium during a public meeting and knowing answers with clarity and accuracy, is extremely difficult. Especially with the breadth and significant issues that we deal with on a regular basis. He's seen extraordinary work and responses in public meetings when pressure is on most. When the answer is not clear, John is very clear to let us know that it isn't and is quick with a solution to deal with for efficiency purposes at the hearing. He supported the unanimous decision at the Legal Committee.

Mr. Yeates said the Legal Committee recommended an incentive pay of \$10,000 and to increase the base pay to \$186,755. The incentive pay would be increased from \$7,000 to \$10,000 and agreed to the 186,755 which was in the original proposed motion in the staff report.

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Mr. Yeates said there was a lot of pressure to get the Event Center project to the board for consideration. That was not the cleanest of processes, there were problems with environmental analysis, the California Attorney General concerned about Vehicle Miles Traveled, and the League to Save Lake Tahoe was uncertain about the Event Center. We had a couple of months to pull this together and Paul Nielsen, John Marshall, and other staff must have worked around

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the clock. That's the kind of commitment that John has. The staff relies on his kind of steady legal analysis when we're dealing with these issues. That certainly helped with the VMT project. He had dive into the models, deal with transportation issues, etc. It was reassuring that John over saw what we put together such as the various staff reports and revising what we were going to do on vehicle miles traveled threshold. You don't find a job like this. This is a job of two states, two different kind of procedural operations and yet, he can answer those questions. He supported the proposed the recommendation.

Ms. Aldean said John is very calm and collected and uses an incredible amount of temperate and self-control in contentious situations. She remembers when John received some constructive, critical comments which he took to heart. She's really proud of his progress over the years. No one would probably contest the fact that nobody has the command of the Code of Ordinances the way John does. He is incredibly conversant with not only the current Code but changes to the Code over the years. He is quick on his feet when asked a question, he doesn't defer the answer, in most cases. He has the maturity to defer if, in fact, he doesn't feel confident in his response. She feels blessed that we have both Joanne and John as part of our team. It would be a tremendous challenge to replace either one of them. She supported the proposed recommendation.

Ms. Hill said John has been very patient with walking her through a lot of questions that she's had. He always follows up with additional information and is very generous with his time. It's been appreciated and she's been learning a lot.

Mr. Marshall thanked the board for their comments and for comments in the Legal Committee this morning. The vast bulk of what we do is accomplished by people who are not directly in front of the board. Staff members who support what we do, particularly when he and others are the face in front of the board. He thanked Ms. Hangeland and all the staff members that are behind a lot of the appeals or projects that are heard by the board. Thank you for the comments and monetary reward.

Public Comments & Questions

None.

Board Comments & Questions

Mr. Yeates made a motion to award Mr. Marshall incentive pay of \$10,000 and increase the base pay to \$186,755.

Ayes: Ms. Aldean, Mr. Bruce, Mrs. Cegavske, Ms. Faustinos, Mr. Friedrich, Ms. Gustafson, Ms. Hill, Mr. Lawrence, Ms. Novasel, Ms. Williamson, Mr. Yeates

Absent: Mr. Rice

Motion carried.

X. GOVERNING BOARD MEMBER REPORTS

Ms. Gustafson said Erin Casey, who was in their County CEO's office and in charge of the Tahoe operations has left the county. They've just announced their appointment of Stephanie Holloway to that position. Stephanie worked on their Corridor Master Plans and the VMT analysis.

Ms. Novasel said at the El Dorado County Board of Supervisors meeting yesterday they had the first reading and approved a new vacation home rental ordinance that requires a clustering. It's

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a non-clustering ordinance of 500 feet. The County is continuing with their neighborhood compatibility issues.

Mr. Friedrich said the City of South Lake Tahoe recently allocated half of their Covid funds from the American Recovery Plan Act and to the extent they align with TRPA priorities, they gave the public a chance to directly vote on those on a participatory budgeting process. The biggest amount went to affordable housing, also bike infrastructure, and fire hydrants and in conjunction with the South Tahoe Public Utility District.

XI. COMMITTEE REPORTS

A. Local Government & Housing Committee

None.

B. Legal Committee

None.

C. Operations & Governance Committee

None.

D. Environmental Improvement, Transportation, & Public Outreach Committee

Mr. Lawrence said the committee received a presentation from the consultants that have been hired to come up with some recommendations for funding revenue sources for transportation projects, and to work through some of those issues. They reported out today the results of some in-person surveys, as well as online surveys regarding objectives for regional funding and objectives for governance and administration. The four primary objectives for the regional funding that came out of their survey work was that it needs to be predictable and sustainable, fungible, have clarity and transparency, and have equity between residents, versus visitors. There is also a lot of discussion during that meeting that it also needs to encompass equal access and equity amongst income groups.

Regarding governance and administration, the four priorities were to keep it simple and transparent. Make sure that implementation is feasible, and that the projects are coordinated. The Committee will probably be meeting monthly for the rest of the year. In September the consultants will be back with a list of possible revenue funding sources, and possible alignment with project priorities.

E. Forest Health and Wildfire Committee

Mr. Hicks said the committee will be proactive in addressing some of these issues concerning cleaning up the forest. Priority is to get those fires out. But we really need to give some thought to, what can we do to help the fire staff and the public safety people, and to promote and push forward, existing and future plans to clean up our forests.

Additionally, he thanked Ms. Marchetta for the excellent emails that she's been providing to all of us regarding the status of the fire. He's taken the liberty of providing that to several of my friends and associates and they all been very appreciative of the information.

F. Regional Plan Implementation Committee

Mr. Yeates said part of what the committee did on housing was sent back to the Local Government and Housing Committee to discuss the issue about accessory dwelling units.

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Mr. Hester said next month the committee will receive an update on the mobility mitigation fee.

XII. PUBLIC INTEREST COMMENTS

None.

XIII. ADJOURNMENT

Ms. Aldean moved to adjourn.

Chair Mr. Bruce adjourned the meeting at 3:44 p.m.

Respectfully Submitted,

A handwritten signature in cursive script that reads "Marja Ambler".

Marja Ambler
Clerk to the Board

The above meeting was recorded in its entirety. Anyone wishing to listen to the recording of the above mentioned meeting may find it at <https://www.trpa.gov/meeting-materials/>. In addition, written documents submitted at the meeting are available for review. If you require assistance locating this information, please contact the TRPA at (775) 588-4547 or virtualmeetinghelp@trpa.gov.